

Kearney, Nebraska
March 10, 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 March 10, 2015, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: John Lowe, Linda Niemeyer, Cindy Houlden, Toby Houlden, Terry Broadfoot, Jori Pearson, Fred Hammer, Craig Bennett, Trenton Snow, Tim Norwood, Tom McCarty, Tami Moore, Patty Reifenrath, Ken Reifenrath, Angie Johnson on behalf of Kenwood School, Nathan Frehichs, Nathan Wells, Stephanie Todd, Fred Hammer, Roger Traficon for Jodi Sowl, Damien Todd, Jenny Gibbs, Susan Wheeler, Jacob Patient, Keith Couple, Keven Kusek, Steve Altmaier from KGFV Radio, Brent Wiethorn from KKPR, Ashley White from Kearney Hub, Lauren Scharf from NTV, and several other southwest neighbors.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

PLATTE VALLEY LIQUOR LICENSE

Mayor Clouse opened the public hearing on the application for Class C-111547 liquor license submitted by Lowe Group Inc., dba Platte Valley located at 14 East Railroad Street, consider the manager application for John Lowe, and consider Resolution No. 2015-38.

John Lowe presented this matter to the Council. He purchased the Platte Valley Brewery and he is turning into Platte Valley wishing to continue business. It is mandatory that all employees take or have taken the eTIPS training program. They also have a policy that on random nights they check everyone's ID's under the age of 40. As a policy anybody that comes close to looking like a minor they card them. Their clientele at this time is not primarily college students; it is an older crowd. They have gone to mandatory shots and shot pourers and have reduced the size of alcohol being put into a drink. If a customer does order more than one, it is in a larger glass so the volume of mix is up with it. If an employee does sell to a minor it is brought to him and the employee is fired immediately. He has had three meetings in the last three weeks with employees on policies and how strict they are going to be. He has very good employees.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2015-38** recommending approval to the Liquor Commission the application for Class C-111547 liquor license submitted by Lowe Group Inc., dba Platte Valley located at 14 East Railroad Street, and approve the manager application for John Lowe. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2015-38

WHEREAS, Lowe Group Inc., dba Platte Valley has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-111547 Liquor License to do business at 14 East Railroad Street, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Lowe Group Inc., dba Platte Valley also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of John Lowe; and

WHEREAS, a hearing was held relating to said application on March 10, 2015 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant has submitted the Liquor License Training Compliance form indicating all employees have or will complete a state approved alcohol server/seller training program.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class C-111547 Liquor License to Lowe Group Inc., dba Platte Valley located at 14 East Railroad Street, Kearney, Nebraska, and to approve the application for Manager of John Lowe.

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

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

SPEEDEE MART 2767 LIQUOR LICENSE

Mayor Clouse opened the public hearing on the application for Class D-111099 liquor license submitted by Western Oil II, LLC, dba Speedee Mart 2767 located at 108 South 2nd Avenue, consider the manager application for Luke Moser, and consider Resolution No. 2015-39.

Linda Niemeyer presented this matter to the Council. She is the manager of Speedee Mart here in Kearney. Rite Way Oil were the previous owners of the business and they have recently sold out to Western Oil effective March 1. Western Oil is a company out of Valentine and they have been in business since 1996. They have 14 or 15 other locations that they currently have leased out across northern Nebraska. They have licenses and they currently have one in the Plainview location. The Valentine stores had licenses for ten years and are well aware of the liquor laws. As far as training, they do the TAM (Techniques of Alcohol Management) that the employees do every year as well as they participate in the TIPS program which is done locally and they keep everyone current in that certification.

With regard to an employee selling to a minor, Ms. Niemeyer stated they had that happen one time within the past year; they all have been through the training. They repeat the training and stress the importance of it. In this case, the employee did not lose his job but that is always a possibility and he learned from his mistakes. There was a compliance check recently since then and it was the same employee that was on duty, he did not make the sell.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2015-39** recommending approval to the Liquor Commission the application for Class D-111099 liquor license submitted by Western Oil II, LLC, dba Speedee Mart

2767 located at 108 South 2nd Avenue, and approve the manager application for Luke Moser. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2015-39

WHEREAS, Western Oil II, LLC, dba Speedee Mart 2767 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class D-111099 Liquor License to do business at 108 South 2nd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Western Oil II, LLC, dba Speedee Mart 2767 also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of Luke Moser; and

WHEREAS, a hearing was held relating to said application on March 10, 2015 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant has submitted the Liquor License Training Compliance form indicating all employees have or will complete a state approved alcohol server/seller training program.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class D-111099 Liquor License to Western Oil II, LLC, dba Speedee Mart 2767 located at 108 South 2nd Avenue, Kearney, Nebraska, and to approve the application for Manager of Luke Moser.

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

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CONDITIONAL USE PERMIT FOR NORTHEAST CORNER OF ANTELOPE AVENUE AND 78TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Siel Construction Inc. and Miracle Farms Inc. for a Conditional Use Permit to operate a borrow pit on property zoned District AG, Agricultural District and described as the Northwest Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., all in Buffalo County, Nebraska (northeast corner of Antelope Avenue and 78th Street) and consider Ordinance No. 7967. Planning Commission recommended approval. The ordinance was provided to the applicant and owner last week for review. They have signed and submitted the Acknowledgment agreeing to the conditions.

The applicant is requesting approval for a Conditional Use Permit (CUP) to extract borrow materials for the Cherry Avenue Bypass Project. This borrow pit is needed to obtain dirt for the contractor to widen 78th Street. The permit has been approved by NDOR, the State Historical Society, Army Corps of Engineers and Game and Parks.

Construction of the project will begin March 30, 2015. The site will return to agricultural ground when the project is completed. The site parallels the actual construction of 78th Street so trucks will not be going by any residential houses.

The site is currently used as farm ground. This CUP is subject to all applicable State and Federal laws and copies for State and Federal authorizations are requested for the City files. The applicant has requested the CUP coincide with Cherry Avenue projected construction timeline. Staff recommends approval of the Conditional Use Permit for Siel Construction to borrow materials for Phases 2 and 3 of the Cherry Avenue Bypass project to December 31, 2016.

Terry Broadfoot presented this matter to the Council. These are borrow pits for the last stage of the Cherry Avenue Bypass. Miracle Farms owns the property, there is a hump in the southeast quarter and basically they will go in and that will be scraper dirt and they will take that hump and use it for the bypass road.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Siel Construction Inc. and Miracle Farms Inc. for a Conditional Use Permit to operate a borrow pit on property zoned District AG, Agricultural District and described as the Northwest Quarter of Section 17, Township 9 North, Range 15 West of the 6th P.M., all in Buffalo County, Nebraska (northeast corner of Antelope Avenue and 78th Street) and introduced Ordinance No. 7967 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. 7967. 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. 7967 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7967 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7967 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.

CONDITIONAL USE PERMIT FOR 2,400 FEET EAST OF GLENWOOD CORNER AND 1,600 FEET SOUTH OF 78TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Siel Construction Inc. and Thad, Allan and Patrica Deets for a Conditional Use Permit to operate a borrow pit on property zoned District AG, Agricultural District and described as part of the Southwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (2,400 feet east of Glenwood Corner and 1,600 feet south of 78th Street) and consider Ordinance No. 7968. Planning Commission recommended approval noting if Siel Construction wants a 3-year extension they will have to make application at that time. The ordinance was provided to the applicant and owner last week for review. They have signed and submitted the Acknowledgment agreeing to the conditions.

The applicant is requesting approval for a Conditional Use Permit (CUP) to extract borrow materials for Phase III of the Cherry Avenue Bypass Project. The site is currently used as farm ground. This CUP is subject to all applicable State and Federal laws and copies for State and Federal authorizations are requested for the City files.

The applicant has requested the CUP coincide with the Cherry Avenue projected construction timeline and an additional three years to operate at this location once the bypass project is completed in order to continue to provide materials for area construction projects. The requested extension is acceptable to staff with the understanding that Siel Construction must receive authorization for the 3-year extension from Planning Commission and City Council at that time. Planning Commission noted that since the applicant must receive authorization for the 3-year extension from Planning Commission and City Council, requiring a new application rather than approving an extension would not add any additional submittal requirements.

Terry Broadfoot presented this matter to the Council. This will be a borrow pit for the furthest west part of the project. The proposed site is a knob that goes up into the corner of that property, the old right-of-way is through the south piece about a 20-30 foot knob there that goes down to the same level as what the railroad right-of-way was. Basically, they will take that hump off in that corner.

Council Member Lammers asked the three year period is that a long enough period. Mr. Broadfoot stated yes the job should be done within a year. The CUP may come back another time, they may want to keep it for another time but they will come back and re-apply.

Council Member Nikkila asked they are not voting on the 3-year period, it is just what the Planning Commission recommended. City Clerk stated that was correct and would expire December 31, 2016.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Siel Construction Inc. and Thad, Allan and Patrica Deets for a Conditional Use Permit to operate a borrow pit on property zoned District AG, Agricultural District and described

as part of the Southwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (2,400 feet east of Glenwood Corner and 1,600 feet south of 78th Street) and introduced Ordinance No. 7968 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7968. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7968 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7968 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7968 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

REZONING 12 EAST 35TH STREET

Mayor Clouse opened the public hearing on the Application submitted by JP Builders and CNS Ventures, LLC to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District C-O, Office District property described as Lots 15, 16 and 17, Kecks Subdivision to the City of Kearney, Buffalo County, Nebraska (12 East 35th Street) and consider Ordinance No. 7969. Planning Commission recommended approval.

The applicant is requesting approval to rezone property to allow a higher-density. This property consists of three platted lots as follows: Lots 15, 16, 17 of Kecks Subdivision. The property is currently zoned R-1 and comprises approximately .35 acres.

The applicant would like the flexibility to construct a multi-family, 4-plex, structure on the property in question. The C-O zoning requested allows for this type of construction. Planning Commission discussed the possibility that R-2 zoning would also allow for a 4-plex. The C-O zoning allows for greater impervious coverage, 80 percent versus 55 percent, allowing additional off-street paved parking to be created in the rear yard. The allowable impervious coverage is 80 percent. Adjacent properties to the south and east are currently zoned and in use as C-O. Zoning to the west and north across the alley is currently R-1.

Jori Pearson presented this matter to the Council. He stated the rezoning of the property, everything around it that is not R-1 is C-O and they are asking for it to be zoned C-O, at the recommendation of DRT, for continuity of zoning so they can put up a four plex.

Council Member Nikkila asked for clarification of C-O versus R-2. Mr. Pearson stated once again he thinks it was to keep the continuity of zoning through the property. Suzanne Brodine, Assistant City Manager stated there are some differences in the C-O and R-2; a lot to do with impervious surface and coverage. This allows more flexibility with that so they can have some proposed parking off the alley, similar to what you see at Elizabeth House which is the existing property adjacent to this location.

Don Wolf, 2 East 35th Street, voiced his opposition. The Elizabeth House bought up half of the block, Good Sam Hospital bought all of the houses years ago on the south side of the street so they can put in the cement which is not very well used. He has lived on the corner for 45 years and they are not fond of having a bunch of apartments next door to him. He would like Mr. Pearson to elaborate how that will be laid out on the property and how the building will be structured. He did not favor that whole side of the block being C-O.

Richard Hancock, 11 East 35th Street, voiced his opposition. He lives across the alley from it. When the Elizabeth House was built there was an issue with the paving of the alley and the City Council approved paving the entire alley when the Elizabeth House was originally planned and then allowed them to pave half of the alley which was wrong in his book they tried to make the owners pay for it on their side of the alley even though they were improving it. Since he owns more than 51 percent they ended up paying for it. The parking issue on the other area is an issue; the whole alley is torn up from the traffic that Elizabeth House gets.

He would like to find out who is paying to repave that alley and what he understands City Council is approving for C-O instead of R-2. When it was listed originally it was for an office building but now they want to put up a four plex for residential, which way is it, is it residential or office building. The first description described it as a dentist office building but now adding a four plex as residential. Those are his concerns. The three properties that are adjacent to the property have no interest in improving the alley because it is not beneficial to them. If they are going to put a four plex or an office building there that will increase the traffic exponentially and make that alley almost un-useable because it will have to be paved. The other people do not want to have to foot the bill for their improvement even though it is a challenge for that side of the road.

Mr. Hancock asked if an office building or residential can be built in that C-O zone. Council Member Buschkoetter stated yes in that C-O zone, which is how the Elizabeth House is. It is zoned for the exact same thing. Mr. Hancock stated but it is not residential. It is a business not meant for people to live there long term. They will have to have so many off street parking and the only place they can do it is in the alley.

Mr. Pearson stated the parking issue and he understands not wanting to pave that alley as homeowners and they have been informed that that alley will have to be paved and that the property owners will have to pay for that paving. They have even talked about

paving it the whole way out not just behind the property. Council Member Buschkoetter asked by the owners you mean you. Mr. Pearson stated yes, part of the understanding at DRT was that they would be responsible for paving that. Mayor Clouse stated the adjacent property owners will not be responsible for paving.

Mr. Pearson stated they are still determining the layout of the current property. Obviously they have a 25-foot setback on Mr. Wolf's side and they will respect that and put up a privacy fence or leave the one that is there. As far as the garage goes it will be relocated to another property so it will not be torn down. To address the issue of listing this as an office complex he personally has never listed it that way. Council Member Buschkoetter stated that is just the language that is used.

Mr. Pearson stated his understanding after the DRT meeting was the alley would be paved all the way to Central Avenue. Council Member Nikkila asked is that in the agreement that they will take responsibility. Mr. Pearson stated unless they can get 51 percent cooperation and it did not appear he would get that. City Attorney Michael Tye stated the reason the alley did not get paved all the way previously was because they could not get 51 percent. So if they do not have 51 percent now they cannot require the neighbors to pave; so if they want it paved they will have to pave it themselves.

Mr. Hancock stated he would like Mr. Pearson to address the zoning. He originally heard that it was proposed to be a 2-story building which he is opposed to. Mr. Pearson stated they are still in the development phase on planning and design. Council Member Buschkoetter asked if this will still have to come through City Council.

