

**Kearney, Nebraska**  
**November 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 November 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, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Lauren Brandt, Deputy City Clerk; Tony Jelinek, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Shawna Erbsen, Administrative Services Director; and Dan Lillis, Engineering Assistant were also present. Some of the citizens present in the audience included: Trenton Snow, Craig Bennett, Steve Altmaier from KGFV 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**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **VACATE PORTION OF WISE ESTATES AND REZONING OF PROPERTY LOCATED AT 3809 COTTONMILL AVENUE**

Mayor Clouse stated the City was notified by the developer to postpone until November 22, 2016 the public hearing on the Applications submitted by Buffalo Surveying for Martin and Barbara Tilley to (1) vacate Lots 1 and 2, Wise Estates and consider Ordinance No. 8108; and (2) 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 the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3809 Cottonmill Avenue)

Moved by Lammers seconded by Nikkila to postpone until November 22, 2016 the public hearing on the Applications submitted by Buffalo Surveying for Martin and Barbara Tilley to (1) vacate Lots 1 and 2, Wise Estates and consider Ordinance No. 8108; and (2) 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 the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

#### **FINAL PLAT FOR SPRINGER ESTATES; 3720 COTTONMILL AVENUE**

Mayor Clouse stated the City was notified by the developer to postpone until November 22, 2016 the public hearing on the Application submitted by Buffalo Surveying for Michael and Robyn Springer and Martin and Barbara Tilley for the Final Plat for Springer Estates, a subdivision being part of the North Half of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3720 Cottonmill Avenue).

Moved by Lammers seconded by Nikkila seconded to postpone until November 22, 2016 the Application submitted by Buffalo Surveying for Michael and Robyn Springer and Martin and Barbara Tilley for the Final Plat for Springer Estates, a subdivision being part of the North Half of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

#### **VACATE PORTION OF ORIGINAL TOWN OF KEARNEY JUNCTION FOR 2001 AND 2013 AVENUE A AND FINAL PLAT FOR BRIGHAM AND PIERCE ADDITION**

Mayor Clouse stated the developer has requested to postpone until November 22, 2016 the public hearing on the Applications submitted by Buffalo Surveying for Brigham Lofts, LLC and JWB, LLC to (1) vacate Lots 535 through 539, inclusive and the south 20 feet of Lot 540, Original Town of Kearney Junction and consider Ordinance No. 8111; and (2) the Final Plat for Brigham and Pierce Addition, an addition to the City of Kearney for a tract of land being Lots 535 through 539, inclusive and the south 20 feet of Lot 540, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (2001 and 2013 Avenue A).

Moved by Nikkila seconded by Lear to postpone until November 22, 2016 the Applications submitted by Buffalo Surveying for Brigham Lofts, LLC and JWB, LLC to (1) vacate Lots 535 through 539, inclusive and the south 20 feet of Lot 540, Original Town of Kearney Junction and consider Ordinance No. 8111; and (2) the Final Plat for Brigham and Pierce Addition, an addition to the City of Kearney for a tract of land being Lots 535 through 539, inclusive and the south 20 feet of Lot 540, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**VACATE LOT 1, PAQUIN & DEETS SUBDIVISION AND FINAL PLAT FOR DEETS SUBDIVISION; 1770 WEST HIGHWAY 40**

Mayor Clouse opened the public hearing on the Applications submitted by Trenton Snow for Allen and Patricia Deets to (1) vacate Lot 1, Paquin & Deets Subdivision and to consider Ordinance No. 8112; and (2) the Final Plat for Deets Subdivision, a subdivision being part of the Southeast Quarter of the Southeast Quarter of Section 10 and part of the Northeast Quarter of the Northeast Quarter of Section 15, all in Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (1770 West Highway 40) and consider Resolution No. 2016-187. Planning Commission recommended approval.

Trenton Snow presented this matter to the Council. The property is the old Glenwood Vet Clinic located on the corner of 17th Avenue and Highway 40. Originally, they had platted that as three different lots in what was called Paquine & Deets Subdivision, Lot 1 being owned by Allan and Patricia Deets. After the business closed, a minor subdivision was approved to break the lot into two separate parcels but as of this time, the two separate parcels are not what he wants to market today and so to break it into two different tracts, they have to vacate the original Lot 1 of Paquin & Deets Subdivision and then replat that into Deets Subdivision which will consist of two separate lots. Lot 1 being the original veterinary building and there is a line that runs directly on the east side of that splitting the two lots going north and south.

It is a little misleading because the existing veterinary clinic does not set within highway right-of-way. It is outside of highway right-of-way but it is inside the 25-foot building setback line. So if that building is ever destroyed or demolished it will have to be conforming with the new setback requirements. There is an additional ten feet along 17th Avenue because when Paquin & Deets was platted, it was 40 feet from the centerline right-of-way. This will make 17th Avenue 50 feet on that side for the right-of-way.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Applications submitted by Trenton Snow for Allen and Patricia Deets and introduced Ordinance No. 8112 vacating Lot 1, Paquin & Deets Subdivision and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the

ordinance on its first reading and then upon its final passage. Council member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 8112. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8112 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8112 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8112 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.

