

*Kearney, Nebraska
February 11, 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 February 11, 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; 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: Mitch Humphrey, Paul Brungardt, Kerwyn Stewart, Clint Smith, Tom Bettles, Jason Simpson, Dan Hebb, Mike Uldrich, Tony Miller, Blaine Gronewoller, Lance Kwiatkowski, Kim Rothmeyer, Steve Altmaier from KGFW Radio, Mike Konz from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

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

PLEDGE OF ALLEGIANCE

One Boy Scout from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

RECOGNITION – 2013 NEBRASKA WATER ENVIRONMENTAL ASSOCIATION SCOTT WILBUR AWARD

Mayor Clouse and Council Members recognized Clint Smith and the employees at the Wastewater Treatment Plant for receiving this award. The award recognizes outstanding compliance, operation and performance of the City of the Kearney

Wastewater Treatment Plant. The award is given in memory of Scott Wilbur, a pioneer in wastewater treatment and in promoting improvement in wastewater treatment through his operation of the City of Omaha Papillion Creek Wastewater Treatment Facility from 1941 until 1954 as a founding member of the Nebraska Water Pollution Control Association which is now known as the Nebraska Water Environment Association.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONING EAST OF THE INTERSECTION OF AVENUE N AND 47TH STREET

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Arram Equities, Inc. to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) property described as a tract of land being part of Government Lot 2 located in the Northwest Quarter of Section 30 Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 47th Street) and to consider Ordinance No. 7869. Planning Commission recommended approval and requested that the low berm be added to the stormwater detention system at the southeast corner of the site.

These agenda items were continued from the December 20, 2013 meeting to the January 17, 2014 Planning Commission meeting at the request of the applicant. This subdivision was named "Essam Estates" when it went to Planning Commission. The Developer has since renamed it to "SunRise Estates."

The applicant is requesting approvals for a single-family residential subdivision on a 9.40 acre parcel located on the east side of Avenue N north of the middle school. This property has been before the Planning Commission about two years ago as proposed Juhl Addition. At that time, the previous developer proposed twice the density of what is now being requested. The previous version was withdrawn by the applicant. The site is basically a hill with significant change in elevation from north to south which provides an excellent opportunity for walkout basements and tremendous views. Unfortunately, the steep slopes also complicate development, especially for utilities, and particularly for drainage. The current proposal is for 12 single-family lots ranging in size from $\frac{1}{2}$ to $\frac{3}{4}$ acres.

The current zoning is District AG, Agricultural and the requested zoning is R-1, Urban Residential Single-Family District (Low Density). The Land Use Map designation for this area is "Low Density Residential" and does not need to be amended.

A Preliminary and Final Plat have been prepared for the proposed subdivision to be known as SunRise Estates Addition. The Preliminary Plat was approved by the Planning Commission on January 17, 2014. The plats contain 12 lots on 9.40 acres with a cul-de-sac street. The proposed cul-de-sac is oriented in an east-west direction, matches the alignment of 47th Street on the west side of Avenue N, and is approximately 475 feet in length. The developer intends to construct City water, sanitary sewer, paving and storm sewer to meet City specifications in proposed 47th Street Place east of Avenue N, via a Developer Constructed Infrastructure Agreement.

The developer intends to construct the sanitary sewer as a dry pipe to the southeast corner of the development BUT will provide sanitary sewer service through individual grinder pumps owned and maintained by the property owner discharging to a common force main maintained by the City. Grinder pumps will add about \$3,000 to \$5,000 cost per lot. The developer will construct the sanitary sewer force main with tracer wire, at the same time the other infrastructure is constructed, to discharge to the manhole located in 47th Street west of Avenue M. A Subdivision Agreement will be required to address the grinder pump arrangement.

Due to the difficult nature of this site, engineering computations and design of stormwater detention facilities must be completed to the satisfaction of the City Engineer prior to Planning Commission and City Council approval. The engineer has provided sufficient drainage storage of almost 70 percent of the development into the southwest corner. From this location the drainage can outfall into the existing storm sewer. The southeast four lots will sheet flow their drainage onto the adjacent properties following the natural water flow across the site. By reworking the storm system in this manner, the amount of storm water that drains into the southeast corner of the property is reduced by 50 percent over existing conditions according to engineer's calculations. At the Planning Commission hearing the neighboring property owners to the south and east expressed concerns about the water sheet flowing on to their property. They requested the engineer to design a small berm or dike, approximately two feet in height, to hold the water back in this area before it reaches the neighboring property. The berm will allow some of the water to percolate into the ground but the berm will not impede the water in the event of a large storm because the water can still sheet flow over the berm. The engineer agreed to add the berm into the stormwater detention system.

Maintenance of the detention cell and berm is the responsibility of either the owner or association of property owners, as set forth in the subdivision agreement.

The property is adjacent to City limits and all public services are available. Therefore, in keeping with the City policy on annexation, this property will be annexed into the corporate limits by dedication on the Final Plat as "an addition to the City of Kearney".

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. As far as the final plat they had to design some stormwater detention area and then agree to put a 2-foot berm along the south sides of Lots 7, 8 and 9 just to assure that they do not get the rush of water going onto the adjacent property. It will not distract from anyone's backyard; the land will go down and make a general rise up.

Paul Brungardt addressed the utilities since they do not have direct access to sanitary sewer. They have come up with the best they can do for this kind of site concerning the utilities. They like to have sanitary sewer lines all be gravity fed. The unfortunate aspect of this site is that they have about a 20-25 foot drop off. They cannot access any type of gravity feed system at this time it is too shallow to go back across the street. They are proposing to put in a gravity fed system that runs down the cul-de-sac to the bulb and drop down to the southeast corner in which time if ever development to the east or south should occur they will be able to tap onto that sanitary sewer and extend it all the way over to Grand View Estates. In the meantime they can actually do a force main system. Each house will have its own grinder pump system and force feed sanitary sewer back through a 3-inch PVC force main back to the sanitary sewer system on the west side on a temporary basis. It can last the test of time until such time they can get sanitary sewer to connect over to Avenue R in the future. Water can be fed off of the 16-inch main which is on Avenue N.

