

Kearney, Nebraska
January 14, 2014
5:30 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on January 14, 2014, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/ Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Craig Bennett, Les Mock, Tim Lowe, Jon Abegglen, Scott Johnson, Greg Brandt, R.J. Fraser, Dave Sikes, Gene McElhinney, Steve Altmaier from KGFW Radio, Mike Konz from Kearney Hub, and NTV.

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

Boy Scout Ben Prowse 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

LAND USE MAP AMENDMENT; 950 FEET SOUTH OF 10TH STREET AND WEST OF 22ND AVENUE

Public Hearings 1, 2, 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Kearney Properties, LLC for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Rural Estates and Low Density Residential to Mixed Use 1 property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) and to consider Resolution No. 2014-1. Planning Commission recommended approval noting the deviation for landscaping around the helipad as presented is appropriate and acceptable and a buffer of coniferous trees will be planted on the east and west boundary of the maintenance building at the time of construction in lieu of the brick.

The applicant is requesting approval for the next two phases of proposed improvements to the Southwest Kearney Hospital project known as the Kearney Regional Medical Center. The property is located west of Yanney Heritage Park and the focal area for the new improvements is south of the existing hospital facilities and west of 22nd Avenue. 22nd Avenue will be extended south from its current terminus for approximately 250 additional feet. There are no improvements proposed on the east side of 22nd Avenue.

This project has been, and continues to be, developed with a campus approach, in phases, with multiple buildings, shared parking and similar attributes that are supported by a Planned Unit Development strategy. In order to proceed with the next step in the campus approach several items are on the agenda for consideration including; rezoning of additional property to the south of the current facilities. The rezoning request requires an amendment to the Land Use Map. A Preliminary and Final Plat have been submitted and the property is proposed for annexation on the Final Plat as "an addition to" the City. This property is located in a Planned Development Overlay District and development plans for the property were previously submitted and approved by Planning Commission and City Council in 2010. Revised Development Plans were approved by City Council in January 2013 reflecting changes to the hospital building and proposing major revisions to the medical office building (MOB). Recently, the development plans were revised again to add a helicopter pad at the southeast corner of the existing development. The development team is now proposing additional improvements to the south and west sides of the existing hospital building that are depicted on a set of Revised Development Plans in two phases.

The current campus is zoned C-O/PD, Office/Planned Development District and R-3/PD east of 22nd Avenue. The proposed platting will extend south into AG zoning and therefore the new area comprising 4.55 acres must be rezoned to C-O/PD. The

southern platting of additional land does not extend east of 22nd Avenue, so the properties adjacent to the east, south and west of the newly platted land will remain in AG zoning.

The current land use designation for the new property to be rezoned is depicted on the Future Land Use Map of the Comprehensive Plan as “Low Density Residential.” The Land Use Map designation for the 4.55 acre tract must be amended from “Low Density Residential” to “Mixed Use 1” to accommodate the proposed zoning change.

A Preliminary and Final Plat have been prepared for the proposed subdivision, Western Nebraska Property Development Second Addition. Both plats depict a 1-lot subdivision containing 4.55 acres. The area to be platted extends approximately 250 feet south of the current south property line, extending from the west property line east to 22nd Avenue extended south. Land east of 22nd Avenue is not included in this proposal. The Preliminary Plat was approved by Planning Commission at the December 20, 2013 meeting. 22nd Avenue will be extended south and terminate with a temporary all-weather cul-de-sac. An Infrastructure Feasibility Plan was submitted demonstrating that this site can connect to City services. Municipal water and sanitary sewer will be extended south with the extension of 22nd Avenue. The existing stormwater cells were designed to accommodate water from the entire area including this additional lot. No further stormwater facilities are required other than connection to the existing cell(s).

Public services are available to the property and this site can connect to the services. The property is also contiguous to the City limit line. Therefore, based on the Annexation Policy approved by City Council, this property shall be annexed into the corporate limits of the City as “an addition to the City of Kearney” on the Final Plat.

As previously mentioned, this project has developed in phases under the auspices of the Planned District Overlay provisions. As such, another Revised Development Plan is required to reflect the proposed improvements. There are actually two phases represented on the plans. The plan is to expand the facilities in the south and southwest area of the current site over the next few years. Each of the phased improvements is shown on a consolidated Development Plan. If each phase is constructed in the future as it is depicted on the approved plan, the Developer can avoid going back before Planning Commission and City Council in the future. If, however, the site layout is altered substantially in the future, Revised Development Plans must be submitted once again for Planning Commission and City Council approval at that time.

- Currently, the Developer is proposing a 1-lot subdivision south of the existing hospital for the addition of a 4,500 square foot maintenance and storage shop in the southwest corner of the newly platted parcel. Phase I is for the maintenance shop, a proposed patient wing addition, an EMS garage, and an emergency room addition. The Development Plans for the EMS garage, patient wing addition and emergency room addition have not changed from the original submittal.
- The intent for Phase II is to relocate the south drive further south to allow for expansion of the hospital facilities. The southern expansion will require relocation of utility lines along with the driveway.

Building Materials:

- Code requires all street facing façades have a minimum of 35 percent masonry material. The proposed maintenance building is situated in the southwest corner of the proposed lot with a large area of undeveloped property between it and the public street. It is conceivable that future development will block direct views of the maintenance building from the public street. Therefore, the developer is requesting a deviation from the 35 percent requirement by proposing a vegetative buffer of evergreen trees on the east side of the building to screen the maintenance building from view of 22nd Avenue. The Planning Commission requested similar vegetative screening on the west side of the building as well.

Traffic and Emergency Access:

- The loop road located in the southwest corner of the property will be relocated further south and west to accommodate the patient wing.
- 22nd Avenue will be extended approximately 250 feet to the south with a temporary cul-de-sac at the end until the street can connect with 6th Street further south.
- Future 6th Street has been preliminary platted, approximately 250 feet south of the temporary cul-de-sac.
- Future 6th Street is shown coming through in an east-west direction further south of the proposed expansion. The south lot line of the new lot will be located approximately half way between the existing development and proposed 6th Street if extended west.

City Utilities:

- Water and sanitary sewer mains must be extended from the existing mains in 22nd Avenue southward to the south line of the subdivision.
- Developer may extend sanitary sewer westward a distance in an easement to serve the building at the west end of the proposed lot/subdivision.
- The property east of proposed 22nd Avenue is included in water and sanitary sewer connection districts. However, since no property east of 22nd Avenue is included in these phases of the plan, there are no connection fees associated with this plat/lot.
- Water in the access road will be relocated along the new alignment, and may be relocated to future 6th Street during the Phase 2 of development.

Drainage:

- Drainage design was provided and two detention cells were constructed with the original hospital development. The revised Infrastructure Feasibility Plan does not re-address drainage and detention.
- The drainage from the new lot is split, taking the majority of the stormwater to the existing southwest detention cell, while some stormwater goes east into the other existing detention cell.

Landscaping:

- A Landscape Plan and an associated plant schedule have been submitted for the proposed development as a component of the Planned Development Overlay District submittal.

- Landscaping is shown for the two separate phases on the consolidated plan.
- The Planning Commission requested vegetative screening on the east and west sides of the building with conifer trees.

Craig Bennett from Miller & Associates presented this matter to the Council. The property is approximately 4½ acres south of the existing hospital, west of Yanney Park, south of 11th Street and west of Kea West. It is currently adjacent to City limits and is seeking to be annexed into the City limits. The current zoning north of it is C-O/PD and they are asking for the same zoning. This is part of their overall plan that they had back in 2010 which encompassed 80 acres. They are asking for a one lot subdivision to be rezoned from AG to C-O/PD. One lot would have 22nd Avenue on the east side; the north boundary line is where the current corporate limit is and where the hospital property is Lot 1, Block 3. It is currently being used as Agricultural and currently being farmed.

The Final Plat would consist of one lot and the right-of-way for 22nd Avenue. The lot is a resultant of the 4.55 acres. From the Public Works plan they are simply going to extend water along the west side of 22nd Avenue. They would create a temporary cul-de-sac at which point they would extend it down to 6th Street that would go across. Storm sewer would also be utilized to the existing detention cell that they currently have there. The Development Plan that they did in September 2013 encompasses the revised Development Plan for the whole area for the purpose of the proposed heli-pad. The proposed Development Plan reflects those additional trees and screening on the west side which was recommended by Planning Commission.

Les Mock with WDM Architects stated the medical office building is nearing completion and ready for the tenants to move in. The first phase, pending financing, would begin construction this summer and would include a patient wing addition. They are going to complete the shell space for an emergency department and build an ambulance garage rather than the original car port. The maintenance building is in dire need to have some additional storage and facilities for some of the vehicles they own; not necessarily a part of the hospital but it needs to be somewhat adjacent to their campus.

They have all the parking and landscaping to support this. As the additions would happen that road would be re-routed and likely they would have need for some additional staff parking if one or more of these additions happened. At the Planning Commission meeting, there was discussion on doing some evergreen screening in lieu of masonry on this building. Some of the required street trees are located off the right-of-way for the City. We relocated the additional trees around that area to meet the intent of that requirement.

The exterior materials on the buildings will coordinate and be contiguous to the hospital. The maintenance facility that is in the back is going to be a pre-engineered metal building and will have a color scheme that ties into the campus. They are eliminating the 35 percent masonry with 5-foot high evergreen pine screening.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-1** approving the Application submitted by Miller & Associates for Kearney Properties, LLC for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Rural Estates and Low Density Residential to Mixed Use 1 property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2014-1

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land located in part of Government Lot 3 located in the Southwest Quarter of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the North Quarter corner of said Section 10 and assuming the West line of said Northeast Quarter as bearing $S00^{\circ}54'28''W$ and all bearings contained herein are relative there to; thence $S00^{\circ}54'28''W$ on said West line a distance of 1393.63 feet to a 5/8" rebar with cap at the Southwest corner of Lot 1, Block 3, Western Nebraska Property Development Addition as platted in the City of Kearney, Buffalo County, Nebraska; said point being the ACTUAL POINT OF BEGINNING; thence $S89^{\circ}05'32''E$ on the South line of said Lot 1, Block 3 for a distance of 798.54 feet to a 5/8" rebar with cap and point of curvature at the Southwest corner of Lot 4, Block 2 of said Western Nebraska Property Development Addition; said point also being on the Easterly Right-of-Way line of 22nd Avenue as platted in the City of Kearney; thence on the Easterly Right-of-Way line of 22nd Avenue (if extended) and on a non-tangent curve to the Right having a central angle of $04^{\circ}30'03''$, a radius of 1040.00 feet, an arc length of 81.69 feet and a chord bearing of $S24^{\circ}10'14''W$ a distance of 81.67 feet to a 5/8" rebar with cap; thence $S26^{\circ}25'16''W$ a distance of 101.50 feet to a 5/8" rebar with cap and point of curvature; thence on a tangent curve to the Left, having a central angle of $18^{\circ}14'59''$, a radius of 460.00 feet, an arc length of 146.52 feet and a chord bearing of $S17^{\circ}17'46''W$ a distance of 145.90 feet to a 5/8" rebar with cap; thence $N89^{\circ}05'32''W$ a distance of 681.41 feet to a 5/8" rebar with cap on the West line of said Northeast Quarter; thence $N00^{\circ}54'28''E$ on said West line a distance of 306.60 feet to the point of beginning, Containing 4.55 acres, more or less, of which 0.60 acres, more or less, will be dedicated for road Right-of-Way purposes on the East side, Buffalo County, Nebraska from Rural Estates and Low Density Residential to Mixed Use 1, and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Rural Estates and Low Density Residential to Mixed Use 1 the use classification for a tract of land located in part of Government Lot 3 located in the

Southwest Quarter of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the North Quarter corner of said Section 10 and assuming the West line of said Northeast Quarter as bearing S00°54'28"W and all bearings contained herein are relative there to; thence S00°54'28"W on said West line a distance of 1393.63 feet to a 5/8" rebar with cap at the Southwest corner of Lot 1, Block 3, Western Nebraska Property Development Addition as platted in the City of Kearney, Buffalo County, Nebraska; said point being the ACTUAL POINT OF BEGINNING; thence S89°05'32"E on the South line of said Lot 1, Block 3 for a distance of 798.54 feet to a 5/8" rebar with cap and point of curvature at the Southwest corner of Lot 4, Block 2 of said Western Nebraska Property Development Addition; said point also being on the Easterly Right-of-Way line of 22nd Avenue as platted in the City of Kearney; thence on the Easterly Right-of-Way line of 22nd Avenue (if extended) and on a non-tangent curve to the Right having a central angle of 04°30'03", a radius of 1040.00 feet, an arc length of 81.69 feet and a chord bearing of S24°10'14"W a distance of 81.67 feet to a 5/8" rebar with cap; thence S26°25'16"W a distance of 101.50 feet to a 5/8" rebar with cap and point of curvature; thence on a tangent curve to the Left, having a central angle of 18°14'59", a radius of 460.00 feet, an arc length of 146.52 feet and a chord bearing of S17°17'46"W a distance of 145.90 feet to a 5/8" rebar with cap; thence N89°05'32"W a distance of 681.41 feet to a 5/8" rebar with cap on the West line of said Northeast Quarter; thence N00°54'28"E on said West line a distance of 306.60 feet to the point of beginning, Containing 4.55 acres, more or less, of which 0.60 acres, more or less, will be dedicated for road Right-of-Way purposes on the East side, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING 950 FEET SOUTH OF 10TH STREET AND WEST OF 22ND AVENUE

