

*Kearney, Nebraska
July 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 July 8, 2014, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Dan Lynch, Chief of Police; Shawna Erbsen, Administrative Services Director; and Kelly Korgel, Assistant to the City Clerk were also present. Some of the citizens present in the audience included: Rick Bailey, Bob Harpst, Katie Dornhoff, Craig Bennett, Justin Owen, Bruce Lefler, Daniel Glatter, Skip Mason, Shelley Mason, Steve Altmaier from KGFW Radio, Ashley White from Kearney Hub, NTV and KHAS.

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 minister, the Council held a moment of silence.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

SOZO AMERICAN CUISINE CATERING TO LIQUOR LICENSE

Mayor Clouse opened the public hearing on the Application for Catering to Liquor License submitted by Sozo American Cuisine, LLC, dba Sozo American Cuisine in connection with their Class I-101648 liquor license located at 110 South 2nd Avenue and to consider Resolution No. 2014-128.

There was no representation to address this matter.

Moved by Clouse seconded by Lammers to postpone until July 22, 2014 the hearing on the Application for Catering to Liquor License submitted by Sozo American Cuisine, LLC, dba Sozo American Cuisine in connection with their Class I-101648 liquor license located at 110 South 2nd Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

CONDITIONAL USE PERMIT GRANTED TO VIAERO WIRELESS FOR 214 WEST 42ND STREET

Mayor Clouse opened the public hearing on the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless and Arram Equities, Inc. and Arram Ventures, Inc. for a Conditional Use Permit to locate a rooftop cell site for wireless communications on property zoned District C-2, Community Commercial District and described as Lot 3, Archway Village, an addition to the City of Kearney, Buffalo County, Nebraska (214 West 42nd Street, Suite A) and to consider Ordinance No. 7907.

The applicant is requesting approval of a Conditional Use Permit (CUP) to install telecommunications equipment for Viaero Wireless on the roof of Archway Village retail center. The property is zoned C-2. Viaero will have a retail store at this location and they have an agreement with the Owner to install antennas and associated equipment on the roof to upgrade to 4G service similar to the upgrades they made at the hospital and at Big Apple Fun Center. The scope of the installation includes coaxial cables, a microwave dish and 4G antennas as well as alignment of the microwave to communicate with the fairgrounds tower. A CUP application package has been submitted. From the material submitted it is unclear how the equipment will be attached to the roof. At the Planning Commission hearing the Viaero representative showed photographs of similar installations. The antennas are mounted on a framework and the entire piece is weighted down with several cinder blocks. At least one of the Planning Commissioners were concerned that the equipment is not more securely attached to the roof. Therefore, Staff and Planning Commission reiterated the importance of a letter from a structural engineer verifying the load and attachment method meet industry requirements for structural integrity prior to the City Council hearing. A letter submitted by Brungardt Engineering has been submitted and made a part of this application.

Rick Bailey from Viaero Wireless presented this matter to the Council. This particular location is an area of Kearney that could use some additional capacity and when he speaks of capacity they are not talking about coverage but the amount of usage of data and since the spectrum is not unlimited they are able to break into smaller cell sites and

be able to transmit that signal again and deliver greater speeds is the goal.

Mayor Clouse asked if they were in agreement with the terms of the Conditional Use Permit. Mr. Bailey stated he does not see any problems with them.

Council Member Lammers asked about the concern mentioned at Planning Commission on the antenna. Mr. Bailey stated he visited with Chris Riha earlier today and the concern was one of the Planning Commission members had mentioned why it would not be bolted into the roof. There are some very large I-beams that it is attached to that will distribute the load and that is what he read with the engineering letter on how it would be installed. Council Member Lammers asked if this is common practice on how they would normally install that. Mr. Bailey stated the I-beams would be an addition. Council Member Buschkoetter asked above and beyond what is standard. Mr. Bailey affirmed.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless and Arram Equities, Inc. and Arram Ventures, Inc. for a Conditional Use Permit to locate a rooftop cell site for wireless communications on property zoned District C-2, Community Commercial District and described as Lot 3, Archway Village, an addition to the City of Kearney, Buffalo County, Nebraska (214 West 42nd Street, Suite A) subject to compliance with the conditions listed in the ordinance and introduced Ordinance No. 7907 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7907. 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. 7907 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7907 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. 7907 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.

REZONING NORTH OF WEST 68TH STREET AND EAST OF 8TH AVENUE

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Aaron Broadfoot and Austin Broadfoot to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being located in part of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of West 68th Street and east of future 8th Avenue) and to consider Ordinance No. 7908. Planning Commission recommended approval of the rezoning request and subdivision plat with the execution of the Subdivision Agreement recognizing that no additional lots will be final platted until a second means of access is approved by the City Council and constructed.

The applicant is requesting approval to rezone and subdivide a one-lot subdivision for rural residential housing. The property is located on the north side of 66th Street approximately 1,000 feet west of 2nd Avenue. A portion of the property is already suitably zoned, but additional land needs to be rezoned to meet the developer's intent. A Preliminary Plat that encompasses this lot plus several others was approved by Planning Commission last month. The lots depicted on the Preliminary Plat cannot be final platted until a viable second access point can be provided to serve the additional development.

Approximately 2.58 acres of the proposed rural residential lot is currently zoned RR-1, Rural Residential District with Rural Standards. An additional 4.42 acres needs to be rezoned from AG to RR-1 to encompass all of the land area as RR-1 in the proposed lot which consists of 7.00 acres total. The Future Land Use Map of the City of Kearney Comprehensive Development Plan depicts the land use category for this property as "Low Density Residential." Therefore, no amendments are required to the Land Use Map.

The Preliminary Plat for this property consists of seven lots and two outlots reserved for drainage, all on 35.85 acres. As previously stated, the Preliminary Plat was approved last month by Planning Commission but cannot move forward until a north access point and associated road can provide suitable access to the lots. The Final Plat to be known as Austin Estates Sixth, consists of one buildable lot, one Outlot, and road right-of-way for a future street. Lot 1 contains 7.00 acres and Outlot A contains 3.44 acres. A significant drainage channel traverses this property and portions of the property are contained in the 100-year floodplain. The arrangement of outlots in this layout, as with past phases of Austin Estates, contain the floodplain and carry the stormwater.

This is the sixth subdivision in the Austin Estates development. Nine lots have been approved in Austin Estates previous subdivisions. All of the lots in this area take singular access to Highway 10/2nd Avenue via 66th Street Place and 68th Street Place, two long cul-de-sacs. Staff has expressed concern with each phase of Austin Estates regarding the single access point to this area. This is a scenario similar to Rolling Hills or Talmadge Street where the area continues to grow without adequate emergency access, albeit at much lower density. The lot under consideration today is some 2,600

feet from the highway. The other lots are similarly served by excessively long cul-de-sacs. Staff has made the developer aware that no additional lots will be approved for final platting until a second means of access is established. The developer has been working with the neighboring property owner and NDOR towards getting the second access approved so he can bring it before Planning Commission and City Council. No Public Works Plan is required. A Subdivision Agreement has been prepared by the City to address the moratorium on platting until a second access point is provided.

Craig Bennett from Miller & Associates presented this matter to the Council. He represents the Broadfoot's on the development of Austin Estates Sixth Subdivision. They have preliminary platted along with this proposal hinged on the north by the section line, 35.85 acres and they are proposing a one lot residential subdivision during this phase of 11.05 acres. The secondary access which is half of the right-of-way is currently platted and known as Rodehorst Street. They are currently working with the land owner and NDOR because of the existing flood plain they are going to cut through the property further south than what the original right-of-way was platted.

The current Land Use Map shows as it being Low Density Residential and so that's conforming with what they are proposing so there would be no change in both the Preliminary Plat or the Final Plat component. There is a portion of this property that is still currently zoned Ag and so it's of the north portion of the 11 acres, there is 4.42 acres that they asking to rezone from Ag to RR-1 to be consistent with what is shown adjacent and contiguous to the property. The remaining portion of the Preliminary Plat will eventually be zoned RR-1 too at which time they would have that second point of access and bring those parcels through.