Assistant City Manager Suzanne Brodine stated the only way it would come through City Council is if there was a Planned Development. If that decision was chosen to be made it would have to go through Planning Commission. City Manager stated the concern with this is it is not known exactly what is going to occur because of the zoning. One option for Council is to send back to Planning Commission and request the Planned Development be attached to it which was discussed at the Planning Commission meeting and it seems reasonable given what is in the area. All of the uses within that zone could be built without further review from Council. He thinks that is what the neighborhood is concerned about.

Council Member Lear stated or it could be rezoned to C-O/PD. City Manager stated what the developer said initially that would go there was housing so if the developers wishes to put in housing it should not be an issue to go back and rezone it to allow housing only which is consistent with what the original request was. That is what the neighborhood concern is because there is no guarantee of what it could be.

Council Member Nikkila asked if PD was still allowed they could give more impervious coverage that they want for the parking. Assistant City Manager confirmed.

Mayor Clouse asked if Council changes it to C-O/PD, would you be okay with that. Mr. Pearson stated the main reason they did not request a Planned District is because they were not requiring the discretionary provisions. Council Member Lear stated they will meet everything under C-O, if they went R-2 then PD would make more sense because you might want to have some alleviations.

City Manager stated R-2 would be more clear and defined if that was the prerogative but what was requested was broader than that. The only way to assure that it will be residential is through the Planned Development or an R-2 designation. Mayor Clouse asked to do that they would have to send back to Planning Commission.

Council Member Lear asked if Mr. Pearson would have any discomfort with an R-2/PD designation. Mr. Pearson stated the only discomfort he would have would be that they asked for a C-O at the recommendation of the DRT plus the another month of waiting.

Mr. Hancock stated he would like some definition about what they mean by family, in other words one of his concerns is he does not want a bunch of rowdy college kids. One person told him if you have four non related people living in the same apartment that is a family. Council Member Buschkoetter stated it is not the definition but it is a legal definition by the federal government and if they were to go against that they would be in serious trouble from the Department of Housing and Urban Development and several other organizations so that is the legal definition.

Mr. Hancock asked does it mean that the property can be rented to anybody and everybody. Council Member Buschkoetter stated like any other property. Mr. Hancock stated he could absolutely have a yard full of college kids partying at 3:00 a.m. Council Member Nikkila stated there is nothing stopping any of those owners.

Council Member Lear stated they could rezone it as requested, come up with any formula of zoning they want, or they could send it back to Planning Commission and have them redo it. Council Member Nikkila asked what are the possible things that C-O can become other than an office building or a residential property. Assistant City Manager stated it is an office or lesser use like residential property.

City Manager stated it could be a 2-story under C-O. Council Member Lear stated it could be a 2-story under R-2 also. Council Member Nikkila stated the lot is not going to be developed as a single-family house it will be an office building or duplex. How can they create some protection for the neighborhood. Council Member Lear stated the best way you can do that in his opinion would be a PD designation since they do not have a plan here to look at you would require the PD so that they have to bring the development back. That is a burden on the developer because now they have another 30 day timeline that they would have to go get their building approved.

Council Member Nikkila stated he's not terribly concerned about it having a PD because they already laid out the fact that they will pave the alley and the use of it if you are having an office building or a multi-family going R-2 will not provide any greater protection other than Council being able to put their stamp on what the house looks like. Council Member Lear stated he would only say R-2 or R-2/PD the only way you get any additional bite at the apple would be with a PD designation. If it is rezoned C-O he will be able to move forward. If it is rezoned R-2 he will be able to move forward within the restriction of R-2 which might create a problem for the impervious coverage because of the additional parking he might need to provide for a four plex. He might be stuck down to a duplex otherwise in an R-2 to have enough parking potentially and still meet the impervious coverage requirement.

Council Member Nikkila stated he does not think R-2/PD is the right answer because an office can be a good option for that and for the neighbors. He would stick with the C-O or go C-O/PD. Council Member Lear stated he thinks you would only go PD if you wanted to make some of the restrictions in the C-O district more lenient. If you wanted to waive the 25-foot setback for some reason that is why you would put the PD designation and he does not think they want to do that. Council Member Buschkoetter stated neighbors have more protection without the PD than with.

Moved by Clouse to close the public hearing on the Application submitted by JP Builders and CNS Ventures, LLC to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District C-O, Office District property described as Lots 15, 16 and 17, Kecks Subdivision to the City of Kearney, Buffalo County, Nebraska (12 East 35th Street) and introduced Ordinance No. 7969 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. 7969. 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. 7969 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 Lammers seconded by Nikkila that Ordinance No. 7969 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7969 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.

LAND USE MAP AMENDMENT; 4420 WEST 11TH STREET

Public Hearings 6, 7 and 8 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for the Estate of Paul Otto for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agricultural Open to Rural Estates property described as a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4420 West 11th Street) and consider Resolution No. 2015-40.

The applicant is requesting approval to rezone and plat property to create a lot of less than 10 acres around an existing house. The property located at the southeast corner of the intersection of 46th Avenue and 11th Street is currently zoned AG and comprises approximately 20 acres. In order to split the house site from the rest of the parcel the applicant needs to rezone and plat a one lot subdivision which contains 3.80 acres. The applicant has dedicated 17 feet of right-of-way along 11th Street and 13 feet of right-of-way along 46th Avenue. The house currently encroaches into the 50 foot building setback along 11th Street. If the house is ever damaged over 50% or removed from the site, a new structure will have to conform to the required building setback.

The future land use identified for the property is currently Agricultural Open. The applicant has requested an amendment of the Land Use Map to Rural Estates.

The proposed house site does not have access to City services, and exceeds three acres in size. The applicant has requested RR-1, Rural Residential zoning, to allow residential use. The surrounding property is currently agricultural.

The proposed subdivision, to be known as Paul Otto Subdivision, consists of one lot on 3.8 acres at the corner of 46th Avenue and 11th Street – both existing gravel county roads. The lot has no access to water or sewer utilities.

Trenton Snow presented this matter to the Council. He stated the property is located on the corner of 46th Avenue and 11th Street it is an existing house there in the southeast corner of the intersection. The Estate of Paul Otto owns 20 acres there and they want to subdivide off the house site so that it is saleable as a residential lot. Since it is under ten acres they have to bring it to City Council as a subdivision plat and since it is then going to be a subdivision they are also asking for rezoning from Agriculture to Rural Residential.

The existing house will stay there at this time. It is fairly close to the street when they make that a 50-foot street there so if 50 percent or more of the house is destroyed it will have to then meet the requirement of the building setback line at that time. The septic and well are all private. There are no City services out there at this time. It is 3.06 acres once they widen both 11th Street to 50 feet and 46th Avenue to 33 feet from the centerline.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2015-40** approving the Application submitted by Trenton Snow for the Estate of Paul Otto for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agricultural Open to Rural Estates property described as a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4420 West 11th Street). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2015-40

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 Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of Government Lot 1 in said Section 9 and assuming the North line of said Government Lot 1 as bearing N89°18'32"E and all bearings contained herein are relative thereto; thence N89°18'32"E on the aforesaid North line a distance of 431.0 feet; thence SOUTH a distance of 379.75 feet; thence S89°18'32"W, parallel with the aforesaid North line a distance of 441.02 feet to a point on the West line of said Government Lot 1; thence N01°30'40"E on the aforesaid West line a distance of 380.0 feet to the place of beginning, containing 3.80 acres, more or less, Buffalo County, Nebraska from Agricultural Open to Rural Estates, 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 Agricultural Open to Rural Estates the use classification for a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of Government Lot 1 in said Section 9 and assuming the North line of said Government Lot 1 as bearing N89°18'32"E and all bearings contained herein are relative thereto; thence N89°18'32"E on the aforesaid North line a distance of 431.0 feet; thence SOUTH a distance of 379.75 feet; thence S89°18'32"W, parallel with the aforesaid North line a distance of 441.02 feet to a point on the West line of said Government Lot 1; thence N01°30'40"E on the aforesaid West line a distance of 380.0 feet to the place of beginning, containing 3.80 acres, more or less, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING 4420 WEST 11TH STREET

Public Hearings 6, 7 and 8 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for the Estate of Paul Otto to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the

6th P.M., Buffalo County, Nebraska (4420 West 11th Street) and consider Ordinance No. 7970.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Trenton Snow for the Estate of Paul Otto to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (4420 West 11th Street) and introduced Ordinance No. 7970 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7970. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7970 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7970 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7970 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 PAUL OTTO SUBDIVISION

Public Hearings 6, 7 and 8 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for the Estate of Paul Otto for the Final Plat for Paul Otto Subdivision of Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (corner of 11th Street and 46th Avenue) and consider Resolution No. 2015-41.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2015-41** approving the Application submitted by Trenton Snow for the Estate of

Paul Otto for the Final Plat for Paul Otto Subdivision of Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (corner of 11th Street and 46th Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2015-41

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Paul Otto Subdivision, a subdivision of Buffalo County, Nebraska for a tract of land being part of Government Lot 1 in Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest corner of Government Lot 1 in said Section 9 and assuming the North line of said Government Lot 1 as bearing N89°18'32"E and all bearings contained herein are relative thereto; thence N89°18'32"E on the aforesaid North line a distance of 431.0 feet; thence SOUTH a distance of 379.75 feet; thence S89°18'32"W, parallel with the aforesaid North line a distance of 441.02 feet to a point on the West line of said Government Lot 1; thence N01°30'40"E on the aforesaid West line a distance of 380.0 feet to the place of beginning, containing 3.80 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the 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 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CONDITIONAL USE PERMIT 1419 EAST 1ST STREET SOUTH

Mayor Clouse opened the public hearing on the Application submitted by Broadfoot Sand & Gravel and YB Investments, LLC for a Conditional Use Permit to operate a borrow pit on property zoned District AG, Agricultural District and described as part of the Northwest Quarter of Section 18, Township 8 North, Range 15 West of the 6th P.M., all in Buffalo County, Nebraska (1419 East 1st Street South) and consider Ordinance No. 7971. Planning Commission recommended approval. The ordinance was provided to the applicant and owner last week for review. They have signed and submitted the Acknowledgment agreeing to the conditions.

The applicant is requesting approval for a Conditional Use Permit (CUP) to extract sand and gravel for concrete plants over the next five years.

This property is zoned AG, Agricultural, and is described as being part of Section 18, Township 8 North, Range 15 West. The general location for the mining operation is at

the Avenue M overpass, south of I-80. The borrow site will have 50 feet of separation from the east and west property lines, 300 feet of separation from East 1st Street and approximately 400 feet of separation from the south property line before it goes into accretion ground. The surface area of the proposed pit is approximately 9.5 acres and when it is completed it is proposed to be a permanent sand pit. The sand and gravel that is extracted from the site will be for the concrete plants. This CUP is subject to all applicable State and Federal laws and copies for State and Federal authorizations are requested for the City files.

The applicant intends to supply the two concrete plants in Kearney and this location makes it more convenient to deliver the product to the plants than other existing sites operated by the applicant. The only equipment that will be parked on the site will be loaders. The gravel trucks will be at their main facility. Staff recommends approval of the requested Conditional Use Permit for Broadfoot Sand and Gravel to mine sand and gravel until December 31, 2019.

Craig Bennett from Miller & Associates presented this matter to the Council. The site is located in the southeast portion of town and outside City limits but it is within the 2-mile jurisdiction. It is on the south side of Interstate 80 and the axis of Avenue M is used to get to the site.

On the north side is East 1st Street they are looking at a separation of approximately 300 feet from the south right-of-way line of East 1st Street. The actual area that they are looking at for a borrow pit which would be a pond that they are going to create and will be the final product will be about 9.5 acres. It is similar to other things around the area in terms of ponds or sandpits that have been created although this will be a larger one than what you would see adjacent to it. Essentially, the site would be used and the hauling would occur on East 1st Street and the primary reason for the location is because they would have access to use the site for sand and gravel for the two concrete plants. It is a good circulation route to get to those two places. The trucks would go across the I-80 overpass and circulate over Avenue M to either 11th Street or Highway 30.

Council Member Nikkila asked how many years will it take to complete the site or to use what they are intending to get out of it. Mr. Bennett stated he does not know if he can answer how many years right now they are going to use it primarily for sand and gravel for concrete plants so that is the primary use although they may use it for other purposes as well.

Mr. Broadfoot stated basically they try to go around and find the sites because sand and gravel you have to keep close to the river. If they pumped it straight for continuous business which they might or might not, it is probably a five or six year project. He does not see them going out there and pumping continually the next three or four years. Basically, what they do is the concrete plants pump for a while, get the piles big and then will haul them off because especially on this site they will not have a lot of room to pile and they have been in discussion with a neighbor maybe making a pond on that side too. Once again if that happens, they will come back and address it.

It goes up Avenue M they try to stay out of the traffic out of town this way they can go down 11th Street either way east part of town or the west part of town.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Broadfoot Sand & Gravel and YB Investments, LLC for a Conditional Use Permit to operate a borrow pit on property zoned District AG, Agricultural District and described as part of the Northwest Quarter of Section 18, Township 8 North, Range 15 West of the 6th P.M., all in Buffalo County, Nebraska (1419 East 1st Street South) and introduced Ordinance No. 7971 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 Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 7971. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7971 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7971 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7971 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.

LAND USE MAP AMENDMENT FOR 9TH AVENUE BETWEEN 4TH STREET AND 10TH STREET

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately. Planning Commission determined four to one to support the Land Use Map amendment as presented; unanimously to support the rezoning as presented, identifying the MU district for storm water detention; four to one to support the preliminary plat and final plat.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Medium Density Residential and Mixed Use 3 to Mixed Density Residential property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting

said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street) and consider Resolution No. 2015-42.

The applicant is requesting approval for a 40-lot higher-density residential development between 9th and 10th Avenues and between 10th Street and 4th Street. The property is currently zoned R-1, and comprises 20.39 acres.

The current future Land Use Map of the City of Kearney designates this property as Medium Density Residential and Mixed Use 3. The applicant requests an amendment to Mixed Density Residential.

The applicant has requested that the majority of the property, 16.98 acres, be rezoned to R-2 to allow higher density, townhome development. A single lot of approximately 3.41 acres at the south end of the property has been requested to be rezoned to MU, Mixed Use, to allow for several complementary uses: detention, private dog park, and storage units. The detention and park uses are common to many residential developments. The storage units will be screened from R-1 zoning by the proposed townhomes, will provide necessary storage for residents in the higher-density area as well as maintenance equipment for common spaces, and are compatible with MU zoning to the south. Under City Code 36-102, the use types allowed in an MU may be established with the creation of the zoning. Staff recommends that Lot 2, Block 5, Fox Creek subdivision be rezoned to MU and restricted to the above specific uses. A Development Plan will be required for consideration by Planning Commission and City Council prior to issuance of any building permits for the MU lot.

