

*Kearney, Nebraska
May 13, 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 May 13, 2014, in the Council Chambers at City Hall. Present were: Randy Buschkoetter, Vice-President of the Council; Michaelle Trembly, City Clerk; Council Members Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: Stanley A. Clouse, President of the Council. Michael Morgan, City Manager; Michael Tye, City Attorney; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Daniel Albert, Mark McNeil, Todd Schirmer, Mitch Humphrey, Danielle Buschkoetter, Bruce Lefler, Steve Altmaier from KGFW Radio, 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

The Council held a moment of silence.

PLEDGE OF ALLEGIANCE

Three Boy Scouts from Troop 139 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

Vice-President Buschkoetter stated with the absence of Mayor Clouse and Council member Lammers needing to leave the meeting for a prior commitment, it is necessary to move Regular Agenda Items 1 and 2 forward. These are time sensitive matters and it will need all four Council members to approve the items.

VI. REGULAR AGENDA

CALLING FOR REDEMPTION OF SERIES 2012 AND 2013 BOND ANTICIPATION NOTES

Regular Agenda Items 1 and 2 were discussed together but voted on separately.

Vice-President Buschkoetter opened for discussion Resolution No. 2014-94 calling for the redemption of Series 2012 and Series 2013 Bond Anticipation Notes in the amount of \$1,630,000.

Since Bruce Lefler from Ameritas was not present, City Manager Michael Morgan stated the City has completed construction, made final payments on, and assessed the improvement costs according to benefits derived, if any, on the 50th Street/17th Avenue Project and the 52nd Street/56th Street (east of 2nd Ave) Project.

Prior to the construction of paving and stormwater improvements for the above projects, Series 2012 and Series 2013 Bond Anticipation Notes were approved by the City Council to provide short-term financing to pay contractors and engineers. The Series 2012 BAN's, which are dated October 30, 2012, mature on November 15, 2014, and the Series 2013 BAN's, which are dated July 2, 2013, mature on June 15, 2014. The Series 2012 BAN's will be called for payment five months early. The total amount of the outstanding 2012 BAN's is \$555,000 and the total amount of the outstanding 2013 BAN's is \$1,075,000. The total amount of the Series 2014 Various Purpose Bonds will be \$1,660,000.

The term of the Series 2014 General Obligation Bonds will be twenty years. The Series 2014 Various Purpose Bonds will be sold on May 12, 2014; therefore, the final interest rate is unknown at this time.

Moved by Lammers seconded by Nikkila to adopt **Resolution No. 2014-94** calling for the redemption of Series 2012 and Series 2013 Bond Anticipation Notes in the amount of \$1,630,000. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Lear, Nikkila. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2014-94

BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska:

Section 1. The following bond anticipation notes of the City of Kearney, Nebraska, in accordance with their option provisions are hereby called for payment on June 13, 2014, after which date interest on the bond anticipation notes will cease:

Bond Anticipation Notes, Series 2012, of the City of Kearney, Nebraska, date of original issue – October 30, 2012, in the principal amount of Five Hundred Fifty-five Thousand Dollars (\$555,000), numbered as shown on the books of the Paying Agent and Registrar, in denomination of \$5,000 each, becoming due and bearing interest as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
\$555,000	November 15, 2014	0.50%	486890 B96

Said bond anticipation notes are hereinafter referred to as the “2012 Refunded Notes.”

Bond Anticipation Notes, Series 2013, of the City of Kearney, Nebraska, date of original issue – July 2, 2013, in the principal amount of One Million Seventy-five Thousand Dollars (\$1,075,000), numbered as shown on the books of the Paying Agent and Registrar, in denomination of \$5,000 each, becoming due and bearing interest as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
\$1,075,000	June 15, 2014	0.35%	486890 G59

Said bond anticipation notes are hereinafter referred to as the “2013 Refunded Notes” and together with the 2012 Refunded Notes, the "Refunded Notes".

The 2012 Refunded Notes are subject to redemption at any time on or after November 15, 2013, at par and accrued interest, and said interest is payable semiannually. The proceeds of the 2012 Refunded Notes were used to provide interim financing pending the issuance of general obligation various purpose bonds or other bonds of the City to pay the cost of street improvements in Paving Improvement District Nos. 2011-949 and 2011-950, and to pay the costs of issuing the 2012 Refunded Notes.

The 2013 Refunded Notes are subject to redemption at any time on or after December 15, 2013, at par and accrued interest, and said interest is payable semiannually. The proceeds of the 2013 Refunded Notes were used to provide interim financing pending the issuance of general obligation various purpose bonds or other bonds of the City to pay the cost of street improvements in Paving Improvement District Nos. 2012-954 and 2012-956, and to pay the costs of issuing the 2013 Refunded Notes.

Section 2. The Refunded Notes are to be paid at the office of the Treasurer of the City of Kearney, Kearney, Nebraska, as paying agent and registrar.

Section 3. A true copy of this resolution shall be filed immediately with the Treasurer of the City of Kearney in Kearney, Nebraska, as Paying Agent and Registrar for the Refunded Notes, and said Paying Agent and Registrar is hereby instructed to mail notice to each registered owner of said notes not less than thirty days prior to the date fixed for redemption, all in accordance with the ordinance authorizing the Refunded Notes.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

ORDINANCE NO. 7893 ISSUING GENERAL OBLIGATION VARIOUS PURPOSE BONDS, SERIES 2014

Council Member Nikkila introduced Ordinance No. 7893 authorizing the issuance of General Obligation Various Purpose Bonds, Series 2014, of the City of Kearney in the principal amount of \$1,660,000 for the purpose of paying the costs of improving streets and intersections in Paving Improvement District Nos. 2011-949, 2011-950, 2012-954 and 2012-956, including payment of interim financing related to said street improvements; directing the application of the proceeds of said bonds; prescribing the form of said bonds; providing for the levy and collection of taxes to pay the same; providing for the sale of the bonds; authorizing the delivery of the bonds to the purchaser, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. Vice-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: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7893 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7893 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lammers, Lear. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7893 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.

III. PUBLIC HEARINGS

VACATE LOT 9, BLOCK 4 MEADOWLARK ESTATES AND AMEND LAND USE MAP; NORTH OF 35TH STREET AND EAST OF 29TH AVENUE

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

Vice-President Buschkoetter opened the public hearing on the Applications submitted by Buffalo Surveying for GGR, L.L.C. (1) to vacate Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 7890; and (2) an amendment to the Land Use Map of the City of

Kearney Comprehensive Development Plan from Low Density Residential and Mixed Use 1 to Medium Density Residential property described as part of Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska (north of 35th Street and east of 29th Avenue) and consider Resolution No. 2014-84. Planning Commission recommended approval recognizing a deviation in cul-de-sac length to allow the additional 110 feet in the overall length of the cul-de-sac street.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This is an interesting project because a number of years ago his office designed this tract of land consisting of 12 acres that the Kearney Public Schools was contemplating placing an elementary school. The surrounding area has some multi-family residential. The New West Sports Medicine building and another medical office building is located to the west. There is some mixed use office buildings at 39th Street with 37th Street meandering from 29th Avenue all the way over to Country Club Lane with single family and duplex units straddling that street. Directly to the east is the Aspen Meadows development where they are presently finishing up development with the last couple of duplex buildings located on a long cul-de-sac off of Country Club Lane with 35th Street south of that presently constructed with single family houses with duplexes directly south of their project.

