

*Kearney, Nebraska  
February 24, 2015  
5:30 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on February 24, 2015, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Bruce Grupe, City Engineer were also present. Some of the citizens present in the audience included: Bernice Bravo, Bonnie Marshall, Karen Woerman, Steve Altmaier from KGFW Radio, Ashley White from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

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

With the absence of a minister, the Council held a moment of silence.

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **SAN PEDRO LIQUOR LICENSE**

Mayor Clouse opened the public hearing to consider canceling the liquor license held by San Pedro, Inc., dba San Pedro Mexican Restaurant in connection with their Class I-067018 liquor license located at 3907 Central Avenue and consider Resolution No. 2015-27.

Bernice Bravo presented this matter to the Council. She stated they are now doing the liquor training with employees about their liquor license. They have had problems before because they did not speak any English and having problems with the trainer. She is now helping them do the training through the internet and helping translate. She has asked if she could become a trainer herself to train but she has not received an answer yet. So far they are trying to get the employees trained better and how to handle the liquor with customers.

Mayor Clouse stated there are quite a few violations on selling to a minor. The Council is really struggling with this because they have set up a policy that says if there has been significant amount of violations that come back to the Council explain what you are doing, why and how the situations happened.

One of the things he was talking to City Manager Michael Morgan is why does Council have to wait until something almost a year later before Council sees it because it is something Council should see earlier than that. He does not know if they have anything they can do necessarily but waiting eight months. Is it normal to have individuals training their own staff.

City Clerk stated no it has to be approved by the Liquor Commission in a training program. Mayor Clouse asked that is who you talked with was the Liquor Commission. Ms. Bravo stated yes, she asked them if she could become a trainer herself. Mayor Clouse asked you have not heard anything from them. Ms. Bravo stated they are trying to find out what they can do about it. They are doing the TIPS training on the internet and also talking with an officer in Lexington where they are going to have once every three months they will have someone in Spanish to do the training in Lexington.

Mayor Clouse stated he remembers one of the violations they talked about; it was a minor who sold to another minor is not that correct. City Clerk stated that is correct. Mayor Clouse stated you had a minor serving another minor. Ms. Bravo stated she did not know; she is the new corporate manager. Mayor Clouse asked what was the name on the liquor license. Ms. Bravo stated San Pedro Inc. and she is in the process to become the corporate manager for San Pedro Inc. Corporation. Mayor Clouse asked you will be bringing in an application to put the liquor license into your name. Ms. Bravo stated she already did that. City Clerk stated they submitted that 1 ½ weeks ago. Mayor Clouse stated they have not seen it and it has not gone through the Liquor Commission.

City Attorney stated for the benefit of everyone, the reason the Council is seeing the violations at this time is because their liquor license would automatically renew and by law there is a published notice and citizens can object to that automatic renewal if they

choose to. The City's Policy indicates that if there is a license holder that had a certain number of violations that you want to conduct a public hearing. Rather than them just being automatically renewed it comes onto the agenda or if they were not to submit their training information that is another reason that it would come onto the agenda so the Council can ask them questions and evaluate it. As you know, City Council is a recommending body and then it would ultimately go to Liquor Control Commission to make the final determination on the license.

Mayor Clouse asked to clarify when the incident happened; it has already gone to Liquor Commission and have taken some action already. City Attorney stated the memo that Council has and the attachments are actions that have already gone before the Liquor Control Commission and they have already determined that there were violations of liquor laws and these are the orders that have made those determinations. None of them are pending they have already been determined by Liquor Control Commission.

City Manager asked what are the dates on the determination from the Liquor Commission versus the last incident. City Clerk stated San Pedro's last incident was May 2014 and the Liquor Commission made their determination October 2014. City Manager stated going back to the Mayor's comment that's even more relevant considering the Liquor Commission has actually discussed and made decisions regarding the incidents and six months later before it come to Council.

Council Member Lear stated he does not believe anything in that process can change. City Manager stated it would be nice if the Council could get communication to the Liquor Commission prior to them hearing the matter. Council Member Lear stated as it relates to any particular violation, what Council's action tonight would do is they have the choice whether to allow the license to automatically renew or to recommend cancellation due to more violations that the Policy calls for. After the City's recommendation than they have to go through the application process again through the Liquor Control Commission and then it would either be renewed or denied by their action.

City Manager stated he thinks you would have more impact if you discussed it before the Liquor Commission looked at it. You could have 8-9 incidents before it goes back to Council, 10 months later in some cases. City Clerk stated the City's policy does state that the City does not consider it until after it has been determined by the Liquor Commission. Mayor Clouse stated not for this action tonight but we could review that Policy and tweak that any.

Council Member Lear stated it depends on what we want to accomplish, from his standpoint the concept when they set up the Policy was all liquor license holders to have a chance to be reviewed if they met certain standards and one of the standards is three violations in the past five years. Council said will not allow them to be automatically renewed so the question before Council tonight is they obviously called the Public Hearing, they could say that is enough and go ahead and recommend renewal or they can say no there is a pattern of violations that they are concerned about and recommend that the license be cancelled. The Liquor Commission would take that under advisement whether or not to renew the license.

Council Member Lammers stated what would be nice about it if they would do some remedial training that would bring them current where the Council could then look at renewal after canceling the license then they would go through a process to regain that license again making sure that they are going through and doing all of the things they need to do and appropriately getting their attention.

Council Member Lear asked have they submitted all of their training completion. Ms. Bravo they have already been trained. City Clerk stated the City has Certificates of Training, how many employees they have we do not know; the City goes off of what is provided. Council Member Lear stated in theory all of their beverage servers have completed the training. It is unfortunate the current manager who really should be here is not here. What Council is struggling with is three violations over the past four years which not an acceptable standard. There were three selling to minors violations and one open container so really four violations of various rules in a relatively short amount of time.

What he thinks Council Member Lammers was asking is there something short of recommending cancellation that the Council could do to help encourage better performance. Council Member Lammers stated either that or if they cancel can they go through a process of renewing their license at some point.