Storm sewer has always been the biggest issue here; they are going on the side of a hill. They have a terrace system; the water runs down and through and catches on the terrace system that protects the Wink Family. They have attempted to put a detention basin in on the southeast corner to capture the water and then control the flow out into the Wink property. What they have done instead is worked on the road being another terrace; basically capturing the water and getting the water diverted back to the southwest corner. There they can put a detention basin and absolutely run the flow from that part back into the existing storm sewer system at a controlled rate. In essence they have taken almost 70 percent of this development and they can capture the water and keep it from getting down onto the Wink property and let it flow back into storm sewer system in a controlled manner.

Lots 5 through 8, the sheet flow naturally down will provide a two or three foot berm along that south edge to protect the Wink property so that no run off can come on there. From the calculations that they generated it suggests that they are cutting the flow of water almost in half from its natural occurrence right now. They will capture that much water and get it away from the Wink property. It will not impede on the appearance, they can absolutely capture and the Wink property does not look like they are sitting behind a big dam it will be the natural contours. It works out very well for them on this matter.

Council Member Lammers asked if the berm will catch the water and then will that natural flow of that eventually seep to the southeast and run off the property. Mr. Brungardt responded it is to capture any excess amount of water and it will sit there and for all purposes percolate into the natural grade. Council Member Lammers asked if the west side of the four lots would all catch in the detention cell and go from there. Mr. Brungardt stated that was correct.

Council Member Nikkila questioned if a property is developed and it leads to more run off into a neighboring property what the legal options are for the neighboring property that is impacted. City Attorney Michael Tye stated it would not be necessarily an issue that the City would be involved with. This is why the City requires developers to manage stormwater and those sorts of things in the hope that there is no damage from one property owner to another but if a property owner was doing something on their property that created damage to another property there could be a private cause of

action between property owners for damages that might occur. If that property owner downstream was having issues or damages they could have legal regress against the upstream property owner if they are doing something to cause that damage.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Buffalo Surveying for Arram Equities, Inc. to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) property described as a tract of land being part of Government Lot 2 located in the Northwest Quarter of Section 30 Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 47th Street) and introduced Ordinance No. 7869 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 7869. 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. 7869 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 Nikkila seconded by Lear that Ordinance No. 7869 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. 7869 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 AND SUBDIVISION AGREEMENT FOR SUNRISE ESTATES

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Arram Equities, Inc. for the Final Plat and Subdivision Agreement for SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 2 located in the Northwest Quarter of Section 30 Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 47th Street) and to consider Resolution No. 2014-27.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2014-27** approving the Application submitted by Buffalo Surveying for Arram Equities, Inc. for the Final Plat and Subdivision Agreement for SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 2 located in the Northwest Quarter of Section 30 Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 47th Street) subject to the low berm being added to the stormwater detention system at the southeast corner of the site. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2014-27

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Southwest Quarter the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of Southwest Quarter of Section 30 and assuming the West line of the Northwest Quarter of Section 30 as bearing $N00^{\circ}18'53''W$ and all bearings contained herein are relative thereto; thence $N00^{\circ}18'53''W$ and on the West line of said Northwest Quarter of said Section 30 a distance of 500.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing $N00^{\circ}18'53''W$ and on the West line of the Northwest Quarter of said Section 30 a distance of 585.79 feet; thence leaving the West line of the Northwest Quarter of said Section 30, $N89^{\circ}40'54''E$ a distance of 700.09 feet to a concrete stone; thence $S00^{\circ}19'21''E$ a distance of 433.90 feet to a concrete stone; thence $S00^{\circ}11'40''E$ a distance of 149.45 feet to a 60d spike on the South side on a railroad tie fence post; thence $S89^{\circ}25'37''W$ a distance of 410.51 feet to an iron pipe; thence $S89^{\circ}33'35''W$ a distance of 289.33 feet to the place of beginning; excepting therefrom the west 33.0 feet deeded to the City of Kearney, Buffalo County, Nebraska as shown in Quitclaim Deed recorded May 26, 1989 on Roll 89, Pages 3853 thru 3854, containing 9.40 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 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF SUNRISE ESTATES

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Arram Equities, Inc. for the annexation of SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 2 located in the Northwest Quarter of Section 30 Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 47th Street) and to consider Resolution No. 2014-28.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2014-28** approving the Application submitted by Buffalo Surveying for Arram Equities, Inc. for the annexation of SunRise Estates, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 2 located in the Northwest Quarter of Section 30 Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 47th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-28

WHEREAS, an Application has been submitted by Buffalo Surveying for Arram Equities, Inc. for the inclusion of SunRise Estates, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Southwest Quarter the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of Southwest Quarter of Section 30 and assuming the West line of the Northwest Quarter of Section 30 as bearing N00°18'53"W and all bearings contained herein are relative thereto; thence N00°18'53"W and on the West line of said Northwest Quarter of said Section 30 a distance of 500.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N00°18'53"W and on the West line of the Northwest Quarter of said Section 30 a distance of 585.79 feet; thence leaving the West line of the Northwest Quarter of said Section 30, N89°40'54"E a distance of 700.09 feet to a concrete stone; thence S00°19'21"E a distance of 433.90 feet to a concrete stone; thence S00°11'40"E a distance of 149.45 feet to a 60d spike on the South side on a railroad tie fence post; thence S89°25'37"W a distance of 410.51 feet to an iron pipe; thence S89°33'35"W a distance of 289.33 feet to the place of beginning; excepting therefrom the west 33.0 feet deeded to the City of Kearney, Buffalo County, Nebraska as shown in Quitclaim Deed recorded May 26, 1989 on Roll 89, Pages 3853 thru 3854, containing 9.40 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on January 17, 2014 on the inclusion of SunRise Estates 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 SunRise Estates, 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 February 11, 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 SunRise Estates 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 SunRise Estates 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 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