The zoning for this property is single family with some non-retail office commercial development located to the south. The Land Use Map for the property is interesting from a standpoint that it is part Mixed Use 1 which allows for what they are doing and part of it is Medium Density Residential. They will have to consider changing or amending the Land Use Map to accommodate the property they are discussing. The site is projected to be rezoned from its present single family residential zoning classification to a portion of it to be zoned to R-2 to accommodate the duplex units and the four-plex units that they would like to place on the site.

To accomplish the next phase, they will have to vacate what is now known as Lot 9, Block Four of Meadowlark Estates which consists of in its entirety 12 acres. The Preliminary Plat which mimics the Final Plat shows the lay of the land and some of the peripheral features that have caused them some concern and a great deal of discussion. The land generally drains from west to east; it is generally flat in nature even though there is good overall slope but it is a farm field. With a severe drop off to the east side and is the Aspen Meadows development where the developer is putting in some duplexes on a cul-de-sac. The southerly lot in the cul-de-sac they have plans to build another retaining wall there to step down their back yard and there are gaps in between the retaining walls to handle the anticipated storm water that comes off this site.

They have no idea what was going to happen with this site when they built those retaining walls but with what they are doing and what this developer is planning on doing for all practical purposes these retaining walls will not really be needed for a whole lot of storm water control so they will not have to worry about water coming onto the site.

Lots 1 through 9 in the plan have been devised such that they have varying lot widths for the different types of homes. They are not varied a lot but they are being able to get different types of homes or homes with different frontage configurations placed on them.

Lots 12 through 24 will be duplex lots that will have quite a wide frontage of 115 feet with the lots on the north side being 180 feet deep which is quite deep and the lots on the south side being 190 feet deep. Lots 25, 11 and 10 which run onto 29th Avenue, will be four-plexes with the driveways going onto 29th Avenue. There will be no driveway exits or entrances off of their projected street known as 36th Street Place.

They have placed a 25-foot setback around the front of the duplex lots and the frontage of the other streets. The developer does not plan to put all the fronts of those buildings for the duplexes right on that 25-foot setback line. What is really nice about the project is they do have the depth that they can afford to stagger the frontages of these buildings to the backside which will allow them to have better space for parking and curb appeal.

Council Member Lear stated as he understands it the only real issue in the project is the length of the cul-de-sac. Mr. Humphrey confirmed and stated the rendition of the final plat which notes how they are going to place various easements for storm water management. The storm water will be in a gentle swale that will look like a sloped backyard along the south side and will make its way to the storm sewer in the back. The storm water primarily will be all collected for the entire site except for just a back portion into the storm cell which means currently that water sheath flowing off of the alfalfa field into those backyards. So they should see a very noticeable decrease in the amount of storm water that is going into those backyards.

The cul-de-sac is a very unique shape. The owners decided that the best use of the property was to put duplexes on the site. They started looking at the duplexes on the site and other sites around Kearney. They found quite frequently the limitation on parking and traffic flow was awkward. They thought by enlarging the cul-de-sac bulb and taking advantage of the space that is afforded to them with the length of the overall site being 900+ feet long that they could take advantage of larger cul-de-sac so that when they work the street paving they can work that around where the street paving coming around the bulb is almost as wide as a standard public street. It is a benefit they could extend the length of the cul-de-sac out a little more to accommodate the terrain.

What they did there keep in mind is, they built a cul-de-sac that is about 697 feet long and their justification was very similar to this in the sense that they saw they had a slope coming up that hill that was pretty severe. A case could be made that they could have shortened that cul-de-sac by putting a T-street off of 35th Street or they could have T'd off the street and went to 37th Street to the north. The best use of the property is to put in a cul-de-sac that is 710 feet but they have a better situation where they have a comparable number of lots with driveways exiting or entering onto that cul-de-sac but they have a large cul-de-sac at the end of the street. They are trying to provide for more parking, more maneuverability for the fire trucks, ambulances, and moving trucks.

Council Member Lammers asked if Aspen Meadows's cul-de-sac is 697 feet long and are the two streets that are directly south that have the duplexes on there or condominiums are those also cul-de-sacs. Mr. Humphrey stated the area is the Grace Addition where they have duplexes. That extends quite a ways down there almost the same distance and it terminates in a temporary turn around. That street could be projected onto the south to a street, 31st Street. The other one which is part of Aspen Falls that has duplexes has a private street which has essentially one-way lane that

comes in and at the very bottom you have the horseshoe turn around or very similar to a cul-de-sac and then back out and it is also lengthy.

City Manager Michael Morgan stated for clarification the reason for the cul-de-sac is a little different than maybe what you are hearing that has to do with the access on 35th Street for the Aspen project. Director of Public Works Rod Wiederspan stated when the Aspen Meadow cul-de-sac came in 36th Street the grade change on 35th Street where it comes down the hill is significant and you could not bring a road back out onto 35th Street there and did not have site vision to come out on that hill. The ones up on top that they talked about 27th Avenue and the private ones are up on top the hill on a flat area where you do have site vision coming out. The 600-foot requirement on the cul-de-sac is basically for life safety purposes; fire trucks typically carry 600 feet of hose on their truck which gives them the ability to fight a fire from basically the street if they need to and not be able to get into the cul-de-sac.

Vice-President Buschkoetter stated 15 feet is a big difference if your hose is 15 feet short that would be a problem. City Manager stated the other reason for the cul-de-sac development as citizens access around the community you certainly can tell the difference when you go into parts of town that have the cul-de-sacs and you are unaware, you cannot get out. If everybody in town did cul-de-sacs what would the City's street layouts be. But on Aspen Meadows there was a specific reason and limitation as to why that requirement was not put into effect and the one to the south does have the potential at a future point to extend into a new street.

Director of Public Works stated when the UDO went into effect in 2002 that established the 600 feet distance. Vice-President Buschkoetter stated the property that they are talking about was originally going to be an elementary school so they would not want a through street going through the middle. Director of Public Works stated there was not that possibility. The cul-de-sac and 35th Street, those lots were platted at the same time in the Aspen Meadows subdivision at that time north of it was a different owner so they really did not have the capability to go north.

Council Member Lear asked so basically they have the length restriction for fire hose length. Director of Public Works confirmed. Council Member Lear asked so that does not vary whether it is an R-2 or R-1 subdivision in terms of that particular length of a cul-de-sac. Mr. Wiederspan stated the zoning does not determine what length that cul-de-sac can be; the City Code stated cul-de-sac is 600 feet.