Ms. Bravo stated they are currently asking employees to ID everyone if they look younger than 40. They do not want this to happen anymore. They had a person that did not like that. Council Member Lear stated it is obviously better to have a few upset patrons then to have to go through the process. Council Member Lammers stated it is not unusual wherever you go to eat; they ask for your ID whether you are 50. Mayor Clouse stated the problem with that is that it should have taken place in 2011.

Council Member Buschkoetter stated part of what Council needs to consider is are steps being taken to address the problem and with an inquiry to see whether not the manager herself can be a trainer to deal with a fair amount of serious concerns about wanting to do it right. He is torn because the City has a policy and it is not cut and dry in terms of the Council saying if you have four violations they will recommend canceling. The policy is the Council will look at it and to the best of their acknowledge are they addressing and fixing the problem. What they are running into here with this unique situation is somewhat of a language barrier and hope to think they are crossing over that, that they have a full understanding that this cannot continue to happen that the rules need to be followed. He is not certain from day one that there was that understanding for whatever reason.

Council Member Lear stated he appreciates that they are taking some steps; a change in manager, obviously performance is an issue he does not want to hurt a business's livelihood but they have to be able to justify or show that they can use the special authority reasonably. He personally is willing to give them based on what he has seen and heard a bit of a break but to him that is only in terms of Council will not allow automatic renewal next year and if there are any violations of any kind this year, he will vote to recommend cancelation of the license. Regardless even if they are clean over the next year they would still be in violation of the three over the past 5-year policy so they would be up for the same hearing next year and if they have not met the

appropriate steps or if they have had any additional violations during that time period it is going to be a point blank cancelation vote from him.

Council Member Lammers asked if there is a cancelation how long of period of time do they have before they can reapply for a license. City Attorney stated they could reapply right away but if there is a cancelation and there are some liquor violations then they will have to explain that. It is more likely that they would wait a period of time and reapply or somebody else acquires the business or somebody else applies for that license who is not affiliated with the prior owner. The Liquor Control Commission can look at the history of whoever the applicant is because they go through a criminal background check; disclose if they have ever had a license, if it has ever been revoked. It can be something that they lose for lengthy periods of time or maybe never able to acquire another license if they have enough violations.

Mayor Clouse stated there are a couple thoughts he has on this, if you look through here they have had to close their business, mandatory closure on a couple different occasions, license suspensions and so the Liquor Commission has taken some pretty good punitive action already. The Council was not aware of it. Council Member Lear stated he does not think it is within the purview of where Council has the opportunity in the process as it exists today to have input; he believes they are at the appropriate step.

If there was not a change in manager occurring even though he recognizes that could be a last minute fill in the blank, he would vote to recommend revocation because he believes there has been enough violations in history to say that they are not paying close enough attention. They have been punished multiple times. He is willing to cut a little slack if they can go this next year and not have any further violations, they are putting a new manager in place whether she becomes a trainer or not is frankly irrelevant, it is whether or not they have any violations. If there was another single violation of any kind he would not be advocating cutting anymore slack. At least they would be putting forth to the Liquor Control Commission their recommendations on what they think the business should and should not be able to do within the confines of the community.

Council Member Buschkoetter stated he would certainly agree if there was another violation within the next year, he cannot imagine automatically renewing the license.

Mayor Clouse stated they had one good year out of four that is a concern to him. Council Member Lammers stated he is a pro-business person but he would also echo those comments because when you have three times in a 3-year period that you have had selling to minors it has already been addressed to you that it is a concern.

Ms. Bravo stated if you give us another chance they will prove to Council that they can do right.

Chief of Police Dan Lynch stated the Council's ability to manage these is not theirs, it is the Liquor Commission and he thinks you can see the frustration from an incident in May not being resolved until October with no notice to the community on how that happens other than they get a notice of suspension or mandatory closure. The City is not always going to find out not only that these are not all the Police Department's

cases some of these are done by investigators from the patrol working for the Commission. Usually when they make a decision it is to suspend the license or the person has an opportunity to pay \$100 a day to stay open or there is a mandatory closure and they do not have that option.

The biggest concern for them is that San Pedro has the reputation for minors being able to acquire alcohol there. If you do this three times in this short of period that is not a word that does not get out. The fact that they had a minor selling to a minor almost boggles his mind. He is just concerned as Council is and he understands exactly what they are saying regarding the timing of this but he is an advocate that at some point you are either good at this line of work or you are not. If you are not, you should not be in it because ultimately somebody is going to get hurt.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2015-27** canceling the liquor license held by San Pedro, Inc., dba San Pedro Mexican Restaurant in connection with their Class I-067018 liquor license located at 3907 Central Avenue based on the failure to comply with the City Council's Liquor License Policy and to forward this recommendation to the Nebraska Liquor Control Commission. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: Buschkoetter. Motion carried.

#### **RESOLUTION NO. 2015-27**

WHEREAS, San Pedro, Inc., dba San Pedro Mexican Restaurant holds a Class I-067018 liquor license located at 3907 Central Avenue, Kearney, Nebraska; and

WHEREAS, the Kearney City Council adopted Resolution No. 2011-28 establishing a Liquor License Policy for making recommendations to the Nebraska Liquor Control Commission on new licenses, renewal of licenses, and special designated licenses; and

WHEREAS, in accordance with Section 53-134(6) of the Nebraska Revised Statutes, the local governing body of any city with respect to licenses within its corporate limits shall have the power with respect to retail licenses: to cancel or revoke on its own motion any license if, upon the same notice and hearing, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rules or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor; and

WHEREAS, a hearing was held on February 24, 2015 for the reason the license holder has been charged and convicted of three charges of the sale of alcohol to a minor within the prior five years; and

WHEREAS, the City Council does hereby find that having such a number of violations of state law with reference to the sale of alcoholic beverages to be evidence of the fact that such a license holder has failed to comply with Nebraska law as it relates to the handling of alcoholic beverages and that it would not be appropriate for such an individual and/or business to continue to hold a liquor license due to such failures to comply with state law.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska hereby cancels the liquor license held by San Pedro, Inc., dba San Pedro Mexican Restaurant holds a Class I-067018 liquor license located at

3907 Central Avenue for the reason they did not comply with Resolution No. 2011-28 by being charged and convicted of three charges of the sale of alcohol to a minor within the prior five years.

