

*Kearney, Nebraska  
September 9, 2014  
5:30 p.m.*

Prior to the regular Council meeting, the Council met as the Board of Directors for the Kearney Area Solid Waste Agency in open and public session at 5:30 p.m. on September 9, 2014 in the Council Chambers at City Hall. This meeting adjourned at 5:34 p.m. A meeting of the City Council of Kearney, Nebraska, was then convened in open and public session at 5:35 p.m. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Kent Cordes, Mitch Humphrey, Lynn Tacha, Sandy Tacha, 17 students, Steve Altmaier from KGFW Radio, Ashley White from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

### **LAND USE MAP AMENDMENT FOR 1170 30TH AVENUE**

Moved by Buschkoetter seconded by Clouse to remove from the table Public Hearings 1 through 4 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila,

Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agriculture/Open to Mixed Use 2 property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue) and to consider Resolution No. 2014-151. Planning Commission on a split vote, 3 in favor, 2 opposed and 4 absent, recommended rezoning to C-2 for the two corner lots and C-3 for the larger lot with no PD overlay on any lot. Staff recommends amending the rezoning request from C-3 to a combination of C-2 for Lots 1 and 2 and C-3/PD for Lot 3.

The applicant is seeking approval to rezone and subdivide a tract of land containing 8.76 acres located at the northwest corner of the intersection of two legs of the arterial beltway, 11th Street and 30th Avenue. The subdivision application proposes three lots. The property contains an existing house. NPPD has reserved land abutting the west end of this parcel for a future sub-station. The proposed future use of the property is unknown at this time.

The current zoning of this property is Agricultural. The Future Land Use Map of the City Comprehensive Development Plan shows this property designated for "Agricultural/Open". Staff recommends that the land use designation be changed to "Mixed-Use 2." At the initial DRT meeting, the developer expressed the desire to zone the east parcels to C-3 and the west parcel to M-1. Given the proximity of the new High School and Community College, City staff will not support M-1 zoning at this location. The DRT Staff advised the developer that staff will support C-2 zoning on the corner of 30th Avenue and 11th Street and may support C-3/PD zoning for the west parcel. However, the rezoning request from the developer is for C-3 zoning for the entire parcel. Staff is opposed to C-3 zoning for the corner lots.

At a more recent DRT meeting the developer asked if restrictive covenants could be enacted to regulate development as opposed to a PD overlay. Staff informed the developer that the City has no jurisdiction over private covenants, so that would not be feasible. The developer would rather not be subject to the regulations required by the PD Overlay zone, especially the added processing and review time. Staff's preference remains the C-2 and C-3/PD combination. If, for some reason, C-3 were to be approved for all three lots, staff recommends that the PD, Planned Development Overlay be added to all.

At the Planning Commission hearing the developer once again requested C-3 zoning for all three lots with no PD Overlay. The Planning discussion discussed different options based on combinations of C-2 and C-3 zoning districts, with and without adding the PD Overlay. The developer stated that the PD overlay was not acceptable to the owners as too much time is required to meet the plan submittal, review and approval process for PD Development Plans. Staff mentioned two reasons why the City believes that the PD overlay is not an unreasonable request:

1. Whatever project ends up being built at this corner will likely occupy the corner for many years. Therefore, it does not seem unreasonable to ask the development team to invest in an extra 90 days of planning to convey finished plans to the Planning Commission and City Council in light of the long-term investment on this corner, especially with the proximity of the high school.
2. The developer will be required to develop a plan package to develop this property at some point in time regardless of the presence of a PD overlay or not. The PD overlay forces the developer to prepare and submit a development plan package earlier in the process instead of submitting at the time of building permit application. In the end, the plans need to be prepared in either case, so this is not a situation where the developer avoids plan preparation by avoiding the PD overlay.

The developer is proposing a 3-lot subdivision with two lots fronting on 30th Avenue and a larger east-west lot behind. Lot 1 contains the existing house and is 1.60 acres in size. Lot 2 is also 1.60 acres in size and both lots have about 144 feet of frontage on 30th Avenue. Lot 3 behind is much larger at 3.92 acres. The Preliminary Plat was approved by Planning Commission on July 18, 2014. An Infrastructure Feasibility Plan has been submitted. Staff has reviewed the plats and the feasibility plan and offers the following comments:

- a) City water and sanitary sewer are available to this site. However, the cost to construct the water and sanitary sewer main in 11th Street west of 30th Avenue is expensive due to the size of the mains, the depth of the sanitary sewer main and groundwater being an issue in constructing the sanitary sewer main. Therefore, the cost to construct these water and sanitary sewer mains is not included in the existing City Budget or Capital Improvement Program and they will not be constructed at this time. If rezoning and platting of the property is approved, a Subdivision Agreement will be required stating that the Owner agrees to not protest future water, sanitary sewer or paving improvement districts in 11th Street and that they agree to pay the assessments levied against their property for those improvement districts.
- b) This location is a very busy corner traffic-wise, especially with the schools coming on-line in the near future. A traffic study was prepared by engineering consultants. The traffic study is calling for a 375-foot left turn stacking bay on 30th Avenue. The only access the developer will get to the properties that abut 30th Avenue is a right in/right out access at the north end of Lot 2 connecting to a 40-foot wide frontage road within a 56-foot wide ingress-egress easement that provides north to south access to Lot 1.
- c) The best location for an access point off of 11th Street lines up with the Berean Church access point on the south side of 11th Street.
- d) Nebraska Public Power (NPPD) is going to build a sub-station just west of this development. Construction will begin in 2016. The power line will be relocated to the south side of 11th Street once the transformer is built. NPPD will work with the owner as to the location of the power poles, but if the poles need to be moved later it will be at the property owner's expense.
- e) A future public street will likely be required on the west side of the NPPD property providing access to the north, but said street may be located on the east side of the NPPD property which means NPPD and the developer would split the road right-of-way along their common property line.

- f) The existing water and sanitary sewer in 30th Avenue and in 11th Street east of 30th Avenue was constructed with grant money. Therefore, there are no connection fees or assessments due from the property owner for those improvements.
- g) The property is located in CRA Area #10.
- h) Onsite detention will be required.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This property is 8.76 acres and to the west is a piece of property owned by NPPD who is currently putting in a substation. Ground to the north and west of the substation site is unplatted. The Berean Church is in the southwest quadrant of the intersection and owns approximately 20 acres. The new high school is being developed on the southeast quadrant and the northeast quadrant is the site for the Central Community College. North of this site is the Buckle and west of that and across the street is Brown Church Development.

City staff, the owners and Planning Commission agreed to rezoning the east two lots to C-2 with the back lot, Lot 3, to C-3. He understands City staff wants to rezone Lot 3 to C-3 with planned development, but he does not believe that is necessary based on the restrictions or concerns in that zoning classification. The site will have a right turn in off of 30th Avenue and the other access point will be through an egress/ingress easement that is 60-foot wide and located across the existing Berean Church driveway.

The Brown Church Development property is zoned BP for Business Park which means they have their office buildings up front and in the back they could have warehouse type facility that could be accommodated in an M-1 setting. He believes planned development should be primarily used to accommodate unique or unusual situations so there is some give and take on some things. If planned development is used a lot than perhaps the City should look at the straight zoning classification and regulations beef them up some. The C-2 zoning designation is very adequate in a way that it treats development of property and the requirements for green space, landscaping and facades.

Mr. Humphrey further stated that in the Subdivision Agreement, Lot 3 is quite away from the intersection and there will have to be lengthy public infrastructure placed in west 11th Street. They understand it is an expensive proposition to be influenced just because of annexation to place utilities within a specific time frame. His clients have acquiesced that right and will wait until the City can install it. Lots 1 and 2 can be developed using the utilities in 30th Avenue and Lot 3 will have to wait.

