

**Kearney, Nebraska**  
**April 11, 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 April 11, 2017 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; Lauren Brandt, Deputy City Clerk; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Tony Jelinek, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Jason Whalen, Fire Administrator were also present. Members of the media present included Kyle LaBoria from KGFW Radio and Mike Konz 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**

Invocation provided by Pastor Adrian Boykin.

### **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.

### **PROCLAMATION FOR SEXUAL ASSAULT AWARENESS MONTH**

Mayor Clouse read a Proclamation declaring the month of April as Sexual Assault Awareness Month and presented the Proclamation to Robin Phipps from The S.A.F.E. Center.

### **ORAL COMMUNICATIONS**

Jesus Rodriguez, 1921 Avenue G, addressed concerns on the operation of Andersen Wrecking and the road conditions in the area. These issues are of public safety and

potential problems to homes, roads and bridges. The first issue involves explosions occurring at Andersen Wrecking. A piece of equipment was allowed within city limits and he believes it was not a well-planned decision. He is experiencing explosions so violent it causes his home to shake violently enough to knock items from the wall. He stated he lives approximately one block away from the explosions and since the beginning of the year; he has felt three explosions. These explosions not only pose a threat with foundations but also have the potential to take lives. As this grows, these risks grow and explosions occur more frequently. It was his understanding from City staff that Andersen has been made aware of this problem and is doing everything to prevent it but due to the sheer volume of business that Andersens does makes it impossible to prevent this from happening. However, he believes that this problem needs addressed and the business be relocated. He believes that some sort of violation is occurring and that the business should be held accountable as anyone in the community would be.

Issue two involves Coal Chute Road (should be 20th Street) from Avenue F to Avenue M. This road is so bad that anyone traveling west drives on the opposite side of the road. The City filled the holes but that has not worked and is only a temporary fix to the problem. This road is also partially graveled for one block from Avenue M going west. He was told by the City that the road was being considered to be re-graveled again due to high volume of truck traffic. He would like speed limit signs posted on this section of the road and on south Railroad Street from Avenue M to Central Avenue. This section does not have sidewalks and there are a lot of children in the area.

Issue three involves the alley on the block of 19th Street and G Avenue should be blocked off. Traffic would then have to go to the corner and then around to the over-pass. He is experiencing cars peeling out on the gravel and driving on the city property and up onto the over-pass. Drivers do this more often when it rains or snows.

City Manager Michael Morgan stated the City has communicated with Andersen Wrecking and will follow up. The area is M-1 zoning. The street itself is an old asphalt road that was done several years ago. One of the options would be to request the adjacent property owners to pay for the street and not the citizens at large. The street is in very difficult condition. He was not familiar with the alley Mr. Rodriguez mentioned but the street has certainly been on the City's radar. The City of Kearney can look into an assessment district as one option for the adjacent property owners. With respect to the explosions, the area is in the M-1 zone. The explosions are occurring from propane tanks that end up in the vehicles. Citizens do not always disclose the tanks being in the car when brought to Andersen Wrecking. Mr. Rodriguez's property is located approximately 900 feet from Andersen Wrecking but the area is all zoned M-1 and M-2 so there are different conditions than a residential area.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **LAND USE MAP AMENDMENT FOR 2085 46TH AVENUE**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for David and Andrea Hayes and Floralee Ourada, Trustee for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Density Residential to Urban Reserve property described as a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2085 46th Avenue) and consider Resolution No. 2017-43. Planning Commission recommended approval.

Trenton Snow presented this matter to the Council. Also in the audience were David and Andrea Hayes. Mr. Snow stated the Hayes had a little acreage that included their house and a few sheds. The other ground was owned by the Ourada's who also own the cornfield to the west. When Mr. Hayes found out that his septic system encroached the Ourada's ground, he contacted the Ourada's about buying the ground that surrounds his house. The Ourada's did not realize that they still owned the property so they were more than happy to accommodate Mr. Hayes request. Lot 1 now includes all of the ground that the Ourada's owned plus the ground that the Hayes have east of 46th Avenue. This property is outside of City limits but it is within the City's jurisdiction. The well and septic are private. 46th Avenue was a 40-foot wide county road and there was not a great description on the road itself so Mr. Snow designated 66-feet to make that a 66-foot wide county road. The center line follows the center line of the existing gravel road that is there and that will all be dedicated as a county road.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-43 approving the Application submitted by Trenton Snow for David and Andrea Hayes and Floralee Ourada, Trustee for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Density Residential to Urban Reserve property described as a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2085 46th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

#### **RESOLUTION NO. 2017-43**

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of said Section 5 and assuming the East line of said Northeast Quarter as bearing N 01°47'30" E and all bearings contained herein are relative thereto; thence N 01°47'30" E on the aforesaid East line a distance of 196.9

feet to the ACTUAL PLACE OF BEGINNING, said point being the northeast corner of a tract of land described in a Quitclaim Deed recorded in Deed Book 169, Page 387 and filed in the Buffalo County Register of Deeds; thence continuing N 01°47'30" E on the aforesaid course a distance of 755.57 feet; thence N 88°12'30" W a distance of 33.0 feet to a point on a non-tangent curve; thence on a 567.0 foot radius curve to the right, concave westerly, forming a central angle of 21°40'18" an arc distance of 214.46 feet to a point, said point being S 12°37'40" W a chord distance of 213.19 feet from the previously described point; thence tangent S 23°27'49" W a distance of 530.04 feet to the point of curvature; thence on a 533.0 foot radius curve to the left, forming a central angle of 21°01'56" a distance of 195.65 feet to the point of tangency; thence tangent S 02°25'53" W a distance of 72.46 feet to a point on the South line of the Northeast Quarter of said section; thence N 89°24'03" E on the aforesaid South line a distance of 192.79 feet to the southwest corner of the aforesaid tract of land described in a Quitclaim Deed; thence N 08°53'57" W on the west line of said tract a distance of 120.3 feet to the northwest corner thereof; thence N 60°25'50" E on the north line of said tract a distance of 160.4 feet to the point of beginning, all in Buffalo County, Nebraska from Mixed Density Residential to Urban Reserve, 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 Mixed Density Residential to Urban Reserve the use classification for a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of said Section 5 and assuming the East line of said Northeast Quarter as bearing N 01°47'30" E and all bearings contained herein are relative thereto; thence N 01°47'30" E on the aforesaid East line a distance of 196.9 feet to the ACTUAL PLACE OF BEGINNING, said point being the northeast corner of a tract of land described in a Quitclaim Deed recorded in Deed Book 169, Page 387 and filed in the Buffalo County Register of Deeds; thence continuing N 01°47'30" E on the aforesaid course a distance of 755.57 feet; thence N 88°12'30" W a distance of 33.0 feet to a point on a non-tangent curve; thence on a 567.0 foot radius curve to the right, concave westerly, forming a central angle of 21°40'18" an arc distance of 214.46 feet to a point, said point being S 12°37'40" W a chord distance of 213.19 feet from the previously described point; thence tangent S 23°27'49" W a distance of 530.04 feet to the point of curvature; thence on a 533.0 foot radius curve to the left, forming a central angle of 21°01'56" a distance of 195.65 feet to the point of tangency; thence tangent S 02°25'53" W a distance of 72.46 feet to a point on the South line of the Northeast Quarter of said section; thence N 89°24'03" E on the aforesaid South line a distance of 192.79 feet to the southwest corner of the aforesaid tract of land described in a Quitclaim Deed; thence N 08°53'57" W on the west line of said tract a distance of 120.3 feet to the northwest corner thereof; thence N 60°25'50" E on the north line of said tract a distance of 160.4 feet to the point of beginning, all in Buffalo County, Nebraska.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING 2085 46TH AVENUE**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for David and Andrea Hayes and Floralee Ourada, Trustee to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2085 46th Avenue) and consider Ordinance No. 8133.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Trenton Snow for David and Andrea Hayes and Floralee Ourada, Trustee and introduced Ordinance No. 8133 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2085 46th Avenue) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 8133. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. 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. 8133 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8133 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. 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. 8133 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**FINAL PLAT FOR 8008135 SUBDIVISION LOCATED AT 2085 46TH AVENUE**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for David and Andrea Hayes and Floralee Ourada, Trustee for the Final Plat for 8008135 Subdivision, a subdivision being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2085 46th Avenue) and consider Resolution No. 2017-44.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2017-44 approving the Application submitted by Trenton Snow for David and Andrea Hayes and Floralee Ourada, Trustee for the Final Plat for 8008135 Subdivision, a subdivision being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2085 46th Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2017-44**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of 8008135 Subdivision, a subdivision of Buffalo County, Nebraska for a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 5, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of said Section 5 and assuming the East line of said Northeast Quarter as bearing N 01°47'30" E and all bearings contained herein are relative thereto; thence N 01°47'30" E on the aforesaid East line a distance of 196.9 feet to the ACTUAL PLACE OF BEGINNING, said point being the northeast corner of a tract of land described in a Quitclaim Deed recorded in Deed Book 169, Page 387 and filed in the Buffalo County Register of Deeds; thence continuing N 01°47'30" E on the aforesaid course a distance of 755.57 feet; thence N 88°12'30" W a distance of 33.0 feet to a point on a non-tangent curve; thence on a 567.0 foot radius curve to the right, concave westerly, forming a central angle of 21°40'18" an arc distance of 214.46 feet to a point, said point being S 12°37'40" W a chord distance of 213.19 feet from the previously described point; thence tangent S 23°27'49" W a distance of 530.04 feet to the point of curvature; thence on a 533.0 foot radius curve to the left, forming a central angle of 21°01'56" a distance of 195.65 feet to the point of tangency; thence tangent S 02°25'53" W a distance of 72.46 feet to a point on the South line of the Northeast Quarter of said section; thence N 89°24'03" E on the aforesaid South line a distance of 192.79 feet to the southwest corner of the aforesaid tract of land described in a Quitclaim Deed; thence N 08°53'57" W on the west line of said tract a distance of 120.3 feet to the northwest corner thereof; thence N 60°25'50" E on the north line of said tract a distance of 160.4 feet to the point of beginning, all in 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**DEVELOPMENT PLANS FOR 5210 PARKLANE DRIVE**

Mayor Clouse opened the public hearing on the Application submitted by Brungardt Engineering for Prairie Building, LLC for Revised Planned District Development Plan Approval for the construction of an addition to an existing building on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 3 of Block 1, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5210 Parklane Drive) and consider Resolution No. 2017-45. Planning Commission recommended approval.