The property is adjacent to R-1, R-2, M-U, AG, and M-1/PD. Given the wide variety of conflicting use types, particularly single-family residential and industrial that surround this property the requested rezoning is appropriate to create a transition from more intense to less intense uses.

The proposed subdivision, to be known as Fox Creek Addition, consists of 40 lots, including one mixed use lot. A Public Works Plan has been provided. A shallow gas line and existing street and lot elevations to the north of the proposed subdivision created challenges to circulation system design and lot layout. Tallgrass Energy has indicated a paved road over the gas line will not be allowed; 9th Avenue cannot be continued to the south across the gas line. Connectivity is provided in 4th and 8th Streets. Although 9th Street would typically be required to have a paved cul-de-sac or hammer head at its terminus, that was not done at the time the subdivision to the east of Fox Creek was platted and is no longer feasible due to requirements associated with the gas line. Existing use of Lot 5, Block 5 (grape production) may continue until a building permit is requested for this property.

Craig Bennett from Miller & Associates presented this matter to the Council. The property is located south of 11th Street and also has 8th Street intersecting it and 4th Street on the southern part. One of the things he pointed out regarding circulation, streets and traffic and as part of the Comprehensive Plan, 8th Street is shown as a collector street which is designated as an east/west circulation point essentially all the way to 2nd Avenue. As he shared with the Planning Commission when they looked at

developing all of Parkview Estates that was a primary design criteria that they had to design 8th Street for right-of-way widths and things like that and houses that abut 8th Street so really what they are doing here is connecting the last gap of that collector street of 8th Street that is existing on both the east and west sides. In addition it shows four streets circulation that also shows connecting into the southeast corner they have made provisions to continue that where Cash-Wa's existing paving terminates into the property.

Mr. Hammer owns all of the property as well as the property that is north of the area that is currently undeveloped. The north section they are asking to be rezoned from R-1 to R-2 and the south portion is primarily where the detention cell would be located and asking for that to be rezoned from R-1 to MU.

Currently the site has an existing 8-inch water line that is on the east, 8-inch water line on the west and very southeast side as well. The infrastructure feasibility plan allows for connection of both of those infrastructures. Sanitary sewer although extended on 8th Street and 9th Street and also extended on 8th Street on the west will primarily be served from the deep water sanitary sewer that is located in 4th Street. That sanitary sewer will be the deep sewer that will be extended up from the south to the north. Similar to what happened for Park View Estates it had to have a trunk line that was extended up from the south as well. There is storm sewer in inlets around the existing property but they will be taking their own storm water and putting it into a storm water detention cell.

If you were to drive out there today there is an existing terminus intersection that lines up exactly with 10th Street. Several years ago it was replatted to have 10th Street swing down although the intersection was never removed at that time. The current and effective plat shows residential lots located at 10th Street and along 10th Street. The firm worked in 2008 to try and work with the particular plan to extend 9th Avenue south and continue it to the location. Due to the elevation of the high pressured gas line that is out there, they attempted to work around it many times with Park View Estates. It would be several hundred thousand dollars to relocate it for just that street crossing. They went through a design and went through that with Mr. Hammer and even went to the point of letting it out for bids and it was not cost effective to throw those kinds of dollars into a residential development. It would be more cost effective if they were going to do that into a commercial or industrial park but that is not a good fit for that area. For several years that has set on the shelf.

The Infrastructure Feasibility Plan shows the connectivity of the water and sanitary sewer. One caveat that they were able to work with Tallgrass Energy through numerous conversations and meetings and review of design drawings, is that in the particular cul-de-sac they were able to allow them to have a flat drainage way that would be picked up then into a storm water pipe that will look like an inverted crown or a concrete phylum, it would be a valley gutter essentially. The storm water coming across because of the elevation and gas line they were able to provide enough separation with the 6-inch valley gutter to provide the minimum separation that Tallgrass Energy requires to have there. The storm water would be picked up in an inlet and storm pipe and taken underground south to the detention cell.

Council Member Lammers asked if 8th Street has always been set up to be a collector street. Mr. Bennett confirmed. Council Member Lammers asked if 4th Street could also serve that purpose. Mr. Bennett stated it could very well. 4th Street was shown also as a street that would go through on the Comp Plan. When Park View Estates was set up it was set up in such that 17th Avenue according to the Comp Plan which is north/south along the west side would be a collector street and would extend south to 8th Street and 8th Street is platted the same width as that collector street. 4th Street would then continue as well. There are two streets that in the subdivision connect to the south as well to 4th Street eventually.

Council Member Lear asked Mr. Bennett when the Land Use Map was adopted. Mr. Bennett stated it was adopted in 2003.

Council Member Nikkila asked can you talk about the property a little more as why it should be R-2 and why it is appropriate to make it R-2 because years ago it was zoned R-1. Are they asking the current developer to deal with a problem that was created years ago. Mr. Bennett stated all of Cash-Wa itself was also zoned R-1 before they came through, all of the property was zoned R-1. The logical approach may be if someone suggested continuing the M-1 because 4th Street is going to provide great circulation, does not it make sense to zone it light Industrial going across there. The current developer does not believe it makes sense because it could be a nice progression if he was looking at taking light industrial and extending that across all of Cash-Wa was R-1.

As they look at some others things that have happened through time when it was zoned R-1, Miller & Associates was personally involved with Mr. Rapp in looking at the area. One of main components to that area is separation between the existing ground and ground water elevation. As Mr. Rapp had continued to develop knowing that his target market was going to be a residential home that had a basement by the time you got to the south end he was bringing in fill or elevation up to as much as four feet in some of the areas where the road was at.

There is a point where it does not become cost effective for residential homes to bring in that much import and material so by the time you get down toward the south, you need to determine to the draw on where he had to stop doing basements. That is basically where they are at now from there south is the area where they did not have the ability to bring in fill because of the gas line and crossing so if he brings in fill he will create a dam on the north side of that. As you continue south it is not cost effective to bring that in and build it up for single family homes. If he was looking at a commercial development he would not have a basement as well so it would be perfect for that.

As they looked at some of the zoning history both of them were R-1 before any development and as they looked at the progression some of it has been changed from R-1 to Light Industrial. The elevation of groundwater which they have done monitoring wells throughout the whole property as they looked at developing that to establish what was the high and low water elevations. They have a great model of that so they know that it probably was not known when it was rezoned to R-1 years ago.

Council Member Lammers asked about seven feet to water right there. Mr. Bennett stated yes actually it is kind of elusive there, there is a little bit of a bound depending on the seasonal changes like when the canal is flowing between the months of April and the end of August it will raise to as much as five feet in some areas the closer you get to the property. You would definitely need to build it up if you were going to do a basement and when they put the 27-inch water main in they were in groundwater the whole time.

Council Member Nikkila asked the assumption being that if somebody wants to buy a single family home in Kearney there is someone that wants a basement, is that how the builder is thinking. Mr. Bennett stated in this scenario there is a need for homes that you have as more transitional homes meaning that will you be a young professional that will come in and does not need to rent an apartment but has a place that they want a garage to park a vehicle and wants something with square footage that has 1-2 bedrooms that can be manageable.

That is a lot of what they see for this particular model but due to the fact that it is location and if he would compare it to other communities along the Platte River, a lot of homes do not have basements because of the proximity to ground water. This is an area of Kearney as you go all along Turkey Creek it is the same thing. Even if he looks at Turkey Creek properties which is west those are the same scenarios those were built around a pond it was elevated enough to get the proper separation but you will not have full basements in any of them. It is a viable use for residential. A lot of people think they want basements for storage or tornado shelter but there are also many needs for things that have a more flat grade.

Another thing that is a demographic that he did not list when he answered the question was someone that you may consider an empty nester, someone that is coming back, maybe they do not want something that has a lot of steps because obviously they are not bringing in a huge amount of fill. This would be something that is more attractive to people that would have a slab on grade where you may have less elevation between your garage and first level.

Mayor Clouse asked if Mr. Bennett could talk about buffering. Mr. Bennett stated primarily what they see as buffering is they are seeing an adjacent use along the east side. Because of the gas line that comes across and extends south he has to have a 25-foot side yard offset which under normal circumstances would be seven foot so he has had to provide along the lots that 25-foot of separation which is three to four times more than what is needed. On the west side what they have for buffering has been platted as an Outlot where the driveway that Mr. Rapp has that connects all the way to 11th Street and goes south to his residence, on the west side of that there is an additional buffer that is a detention cell to most people it would look like a ditch but it is an easement for a detention cell for his subdivision. The area is approximately 60 feet of separation which would basically be the width of a right-of-way will be adjacent to the west side of the lots.

Tami Moore read the following statement:

She has been asked to present the petition to City Council this evening and to say a few words. Fifteen years ago she and her late husband decided to focus

their speculation side of the home building business on southwest Kearney. Their realtor at the time and it was Mr. Norwood told them they could never sell homes in southwest Kearney. 150 homes later they are here tonight debating the continued growth of Kearney. Her focus tonight is on responsible growth. She hopes this situation is a catalyst for all of us to create a more transparent and fair approach for future growth of Kearney. The recent open forums, the dialogues led her to believe that citizens want to be informed and included in the vision and long term planning.

City Council has the copy of the petition that was distributed by concerned neighbors; she did not go around and get these names the neighbors stepped up to do it. There are more than 220 signatures and this is the result of the grass roots movement in a very small timeframe. Someone else may address this tonight but the proposed meeting the Planning Commission and City Council meeting is posted on a pole at the end of a dead end 8th Street and you have to cross a private road that takes you to the Rapp property which they are not supposed to be using. She didn't even know about the development until she sat down to prepare for the Planning Commission meeting and it's less than ½ block away from her home. She hopes that as you move forward that you think about this is the 21st century and maybe they need to do more than tack a piece of paper on a stick.

The development has been in the planning phase and discussion process of a small group of professionals for some time. It was posted in a remote spot. The apartments and townhouses in this kind of density will be less than ½ a block away from her front porch. Suddenly after she opposed it at the Planning Commission meeting it became important enough for the newspaper and television to report on. Immediately after the hearing neighbors gathered and began seeking information and clarification. She doesn't have to tell you that the City of Kearney is envied by just about every other community of its size in the United States. They didn't get here by jumping at every chance that came before the City Council those sitting in your chairs a long time ago have made some important decisions they were not always easy but they gave the City a strong economic face, great school system and the thriving neighbors currently.

The path to this point has been focused on responsibility to all concerned. The proposed high density plan does not move southwest Kearney in the right direction. The planning staff supported it because it would create a buffer between the existing family homes and Cash-Wa. Cash-Wa is a great neighbor, she would much rather look out her front door and see Cash-Wa than see storage sheds which could possibly happen. She also doesn't think anyone has talked about the impact of taking this many people out 4th Street past Cash-Wa where the business is moving with trucks. The planning staff sees no safety issues to channeling traffic from a 135 unit complex west on 8th Street through a neighbor full of small children to end at the new elementary school. 8th Street has always been meant to be a feeder street. Always doesn't take into account the changes that have taken place since that original plan and she thinks someone asked earlier last time the platting was done was before Kenwood came to be. She is thinking originally it was probably platted before Yanney Park.

Things do change over time.

The gas line issue has been a concern for them in Park View as they develop and it has cost the developer money to address that. Originally, she had heard that they couldn't put 9th Street in because of the gas line and then heard they couldn't put it in without spending money to do that. Those are two very different things.

There has been many public and private statements about whose housing shortage the development addresses. The Kearney Development Council has studied the impact of the housing shortage extensively and recent statements made from that body report that they need entry level single family homes to attract the kind of workers Kearney's large employers need. This plan eliminates 30-70 single family lots depending on who you talk to. She does believe Mr. Bennett isn't it true that currently there are 30 lots platted so you are talking about future platting. Mr. Bennett stated there are 35. Ms. Moore stated that would remove 35, 70 if you consider future. The plan takes the lots reconfigures them to fit tri-plex and four plex units and adds several more such lots. With the resulting number of as many as 156 units, she will let them use the 135 if that makes sense. There is some interesting math going on in the chart but she will let neighbors talk about that.

Who will live in the units, young professionals, email and verbal conversation between the developers and neighbors reveal that the kind of housing has already been determined. Who are the young people who would want to pay \$1,000 a month in rent for less than 1,000 square feet of living space, no basement for storm shelter or storage, no immediate green spaces and a terrible walking score. Those of you in planning know what a walking score is. A walking score has to do with how far it takes to get to a grocery store, retail outlets, churches, cultural centers, restaurants and bars. The location has a terrible walking score.

Housing studies have not found singles making \$40,000 or families making \$80,000 desperately seeking these types of units. On average individuals or families spend 1/3 of their income on housing. If you could pick this up and drop it onto the footprint that's going to be left when Kearney High leaves you would have an awesome high density development but you would still have to add green spaces, covered parking, a few amenities and ease of traffic. There are so many more reasons why this is a bad idea but others are here to speak so she will give them the chance.

She presents City Council the petition that is signed by over 220 citizens; they have representatives from the west, north and the east residential areas. Their best interests are in City Council's hands tonight. If the developer cared about them he would have brought them into discussion before now. If City Council makes the responsible decision to refuse this, the neighbors are reasonable people and they might support a more responsible approach to this.

The top of the petition states “We citizens of Kearney, Nebraska and surrounding property owners petition the City of Kearney to reject the request for rezoning of land from R-1 to R-2 for 40 lot higher density residential development between 9th and 10th Avenue and between 10th Street and 4th Street and the additional request to allow higher density townhome development. We feel that such a project will unduly increase the traffic and strain on the surrounding neighborhoods. The recent industrial, medical and educational expansion in this area already creates traffic, safety challenges and will result in significant additional challenges with the opening of the new high school and community college. The addition of 117-156 residents instead of the 31 current single family lots is not a responsible plan between two established neighborhoods.”