Moved by Clouse seconded by Lammers to adopt Resolution No. 2016-187 approving the Final Plat for Deets Subdivision. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

#### **RESOLUTION NO. 2016-187**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Deets Subdivision, a subdivision of Buffalo County, Nebraska for a tract of land being Lot 1, Paquin & Deets Subdivision, a subdivision being a part of the Southeast Quarter of the Southeast Quarter of Section 10, Township 9 North , Range 16 West and part of the Northeast Quarter of the Northeast Quarter of Section 15, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (now vacated) and part of the Southeast Quarter of the Southeast Quarter of Section 10 and part of the Northeast Quarter of the Northeast Quarter of Section 15 all in Township 9 North , Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the Northeast Quarter of said Section 15 and assuming the East line of said Northeast Quarter as bearing S 00°31'48" W and all bearings contained herein are relative thereto; thence S 00°31'48" W on the aforesaid East line a distance of 564.41 feet to a point on the south right-of-way line of the Union Pacific Railroad (now abandoned); thence N 59°27'54" W on the aforesaid south right-of-way line a distance of 46.19 feet to the ACTUAL PLACE OF BEGINNING, said point being the southeast corner of Lot 1, Paquin & Deets Subdivision; thence continuing N 59°27'54" W on the aforesaid course and on the south line of said lot a distance of 1106.46 feet to the west corner of said lot, said point being on the section line common to Sections 10 and 15; thence N 30°32'06" E a distance of 100.0 feet to a point on the centerline of the Union Pacific Railroad (now abandoned); thence S 59°27'54" E on the aforesaid centerline a distance of 538.75 feet to the southeast corner of Lot 2, Paquin & Deets Subdivision; thence N 25°41'50" E on the east line of said Lot 2 a distance of 209.71

feet to the northeast corner of said lot, said point being on the south line of Nebraska State Highway No. 40 and on a non-tangent curve; thence on the aforesaid south line and on the north line of said Lot 1 on a 1849.86 foot radius curve to the right, concave southwesterly, forming a central angle of 11°48'10" an arc distance of 381.06 feet to the northeast corner of said Lot 1, said point being S 54°41'54"E a chord distance of 380.39 feet from the previously described point; thence S 00°31'48" W on the east line of said lot a distance of 320.29 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 8TH DAY OF NOVEMBER, 2016.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONE LOT 1, FOUNTAIN HILLS SEVENTH; SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE**

Mayor Clouse stated the City was notified by the developer to postpone until November 22, 2016 the public hearing on the Application submitted by Miller & Associates for Grand West, LLC to rezone from District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as Lot 1, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue).

Moved by Lammers seconded by Nikkila seconded to postpone until November 22, 2016 the Application submitted by Miller & Associates for Grand West, LLC to rezone from District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as Lot 1, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**REVISED DEVELOPMENT PLANS FOR SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE**

Mayor Clouse stated the City was notified by the developer to postpone until November 22, 2016 the public hearing on the Application submitted by Miller & Associates for Grand West, LLC and TSK 14, LLC for Revised Planned District Development Plan Approval for the construction of an apartment complex on property to be zoned R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lots 1 and 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue).

Moved by Lammers seconded by Nikkila to postpone until November 22, 2016 the Application submitted by Miller & Associates for Grand West, LLC and TSK 14, LLC for Revised Planned District Development Plan Approval for the construction of an apartment complex on property to be zoned R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lots 1 and 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**VACATE PORTIONS OF INTERSTATE SUBDIVISION, INTERSTATE THIRD ADDITION, INTERSTATE FOURTH ADDITION, INTERSTATE FIFTH ADDITION, YOUNES CENTER SECOND ADDITION; SOUTH OF TALMADGE STREET BETWEEN 3RD AVENUE AND 6TH AVENUE**

Public Hearings 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for Paul Younes to (1) vacate Lots A and B, Interstate Subdivision, Lot 1 of Block One, Interstate Third Addition, Lot 1, Interstate Fourth Addition, Lot 1, Interstate Fifth Addition, and Lot 1, Younes Center Second Addition and to consider Ordinance No. 8114; and (2) the Final Plat for Younes Center Fifth Addition, an addition to the City of Kearney for a tract of land being Lots A and B, Interstate Subdivision, Lot 1 of Block One, Interstate Third Addition, Lot 1, Interstate Fourth Addition, Lot 1, Interstate Fifth Addition, and Lot 1, Younes Center Second Addition, all in the City of Kearney, Buffalo County, Nebraska (south of Talmadge Street between 3rd Avenue and 6th Avenue) and consider Resolution No. 2016-189. Planning Commission recommended approval.