Council Member Nikkila asked the 600 foot rule should not just apply to cul-de-sacs; every house is within 600 feet of a fire hydrant so like 35th Street that is more than 600 feet that stretch between the duplexes and Country Club Lane so somewhere in the middle is a fire hydrant. Director of Public Works stated the fire hydrants are located every 600 feet and there is access from both sides on 35th Street if you could not get in from the east you could come in from the west with a fire truck. Council Member Nikkila asked what would stop the City from moving the fire hydrant on the other side of a lot further into the cul-de-sac as opposed to right on 29th Avenue. Director of Public Works stated there will be a fire hydrant at the end of the cul-de-sac but could be possible a truck could not get to the end of the cul-de-sac. City Manager stated the purpose is for street blockage. This one is a much larger one than normal but what they normally do is pull in and back out with the larger equipment.

Council Member Lear asked the length of a hose is most applicable if the street is blocked otherwise you would pull the truck right up there. City Manager stated the restrictions on cul-de-sacs is not just for fire protection they also relate it to development standards, life safety, convenience of travelers in the community, everyone would prefer to do cul-de-sacs.

Mr. Humphrey stated when they did the conceptual plan for the Meadowlark Estates project and the Country Club area years ago they did look at designs for a through street that was reasonable even though there are two different owners and they also looked at plans and the feasibility of extending a street off of 35th Street to 36th Street or purpose 36th to 37th and they were both functional and the owners involved at the time saw that was an extraordinary amount of cost. There was an opportunity to shorten theoretically the cul-de-sac and have a little bit better traffic circulation through those developments. That was then and this is now and they have to deal with a piece of property that is pigeon holed in there and try to recognize that they cannot get to 37th Street and they looked at extending a street up off of 27th Avenue for example off of the Grace Addition and the cost to do that was extraordinary and most cost prohibitive when you look at your return ratios.

He further stated as for the length of cul-de-sac, he has worked in different communities and municipalities and he has worked with the City and to this day the first time he has ever heard that it is the specific issue with fire apparatuses. Waivers have been granted and it is not an excessive deviation so he is a little concerned about that being said. Council Member Lear asked what the maximum length of a cul-de-sac should be. Mr. Humphrey stated he does not think it is black or white; it depends on the development of the property. For example, they developed the Camelot Second development with the clover leaf type development there and it goes up the hill and around. It is very difficult to see on the end of that cul-de-sac. It is difficult to see up to all of the lots particularly on the north and south cul-de-sacs.

City Manager clarified it is not arbitrary at all, it comes directly from the code and he has worked in many communities where 600 feet has always been the standard. There are lots of waivers, there are different scenarios, and sight distance does play a part into it. He is surprised that Mr. Humphrey did not know that 600 had to do with fire apparatus. There has been various waivers granted around Kearney.

Council Member Lear stated obviously it is going to be a pretty dense development from the standpoint of being a longer cul-de-sac with duplexes all along there. Mr. Humphrey stated that is true, they have a dense development directly to the east with a much smaller cul-de-sac and the maneuverability and parking along some of those lots is much more restricted compared to the widths of the lots that they have and the ability to get around. Council Member Lear stated he is thinking of the volume of traffic, number of cars per living unit because it is a duplex area and it is a longer one they are going to have more traffic than a normal duplex of that size that was single family homes for instance. Mr. Humphrey confirmed and as a comparison there are 14 lots in this one. There will be 13 lots that access that cul-de-sac the end two will not. There will be no driveways off of the end two.

City Manager stated with respect to density, the 600 does not deal with the density and the traffic so much. Council Member Lear stated when you think about through traffic and traffic circulation then that becomes more of an issue because you have more vehicles there. Obviously in order for you to provide that circulation, you are going to lose effectively three lots out of that development in addition to whatever additional concrete costs and probably would not have a ton more concrete costs all though some because of the larger cul-de-sac. The biggest cost issue is giving up three developable lots.

Mr. Humphrey stated the biggest cost issue is the lot space, the three developable lots, and about 25 percent more paving costs and the utilities that would be installed into the site. They did 12 or 13 different concepts many of which looked at trying to loop a street through there and when you put the numbers to the paper and looked at the solutions, this one came up to be the best one.

Council Member Lammers stated the exception is basically 110 feet which is a lot or lot and a half in width. 600-710 feet is a huge difference in length; he leans toward cooperative spirit in these types of situations. You look at the cul-de-sac directly east which is similar in length about 700 feet. It is not like there is logic that you can push it all the way through and make the street go through to the east so that requires that you would have to take a street and drop it down to the south to 35th Street. He does not know if that is a necessary thing to do that the City has to do.

Vice-President Buschkoetter stated the biggest concern is whether or not it is safe. Under worst case scenario cars parked on both sides of the street, the absolute worse lot is the one that has the fire. Are they safe; can the Fire Department get in there and do what they need to do in terms of saving lives. He thinks they have to look at it from the worst case scenario and 15 feet matters. Council Member Lear stated he thinks on the cul-de-sac that he lives on there is actually a fire hydrant in the center island. Mr. Humphrey stated there will be three fire hydrants evenly spaced through there which more than conforms to their standards.

Council Member Nikkila stated the City has approved other cul-de-sacs and there are extenuating circumstances with this one how the area is developed around it and he thinks the 600 foot rule is important. He thinks the City Council has given the exception before and they have to be consistent. City Council passes rules and ask them to hold people to them but he thinks the Planning Commission was right on this one.

Council Member Lear stated he is thankful that staff has pulled this to City Council's attention because they do hold them to bring these kinds of issues to the City Council, challenge the City Council to be consistent, assure one Council to another is not consistently flexing the rules and changing the rules of the game for no reason. So he does deeply appreciate the efforts of staff in this case to make sure City Council is aware of it and make City Council highlight the issues but he tends to agree he thinks this is unique enough that it does look to him like a longer cul-de-sac fits and he does not think they are outside the bounds of protecting fire endangering life and safety on this particular chunk.