In the particular subdivision there is a floodway and a flood plain. Mr. Bennett discussed the 100-year flood plain and the 500-year flood plain. They have contained the floodway to an outlot so the subdivision has a 2-lot subdivision. The Preliminary Plat shows the floodway contained and what would be known as Outlot A. Lot 1 is the 7-acre parcel and the remaining area which is being preliminary platted of that 35 acres shows the remaining parcels of being three acres plus in size and then the secondary access that they have proposed for the future. They cannot build a road in a floodway across the structure and that is why it would be brought down to the south side.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Miller & Associates for Aaron Broadfoot and Austin Broadfoot to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being located in part of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of West 68th Street and east of future 8th Avenue) and introduced Ordinance No. 7908 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. 7908. 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. 7908 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. 7908 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. 7908 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 AUSTIN ESTATES SIXTH SUBDIVISION

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Aaron Broadfoot and Austin Broadfoot for the Final Plat for Austin Estates Sixth Subdivision, Buffalo County, Nebraska, for property described as a tract of land being located in part of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of West 68th Street and east of future 8th Avenue) and to consider Resolution No. 2014-129.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-129** approving the Application submitted by Miller & Associates for Aaron Broadfoot and Austin Broadfoot for the Final Plat and Subdivision Agreement for Austin Estates Sixth Subdivision, Buffalo County, Nebraska, for property described as a tract of land being located in part of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of West 68th Street and east of future 8th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2014-129

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the plat of Austin Estates Sixth Subdivision, Buffalo County, Nebraska for a tract of land being part of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska being more particularly described as follows: Referring to a 3/4" Iron Pipe at the Northwest corner of the Northeast Quarter of Section 23, and assuming the West line of said Northeast Quarter as bearing S00°24'29"E and all bearings contained herein are relative thereto; thence S00°24'29"E

on said West line a distance of 968.93 feet to a 5/8" Rebar with cap on the Northerly Right-of-Way of 68th Street and the Northwest corner of Austin Estates Fourth Subdivision, as platted in Buffalo County, Nebraska; thence N89°35'12"E on said Northerly Right-of-Way a distance of 543.97 feet to a 5/8" Rebar with cap and the POINT OF BEGINNING; thence continuing N89°35'12"E on said Northerly Right-of-Way a distance of 161.59 feet to a 5/8" Rebar with cap, and the beginning of a tangent curve to the Right having a radius of 233.00 feet, a central angle of 48°55'12", an arc length of 198.94 feet, and a chord bearing S65°57'13"E a distance of 192.95 feet to a 5/8" Rebar with cap; thence continuing on said Northerly Right-of-Way tangent to said curve S41°29'37"E a distance of 354.12 feet to a 5/8" Rebar with cap, and the beginning of a tangent curve to the Right having a radius of 233.00 feet, a central angle of 19°23'25", an arc length of 78.85 feet, and a chord bearing S31°47'54"E a distance of 78.48 feet to a 5/8" Rebar with cap on the Westerly line of Austin Estates Fifth Subdivision, as platted in Buffalo County, Nebraska; thence non-tangent to said curve and leaving said Northerly Right-of-Way N42°21'54"E on said Westerly line a distance of 170.22 feet to a 5/8" Rebar with cap; thence N27°55'40"E continuing on said Westerly line a distance of 204.07 feet to a 5/8" Rebar with cap; thence N07°31'11"E continuing on said Westerly line a distance of 98.05 feet to a 5/8" Rebar with cap; thence N18°26'52"W continuing on said Westerly line a distance of 177.52 feet to a 5/8" Rebar with cap; thence N15°46'52"E continuing on said Westerly line a distance of 107.04 feet to a 5/8" Rebar with cap; thence N00°16'14"W continuing on said Westerly line a distance of 63.22 feet to a 5/8" Rebar with cap; thence N31°59'25"W continuing on said Westerly line a distance of 114.53 feet to a 5/8" Rebar with cap; thence N32°55'56"E continuing on said Westerly line a distance of 23.99 feet to a 5/8" Rebar with cap; thence leaving said Westerly line S89°38'13"W a distance of 764.69 feet to a 5/8" Rebar with cap; thence S00°21'47"E a distance of 440.96 feet to the Point of Beginning, containing 11.05 acres, more or less, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CONDITIONAL USE PERMIT GRANTED TO VERIZON WIRELESS FOR 230 3RD AVENUE

Mayor Clouse opened the public hearing on the Application submitted by Verizon Wireless and Kearney Cinema, LLC for a Conditional Use Permit to locate a

telecommunications facility on property zoned District M-1, Limited Industrial District and District C-2, Community Commercial District and described as Lot 1, Ess of Kay Addition, an addition to the City of Kearney, Buffalo County, Nebraska (230 3rd Avenue) and to consider Ordinance No. 7909. Staff recommended approval of the CUP if the site is re-designed to include a 6-foot height solid privacy fence around the tower and equipment, two Armstrong Maple trees, minimum 2-inch caliper in size shall be planted east of the tower, all of the equipment, tower, fencing and landscaping shall be contained in an island protected by concrete curb and gutter. Planning Commission recommended approval on a split vote with four votes in favor and two dissenting. Planning Commission did not make a recommendation on landscaping or screening.

The applicant is requesting approval of a Conditional Use Permit (CUP) to install a 180-foot tall monopole telecommunications tower and associated equipment for Verizon Wireless at the Cinema 8 Movie Theater site. The ground shelter that will house mechanical equipment is 265 square feet. The property is zoned M-1. A complete CUP application package has been submitted. Staff has reviewed this application and offers the following comments:

a) If approved as presented, the tower will be located in the southwest corner of the movie theater parking lot.

b) The proposed site is set well back from the public street, but still visible.

c) The proposed tower location is in the 100-year floodplain. It must be constructed at least one foot above the base flood elevation.

d) According to Verizon RF Engineers this site is necessary to relieve capacity issues in south Kearney especially around the Younes Conference Center and the hockey arena. The engineers have submitted coverage maps that show existing service area and improved service area if the tower is approved at this location.

e) The requested height at 180 feet is based on matching the existing Verizon service elevation established in Kearney with the tower on Avenue B. Planning Commission expressed some concern with the height of the tower.

f) When possible, locating facilities on existing towers, buildings, elevators, or other tall structures is preferable to erecting new towers. The Ordinance requires the applicant to investigate opportunities to co-locate on existing structures and sets forth a hierarchy of preferred site rankings with public property being the most desirable and residential property least desirable. The Planning Commission had a lot of questions regarding site selection and other alternative sites. The proposed site is zoned M-1 which is the second most preferable category after public property. For site justification the RF engineers state that the only possible co-location site on public property is the existing tower at the NDOR maintenance yard which would only provide about 45 feet in height. The structural ability of the tower to hold the Verizon equipment is also questionable. Likewise, roof-mounted equipment at the Big Apple, Younes Conference Center, or other buildings in the area would be preferable to the City, but apparently are not tall enough to meet Verizon's needs. Other towers near the Hockey Arena and Avenue M are too far from the search ring.

g) The nearest residential use to the tower site is 330 feet away in an M-1 zone. The nearest residential zoning is 1,250 feet from the site.

h) The proposed tower is designed to carry two additional co-locators and provides space for ground mounted co-location equipment as well.

i) The site is compliant with FAA and FCC regulations.