Craig Bennett from Miller & Associates presented this matter to the Council. This property is approximately 55.83 acres lying north of the Interstate and south of Talmadge Street, west of 3rd Avenue. There are five businesses currently existing in the particular plat of which they are acknowledging as the Fairfield Inn, Younes Conference Center, Comfort Inn, La Quinta Inn and the Younes corporate offices. The existing lot lines cut through some of the buildings so they just want to clean up some of the lot lines to actually make them adjust to the lot lines and property that is there.

The area they will be talking about is located on the southwest corner next to the lake. The proposed development plan is a restaurant and office building that would be located east to it. The office building will be located north of an existing garage with additional parking and paving that would be shown there as well.

To accomplish this, they have to vacate a series of different subdivisions and lots in order to restructure and replat the land. The preliminary plat has a requirement consisting of surveying all the lots, parking stalls and infrastructure and topographic features that are out there. The overlay has all of the features with the proposed lot lines. It is basically a 6-lot subdivision and each of the lots then would encompass the different buildings that are existing.

So for tonight they are going to focus on proposed Lots 4, 5 and a portion of Lot 6. The development plan that was presented earlier shows a restaurant that would be up

against the west edge of the sandbar that is out there or the east edge of the lake so it will have a deck that will overlook into the lake. Another component of the development plan is a pavilion and it is approximately 5,000 square feet. It will have a similar type of look and feel and will be right up next to the lake as well with an open deck on it. It will have more of an assembly area, restroom and a small kitchen. The office building is a two story 6,000 square foot, 12,000 square foot total building.

They will be bringing public water and sanitary sewer into the location from the north which is located on Talmadge Street in the access easements that they included in the plat.

In the pavilion area, the water and sewer would be extended southerly and would be extended to that particular building. It would then continue southerly to the restaurant and office building. It would be public infrastructure. They also show planning for looping of public water infrastructure to connect to the existing dead-end that they have for public water in 3rd Avenue.

The easement for the transmission line out there basically limits them from putting any buildings or anything underneath that easement but allows them to have parking.

There is an existing shed that they would show connectivity through a sidewalk. The parking lot exists and would remain and they would simply be adding lighting and sidewalks to the backside of it.

The floor plan of the pavilion showing the open assembly area basically restrooms and a kitchen area and then some reserved area for fitness and other storage of equipment that they will have. An open deck that would extend out and face to the edge of the lake.

Mr. Bennett discussed the restaurant landscape, floor plan and elevations.

Council Member Lammers asked about the second space that is currently open, will the plan be to add another restaurant. Mr. Bennett confirmed. When they looked at parking requirements, they made projections for seating capacity in this half of the restaurant that they currently have and then they also made projections for seating for that as well as and the development plan shows future parking stalls that could be utilized as well.

Council Member Lammers asked if the 211 parking stalls that are currently projected is adequate for the two potential restaurants and office. Mr. Bennett stated they currently have an agreement in place when Mr. Younes did the conference center that gave him the freedom to have 203 additional stalls that could be put in in the future if he believed that they were needed in the past 3-4 years. He has not built them and so what they have done was come up with the same kind of philosophy saying if they add the restaurant, office building and pavilion what do they need there and what they can allow for additional future parking. Trying to be consistent with that same kind of concept, they have actually reduced the amount of future parking stalls from what was originally going to be 203.

When you look at the entire campus, it is really a campus parking and so to have the maximum availability for all the motels, conference center and restaurants would be like Black Friday. What he has found out is that the maximum requirement with all of these being in such close proximity, use shared parking and campus parking throughout the course of the year.

Council Member Nikkila asked is the property technically 58 spots short to what the code technically requires. Mr. Bennett stated if they look at what they had for the code requirement, they are asking for that deviation which is part of the approval tonight because they want to put them in as future. The existing agreement that is in place with the current campus plan has allowed for the 203 and they are actually asking for less than that.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Miller & Associates for Paul Younes and introduced Ordinance No. 8114 vacating Lots A and B, Interstate Subdivision, Lot 1 of Block One, Interstate Third Addition, Lot 1, Interstate Fourth Addition, Lot 1, Interstate Fifth Addition, and Lot 1, Younes Center Second Addition 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. 8114. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8114 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8114 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8114 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.