Council member Lammers asked if there was a proposed timeline for the development of Lot 3? Mr. Humphrey stated if there were utilities it would be sooner than later. Unfortunately, and as City staff explained to them with numbers, it is going to be expensive because of the issue of groundwater.

Kent Cordes from BD Construction stated there was discussion with City staff on when they could develop Lot 3. Obviously, their client is concerned about being able to sell that piece of ground and have it be developable. The way the Subdivision Agreement was written is totally up to the City when that infrastructure will go in. They tried to

negotiate a time frame that if they requested a district if it could be put in. They were not able to get an agreement on that, so their client is at the mercy of the City at this point as to when they could develop that Lot 3 as far as when that infrastructure goes in.

City Manager Michael Morgan stated they are not at the mercy of the City because the developer could pay for the infrastructure themselves and develop the property. The infrastructure would have to meet City specifications. Mr. Cordes stated they would have to have an infrastructure agreement and their client does not want to have to pay for oversizing. They understand it is expensive and obviously it hinders the amount of profit they could make on that piece of ground. The oversizing is to account for future development beyond this parcel. There would have to be large sewer, large water and his client should not have to pay for that. City Manager asked what the cost was for oversizing versus total construction cost. Mr. Cordes stated he did not know for certain, but they are talking 21-inch sanitary sewer as opposed to 8-inch and 16-inch water as opposed to 8-inch. City Manager stated most of the cost is the installation and not the pipe size.

Mr. Cordes stated the ground to the west of Lot 3 is being planned for development of a substation. They understand that substations are critical to the development of Kearney and future growth and they are not opposed to that but they believe that potentially makes that piece of ground adjacent to it a little less desirable. They would like a straight C-3 zoning because it fits well with that adjacent land use of an electrical substation.

Assistant City Manager/Development Services Director Suzanne Brodine stated one of the reasons City staff looked at the PD designation for that Lot 3 is staff understood the developer wanted the C-3 because of the uses that are allowed in C-3 zone that are different uses in a C-2 zone. However, in looking at some of the more intense uses, staff did not believe they were appropriate for this corridor given the other development that could possibly be in the area. So the intent for PD designation is to perhaps dress up or make it more aesthetically pleasing that type of use to accommodate the developers so they can still have that use type and still protect the other adjacent properties.

Assistant City Manager described the difference between the BP zone and the commercial zone. The BP zone has more of a campus feel to it so it is designed to have multiple buildings on the site. There is a whole different series of uses that are allowed. You do not typically see BP in more commercial corridors within the community. It is perhaps a dressier version on an industrial type of use; more aesthetically pleasing. What you see in a Business Park is there is commercial and more industrial type use sharing space. So they do not store a lot of equipment on site.

Council member Lear asked if construction facilities in general are C-3 or C-2? Assistant City Manager stated C-3 but the difference between a C-3 and a C-2 as far as how it looks is the impervious surface. It is really the use type. Council member Lear stated there is a construction facility to the north which would normally be a C-3 use. Assistant City Manager stated C-2 is designed to go on the major arterial corridors and intersections. The landscaping and masonry standards for both BP and C-3 are very similar.

Council member Lear made the analogy that BP zone would allow some light industrial uses with some more stringent aesthetic or impervious cover requirements as seen in an M-1 zone.

Council member Nikkila asked for an explanation of the split vote of Planning Commission. Assistant City Manager stated there was a lot of discussion about whether or not a PD was necessary and if it was should it be applied to the entire site based on the other developments occurring in the area or should the zoning be straight zoning without a PD designation. It boiled down to what use would be there whether or not it needed the PD designation. They were being sensitive to the developer since the PD designation adds additional time to the development process.

Council member Nikkila asked Mr. Humphrey what the issues were with the PD designation. Staff does very well in getting things done. Mr. Humphrey stated if you need to run the development project back through to Planning Commission and City Council, it adds time and money. If you can streamline a process without having to go through the planned development is better for everybody. He believes straight zoning for this development is more than adequate to create a proper development in the end. Mr. Cordes stated the timing of going through the development process with a PD designation ultimately adds typically three months because of the way submittals are due.

Council member Lear asked Mr. Cordes for some examples if there are some projects that require the PD designation when going into a C-3 zone. Mr. Cordes stated they have used planned development in areas where a use fits in that area but maybe you cannot meet all of the setback requirements of that zoning so a variance can be requested when submitting the plans. So variations can be placed when they do not exactly meet what the Code requirements if in a straight zoning district.

Council member Buschkoetter asked could you not argue the fact that a fairly major destination is going to be a block away with the new high school – does that not create that concept that this is a different piece of property because of the increased traffic. Mr. Cordes stated his argument would be this development is going to be west of that site and will not see that traffic pass their project. They would want to see the traffic as well as the infrastructure to go in.

Council member Buschkoetter stated the 3-month planning period that would be added on to that could certainly be done when the infrastructure is going through there. It seems to him that three months is not ticking exactly yet since it will take some time to design and build it. Mr. Cordes stated that is true but argued that in reality this piece of ground is not even marketable at this point until they know when that infrastructure will be in place. So they cannot start that clock until they know when that infrastructure is going in.

Council member Lear asked if a C-3 versus the PD designation makes their property a little quicker to develop and therefore a bit more marketable. Mr. Cordes agreed with that and also stated there is a Code requirement as to when a PD designation is required and that based on size of the development; their piece of property does not

meet that requirement. The City has the ability to add that PD designation when it so chooses but is not required for this parcel.

Mayor Clouse stated the speed to market is currently giving the Council some concern with another project in the City and wished it had a PD designation on that site and the City did not require it. Timing is everything. With this particular location, he is a little hesitant to not require the PD designation because of that scenario even though it did get corrected some of it with changing what is required and allowable in a PD. So speed to market can sometimes have implications which are exactly what happened on south Central Avenue.

Council member Lear stated the City needs to protect the high school campus and the Central Community College campus. The proposed development is contiguous or close to a BP development, an M-1 development and it has no offense. It has a substation going to the west of it. He looks at a C-3 designation and does not believe it is inappropriate for that piece of property.

Mayor Clouse stated with a substation, there are a lot of things that can go in there because it is deemed low value. Council member Lear stated the City has other substations where there is very nice development around it and then you can see some where it would be less marketable or lower end uses.

Council member Lammers stated putting the PD designation there is a nice protection especially with the new high school and the community college within a very short distance of the proposed site. The City can control the whole landscaping and everything that might go in there a little bit better.

Council member Buschkoetter stated years ago when the City approved the Business Park for Brown Development Construction, the City knew the beltway was going right by there and when you drive the overpass you would be able to see that property and did not want M-1 zoning there. This logic still applies with the proposed development because it will have high traffic because of the high school and people will be able to see this development. People will judge the community based on what they see driving over the overpass so Kearney needs to convey the right image.

Council member Lear stated he gives a little less weight to that simply because people are looking at more intense uses already in that corridor with the M-1/PD and BP currently there. So at the end of the day and with the proposed development, allowing a broader range of uses. Some factors to consider is the new high school and the community college. He is wondering how the PD designation going to improve upon all of the things already in Code. Are those benefits that we get as a community going to outweigh the cost of the developer of dealing with them, whatever those are. He is leaning toward straight C-3 zoning just because he does not think that makes that particular parcel any worse off than any of the other parcels there.