Vice-President Buschkoetter stated with the location of the fire hydrants he thinks the greatest concerns he had were answered.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing and introduced Ordinance No. 7890 vacating Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7890. Vice-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: Buschkoetter, Nikkila, Lammers, Lear. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7890 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Nikkila, Lammers, Lear. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7890 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Lear, Nikkila. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7890 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

Moved by Nikkila seconded by Lear to adopt **Resolution No. 2014-84** amending the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential and Mixed Use 1 to Medium Density Residential property described as part of Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2014-84

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being Lot 9, Block 4, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lot 9, Block 4, Meadowlark Estates located in the West Half of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska more particularly described as follows: Referring to the Northwest Corner of Section 34 and assuming the West line of the Northwest Quarter of Section 34 as bearing S00°50'24"W and all bearings contained herein are relative thereto; thence on the West line of the

Northwest Quarter of said Section 34, S00°50'24"W a distance of 1377.07 feet to a point on the North line of 35th Street, if extended; thence on the North line of 35th Street, if extended, S89°33'52"E a distance of 418.35 feet to the actual place of beginning, said point being the intersection of the North line of 35th Street and the East line of 29th Avenue, streets in the City of Kearney, Buffalo County, Nebraska; thence continuing on the North line of said 35th Street, S89°33'52"E a distance of 135.0 feet; thence leaving the North line of said 35th Street, N00°43'25"W a distance of 150.0 feet; thence parallel with the North line of said 35th Street S89°33'52"E a distance of 764.72 feet to the Southwest Corner of Lot 8, Block 1, Aspen Meadows, an addition to the City of Kearney, Buffalo County, Nebraska; thence on the West line of Lot 7, and Lot 8, Aspen Meadows and the West line of Lot 8, Block 2, Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska, N00°43'25"E a distance of 580.81 feet to the Northwest Corner of said Lot 8, Block 2, Aspen Meadows Second, said point also being the Southeast Corner of Lot 1, Block 4, Meadowlark Estates; thence on the South line of Lot 1 through Lot 8, inclusive, Block 4 of said Meadowlark Estates, N89°33'52"W a distance of 900.0 feet to the Southwest Corner of said Lot 8, Block 4, Meadowlark Estates, said point also being on the East line of said 29th Avenue; thence on the East line of said 29th Avenue, S00°43'25"W a distance of 580.81 feet to the place of beginning, containing 9.37 acres, more or less, Buffalo County, Nebraska, as the same is filed in the Office of the Buffalo County, Nebraska from Low Density Residential and Mixed Use 1 to Medium Density Residential, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Low Density Residential and Mixed Use 1 to Medium Density Residential the use classification for a tract of land being Lot 9, Block 4, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lot 9, Block 4, Meadowlark Estates located in the West Half of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska more particularly described as follows: Referring to the Northwest Corner of Section 34 and assuming the West line of the Northwest Quarter of Section 34 as bearing S00°50'24"W and all bearings contained herein are relative thereto; thence on the West line of the Northwest Quarter of said Section 34, S00°50'24"W a distance of 1377.07 feet to a point on the North line of 35th Street, if extended; thence on the North line of 35th Street, if extended, S89°33'52"E a distance of 418.35 feet to the actual place of beginning, said point being the intersection of the North line of 35th Street and the East line of 29th Avenue, streets in the City of Kearney, Buffalo County, Nebraska; thence continuing on the North line of said 35th Street, S89°33'52"E a distance of 135.0 feet; thence leaving the North line of said 35th Street, N00°43'25"W a distance of 150.0 feet; thence parallel with the North line of said 35th Street S89°33'52"E a distance of 764.72 feet to the Southwest Corner of Lot 8, Block 1, Aspen Meadows, an addition to the City of Kearney, Buffalo County, Nebraska; thence on the West line of Lot 7, and Lot 8, Aspen Meadows and the West line of Lot 8, Block 2, Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska,

N00°43'25"E a distance of 580.81 feet to the Northwest Corner of said Lot 8, Block 2, Aspen Meadows Second, said point also being the Southeast Corner of Lot 1, Block 4, Meadowlark Estates; thence on the South line of Lot 1 through Lot 8, inclusive, Block 4 of said Meadowlark Estates, N89°33'52"W a distance of 900.0 feet to the Southwest Corner of said Lot 8, Block 4, Meadowlark Estates, said point also being on the East line of said 29th Avenue; thence on the East line of said 29th Avenue, S00°43'25"W a distance of 580.81 feet to the place of beginning, containing 9.37 acres, more or less, Buffalo County, Nebraska, as the same is filed in the Office of the Buffalo County, Nebraska.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

REZONING NORTH OF 35TH STREET AND EAST OF 29TH AVENUE

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

Vice-President Buschkoetter opened the public hearing on the Application submitted by Buffalo Surveying for GGR, L.L.C. to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as part of Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska (north of 35th Street and east of 29th Avenue) and consider Ordinance No. 7891. Planning Commission recommended approval recognizing a deviation in cul-de-sac length to allow the additional 110 feet in the overall length of the cul-de-sac street.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Buffalo Surveying for GGR, L.L.C. to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as part of Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska (north of 35th Street and east of 29th Avenue) and introduced Ordinance No. 7891 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7891. Vice-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: Buschkoetter, Nikkila, Lammers, Lear. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7891 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Nikkila, Lammers, Lear. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Lammers that Ordinance No. 7891 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Lear, Nikkila. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7891 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

FINAL PLAT FOR MEADOWLARK RIDGE ESTATES

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

Vice-President Buschkoetter opened the public hearing on the Application submitted by Buffalo Surveying for GGR, L.L.C. for the Final Plat and Subdivision Agreement for Meadowlark Ridge Estates, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as part of Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska (north of 35th Street and east of 29th Avenue) and consider Resolution No. 2014-85. Planning Commission recommended approval recognizing a deviation in cul-de-sac length to allow the additional 110 feet in the overall length of the cul-de-sac street.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-85** approving the Application submitted by Buffalo Surveying for GGR, L.L.C. for the Final Plat and Subdivision Agreement for Meadowlark Ridge Estates, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as part of Lot 9 of Block Four, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska (north of 35th Street and east of 29th Avenue) recognizing a deviation in cul-de-sac length to allow the additional 110 feet in the overall length of the cul-de-sac street. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2014-85

BE IT RESOLVED BY THE VICE-PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Meadowlark Ridge Estates, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 9, now vacated, Block 4, Meadowlark Estates, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lot 9, Block 4, Meadowlark Estates located in the West Half of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of Section 34 and assuming the West line of the Northwest Quarter of Section 34 as bearing S00°50'24"W and all bearings contained herein are relative thereto; thence on the West line of the Northwest Quarter of said Section 34, S00°50'24"W a distance of 1377.07 feet to a point on the North line of 35th Street, if extended; thence on the North line of 35th Street, if extended, S89°33'52"E a distance

of 418.35 feet to the ACTUAL PLACE OF BEGINNING, said point being the intersection of the North line of 35th Street and the East line of 29th Avenue, streets in the City of Kearney, Buffalo County, Nebraska; thence continuing on the North line of said 35th Street, S89°33'52"E a distance of 900.0 feet to the Southwest Corner of Lot 10, Block 2, Aspen Meadows, an addition to the City of Kearney, Buffalo County, Nebraska; thence on the West line of Lot 10, Block 2, and Lots 7 and 8, Block 1, Aspen Meadows and the West line of Lot 8, Block 2, Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska, N00°43'25"E a distance of 580.81 feet to the Northwest Corner of said Lot 8, Block 2, Aspen Meadows Second, said point also being the Southeast Corner of Lot 1, Block 4, Meadowlark Estates; thence on the South line of Lot 1 through Lot 8, inclusive, Block 4 of said Meadowlark Estates, N89°33'52"W a distance of 900.0 feet to the Southwest Corner of said Lot 8, Block 4, Meadowlark Estates, said point also being on the East line of said 29th Avenue; thence on the East line of said 29th Avenue, S00°43'25"W a distance of 580.81 feet to the place of beginning, containing 12.00 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 Vice-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 Vice-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 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

Because of a commitment, Council Member Lammers left the meeting at 6:16 p.m.

