

*Kearney, Nebraska*  
*April 8, 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 April 8, 2014, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/ Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: John Shafer, Marvion Reichert, Jim Tacha, Tina Krings, Essam Arram, 9 UNK students, Steve Altmaier from KGFW, Ashley White from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

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

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

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

Marvion Reichert addressed the Council on the skate park. He wanted to commend the City Council for what they have done to put aside money so they can get enough funds. He gave credit to Neil Lewis and Kathy Troya for what they have done and all the donors who have donated money.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

### **LIQUOR LICENSE; CASEY'S GENERAL STORE, 112 TALMADGE STREET**

Mayor Clouse opened the public hearing on the Application for Class D-106697 liquor license submitted by Casey's Retail Company, dba Casey's General Store #3298 located at 112 Talmadge Street, consider the manager application for Tina Krings, and consider Resolution No. 2014-64.

Tina Krings and Jim Tacha presented this matter to the Council. Ms. Krings stated she is with Casey's General Stores. Mr. Tacha stated he is also with Casey's General Stores and they are ready to open Thursday. They completely gutted the facility and renovated it. Mayor Clouse asked Ms. Krings if she had liquor licenses in other locations. Ms. Krings stated she does manage other facilities.

Council Member Lammers asked what they do if an employee sells liquor when they are not supposed to somebody. Mr. Tacha stated they are immediately terminated, they have to call the manager and the manager comes in and relieves them at that time. Council Member Lammers asked how they checks for ID's; do they have an electronic device system that they use. Mr. Tacha stated anytime an employee rings up liquor, it comes up on the screen either to scan in the license or punch it in. If you know it is a 70 year old guy then you do not have to scan his license. They are required to check the ID for anybody under the age of 27.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-64** recommending approval to the Nebraska Liquor Control Commission the Application for Class D-106697 liquor license submitted by Casey's Retail Company, dba Casey's General Store #3298 located at 112 Talmadge Street, and approve the manager application for Tina Krings. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-64**

WHEREAS, Casey's Retail Company, dba Casey's General Store #3298 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Class D-106697 Liquor License to do business at 112 Talmadge Street, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, a hearing was held relating to said application on April 8, 2014 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant has submitted the Liquor License Training Compliance form for herself and James Tacha; and

WHEREAS, Casey's Retail Company, dba Casey's General Store #3298 shall

provide certification of this training of their employees to the City Clerk within 60 days of the opening of the business.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of Class D-106697 Liquor License to Casey's Retail Company, dba Casey's General Store #3298 located at 112 Talmadge Street, Kearney, Nebraska.

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

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **INTELLICOM CDBG REUSE FUNDS LOAN CLOSE-OUT AND SECOND PUBLIC HEARING**

Mayor Clouse opened the public hearing concerning the use of CDBG Program Income Reuse Funds for an economic development activity (Intellicom).

Eric Hellriegel from Miller & Associates presented this matter to the Council. This particular project was a loan that was made to Intellicom through the Development Council that involved both City and County reuse funds. These funds are typically used for job creation, job retention benefits within the City and within the County. This particular project involved Intellicom to maintain a base level of 23.5 full-time equivalents and to create five new full-time equivalents. He met with this business last week and went over the job retention and creation requirements and so that all checked out fine so they will move to close out those loans with Intellicom and look to re-loan those funds out down the road.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing concerning the use of CDBG Program Income Reuse Funds for an economic development activity (Intellicom). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **XPANXION CDBG LOAN CLOSE-OUT AND SECOND PUBLIC HEARING**

Mayor Clouse opened the public hearing to receive input concerning a Community Development Block Grant (CDBG) received in 2010 (Xpanxion).

Eric Hellriegel from Miller & Associates presented this matter to the Council. The difference in this program came directly from the Department of Economic Development; again they are in the process of loan closeout with this particular project as well. The City of Kearney initially requested \$505,000 for economic development activities for expansion with Xpanxion. It was to create 25 full-time equivalents and upon

review of the job creation date, Xpanxion has met the criteria outlined in the Memorandum of Understanding and the loan agreement documents. This is being facilitated by an acquisition of the Xpanxion business and so as part of the Memorandum of Understanding the remaining loan balance of \$87,718 was repaid to the Development Council to satisfy the loan agreements that were associated with this project. Xpanxion met the job retention creation guidelines as part of this grant and those funds will be looked at to recirculate in the future.