Council member Nikkila stated in the Planning Commission minutes, Mike Kalb stated C-3/PD for the back lot was something they would consider. So he has been trying to process all of this and try to understand if this changed. Mr. Cordes stated he does not recall the statement but a lot has transpired since then as well as some of the items in

the Subdivision Agreement. Mr. Cordes had a question: if this were a C-3/PD and they came in with a development plan that had all the Code requirements of a C-3, would the Council and staff be able to change that plan to what the City wanted it to be. In other words, have them do more landscaping or less impervious area. City Manager responded it is not fair for Council to respond to the question. It is not accurate or important to describe what concessions allegedly got made; it has nothing to do with zoning.

City Manager stated he is still concerned with the time frame of three months that was stated; the Buckle project was done in 42 days. He is still interested what the actual costs are because there seems to be some implications there are significant costs and he has not heard that answer yet. What is the true cost to go to planned development? Assistant City Manager stated as far as the development is concerned, and again when you talk about what staff might require of a PD, that is based entirely on what use that is presented. The point of a PD is to tailor what is on the site: landscaping, paved parking, etc. to that use that is being presented. What would be required depends on the use.

City Attorney Michael Tye stated it is impossible to answer that question because the whole idea of a planned development is they have an obligation to submit plans of what they intend to develop. So Mr. Cordes is asking a hypothetical question based on a hypothetical development based on a hypothetical plan that none of them have seen. The whole theory behind the PD designation is to have the developer put together plans for whatever that use might be and to bring them through the process so Planning Commission and City Council can see those. The PD designations are usually for larger projects.

Mr. Humphrey stated they cannot tell what those specific costs are. Frequently, a planned development is used maybe on a small parcel where there needs to be some variations, setbacks, green space, etc. Prior consultants, Dick Kellenberg and Marty Schukert, stated the City should not rely on planned development designations but instead instill regulations within the straight zoning to meet the lion share of those requirements. His concern is, for this property as well, should it go planned development, is trying to designate too many properties by planned development. If this were the case, the City needs to look at the straight zoning classifications and beef them up so that the developers would know right up front what has to occur and what is required of them so they can submit, do a staff review which the City Manager would enjoy pushing projects through. The City has quality staff to review the projects. City Manager stated he appreciated the comments. Staff would prefer this land all be C-2. The C-3 comes about because of what they want to do which is why staff recommended C-3. The staff compromised so to look at the property was to look at C-3 with the planned development.

City Manager stated the taxpayers put in millions of dollars in infrastructure in this corridor to benefit this area. This area is really starting to develop: the Buckle, the Berean Church, the hospital expansion, the new high school, and the community college. It is critical at some point that if Council and developers are concerned about these extra additions, that is the tradeoff; staff would just recommended C-2 in a case like this. The irony is sometimes the development may be presented in a straight C-3 may actually exceed what would be added. It is true that frequently the City looks at

these options for development because Kearney is a very “pro development” community to provide some flexibility. It is hard to try to discuss this with the sensitivity of that whole corridor because we know what is near the high school today and did not get to plan for that one. There has been significant financial investment by the taxpayers as a whole.

Council member Lear stated there is C-3 up and down Highway 30, as well as up and down 2nd Avenue, predominately south of the railroad tracks. The question is if not here, where? With regard to this project, does it not go with M-1/PD and BP that is already there. City Manager stated the misnomer is the majority of the property is not going to be what was described. There is the hospital development, the school development, the church development, the Buckle development, the community college development, the development in front of the Buckle is not going to be anywhere near what was described. It will be the minority of the area. All that future development will be very high-end development sitting on a huge expensive corridor designed to carry a lot of traffic.

Council member Lear stated when it comes to zoning cases, their job is to say here is a set of uses allowed for a particular zoning, do those fit in this particular location. Either an auto body shop does or does not fit in this location. With a PD designation what is being said is it might fit with these additional requirements; a little bit like a Conditional Use Permit. City Manager stated unfortunately a C-3 or any zoning category there are many uses would fit fine. There are a few that would not fit. The developer does not know what will go there but they want as much flexibility as possible to market and develop the land. But at the same time there may be one use you really do not want there which is where the PD designation comes in to some degree.

City Manager asked the developer if the Council were to make a decision to designate the land as C-3/PD, would they want to sit down and look more closely at that and try to get a better understanding of costs and bring it back and demonstrate more specific items. Mr. Cordes stated his clients would not want to wait. This project has been delayed for different circumstances and they want to move ahead.

Mr. Humphrey stated that when NPPD does put their facilities in, they really do not have any buffering or landscaping requirements around their sites. NPPD has been very good because they want to be in putting in some green space, etc. around their facilities.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-151** approving the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agriculture/Open to Mixed Use 2 property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2014-151**

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 4, thence Northerly on the East line of said Southeast Quarter a distance of 338.0 feet; thence Westerly a distance of 1427.7 feet; thence Southerly a distance of 338.0 feet to a point on the South line of said Southeast Quarter of said Section 4; thence Easterly on the afore said South line a distance of 1427.7 feet to the place of beginning, EXCEPTING the West 300.0 feet of the South 338.0 feet of the East 1427.7 feet of said South Half of the Southeast Quarter, containing 8.76 acres, more or less, of which 1.08 acres, more or less are presently being used for road purposes on the south and east sides, all in Buffalo County, Nebraska, from Agriculture/Open to Mixed Use 2, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Agriculture/Open to Mixed Use 2 the use classification for a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 4, thence Northerly on the East line of said Southeast Quarter a distance of 338.0 feet; thence Westerly a distance of 1427.7 feet; thence Southerly a distance of 338.0 feet to a point on the South line of said Southeast Quarter of said Section 4; thence Easterly on the afore said South line a distance of 1427.7 feet to the place of beginning, EXCEPTING the West 300.0 feet of the South 338.0 feet of the East 1427.7 feet of said South Half of the Southeast Quarter, containing 8.76 acres, more or less, of which 1.08 acres, more or less are presently being used for road purposes on the south and east sides, all in Buffalo County, Nebraska.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONE 1170 30TH AVENUE**

Moved by Buschkoetter seconded by Clouse to remove from the table Public Hearings 1 through 4 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha to rezone from District AG, Agricultural District to District C-3, General Commercial District property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue) and to consider Ordinance No. 7916.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha to rezone from District AG, Agricultural District to District C-2, Community Commercial District for Lots 1 and 2, Tacha Addition and District C-3/PD, General Commercial/Planned Development Overlay District for Lot 3, Tacha Addition, said property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue) and introduced Ordinance No. 7916 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7916. 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. Nay: Nikkila. 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. 7916 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. Nay: Nikkila. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7916 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: Nikkila. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7916 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 TACHA ADDITION**

Moved by Buschkoetter seconded by Clouse to remove from the table Public Hearings 1 through 4 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the Final Plat and Subdivision Agreement for

Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue) and consider Resolution No. 2014-152.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2014-152** approving the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the Final Plat and Subdivision Agreement for Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-152**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 4, thence Northerly on the East line of said Southeast Quarter a distance of 338.0 feet; thence Westerly a distance of 1427.7 feet; thence Southerly a distance of 338.0 feet to a point on the South line of said Southeast Quarter of said Section 4; thence Easterly on the afore said South line a distance of 1427.7 feet to the place of beginning, EXCEPTING the West 300.0 feet of the South 338.0 feet of the East 1427.7 feet of said South Half of the Southeast Quarter, containing 8.76 acres, more or less, of which 1.08 acres, more or less are presently being used for road purposes on the south and east sides, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **ANNEXATION OF TACHA ADDITION**

Moved by Buschkoetter seconded by Clouse to remove from the table Public Hearings 1 through 4 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the annexation of Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue) and consider Resolution No. 2014-153.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-153** approving the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the annexation of Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-153**

WHEREAS, an Application has been submitted by Buffalo Surveying for Lynn and Sandra Tacha for the inclusion of Tacha Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 4, thence Northerly on the East line of said Southeast Quarter a distance of 338.0 feet; thence Westerly a distance of 1427.7 feet; thence Southerly a distance of 338.0 feet to a point on the South line of said Southeast Quarter of said Section 4; thence Easterly on the afore said South line a distance of 1427.7 feet to the place of beginning, EXCEPTING the West 300.0 feet of the South 338.0 feet of the East 1427.7 feet of said South Half of the Southeast Quarter, containing 8.76 acres, more or less, of which 1.08 acres, more or less are presently being used for road purposes on the south and east sides, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on July 18, 2014 on the inclusion of Tacha Addition within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on August 12, 2014 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Tacha Addition shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Tacha Addition within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VACATE LOT 12, WESTERN HILLS SUBDIVISION AND REZONE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 56TH STREET AND 30TH AVENUE**

Mayor Clouse stated the City received notification on August 21 from the applicant requesting to postpone until September 23, 2014 the Applications submitted by Miller & Associates for Tracy and Jacqueline Burns for (1) the vacation of Lot 12, Western Hills Subdivision, Buffalo County, Nebraska; and (2) the rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 30th Avenue). Therefore, no action is necessary.