Moved by Buschkoetter seconded by Clouse to adopt Resolution No. 2016-189 approving the final plat for Younes Center Fifth Addition. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

**RESOLUTION NO. 2016-189**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being all of Lots A and B (now vacated) of Interstate Subdivision, a subdivision to the City of Kearney, Nebraska, all of Lot 1, Block One (now vacated) of Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, all of Lot 1 (now vacated) of Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, all of Lot 1 (now vacated) of Interstate Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and all of Lot 1 (now vacated) of Younes Center Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, all located in part of Government Lot 5, and part of Government Lot 6 of Section 11, and part of the Northwest Quarter of the Northeast Quarter and part of the Northeast Quarter of the Northeast Quarter of Section 14 all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, being more particularly described as follows: BEGINNING at the brass cap at the Southwest corner of Government Lot 6 of Section 11 and assuming the West line of said Lot 6 as bearing N 00°24'29" E and all bearing contained herein are relative thereto; thence N 00°24'29" E on said West line a distance of 999.10 feet to a 5/8" rebar on the South line of Talmadge Street, as platted in the City of Kearney, Buffalo County, Nebraska; thence S 87°20'25" E on said South line of Talmadge Street a distance of 2163.78 feet to a 5/8" rebar with cap on the West line of 3rd Avenue as platted in Interstate Subdivision, a subdivision to the City of Kearney, Nebraska; thence Southwesterly on said West line of 3rd Avenue and on a non-tangent curve to the Right having a central angle of 44°57'34", a radius of 211.42 feet, an arc length of 165.90 feet, and a chord bearing of S 25°10'44" W a distance of 161.68 feet to a 5/8" rebar; thence S 47°39'30" W continuing on said West line of 3rd Avenue a distance of 171.58 feet to a 5/8" rebar with cap; thence continuing on said West line of 3rd Avenue and on a tangent curve to the Left having a central angle of 33°35'15", a radius of 360.87 feet, an arc length of 211.55 feet, and a chord bearing of S 30°51'53" W a distance of 208.53 feet to a 5/8" rebar; thence S 14°04'16" W continuing on said West line of 3rd Avenue a distance of 426.18 feet to a 5/8" rebar with cap on the South line of Government Lot 5 of Section 11; thence N 88°33'25" E on said South line a distance of 62.26 feet to a 5/8" rebar at the Northwest corner of Lot 1, Block 2, of Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 14°04'16" W on the West line of said Lot 1 a distance of 391.79 feet to a 5/8" rebar on the North Right-of-Way line of Interstate Highway 80; thence Westerly on said North Right-of-Way line and on a non-tangent curve to the Right having a central angle of 21°01'32", a radius of 854.90 feet, an arc length of 313.72 feet, and a chord bearing of S 82°02'17" W a distance of 311.96 feet to a 5/8" rebar; thence N 87°15'58" W continuing on said North Right-of-Way line a distance of 623.57 feet to a 5/8" rebar; thence N 85°36'43" W continuing on said North Right-of-Way line a distance of 794.15 feet to a 5/8" rebar on the West line of the Northwest Quarter of the Northeast Quarter of Section 14; thence N 01°08'38" W on the West line of said Northwest Quarter of the Northeast Quarter a distance of 286.84 feet to the Point of Beginning, containing 55.83 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 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 NOVEMBER, 2016.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**DEVELOPMENT PLANS FOR SOUTH OF TALMADGE STREET BETWEEN 3RD AVENUE AND 6TH AVENUE**

Public Hearings 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Paul Younes for Planned District Development Plan Approval for the construction of a restaurant, pavilion, and office building on property zoned C-2/PD, Community Commercial/Planned Development Overlay District and described as proposed Lots 4, 5 and part of Lot 6, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of Talmadge Street between 3rd Avenue and 6th Avenue) and consider Resolution No. 2016-190. Planning Commission recommended approval subject to the following terms and conditions: (1) the campus parking plan will support both the new and existing uses by providing adequate parking and will supersede the old campus parking plan; (2) upon completion of the office building, construction of the additional parking shown on the development plan will be installed; and (3) the approval of this new campus parking plan/layout will supersede all previous campus parking for this area.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2016-190 approving the Application submitted by Miller & Associates for Paul Younes for Planned District Development Plan Approval for the construction of a restaurant, pavilion, and office building on property zoned C-2/PD, Community Commercial/Planned Development Overlay District and described as proposed Lots 4, 5 and part of Lot 6, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska subject to the following terms and conditions: (1) the campus parking plan will support both the new and existing uses by providing adequate parking and will supersede the old campus parking plan; (2) upon completion of the office building, construction of the additional parking shown on the development plan will be installed; and (3) the approval of this new campus parking plan/layout will supersede all previous campus parking for this area. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**RESOLUTION NO. 2016-190**

WHEREAS, Miller & Associates for Paul and Linda Younes have applied for Planned District Development Plan Approval for the construction of a restaurant, pavilion, and office building on property zoned C-2/PD, Community Commercial/Planned Development Overlay District and described as proposed Lots 4, 5 and part of Lot 6, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of Talmadge Street between 3rd Avenue and 6th Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates for Paul and Linda Younes for Planned District Development Plan Approval for the construction of a restaurant, pavilion, and office building on property zoned C-2/PD, Community Commercial/Planned Development Overlay District and described as proposed Lots 4, 5 and part of Lot 6, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of Talmadge Street between 3rd Avenue and 6th Avenue) be approved with the following terms and conditions:

1. The campus parking plan will support both the new and existing uses by providing adequate parking and will supersede the old campus parking plan.
2. Upon completion of the office building, construction of the additional parking shown on the development plan will be installed.
3. The approval of this new campus parking plan/layout will supersede all previous campus parking for this area.