Council Member Lammers asked how many FTE's Xpanxion was up to. Mr. Hellriegel estimated around 68. So they exceeded what they have done and indications are that they are going to continue to grow. There is a lot of stress in the job market in general with unemployment but there is really a shortage of folks who have software and hardware background for these two businesses. That is where these re-use funds and economic development funds become very critical because it helps attract some additional workforce in which a lot of these people are coming from new graduates from college and other people coming into the community. It has been very positive for that particular sector with those two loans.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing on receiving input concerning a Community Development Block Grant (CDBG) received in 2010 (Xpanxion). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **ESSAM ARRAM CONDITIONAL USE PERMIT FOR 516 WEST 39TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by Essam Arram for Arram Equities, Inc. for a Conditional Use Permit to locate a day care center on property zoned District C-O, Office District and described as Lot 11 except the east five feet thereof, all of Lots 12, 13, 14 of Block 2, Skyline Drive, a subdivision to the City of Kearney, Buffalo County, Nebraska (516 West 39th Street) and consider Ordinance No. 7881. Planning Commission recommended approval subject to (1) there will be a maximum of 80 children and 10 employees; (2) a copy of the State license issued by the Department of Health and Human Services will be filed with the City; (3) the hours of operation will be 5:30 a.m. to 7:00 p.m. Monday through Friday; (4) employees shall park on the east side of the parking lot; and (5) said Permit is approved for a period of five years at which time said permit may automatically be renewed for five years or possibly a longer renewal period provided there are no legitimate complaints or concerns (sooner if the license from the Department of Health and Human Services is modified).

The applicant is requesting a Conditional Use Permit (CUP) to operate a Daycare Center at 516 West 39th Street. The proposed daycare center will occupy about two-thirds of the building on the east end. There was a daycare operation at this location previously. Staff recently prepared revisions to the Code requirements pertaining to daycares and the revisions were approved by the City Council. The Code revisions provided updated definitions of daycare types that mirror the State regulations at the Department of Health and Human Services (DHHS). The Code revisions also added

the requirement for a CUP for all daycare centers. The previous daycare operator was not required at that time to obtain a CUP; however, the new daycare provider will have to comply with the current Code and apply for a CUP in order to operate the business. The current zoning of the property is C-O.

The City is not aware of any complaints from the neighborhood concerning the former daycare operation at this location. The license from DHHS for the former daycare allowed a maximum of 80 children so it is reasonable to expect DHHS to authorize up to 80 children for the new operator as well. The new operator has stated that the actual number of children will most likely not exceed 60. Anticipated hours of operation are 5:30 a.m. to 7:00 p.m. Monday through Friday. The daycare will employ the manager plus a maximum of nine other people. The employees park on the east side of the parking lot leaving the west side for drop-off and pick-up. Staff discussed the access and maneuverability of this site located on the arterial beltway. The access point to the parking lot is far enough to the east from the street intersection to function adequately. The former daycare operated here with no problems. There is an outdoor play area that is fenced so the children can play outside in a contained area.

Essam Arram presented this matter to the Council. He stated up until about a month ago a day care was operating in that facility. The zoning prior to this transfer of ownership would have allowed for that operation but some changes have taken place in between.

Assistant City Manager and Development Services Director Suzanne Brodine stated there was previously a daycare operation in the facility. They were closed for a period of a few weeks but under the code amendments that were passed by City Council that became effective January 1st it does require a CUP under this zoning so the zoning did not change but the way this type of daycare use is listed under the City Code has changed. Council Member Buschkoetter asked the old one was considered "grandfathered" in and did not have to go through this.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Essam Arram for Arram Equities, Inc. for a Conditional Use Permit to locate a day care center on property zoned District C-O, Office District and described as Lot 11 except the east five feet thereof, all of Lots 12, 13, 14 of Block 2, Skyline Drive, a subdivision to the City of Kearney, Buffalo County, Nebraska (516 West 39th Street) and introduced Ordinance No. 7881 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to close the hearing and suspend the rules for Ordinance No. 7881. 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. 7881 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 Clouse seconded by Lammers that Ordinance No. 7881 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. 7881 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**VACATE LOT 3, ABOOD SECOND ADDITION AND REZONE PROPERTY ADJACENT TO 1140 EAST 1ST STREET**