Paul Brungardt from Brungardt Engineering presented this matter to the Council. He is here is speak on the proposed west addition to the renal care/dialysis center that is located on the northwest corner of 52nd Street and Parklane Drive. About a year ago, Mr. Fredrickson came to City Council on approval for an addition to the north side. The new addition would be 25-foot wide by 98-foot long and would serve for more beds for renal care. The landscaping will be maintained as is. Some of the additional parking that can be done will be located in the south side of the building (four lots). After talking to City staff, it was determined that approximately 47 parking lot stalls were needed on-site and with the addition, there will be 48 stalls. The new building will be approximately 2,450 square foot. There are a few trees on the west side that will be relocated to the northwest corner. The same façade will be used that is currently on the building.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-45 approving the Application submitted by Brungardt Engineering for Prairie Building, LLC for Revised Planned District Development Plan Approval for the construction of an addition to an existing building on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 3 of Block 1, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5210 Parklane Drive). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2017-45**

WHEREAS, Brungardt Engineering for Prairie Building, LLC has applied for Revised Planned District Development Plan Approval for the proposed construction of an addition to an existing building on property zoned District C-2/PD, Community

Commercial/Planned Development Overlay District and described as Lot 3, Block One, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5210 Parklane Drive).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Brungardt Engineering for Prairie Building, LLC for Revised Planned District Development Plan Approval for the proposed construction of an addition to an existing building on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 3, Block One, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (5210 Parklane Drive) be approved.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VACATE PORTION OF PROPOSED INDUSTRIAL SUBDIVISION AND REZONE  
SOUTHWEST CORNER OF AIRPORT ROAD AND EAST 56TH STREET**

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

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for the City of Kearney to (1) vacate a tract of land Lot 6, Lot 9, all of Lots 10, 11, and 12, Lot 13, Proposed Industrial Subdivision and consider Ordinance No. 8134; and (2) rezone from District AG, Agricultural District and District M-1, Limited Industrial District to District M-1, Limited Industrial District property described as a tract of land being part of the East Half of the Northwest Quarter, and part of the West Half of the Northeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southwest corner of Airport Road and East 56th Street) and consider Ordinance No. 8135. Planning Commission recommended approval.

Craig Bennett from Miller & Associates presented this matter to the Council. This parcel of ground is owned by the City of Kearney and located near the Airport on the north, bound by 56th Street and east by Airport Road and is being replatted into two lots. The ground is approximately 23.37 acres and there is currently a building on the ground with some paving and trees. It is adjacent to Patriot Park Ballfield Complex on the west. The future land use map is consistent to what is being rezoned as there is a portion that is AG and is being rezoned to M-1 which is consistent with general industrial future land use map.

Infrastructure is available on all sides. The parcel is on the outlines of the overflow of the 500-year floodplain. Most of the land near the parcel is getting vacated out. There were a few streets that were vacated when the parcel was originally platted (2nd Street and 3rd Street) but there were portions where the utility easements were not released. The vacation ordinance vacated the street but the utility easements went through the middle of the building so that is why he is releasing the utility easements. There is an ingress/egress easement that is a part of the plat so that the parcel can retain and come off of Airport Road and access across the parking lot to get to the building.



Council Member Lammers asked why the north part of the lot ended up staying zoned AG for this many years as it ran right through the middle of the existing manufacturing building. Mr. Bennett stated he could not answer the question as he did not know the history behind it.

Council Member Nikkila asked if this has been worked out with the company that is purchasing the building. City Attorney Michael Tye stated that this has been worked out through a preliminary drawing that was provided to Midwest Partitions. Midwest Partitions have entered into a very short term lease and are actually in possession of the building and will close after this plat is approved and finalized. But Midwest Partitions have seen the separation of the lots and approved of the map. Midwest Partitions is aware that the second building on the property will remain as a building for the Park & Recreation Department. It was important to note both the ingress and egress easements on the plat so that everyone is aware that each site can access the building in the appropriate location.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Applications Miller & Associates for the City of Kearney and introduced Ordinance No. 8134 vacating a portion of Lot 2, all of Lots 3, 4, 5, a portion of Lots 6 and 9, all of Lots 10, 11, and 12, and a portion of Lot 13, Proposed Industrial Subdivision and Ordinance No. 8135 rezoning from District AG, Agricultural District and District M-1, Limited Industrial District to District M-1, Limited Industrial District property described as a tract of land being part of the East Half of the Northwest Quarter, and part of the West Half of the Northeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8134 and 8135. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. 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 Nos. 8134 and 8135 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance Nos. 8134 and 8135 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 8134 and 8135 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**FINAL PLAT FOR PATRIOT FIRST SUBDIVISION**

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 the City of Kearney for the Final Plat for Patriot First Subdivision, a subdivision being a tract of land being part of the East Half of the Northwest Quarter, and part of the West Half of the Northeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southwest corner of Airport Road and East 56th Street) and consider Resolution No. 2017-46.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2017-46 approving the Application submitted by Miller & Associates for the City of Kearney for the Final Plat for Patriot First Subdivision, a subdivision being a tract of land being part of the East Half of the Northwest Quarter, and part of the West Half of the Northeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (southwest corner of Airport Road and East 56th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2017-46**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Patriot First Subdivision, a subdivision of Buffalo County, Nebraska for a tract of land being part of the East Half of the Northwest Quarter and part of the West Half of the Northeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Referring to the Northwest Corner of the Northeast Quarter of Section 28 and assuming the North line of said Northeast Quarter as bearing S 89°56'56" E and all bearings contained herein are relative thereto; thence S 89°56'56" E on said North line a distance of 141.77 feet to the Easterly line of a tract of land Deeded to the State of Nebraska and recorded as Instrument 2015-03539, in the Register of Deeds Office, Buffalo County, Nebraska; thence Southerly on said Easterly line and on a non-tangent curve to the Right having a central angle of 04°27'54", a radius of 1147.68 feet, an arc length of 89.44 feet, and a chord bearing of S 05°13'03" W a distance of 89.41 feet to a 5/8" rebar, said rebar being 20.00 feet Northerly of the Northerly line of (now vacated) First Street, as platted in Proposed Industrial Subdivision, Kearney Air field, Kearney, Nebraska and the ACTUAL POINT OF BEGINNING; thence S 82°23'02" E parallel with and 20.00 feet Northerly, as measured at right angles, of said Northerly line of (now vacated) First Street a distance of 561.60 feet to a 5/8" rebar; thence N 07°28'07" E a distance of 10.00 feet to a 5/8" rebar; thence S 82°23'02" E parallel with and 30.00 feet Northerly, as measured at right angles, of said Northerly line of (now vacated) First Street a distance of 25.00 feet to the Westerly line of Avenue A, as platted in said Proposed Industrial Subdivision (aka Airport Road); thence S 07°28'07" W on said Westerly line of Avenue A a distance of 1453.93 feet to a 5/8" rebar, said rebar being 82.20 feet Northerly of the Southeast

corner of Lot 6 of said Proposed Industrial Subdivision; thence N 82°30'59" W through Lot 6 and Lot 9 of said Proposed Industrial Subdivision a distance of 783.49 feet to a 5/8" rebar on the Easterly line of Avenue B as platted in said Proposed Industrial Subdivision, (aka Piper Avenue), said rebar being 82.55 feet Northerly of the Southwest corner of said Lot 9; thence N 07°26'00" E on said Easterly line of Avenue B a distance of 744.88 feet to a 5/8" rebar; thence S 82°29'57" E a distance of 63.86 feet to a 5/8" rebar; thence N 29°20'38" E a distance of 331.18 feet to a 5/8" rebar with cap; thence N 09°18'43" E a distance of 307.21 feet to a 5/8" rebar with cap; thence N 07°36'58" E perpendicular to said Northerly line of (now vacated) First Street a distance of 86.00 feet to the Point of Beginning, containing 23.37 acres more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**FINAL PLAT FOR EAST 56TH STREET ESTATES SECOND**

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Daniel Roeder and the East 56th Street Estates Homeowners Association for the Final Plat and Subdivision Agreement for East 56th Street Estates Second, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of the intersection of Avenue S and 54th Street Place) and consider Resolution No. 2017-47. Planning Commission recommended approval.