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**PROPOSED AMENDMENTS TO CHAPTERS 43, 48, 50 AND 58 OF CITY CODE**

Mayor Clouse opened the public hearing on the proposed amendments to Chapters 43, 48, 50 and 58 pertaining to bufferyard provisions and sign regulations and to consider Ordinance No. 8115. Planning Commission recommended approval. Upon further review, City staff has withdrawn the amendments to Section 43-109 and Section 58-105. Therefore, those will remain as the currently exist.

Assistant City Manager Paul Briseno presented this matter to the Council. Section 48-105, they had a request to remove bufferyards when it is adjacent to alleys or a street. Currently what they did most recently was change the required 20-foot buffer to a percentage to maximize the infill. What they are doing here further is whenever it is adjacent to an alley, the alley acts as a buffer. It will still require some screening such as fences and things of that nature. Since the alley does allow for some buffering they are recommending eliminating that to maximize their lot.

Section 50-103 is basically housekeeping; they have a duplicate sentence within code that makes it somewhat confusing and this will clarify within the elimination of that statement.

Section 50-104 is regarding revolving signs. They currently do not allow revolving signage with a number of signs that they do allow mainly electrical signs. They currently do not have any revolving signs in Kearney and their intent is to take that out of City Code.

Council Member Nikkila asked about the Planning Commission members and were they mostly concerned about the item that was removed. Assistant City Manager confirmed that the two items that were removed were the ones they had questions on. Staff then pulled them and had further discussions and will rework them to meet their needs.

Council Member Lammers asked about the bufferyard provisions being mainly fences, trees or bushes. Assistant City Manager stated currently the bufferyard was previously 20 feet and that was mainly for foliage, trees and things of that nature that still required a fence. What they are suggesting is getting rid of the bufferyard and still have the fence because the bufferyard to an extent is being created by the alley between the higher edge use and the residential use behind it.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the proposed amendments to Sections 48-105, 50-103 and 50-104 as presented and introduced Ordinance No. 8115 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. 8115. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8115 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8115 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8115 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.

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

Mayor Clouse stated the Consent Agenda was amended on Monday, November 7 by adding Subsections 8 and 9.

Moved by Lear seconded by Buschkoetter that Subsections 1 through 8 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held October 25, 2016.

2. Approve the following Claims:

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

Alamar Uniforms \$49.99 smcs; Alfred Benesch \$12,179.06 co; Amazon \$1,333.33 smcs; Amer First Aid \$233.71 smcs; AWWA \$1,781.00 smcs; Artisans \$140.00 smcs; Ask Supply \$1,055.31 smcs; Aurora Coop \$25.04 smcs; Auto Value Parts \$1,134.06 smcs; Baker & Taylor \$7,177.63 smcs; Barlow,J \$400.00 smcs; Benson,G \$850.00 smcs; Berry,G \$15.76 smcs; Blackstone Audio \$446.25 smcs; Blessing \$278,219.53 co; Bomgar \$3,496.00 smcs; Bosselman \$8,531.18 smcs; Brand,M \$18.71 smcs; Brilliance Publishing \$50.98 smcs; Buffalo Co Comm Partnership \$85.00 smcs; Buffalo Co \$2,680.00 co; Cash-Wa \$265.05 smcs; Center Point Publishing \$74.01 smcs; Central Fire \$123.00 smcs; Charter \$259.18 smcs; City of Ky \$413,754.25 smcs,ps; Comcate \$7,136.75 smcs; Community Health Char \$4.00 ps; Culligan \$19.50 smcs; Cummins \$107.66 smcs; DAS State Accounting \$5,651.43 smcs; Dawson PPD \$36,770.70 smcs; Dish \$201.06 smcs; Eagle Distributing \$246.00 smcs; Eakes \$343.51 smcs; Eirich,D \$69.12 smcs; Elite Tours \$279.56 smcs; Elliott Equipment \$1,395.32 smcs; EMC Ins \$3,505.22 smcs; Engineered Controls \$1,825.00 smcs; Evans,B \$15.77 smcs; Felsburg Holt & Ullevig \$3,000.00 smcs; First Natl Bank \$70.00 smcs; Flamig,G \$75.00 smcs; Fox,R \$100.00 smcs; Frontier \$341.17 smcs; Fyr-Tek \$4,670.58 smcs; Gale \$737.23 smcs; Gangwish Turf \$65.63 smcs; Gillies Bar \$3,650.77 smcs; Golfnow \$2,145.00 smcs; Haack,S \$193.32 smcs; Habitat for Humanity \$253.00 smcs; HD Supply \$19,838.88 smcs; Hellreigel,E \$168.48 smcs; Hometown Leasing \$157.20 smcs; Howe,C \$58.79 smcs; IALEFI \$1,065.00 smcs; ICMA \$6,112.48 smcs,ps; IRS \$146,438.13 ps; Jack Lederman \$95.60 smcs; Jochum,T \$75.12 smcs; Johnson Hardware \$582.30 smcs; Ky Area United Way \$574.50 ps; Ky Chamber Comm \$25.00 smcs; Ky Concrete \$2,800.36 smcs; KVFD \$3,000.00 smcs; Konica Minolta \$78.78 smcs; Larue Distributing \$90.23 smcs; Lavene,D \$185.00 smcs; Lawn Builders \$290.78 co; Mac Tools \$33.65 smcs; Magic Cleaning \$4,740.00 smcs; Mail Express \$420.68 smcs; McMickell,C \$21.58 smcs; Mead Lumber \$114.53 smcs,co; Metlife \$7,699.65 ps; Mid-NE Garage Doors \$295.00 smcs; Midwest Connect \$6,119.35 smcs; Miller,J \$59.98 smcs; Miracle Recreation \$73,676.00 smcs; Moonlight Embroidery \$5,639.61 smcs; Moore,M \$52.76 smcs; NE Child Support \$2,188.20 ps; NE Dept of Labor \$140.00 smcs; NE Dept of Revenue \$101,157.77 smcs,ps; NE Environmental Products \$3,025.05 smcs,co; NE Public Health \$1,158.00 smcs; NEland Distributors \$412.00 smcs; NERPA \$620.00 smcs; Netmotion \$4,425.00 smcs; Noller Electric \$849.40 smcs; Northwestern Energy \$202.92 smcs; NSA/POAN Conference \$600.00 smcs; O'Brien,E \$100.00 smcs; Office Depot \$132.82 smcs; Ohri,R \$680.00 smcs; Olsson Associates \$7,150.93 co; Otto Environmental \$23,837.00 smcs; Outdoor Recreation Prod