**AMENDMENT TO SECTIONS 13-111, 46-111 AND TABLE 14-1 OF THE CITY CODE:
VERTICAL AXIS AND WIND TURBINES IN ASSOCIATION WITH CONSENT
AGENDA ORDINANCE 1)**

Mayor Clouse opened the public hearing on the proposed amendments to the following sections of the Code of the City of Kearney: Section 13-111 "Miscellaneous Type Uses" of Chapter 13 "Use Types", Table 14-1 "Use Matrix of Chapter 14 "Zoning District Regulations", and Section 46-111 "Supplemental Use Regulations: Miscellaneous Uses" of Chapter 46 "Supplemental Use Regulations" introducing regulations for vertical axis wind turbines and to consider Ordinance No. 7870. Planning Commission recommended approval on a split vote, four in favor and two opposed.

Assistant City Manager/Development Services Director, Suzanne Brodine, presented this matter to the Council. She stated several proposed amendments to the Unified Land Development Ordinance (ULDO) regarding wind turbines were discussed at Planning Commission meetings last summer and fall. A policy question was posed to City Council on September 24, 2013 requesting clarification of whether these types of energy systems should be allowed within the City jurisdiction and more particularly, within residential areas? The City Council considered the question and concluded that such a use is appropriate, but that considerations for setbacks, engineering, and potential nuisances should be addressed. Planning Commissioner Stan Dart met with staff twice to discuss proposed language for the code amendments and a final draft of the amendments was presented to Planning Commission last month. A mixed opinion from the Commissioners was apparent with the split vote outcome. Four voted in favor of the amendments while two Commissioners were opposed.

Staff added a new category of wind energy turbines that are smaller than the large commercial units. The small units are designed for residential use on-site consumption and are referred to in the amendments as “Small Wind Energy Conversion Systems (SWECS)”. The American Planning Association publication PAS Report No. 566 “Planning for Wind Energy” published in November 2011 analyzed local government ordinances in 14 communities and procured an on-line survey targeted at professional planners. The survey lasted over a year and 180 responses were received. All but eight states in the country were represented (Nebraska was represented) in the responses. Staff reviewed the findings of this report and along with some suggestions from Mr. Dart, the following amendments are presented for consideration:

- Amendments to Chapter 13, “Use Types” propose a new definition for “Small Wind Energy Conversion Systems” (SWECS) in Section 13, “Miscellaneous Type Uses”, which includes vertical or horizontal turbines on towers, either freestanding or guyed. Roof-mounted units are not allowable. The existing language for the larger “Wind Farm” type units is “Wind Energy Conversion Systems (WECS).” These units have been renamed “Large Wind Energy Conversion Systems (LWECS)” to provide clear differentiation from the small, residential units.
- Amendments to Chapter 14, “Zoning District Regulations” propose changes to Table 14-1, the “Use Matrix” to include SWECS, permitted by right in all zones except CBD and UC. LWECS require PD, Planned Development Overlay and are limited to zones AG, BP, M-1, and M-2.
- Amendments to Chapter 46-111C, “Supplemental Use Regulations: to specify development standards for these units such as maximum height, setbacks, and requirements for building permit submittals.
- Amendment to Chapter 5, “Health and Sanitation” to explicitly define dilapidated or non-working wind turbines as nuisances. (This part of the amendments goes directly to City Council and did not go to Planning Commission.)

Some of the Planning Commission members believed that roof-mounted units should also be considered as long as acceptable engineering standards are in place to insure structural integrity of the roof and the unit. Other Planning Commissioners believed that wind turbines of any kind should not be allowed in residential neighborhoods within the City.

Council Member Buschkoetter asked regarding it being a nuisance – if it is not functioning that would trigger that. It does not have to be dilapidated or falling apart just non-functioning. Assistant City Manager stated that was correct.

Council Member Nikkila questioned the exclusion in UC or CBD districts. Assistant City Manager stated primarily because of the size of those districts. Both CBD which is the downtown and UC areas have very tight and dense construction. Central Business District especially allows zero lot line development so there is really no place on a lot where someone could put that type of structure. Certainly, the City does not want that in alleys with the power lines and the other issues the City has. In a similar way, less dense but density structures are very close together, very tight parking, and a lot of curb cuts onto 2nd Avenue in those areas. The City did not believe that level of dense development was appropriate for a turbine to be placed in.

Council Member Nikkila asked if the general rule was they have to be 30 feet from a building in a neighboring property even though it could be 45 feet tall. Assistant City Manager stated that is to help mitigate any concerns for neighboring structures as well so that you cannot build your turbine right on your lot line next to your neighbor's property to give some separation for that.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the proposed amendments to the following sections of the Code of the City of Kearney: Section 13-111 "Miscellaneous Type Uses" of Chapter 13 "Use Types", Table 14-1 "Use Matrix of Chapter 14 "Zoning District Regulations", and Section 46-111 "Supplemental Use Regulations: Miscellaneous Uses" of Chapter 46 "Supplemental Use Regulations" introducing regulations for vertical axis wind turbines and introduced Ordinance No. 7870 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7870. 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. 7870 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 Lammers seconded by Nikkila that Ordinance No. 7870 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. 7870 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

IV. CONSENT AGENDA

Moved by Nikkila seconded by Lear that Subsections 1 through 14 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held January 28, 2014.
2. Approve the following Claims:

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

Affordable Transmission \$62.23 Smcs; Amax Contracting \$1,493.42 Co; American First Aid \$157.43 Smcs; Anderson Brothers \$909.86 Smcs ;Aurora Coop \$54.40 Smcs; Baker & Taylor \$5,848.76 Smcs; Bamford \$189.00 Smcs; Beavers, Vernon \$53.78 Smcs; Bieber,M \$85.00 Smcs; Bluecross Blueshield \$33,253.06 Smcs; Bosselman Energy \$4,689.30 Smcs; Buffalo Co Register Deeds \$34.00 Co; Builders \$983.52 Smcs; Buntmeyer,K \$60.00 Smcs; Capital Business Systems \$313.17 Smcs; Cash-Wa \$271.85 Smcs; Cave,C \$15.38 Smcs; Central Fire & Safety \$108.25 Smcs; Central NE Bobcat \$105.39 Smcs; Charter \$493.07 Smcs; City of Ky \$503,164.44 smcs,ps; Community Action Partner \$260.00 Smcs; Control Yours \$1,350.00 Smcs; Cool Tech \$83.50 Smcs; Copycat Printing \$176.12 Smcs; Cornhusker Cleaning \$220.41 Smcs; Crouch Recreational Design \$1,340.00 Co; Delacruz,M \$21.72 Smcs; Drivers License Guide \$29.95 Smcs; Dutton-Lainson \$787.06 smcs,co; Eakes \$750.75 Smcs; Edmisten,L \$1,055.00 Smcs; Eirich,T \$50.00 Smcs; Elliott Equipment \$265.38 Smcs; EMC Insurance \$21,216.35 Smcs; Evans,M \$20.97 Smcs; Family Practice Assoc. \$200.00 Ps; Farmers Union Coop \$700.00 Smcs; Fearnley,M \$27.23 Smcs; Fireguard \$2,330.75 Smcs; Full Tilt Management \$1,850.00 Smcs; Gale \$70.47 Smcs; Garrett Tires \$27.50 Smcs; GE Money Bank \$1,027.99 Smcs; Golf the West \$1,000.00 Smcs; Gray,C \$119.25 Smcs; Great Platte River Road \$75,000.00 Smcs; Harkness,E \$90.00 Smcs; HD Supply \$1,662.20 Smcs; Heartland Strategy Group \$5,000.00 Smcs; Heiman Fire Equipment \$298.05 Smcs; Hickey,S \$36.40 Smcs; Hill,A \$159.00 Smcs; Hometown Leasing \$423.12 Smcs; IACP \$120.00 Smcs; ICMA Retirement \$4,074.24 Ps; Internal Revenue Service \$127,089.69 Ps; Jack Lederman \$5.88 Smcs; Jeremy Jellison \$39.66 Smcs; Johnson Controls \$222.50 Smcs; Joseph Shane Johnston \$42.24 Ps; Ky Chamber Comm \$35.00 Smcs; Ky Clinic \$710.00 Ps; Ky Humane Society \$6,825.00 Smcs; Ky Noon Rotary \$110.00 Smcs; Ky United Way \$1,018.00 Ps; Ky Visitors Bureau \$54,751.83 Smcs; Keough,N \$100.00 Smcs; Kovar,M \$96.32 Smcs; Krull Insurance Agency \$1,950.00 Smcs; Kwik-N-Kleen \$4,693.00 Smcs; Linda's Upholstery \$176.75 Smcs; Longmore,T \$1.93 Smcs; Mac Tools \$877.19 Smcs; Magic Cleaning \$1,350.00 Smcs; Mail Express \$6,212.33 Smcs; Matheson Tri-Gas \$33.74 Smcs; McDermott & Miller \$24,035.00 Smcs; Melton,L \$18.00 Smcs; Menards \$19.76 Smcs; Metlife \$11,782.37 Ps; Middleton Electric \$381.18 Smcs; Midlands Contracting \$178,283.45 Co; Mid-NE Garage Doors \$150.00 Smcs; Milco Environmental \$2,477.90 Smcs; Miller & Associates \$50,350.39 smcs,co ;Minitex \$3,738.00 Smcs; Municipal Supply \$4,271.14 Smcs; Navigator Motorcoaches \$659.00 Smcs; NE Assoc. of Senior Center \$20.00 Smcs; NE Cemetery Assoc. \$40.00 Smcs; NE Child Support Pyt. Ctr. \$2,284.66 Ps; NE City Management Assoc. \$100.00 Smcs; NE Dept. of Revenue \$55,836.67 Ps; NE League of Municipalities \$245.00 Smcs; NE Municipal Clerks \$35.00 Smcs; NE Public Health \$18.00 Smcs; Netmotion Wireless \$3,466.25 Smcs; Nevco \$2,408.32 Smcs; Northwestern Energy \$3,581.92 Smcs; NP Realty \$140,512.20 Co; Office Depot \$531.32 Smcs; O'Keefe Elevator \$367.97 Smcs; Olsson Associates \$24,500.00 Co; One Call Concepts \$162.15 Smcs; O'Neill Wood Resources \$9,225.00 Smcs; Padula,N \$38.06 Smcs; Panowicz,K \$140.00 Ps; Paramount \$169.67 Smcs; Patterson,B \$102.62

Smcs; Payflex Systems \$1,904.50 smcs,ps; PCM-G \$4,155.00 Co; Pictomery Intelligent \$1,200.00 Co; Pillar Design Studios \$12,325.00 Co; Pitney Bowes \$205.97 Smcs; Platte Valley Comm. \$2,182.02 Co; Premer,G \$4.17 Smcs; Presto-X \$127.19 Smcs; Random House \$172.50 Smcs; Ready Mixed Concrete \$800.37 Smcs; Recorded Books \$702.84 Smcs; Reinke's Heating \$288.28 Smcs; S&B Heating \$125.25 Smcs; Sampson Construction \$285,428.23 Co; Sapp Bros \$27,589.60 Smcs; Schindler Elevator \$699.36 Smcs; Schneider,M \$325.00 Smcs; School District #7 \$2,579.25 Smcs; See Clear Cleaning \$350.00 Smcs; Seneca Companies \$289,649.70 Co; Sherwin Williams \$287.33 Smcs; State of NE/AS Central \$3,520.55 Smcs; Sun Life Financial \$60,613.12 Smcs; Tacha,J \$50.00 Smcs; Tool Doctor \$67.50 Smcs; Union Bank & Trust \$61,907.83 Ps; Vazquez,C \$40.00 Smcs; Verizon Wireless \$1,100.82 Smcs; Village Cleaners \$560.17 Smcs; Payroll Ending 1-25-2014 -- \$358,299.70. 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 application for a Special Designated License submitted by Juan Lazo, dba El Tropicico in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building (Exposition Building alternate location) located at the Buffalo County Fairgrounds, 3807 Avenue N, on March 1, 2014 from 6:00 p.m. until 1:00 a.m. for a dance.