Public Hearings 1, 2, 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Kearney Properties, LLC to rezone from District AG, Agricultural District to District C-O/PD, Office/Planned Development Overlay District property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) and to consider Ordinance No. 7864.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Miller & Associates for Kearney Properties, LLC to rezone from District AG, Agricultural District to District C-O/PD, Office/Planned Development Overlay District property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) and introduced Ordinance No. 7864 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. 7864. 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. 7864 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7864 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. 7864 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 WESTERN NEBRASKA PROPERTY DEVELOPMENT SECOND ADDITION; 950 FEET SOUTH OF 10TH STREET AND WEST OF 22ND AVENUE

Public Hearings 1, 2, 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Kearney Properties, LLC for the Final Plat for Western Nebraska Property Development Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) and to consider Resolution No. 2014-2.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2014-2** approving the Application submitted by Miller & Associates for Kearney Properties, LLC for the Final Plat for Western Nebraska Property Development Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-2

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Western Nebraska Property Development Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land located in part of Government Lot 3 located in the Southwest Quarter of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the North Quarter corner of said Section 10 and assuming the West line of said Northeast Quarter as bearing S00°54'28"W and all bearings contained herein are relative there to; thence S00°54'28"W on said West line a distance of 1393.63 feet to a 5/8" rebar with cap at the Southwest corner of Lot 1, Block 3, Western Nebraska Property Development Addition as platted in the City of Kearney, Buffalo County, Nebraska; said point being the ACTUAL POINT OF BEGINNING; thence S89°05'32"E on the South line of said Lot 1, Block 3 for a distance of 798.54 feet to a 5/8" rebar with cap and point of curvature at the Southwest corner of Lot 4, Block 2 of said Western Nebraska Property Development Addition; said point also being on the Easterly Right-of-Way line of 22nd Avenue as platted in the City of Kearney; thence on the Easterly Right-of-Way line of 22nd Avenue (if extended) and on a non-tangent curve to the Right having a central angle of 04°30'03", a radius of 1040.00 feet, an arc length of 81.69 feet and a chord bearing of S24°10'14"W a distance of 81.67 feet to a 5/8" rebar with cap; thence S26°25'16"W a distance of 101.50 feet to a 5/8" rebar with cap and point of curvature; thence on a tangent curve to the Left, having a central angle of 18°14'59", a radius of 460.00 feet, an arc length of 146.52 feet and a chord bearing of S17°17'46"W a distance of 145.90 feet to a 5/8" rebar with cap; thence N89°05'32"W a distance of 681.41 feet to a 5/8" rebar with cap on the West line of said Northeast Quarter; thence N00°54'28"E on said West line a distance of 306.60 feet to the point of beginning, Containing 4.55 acres, more or less, of which 0.60 acres, more or less, will be dedicated for road Right-of-Way purposes on the East 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 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF WESTERN NEBRASKA PROPERTY DEVELOPMENT SECOND ADDITION; 950 FEET SOUTH OF 10TH STREET AND WEST OF 22ND AVENUE

Public Hearings 1, 2, 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Kearney Properties, LLC for the annexation of Western Nebraska Property Development Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) and to consider Resolution No. 2014-3.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2014-3** approving the Application submitted by Miller & Associates for Kearney Properties, LLC for the annexation of Western Nebraska Property Development Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2014-3

WHEREAS, an Application has been submitted by Miller & Associates for Kearney Properties, LLC for the inclusion of Western Nebraska Property Development Second Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land located in part of Government Lot 3 located in the Southwest Quarter of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the North Quarter corner of said Section 10 and assuming the West line of said Northeast Quarter as bearing S00°54'28"W and all bearings contained herein are relative there to; thence S00°54'28"W on said West line a distance of 1393.63 feet to a 5/8" rebar with cap at the Southwest corner of Lot 1, Block 3, Western Nebraska Property Development Addition as platted in the City of Kearney, Buffalo County, Nebraska; said point being the ACTUAL POINT OF BEGINNING; thence S89°05'32"E on the South line of said Lot 1, Block 3 for a distance of 798.54 feet to a 5/8" rebar with cap and point of curvature at the Southwest corner of Lot 4, Block 2 of said Western Nebraska Property Development Addition; said point also being on the Easterly Right-of-Way line of 22nd Avenue as platted in the City of Kearney; thence on the Easterly Right-of-Way line of 22nd Avenue (if extended) and on a non-tangent curve to the Right having a central angle of 04°30'03", a radius of 1040.00 feet, an arc length of 81.69 feet and a chord bearing of S24°10'14"W a distance of 81.67 feet to a 5/8" rebar with cap; thence S26°25'16"W a distance of 101.50 feet to a 5/8" rebar with cap and point of curvature; thence on a tangent curve to the Left, having a central angle of 18°14'59", a radius of 460.00 feet, an arc length of 146.52 feet and a chord bearing of S17°17'46"W a distance of 145.90 feet to a 5/8" rebar with cap; thence N89°05'32"W a distance of 681.41 feet to a 5/8" rebar with cap on the West line of said Northeast Quarter; thence N00°54'28"E on said West line a distance of 306.60 feet to the point of beginning, Containing 4.55 acres, more or less, of which 0.60 acres, more or less, will be dedicated for road Right-of-Way purposes on the East side, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on December 20, 2013 on the inclusion of Western Nebraska Property Development 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 Western Nebraska Property Development 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 January 14, 2014 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 Western Nebraska Property Development 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 Western Nebraska Property Development 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 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

DEVELOPMENT PLANS: 950 FEET SOUTH OF 10TH STREET AND WEST OF 22ND AVENUE

Public Hearings 1, 2, 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Kearney Properties, LLC for Planned District Development Plan Approval for hospital expansion and maintenance building development on property to be zoned District C-O/PD, Office/Planned Development Overlay District property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) and to consider Resolution No. 2014-4.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-4** approving the Application submitted by Miller & Associates for Kearney Properties, LLC for Planned District Development Plan Approval for hospital expansion and maintenance building development on property to be zoned District C-O/PD, Office/Planned Development Overlay District property described as a tract of land located in part of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) granting the deviation for landscaping around the helipad as shown on

the approved Landscape Plan filed with Development Services. Also, approval is subject to a buffer of coniferous trees, being planted on the east and west sides of the proposed maintenance building as shown on the Revised Development Plan. Said landscape buffer is approved as a deviation in lieu of the enhanced masonry requirement for buildings with street-facing facades. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2014-4

WHEREAS, Miller & Associates for Kearney Properties, LLC have applied for Planned District Development Plan Approval for hospital expansion and maintenance building development on property to be zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 1, Block 3, Western Nebraska Property Development Second Addition, City of Kearney, Buffalo County Nebraska, containing 15.93 Acres more or less together with: a tract of land located in part of Government Lot 3 located in the Southwest Quarter of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the North Quarter corner of said Section 10 and assuming the West line of said Northeast Quarter as bearing S00°54'28"W and all bearings contained herein are relative there to; thence S00°54'28"W on said West line a distance of 1393.63 feet to a 5/8" rebar with cap at the Southwest corner of Lot 1, Block 3, Western Nebraska Property Development Addition as platted in the City of Kearney, Buffalo County, Nebraska; said point being the ACTUAL POINT OF BEGINNING; thence S89°05'32"E on the South line of said Lot 1, Block 3 for a distance of 798.54 feet to a 5/8" rebar with cap and point of curvature at the Southwest corner of Lot 4, Block 2 of said Western Nebraska Property Development Addition; said point also being on the Easterly Right-of-Way line of 22nd Avenue as platted in the City of Kearney; thence on the Easterly Right-of-Way line of 22nd Avenue (if extended) and on a non-tangent curve to the Right having a central angle of 04°30'03", a radius of 1040.00 feet, an arc length of 81.69 feet and a chord bearing of S24°10'14"W a distance of 81.67 feet to a 5/8" rebar with cap; thence S26°25'16"W a distance of 101.50 feet to a 5/8" rebar with cap and point of curvature; thence on a tangent curve to the Left, having a central angle of 18°14'59", a radius of 460.00 feet, an arc length of 146.52 feet and a chord bearing of S17°17'46"W a distance of 145.90 feet to a 5/8" rebar with cap; thence N89°05'32"W a distance of 681.41 feet to a 5/8" rebar with cap on the West line of said Northeast Quarter; thence N00°54'28"E on said West line a distance of 306.60 feet to the point of beginning, containing 4.55 acres, more or less, of which 0.60 acres, more or less, will be dedicated for road Right-of-Way purposes. There are total acres of 20.48 Acres more or less, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates for Kearney Properties, LLC for Planned District Development Plan Approval for hospital expansion and maintenance building development on property to be zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 1, Block 3, Western Nebraska Property Development Second Addition, City of Kearney, Buffalo County Nebraska, containing 15.93 Acres more or less together with: a tract of land located in part of Government Lot 3 located in the Southwest Quarter of the Northeast Quarter of Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County,

Nebraska and more particularly described as follows: Referring to the North Quarter corner of said Section 10 and assuming the West line of said Northeast Quarter as bearing S00°54'28"W and all bearings contained herein are relative there to; thence S00°54'28"W on said West line a distance of 1393.63 feet to a 5/8" rebar with cap at the Southwest corner of Lot 1, Block 3, Western Nebraska Property Development Addition as platted in the City of Kearney, Buffalo County, Nebraska; said point being the ACTUAL POINT OF BEGINNING; thence S89°05'32"E on the South line of said Lot 1, Block 3 for a distance of 798.54 feet to a 5/8" rebar with cap and point of curvature at the Southwest corner of Lot 4, Block 2 of said Western Nebraska Property Development Addition; said point also being on the Easterly Right-of-Way line of 22nd Avenue as platted in the City of Kearney; thence on the Easterly Right-of-Way line of 22nd Avenue (if extended) and on a non-tangent curve to the Right having a central angle of 04°30'03", a radius of 1040.00 feet, an arc length of 81.69 feet and a chord bearing of S24°10'14"W a distance of 81.67 feet to a 5/8" rebar with cap; thence S26°25'16"W a distance of 101.50 feet to a 5/8" rebar with cap and point of curvature; thence on a tangent curve to the Left, having a central angle of 18°14'59", a radius of 460.00 feet, an arc length of 146.52 feet and a chord bearing of S17°17'46"W a distance of 145.90 feet to a 5/8" rebar with cap; thence N89°05'32"W a distance of 681.41 feet to a 5/8" rebar with cap on the West line of said Northeast Quarter; thence N00°54'28"E on said West line a distance of 306.60 feet to the point of beginning, containing 4.55 acres, more or less, of which 0.60 acres, more or less, will be dedicated for road Right-of-Way purposes. There are total acres of 20.48 Acres more or less, Buffalo County, Nebraska (950 feet south of 10th Street and west of 22nd Avenue) be approved granting the deviation for landscaping around the helipad as shown on the approved Landscape Plan filed with Development Services. Also, approval is subject to a buffer of coniferous trees, being planted on the east and west sides of the proposed maintenance building as shown on the Revised Development Plan. Said landscape buffer is approved as a deviation in lieu of the enhanced masonry requirement for buildings with street-facing facades.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LAND USE MAP AMENDMENT; SOUTHEAST CORNER OF 39TH STREET AND COUNTRY CLUB LANE

Public Hearings 6, 7, 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Twin Falls, LLC for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from High Density Residential to Mixed Use 1 property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane) and to consider Resolution No. 2014-5. Planning Commission recommended approval subject to a Homeowners Association be formed and recorded at the Register of Deeds office prior to any lot being sold and 37th/38th Street be named 37th Street Circle.

The applicant is requesting approval for the third phase of the Aspen Meadows development south of 39th Street on Country Club Lane. This phase will open the connection of Country Club Lane to 39th Street. The Developer is proposing residential four-plex dwellings for the east part of this property while the west area is reserved for future office development. Approvals required for this project include an amendment to the future land use map in conjunction with rezoning, subdivision plats and annexation.