**FINAL PLAT FOR WESTERN HILLS SECOND SUBDIVISION**

Mayor Clouse stated the City received notification on August 21 from the applicant requesting to postpone until September 23, 2014 the Application submitted by Miller & Associates for Tracy and Jacqueline Burns for the Final Plat for Western Hills Second Subdivision, Buffalo County, Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 30th Avenue). Therefore, no action is necessary.

**VACATE LOTS 1 AND 2 OF BLOCK 1, G & K ADDITION AND AMEND THE LAND USE MAP FOR PROPERTY LOCATED NORTH OF 16TH STREET BETWEEN 11TH AVENUE AND 16TH AVENUE**

Mayor Clouse stated the City received notification from the applicant requesting to postpone until September 23, 2014 the Applications submitted by Miller & Associates

for BK Development, LLC, a Nebraska Limited Liability Company, for (1) the vacation of Lots 1 and 2 of Block 1, G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and (2) an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Business Park to Medium Density Residential property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue).

Moved by Nikkila seconded by Lear to postpone until September 23, 2014 the public hearing on the Applications submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, for (1) the vacation of Lots 1 and 2 of Block 1, G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and (2) an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Business Park to Medium Density Residential property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

#### **REZONING PROPERTY LOCATED NORTH OF 16TH STREET BETWEEN 11TH AVENUE AND 16TH AVENUE**

Mayor Clouse stated the City received notification from the applicant requesting to postpone until September 23, 2014 the Application submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, to rezone from District M-1, Limited Industrial District to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and District M-1, Limited Industrial/Planned Development Overlay District property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue).

Moved by Nikkila seconded by Lear to postpone until September 23, 2014 the public hearing on the Application submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, to rezone from District M-1, Limited Industrial District to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and District M-1, Limited Industrial/Planned Development Overlay District property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

#### **FINAL PLAT FOR FULLER AND DALEY FIRST ADDITION**

Mayor Clouse stated the City received notification from the applicant requesting to postpone until September 23, 2014 the Application submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, for the Final Plat for Fuller and Daley First Addition, an addition to the City of Kearney, Buffalo County,

Nebraska, for property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue).

Moved by Nikkila seconded by Lear to postpone until September 23, 2014 the public hearing on the Application submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, for the Final Plat for Fuller and Daley First Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

**DEVELOPMENT PLAN FOR PROPERTY LOCATED NORTH OF 16TH STREET BETWEEN 11TH AVENUE AND 16TH AVENUE**

Mayor Clouse stated the City received notification from the applicant requesting to postpone until September 23, 2014 the Application submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, for Planned District Development Plan Approval to construction of a duplex and a tri-plex on property to be zoned R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue).

Moved by Nikkila seconded by Lear to postpone until September 23, 2014 the public hearing on Application submitted by Miller & Associates for BK Development, LLC, a Nebraska Limited Liability Company, for Planned District Development Plan Approval to construction of a duplex and a tri-plex on property to be zoned R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as all of Lot 1 of Block 1 and part of Lot 2 of Block 1 (to be vacated), all in G & K Addition an addition to the City of Kearney, Buffalo County, Nebraska (north of 16th Street between 11th Avenue and 16th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

**ADOPT CITY OF KEARNEY 2014-2015 FISCAL YEAR BUDGET – ORDINANCE NO. 7931**

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Budget for the 2014-2015 Fiscal Year and to consider Ordinance No. 7931.

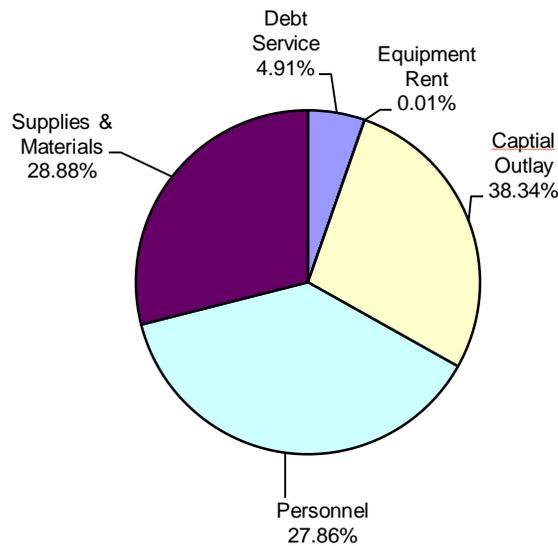
Director of Finance Wendell Wessels presented this matter to the Council. Pursuant to Section 13-506 of the Nebraska Revised Statutes, the City Council is required to conduct a public hearing on the City of Kearney proposed budget and the City of Kearney Offstreet Parking District No. 1 proposed budget for the 2014-2015 fiscal year. The public hearing is a process where the City Council hears support, opposition, criticism, suggestions or observations of taxpayers relating to the proposed Budget Document. After the Budget Document is reviewed and the public hearings are conducted, Ordinance No. 7931 should be passed and approved. Ordinance No. 7931

legally adopts the Budget Document and appropriates sums of money contained in the Budget Document for the necessary expenses and liabilities of the City of Kearney. The 2014-2015 budget has been created on conservative financial principals that reflect staff commitment to maintaining necessary services, improving the quality of the operation of the City, and keeping expenditures and taxes as low as possible.

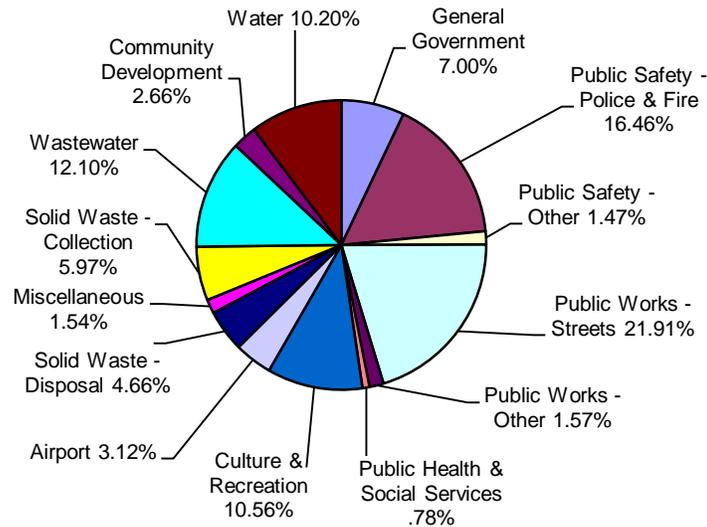
**City of Kearney Proposed Expenditures**

