

Kearney, Nebraska
March 8, 2016
5:30 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on March 8, 2016, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bob Lammers and Jonathan Nikkila. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Michael Kirkwood, Police Captain; and Andy Harter, Assistant Public Works Director were also present. Some of the citizens present in the audience included: Duane Ruh, Craig Bennett, Chris Reed, Mitch Humphrey, Scott Sweet, Theresa Sweet, Michael Park, Paul Brungardt, Tom McCarty, 4 representatives from Custer Federal Bank, 10 UNK students, Steve Altmaier from KGFW Radio, Jessica Kokesh from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

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

PLEDGE OF ALLEGIANCE

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

Michael Park, 3924 11th Avenue, the owner of The Food Truck/Park Place Catering requested to address the Council pertaining to allowing sales on city streets and/or parking lots. He stated currently food trucks are regulated in Article 29 of the City Code which deals with itinerant merchants, peddlers and solicitors specifically Section 3-2913 which prohibits conducting sales and business from public property. Also within Article 29 there is a reference to Nebraska Revised Statute 19-4301 which gives the City

Council the authority to grant access to said public property. The food truck industry is relatively new but it is growing. He does not see the City of Kearney being overran by food trucks but the few they have could benefit from amending this rule.

Some municipalities have designated areas where food trucks are allowed to operate. Regulations are in place regarding the length of time that they can be on location. Some cities use a lottery system to award limited space while some operate on a first come, first serve basis. Often food trucks are invited to participate in events such as the BBQ competition on the Bricks, Art in the Park, Sunday concerts at Harmon Park and many of the events at Yanney Park. The permission is granted by the City to the event organizers and thus far they have gone under their permission but there is some precedent to them vending on public property. He realizes parking especially downtown is at premium but one of the things he has looked at is the City owned lot north of MONA.

Mayor Clouse asked about recommendations and suggestions that he would want Council to look at. Mr. Park stated he does not have any specific recommendations. Omaha and Lincoln have been pushing the idea around and there has been no clear resolution.

Mayor Clouse asked City Manager if he could prepare some type of summary report. City Attorney Michael Tye stated that he has looked at it a little bit already and he has talked to Mr. Park briefly and indicated that they will get some City staff together and evaluate it. Lincoln and Omaha have looked at the issue and really have not done much of anything but they have also discussed.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

FINAL PLAT FOR JOHNSON COMMERCIAL THIRD ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Marlo Johnson for the Final Plat and Subdivision Agreement for Johnson Commercial Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (850 feet east of the intersection of Central Avenue and East 1st Street) and consider Resolution No. 2016-41. Planning Commission recommended approval.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This project is located directly east of the Apache Camper site. The site is presently zoned C-3. Essentially, what they would like to do is take the one lot with one acre and dedicate the required right-of-way which would be 33 feet south of the street so they can create a 1-lot subdivision in the area.

There was a Subdivision Agreement that was asked to be executed. Mr. and Mrs. Johnson have executed that agreement along with their bank. The reason for the agreement at this time is to clarify some of the particular issues with the connection fees that are assessed along East 1st Street for the utilities that were placed in the area when the Archway was constructed and when East 1st Street or Archway Parkway was built.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2016-41** approving the Application submitted by Buffalo Surveying for Marlo Johnson for the Final Plat and Subdivision Agreement for Johnson Commercial Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (850 feet east of the intersection of Central Avenue and East 1st Street). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2016-41

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the plat of Johnson Commercial Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of Government Lot 7 located in Fractional Section 13 and assuming the North line of said Government Lot 7 located in Fractional Section 13 as bearing S 86°50'00" E and all bearings contained herein are relative thereto; thence S 86°50'00" E and on the North line of said Government Lot 7 located in Fractional Section 13, a distance of 370.40 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the North line of said Government Lot 7 located in Fractional Section 13, S 86°50'00" E a distance of 156.50 feet; thence leaving the North line of said Government Lot 7 located in Fractional Section 13, S 03°10'00" W a distance of 303.14 feet; thence S 87°09'38" W a distance of 157.37 feet to the Southeast Corner of Lot 1, Johnson Commercial Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 03°10'00" E and on the East line of said Lot 1, Johnson Commercial Second Addition, a distance of 319.57 feet to the place of beginning, containing 1.12 acres, more or less, of which 0.12 acres, more or less, are presently being used for road purposes on the North side, 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 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMEND LAND USE MAP SOUTH OF 2718 AVENUE N AND NORTH OF NPPD'S POWER SUBSTATION

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Scott and Theresa Sweet for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from High Density Residential to Mixed Use 2 property described as Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation) and consider Resolution No. 2016-42. Planning Commission recommended approval subject to the following deviations and conditions: (1) reduction of the required 20-foot bufferyard to 10 feet with deciduous trees and an 8-foot privacy fence along the north property line; (2) a drive-thru passing lane is not required; (3) reduction of the required 20-foot bufferyard to a 6-foot high privacy fence with a closed gate along the west property line so that the gate does not affect traffic flow on and off the site. The gate shall only be opened for a time necessary for emergencies (fire, police, medical), property maintenance, and larger vehicles exiting; and (4) the building does not have to utilize a minimum of 35% masonry material on street facing facades.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. The site is located north of the base of the Avenue N overpass whereas the intersection is just north of 27th Street on Avenue N and north of the substation.