BE IT FURTHER RESOLVED that in accordance with Section 53-134 of the Nebraska Revised Statutes, the license holder has 30 days in which to appeal this decision to the Nebraska Liquor Control Commission.

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

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **BICO'S BISTRO LIQUOR LICENSE**

Mayor Clouse stated Public Hearing 2 was to consider canceling the liquor license held by Lagnaippe, LLC, dba Bico's Bistro in connection with their Class I-108528 liquor license located at 3012 West Highway 30. The City has received their Certificates so this matter is withdrawn.

### **½¢ SALES TAX CAPITAL IMPROVEMENT PLAN**

Mayor Clouse opened the public hearing on the ½¢ Sales Tax Capital Improvement Plan (CIP) for the City of Kearney, Nebraska.

City Manager Michael Morgan presented this matter to the Council. The City of Kearney set forth some guidelines regarding the Sale Tax Program and one of the guidelines included having a public hearing. This is available at all times a list of the projects and that is maintained on the website specifically as to what has been accomplished. The CIP sales tax is for capital improvements which includes some categories on the chart including buildings, streets, other improvements, equipment and unallocated. They try to maintain a balance in the fund as well as another policy, total debit service under the 35 percent.

25th Street and 9th Avenue indicates a roundabout, but it will likely not be a roundabout. That is the project they refer to as the curves at UNK at Highway 30 they are still waiting for some decisions regarding what the State of Nebraska wants to do. The City may chose not to financially contribute in that project if it does not meet what the City would hope it would accomplish so they will have to see what happens with that particular project.

Council Member Lammers asked how much a block of curb would cost. Director of Public Works Rod Wiederspan stated they have not bid out any curb work they have done it with City staff. Last year the City did a block of new curb and he estimated the amount of \$20,000 a block by the time they remove everything and replace it. If they are putting it in with a project with a slip form it is considerably cheaper but all they are doing is cutting out the curb; it is labor intensive and fairly costly.

Council Member Lear asked does the City have storm water drainage regardless if it is stand up. Director of Public Works stated they have drainage but it is not as good, most of the areas where they have the stand-up curb they have gone in and overlaid asphalt which reduced the curb so you may only have four inches of curb instead of six inches. It does not have the storm sewer systems so it is all surface drain and valley gutters.

Council Member Nikkila asked about the State essentially giving the City a loan for a portion of the Data Center and if they do not have a development out there. City Manager stated the City was given a grant and the City could have to pay it back but that is not in the Capital Improvement Plan.

Council Member Nikkila asked about the Public Works building about the need to have a facility – is that something that would have to come out of the ½¢ Sales Tax or could the City work it into another part of the budget in the future. City Manager stated for a large capital project you are talking significant especially for the Public Works storage building that would likely come out of the building portion.

Council Member Lammers stated at some point Talmadge going west would like to be pushed through to Kea West at least and at some point down the road to 30th Avenue. City Manager stated that was correct especially with the school and some of the other major projects in that area and of course down at the Younes addition as well. They do have funds included this year to do some work at Talmadge over \$400,000 they may go ahead and look to use those funds and cooperate and do a joint project with Buffalo County. It would not be until next year where they would like to see that the City could help with materials for the extension of Talmadge to Kea West and they could do the labor but certainly that would not happen this year.

They would come back to Council and then meet with Buffalo County and the road committee to discuss that further. With the increase traffic in that area and the new construction it is going to be very important to get that accomplished. The challenge would be after that is accomplished with gravel you will hear very quickly paving which is a significant amount of money all outside City limits but they would like to get the gravel completed.

Council Member Lammers asked the initial would be gravel road for whatever period of time. City Manager stated for more than one reason it builds the base and two they will have water/sewer someday and it would be nice not to have the pavement there and have it come later.

Council Member Lammers asked the City limit currently ends basically at the end of Talmadge now. City Manager stated fairly close, back where there is paving in that area. Council Member Lammers stated anything west of that is the County.

Mayor Clouse asked about the 31st Street and Avenue A intersection improvements. Director of Public Works stated the 31st and Avenue A money that they have is actually enough money to put in a roundabout if they chose to at that intersection. The traffic signal that is there today is a temporary signal they put in when the hospital did the addition and they have left it there because it works but it is to the point where they will have to replace the signal or do something.

City Manager stated they are going to meet with Department of Roads soon and discuss to accomplish more maintenance work on 2nd Avenue. They are also not very happy with some of the white topping that was done on south 2nd Avenue as 15-20 year fix and it has been five years and it has not worked.

Council Member Lammers asked about 30th Avenue overpass, the City is looking at doing some preliminary engineering work on that. City Manager stated try to determine an estimated cost to put in the pedestrian and put it to the four-lane to match up and then the connecting would have to be four-lane as well.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and approve the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney, Nebraska. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **ONE & SIX YEAR STREET IMPROVEMENT PLAN**

Mayor Clouse opened the public hearing on the adoption of the One & Six Year Street Improvement Plan and consider Resolution No. 2015-29.

City Engineer Bruce Grupe presented this matter to the Council. He stated basically as submitted to Council previously with the exception of the revisions by the Council and how they present the One & Six Year. He wanted to get the cost that they show on the One & Six Year more closely correlating with the CIP. Council had mentioned at the last meeting about 11th Street from 30th Avenue to 27th Avenue was not listed. Typically, on a One & Six Year for the State they do not show enhancements they would just show new roadways.

They are adding a lane to the south side 11th Street from 30th Avenue to 27th Avenue and basically what that does is gives them the capacity to add a left turn lane for the high school. They would not typically list that on a One & Six Year that they are submitting to the Federal Highway because they are just doing an enhancement of some left lanes. But it is a significant project they can do that and add it to the Six Year.