Council Member Nikkila stated they all take the petition very seriously, like he said earlier when you make a change in zoning when there are neighbors beside it, it is a high bar to set for the developer. He asked Ms. Moore why she voted to approve R-2 zoning at the Planning Commission meeting. Ms. Moore stated in that meeting they have several things to vote on and she went on record three times being opposed to even looking at it, the plat and the final plat. The rezoning has to do with the Mixed Use and unfortunately you cannot have ½ a vote there. During the discussion the Planning Commissioners had a problem with just making that Mixed Use and let them decide what they wanted to put in it. So it was reworded so that they would have to come back to the Commission before they could decide what to put there besides the detention cell so that is why she voted for that.

Council Member Nikkila asked he thought it was the R-2 designation. Ms. Moore stated they were together and you cannot separate and vote. Council Member Nikkila stated but your point is either you were trying to keep things moving or you opposed it. He has heard a few times people talk about there is more responsible ways and asked Ms. Moore what she thought is the more responsible way to have the development look.

Ms. Moore stated the most responsible is to leave it R-1 and to make it single family residences. Like they said and they move south with building in Park View, they are going to have to build houses without basements but there are ways to create storm shelters within houses that do not have basements. In this particular development, you have 135-156 units that have no storage or shelter from storms. You can sell houses without basements if you put shelters in them. There are others ways that this could be handled better, you talk about a buffer they have no buffer from this on either side all tri-plexes and four plexes that is drastic good mixed density uses and good high density mixes you need a little bit of everything in a new development not all concentrated.

Council Member Lammers asked as R-1 even with the way the water table is and with the gas line being there; the ability to do much more than very inexpensive one story homes on a slab is very limited. But the effectiveness of those things are very limited for a developer and your right next to Cash-Wa and next to some other areas that is a transitional zone so it would appear to him that the developers hands are somewhat tied and that is why this part of the ground has not been developed before because of that; two-thirds of the property is in an area that is very difficult to develop.

Ms. Moore asked is it better to put high density on top of a bad area. Council Member Lammers stated high density or it is not any more cars coming out of there and when you get to 8th Street. Ms. Moore questioned the calculations used to determine square footage between R-1 versus R-2 development. Council Member Buschkoetter stated the square footage will change dealing with R-2/R-1 structure. Different sizes of yards, yards take up square footage of the overall ground and therefore you can have a lot more single family homes on an area of ground versus having multi-family homes. You get more of them; there will be more single family homes on smaller lots.

Ms. Moore stated more single family numbers but not units, when you have one four-plex that's four units versus maybe two houses on the same map space. Council Member Buschkoetter stated the better math works. Ms. Moore stated 2,500 square foot is not the average square footage down in that subdivision; that is a fairly big house. The garage stalls if you have 135 units and each unit has two bedrooms and these are for adults she thinks they automatically have to double that because they are both going to have automobiles. Garage stalls is a little misrepresented.

Council Member Buschkoetter stated Kearney needs housing in town, you mentioned the summit that was held and that was the thing we heard most of. Building housing is a good thing. Ms. Moore stated single family houses can go there and it is not really the Council's job to make these easy to sell. Council Member Buschkoetter stated it is also not their job to make them hard to sell because if they are not profitable people do not build them and therefore we do not solve the housing problem. The City has to have all sorts of different types of housing in the community otherwise they do not meet the housing needs.

Ms. Moore stated there are houses that are north of the property that were built on Hammer's land by Spracklen and Russell which are wonderful single family houses and when she built her house she assumed that was the kind of development that was going to be beside her when she invested her money in her house which she thinks is true of some of the other neighbors.

Council Member Lammers stated when you put a property right next to ag property, ag could go any place with zoning. If you look at the whole property to the west that is all ag. It could be zoned as R-2 or many different things. Ms. Moore stated the existing neighborhoods are all R-1.

Council Member Lear asked the majority of the piece of property has never been platted before. Ms. Moore stated that is correct. Council Member Lear stated we really do not have until now an outline of what number of units would or would not go there.

City Attorney Michael Tye stated in terms of notice, the City of Kearney provides more notice than what the law requires. The City is required to either publish or post, they do both because it is appropriate. The City always gets complaints about the placement of the sign; that is a challenging thing to do obviously with a larger parcel of property. The City of Kearney does provide that notice plus there is information available at other places for people to gain access to that either on the website or paper. The City of Kearney goes above and beyond what is required to notify people, they have had people say that they need to send letters but the challenge there is where do you start

and stop, do you send them certified, and how far away from the property do you go. The City does provide notice and have public hearings for this purpose so that people are advised and can come and express their views.

Patty Reifenrath, 808 11th Avenue, read the following statement:

She and her husband wished to express their strong opposition to the rezoning of the 20 acres at 9th Avenue between 4th and 10th Street. Tim Brewster of NP Realty was their real estate agent at the time of the building. Tim informed them that the area was on a flood zone and could never be developed. He stated once they reach the area for construction they could never go any further. That and the fact that the neighborhood was to be single family homes was the reason they decided to build there. Now just a few short years later they find out that multi-family unit housing is being proposed for the same flood zone area by the same real estate firm. To say they feel betrayed by NP Realty is a vast understatement.

The area at 9th Avenue between 4th and 10th Street is surrounded by single family homes on the west and east, a retirement community and Trail and Rails Museum on the north and a flood plain on the south. To place 135-150 unit housing project in that area would destroy in her opinion the way of life for the residents that currently live there, cause safety issues for children and grandchildren and definitely cause it to be an area that they would have no longer any desire to live in. Traffic has already increased and would continue to increase as projects are completed due to the new developments in the area including Kenwood Schools, the hospital and clinic and soon the new high school and community college. Adding in her opinion a minimum of an additional 288 vehicles to the two lanes residential streets, would increase traffic where safety would be a major concern.

She received the figures from the 288 vehicles based on the plans she printed off the website which included 36 four-plex units with two parking spaces for each. 40 of the signatures that Council was provided were obtained by her and her husband. There would have been many more had they had the time however the only notice that was given was two signs on dead-end streets. Her husband did say there was an article in the paper but it was a small paragraph in an unrelated issue. None of the people they talked to had any awareness of the issue and every person they approached to sign the petition signed it except for one that wanted to confirm with her spouse prior to signing and asked her to come back which she was unable to do. She also stopped at the South View Village Apartments, Retirement Community she only had a short time to obtain signatures there she was only able to talk to 6 individuals that lived in the community. None of them knew of the development plans, all were very strongly opposed to it and begged her to come back and obtain more signatures. As stated the high density housing projects such as the one proposed would cause too much noise confusion and traffic.

Like any other homeowner in the area they are also concerned about the effect that such a project would have on their properties value and ability to sell homes

so they can move to a more desirable location if it should go in. Please leave the area zoned for single family housing as it is currently. She knows based on how hard it was to find a home when they moved to Kearney, single family housing is truly needed in Kearney.

Angie Johnson on behalf of Jill Cleavenger, Kenwood Elementary Principal, read the following letter:

Good evening she is proud to be Kenwood Elementary's school principal and regrets that she could not attend the meeting to share her concerns in person. Four years ago they were blessed with the spacious and beautiful building in those four years they have experienced tremendous growing pains and have eventually worked through them to a point where they are feeling comfortable in their new skin.

Their concern continues to arise in parents and staff and that in traffic on 11th Street. To help continue the students safe and parents' minds at ease they have procedures that they have the students follow before and after school especially the students who cross 11th Street. They are truly appreciative for para professional Jayleen Beshore who supervises the crosswalk on 11th Street in the morning from 7:45 AM-8:05 AM as long as it is above 0°. She was put in the duty after analyzing parents' surveys and hearing their needs for safety at the location. After speaking with Ms. Beshore she continues to have concerns even now before the traffic increases. She averages about three cars that run through the crosswalk light each week. There is nothing more heart wrenching then a near fatal accident that even supervision and a crosswalk light can't stop. Ms. Beshore shares that if it would benefit to have a lower speed limit applied to the area or cameras in the crosswalk as she can't watch the students and gets license plates at the same time.

After school the research teacher travels with a large group especially during the warm months to cross the street. There are times when the group is too big to get across in one setting, the traffic will continue for a short amount of time and then will be stopped once again to let them cross. Also the stopping of the traffic on 11th Street impedes the turning lane of 16th Avenue which congests 16th Avenue. Their concern for the crossing at 11th Street still remains and will continue to grow with the high school and community college along with the other housing developments in surrounding areas. She appreciates your attention in the matter and hope they can get support for the little ones in keeping them safe now and in the future.

Nathan Frehichs, 1004 West 9th Street Place, voiced his opposition. He stated the Economic Development Council continues to bring high quality employers to the Kearney area; in fact, Kearney was just chosen as 1 of 21 communities for National Technology Training Effort. With that said as they continue to draw quality employers to the area and grow the economy we need to make sure that we can adequately accommodate the employees with housing. A household making an average \$50,000 a year which is the average median household income in Buffalo County could reasonably get a loan for \$170,000 if they had a 20 percent down payment that would

make the purchase price of a home around \$212,000. Kearney is in desperate need of being able to build homes in that range in order to help attract more businesses to Kearney.

The area known as Fox Creek would be a great location to try and meet that need, it would be a great fit to the existing neighborhoods in that area. It would be attractive as it is close to a newer elementary school, new hospital, great parks, new high school and Interstate 80. The current plan with four plexes would not be attractive for a young professional. If the rent being charged for the housing units is \$1,000 per month and one assumed not more than 30 percent of income should go to housing they would need to generate a household income of \$40,000. That is equivalent to \$135,000 mortgage or the purchase of a \$170,000 home.

His opinion is it would be more beneficial to Kearney as a whole to figure out a way to offer more single family homes in the \$170,000-\$215,000 range. Fox Creek would be a great location for homes in that price range. Four plexes at that rental rate is not a good fit for the economic development of the community and it is not a good fit for the surrounding neighborhoods. He requested the City Council to consider keeping the zoning R-1 for the 20 acres known as Fox Creek Addition.

Council Member Nikkila stated one thing that is interesting that they hear about even if they were to stay R-1 and it would fill up with R-1 homes, traffic in the neighborhood will be bad whether it's single family homes or R-2. He understands that there will be more houses or more cars theoretically is what the neighborhood is saying if it goes to R-2. In terms of the traffic flow to Kenwood is it going to be more or less, he doesn't know is it going to affect 11th Street more or less. Frankly he sees the fact of 8th Street opening up as a benefit to the neighborhood from a traffic perspective because you can start getting out of the neighborhood to the east. There are merits for the development from a traffic perspective as well.

Nathan Wells, 816 12th Avenue, voiced his opposition. He stated he sees the opening of 8th Street as a negative impact on the traffic flow in the neighborhood. It will unquestionably increase traffic flow on 8th Street and that is the main negative that he sees. He agrees that the opening up the neighborhood to the east would be desirable but he thinks there are other ways to do it than making 8th Street a straight shot through. He believes with the employers to the west and the high school to the west that this will make 8th Street a short cut to some of the restaurants on the south 2nd Avenue corridor and honestly the idea of 16-18 year old kids racing to get to Burger King or McDonald's going through his neighborhood is a scary thought. He knows they have had problems with traffic on the 39th Street corridor and he can see the same thing happening in the neighborhood.

Stephanie Todd, 804 12th Avenue, voiced her opposition. She stated she is in favor of growing Kearney. She has been a proponent for recruiting people to come to Kearney either directly as someone hiring for new positions at the companies she has worked for. She looks forward to the land being developed; however, it was zoned as R-1. Many of her neighbors built houses in the neighborhood because that adjacent lot was developed as R-1 and it was even sold to them that way. The neighborhood would not be as strong as it is today without that impression.

She wants to stress that Kearney is able to bring in the young professionals and retain them, housing is an issue but build R-1 homes or single family houses. They can afford to live there. The buffer issue is an issue for her just going straight from single family houses having the ditches separating the four plex units. She also thinks it would be naïve to assume that only one car would be held per unit in the four plexes.

Mayor Clouse asked it is not necessarily directed at you but is it naïve to assume that all traffic will go west out of that subdivision. Ms. Todd stated no, she referred to the sketch about 4th Avenue being a collector street and 8th Street continuing across. 8th Street will probably always go straight through whether they want it to or not. It all seems to converge by the grade school.

Fred Hammer from Colorado stated he is the current owner of the property. There has been a lot of comments about R-1. He agrees with the comments on R-1. When he first got the property he talked to several people about the best use for the land. Everybody said single family homes would be nice. He spent some money and hired a company out of Omaha and he developed a conceptual plan for him for single family homes in that area.

He looked over that plan with Mitch Humphrey and had him design a plat for the entire area; they did develop a plat in 2005-2006. They had over 70 single family lots in there then all of sudden Cash-Wa had the need to expand and Mr. Henning's preference was to change zoning from R-1 to Industrial. Even though it would affect him personally he thought it would be in the best interest of Kearney to let Mr. Henning expand even though it would hurt his property. It made it uneconomical and not feasible.

He believes the kind of housing that Mr. Norwood has planned would appeal a lot to young professionals and given the number of employers in that area to the west. Some may even walk to work depending on where they work. They have to consider with young professionals a lot of them do not like to use cars as their first choice of transportation. There will be approximately 11 single family homes developed on the north side adjacent to 9th Avenue. They are doing everything they can to work within the practical limits of what they have inherited from location and zoning.

Roger Traficon on behalf of his daughter Jodi Sowl, read the following statement:

She feels very passionately and has so many concerns regarding the zoning of the property between 5th and 9th Avenues from R-1 to R-2. She asks Council to carefully consider the impact such as rezoning will have for the Park View neighborhood. 11th Street is the only access road in the neighborhood and it already carries too much traffic and far too much commercial traffic every morning. Many of the students struggle to cross 11th Street as traffic races from 35-45 mph. Most mornings it is difficult for her to even make a right turn onto 11th Avenue.

To add 150 plus living structures in such a congested area is not responsible planning. She asks Council what will happen when the new Kearney High School opens and traffic doubles. The increase in traffic will now include inexperienced

teenage drivers and what about Kearney Regional Hospital; she understands there is plan to move much needed emergency services in the area.

It has been suggested that the proposed housing would be placed on concrete pads without basements, residents of Kearney live in a tornado area and it's her opinion to build a house without a basement is inconsolable. Where will the 300 or more residents seek shelter in the event of a severe storm. She believes the number of people who opposed the zoning would have been higher given proper notification of the rezoning issue. The location between 5th and 9th Street is not the appropriate site for this type of housing. It will be too far congested to place that many people in such a small area. I respectfully request that City Council rejects the rezoning proposal for the land south of Kearney Trails and Trails and between 5th and 9th Street.