LAND USE MAP AMENDMENT ADJACENT AND NORTH OF COUNTRY CLUB LANE AND 50TH STREET

Vice-President Buschkoetter stated the City received a letter from the applicant requesting to postpone until May 27, 2014 Public Hearings 4, 5, 6, and 7.

Moved by Nikkila seconded by Lear to postpone until May 27, 2014 the public hearing on the Application submitted by Miller & Associates for The Evangelical Lutheran Good Samaritan Society for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Medium Density Residential/Park to Low Density Residential and Medium Density Residential property described as a tract of

land being part of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (adjacent and north of Country Club Lane and 50th Street). Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lear. Nay: None. Clouse and Lammers absent. Motion carried.

REZONING ADJACENT AND NORTH OF COUNTRY CLUB LANE AND 50TH STREET

Vice-President Buschkoetter stated the City received a letter from the applicant requesting to postpone until May 27, 2014 Public Hearings 4, 5, 6, and 7.

Moved by Nikkila seconded by Lear to postpone until May 27, 2014 the public hearing on the Application submitted by Miller & Associates for The Evangelical Lutheran Good Samaritan Society to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) and to District R-2, Urban Residential Mixed-Density District property described as a tract of land being part of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (adjacent and north of Country Club Lane and 50th Street). Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lear. Nay: None. Clouse and Lammers absent. Motion carried.

FINAL PLAT FOR GOOD SAMARITAN SOCIETY KEARNEY VILLAGE SUBDIVISION

Vice-President Buschkoetter stated the City received a letter from the applicant requesting to postpone until May 27, 2014 Public Hearings 4, 5, 6, and 7.

Moved by Nikkila seconded by Lear to postpone until May 27, 2014 the public hearing on the Application submitted by Miller & Associates for The Evangelical Lutheran Good Samaritan Society for the Final Plat and Subdivision Agreement for Good Samaritan Society Kearney Village Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (adjacent and north of Country Club Lane and 50th Street). Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lear. Nay: None. Clouse and Lammers absent. Motion carried.

ANNEXATION OF GOOD SAMARITAN SOCIETY KEARNEY VILLAGE SUBDIVISION

Vice-President Buschkoetter stated the City received a letter from the applicant requesting to postpone until May 27, 2014 Public Hearings 4, 5, 6, and 7.

Moved by Nikkila seconded by Lear to postpone until May 27, 2014 the public hearing on the Application submitted by Miller & Associates for The Evangelical Lutheran Good Samaritan Society for the annexation of Good Samaritan Society Kearney Village Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (adjacent and north of

Country Club Lane and 50th Street). Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lear. Nay: None. Clouse and Lammers absent. Motion carried.

WAL-MART REVISED DEVELOPMENT PLANS

Vice-President Buschkoetter opened the public hearing on the Application submitted by Mark McNeil for Wal-Mart Store Inc. for Revised Planned District Development Plan Approval to bring the landscaping to Code and to construct a fence for the storage area/containers on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 4 of Block One, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5411 North 2nd Avenue) and consider Resolution No. 2014-89. Planning Commission recommended approval subject to compliance with the following conditions: (1) a metal panel wall with masonry columns painted to match the existing building shall be located as verified in the field by Development Services staff; and (2) applicant shall adhere to the approved Landscape Plan as filed with Development Services.

Mark McNeil from Wal-Mart presented this matter to the Council. He stated over the 19 years they have been at the location they have had a net loss of approximately 55 trees some ornamental, some shade trees, most of those were ash trees that were not a problem when they planted them 19 years ago. They have a new plan that has been approved administratively that includes adding 61 trees and more than 300 shrubs and ornamental grasses. The variety of trees has been approved and the location of those trees has been approved. Basically, they have also contracted with Mullen Lawn Service for the installation so they are just waiting for final approval so they can get started on the replacement.

Vice-President Buschkoetter asked if the storage is for seasonal goods that they do not have the storage space for internally. Mr. McNeil confirmed. Their inventory swells a couple times of year which is currently now when they have a lot of garden center items. The second time of year is leading up to black Friday which has now turned into black Thursday. Their inventory swells both of those times even with the 10,000 square foot addition that they have added on that they have asked for containers to be added at that time of year.

Vice-President Member Buschkoetter noticed one of those windows is about three months of the year and the other one is about four months out of the year which is over half of the year they need additional storage and Walmart has been there for 19 years. Can the City expect that Wal-Mart will never have enough storage space. Mr. McNeil stated when they did the expansion it was drawn up in 2011 and built in 2012, their inventory level is roughly around 600,000 over that right now. That is why the initial plan for the 10,000 square feet they anticipated it fitting in the building all 12 months of the year but with the inventory levels at those two times of the year which is why they are asking for the storage containers.

Earlier in the year, he met with DRT staff and asked because each year in the past prior to having the expansion done they would request storage containers temporarily and they would approve that. When he met with them earlier this year, he asked for those to see if they could have on an annual basis so he would not have to come back, they did

not want to support that and he understands why to set a precedent. At that time DRT staff said Wal-Mart is zoned just like Builders Warehouse or Menards so if they would look at constructing a wall in behind then they would support Wal-Mart to be able to keep containers behind that wall throughout the year.

Council Member Nikkila asked the trees that are being replaced are going around the lake or where the runoff goes behind the building. Mr. McNeil stated most of the trees are going on the sides of the buildings and the front towards 2nd Avenue.

Council Member Lear thanked Wal-Mart for being the initial developer up in that area of town that has created a nice spot for the community. Obviously, everyone is excited to have Hy-Vee but Wal-Mart was the first ones there and has maintained that property well and City Council is very thankful for that. Wal-Mart has been a good community citizen and does not see a problem with this request.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2014-89** approving the Application submitted by Mark McNeil for Wal-Mart Store Inc. for Revised Planned District Development Plan Approval to bring the landscaping to Code and to construct a fence for the storage area/containers on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 4 of Block One, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5411 North 2nd Avenue) subject to compliance with the following conditions: (1) a metal panel wall with masonry columns painted to match the existing building shall be located as verified in the field by Development Services staff; and (2) applicant shall adhere to the approved Landscape Plan as filed with Development Services. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila. Nay: None. Clouse and Lammers absent. Motion carried.