There is a housing facility where some single family residences are located to the west and north. To the east is land that has primarily commercial use although there is one house that is located south of Garrett Tire.

The site is primarily zoned in the neighborhood R-3 and M-1. The site adjoins R-3 and M-1. There is a laundry list of deviations that Mayor Clouse read and thinks there is one deviation that he will mention briefly and have Paul Brungardt address in greater detail. He stated on the first condition, the privacy fence should be six feet and not eight feet as stated.

The building will sit diagonal to the street towards the south and east with a substation to the south. There will be a drive-thru lane.

Paul Brungardt stated they realized how close in proximity the intersection between Avenue M/N overpass and Avenue N. In talking at the DRT meetings they decided to try and move the 35-foot drive as far north as they can. They were able to do that and was one of the requested deviations to take from the 20-foot easement and move it to 10 foot to get as much access without impeding on any car stacking at that intersection.

Mr. Brungardt discussed the 4-inch high raised, 4-foot wide concrete median that is to better define the driving lanes so that they do not have a car leave the drive-thru and decide that they can do a 45 degree angle and out race everybody to get onto Avenue N to go northbound. They will have to be perpendicular to Avenue N before they can enter into the street.

There are a couple parallel parking stalls plus the other few stalls. They are not looking for a lot of walk up traffic. There is a 6-foot high privacy fence on the backside up against the alley. There will be a 35-foot gate that will be an electric sliding gate. It will be shut at all times to prevent people from traveling through there, unless there is an emergency, quick site maintenance, or if a larger vehicle accidentally gets onto the site. Mr. Brungardt discussed the landscaping.

Because Avenue N was recently constructed, they do not have access to any of the storm sewer systems. What they are proposing to do is develop an area as more of a detention basin with a drain. They go about four to five feet down into the ground. They have sanitary sewer and water services coming in off of Avenue N that they will tie into the facility.

Council Member Lammers asked about the deviation that was supposed to be 6-foot instead of 8-foot. Mr. Humphrey stated a 6-foot fence. Assistant City Manager Paul Briseno stated in looking back at staff notes looks like it was an error on City staff. It should be six foot.

Council Member Buschkoetter asked about stacking. To go into where you will get served, with the entire parking lot you are looking at stacking of about 8-10 vehicles. On the way out, there will be room for one car that is trying to get on Avenue N. Potentially there could be a bottleneck if there is a lot of traffic or if they are trying to turn left and there is a lot of traffic. You run the risk of a lot of vehicles coming in and now you are getting stacked a little further on the way in because people cannot get out.

Mr. Humphrey stated potentially yes he sees what you are getting at. From his observations looking at these sites he typically does not see car stacked up that deep.

Council Member Nikkila asked if City staff thought about requiring a right turn only or anything like that. Mr. Humphrey stated it was briefly discussed but they really think the way the market is that most people are going to not wait and try to make a left turn, they will go right.

Mayor Clouse stated he does not know about that. Is that something the Sweet's can do on their own, make a right turn only. City Manager stated no, when staff looked at it they have a signal that will provide some gaps so that was part of the thinking as well. It is definitely a tough site but the market will determine if it does not work but the signal actually probably helps in this regard.

Mayor Clouse asked if they decided to go right turn only, they have to come back to Council for them to put that on their property. City Manager confirmed.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2016-42** approving the Application submitted by Buffalo Surveying for Scott and Theresa Sweet for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from High Density Residential to Mixed Use 2 property described as Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2016-42

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska from High Density Residential to Mixed Use 2, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from High Density Residential to Mixed Use 2 the use classification for a tract of land being Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONE SOUTH OF 2718 AVENUE N AND NORTH OF NPPD'S POWER SUBSTATION

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Scott and Theresa Sweet to rezone from District M-1, Limited Industrial District to District C-3/PD, General Commercial/Planned Development Overlay District property described as Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation) and consider Ordinance No. 8067.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Buffalo Surveying for Scott and Theresa Sweet to rezone from District M-1, Limited Industrial District to District C-3/PD, General Commercial/Planned Development Overlay District property described as Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation) and introduced Ordinance No. 8067 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 8067. 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, Nikkila. Nay: None. Lear absent. 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. 8067 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, Nikkila. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 8067 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8067 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.