The current zoning of this property is Agricultural. Three lots west of Country Club Lane are proposed to be zoned Office District and the remaining 12 lots on the east side of Country Club Lane are proposed to be zoned Urban Residential Mixed Density District to allow residential four-plex structures. The Future Land Use Map of the Comprehensive Development Plan depicts this property as "High Density Residential." Staff does not consider four-plex buildings to be high-density, although any denser development would qualify as such. With the proposal for combined office use and four-plexes, staff recommends that the land use map be amended to "Mixed Use 1" to accommodate R-2 and C-O rezoning. The lots proposed for C-O appear to be relatively shallow but the minimum lot area in a C-O zoning district is 6,000 square feet and the minimum lot width is 75 feet with no minimum depth requirement and these lots meet the minimum requirements. The commercial lots could be consolidated allowing an office building and associated parking to extend across two or all three of the lots.

The original Preliminary Plat for Aspen Meadows, including this parcel, was approved by Planning Commission on July 21, 2006. The developer has changed the configuration of the street going through the subdivision slightly so a revised Preliminary Plat was submitted as part of the current development package. The Preliminary Plat was approved at the December 20, 2013 Planning Commission meeting. A total of 15 lots will be Preliminary and Final platted; 3 lots are commercial lots and 12 lots are being platted for four-plex development. Country Club Lane will extend to 39th Street. The plat currently shows 39th Street consisting of 40 feet of right-of-way from centerline, but as an arterial street, ten additional feet of right-of-way is being dedicated to ensure the ultimate width of 50 feet wide. At some point in the future Country Club Lane will probably be signalized at this location. The proposed four-plex lots are served by a local loop street depicted on the plat as 37th/38th Street. Table 55-1 of the ULDO states the definition of a local loop street as: "*a dedicated local street that terminates with two points of access to higher order streets and connects to no other streets along its length*". The maximum length of a Local Loop is 1,320 feet. Proposed 37th/38th Street will be 35 feet wide and will be considered a local loop street. Signage shall be erected at the center of the loop, indicating the name change. Planning Commission believed that the street name was confusing and offered an alternative street name of 37th Street Circle. Staff recommends 37th/38th Street to maintain 911 street addressing standards.

Sanitary sewer connection fees are due before connecting to the sanitary sewer main in Country Club Lane, before the City awards a bid for improvement districts, or before the developer begins construction of public improvements through a Developer Constructed Infrastructure Agreement. City water must be constructed in Country Club Lane from the south line of the development to the existing water main located in 39th Street. City water and sanitary sewer must be constructed in 37th Street and 38th Street. Every separate premise must be directly connected to City water and sanitary sewer. A premise is created with each billing account.

A storm water detention cell will be constructed near the southeast corner of 39th Street and Country Club Lane. The storm water detention cell will be contained within an outlet identified as such on the plat and shall also be labeled as a non-buildable lot. A Subdivision Agreement is required stating that the developer/owner or an association of property owner's will be responsible for maintenance of the storm water detention cell and associated outlet.

Landscaping is not a requirement for the R-2 portions of this development, but the C-O lots must meet commercial landscape requirements when they are developed.

A public sidewalk will be constructed across the property frontage along 39th Street.

Public services are available to the property and this site can connect to the services. The property is also contiguous to the city limit line. Therefore, based on the Annexation Policy approved by City Council, this property shall be annexed into the corporate limits of the City as "an addition to the City of Kearney" on the Final Plat.

Craig Bennett from Miller & Associates presented this matter to the Council. He represents the Aspen Meadows Third Subdivision. 39th Street is along the north side of the boundary which represents approximately 10.27 acres. This currently is not in the City limits although currently encompassed entirely by the City limits so will be bringing this into the City limits. It also has 37th Street along the west side and Country Club Lane which is along the southwest and this particular plat will now extend Country Club Lane to 39th Street. The first phase was a residential component with some R-2 duplexes on that cul-de-sac. The second phase was residential area and this is the last phase of it.

What is before Council is the final plat but it has what is known as 37th Street coming off of Country Club Lane and blends into 38th Street as it continues around. Planning Commission recommended calling that a circle and they originally showed this as 37th Street and have left it remaining as 37th/38th Street. After visiting with staff there currently is no circle definition and for 911 purposes it makes more sense this way. Essentially, this has seven lots around the outside block, four lots around the inside and a detention cell lot which the three commercial lots will be along the west side of Country Club Lane.

In looking at the Public Works Plan, the seven lots along the outside and the four lots in the inside are purposed four-plex buildings which would be permissible in the R-2. They would allow the storm water to go to the outlet. It would be defined by a physical lot and grade and this again would extend Country Club Lane and continue to connect into the intersection where Country Club Lane currently goes north into Lighthouse Point.

City Manager Michael Morgan asked about the left turn lane on 39th Street especially with the commercial office. Mr. Bennett stated they have not; that they just matched what was on the north side so they have not shown any improvements on 39th Street. City Manager stated this will carry a lot more traffic than the north side which is limited residential and this has the commercial so they probably need to discuss that at some point.

Director of Public Works Rod Wiederspan stated as part of the paving district work they will explore that as far as left turn lanes. The City always has anticipated that this intersection will be a higher traffic intersection and will probably require a left turn lane in the future whether they require them today or add it on later will be determined. The right-of-way itself is 100-foot wide; it is wide enough to accommodate those future improvements. With regard to the Country Club Lane portion, there is 66 foot which can have a 3-lane road section in there but there will not be any parking on the sides but can get a left lane turn in the middle. It would be similar to 17th Avenue where it comes up to 39th Street. City Manager stated it will be easier to accommodate because 39th Street is already constructed but is more worried about making sure it has the ability if that is what is necessary. Public Works Director stated they will probably balloon out that intersection on Country Club Lane. The City has done that on some of the others so it is able to accommodate in the future when the City puts a signal in anticipating that this intersection will eventually require a signal.

City Manager asked about the commercial lots; what would be the typical uses. Mr. Bennett stated office space primarily and whether not it is three lots or if it happens to be one or two that ends up dividing it out is unknown at this time. City Manager asked about that driveway access question with that road being right in the middle, would there be a frontage across the three lots. Mr. Bennett stated it could possibly be a shared access at a common lot line depending on how this gets built out so as each person comes through maybe it is three different businesses but they would investigate that. Otherwise, if it was not without discussion of what could actually go there they would put three different services for sanitary sewer and water but they have not shown where the driveways would be.

Council Member Nikkila asked how long until Country Club Lane will be connected to 39th Street and open for traffic. Public Works Director stated part of the subdivision agreement is requesting the districts be created so will be proceeding with those districts right away. Anticipating the paving would be later this summer or early in the fall but anticipating it will be within the City's 1-year plan to get that connection in there.

Council Member Buschkoetter asked about initially building Country Club Lane with the idea that it will be three lanes. Public Works Director stated the Country Club Lane as it approaches and connects to 39th Street, The City will balloon that out enough so that it can put three lanes in the future whether they stripe that today as three lanes or they do it with a signal. Typically, the City does not like to put the three lanes in there, the left turn lane and the through lane with a stop sign situation because of the site vision and one car blocks the view.

Council Member Buschkoetter stated he was still uncertain on the 37th Street whether or not it is going to be a circle. City Manager stated staff recommends against the circle, and the preference would be to continue to the streets not the circle.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2014-5** approving the Application submitted by Miller & Associates for Twin Falls, LLC for an amendment to the Land Use Map of the City of Kearney Comprehensive

Development Plan from High Density Residential to Mixed Use 1 property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2014-5

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being in part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 34 and assuming the East line of said Northwest Quarter as bearing $S00^{\circ}37'55''W$ and all bearing contained herein are relative thereto; thence $S00^{\circ}37'55''W$ on said East line a distance of 40.00 feet to a point on the South Right-of-Way line of 39th Street as platted in the City of Kearney, Buffalo County, Nebraska, said point also being the Northwest corner of Lot One, Block One, Altmaier Acres Subdivision as platted in the City of Kearney and the ACTUAL POINT OF BEGINNING; thence continuing $S00^{\circ}37'55''W$ on said East line, and the West line of Altmaier Acres Subdivision, a distance of 587.09 feet to a $5/8''$ rebar with cap at the Northeast corner of Lot Three, Brandt's Hillside Estates Addition as platted in the City of Kearney; thence $S70^{\circ}49'39''W$ on the Northerly line of said Brandt's Hillside Estates Addition a distance of 477.81 feet to a point on the Easterly Right-of-Way line of Country Club Lane as platted in the City of Kearney, Buffalo County, Nebraska; thence $N19^{\circ}12'33''W$ on said Easterly Right-of-Way line a distance of 287.76 feet to the beginning of a tangent curve to the Right having a central angle of $10^{\circ}20'22''$, a radius of 467.00 feet, an arc length of 84.27 feet, and a chord bearing of $N14^{\circ}02'22''W$ a distance of 84.16 feet to the Northeast corner of Aspen Meadows Second Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence $N89^{\circ}34'40''W$ on the North line of said Aspen Meadows Second Addition, a distance of 198.24 feet to the East line of J. N. Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence $N00^{\circ}45'08''E$ on the East line of said J. N. Addition for a distance of 395.06 feet to a point on the South Right-of-Way line of said 39th Street; thence $S89^{\circ}33'34''E$ on said South Right-of-Way line a distance of 765.95 feet to the Point of Beginning, containing 10.27 acres, more or less, Buffalo County, Nebraska from High Density Residential to Mixed Use 1, and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from High Density Residential to Mixed Use 1 the use classification for a tract of land being in part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the Northeast corner

of the Northwest Quarter of said Section 34 and assuming the East line of said Northwest Quarter as bearing S00°37'55"W and all bearing contained herein are relative thereto; thence S00°37'55"W on said East line a distance of 40.00 feet to a point on the South Right-of-Way line of 39th Street as platted in the City of Kearney, Buffalo County, Nebraska, said point also being the Northwest corner of Lot One, Block One, Altmaier Acres Subdivision as platted in the City of Kearney and the ACTUAL POINT OF BEGINNING; thence continuing S00°37'55"W on said East line, and the West line of Altmaier Acres Subdivision, a distance of 587.09 feet to a 5/8" rebar with cap at the Northeast corner of Lot Three, Brandt's Hillside Estates Addition as platted in the City of Kearney; thence S70°49'39"W on the Northerly line of said Brandt's Hillside Estates Addition a distance of 477.81 feet to a point on the Easterly Right-of-Way line of Country Club Lane as platted in the City of Kearney, Buffalo County, Nebraska; thence N19°12'33"W on said Easterly Right-of-Way line a distance of 287.76 feet to the beginning of a tangent curve to the Right having a central angle of 10°20'22", a radius of 467.00 feet, an arc length of 84.27 feet, and a chord bearing of N14°02'22"W a distance of 84.16 feet to the Northeast corner of Aspen Meadows Second Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence N89°34'40"W on the North line of said Aspen Meadows Second Addition, a distance of 198.24 feet to the East line of J. N. Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence N00°45'08"E on the East line of said J. N. Addition for a distance of 395.06 feet to a point on the South Right-of-Way line of said 39th Street; thence S89°33'34"E on said South Right-of-Way line a distance of 765.95 feet to the Point of Beginning, containing 10.27 acres, more or less, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING SOUTHEAST CORNER OF 39TH STREET AND COUNTRY CLUB LANE

Public Hearings 6, 7, 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Twin Falls, LLC to rezone from District AG, Agricultural District to District R-2, Urban Residential Mixed-Density District and to District C-O, Office District property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane) Ordinance No. 7865.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Miller & Associates for Twin Falls, LLC to rezone from District AG, Agricultural District to District R-2, Urban Residential Mixed-Density District and to District C-O, Office District property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane) and

introduced Ordinance No. 7865 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. 7865. 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. 7865 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. 7865 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. 7865 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 ASPEN MEADOWS THIRD ADDITION; SOUTHEAST CORNER OF 39TH STREET AND COUNTRY CLUB LANE

Public Hearings 6, 7, 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Twin Falls, LLC for the Final Plat for Aspen Meadows Third 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 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane) and to consider Resolution No. 2014-6.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2014-6** approving the Application submitted by Miller & Associates for Twin Falls, LLC for the Final Plat for Aspen Meadows Third 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 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane) subject to a Homeowners Association being formed and recorded at the Register of Deeds office prior to any lot being sold and to include the split name for the street as 37th/38th Street. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2014-6