Mitch Humphrey presented this matter to the Council. This project is the second phase of a 2-phase development. Several years ago he came in and gained approval of the preliminary plat which began the first phase. This site is located on Avenue S, south of 56th Street and cattycorner to the Eastbrooke development. The initial phase had 21 lots which are almost all now built. The second phase will extend Avenue S down to a street called 48th Street and will terminate into the vacant ground to the west. Upon the development of the ground to the west, 48th Street will be continued. The development will have a long street running up and down, north and south through the middle. Because of the excessive length based upon the City's codes during the first phase, an agreement was made to put a 20-foot wide temporary ingress/egress which would allow another way out in case Avenue S was blocked. As part of phase two, the preliminary plat is being deviated a bit at the request of the City to remove a cul-de-sac which results in a new design where one more additional lot is created and the emergency exit

is extended down to be abandoned upon the extension of 48th Street to the west. The tract of land that is being addressed tonight is actually bigger than the first phase because there will be an outlot dedicated on the south side to accommodate the storm water that comes off of both developments. Right now the storm water that comes off of the initial development drains to the south, off of the end of the street and there is then a berm that drains into the storm cell. The site utilities are fairly clean and have accommodated sewer and water coming in off of 56th Street. Sanitary sewer will parallel the railroad right-of-way and flow out.

Council Member Lammers asked if there was any room on the east side to provide an access along the railroad right-of-way. Mr. Humphrey stated that the tracks are being used for the grain elevator to the south so that is still open railroad right-of-way, not allowing use ability. Council Member Nikkila stated that the 48th Street access seems like a long ways away until 48th Street comes through. He would believe that the emergency ingress/egress may be there for a long time before things develop in that area. Mr. Humphrey added that he believes the land to the west of the development will provide a loop around due to heavy development off of 56th Street.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-47 approving the Application submitted by Buffalo Surveying for Daniel Roeder and the East 56th Street Estates Homeowners Association for the Final Plat and Subdivision Agreement for East 56th Street Estates Second, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of the intersection of Avenue S and 54th Street Place). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

#### **RESOLUTION NO. 2017-47**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of East 56th Street Estates Second, an addition to the City of Kearney, Nebraska for a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the Northeast Quarter of said Section 30 and assuming the West line of said Northeast Quarter of Section 30 as bearing S 00°17'52" E and all bearings contained herein are relative thereto; thence S 00°17'52" E and on the West line of the Northeast Quarter of said Section 30 a distance of 739.90 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing on the West line of the Northeast Quarter of said Section 30, S 00°17'52" E a distance of 1403.70 feet; thence leaving the West line of the Northeast Quarter of said Section 30, S 89°58'28" E a distance of 186.25 feet to the point of intersection with the West right-of-way line of the Kearney Branch of the Union Pacific Railroad; thence N 18°31'35" E and on the aforesaid West right-of-way line of the Kearney Branch of Union Pacific Railroad a distance of 1397.54 feet to a point of curvature; thence on a 1,889.67 foot

radius curve to the left an arc distance of 81.55 feet to a point being N 17°17'25" E a chord distance of 81.55 feet from the previously described point, and said point also being the Southeast Corner of said East 56th Street Estates; thence leaving said railroad right-of-way line and on the South line of said East 56th Street Estates, N 89°56'47" W a distance of 661.84 feet to the place of beginning, containing 13.69 acres, more or less; said tract also being described as part of Tax Lot 2, all in 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ANNEXATION OF PROPERTY LOCATED SOUTH OF THE INTERSECTION OF AVENUE S AND 54TH STREET PLACE**

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Daniel Roeder and the East 56th Street Estates Homeowners Association for the annexation of East 56th Street Estates Second, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of the intersection of Avenue S and 54th Street Place) and consider Resolution No. 2017-48.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Buschkoetter to close the hearing and adopt Resolution No. 2017-48 approving the Application submitted by Buffalo Surveying for Daniel Roeder and the East 56th Street Estates Homeowners Association for the annexation of East 56th Street Estates Second, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M.,

Buffalo County, Nebraska (south of the intersection of Avenue S and 54th Street Place). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

### **RESOLUTION NO. 2017-48**

WHEREAS, an Application has been submitted by Buffalo Surveying Corporation for Daniel Roeder and the East 56th Street Estates Homeowners Association for the inclusion of East 56th Street Estates Second, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the Northeast Quarter of said Section 30 and assuming the West line of said Northeast Quarter of Section 30 as bearing S 00°17'52" E and all bearings contained herein are relative thereto; thence S 00°17'52" E and on the West line of the Northeast Quarter of said Section 30 a distance of 739.90 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing on the West line of the Northeast Quarter of said Section 30, S 00°17'52" E a distance of 1403.70 feet; thence leaving the West line of the Northeast Quarter of said Section 30, S 89°58'28" E a distance of 186.25 feet to the point of intersection with the West right-of-way line of the Kearney Branch of the Union Pacific Railroad; thence N 18°31'35" E and on the aforesaid West right-of-way line of the Kearney Branch of Union Pacific Railroad a distance of 1397.54 feet to a point of curvature; thence on a 1,889.67 foot radius curve to the left an arc distance of 81.55 feet to a point being N 17°17'25" E a chord distance of 81.55 feet from the previously described point, and said point also being the Southeast Corner of said East 56th Street Estates; thence leaving said railroad right-of-way line and on the South line of said East 56th Street Estates, N 89°56'47" W a distance of 661.84 feet to the place of beginning, containing 13.69 acres, more or less; said tract also being described as part of Tax Lot 2, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on March 17, 2017 on the inclusion of East 56th Street Estates Second 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 East 56th Street Estates Second, 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 April 11, 2017 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 East 56th Street Estates Second 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 East 56th Street Estates Second 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING NORTHEAST OF THE INTERSECTION OF W ROAD AND 22 ROAD**

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying for Shawn Sterling and Becky Sterling to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lot 2 and part of the accretion thereto, all situated in Section 16, Township 8 North, Range 16 West of the 6th P.M., Kearney County, Nebraska (northeast of the intersection of W Road and 22 Road) and consider Ordinance No. 8136. Planning Commission recommended approval.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This project has come about due to the City's growth. The City's extraterritorial jurisdiction has crept into Kearney County quite a bit therefore the City Council assumes jurisdiction over zoning and platting, etc. The Sterling's would like to build a house on the 10-acre parcel to the south side and since the property is a little over ten acres, platting is not required. However, since the property is under 20 acres, the property has to be rezoned from Agricultural to RR-1.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Buffalo Surveying for Shawn Sterling and Becky Sterling and introduced Ordinance No. 8136 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of Government Lot 2 and part of the accretion thereto, all situated in Section 16, Township 8 North, Range 16 West of the 6th P.M., Kearney County, Nebraska (northeast of the intersection of W Road and 22 Road) 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 close the hearing and suspend the rules for Ordinance No. 8136. 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. 8136 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 Clouse seconded by Lammers that Ordinance No. 8136 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. 8136 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.

**VACATE PORTION OF EAST LAWN SECOND ADDITION AND REZONE PROPERTY SOUTH OF 39TH STREET, NORTH OF 34TH STREET, AND WEST OF GRAND AVENUE**

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Applications submitted by Starostka Group Unlimited to (1) vacate Lots 1 through 12 of Block 133 and Lots 1, 2, 3, 4 of Block 156, all in East Lawn Second Addition and consider Ordinance No. 8137; and (2) rezone from District AG, Agricultural District and District R-1, Urban Residential Single-Family District (Low Density) to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue) and consider Ordinance No. 8138. Planning Commission recommended approval subject to the following deviations/conditions: 1) site area of 5,980 square feet for 11 single-family residential lots; 2) 16-foot rear yard setbacks for duplex lots; 3) 5-foot side yard setbacks for 17 single-family residential lots; 4) 22-foot front yard setbacks for residential lots; 5) 52-foot lot width; 6) 32-foot urban local street width containing 18-foot roadway, four on premise parking spaces, alternating minimum spacing of 46 feet and 10 feet between driveways, and cluster boxes; 7) one sanitary and water service per R-2 lot noted for single-family on the final plat; 8) temporary secondary gravel entrance. The construction of a second permanent dedicated street to either 39th Street or Grand Avenue will occur prior to approval of any additional subdivisions contiguous to Millennial Estates; 9) minimum of 2.80 acres of usable open green space maintained and dedicated upon the City's request; 10) no permanent obstructions are permitted between houses that reduce the total side yard separation less than 10 foot shall be noted on the final plat and subdivision agreement; and 11) the temporary secondary entrance will be constructed of all-weather type surface and limited to emergency and construction vehicles only shall be noted on the final plat and subdivision agreement.

Bruce Grupe from Olsson Associates presented this matter to the Council. Also present was Danny Starostka and Jordan Starostka. Mr. Grupe stated the existing zoning for this development is Agricultural, unzoned and R-1. As part of the platting process, the project has to show feasibility of the utilities and the developer has done that. An outlot will be platted that will serve as a detention cell. The developer is requesting several deviations. One deviation includes 32-foot wide paved roadways. In the collector streets, the developer still wants to maintain the 36-foot wide roadways. The open



space that City staff requested is 2.80 acres. Sanitary sewer is available on the south side of the project but City staff preferred the developer to use the sanitary sewer on 39th Street because it is deeper and has more capacity, which will be used and will serve the entire area in the future. As part of the Planned District, the developer and City staff worked together to create medium priced housing. With the requested 32-foot roadway, one of the conditions was to identify exactly where the driveways are going to go as the development proceeds. The 32-foot roadway would allow for the 18-foot wide minimum width that would allow fire truck access (as Planning Commission addressed).

