

Kearney, Nebraska
June 9, 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 June 9, 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; 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: Ben Hirschfeld, Craig Bennett, Mitch Humphrey, Tony Seevers, Robert Fraser, 5 UNK students, Steve Altmaier from KGFW Radio, Ashley White from Kearney Hub, Brent Wiethorn from KKPR Radio.

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

The Council members led the 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

VACATE PORTION OF SPRUCE HOLLOW ESTATES FOURTH AND FIFTH AND REZONING EAST OF 11TH AVENUE BETWEEN WEST 57TH STREET PLACE AND WEST 58TH STREET

Moved by Lammers seconded by Nikkila to remove from the table Public Hearings 1, 2 and 3 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for DT Development and First Baptist Church of Kearney: (1) to vacate part of Lot 1, Spruce Hollow Estates Fourth Addition, part of Outlot B, Lots 1 and 2 of Block Four, Spruce Hollow Estates Fifth Addition, additions to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 7989; and vacate an easement being part of Lot 1, Spruce Hollow Estates Fourth Addition, part of Outlot B, part of Lots 1 and 2 of Block Four, Spruce Hollow Estates Fifth Addition, additions to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 7990; (2) to rezone from District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as a tract of land being Lot 1, Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska (east of 11th Avenue between West 57th Street Place and West 58th Street) and consider Ordinance No. 7991.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated the property is located east of 11th Avenue and north of 56th Street and between 57th Street and 59th Street. It basically has two currently land owners, one is DT Development and one is the Baptist Church. The property is currently zoned R-2/PD and the east portion; some is zoned R-1 and some R-2. They are asking for all of it to be zoned to R-2/PD.

When they platted this originally, there are some utility easements that will be released because of the new platting so they are asking for them to be released and there are no utilities in the easements. In addition, they are asking to vacate Lot 1, Block Four, Lot 2, Block 4, part of Outlot B of Spruce Hollow Estates Fifth and that part of what Baptist Church owns which is Lot 1, Spruce Hollow Estates Fourth.

There is currently a townhome existing on the northwest corner and the southwest corner of what they are proposing as a subdivision. Basically, the subdivision would have a public road through it on 10th Avenue and it would access the 13 lots with the existing ones there.

The final plat would have seven lots on the west side and six on the east. They will probably look like residential homes that would be single family but they are rezoning it to R-2/PD. The term that Mr. Hirschfeld has used on this is generational homes meaning that because the PD they would have the opportunity to have parents or

elderly live with them. The 2-story option will have an elevator located inside of it and it has a separate bedroom and living room on the first floor.

Infrastructure for the generational homes would look like single family homes but would pave the road connecting 57th Street and 59th Street and extend 59th Street east and would extend sanitary sewer into 10th Avenue to serve both and water would loop to tie between the two. Storm water drainage would be conveyed to the existing drainage way that has been set aside for storm water detention when they platted the area.

Council Member Lammers asked if the land to the east was currently zoned R-1 or if it was not zoned. Mr. Bennett stated it is currently zoned R-2 and it would remain; so they are taking a portion of it and putting a PD on it.

Council Member Buschkoetter asked Mr. Bennett to talk about vacating the utilities easements in the future and what will happen. Mr. Bennett stated there were no utilities extended through there so the various utility entities have signed off. Essentially, these easements will be reassigned back to utility easements that are along the backside of the lots. They are moving to the back of the new lots.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Applications submitted by Miller & Associates for DT Development and First Baptist Church of Kearney for property located east of 11th Avenue between West 57th Street Place and West 58th Street and introduced Ordinance No. 7989 vacating part of Lot 1, Spruce Hollow Estates Fourth Addition, part of Outlot B, Lots 1 and 2 of Block Four, Spruce Hollow Estates Fifth Addition, additions to the City of Kearney, Buffalo County, Nebraska; Ordinance No. 7990 vacating an easement being part of Lot 1, Spruce Hollow Estates Fourth Addition, part of Outlot B, part of Lots 1 and 2 of Block Four, Spruce Hollow Estates Fifth Addition, additions to the City of Kearney, Buffalo County, Nebraska; and Ordinance No. 7991 rezoning from District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as a tract of land being Lot 1, Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 7989, 7990 and 7991. 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 Nos. 7989, 7990 and 7991 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance Nos. 7989, 7990 and 7991 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 Nos. 7989, 7990 and 7991 are 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 SPRUCE HOLLOW ESTATES SIXTH ADDITION

Moved by Lammers seconded by Nikkila to remove from the table Public Hearings 1, 2 and 3 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for DT Development, Inc. for the Final Plat and Subdivision Agreement for Spruce Hollow Estates Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 11th Avenue between West 57th Street Place and West 58th Street) and consider Resolution No. 2015-82.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2015-82** approving the Application submitted by Miller & Associates for DT Development, Inc. for the Final Plat and Subdivision Agreement for Spruce Hollow Estates Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 11th Avenue between West 57th Street Place and West 58th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2015-82

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Spruce Hollow Estates Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being a part of Lot 1, now vacated, Spruce Hollow Estates Fourth Addition, and vacated part of Outlot B, vacated Lots 1 and 2, Block Four, Spruce Hollow Estates Fifth Addition to the City of Kearney, all in the Southeast Quarter of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 23 and assuming the South line of said Southwest Quarter as bearing S 89°39'26" W and all bearings contained herein are relative thereto; thence S

89°39'26" W on the South line of said Southwest Quarter a distance of 1099.64 feet to the Southerly extension of the West line of 11th Avenue as platted in Spruce Hollow Fourth Addition to the City of Kearney, Buffalo County, Nebraska; thence N 00°16'40" W on said West line of 11th Avenue a distance of 326.57 feet, to the beginning of a tangent curve to the Left, having a radius of 450.00 feet, a central angle of 06°53'31", and arc length of 54.13 feet, and a chord bearing of N 03°43'26" W a distance of 54.10 feet; thence N 82°49'48" E a distance of 100.00 feet to a 5/8" rebar with cap at the intersection of the Northerly line of 57th Street Place, with the Easterly line of 11th Avenue, as platted in Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska and the ACTUAL POINT OF BEGINNING; thence N 07°10'12" W on said Easterly line of 11th Avenue as platted in Spruce Hollow Fifth Addition to the City of Kearney a distance of 3.18 feet to a 5/8" rebar with cap; thence continuing on said Easterly line of 11th Avenue, and on a tangent curve to the Left, having a central angle of 31°08'18", a radius of 525.00 feet, an arc length of 285.32 feet, and a chord bearing of N 22°44'21" W a distance of 281.82 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 05°19'59", a radius of 525.00 feet, an arc length of 48.87 feet, and a chord bearing of N 40°58'29" W a distance of 48.85 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Right, having a central angle of 47°42'46", a radius of 25.00 feet, an arc length of 20.82 feet, and a chord bearing of N 19°46'49" W a distance of 20.23 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 25°36'02", a radius of 100.00 feet, an arc length of 44.70 feet, and a chord bearing of N 08°43'28" W a distance of 44.33 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Right, having a central angle of 58°40'04", a radius of 25.00 feet, an arc length of 25.60 feet, and a chord bearing of N 07°48'16" E a distance of 24.49 feet to a 5/8" rebar with cap; thence N 37°08'18" E continuing on said Easterly line a distance of 93.90 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 13°13'41", a radius of 940.00 feet, an arc length of 217.02 feet, and a chord bearing of N 30°31'27" E a distance of 216.54 feet to a 5/8" rebar with cap on the Southerly line of 59th Street as platted said Spruce Hollow Fifth Addition; thence S 68°17'41" E on said Southerly line of 59th Street a distance of 144.11 feet to a 5/8" rebar with cap at the Southeast corner of 59th Street; thence N 21°42'19" E on the Easterly line of said 59th Street a distance of 60.00 feet to a 5/8" rebar with cap at the Northeast Corner of said 59th Street; thence S 68°17'41" E on the Easterly extension of the North line of said 59th Street a distance of 139.42 feet to a 5/8" rebar with cap; thence S 21°42'19" W perpendicular to said 59th Street a distance of 229.50 feet to a 5/8" rebar with cap; thence S 15°11'34" E a distance of 248.71 feet to a 5/8" rebar with cap; thence S 00°16'40" E a distance of 88.93 feet to a 5/8" rebar with cap; thence S 44°16'21" W a distance of 46.53 feet to a 5/8" rebar with cap on the Northerly line of said 57th Street Place; thence Westerly on said Northerly line of 57th Street Place and on a non-tangent curve to the Left having a central angle of 119°28'49", a radius of 50.00 feet, an arc length of 104.27 feet, and a chord bearing of S 74°31'57" W a distance of 86.37 feet to a 5/8" rebar with cap; thence S 89°43'20" W continuing on said Northerly line of 57th Street Place a distance of 165.69 feet to the Point of Beginning, containing 4.67 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 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