RESOLUTION NO. 2014-89

WHEREAS, Mark McNeil for Wal-Mart Store Inc. has applied for Revised Planned District Development Plan Approval to bring the landscaping to Code and to construct a fence for the storage area/containers on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 4 of Block One, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5411 North 2nd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska, that the application of Mark McNeil for Wal-Mart Store Inc. for Revised Planned District Development Plan Approval to bring the landscaping to Code and to construct a fence for the storage area/containers on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 4 of Block One, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5411 North 2nd Avenue) be approved subject to compliance with the following conditions: (1) a metal panel wall with masonry columns painted to match the existing building shall be located as verified in the field by Development Services staff; and (2) applicant shall adhere to the approved Landscape Plan as filed with Development Services.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

LIQUOR LICENSE FOR SUNMART 765

Vice-President Buschkoetter opened the public hearing on the Application for Class C-107221 liquor license submitted by U Save Foods Inc., dba Sunmart 765 located at 3920 2nd Avenue, consider the manager application for Daniel (Shawn) Albert, and consider Resolution No. 2014-90.

Daniel Albert presented this matter to the Council. They currently have a DK license for selling off premises. They are trying to get license to a Class C so they can do tastings. A lot of the other competitors in town are doing tastings once or twice a month and that is what they are looking to do as well. They also have everybody that is 19 years do their TIPS training and they also have in house training that they do at least once a year to keep people from selling to minors. It does happen unfortunately at times but at this time that is what they have in place to do.

Council Member Nikkila asked what steps do they take if an employee sells to a minor. Mr. Albert stated the employee who sells to a minor is on an automatic suspension until they finally get the paperwork to say that they have done that officially. Once they get the official paperwork, their stance as a company is to release that employee and never be employed with their company.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-90** recommending approval to the Nebraska Liquor Control Commission the Application for Class C-107221 liquor license submitted by U Save Foods Inc., dba Sunmart 765 located at 3920 2nd Avenue and approve the manager application for Daniel (Shawn) Albert. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lear. Nay: None. Clouse and Lammers absent. Motion carried.

RESOLUTION NO. 2014-90

WHEREAS, U Save Foods Inc., dba Sunmart 765 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Class C-107221 Liquor License to do business at 3920 2nd Avenue, 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 May 13, 2014 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant previously submitted the Liquor License Training Compliance form with Certificates of Training filed for their employees; and

WHEREAS, U Save Foods Inc., dba Sunmart 765 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 Vice-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 C-107221 Liquor License to U Save Foods Inc., dba Sunmart 765 located at 3920 2nd Avenue, 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 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

STORM SEWER EASEMENT GRANTED BY HY-VEE

Vice-President Buschkoetter opened the public hearing on the proposed acquisition of the west 15 feet of the east 30 feet of Lot 2, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska for a permanent storm sewer easement and consider Resolution No. 2014-91.

Director of Utilities Kirk Stocker presented this matter to the Council. At the March 25, 2014 City Council approved a Developer Constructed Infrastructure Agreement with HY-VEE Inc. to construct a public storm sewer on Lot 2, Oak Park Center. As required by the agreement, HY VEE Inc. has granted a permanent storm sewer easement to the City so that the City has access to the property for purposes of maintaining, restoring and if necessary replacing the storm sewer pipe in the future.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2014-91** approving the proposed acquisition of the west 15 feet of the east 30 feet of Lot 2, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska for a permanent storm sewer easement. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila. Nay: None. Clouse and Lammers absent. Motion carried.

RESOLUTION NO. 2014-91

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Permanent Storm Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Hy-Vee, Inc., an Iowa Corporation has granted to the City of Kearney, Nebraska a Permanent Storm Sewer Easement as follows: The west 15 feet of the east 30 feet of Lot 2, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska that the Permanent Storm Sewer Easement granted by Hy-Vee, Inc., an Iowa Corporation to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

IV. CONSENT AGENDA

Moved by Lear seconded by Buschkoetter that Subsections 1 through 9 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila. Nay: None. Clouse and Lammers absent. Motion carried.

1. Approve Minutes of Regular Meeting held April 22, 2014.

2. Approve the following Claims:

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

A-G Pipe \$1,254.72 smcs; Agency Coalition \$2,000.00 smcs; Agri Coop \$2,878.02 smcs; Ahren,V \$279.00 smcs; Alamar Uniforms \$2,020.64 smcs; Alberts,K \$496.00 smcs; All Makes Auto \$1,609.57 smcs; Allen,A \$23.58 smcs; Amer First Aid \$524.44 smcs; Amer Library Assn \$65.00 smcs; Anderson Ford Lincoln \$110,908.00 co; Andreason,A \$60.00 smcs; Anway,H \$45.00 smcs; Ask Supply \$1,355.88 smcs; Aurora Coop \$90.96 smcs; Baird Holm \$6,400.00 smcs; Baker & Taylor Books \$13,343.50 smcs; Bamford \$2,766.00 smcs; Barney Abstract \$240.00 co; Bauer Underground \$12,480.00 smcs; Berens-Tate Consulting \$5,000.00 smcs; Blackstone Audiobooks \$491.46 smcs; Blessing \$235,417.22 co; Bluecross Blueshield \$51,706.96 smcs; Bosselman \$35,636.87 smcs; Bowman,R \$400.00 smcs; Brickner,V \$16.44 smcs; Broadfoot's \$487.50 smcs; Brungardt Engineering \$21,349.03 smcs,co; BSN Sports \$274.98 smcs; Buffalo Co Community \$1,000.00 smcs; Buffalo Co Reg Deeds \$120.00 smcs; Buffalo Co Supervisors \$10,345.80 co; Buffalo Co Treasurer \$263.50 smcs; Builders \$376.52 smcs,co; Capital Business Systems \$178.48 smcs; Capstone Press \$3,225.14 smcs; Carlisle,J \$43.53 smcs; Casady,M \$6.95 smcs; Cash-Wa \$2,706.62 smcs; Center Point Large Print \$197.86 smcs; Central Fire \$130.00 smcs; Central NE Bobcat \$398.48 smcs; Charter \$254.99 smcs; Chavez,K \$50.24 smcs; Chesterman \$403.10 smcs; City of Ky \$360,838.36 smcs, ps; Clark,K \$42.56 smcs; Community Action Partner \$7,463.36 smcs; Consolidated Management \$681.75 smcs; Cook,J \$105.80 smcs; Copycat Printing \$458.27 smcs; Cornhusker Agronomics \$100.52 smcs; Crane River Theater \$275.00 smcs; Culligan \$192.60 smcs; Danko Emergency \$1,619.98 smcs; Daviu,K \$42.27 smcs; Dawson PPD \$2,936.73 smcs; Dell \$3,872.00 smcs; Diamond Tours \$2,850.00 smcs; Dish \$55.23 smcs; DPC Industries \$6,282.82 smcs; Dutton-Lainson \$59.80 smcs; Eakes \$22,240.37 smcs,co; Eckhout,S \$45.00