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Aspen Meadows Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being in part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 34 and assuming the East line of said Northwest Quarter as bearing $S00^{\circ}37'55''W$ and all bearing contained herein are relative thereto; thence $S00^{\circ}37'55''W$ on said East line a distance of 40.00 feet to a point on the South Right-of-Way line of 39th Street as platted in the City of Kearney, Buffalo County, Nebraska, said point also being the Northwest corner of Lot One, Block One, Altmaier Acres Subdivision as platted in the City of Kearney and the ACTUAL POINT OF BEGINNING; thence continuing $S00^{\circ}37'55''W$ on said East line, and the West line of Altmaier Acres Subdivision, a distance of 587.09 feet to a $5/8''$ rebar with cap at the Northeast corner of Lot Three, Brandt's Hillside Estates Addition as platted in the City of Kearney; thence $S70^{\circ}49'39''W$ on the Northerly line of said Brandt's Hillside Estates Addition a distance of 477.81 feet to a point on the Easterly Right-of-Way line of Country Club Lane as platted in the City of Kearney, Buffalo County, Nebraska; thence $N19^{\circ}12'33''W$ on said Easterly Right-of-Way line a distance of 287.76 feet to the beginning of a tangent curve to the Right having a central angle of $10^{\circ}20'22''$, a radius of 467.00 feet, an arc length of 84.27 feet, and a chord bearing of $N14^{\circ}02'22''W$ a distance of 84.16 feet to the Northeast corner of Aspen Meadows Second Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence $N89^{\circ}34'40''W$ on the North line of said Aspen Meadows Second Addition, a distance of 198.24 feet to the East line of J. N. Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence $N00^{\circ}45'08''E$ on the East line of said J. N. Addition for a distance of 395.06 feet to a point on the South Right-of-Way line of said 39th Street; thence $S89^{\circ}33'34''E$ on said South Right-of-Way line a distance of 765.95 feet to the Point of Beginning, containing 10.27 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 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF ASPEN MEADOWS THIRD ADDITION; SOUTHEAST CORNER OF 39TH STREET AND COUNTRY CLUB LANE

Public Hearings 6, 7, 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Twin Falls, LLC for the annexation of Aspen Meadows Third 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 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane) and to consider Resolution No. 2014-7.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-7** approving the Application submitted by Miller & Associates for Twin Falls, LLC for the annexation of Aspen Meadows Third 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 34, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (southeast corner of 39th Street and Country Club Lane). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2014-7

WHEREAS, an Application has been submitted by Miller & Associates for Twin Falls, LLC for the inclusion of Aspen Meadows Third Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being in part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 34 and assuming the East line of said Northwest Quarter as bearing S00°37'55"W and all bearing contained herein are relative thereto; thence S00°37'55"W on said East line a distance of 40.00 feet to a point on the South Right-of-Way line of 39th Street as platted in the City of Kearney, Buffalo County, Nebraska, said point also being the Northwest corner of Lot One, Block One, Altmaier Acres Subdivision as platted in the City of Kearney and the ACTUAL POINT OF BEGINNING; thence continuing S00°37'55"W on said East line, and the West line of Altmaier Acres Subdivision, a distance of 587.09 feet to a 5/8" rebar with cap at the Northeast corner of Lot Three, Brandt's Hillside Estates Addition as platted in the City of Kearney; thence S70°49'39"W on the Northerly line of said Brandt's Hillside Estates Addition a distance of 477.81 feet to a point on the Easterly Right-of-Way line of Country Club Lane as platted in the City of Kearney, Buffalo County, Nebraska; thence N19°12'33"W on said Easterly Right-of-Way line a distance of 287.76 feet to the beginning of a tangent curve to the Right having a central angle of 10°20'22", a radius of 467.00 feet, an arc length of

84.27 feet, and a chord bearing of N14°02'22"W a distance of 84.16 feet to the Northeast corner of Aspen Meadows Second Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence N89°34'40"W on the North line of said Aspen Meadows Second Addition, a distance of 198.24 feet to the East line of J. N. Addition as platted in the City of Kearney, Buffalo County, Nebraska; thence N00°45'08"E on the East line of said J. N. Addition for a distance of 395.06 feet to a point on the South Right-of-Way line of said 39th Street; thence S89°33'34"E on said South Right-of-Way line a distance of 765.95 feet to the Point of Beginning, containing 10.27 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on December 20, 2013 on the inclusion of Aspen Meadows Third 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 Aspen Meadows Third 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 January 14, 2014 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 Aspen Meadows Third 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 Aspen Meadows Third 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 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LAND USE MAP AMENDMENT; NORTH SIDE OF W ROAD 2,500 FEET WEST OF HIGHWAY 10

Public Hearings 10, 11 and 12 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for James Gregory and Tamara Brandt for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agricultural to Rural Estates property described as a tract of land being part of Government Lots 3 and 4 and the accretions abutting said lots located in Section 23, Township 8 North, Range 16 West of the 6th P.M, Kearney County, Nebraska (north side of W Road 2,500 feet west of Highway 10) and to consider Resolution No. 2014-8. Planning Commission recommended approval.

The developer would like to plat a 6-lot single-family rural residential subdivision north of W Road (also commonly referred to as River Road) that is located in Kearney County but is within the City's two mile jurisdiction.

The property is currently zoned District AG, Agricultural. The Comprehensive Plan shows the area to be "Agricultural/Open" and the portion proposed for rezoning to rural residential will need to be amended to "Rural Estates". Proposed Lot 1 has an accessory building but no main dwelling. Proposed Lot 1 was shown at the DRT meeting exceeding the 20-acre threshold for Agricultural zoning because it contained some accretion land. As such, this lot could remain Agricultural by State law because the parcel exceeds 20 acres in size. City Code does not require an AG building to have a main dwelling associated with it in AG zones. Therefore, a future home may be constructed on the AG lot without rezoning.

The remainder of the property is proposed for District RR-1, Rural Large Lot Residential (Rural Standards) as public services are not available at this time, or in the foreseeable future. RR-1 lots require a minimum lot size of three acres. The developer came to DRT proposing RR-2 zoning, a rural residential zone which allows smaller lots and staff advised the developer that the proper zoning is RR-1. The lot lines were adjusted accordingly to ensure Lots 2 through 6 contain at least three acres while Lot 1 contains at least 20 acres.

Zoning and platting is contingent upon DEQ approval of the septic systems because the property is located in a floodplain with shallow depth to groundwater. Plans have been prepared by the engineer for submittal to DEQ and are included in this plan package. Mound systems will be required by DEQ for the septic leach fields.

The Preliminary and Final Plat will consist of six residential lots on 42.36 acres. The developer has an agreement with the landowner to the east of the accessory building that only six lots can be developed on this parcel. The Planning Commission approved the Preliminary Plat at the December 20, 2013 meeting. There is an existing single-family home on Lot 2. Lot 1 contains an existing accessory building. Otherwise, the lots are vacant at this time. Gravel streets are allowed in an RR-1 zoning district. Driveway access to W Road will be coordinated with Kearney County. The intent is to have a shared access between Lots 3 and 4 and Lots 5 and 6 to minimize access points on the county road. City water, sanitary sewer and refuse collection systems are not available. The developer proposes private wells and septic systems. DEQ approval is required and plans have been submitted to DEQ.

The development is within the City of Kearney Well Head Protection Overlay District defined in Chapter 45 of the City Code. The majority of the property is contained in Zone 4 and a small amount along the north side is within Zone 1. Development within Zone 4 is allowed with written approval by the City of Kearney and if in compliance with Chapter 45 of the City Code. Development within Zone 1 must also be in compliance with Chapter 45 of the City Code.

The property is located in the 100-year flood plain (buildable if the lowest finished floor is at least one foot above the base flood elevation) with the northwest corner of the

property being in the floodway (non-buildable). Staff recommends the developer contact FEMA/U.S. Army Corps of Engineers for a permit prior to excavation in a floodway.

There is no need for a subdivision agreement to address annexation or improvement districts, as City infrastructure is unlikely to extend to this subdivision.

Craig Bennett from Miller & Associates presented this matter to the Council. He represents Greg Brandt and the subdivision. This subdivision is located in Kearney County and so it is within the 2-mile jurisdiction. This property is hinged on the south by W Road and there are different additions of Brandt Subdivisions on the east side of this. It does consist of a lake and as well as some developed area and one house and one other structure that is on this particular boundary. The Comprehensive Plan did not include anything out in this area to be designated as how it should be developed. Currently, the property is zoned AG for this parcel and it is contiguous to RR-2 on the east and close proximity as RR-1. The zoning that we are proposing for this parcel here which is approximately 42 acres is rezoning a portion of it from AG to RR-1.

Looking at the development W Road on the south and there are six lots that are being proposed; however, Lot 1 will remain as an AG lot. The other five lots are being proposed to be rezoned from AG to RR-1. Lot 1 has a building on it and by definition it cannot have an accessory building without a primary residence on a lot so to rezone this if it is remaining AG does allow that particular use to co-exist so that building would be conforming plus it also is a large parcel that does have a finger that goes back up into and adjacent to these other subdivision lots. The five lots are being proposed to be zoned as RR-1.

In looking at it from a floodplain standpoint, there is a floodway that does cut through the rest of the property which is primarily in the 100-year floodplain which is consistent with this area or even on the north side of the interstate. The preliminary plat is the same as the final plat in terms of boundary and encompassing this whole area so there would be four lots to the east of it and one lot. These lots consist of three acres and larger.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2014-8** approving the Application submitted by Miller & Associates for James Gregory and Tamara Brandt for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agricultural to Rural Estates property described as a tract of land being part of Government Lots 3 and 4 and the accretions abutting said lots located in Section 23, Township 8 North, Range 16 West of the 6th P.M, Kearney County, Nebraska (north side of W Road 2,500 feet west of Highway 10). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-8

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part Government Lots 2, 3 and 4 and the