\$34,703.00 co; Paramount \$118.01 smcs; Patterson,B \$5.99 smcs; Payflex \$573.75 smcs,ps; Penguin Random House \$176.25 smcs; Penworthy Co \$578.70 smcs; Platte Valley Comm \$75.00 smcs; Prairie Land Construction \$73,600.00 co; Prime Communications \$2,480.79 co; Pulliam,R \$40.00 smcs; Rasmussen,A \$60.00 smcs; Recorded Books \$545.58 smcs; Reynolds,M \$55.00 smcs; Rich,T \$50.00 smcs; Richmond,D \$250.00 smcs; Roy,J \$143.81 smcs; Ruzicka,R \$15.98 smcs; RW Sorensen \$1,200.00 smcs; Sapp Bros \$16,996.94 smcs; See Clear Cleaning \$1,700.00 smcs; Shipp,M \$74.51 smcs; Simply Steele \$50.01 smcs; Sirius Computer \$4,382.91 smcs; Snap-On Tools \$949.01 smcs; SOS Portable Toilets \$235.00 smcs; Spangrud,D \$90.00 smcs; Strategic Materials \$387.90 smcs; Stuehm,A \$100.00 smcs; Sun Life Financial \$70,381.00 smcs; Sungard \$16,520.69 co; Tacha,J \$50.00 smcs; Tapco \$10,680.25 co; Temple,T \$49.51 smcs; Thompson Co \$66.92 smcs; Translux \$104,570.00 co; TruGreen \$170.00 smcs; Tye Law Firm \$13,215.45 smcs; Tyler Technologies \$2,400.00 co; Union Bank \$71,866.32 ps; UNK Human Resources \$91.84 smcs; Village Uniform \$486.73 smcs; Walsh,C \$175.00 smcs; Walton,T \$40.00 smcs; Watchguard Video \$399.00 co; Wells Fargo Bank \$2,340.00 smcs; Wessels,W \$97.20 smcs; Williams,M \$353.32 smcs; WT Cox \$48.56 smcs; Zimmerman Printing \$298.50 smcs; Payroll Ending 10-29-2016 -- \$412,618.55. 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 manager application for Glenda Bailey submitted by Eagles Frat Order 2722 located at 17 West 24th Street in connection with their Class C-011097 liquor license.
4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class I-120704 liquor license application submitted by Kumo Japanese Steakhouse Inc., dba KYOTO located at 404 3rd Avenue.
5. Adopt Resolution No. 2016-191 approving the Developer Constructed Infrastructure Agreement for water and sanitary sewer improvements between the City of Kearney and Paul Younes for Younes Center Fifth Addition Addition.