Mayor Clouse stated the developer did not file the final plat with the City prior to the Council meeting which is required by City Code. Therefore, the Applications submitted by Buffalo Surveying for TCSM, LLC/Keith Rodehorst to (1) vacate a tract of land being Lot 3, Abood Second Addition; and (2) rezone from District AG, Agricultural District to District RR-2, Rural Residential District (Intermediate Standards) property described as a tract of land being part of Lot 3, Abood Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (adjacent to 1140 East 1st Street) will be postponed until April 22, 2014.

Moved by Lammers to postpone until April 22, 2014 the public hearing on the Applications submitted by Buffalo Surveying for TCSM, LLC/Keith Rodehorst for the vacation of Lot 3, Abood Second Addition and the rezoning from District AG, Agricultural District to District RR-2, Rural Residential District (Intermediate Standards) property described as a tract of land being part of Lot 3, Abood Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**FINAL PLAT FOR GETAWAY BAY ADDITION; ADJACENT TO 1140 EAST 1ST STREET**

Mayor Clouse stated the developer did not file the final plat with the City prior to the Council meeting which is required by City Code. Therefore, the Application submitted by Buffalo Surveying for TCSM, LLC/Keith Rodehorst for the Final Plat for Getaway Bay Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Lot 3, Abood Second Addition to the City of Kearney, Buffalo County, Nebraska (adjacent to 1140 East 1st Street) will be postponed until April 22, 2014.

Moved by Lammers seconded by Nikkila to postpone until April 22, 2014 the Application submitted by Buffalo Surveying for TCSM, LLC/Keith Rodehorst for the Final Plat for Getaway Bay Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Lot 3, Abood Second Addition to the City of Kearney, Buffalo County, Nebraska (adjacent to 1140 East 1st Street). Roll call

resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**AMEND THE LAND USE MAP FOR PROPERTY LOCATED NORTH OF 16TH STREET BETWEEN 13TH AVENUE AND 16TH AVENUE**

Mayor Clouse stated the developer has postponed until April 22, 2014 the public hearing on the Application submitted by Miller & Associates for Sun Development Inc., a Nebraska Corporation; Robert and Alice Kuhn; and Ronald Grapes Trust for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Business Park and Light Industrial to Medium Density Residential property described as being part of Lot 1 and part of Lot 2 of Block One, G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 13th Avenue and 16th Avenue).

Moved by Nikkila seconded by Lear to postpone until April 22, 2014 the public hearing on the Application submitted by Miller & Associates for Sun Development Inc., a Nebraska Corporation; Robert and Alice Kuhn; and Ronald Grapes Trust for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Business Park and Light Industrial to Medium Density Residential property described as being part of Lot 1 and part of Lot 2 of Block One, G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 13th Avenue and 16th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

**REZONING PROPERTY LOCATED NORTH OF 16TH STREET BETWEEN 13TH AVENUE AND 16TH AVENUE**

Mayor Clouse stated the developer has postponed until April 22, 2014 the public hearing on the Application submitted by Miller & Associates for Sun Development Inc., a Nebraska Corporation; Robert and Alice Kuhn; and Ronald Grapes Trust to rezone from District M-1, Limited Industrial District to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as being part of Lot 1 and part of Lot 2 of Block One, G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 13th Avenue and 16th Avenue).