accretions abutting said lots of Section 23, Township 8 North, Range 16 West of the 6th P.M., Kearney County, Nebraska, and more particularly described as follows: Beginning at the Northwest corner of said Government Lot 4 of Section 23, and assuming the West line of said Government Lot 4 extended as bearing $N00^{\circ}01'09''E$ and all bearings contained herein are relative thereto; thence $N00^{\circ}01'09''E$ on the West line of Government Lot 4 if extended, a distance of 529.52 feet to the existing south high back of the Platte River; thence $S85^{\circ}18'31''E$ on said South high bank, and all courses following are along said South high bank until otherwise described, a distance of 517.21 feet; thence $S72^{\circ}31'34''E$ a distance of 513.96 feet; thence $S88^{\circ}24'24''E$ a distance of 338.43 feet; thence $N75^{\circ}31'24''E$ a distance of 492.29 feet; thence $N79^{\circ}55'08''E$ a distance of 319.20 feet; thence $N88^{\circ}53'45''E$ a distance of 455.17 feet; thence $N22^{\circ}51'26''E$ a distance of 137.19 feet; thence $S84^{\circ}28'43''E$ a distance of 238.81 feet; thence $S71^{\circ}10'27''E$ a distance of 94.55 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 1, Brandt's Lakewood 8th Subdivision as platted in Kearney County, Nebraska; thence $S19^{\circ}01'23''W$ leaving said South high bank and on the Westerly line of said Brandt's Lakewood 8th Subdivision, a distance of 100.19 feet to a 5/8" rebar with cap; thence $S35^{\circ}43'58''E$ and continuing on said Westerly line, a distance of 172.50 feet to a 5/8" rebar with cap at the Southwest corner of said Brandt's Lakewood 8th Subdivision and the Northwest corner of a private access drive as platted in Brandt's Lakewood 7th Subdivision as platted in Kearney County, Nebraska; thence $S07^{\circ}29'59''W$ on the Westerly line of said private access drive a distance of 59.97 feet to a 5/8" rebar with cap at the Southwest corner of said private access drive; thence $S82^{\circ}32'33''E$ on the South line of said private access drive a distance of 80.13 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 2, Brandt's Lakewood 7th Subdivision; thence $S07^{\circ}26'20''W$ on the Westerly line of said Brandt's Lakewood 7th Subdivision a distance of 259.93 feet to a 5/8" rebar on the North line of Lot 1, Brandt's Lakewood Estates Subdivision; thence $N82^{\circ}35'16''W$ on the North line of said Brandt's Lakewood Estates Subdivision a distance of 290.13 feet; thence $N00^{\circ}50'57''W$ continuing on said North line a distance of 117.88 feet; thence $N38^{\circ}27'06''E$ continuing on said North line a distance of 167.20 feet; thence $N18^{\circ}43'28''W$ continuing on said North line a distance of 60.17 feet; thence $N49^{\circ}37'08''W$ continuing on said North line a distance of 51.65 feet; thence $S67^{\circ}27'02''W$ continuing on said North line a distance of 158.15 feet; thence $S87^{\circ}42'13''W$ continuing on said North line a distance of 147.84 feet; thence $S59^{\circ}16'22''W$ continuing on said North line a distance of 102.95; thence $S07^{\circ}55'15''W$ on the Westerly line of said Brandt's Lakewood Estates a distance of 373.85 feet to a 5/8" rebar; thence $S82^{\circ}05'59''E$ continuing on said Westerly line a distance of 110.13 feet to a 5/8" rebar with cap; thence $S07^{\circ}54'24''W$ continuing on said Westerly line a distance of 199.11 feet to a 5/8" rebar with cap on the Northerly Right-of-Way line of "W" Road; thence $N83^{\circ}36'17''W$ on said Northerly Right-of-Way line a distance of 239.00 feet to a 5/8" rebar with cap; thence $S87^{\circ}14'20''W$ continuing on said Northerly Right-of-Way line a distance of 493.76 feet to a 5/8" rebar; thence $N89^{\circ}59'41''W$ continuing on said Northerly Right-of-Way line a distance of 248.79 feet to a 5/8" rebar; thence $N85^{\circ}54'21''W$ continuing on said Northerly Right-of-Way line a distance of 513.28 feet to a 5/8" rebar; thence $N80^{\circ}23'40''W$ continuing on said Northerly Right-of-Way line a distance of 242.91 feet to a 5/8" rebar; thence $N75^{\circ}27'21''W$ continuing on said Northerly Right-of-Way line a distance of 774.36 feet to a 5/8" rebar on the West line of said Government Lot 4; thence $N00^{\circ}01'09''E$ on the West line of Said Government Lot 4 a distance of 28.85 feet to the Point of Beginning, containing 42.36 acres, more or less, Kearney County, Nebraska from Agricultural to Rural Estates, and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Agricultural to Rural Estates the use classification for a tract of land being part Government Lots 2, 3 and 4 and the accretions abutting said lots of Section 23, Township 8 North, Range 16 West of the 6th P.M., Kearney County, Nebraska, and more particularly described as follows: Beginning at the Northwest corner of said Government Lot 4 of Section 23, and assuming the West line of said Government Lot 4 extended as bearing N00°01'09"E and all bearings contained herein are relative thereto; thence N00°01'09"E on the West line of Government Lot 4 if extended, a distance of 529.52 feet to the existing south high back of the Platte River; thence S85°18'31"E on said South high bank, and all courses following are along said South high bank until otherwise described, a distance of 517.21 feet; thence S72°31'34"E a distance of 513.96 feet; thence S88°24'24"E a distance of 338.43 feet; thence N75°31'24"E a distance of 492.29 feet; thence N79°55'08"E a distance of 319.20 feet; thence N88°53'45"E a distance of 455.17 feet; thence N22°51'26"E a distance of 137.19 feet; thence S84°28'43"E a distance of 238.81 feet; thence S71°10'27"E a distance of 94.55 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 1, Brandt's Lakewood 8th Subdivision as platted in Kearney County, Nebraska; thence S19°01'23"W leaving said South high bank and on the Westerly line of said Brandt's Lakewood 8th Subdivision, a distance of 100.19 feet to a 5/8" rebar with cap; thence S35°43'58"E and continuing on said Westerly line, a distance of 172.50 feet to a 5/8" rebar with cap at the Southwest corner of said Brandt's Lakewood 8th Subdivision and the Northwest corner of a private access drive as platted in Brandt's Lakewood 7th Subdivision as platted in Kearney County, Nebraska; thence S07°29'59"W on the Westerly line of said private access drive a distance of 59.97 feet to a 5/8" rebar with cap at the Southwest corner of said private access drive; thence S82°32'33"E on the South line of said private access drive a distance of 80.13 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 2, Brandt's Lakewood 7th Subdivision; thence S07°26'20"W on the Westerly line of said Brandt's Lakewood 7th Subdivision a distance of 259.93 feet to a 5/8" rebar on the North line of Lot 1, Brandt's Lakewood Estates Subdivision; thence N82°35'16"W on the North line of said Brandt's Lakewood Estates Subdivision a distance of 290.13 feet; thence N00°50'57"W continuing on said North line a distance of 117.88 feet; thence N38°27'06"E continuing on said North line a distance of 167.20 feet; thence N18°43'28"W continuing on said North line a distance of 60.17 feet; thence N49°37'08"W continuing on said North line a distance of 51.65 feet; thence S67°27'02"W continuing on said North line a distance of 158.15 feet; thence S87°42'13"W continuing on said North line a distance of 147.84 feet; thence S59°16'22"W continuing on said North line a distance of 102.95; thence S07°55'15"W on the Westerly line of said Brandt's Lakewood Estates a distance of 373.85 feet to a 5/8" rebar; thence S82°05'59"E continuing on said Westerly line a distance of 110.13 feet to a 5/8" rebar with cap; thence S07°54'24"W continuing on said Westerly line a distance of 199.11 feet to a 5/8" rebar with cap on the Northerly Right-of-Way line of "W" Road; thence N 83°36'17" W on said Northerly Right-of-Way line a distance of 239.00

feet to a 5/8" rebar with cap; thence S87°14'20"W continuing on said Northerly Right-of-Way line a distance of 493.76 feet to a 5/8" rebar; thence N89°59'41"W continuing on said Northerly Right-of-Way line a distance of 248.79 feet to a 5/8" rebar; thence N85°54'21"W continuing on said Northerly Right-of-Way line a distance of 513.28 feet to a 5/8" rebar; thence N80°23'40"W continuing on said Northerly Right-of-Way line a distance of 242.91 feet to a 5/8" rebar; thence N75°27'21"W continuing on said Northerly Right-of-Way line a distance of 774.36 feet to a 5/8" rebar on the West line of said Government Lot 4; thence N00°01'09"E on the West line of Said Government Lot 4 a distance of 28.85 feet to the Point of Beginning, containing 42.36 acres, more or less, Kearney County, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING NORTH SIDE OF W ROAD 2,500 FEET WEST OF HIGHWAY 10

Public Hearings 10, 11 and 12 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for James Gregory and Tamara Brandt to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lots 3 and 4 and the accretions abutting said lots located in Section 23, Township 8 North, Range 16 West of the 6th P.M, Kearney County, Nebraska (north side of W Road 2,500 feet west of Highway 10) and to consider Ordinance No. 7866.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Miller & Associates for James Gregory and Tamara Brandt to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lots 3 and 4 and the accretions abutting said lots located in Section 23, Township 8 North, Range 16 West of the 6th P.M, Kearney County, Nebraska (north side of W Road 2,500 feet west of Highway 10) and introduced Ordinance No. 7866 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. 7866. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7866 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. , Buschkoetter Nay:

None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7866 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7866 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 GREG BRANDT SUBDIVISION; NORTH SIDE OF W ROAD 2,500 FEET WEST OF HIGHWAY 10

Public Hearings 10, 11 and 12 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for James Gregory and Tamara Brandt for the Final Plat for Greg Brandt Subdivision, a subdivision in Kearney County Nebraska, for property described as a tract of land being part of Government Lots 2, 3 and 4 and the accretions abutting said lots located in Section 23, Township 8 North, Range 16 West of the 6th P.M, Kearney County, Nebraska (north side of W Road 2,500 feet west of Highway 10) and to consider Resolution No. 2014-9.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2014-9** approving the Application submitted by Miller & Associates for James Gregory and Tamara Brandt for the Final Plat for Greg Brandt Subdivision, a subdivision in Kearney County Nebraska, for property described as a tract of land being part of Government Lots 2, 3 and 4 and the accretions abutting said lots located in Section 23, Township 8 North, Range 16 West of the 6th P.M, Kearney County, Nebraska (north side of W Road 2,500 feet west of Highway 10). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2014-9

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Greg Brandt Subdivision, a subdivision in Kearney County, Nebraska for a tract of land being part Government Lots 2, 3 and 4 and the accretions abutting said lots of Section 23, Township 8 North, Range 16 West of the 6th P.M., Kearney County, Nebraska, and more particularly described as follows: Beginning at the Northwest corner of said Government Lot 4 of Section 23, and assuming the West line of said Government Lot 4 extended as bearing N00°01'09"E and all bearings contained herein are relative thereto; thence N00°01'09"E on the West line of Government Lot 4 if extended, a distance of 529.52 feet to the existing south high back of the Platte River; thence S85°18'31"E on said South high bank, and all courses following are along said South high bank until otherwise described, a distance of 517.21 feet; thence S72°31'34"E a distance of 513.96 feet; thence S88°24'24"E a distance of

338.43 feet; thence N75°31'24"E a distance of 492.29 feet; thence N79°55'08"E a distance of 319.20 feet; thence N88°53'45"E a distance of 455.17 feet; thence N22°51'26"E a distance of 137.19 feet; thence S84°28'43"E a distance of 238.81 feet; thence S71°10'27"E a distance of 94.55 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 1, Brandt's Lakewood 8th Subdivision as platted in Kearney County, Nebraska; thence S19°01'23"W leaving said South high bank and on the Westerly line of said Brandt's Lakewood 8th Subdivision, a distance of 100.19 feet to a 5/8" rebar with cap; thence S35°43'58"E and continuing on said Westerly line, a distance of 172.50 feet to a 5/8" rebar with cap at the Southwest corner of said Brandt's Lakewood 8th Subdivision and the Northwest corner of a private access drive as platted in Brandt's Lakewood 7th Subdivision as platted in Kearney County, Nebraska; thence S07°29'59"W on the Westerly line of said private access drive a distance of 59.97 feet to a 5/8" rebar with cap at the Southwest corner of said private access drive; thence S82°32'33"E on the South line of said private access drive a distance of 80.13 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 2, Brandt's Lakewood 7th Subdivision; thence S07°26'20"W on the Westerly line of said Brandt's Lakewood 7th Subdivision a distance of 259.93 feet to a 5/8" rebar on the North line of Lot 1, Brandt's Lakewood Estates Subdivision; thence N82°35'16"W on the North line of said Brandt's Lakewood Estates Subdivision a distance of 290.13 feet; thence N00°50'57"W continuing on said North line a distance of 117.88 feet; thence N38°27'06"E continuing on said North line a distance of 167.20 feet; thence N18°43'28"W continuing on said North line a distance of 60.17 feet; thence N49°37'08"W continuing on said North line a distance of 51.65 feet; thence S67°27'02"W continuing on said North line a distance of 158.15 feet; thence S87°42'13"W continuing on said North line a distance of 147.84 feet; thence S59°16'22"W continuing on said North line a distance of 102.95; thence S07°55'15"W on the Westerly line of said Brandt's Lakewood Estates a distance of 373.85 feet to a 5/8" rebar; thence S82°05'59"E continuing on said Westerly line a distance of 110.13 feet to a 5/8" rebar with cap; thence S07°54'24"W continuing on said Westerly line a distance of 199.11 feet to a 5/8" rebar with cap on the Northerly Right-of-Way line of "W" Road; thence N 83°36'17" W on said Northerly Right-of-Way line a distance of 239.00 feet to a 5/8" rebar with cap; thence S87°14'20"W continuing on said Northerly Right-of-Way line a distance of 493.76 feet to a 5/8" rebar; thence N89°59'41"W continuing on said Northerly Right-of-Way line a distance of 248.79 feet to a 5/8" rebar; thence N85°54'21"W continuing on said Northerly Right-of-Way line a distance of 513.28 feet to a 5/8" rebar; thence N80°23'40"W continuing on said Northerly Right-of-Way line a distance of 242.91 feet to a 5/8" rebar; thence N75°27'21"W continuing on said Northerly Right-of-Way line a distance of 774.36 feet to a 5/8" rebar on the West line of said Government Lot 4; thence N00°01'09"E on the West line of Said Government Lot 4 a distance of 28.85 feet to the Point of Beginning, containing 42.36 acres, more or less, Kearney County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Kearney County, Nebraska.

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 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REDEVELOPMENT AREA #12 – BLIGHT AND SUBSTANDARD DETERMINATION

Mayor Clouse opened the public hearing to consider an area referred to as Redevelopment Area #12 to be blighted and substandard and in need of redevelopment and described as follows: beginning at the intersection of the north line of West 24th Street (Highway 30) and the west line of University Drive, thence south across West 24th Street to the intersection of the south line of West 24th Street and the west line of University Drive, thence south along platted west line of said University Drive to its intersection with the north line of Lot 2, Block 2, Kearney Plaza Addition, thence west along said north line to its intersection with the east line of Tract 7 of said Kearney Plaza Addition, thence north along said east line of Tract 7 to its intersection with the south line of Lot 27, Lincoln Way Villa Addition, thence west along said south line to its intersection with the west line of Lot 28, Lincoln Way Villa Addition, thence north along said west line to its intersection with the south line of West 24th Street, thence west along said south line of West 24th Street to its intersection with the west line of 30th Avenue, thence north across West 24th Street to its intersection with the north line of said Street, thence north, east and north along the west line of 30th Avenue to its intersection with the extended north line of Lot 1 of irregular Tract "G", thence east along said extended north line across 30th Avenue and continuing northeasterly and then southeasterly long the north line of irregular Tract "G" to its intersection with the east line of Lot 5 of irregular Tract "G", thence south along said east line of Lot 5 to its intersection with the north line of West 24th Street, thence east along said north line to its intersection with the west line of University Drive, also the point of beginning, all located in the City of Kearney, Buffalo County, Nebraska; to amend Redevelopment Area #10 to include Redevelopment Area #12 and to consider Resolution No. 2014-10.

Jon Abegglen, Chairman of the CRA, presented this matter to the Council. In May 2013 the CRA approved a contract with Hanna:Keelan Associates of Lincoln to conduct a Blight and Substandard Study of the area. They did that study and they did determine it does meet the requirements under the State statute as being blighted and substandard and they also put together a Redevelopment Plan. On August 19, 2013 the CRA accepted the Blighted and Substandard Study for Area #12 and then subsequent to that the Planning Commission also reviewed this plan on December 20, 2013 and the Planning Commission recommended approval.