DEVELOPMENT PLANS FOR 15 SINGLE FAMILY CONDOMINIUMS LOCATED EAST OF 11TH AVENUE BETWEEN WEST 57TH STREET PLACE AND WEST OF 58TH STREET

Moved by Lammers seconded by Nikkila to remove from the table Public Hearings 1, 2 and 3 for consideration. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for DT Development, Inc. for Planned District Development Plan Approval to construct 15 single family condominium dwelling units on property to be zoned R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land being part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (east of 11th Avenue between West 57th Street Place and west of 58th Street) and consider Resolution No. 2015-83.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2015-83** approving the Application submitted by Miller & Associates for DT Development, Inc. for Planned District Development Plan Approval to construct 15 single family condominium dwelling units on property to be zoned R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land being part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (east of 11th Avenue between West 57th Street Place and west of 58th Street). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2015-83

WHEREAS, Miller & Associates for DT Development, Inc. have applied for Planned District Development Plan Approval for 15 single family condominium dwelling units on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land being a part of Lot 1, now vacated, Spruce Hollow Estates Fourth Addition, and vacated part of Outlot B, vacated Lots 1 and 2, Block Four, Spruce Hollow Estates Fifth Addition, to the City of Kearney, all in the Southeast Quarter of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 23 and assuming the South line of said Southwest Quarter as bearing S 89°39'26" W and all bearings contained herein are relative thereto; thence S 89°39'26" W on the South line of said Southwest Quarter a distance of 1099.64 feet to the Southerly extension of the West line of 11th Avenue as platted in Spruce Hollow Fourth Addition to the City of Kearney, Buffalo County, Nebraska; thence N 00°16'40" W on said West line of 11th Avenue a distance of 326.57 feet, to the beginning of a tangent curve to the Left, having a radius of 450.00 feet, a central angle of 06°53'31", and arc length of 54.13 feet, and a chord bearing of N 03°43'26" W a distance of 54.10 feet; thence N 82°49'48" E a distance of 100.00 feet to a 5/8" rebar with cap at the intersection of the Northerly line of 57th Street Place, with the Easterly line of 11th Avenue, as platted in Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska and the ACTUAL POINT OF BEGINNING; thence N 07°10'12" W on said Easterly line of 11th Avenue as platted in Spruce Hollow Fifth Addition to the City of Kearney a distance of 3.18 feet to a 5/8" rebar with cap; thence continuing on said Easterly line of 11th Avenue, and on a tangent curve to the Left, having a central angle of 31°08'18", a radius of 525.00 feet, an arc length of 285.32 feet, and a chord bearing of N 22°44'21" W a distance of 281.82 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 05°19'59", a radius of 525.00 feet, an arc length of 48.87 feet, and a chord bearing of N 40°58'29" W a distance of 48.85 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Right, having a central angle of 47°42'46", a radius of 25.00 feet, an arc length of 20.82 feet, and a chord bearing of N 19°46'49" W a distance of 20.23 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 25°36'02", a radius of 100.00 feet, an arc length of 44.70 feet, and a chord bearing of N 08°43'28" W a distance of 44.33 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Right, having a central angle of 58°40'04", a radius of 25.00 feet, an arc length of 25.60 feet, and a chord bearing of N 07°48'16" E a distance of 24.49 feet to a 5/8" rebar with cap; thence N 37°08'18" E continuing on said Easterly line a distance of 93.90 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 13°13'41", a radius of 940.00 feet, an arc length of 217.02 feet, and a chord bearing of N 30°31'27" E a distance of 216.54 feet to a 5/8" rebar with cap on the Southerly line of 59th Street as platted said Spruce Hollow Fifth Addition; thence S 68°17'41" E on said Southerly line of 59th Street a distance of 144.11 feet to a 5/8" rebar with cap at the Southeast corner of 59th Street; thence N 21°42'19" E on the Easterly line of said 59th Street a distance of 60.00 feet to a 5/8" rebar with cap at the Northeast Corner of said 59th Street; thence S 68°17'41" E on the Easterly extension of the North line of said 59th Street a distance of 139.42 feet to a

5/8" rebar with cap; thence S 21°42'19" W perpendicular to said 59th Street a distance of 229.50 feet to a 5/8" rebar with cap; thence S 15°11'34" E a distance of 248.71 feet to a 5/8" rebar with cap; thence S 00°16'40" E a distance of 88.93 feet to a 5/8" rebar with cap; thence S 44°16'21" W a distance of 46.53 feet to a 5/8" rebar with cap on the Northerly line of said 57th Street Place; thence Westerly on said Northerly line of 57th Street Place and on a non-tangent curve to the Left having a central angle of 119°28'49", a radius of 50.00 feet, an arc length of 104.27 feet, and a chord bearing of S 74°31'57" W a distance of 86.37 feet to a 5/8" rebar with cap; thence S 89°43'20" W continuing on said Northerly line of 57th Street Place a distance of 165.69 feet to the Point of Beginning, containing 4.67 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 application of Miller & Associates for DT Development, Inc. for Planned District Development Plan Approval for 15 single family condominium dwelling units on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land being a part of Lot 1, now vacated, Spruce Hollow Estates Fourth Addition, and vacated part of Outlot B, vacated Lots 1 and 2, Block Four, Spruce Hollow Estates Fifth Addition, to the City of Kearney, all in the Southeast Quarter of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 23 and assuming the South line of said Southwest Quarter as bearing S 89°39'26" W and all bearings contained herein are relative thereto; thence S 89°39'26" W on the South line of said Southwest Quarter a distance of 1099.64 feet to the Southerly extension of the West line of 11th Avenue as platted in Spruce Hollow Fourth Addition to the City of Kearney, Buffalo County, Nebraska; thence N 00°16'40" W on said West line of 11th Avenue a distance of 326.57 feet, to the beginning of a tangent curve to the Left, having a radius of 450.00 feet, a central angle of 06°53'31", and arc length of 54.13 feet, and a chord bearing of N 03°43'26" W a distance of 54.10 feet; thence N 82°49'48" E a distance of 100.00 feet to a 5/8" rebar with cap at the intersection of the Northerly line of 57th Street Place, with the Easterly line of 11th Avenue, as platted in Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska and the ACTUAL POINT OF BEGINNING; thence N 07°10'12" W on said Easterly line of 11th Avenue as platted in Spruce Hollow Fifth Addition to the City of Kearney a distance of 3.18 feet to a 5/8" rebar with cap; thence continuing on said Easterly line of 11th Avenue, and on a tangent curve to the Left, having a central angle of 31°08'18", a radius of 525.00 feet, an arc length of 285.32 feet, and a chord bearing of N 22°44'21" W a distance of 281.82 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 05°19'59", a radius of 525.00 feet, an arc length of 48.87 feet, and a chord bearing of N 40°58'29" W a distance of 48.85 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Right, having a central angle of 47°42'46", a radius of 25.00 feet, an arc length of 20.82 feet, and a chord bearing of N 19°46'49" W a distance of 20.23 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Left, having a central angle of 25°36'02", a radius of 100.00 feet, an arc length of 44.70 feet, and a chord bearing of N 08°43'28" W a distance of 44.33 feet to a 5/8" rebar with cap; thence continuing on said Easterly line, and on a tangent curve to the Right, having a central angle of 58°40'04", a radius of 25.00 feet, an arc length of 25.60 feet, and a chord bearing of N 07°48'16" E a distance of 24.49 feet to a 5/8" rebar with cap; thence N

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PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMEND LAND USE MAP SOUTH OF UPRR TRACKS AND WEST OF 62ND AVENUE

Public Hearings 4, 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Sutton Rentals, LLC 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 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of UPRR tracks and west of 62nd Avenue) and consider Resolution No. 2015-117.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. They have RR-1, Single Family Rural Residential located in the first phase of the development. The area zoned Ag they would like to rezone to RR-1 with the entrance coming off of 62nd Avenue which originally was the 30-foot wide ingress/egress easement that will eventually be a public street.