Expenditures:	<u>FY14</u>	<u>FY15</u>
▪ General Fund	\$20,516,596	\$21,510,717
▪ Special Revenue Funds	\$5,430,361	\$6,116,271
▪ Capital Project Funds	\$13,118,909	\$14,862,044
▪ Debt Service Funds	\$2,849,923	\$1,776,601
▪ Enterprise Funds	\$22,932,712	\$26,880,635
▪ Internal Service Funds	\$6,896,015	\$6,928,293
▪ Fiduciary Funds	\$536,237	\$566,237
<b>Total</b>	<b>\$72,280,753</b>	<b>\$78,640,798</b>

**City of Kearney All Funds by Object**



**City of Kearney Budget by Function**



**City of Kearney Personnel**

- 3% COLA – Governmental Funds      \$296,000
- 3% COLA – Proprietary Funds      \$128,000
- Total 3% COLA      \$424,000
- Position additions/removals:
  - Add two full-time CSO's – Police Services
  - Add one full-time Police Officer – Police Services
  - Add one full-time Maintenance Worker – Utilities

**City of Kearney Capital Outlay**

- General Fund      \$1,604,300
- Special Revenue Funds      \$363,031
- Capital Project Funds      \$14,132,270
- Enterprise Funds      \$14,031,969
- Internal Service Funds      \$18,700
- Total      \$30,150,270

**City of Kearney Capital Outlay – Top Ten Projects (in value)**

1. 4<sup>th</sup> St, 6<sup>th</sup> Ave to Ave M sewer main (SRF)      \$4,125,000
2. Project Honor      \$2,600,000
3. Central Ave, 12<sup>th</sup> St to 16<sup>th</sup> St paving (bond)      \$2,441,250
4. Bearcat Corner infrastructure (SRF/bond)      \$1,713,104
5. Ultra violet disinfection upgrade (SRF)      \$1,620,142
6. Avenue N, 25<sup>th</sup> St to 28<sup>th</sup> St paving (bond)      \$1,155,000
7. University Dr, NRR to Hwy 30 utilities (bond)      \$1,010,000
8. 4<sup>th</sup> St, 3<sup>rd</sup> Ave to 6<sup>th</sup> Ave paving (bond)      \$760,000

- 9. ARFF truck (FAA) \$752,500
- 10. 8<sup>th</sup> St, 2<sup>nd</sup> Ave to 3<sup>rd</sup> Ave bridge \$606,375

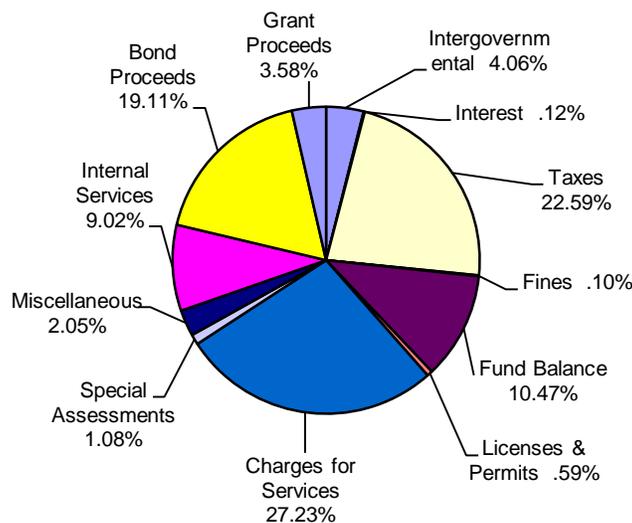
**City of Kearney Debt Service (principal only)**

	Public Safety	Various Purpose	Revenue	Total
Beginning	\$2,585,000	\$20,545,000	\$23,262,540	\$46,392,540
Paid off	(\$280,000)	(\$1,475,000)	(\$921,559)	(\$2,676,559)
New debt	\$655,000	\$6,242,160	\$1,380,000	\$8,277,160
Ending	\$2,960,000	\$25,312,160	\$23,720,981	\$51,993,141
Net change	\$375,000	\$4,767,160	\$458,441	\$5,600,601

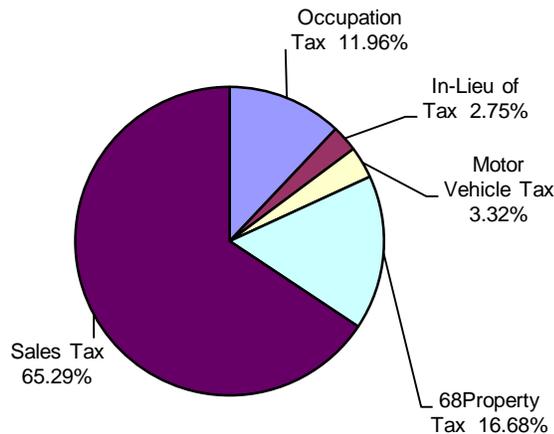
**City of Kearney Proposed Revenues**

Revenues:	FY14	FY15
▪ Taxes	\$16,906,599	\$17,765,773
▪ Licenses & permits	\$357,450	\$460,150
▪ Charges for services	\$20,334,114	\$21,417,088
▪ Fines	\$78,600	\$77,600
▪ Special assessments	\$1,566,640	\$845,500
▪ Interest	\$80,424	\$94,948
▪ Bond proceeds	\$7,897,601	\$15,029,302
▪ Grants	\$4,249,546	\$2,072,642
▪ Internal services	\$6,812,250	\$7,096,503
▪ Miscellaneous	\$2,806,894	\$2,358,072
▪ Intergovernmental – State	\$2,884,758	\$3,191,664
<b>Total</b>	<b>\$63,974,876</b>	<b>\$70,409,242</b>

**City of Kearney All Funds by Source**



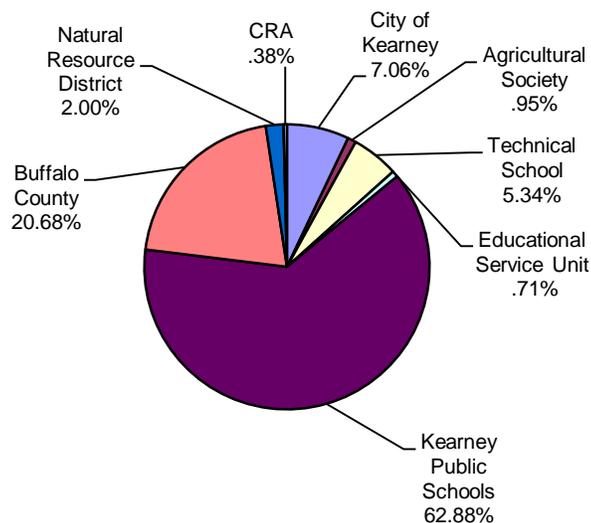
**City of Kearney Tax Revenues by Source**



**City of Kearney Proposed Property Tax Request**

City of Kearney valuation (7.68% growth)	\$1,977,987,892
General Fund property tax requirement	\$2,623,216
General Fund property tax levy (per \$100)	\$0.13262
Public Safety TAB Fund property tax requirement	\$321,459
Public Safety TAB Fund property tax levy (per \$100)	\$0.01625
Total property tax requirement	\$2,944,675
Total property tax levy (per \$100)	\$0.14887

**City of Kearney Property Tax Distribution – 2013**



### City of Kearney Sales Tax Revenues

	Actual FY 13	Est. Actual FY 14	Proposed FY 15
<b>One cent sales tax</b>			
General Fund	\$5,898,809	\$6,186,666	\$6,186,666
Street Improvement Fund	\$867,125	\$1,146,853	\$1,145,852
Various Purpose Bond Fund	\$607,577	\$399,814	\$400,815
<b>Subtotal</b>	<b>\$7,373,511</b>	<b>\$7,733,333</b>	<b>\$7,733,333</b>
<b>One-half cent sales tax</b>	<b>\$3,686,746</b>	<b>\$3,866,667</b>	<b>\$3,866,667</b>
<b>Total sales tax</b>	<b>\$11,060,257</b>	<b>\$11,600,000</b>	<b>\$11,600,000</b>