smcs; Ed Roehr Safety Products \$1,096.00 smcs; Edgerton Explorit Center \$670.40 smcs; Eirich,D \$49.50 smcs; Eirich,T \$50.00 smcs; Elf Enterprises \$7,686.00 smcs; Elliott \$631.40 smcs; EMC Ins \$25,669.77 smcs; Eugene Mahoney State Park \$238.00 smcs; Evarts,R \$7.75 smcs; Exact Eye Care \$129.00 smcs; Fireguard \$314.50 smcs; Flaherty,T \$328.00 smcs; Footjoy \$1,000.10 smcs; Fosher,C \$44.75 smcs; Frontier \$9,123.83 smcs; Fry & Associates \$205.87 co; Gale \$394.55 smcs; GD Construction \$14,384.00 smcs,co; GE Money Bank \$2,236.24 smcs; Gearhart,R \$180.00 smcs; General Collection \$349.08 ps; Golden Rule Creations \$45.19 smcs; Goodwin Tucker \$861.61 smcs; Great Plains Safety \$300.00 smcs; Gronewaller,B \$13.80 smcs; H&H Distributing \$1,678.55 smcs; Harley Davidson Central \$577.34 smcs; HD Supply \$5,542.60 smcs; Hearing Access Solutions \$749.00 smcs; Heartland Strategy Group \$5,000.00 smcs; HOA Solutions \$25,000.00 co; Holdrege Well Service \$3,610.75 smcs; Hometown Leasing \$265.92 smcs; Humanities NE \$75.00 smcs; ICMA RC \$4,147.89 ps; ID Cards Unlimited \$2,059.83 smcs; Infogroup \$360.00 smcs; IRS \$124,617.55 ps; Jack Lederman \$1,027.12 smcs; JCB Enterprises \$46.75 smcs; JCI Industries \$282.64 smcs; John Crane, Inc. \$1,533.13 smcs; Jones Automotive \$1,508.80 co; K&K Parts \$1,313.81 smcs; Kart-Man \$999.61 smcs; Ky Concert \$108.34 smcs; Ky United Way \$610.00 ps; Ky Visitors Bureau \$46,321.03 smcs; KHS Boys Soccer \$35.00 smcs; Klaus,M \$105.80 smcs; KOLN \$4,620.00 smcs; Kovar,M \$130.48 smcs; Krueger,L \$100.00 smcs; Krull Insurance \$1,950.00 smcs; Kwiatkowski,L \$13.80 smcs; Kwik-N-Kleen \$4,475.00 smcs; Landmark Implement \$43,200.00 co; Lang,J \$45.00 smcs; Larsen,T \$1,000.00 co; Lawson,A \$11.42 smcs; Lerner Publishing \$1,878.76 smcs; Licking-Murray,K \$41.32 smcs; Lucas Electric \$73.75 smcs; Lukasiewicz,S \$105.00 smcs; Mac Tools \$95.99 smcs; Magic Cleaning \$2,090.00 smcs; Mail Express \$6,194.90 smcs; Marlatt Machine Shop \$1,185.17 co; Matheson Tri-Gas \$114.42 smcs; McCall,B \$27.82 smcs; McCarty,D \$360.87 smcs; McIntire,D \$26.88 smcs; Mead Lumber \$54.99 smcs; Menards \$53.86 co; Mergent \$1,076.00 smcs; Metlife \$7,988.62 ps; Middleton Electric \$463.62 smcs; Midlands Contracting \$113,765.29 co; Mid-NE Garage Doors \$200.00 smcs; Midwest Labs \$675.00 smcs; Milco Environmental \$2,073.10 smcs; Miller & Associates \$242,376.46 smcs,co; Miller Signs \$3,500.00 co; Miller,A \$13.80 smcs; Mindmixercom \$250.00 smcs; Mitchell,K \$60.00 smcs; Mosbarger,B \$431.11 smcs; Mostek Electric \$288.71 smcs; MS Society \$100.00 smcs; Mueller,J \$624.00 smcs; Municipal Supply \$11,318.74 smcs; NE Amateur Softball \$2,098.00 smcs; NE Child Support \$2,439.27 ps; NE Dept of Environmental \$150.00 smcs; NE Dept of Revenue \$107,017.62 smcs,ps; NE Public Health \$157.00 smcs; NE Safety & Fire \$1,088.00 smcs; NE Safety Council \$870.00 smcs; NEland Distributors \$1,683.40 smcs; Nelson,T \$2.60 smcs; New World \$2,070.00 smcs; Norm's Plbg \$70.00 smcs; Northwestern Energy \$1,897.99 smcs; Nova Fitness \$252.28 ps; OCLC \$552.92 smcs; Olsson Associates \$17,615.00 co; OMB Guns \$1,083.36 smcs; One Call Concepts \$540.85 smcs; O'Reilly Automotive \$1,443.78 smcs; Outdoor Recreation \$629.00 co; Overhead Door \$1,859.00 smcs; Paramount Linen \$265.71 smcs; Pat's Plbg \$1,175.00 smcs; Patterson,B \$138.00 smcs; Paul,T \$38.70 smcs; Paulsen \$254,426.17 co; Payflex \$561.00 smcs,ps; Penworthy \$321.08 smcs; Pep Co \$56.34 smcs; Petzold,S \$536.24 smcs; Pioneer Industrial \$1,324.08 smcs; Pitney Bowes \$75.00 smcs; Platte Valley Labs \$215.00 smcs; Pot O'Gold Multi-Cinema \$2,040.56 smcs; Premer,G \$26.70 smcs; Presto-X \$110.34 smcs; Pro-Quest \$375.00 smcs; Pulliam,R \$40.00 smcs; Quill \$138.97 smcs; R.W. Sorensen Const \$5,598.00 smcs; Random House \$168.00 smcs; Ready Mixed Concrete \$870.75 smcs; Recorded Books \$2,104.40 smcs; Recreonics \$1,084.31 smcs; Research Technology \$219.35 smcs;