The Preliminary Plat was approved by the Planning Commission for three lots that consist of 3.04 acres that has a house and buildings on it and there are two additional lots to the west that each contains three acres with the proposed platting of the south half of the street what they are calling 13th Street.

The final plat would be recorded with the same three lots. They have the standard 50-foot setback line and the utility easements along the road.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2015-117** approving the Application submitted by Buffalo Surveying for Sutton Rentals, LLC 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 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of UPRR tracks and west of 62nd Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2015-117

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 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 525.7 feet; thence N 87°19'20" W a distance of 726.37 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 87°19'20" W a distance of 1288.83 feet; thence S06°43'10" W a distance of 279.54 feet; thence S 61° 47' E a distance of 20.1 feet; thence S 79°38' E a distance of 245.0 feet; thence N 84°05' E a distance of 249.0 feet; thence S 68°17' E a distance of 93.0 feet; thence S 50°39' E a distance of 68.4 feet; thence S 80°16' E a distance of 157.4 feet; thence N 87°52' E a distance of 256.9 feet; thence S 85°17' E a distance of 263.48 feet; thence NORTH parallel to the East line of said Section 6 a distance of 361.82 feet to the place of beginning; TOGETHER WITH AND SUBJECT TO, HOWEVER, the rights of ingress-egress over and across the following described tracts of land: Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 510.68 feet to the ACTUAL PLACE OF BEGINNING; thence continuing NORTH on the afore described course a distance of 30.04 feet; thence N 87°19'20" W a distance of 2013.4 feet; thence S 06°43'10" W a distance of 294.58 feet; thence S 61°47' E a distance of 20.1 feet; thence S 79°38' E a distance of 21.35 feet; thence N 06°43'10" E a distance of 276.2 feet; thence S 87°19'20" E a distance of 1976.7 feet to the place of beginning; AND Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH, and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 242.1 feet to the ACTUAL PLACE OF BEGINNING; thence WEST 33.0 feet to a point on the West property line of a public road; thence S 66°18' W a distance of 173.1 feet; thence S 81°50' W a distance of 97.9 feet; thence N 85°17' W a distance of 700.5 feet; thence S 87°52' W a distance of 256.9 feet; thence N 80°16' W a distance of 157.4 feet; thence N

50°39' W a distance of 68.4 feet; thence N 68°17' W a distance of 93.0 feet; thence S 84°05' W a distance of 249.0 feet; thence N 79°38' W a distance of 245.0 feet; thence N 61°47' W a distance of 20.1 feet; thence N 37°36' E a distance of 16.9 feet; thence S 81°09' E a distance of 256.2 feet; thence N 85°44' E a distance of 242.0 feet; thence S 69°28' E a distance of 101.7 feet; thence S 71°55' E a distance of 216.9 feet; thence N 87°40' E a distance of 250.9 feet; thence S 85°23' E a distance of 702.9 feet; thence N 82°06' E a distance of 93.4 feet; thence N 65°07' E a distance of 177.5 feet thence EAST 33.0 feet; thence SOUTH 27.0 feet to the place of beginning, 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 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 525.7 feet; thence N 87°19'20" W a distance of 726.37 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 87°19'20" W a distance of 1288.83 feet; thence S 06°43'10" W a distance of 279.54 feet; thence S 61° 47' E a distance of 20.1 feet; thence S 79°38' E a distance of 245.0 feet; thence N 84°05' E a distance of 249.0 feet; thence S 68°17' E a distance of 93.0 feet; thence S 50°39' E a distance of 68.4 feet; thence S 80°16' E a distance of 157.4 feet; thence N 87°52' E a distance of 256.9 feet; thence S 85°17' E a distance of 263.48 feet; thence NORTH parallel to the East line of said Section 6 a distance of 361.82 feet to the place of beginning; TOGETHER WITH AND SUBJECT TO, HOWEVER, the rights of ingress-egress over and across the following described tracts of land: Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 510.68 feet to the ACTUAL PLACE OF BEGINNING; thence continuing NORTH on the afore described course a distance of 30.04 feet; thence N 87°19'20" W a distance of 2013.4 feet; thence S 06°43'10" W a distance of 294.58 feet; thence S 61°47' E a distance of 20.1 feet; thence S 79°38' E a distance of 21.35 feet; thence N 06°43'10" E a distance of 276.2 feet; thence S 87°19'20" E a distance of 1976.7 feet to the place of beginning; AND Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH, and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 242.1 feet to the ACTUAL PLACE OF BEGINNING; thence WEST 33.0 feet to a point on the West property line of a public road; thence S 66°18' W a distance of 173.1 feet; thence S 81°50' W a distance of 97.9 feet; thence N 85°17' W a distance of 700.5 feet; thence S 87°52' W a distance of 256.9 feet; thence N 80°16' W a distance of 157.4 feet; thence N 50°39' W a distance of 68.4 feet; thence N 68°17' W a distance of 93.0 feet; thence S 84°05' W a distance of 249.0

feet; thence N 79°38' W a distance of 245.0 feet; thence N 61°47' W a distance of 20.1 feet; thence N 37°36' E a distance of 16.9 feet; thence S 81°09' E a distance of 256.2 feet; thence N 85°44' E a distance of 242.0 feet; thence S 69°28' E a distance of 101.7 feet; thence S 71°55' E a distance of 216.9 feet; thence N 87°40' E a distance of 250.9 feet; thence S 85°23' E a distance of 702.9 feet; thence N 82°06' E a distance of 93.4 feet; thence N 65°07' E a distance of 177.5 feet thence EAST 33.0 feet; thence SOUTH 27.0 feet to the place of beginning, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING SOUTH OF UPRR TRACKS AND WEST OF 62ND AVENUE

Public Hearings 4, 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Sutton Rentals, LLC 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 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of UPRR tracks and west of 62nd Avenue) and consider Ordinance No. 8000.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Buffalo Surveying for Sutton Rentals, LLC and introduced Ordinance No. 8000 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lot 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of UPRR tracks and west of 62nd Avenue) 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. 8000. 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. 8000 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. 8000 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. 8000 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 OVERTURF SECOND SUBDIVISION

Public Hearings 4, 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Sutton Rentals, LLC for the Final Plat for Overturf Second Subdivision of Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of UPRR tracks and west of 62nd Avenue) and consider Resolution No. 2015-118.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2015-118** approving the Application submitted by Buffalo Surveying for Sutton Rentals, LLC for the Final Plat for Overturf Second Subdivision of Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of UPRR tracks and west of 62nd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2015-118