Moved by Nikkila seconded by Lear to postpone until April 22, 2014 the public hearing on the Application submitted by Miller & Associates for Sun Development Inc., a Nebraska Corporation; Robert and Alice Kuhn; and Ronald Grapes Trust to rezone from District M-1, Limited Industrial District to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as being part of Lot 1 and part of Lot 2 of Block One, G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 13th Avenue and 16th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

#### IV. CONSENT AGENDA

Moved by Lear seconded by Buschkoetter that Subsections 1 through 7 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held March 25, 2014.
2. Approve the following Claims:

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

3M \$4,516.00 smcs; 911 Custom \$19.50 co; Alamar Uniforms \$111.16 smcs; Ally B Designs \$80.00 smcs; Amax Contracting \$546.82 smcs; American Fence \$3,420.16 smcs; American First Aid \$428.81 smcs; Anderson Bros \$775.38 smcs; Arctic Refrigeration \$1,856.45 co; Ask Supply \$1,112.37 smcs; Asphalt & Concrete \$4,211.64 smcs; ATO Systems \$1,290.00 smcs; Aurora Coop \$64.00 smcs; Baker & Taylor Books \$5,908.07 smcs; Bartley,K \$79.53 smcs; Beacon Athletics \$2,487.43 smcs; Blessing \$79,693.37 smcs,co; Bluecross Blueshield \$69,322.38 smcs; Bosselman \$24,935.25 smcs; Broadfoot Sand & Gravel \$972.00 smcs; Bruha,S \$250.00 smcs; Brunswick,R \$137.50 smcs; Buffalo Co Sheriff \$146,212.25 smcs; Builders \$17,208.84 smcs,co; Capital Business Systems \$169.93 smcs; Cash-Wa \$742.65 smcs; Charter \$189.99 smcs; ChemSearch \$779.96 smcs; Chesterman \$333.45 smcs; Child's World \$1,480.00 smcs; City of Ky \$353,736.38 smcs,ps; Community Action Partner \$240.00 smcs; Compasscom \$50.00 smcs; Copycat Printing \$284.83 smcs; D&H Adventures \$20.00 smcs; Demco \$667.58 smcs; Depository Trust Co \$348,086.25 ds; Dmilaco \$293.00 smcs; DPC Industries \$6,748.63 smcs; Eakes \$693.18 smcs; Eirich,T \$50.00 smcs; EMC Insurance \$13,659.92 smcs; Esparza,R \$19.36 smcs; Fairbanks \$5,233.82 smcs; Felsburg Holt & Ullevig \$2,444.65 smcs; Fire Guard \$742.73 smcs; Footjoy \$552.17 smcs; Gale \$4,969.72 smcs; Galls \$148.28 smcs; GE Money Bank \$1,744.30 smcs; Glatter,D \$35.00 smcs; Gray,C \$157.50 smcs; H&H Concrete \$123.36 smcs; H&H Distributing \$701.75 smcs; H&H Owl Auto Parts \$1,400.00 smcs; HD Supply \$16,509.08 smcs; Heiman Fire Equipment \$48.03 smcs; Hometown Leasing \$157.20 smcs; Hutsell,M \$24.94 smcs; ICMA Retirement Trust \$4,115.88 ps; Internal Revenue Service \$127,070.55 ps; Jack Lederman \$474.04 smcs; James,D \$60.00 smcs; JCI Industries \$3,103.82 smcs; Jensen,B \$6.03 smcs; Jones Automotive \$9,248.94 co; Jossi,P \$4,065.32 co; Ky Crete & Block \$4,980.80 smcs; Ky Humane Society \$6,825.00 smcs; Ky United Way \$610.00 ps; Ky Visitors Bureau \$33,500.86 smcs; Kirkwood,M \$8.40 smcs; Koettters,J \$79.51 smcs; Konica Minolta \$212.59 smcs; Kovar,M \$148.96 smcs; Krull Insurance \$1,950.00 smcs; Kwik-N-Kleen \$4,430.00 smcs; Lincoln Winwater Works \$1,509.99 smcs; Lindner,S \$68.36 smcs; Magic Cleaning \$2,090.00 smcs; Mail Express \$6,163.89 smcs; Matheson Tri-Gas \$22.09 smcs; McCarty,D \$19.70 smcs; Mead Lumber \$278.80 co; Metal Doors \$590.62 smcs; Metlife \$8,101.45 ps; Midlands Contracting \$154,643.49 co; Mid-NE Garage Doors \$442.75 smcs; Mid-Plains Power \$637.50 smcs; Midway \$339.79 smcs; Midwest Turf \$82,208.00 co; Miller & Associates \$1,750.00 co; Miller,R \$1,147.50 smcs; Moonlight Embroidery \$1,542.00

