

*Kearney, Nebraska  
November 14, 2017  
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 Tuesday, November 14, 2017 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Tony Jelinek, Director of Utilities; Andy Harter, Assistant Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Members of the media present included: Kyle LaBoria from KGFW and Mike Konz from the 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**

Pastor John Watson provided the Invocation.

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **VI. REGULAR AGENDA**

**REDEMPTION OF GENERAL OBLIGATION VARIOUS PURPOSE BONDS, SERIES 2010**

Regular Agenda Items 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened for discussion the calling for the redemption of General Obligation Various Purpose Bonds, Series 2010, in the principal amount of \$1,660,000 and to consider Resolution No. 2017-194.

Bruce Lefler from Ameritas presented this matter to the Council. He stated the actual ordinance is in the amount of \$5,310,000. Ameritas had preliminary numbers for when the agenda first came out. Ameritas is looking to put a refunding bond issue in place to take out Series 2010 and 2011 Various Purpose Bonds that are currently outstanding for the City.

The 2010 Bonds mature April 1, 2018 through April 1, 2023 and the 2011 Bonds mature June 1, 2018 through June 1, 2026. Ameritas has combined the two bonds into a single issue for the refunding purposes of \$5,310,000. The interest rates on the outstanding bonds are 3.89% on the 2010 and 3.31% on the 2011 bonds reducing the bonds to a combined interest rate of 2.05% on the new issue. Saving the City of \$265,000 over the remaining 8 ½ years.

Ameritas is advertising the new bonds over the same period that the old bonds were outstanding so it is very simply just reduction of the interest rate providing debt service savings to the City on the same debt that is outstanding. Ameritas had a successful sale. Three million dollars of the bond, plus or minus were placed locally so there was a lot of good interest in the community. Mayor Clouse asked if the City saved approximately \$265,000. Mr. Lefler stated yes, approximately \$265,000 and a little more.

Moved by Lammers seconded by Nikkila to adopt Resolution No. 2017-194 calling for the redemption of General Obligation Various Purpose Bonds, Series 2010, in the principal amount of \$1,660,000. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2017-194**

BE IT RESOLVED AND ENACTED BY THE MAYOR AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, as follows:

Section 1. That the following bonds, in accordance with their option provisions, are hereby called for payment on December 19, 2017, after which date interest on the bonds will cease:

General Obligation Refunding Bonds, Series 2010 dated March 2, 2010, in the outstanding principal amount of \$1,660,000 numbered as they are shown on the books and records of the Paying Agent and Registrar, maturing in the principal amount and bearing CUSIP numbers as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
	<u>April 1</u>		
\$260,000	2018	3.400%	486890 YQ3
260,000	2019	3.600	486890 YR1
270,000	2020	3.750	486890 YS9
280,000	2021	3.850	486890 YT7
290,000	2022	3.950	486890 YU4
300,000	2023	4.000	486890 YV2

Section 2. These bonds are to be paid at the office of the City Treasurer in Kearney, Nebraska, as Paying Agent and Registrar.

Section 3. A true copy of this Resolution shall be filed by the City Clerk with the Paying Agent at least thirty (30) days prior to call date and the Paying Agent is hereby irrevocably instructed to take appropriate action to mail notice to the registered owner at least thirty (30) days prior to the call date.

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**REDEMPTION OF GENERAL OBLIGATION VARIOUS PURPOSE BONDS, SERIES 2011**

Regular Agenda Items 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened for discussion the calling for the redemption of General Obligation Various Purpose Bonds, Series 2011, in the principal amount of \$3,560,000 and to consider Resolution No. 2017-195.

Moved by Nikkila seconded by Lear to adopt Resolution No. 2017-195 calling for the redemption of General Obligation Various Purpose Bonds, Series 2011, in the principal amount of \$3,560,000. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

**RESOLUTION NO. 2017-195**

BE IT RESOLVED AND ENACTED BY THE MAYOR AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, as follows:

Section 1. That the following bonds, in accordance with their option provisions, are hereby called for payment on December 19, 2017, after which date interest on the bonds will cease:

General Obligation Refunding Bonds, Series 2011 dated July 29, 2011, in the outstanding principal amount of \$3,560,000, numbered as they are shown on the books and records of the Paying Agent and Registrar, maturing in the principal amount and bearing CUSIP numbers as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
	<u>June 1</u>		
\$405,000	2018	2.250%	486890 ZW9
410,000	2019	2.550	486890 ZX7
420,000	2020	2.800	486890 ZY5
430,000	2021	3.000	486890 ZZ2
445,000	2022	3.150	486890 A22
460,000	2023	3.300	486890 A30
475,000	2024	3.450	486890 A48
255,000	2025	3.600	486890 A55
260,000	2026	3.750	486890 A63

Section 2. These bonds are to be paid at the office of the City Treasurer in Kearney, Nebraska, as Paying Agent and Registrar.