Toby Houlden, 711 10th Avenue, voiced his opposition. He stated he would like to make the recommendation that City Council keep the zoning R-1. Mr. Bennett had wonderful numbers. Reference was made to the fact that 22 percent of the bordering property to the development is currently R-1, the other abutting land is currently zoned Ag. Is there a plan for the abutting Ag land to be residential. He would like to make it opinion known that it should be kept R-1.

Mayor Clouse stated that is not their land and that is the risk you run into when it is another developer and owner. He does not know what they plan on doing with it.

Jenny Gibbs, 1011 West 9th Street Place, voiced her opposition. She stated being a realtor she wanted to address the negative affect the multi-density units will have on the property values of the surrounding homes. The area has been very appealing for buyers; she believes building the units will only lower the interest. She would wish that the area would not get rezoned to R-2. She is fine with duplexes. Duplexes look like homes once you get bigger it is an eye sore.

Mayor Clouse asked what is the inventory level of homes in the \$170,000-\$215,000. Ms. Gibbs stated very low, they have a shortage of listings. Mayor Clouse asked so below that is non-existent. Ms. Gibbs stated it is not non-existent and wanted clarification. Mayor Clouse stated the lower price range - is that even more challenging. It was stated that Kearney needs more homes in \$170,000-\$215,000 range but not everybody can afford that, at a lower range what does that inventory look like. Ms. Gibbs stated she does not know; she would have to pull that up. For the professionals, that would be moving into the units that is the price range people can afford.

John Lowe, 3 Wilderness Way, stated he thinks it is great that the community showed up for this and they should care what happens there. He is also on the Planning Commission with Ms. Moore. The Planning Commission did decide to pass this because they thought it was a good plan for the piece of property. It does add a buffer zone with Cash-Wa and the other M-1 development out there. There is currently no other plan for the Agricultural land to the west, it could become R-1 or R-2, they do not know. As a person who just moved out of a mult-unit place, he does not believe his place looked bad and quite nice. Everybody seems to be thinking that this is going to be a drug infested, race car driven neighborhood because 8th Street is going to become

a collector street, he does not believe so. He believes it will be a nice feeder street to 2nd Avenue, another way out of the neighborhood so not all the traffic has to go north. He thinks it is a good project.

Susan Wheeler, 708 11th Avenue Place, read the following statement:

She comes here tonight as a concerned parent and daycare provider. Living off of 8th Street her children and a daycare child walk to and from school the four blocks to Kenwood everyday along with other kids in the neighborhood and on any given day you can find many of children outside playing in the neighborhood. She is concerned about the safety for the children with the added vehicles to the streets daily with the 135 unit development. She doesn't believe this type of development would be a good fit in the area.

Putting the development in this area is not connecting it to any major road and will be going through residential neighborhoods. Mr. Bennett had stated that when Park View Estates was designed it was designed primarily with cul-de-sacs to minimize the number of driveways on 8th Street. Currently there are 37 out of 37 homes that have driveways that are connected to 8th Street. With the four-plexes that would add another 20 driveways or so plus the extra cars that are lined up on the streets.

She understands that opening up 8th Street will help with traffic flow and she is not against that but the vast amount of additional cars with this type of development added to the street she doesn't think will be helpful. The Development Council had heard that all employers are looking for asking for entry level housing, employers want their employees to buy houses to be committed to the area. They want employees for the long haul, it's easier to move if they are just renting. The area built with single family homes could also fill a different need in the community of retired persons. She has been told that there are retirees looking for one level, ranch style homes that make it easier for them without the difficulty and hassle of having stairs.

Mayor Clouse wrote on the City's website "to make this a better community in which to live, it is vital that we listen to our citizens and make every effort to provide the opportunity for our citizens to provide feedback." They are providing that feedback and now she asks the Council to listen to the many citizens and the concerns on the development and to make a responsible decision on the matter.

Patty Riefenrath stated she did go visit the South View Retirement Village. They were all opposed to the development but she thinks five out of the six said why building another retirement village there, they need them desperately.

Jacob Patient, 603 West 17th Street, stated he delivers papers around 11th Avenue and at the Retirement Village. If they add the apartments it is going to be more difficult for the Kenwood students to get across. He walks across too and it is difficult for him and he is 13. When they get the high school and the apartments, it will be more difficult for him and the students at Kenwood to get across. He does not think they should add it.

Keith Couple, 1105 West 8th Street, voiced his opposition. He stated he did not come tonight expecting to speak. He is a big picture guy. The developer has made a financial investment in a piece of property. As a developer they want them to make money. They also realized that they do not have to make money on every one of them. That is a risk they take. There have been a lot of concerns about safety. The Ag land could change something different. As an individual he has also made a financial investment but he thinks what they are trying to pinpoint tonight is his financial investment was R-1 houses around him and a kind of neighborhood that he wants to pay the price that he's paying for and he paid that price for the house because it means more than that to him. What you see from the citizens is that they have all made the investment into their homes.

Craig Bennett stated he wanted to add some clarity to some of the circulation; he discussed 8th Street connectivity from east to west. There has to be a need for collector streets in somewhat close proximity to arterial streets. It is not just going to be 8th Street that will provide an alternative route. There are also two other streets that help feed the traffic down to 4th Street.

Tim Norwood, 6104 Avenue K, stated he has a purchase agreement to acquire the ground from Fred Hammer. If he gets the zoning that is needed for them to develop it. They are planning on doing single family houses where they believe single family houses and townhome housing makes sense. City staff, through DRT meetings, had numerous meetings and were able to come to a point where the staff was in recommendation of the project and the Planning Commission recommended approval.

He could talk off the cuff about townhouses in Kearney. He has developed eight projects over 150 units and he has made money on some and lost money on some. The project itself what it really means for Kearney the way they are looking at it is they are all aware of the housing issues that Kearney is dealing with and there are a lot of needs and different varieties of housing that will have to be accomplished to address all of the issues. This project will fill just a niche, they believe that it will be a combination of work force housing, young professionals, empty nesters and older. There will not be a lot of kids and he bases that on experience from the other projects. The type of housing is not a type of housing that brings in a lot of kids.

They are looking at making the project pet friendly. To answer Mayor Clouse's question, there is one existing townhouse on the market today. He also checked with the four largest property management companies in Kearney and there is one townhouse for rent for Kearney. He also asked them if they can give him an idea of what percentage of their owners allow pets, some were under two percent of all the properties they manage allow pets.

The present demand for this kind of project based upon his years of doing them, Kearney needs and has been absorbing about 40-50 of these types of units on an annual basis for some time and there is nothing going on in the market right now that would cause him to believe that that is going to change.

What it means for the neighborhood, there were some people that brought up how the development would affect house values. From his experience he is not aware of any

townhome project that has a negative impact on real estate values anywhere around the project. There are some projects where the roads feed right off onto a main arterial and there are some that feed off onto collectors. The one that comes to mind that feeds onto a collector is in the Grand View Subdivision. There are a lot of townhouses in there and the housing in that neighborhood has not suffered because of the project.

The traffic, whether it is single family or townhouses, there is going to be traffic that is added to the area. They do not believe it will be significantly different in numbers whether it is townhouses or single family. Some of the units will have two people living in them some will have one person living in them. On the other hand single family houses also have teenage drivers and sometimes third drivers so that chart was just an estimate of what they were looking at.

Something that has not been brought up too much tonight but he has received a number of emails and phone calls about it is that if they build this it will fill up with college students. His office does not discriminate any shape or form and so he imagines there will be some college students that end up in the housing. The price point they are looking at is not a favorable price point for college students. If you are looking at a \$1,000 plus rent factor for a two bedroom that's \$500 per person, that is not what the college students are looking for.

A significant portion of the property is abutting agriculture, commercial or industrial and he would think that a R-2 zoning buffering into a R-1 zoning works all over Kearney and this would be a location that would work also. Mr. Norwood references the elevation. When he hears the word four plex sometimes he sees where there is someone living on top of each other in multi-level. That is not a townhouse style construction and they just wanted to provide an example of what a townhouse project type style would look. The maximum they can do is a four-plex given the zoning and some of the lots size wise can handle four-plex and some cannot so it would be a tri-plex and that is why they feel comfortable stating they are maxed out at 135.

Council Member Lammers asked did you try to meet with the neighborhood and talk to them about the plan. Mr. Norwood stated he had phone and email conversations with more than six property owners, less than 12 and then attempted to have a meeting Monday night that did not work out.

Keven Kusek, 711 11th Avenue Place, voiced his opposition. He stated his driveway is right on 8th Street; he has four kids and safety for him is a big concern. For what Mr. Norwood just showed for the four-plex that has him worried; that is just an option correct and he could build it as an R-2. Mr. Norwood stated that is correct. Mr. Kusek asked it is nothing in the R-2 rules that does not say you cannot build multi-levels. Council Member Buschkoetter stated that is correct.

Suzanne Brodine, Assistant City Manager stated he would have to do townhome development which is side by side not units that are over/under. It would have to be four units in a row not two units with two units above it. It can be four units that can be two stories high but each unit would need to be two stories high.

Mayor Clouse asked separable living space that they can rent out for the second story it has to be one unit but you can have a bedroom upstairs. Council Member Buschkoetter stated you still have to get the four whether it's 4 X 1 or 2 by 2. Ms. Brodine stated you can still have four but once you start stacking on top of each other than you will fall into a higher density category.

Mr. Kusek asked since there is nothing set in stone is there any reason why they cannot make the developers come back. Council Member Buschkoetter stated he is showing you from your perspective worst case scenario. He doesn't think there is anything that he is not being honest about. City Council could do a Planned Development District and change all of that but that is not what they normally do. Often when they rezone, they rezone larger tracts than this. This is traditionally how it is done. It was usually done with smaller increments.

Mr. Kusek stated he has heard from multiple people that the people are down in the neighborhood having taken that gamble being right next to a cornfield. Mr. Hammer has to take that same gamble when he bought it; it is not the Council's job to help him back money. It is the Council's job to do what is best for the Kearney residents. There has been four people that have come up in support of this and 220 people signed a petition against it.

Council Member Buschkoetter stated if it sells out and there are 270 people that do not know they are going to be your neighbor yet and if they do buy the properties they would probably be in favor of it. He has heard both that this is a terrible idea and nobody is going to want to do it because it is bad development and they will not be there and also have heard there are going to be too many people living there. He has not decided which one is actually the truth.

Mayor Clouse stated as a Council they are not elected by wards so their responsibility is to look at what is in the best use in the community and so they are representing the whole community. If this was in another part of town they would be having the same discussions and there would be people in the other part of town saying it is a good place and people would buy that. There were 200 that signed it but 30,000 that did not that might think it is alright, makes sense and helps the community. That is how Council looks at it; as a community does it fit the community, the right area, planned and thought out, what is the impact and then listen to the neighbors. Mayor Clouse asked when you bought your house on 8th Street, did you ever think that it was never going to be opened up.

Mr. Kusek stated not that he did not think it was going to be opened up but he always assumed that they were told by their realtor that it was going to be single family homes. Mayor Clouse asked Mr. Kusek the traffic on 8th Street if he knew it was a collector street. Mr. Kusek stated he assumed it possibly could be.

Mayor Clouse stated he has some colleagues he works with that said they were not excited about the density but they really want 8th Street opened up. That is the challenge they have because there are a lot of people who want 8th Street, 4th Street and want to relieve traffic off of 11th and that is what collector streets do.

Council Member Lammers stated he would offer having it be multi-family in having the townhomes you probably will have less traffic going west than you would if you have single family going to the west. So you have less reason to be concerned for traffic going to the west, the only place they can go is to school otherwise they will head north to 11th Street and catch that or they will go on 8th Street east and go out to where they want to work to 2nd Avenue. To him you would have less traffic with townhomes going in there then you would with single family homes because single family homes probably have kids and more likely to drive that way.

Mayor Clouse stated schools create a whole other problem and as they are developing that area that is a concern to City Council but what do they do. They are going to build college and schools. Somehow they need to co-exist.

Council Member Buschkoetter stated he cannot think of a single elementary school in Kearney that is not on at least one collector. The whole Kenwood Elementary was on two.

Tami Moore stated she does have a proposal that she thinks would be better for the neighborhood. It probably would not be quite as much investment for Mr. Norwood and she did try to meet with him last week and they did not get together to meet. She does not know if they would consider but 8th Street going through that will happen, if you kept R-1 single family homes on the north side of 8th Street and then did small cul-de-sacs of R-1 on the south side of 8th Street and then did two long cul-de-sacs with multi-family homes. The multi-family traffic would go out the 4th and that would be the only way they could go out. That would alleviate the super traffic that they are talking about.

Mr. Norwood stated the City will have to put some input on this. Doing cul-de-sacs going south on 8th Avenue and 9th Avenue going south from 8th Street there is not enough room to put cul-de-sacs there and if they could put cul-de-sacs he is guessing the City would frown on that.

Director of Public Works Rod Wiederspan stated there has been a lot of discussion about collectors. If the City did what Ms. Moore suggested then you only have one way in and one way out of the subdivision. As far as life safety issues that does not give adequate flow through the neighborhood. 8th Street as a collector is designed to take traffic out of the subdivision to the arterial streets; 11th Street and 2nd Avenue are two arterial streets. It is set up so that all the traffic in that neighborhood could move to the outer perimeter.

Ms. Moore stated on the Planning Commission they did approve something not long ago that had several houses and only one exit. Is there a total number that you can have that just has one exit and how far the fire truck can be expected to go. Director of Public Works stated they try to establish 600 feet, they have had some situations where they have extended it beyond 600 feet on single family homes where there are this many units as there would be here with three-plex or four-plex. Depending on the situation, they try to stay at the 600 feet.

City Manager stated in that situation that street was not a collector street, it was a local street. Council Member Buschkoetter asked also in doing that would tremendously

hamper the possibility of continuing to develop land further to the west of the project that they are talking about. The City needs to be able to move traffic, look down the road and say that there is a fair amount of chance that ag land will eventually develop as well.

Director of Public Works stated he thinks a lot of the traffic is going to want to go east to 2nd Avenue to take advantage of the signals they have established at 8th Street and 4th Street. Currently, there are no signals on 11th Street; depending on the traffic flow they will be addressing that in the future.