Resource Management \$911.04 smcs; Rheome Tree \$450.00 smcs; RNDC-Eagle Division \$817.28 smcs; RNDC-Falcon Division \$478.10 smcs; Rourke Publishing \$1,613.90 smcs; Roussan,C \$29.85 smcs; Rousseau,K \$19.57 smcs; Roy,A \$3.34 smcs; RSG Home Improvements \$5,566.00 smcs; Russell's Appliance \$1,949.00 smcs; Safe Center \$2,740.80 smcs; Sage,P \$107.00 smcs; Sanitation Products \$3,570.68 smcs; Sapp Bros \$29,678.17 smcs; School Dist #7 \$16,409.95 smcs; Secretary of State \$30.00 smcs; See Clear Cleaning \$2,050.00 smcs; Severin,J \$56.24 smcs; Sherwin-Williams \$7,548.80 smcs; Sign Center \$1,641.00 smcs; Skeeter Barnes \$4,865.36 smcs; Small Engine Specialists \$295.50 co; Smith,S \$22.97 smcs; Spurling,K \$45.00 smcs; State Fire Marshal \$300.00 smcs; Storjohann,M \$80.00 smcs; Stull,H \$34.68 smcs; Suburban Fire Protection \$112.50 ps; Sun Life Financial \$59,807.84 smcs; Sutphen Corp \$543.32 smcs; Tacha,J \$50.00 smcs; Thome,B \$79.54 smcs; Thompson Co \$50.26 smcs; Thompson,K \$32.10 smcs; Tielke's Sandwiches \$108.21 smcs; Titan Machinery \$9,160.26 smcs; Titleist \$5,991.69 smcs; Tomark Sports \$3,976.14 smcs; Trade Well Pallet \$2,604.00 smcs; Tri-City Sign \$750.00 smcs; Tri-Co Glass \$50.00 smcs; TruGreen ChemLawn \$196.00 smcs; Tye & Rademacher \$11,493.67 smcs; UL \$86.00 smcs; Union Bank \$59,778.70 ps; Unique Management \$196.90 smcs; Verizon Wireless \$1,713.82 smcs; Vermeer Equipment \$2,095.60 smcs; Village Uniform \$379.87 smcs; Walters Electric \$2,155.30 smcs; Warrington,D \$477.48 smcs; Watchguard Video \$9,615.00 co; Waterlink \$9,089.30 smcs; Wells Fargo Bank \$500.00 smcs; West Payment Center \$1,333.32 smcs; Whalen,J \$105.80 smcs; Williams & Sons Housemovers \$800.00 co; Williams,M \$56.00 smcs; Wisch,C \$85.00 smcs; WL Construction \$419.99 smcs; Wolfe's Lawn Service \$40.00 smcs; Young,M \$138.00 smcs; Zimmerman Printers \$865.40 smcs; Payroll Ending 4-19-2014 - \$353,936.67 and Payroll Ending 5-3-2014 - \$365,456.51. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve the Applications for deferral of special assessments submitted by Two Sisters Farms, Charlotte Brandt Revocable Trust and Nebraska Public Power District with regard to Water Extension District No. 2012-1 in 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet.
4. Approve setting May 27, 2014 at 5:30 p.m. as the time and date to meet as the Board of Equalization to assess costs in connection with Water District No. 2013-569, and Water Extension District No. 2012-1.
5. 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 inside an outdoor 60' x 120' fenced area located in the parking lot of Kearney Powersports, 511 South 2nd Avenue, on June 13, 2014 from 5:00 p.m. until 11:00 p.m. for a bike night/barbecue.
6. 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 inside an outdoor 60' x 120' fenced area located in the parking lot of Kearney Powersports, 511 South 2nd Avenue, on July 11, 2014 from 5:00 p.m. until 12:00 a.m. for a bike night/barbecue.

7. Adopt **Resolution No. 2014-92** on the intent to issue tax exempt bonds of the 2014 Part 2 Improvements consisting of Paving Improvement District No. 2014-964 for Central Avenue from 31st Street to a point 150 feet south of 26th Street and 26th Street from Central Avenue to Avenue C.

RESOLUTION NO. 2014-92

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska (the "City"), as follows:

Section 1. The Vice-President and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2. This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond proceeds provided is as follows:

2014 Part 2 Improvements – Central Avenue between 26th Street to 31st Street, and 26th Street from Central Avenue to Avenue C

Sanitary Sewer Improvements	\$150,000.00
Water Improvements	\$600,000.00
Paving Improvement District No. 2014-964	\$1,500,000.00

2. The maximum principal amount of debt expected to be issued for such project is \$2,250,000.00.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

8. Approve the Plans and Specifications for the 2014 Part 9 Improvements consisting of Water District No. 2014-573 in Avenue A from a point located at the south line of Lot 717, Original Town of Kearney Junction northward to the north line of South Railroad Street, then easterly in South Railroad Street to the west line of Avenue B; and Sanitary Sewer District No. 2014-511 in In the easement located in Lot 1, Brown's Second Addition beginning at a point 132 feet south of the south line of Lot 2, Big Boy Addition northward to the south line of Lot 2, Big Boy Addition, then west along the south line of Big Boy Addition in the easement to the west line of Lot 2, Big Boy Addition then north along the west line of Big Boy Addition in an easement to the north line of Big Boy Addition and set the bid opening date for June 3, 2014 at 2:00 p.m.

9. Adopt **Resolution No. 2014-93** approving the Agricultural Lease at the Kearney Regional Airport between the City of Kearney and Thomas and Theodore Larsen.

RESOLUTION NO. 2014-93

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed on behalf of the City of Kearney, Nebraska to execute the Agriculture Lease Agreement on property located at the Kearney Regional Airport as follows: 114.5 under pivot irrigated acres and 11.0 non-irrigated acres for an annual cash rent being \$34,595.50. A copy of the Agreement, marked Exhibit "1" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF MAY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA**FANATICS ADDITION TO LIQUOR LICENSE**

Vice-President Buschkoetter opened for discussion the Application for Addition to Liquor License submitted by Sports Fans LLC, dba Fanatics located at 2023 Central Avenue.

Todd Schirmer presented this matter to the Council. This is a continuation of the addition that they applied for a month or so ago. The building was formerly known as Pallas. Fanatics purchased and established a beer garden, that was approved and opened and they continued to renovate the building and basically making a party room or an overflow to handle some of the heavier nights and also handle wedding reception parties or rehearsal dinners. As far as handling the minors, Fanatics requires all of the staff to have the TIPS training as well. They constantly are preaching to them about that, he does not think they have had a violation in the seven years they have been open. It is something they take very seriously. The additional room does present some challenges because obviously there is more space to keep an eye on and more people involved but there will be more staff. They placed bars on each side, a new camera system to monitor more effectively and they are trying to gain some more space where they were locked in before.

Council Member Lear asked does the one bar serve the entire facility then. Mr. Schirmer stated no, they added two new bars. The party room is closed the majority of the time unless there is a scheduled event or it is a Friday or Saturday night with extra heavy crowd; there is an extra bar to service that. There is also an extra bar on the backside of the opening to service the beer garden so there is now three bars. Supervision basically in all three areas when they are open and there will be times that the beer garden will not be real busy and the bar may not be open but there will be a server out there to take care of that.

Vice-President Buschkoetter asked will the new addition have an outside entrance or will they have to come through the one entrance. Mr. Schirmer stated it does have one; they are not planning on utilizing it unless it is a private party that that room will specifically be blocked off. Other days of the week it is going to be a fire exit with the push door unlock so everybody has to enter through the main entrance and then would pass through the bar and come in the two door opening that they put between the two building.

Moved by Buschkoetter seconded by Nikkila to approve the Application for Addition to Liquor License submitted by Sports Fans LLC, dba Fanatics located at 2023 Central Avenue. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila. Nay: None. Clouse and Lammers absent. Motion carried.

OPEN ACCOUNT CLAIM

Moved by Nikkila seconded by Lear that the Open Account Claim in the amount of \$3,458.19 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila. Nay: None. Clouse and Lammers absent. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Buschkoetter seconded by Nikkila that Council adjourn at 6:32 p.m. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lear. Nay: None. Clouse and Lammers absent. Motion carried.

ATTEST:

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

MICHAELLE E. TREMBLY
CITY CLERK