- j) The tower is not required to be lighted by FAA and will not be lighted.
- k) The tower is designed by a licensed structural engineer to meet all EIA (Electronic Industries Association) standards. The plans are sealed by the engineer.
- l) A deviation from the landscape requirement is requested as the applicant believes that the proposed location is adequately screened by existing buildings and vegetation along Turkey Creek. Staff believes that this tower is very approachable sited in the middle of a parking lot even if it is tucked away in the corner behind the cinema building. Staff believes that there should be some landscaping on the east side of the tower because the east side is the most visible and street facing side. The tower may be a long distance from the street but is still visible from the ground up at certain viewpoints. The Verizon representatives stated that they would prefer an absolute deviation from landscaping (provide none) but would be willing to surround the tower with a screening fence. Staff has some concerns regarding sight lines for motorists and pedestrians in the parking lot if a privacy fence is constructed. The fence may need to be setback some distance from the edge to allow sight lines or perhaps a stop sign or other cautionary signage should be erected to alert motorist. Verizon and the owner of the theater need to find a solution to ensure the safety of the theater patrons. In addition to the fence, Staff recommends that two 2-inch caliper Armstrong Maples be planted in a landscape island east of the proposed lease triangle. The first two parking spaces to the east are shown reserved for future co-locator's ground equipment. The trees shall be planted east of this area. The Verizon representative stated that up to 12 parking stalls might be converted to Verizon use with this proposal while the site diagram shows only five or seven spaces being impacted. Therefore, there is adequate room to create the boundary of a new curbed island that will contain the landscaping, the equipment, the fence and the tower.

Justin Owen from Verizon presented this matter to the Council. He is representing Verizon Wireless and the property owner. The island at the proposed site they are proposing to make it a triangle and it would consist of a 180-foot monopole tower and the shelter that would house the radio equipment. He has reviewed the staff recommendations on the landscaping and the fence and Verizon and the property owner have both agreed to them. It does have some natural screening, the large floodway to the south and quite a bit of trees to the north and west as well as the Kearney Cinema building that is to the east of the side between the main street.

City Clerk stated she would recommend that if City Council approves application that it is subject to the City receiving the Acknowledgement of the Conditional Use Permit, the City has not received it yet. Mr. Owen stated that it should arrive to the City on Wednesday.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Verizon Wireless and Kearney Cinema, LLC for a Conditional Use Permit to locate a telecommunications facility on property zoned District M-1, Limited Industrial District and District C-2, Community Commercial District and described as Lot 1, Ess of Kay Addition, an addition to the City of Kearney, Buffalo County, Nebraska (230 3rd Avenue) and introduced Ordinance No. 7909 subject to compliance with the conditions listed in the ordinance and the signed Acknowledgment being submitted to the City prior to any

construction at the site and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7909. 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7909 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7909 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7909 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.

REVISED DEVELOPMENT PLANS FOR COWPOKE AT 7310 2ND AVENUE

Mayor Clouse stated the City received notification from the applicant withdrawing Application submitted by Duncan Theis Construction, Inc. for D & M Cowpoke, Inc., a Nebraska Corporation for Revised Planned District Development Plan Approval to construct a building addition and minor renovation on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 1, Elken Subdivision in Buffalo County, Nebraska (7310 2nd Avenue). Therefore, no action was taken.

AMENDMENTS TO CHAPTERS 14 AND 28 OF THE CITY CODE ADDRESSING KEARNEY CENTER MIXED USE DISTRICT

Mayor Clouse opened the public hearing on the proposed amendments to Table 14-1 "Use Matrix of Chapter 14 "Zoning District Regulations" of the City Code to allow Retail Services (Medium) being permitted in District CBD, Kearney Center Mixed Use District and that planned development is required for Retail Services (Large) in District CBD, Kearney Center Mixed Use District AND proposed amendments to the following sections located in Chapter 28, "District CBD, Kearney Center Mixed Use District" of the City Code": Section 28-102 "Site Development Regulations" to change the site area per housing unit, minimum lot area, maximum floor area ratio, the rear yard requirements, and the project size requiring a planned development in District CBD, Kearney Center Mixed Use District; and Section 28-103 "Special Regulations and Standards" providing the following: (1) all street facing building facades shall have a minimum transparency of 75 percent on the storefront or ground floor and a minimum transparency of 40 percent

on upper floors; (2) simulated building stone is not an acceptable masonry material for street facing facades; (3) mechanical equipment shall not be visible from the street; and (4) roofs shall be flat, or slope concealed from street view by parapet cap, cornice or other measure and to consider Ordinance No. 7910. Planning Commission recommended approval.

The proposed amendments are intended to establish consistent design elements that are unique to the CBD zoning district to achieve the "downtown look" as well as create parameters for development that does not fit the traditional zero-lot line, public parking concept of a downtown use. Non-traditional CBD sites such as the Apple Market grocery store or areas closer to the courthouse may not be a good fit for these types of design standards and the owners may wish to pursue rezoning of these properties to a C-1 or C-2 commercial type zone, although compliance with new Code would not be required until such time as new development or significant remodeling occurs. There are twelve changes proposed in two chapters of the Unified Land Development Ordinance (ULDO).

Chapter 14, "Zoning District Regulations" contains Table 14-1, The Use Matrix Table. This is the table that indicates which use types are allowed in which zones and whether the particular use types in each zoning district are:

1. Prohibited
2. Allowed by right
3. Require a Conditional Use Permit (CUP)
4. Require a PD, Planned Development Overlay

This table also alerts the reader if there are any additional "Supplemental Regulations" by referencing the appropriate Code section in the far right column, if applicable.

The proposed amendments to Table 14-1 change the status of "Retail Services (Medium)" from a PD, Planned Development Overlay requirement to a use that is permitted by right. Medium retail services are retail establishments containing 3,000 to 10,000 square feet of floor area. The status of "Retail Services (Large)" is proposed to change from a "P", permitted by right, to a PD, Planned Development Overlay requirement. Large retail services are retail establishments containing 10,001 to 40,000 square feet of floor area. A two story traditional downtown building on an original lot contains 6,500 square feet.

A reference to Section 28-102 is proposed under the Supplemental Regulations column. Chapter 28 is the chapter that lists the development regulations for the CBD District. Changes to Chapter 28 are proposed as follows:

a) The site area per housing unit in square feet is decreased from a minimum of 1,000 to 325 square feet for permitted residential uses as was discussed last month. The existing minimum of 1,000 square feet was to be reduced to 650 square feet but as several people said, even 650 square feet is not accommodating to smaller units such as efficiency and one-bedroom apartments.

b) The site area per housing unit in square feet for all other permitted uses is set at 650 square feet, whereas the existing Code considers it to be "N/A" non-applicable. The use type "Retail Services (Large)" is currently permitted by right in CBD zones but the proposed amendments will require a Planned District PD Overlay for this use type.

c) The minimum lot area for permitted residential uses and all other permitted uses is decreased from 5,000 to 3,250 square feet.

d) The maximum rear yard setback is increased from 0 to 60 feet in all cases. This space allows for owner and employee parking as well as service functions off the alley for businesses and parking for upper floor residents. There is no minimum setback.

e) The project size requiring PD, Planned District overlay requirements changes from "N/A" to "more than 4 bedrooms" for permitted residential uses and from "N/A" to "greater than 10,000 square feet" for all other permitted uses. The "Number of Dwelling Units" was originally proposed as the controlling feature in this amendment. After discussion at the listening sessions the terminology was revised to "Number of Bedrooms." This change accounts for the impact of larger apartments since a one bedroom apartment and a three bedroom apartment are both considered a single dwelling unit. In this manner larger projects that may have more significant development impacts on the surrounding area are required to develop a "planned" approach and submit the plans to the Planning Commission and City Council for approval.

f) "Simulated Building Stone" will be removed from the list of acceptable enhanced building materials on street facing facades and will be replaced with the term "Stone Veneer" and the required percentage of enhanced building materials is set at 75% for both permitted residential uses and all other permitted uses (is currently 0 and 35 percent respectively).