DEVELOPMENT PLANS FOR COFFEE SHOP LOCATED SOUTH OF 2718 AVENUE N AND NORTH OF NPPD'S POWER SUBSTATION

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

Mayor Clouse opened the public hearing on the Application submitted by Brungardt Engineering for Scott and Theresa Sweet for Planned District Development Plan Approval for the construction of a coffee shop on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County,

Nebraska (south of 2718 Avenue N and north of NPPD's power substation) and consider Resolution No. 2016-43.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2016-43** approving the Application submitted by Brungardt Engineering for Scott and Theresa Sweet for Planned District Development Plan Approval for the construction of a coffee shop on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation) subject to the following deviations and conditions: (1) reduction of the required 20-foot bufferyard to 10 feet with deciduous trees and a 6-foot privacy fence along the north property line; (2) a drive-thru passing lane is not required; (3) reduction of the required 20-foot bufferyard to a 6-foot high privacy fence with a closed gate along the west property line so that the gate does not affect traffic flow on and off the site. The gate shall only be opened for a time necessary for emergencies (fire, police, medical), property maintenance, and larger vehicles exiting; and (4) the building does not have to utilize a minimum of 35% masonry material on street facing facades. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2016-43

WHEREAS, Brungardt Engineering for Scott and Theresa Sweet have applied for Planned District Development Plan Approval for the construction of a coffee shop on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as a tract of land being Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Brungardt Engineering for Scott and Theresa Sweet for Planned District Development Plan Approval for the construction of a coffee shop on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as a tract of land being Lots 7 and 8, Hartman & Drydens Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 2718 Avenue N and north of NPPD's power substation) be approved subject to compliance with the following deviations and conditions:

1. Deviation for the reduction of the required 20-foot bufferyard to 10 feet with deciduous trees and a 6-foot privacy fence along the north property line.
2. A drive-through passing lane is not required.
3. Deviation for the reduction of the required 20-foot bufferyard to a 6-foot high privacy fence with a closed gate along the west property line so that the gate does not affect traffic flow on and off the site. The gate shall only be opened for the time necessary for emergencies (fire, police, medical), property maintenance, and larger vehicles exiting.
4. The building does not have to utilize a minimum of 35 percent masonry material on street facing facades.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

FINAL PLAT FOR WHISPERING PINES

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Custer Federal Bank for the Final Plat and Subdivision Agreement for Whispering Pines, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southeast corner of 56th Street and Avenue N) and consider Resolution No. 2016-44. Planning Commission recommended approval.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated the subdivision name will be called Whispering Pines and the area that they are looking at to be rezoned from Ag to C-1. It is approximately seven acres, is bordered on the north by 56th Street and on the west by Avenue N.

The project is served by water, there is 16-inch water located on both the north and west side of the property which they will utilize for the 3-lot subdivision. The sanitary sewer for the property will be accessed also by the 24-inch sanitary sewer along 56th Street and there is 10-inch sanitary sewer located along Avenue N on the west.

The storm water map shows there are two inlets on 56th Street as well as an inlet in the northwest corner which they would use for access for storm water detention and circulation to convey storm water to the inlets. There is about a 10-foot grade that does happen from the west side of the property to the east side; half of the property would be storm water detained and the other east half of the property will be captured when it was developed into inlet basin and storm water infrastructure located in 56th Street.

The preliminary plat includes connecting 56th Street on the north to Avenue N and because it is a curved road it has one name of 55th Street. They are looking at Lot 1 for the Custer Federal Bank and the other two lots will be future lots, they are evenly divided into 1.916 acres as the C-1 zone. If you exceed two acres then it throws it into PD and not knowing what will go out there at this point, they evenly split the area based on acres.

The Infrastructure Feasibility Plan show connecting water that is existing in 56th Street looping it and tying it back to the water main on Avenue N. They would be tapping the sanitary sewer main in 56th Street and bringing sanitary sewer that would serve all three lots. The storm water detention was also discussed.