The vacation of the existing subdivision, East Lawn Second, underlies the final plat area. In the 1940's, the roadways were vacated but the lots were never vacated with it which is the request for the vacation request. The developer would maintain the 25-foot front yard setbacks for the duplex lots (primarily the corner lots). The use of 7-foot side yard setbacks and 5-foot side yard setbacks are all attempts to construct medium or moderate priced housing. The 7-foot side yard setbacks would be maintained for the duplex lots and the 5-foot side yard setbacks for the others. The developer believed it was prudent to maintain a 7-foot side yard setback for the whole boundary to the subdivision. A gravel road would be built off to Grand Avenue that would allow for fire safety as a second access into the subdivision.

Council Member Lammers stated that this development is a creative way to try and get lots priced in a reasonable dollar amount so that the price of housing can be reduced to a more moderate priced level. There has been a lot of work between the developer and Planning Commission to get this development worked out. He realizes that the setbacks are not what Kearney is normally used to but it is a unique sized lot.

Council Member Nikkila asked for clarification on the open space. Will this area move to a different part of the property at a later time depending on what happens in phase two. Mr. Grupe affirmed. City Manager stated planned development standards allow for deviations. One of the criteria in the Planned Development District to consider (without the consideration, City Council policy does not allow 32-foot wide streets nor the 5-foot setbacks) is a place holder. In the future, when the developer comes back to develop additional phases, it may make the best sense to move the greenspace to another area in the development. City staff wanted to make sure that the area was reserved while looking at cost effectiveness and the location. The area is underserved when it comes to parks (especially to the south and west of this location) so if the opportunity arises to move the area further west, that may be a good idea. He appreciates the developer's willingness to work with City staff on this area. Council Member Nikkila stated that for now the greenspace will not be developed as part of the first phase. City Manager stated that is correct and it is important to imply that this area will not be described as a park.

Council Member Nikkila asked if there are other lots in Kearney that have 52-foot wide lots. Jordan Starostka stated there were and provided that Fountain Hills Subdivision is a Planned District that was done and included 52-foot wide lots (located behind the old K-Mart). City Manager stated these lots are the patio homes adjacent to Fountain Hills Park. Council Member Nikkila asked if a fence is going to be allowed to be put up between the houses. Mr. Grupe stated that there is a note on the final plat and the subdivision agreement stating that fences are not allowed between the homes in a 5-

foot setback area. The fence would have to come from the back of a home and run down the common property line. The developer's desire was to clean up the 5-foot side yard setback area by not allowing air conditioners or egress windows (providing more of an open area between the homes).

Council Member Nikkila asked if the development will possibly have a future egress onto 39th Street. Mr. Grupe stated yes; it would make sense from a connectivity stand point to have a collector road through the development. 39th Street is likely the most logical place to put the egress. The developer has done preliminary layouts to possibly include apartments, smaller/larger lots but there are still a lot of unknowns which is why they did not preliminary plat everything at this point. Phase two of this development will make this egress more identifiable (possibly tie into 39th Street or Grand Avenue to get a loop road).

Mayor Clouse asked Mr. Starostka what he estimates the price to be on these homes. Mr. Starostka stated he was hoping for the \$240,000 to \$250,000 range, all the way down to \$239,000, depending on what size of lot is selected. The 59-foot lot is going to be more expensive than the 52-foot lots or the 56-foot lot. The extra added infrastructure adds up. Currently in Hastings, he has homes built for \$224,900 but there are different infrastructure costs.

Mayor Clouse stated that when he looks at parking, it appears there is room for only one or two cars in the street, maybe one car in front of a home. There may be visitors parking down the street in front of other people's homes. Mr. Grupe stated that each single family lot does allow for four parking stalls on the lot itself and then off-street parking for other events. Council Member Clouse stated he has visions of the areas currently in Kearney near Avenue G, Avenue H and UNK where the parking is congested and the City gets calls on these areas. He prefers the wider streets. Mr. Grupe stated that he did not believe anyone has ever come to ask Council for narrower streets, typically those streets are 25-foot or 28-foot not 32-foot like this project is asking, where there is still 18-foot of clear street. This subdivision would not have curbside sidewalks.

Patrick Halpin, 5903 Avenue P, voiced his concerns with this development. Mr. Halpin previously came down to talk to City staff after hearing about this development to discuss the plans and deviations. One of the deviations that stood out to him involved the street width. He understands that concessions have been made by off-setting driveways but he knows there are areas in Kearney (near Avenue G and Avenue H) where citizens actually park on the sideways so those sidewalks cannot be used. Due to the lot sizes, if visitors were to come over, where would they park. The off-set driveways initially sound like a good idea but how many times have you backed out of your driveway and had a vehicle parked on the street behind it. He believes this is an accident waiting to happen, especially with the narrower streets. If there are parked cars and a couple of teenagers learning how to drive, backing out of those small areas could be a hazard. Also, how are the driveways controlled to be in those points and if he was to buy one of the lots, is his house designed around the driveway point or can it be moved since he would own the lot. Council Member Nikkila stated that as part of the infrastructure agreement, owners cannot move the lot.

Mr. Halpin asked about the setbacks and whether all of the conditions locked in or could the developer or homeowner change those items. City Manager stated that this development is a planned development so those items are locked in. Mr. Halpin asked what happens in the future as owners of the homes buy toys, boats, campers. Where are those to be stored in an area like this with only a 5-foot setback. Council Member Buschkoetter stated the homeowner would have to rent a storage space. Mr. Halpin asked how utility companies would get to the backyard to make repairs.

These lots are described as moderate, initially low income, but later changed to moderate or modest priced home for \$240,000 to \$250,000 (\$224,000 in Hastings). In Kearney, with no modifications, owners can go to Eastbrooke Subdivision and look at a \$270,000 (so a little bit higher) home but owners would have a bigger lot, bigger setback and more options with the home as compared to this planned development. Another concern is the greenspace. Initially, he thought this was a good idea but with the space not being locked in, he has no idea how or where or what will be developed in the area. It could be changed to residential or commercial beyond Grand Avenue. Not locking this area down as greenspace for those homeowners is worrisome. In general, why is this development deviating from city standards when the lot is available to be developed to meet current city standards. He realizes there has been a lot of work done by City staff with the developer over the past few months to come up with this plan. But his overall initial impression is that the City does not need to deviate away from the current standards for this development which could lead to potential problems in the future.

Council Member Buschkoetter stated that this project is difficult because Mr. Halpin brings up some very valid points. He would feel more comfortable if by doing these extra steps, the price point was brought down to \$170,000 instead of \$240,000. The width of the street does not concern him as much in terms of cars being able to get through. The lack of parking on the street does concern him. He is glad to hear that the sidewalks are going to be moved back so that the problems of curbside parking will not occur. Mr. Halpin brought up a question on why would Council do something different in another location but when it is a Planned District, the area is really its own entity. He does not believe in the saying that anytime something new is done that creates a new standard especially in a Planned District, due to the give and take. With the greenspace for instance, although the location is not exact, there will be something in the area somewhere and there are not many developments where this area is locked in. So this is a positive thing that comes with this development.

The Council looks at the need for housing in our community and to have it be affordable. The price point for this development is something that cannot be unnoticed because it is very important to try and get the price point as low as possible to try and reach first-time homeowners. For him, there is a lot of give and take with this project. There are elements that he is not overly enamored with including the lack of parking on the street which for him is the biggest issue. He asked for clarification on the parking stalls. The four parking stalls, does this include two in the garage and two in the driveway or are there two in the garage and four in the driveway. Mr. Grupe stated there will be two parking stalls in the garage and two on the driveway, without obstructing the walkway. Mr. Grupe also stated that he did not add on the price point is that there is not a good definition for affordable housing. He believes that the developer hopes to build

homes that citizens who are already in homes could move up to, thus making affordable housing available from the homes that are then vacated.

Council Member Lammers asked if there was a good example of 32-foot wide streets in Kearney. Mr. Starostka stated Council will really be surprised with the road sizes and how much just a few feet will change. He explained that he had the examples on a previous PowerPoint presentation, not the one being shown to Council. Mr. Grupe stated that Avenue G and Avenue H get as narrow as 22-foot to 23-foot so most of the bad examples are 22-foot to 23-foot roadways.

Council Member Clouse asked City Manager what precedent that this project sets. City Manager stated that with a Planned Development District, there is certainly no precedent. The Planned Development District gives a lot of discretion. He did not believe that City staff preferred the 32-foot width regardless of the parking and he believes the community as a whole, appreciates the 36-foot wide streets for many reasons. The balancing act for this potential project is that there is an opportunity to work with the developer to come up with a package. All individuals who buy a lot in this subdivision will know the criteria when purchasing a home. If they do not like the off-street or the backyard or side yard access, it is buyer beware. They will know the criteria before purchasing. He does not believe this project is setting a precedent because the Council has had the Planned Development District and the reduced street width option for some time. Mr. Starostka has shown examples of siding, types of construction, etc. that all go into a Planned Development including the greenspace. City Manager believes it will be a very interesting exercise to see in Kearney if it does work at this price point. He believes these homes are about 1,200 square feet for \$240,000 so it will be a learning experience to determine that. Also, another reason why City staff worked so hard to come up with a compromise is due to the development being small. If it does not work, then more information will be learned. He understands that parking is always a concern but there are areas in Kearney where parking is not even allowed on residential streets adjacent to property owners. Restricting parking was even debated for this project.