Stone veneer is acceptable as it is formed from masonry by-products and applied to the wall with mortar. The veneer is typically 1 inch thick and must weigh less than 15 pounds per square foot (73 kg/m²) so that no additional structural supports will be required. Manufactured stone veneer is a decorative building material manufactured to replicate the look of natural stone. The names artificial stones, stacked stone veneer, manufactured stone, and flexible stone veneer are also used for stone veneer. Stone veneer can be made from natural stone as well as manufactured stone. Stone veneer is fabricated by pouring a lightweight concrete mix into rubber forms of different shapes and styles, which are then painted or stained with a coloring process making the material resemble real stone. The stone veneer is then attached to interior or exterior walls with special mortars.

g) The minimum offset required for building articulation to avoid the "barracks" look on long, continuous and connected facades is changed from every 100 feet to every 50 feet with the minimum depth of five feet for each horizontal offset in all cases.

h) The endnote titled "Note 1: Flexible Floor Area Ratios in Planned Districts" is intended to allow the Planning Commission and City Council the flexibility to increase the maximum floor area ratio (FAR) for a particular project. A proposed amendment adds the verbiage allowing them to decrease the FAR as well.

i) Under 28-103, "Special Regulations and Standards" the following amendments are proposed as new notes:

i. Paragraph B; "All street facing façades shall have a minimum transparency of 65% on the storefront or ground floor, and a minimum transparency of 40% on upper floors. Windows and doors contributing to the transparency minimum on the storefront or ground floor shall not be reflective, smoky, or heavily tinted."

ii. Paragraph C; "Simulated building stone is not an acceptable masonry material for street facing façades. Stone veneer is acceptable.

iii. Paragraph E; "Mechanical equipment shall not be visible from the street."

iv. Paragraph F; "Roofs shall be flat, or slope concealed from street view by parapet cap, cornice, or other measure.

Assistant City Manager/Development Services Director Suzanne Brodine presented this matter to the Council. The proposed amendments have been under discussion with the Downtown Improvement Board and downtown business owners for quite some time. A working group that included members of the Community Redevelopment Authority, Planning Commission and Downtown Improvement Board discussed what their vision was for downtown and what they wanted to achieve with amendments for Central Business District zoning. It was out of those discussions that they came up with proposed amendments. They then held three listening sessions and sent direct mailings to every property owner within the Central Business District and invited them to attend those meetings and they have made some changes to the original proposals based on some of the conversations that were had there at the listening sessions.

Two of the types of changes are aesthetic changes which really have to do with the look and feel of downtown, and use changes to deal with some others issues that these particular types of developments have. Some highlights from the aesthetic changes include an increase in the amount of masonry required on downtown buildings, 35 percent is standard on commercial buildings within the community, and the group believed that 75 percent would be more appropriate for downtown. It has a different look to it in the downtown. There are different benefits to downtown and they believed that increased aesthetic requirement was important. There is a transparency requirement of basically large windows on the first floor for the purpose to increase the connectivity between pedestrian uses and people who are inside businesses and shops on the first floor. Mechanical equipment is required to be screened from view so no window air conditioning units or things of that nature downtown and roofs need to be sloped or concealed by a parapet or cornice of some type so that you cannot see that gabled pitch or something like that from the street. Again these are all designed to help keep that traditional downtown look with new development and again these code amendments are geared towards new or infill development, they do not affect an existing property so there is no requirement or retro activity to these code amendments.

The other amendments that they proposed have to do with use type. Some changes to clean up areas of the code that really do not fit the existing uses they have today and to address some future uses. Some of the things that changed are the required minimum amount of square footage for an apartment; the current code is 1,000 square feet which is a fairly sizeable apartment particularly for a downtown. Staff originally proposed 650 but after discussing with property owners they have reduced that to 325 which is standard for an efficiency type apartment. They have quite a few downtown and they would see those types of apartments probably be encouraged in downtown development. They have recommended that when apartments are created more than four bedrooms are created in a new development that it become a planned development and that is geared towards a discussion of parking to address how to deal with the additional cars that are created by residential development.

Developments over 10,000 square feet of new development would also be a planned development. To put that into perspective, the average lot downtown is 25' by 130' so if a person has more than two lots or several stories in the building, it needs to be discussed as a planned development because of a parking issue. How many employees are they talking about that need to park in that building. There has been a

change in the minimum lot size. Code currently allows 5,000 square feet, and there are existing lots downtown that are 3,250 square feet so that was just a housekeeping issue. A change in the rear lot line to create a maximum still a zero rear lot line so people can still build buildings right up to the property line with the alley that creates a maximum of 60 feet and that is to prevent that space or parking lots abutting up to Central Avenue type developments so that your screening that from the back.

Council Member Lammers asked if there was much discussion regarding stone fronts versus brick and the percentage that was picked. Assistant City Manager stated there was discussion, not so much the percentage that was chosen but there was a lot of discussion because the code as opposed to other commercial codes made some specifications regarding simulated stone which is different, they wanted to make that distinction between a vinyl or a nail up material that would go on the front of the building opposed to a masonry material which would require mortar to go onto the front of a building. There was a lot of discussion of that and they did clarify that in the code. When they talk about simulated stone they are really talking about the nail up material something that does not require mortar for installation.

Council Member Nikkila asked how did the rules change from the point you started the listening sessions to now. What kinds of things did you change in that process. Assistant City Manager stated one of those changes would be that minimum square footage for residential unit when staff saw 1,000 square feet which is today's code, they believed that was too big for an apartment for what they were thinking they would see downtown. They chose 650 square feet but after the discussion with people who came to listening sessions as property owners they reduced it to 325 square feet and the arguments were very convincing, they have existing apartments that are in that size range and that is standard for efficiency.

Another was a reduction in the amount of transparency on the 1st floor. Initially, staff had recommended that 75 percent of the store front should be glass, transparent material and again that is the connectivity between the pedestrian and the interior of those buildings. After discussion with the property owners, the costs to install large plate glass, the safety issues and some concerns that they had a compromise was reached and they recommended the 65 percent rather than 75 percent transparency. Those are some of the changes that really came out of the listening sessions from comments that they heard.

She noted that since they closed listening sessions a property owner had recommended that they increase the number of bedrooms from 4 to 6 or 8 to allow more freedom from property owners to utilize all the space that they may have. Staff still recommended four because the concern is not the number of people they are trying to get out the number of cars that are associated with that residential development and how to deal with that.

Council Member Buschkoetter asked about the top floors not being utilized, was it discussed at the listening sessions that these rules are going to address that. Ms. Brodine stated the code changes being proposed that development of the 2nd floor will naturally occur. What they heard the biggest barrier to that is a financial one and it is not these codes that are effective but the idea of bringing the 2nd floor up to life safety

standards, such as sprinkler systems and stairs that meet code. That seems to be the biggest barrier and separate from this. Staff has been working with several different property owners to talk about different grant or low interest loan opportunities that exist at the state and federal levels to help get those projects off the ground.

Council Member Nikkila asked on the transparency issue, he understands the bottom level but on the upper level the recommendation was 40 percent; will that not affect putting signage up to promote their business if they cannot cover it up with a sign. Assistant City Manager stated typically not, you have a sign budget anyhow so there is only so much signage that you can put up on a new building it may affect where on the building you can place that whether it be where it traditionally would be placed on a downtown building which is above the 1st floor windows and below the 2nd floor windows or whether you have to move that to another location on the building. They have a lot of buildings downtown that meet that requirement today and the signage has not been an issue for them.