City Engineer stated the Council requested that they would like to see them differentiate between funded and unfunded projects. There are three unfunded projects: one being 39th Street west of 30th Avenue, the 30th Avenue viaduct and 31st Street from Avenue E to Avenue I.

Council Member Buschkoetter stated he received a call about the 39th Street from 30th Avenue intersection and the future of it. City Engineer stated at some point in time they will have to look at putting traffic signals there. Council Member Buschkoetter stated one of difficulties is that there is no four ways of directions of traffic there. City Engineer affirmed and that certainly hurts one of the eight criteria needed for a signal. Obviously if and when 39th Street gets extended and it becomes a 4-way intersection that would certainly increase the number and increase the possibility that they can justify a signal there.

City Manager stated they do not have plans or funds, that project fell off the list a few years ago that is all developer driven to the west. Mr. Grupe stated there are still are some warrants they can meet for a three way intersection and the installation of a signal and that is one of the more difficult intersections. That is problem why you received a call, they are watching that.

Council Member Buschkoetter asked how close are they in getting warrants there because unfortunately one of the criteria they use is number of accidents there. City Engineer stated that is the last one they would like to use obviously. He believes they were probably getting where they were approximately within 60-70 percent of the warrants, the amount of traffic needed there. They will certainly look at it after the high school opens again and probably prior to that. He knows they have made some revisions to the speed limit to help that site distance but traffic is backing up on 39th Street.

Council Member Nikkila asked do you have to have the accidents as part of the requirement. City Engineer stated no, there are eight different warrants that are considered and accidents are one of them. Kearney is at 70 percent of the traffic count, they also look at 1-hour warrants, 4-hour warrants and 8-hour warrants. Generally, the 1-hour is what gets them into it.

Council Member Lear asked about 56th Street and 2nd Avenue that left hand turn lane for people who are heading west bound. How close are they in putting a left hand turn lane signal on that. City Manager stated not very close. City Engineer stated he has not looked at that one, the State has been looking at that. City Manager stated they ask every year for 56th Street and 48th Street.

Council Member Lear asked how much more would it take. City Manager stated they do not give you specific answers, it is their intersection and they control it.

Council Member Lear stated how close does the City think we are to warranting a left hand turn signal because it looks like the City will have to wait until 2017 to consider it and then it will be in the City's court. Where do you think the City is on that street. City Engineer stated it would just be a guess, warrants are pretty subjective as far as who is looking at them, when you are counting.

Council Member Nikkila asked once the City has control of the intersection can the City decide to put in a turn signal if they want. City Manager stated they would have to evaluate the warrants and follow the manual uniform traffic control devices. When the State of Nebraska looks at it, they look at it very clearly and without much prejudice because they are engineers and they are not going to get the phone calls every day that the City gets. There is some subjectivity in the warrants there are some factors that influence it from sight distance to the sunlight to all kinds of variables, one of which is accidents, injury accident, etc. The reason that individuals generally will not get that subjective with warrants because courts have interpreted that un-warranted intersections and the resulting accident, you may be liable.

Council Member Lear stated 56th Street and Avenue N is a good example because it does not meet any warrant but he remembers they used truck traffic as justification for

putting the signal in there. City Engineer stated it was pedestrians for the school. City Manager stated they receive numerous complaints why the City has the signal there and when there are no students there.

The greatest example would be UNK in the community, the way the warrants work and the way the traffic is counted does not really take into consideration UNK. Tremendous amount of traffic at certain times of the days but not the times of day or the days of the week that the State uses for their warrant evaluation which drives the City crazy. Also when you are a community that brings in lots of traffic from other places, the warrants do not fit you exactly the same either based on when they do the counts. Sometime in 2017, the City will be doing a warrant study at 56th Street and 2nd Avenue and 48th Street, hopefully they will meet the warrants.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2015-29** approving the One & Six Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2015-29**

WHEREAS, the City of Kearney, Nebraska is required by Section 39-2119 of the Nebraska Revised Statutes to adopt a One and Six Year Street Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, at a Public Hearing held at approximately 5:30 p.m. on February 24, 2015 in the Kearney City Council Chambers that the One Year City Street Plan for fiscal year ending September 30, 2016 and the Six Year City Street Plan ending September 30, 2021, are hereby adopted as listed on the Summary of One Year Plan and the Summary of Six Year Plan, marked as Exhibit "A" attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **BOARD OF EQUALIZATION FOR SANITARY SEWER DISTRICT NO. 2014-510**

Public Hearings 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization to assess costs in connection with Sanitary Sewer District No. 2014-510 and consider Resolution No. 2015-30.

This sanitary sewer district was created on January 28, 2014 for the extension of the Northeast Trunk Sanitary Sewer Main. The district begins at the southeast corner of Remington Heights Second Addition and proceeds northwesterly in an easement along the south side of Block Three, Remington Heights Second to the west line of Remington Heights Second, then turns northerly along the west line of Remington Heights Second

to the north line of Remington Heights Second, then turns westerly and follows the north line of the Southeast Quarter of Section 24, Township 9 North, Range 16 West, through un-platted land to the Northwest Corner of the Southeast Quarter of Section 24, which would be Avenue E if extended northward.

After completion of the construction project, the City hired a title company to complete property abstracts so that assessments could be levied. This district has been completed and, in order to satisfy state law, when paving, water and sewer districts are completed, the City Council must act as a Board of Equalization to levy assessments on properties so benefited. Property owners will then be required to pay the first installment within 50 days (April 15) or they can pay the assessment over a 5-year period.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing for the Council to meet as the Board of Equalization and adopt **Resolution No. 2015-30** assessing costs in connection with Sanitary Sewer District No. 2014-510. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2015-30**

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

Section 1. The President and Council find and determine that the sanitary sewer main heretofore ordered installed in Sanitary Sewer District No. 2014-510 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sanitary sewer main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 2. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 3. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sanitary Sewer District No. 2014-510 shall become delinquent as follows:

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

Each installment, except the first, shall draw interest at the rate of 5.0 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**BOARD OF EQUALIZATION FOR SANITARY SEWER CONNECTION DISTRICT  
NOS. 2013-1 AND 2013-2**

Public Hearings 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization to determine a connection fee in the amount of special benefits accruing to the property in Sanitary Sewer Connection District Nos. 2013-1 and 2013-2 and consider Resolution No. 2015-31.