smcs; Mostek Electric \$192.24 smcs; Municipal Supply \$2,087.90 smcs; Navigator Motorcoaches \$1,079.00 smcs; NE Child Support Pyt. Ctr. \$2,439.27 ps; NE Dept of Revenue \$36,290.73 ps; NE Dept of Roads \$696.48 smcs; NE Machinery \$3,029.21 smcs; NE Public Health \$50.00 smcs; NE Society of CPA's \$140.00 smcs; Nebraskaland Distributors \$550.00 smcs; Norseen,K \$21.01 smcs; North Platte Telegraph \$108.00 smcs; Northwestern Energy \$2,060.96 smcs; NWAGA \$25.00 smcs; Odeys \$9,224.00 smcs; O'Keefe Elevator \$382.68 smcs; One Call Concepts \$443.40 smcs; Outdoor Recreation \$894.50 co; Overhead Door \$8.73 smcs; Paramount Linen \$208.76 smcs; Payflex Systems \$561.00 smcs,ps; Pillar Design Studios \$900.00 co; Ping \$526.59 smcs; Platte Valley Comm \$418.00 smcs; Platte Valley Laboratories \$62.50 smcs; Plixer Int'l \$899.00 smcs; Presto-X \$237.98 smcs; PSC Motor & Fan \$615.96 smcs; Random House \$204.00 smcs; Ready Mixed Concrete \$2,291.19 smcs; Recorded Books \$2,130.44 smcs; Resource Management \$531.84 smcs; Rheome Tree \$1,150.00 smcs; S&B Heating \$3,623.80 smcs; Salina Blueprint \$146.34 smcs; Salter,J \$901.30 smcs; Saltzgaber,S \$18.19 smcs; Sampson Construction \$493,167.99 co; Sapp Bros \$29,335.50 smcs; Schonstedt Instrument \$779.03 smcs; School District 7 \$3,596.05 smcs; Schutte,O \$31.00 smcs; Schutte,R \$100.00 smcs; See Clear Cleaning \$2,050.00 smcs; Seneca Companies \$55,575.00 co; Sid Dillion Wahoo \$63,108.00 co; Starke,A \$55.00 smcs; State of NE/AS Finance \$3,677.52 smcs,co; Straka,G \$40.29 smcs; Stull & Stull \$7,856.76 co; Sun Development \$26.56 smcs; Sun Life Financial \$60,440.48 smcs; Sungard Public Sector \$343.33 smcs; Tacha,J \$50.00 smcs; Thompson Co \$66.81 smcs; Titleist \$687.89 smcs; Tri-County Glass \$14.68 smcs; Tye & Rademacher \$11,888.47 smcs; Union Bank & Trust \$62,297.05 ps; Van Diest \$11,838.72 smcs; Verizon Wireless \$1,080.41 smcs; Village Uniform \$978.71 smcs; Walters Electric \$98.00 smcs; Warren-T Plumbing \$573.00 smcs; Wegner,T \$177.00 ps; Williams,M \$128.80 smcs; WT Cox Information Services \$9,067.08 smcs; Yanda's Music \$1,250.00 co; Payroll Ending 3-22-2014 -- \$362,357.44. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

**3.** Adopt **Resolution No. 2014-67** approving Change Order No. 1 for an increase in the amount of \$1,972.00, Application and Certificate for Payment No. 1-Final in the amount of \$91,229.00 and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete and approved by Brungardt Engineering for the 2013 Part 8 Improvements consisting of Paving Improvement District No. 2013-961 for 57th Street from Avenue Q east to 57th Street Place.