Assistant City Manager further stated the Downtown Improvement Board has been very supportive of this idea of addressing how future development occurs in the downtown and protecting that traditional look and feel. Originally, they were more focused on the historic preservation aspect but as they walked through with some of those other people in the working sessions and property owners they really got away from that and towards the idea of not necessarily preserving things because they are old but preserving the feeling that you have when you come into Kearney's downtown and the way that it looks.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the proposed amendments to Table 14-1 "Use Matrix of Chapter 14 "Zoning District Regulations" of the City Code to allow Retail Services (Medium) being permitted in District CBD, Kearney Center Mixed Use District and that planned development is required for Retail Services (Large) in District CBD, Kearney Center Mixed Use District AND proposed amendments to the following sections located in Chapter 28, "District CBD, Kearney Center Mixed Use District" of the City Code": Section 28-102 "Site Development Regulations" to change the site area per housing unit, minimum lot area, maximum floor area ratio, the rear yard requirements, and the project size requiring a planned development in District CBD, Kearney Center Mixed Use District; and Section 28-103 "Special Regulations and Standards" providing the following: (1) all street facing building facades shall have a minimum transparency of 75 percent on the storefront or ground floor and a minimum transparency of 40 percent on upper floors; (2) simulated building stone is not an acceptable masonry material for street facing facades; (3) mechanical equipment shall not be visible from the street; and (4) roofs shall be flat, or slope concealed from street view by parapet cap, cornice or other measure and introduced Ordinance No. 7910 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. 7910. 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. 7910 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7910 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. 7910 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.

BOARD OF EQUALIZATION FOR PAVING IMPROVEMENT DISTRICT NOS. 2012-953, 2012-954, 2012-955A, 2013-961; WATER DISTRICT NOS. 2012-565, 2012-566, 2012-567; AND SEWER DISTRICT NOS. 2012-505A, 2012-506

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization to assess costs in connection with Paving Improvement District Nos. 2012-953, 2012-954, 2012-955A, 2013-961; Water District Nos. 2012-565, 2012-566, 2012-567; and Sewer District Nos. 2012-505A, 2012-506 and to consider Resolution No. 2014-131.

When Oak Park Center was platted the owners signed a Subdivision Agreement setting forth the installation of paving, water and sanitary sewer improvements through a combination of improvements districts and developer constructed infrastructure. The City will pave 56th Street from 2nd Avenue west to 6th Avenue at no cost to the abutting property owners. The City will also pave from the existing pavement located in 52nd Street and 3rd Avenue westward to the west line of Lot 1, Block Two, Sorensen Fifth.

By signing the Subdivision Agreement, the owner/developer is requesting the City to create paving, water and sanitary sewer districts where required for 3rd Avenue as platted and proposed when extended to 56th Street, proposed 4th Avenue and a Roadway and Utility Easement located on lot 4. Owner agrees to pay a deposit of 50 percent of the engineer's estimated assessable cost for said districts prior to the City awarding the bid. Owner will agree to pay the balance of the assessable cost, total final assessments less the deposit applied as set forth in the Subdivision Agreement. Therefore, on November 13, 2012 the Council approved Paving Improvement District Nos. 2012-954, 2012-955A, Water District Nos. 2012-565, 2012-566, 2012-567, Sanitary Sewer District Nos. 2012-505A and 2012-506.

When Starostka View Addition was platted in April of 2012, the owners signed a Subdivision Agreement agreeing to enter into a Development Construction Infrastructure Agreement to construct water and sanitary sewer infrastructure. With the

signing of the Subdivision Agreement, the owner is requesting the City create a paving district for Avenue L from 65th Street Place to the existing pavement of 66th Street Place. Therefore, on October 9, 2012 the City created Paving Improvement District No. 2012-953 and the developer was required to deposit 50 percent of the engineer's estimated assessable cost for said districts prior to the City awarding the bid.

The City had received a letter from Dan Roeder requesting the creation of a paving district for 57th Street east of Avenue. Therefore, on January 22, 2013 the City created Paving Improvement District No. 2013-961 and the developer was required to deposit 50 percent of the engineer's estimated assessable cost for said districts prior to the City awarding the bid.

Skip and Shelley Mason, 1108 East 65th Street Place opposed the amount of the assessment. Ms. Mason stated she does not like the bill that she received. They came before Council to dispute the development and came tonight because they received a letter from the City. She believes it is unnecessary and they should not have to pay, the developer should have paid for it.

City Attorney Michael Tye stated the paving district was already created in 2012 so the paving project and district has already been approved and established. What Council is talking about tonight is assessing the amount which as you know is typically done on a square footage basis for adjacent property owners. The establishment of the paving district and the right to object that paving district has long expired, that would have expired back in 2012 and so the issue tonight is the amounts and assessing those amounts to adjacent property owners.

Council Member Lear stated if he is correct that formula on how those are portioned out to various property owners is dictated by Nebraska Statute. City Attorney stated that is correct; it is done the same way on all of those districts based on the square footage amount and the cost of the project. Mayor Clouse asked if they have options on payments. City Clerk stated they do have ten years to pay or they can pay it up front in 50 days at no interest. The City will send out annual notices to them. Mayor Clouse asked what their recourse was. City Clerk stated there is none.

Ms. Mason stated that is not what she wanted to hear but she wishes the Council would take into consideration if somebody is going to develop, they lived there for five years and did not have a road and now they were told they were developing behind them and they did not want that either and then they end up paying for it. Skip Mason stated they did object to this back in 2012 which did them no good. Ms. Mason stated they are here to voice their opinion on it.

Mr. Mason stated when you are buying a house you do not figure six years down the road you will have to pay for a new street. Ms. Mason stated they do not even use it; it is past their drive into their home and it is a waste.

Moved by Clouse seconded by Lammers to close the hearing for the Council meeting as the Board of Equalization and adopt **Resolution No. 2014-131** assessing costs in connection with Paving Improvement District Nos. 2012-953, 2012-954, 2012-955A, 2013-961; Water District Nos. 2012-565, 2012-566, 2012-567; and Sewer District Nos.

2012-505A, 2012-506. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-131

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. The President and Council find and determine that the streets in Paving Improvement District Nos. 2012-953, 2012-954, 2012-955A, and 2013-961 have been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. The President and Council find and determine that the water main heretofore ordered installed in Water District Nos. 2012-565, 2012-566, and 2012-567 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 3. The President and Council find and determine that the sanitary sewer main heretofore ordered installed in Sanitary Sewer District Nos. 2012-505A and 2012-506 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sanitary sewer main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 4. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District Nos. 2012-953, 2012-954, 2012-955A, and 2013-961 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution

- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 5.5 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 6. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Water District Nos. 2012-565, 2012-566, and 2012-567 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 5.5 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 7. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sanitary Sewer District Nos. 2012-505A and 2012-506 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 5.5 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Lammers seconded by Nikkila that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held June 24, 2014.
2. Approve the following Claims:

- PS Personnel Services
- SMCS Supplies, Materials & Contractual Services

ER	Equipment Rental
CO	Capital Outlay
DS	Debt Service

Access Electrical Systems \$950.00 co; Adira Construction \$107,069.81 co; Agri Coop \$2,870.66 smcs; Agrium Advanced \$394.00 smcs; Alamar Uniforms \$573.48 smcs; Albrecht,H \$1,244.25 smcs; Amer Library Assn \$248.00 smcs; Anderson Bros \$283.84 smcs; Arctic Refrigeration \$290.07 smcs; Ask Supply \$1,572.39 smcs; Aspen Meadows \$269.04 smcs; Aurora Coop \$87.60 smcs; Aussie Hydraulics \$346.87 smcs; Baer,E \$13.34 smcs; Baker & Taylor Books \$3,371.46 smcs; Barco Municipal Products \$6,940.50 smcs; Barlow,J \$400.00 smcs; Baughman,J \$81.40 smcs; Beck,M \$33.00 smcs; Bike Shed \$104.95 smcs; Blackstone Audiobooks \$571.96 smcs; Blessing \$176,252.04 co; BlueCross BlueShield \$49,032.69 smcs; Bokenkamp,T \$100.00 smcs; Bosselman \$4,981.22 smcs; Broadfoot's \$972.00 smcs; Brooks,G \$31.00 smcs; Bruha,S \$390.00 smcs; Buckle \$4.00 smcs; Buffalo Co Reg Deeds \$322.00 smcs; Buffalo Outdoor Power \$21.90 smcs; Builders \$336.48 smcs,co; Capital Business Systems \$169.93 smcs; Cash Wa \$4,373.50 smcs; Central Fire & Safety \$32.25 smcs; Chesterman \$1,293.80 smcs; Chief Supply \$59.85 smcs; City of Ky \$58,922.81 smcs,co,ps; Clement,J \$60.00 smcs; Compass Tools \$8,660.00 smcs; Conesco \$19.00 ps; Consolidated Management \$385.75 smcs; Construction Rental \$82.89 smcs; Cool Tech \$284.35 smcs; Copycat Printing \$3,065.25 smcs; Cummins \$347.25 smcs; Cutting Edge Cleaning \$510.00 co; Cypress Information \$899.64 smcs; D&D Industries \$160.00 smcs; D&M Security \$64.50 smcs; Darrell Morris \$1,280.00 smcs; Deadwood Gulch Gaming \$9,004.50 smcs; Demco \$41.95 smcs; Depository Trust \$317,824.20 ds; Deterdings \$2,408.93 smcs; Diamond Tours \$25,392.00 smcs; Dmilaco \$303.80 smcs; Don's Hobby Guns \$93.75 smcs; Dutton Lainson \$25.59 smcs; Eakes \$3,880.28 smcs; Ebsco Publishing \$3,412.00 smcs; Elliott Equipment \$263,000.00 co; Eurofins Eaton Analytical \$809.00 smcs; Faimon-Seevers,J \$24.40 smcs; Farwell,D \$825.00 smcs; Felsburg Holt & Ullevig \$814.88 smcs; Fireguard \$54.05 smcs; Frontier Communications \$30.14 smcs; Gale \$1,716.95 smcs; GD Construction \$2,992.00 smcs,co; GE Money Bank \$1,455.82 smcs; General Traffic Controls \$22.96 smcs; Govt Finance Officers \$225.00 smcs; Grainger \$332.00 smcs; Gray,C \$68.50 smcs; Great Plains Safety \$600.00 smcs; Greer,C \$50.05 smcs; H&H Distributing \$2,126.75 smcs; Hach Company \$63.45 smcs; HD Supply \$11,438.30 smcs; HiTech \$675.00 smcs; Hydro Tech \$208.00 smcs; Hy-Vee \$4,140.00 co; ICMA RC \$4,099.46 ps; IRS \$141,521.62 ps; IPMA \$273.94 smcs; Isaac,B \$89.47 smcs; ISG Infrasy \$90.00 smcs; Jack Lederman \$41.25 smcs; Johnson Bros \$259.30 smcs; Johnson Service \$8,775.00 smcs; Johnson,J \$100.00 smcs; Ky Hub \$345.54 smcs; Ky Visitors Bureau \$43,255.04 smcs; Ky Winlectric \$3,683.11 smcs,co; Kowalek,G \$11.00 smcs; Kreuger,D \$13.34 smcs; Krull Ins \$1,950.00 smcs; Kuehler,M \$8.56 smcs; Kwik-N-Kleen \$3,375.00 smcs; Mac Tools \$77.51 smcs; Magic Cleaning \$2,090.00 smcs; Mail Express \$6,324.40 smcs; McCarty,D \$31.36 smcs; McMaster,L \$79.99 smcs; Menards \$17.92 smcs; Metal Doors \$550.01 smcs; Mid-American Courtworks \$15,480.00 co; Midlands Contracting \$707,401.29 co; Mid-NE Lubricants \$146.00 smcs; Mike's Creative Creations \$544.00 smcs; Miller & Associates \$923.50 smcs; Miller Signs \$800.00 co; Mindmixercom \$250.00 smcs; Mostek Electric \$544.53 smcs; Mueller,J \$432.00 smcs; Municipal Supply \$12,651.74 smcs; NCS Equipment \$296.40 smcs; NE Child Support \$2,439.27 ps; NE DOL/Office of Elevator \$140.00 smcs; NE Golf Assn \$3,418.00 smcs; NE Library Commission \$6,861.13 smcs; NE Machinery \$468.78 smcs; NE Safety & Fire \$175.00

smcs; NE Salt & Grain \$35,121.21 smcs; NE Dept of Revenue \$44,094.99 smcs; NEland Distributors \$2,676.00 smcs; Northwestern Energy \$4,685.43 smcs; Northwestern University \$10,247.00 smcs; Nova Health Equipment \$5,692.00 ps; Nuttelman Fencing \$6,497.54 co; One Call Concepts \$581.70 smcs; Otto Environmental \$2,970.00 smcs; Overhead Door \$8.73 smcs; Paramount \$313.99 smcs; Parker,J \$21.10 smcs; Paulsen \$515,662.20 co; Payflex \$29.75 smcs; Pfeiffer,C \$48.15 smcs; Pillar Design Studios \$3,500.00 co; Ping \$704.19 smcs; Platte Valley Comm \$2,722.31 smcs; Platte Valley Labs \$62.50 smcs; Random House \$138.75 smcs; Recorded Books \$856.85 smcs; Reinke's Refrigeration \$75.44 smcs; Resource Management \$1,569.60 smcs; Rich,T \$13.80 smcs; RMV Construction \$61,464.00 co; Rutt's Heating \$116.40 smcs; S&S Worldwide \$1,086.91 smcs; SA Foster Lumber \$46.98 smcs; Sam's Club \$679.97 smcs; Sapp Bros \$27,597.20 smcs; School District 7 \$1,063.90 smcs; See Clear Cleaning \$350.00 smcs; Shea,S \$252.00 smcs; Sign Center \$250.00 smcs, ps; SOS Portable Toilets \$305.00 smcs; St of NE/AS Central \$3,729.44 smcs,co; State of Ne/Office Elevator \$140.00 smcs; Steinbrink's Landscaping \$35.00 smcs; Sun Life Financial \$60,584.16 smcs; Thatcher,M \$70.00 smcs; Theis,J \$240.00 smcs; Thome,B \$11.00 smcs; Thompson Co \$63.54 smcs; Thomson Reuters \$81.95 smcs; Tielke's Sandwiches \$86.90 smcs; Titleist \$3,391.54 smcs; Trade Well Pallet \$5,691.00 smcs; Tri-City BMX \$146.25 smcs; Tri-County Glass \$211.00 smcs; TruGreen ChemLawn \$165.00 smcs; Turner Body Shop \$100.00 smcs; Tye & Rademacher \$11,650.66 smcs, ps; Ullman,M \$13.80 smcs; Union Bank & Trust \$59,307.36 ps; U.S. Golf Assn \$110.00 smcs; U.S. Treasury \$1,280.00 smcs; UNK \$3,000.00 smcs; US Bank \$81,223.03 smcs; Van Diest Supply \$33.00 smcs; Verizon Wireless \$1,160.59 smcs; Walter's Electric \$1,406.81 smcs; Warren-T Plumbing \$240.56 smcs; Wastecorp Pumps \$1,609.70 smcs; Watchguard Video \$240.00 co; Weiss Fire & Safety \$650.00 smcs; Wells Fargo Equipment \$53,598.20 ds; Welty,G \$29.99 smcs; Wiedel,G \$13.80 smcs; Wilkins Hinrichs Stober \$500.00 smcs; Zobel,J \$55.00 smcs; Payroll Ending 6-28-2014 -- \$416,464.05. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve the application for a Special Designated License submitted by Kearney Steak company dba Whiskey Creek in connection with their Class IK-035628 liquor license to dispense beer, wine and distilled spirits inside The Archway located at 3060 East 1st Street on August 5, 2014 from 7:00 p.m. until 9:00 p.m. for a convention.
4. Approve the Application for deferral of special assessments submitted by Notz Farms, LLC with regard to Water District No. 2014-574 and Sanitary Sewer District No. 2014-512 in 27th Avenue from 11th Street south 850 feet.
5. Approve the Applications for deferral of special assessments submitted by Berean Fundamental Church and Jeffery and Lisa Overturf with regard to Water District No. 2014-575 and Sanitary Sewer District No. 2014-513 in 30th Avenue from 11th Street south 1,500 feet.
6. Adopt **Resolution No. 2014-132** approving the Employment Agreement between the City of Kearney and Michael Morgan.