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Overturf Second Subdivision, a subdivision of Buffalo County, Nebraska for a tract of land being part of Government Lot 9 and part of Government Lot 10 located in the South Half of Section 6, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 525.7 feet; thence N 87°19'20" W a distance of 726.37 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 87°19'20" W a distance of 1288.83 feet; thence S06°43'10" W a distance of 279.54 feet; thence S 61° 47' E a distance of 20.1 feet; thence S 79°38' E a distance of 245.0 feet; thence N 84°05' E a distance of 249.0 feet; thence S 68°17' E a distance of 93.0 feet; thence S 50°39' E a distance of 68.4 feet; thence S 80°16' E a distance of 157.4 feet; thence N 87°52' E a distance of 256.9 feet; thence S 85°17' E a distance of 263.48 feet; thence NORTH parallel to the East line of said Section 6 a distance of 361.82 feet to the place of beginning; TOGETHER WITH AND SUBJECT TO,

HOWEVER, the rights of ingress-egress over and across the following described tracts of land: Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 510.68 feet to the ACTUAL PLACE OF BEGINNING; thence continuing NORTH on the afore described course a distance of 30.04 feet; thence N 87°19'20" W a distance of 2013.4 feet; thence S 06°43'10" W a distance of 294.58 feet; thence S 61°47' E a distance of 20.1 feet; thence S 79°38' E a distance of 21.35 feet; thence N 06°43'10" E a distance of 276.2 feet; thence S 87°19'20" E a distance of 1976.7 feet to the place of beginning; AND Referring to the Southeast Corner of said Section 6 and assuming the East line of said Section 6 as bearing NORTH, and all bearings contained herein are relative thereto; thence NORTH on the East line of said Section 6 a distance of 242.1 feet to the ACTUAL PLACE OF BEGINNING; thence WEST 33.0 feet to a point on the West property line of a public road; thence S 66°18' W a distance of 173.1 feet; thence S 81°50' W a distance of 97.9 feet; thence N 85°17' W a distance of 700.5 feet; thence S 87°52' W a distance of 256.9 feet; thence N 80°16' W a distance of 157.4 feet; thence N 50°39' W a distance of 68.4 feet; thence N 68°17' W a distance of 93.0 feet; thence S 84°05' W a distance of 249.0 feet; thence N 79°38' W a distance of 245.0 feet; thence N 61°47' W a distance of 20.1 feet; thence N 37°36' E a distance of 16.9 feet; thence S 81°09' E a distance of 256.2 feet; thence N 85°44' E a distance of 242.0 feet; thence S 69°28' E a distance of 101.7 feet; thence S 71°55' E a distance of 216.9 feet; thence N 87°40' E a distance of 250.9 feet; thence S 85°23' E a distance of 702.9 feet; thence N 82°06' E a distance of 93.4 feet; thence N 65°07' E a distance of 177.5 feet thence EAST 33.0 feet; thence SOUTH 27.0 feet to the place of beginning, 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 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMEND LAND USE MAP ADJACENT TO THE NORTH AND SOUTH SIDE OF 3RD STREET EAST OF 6TH AVENUE

Mayor Clouse stated the City received notice that the developer has requested to postpone until June 23, 2015 Public Hearing 7 on the Application submitted by Miller & Associates for Paul and Linda Younes for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from AG Preserve to Mixed Use 2 property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue).

Moved by Clouse seconded by Lammers to postpone until June 23, 2015 the Application submitted by Miller & Associates for Paul and Linda Younes for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from AG Preserve to Mixed Use 2 property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

REZONING ADJACENT TO THE NORTH AND SOUTH SIDE OF 3RD STREET EAST OF 6TH AVENUE

Mayor Clouse stated the City received notice that the developer has requested to postpone until June 23, 2015 Public Hearing 8 on the Application submitted by Miller & Associates for Paul and Linda Younes to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue).

Moved by Clouse seconded by Lammers to postpone until June 23, 2015 the Application submitted by Miller & Associates for Paul and Linda Younes to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

FINAL PLAT FOR YOUNES CENTER FOURTH ADDITION

Mayor Clouse stated the City received notice that the developer has requested to postpone until June 23, 2015 Public Hearing 9 on the Application submitted by Miller & Associates for Paul and Linda Younes for the Final Plat for Younes Center Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue).

Moved by Clouse seconded by Lammers to postpone until June 23, 2015 the Application submitted by Miller & Associates for Paul and Linda Younes for the Final Plat for Younes Center Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M.,

Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ANNEXATION OF YOUNES CENTER FOURTH ADDITION

Mayor Clouse stated the City received notice that the developer has requested to postpone until June 23, 2015 Public Hearing 10 on the Application submitted by Miller & Associates for Paul and Linda Younes for the annexation of Younes Center Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue).

Moved by Clouse seconded by Lammers to postpone until June 23, 2015 the Application submitted by Miller & Associates for Paul and Linda Younes for the annexation of Younes Center Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lots 5, 6 and 9 and accretions to Government Lots 5, 6 and 9 all located in the Southeast Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (adjacent to the north and south side of 3rd Street east of 6th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

LIQUOR LICENSE FOR BOOGAARTS

Mayor Clouse opened the public hearing on the Application for a Class C liquor license submitted by Foodmart III, Inc., dba Boogaarts located at 1615 2nd Avenue, the manager application for Tony Seevers and consider Resolution No. 2015-122.

Tony Seevers presented this matter to the Council. He stated they switched owners so they needed to make application indicating the new owners.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2015-122** recommending approval to the Liquor Commission the Application for a Class C liquor license submitted by Foodmart III, Inc., dba Boogaarts located at 1615 2nd Avenue and approve the manager application for Tony Seevers. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear abstaining. Motion carried.

RESOLUTION NO. 2015-122

WHEREAS, Foodmart III, Inc., dba Boogaarts has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-112142 Liquor License to do business at 1615 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, Foodmart III, Inc., dba Boogaarts also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of Tony Seevers; and

WHEREAS, a hearing was held relating to said application on June 9, 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-112142 Liquor License to Foodmart III, Inc., dba Boogaarts located at 1615 2nd Avenue, Kearney, Nebraska, and to approve the application for Manager of Tony Seevers.

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 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LIQUOR LICENSE FOR RITA CANTINA

Mayor Clouse opened the public hearing on the Application for a Class I liquor license submitted by Rita Cantina, LLC, dba Rita Cantina located at 119 3rd Avenue, consider the manager application for Robert Fraser and consider Resolution No. 2015-123.

Robert Fraser presented this matter to the Council. He has been in the business for approximately 35 years. They have had a couple violations in the past in different states during a sting and all employees were terminated.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2015-123** recommending approval to the Liquor Commission the Application for a Class I liquor license submitted by Rita Cantina, LLC, dba Rita Cantina located at 119 3rd Avenue and approve the manager application for Robert Fraser. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear abstaining. Motion carried.

RESOLUTION NO. 2015-123

WHEREAS, Rita Cantina, LLC, dba Rita Cantina has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-112113 Liquor License to do business at 119 3rd 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, Rita Cantina, LLC, dba Rita Cantina also filed with the Nebraska Liquor

Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of Robert Fraser; and

WHEREAS, a hearing was held relating to said application on June 9, 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 I-112113 Liquor License to Rita Cantina, LLC, dba Rita Cantina located at 119 3rd Avenue, Kearney, Nebraska, and to approve the application for Manager of Robert Fraser.

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 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated the Consent Agenda was amended on Monday, June 8 by adding Subsection 15.