### **RESOLUTION NO. 2014-67**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2013 Part 8 Improvements consisting of Paving Improvement District No. 2013-961 for 57th Street from Avenue Q east to 57th Street Place, and the City's engineer, Brungardt Engineering, have filed with the City Clerk Change Order No. 1 showing a increase in the amount of \$1,972.00, 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 \$91,229.00, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

|  |                   |
|--|-------------------|
| Original Contract Sum                  | \$89,257.00       |
| Change Order No. 1 (4-8-2014)          | <u>+ 1,972.00</u> |
| Contract Sum To Date                   | 91,229.00         |
| Gross Amount Due                       | 91,229.00         |
| Retainage                              | .00               |
| Amount Due to Date                     | 91,229.00         |
| Less Previous Certificates for Payment | <u>.00</u>        |
| Current Payment Due                    | \$91,229.00       |

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 20, 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 8TH DAY OF APRIL, 2014.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**4.** Adopt **Resolution No. 2014-68** awarding the bid to Adira Construction, Inc./Artisan Skateparks in the amount of \$279,208.50 for the construction of a specialty skate park at Apollo Park.

**RESOLUTION NO. 2014-68**

WHEREAS, the City of Kearney and the City's engineer, Pillar Design accepted Requests for Qualifications to prequalify a Specialty Skate Park Contractor to work under contract of a local general contractor (if necessary) to construct an approximate 10,000 square foot cast in place concrete skate park in Apollo Park; and

WHEREAS, on February 28, 2014 the City received eight Requests for Qualifications; and

WHEREAS, the City and Pillar Designs reviewed the Requests for Qualifications for the construction of a specialty skate park at Apollo Park and determined to submit the bid document to Artisan Skateparks; and

WHEREAS, after reviewing the bid submitted by Artisan Skateparks/Adira Construction, Inc. the said engineer has recommended the bid offered by Artisan Skateparks/Adira Construction, Inc. in the sum of \$279,208.50 be accepted as the lowest responsible bid for the construction of a specialty skate park at Apollo Park.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the bid submitted by Artisan Skateparks/Adira Construction, Inc. be and is the lowest responsible bidder for the construction of a specialty skate park at Apollo Park to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Artisan Skateparks/Adira

Construction, Inc. in the sum of \$279,208.50 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 8TH DAY OF APRIL, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Approve the application for a Special Designated License submitted by McFarland Family Farms, LLC, dba Mac's Creek Vineyards & Winery in connection with their Class YK-056229 liquor license to dispense wine inside Divas Floral located at 2223 1st Avenue on April 24, 2014 from 3:00 p.m. until 9:00 p.m. for a sampling/tasting.

6. Adopt **Resolution No. 2014-69** requesting the Department of Economic Development to extend the completion date of CDBG Grants 13-CR-004 and 13-CR-104 to June 30, 2015.

**RESOLUTION NO. 2014-69**

WHEREAS, on June 25, 2013 the Council approved an application for \$150,000 for street/sidewalk and storm sewer activities on Central Avenue from 26th Street to 31st Street; and

WHEREAS, on September 10, 2013 the Council approved an application for CDBG Community Revitalization Phase I funds for the Central Avenue Paving Project from 26th Street to 31st Street; on September 11, 2013 the City was notified by the Nebraska Department of Economic Development that available CR Supplemental funds were increased to \$300,000 for our community; on October 3, 2013 the City was notified of availability of an additional \$49,300 in funding bringing the total funding available to the City to \$349,300; and

WHEREAS, the total CR grant funding for Grant 13-CR-004 and Grant 13-CR-104 is \$499,300; therefore, due to the unexpected increase in funding and the enlargement of the project, these improvements will require additional construction time and will be necessary to request an extension on both grants from January 9, 2015 to June 30, 2015 to allow adequate time to complete the project.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City request from the Nebraska Department of Economic Development an extension to complete the project for CDBG Grants 13-CR-004 and 13-CR-104 from January 9, 2015 to June 30, 2015 and that the Mayor be authorized and directed to proceed with the formulation of any and all contracts and documents between City of Kearney and the Nebraska Department of Economic Development.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 3, 2014 from 4:00 p.m. until 12:00 a.m. for a reception.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7880 CREATING PAVING DISTRICT NO. 2014-964**

On March 25, 2014 Council Member Nikkila introduced Ordinance No. 7880 creating Paving Improvement District No. 2014-964 for Central Avenue from 31st Street to a point 137 feet south of 26th Street AND for 26th Street from Central Avenue to Avenue C and moved that the ordinance be placed on first reading by title only. The motion was seconded by Council Member Buschkoetter. Clerk had read the ordinance by title only.