Through a Subdivision Agreement between the City and the Developer approved on October 9, 2012, the City agreed to create a sanitary sewer connection district (2013-1) in 16th Avenue Place and 51st Street Place westward in an easement that would serve the property located on the west side of 17th Avenue. The City also created a sanitary sewer connection district (2013-2) in the easement between 56th Street and the north line of Fountain Hills Fifth Addition. On May 14, 2013 the Council approved these two sanitary sewer connection districts.

City staff has calculated the benefit to the abutting properties included in the districts and arrived at a connection fee for the districts. The connection fee is not a lien on the property. Property owners do not pay an assessment that requires annual payments and interest does not accrue. Property owners pay the connection fee multiplied by the property footage when they connect to the sewer main.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing for the Council to meet as the Board of Equalization and adopt **Resolution No. 2015-31** determining a connection fee in the amount of special benefits accruing to the property in Sanitary Sewer Connection District Nos. 2013-1 and 2013-2. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2015-31**

WHEREAS, on the 14th day of May, 2013, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7804 creating Sanitary Sewer Connection District No. 2013-1, the said sanitary sewer main has been constructed in accordance with said Sanitary Sewer Connection District No. 2013-1 and the costs thereof have been reported to the City Council; and

WHEREAS, on the 14th day of May, 2013, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7805 creating Sanitary Sewer Connection District No. 2013-2, the said sanitary sewer main has been constructed in accordance with said Sanitary Sewer Connection District No. 2013-2 and the costs thereof have been reported to the City Council; and

WHEREAS, the City Council, sitting as a Board of Equalization, has determined the benefits to abutting property in the Districts to be shown on the Schedule, marked Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Section 16-6,103 of the Nebraska Revised Statutes provides that the special benefits determined by the Board of Equalization shall not be levied as special assessments against the property within the Districts, but shall be certified to the Register of Deeds of the County.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the benefits to abutting property in Sanitary Sewer Connection District Nos. 2013-1 and 2013-2 are as found and determined by the Council, sitting as a Board of Equalization, as shown and set forth on Exhibit "A".

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file a certified copy of this Resolution in the Office of the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that a connection fee equal to the amount of the benefit accruing to the property as set by the benefit schedule (Exhibit "A") shall be paid to the City at the time the respective properties are connected to the sewer main constructed in Sanitary Sewer Connection District Nos. 2013-1 and 2013-2 and that no property thus benefited by said main improvements shall be connected to the sewer main until said connection fee is paid.

BE IT FURTHER RESOLVED that upon payment by abutting owners of the connection fee, the City shall notify the Buffalo County Register of Deeds that the individual connection fees have been paid and satisfied.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**IV. CONSENT AGENDA**

Mayor Clouse stated that the City received notification from the applicant to withdraw Subsection 11 of the Consent Agenda pertaining to an application for a Special Designated License. Therefore, it will not be approved.

Moved by Clouse seconded by Lammers that Subsections 1 through 10 and 12 through 15 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held February 10, 2015.