4. Adopt **Resolution No. 2014-29** adopting the Citizen Participation Plan setting forth the requirements for public notification and public involvement on various community improvement task forces regarding Community Development Block Grant activities.

RESOLUTION NO. 2014-29

WHEREAS, the City of Kearney, Nebraska has obtained its citizens' comments on a Citizen Participation Plan; and

WHEREAS, the Plan is a requirement of all CDBG Grantees by the State of Nebraska Department of Economic Development; and

WHEREAS, the Plan meets all requirements for Citizen Participation Plan.

NOW, THEREFORE, 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 proceed with executing the Citizen Participation Plan.

PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 1978-01 to locate a manufactured home for security purposes located at 1202 West 19th Street for a period of one year.

6. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 2006-03 to stockpile snow and manure at 1202 West 19th Street for a period of one year.

7. Adopt Resolution No. 2014-30 approving the Ground Lease for Above Ground Fuel Storage Tanks between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for above-ground fuel storage tank at the Kearney Regional Airport.

RESOLUTION NO. 2014-30

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 Ground Lease for Above Ground Fuel Storage Tanks between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for above-ground fuel storage tank at the Kearney Regional Airport. The Ground Lease, marked as Exhibit A, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt Resolution No. 2014-31 accepting the public infrastructure constructed in Parklane Drive from 56th Street north to 57th Street then east in 57th Street approximately 360 feet for Ingalls Crossing Fifth Addition.

RESOLUTION NO. 2014-31

WHEREAS, on the 13th day of March, 2012 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2012-37 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership for the construction of paving, storm sewer, water and sanitary sewer to serve the property described as Lot 1, Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney for the construction of paving, storm sewer, water and sanitary sewer to serve the property described for Lot 1, Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County,

Nebraska and that the said public improvements be and are hereby accepted.
PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2014-32** accepting the public infrastructure constructed for a water main from the existing water main located on the north side of 8th Street southward approximately 400 feet crossing 8th Street and in an easement to its terminus at a fire hydrant in Franssen Addition.

RESOLUTION NO. 2014-32

WHEREAS, on the 23rd day of October, 2012 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2012-193 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Franssen Properties Inc. to construct an 8-inch diameter ductile iron pipe water main from the existing water main located on the north side of 8th Street southward approximately 400 feet crossing 8th Street and in an easement to its terminus at a fire hydrant in Franssen Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developers have constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has, by and through its attorney, certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney for a water main from the existing water main located on the north side of 8th Street southward approximately 400 feet crossing 8th Street and in an easement to its terminus at a fire hydrant in Franssen Addition, an addition to the City of Kearney, Buffalo County, Nebraska and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the Plans and Specifications for the Yanney Park Cope Amphitheatre Trail/Driveway Addition and set the bid opening date for March 4, 2014 at 2:00 p.m.

11. Approve the Plans and Specifications for the 2014 Part 5; University Drive Bridge Deck Rehabilitation Project and set the bid opening date for March 4, 2014 at 2:00 p.m.

12. Adopt **Resolution No. 2014-33** accepting the public infrastructure constructed for Eastbrooke Fourteenth Addition.

RESOLUTION NO. 2014-33

WHEREAS, on the 23rd day of April, 2013 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2013-67 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Camron, Inc. to construct the paving, water, sanitary sewer and storm sewer for Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, since the approval of the Developer Constructed Infrastructure Agreement, the Developer and the City of Kearney agreed to allow for the construction of the improvements for 59th Street; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 “Acceptance of Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City’s Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney for the construction of paving, storm sewer, water and sanitary sewer to serve the property described for Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska which also includes the 59th Street improvements and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt **Resolution No. 2014-34** approving Application and Certificate for Payment No. 4 in the amount of \$20,185.20 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 9 Improvements; CDBG Sidewalks in the Emerson School Area.

RESOLUTION NO. 2014-34

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 9 Improvements; CDBG Sidewalks in the Emerson

School Area, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$20,185.20, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$290,885.23
Change Order No. 1 (6-11-2013)	<u>.00</u>
Contract Sum To Date	290,885.23
Gross Amount Due	83,174.73
Retainage (10%)	8,317.47
Amount Due to Date	74,857.26
Less Previous Certificates for Payment	<u>54,672.06</u>
Current Payment Due	\$ 20,185.20

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 4, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Adopt Resolution No. 2014-35 approving Change Order No. 1 showing an increase in the amount of \$2,513.00 submitted by Blessing Construction for the 2013 Airport Asphalt Pavement Improvements – Bid B.

RESOLUTION NO. 2014-35

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2013 Airport Asphalt Pavement Improvements, Bid B (Concrete) and have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$2,513.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$ 70,876.00
Change Order No. 3 (2-11-2014)	<u>+ 2,513.00</u>
Contract Sum to Date	\$73,389.00

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

PASSED AND APPROVED THIS 11TH DAY OF FEBRUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7871 AMENDING SECTION 5-402 OF THE CITY CODE (IN ASSOCIATION WITH PUBLIC HEARING 4)

Council Member Lear introduced Ordinance No. 7871, amending Section 5-402 “Generally; Illustrative Enumeration” of Article 4 “Nuisances” of Chapter 5 “Health and Sanitation” of the Code of the City of Kearney to explicitly define dilapidated or non-working wind turbines as nuisances, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7871 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. 7871 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7871 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

JERSEY’S SPORTS BAR & GRILL MANAGER APPLICATION FOR KERWYN STEWART

Mayor Clouse opened for discussion the manager application for Kerwyn Stewart submitted by Jersey’s Sports Bar & Grill in connection with their Class I-70888 liquor license located at 5012 3rd Avenue, Suite 190.