Section 3. A true copy of this Resolution shall be filed by the City Clerk with the Paying Agent at least thirty (30) days prior to call date and the Paying Agent is hereby irrevocably instructed to take appropriate action to mail notice to the registered owner at least thirty (30) days prior to the call date.

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**ORDINANCE NO. 8196 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING VARIOUS PURPOSE BONDS, SERIES 2017B**

Regular Agenda Items 1, 2 and 3 were discussed together but voted on separately.

Council Member Lear introduced Ordinance No. 8196 authorizing the issuance of General Obligation Refunding Various Purpose Bonds, Series 2017B, of the City of Kearney, Nebraska, in the principal amount of \$5,305,000 for the purpose of refunding certain outstanding bonds of the City; 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 Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8196. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8196 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8196 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8196 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 WEST OF AVENUE D AND NORTH OF NORTH RAILROAD STREET**

Mayor Clouse opened for discussion the redevelopment project submitted by DJ Gilbert for Redevelopment Area #5 for an area described as the West 46 feet of Lots 269, 270, 271, and 272, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (west of Avenue D and north of North Railroad Street) to consider Resolution No. 2017-196.

Assistant City Manager Paul Briseno presented this matter to the Council. The item is for DJ Gilbert for property located west of Avenue D and north of Railroad. The property is a non-traditional lot located mid-block with plenty of infrastructure obstacles including providing sanitary sewer for the neighbors throughout the lot and some water infrastructure issues.

The applicant is looking to demolish the apartment and storage facility which are both vacant and re-build a 2,520 square foot storage facility as well as correct the infrastructure mess that is currently on site. As well as add a buffer and landscaping between the residential and commercial area.

The current value is \$50,165, once completed the expected value is \$300,000. The CRA as well as city staff recommended 82% of the annual increment in real estates taxes not to exceed the lessor of \$55,968 or the certified eligible project costs over a 15 year period. This is a great infill project that corrects a lot of infrastructure issues and allows the site to be fully developed.

Moved by Clouse seconded by Lammers finding that the redevelopment project set forth in the application submitted by DJ Gilbert 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 82 percent of the annual increment in real estate taxes, not to exceed the lessor of \$55,968 beginning with Tax Year 2018 and to adopt Resolution No. 2017-196 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with DJ Gilbert. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2017-196**

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 #5 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 the West 46 feet of Lots 269, 270, 271, and 272, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (Parcel ID 600392000); 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 the West 46 feet of Lots 269, 270, 271, and 272, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (Parcel ID 600392000) 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 the West 46 feet of Lots 269, 270, 271, and 272, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska (Parcel ID 600392000) 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 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**OPEN ACCOUNT CLAIM**

Moved by Nikkila seconded by Lear that the Open Account Claim in the amount of \$10,581.72 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

**III. PUBLIC HEARINGS****VACATE A TRACT OF LAND BEING LOT 1 AND THE DEDICATED CUL-DE-SAC OF FOUNTAIN HILLS NINTH ADDITION AND REZONE NORTHWEST CORNER OF 48TH STREET AND 11TH AVENUE**

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

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for Grand West, LLC to (1) vacate a tract of land being Lot 1 and the dedicated cul-de-sac of Fountain Hills Ninth Addition, an addition to the City of Kearney, Buffalo County, Nebraska located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 8186; and (2) rezone from District AG, Agricultural District to District R-2, Urban Residential Mixed-Density District property described as a tract of land being a part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 48th Street and 11th Avenue) and consider Ordinance No. 8187.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated Fountain Hills Tenth is the name of the proposed subdivision. Earlier this year a portion of the area was platted as Fountain Hills Ninth so Grand West is adding a little more to the area and vacating Fountain Hills Ninth. The site location is north of 48th Street and west of 11th Avenue.