2. Approve the following Claims:

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

4imprint \$204.99 smcs;7-Eleven \$8.10 smcs; Accent Sales & Service \$342.84 smcs; Ace Hardware \$127.33 smcs; Alfred Benesch \$385.00 smcs; All Makes Auto \$1,906.02 smcs; Allied Electronics \$48.72 smcs; Amazon \$11,232.43 smcs,co; American \$901.19 smcs; Amer Airlines \$25.00 smcs; Amer Cemetery \$139.18 smcs; Amer First Aid \$27.05 smcs; Amer Legion \$46.85 smcs; Amer Red Cross \$418.00 smcs; Amsan \$708.36 smcs; Anaconda Sports \$1,469.44 smcs; Apple Market \$16.90 smcs; ARC Services \$969.00 smcs; Ask Supply \$162.46 smcs; Asphalt & Concrete \$4,082.88 smcs; Athene Annuity \$1,220.00 ps; Aurora Coop \$51.12 smcs; B&H Photo \$899.97 co; Baird Holm \$198.00 smcs; Baker & Taylor \$1,693.43 smcs; Bamford \$550.00 smcs; Berumen,R \$65.00 smcs; Big Rack Shack \$1,269.00 smcs; BlueCross BlueShield \$91,917.29 smcs; Boogaarts \$21.54 smcs; Bosselman \$3,331.64 smcs; Brungardt Engineering \$2,300.00 co; Buckle \$639.00 smcs; Buffalo Co Comm Partners \$250.00 smcs; Buffalo Outdoor Power \$190.78 smcs; Buffalo Surveying \$652.55 smcs; Builders \$1,173.06 smcs; Bus Management Daily \$39.95 smcs; Cabela's \$293.11 smcs; Carquest \$938.82 smcs; Casey's \$98.51 smcs; Cash-Wa \$304.90 smcs; CCI Solutions \$199.24 smcs; Cenex Farmers \$30.00 smcs; Central Hydraulic Systems \$1,138.97 smcs; Central NE Bobcat \$1,408.92 smcs; Charter \$495.87 smcs; Chemsearch \$307.27 smcs; Chicken Coop \$50.00 smcs; Childers,S \$75.00 smcs; Cintas \$683.88 smcs; City of Ky \$53,819.76 smcs,ps; CMH Interiors \$748.49 smcs; CNA Ins \$40.00 smcs; Colorado Chapter \$450.00 smcs; Comm Action Partnership \$885.00 smcs; Compasscom \$50.00 smcs; Computer Warehouse \$119.90 smcs; Conseco Life Ins \$19.00 ps; Construction Rental \$544.54 smcs,co; Control Yours \$300.00 smcs; Copycat \$667.17 smcs; Crossroads \$380.00 smcs; Cruz,C \$18.72 smcs; Cummins Central Power \$16,519.91 smcs; D&S Lighting \$258.21 smcs; Danielson Equipment \$1,158.00 smcs; Danko Emergency \$2,551.76 co; Davis,S \$15.00 smcs; Dawson PPD \$2,260.69 smcs; Dell \$9,451.22 smcs,co; Depository Trust \$3,787.08 ds; Dish Network \$95.00 smcs; Dmilaco \$368.00 smcs; Drivers License Guide \$29.95 smcs; DW Management \$1,000.00 smcs; Eakes \$1,143.89 smcs; Elliott Equipment \$536.25 smcs; Embassy Suites \$1,265.22 smcs; EMC Ins \$9,153.55 smcs; Emergency Services \$5.82 smcs; Expedia \$198.00 smcs; Express Parcs \$9.00 smcs; Expression Wear \$40.00 ps; Factory Outlet Store \$768.99 co; Fairbanks \$860.75 smcs; Fantasys Southport \$24.16 smcs; Fast Mart \$26.64 smcs; Fastenal \$98.39 smcs; Feikert,S \$40.54 smcs; Finest Irrigation Consulting \$500.00 smcs; Fireguard \$940.96 smcs; Fitbit \$299.85 ps; Fleetpride \$338.35 smcs; Frontier \$10,741.54 smcs; Garrett Tires \$3,640.30 smcs; George,T \$7.07 smcs; Glow With Us \$150.00 smcs; GPM \$151.35 smcs; Graham Tire \$887.74 smcs; Grainger \$272.79 smcs; Grupe,B \$46.00 smcs; Hach Company \$928.60 smcs; Heartland Strategy \$5,000.00 smcs; Hertz Rent-A-Car \$202.20 smcs; Hobby-Lobby \$80.07 smcs; Holmes Plumbing \$271.99 smcs; Hometown Leasing \$265.92 smcs; Hotsy Equipment \$86.06 smcs; Hunke,B \$23.35 smcs; Hy Vee \$63.89 smcs; ICMA RC \$4,411.51 ps; Intermountain Sales \$535.23 co; IRS \$134,168.98 ps; Int'l Code Council \$510.45 smcs; Inventex \$97.67 smcs; Jack Lederman \$775.97 smcs; Johnson Service \$1,299.20 smcs; Johnson,B \$2.16 smcs; Johnstone Supply \$221.41 smcs; K&K Parts \$2,372.35 smcs; Ky Centre Vac \$1,045.40 smcs; Ky Chamber of Comm \$450.00 smcs; Ky Crete & Block \$57.95 smcs; Ky Hub \$3,312.99 smcs; Ky Humane Soc \$7,166.25 smcs; Ky Power Sports \$233.38 smcs; Ky Towing & Repair \$100.00 smcs; Ky Warehouse \$204.51 smcs; Ky Winlectric \$914.04 smcs; Ky Winnelson \$372.51 smcs; Keciembra,T \$465.18 smcs; Koettters,J \$1,431.38 smcs; Konica Minolta \$257.45 smcs; Landmark Implement \$3,583.36 co; Lawn Builders \$350.00 smcs; League of NE Municipalities \$320.00 smcs; LED Lighting \$748.15 co;