In order for this to happen certain things have to be prevalent in the area such as aging structures, dilapidated and deteriorated structures there are private roads that are owned and maintained that are deteriorating and in poor conditions. Portions of the area have been undersized having undersized privately owned and maintained utility services so all and all the area does qualify under the statute to be blighted and substandard and certainly warrants a Redevelopment Plan along with that. The study was commissioned at the request of a property owner and so as the CRA Board looked at this, they looked at a broader scale as development pushes west on 24th Street it made sense to take a look around and expand that study to include other areas that would be qualify for redevelopment.

Council Member Nikkila asked how this was connected to an existing area. Mr. Abegglen stated it does not connect; however, Area #10 was studied about two years ago and so they amended it and expanded the area. Council Member Nikkila stated the cornfield section was added to provide some connection. It does connect it but actually as they started looking at that and reviewing it in that original #12 study they could not figure out why they did not include this corner of the cornfield.

Mayor Clouse asked so there is quite a list of criteria that has to be met in order to qualify. Mr. Abegglen confirmed stating an area cannot just be declared to be blighted and substandard; there has to be dilapidated structures that need help and signs of utilities, roadway, and infrastructure come into play. This criteria is set by State statutes and not the CRA and Hanna:Keelan provides them with that information. Mayor Clouse commented that it is not uncommon to have property across the street that would not qualify. Mr. Abegglen confirmed.

Council Member Lammers asked of that 109 buildings that you have in the blighted area probably a higher percentage of those are trailer homes that are located in there and most of those are in excess of 40 plus years. Mr. Abegglen stated that was correct and the infrastructure that services them is very old.

Council Member Nikkila asked why across the street the old K-mart building, now the Buckle building, is an old structure why would that not fall in the footprint but the others would. Mr. Abegglen stated a study would have to be done to determine that. The designated area is the area the CRA decided to have a study done. City Manager stated there is also a limit on the maximum amount of plans so there is a priority basis that is assigned.

Mr. Abegglen stated there is in terms of percentage of the total community that can be blighted and substandard at any one time and they were looking at that and looking at ways they might be able to free up some of that. In other words, de-blight some areas that have been helped and developing on their own now. The CRA is looking a little more in depth now so that they can keep the balance. City Manager stated also when you have adjacent major streets with future access you look to define the boundaries to get to those streets because the cost can be shared for the entire area.

Scott Johnson, 5600 Cottonwood Road stated he was in opposition to a portion of the blighted Area #12 that would be the northeast corner of 30th Avenue and Highway 30. He currently owns the southwest corner that being Thirsty's, Quiznos, Baskin Robbins and also a part owner of the north property which would be the northwest corner of 30th Avenue and Highway 30 which is 12 acres owned by a group of partners. He talked to the southeast property owner and that being Tim Lowe and none of them became aware of this until last night when reading about this in the paper. What it does is create an unfair competitive advantage for that northeast property in several ways.

Back in 1997 when they built Thirsty's he made a couple requests to City Manager Allen Johnson about blighting the area and he would not consider it on both occasions and from what he understood also Lynne Heiden, one of the owners of the northwest property that he is not involved with, also made a request to blight the northwest corner and that was not considered. As far as the northwest property they have been trying to

sell that property for the past 14 years and have been unsuccessful. If the northeast corner is blighted as far as the property in the northwest corner it will give an advantage to them because if a developer comes in they can get TIF, possible low interest government loans and other help.

As far as Thirsty's they are currently looking at putting in a pretty large portion of improvements because they are almost a generation at Thirsty's and they need a face lift. They are going to put a few thousand dollars in a face lift which would include signage, lighting, and carwash addition. There are also some things inside as far as another franchise so they are trying to improve that property but if the northeast corner again with the developers say he cannot control who goes in the other properties whether they are competitors or not but if they go in as a convenience store, restaurant, or a carwash they are a direct competitor. By blighting it would give them an unfair advantage that he does not have. The other property owners were unaware of this; they did not see any postings or receive any letters or notifications. He could have at least received a letter.

Assistant City Manager/Development Services Director Suzanne Brodine stated there was a public hearing from Planning Commission as well prior to this so that was our first public advertising for the area. Letters went out to the property owners that are in the area that are affected by the blight and substandard so each property owner within this proposed area did receive a letter but the City is not required to send notification to those adjacent to this.

City Attorney Michael Tye stated in terms of legal notice what the City of Kearney does is more than what is legally required. When a Planning Commission hearing happens that notice is published as is required by law and the City does post the property which the City does not have to do both but the City does typically and that would happen with Planning Commission and City Council. So in terms of notice that is what is required by law. Mr. Johnson stated he did not see it for this Council meeting and the reason he is bringing that up is because this late opposition. He wanted to explain that and he knows letters went out to those in the blighted area but the City could have sent letters out to adjacent property owners just to be sure if they had any opposition or anything such as this that would have been appreciated.

Council Member Lammers stated typically for the blighted area to qualify they have a number of buildings, facilities and streets that are in poor condition there is a lot of things that would not happen unless you do have it be a blighted area. That is why it gets recommended whether that creates an unfair advantage there is considerable cost that goes into that project to get it back to where it can be utilized.

Mr. Johnson stated he understands that he has a lot of development and general contracting himself he owns other properties and paid for all the improvements on the property he did not get any help, he did ask for help but did not get it. He talked to Tim Lowe today and he mentioned he does not have sewer/water on his property at the southeast property so he is going to have to go all the way into the middle of 30th Avenue to get that when they do. They have been making improvements to the northeast property. When they built Thirsty's there was an old motel there that they razed and completely changed and put in all new sewer and water and went into the

center of the street to get both. He would sure like to have the money that they are putting back into their facility; he would like low interest financing and a cap on property tax over the next several years because it has steadily went up. The other three corners are at a disadvantage.

Council Member Nikkila asked what the zoning was where the house is located on the northeast corner; is it zoned for businesses that can compete with Mr. Johnson's business. Assistant City Manager stated the property is commercially zoned. Council Member Nikkila asked so they could put in a gas station without needing to get City approval to do it. Assistant City Manager stated they would have to come through with the development plan for that area.

Mr. Johnson stated he would hate to take away from the northeast corner but it creates an unfair advantage and requested consideration be given for the other three corners. City Manager stated he thinks the City owned it in 2000. Mr. Johnson stated they acquired it in 2000, there was a trade. City Manager stated they sold it back in 2006 or 2007 the City actually owned it. There was a deal with the golf course.

City Manager stated the challenge is that you do not want to take away from the existing property owner. They have not in the past looked at the specific boundaries because this situation exists throughout the community there are several other examples of this and this is the first time we have had this discussion. Council certainly has the authority to send it back to the Planning Commission and the CRA to make an adjustment. Restrictions cannot be made to not be a competitor to what is across the street; you would have to go back and adjust the boundaries. There is not low interest; that is not an issue either. The only advantage is tax increment where the property taxes are diverted back; certainly that is an advantage to that.

Council Member Lear asked does the program tap into the property taxes for the area. City Manager stated yes. Assistant City Manager stated that may be a little confusing. It is a property tax rebate that you get with TIF so you may not feel the increase in your property taxes but it is still there until the rebate. City Manager stated you pay it but you certainly get it back. Now in this property would be as significant because there is already commercial there then it would be all residential but there certainly would be an increment associated with putting something similar to Thirsty's.

Mayor Clouse asked if the property owners could request a study. City Manager stated most certainly. Mr. Abegglen stated he thinks to slow this process down may not be the best choice in the world but would say if they want to solicit or request another study of the other areas adjacent they would be glad to look at that as a CRA Board and if it warrants they would commission a study on that area as well.

Council Member Lear asked if looking at the southeast property that might have water/sewer improvements that might be applicable there potentially. Mr. Abegglen stated as he looks at that and thinks about what might be able to happen there you need to understand that the tax increment that is given to developers is specific to use to broadly define it as public access type improvements that would be sewer/water, drainage, parking lots, lighting, landscape can be included in that as well. The CRA typically sticks with that criteria when they approve TIF projects as well and are very

conscious of the stuff that they want to make sure is public access in nature on these projects. So it is not just using it for anything for building or anything like that it is specific to cleaning up the property which there is a real advantage with these properties if a developer comes in he will have to do a lot of cleanup and get the property to a level that would be developable. They will have to take down a lot of dilapidated structures, grading, fill and those sorts of things.

Council Member Lear asked as TIF financing sometimes you would award 100 percent TIF but there would be times when you would award something less. Mr. Abegglen stated it is driven by what are the costs of the improvements and do those improvements qualify and is the increment that is being created lesser, greater or equal to those improvements and then the amount awarded is based on that criteria. They have to look at the whole picture.

Mr. Johnson stated with regard to his property, it needs a face lift there are areas of concrete that needs replaced, replacing lights there are a lot of improvements that they plan to put in but that is a portion of it that is the northwest property and that qualifies no differently. City Manager stated the northwest property is currently served by water and sewer. Council Member Lear stated that property if brought into the blighted designation what you would be looking at is things like additional grading required for the project, landscape there might be some other things but if water and sewer is already there.

Mr. Abegglen stated in order for it to be blighted and substandard it just cannot meet one of those criteria there is a greater portion of a list of 15-20 of them that has to be present and evident on the property so he does not know from that standpoint with the State statute that Mr. Johnson would qualify because he does not have dilapidated structures. Mr. Johnson asked how that far southeast corner qualifies that is empty. Mr. Abegglen stated that connects the two basically. Mr. Johnson stated he understands the trailer park but that empty area is no different than what they have in the northwest and in Tim Lowe's southeast property.

Assistant City Manager stated it may very well qualify if another study were done there. She does know that the designated property had additional utility issues coming in there, poor platting that is not conducive to development today. Mr. Johnson stated it seems very similar. Mr. Abegglen recommended if Mr. Johnson is interested in doing that that the CRA do a study of those additional areas and see if it meets the qualifications under the State statute.

City Manager stated there is a cost associated with doing a study and a maximum number of acreage that the City can TIF and they are not equal. They have to be very up front about the challenges this is all one part of one larger parcel that had some significant challenges. The CRA does not arbitrarily grant new studies. Assistant City Manager stated it can cost \$2,500-\$8,000 depending on the size of the area that they study. City Manager stated the CRA looks at a lot of those factors to make sure it has a good chance because its non-refundable money and it is not paid for by the developer it is paid for by the CRA. He can always initiate the discussion but that is what the CRA will look at before they initiate the study because once you initiate the study then you will have the costs.

Mr. Abegglen stated when the CRA looks at these areas they look at large areas and we are not just looking at little spots we are looking at areas that they can have a significant impact on by doing a study and creating a redevelopment district and there may be advantages there as a result of being where they are.

Mayor Clouse stated what he is hearing is that Council does not want to deny this or send it back but the question will be what recourse does Mr. Johnson and the others have. City Manager stated he wanted to point out when you look at an area to even look at TIF you have to determine if you are going to gain any TIF advantage. If there is no water or sewer, no major drainage you would not even go through the process to begin with because you are not going to create additional revenues necessary.

Assistant City Manager stated one of the things that she has done on other projects before the CRA considers commissioning a study is we have done preliminary estimates to see how much TIF you can potentially get, what kind of project being looked at. There may not be enough eligible expenditure to make it worth your while. They had other TIF applicants that decided not to go forward with the process because there is not enough money there to make it worth it.

Council Member Buschkoetter stated in other words there would be a fair amount of that property that somebody would look at when they are developing and say it is not worth my time and effort to even apply for the TIF because you do not really need that many amenities at that specific lot. City Manager stated certainly less advantage because as he as mentioned if there are not the challenges at that corner than there is less advantage to that TIF. You do not get the revenue unless you have eligible expenses. Mr. Abegglen stated in order to create that increment you have to create additional value and to replace your lights, concrete does not improve the value of your property in terms of the County Assessor and the tax rolls because it is already there and assessed and in your value.

City Manager stated the other issue is if there is a concern there is another way to handle this concern. The Council does get the TIF application later; it comes from the CRA to City Council. So if Council looks at this and says in this particular area for this development A at the northeast corner, concerns have been raised and should not be eligible for that much it can still be within that TIF area, still receive some TIF benefit but it can be a reduced amount or whatever policy the CRA would want to make or the City Council at a different date. That is another way to address the concern rather than denying it you certainly can take into consideration the issues that have been raised this evening.