Council Member Nikkila asked about the main entrance for the bank. Mr. Bennett stated it would be off of 55th Street. The City is not allowing access on 56th Street or Avenue N because of it being an arterial road and 55th Street was created so the access off of these lots has to occur on 55th Street.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2016-44** approving the Application submitted by Miller & Associates for Custer Federal Bank for the Final Plat and Subdivision Agreement for Whispering Pines, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southeast corner of 56th Street and Avenue N). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2016-44

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the plat of Whispering Pines, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at the Northwest corner of Section 30 and assuming the North line of the Northwest Quarter of said Section 30 as bearing N 89°36'56" E and all bearing contained herein are relative thereto; thence N 89°36'56" E on said North line a distance of 701.04 feet to the Northwest corner of O'Brien Subdivision, a Subdivision of Section 30, Township 9 North, Rang 15 West of the 6th P.M., Buffalo County, Nebraska; thence S 00°49'57" E on the West line of said O'Brien Subdivision a distance of 440.01 feet; thence S 89°36'56" W parallel with and 440.00 feet Southerly of the North line of said Northwest Quarter, measured at right angles, a distance of 705.00 feet to the West line of said Northwest Quarter; thence N 00°19'03" W on said West line of the Northwest Quarter a distance of 440.00 feet to the Point of Beginning, containing 7.102 acres, more or less. EXCEPTING THEREFROM: a tract of land located in the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Beginning at the Northwest corner of Section 30; thence easterly along the North line of said Section 30 a distance of 53.0 feet; thence 33.0 feet southerly and parallel to the West line of said section to the True Point of Beginning; thence 28.3 feet southwesterly to a point that is 33.0 feet easterly and 53.0 feet southerly of said Northwest corner; thence northerly and parallel with said West line a distance of 20.0 feet; thence easterly parallel with said North line a distance of 20.0 feet to the True Point of Beginning, containing 0.005 acres, more or less, leaving a balance of 7.097 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 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF WHISPERING PINES

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Custer Federal Bank for the annexation of Whispering Pines, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southeast corner of 56th Street and Avenue N) and consider Resolution No. 2016-45.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2016-45** approving the Application submitted by Miller & Associates for Custer Federal Bank for the annexation of Whispering Pines, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southeast corner of 56th Street and Avenue N). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2016-45

WHEREAS, an Application has been submitted by Miller & Associates for Custer Federal Bank for the inclusion of Whispering Pines, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at the Northwest corner of Section 30 and assuming the North line of the Northwest Quarter of said Section 30 as bearing N 89°36'56" E and

all bearing contained herein are relative thereto; thence N 89°36'56" E on said North line a distance of 701.04 feet to the Northwest corner of O'Brien Subdivision, a Subdivision of Section 30, Township 9 North, Rang 15 West of the 6th P.M., Buffalo County, Nebraska; thence S 00°49'57" E on the West line of said O'Brien Subdivision a distance of 440.01 feet; thence S 89°36'56" W parallel with and 440.00 feet Southerly of the North line of said Northwest Quarter, measured at right angles, a distance of 705.00 feet to the West line of said Northwest Quarter; thence N 00°19'03" W on said West line of the Northwest Quarter a distance of 440.00 feet to the Point of Beginning, containing 7.102 acres, more or less. EXCEPTING THEREFROM: a tract of land located in the Northwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Beginning at the Northwest corner of Section 30; thence easterly along the North line of said Section 30 a distance of 53.0 feet; thence 33.0 feet southerly and parallel to the West line of said section to the True Point of Beginning; thence 28.3 feet southwesterly to a point that is 33.0 feet easterly and 53.0 feet southerly of said Northwest corner; thence northerly and parallel with said West line a distance of 20.0 feet; thence easterly parallel with said North line a distance of 20.0 feet to the True Point of Beginning, containing 0.005 acres, more or less, leaving a balance of 7.097 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on February 19, 2016 on the inclusion of Whispering Pines within the corporate limits and recommended the Kearney City Council approve said application; and

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

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on March 8, 2016 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

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

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

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONE EAST OF 2ND AVENUE AND SOUTH OF 65TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Tom McCarty for Roberta Corrigan Trust-Roberta Corrigan Farms to rezone from District MU, Mixed Use District to District C-2, Community Commercial District property described as Lot 1 of Block 1, Ingalls Crossing Third Addition, an addition to the City of Kearney, Buffalo

County, Nebraska (east of 2nd Avenue and south of 65th Street) and consider Ordinance No. 8068. Planning Commission recommended approval.

Craig Bennett from Miller & Associates presented this matter to the Council. The property is already subdivided and they are asking for a rezoning of the lot. The lot is located between 2nd Avenue and 1st Avenue just south of and adjacent to 65th Street, west of Menards.

The lot is currently platted; they are not asking for a re-subdividing of the lot. It is 0.61 acres. The current zoning is M-U and was created primarily as a planned unit for a mixed use that they would have that would go out there when Menards first came to town. They are asking for it to be zoned C-2. The lot is encompassed by right-of-way on the west which is 2nd Avenue, right-of-way on the north which is 65th Street and right-of-way on the east which is 1st Avenue.