Kerwyn Stewart presented this matter to the Council. They have been in operation since 2006. There were originally five members all part of Jersey’s Sports Bar & Grill. The reason for the change in the liquor license is that Jeremy Nore was the original person on the liquor license as the manager and is no longer. They have grown up in the neighborhood and have made it a friendlier bar for kids and families. They are doing a lot of stuff with the high school, the community, and Make-A-Wish Foundation for the Shamrock Shuffle. They take the liquor license very seriously. They do not hire anyone that is not 19 years old and so that eliminates some of the problems with having

younger employees there and serving drinks.

They have two or three different signs throughout the bar that if they do not look at least 30 they need to be ID'd. They have two assistant managers they both do a good job. Amanda has been employed at other bars throughout the town and she does a lot of their training with new hires. They have them try to shadow for at least two weeks to learn the do's and don'ts. They have signs at the waiters station that are right in front that say if they do not look 30 they need to be ID'd. They have periodic training and explain what they expect them to do and reinforce what they are trying to get done. They have them go through within 30 days of being hired online Responsible Beverage Service Training. It is a simple course be reiterates what they are trying to say and do. They have a book behind the bar that they keep updated that shows all the states and what an ID looks like and time frames and what they are supposed to do. They have a set of rules that if they feel uncomfortable, if someone had too much to drink, to either call a cab or police. They virtually never have that problem.

On Sundays they do not start serving until noon and they have to be done serving by midnight. They run their clocks 10-15 minutes ahead. They are open to 1:00 a.m. and absolutely everyone has to be out by 1:15 a.m. They tell the bartenders they would just as soon have everyone out of there and all the drinks off the table by 12:45 p.m. When it comes to birthdays, graduations, and other events they decided to bring in bracelets and ID them.

Council Member Lammers asked if someone is caught selling to a minor what would be the policy. Mr. Stewart says they are fired instantly.

Moved by Clouse seconded by Lammers to approve the manager application for Kerwyn Stewart submitted by Jersey's Sports Bar & Grill in connection with their Class I-70888 liquor license located at 5012 3rd Avenue, Suite 190. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

REVIEW ONE & SIX YEAR STREET IMPROVEMENT PLANS

Mayor Clouse opened for review the One & Six Year Street Improvement Plan and set the public hearing for February 25, 2014 to adopt the One & Six Year Street Improvement Plan.

City Engineer Bruce Grupe presented this matter to the Council.

The following is the proposed One Year Street Plan:

Location	Est. State Cost	Est. City Cost	Est. Total Cost
Cherry Avenue Phase II - 11th Street to 56th Street	\$22,200,000.00	\$322,084.00	\$22,522,084.00
Central Avenue from 26th Street to 31st Street		\$1,420,000.00	\$1,420,000.00
Avenue M from 11th Street South 500' and from East 1st Street North, 1500'		\$572,000.00	\$572,000.00
Country Club Lane from 165' North of 37th Street to 39th Street - 410'		\$140,000.00	\$140,000.00

16th Street from Central Avenue to 1st Avenue		\$200,000.00	\$200,000.00
5th Avenue from 13th Street to 16th Street		\$250,000.00	\$250,000.00
Talamadge from 2nd to 150' West of 3rd		\$320,000.00	\$320,000.00
Avenue N from 25th Street to 28th Street		\$1,100,000.00	\$1,100,000.00
Talamadge from 6th Avenue West 535'		\$223,000.00	\$223,000.00
6th Avenue from Talamadge North 385'		\$145,000.00	\$145,000.00
50th Street from 11th Avenue to 17th Avenue, 1750'		\$525,000.00	\$525,000.00
Loveland Drive from Parkwood Lane to 50th Street, 550'		\$165,000.00	\$165,000.00
14th Avenue Place from 120' North of 50th Street South 500' to end of Cul-de-sac		\$150,000.00	\$150,000.00
15th Avenue Place from 51st Street Place South 820' to end of Cul-de-sac		\$246,000.00	\$246,000.00
16th Avenue Place from 51st Street Place South 820' to end of Cul-de-sac		\$246,000.00	\$246,000.00
51st Street Place from 15th Avenue Place to 16th Avenue Place		\$90,000.00	\$90,000.00
Ontario Road from Huron Drive to Emerald Drive, 690'		\$207,000.00	\$207,000.00
Winnipeg Road from 550' North of Huron Drive to Emerald Drive, 368'		\$110,400.00	\$110,400.00
Tahoe Drive from 281' Southwest of Emerald Drive to Emerald Drive, 281'		\$84,300.00	\$84,300.00
Emerald Drive from Tahoe Drive to 125' East of Ontario Road, 1045'		\$313,500.00	\$313,500.00
37th Street from Country Club Lane East to 38th Street, 421'		\$90,300.00	\$90,300.00
38th Street from Country Club Lane East to 37th Street, 504'		\$108,400.00	\$108,400.00
L Avenue Place from 67th Street Southeast to End of Cul-de-sac, 556'		\$120,000.00	\$120,000.00
65th Street Place from Avenue N East to End of Cul-de-sac, 595'		\$128,000.00	\$128,000.00
O Avenue Place from 65th Street Place, North to End of Cul-de-sac, 417'		\$89,500.00	\$89,500.00
Eastbrooke Drive, from the termini of Eastbrooke Drive South to 56th Street, 1286'		\$320,000.00	\$320,000.00
58th Street, beginning 155' East of R Avenue, East to Eastbrooke Drive, 615'		\$132,000.00	\$132,000.00
59th Street, beginning 155' East of R Avenue, East to Eastbrooke Drive, 450'		\$97,000.00	\$97,000.00
T Avenue, beginning 200' South of 62nd Street Pl, South to Eastbrooke Drive, 315'		\$68,000.00	\$68,000.00
U Avenue, beginning 350' East of T Avenue, East to City Limits, 78'		\$17,000.00	\$17,000.00
Remington Drive, from L Avenue Northwest 1500' to City Limits		\$375,000.00	\$375,000.00
East 69th Street, from L Avenue West to Remington Drive, 715'		\$179,000.00	\$179,000.00
K Avenue, from Remington Drive North to City Limits, 710'		\$177,500.00	\$177,500.00
I Avenue Place, from East 69th Street North to end of Cul-de-sac, 200'		\$68,000.00	\$68,000.00
	\$22,200,000.00	\$8,798,984.00	\$30,998,984.00