#### **RESOLUTION NO. 2016-191**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that the agreement entitled "Developer Constructed Infrastructure Agreement for Younes Center Fifth Addition" between the City of Kearney and Paul Younes to construct the public improvements for water and sanitary sewer improvements to serve Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

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

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

- 6. Approve the recommendation on selecting Lauren Brandt as the Deputy City Clerk.
- 7. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and/or Parking Restrictions Permit Application submitted by the downtown merchants to use 3 parking stalls in front of 2218 Central Avenue, 9 parking stalls in front of 13 East 22nd Street, 4 parking stalls in front of 2223 Central Avenue, and 6 parking stalls in front of 2205 Central Avenue on December 1 for the annual Downtown Christmas Walk.
- 8. 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 and wine in The Archway, 3060 East 1st Street on Thursday, December 8, 2016 from 4:00 p.m. until 9:00 p.m. for a holiday social.
- 9. ADDENDUM ITEM. Consider Resolution No. 2016-194 approving the Agreement to Extend Project Completion Date between the City of Kearney and Blessing, LLC pertaining to the 2015 Part 13 Improvements; Tech One Boulevard and Global Drive.

**RESOLUTION NO. 2016-194**

WHEREAS, on March 8, 2016 the City awarded the bid for the paving in connection with 2015 Part 13 Improvements; Tech One Boulevard and Global Drive to Blessing, LLC; and

WHEREAS, Blessing, LLC has requested permission to extend the completion date for this project to a future date due to weather delays and other unforeseen circumstances; and

WHEREAS, Blessing, LLC has agreed to honor the price of the contract for a period of three years, that there will be no additional costs to the City and the City can determine when it would be best to order that this paving be completed.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Agreement to Extend Project Completion Date between the City of Kearney and Blessing, LLC pertaining to the 2015 Part 13 Improvements; Tech One Boulevard and Global Drive. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof.

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8116 VACATING SETBACK ON LOT 1 OF BLOCK ONE, KEARNEY PLAZA SIXTH ADDITION, 2710 WEST 24TH STREET**

The property is located at the corner of Highway 30 and Plaza Boulevard. The 32,467 square foot lot is zoned General Commercial District. The applicant is requesting to vacate the 30-foot platted setback on the east side of the property which was platted when the subdivision was created in October of 1982. The vacation of the platted setback will allow the developer to apply the current C-3 street side yard setback of 25 feet to the property. The owners are looking to enlarge their building and the reduction in the side yard setback will allow for more buildable area.

Council Member Buschkoetter introduced Ordinance No. 8116 vacating the 30-foot platted setback located on the east side of Lot 1 of Block One, Kearney Plaza Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (2710 West 24th Street), 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 for Ordinance No. 8116. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8116 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 8116 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8116 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. 8117 AMENDING SECTION 7-101 AND ADD NEW SECTION 7-102**

The Advisory Board of Park & Recreation Commissioners recommends minor clarifications to Section 7-101, and the addition of a new Section 7-102 entitled Selling of Programmed Services in Non-Rentable and Rentable Park Areas. In summary, Section 7-102 prohibits the selling of programmed services except when authorized by the Director of Park and Recreation.

In all cases, the Director, at his/her discretion may require the request to be submitted to the Advisory Board of the Park and Recreation Commissioners then to Council for consideration.

The updated Code brings the Department more up-to-date with the necessities of managing the Park and Recreation system, and meeting the needs and wants of citizens.

Council Member Buschkoetter introduced Ordinance No. 8117 amending Section 7-101 "Selling of Goods Prohibited; Exceptions" to clarify the language, and to add a new section entitled Section 7-102 "Selling of Programmed Services in Non-Rentable and Rentable Park Areas" of Chapter 7 "Park and Recreation" of the City Code, 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 for Ordinance No. 8117. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8117 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 8117 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8117 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. 8118 AMENDING SALARY ORDINANCE TO REFLECT POSITION OF DEPUTY CITY CLERK**

Succession planning has been the focus of our major departments for the last couple of years. One key department we have yet to provide for is the City Clerk's office. The technical knowledge and attention to detail required with that position will require extensive training and is time to begin the process.

The City has an employee from within that meet the requirements of a Deputy City Clerk. Item 7 on the Consent Agenda was the selection of Lauren Brandt to serve in this capacity. Therefore, with this new position, this ordinance amends the current pay plan to include the addition of a Deputy City Clerk pay grade 28, to be filled by reclassifying a current position.

Council Member Buschkoetter introduced Ordinance No. 8118 repealing Ordinance No. 8099 and amend the Salary Ordinance reflecting the additional position of Deputy City Clerk, 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 for Ordinance No. 8118. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8118 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 8118 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8118 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**

### **REDEVELOPMENT PROJECT FOR PROPERTY NORTH OF EAST RAILROAD STREET AND WEST OF AVENUE A**

Mayor Clouse opened for discussion the redevelopment project submitted by Design Matters, LLC for Redevelopment Area #4 for an area described as Lots 507 and 508, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (north of East Railroad Street and west of Avenue A) and consider Resolution No. 2016-192.