Council Member Nikkila stated that the City Manager summarized his thoughts. He also believes that another benefit of this development is that it is not getting placed into another development. It is a little isolated. Council has a basic job to define the safety access issues (fire, police, paramedics) and it is primarily up to the buyer to accept smaller lots that do not have all of the amenities. He is curious to see what the market has available and this development could help identify what the housing situation really is in Kearney and what citizens truly want. He believes that by addressing the fire safety access aspect, many of his issues were alleviated.

Council Member Buschkoetter stated that by knowing where the driveways are does change the traffic pattern. The parking primarily concerns him. The health safety is important and well-taken care with this project. Mr. Grupe stated that someone previously mentioned trying the market out on this development to see what the market yields in Kearney. This is a great development for this. The concentration has been on the 52-foot wide lots but there are other lots that are 59-foot and 56-foot to 57-foot. The developer is going to try different pricing options with this housing and see what the market wants and buys. The developer plans on building all of these homes and will not

sell the lots. He is going to control the build out and sell them when done. He is going to keep the duplexes within the firm as rentals.

Moved by Lammers to close the public hearing on the Applications submitted by Starostka Group Unlimited and introduced Ordinance No. 8137 vacating Lots 1 through 12 of Block 133 and Lots 1, 2, 3, 4 of Block 156, all in East Lawn Second Addition and Ordinance No. 8138 rezoning from District AG, Agricultural District and District R-1, Urban Residential Single-Family District (Low Density) to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8137 and 8138. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. 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 Nos. 8137 and 8138 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Buschkoetter that Ordinance Nos. 8137 and 8138 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 Nos. 8137 and 8138 are declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **FINAL PLAT FOR MILLENNIAL ESTATES ADDITION**

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Starostka Group Unlimited for the Final Plat and Subdivision Agreement for Millennial Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue) and consider Resolution No. 2017-49.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2017-49 approving the Application submitted by Starostka Group Unlimited for the

Final Plat and Subdivision Agreement for Millennial Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

### **RESOLUTION NO. 2017-49**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Millennial Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Commencing at north quarter corner of Section 31, Township 9 North, Range 15 West; thence on an assumed bearing of N 89°39'25" E, along the north line of the Northeast Quarter, a distance of 125.28 feet; thence S 00°33'39" W a distance of 40.29 feet to a point on the south right-of-way line of 39th street, said point also being the northwest corner of a tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991; thence continuing S 00°33'39" W, along said tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991, a distance of 1063.65 feet to the point of beginning; thence N 89°47'19" E a distance of 155.07 feet; thence S 82°44'13" E a distance of 60.53 feet; thence N89°38'57" E a distance of 641.99 feet; thence S 00°21'03" E a distance of 115.00 feet; thence S 03°57'04" E a distance of 60.12 feet; thence S 00°21'03" E a distance of 382.00 feet; thence S 00°08'23" E a distance of 60.75 feet to a point being the intersection of the westerly right-of-way line of Grand Avenue and the north right-of-way line of 34th Street; thence N 89°25'02" W, along said north right-of-way line of 34th Street, a distance of 300.72 feet to the southeast corner of a tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979; thence N 00°36'31" E, along the east line of said tract surveyed by W. A. Humphrey, L.S. #224, a distance of 319.89 feet to the northeast corner of said tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979, also being on the centerline of vacated 35th Street; thence N 89°24'03" W, along said centerline of vacated 35th Street, a distance of 570.01 feet; thence N 00°33'39" E a distance of 292.00 feet to the point of beginning, said tract contains a calculated area of 347,349.78 square feet or 7.974 acres more or less of which 1.788 acres is new dedicated road right-of-way, all in 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ANNEXATION OF PROPERTY LOCATED SOUTH OF 39TH STREET, NORTH OF 34TH STREET, AND WEST OF GRAND AVENUE**

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Starostka Group Unlimited for the annexation of Millennial Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue) and consider Resolution No. 2017-50.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2017-50 approving the Application submitted by Starostka Group Unlimited for the annexation of Millennial Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2017-50**

WHEREAS, an Application has been submitted by Starostka Group Unlimited for the inclusion of Millennial Estates Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Commencing at north quarter corner of Section 31, Township 9 North, Range 15 West; thence on an assumed bearing of N 89°39'25" E, along the north line of the Northeast Quarter, a distance of 125.28 feet; thence S 00°33'39" W a distance of 40.29 feet to a point on the south right-of-way line of 39th street, said point also being the northwest corner of a tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991; thence continuing S 00°33'39" W, along said tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991, a distance of 1063.65 feet to the point of beginning; thence N 89°47'19" E a distance of 155.07 feet; thence S 82°44'13" E a distance of 60.53 feet; thence N89°38'57" E a distance of 641.99 feet; thence S 00°21'03" E a distance of 115.00 feet; thence S 03°57'04" E a distance of 60.12 feet; thence S 00°21'03" E a distance of 382.00 feet; thence S 00°08'23" E a distance of 60.75 feet to a point being the intersection of the westerly right-of-way line of Grand Avenue and the north right-of-way line of 34th Street; thence N 89°25'02" W, along said north right-of-way line of 34th

Street, a distance of 300.72 feet to the southeast corner of a tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979; thence N 00°36'31" E, along the east line of said tract surveyed by W. A. Humphrey, L.S. #224, a distance of 319.89 feet to the northeast corner of said tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979, also being on the centerline of vacated 35th Street; thence N 89°24'03" W, along said centerline of vacated 35th Street, a distance of 570.01 feet; thence N 00°33'39" E a distance of 292.00 feet to the point of beginning, said tract contains a calculated area of 347,349.78 square feet or 7.974 acres more or less of which 1.788 acres is new dedicated road right-of-way, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on March 17, 2017 on the inclusion of Millennial Estates Addition 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 Millennial Estates Addition, 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 April 11, 2017 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 Millennial Estates Addition 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 Millennial Estates Addition 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**DEVELOPMENT PLANS FOR CONSTRUCTION OF SUBDIVISION**

Public Hearings 10, 11, 12 and 13 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Starostka Group Unlimited for Planned District Development Plan Approval for construction of a subdivision on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue) and consider Resolution No. 2017-51.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-51 approving the Application submitted by Starostka Group Unlimited for Planned



District Development Plan Approval for construction of a subdivision on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue) subject to the following deviations/conditions: 1) site area of 5,980 square feet for 11 single-family residential lots; 2) 16-foot rear yard setbacks for duplex lots; 3) 5-foot side yard setbacks for 17 single-family residential lots; 4) 22-foot front yard setbacks for residential lots; 5) 52-foot lot width; 6) 32-foot urban local street width containing 18-foot roadway, four on premise parking spaces, alternating minimum spacing of 46 feet and 10 feet between driveways, and cluster boxes; 7) one sanitary and water service per R-2 lot noted for single-family on the final plat; 8) temporary secondary gravel entrance. The construction of a second permanent dedicated street to either 39th Street or Grand Avenue will occur prior to approval of any additional subdivisions contiguous to Millennial Estates; 9) minimum of 2.80 acres of usable open green space maintained and dedicated upon the City's request; 10) no permanent obstructions are permitted between houses that reduce the total side yard separation less than 10 foot shall be noted on the final plat and subdivision agreement; and 11) the temporary secondary entrance will be constructed of all-weather type surface and limited to emergency and construction vehicles only shall be noted on the final plat and subdivision agreement. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

### **RESOLUTION NO. 2017-51**

WHEREAS, Starostka Group Unlimited have applied for Planned District Development Plan Approval for the construction of a subdivision on property to be zoned District R-2PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Commencing at north quarter corner of Section 31, Township 9 North, Range 15 West; thence on an assumed bearing of N 89°39'25" E, along the north line of the Northeast Quarter, a distance of 125.28 feet; thence S 00°33'39" W a distance of 40.29 feet to a point on the south right-of-way line of 39th street, said point also being the northwest corner of a tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991; thence continuing S 00°33'39" W, along said tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991, a distance of 1063.65 feet to the point of beginning; thence N 89°47'19" E a distance of 155.07 feet; thence S 82°44'13" E a distance of 60.53 feet; thence N89°38'57" E a distance of 641.99 feet; thence S 00°21'03" E a distance of 115.00 feet; thence S 03°57'04" E a distance of 60.12 feet; thence S 00°21'03" E a distance of 382.00 feet; thence S 00°08'23" E a distance of 60.75 feet to a point being the intersection of the westerly right-of-way line of Grand Avenue and the north right-of-way line of 34th Street; thence N 89°25'02" W, along said north right-of-way line of 34th Street, a distance of 300.72 feet to the southeast corner of a tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979; thence N 00°36'31" E, along the east line of said tract surveyed by W. A. Humphrey, L.S. #224, a distance of 319.89 feet to the northeast corner of said tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979, also being on the centerline of vacated 35th Street; thence N 89°24'03" W, along said centerline of vacated 35th