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

1. Approve Minutes of Regular Meeting held May 26, 2015.
2. Approve the following Claims:

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

911 Custom \$5,550.00 smcs; Alamar \$2,724.45 smcs; Ally B Designs \$65.00 smcs; Amazon \$2,456.17 smcs; Amer First Aid \$119.49 smcs; Anderson Bros \$747.38 smcs; Anderson,B \$40.00 smcs; Anderson,S \$13.80 smcs; Annen,J \$44.05 smcs; Arctic Refrigeration \$134.89 smcs; Ask Supply \$2,228.88 smcs; Aurora Coop \$49.92 smcs; Baird Holm \$6,170.00 smcs; Baker & Taylor \$10,255.54 smcs; Bamford \$7,650.00 co; Barco Municipal \$6,782.10 smcs; Baye,S \$19.90 smcs; Blackstone Audio \$419.97 smcs; Blender,A \$27.73 smcs; Blessing \$194,999.25 smcs,co; BlueCrossBlueShield \$85,677.71 smcs; Books Galore \$9,590.19 smcs; Bosselman \$3,701.56 smcs; Bruha,S \$410.00 smcs; Buffalo Co Attorney \$18,750.00 smcs; Buffalo Co Community \$15,000.00 smcs; Buffalo Co Reg Deeds \$230.00 smcs; Buffalo Co Board of Comm

\$10,345.80 co; Builders \$120.29 smcs,co; Byrne,D \$52.95 smcs; Cacaro,K \$93.44 smcs; Candy,T \$98.55 smcs; Capital Business Systems \$469.33 smcs; Cash Wa \$3,799.07 smcs; ChemSearch \$307.27 smcs; Chief Supply \$33.69 smcs; CHS Agri Service \$2,693.12 smcs; City of Ky \$363,049.21 smcs,co,ps; Cleveland,E \$433.00 smcs; Community Health Charity \$10.00 ps; Construction Rental \$27.99 smcs; Copycat \$1,021.63 smcs; D&M Security \$42.50 smcs; Dan Roeder Construction \$100,671.55 co; Dannull,K \$45.00 smcs; Day,D \$1,683.00 smcs; Dell \$2,207.40 smcs; Depository Trust \$552,143.75 ds; Eakes \$3,569.01 smcs; Ed Broadfoot & Sons \$912.00 smcs; Elliott Equipment \$1,145.13 smcs; Enterprise Electric \$16.20 smcs; Falewitch Construction \$145.00 smcs; Family Fresh Pharmacy \$1,500.00 smcs; Faz,A \$73.60 smcs; Finley,L \$112.70 smcs; Fireguard \$2,245.50 smcs; Flaherty,T \$314.00 smcs; Frenzen,J \$28.42 smcs; Gale \$623.20 smcs; Gangwish Turf \$1,102.20 smcs,co; Garrett Tires \$11.00 smcs; Gaylord Bros \$445.91 smcs; Gear for Sports \$296.71 smcs; Grimes,A \$100.00 smcs; Grove,K \$45.00 smcs; HD Supply \$2,189.78 smcs; Hometown Leasing \$157.20 smcs; Hotwood's \$539.99 co; Hummel,K \$9.00 smcs; ICMA RC \$4,452.81 ps; Iowa Western College \$30.00 smcs; IRS \$138,313.15 ps; Jack Lederman \$51.32 smcs; JEO Consulting \$34,385.12 smcs; Ky Area United Way \$554.00 ps; Ky Children's Museum \$3,000.00 smcs; Ky Tires & Auto \$105.98 smcs; Ky Winnelson \$2,377.55 smcs; KGIN \$5,290.00 smcs; Klaus,M \$233.50 smcs; Klein,M \$14.72 smcs; Krull Ins \$2,194.75 smcs; Laser Art Design \$230.15 smcs; Loeffler,C \$21.99 smcs; Magic Cleaning \$4,340.00 smcs; Mail Express \$6,585.17 smcs; Maloley Family Partnership \$1,657.70 co; Marlatt Machine \$437.97 smcs; Matheson Tri-Gas \$23.33 smcs; McCarty,D \$26.95 smcs; Mead Lumber \$79.90 co; Meier,B \$306.00 smcs; Metlife \$8,239.71 ps; Midlands Contracting \$650,206.77 co; Mid-NE Garage Doors \$452.28 smcs; Mindmixer.com \$250.00 smcs; Midwest Connect \$100.94 smcs; Midwest Labs \$677.50 smcs; Milco Environmental \$4,672.46 smcs; Miller & Associates \$102,806.45 co; Miller Signs \$75.00 smcs; Miller,S \$20.85 smcs; Moonlight Embroidery \$180.00 smcs; Mortensen,N \$0.57 smcs; Mulrone,K \$23.00 smcs; Municipal Supply \$949.93 smcs; NE Child Support \$2,481.74 ps; NE Dept of Revenue \$39,097.64 ps; NE Law Enforcement \$400.00 smcs; Newell,B \$61.11 smcs; Noetzelman,J \$79.58 smcs; Northwestern Energy \$1,650.48 smcs; Novus \$35.00 smcs; O'Brien,M \$1.53 smcs; Office Depot \$717.55 smcs; Ohri,R \$59.76 smcs; O'Keefe Elevator \$795.96 smcs; Old Chicago \$111.15 smcs; Olsson Associates \$20,692.53 co; O'Neill Wood Resources \$1,775.00 smcs; Overhead Door \$161.98 smcs; Paramount \$158.08 smcs; Payflex Systems \$573.75 ps; Penworthy \$137.39 smcs; Platte Valley Comm \$8,233.41 smcs; Pofhal,D \$55.00 smcs; Portable Computer Systems \$21,234.97 co; Pulliam,R \$40.00 smcs; Random House \$550.99 smcs; Ready Mixed Concrete \$535.94 smcs; Ready,D \$152.43 smcs; Recorded Books \$1,511.31 smcs; RecoverySystems \$398.70 smcs; Rich,T \$50.00 smcs; RW Sorensen Construction \$4,500.00 co; S&B Heating \$636.25 smcs; S&J Construction \$26,704.00 co; Salpas,K \$75.00 smcs; Sapp Bros \$20,751.52 smcs; Science Reconnect \$195.00 smcs; See Clear Cleaning \$2,050.00 smcs; Select Sprayers \$183.40 smcs; Sesna,D \$8.89 smcs; Sheen,K \$41.96 smcs; Sign Center \$375.00 smcs; Small,J \$61.22 smcs; Smolinski,K \$393.00 smcs; Snow,T \$600.00 smcs; St of NE/AS Central \$5,867.77 smcs,co; Steinbrink Landscaping \$819.99 smcs; Stokebrand,A \$30.00 smcs; Strategic Insights \$675.00 smcs; Sun Life Financial \$60,900.48 smcs; Tacha,J \$50.00 smcs; Taillon,R \$32.00 smcs; Thompson Co \$64.56 smcs; Thompson,K \$12.79 smcs; Titleist \$819.12 smcs; TL Sund \$56,340.97 co; Tye Law Firm \$12,034.07 smcs; Union Bank & Trust \$63,826.20 ps; Urbanek,G \$20.00 smcs; Verizon Wireless \$1,280.54 smcs; Village Uniforms \$825.58 smcs; Walters Electric \$614.74 smcs; Warren-T \$246.92

smcs; Warrington,D \$869.12 smcs; Watchguard Video \$615.00 co; Weller,B \$13.80 smcs; Wilke Contracting \$6,507.60 co; WT Cox Subscriptions \$393.20 smcs; Young,K \$45.00 smcs; Zimmerman Printers \$337.50 smcs; Payroll Ending 5-30-2015 -- \$420,008.07. 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. 2012-205A** amending original Resolution No. 2012-205 correcting the legal description for the redevelopment project for Redevelopment Area #9 described as a tract of land identified by the Buffalo County Assessor's Office as Parcel Nos. 608001000, 608001005 and 601676410 and legally described as follows: Lots 2 and 3, Getaway Bay Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lot 1, Bober Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1140 East 1st Street, north of East 1st Street and west of Avenue M).