On April 8, 2014 Council Member Buschkoetter 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 second reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7880 by number. Roll call of those in favor of the passage of said ordinance on the second reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7880 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. 7880 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**

### **APPLICATION FOR CIVIC AND COMMUNITY CENTER FINANCING FUNDS**

Mayor Clouse opened for discussion the submission of an application for Civic and Community Center Financing Funds administered by the Nebraska Development of Economic Development for the planning of a feasibility study to determine and evaluate locations of a new softball complex, along with cost estimates for development,

renderings and other necessary predevelopment activities and consider Resolution No. 2014-70.

The purpose of the Civic and Community Center Financing Act is to support the development of civic, community, and recreation centers throughout Nebraska and to support projects that foster maintenance or growth of communities. The means of support are grants of assistance to municipalities from the Civic and Community Center Financing Fund (CCCFF) administered by the Department of Economic Development.

The fund may be used for the construction of new civic and recreation centers or the renovation or expansion of existing civic, community, and recreation centers, which may include the conversion, rehabilitation, or reuse of historic buildings. The fund may also be used for preliminary planning related to the development or rehabilitation of eligible projects. The definitions of eligible projects are:

- Civic Center – a facility that is primarily used to host conventions, meetings, and cultural events and/or a library
- Community Center – the traditional center of a community, typically comprised of a cohesive core of residential, civic, religious, and commercial buildings, arranged around a main street and intersecting streets
- Recreation Center – a facility used for athletics, fitness, sport activities, or recreation
- Planning – engineering and technical studies directly related to eligible projects

The proposed project will encompass 9-month timeline of funding for Planning activities. The total funds for the project from CCCFF are estimated at \$10,000. Matching funds in the amount of \$10,000 will come from general funds, which brings the total cost of the project to \$20,000.

The application being submitted by April 11, 2014 is for Planning funding, which \$10,000 is allocated from the CCCFF. This phase will mainly consist of a feasibility study to determine and evaluate locations of a new softball complex, along with cost estimates for development, renderings and other necessary predevelopment activities. Preliminary analysis indicates that a new softball complex could have an economic impact of \$5.4 million dollars over a ten year period.

This process is being pursued to enhance the City's application for "Project Funds" in the 2015 cycle. DED has indicated through their guidelines for this program, that projects with completed technical assistance and feasibility studies shall be preferred to those with no prior planning. A maximum request of \$750,000 could be requested in the 2015 cycle to construct a new facility. Again at least a 50% match of the total project costs will be required by the City to apply for CCCFF monies.

Eric Hellriegel from Miller & Associates presented this matter to the Council. This particular project is one that has been moving fairly fast. When the Qwest Center was built over ten years ago there was a funding mechanism that was set up to provide a funding source moving forward and what it has helped accomplish is what was known as the Qwest Center, the Ralston Arena and the Pinnacle Bank Arena. They are at a point now with the Department of Economic Development because of the way the

program is structured that now they have opened up this program and they have included items such as civic centers, community centers, recreations centers and also planning is something that can be a use of those particular funds from the State.

So the State has overhauled this program, his sense is they are going to continue to tweak this program somewhat in moving forward until they find the right mixes to how they want to use these funds. In visiting with Assistant City Manager Suzanne Brodine and other City Staff it was determined that there were several projects that were discussed but ultimately it was determined that there was a need and an interest in developing another softball complex. Going back to the 2004 Comprehensive Plan, there was very specific narratives in there about the shortage of softball facilities for a community this size and so this is a project that fits with the eligible activities with this project. They are applying for planning funds and they are doing that because those funds are available but also because the State has put a premium on doing predevelopment before they bring projects that are shovel ready and ready to go so the idea would be to complete the planning phase over the next nine months so that the City would be in position in the 2015 cycle to take advantage of those funds that would be available for development and construction of a new softball complex.

Today they are asking for \$10,000 as matching funds which would come out of the general fund that would be with \$10,000 of Community and Civic Center Financing Funds money for \$20,000 that will be used for predevelopment which will help identify a complex site as well as some of the other amenities that will be included in that particular complex.