Tom McCarty representing Roberta Corrigan stated at this point it will probably be a building similar to the building just north of Sears.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Tom McCarty for Roberta Corrigan Trust-Roberta Corrigan Farms to rezone from District MU, Mixed Use District to District C-2, Community Commercial District property described as Lot 1 of Block 1, Ingalls Crossing Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of 2nd Avenue and south of 65th Street) and introduced Ordinance No. 8068 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 8068. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. 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. 8068 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Buschkoetter that Ordinance No. 8068 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8068 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.

RIGHT-OF-WAY/UTILITY/SANITARY SEWER EASEMENT

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Right-of-Way & Utility Easement and a Permanent Sanitary Sewer Easement on property described as a tract of land being part of the East Half of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Resolution No. 2016-46.

Director of Utilities Kirk Stocker presented this matter to the Council. He stated at the December 22, 2015 City Council meeting the Council approved a developer constructed infrastructure agreement with The Evangelical Lutheran Good Samaritan Society. The agreement was for the construction of a water main and pavement meeting City specifications, extending Country Club Lane through unplatted property north of the Good Samaritan Society Kearney Village, from about 50th Street northward to 56th Street. The agreement also required the construction of a short section of sanitary sewer that crosses proposed Country Club Lane.

In addition to the construction of the water main, sanitary sewer main and paving, the agreement also required the Owner/Developer to convey a Permanent Right-of-Way & Utility Easement and Permanent Sanitary Sewer Easement for the infrastructure to the City.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2016-46** approving the proposed acquisition for a Permanent Right-of-Way & Utility Easement and a Permanent Sanitary Sewer Easement on property described as a tract of land being part of the East Half of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2016-46

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Permanent Right-of-Way & Utility Easement and a Permanent Sanitary Sewer Easement and voted in favor to proceed with the acquisition; and

WHEREAS, The Evangelical Lutheran Good Samaritan Society has granted to the City of Kearney, Nebraska a Permanent Right-of-Way & Utility Easement and a Permanent Sanitary Sewer Easement as follows:

PERMANENT RIGHT OF WAY & UTILITY EASEMENT

A tract of land being part of the East Half of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract being a 66.00-foot wide Permanent Right of Way and Utility Easement to be 33.00 feet

on each side of the following described centerline: Referring to the Northeast corner of the Northwest Quarter of Section 27 and assuming the East line of said Northwest Quarter as bearing S 00°12'59" E and all bearings contained herein are relative thereto; thence S 89°10'34" W on the North line of said Northwest Quarter a distance of 618.13 feet; thence S 00°12'59" E parallel with said East line a distance of 50.00 feet to the South line of 56th Street as platted in Buffalo County, and the ACTUAL POINT OF BEGINNING; thence continuing S 00°12'59" E parallel with said East line a distance of 592.54 feet; thence on a tangent curve to the Right having a central angle of 13°29'33", a radius of 5550.54 feet, an arc length of 1307.09 feet, and a chord bearing of S 06°31'48" W a distance of 1304.07 feet to the centerline of the Northerly end of Country Club Lane as platted in Good Samaritan Society Kearney Village Subdivision, an Addition to the City of Kearney, Buffalo County, Nebraska, and the Point of Termination, containing 2.88 acres, more or less, Buffalo County, Nebraska.

PERMANENT SANITARY SEWER MAIN EASEMENT

A tract of land being part of the East Half of the Northwest Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract being a 20.00 foot wide Permanent Sanitary Sewer Easement to be 10.00 feet on each side of the following described centerline: Referring to the Northeast corner of the Northwest Quarter of Section 27 and assuming the East line of said Northwest Quarter as bearing S 00°12'59" E and all bearings contained herein are relative thereto; thence S 00°12'59" E on said East line of the Northwest Quarter a distance of 710.69 feet to the centerline of the Permanent Utility Easement granted to the City of Kearney, Nebraska as Instrument 94-11550; thence S 84°41'25" W on the centerline of said Permanent Utility Easement a distance of 100.84 feet; thence N 90°00'00" W a distance of 10.00 feet to the Westerly line of said Permanent Utility Easement and the ACTUAL POINT OF BEGINNING; thence continuing N 90°00'00" W a distance of 475.08 feet to the Easterly line of a 66.00 foot wide Right-of-Way and Utility Easement and the Point of Termination, containing 0.22 acres, more or less, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way & Utility Easement and a Permanent Sanitary Sewer Easement granted by The Evangelical Lutheran Good Samaritan Society to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

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, March 7, 2016 by adding Subsections 20 and 21 .

Moved by Clouse seconded by Lammers that Subsections 1 through 21 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held February 26, 2016.