RESOLUTION NO. 2014-132

WHEREAS, the City Council of the City of Kearney, Nebraska, do hereby fix, prescribe and limit salary and wages to be paid by this City to the City Manager, pursuant to the authority granted in Section 1-301 of the Code of the City of Kearney, Nebraska, and Section 19-620 of the Nebraska Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager continue to be paid an annual salary of One Hundred Seventy-three Thousand Seven Hundred Eighty-six Dollars (\$173,786) effective July 1, 2014; said salary to be paid bi-weekly from any City funds in such proportionate amounts as the City Manager may determine.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the Employment Agreement.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Approve the recommendation from the Development Services Division on the annual renewal of the following manufactured home court licenses until May 31, 2015: Cornhusker Mobile Home Park, 1115 Avenue C; and Merriweather Mobile Home Village, 914 West 17th Street.

8. Adopt **Resolution No. 2014-133** authorizing the sale of the house located at the Kearney Cemetery.

RESOLUTION NO. 2014-133

WHEREAS, in accordance with Section 1-1519, "Surplus Stock" of Article 15, "Purchasing" of Chapter 1, "Administration" of the City Code allows the City to sell or dispose of property \$20,000.00 or more in value by any method which is most advantageous to the City, including auction, sealed bid, private or public sale, trade-in for other property or disposal at the landfill.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City be and is hereby authorized and directed to sell the house located at the Kearney Cemetery located at 4400 Avenue I by the method deemed most advantageous to the City.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2014-134** approving Change Order No. 1 showing a decrease in the amount of \$62,564.00, Application and Certificate for Payment No. 3-Final in the amount of \$102,032.52 and accepting the Certificate of Substantial Completion submitted by Midlands Contracting and approved by Brungardt Engineering for the 2013 Part 3 Improvements – Bid A consisting of Water District No. 2012-568 in

Emerald Drive and its extension beginning at the East line of Winnipeg Road and terminating at a point 250 feet East of the centerline line of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Sanitary Sewer District No. 2012-507 in Emerald Drive and its extension beginning at the west line of Winnipeg Road and terminating at a point 250 feet east of the of the centerline of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating 349 feet southerly.

RESOLUTION NO. 2014-134

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2013 Part 3 Improvements – Bid A consisting of Water District No. 2012-568 in Emerald Drive and its extension beginning at the East line of Winnipeg Road and terminating at a point 250 feet East of the centerline line of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Sanitary Sewer District No. 2012-507 in Emerald Drive and its extension beginning at the west line of Winnipeg Road and terminating at a point 250 feet east of the of the centerline of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating 349 feet southerly, and the City's engineer, Brungardt Engineering, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$62,564.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Application and Certificate for Payment No. 3-Final in the amount of \$102,032.52 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$366,415.00
Change Order No. 1 (7-8-2014)	<u>- 62,564.00</u>
Contract Sum To Date	303,851.00
Gross Amount Due	303,851.00
Retainage (0%)	.00
Amount Due to Date	303,851.00
Less Previous Certificates for Payment	<u>201,818.48</u>
Current Payment Due	\$102,032.52

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 31, 2014, 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. 3-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and is hereby accepted and approved.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the Plans and Specifications for 2014 Part 8 Improvements consisting of Water District No. 2014-574 and Sanitary Sewer District No. 2014-512 in 27th Avenue from 11th Street south 850 feet; and Water District No. 2014-575 and Sanitary Sewer District No. 2014-513 in 30th Avenue from 11th Street south 1,500 feet and set bid date for August 5, 2014 at 2:00 p.m.

11. Accept the bids received for the Aircraft Rescue & Fire Fighting (ARFF) Vehicle Acquisition (AIP-3-31-0045-029) for the Kearney Regional Airport and adopt **Resolution No. 2014-135** awarding the bid to Danko Emergency Equipment from Snyder, Nebraska in the amount of \$267,970.00.

RESOLUTION NO. 2014-135

WHEREAS, Alfred Benesch and Company and the City of Kearney have reviewed the sealed bids which were opened on July 1, 2014 at 2:00 p.m. for the Aircraft Rescue & Fire Fighting (ARFF) Vehicle Acquisition (AIP-3-31-0045-029) for the Kearney Regional Airport; and

WHEREAS, the Engineer's Estimate for vehicle acquisition was \$425,000.00 and engineering fees were \$34,119.00; and

WHEREAS, the said engineers have recommended the bid offered by Danko Emergency Equipment of Snyder, Nebraska in the amount of \$267,970.00 be accepted as the lowest responsible bid for the Aircraft Rescue & Fire Fighting (ARFF) Vehicle Acquisition (AIP-3-31-0045-029) for the Kearney Regional Airport; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that Danko Emergency Equipment be and is the lowest responsible bidder for the Aircraft Rescue & Fire Fighting (ARFF) Vehicle Acquisition (AIP-3-31-0045-029) for the Kearney Regional Airport to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Danko Emergency Equipment in the amount of \$267,970.00 be and is hereby accepted subject to approval by the F.A.A. and the Nebraska Department of Aeronautics.

BE IT FURTHER RESOLVED the Engineer's Estimate for the vehicle acquisition was \$425,000.00 and engineering fees of \$34,119.00 be and is hereby accepted.

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

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. 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 the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on August 9, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7911 ISSUING COMBINED UTILITIES REVENUE BOND OF \$427,000; BEARCAT CORNER WATER PROJECT

On May 27, the City Council conducted a public hearing for the purpose of meeting the requirements necessary to obtain a State Revolving Fund Loan to finance a water main for the Bearcat Corner Project. This project is eligible for financing by a Drinking Water State Revolving Fund loan through the State of Nebraska Department of Environmental Quality. The following loan terms will apply to the loan:

- The amount of the loan will be for \$427,000.
- The term of the loan will be for 20 years.
- The interest rate on the loan will be 2% with an additional 1% administrative fee.
- The semi-annual payment on the loan will be \$13,004.52 plus 1% of the outstanding balance for the administration fee.

Council Member Nikkila introduced Ordinance No. 7911 authorizing the issuance of a Combined Utilities Revenue Bond in the principal amount of \$427,000 for the purpose of paying the costs of improvements to the City's water system; authorizing the issuance of said bond in the form of a promissory note to evidence a loan from the Nebraska Department of Environmental Quality; approving the execution and delivery of a loan contract with the Nebraska Department of Environmental Quality; approving related documents with respect to said loan; prescribing the form, terms and details of said bond; pledging and hypothecating the revenue and earnings of the waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system of said City for the payment of said bond and interest thereon; providing for the collection, segregation and application of the revenues of the City's waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system; approving execution of related documents; entering into a contract on behalf of the City with the holder of said bond; determining that interest on said bond shall not be excludable from gross income for purposes of federal income taxation, 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. 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7911 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7911 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse,

Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7911 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.

ORDINANCE NO. 7912 ISSUING A COMBINED UTILITIES REVENUE BOND FOR \$4,705,000; SOUTH SEWER PROJECT AND BEAR CAT CORNER SEWER PROJECT

On May 27, 2014, the City Council conducted a public hearing for the purpose of meeting the requirements necessary to obtain a State Revolving Fund Loan to finance sanitary sewer mains for the South Sewer Project and Bearcat Corner Project. This project is eligible for financing by a Wastewater Treatment Facilities Construction Loan Fund loan through the State of Nebraska Department of Environmental Quality. The following loan terms will apply to the loan:

- The amount of the loan will be for \$4,705,000.
- The term of the loan will be for 20 years.
- The interest rate on the loan will be 1.5% with an additional 1% administrative fee.
- The semi-annual payment on the loan will be \$136,586.88 plus 1% of the outstanding balance for the administration fee.