RESOLUTION NO. 2012-205A

WHEREAS, the City Council adopted Resolution No. 2012-205 on November 13, 2012 approving a specific redevelopment project within Redevelopment Plan No. 9; and

WHEREAS, it has been determined that the legal description set forth in Resolution No. 2012-205 needs to be amended to specifically designate the area to be a tract of land identified by the Buffalo County Assessor's Office as Parcel Nos. 608001000, 608001005 and 601676410 and legally described as follows: Lots 2 and 3, Getaway Bay Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lot 1, Bober Addition, 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 legal description set forth in Resolution No. 2012-205 be amended to specifically designate the area for this redevelopment project to be a tract of land identified by the Buffalo County Assessor's Office as Parcel Nos. 608001000, 608001005 and 601676410 and legally described as follows: Lots 2 and 3, Getaway Bay Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lot 1, Bober Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that except as amended by this resolution, all of the terms and conditions of original Resolution No. 2012-205 are hereby confirmed. The legal description set forth in said original Resolution No. 2012-205 is hereby replaced in full as a tract of land identified by the Buffalo County Assessor's Office as Parcel Nos. 608001000, 608001005 and 601676410 and legally described as follows: Lots 2 and 3, Getaway Bay Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lot 1, Bober Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Amended Allocation Agreement and Notice of Pledge of Taxes with the correct legal description with respect to the Redevelopment Project substantially in the form attached hereto as Amended Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 4. Approve the recommendation from the Development Services Division on the annual renewal of Valley View Mobile Home Court, 2701 Grand Avenue until May 31, 2016.
- 5. Approve the recommendation from the Development Services Division on extending the current licenses for an additional 60 days for the following manufactured home courts: Cornhusker Mobile Home Park, 1115 Avenue C; L & M Properties, 1110 Central Avenue; and East Lawn Mobile Homes Estates, 2900, 3010 Grand Avenue.
- 6. Approve the Plans and Specifications for the 2015 Part 7 Improvements; 3rd Street from 5th Avenue to Kea West Avenue and set the bid opening date for July 7, 2015 at 2:00 p.m.
- 7. Approve the Plans and Specifications for the 2015 Part 9 Improvements; Hike-Bike Trail Phase 1 and set the bid opening date for July 7, 2015 at 2:00 p.m.
- 8. Adopt **Resolution No. 2015-124** approving the Developer Constructed Infrastructure Agreement between the City of Kearney and Kearney Properties, LLC for Lot 1, Block Three Western Nebraska Property Development Addition and Lot 1, Western Nebraska Property Development Second Addition to construct paving, water, sanitary sewer and storm sewer improvements.

RESOLUTION NO. 2015-124

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Western Nebraska Property Development Addition" between the City of Kearney and Kearney Properties, LLC, to construct paving, water, sanitary sewer and storm sewer improvements to serve Lot 1, Block Three Western Nebraska Property Development Addition and Lot 1, Western Nebraska Property Development Second Addition, all being additions 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 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 9. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building and an outdoor area measuring 125' by 50' adjacent to the building as shown on the diagram all located at the Buffalo County Fairgrounds, 3807 Avenue N on July 4, 2015 from 3:00 p.m. until 1:00 a.m. for a reception.
- 10. Approve the application for a Special Designated License submitted by Night Life

Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building and an outdoor area measuring 125' by 50' adjacent to the building as shown on the diagram all located at the Buffalo County Fairgrounds, 3807 Avenue N on July 10, 2015 from 3:00 p.m. until 1:00 a.m. for a concert.

11. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on July 11, 2015 from 3:00 p.m. until 1:00 a.m. for a fund raiser.

12. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on July 17, 2015 from 3:00 p.m. until 11:00 p.m. for a car show.

13. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building and an outdoor area measuring 125' by 50' adjacent to the building as shown on the diagram all located at the Buffalo County Fairgrounds, 3807 Avenue N on July 22, 23, 24, 25, 2015 from 3:00 p.m. until 1:00 a.m. and July 26, 2015 from 3:00 p.m. until 12:00 a.m. for the Buffalo County Fair.

14. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits inside the outdoor area measuring 300' by 200' and designated as the Outdoor Arena adjacent to the Exposition Building at the Buffalo County Fairgrounds, 3807 Avenue N on July 26, 2015 from 2:00 p.m. until 11:00 p.m. for the County Fair.

15. Adopt **Resolution No. 2015-125** approving the Recreational Use Agreement between the City of Kearney and Midway Automotive Group, Inc. creating a take-out point from Turkey Creek (the North Channel of the Platte River) for those individuals that may be using this waterway for kayaking, canoeing or other recreational uses.

RESOLUTION NO. 2015-125

WHEREAS, Midway Automotive Group, Inc. is willing to grant access to a portion of its property and lease the same to the City of Kearney for recreational purposes; and

WHEREAS, the City of Kearney and Midway Automotive Group, Inc. desire to enter into an agreement creating a take-out point from Turkey Creek (the North Channel of the Platte River) for those individuals that may be using this waterway for kayaking, canoeing or other recreational uses.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Recreational Use Agreement, marked as Exhibit A, attached hereto and made a part hereof by reference, be and is hereby approved.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Recreational Use Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2015.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8002 AMEND FIREWORKS SECTIONS OF THE CITY CODE

Update additional City Code Sections 4-603, 4-604, 4-605, and 4-609 to align with recent changes adopted by the State Fire Marshalls office replacing permissible fireworks with consumer fireworks. City code has allowed Temporary Firework Stands to be on site four days prior to the sale of fireworks. On May 27, 2014 an additional day of fireworks sales was added to City Code Section 4-604 Dates of Lawful Sale; however, Section 4-605 Temporary Firework Stands was not amended accordingly. Amending the date stands are allowed to be on real estate beginning June 24 instead of June 25 allows the historical 4-day time period for vendors to inventory and stock stands prior to mandatory fire inspections provided by the Kearney Fire Department.

Council Member Buschkoetter introduced Ordinance No. 8002 amending Article 6 "Fireworks" of Chapter 4 "Fire Regulations" of the Code of the City of Kearney, Nebraska as follows: Section 4-603, "Permit to Sell Consumer Fireworks" to remove the reference of permissible fireworks and replace with consumer fireworks, Section 4-604, "Dates of Lawful Sale" to remove the reference of permissible fireworks and replace with consumer fireworks, Section 4-605, "Temporary Fireworks Stands" to amend the date stands are allowed to be on real estate beginning June 24 through July 7, Section 4-609, "Discharging Fireworks; When Permitted" to remove the reference of permissible fireworks and replace with consumer fireworks, 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, 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. 8002 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 Clouse seconded by Lammers that Ordinance No. 8002 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8002 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 8003 AMENDING THE SALARY ORDINANCE

Council Member Buschkoetter introduced Ordinance No. 8003 repealing Ordinance No. 7973 and amend the Salary Ordinance, 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, 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. 8003 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 Clouse seconded by Lammers that Ordinance No. 8003 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8003 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

UPDATE ON ENPLANEMENTS WITH GREAT LAKES AIRLINES

City Manager Michael Morgan updated the Council on the enplanements with Great Lakes. As stated in the past it was the City's intention to provide the report each month. Unfortunately, what they have seen is a significant decline from the prior months. They continue to communicate their concerns to Great Lakes.

Great Lakes Airlines (January 2014 through May 2015)

	Scheduled	Operated	Cancelled	1900	EMB	Total	Enplanements
January, 2014	87	57	30	0	60	60	755
February, 2014	79	62	17	1	62	63	844
March, 2014	86	58	28	0	64	64	841
April, 2014	78	64	14	0	72	72	690
May, 2014	87	82	5	2	81	83	945

June, 2014	85	76	9	1	78	79	987
July, 2014	87	80	7	24	56	80	741
August, 2014	87	82	5	24	59	83	667
September, 2014	84	80	4	1	79	80	662
October, 2014	73	62	11	8	54	62	482
November, 2014	83	68	15	40	28	68	387
December, 2014	83	65	18	66	1	67	359
January, 2015	59	48	11	47	4	51	222
February, 2015	73	64	9	47	19	66	317
March, 2015	88	76	12	15	61	76	503
April, 2015	71	54	17	2	54	56	370
May, 2015	68	50	18	0	50	50	531
Total	1,358	1,128	230	278	882	1,160	10,303

Council member Lammers stated the number of enplanements that have been cancelled, the reason for the cancellations is because there are not enough people scheduled to be on the plane or are there others reasons they were cancelled. City Manager Michael Morgan stated he does not think they would generally be cancelled for passenger issues it would more likely be airline issues. Some of them were preplanned and knew that they would be occurring. They do not get a breakdown of reasons.