Council Member Buschkoetter asked about the timing; what is the next step, where do they go from here if this all works out. Mr. Hellriegel stated if this all works out, they should know by the end of the month if the City is awarded the funds and then they would get started immediately on the feasibility study. The idea is that they would like to have some things at least in a good draft format by the time budget time comes around so that they can work on getting that into the next fiscal budget. From there, they would apply early in 2015 for a full allotment of funds and from there they would have two years to complete construction of the facility.

Council Member Buschkoetter stated there has been discussion about maybe building one type of complex and repurposing the current complex. Will this study allow the City to look at the repurposing aspect as well. Mr. Hellriegel stated it may, depending on what particular details they are looking at that. It would appear that there might be some money that would be able to look at those other sites for repurposing.

Council Member Lammers clarified that the maximum gift is \$750,000 from the grant. So if the project was \$2 million the maximum amount of the grant is \$750,000, then the City would to come up with \$1.25 million. Mr. Hellriegel stated that was correct.

Council Member Nikkila asked is it an annual appropriation that is available and they draw from that or is it a onetime pot of money they will go in once. Mr. Hellriegel stated there will be money moving forward. The one thing they do not know is how the State might chose to change that program from year to year. Currently, the City would be eligible and would apply for a grant of \$750,000 in the next cycle. If the City was

awarded the funds, the City would have to wait five years before the City could re-apply for that pot of money. It is something that the State wants to deliberately spread out to several communities and not see it just end up in one community.

Council Member Nikkila asked how much the funding is every year. Mr. Hellriegel stated it is going to change every year now that they are funding projects this year. There is a good stream of revenue that is coming in every year and the fact that the State has not given out very many funds over the last three years they have not come out and told us how much is in the fund currently but there should be a fairly good stream of income coming into that fund moving forward.

City Manager Michael Morgan stated the Legislature essentially overhauled this process due to concerns they were not spending the money for many municipalities securing grants due to the restrictions of the types of programs that can be funded. For instance, in Kearney the Civic Center is private here. This is the first year they expanded its ability to seek funds for this particular type of project so that is why the City has never done it before. The City has looked at projects in the past and the projects for instance like the Archway must be owned by the City. So there are some restrictions there. The City thought this would be appropriate; there has been frequent discussion in the sales tax about softball, baseball, and these types of complexes. This would give the City some really good numbers on the softball complex which today it does not have. It probably would also tell the City about similar complexes, some ballpark figures. It does not mean the City will have the money a year from now or two years from now or even apply for the grant but at least it would give them some partial funding and give the City some good answers so the City can provide that to Council on what these types of projects may cost.

Mayor Clouse stated the reason the pot of money is there because the criteria was too strict to interpret it so the State has loosened that up now.

Moved by Lammers seconded by Nikkila to adopt **Resolution No. 2014-70** submitting an application for Civic and Community Center Financing Funds administered by the Nebraska Department of Economic Development for the planning of a feasibility study to determine and evaluate locations of a new softball complex, along with cost estimates for development, renderings and other necessary predevelopment activities. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-70**

WHEREAS, the Civic and Community Center Financing Act is to support the development of civic, community, and recreation centers throughout Nebraska and to support projects that foster maintenance or growth of communities and the Department of Economic Development administers Civic and Community Center Financing Funds (CCCCFF); and

WHEREAS, the City of Kearney, Nebraska desires to submit an application for planning funding with this phase of the project consisting of a feasibility study to determine and evaluate locations of a new softball complex, along with cost estimates for development, renderings and other necessary predevelopment activities.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Kearney and the Nebraska Department of Economic Development so as to effect the acceptance of the grant application.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIMS**

Moved by Lear seconded by Buschkoetter that the Open Account Claims in the amount of \$80,767.80 payable to Nebraska Public Power District, \$225.90 payable to Stan Clouse, and \$469.56 payable to Jonathan Nikkila be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Clouse and Nikkila abstained. Motion carried.

**VII. REPORTS**

None.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 5:54 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

ATTEST:

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

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MICHAELLE E. TREMBLY  
CITY CLERK