Street, a distance of 570.01 feet; thence N 00°33'39" E a distance of 292.00 feet to the point of beginning, said tract contains a calculated area of 347,349.78 square feet or 7.974 acres more or less of which 1.788 acres is new dedicated road right-of-way, all in Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Starostka Group Unlimited for Planned District Development Plan Approval for the construction of a subdivision on property zoned District R-2PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land located in part of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Commencing at north quarter corner of Section 31, Township 9 North, Range 15 West; thence on an assumed bearing of N 89°39'25" E, along the north line of the Northeast Quarter, a distance of 125.28 feet; thence S 00°33'39" W a distance of 40.29 feet to a point on the south right-of-way line of 39th street, said point also being the northwest corner of a tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991; thence continuing S 00°33'39" W, along said tract surveyed by W. A. Humphrey, L.S. #224, revised on 2/4/1991, a distance of 1063.65 feet to the point of beginning; thence N 89°47'19" E a distance of 155.07 feet; thence S 82°44'13" E a distance of 60.53 feet; thence N89°38'57" E a distance of 641.99 feet; thence S 00°21'03" E a distance of 115.00 feet; thence S 03°57'04" E a distance of 60.12 feet; thence S 00°21'03" E a distance of 382.00 feet; thence S 00°08'23" E a distance of 60.75 feet to a point being the intersection of the westerly right-of-way line of Grand Avenue and the north right-of-way line of 34th Street; thence N 89°25'02" W, along said north right-of-way line of 34th Street, a distance of 300.72 feet to the southeast corner of a tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979; thence N 00°36'31" E, along the east line of said tract surveyed by W. A. Humphrey, L.S. #224, a distance of 319.89 feet to the northeast corner of said tract surveyed by W. A. Humphrey, L.S. #224, dated 5/16/1979, also being on the centerline of vacated 35th Street; thence N 89°24'03" W, along said centerline of vacated 35th Street, a distance of 570.01 feet; thence N 00°33'39" E a distance of 292.00 feet to the point of beginning, said tract contains a calculated area of 347,349.78 square feet or 7.974 acres more or less of which 1.788 acres is new dedicated road right-of-way, all in Buffalo County, Nebraska (south of 39th Street, north of 34th Street, and west of Grand Avenue) be approved subject to the following deviations:

1. Site area of 5,980 square feet for 11 single-family residential lots.
2. 16-foot rear yard setback for duplex lots.
3. 5-foot side yard setback for 17 single-family residential lots.
4. 22-foot front yard setback for residential lots.
5. 52-foot lot width.
6. 32-foot urban local street width containing 18-foot roadway, four on premise parking spaces, alternating minimum spacing of 46 feet and 10 feet between driveways, and cluster boxes.
7. One sanitary and water service per R-2 lot noted for single-family on the final plat.
8. Temporary secondary gravel entrance. The construction of a second permanent dedicated street to either 39th Street or Grand Avenue will occur prior to approval of any additional subdivisions contiguous to Millennial Estates.
9. Minimum of 2.80 acres of usable open green space maintained and dedicated

upon the City's request.

10. No permanent obstructions are permitted between houses that reduce the total side yard separation less than 10 foot shall be noted on the final plat and subdivision agreement.

11. The temporary secondary entrance will be constructed of all-weather type surface and limited to emergency and construction vehicles only shall be noted on the final plat and subdivision agreement.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

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, April 10 by adding Subsection 13.

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

1. Approve Minutes of Regular Meeting held March 28, 2017

2. Approve the following Claims:

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

Acushnet \$6,090.19 smcs; Alfred Benesch \$16,796.40 co; All City Garage Doors \$155.50 smcs; All Makes Office \$527.51 smcs; Amazon \$1,956.32 smcs; Andersen,J \$1,795.95 smcs; Anderson Ford Lincoln \$86,067.00 co; Ask Supply \$1,028.85 smcs; Assoc Threat Professionals \$110.00 smcs; Aurora Coop \$104.96 smcs; Auto Value \$1,758.21 smcs; B&B Technologies \$3,393.00 smcs; Baker & Taylor \$3,846.44 smcs; Bauer Underground \$580.00 smcs; Beacon Athletics \$833.00 smcs; Beacon-Observer \$26.00 smcs; Bestco Services \$3,700.00 co; Blackstone Audiobooks \$598.99 smcs; Blasting Impressions \$950.00 smcs; Blessing \$1,508.10 smcs; Bluecross Blueshield \$53,133.62 smcs; Bosselman \$15,970.33 smcs; BSN Sports \$435.90 smcs; Buffalo Co Sheriff \$159,280.75 smcs; Buffalo Co Treasurer \$20.00 co; Builders \$59.42 smcs; Bureum,R \$95.00 smcs; Capital Business Systems \$169.93 smcs; Cash-Wa \$742.99 smcs; CH Diagnostic \$415.00 smcs; Chesterman \$85.70 smcs; Chief Supply \$500.30 smcs; Chrastil,B \$300.00 smcs; Cigna \$7,143.32 smcs; City of Ky \$393,753.66 smcs,ps; Comm Health Charities \$6.00 ps; Copycat \$185.37 smcs; Cornhusker Cleaning \$425.00 smcs; Cummins \$4,432.74 smcs; D&M Security \$70.50 smcs; DAS State Accounting \$5,967.00 smcs,co; Depository Trust \$369,626.09 ds; Dept HHS \$185.00 smcs; Dmilaco \$223.86 smcs; Eakes \$873.64 smcs; Elliott Equipment \$233.92

smcs; Engineered Controls \$1,825.00 smcs; Ensley Electrical \$13,444.00 smcs; Entenmann-Rovin \$629.90 smcs; Felsburg Holt & Ullevig \$362.50 smcs; Frontier \$4,933.23 smcs; Galls \$88.00 smcs; Gear for Sports \$364.94 smcs; Gillis,N \$375.00 smcs; Grindstone Hardscapes \$7,537.50 co; HD Supply \$11,071.51 smcs; Heartland Electric \$3,499.09 smcs; HM Life Ins \$41,035.81 smcs; HOA Solutions \$687.48 smcs; Hometown Leasing \$157.20 smcs; ICMA RC \$5,200.68 ps; IRS \$153,967.50 ps; Jack's Uniform \$78.89 smcs; Johnson,S \$1,275.00 smcs; Ky High School \$40.00 smcs; Ky Hub \$1,316.40 smcs; Ky Noon Rotary \$125.00 smcs; Ky United Way \$661.90 ps; Klein Survey System \$366.30 smcs; Koeppe,L \$42.00 smcs; Konica Minolta \$827.34 smcs; Landmark Implement \$13,461.31 co; League of NE Municipalities \$80.00 smcs; Leopold Painting \$4,158.00 co; Liljehorn,M \$51.59 smcs; Lincoln Winwater \$2,123.48 smcs; Love Signs \$797.50 co; Magic Cleaning \$4,740.00 smcs; Margritz,J \$70.00 smcs; Marlatt Machine \$8,604.68 co; Marsh,P \$55.00 smcs; Matheson \$138.66 smcs; Mead Lumber \$418.74 smcs; Mid American Signal \$8,170.00 smcs; Midwest Connect \$6,870.64 smcs; Milco Environmental \$4,332.50 smcs; Miller & Associates \$43,637.45 co; Miller Signs \$1,535.00 smcs,co; Mirror Image \$189.30 smcs; Murphy Tractor \$12,995.15 co; Navigator Motorcoaches \$550.00 smcs; NE Child Support \$2,188.20 ps; NE Code Officials Assn \$160.00 smcs; NE Dept of Rev \$46,310.63 ps; NE Fire Admin Assistants \$15.00 smcs; NE Game & Parks \$1,000.00 smcs; NE Humanities \$100.00 smcs; NE Peterbilt \$229,309.00 co; NE Safety \$315.00 smcs; NE Society of CPAs \$140.00 smcs; NE Truck Center \$280.80 smcs; Newman Signs \$109.78 smcs; Nielsen,A \$90.00 smcs; Northwestern Energy \$8,061.10 smcs; Office Depot \$711.85 smcs; O'Keefe Elevator \$844.33 smcs; Olsen,S \$235.00 smcs; One Call Concepts \$399.18 smcs; Outdoor Sportswear \$342.30 smcs; Paramount \$119.36 smcs; Payflex Systems \$590.75 smcs, ps; Penguin Random House \$618.72 smcs; Pioneer Mfg \$1,801.00 smcs; Platte Valley Comm \$107.75 smcs; Platte Valley Labs \$230.00 smcs; Pohlman,K \$55.64 smcs; Presto-X \$144.89 smcs; Proquest \$415.00 smcs; Rasmussen Mechanical \$251.50 smcs; Ready Mixed Concrete \$1,238.67 smcs; Recorded Books \$504.56 smcs; Republic Nat'l \$669.50 smcs; S&B Heating \$531.80 smcs; Sapp Bros \$14,157.69 smcs; Sawin,S \$140.00 smcs; School District #7 \$1,684.65 smcs; See Clear Cleaning \$2,050.00 smcs; Sheldon,S \$53.50 smcs; Sirius Computer \$23,061.38 co; Snap-on \$16.99 smcs; SOS Portable Toilets \$115.00 smcs; Stanton,S \$70.00 smcs; Titan Machinery \$2,513.76 smcs; Titleist \$1,560.77 smcs; Tri-Co Glass \$75.00 smcs; Troflhoz,N \$45.00 smcs; Tru-Force Concrete \$975.93 smcs; Tye Law Firm \$13,019.80 smcs; Union Bank \$74,995.86 ps; UNK Wellness Lab \$1,950.00 smcs; USA Communications \$155.95 smcs; USDA Wildlife \$642.00 smcs; Verizon \$1,640.41 smcs; Village Uniform \$309.88 smcs; Wastecorp Pumps \$2,738.90 smcs; Waterlink \$9,287.30 smcs; Yancy,A \$300.00 smcs; Zimmerman Printing \$281.75 smcs; Payroll Ending 4/1/2017 -- \$412,709.40. 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.** Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Applications as follows: (a) Shrine Bowl Parade to temporarily close Central Avenue from 24th Street to North Railroad Street, 1st Avenue from 24th Street to North Railroad Street, Avenue A from Railroad Street to 21st Street, 3rd Avenue and 4th Avenue from North Railroad Street to 20th Avenue, North Railroad Street from 5th Avenue to Avenue E, Avenues A, B, C, and D from Railroad Street to 22nd Street on June 3, 2017 beginning at 10:00 a.m. Parking on these streets will be prohibited

beginning at 6:00 a.m. (b) UNK Destination Downtown to temporarily close Central Avenue from 22nd Street to the south entrance into MONA parking lot on August 24, 2017. (c) Celebration of Science sponsored by UNK Sigma XI to temporarily close the parking lot located north of the Museum of Nebraska Art on April 22, 2017.