Council Member Lammers asked has Great Lakes been doing a better job of letting people know in advance that their flight will be cancelled. City Manager stated he cannot speak for individuals. They were really clear on the ones in early May that were cancelled far in advance but he does not know if they communicate or how they necessarily do that.

Council Member Nikkila asked about the plane size. EMB is the 30-passenger plane so the good news is that they had no 19-passenger aircraft, they were all Brasilias. He believes that is the first time that has ever happened.

PROCEDURE ON HANDLING LIQUOR LICENSES

Mayor Clouse opened for discussion the City's procedure on handling liquor licenses.

City Attorney Michael Tye presented this matter to the Council. The City Manager asked to have this item on Agenda as a discussion item. He prepared a brief outline of how the City becomes involved in the liquor license process. Some of the things are unique to Kearney because of policies that have been put in place. Specifically, the TIPS training policy and the policy not allowing an automatic renewal that if a license holder has a certain number of violations; they will be scheduled for a public hearing in front of the City Council.

To clarify one thing in the San Pedro situation, whether it was a revocation or a recommendation not to renew, he confirmed with the executive director of the Liquor Control Commission that if the City would have appeared under either of the circumstances it would have made no difference in terms of what they would have done with that situation. The suggestion that was made that because the City did not appear that resulted in the license not being revoked; the City's appearance would have made no difference in the circumstances.

The only way that a recommendation not to renew or revocation is something that they would consider if the City would have evidence of something beyond the simple violations and that is a pretty rare situation, Kearney has never had that. That would require other law violations or code issues outside of the violations. If it goes up based on the history, the Liquor Control Commission has already seen it, will not be relevant in terms of how you handle it, whether you recommend non-renewal or revoke it.

Knowing that, staff attempted to provide options for City Council to determine if they wanted to change how to approach the license situation. Liquor licenses come to City Council either as a new liquor license and what happens with that situation is they apply, local law enforcement speaks with the individuals and does a criminal background check and then it is scheduled for public hearing. The licenses will also come to City Council if there is a change in the manager on the license or if there is a change in the space to be used. There have been some license holders who purchased an adjacent building or expanded where they would like to serve alcohol and that comes before City Council.

Licenses also can come in front of City Council on renewal but they do not have to. The City Clerk publishes notice for renewals and if citizens do not object they can automatically renew. The City has a policy if a license holder that has a number of violations to not just allow that to happen. City Council will also see Special Designated License; that is if a license holder wants to have an offsite event and City Council reviews and approves them. City Council could deal with liquor licenses if they fail to comply with the local policy of requiring TIPS training for beverage servers. At this point, all of the license holders have complied with that policy and supplied the certificates which are to their credit. The policy if they did not they would be scheduled for a public hearing.

He gave City Council ideas in terms of how they could possibly deal with it if they wanted to change the policy. City Council could make no recommendation unless there was an issue that law enforcement might come up with background check and send a letter that makes no recommendation. There are a number of communities in Nebraska that do that, they have a standard letter and take no position. In that situation they would have that on the Consent Agenda that City Council would have a letter of no recommendation.

That is what Kearney use to do years ago before there was discussion locally. Council member Lear participated in developing the policies, he also assisted in drafting some of the policies, Buffalo County Health Partners was involved in that process and that is how they go to the TIPS training and the policy of not just allowing automatic renewal if somebody had had a number of violations.

Mayor Clouse asked if the work that was done by that group resulted in TIPS training and law enforcement review. Council Member Lear stated the work resulted in the increase server training policy that is currently in place which is a very good thing. It is great that all of the license holders have complied with that because one of the things that gets overlooked when you look at the work force pool that does most of the beverage service they may not understand the penalties that they are subjected to individually when they serve a minor or engage in other violations of the law. One of the

things that they are really helping accomplish is that work force being as educated as possible in terms of what can happen to them if something goes wrong.

The second piece that is accomplished with the policy is dealing with automatic renewals. The normal Nebraska statute calls for licenses to be automatically renewed as long as there is no public protest. What the City's policy really does say is that they are not necessarily waiting for a public protest if a license holder that has had 'X' of violations they are not going to allow that license to automatically renew. If they have had three or more violations in the last five years, City Council is going to make them resubmit their application.

That type of action is not going to have any material impact. In other words they are going to make them fill out the form to reapply for their license but that license will ultimately be reissued by the Liquor Control Commission. For some of the reasons that they highlighted in their minds that have already penalized them for the violations and they are not going to take any additional steps.

From City Council's standpoint they are highlighting them that they have not been as responsible as they would like to see and they are not going to allow them to automatically renew their license with no additional scrutiny.

When you get into any other issues like what was before Council tonight with approving manager applications, all of the processes that call for City Council to make a recommendation to the Liquor Control Commission. His argument would be they can make any recommendation they want and that impact of the recommendation would be immaterial in whatever the Liquor Control Commission decides. He believes it is a waste of City Council's time to go through the whole recommendation process and conduct a public hearing and answer any questions when at the end of the day it will be immaterial in the decision that the Liquor Control Commission makes.

Mayor Clouse stated he would agree with Council member Lear.

Council Member Nikkila asked the TIPS training that was created as part of the policy was that in addition to what the State has already been requiring. City Attorney stated that is a policy that is unique to the City of Kearney. When he talked to Mr. Rupe at the Liquor Commission that there are two communities that have that policy, City of Kearney and Lincoln. It was developed from the discussion with Buffalo County Health Partners and has been very successful and it educated the employees and has been very effective.

Council Member Nikkila asked about keeping the TIPS requirements. If someone does not follow that policy, is it the same story, the City does not have a way to force them to complete it. Council Member Lear stated at the end of the day it would be just like what Council does under the policy where they would force them to really go through a longer application process. If a business does not meet the standard, does not do the training or provide certification to the City then what would City Council do. They would recommend that their license not be renewed under the automatic renewal process. The likely result of that would be the Liquor Control Commission will automatically renew the license.

On both of the policies all City Council is doing is saying if you are not going to meet standards they are going to make you go the long application process every time you come before City Council. The ultimate penalty will be more time and effort on their part to renew their license. It is no more significant than that he wishes they could be more penal in the consequences particularly for not meeting the beverage service training but they cannot.

However, this is something City Council can do that can have meaningful impact. Council Member Nikkila stated it creates the exposure that they may not want. Council Member Buschkoetter stated he does not think it was a waste of Mr. Seevers's time to come and stand before Council and tell the entire City of Kearney and everyone watching at home that since he has taken over Boogaarts and in fact before that time, they have had zero infractions. That meant something to him that he will frequent a place that has a good reputation versus a place that does not.

Council Member Lear stated he would disagree simply because they could have Mr. Seevers come in, he could have a bad record they are simply going to make a recommendation that the Liquor Control Commission is not going to weigh on their decision either way. When he looks at the issues in terms of issuing a license, doing those things, City Council's recommendation is immaterial. He does not see the point of going through the process of making a recommendation when it has no impact at all.

Council Member Buschkoetter stated he would agree that it has a very limited impact but he sees the City Council's role very similar to what the Planning Commission and other advisory roles for the Council has. Granted they pay more attention to Planning Commission then what the Liquor Control Commission pays attention to the City Council.

City Council did give the Liquor Control Commission all the information that was necessary to make their decision with San Pedro and again they did not have to be there in person. He does see City Council like an advisory role and he likes the fact that they do take the extra step. He does not think removing an extra step is going to give City Council more control with the issue. He certainly understands the frustration because the Liquor Control Commission does not listen and the Supreme Court has said they do not have that authority.

Council Member Lear stated he understands that and the fundamental difference here is if 95 percent of the recommendations are acted upon as you put forward but they have not had a single contested recommendation from the City that has stuck at the Liquor Control Commission. At that point, he just thinks it is wasting time.

Council Member Lammers stated it does serve a point that brings that out to the public that the entity has had three or four violations and have publicly brought that to the attention of the community and they do that by having the TIPS training they are bringing that publicly to the community that they have passed the TIPS training and are prepared to serve alcohol in a respectable manner.