Council Member Buschkoetter stated he thinks the zoning as proposed makes the most sense for the land that is there and does not see this hurting property values. These will be nice developments. The negative impact, as far as safety issues obviously they are very concerned about safety especially dealing with an elementary school but it is going to be taking traffic away from that area and taking it off of 11th Street once 8th Street is developed. The only way that happens is if there is a development and this will do that and make safety better. They have heard so much about building single family houses, there is a reason why that land has been on the market for sale or certainly they would entertain the possibility for quite some time and it has not happened until recently and this is the one that makes most sense. He thinks the market place is going to decide that.

Council Member Lammers stated 8th Street was always set up to be a collector. It was meant to go that way and most of the traffic being townhouses is more likely to go to the east and go onto 2nd Avenue so the traffic issue to him does not seem as big of an issue. He understand the safety issue but the school is built right next to Turkey Creek which effectively shuts off traffic going any further west at the point because Yanney Park and Turkey Creek are right there so it will not go any further west unless you are taking your kids to school.

One of the concerns he has is that there are townhomes all over Kearney and he sees them in some of the nicest areas of town so there is no reason to think that the value of their home will go down because of townhomes. The townhomes are very nice homes that if you can afford \$1,000 per month to live there, they are nice places to live.

Council Member Nikkila stated if they are zoning from less dense to more dense and you have strong neighbor opposition that should be a high bar to cross. One of his issues with the complaints is that even if it is R-1 you are still dramatically increasing traffic. People are more concerned about the traffic on 11th Street and Kenwood because 8th Street complaints are hard to swallow because it will become a collector anyway. The problem that is going to come with Kenwood and 11th Street are going to get worse for that neighborhood whether they accept the proposal or reject it and leave it R-1. There could be big apartment complexes beside the Community College.

Either way traffic is going to get worse in that neighborhood and it is going to get worse because houses are going to go further south, west and over by the high school and community college. A lot of folks bought homes in that neighborhood when it was still sleepy and now it is going to keep growing and get busier. The last time they had a similar issue with a smaller area, he made the point that he really does not like the

traffic argument for that neighborhood because that is where they are going.

Council Member Lear stated to the best of his knowledge he has voted against most rezoning whenever they have had neighborhood opposition to a more intent use. He does however think the property is different than what they have seen in those situations. They cannot stop the traffic; it is going to come. This is a unique property and not the first time that Mr. Norwood did come to Council and ask in previous venues is there a way he can get additional support for making this an entire single family area because it will be costly to develop in that way. They did not find any tax supportive ways to help him do that.

Normally he does not vote in favor of rezoning requests when he looks at the Land Use Map and see what its designations are when he sees what they have for M-1 development he does think most people fears regarding more intense development are unfounded. They have had a lot of apartment projects go in northwest and northeast Kearney. It has not had any negative impact on them. They have had a ton of townhouse developments in the neighborhood, all are great developments. He does think this is an attempt to have a responsible development therefore he does support it.

Mayor Clouse stated the Council has proven over the years to be very hesitant to change zoning when there are adjacent property owners and consistently they have been reluctant to do that. He would expect that Mr. Norwood would be meeting to address Mr. Kusek's concern that when he does have the plans figured out that he shares that. He does not know if they have a neighborhood association but if they do, he is sure Mr. Norwood would sit down with them and show what it is going to look like. In listening to Mr. Hammer he truly has Kearney's best interest at heart and he does not think Mr. Hammer would do something in that area that would negatively impact the community.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2015-42** approving the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Medium Density Residential and Mixed Use 3 to Mixed Density Residential property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: Nikkila. Motion carried.

RESOLUTION NO. 2015-42

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 West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Referring to a chiseled X at the Northwest Corner of the Northeast Quarter of said Section 11 and assuming the

West line of said Northeast Quarter as bearing $S00^{\circ}25'46''W$ and all bearings contained herein are relative thereto; thence $S00^{\circ}25'46''W$ on said West line of the Northeast Quarter a distance of 20.00 feet to the Northwest Corner of Lot 1, Block Two, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing $S00^{\circ}25'46''W$ on said West line of the Northeast Quarter and on the West line of said Block Two, Hammer-McCarty Addition a distance of 396.76 feet; thence leaving said West line of the Northeast Quarter $N89^{\circ}30'24''E$ and continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 16.70 feet; thence $S00^{\circ}26'21''E$ continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 97.80 feet to the Northwest Corner of Lot 1, Block Three, Jean Michel of Chateau Marteau, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing $S00^{\circ}26'21''E$ on the West line of said Block Three, Jean Michel of Chateau Marteau a distance of 219.00 feet to a 5/8" rebar with cap at the Southwest Corner of Lot 3, of said Block Three, Jean Michel of Chateau Marteau and the POINT OF BEGINNING; thence continuing $S00^{\circ}26'21''E$ a distance of 580.59 feet to a 5/8" rebar on the North line of Government Lot 3 of said Section 11; thence $S00^{\circ}37'41''E$ a distance of 1317.17 feet to a 5/8" rebar with cap on the existing North high bank of the North Channel of the Platte River as shown on a survey by Mitchell W. Humphrey, dated March 17, 2003; thence $S41^{\circ}29'54''W$ on said existing North high bank a distance of 83.50 feet to a 5/8" rebar on the West line of Government Lot 3; thence $S00^{\circ}25'46''W$ on said West line of Government Lot 3 a distance of 191.40 feet to the existing centerline of the North Channel of the Platte River, as surveyed January 15, 2015; thence $N74^{\circ}25'03''E$ on said existing centerline of North Channel of the Platte River a distance of 47.63 feet; thence $N16^{\circ}17'11''E$ continuing on said centerline and all courses following are along said centerline until otherwise described, a distance of 122.73 feet; thence $N05^{\circ}10'25''W$ a distance of 90.52 feet; thence $N46^{\circ}54'03''E$ a distance of 121.54 feet; thence $N67^{\circ}33'29''E$ a distance of 86.36 feet; thence $S88^{\circ}01'35''E$ a distance of 61.76 feet; thence $S68^{\circ}08'28''E$ a distance of 104.73 feet; thence $S42^{\circ}59'49''E$ a distance of 99.03 feet; thence $S06^{\circ}52'39''E$ a distance of 179.14 feet; thence $S26^{\circ}05'24''W$ a distance of 126.49 feet; thence $S54^{\circ}55'27''W$ a distance of 76.94 feet; thence $N69^{\circ}34'52''W$ a distance of 61.74 feet; thence $N45^{\circ}17'25''W$ a distance of 85.41 feet; thence $N69^{\circ}38'23''W$ a distance of 73.66 feet; thence $S03^{\circ}04'44''W$ a distance of 97.76 feet; thence $S38^{\circ}24'39''E$ a distance of 94.04 feet; thence $S79^{\circ}51'11''E$ a distance of 231.66 feet; thence $N89^{\circ}04'00''E$ a distance of 104.39 feet; thence $S70^{\circ}16'48''E$ a distance of 99.55 feet; thence $N21^{\circ}23'42''E$ a distance of 67.05 feet; thence $N13^{\circ}53'26''W$ a distance of 262.30 feet; thence $N14^{\circ}36'42''E$ a distance of 69.71 feet; thence $N57^{\circ}22'29''E$ a distance of 42.28 feet to the West line of Lot 2, Block Two Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving said existing centerline $N38^{\circ}49'44''W$ on said West line of Cash-Wa Second Addition a distance of 17.78 feet; thence $N00^{\circ}13'13''E$ continuing on said West line of Cash-Wa Second Addition a distance of 1410.55 feet to a 3/4" iron pipe at the Southeast Corner of the West Half of the Northwest Quarter of the Northeast Quarter of said Section 11; thence $S88^{\circ}57'18''W$ on the South line of said West Half of the Northwest Quarter of the Northeast Quarter of Section 11 a distance of 42.00 feet to a 5/8" rebar at the Southwest Corner of Lot 9, Block Four, Centennial Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska; thence $N00^{\circ}53'35''E$ on the West line of said Centennial Subdivision a distance of 649.45 feet to a 5/8" rebar at the Southeast Corner of Lot 1, Block Two, of said Jean Michel of Chateau Marteau; thence $S85^{\circ}22'51''W$ on the South line of said Jean Michel of

Chateau Marteau a distance of 201.27 feet to a 5/8" rebar; thence S78°01'39"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 119.84 feet to a 5/8" rebar; thence S82°51'58"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 75.57 feet to a 5/8" rebar with cap on the East line of 9th Avenue as platted in said Jean Michel of Chateau Marteau; thence Southerly on said East line of 9th Avenue and on a non-tangent curve to the Right having a central angle of 02°45'35", a radius of 533.00 feet, an arc length of 25.67 feet, and a chord bearing of S08°03'34"W, a distance of 25.67 feet to a 5/8" rebar; thence S09°22'58"W continuing on said East line of 9th Avenue a distance of 15.97 feet to a 5/8" rebar with cap at the Southeast Corner of said 9th Avenue; thence N80°37'05"W on the South line of said 9th Avenue a distance of 66.04 feet to a 5/8" rebar at the Southeast Corner of said Lot 3, Block Three, Jean Michel of Chateau Marteau; thence N89°25'41"W on the South line of said Lot 3, Block Three a distance of 136.72 feet to the Point of Beginning, containing 29.92 acres more or less, Buffalo County, Nebraska from Medium Density Residential and Mixed Use 3 to Mixed Density Residential, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Medium Density Residential and Mixed Use 3 to Mixed Density Residential the use classification for a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Referring to a chiseled X at the Northwest Corner of the Northeast Quarter of said Section 11 and assuming the West line of said Northeast Quarter as bearing S00°25'46"W and all bearings contained herein are relative thereto; thence S00°25'46"W on said West line of the Northeast Quarter a distance of 20.00 feet to the Northwest Corner of Lot 1, Block Two, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°25'46"W on said West line of the Northeast Quarter and on the West line of said Block Two, Hammer-McCarty Addition a distance of 396.76 feet; thence leaving said West line of the Northeast Quarter N89°30'24"E and continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 16.70 feet; thence S00°26'21"E continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 97.80 feet to the Northwest Corner of Lot 1, Block Three, Jean Michel of Chateau Marteau, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°26'21"E on the West line of said Block Three, Jean Michel of Chateau Marteau a distance of 219.00 feet to a 5/8" rebar with cap at the Southwest Corner of Lot 3, of said Block Three, Jean Michel of Chateau Marteau and the POINT OF BEGINNING; thence continuing S00°26'21"E a distance of 580.59 feet to a 5/8" rebar on the North line of Government Lot 3 of said Section 11; thence S00°37'41"E a distance of 1317.17 feet to a 5/8" rebar with cap on the existing North high bank of the North Channel of the Platte River as shown on a survey by Mitchell W. Humphrey, dated March 17, 2003; thence S41°29'54"W on said existing North high bank a distance of 83.50 feet to a 5/8" rebar

on the West line of Government Lot 3; thence S00°25'46"W on said West line of Government Lot 3 a distance of 191.40 feet to the existing centerline of the North Channel of the Platte River, as surveyed January 15, 2015; thence N74°25'03"E on said existing centerline of North Channel of the Platte River a distance of 47.63 feet; thence N16°17'11"E continuing on said centerline and all courses following are along said centerline until otherwise described, a distance of 122.73 feet; thence N05°10'25"W a distance of 90.52 feet; thence N46°54'03"E a distance of 121.54 feet; thence N67°33'29"E a distance of 86.36 feet; thence S88°01'35"E a distance of 61.76 feet; thence S68°08'28"E a distance of 104.73 feet; thence S42°59'49"E a distance of 99.03 feet; thence S06°52'39"E a distance of 179.14 feet; thence S26°05'24"W a distance of 126.49 feet; thence S54°55'27"W a distance of 76.94 feet; thence N69°34'52"W a distance of 61.74 feet; thence N45°17'25"W a distance of 85.41 feet; thence N69°38'23"W a distance of 73.66 feet; thence S03°04'44"W a distance of 97.76 feet; thence S38°24'39"E a distance of 94.04 feet; thence S79°51'11"E a distance of 231.66 feet; thence N89°04'00"E a distance of 104.39 feet; thence S70°16'48"E a distance of 99.55 feet; thence N21°23'42"E a distance of 67.05 feet; thence N13°53'26"W a distance of 262.30 feet; thence N14°36'42"E a distance of 69.71 feet; thence N57°22'29"E a distance of 42.28 feet to the West line of Lot 2, Block Two Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving said existing centerline N38°49'44"W on said West line of Cash-Wa Second Addition a distance of 17.78 feet; thence N00°13'13"E continuing on said West line of Cash-Wa Second Addition a distance of 1410.55 feet to a 3/4" iron pipe at the Southeast Corner of the West Half of the Northwest Quarter of the Northeast Quarter of said Section 11; thence S88°57'18"W on the South line of said West Half of the Northwest Quarter of the Northeast Quarter of Section 11 a distance of 42.00 feet to a 5/8" rebar at the Southwest Corner of Lot 9, Block Four, Centennial Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska; thence N00°53'35"E on the West line of said Centennial Subdivision a distance of 649.45 feet to a 5/8" rebar at the Southeast Corner of Lot 1, Block Two, of said Jean Michel of Chateau Marteau; thence S85°22'51"W on the South line of said Jean Michel of Chateau Marteau a distance of 201.27 feet to a 5/8" rebar; thence S78°01'39"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 119.84 feet to a 5/8" rebar; thence S82°51'58"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 75.57 feet to a 5/8" rebar with cap on the East line of 9th Avenue as platted in said Jean Michel of Chateau Marteau; thence Southerly on said East line of 9th Avenue and on a non-tangent curve to the Right having a central angle of 02°45'35", a radius of 533.00 feet, an arc length of 25.67 feet, and a chord bearing of S08°03'34"W, a distance of 25.67 feet to a 5/8" rebar; thence S09°22'58"W continuing on said East line of 9th Avenue a distance of 15.97 feet to a 5/8" rebar with cap at the Southeast Corner of said 9th Avenue; thence N80°37'05"W on the South line of said 9th Avenue a distance of 66.04 feet to a 5/8" rebar at the Southeast Corner of said Lot 3, Block Three, Jean Michel of Chateau Marteau; thence N89°25'41"W on the South line of said Lot 3, Block Three a distance of 136.72 feet to the Point of Beginning, containing 29.92 acres more or less, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING 9TH AVENUE BETWEEN 4TH STREET AND 10TH STREET

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately. Planning Commission determined four to one to support the Land Use Map amendment as presented; unanimously to support the rezoning as presented, identifying the MU district for storm water detention; four to one to support the preliminary plat and final plat.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District and to District MU, Mixed Use District property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street) and consider Ordinance No. 7972.