Assistant City Manager Paul Briseno presented this matter to the Council. He stated this application is for the McCue building. The CRA did hear their case and recommended approval. The project is located off of east Railroad Street and west Avenue A. The current value of the project is valued at \$33,840 and an estimated value after the completion of the project is approximately \$400,000. They are requesting TIF for the project, primarily for utilities and interior for life safety matters. CRA did approve 90 percent, approval of a total of \$100,679 and not to exceed 15 years.

Council Member Nikkila stated he has had the chance to be in some of the meetings with downtown businesses and developers to talk about upper story housing or offices. He was pleased they are including fire sprinklers as a consideration.

Council Member Buschkoetter stated he had toured some of the things they are doing in Hastings and he thinks they are seeing the beginning of something that will be really special downtown. He thinks this could be the beginning of something really nice. He hopes to see this grow and develop.

Moved by Lammers seconded by Nikkila finding that the redevelopment project set forth in the application submitted by Design Matters, LLC would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 90 percent of the annual increment in real estate taxes, not to exceed the lessor of \$100,679, or the certified eligible Project Costs over a period not to exceed 15 years beginning with Tax Year 2017 and to adopt Resolution No. 2016-192 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Design Matters, LLC. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2016-192**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #4 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as Lots 507 and 508, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (Parcel ID 610133000); and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as Lots 507 and 508, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (Parcel ID 610133000) is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as Lots 507 and 508, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (Parcel ID 610133000) shall be divided, for a period not to exceed 15 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

6. Recognizing that, after the date of this Resolution, circumstances may arise necessitating changes, additions or deletions to the specific legal description of the Redevelopment Project (described in Paragraphs 1 and 4 above and the attached Exhibit "B"), the City Manager is hereby authorized to make such changes, additions or deletions to the legal description as the City Manager deems reasonable or necessary, together with the authority to execute all documents, certificates or instruments necessary in connection therewith, specifically including the execution of an Amended Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project.

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ADDENDUM TO MEMORANDUM OF UNDERSTANDING WITH XPANXION, LLC**

Mayor Clouse opened for discussion the Addendum to Memorandum of Understanding between the City of Kearney and Xpanxion, LLC pertaining to the construction of buildings and the expansion of jobs located at the City of Kearney's Tech ONE Crossing Tech Park and consider Resolution No. 2016-193.

City Attorney Michael Tye presented this matter to the Council. He stated an Addendum has been prepared to the original Memorandum of Understanding with Xpanxion for their building project at the Tech Park. The original Memorandum of Understanding indicated that Xpanxion would be responsible for payment of all of the infrastructure costs if they did not complete their project and create all of the required jobs. This Addendum to Memorandum of Understanding adjusts Xpanxion's obligation to match the amount of infrastructure attributable to the lot that they are purchasing at the Tech Park and adds a pro-rata reduction of their exposure for each of the jobs that they create. As Council is aware, the job creation requirements are tied to a state grant that the City received in order to purchase this property. This Addendum better reflects the infrastructure costs attributable to the Xpanxion project and gives a pro-rata credit for the jobs created.

Moved by Nikkila seconded by Lear to adopt Resolution No. 2016-193 approving the Addendum to Memorandum of Understanding between the City of Kearney and Xpanxion, LLC pertaining to the construction of buildings and the expansion of jobs located at the City of Kearney's Tech ONE Crossing Tech Park contingent upon Xpanxion, LLC executing the Addendum to Memorandum of Understanding. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**RESOLUTION NO. 2016-193**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that the agreement entitled "Addendum to Memorandum of Understanding" between the City of Kearney and Xpanxion, LLC pertaining to the construction of buildings and the expansion of jobs located at the City of Kearney's Tech ONE Crossing Tech Park be and is hereby accepted and approved contingent upon Xpanxion, LLC executing the Addendum to Memorandum of Understanding.

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 8TH DAY OF NOVEMBER, 2016.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VII. REPORTS**

City Manager stated PenAir has had a good week. We have reached out to some travelers and got some feedback and everything seems to be going well and adjustments are being made but it looks good.

Director of Public Works Rod Wiederspan gave an update on what is known as Cherry Avenue or the East Kearney Expressway which is the official name. The project is coming to an end. It has been a long process. The contractor is currently working on the area on 39th Street and the loop road down to Highway 30. There will be a traffic signal installed there at Highway 30. They are anticipating the project will be wrapped up or open to the public by Thanksgiving. They are cleaning up, backfilling and seeding the area.

Central Avenue is expected to open on Friday. The painter is supposed to be coming in but with the rain he has been delayed but by Friday they will have that open to traffic also.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 6:04 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

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MICHAELLE E. TREMBLY  
CITY CLERK