Library Ideas \$7,650.00 smcs; Lips Printing Service \$37.02 smcs; Mail Express \$6,552.84 smcs,co; Marlatt Machine Shop \$391.50 smcs; Marriott Cornhusker Hotel \$370.42 smcs; Marzolf,L \$38.88 smcs; Mascoelectric \$397.08 smcs; Matheson Tri-Gas \$938.60 smcs; Menards \$4,183.57 smcs; Midway Chevrolet \$297.01 smcs; Midwest Turf \$558.99 smcs; Midwestern Chapter ISA \$270.00 smcs; Miller & Associates \$20,205.50 smcs,co; Miller Signs \$405.00 smcs; Mindmixer \$250.00 smcs; Miracle Recreation \$345.00 co; Mirror Image \$12.00 smcs; Moonlight Embroidery \$120.00 smcs; Moreau,R \$21.04 smcs; Municipal Supply \$629.66 smcs; Murphy Tractor \$696.13 smcs; Navigator Motorcoaches \$1,336.00 smcs; NCS Code Council \$357.00 smcs; NE Arborists Assn \$160.00 smcs; NE Cemetery Assn \$40.00 smcs; NE Child Support \$2,702.58 ps; NE Licensed Beverage \$200.00 smcs; NE Peterbilt \$563.89 smcs; NE Truck Center \$379.31 smcs; Networks Solutions \$75.98 co; Northern Safety \$451.17 smcs; Northwest Electric \$40.29 smcs; Northwestern \$18,014.16 smcs; NRG Media \$54.00 smcs; OCBCC Convention Center \$15.00 smcs; OCLC \$607.10 smcs; Office Depot \$419.94 co; Office Max \$1,338.51 smcs; Officenet \$582.93 smcs; Ogle,C \$640.00 smcs; O'Hara Lindsay \$2,000.00 smcs; Olsson Associates \$3,140.71 co; Omaha Performing Arts \$1,043.75 smcs; Omaha World-Herald \$96.20 smcs; One Call Concepts \$234.55 smcs; O'Reilly Auto \$1,849.70 smcs; Oriental Trading \$193.69 smcs; Orscheln \$243.36 smcs; Overhead Door \$70.00 smcs; Paramount \$149.10 smcs; Paypal-4D Computer \$339.99 smcs; Paypal-CNE Depot \$502.55 co; Paypal-Ebay \$25.00 smcs; Paypal-JohnF \$499.99 co; Paypal-Newopenbox \$299.99 co; Paypal-Smartpartpc \$739.98 co; Penworthy \$278.66 smcs; Pep Co \$56.34 smcs; PGA Merchandise Show \$325.00 smcs; Pheasants Forever \$20.00 smcs; Pitney Bowes \$90.00 smcs; Platte Valley Brewery \$59.26 smcs; Platte Valley Comm \$21.42 smcs; Platte Valley Labs \$567.50 smcs; PP Ernest Sport \$600.00 smcs; Presto-X \$500.57 smcs; Prill,K \$55.64 smcs; Progressive Business \$299.00 smcs; Quill \$325.43 smcs; Radioshack \$16.98 co; Random House \$127.50 smcs; Rasmussen Mechanical \$100.00 smcs; Ready Mixed Concrete \$2,140.60 smcs,co; Recognition Unlimited \$127.65 smcs; Recorded Books \$538.08 smcs; Redbox DVD Rental \$4.82 smcs; Reed,J \$24.02 smcs; Residence Inns Seaworld \$725.64 smcs; Rincon,S \$1.59 smcs; Romar Pest Control \$100.00 smcs; Sapp Bros \$33,935.04 smcs; Schindler Elevator \$722.16 smcs; Sell,J \$10.76 smcs; Sherwin Williams \$149.91 smcs; Sonetics \$345.00 smcs; SosNonProfit Report \$23.00 smcs; Spellman,R \$145.00 smcs; Sport Supply Group \$200.12 smcs; Stampscom \$4.99 smcs; Staples \$112.66 smcs; Steve's Piano Services \$330.00 smcs; Stogdill,C \$33.72 smcs; Story,V \$60.00 smcs; Strobes Nmore \$188.53 smcs; Stubbs,S \$56.58 smcs; Super Shine Auto Care \$96.26 smcs; Target \$38.12 smcs; Teledyne Instruments \$805.62 smcs; Thirsty's \$5.38 smcs; Thompson Co \$63.54 smcs; Tiegjen,A \$54.57 smcs; Tractor-Supply \$197.81 smcs; Tri-Cities Group \$9,260.00 smcs; Tri-County Glass \$314.68 smcs; Trophy Depot \$72.33 smcs; U.S. Firefighter \$139.37 smcs; Uline \$287.37 smcs; Union Bank & Trust \$115,279.62 ps; Unique Management \$259.55 smcs; UNK \$642.10 smcs; UPS Store \$37.37 smcs; Upstart \$126.21 smcs; USA Communications \$170.31 smcs; USPS \$330.90 smcs; Verizon \$223.12 smcs; Vessco \$5,368.25 smcs; Walgreens \$59.85 smcs; Wal-Mart \$904.85 smcs; Walters Electric \$70.00 co; Wastegroup Pumps \$271.72 smcs; Wef Wythe \$70.00 smcs; Weis Equipment \$130.00 smcs; Wilke's True Value \$305.37 smcs,co; Williams,M \$98.90 smcs; Winter Equipment \$663.81 smcs; Witmer Public Safety \$626.38 smcs; Work Boots USA \$221.35 smcs; WPCI \$107.00 ps; Zoro Tools \$126.73 smcs; Payroll Ending 2-21-2015 -- \$374,404.13. 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.

4. Approve the recommendation from the Park & Recreation Department on the purchase of 60 gas powered motorized golf cars for the Meadowlark Hills Golf Course from Masek Distributing in the amount of \$149,230.

5. Adopt **Resolution No. 2015-32** authorizing the execution and delivery of a Master Governmental Lease-Purchase Agreement providing financing for 60 golf cars for Meadowlark Hills Golf Course.

### RESOLUTION NO. 2015-32

WHEREAS, a resolution of the governing body of the City of Kearney, Nebraska authorizing the execution and delivery of a Master Governmental Lease-Purchase Agreement with respect to the acquisition, purchase, financing and leasing of certain equipment for the public benefit; authorizing the execution and delivery of documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; and

WHEREAS, the City of Kearney (the "Lessee"), a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of Nebraska is authorized by the laws of the State of Nebraska to purchase, acquire and lease personal property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the Lessee desires to purchase, acquire and lease certain equipment constituting personal property necessary for the Lessee to perform essential governmental functions; and

WHEREAS, in order to acquire such equipment, the Lessee proposes to enter into that certain Master Governmental Lease-Purchase Agreement (the "Agreement") with Wells Fargo Equipment Finance, Inc. (the "Lessor"), the form of which have been presented to the governing body of the Lessee at this meeting; and

WHEREAS, the governing body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement for the purchase, acquisition and leasing of the equipment to be therein described on the terms and conditions therein provided.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska as follows:

Section 1. Approval of Documents. The form, terms and provisions of the Agreement is hereby approved in substantially the form presented at this meeting. With such insertions, omissions and changes as shall be approved by the Mayor of the Lessee or other members of the governing body of the Lessee executing the same, the execution of such document being conclusive evidence of such approval; and the Mayor of the Lessee is hereby authorized and directed to execute, and the City Clerk of the Lessee is hereby authorized and directed to attest and countersign, the Agreement and any related Exhibits attached thereto and to deliver the Agreement including such Exhibits to the respective parties thereto and the City Clerk of the Lessee is hereby authorized to affix the seal of the Lessee to such documents.

Section 2. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement to

carry out, give effect to and consummate the transactions contemplated thereby and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement.

Section 3. No General Liability. Nothing contained in this resolution, the Agreement nor any other instrument shall be constructed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this resolution, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rental payments payable under the Lease are special limited obligations of the Lessee as provided therein.

Section 4. Appointment of Authorized Lessee Representatives. The Finance Director and City Clerk of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of the Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Agreement.

Section 5. Severability. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 6. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 7. Effective Date. This resolution shall be effective immediately upon its approval and adoption.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**6.** Adopt **Resolution No. 2015-33** approving Change Order No. 2 showing an increase in the amount of \$70,740.84, Application and Certificate for Payment No. 3-Final in the amount of \$165,818.44, and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2014 Part 3 Improvements; 16th Street and 5th Avenue Project.