4. Adopt Resolution No. 2017-52 approving Application and Certificate for Payment No. 1 in the amount of \$113,406.30 submitted by Wilke Contracting and approved by Oak Creek Engineering for the 2015 Part 16 Improvements; Country Club Lane Bridge.

**RESOLUTION NO. 2017-52**

WHEREAS, Wilke Contracting of Kearney, Nebraska has performed services in connection with the 2015 Part 16 Improvements; Country Club Lane Bridge, and the City's engineer, Oak Creek Engineering, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$113,406.30 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$315,457.75</u>
Contract Sum To Date	315,457.75
Gross Amount Due	126,007.00
Retainage (10%)	12,600.70
Amount Due to Date	113,406.30
Less Previous Certificates for Payment	<u>          .00</u>
Current Payment Due	\$113,406.30

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

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Adopt Resolution No. 2017-53 approving the Development Constructed Infrastructure Agreement for Millennial Estates Addition between the City of Kearney and Starostka Group Unlimited Inc. to construct public improvements for water, sanitary sewer, paving and storm sewer.

**RESOLUTION NO. 2017-53**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Millennial Estates Addition" between the City of Kearney and Starostka Group, Unlimited Inc., for the construction of paving, water, sanitary sewer, and storm sewer improvements to serve Millennial Estates 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Adopt Resolution No. 2017-54 approving the Development Constructed Infrastructure Agreement for East 56th Street Estates Second Addition between the City of Kearney and Dan Roeder Concrete Inc. to construct public improvements for water, sanitary sewer, paving and storm sewer.

**RESOLUTION NO. 2017-54**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for East 56th Street Estates Second Addition" between the City of Kearney and Dan Roeder Concrete Inc., for the construction of paving, water, sanitary sewer, and storm sewer improvements to serve East 56th Street Estates Second 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Approve the application for a Special Designated License submitted by Nicholas Ryan, dba Prairie Creek Vineyards in connection with their YK077801 liquor license to dispense alcoholic liquors inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on May 12 and 13, 2017 from 5:00 p.m. until 11:30 p.m. each day for a wine tasting event.

8. Approve the application for a Special Designated License submitted by Nissen Wine Inc., dba Nissen Winery in connection with their YK074659 liquor license to dispense alcoholic liquors inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on May 12 and 13, 2017 from 12:00 p.m. until 11:00 p.m. each day for a wine tasting event.

9. Approve the application for a Special Designated License submitted by C & H Adventures, dba Cedar Hills Vineyard and Gardens in connection with their YK108547 liquor license to dispense alcoholic liquors inside the Exposition Building located at the

Buffalo County Fairgrounds, 3807 Avenue N on May 12 and 13, 2017 from 5:00 p.m. until 11:00 p.m. each day for a wine tasting event.

**10.** Approve the application for a Special Designated License submitted by Miretta Vineyards & Winery Inc., dba Miletta Vista Winery in connection with their YK077615 liquor license to dispense alcoholic liquors inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on May 12 and 13, 2017 from 5:00 p.m. until 9:00 p.m. each day for a wine tasting event.

**11.** Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside First National Bank located at 2223 2nd Avenue, on May 11, 2017 from 3:00 p.m. until 11:00 p.m. for a business after hours event.

**12.** Adopt Resolution No. 2017-55 approving Change Order No. 9 for an increase in the amount of \$3,023.00 submitted by Sampson Construction and approved by Clark Enersen Partners for the construction of a new sports complex at Patriot Park.

**RESOLUTION NO. 2017-55**

WHEREAS, Sampson Construction Co. from Lincoln, Nebraska has performed services in connection with for the construction of a new sports complex at Patriot Park, and the City's engineer, The Clark Enersen Partners, have filed with the City Clerk Change Order No. 9 showing an increase to the contract sum in the amount of \$3,023.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$8,078,000.00
Change Order No. 1 (1-26-2016)	- 138,425.00
Change Order No. 2 (5-24-2016)	+ 35,563.00
Change Order No. 3 (7-26-2016)	+ 4,898.00
Change Order No. 4 (7-26-2016)	+ 20,839.00
Change Order No. 5 (12-20-2016)	+ 4,134.00
Change Order No. 6 (2-14-2017)	+ 1,206.00
Change Order No. 7 (3-28-2017)	+ 12,343.00
Change Order No. 8 (3-28-2017)	+ 0.00
Change Order No. 9 (4-11-2017)	+ <u>3,023.00</u>
Contract Sum To Date	\$8,021,581.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 9, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13. ADDENDUM ITEM.** Approve the application for a Special Designated License submitted by Geo Spencer Tasting Room LLC, dba George Spencer Tasting Room in connection with their Class CK-100480 liquor license to dispense alcoholic liquor as follows:

a) Inside Stonebridge Insurance & Wealth Management located at 3800 A Avenue Suite C on Thursday, May 4, 2017 from 4:00 p.m. until 6:00 p.m. for a customer appreciation event.

b) Inside Stonebridge Insurance & Wealth Management located at 3800 A Avenue Suite C on Thursday, June 1, 2017 from 4:00 p.m. until 6:00 p.m. for a customer appreciation event.

c) Inside Stonebridge Insurance & Wealth Management located at 3800 A Avenue Suite C on Thursday, July 6, 2017 from 4:00 p.m. until 6:00 p.m. for a customer appreciation event.

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **ORDINANCE NO. 8139 ISSUANCE OF PUBLIC SAFETY EQUIPMENT TAX ANTICIPATION BONDS**

Mayor Clouse opened for discussion the issuance of Public Safety Equipment Tax Anticipation Bonds of the City of Kearney, Nebraska, in the principal amount of \$305,000 for the purpose of paying the cost of acquiring a new fire rescue truck and related equipment along with miscellaneous costs associated therewith related and to consider Ordinance No. 8139.

Bruce Lefler from Ameritas presented this matter to the Council. He stated the issuance of \$305,000 of Public Safety Tax Anticipation Bonds and the amortization is set on the bonds for a 15-year period of time. The all-inclusive borrowing cost on the financing is 2.84 percent.

Council Member Buschkoetter introduced Ordinance No. 8139 authorizing the issuance of Public Safety Equipment Tax Anticipation Bonds of the City of Kearney, Nebraska, in the principal amount of \$305,000 for the purpose of paying the cost of acquiring a new fire rescue truck and related equipment along with miscellaneous costs associated therewith related; directing the application of the proceeds of said bonds; prescribing the form of said bonds; providing for the levy and collection of taxes to pay the same; providing for the sale of the bonds; authorizing the delivery of the bonds to the purchaser, 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. 8139. 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. 8139 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 Clouse seconded by Lammers that Ordinance No. 8139 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. 8139 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.

**REDEMPTION OF HIGHWAY ALLOCATION FUND PLEDGE REFUNDING BONDS, SERIES 2009**

Regular Agenda Items 2, 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened for discussion the calling for the redemption of Highway Allocation Fund Pledge Refunding Bonds, Series 2009, in the principal amount of \$830,000 and to consider Resolution No. 2017-56.

Bruce Lefler from Ameritas presented this matter to the Council. He stated these items reference the issuance of \$3,740,000 worth of Highway Allocation Fund Pledge and Refunding Bonds. The 2009 and 2010 are being refunded that were outstanding at an average interest rates of 4% and 4.25%, maturing between now and 2030. The total savings to the refinancing is \$191,000. The balance of that issue is \$1,750,000 which is to pay for the new road projects included in this financing.

Council Member Lammers asked what the interest rate was on the bonds. Mr. Lefler stated the financing is over a 20-year period of time, all in at 3.25%. He reported successful sale of these bonds to the extent that about 40 to 45 percent were placed locally. The investment community in Kearney still likes Kearney bonds which is good.