Moved by Lammers to close the public hearing on the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District and to District MU, Mixed Use District property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street) and introduced Ordinance No. 7972 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7972. 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, Lammers. 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. 7972 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, Lammers. Nay: Nikkila. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7972 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: Nikkila. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7972 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 AND SUBDIVISION AGREEMENT FOR FOX CREEK

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately. Planning Commission determined four to one to support the Land Use Map amendment as presented; unanimously to support the rezoning as presented, identifying the MU district for storm water detention; four to one to support the preliminary plat and final plat.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for the Final Plat and Subdivision Agreement for Fox Creek, an Addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street) and consider Resolution No. 2015-43.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2015-43** approving the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for the Final Plat and Subdivision Agreement for Fox Creek, an Addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: Nikkila. Motion carried.

RESOLUTION NO. 2015-43

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Fox Creek, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Referring to a chiseled X at the Northwest Corner of the Northeast Quarter of said Section 11 and assuming the West line of said Northeast Quarter as bearing S00°25'46"W and all bearings contained herein are relative thereto; thence S00°25'46"W on said West line of the Northeast Quarter a distance of 20.00 feet to the Northwest Corner of Lot 1, Block Two, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°25'46"W on said West line of the Northeast Quarter and on the West line of said Block Two, Hammer-McCarty Addition a distance of 396.76 feet; thence leaving said West line of the Northeast Quarter N89°30'24"E and continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 16.70 feet; thence S00°26'21"E continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 97.80 feet to the Northwest Corner of Lot 1, Block Three, Jean Michel of Chateau Marteau, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°26'21"E on the West line of said Block Three, Jean Michel of Chateau

Marteau a distance of 219.00 feet to a 5/8" rebar with cap at the Southwest Corner of Lot 3, of said Block Three, Jean Michel of Chateau Marteau and the POINT OF BEGINNING; thence continuing S00°26'21"E a distance of 580.59 feet to a 5/8" rebar on the North line of Government Lot 3 of said Section 11; thence S00°37'41"E a distance of 1317.17 feet to a 5/8" rebar with cap on the existing North high bank of the North Channel of the Platte River as shown on a survey by Mitchell W. Humphrey, dated March 17, 2003; thence S41°29'54"W on said existing North high bank a distance of 83.50 feet to a 5/8" rebar on the West line of Government Lot 3; thence S00°25'46"W on said West line of Government Lot 3 a distance of 191.40 feet to the existing centerline of the North Channel of the Platte River, as surveyed January 15, 2015; thence N74°25'03"E on said existing centerline of North Channel of the Platte River a distance of 47.63 feet; thence N16°17'11"E continuing on said centerline and all courses following are along said centerline until otherwise described, a distance of 122.73 feet; thence N05°10'25"W a distance of 90.52 feet; thence N46°54'03"E a distance of 121.54 feet; thence N67°33'29"E a distance of 86.36 feet; thence S88°01'35"E a distance of 61.76 feet; thence S68°08'28"E a distance of 104.73 feet; thence S42°59'49"E a distance of 99.03 feet; thence S06°52'39"E a distance of 179.14 feet; thence S26°05'24"W a distance of 126.49 feet; thence S54°55'27"W a distance of 76.94 feet; thence N69°34'52"W a distance of 61.74 feet; thence N45°17'25"W a distance of 85.41 feet; thence N69°38'23"W a distance of 73.66 feet; thence S03°04'44"W a distance of 97.76 feet; thence S38°24'39"E a distance of 94.04 feet; thence S79°51'11"E a distance of 231.66 feet; thence N89°04'00"E a distance of 104.39 feet; thence S70°16'48"E a distance of 99.55 feet; thence N21°23'42"E a distance of 67.05 feet; thence N13°53'26"W a distance of 262.30 feet; thence N14°36'42"E a distance of 69.71 feet; thence N57°22'29"E a distance of 42.28 feet to the West line of Lot 2, Block Two Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving said existing centerline N38°49'44"W on said West line of Cash-Wa Second Addition a distance of 17.78 feet; thence N00°13'13"E continuing on said West line of Cash-Wa Second Addition a distance of 1410.55 feet to a 3/4" iron pipe at the Southeast Corner of the West Half of the Northwest Quarter of the Northeast Quarter of said Section 11; thence S88°57'18"W on the South line of said West Half of the Northwest Quarter of the Northeast Quarter of Section 11 a distance of 42.00 feet to a 5/8" rebar at the Southwest Corner of Lot 9, Block Four, Centennial Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska; thence N00°53'35"E on the West line of said Centennial Subdivision a distance of 649.45 feet to a 5/8" rebar at the Southeast Corner of Lot 1, Block Two, of said Jean Michel of Chateau Marteau; thence S85°22'51"W on the South line of said Jean Michel of Chateau Marteau a distance of 201.27 feet to a 5/8" rebar; thence S78°01'39"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 119.84 feet to a 5/8" rebar; thence S82°51'58"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 75.57 feet to a 5/8" rebar with cap on the East line of 9th Avenue as platted in said Jean Michel of Chateau Marteau; thence Southerly on said East line of 9th Avenue and on a non-tangent curve to the Right having a central angle of 02°45'35", a radius of 533.00 feet, an arc length of 25.67 feet, and a chord bearing of S08°03'34"W, a distance of 25.67 feet to a 5/8" rebar; thence S09°22'58"W continuing on said East line of 9th Avenue a distance of 15.97 feet to a 5/8" rebar with cap at the Southeast Corner of said 9th Avenue; thence N80°37'05"W on the South line of said 9th Avenue a distance of 66.04 feet to a 5/8" rebar at the Southeast Corner of said Lot 3, Block Three, Jean Michel of Chateau Marteau; thence N89°25'41"W on the South line

of said Lot 3, Block Three a distance of 136.72 feet to the Point of Beginning, containing 29.92 acres more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the 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 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF FOX CREEK

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately. Planning Commission determined four to one to support the Land Use Map amendment as presented; unanimously to support the rezoning as presented, identifying the MU district for storm water detention; four to one to support the preliminary plat and final plat.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for the annexation of Fox Creek, an Addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th Avenue between 4th Street and 10th Street) and consider Resolution No. 2015-44.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2015-44** approving the Application submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for the annexation of Fox Creek, an Addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (9th

Avenue between 4th Street and 10th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

Mr. Norwood stated if the neighbors would select a spokesperson before anything gets built he would provide drawings and take input. He would be glad to meet with you guys either as a group or through email.

RESOLUTION NO. 2015-44

WHEREAS, an Application has been submitted by Miller & Associates for Fred Hammer, Trustee of the Fred Hammer Living Trust for the inclusion of Fox Creek, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the West Half of the Northwest Quarter of the Northeast Quarter, and part of Government Lot 3 and accretions abutting said Lot 3, all in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Referring to a chiseled X at the Northwest Corner of the Northeast Quarter of said Section 11 and assuming the West line of said Northeast Quarter as bearing S00°25'46"W and all bearings contained herein are relative thereto; thence S00°25'46"W on said West line of the Northeast Quarter a distance of 20.00 feet to the Northwest Corner of Lot 1, Block Two, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°25'46"W on said West line of the Northeast Quarter and on the West line of said Block Two, Hammer-McCarty Addition a distance of 396.76 feet; thence leaving said West line of the Northeast Quarter N89°30'24"E and continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 16.70 feet; thence S00°26'21"E continuing on said West line of Block Two, Hammer-McCarty Addition a distance of 97.80 feet to the Northwest Corner of Lot 1, Block Three, Jean Michel of Chateau Marteau, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°26'21"E on the West line of said Block Three, Jean Michel of Chateau Marteau a distance of 219.00 feet to a 5/8" rebar with cap at the Southwest Corner of Lot 3, of said Block Three, Jean Michel of Chateau Marteau and the POINT OF BEGINNING; thence continuing S00°26'21"E a distance of 580.59 feet to a 5/8" rebar on the North line of Government Lot 3 of said Section 11; thence S00°37'41"E a distance of 1317.17 feet to a 5/8" rebar with cap on the existing North high bank of the North Channel of the Platte River as shown on a survey by Mitchell W. Humphrey, dated March 17, 2003; thence S41°29'54"W on said existing North high bank a distance of 83.50 feet to a 5/8" rebar on the West line of Government Lot 3; thence S00°25'46"W on said West line of Government Lot 3 a distance of 191.40 feet to the existing centerline of the North Channel of the Platte River, as surveyed January 15, 2015; thence N74°25'03"E on said existing centerline of North Channel of the Platte River a distance of 47.63 feet; thence N16°17'11"E continuing on said centerline and all courses following are along said centerline until otherwise described, a distance of 122.73 feet; thence N05°10'25"W a distance of 90.52 feet; thence N46°54'03"E a distance of 121.54 feet; thence N67°33'29"E a distance of 86.36 feet; thence S88°01'35"E a distance of 61.76 feet; thence S68°08'28"E a distance of 104.73 feet; thence S42°59'49"E a distance of 99.03 feet; thence S06°52'39"E a distance of 179.14 feet; thence S26°05'24"W a distance of 126.49 feet; thence S54°55'27"W a distance of 76.94 feet; thence N69°34'52"W a distance of 61.74 feet; thence N45°17'25"W a distance of 85.41 feet; thence N69°38'23"W a distance of 73.66 feet; thence

S03°04'44"W a distance of 97.76 feet; thence S38°24'39"E a distance of 94.04 feet; thence S79°51'11"E a distance of 231.66 feet; thence N89°04'00"E a distance of 104.39 feet; thence S70°16'48"E a distance of 99.55 feet; thence N21°23'42"E a distance of 67.05 feet; thence N13°53'26"W a distance of 262.30 feet; thence N14°36'42"E a distance of 69.71 feet; thence N57°22'29"E a distance of 42.28 feet to the West line of Lot 2, Block Two Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving said existing centerline N38°49'44"W on said West line of Cash-Wa Second Addition a distance of 17.78 feet; thence N00°13'13"E continuing on said West line of Cash-Wa Second Addition a distance of 1410.55 feet to a 3/4" iron pipe at the Southeast Corner of the West Half of the Northwest Quarter of the Northeast Quarter of said Section 11; thence S88°57'18"W on the South line of said West Half of the Northwest Quarter of the Northeast Quarter of Section 11 a distance of 42.00 feet to a 5/8" rebar at the Southwest Corner of Lot 9, Block Four, Centennial Subdivision, an addition to the City of Kearney, Buffalo County, Nebraska; thence N00°53'35"E on the West line of said Centennial Subdivision a distance of 649.45 feet to a 5/8" rebar at the Southeast Corner of Lot 1, Block Two, of said Jean Michel of Chateau Marteau; thence S85°22'51"W on the South line of said Jean Michel of Chateau Marteau a distance of 201.27 feet to a 5/8" rebar; thence S78°01'39"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 119.84 feet to a 5/8" rebar; thence S82°51'58"W continuing on said South line of Jean Michel of Chateau Marteau a distance of 75.57 feet to a 5/8" rebar with cap on the East line of 9th Avenue as platted in said Jean Michel of Chateau Marteau; thence Southerly on said East line of 9th Avenue and on a non-tangent curve to the Right having a central angle of 02°45'35", a radius of 533.00 feet, an arc length of 25.67 feet, and a chord bearing of S08°03'34"W, a distance of 25.67 feet to a 5/8" rebar; thence S09°22'58"W continuing on said East line of 9th Avenue a distance of 15.97 feet to a 5/8" rebar with cap at the Southeast Corner of said 9th Avenue; thence N80°37'05"W on the South line of said 9th Avenue a distance of 66.04 feet to a 5/8" rebar at the Southeast Corner of said Lot 3, Block Three, Jean Michel of Chateau Marteau; thence N89°25'41"W on the South line of said Lot 3, Block Three a distance of 136.72 feet to the Point of Beginning, containing 29.92 acres more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on February 20, 2015 on the inclusion of Fox Creek 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 Fox Creek, 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 March 10, 2015 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 Fox Creek 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 Fox Creek 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 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

STORM SEWER EASEMENT IN OAK PARK CENTER

Public Hearings 14 and 15 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Permanent Storm Sewer Easement for a tract of land being part of Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska and consider Resolution No. 2015-45.

Director of Utilities Kirk Stocker presented this matter to the Council. At the February 25, 2014 City Council meeting the Council approved a developer constructed infrastructure agreement for Lots 3 and 4, Oak Park Center. That agreement was for the construction of a storm sewer on the property.

Both agreements required the Owner/Developer to convey easements to the City for the infrastructure. The Owner/Developer has signed the Permanent Storm Sewer Easement required for the 2012 agreement and the Permanent Sanitary Sewer and Water Main Easement required for the agreement on this Council meeting agenda.