### **RESOLUTION NO. 2015-33**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2014 Part 3 Improvements; 16th Street and 5th Avenue Project, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$70,740.84, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$165,818.44 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as

follows:

Original Contract Sum	\$728,339.25
Change Order No. 1 (8-26-2014)	+ 35,005.00
Change Order No. 2 (2-24-2015)	<u>+ 70,740.84</u>
	\$834,085.09
Contract Sum To Date	834,085.09
Gross Amount Due	834,085.09
Retainage	.00
Amount Due to Date	834,085.09
Less Previous Certificates for Payment	<u>668,266.65</u>
Current Payment Due	\$165,818.44

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 8, 2014, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit "A", Application and Certificate for Payment No. 3-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**7.** Adopt **Resolution No. 2015-34** approving Application and Certificate for Payment No. 4 in the amount of \$737,158.15 submitted by Midlands Contracting and approved by Miller & Associates for the 2014 Part 7 Improvements consisting of Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue and Sanitary Sewer Connection District No. 2014-1 commencing at a point near the Kearney RV Park located at 315 Avenue M, northward and westward in an easement, Landon Street if extended, thence northward through Riverside Addition and Kreutz Addition to 4th Street, thence westward to Central Avenue.

**RESOLUTION NO. 2015-34**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2014 Part 7 Improvements consisting of Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue and Sanitary Sewer Connection District No. 2014-1 commencing at a point near the Kearney RV Park located at 315 Avenue M, northward and westward in an easement, Landon Street if extended, thence northward through Riverside Addition and Kreutz Addition to 4th Street, thence westward to Central Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$737,158.15 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$5,513,218.10</u>
Contract Sum To Date	5,513,218.10
Gross Amount Due	2,218,662.13
Retainage (10%)	221,866.21
Amount Due to Date	1,996,795.91
Less Previous Certificates for Payment	<u>1,259,637.76</u>
Current Payment Due	<u>\$ 737,158.15</u>

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

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**8.** Adopt **Resolution No. 2015-35** approving Application and Certificate for Payment No. 3 in the amount of \$151,173.83 submitted by Midlands Contracting and approved by Miller & Associates for the 2014 Part 8 Improvements consisting of Water District No. 2014-574 and Sanitary Sewer District No. 2014-512 in 27th Avenue from 11th Street south 850 feet; and Water District No. 2014-575 and Sanitary Sewer District No. 2014-513 in 30th Avenue from 11th Street south 1,500 feet.

**RESOLUTION NO. 2015-35**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2014 Part 8 Improvements consisting of Water District No. 2014-574 and Sanitary Sewer District No. 2014-512 in 27th Avenue from 11th Street south 850 feet; and Water District No. 2014-575 and Sanitary Sewer District No. 2014-513 in 30th Avenue from 11th Street south 1,500 feet, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$151,173.83 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$749,062.00</u>
Contract Sum To Date	749,062.00
Gross Amount Due	447,967.43
Retainage (10%)	44,796.74
Amount Due to Date	403,170.69
Less Previous Certificates for Payment	<u>251,996.86</u>
Current Payment Due	<u>\$151,173.83</u>

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 3, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**9.** Adopt **Resolution No. 2015-36** approving Application and Certificate for Payment No. 1 in the amount of \$61,803.90 submitted by Midlands Contracting and approved by Miller & Associates for the 2014 Part 10 Improvements – Bid A consisting of Water District No. 2014-576 and Sanitary Sewer District No. 2014-514 for 17th Street from Avenue M east to the east lot line of Lot 5, Block Two, Marlatt Addition.

**RESOLUTION NO. 2015-36**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2014 Part 10 Improvements – Bid A consisting of consisting of Water District No. 2014-576 and Sanitary Sewer District No. 2014-514 for 17th Street from Avenue M east to the east lot line of Lot 5, Block Two, Marlatt Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$61,803.90 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$119,030.00</u>
Contract Sum To Date	119,030.00
Gross Amount Due	68,671.00
Retainage (10%)	6,867.10
Amount Due to Date	61,803.90
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 61,803.90

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**10.** Adopt **Resolution No. 2015-37** approving Change Order No. 1 showing an increase in the amount of \$3,354.00 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2014 Part 10 Improvements – Bid B consisting of Paving Improvement District No. 2014-966 for 17th Street from Avenue M east to the east lot line of Lot 5, Block Two, Marlatt Addition.

**RESOLUTION NO. 2015-37**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2014 Part 10 Improvements – Bid B consisting of Paving Improvement District No. 2014-966 for 17th Street from Avenue M east to the east lot

line of Lot 5, Block Two, Marlatt Addition and have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$3,354.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$203,669.00
Change Order No. 1 (2-24-2015)	+ 3,354.00
Contract Sum to Date	\$207,023.00

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

PASSED AND APPROVED THIS 24TH DAY OF FEBRUARY, 2015.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

11. 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 at Good Samaritan Medical Group located at 3219 Central Avenue on March 19, 2015 from 5:00 p.m. until 7:00 p.m. for Business After Hours.
12. Authorize City staff to pursue a "Request for Information" for telephone services and support.
13. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class IK-064728 liquor license to dispense beer, wine and distilled spirits at The Archway located at 3060 East 1st Street on March 14, 2015 from 5:00 p.m. until 11:00 p.m. for a Christmas Party.
14. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N on March 14, 2015 from 10:00 a.m. until 12:00 a.m. and on March 15, 2015 from 11:00 a.m. until 7:00 p.m. for a trade show.
15. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on March 21, 2015 from 3:00 p.m. until 12:00 a.m. for a reception.

**V. CONSENT AGENDA ORDINANCES**

None.

**VI. REGULAR AGENDA**

**OPEN ACCOUNT CLAIM**

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$87,003.54 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

**VII. REPORTS**

City Manager Michael Morgan reported there is a group working on the marketing plan to support Great Lakes and air service so there will be some announcements upcoming about some of the those items.

City Manager also stated the Greater Nebraska Cities (GNC) met recently and have learned with the Legislative session that there are some major challenges being put forth that would have difficult effect on some of the things that the City does as a community. They will be putting forth some of the concerns they have and hopefully have some impact at the Legislature. There are some citizens that are very interested in impacting local government and what the City does especially with tax increment financing and some of those financial issues due to some challenges in other communities.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 6:35 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

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

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