### City of Kearney Comprehensive Fee Schedule

- **Fire** – Increased permit to sell fireworks to \$250
- **Cemetery** – Increased various fees
- **Library** – Lowered various fees
- **Golf** – Increased various fees
- **Solid Waste-Collection** – Utility rates increased 3%
- **Wastewater** – Utility rates increased 2%
- **Water** – Utility rates increased 5%
- **Airport** – Agriculture land cash rents decreased

### City of Kearney Fund Balance

The following Funds do not meet the current Fund Balance Policy:

- Golf Fund deficit - \$170,756 (target is 25% of operating expenses)
- Health Insurance Fund deficit - \$225,186 (target is 35% to 45% of operating expenses)

### City of Kearney Other Notable Items

- Utilities Department – Household Hazardous Waste Building - \$450,000
- Police Department software upgrade - \$380,000
- Project Honor funding source/use for FY15:
  - Special Sales Tax Fund - \$1,600,000 (Physical Factors-\$1,000,000/Program Enhancements-\$600,000)
  - General Fund - \$600,000 (Workforce Factors - \$600,000)
  - Sanitary Sewer Fund - \$200,000 (Program Enhancements - \$200,000)
  - Water Fund - \$200,000 (Community Support - \$200,000)

City Manager commented on Project Honor. This budget fully funds everything that was committed in the schedule to the State of Nebraska. A lot of these items will get carried over because the project has not begun. The building has to be designed and completed. The State is fully aware that the City is prepared for everything that was committed by the City of Kearney.

Council member Lammers stated the major portion of the increase in the budget is from Capital Expenditures. Director of Finance stated the operating expenses increased approximately five percent overall and capital increased approximately 14 percent overall.

Council member Nikkila commented that people do not realize that the City's tax revenues is not much different, increased slightly, but is due to 1-time projects such as the big sewer main project in south Kearney. Director of Finance stated on the debt service side when it shows the City is issuing several millions of dollars for debt, the City does not just go out and borrow the money. The City has a funding source plan for each one of those bond issues the City is going to do, whether it is special sales tax funds or property taxes for public safety projects or CRA collections.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing for the purpose of adopting the City of Kearney Budget for the 2014-2015 Fiscal Year and introduced Ordinance No. 7931 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. 7931. 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. 7931 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 Lear seconded by Buschkoetter that Ordinance No. 7931 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. 7931 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.

### **ADOPT 2014-2015 BUDGET FOR OFFSTREET PARKING DISTRICT NO. 1**

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2014-2015 Fiscal Year and to consider Resolution No. 2014-183.

Director of Finance Wendell Wessels presented this matter to the Council. Pursuant to Section 13-506 of the Nebraska Revised Statutes, the City Council is required to

conduct a public hearing on the City of Kearney Offstreet Parking District No. 1 proposed budget for the 2014-2015 fiscal year. The public hearing is a process where the City Council hears support, opposition, criticism, suggestions or observations of taxpayers relating to the proposed Budget Document. Resolution No. 2014-183 legally adopts the Budget Document and appropriates sums of money contained in the Budget Document for the necessary expenses and liabilities of the City of Kearney Offstreet Parking District No. 1. The 2014-2015 City of Kearney Offstreet Parking District No. 1 budget has been created on conservative financial principals that reflect staff commitment to maintaining necessary services, improving the quality of the operation of the Offstreet Parking District No. 1, and keeping expenditures and taxes as low as possible.

Council member Nikkila asked if the Downtown Board is planning to make a grant to Main Street Kearney. Assistant City Manager stated the Board approved the fiscal year 2015 contract with Main Street Kearney for just over \$16,000. It is a reduction from last year.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2014-183** adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2014-2015 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-183**

A RESOLUTION TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that after complying with all procedures required by law, the budget for the City of Kearney Offstreet Parking District No. 1 presented and set forth in the budget statement (Annual Operating Budget and Program of Services for the Fiscal Year beginning October 1, 2014 through September 30, 2015) is hereby approved as the Annual Appropriation Bill. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of the City of Kearney Offstreet Parking District No. 1. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Buffalo County, Nebraska, for use by the levying authority.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**2014 PROPERTY TAX LEVY**

Mayor Clouse opened the public hearing setting the 2014 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and to consider Resolution No. 2014-184.

Director of Finance Wendell Wessels presented this matter to the Council. Section 77-1601.02 of the Nebraska Revised Statutes requires political subdivisions of the State of Nebraska to conduct a Special Public Hearing to set the 2014 property tax request if the request is going to be different than the 2013 property tax request. The same statutes include a provision stating that the property tax request for 2013 will be the property tax request for 2014 unless the political subdivision passes by a majority vote a resolution setting the property tax request at a different amount.

Resolution No. 2014-184 sets the property tax request for 2014. The 2014-2015 City of Kearney Budget includes a property tax requirement of \$2,623,216.44 for the General Fund, and a property tax requirement of \$321,458.76 for the Public Safety Tax Anticipation Bond Fund. The 2014 property tax requirements are different than the 2013 property tax requirements; therefore, a Special Public Hearing is required to set the 2014 property tax requirement.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2014-184** setting the 2014 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

**RESOLUTION NO. 2014-184**

WHEREAS, Section 77-1601.02 of the Nebraska Revised Statutes authorizes the City Council to set the 2014 property tax request for the City of Kearney; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that a 2014 property tax request be set for the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Section 77-1601.02 of the Nebraska Revised Statutes an All-Purpose Tax Request of \$2,623,216.44 is set for the fiscal year beginning the 1st day of October, 2014 and ending on the 30th day of September, 2015 for the purpose of equipping, maintaining and paying the departments of the City of Kearney.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Section 77-1601.02 of the Nebraska Revised Statutes, a Special Tax Request of \$321,458.76 is set for the fiscal year beginning the 1st day of October, 2014 and ending the 30th day of September, 2015 for the purpose of paying off bonds authorized by Section 18-1202 of the Nebraska Revised Statutes.

BE IT FURTHER RESOLVED that the City Clerk is hereby ordered to certify said request to the Buffalo County Clerk in order that the same may be placed on the property tax rolls and be collected in the manner provided by law.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2014.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

#### **IV. CONSENT AGENDA**

Mayor Clouse stated Council member Buschkoetter has a conflict of interest with Item 4 of the Consent Agenda and will need to abstain from voting on that item. Also, the Consent Agenda was amended on Monday, September 8, 2014 by adding Subsections 16 and 17.

Moved by Lammers seconded by Nikkila that Subsections 1, 2, 3 and 5 through 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held July 22, 2014 and Minutes of Joint City/County Budget Meeting held July 23, 2014.