Council Member Nikkila asked if the CRA has the latitude when they are making decisions to say if someone wants to put in a gas station and a car wash and does not allow TIF because there is already one on that intersection and do not want to provide a competitive advantage. Council Member Lear stated one of the things we need to recognize about CRA blighted designations and TIF financing, it always creates an unfair advantage for somebody. Every TIF project creates that inherit issue. This is the more extreme example because you are creating a situation where you can potentially be encouraging a competitor immediately across from you. He recognizes there are those limitations but you go back and you look why does the CRA exist. It exists

because there are areas that probably need some help to spur development so TIF exists as a tool to come in and use and say here is a way to help speed development of a particular area. From the standpoint of what has been approved as projects when he looks at this it meets the definition of what they are doing with TIF. It does not take away the inherent flaw of occasionally creating unfair advantages; that is always there. The other problem is what do you do, what other tool you can use to try and make things happen there and there really is not one.

City Manager stated in a geographical area not perfect or equal in all needs that is the other potential. Council Member Buschkoetter stated there is always going to be a boundary, there is always going to be the other side of the street from that boundary. City Manager stated there will be some within the TIF area that are less needed than other areas.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-10** approving an area referred to as Redevelopment Area #12 to be blighted and substandard and in need of redevelopment and described as follows: beginning at the intersection of the north line of West 24th Street (Highway 30) and the west line of University Drive, thence south across West 24th Street to the intersection of the south line of West 24th Street and the west line of University Drive, thence south along platted west line of said University Drive to its intersection with the north line of Lot 2, Block 2, Kearney Plaza Addition, thence west along said north line to its intersection with the east line of Tract 7 of said Kearney Plaza Addition, thence north along said east line of Tract 7 to its intersection with the south line of Lot 27, Lincoln Way Villa Addition, thence west along said south line to its intersection with the west line of Lot 28, Lincoln Way Villa Addition, thence north along said west line to its intersection with the south line of West 24th Street, thence west along said south line of West 24th Street to its intersection with the west line of 30th Avenue, thence north across West 24th Street to its intersection with the north line of said Street, thence north, east and north along the west line of 30th Avenue to its intersection with the extended north line of Lot 1 of irregular Tract "G", thence east along said extended north line across 30th Avenue and continuing northeasterly and then southeasterly long the north line of irregular Tract "G" to its intersection with the east line of Lot 5 of irregular Tract "G", thence south along said east line of Lot 5 to its intersection with the north line of West 24th Street, thence east along said north line to its intersection with the west line of University Drive, also the point of beginning, all located in the City of Kearney, Buffalo County, Nebraska; to amend Redevelopment Area #10 to include Redevelopment Area #12. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-10

WHEREAS, a blighted and substandard study and declaration, and adoption of a redevelopment plan, is a requirement before an area can be considered eligible for Tax Increment Financing; and

WHEREAS, Hanna:Keelan Associates conducted a survey to determine whether all or part of an area in Kearney, Nebraska qualifies as a blighted and substandard area within the definition set forth in the Nebraska Community Development Law, Section 18-2103. Redevelopment Area #12 in the City of Kearney, Nebraska is described as

follows: a tract of land beginning at the intersection of the north line of West 24th Street (Highway 30) and the west line of University Drive, thence south across West 24th Street to the intersection of the south line of West 24th Street and the west line of University Drive, thence south along platted west line of said University Drive to its intersection with the north line of Lot 2, Block 2, Kearney Plaza Addition, thence west along said north line to its intersection with the east line of Tract 7 of said Kearney Plaza Addition, thence north along said east line of Tract 7 to its intersection with the south line of Lot 27, Lincoln Way Villa Addition, thence west along said south line to its intersection with the west line of Lot 28, Lincoln Way Villa Addition, thence north along said west line to its intersection with the south line of West 24th Street, thence west along said south line of West 24th Street to its intersection with the west line of 30th Avenue, thence north across West 24th Street to its intersection with the north line of said Street, thence north, east and north along the west line of 30th Avenue to its intersection with the extended north line of Lot 1 of irregular Tract "G", thence east along said extended north line across 30th Avenue and continuing northeasterly and then southeasterly long the north line of irregular Tract "G" to its intersection with the east line of Lot 5 of irregular Tract "G", thence south along said east line of Lot 5 to its intersection with the north line of West 24th Street, thence east along said north line to its intersection with the west line of University Drive, also the point of beginning, all located in the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Hanna:Keelan Associates submitted a document entitled "Blight & Substandard Determination Study & General Redevelopment Plan; Kearney Redevelopment Area #12", a copy of which marked Exhibit "A" is attached hereto and made a part hereof by reference, and recommended that the City find and determine the subject area to be "blighted and substandard"; and

WHEREAS, City of Kearney, Nebraska in furtherance of the purposes and pursuant to the provisions of Sections 18-2101 to 18-2154, Reissue Revised Statutes of Nebraska, 1943, as amended (collectively the "Act"), in 2009 declared and designated an area as being "blighted and substandard," as defined in the Act, being generally described as "Redevelopment Area #10", and more particularly described as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-

way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska.

WHEREAS, the City, in furtherance of the purposes and pursuant to the provisions of the Act, in 2009 adopted the Redevelopment Plan for Area #10 (the "Redevelopment Plan") for the redevelopment and correction of the blighted and substandard conditions then existing in Area #10, as designated by the City; and

WHEREAS, Area #12 is contiguous to Area #10 and similar in conditions and composition; and

WHEREAS, the City has duly reviewed the Redevelopment Study and the Redevelopment Plan originally prepared for it concerning Area #10 and the Redevelopment Study and the Redevelopment Plan prepared for Area #12, the City finds that: (a) the blighted and substandard conditions previously identified, despite ongoing redevelopment efforts, still exist in Area #10 to a degree requiring ongoing redevelopment activity, as set forth in the Act, and (b), that the Redevelopment Plan previously adopted for Area #10 continues to be an appropriate plan for the redevelopment of Area #10, and (c) the blighted and substandard conditions identified in Area #12 exist to a degree requiring ongoing redevelopment activity, as set forth in the Act.

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

1. The recitals and findings set forth above be incorporated herein; and
2. The City Council finds that:
 - a. The blighted and substandard conditions previously identified, despite ongoing redevelopment efforts, still exist in Area #10 to a degree requiring ongoing redevelopment activity, as set forth in the Act, and as originally determined by the City Council in August of 2009.
 - b. The Redevelopment Plan previously adopted by the City Council on August 11, 2009 for Area #10 continues to be an appropriate plan for the correction of existing blighted and substandard conditions and the ongoing redevelopment of Area #10.
3. Redevelopment Area #10 should continue to be designated and deemed "blighted and substandard" as defined by Neb. Rev. Stat. Section 18-2103 of the Act.
4. Redevelopment Area #12 should be designated and deemed "blighted and substandard" and in need of redevelopment in accordance with the terms and provisions of Section 18-2109, R.R.S.
5. The City Council does hereby adopt the findings herein and shall renew its declaration that Area #10 be deemed "blighted and substandard," as defined by Neb. Rev. Stat. Section 18-2103 of the Act; and that it re-adopt the original Redevelopment Plan for Area #10 and amend Area #10 to include Area #12 as defined above.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated he had a conflict of interest with Item 12 of the Consent Agenda and that it would have to be voted on separately.

Moved by Nikkila seconded by Lear that Subsections 1 through 11 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 December 23, 2013.

2. Approve the following Claims:

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

Alfred Benesch \$11,594.30 co; AAT \$5,930.00 smcs; Ace Irr \$260.00 smcs; Albrecht,H \$672.00 smcs; All Makes Auto \$986.71 smcs; Amer Electric \$1,284.00 smcs; Amer Fence \$3,283.00 smcs; Anderson Bros \$617.85 smcs; Ask Supply \$364.98 smcs; Aurora Coop \$54.40 smcs; Baker & Taylor \$5,770.94 smcs; Barney Abstract \$35,300.00 co; Baxter,M \$58.84 smcs; Baye,S \$174.30 smcs; Beacon Observer \$26.00 smcs; Beehive Industries \$11,546.00 smcs; Bert Gurney & Assoc \$1,240.05 smcs; Blessing \$76,884.06 co; Bluecross Blueshield \$50,971.77 smcs; Bosselman Energy \$26,975.82 smcs; Buffalo Co Sheriff \$146,212.25 smcs; Buffalo Surveying \$4,209.25 smcs; Builders \$4,382.94 smcs; Capital Business Systems \$806.23 smcs; Carquest \$1,192.07 smcs; Cash-Wa \$894.30 smcs; CDW Govt \$2,603.74 co; Center Point Large Print \$100.68 smcs; Central NE Bobcat \$1,949.03 smcs,co; Charter \$494.04 smcs; Chesterman \$72.00 smcs; City of Ky \$347,689.42 ps,smcs,co; Clevenger Petroleum \$3,422.49 smcs; Colling,G \$700.00 co; Community Action Partner \$539.00 smcs; Connelly,J \$475.00 smcs; Conroy,B \$56.50 smcs; Conseco Life Ins \$19.00 ps; Consolidated Management \$213.50 smcs; Converse,N \$325.00 smcs; Cool Tech Commercial \$217.50 smcs; Copycat Printing \$228.57 smcs; Cornhusker Cleaning \$302.90 smcs; Credit Management Serv \$158.02 ps; Cullen,M \$37.44 smcs; Cystic Fibrosis \$47.39 smcs; D&M Security \$64.50 smcs; Dawson PPD \$3,480.68 smcs; Deboer,L \$100.00 smcs; Dish \$225.00 smcs; Dmilaco Sports Fashion \$73.00 smcs; Dowhy Towing \$100.00 smcs; DPC Industries \$6,254.05 smcs; Dutton-Lainson \$121.63 smcs; Eakes \$5,105.41 smcs,co; Eirich,T \$50.00 smcs; Elliott Equipment \$238.88 smcs; Express Sharpening \$114.00 smcs; Expression Wear \$110.00 ps; Fairbanks \$44,540.00 co; Farmers Union Coop \$700.00 smcs; Fire Com \$1,530.00 smcs; Footjoy \$94.04 smcs; Frontier \$9,168.61 smcs; Gale \$456.60 smcs; Garrett Tires \$7,587.94 smcs; GD Concrete \$23,492.00 co; GE Money Bank \$2,319.95 smcs; General Traffic Controls \$334.99 smcs; H&H Distributing \$332.51 smcs; Highland Park \$1,755.30 smcs; Hometown Leasing \$423.12 smcs; HOSA \$331.73 smcs; Hydrite Chemical \$3,612.39 smcs; ICMA RC \$8,185.07 ps; IRS \$255,594.23 ps; IPMA \$288.25 smcs; ISG Infrasy \$8,555.00 co; Jack Lederman \$58.72 smcs; Jack's Uniform \$373.49 smcs; James,D \$250.00 smcs; JCB Enterprises \$33.50 smcs; Johnson Controls \$356.25 smcs; Johnson Service \$330.00 smcs; K&K Parts \$1,836.80 smcs; Ky Chamber Comm