2. Approve the following Claims:

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

ABC Seamless \$510.00 smcs; Ace Irrigation \$576.00 smcs; Agri Coop \$856.76 smcs; Alfred Benesch \$28,340.69 co; Amax \$849.36 co; Amer Fence \$1,100.00 smcs; Amer First Aid \$185.82 smcs; Andersen,B \$61.48 smcs; Anderson,B \$40.00 smcs; Anderson,S \$40.00 smcs; Aprons & Smocks \$212.28 smcs; Ask Supply \$2,849.75 smcs; Aurora Coop \$24.32 smcs; Baird Holm \$442.00 smcs; Beck,J \$527.46 smcs; Big Apple \$593.64 smcs; Big Rack Shack \$2,430.44 co; Blessing \$107,043.99 co; BlueCross/BlueShield \$177,636.48 smcs; Bosselman \$205.50 smcs; Briseno,P \$71.28 smcs; Broadfoot's \$972.00 smcs; BRP \$26,820.00 co; Buffalo Co Community \$250.00 ps; Buffalo Co Treasurer \$30.00 smcs; Buffalo Outdoor Power \$7,399.00 co; Bui,T \$45.50 smcs; Builders \$232.56 smcs; Capital Business Systems \$169.93 smcs; Cash-Wa \$505.52 smcs; Central Contracting \$9,610.00 co; Central Fire \$611.00 smcs; Charter \$71.94 smcs; Chesterman \$174.90 smcs; Chief Supply \$577.24 smcs; Chism,R \$55.00 smcs; City of Ky \$361,287.81 co,smcs,ps; Clark & Enersen \$5,741.14 co; Coast to Coast \$238.40 smcs; Comcate \$1,302.26 smcs; Community Action Partner \$2,106.00 smcs; Community Health Charities \$4.00 ps; Consolidated Management \$295.00 smcs; Cruse Control Business \$585.00 smcs; Dakota Hardscapes \$20,638.00 co; Dan Roeder Concrete \$105,186.93 co; Diamond Tours \$1,808.00 smcs; Dish \$208.00 smcs; Dowhy Towing \$100.00 smcs; Eakes \$442.38 smcs; EM Feld Equipment \$198.72 smcs; EMC Ins \$23,521.22 smcs; Enforcement Video \$27.00 co; Fiese,M \$20.71 smcs; Fox,J \$158.25 smcs; Frink,D \$50.00 smcs; Fry & Assoc \$33,750.00 co; Gray,C \$52.50 smcs; Hardin,K \$200.00 smcs; HD Supply \$17,604.48 smcs; Heggemeyer,L \$35.62 smcs; Hometown Leasing \$157.20 smcs; Husker Auto Group \$54,764.00 co; Jack Lederman \$93.24 smcs; Johnson Hardware \$124.00 smcs; Ky Area United Way \$618.50 ps; Ky Cash \$81.24 smcs; Ky Clinic \$40.50 smcs; Ky Glass \$85.00 smcs; Ky Hub \$1,315.20 smcs; Keough,J \$29.75 smcs; Krull Ins \$2,195.00 smcs; Landmark Implement \$5,488.69 smcs; LCL Truck Equipment \$2,833.86 smcs; League of NE Municipalities \$135.00 smcs; Mac Tools \$7,776.99 co; Magic Cleaning \$2,140.00 smcs; Mail Express \$4,312.39 smcs; Marriott \$714.00 smcs; Marshall,S \$13.62 smcs; McCarty,D \$24.69 smcs; McCormack,J \$48.50 smcs; McDermott & Miller \$25,710.00 smcs; Menards \$5.22 smcs; Metlife \$8,799.05 ps; Michael Todd \$3,847.88 smcs; Mid Amer Signal \$197.70 smcs; Midlands Contracting \$48,662.11 smcs,co; Midwest Connect \$77.74 smcs; Midwest Service \$1,216.80 smcs; Miller & Associates \$387,377.86 co; Miller Signs \$170.00 smcs; Morgan,M \$366.44 smcs; Mueller-Staab,J \$672.00 smcs; Municipal Supply \$1,318.18 smcs; Nat'l Criminal Enforcement \$650.00 smcs; NE Business Development \$1,021.00 smcs; NE Dept of Rev \$46,375.21 smcs; NE Fire Admin Assistant \$15.00 smcs; NE DHHS \$80.00 smcs; NE Public Health \$960.00 smcs; NE Salt & Grain \$7,798.41 smcs; New and Used Toughbooks \$8,400.00 smcs; Northwestern \$4,843.85 smcs; NWAGA \$25.00 smcs; Officenet \$24.81 smcs; Olsson Associates \$8,917.50 smcs,co; O'Neil Wood \$7,380.00 smcs; Outdoor Recreation \$1,852.00 co; Overhead Door \$141.32 smcs; Paramount \$181.56 smcs; Payflex Systems \$586.50 smcs,ps; PEP Co \$172.68 smcs; Platte Valley