2. Approve the following Claims:

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

Agri Coop \$6,131.68 smcs; Alamar Uniforms \$94.15 smcs; Alfred Benesch \$2,712.57 co; All Makes Auto \$78.77 smcs; Amax Contracting \$4.68 smcs; Amer Fence \$2,126.00 smcs; Anderson,B \$40.00 smcs; Anderson,S \$207.20 smcs; Arctic Refrigeration \$55.00 smcs; Ask Supply \$1,470.76 smcs; Aurora Coop \$88.08 smcs; Bamford \$225.00 smcs; Bednarz,M \$1,186.06 smcs; Bessey,K \$22.99 smcs; Big Red Auto Glass \$217.82 smcs; Blessing \$389,916.05 co; BlueCross BlueShield \$59,563.24 smcs; Bosselman \$25,294.50 smcs; Breathing Air Systems \$336.00 smcs; Broadfoot's \$370.00 smcs; Bruha,S \$150.00 smcs; Bryson's Airboat Tours \$700.00 smcs; Buffalo Co Treasurer \$16.00 smcs; Buffalo Co Reg Deeds \$96.00 smcs; Buffalo Outdoor Power \$2,200.00 co; Builders \$183.38 smcs; Capital Business Systems \$365.35 smcs; Cash Wa \$8,580.12 smcs,co; Catlin,A \$55.00 smcs; Charter \$65.00 smcs; Chemsearch \$307.27 smcs; Chesterman \$657.15 smcs; Churchill,C \$460.39 smcs; City of Ky \$517,461.90 smcs,ps; City Plumbing \$225.00 smcs; Consolidated Mgmt \$130.00 smcs; Cool Tech \$373.00 smcs; Dan Roeder Concrete \$780,915.96 co; Danko Emergency \$976.66 smcs; Deloach,J \$100.00 smcs; Don's Hobby Guns \$1,144.98 smcs; DPC Industries

\$5,616.51 smcs; Dutton Lainson \$193.22 smcs; Eakes \$1,340.13 smcs; Eirich,T \$50.00 smcs; Engineered Controls \$1,742.00 smcs; Envirotech \$4,958.80 smcs; Express Logistics \$705.93 co; Fiddelke Heating \$685.78 smcs; Firecom \$415.00 smcs; Fireguard \$157.47 smcs; First Natl Bank \$45.00 co; Frontier \$88.09 smcs; Ft Krny Shooting Sports \$6,750.00 smcs; Gear For Sports \$1,364.27 smcs; Gerken,E \$75.00 smcs; Ginther,G \$330.00 smcs; Graphic Screen Printing \$104.00 smcs; Greer,C \$55.00 smcs; HH Distributing \$825.00 smcs; Hatcher Gun \$1,063.00 smcs; HD Supply \$1,117.08 smcs; Heartland Strategy Group \$5,000.00 smcs; Hometown Leasing \$157.20 smcs; Hotsy Equipment \$311.40 smcs; ICMA RC \$4,092.83 ps; IRS \$133,399.20 ps; Jack Lederman \$279.19 smcs; JCB Enterprises \$33.50 smcs; Jerry's Sports Center \$8,001.30 smcs; Ky Area United Way \$879.00 ps; Ky Humane Soc \$6,825.00 smcs;Ky Investment \$203.87 ps; Ky Visitors Bureau \$59,551.91 smcs; Krull Ins \$1,950.00 smcs; Lockmobile \$204.65 co, smcs; Magic Cleaning \$2,090.00 smcs; Mail Express \$6,240.34 smcs; McCarty,D \$31.80 smcs; Menards \$130.37 smcs; Metlife \$11,899.81 ps; Middleton Electric \$55.80 smcs; Mid NE Garage Doors \$400.00 smcs,co; Mid NE Lubricants \$277.60 smcs; Mid State Units \$760.00 smcs; Miller & Associates \$11,150.00 smcs,co; Mitchell Repair \$1,728.00 smcs; Moonlight Embroidery \$1,100.00 smcs; Municipal Supply \$5,806.44 smcs,co; NE Assoc Senior Centers \$90.00 smcs; NE Child Support \$2,439.27 ps; NE Dept Environment \$7,500.00 smcs; NE Dept of Revenue \$115,738.17 smcs,ps; NE Liquor Commission \$45.00 smcs; NE Public Health \$2,397.00 smcs; NE Safety & Fire \$87.00 smcs; NeRPA \$1,770.00 smcs; NLETC \$190.00 smcs; North Platte Telegraph \$98.87 smcs; Northwestern Energy \$5,156.13 smcs; Office Depot \$108.39 smcs; Overhead Door \$236.88 smcs; Paramount \$393.78 smcs; Payflex \$569.50 smcs,ps; Peerless Machine \$27,853.51 smcs; Platte Valley Comm \$633.76 smcs; Popple,B \$25.52 smcs; Premium Woods Custom \$2,050.00 smcs; Pulliam,R \$40.00 smcs; Quiet Zone \$51.35 smcs; RDJ Specialties \$477.06 smcs; Ready Mixed Concrete \$144.45 smcs; Rheome Tree \$1,650.00 smcs; RNDC Eagle \$170.10 smcs; RNDC Falcon \$158.00 smcs; Rowan,J \$36.13 smcs; S&J Construction \$28,464.35 co; SA Foster Lumber \$300.80 smcs; Safelite \$754.22 smcs; Sandhill Plastics \$300.00 co; Sanitation Products \$1,410.90 smcs; Sapp Bros \$35,821.96 smcs; Sargent Drilling \$900.00 smcs; School District #7 \$1,108.90 smcs; See Clear Cleaning \$350.00 smcs; Sheldon,S \$60.92 smcs; Snap On Tools \$108.50 smcs; State of NE/AS Central \$3,806.98 smcs; Sterling Distribution \$366.00 smcs; Suburban Fire Protection \$20,250.00 co; Sun Life Financial \$61,044.16 smcs; Tacha,J \$50.00 smcs; Theis,J \$160.00 smcs; Thompson Co \$28.68 smcs; Thompson,R \$100.00 smcs; Tielke's Sandwiches \$23.14 smcs; Titan Machinery \$1,393.19 smcs; TL Sund \$21,564.00 co; Tye & Rademacher \$11,750.47 smcs,ps; Union Bank \$60,674.05 ps; Verizon \$1,256.58 smcs; Video Services \$392.00 smcs; Village Cleaners \$388.89 smcs; Walters Electric \$353.20 smcs; Weller,B \$11.21 smcs; Yant Equipment \$1,106.65 smcs; Zimmerman Printing \$281.75 smcs; Payroll Ending 8-23-2014 -- \$389,804.75. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

**3. Adopt Resolution No. 2014-185** allowing the City of Kearney to increase its "Budget Authority" by an additional one percent or \$124,890.96 which will be carried over to the 2014-2015 Budget as "Unused Budget Authority".

**RESOLUTION NO. 2014-185**

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Section 13-519.03 of the Nebraska Revised Statutes, as amended, allows governmental units to exceed the two and one half percent limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by an additional one percent as allowed pursuant to Section 13-519.03 of the Nebraska Revised Statutes, as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Section 13-519.03 of the Nebraska Revised Statutes, as amended, by an additional one percent.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2014.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

Moved by Nikkila seconded by Lear that Subsection 4 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter abstained. Motion carried.

4. Approve the recommendation submitted by the Keno Committee on the allocation of non-departmental keno funds designed for outside agencies.

5. Adopt **Resolution No. 2014-186** repealing Resolution No. 2013-179 and adopt the 2014-2015 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2014-2015 year.

**RESOLUTION NO. 2014-186**

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2013-2014 fiscal year was adopted by Resolution No. 2013-179 on September 10, 2013 by the City Council; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2014-2015 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted. NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of October 1, 2014.

BE IT FURTHER RESOLVED that Resolution No. 2013-179 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 27, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.

7. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 4, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.

8. 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 October 18, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.

9. Approve the application for a Special Designated License submitted by Thunderhead Brewing in connection with their Class LK-047920 catering liquor license to dispense beer in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N on October 4, 2014 from 3:00 p.m. until 11:59 p.m. for an event.

10. Approve the application for a Special Designated License submitted by Thunderhead Brewing in connection with their Class LK-047920 catering liquor license to dispense beer, wine and distilled spirits at The Archway located at 3060 East 1st Street on October 16, 2014 from 3:00 p.m. until 10:00 p.m. for a reception.