Mayor Clouse asked if 5th Avenue from 13th Street to 16th Street was going to be narrowed. Mr. Grupe responded that was correct. Mayor Clouse asked if the City discussed with the school on bus parking, etc. in that area since it is very busy. Mr. Grupe stated they have not; that it was his understanding they did not have a lot of bus parking there anymore. Mayor Clouse stated there is some and the City needs to have that discussion. City Manager stated it would match what is to the north. Mr. Grupe stated it is a very minor narrowing and the reason the narrowing is there is to save the trees.

Mayor Clouse asked if Cherry Avenue was ready to roll. City Manager stated the State is ready and that bids are due in mid-March. When they say 2016 that is the State of Nebraska, it could very well be 2015 finish. Phase III will start half way into Phase II and Phase III will be completed at the same time as Phase II is the goal.

Council Member Nikkila asked if the City's share on the Cherry Avenue project has already been fully invested or is that slowly being contributed. City Manager stated it would go with respect to phases, they had a total of approximately \$1.5 million in keno funds and this would just be a portion of that.

Director of Finance Wendell Wessels stated the City's share would be about \$500,000 in cash and the rest of its share is coming from STP money. When they get into the project he would expect probably half way in the City would start getting bills for that. Mayor Clouse stated they have the STP money at the State; the City does not have that. Director of Finance stated when they get to Phase III they have no cash to put into Phase III; it is all of the City's STP money. Council Member Nikkila asked so this year in 2014 they are going to write a check for \$322,000 to the State essentially. Director of Finance stated it would probably be fiscal year 2015; they have that budgeted and will be carried over to next year.

The following is the proposed Six Year Street Plan:

Location	Est. State Cost	Est. City Cost	Est. Total Cost
Cherry Avenue Phase III - 56th Street to Glenwood Corners	\$11,760,000.00	\$240,000.00	\$12,000,000.00
Central Avenue from 12th Street to 16th Street - Storm		\$2,600,000.00	\$2,600,000.00
29th Street from 6th to 8th		\$417,000.00	\$417,000.00
Central Avenue from 16th Street to 18th Street - Storm		\$1,400,000.00	\$1,400,000.00
18th Street from Central Avenue to 1st Avenue - Storm		\$630,000.00	\$630,000.00
8th Street from 2nd Avenue to 3rd Avenue		\$606,000.00	\$606,000.00
1st Avenue from 18th Street to South Railroad Street - Storm		\$1,400,000.00	\$1,400,000.00
30th Avenue from 39th Street North 2640'		\$2,700,000.00	\$2,700,000.00
25th Street and 9th Avenue		\$350,000.00	\$350,000.00
39th Street from 30th Avenue West 5700'		\$2,300,000.00	\$2,300,000.00
31st and A Avenue intersection improvements		\$450,000.00	\$450,000.00
4th Street from 3rd Avenue to 6th Avenue, 1300'		\$760,000.00	\$760,000.00

30th Avenue from 11th Street South 1200'		\$1,200,000.00	\$1,200,000.00
31st Street from Avenue E to Avenue I, 1300'		\$680,000.00	\$680,000.00
30th Avenue Bridge Expansion		\$2,000,000.00	\$2,000,000.00
56th Street, from 6th Avenue West 5600'		\$2,500,000.00	\$2,500,000.00
17th Avenue, from 1800' South of 56th Street to 56th Street		\$900,000.00	\$900,000.00
27th Avenue, from 11th Street South 850'		\$1,000,000.00	\$1,000,000.00
E Avenue, from 25th Street to 27th Street		\$340,000.00	\$340,000.00
	\$11,760,000.00	\$22,473,000.00	\$34,233,000.00

City Manager stated the Six Year Plan includes projects that are unfunded and some are already funded. It is noted with the sale tax what has actually been funded, some of the others will depend on grant opportunities, and then private development. For instance, the high school is essentially private development with the school's responsibility.

Mayor Clouse asked if the 8th Street project is funded next year. Mr. Grupe stated they are going to try to start on some of that late this year so they are ready to do 4th Street and it is not a conflict next year. City Manager stated one of the challenges the City is facing if you look at the amount of streets and add up the total dollars, it is a challenge whether the community and the contractors can complete this amount of work over the next period of time. Mr. Grupe stated they have had difficulties in the last year or two. They are simply not getting bids. They have so much work and the contractors are full. The City is hoping that does not happen this year. City Manager stated the City will look at those projects and if they are bid significantly higher than what they expect them to be because of the workload they might just have to delay them.

Council Member Buschkoetter stated the City will prioritize as they go just in case they cannot get enough bids; they go for the more important ones. City Manager stated in some of the costs associated with them if there are any major public safety issues versus other issues that need to get taken care of with the construction projects but they all know the competitive process losses when there is too much work and they have seen significant price changes over the past few years due to the work output that is being required. The City is sensitive to that and need to be prepared if it is too expensive to pull it off and re-bid it or give more time to complete it that is another alternative.