Comm \$2,995.15 smcs,co; Precision Printing \$705.25 smcs; PRIMA \$385.00 smcs; Pulliam,R \$40.00 smcs; Refenes,A \$0.67 smcs; Rich,T \$50.00 smcs; Ritchie,D \$31.34 smcs; RMV Construction \$34,773.75 co; Royle,C \$20.69 smcs; S&B Heating \$400.00 smcs; Sapp Bros \$11,799.19 smcs; Sesna,D \$1,431.38 smcs; Sign Center \$150.00 ps; Sonetics \$290.53 smcs; SOS Portable Toilets \$131.00 smcs; St Lukes \$52.75 smcs; St of NE/AS Central \$5,953.35 smcs; Sun Life \$69,400.14 smcs; Sunblade,B \$41.20 smcs; Tacha,J \$150.00 smcs; Titan Machinery \$1,125.00 smcs; Titleist \$1,530.00 smcs; Tye Law Firm \$12,649.60 smcs; UNK Human Resources \$138.26 ps; Vanegdon,Z \$23.97 smcs; Verizon \$1,559.61 smcs; Vessco \$2,552.64 smcs; Village Cleaners \$822.16 smcs; Wallen,B \$11.22 smcs; Widup,A \$51.16 smcs; Xerox \$4,675.00 smcs; Payroll Ending 2-20-2016 -- \$392,494.58. 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. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class I-116309 liquor license application submitted by TL & AS LLC, dba Coppermill Steakhouse to be located at 421 West Talmadge Street, Suite 2.
4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class C-116291 liquor license application submitted by Dhorpatan LLC, dba Everest Fusion to be located at 5012 3rd Avenue, Suite 178.
5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Xavier Salas submitted by Kenlos, LLC, dba Nicks on the Bricks located at 15 East 24th Street in connection with their Class C-113012 liquor license.
6. Appoint Brandon Shafto to serve as the City Street Superintendent with regard to requirements and duties with the Nebraska Department of Roads effective November 6, 2015.
7. Adopt Resolution No. 2016-47 approving the Professional Service/Consultant Agreement between the City of Kearney and RDG Planning & Design for consulting services pertaining to the Kearney Downtown Revitalization Plan Update.

RESOLUTION NO. 2016-47

WHEREAS, the City of Kearney desires to complete a Downtown Revitalization Plan Update; and

WHEREAS, the City of Kearney has been awarded a downtown revitalization grant from the Nebraska Department of Economic Development to update its 2011 Downtown Revitalization Plan; and

WHEREAS, the City received Request for Qualifications for a Project Planner to conduct planning activities and selected RDG Planning & Design to perform the services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to

execute the Professional Service/Consultant Agreement for consulting services FOR the Kearney Downtown Plan Update between the City of Kearney and RDG Planning & Design. The said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits at the Museum of Nebraska Art located at 2401 Central Avenue on Friday, April 1, 2016 from 5:00 p.m. until 12:00 a.m. for a reception.
9. Reject the bid submitted by Blessing Construction for the 2013 Part 10 Improvements; Replacement of Talmadge Street from 2nd Avenue to 4th Avenue.
10. Adopt Resolution No. 2016-48 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Eastbrooke Fifteenth, an addition to the City of Kearney.

RESOLUTION NO. 2016-48

WHEREAS, on the 12th day of May, 2015 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2015-103 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Camron Inc. to construct paving, water, sanitary sewer, and storm sewer for Eastbrooke Fifteenth, an addition to the City of Kearney, Buffalo County, Nebraska; and

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

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

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

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for paving, water, sanitary sewer and storm sewer to serve the property described as Eastbrooke Fifteenth, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the quote submitted by Logan Contractors Supply, Inc. under the State of Nebraska Purchasing Contract Number 13691 OC in the amount of \$35,677.00 for the purchase of one Crafcro Model: EZ 500 Series II Crack Sealing Machine to be used in the Public Works/Transportation Department.
12. Approve the Plans and Specifications for the 2015 Part 16 Improvements; Country Club Lane Bridge and set the bid opening date for April 5, 2016 at 2:00 p.m.
13. Approve the application for a Special Designated License submitted by Miretta Vineyards & Winery Inc., dba Miletta Vista Winery in connection with their Class YK-07615 catering liquor license to dispense wine inside the Landmark Implement Arena/Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, April 9, 2016 from 8:00 a.m. until 4:30 p.m. for a sampling/tasting.
14. Adopt Resolution No. 2016-49 accepting the bids received for the 2015 Part 13 Improvements; Tech One Boulevard and Global Drive and award the bid to Midlands Contracting in the amount of \$204,956.00 for Bid A and to Blessing Construction in the amount of \$372,734.15 for Bid B.