Moved by Lammers seconded by Nikkila to adopt Resolution No. 2017-56 calling for the redemption of Highway Allocation Fund Pledge Refunding Bonds, Series 2009, in the principal amount of \$830,000. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2017-56**

BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska:

Section 1. The following bonds of the City of Kearney, Nebraska, in accordance with their option provisions are hereby called for payment on May 15, 2017, after which date interest on the bonds will cease:

Highway Allocation Fund Pledge Refunding Bonds, Series 2009, date of original issue – April 15, 2009, in the principal amount of Eight Hundred Thirty Thousand Dollars (\$830,000), numbered as shown on the books of the Paying Agent and Registrar, and becoming due and bearing interest as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
\$155,000	June 15, 2017	3.65%	486890 XU5
160,000	June 15, 2018	3.80	486890 XV3
165,000	June 15, 2019	4.00	486890 XW1
170,000	June 15, 2020	4.15	486890 XX9
180,000	June 15, 2021	4.30	486890 XY7

Said bonds are hereinafter referred to as the “Refunded Bonds.”

The Refunded Bonds are subject to redemption at any time on or after April 15, 2014 at par and accrued interest, and interest is payable semiannually. The Refunded Bonds were issued for the purpose of providing funds to refund indebtedness issued to pay for the costs of street construction within the City of Kearney and to pay issuance costs.

Section 2. The Refunded Bonds are to be paid at the office of the Treasurer of the City of Kearney, Kearney, Nebraska, as paying agent and registrar (the "Paying Agent").

Section 3. A true copy of this resolution shall be filed immediately with the Paying Agent and the Paying Agent is hereby instructed to mail notice to each registered owner of said bonds not less than thirty (30) days prior to the date fixed for redemption, all in accordance with the ordinance authorizing the Refunded Bonds.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**REDEMPTION OF HIGHWAY ALLOCATION FUND PLEDGE BONDS, SERIES 2010**

Regular Agenda Items 2, 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened for discussion the calling for the redemption of Highway Allocation Fund Pledge Bonds, Series 2010, in the principal amount of \$1,335,000 and to consider Resolution No. 2017-57.

Moved by Nikkila seconded by Buschkoetter to adopt Resolution No. 2017-57 calling for the redemption of Highway Allocation Fund Pledge Bonds, Series 2010, in the principal amount of \$1,335,000. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

**RESOLUTION NO. 2017-57**

BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska:

Section 1. The following bonds of the City of Kearney, Nebraska, in accordance with their option provisions are hereby called for payment on May 15, 2017, after which date interest on the bonds will cease:

Highway Allocation Fund Pledge Bonds, Series 2010, date of original issue – June 1, 2010 in the principal amount of One Million Three Hundred Thirty-five Thousand Dollars (\$1,335,000), numbered as shown on the books of the Paying Agent and Registrar, and becoming due and bearing interest as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
\$ 75,000	June 1, 2017	3.10%	486890 ZC3
75,000	June 1, 2018	3.30	486890 ZD1
80,000	June 1, 2019	3.50	486890 ZE9
80,000	June 1, 2020	3.65	486890 ZF6
85,000	June 1, 2021	3.75	486890 ZG4
90,000	June 1, 2022	3.85	486890 ZH2
90,000	June 1, 2023	3.95	486890 ZJ8
95,000	June 1, 2024	4.00	486890 ZK5
100,000	June 1, 2025	4.05	486890 ZL3
565,000	June 1, 2030	4.45	486890 ZM1

Said bonds are hereinafter referred to as the "Refunded Bonds."

The Refunded Bonds are subject to redemption at any time on or after June 1, 2015 at par and accrued interest, and interest is payable semiannually. The Refunded Bonds were issued for the purpose of providing funds to pay the costs of construction certain improvements for the City.

Section 2. The Refunded Bonds are to be paid at the office of the Treasurer of the City of Kearney, Kearney, Nebraska, as paying agent and registrar (the "Paying Agent").

Section 3. A true copy of this resolution shall be filed immediately with the Paying Agent and the Paying Agent is hereby instructed to mail notice to each registered owner of said bonds not less than thirty (30) days prior to the date fixed for redemption, all in accordance with the ordinance authorizing the Refunded Bonds.

PASSED AND APPROVED THIS 11TH DAY OF APRIL, 2017.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**ORDINANCE NO. 8140 AUTHORIZING THE ISSUANCE OF HIGHWAY ALLOCATION FUND PLEDGE AND REFUNDING BONDS, SERIES 2017**

Regular Agenda Items 2, 3 and 4 were discussed together but voted on separately.

Council Member Buschkoetter introduced Ordinance No. 8140 authorizing the issuance of Highway Allocation Fund Pledge and Refunding Bonds, Series 2017 of the City of Kearney, Nebraska, in the principal amount of \$3,740,000 for the purpose of paying and redeeming the City's Highway Allocation Fund Pledge Refunding Bonds, Series 2009, dated April 15, 2009, presently outstanding in the principal amount of \$830,000, the City's Highway Allocation Fund Pledge Bonds, Series 2010, dated June 1, 2010 presently outstanding in the principal amount of \$1,335,000, and to pay costs of constructing certain street improvements for the City; prescribing the form of said bonds; pledging funds to be received by the City from the State of Nebraska Highway Allocation Fund for the payment of said bonds; providing for the levy and collection of taxes to pay the same if necessary; authorizing the delivery of the bonds to the purchaser; providing for the disposition of bond proceeds, 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. 8140. 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. 8140 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 Clouse seconded by Lammers that Ordinance No. 8140 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. 8140 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.

**REDEVELOPMENT PROJECT FOR PROPERTY LOCATED SOUTHWEST OF THE 6TH AVENUE AND TALMADGE STREET INTERSECTION**

Mayor Clouse opened for discussion the redevelopment project submitted by Peanut Butter & Jelly, LLC for Redevelopment Areas #2 and #8 for an area described as Lots 4 and 5, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (southwest of the 6th Avenue and Talmadge Street intersection) and to consider Resolution No. 2017-58.

Assistant City Manager Paul Briseno presented this matter to the Council. This item is located west of 2nd Avenue and south of Talmadge Street. There are two facilities. The pavilion will be 6,702 square feet and the restaurant will be 15,562 square feet. This item is in the CRA Redevelopment Areas #2 and #8. The new value once the facilities are complete is estimated at \$3,100,000. CRA and City staff recommend approval for TIF in the amount of \$1,147,725 for eligible expenses over 15 years at 80 percent.

Council Member Nikkila asked if this area was presented in previous meetings as a development plan and this is now the TIF portion of the project. Assistant City Manager affirmed.

Moved by Lammers seconded by Nikkila finding that the redevelopment project set forth in the application submitted by Jackson Construction 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 80 percent of the anticipated TIF valuation up to a maximum of \$1,147,725 payable until the 15-year TIF period expires be granted and to adopt Resolution No. 2017-58 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Peanut Butter & Jelly, LLC. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

### **RESOLUTION NO. 2017-58**

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 #2 and Area #8 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 Lots 4 and 5, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel IDs 580127250 and 580127300); 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 Lots 4 and 5, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel IDs 580127250 and 580127300) 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 Lots 4 and 5, Younes Center Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel IDs 580127250 and 580127300) 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REDEVELOPMENT PROJECT FOR PROPERTY LOCATED NORTH OF HIGHWAY 30 AND WEST OF THE BUCKLE**

Mayor Clouse opened for discussion redevelopment project submitted by Waggoner Investments, LLC for Redevelopment Area #10 for an area described as (1) the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; (2) the east 223.49 feet except the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; and (3) the east 40.2 feet of Lot 4 and the west 103.4 feet of Lot 5 of Tract G, all located in Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of Highway 30 and west of The Buckle) and to consider Resolution No. 2017-59.

Assistant City Manager Paul Briseno presented this matter to the Council. This project contains two facilities. The first facility is an 8,200 square foot warehouse and the second facility is an 18,700 square foot facility that will house retail offices and storage. This item is in the CRA Redevelopment Areas #10. The new estimated value once the facilities are complete is estimated at \$4,350,000. CRA and City staff recommend approval for TIF in the amount of \$511,000 for eligible expenses over 15 years at 80 percent.

Moved by Nikkila seconded by Buschkoetter finding that the redevelopment project set forth in the application submitted by Jackson Construction 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 80 percent of the anticipated TIF valuation up to a maximum of \$511,000 payable until the 15-year TIF period expires be granted and to adopt Resolution No. 2017-59 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Waggoner Investments, LLC. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

### **RESOLUTION NO. 2017-59**

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 #10 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 (1) the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; (2) the east 223.49 feet except the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; and (3) the east 40.2 feet of Lot 4 and the west 103.4 feet of Lot 5 of Tract G, all located in Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Parcel IDs 606087000, 606088000 and 606085000); 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 as (1) the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; (2) the east 223.49 feet except the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; and (3) the east 40.2 feet of Lot 4 and the west 103.4 feet of Lot 5 of Tract G, all located in Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Parcel IDs 606087000, 606088000 and 606085000) 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 (1) the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; (2) the east 223.49 feet except the south 150 feet of the east 200 feet of Lot 5, less highway of Tract G; and (3) the east 40.2 feet of Lot 4 and the west 103.4 feet of Lot 5 of Tract G, all located in Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Parcel IDs 606087000, 606088000 and 606085000) 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 11TH DAY OF APRIL, 2017.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIM**

Moved by Buschkoetter seconded by Clouse that the Open Account Claim in the amount of \$470.42 payable to Jonathan Nikkila be allowed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Nikkila abstained and Lear absent. Motion carried.

**VII. REPORTS**

None.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 7:07 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

ATTEST:

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

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