Council Member Nikkila introduced Ordinance No. 7912 authorizing the issuance of a Combined Utilities Revenue Bond in the principal amount of \$4,705,000 for the purpose of paying the costs of improvements to the City's sanitary sewer system; authorizing the issuance of said bond in the form of a promissory note to evidence a loan from the Nebraska Department of Environmental Quality; approving the execution and delivery of a loan contract with the Nebraska Department of Environmental Quality; approving related documents with respect to said loan; prescribing the form, terms and details of said bond; pledging and hypothecating the revenue and earnings of the waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system of said City for the payment of said bond and interest thereon; providing for the collection, segregation and application of the revenues of the City's waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system; approving execution of related documents; entering into a contract on behalf of the City with the holder of said bond; determining that interest on said bond shall not be excludable from gross income for purposes of federal income taxation, 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. 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7912 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7912 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7912 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.

ORDINANCE NO. 7913 AMENDING SECTION 3-1403 OF CITY CODE

As you may remember, on April 22, 2014 the City Code was amended to indicate that carnival operators will not be allowed to park campers and/or recreational vehicles for overnight parking at the carnival site and will agree that any overnight camping will occur at a designated camp ground area. Last year the City had received complaints in the past about the large number of campers and overnight camping that has occurred at carnival locations and it would seem appropriate that these campers be parked in a designated camp ground rather than at the location of the carnival.

Since that time, City staff met with representatives from the Mall to discuss any concerns that they might have with reference to the parking of campers at the Mall parking lot as a part of the carnival. A practical solution was derived with limiting the parking of campers to a small area along 2nd Avenue which is acceptable to the Mall. Therefore, this ordinance amends the City Code to rescind the action taken on April 22.

Council Member Nikkila introduced Ordinance No. 7913 amending Section 3-1403 "Conditions of Permit" of Article 14 "Amusements" of Chapter 3 "Business Regulations" of the City Code to remove the language prohibiting overnight camping at the location of the carnival and not more than one camper or recreational vehicle may be parked at the site of the carnival; any campers or recreational vehicles used for overnight camping will only be parked at a campground, 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. 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7913 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7913 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7913 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.

ORDINANCE NO. 7914 AMENDING SECTIONS 3-2903, 3-2905, 3-2906, 3-2907, 3-2911 AND 3-2915 OF THE CITY CODE

The process of issuing permits to Itinerant Merchants, Peddlers and Solicitors have been changed from the City Clerk to the Chief of Police. Therefore, Sections 3-2903, 3-2905, 3-2906, 3-2911 have been amended to the reference the Chief of Police. Section 3-2907 pertains to the fees. The Code currently states \$25 per person per day or \$250 per person per year. The following are the fees being proposed to be included in the Comprehensive Fee Schedule as follows:

- Solicitor's Permit – Application Fee (Nonrefundable) - \$25.00
- Solicitor's (door to door) Permit (30-day permit) - \$50.00
- Street Vendor's Permit – Application Fee (Nonrefundable) - \$25.00
- Street Vendor's Permit (6-month permit) - \$125.00
- Street Vendor's Permit (1 year permit) - \$250.00

Also, the City has been informed by the Court that current law does not meet constitutional requirements in order to maintain the enforcement of the Itinerant Merchant Permit code sections. The code, in the Court's opinion, was insufficiently clear as to how a person who was denied or had a permit revoked could appeal those types of decisions. Therefore, the amendment to Section 3-2915 is designed to address this issue and bring the code into compliance as directed by the court.

Council Member Nikkila introduced Ordinance No. 7914 amending the following sections of Article 29 "Itinerant Merchant, Peddlers & Solicitors" of Chapter 3 "Business Regulations" of the City Code to remove the reference of City Clerk and replace with Chief of Police in Section 3-2903 "Registration Permit Required"; Section 3-2905 "Application"; Section 3-2906 "Investigation and Issuance"; Section 3-2907 "Fees"; Section 3-2911 "Registration Permit; To Be Posted"; and to amend Section 3-2915 "Registration Permit; Appeal of Denial, Revocation" to provide any person aggrieved by the decision of the City Manager or the Chief of Police shall have the right to appeal to the City Council, 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. 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7914 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7914 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7914 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

ORDINANCE NO. 7915 ISSUING AND SALE OF BOND ANTICIPATION NOTES OF \$1,490,000 FOR PAVING IMPROVEMENT DISTRICT NO. 2014-964

Mayor Clouse opened for discussion the ordinance authorizing the issuance and sale of Bond Anticipation Notes of the City of Kearney, Nebraska, in the principal amount of \$1,490,000 for the purpose of providing interim financing for the costs of constructing street improvements in Paving Improvement District No. 2014-964 of said City pending the issuance of permanent General Obligation Various Purpose Bonds of the City; prescribing the form of said notes; agreeing to issue the City's General Obligation Various Purpose Bonds to pay the notes at maturity or to pay the notes from other available funds; and entering into a contract on behalf of the city with the holders of said notes.

Bruce Lefler from Ameritas Investments presented this matter to the Council. They are looking at a Bond Anticipation Note as outlined in the Ordinance and the proposed term would be August 2016. It is a 2-year note and that note was marketed and sold at an interest rate of .5 percent.

Council Member Buschkoetter introduced Ordinance No. 7915 authorizing the issuance and sale of Bond Anticipation Notes of the City of Kearney, Nebraska, in the principal amount of \$1,490,000 for the purpose of providing interim financing for the costs of constructing street improvements in Paving Improvement District No. 2014-964 of said City pending the issuance of permanent General Obligation Various Purpose Bonds of the City; prescribing the form of said notes; agreeing to issue the City's General Obligation Various Purpose Bonds to pay the notes at maturity or to pay the notes from other available funds; and entering into a contract on behalf of the city with the holders of said notes, 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 suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which

resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7915 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7915 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7915 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.

KNIGHTS OF COLUMBUS 1728 MANAGER APPLICATION

Mayor Clouse opened for discussion the manager application for Daniel Glatter submitted by CMO Inc., dba Knights of Columbus 1728 in connection with their Class I-027979 liquor license and located at 1900 Central Avenue.

Daniel Glatter presented this matter to the Council. He is taking on another role as a member. He does not see too many changes. Council Member Lammers asked about the procedures for checking minors to make sure they are not selling alcohol to minors. Mr. Glatter stated they have people that are selling alcohol to go through RBST training and to receive their certification. They have about five of those people who have taken that so far, anyone else that they can get to volunteer to help serve they will go through the same process. He has taken the test already and has been with the Knights for over 25 years and he is assuming the responsibility to being the manager of the establishment for the time being.

Moved by Lammers seconded by Nikkila to approve the manager application for Daniel Glatter submitted by CMO Inc., dba Knights of Columbus 1728 in connection with their Class I-027979 liquor license and located at 1900 Central Avenue. Roll call resulted as follows: Aye: Clouse, Lammer, Buschkoetter, Lear, Nikkilas. Nay: None. Motion carried.

AMERICAN LEGION POST 52 MANAGER APPLICATION

Mayor Clouse opened for discussion the manager application for Kathleen Dornhoff submitted by American Legion Post 52 in connection with their Class C-009067 liquor license and located at 1223 Central Avenue.

Kathleen Dornhoff presented this matter to the Council. She stated they had a change in manager roles; Bill McMullen was there for 30 plus years. She has worked for the American Legion for 20 years and she did not really want it to go by the waste side and so she took on the challenge of doing this. They are going through the motions of changing managers.

Moved by Nikkila seconded by Lear to approve the manager application for Kathleen Dornhoff submitted by American Legion Post 52 in connection with their Class C-009067 liquor license and located at 1223 Central Avenue. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIM

None.

VII. REPORTS

CLOSED SESSION

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 6:12 p.m. for the protection of the public interest to continue with the City Manager's annual evaluation. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to continue with the City Manager's annual evaluation. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Clouse seconded by Lammers that Council reconvene in regular session at 7:44 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Buschkoetter that Council adjourn at 7:44 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**