Council Member Lear stated he would note that there are different processes here and where the City is addressing those on the TIPS training and on the multiple violations

issues they are addressing a specific process and that is the automatic renewal. What they are saying is that when these things happen they are not going to allow automatic renewal.

On the other issues with what was before City Council tonight, that process is not applicable. In his mind, why go through the hearing and deal with the issues and spend City Council's time making a balanced recommendation on the cases when the time and effort to make the recommendations does not have any impact. He does not think they are all that far off in terms of what they think; he is just saying in that case where City Council can specifically remove an automatic renewal they do have some power. On SDL's they have the authority so by all means deal with the issues but even on the SDL's 90 percent go on the Consent Agenda except when there is another issue out there.

He thinks on the others, to him it is not worth it. What if City Council gets someone with a bad record, what are they really going to do. Make a recommendation and as long as they meet the Liquor Control Commission's minimum standards the recommendation will be irrelevant.

Council Member Nikkila asked the Liquor Control Commission, while they do not follow the recommendation, are officially asking for it correct. Council Member Lear stated the statute has a process where a community can make a recommendation.

City Attorney stated they can choose to make the recommendation or under certain circumstances they can give no recommendation one way or the other. There is a different process depending on how they get to you. With regard to a new manager, an investigation could be done and if there were no issues just have a letter with no recommendation be submitted. There are communities that do just that and communities that do not even do the local law enforcement check they take no position. The law is very clear that the ultimate authority on the issuance and revocation of liquor licenses is the Liquor Control Commission.

City Attorney stated part of the confusion is that people believe the City Council has some authority that really is not there legally. The ultimate decision maker is the Liquor Control Commission. There are certain processes where you can recommend, there is a certain process where you can revoke. In fact the Liquor Control Commission in a prior situation, the Council recommended against the renewal and the Liquor Commission said Council can revoke that and it came back and the Council revoked it. The question is what process would you like staff to use to bring it forward to City Council. They are willing to take it any direction that City Council believes is appropriate for the community.

Council could leave the TIPS training in place and if somebody did not submit their certificates, the policy could be that they would be scheduled for public hearing to evaluate the license. That is the current policy that is in place and everyone has complied. With new licenses or new managers, City Council could let law enforcement do the review, discuss the situation and a criminal background check and unless there is some issue those could be put on Consent Agenda and have a letter of no recommendation.

City Manager Michael Morgan stated keep in mind even in that case; the State Highway Patrol does a background check as well. He believes from the staff's perspective, City Council has garnered over the years with the policies a lot of goodwill and impressed upon the community how important it is to City Council. If they can find a balancing act to make the exception which is what Council Member Lear is referring to that would be the preference of staff.

They like the idea and believe law enforcement likes the idea of TIPS training, if there are certain violations they still have to come before City Council. That might be a case where City Council wants law enforcement to do even more or more background. City Council is still impressing upon people if you do not do the TIPS training that is the exception, if you have violations that is the exception, if you do not meet the zoning requirements which the City also checks that is an exception. It was suggested that they ask the Legislature to require training statewide.

Council Member Nikkila asked about the staff burden for implementing the rules as they are. City Manager stated it is not significant; they look at a form, TIPS training. A lot of the times City Clerk has to go back and forth and sometimes City Attorney may have to send multiple letters. It has gotten better, there are a few.

He thinks the bigger staff burden is SDL's. They seldom get submitted on time, they come in late. City Council is pretty generous; City Council has even had special meetings for SDL's. He does not think it is burdensome; he believes it is good for law enforcement to be involved. There are costs for public hearing, notices and advertising. The exception bases that would seem to be a potentially good option and still gives law enforcement the tool to investigate. It is very interesting the State Patrol does their investigation and the City does an investigation and sometimes they could be different.

Mayor Clouse stated he believes they need to continue the TIPS training and then if law enforcement comes across anything and that is when City Council will take a look at it.

Council Member Nikkila stated he likes the fact that they have to come before City Council and explain why they have made the mistakes and how they are going to do better.

Council Member Buschkoetter stated he does hope people would take a look at where to do business based on how people conduct their business and if there are liquor violations and people would adjust their buying habits accordingly. The market place can kind of punish the people who do not follow the rules and regulations.

Mayor Clouse asked if Council Member Buschkoetter had a problem with going with the exception. Council Member Buschkoetter stated he does not really have a problem with it.

Council Member Lear stated what he is saying when a license has had multiple violations, when an owner does not present to City Council his certification for employees then City Council sets a public hearing that is part of the automatic license renewal process. On the other issues, do not waste his time because that is where he can do something he can come in and say do not automatically renew that license.

Background checks if Chief Lynch wants to do them, by all means but if that information is not going to lead to him making a recommendation to the Liquor Control Commission that has any weight, do not waste his time.

Council Member Nikkila stated he understands what Council Member Lear is saying but even when there have been issues and they bring them forward would it not be similar because their recommendation would not have an impact. Council Member Lear stated he is saying when they have these documented and they have some basis to do something.

Council Member Buschkoetter stated it might make a decision whether someone buys from a business that does that. The community would not necessarily know that without this step in the process.

Council Member Lear stated but they would have addressed that in the auto renewal process so you take all the other issues where they are making a recommendation to the Liquor Control Commission that recommendation has been well documented, has no impact.

Council Member Buschkoetter stated he thinks there are some things City Council can put onto Consent Agenda because SDL's are usually on there. Council Member Lear stated SDL's is where the Council has power. Council Member Buschkoetter stated if somebody has had a good record, City Council usually puts that on Consent Agenda.

City Manager stated from a law enforcement standpoint, if the City's local police department has a concern they still prefer to bring it to City Council. If it is that important to law enforcement they will attend the hearing, it still may not matter.

Chief Lynch stated when it comes to this particular issue he has a soft spot. Liquor licenses because the type of community they privy a substance that quite frankly gets a lot of people in trouble. The quality of the individuals and the more they know about the individuals who are dispensing the better idea whether they have a problem or not and they do not have to wait for something bad to happen to find out.

They do not get the State Patrol's background. If law enforcement does not do their own the only people that know anything about them is the people that did the background and assumingly Liquor Control Commission. If he is aware of a license that is getting issued to somebody and they do not know them they are going to go talk to them and tell them all the best ways to do things so they can be successful in the community.

City Attorney stated the three exceptions could involve if someone does not comply with TIPS requirements, if they have enough violations to pop up on the renewal process that City Council has already established and maybe the third review by local law enforcement or a zoning issue raises a concern and in that situation it comes on the Agenda because of additional issues. He would add that they have had a zoning issue before and it did not comply with the City's zoning requirements so City Council raised that issue and it did come on the Agenda and they did modify their requests because of the issue and reworked the application.

Council Member Nikkila clarified that they are going to continue the Staff work to check backgrounds. It is just instead of making them come before City Council when there are no problems they only come before City Council when there is a concern correct.

Chief Lynch stated the review from law enforcement is important. He still believes a review is appropriate exceptions, issues he thinks City Council should be made aware of them because this forum allows the City to make the public aware as well.

City Manager stated if you take the existing policy and you apply the exception base, City Council is still reinforcing all of the things they wanted to do. Staff has no issues, the work involved is appropriate. It is an important issue to the Council they understand that and it fits with the issue and the level of scrutiny they want to apply to this and makes sense.

City Attorney stated they will reconfigure and do what they need to do and bring it back at a later meeting.

VII. REPORTS

Council Member Nikkila stated he wanted to wish the best to Superintendent Maher moving to Sioux Falls. Also thanked the Park & Recreation staff for doing a great job for Heritage Days and appreciates all the time they put in.

Council Member Lammers congratulated the Visitors Bureau, the Masonic Chapter and the State for the Shrine Bowl. They did a fine job representing the City and putting the event on and was well attended.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 6:28 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**