RESOLUTION NO. 2016-49

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on March 1, 2016 at 2:00 p.m. for the 2015 Part 13 Improvements; Tech One Boulevard and Global Drive; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$248,727.00 for Bid A (Water and Sanitary Sewer) and \$388,262.00 for Bid B (Paving and Storm Sewer); and

WHEREAS, Miller & Associates and the City have recommended the bid offered by Midlands Contracting of Kearney, Nebraska in the amount of \$204,956.00 for Bid A (Water and Sanitary Sewer) be accepted as the lowest responsible bid for the 2015 Part 13 Improvements – Bid A; and

WHEREAS, Miller & Associates has recommended the bid offered by Blessing Construction of Kearney, Nebraska in the amount of \$372,734.15 for Bid B (Paving and Storm Sewer) be accepted as the lowest responsible bid for the 2015 Part 13 Improvements – Bid B.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted and approved, that Midlands Contracting be and is the lowest responsible bidder for the 2015 Part 13 Improvements – Bid A to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting in the amount of \$204,956.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the said Engineer's recommendation is hereby accepted and approved, that Blessing Construction be and is the lowest responsible bidder for the 2015 Part 13 Improvements – Bid B to be constructed in accordance with

the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the amount of \$372,734.15 be and is hereby accepted.

BE IT FURTHER RESOLVED the City Engineer’s Opinion of Probable Construction Cost in the amount of \$248,727.00 for Bid A (Water and Sanitary Sewer) and \$388,262.00 for Bid B (Paving and Storm Sewer) be and is hereby accepted.

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

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

15. Adopt Resolution No. 2016-50 accepting the bids received for the installation of the Yanney Park Irrigation Wells, approve Change Order No. 1 showing a decrease in the amount of \$21,758.00, and award the bid to Downey Drilling in the amount of \$129,357.00.

RESOLUTION NO. 2016-50

WHEREAS, Miller & Associates and the City of Kearney reviewed the sealed bids which were opened on March 1, 2016 at 2:00 p.m. for the installation of the Yanney Park Irrigation Wells; and

WHEREAS, the Engineer’s Opinion of Probable Construction Cost for the project is \$96,818.00 for Bid A (completion date of April 1, 2016) and \$83,818.00 for Bid B (completion date of May 1, 2016); and

WHEREAS, the scope of the project was over the Engineer’s Opinion of Probable Construction Costs and substantially higher than the City budgeted funds that City staff negotiated with Downey Drilling, Inc. to reduce the scope of the project; and

WHEREAS, Downey Drilling, Inc. and Miller & Associates have filed with the City Clerk Change Order No. 1 showing a decrease to the original contract sum in the amount of \$21,758.00, as shown on Exhibit “A”, attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$151,115.00
Change Order No. 1 (3-8-2016)	<u>- 21,758.00</u>
New Contract Sum	\$129,357.00

WHEREAS, the said engineers have recommended the bid offered by Downey Drilling, Inc. from Lexington, Nebraska in the amount of \$129,357.00 for Bid B (completion date of May 1, 2016) be accepted as the lowest responsible bid for the installation of the Yanney Park Irrigation Wells.

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

BE IT FURTHER RESOLVED that the City Engineer’s recommendation is hereby

accepted and approved, that Downey Drilling, Inc. be and is the lowest responsible bidder for the installation of the Yanney Park Irrigation Wells to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Downey Drilling, Inc. in the amount of \$129,357.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost for the project is \$96,818.00 for Bid A (completion date of April 1, 2016) and \$83,818.00 for Bid B (completion date of May 1, 2016) be and is hereby accepted.

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

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

20. ADDENDUM ITEM. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class IK-064728 liquor license to dispense beer, wine and distilled spirits in The Archway, 3060 East 1st Street on Wednesday, March 30, 2016 from 3:00 p.m. until 11:00 p.m. for a reception.

21. ADDENDUM ITEM. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class IK-064728 liquor license to dispense beer, wine and distilled spirits in The Archway, 3060 East 1st Street on Wednesday, April 6, 2016 from 2:00 p.m. until 11:00 p.m. for a reception.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIM

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$36,499.52 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Clouse abstained and Lear absent. Motion carried.

VII. REPORTS

City Manager Michael Morgan stated the City app has been launched and would encourage citizens to check that out. They can even watch City Council meetings on their phones if they chose to.

On Thursday, Pen Air will be bringing their aircraft for the public to view. It is a 33-passenger aircraft and it will be at the Airport from 3:30 p.m. to 5:30 p.m. Company officials will be there as well to answer questions. He encouraged citizens to attend. The process for Essential Air Service (EAS) is the review committee meets later this month and the Department of Transportation will receive the City's recommendation by the end of March.

Also, the trail way finding signage has been installed and they are very pleased with that. That was provided by private funds.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 6:13 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**