11. Adopt **Resolution No. 2014-187** accepting the water main and fire hydrant improvements serving Great Western Second Addition.

**RESOLUTION NO. 2014-187**

WHEREAS, on the 13th day of November, 2012 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2012-201 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Great Western Properties, LLC for the

construction of a water main and fire hydrants to serve Great Western Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

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

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

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

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney for the construction of a water main and fire hydrants to serve Great Western Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 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 Juan Lazo, dba El Tropic in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 4, 2014 from 6:00 p.m. until 1:00 a.m. for a dance.

**13.** Adopt **Resolution No. 2014-188** approving the Goods and Services Agreement between the City of Kearney and Platte Valley Communications Inc. of Kearney providing a new radio communications system from the sanitary sewer lift station sites to the Wastewater Treatment Plant.

**RESOLUTION NO. 2014-188**

BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Good and Services Agreement between the City of Kearney and Platte Valley Communications Inc. of Kearney, Nebraska. The Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Adopt **Resolution No. 2014-189** approving Change Order No. 2 showing a decrease in the amount of \$1,916.47 submitted by Seneca Companies and approved by Wilkins Hinrichs Stober Architects for the construction of a new hangar located at the Kearney Regional Airport.

### **RESOLUTION NO. 2014-189**

WHEREAS, Seneca Companies of Des Moines, Iowa has performed services in connection to the construction of a new hangar located at the Kearney Regional Airport, and the City's architect, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 2 showing a decrease to the contract sum in the amount of \$1,916.47, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$1,259,000.00
Change Order No. 1 (10-22-2013)	+ 5,145.77
Change Order No. 2 (9-9-2014)	- <u>1,916.47</u>
 Contract Sum to Date	 \$1,262,229.30

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

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**15.** Approve the application for a Special Designated License submitted by Chug-A-Lug Sports Bar Inc., dba Chug A Lug Sports Bar in connection with their Class C-042049 liquor license to dispense beer and distilled spirits in a 32'x54' fenced area located south of their licensed beer garden located at 1115 East 25th Street on October 4, 2014 from 8:00 a.m. until 1:00 a.m. (alternate date is October 18, 2014) for a BBQ Challenge.

**16.** Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits inside a 50'x50' tent located on the north side of U Med Spa, 5609 1st Avenue on October 2, 2014 from 4:00 p.m. until 9:00 p.m. for a grand opening event.

**17.** Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits inside the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N on October 4, 2014 from 5:00 p.m. until 12:00 a.m. for a reception.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7932 ANNUAL SALARY ORDINANCE**

This ordinance will repeal Ordinance No. 7902 (2013-2014 Annual Personnel Ordinance); classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for the payments of vehicle allowances; and provide for the payment of cell phone allowances.

Ordinance No. 7932 includes all the job classifications, pay grades and ranges of compensation that are included in the City of Kearney 2014-2015 Pay Policy. Additionally, various employee benefits as discussed above have been included in the ordinance. Passage of the Personnel Ordinance is done on an annual basis in conjunction with the budget process.

Council Member Lear introduced Ordinance No. 7932 repealing Ordinance No. 7902 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7932 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 Buschkoetter seconded by Clouse that Ordinance No. 7932 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7932 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. 7933 AMEND SECTION 8-1517 OF THE CITY CODE**

On August 12 the Council approved Ordinance No. 7925 adding a section to the City Code pertaining to Residency Restrictions for Sex Offenders. In 2006, the Nebraska

Legislature passed the Sexual Predator Residency Restriction Act which is found at Neb. Rev. Stat. §29-4015 – 29-4017. This Act allowed any political subdivision the authority to enact an ordinance or resolution or other legal restriction prescribing where convicted sex offenders may reside and indicated that the limitations could not extend more than 500 feet from a school or licensed child care facility. The ordinance would not be retroactive but would apply to any convicted sex offenders that move into the community or change their residency after the approval of the Ordinance. The County Attorney, Sheriff and Police Chief believe it is necessary to make some minor amendments to further clarify the language.

Council Member Lear introduced Ordinance No. 7933 amending Section 8-1517 “Residency Restrictions for Sex Offenders” of Article 15 “General Offenses” of Chapter 8 “Police” of the Kearney City Code to clarify the language pertaining to the residency restrictions for sex offenders, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7933 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 Buschkoetter seconded by Clouse that Ordinance No. 7933 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7933 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**

None.

## **VII. REPORTS**

### **PROPOSED ORDINANCE ON RESTAURANT OCCUPATION TAX**

City Manager stated he does not want the public to think that the City is suggesting the restaurant and drinking place occupation tax is passing or has passed. The City has received questions from restaurants and how that process will work with respect to collection and the impact it may have or not have. The Director of Finance researched

what other communities have done and to come up with a plan. Staff has communicated some suggestions to a few of the restaurant owners.

Director of Finance Wendell Wessels presented a draft ordinance and a FAQ sheet. There are four other communities that have a restaurant tax; Lincoln, Omaha, Norfolk and Grand Island. The draft ordinance has the following sections:

- Intent and Purpose
- Definitions

In the definitions, drinking place and restaurant each have their own definitions. Drinking places would include bars, taverns, night clubs, dance halls, restaurants and arenas. Restaurants would include cafes, grills, bistros, delicatessens, coffee shops, bakeries, lunch counters, sandwich stands, temporary stands, grocery stores, convenience stores, supermarkets, and arenas. This would include food which is defined as edible refreshment or nourishment, whether solid, semi-solid, liquid or otherwise. The sales tax applies to certain items and this occupation tax would apply to those same items. The easiest way to explain it is if you have to collect sales tax on it, it will be subject to the restaurant tax if it is prepared and ready for immediate consumption. It does not include alcohol.

- Tax Imposed; Collection of Tax

The proposed tax imposed would be one percent on all those locations included in restaurants and drinking places.

- Return; Administrative Fee

This tax would be filed quarterly. There is also a provision that states as reimbursement for the cost of collecting the tax, a taxpayer may deduct and withhold from the taxes otherwise due and paid two percent of the amount paid to the City. As an example: a customer purchases a meal at a restaurant in a city with a one percent occupation tax on restaurants. The calculation of the invoice is shown as:

Meal	\$50.00
Add: occupation tax	<u>.50</u>
Subtotal	\$50.50
Add: 7% sales tax	<u>3.53</u>
Total cost to customer	\$54.03

**Calculation of amount remitted to City of Kearney:**

1% food and beverage occupation tax	\$.50
Less: collection fee of 2%	<u>.01</u>

**Amount remitted to the City of Kearney:** \$.49

**Amount remitted to the State of Nebraska:** \$3.53

- Tax Cumulative

This tax is in addition to all other fees, taxes, excises or licenses levied.

- Use of Revenue

Will be used to construct a youth baseball and softball complex.

- Failure to File Return

Includes interest costs and penalties for failure to pay.

- Miscellaneous Provisions

The City Finance Department will collect this tax.

- Recovery of Unpaid Tax by Action at Law  
This allows the City Attorney to commence action if the taxes are not paid.
- Suspension or Revocation of Licenses for Failure to Pay Tax
- Sunset Provision  
This tax will cease no later than January 31, 2025.

Council member Lammers asked if the two percent the restaurant owners are getting back, is it commensurate with the other communities. Director of Finance stated in Lincoln if they remit the tax monthly, they get a two percent credit and if it is remitted quarterly there is no credit. In Omaha they get a two percent regardless if they file monthly or quarterly. Grand Island and Norfolk do not provide a credit.

### **VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 7:12 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**MICHAELLE E. TREMBLY  
CITY CLERK**