Before the City can accept the easements the City Council must conduct a public hearing on the matter. Nebraska Revised Statute 18-1775 requires that a City of the first class acquiring an interest in real property shall do so only after the governing body has authorized the

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2015-45** approving the proposed acquisition of a Permanent Storm Sewer Easement for a tract of land being part of Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2015-45

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

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

WHEREAS, Oak Park Development, LLC, a Nebraska Limited Liability Company, has granted to the City of Kearney, Nebraska a Permanent Storm Sewer Easement as follows: a tract of land being part of Lots 3 and 4, Oak Park Center, an addition to the

City of Kearney, Buffalo County, Nebraska dedicated for storm water easement purposes. Said storm water easement to be 15.00 feet in total width and comprised of the following: The West 15.00 feet of the East 15.40 feet of the North 159.11 feet of Lot 3, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska; AND the West 15.00 feet of the East 30.00 feet of the South 26.95 feet of Lot 3, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska; AND the West 15.00 feet of the East 15.40 feet of Lot 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Storm Sewer Easement granted by Oak Park Development, LLC, a Nebraska Limited Liability Company to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

SANITARY SEWER AND WATER MAIN EASEMENT IN OAK PARK CENTER

Public Hearings 14 and 15 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition of a Permanent Sanitary Sewer and Water Main Easement for a tract of land being part of Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska and consider Resolution No. 2015-46.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2015-46** approving the proposed acquisition of a Permanent Storm Sewer Easement for a tract of land being part of Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2015-46

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

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

WHEREAS, Oak Park Development, LLC, a Nebraska Limited Liability Company has granted to the City of Kearney, Nebraska a Permanent Sanitary Sewer and Water Main Easement as follows: A Permanent Sanitary Sewer and Water Main Easement consisting of part of Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska and more particularly described as follows: Commencing at

the northeast corner of said Lot 4, said point also being on the west Right-Of-Way Line of 2nd Avenue; thence on an assumed bearing of S00°19'39"E along said west Right-Of-Way Line a distance of 50.00 feet to the point of intersection of said west Right-Of-Way Line and the south line of an existing 50-foot Permanent Road and Utility Easement; thence S89°31'51"W along the south line of said easement a distance of 199.05 feet to the Point of Beginning; thence S00°19'39"E a distance of 311.00 feet; thence S89°40'21"W a distance of 25.00 feet; thence N00°19'39"W a distance of 261.19 feet; thence N62°01'03"W a distance of 60.77 feet to a point on the east line of an existing 5-foot wide Permanent Utility Easement; thence N00°19'39"W along the east line of said easement a distance of 17.04 feet; thence S62°01'03"E a distance of 60.77 feet; thence N00°19'39"W a distance of 32.71 feet to a point on the south line of above described existing 50-foot Permanent Road and Utility Easement; thence N89°31'51"E along the south line of said easement a distance of 25.00 feet to the point of beginning. Said Permanent Sanitary Sewer and Water Main Easement contains 8,686 square feet or 0.20 acres more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Sanitary Sewer and Water Main Easement granted by Oak Park Development, LLC, a Nebraska Limited Liability Company to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

IV. CONSENT AGENDA

Moved by Lear seconded by Buschkoetter that Subsections 1 through 11 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

1. Approve Minutes of Minutes of Special Meeting held February 18, 2015 and Regular Meeting held February 24, 2015.

2. Approve the following Claims:

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

ABPA \$75.00 smcs; Ahren,V \$216.00 smcs; Alamar Uniforms \$665.63 smcs; Albrecht,H \$1,586.25 smcs; Alfred Benesch \$230.98 co; Amax Contracting \$153.78 smcs; Amazon \$1,639.69 smcs; Amer First Aid \$245.91 smcs; Anderson,S \$21.40 smcs; Anova \$1,107.39 smcs; Archway \$365.00 smcs; Arctic Refrigeration \$306.43 smcs; Ask Supply \$1,425.23 smcs; Aurora Coop \$51.52 smcs; Baker & Taylor \$8,338.87 smcs; Bamford,J \$800.00 smcs; Barney Abstract \$1,500.00 smcs; Beck,J \$87.40 smcs; Blackstone Audio Books \$168.70 smcs; BlueCross BlueShield \$58,453.97 smcs; Bosselman \$4,965.70 smcs; Boys Town \$551.10 smcs; Broadfoots

\$45.50 smcs; Brodine,S \$215.00 smcs; Brown,I \$41.83 smcs; Buffalo Co Reg Deeds \$34.00 smcs; Buffalo Co Treasurer \$15.00 co; Builders \$4,621.45 smcs,co; Cadillo,J \$140.30 smcs; Capital Business Solutions \$308.36 smcs; Cash-Wa \$1,658.91 smcs; Center Point \$71.41 smcs; Central Fire & Safety \$383.00 smcs; Central States Wire \$3,114.44 smcs; Charter \$72.87 smcs; Chief Supply \$60.89 smcs; City of Ky \$357,222.55 smcs, ps; Community Health Charities \$10.00 ps; Copycat \$198.89 smcs; Crabgrass Band \$350.00 smcs; Cullen,M \$120.37 smcs; Cummins Central Power \$7,489.60 smcs; Dan Roeder Concrete \$165,818.44 co; Danko Emergency \$2,904.88 smcs; Dawson PPD \$15,298.37 smcs; Dering,J \$53.00 smcs; Dish \$79.00 smcs; Don's Hobby Guns \$1,358.00 smcs; Dowhy Towing \$235.00 smcs; DPC Industries \$6,285.56 smcs; Draper,D \$125.00 smcs; Dutton-Lainson \$151.69 smcs; Eakes \$3,405.66 smcs; Ebsco Publishing \$1,173.00 smcs; Ed Roehr Safety Products \$12,592.44 smcs; Eirich,T \$382.80 smcs; Electric Generators Direct \$2,645.02 co; Engineered Controls \$517.09 smcs; Eustis Body Shop \$100.00 smcs; Evers,B \$390.00 smcs; Expression Wear \$25.00 ps; Farmers Union \$550.00 smcs; Faz,A \$86.00 smcs; Fedex \$34.53 smcs; Finest Irrigation \$680.00 smcs; Finley,L \$87.40 smcs; Frontier \$95.47 smcs; Gander Island Consulting \$17,235.00 co; H&H Distributing \$328.01 smcs; Hansen,M \$23.12 smcs; Happy Wags Grooming \$37.82 smcs; Hastings \$279.26 smcs; HD Supply \$13,092.52 smcs; Heaston,S \$18.33 smcs; HGTV \$55.94 smcs; HHS-Public Health \$80.00 smcs; Holy Family Shrine \$99.00 smcs; Husker Auto Group \$57,445.70 co; Hydro Tech \$80.00 smcs; ICMA RC \$4,301.15 ps; IRS \$135,483.54 ps; Jacobs,J \$133.74 smcs; Janitscheck,R \$50.94 smcs; JNE-LLC \$39.81 smcs; John Deere Landscapes \$8,485.00 smcs; Kart-Man \$988.52 smcs; Ky Area Untied Way \$581.00 ps; Ky Clinic \$3,221.00 ps; Ky Concrete \$1,041.92 smcs; Ky Glass \$191.76 smcs; Ky Visitors Bureau \$32,890.90 smcs; Koettters,J \$1,431.38 smcs; Konica Minolta \$346.25 smcs; Kowalek,G \$11.00 smcs; Landmark Implement \$11,400.00 smcs; Larachick,A \$22.51 smcs; LEVA \$55.00 smcs; Logan Contractors Supply \$717.30 smcs,co; Magic Cleaning \$4,300.00 smcs; Magnuson,S \$55.74 smcs; Mail Express \$5,871.19 smcs; McDermott,K \$23.35 smcs; McLaughlin,P \$140.30 smcs; Menards \$72.75 smcs; Metlife \$8,418.84 ps; Midlands Contracting \$951,691.89 co; Midwest Connect \$100.94 smcs; Midwest Pump & Equipment \$3,007.00 smcs; Milco Environmental \$3,175.30 smcs; Miller & Associates \$253.75 co; Miller Signs \$420.00 smcs; Mirror Image Car Wash \$138.30 smcs; Morgan,M \$46.00 smcs; Mueller,J \$576.00 smcs; Municipal Supply \$3,010.51 smcs; NE Child Support \$2,971.66 ps; NE Dept of Revenue \$76,473.25 smcs,ps; NE Dept of Roads \$314,821.58 co; NE DOL/Boiler Inspection \$108.00 smcs; NE Library Assn \$180.00 smcs; NE Public Health \$1,151.00 smcs; NE Truck Center \$1,677.54 smcs; NEland Distributors \$695.60 smcs; NE-IAI \$30.00 smcs; Northwestern Energy \$5,458.93 smcs; NP Construction \$28.67 smcs; Office Depot \$77.80 smcs; On Site Studio \$2,178.34 smcs; Orsborn,W \$15.71 smcs; Otto Environmental \$7,020.00 smcs; Outdoor Recreation \$1,180.00 co; Paramount Linen \$124.76 smcs; Payflex \$578.00 smcs,ps; Pitney Bowes \$900.00 smcs; Platte Valley Comm \$290.62 smcs; Polish Home \$495.00 smcs; Presto-X \$110.34 smcs; Random House \$87.75 smcs; RC Booth Enterprises \$25.00 smcs; Recorded Books \$765.53 smcs; Robinson,D \$350.00 smcs; Salient Sciences \$1,800.00 smcs; Salter,J \$140.30 smcs; Saltzgaber,S \$12.84 smcs; Sarpy County Museum \$66.00 smcs; Scales-Adams Co Sheriff \$1,000.00 smcs; School District 7 \$1,522.85 smcs; See Clear Cleaning \$2,050.00 smcs; Sign Center \$1,372.80 smcs; Snap-On Tools \$153.00 smcs; SOS Portable Toilets \$117.00 smcs; State of NE/AS Central \$3,903.53 smcs, co; Stroud,J \$21.40 smcs; Sun Life Financial \$61,389.44 smcs; Taillon,R \$11.01 smcs; The Hollands \$600.00 smcs; Thompson Co

\$63.54 smcs; Titan Machinery \$624.08 smcs; Turner Body Shop \$245.00 smcs; Tye Law Firm \$11,901.91 smcs; Union Bank & Trust \$65,619.81 ps; Verizon \$1,078.80 smcs; Village Cleaners \$505.65 smcs; Voshell,E \$25.21 smcs; Walters Electric \$2,000.00 smcs; Whalen,J \$398.85 smcs; Payroll Ending 3-7-2015 -- \$368,214.76. 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. 2015-47 approving the Developer Constructed Infrastructure Agreement between the City of Kearney and Oak Park Development, LLC for Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2015-47

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Constructed Infrastructure Agreement for Lots 3 and 4, Oak Park Center” between the City of Kearney and Oak Park Development, LLC, a Nebraska Limited Liability Company for the construction of water, sanitary sewer and concrete pavement and storm sewer to serve Lots 3 and 4, Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

4. 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 Exhibit Building (alternate location is Exposition Building) located at the Buffalo County Fairgrounds, 3807 Avenue N, on March 28, 2015 from 6:00 p.m. until 1:00 a.m. for a dance.

5. Approve the application for a Special Designated License submitted by Miretta Vineyards & Winery Inc., dba Miletta Vista Winery in connection with their Class YK-07615 catering liquor license to dispense wine inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on April 11, 2015 from 8:30 a.m. until 4:30 p.m. for sampling/tasting.

6. Adopt **Resolution No. 2015-48** approving the Developer Constructed Infrastructure Agreement for Castle Ridge Fifth Addition between the City of Kearney and Starostka Group Unlimited.

RESOLUTION NO. 2015-48

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Castle Ridge Fifth Addition" between the City of Kearney and Starostka Group Unlimited In., a Nebraska Corporation, for the construction of water, sanitary sewer and concrete pavement and storm sewer to serve Castle Ridge Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Approve the recommendation from the Utilities Department on the purchase of a side load refuse compactor truck used in the Sanitation Division from Nebraska Peterbilt in the amount of \$149,010.00.
8. Approve the recommendation from the Utilities Department on the purchase of an articulated frame four-wheel loader used in the Solid Waste Agency Landfill Division from Murphy Tractor in the amount of \$193,095.00.
9. Approve the recommendation from the Utilities Department on the purchase of a loader backhoe for the Water Distribution Division from Nebraska Machinery in the amount of \$99,965.00.
10. Accept the bids received for the 2014 Part 12 Improvements; Airport Water System Improvements and adopt **Resolution No. 2015-49** awarding the bid to Midlands Contracting in the amount of \$308,336.00.

RESOLUTION NO. 2015-49

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on March 3, 2015 at 2:00 p.m. for the 2014 Part 12 Improvements; Airport Water System Improvements; and

WHEREAS, the Engineer's Estimate for the 2014 Part 12 Improvements; Airport Water System Improvements was \$312,535.00; and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting of Kearney, Nebraska in the amount of \$308,336.00 be accepted as the lowest responsible bid for the 2014 Part 12 Improvements; Airport Water System Improvements; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that Midlands Contracting be and is the lowest responsible bidder for the

2014 Part 12 Improvements; Airport Water System Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting in the amount of \$308,336.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Estimate for the 2014 Part 12 Improvements; Airport Water System Improvements was \$312,535.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 10TH DAY OF MARCH, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the request submitted by the Kearney Police Department/Buffalo County Sheriff's Office to temporarily block off Avenue B from North Railroad Street to 21st Street for the auction to be held on April 18, 2015 from 7:00 a.m. until 2:00 p.m.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7973 AMENDING SALARY ORDINANCE

As part of the overall evaluation of the Development Services Department the following pay plan revisions and reorganization are recommended:

- Change Assistant City Manager/Development Services Director title to Assistant City Manager. This position will continue to oversee the Development Services Department.
- Associate Planner – pay grade 25. Create new classification to be filled by existing employee, pay grade 24.
- Development Coordinator – pay grade from 24 to 22. Position filled by existing employee, pay grade 20.
- City Planner – pay grade from 34 to 32.

Council Member Buschkoetter introduced Ordinance No. 7973 repealing Ordinance No. 7938 amending the Salary Ordinance to reflect amendments to the positions within the Development Services Department, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7973 by number. Roll call of those in favor of the

passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7973 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Nikkila, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7973 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

ORDINANCE NO. 7974 ISSUING BOND ANTICIPATION NOTES

Bruce Lefler from Ameritas presented this matter to the Council. He stated they were able to market the notes at the interest rate of .85 percent slightly better than the anticipated rate of .9 percent and can report that all of the notes were sold locally.

Council Member Lammers introduced Ordinance No. 7974 authorizing the issuance and sale of Bond Anticipation Notes of the City of Kearney, Nebraska, in the principal amount of \$3,745,000 for the purpose of providing interim financing for the costs of constructing street improvements in Paving Improvement District Nos. 2014-965, 2014-968, 2014-969, 2014-970 and 2014-971 of said City pending the issuance of permanent General Obligation Various Purpose Bonds of the City; prescribing the form of said notes; agreeing to issue the City's General Obligation Various Purpose Bonds to pay the notes at maturity or to pay the notes from other available funds; entering into a contract on behalf of the City with the holders of said notes, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7974 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7974 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7974 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.

OPEN ACCOUNT CLAIM

Moved by Lear seconded by Buschkoetter that the Open Account Claim in the amount of \$334.45 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

City Manager Michael Morgan stated they are working on a lot of projects, some very big projects and some exciting development occurring throughout the community. Staff is working hard to provide some solutions. March 9 was the planned start of the Brasilia Aircraft and all 3 or 4 have arrived.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 8:31 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**