\$444.65 smcs; Ky Clinic \$1,499.00 ps; Ky Hub \$1,233.67 smcs; Ky Storytelling \$600.00 smcs; Ky United Way \$590.04 ps; Ky Visitors Bureau \$35,722.83 smcs; KVFD \$500.00 ps; Knipping,D \$174.30 smcs; Konica Minolta \$242.94 smcs; Krull Ins \$1,950.00 smcs; Kussmaul Electronics \$919.76 smcs; Landmark Implement \$10,490.34 smcs,co; Lawn Builders \$567.66 smcs; Librarica \$6,049.00 smcs; Lincoln Winwater Works \$724.28 smcs; Lips Printing \$112.40 smcs; Magic Cleaning \$4,400.00 smcs; Mail Express \$5,605.75 smcs; Marlatt Machine Shop \$5,367.00 smcs; Matheson Tri-Gas \$124.16 smcs; Meridian Library Systems \$15.00 smcs; Metlife \$8,165.93 ps; Microfilm Imaging \$10,135.00 co; Mid-America Golf \$97,695.00 co; Midlands Contracting \$42,181.76 co; Mid-NE Garage Doors \$192.75 smcs; Mieth,T \$174.30 smcs; Miller & Associates \$10,310.43 co; Miller,R \$1,080.00 smcs; Morgan,M \$47.46 smcs; Nat'l Alliance for Youth \$350.00 smcs; Nat'l Fire Protection \$1,165.50 smcs; NCS Equipment \$606.28 co; NE Assoc of Airport \$250.00 smcs; NE Aviation Council \$90.00 smcs; NE Child Support \$4,569.32 ps; NCMA \$434.00 smcs; NE Dept of Environmental \$13,891.89 smcs; NE Dept of Rev \$39,076.34 ps; NE Humanities Council \$50.00 smcs; NE Law Enforcement \$75.00 smcs; NE League of Municipalities \$375.00 smcs; NE Library Assn \$70.00 smcs; NE Library Commission \$950.00 smcs; NE Machinery \$5,408.67 smcs; NE Public Health \$444.00 smcs; NE Safety & Fire \$170.00 smcs; NE St Board of Landscape \$170.00 smcs; NEland Distributors \$730.87 smcs; New World Systems \$600.00 smcs; Newman Traffic \$2,341.90 smcs; NGCSA \$125.00 smcs; Norm's Plbg \$303.00 smcs; Northwestern Energy \$15,734.06 smcs; NRG Media \$65.00 smcs; Officemax \$220.57 smcs; Officenet \$483.41 smcs; O'Keefe Elevator \$2,090.03 smcs; Olsson Associates \$1,373.86 co; One Call Concepts \$195.75 smcs; O'Reilly Automotive \$1,360.23 smcs; Overhead Door \$888.00 smcs; Paramount \$138.05 smcs; Patterson,B \$70.89 smcs; Payflex Systems \$544.00 ps; Pep Co \$56.34 smcs; Platte Valley Comm \$429.18 smcs; Presto-X \$386.16 smcs; Rasmussen Mechanical \$199.00 smcs; Ready Mixed Concrete \$439.88 smcs; Recognition Unltd \$140.40 smcs; Recorded Books \$464.85 smcs; Reinke's \$320.57 smcs; Rodehorst,R \$174.30 smcs; Safelite \$49.95 smcs; Sapp Bros \$25,959.33 smcs; School District #7 \$1,480.35 smcs; Sensus \$1,732.50 smcs; Sheldon,S \$174.30 smcs; Sherwin Williams \$1,176.19 smcs; St Electrical Division \$125.00 smcs; St of NE/AS Central \$3,546.35 smcs; Stegeman Solutions \$800.00 smcs; Stott,D \$73.99 smcs; Sun Life Financial \$59,146.24 smcs; Tacha,J \$50.00 smcs; Teledyne Instruments \$901.96 smcs; Thompson Co \$27.23 smcs; Tiburon Financial \$922.35 ps; Trade Well Pallet \$3,000.00 co; Tri-Co Glass \$125.28 smcs; Turfwerks \$4,530.64 smcs; Turner Body Shop \$898.20 smcs; Union Bank \$125,070.14 ps; Unique Management \$322.20 smcs; Urbanek,G \$26.71 co; Vasquez,C \$40.00 smcs; Verizon \$1,160.86 smcs; Village Uniform \$601.46 smcs; Waterlink \$668.73 smcs; Wellman,P \$174.30 smcs; Wellness Council of America \$97.20 ps; Wilkins Hinrichs Stober \$3,522.63 co; Williams & Sons Housemovers \$12,500.00 co; Yanda's Music \$855.50 smcs; Yant Equipment \$594.25 smcs; Yellow Van Cleaning \$160.00 smcs; Zimmerman Printers \$120.75 smcs; Payroll Ending 12-28-2013 -- \$355,970.77. 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 applications for a Special Designated License submitted by Kearney Steak Company, dba Whiskey Creek in connection with their Class IK-35628 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building and the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on February

15, 17, 18, 19, 20, 2014 from 8:00 a.m. until 1:00 a.m. and February 16, 2014 from 12:00 p.m. until 12:00 a.m. for the Cattlemen's Classic.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Adopt **Resolution No. 2014-11** approving Change Order No. 2 showing an increase in the amount of \$7,986.00 submitted by Sampson Construction and approved by Alfred Benesch & Company for the construction of an Aircraft Rescue and Fire Fighting (ARFF) Facility located at the Kearney Regional Airport.

RESOLUTION NO. 2014-11

WHEREAS, Sampson Construction of Lincoln, Nebraska has performed services in connection with the Aircraft Rescue and Fire Fighting (ARFF) Facility located at the Kearney Regional Airport, and the City's engineer, Alfred Benesch & Company, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$7,986.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

| | |
|---------------------------------|-------------------|
| Original Contract Sum | \$1,677,000.29 |
| Change Order No. 1 (10-22-2013) | + 5,185.00 |
| Change Order No. 2 (1-14-2014) | + <u>7,986.00</u> |
| Contract Sum to Date | \$1,690,171.29 |

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibits "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt **Resolution No. 2014-12** approving the Professional Service Consultant Agreement; Community Revitalization Phase I – Central Avenue 2013 between the City of Kearney and Miller & Associates for survey, design and construction observation services for sidewalk/street/storm sewer construction.

RESOLUTION NO. 2014-12

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Professional Service Consultant Agreement for Community Revitalization Phase I; Central Avenue 2013 between the City of Kearney and Miller & Associates. The said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Adopt **Resolution No. 2014-13** approving the Professional Service Consultant Agreement; Community Revitalization Supplemental – Central Avenue 2013 between the City of Kearney and Miller & Associates for survey, design and construction observation services for sidewalk/street/storm sewer construction.

RESOLUTION NO. 2014-13

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Professional Service Consultant Agreement for Community Revitalization Supplemental; Central Avenue 2013 between the City of Kearney and Miller & Associates. The said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt **Resolution No. 2014-14** approving the Vehicle Gasoline Purchase Agreement between the City of Kearney and the Kearney Housing Agency to jointly purchase vehicle gasoline on a collective basis.

RESOLUTION NO. 2014-14

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the City of Kearney and the Kearney Housing Agency Vehicle Gasoline Purchase Agreement. The said Agreement, marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the Plans and Specifications for the renovation and construction of the 2013 Part 82 Improvements; Proposed Maintenance Building, Meadowlark Hills Golf Course and to set the bid opening date for February 18, 2014 at 2:00 p.m.

9. Accept the bid received for the Ultra Violet Disinfection Equipment Procurement and adopt **Resolution No. 2014-15** awarding the bid to Trojan Technologies from London, Ontario, Canada in the amount of \$268,486.95.

RESOLUTION NO. 2014-15

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on January 7, 2014 at 2:00 p.m. for the Ultra Violet Disinfection Equipment Procurement; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$455,000.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Trojan Technologies of London, Ontario, Canada in the sum of \$254,490.00 plus tax (\$268,486.95) be accepted as the lowest responsible bid for Ultra Violet Disinfection Equipment Procurement.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Trojan Technologies be and is the lowest responsible bidder for the Ultra Violet Disinfection Equipment Procurement to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Trojan Technologies of London, Ontario, Canada in the sum of \$254,490.00 plus tax (\$268,486.95) be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$455,000.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Adopt **Resolution No. 2014-16** approving Change Order No. 1 showing an increase in the amount of \$2,747.75, Application and Certificate of Payment No. 1-Final in the amount of \$108,120.55 and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete, Inc. and approved by Brungardt Engineering for the 2013 Part 2 Improvements; Paving Improvement District No. 2012-953 for Avenue L from 65th Street Place north northeasterly to 66th Street Place.

RESOLUTION NO. 2014-16

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2013 Part 2 Improvements; Paving Improvement District No. 2012-953 for Avenue L from 65th Street Place north northeasterly to 66th Street Place, and the City's engineer, Brungardt Engineering, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$2,747.75, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Brungardt Engineering have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$108,120.55, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

| | |
|--|--------------|
| Original Contract Sum | \$105,372.80 |
| Change Order No. 1 (1-14-2014) | + 2,747.75 |
| Contract Sum To Date | 108,120.55 |
| Gross Amount Due | 108,120.55 |
| Retainage | .00 |
| Amount Due to Date | 108,120.55 |
| Less Previous Certificates for Payment | .00 |
| Current Payment Due | \$108,120.55 |

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of August 7, 2013, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 1-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Adopt **Resolution No. 2014-17** approving the Agreement to Purchase Street Sweeper between the City of Kearney and the City of Minden.

RESOLUTION NO. 2014-17

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute on behalf of the City of Kearney the Agreement to Purchase Street Sweeper with the City of Minden. The Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

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

12. Adopt **Resolution No. 2014-18** granting an Easement for Electric Transmission Line between the City of Kearney and Nebraska Public Power District to construct a transmission line in the area of 56th Street and Cherry Avenue.

RESOLUTION NO. 2014-18

WHEREAS, NPPD has requested an easement from the City of Kearney for the purposes of constructing a transmission line on property described as the Northwest Quarter of the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and is located in the area of 56th Street and Cherry Avenue; and

WHEREAS, the easement is for the purpose of placing an electric transmission line in right-of-way owned by the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the Vice-President be and is hereby authorized and directed to execute the Easement for Electric Transmission Line on behalf of the City of Kearney. The Easement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA**BOX CAR; ADDITION TO LIQUOR LICENSE**

Mayor Clouse opened for discussion the Application for Addition to Liquor License to include an outdoor area submitted by David Sikes, dba Box Car in connection with their Class I-049947 liquor license located at 1920 Avenue A.

David Sikes has been operating the Box Car since December of 2000 and has not had any liquor violations. On December 11, 2013 the City received the Application for Addition to Liquor License submitted by the Box Car in connection with their Class I-049947 liquor license located at 1920 Avenue A. The Box Car would like to expand the current facility by adding an outdoor area adjacent to their facility. A sidewalk cafe is indicated on the drawing which is located on private property and is not a part of the public space.

According to the definitions of the Liquor Commission: "outdoor area" shall mean an outdoor area included in licensed premises, which is used for the service and consumption of alcoholic liquors and which is contained by a permanent fence, wall or other barrier approved by the Commission and shall be in compliance with all building and fire, or other applicable local ordinances.

The application was submitted to Development Services, Police Department and the Fire Department for consideration and recommendation. Development Services indicated they did not have any objection as long as the fence was installed in

accordance with the requirements of the Liquor Commission. The Fire Department did not have any issues but suggested since this is also a smoking area that a fire extinguisher be readily available. The Police Department also did not have any issues.

David Sikes presented this matter to the Council. He stated he is requesting a sidewalk café so they can extend the liquor license so that the smokers can go outside with liquor to get away from the noise. For the security part of it would make it easier for him because they do not walk out into the parking lot they just want to go outside and have their beer and cigarette. He is providing a little more service for the people who come and rent it for wedding receptions and so forth just to go outside and smoke their cigarette.

Moved by Buschkoetter seconded by Clouse to approve the Application for Addition to Liquor License to include an outdoor area submitted by David Sikes, dba Box Car in connection with their Class I-049947 liquor license located at 1920 Avenue A. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

WHISKEY CREEK MANAGER APPLICATION

Mayor Clouse opened for discussion the Manager Application for Robert Fraser submitted by Kearney Steak Company, dba Whiskey Creek in connection with their Class IK-035628 liquor license located at 407 South 2nd Avenue.

The Application for Manager has been submitted by Whiskey Creek in connection with their Class IK-035628 liquor license located at 407 South 2nd Avenue. Whiskey Creek has held a liquor license since 1996. According to the Liquor Commission web site, it appears they had a violation of Minor in Possession back in 2008. A background was conducted by the Police Department on Robert Fraser as the applicant for Manager and nothing was found that would prohibit Mr. Fraser from functioning as the manager. He currently is the manager of Old Chicago. He has a basic knowledge of the applicable laws and his plan for managing sales and staff seems 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. Fraser 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.

Robert Frasier presented this matter to the Council. He stated they have had turn over with Whiskey Creek general managers they have decided it is probably easier since he holds the license for Old Chicago and to apply for the one for Whiskey Creek.

Moved by Clouse seconded by Lammers to approve the Manager Application for Robert Fraser submitted by Kearney Steak Company, dba Whiskey Creek in connection with their Class IK-035628 liquor license located at 407 South 2nd Avenue. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIM

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$82,142.68 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

City Manager Michael Morgan updated the Council on several issues. The major projects update include:

- Bike Trail on 17th Avenue
- Skateboard Park is out for design
- Hammer Park Splash Park
- Golf Course Maintenance Building approved tonight is for a new maintenance building that will also include public restrooms, permanent restrooms on the course
- Major streets projects:
 - Central Avenue from 26th to 31st Street
 - 16th Street
 - Cherry Avenue – Phase 2
 - Miscellaneous street repairs
 - North Railroad Parking Lot
 - Talmadge Street to 4th Avenue
 - Extension of Talmadge Street – 534 feet to the west in the area of the new hotel
 - Avenue N from 25th to 28th Street
 - Avenue M – South of 11th Street to Archway Parkway
 - 5th Avenue from 13th to 16th Street
 - ADA Ramps
 - Lake Villa Estates
 - Fountain Hills 5th Addition
 - University Drive
 - Box Butte Avenue at 39th Street
- Downtown Lighting/Landscaping project beginning this spring/summer
- Airport Fire Station is 25 percent done
- New Hangar which will include permanent restrooms for tenants

Council Member Nikkila asked why the splash ground was going in Hammer Park and not Harvey or northeast. City Manager stated the Park Board evaluated both Hammer Park and Harvey Park and they decided their preference was Hammer Park. This will not be the last one but that was their preference.

City Manager stated they are waiting to determine if there will be additional funding for Project Honor, the Vet's Home. The 18 projects that are ahead of Kearney have been declared likely funded. All great projects but he does not think there is any chance there will be changes with respect to Kearney unless a state is not truly shovel ready or there

are some challenge at the State funding list.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 6:54 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:


MICHAELLE E. TRÉMBLY
CITY CLERK


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