Mayor Clouse stated when looking at the One Year Plan, there is roughly about \$4-\$5 million for City projects and when you put that in perspective that is double what the City has received in property taxes. City Manager stated the revised capital improvement, the half cent capital improvement will show some big spaces in the section that are not related to streets. As they discussed there are a few splash grounds coming over the next few years but the majority is streets.

Council Member Lear stated he noted on the 31st Street project at least the City has it on the priority list. Mr. Grupe stated the City does evaluate its streets every year and takes a look at the City's major streets and there is a lot of them that are brought to the City's attention that need to be looked at. That is how the City comes up with this list; it

is the public and the City's street evaluations. Mayor Clouse asked from this point on now that it is public if citizens have any issues that have a way to submit them through the website. City Manager stated they could or they can contact staff.

Council Member Lammers asked with consideration given to Avenue A from 25th Street to 27th Street, the City made Avenue A an arterial going through town is in dire need of repair. Mr. Grupe stated it is on the list but not high enough to get on the Six Year list. City Manager stated it is in tough condition but if you go three or four blocks to the east that is a lot worse so it is a challenge for some of these streets but there is some storm drainage issues.

Mayor Clouse stated Avenue E is just crazy; they are all over the place. City Manager stated Avenue E the first two blocks are asphalt and there is barely nothing left of the street. Mr. Grupe stated there are a lot more streets that the City would like to put on them. City Manager stated frequent question the City gets from citizens are curbs there are some areas where the curbs aren't there. The City is doing all it can and will keep doing them and prioritizing them but it is a challenge and expensive.

Council Member Nikkila asked about the vision for the 56th Street project and the 30th Avenue Bridge Expansion. Mr. Grupe stated with regard to 56th Street – the City is talking about four lanes to accommodate businesses that are starting to develop and will attract more traffic. There will be a point in time where the City has to put four lanes in there, five lanes on 17th Avenue probably a traffic signal. Very similar to the develop east of 2nd Avenue. 17th Avenue is a continuation of what the City has worked on so far continuing that 4-lane section north and a 5-lane section south.

City Manager stated the City also has some projects that are just huge: Central Avenue is over \$4 million and has two stretches that is the City's significant storm water system underneath that that needs completely replaced. That is a challenging area part of town with storm water.

Council Member Nikkila asked about the 30th Avenue Bridge. City Manager stated there is a traffic study going on there that they will look at. The school by itself will not trigger that but the growth is coming with the widening of 11th Street going north and the Buckle and everything that is going on in that area. 11th Street has turned into a very busy street going to the west and will continue to look at that over time but that would be an overall community cost. It was designed to be widen.

Mr. Grupe stated 15 years ago it was designed to be widened to a 4-lane structure but the hike/bike trail you see on there now is actually a lane so that would be utilized as a lane and a new hike/bike trail would be suspended off to the side. The City did not have enough money at the time to build it to the ultimate build out. He currently has an engineer updating the estimate but there is some girder work that needs to be done over the railroad tracks.

Moved by Lammers seconded by Nikkila to set the public hearing for February 25, 2014 to adopt the One & Six Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIM

Moved by Nikkila seconded by Lear that the Open Account Claim in the amount of \$82,296.99 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**NEBRASKA VETERANS HOME**

City Manager Michael Morgan stated the City is preparing testimony for Thursday. A lot of thoughts go through your mind when you look at this testimony but there are certainly several issues that the City will be addressing. One, there was a process that was outlined; it was specific and it was required and approved 48 to 0. Secondly, there were conditions that had to be met by the Department of Health and Human Services in the way the process was managed and they had to report back to the State. That is what the bill required that was done and no complaints at the time with respect to the way the process was done or the criteria. It is interesting today the criteria is being raised that people had plenty of opportunity to raise before and did not. Thirdly, the City is focusing on the idea that the City does not know what the Veterans want. He does not think there is anyone that cannot appreciate or think or does not want to support the Veterans; it does not matter what City you are in, Kearney included. The City did take that into very strong consideration which is why the City put together the largest competitive bid the City has ever done in this community. This is why the City put together \$10.1 million between the City, County and other jurisdictions because the City did care.

Most importantly that process included a variety of features that were intended to serve the Veterans. The first point is the Veterans will have to move whether they move down the street or to Kearney. They will be moving and that is disruptive and the City understands that; so folks reached out and surveyed what other homes have done when that has occurred and learned from that and the City put that into the process including the creation of the Nebraska Veterans First Organization. They are putting together an endowment for funds to assist those individuals who will have to move. As well as looking at the way the City handles students coming into the community; at UNK and how the City helps them and how the City is looking to provide families to assist and support the Veterans each one that needs special assistance. That combined with so much of the funding that was aimed very specifically at improving the quality of life of the Veterans. That is where a lot of those funds are going all the way from transportation, special programming, and a variety of things and amenities the Veterans desire. Also not to be forgotten the proposal reduced the operating cost in excess of \$1.5 million over the next 20 years from the current operating costs. The City's proposal reflected a 50 percent reduction in those as of today and they were held firm for that period of time as well as some electrical rebates and so forth.

At the end of the day, the bottom line is the City of Kearney, Buffalo County and others, Veterans who served many and who served on the committee were asked to do certain things according to the State. The Legislature said here is what they expect; here is what the City has done and did it. The City won and it is important that the City moved

forward and the idea that the City did not put the Veteran's needs at heart is very frustrating and unfortunate that the City has to debate that. At the end of the day, the City is still working; it is not like the City won and quit. The City is spending tax dollars, thousands of staff hours have been spent and others assisting with this, committees, other people to put together this process and to continue on. Once the City was awarded, the City has been to work. It would be very disheartening to say stop and the City looks forward to the opportunity to express its point of view on Thursday. The City encourages any citizens from Kearney who would like to go to attend. The City will be respectful to the guidelines that have been laid out by the Legislature as to the amount of speakers and so forth and put forward that and see where it goes from there.

VIII. ADJOURN

Moved by Lear seconded by Buschkoetter that Council adjourn at 6:27 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**