Grand West is asking for a portion of the particular area to be rezoned which is 1.04 acres from District Ag, Agricultural District to District R-2, Urban Residential Mixed-Density District. The current land use map would also be changed to LDR to MDR for the next density residential. As part of the plan, Grand West is asking to vacate what would be Lot 1 of Fountain Hills Ninth which would include a lot and an eyebrow right-of-way portion along 11th Avenue. The preliminary plat for the same area would include the lot that was previously there prior to the vacation which will still be a one lot subdivision consisting of approximately 3.11 acres.

The replatting of the property gives Grand West benefits in terms of the infrastructure. Originally when Grand West had Fountain Hills Ninth, sanitary sewer was being extended up into the 11th Avenue right-of-way but by extending the sewer further west and north, Grand West is able to come off of the 15-inch trunk main and can provide connectivity to the lot. Water would be extended along the west side and show connectivity from the south end of 11th Avenue north and extend across the intersection to 10th Avenue as well. Before City Council tonight is the Final Plat, a one lot

subdivision to be known as Fountains Hills Tenth.

Mayor Clouse asked will 11th Avenue push through to 56th Street. Mr. Bennett stated currently there is a right-of-way easement that infrastructure and water have been under construction through a developer constructed infrastructure agreement with Grand West. This would provide the gap connectivity allowing travel to go from 48th Street all the way to 56th Street.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Applications submitted by Miller & Associates for Grand West, LLC and introduced Ordinance No. 8186 to vacate a tract of land being Lot 1 and the dedicated cul-de-sac of Fountain Hills Ninth Addition; and Ordinance No. 8187 rezoning from District AG, Agricultural District to District R-2, Urban Residential Mixed-Density District property described as a tract of land being a part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 48th Street and 11th 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 Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8186 and 8187. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8186 and 8187 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance Nos. 8186 and 8187 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 8186 and 8187 were declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **FINAL PLAT AND SUBDIVISION AGREEMENT FOR FOUNTAIN HILLS TENTH ADDITION**

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Grand West, LLC for the Final Plat and Subdivision Agreement for Fountain Hills Tenth Addition, an addition to the City of Kearney, Buffalo County,

Nebraska for property described as a tract of land being all of Fountain Hills Ninth Addition (to include Lot 1 and the dedicated cul-de-sac), an addition to the City of Kearney, Buffalo County, Nebraska (now vacated), located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 48th Street and 11th Avenue) and consider Resolution No. 2017-183.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2017-183 approving the Application submitted by Miller & Associates for Grand West, LLC for the Final Plat and Subdivision Agreement for Fountain Hills Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Fountain Hills Ninth Addition (to include Lot 1 and the dedicated cul-de-sac), an addition to the City of Kearney, Buffalo County, Nebraska (now vacated), located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 48th Street and 11th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-183**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat Fountain Hills Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 1 and the dedicated cul-de-sac of Fountain Hills Ninth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (now vacated), located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to a pot at the Southwest corner of the Northwest Quarter of Section 26 and assuming the South line of said Northwest Quarter as bearing S 89°48'05" E and all bearings contained herein are relative thereto; thence S 89°48'05" E on said South line of the Northwest Quarter a distance of 1490.79 feet to the West line of 11th Avenue also being the Southeast corner of Fountain Hills Fifth Addition, an Addition to the City of Kearney, Buffalo County, Nebraska; thence Northeasterly on said West line of 11th Avenue on a non-tangent curve to the Right having a central angle of 21°19'48", a radius of 283.00 feet, an arc length of 105.35 feet, and a chord bearing N 31°44'51" E a distance of 104.75 feet; thence N 42°24'45" E continuing on said West line of 11th Avenue a distance of 284.72 feet to a 5/8" rebar w/cap at the Northeast corner of Lot 1, Block 4 of said Fountain Hills Fifth Addition and the ACTUAL POINT OF BEGINNING; thence N 47°36'14" W on the Northeasterly line of Block 4 of said Fountain Hills Fifth Addition a distance of 150.00 feet to a 5/8" rebar w/cap; thence N 42°30'59" E continuing on said Northeasterly line of Block 4 a distance of 40.19 feet a 5/8" rebar w/cap; thence N 42°05'00" W continuing on said Northeasterly line of Block 4 and it's Northwesterly extension a distance of 281.63 feet to a 5/8" rebar w/cap; thence N 64°30'31" E a distance of 505.93 feet to a 5/8" rebar w/cap; thence S 25°29'29" E a distance of 92.45 feet to a 5/8" rebar at the Northeast corner of 11th Avenue, as shown and dedicated on Fountain Hills Third Addition, a Subdivision to the City of Kearney, Buffalo County, Nebraska; thence S 67°27'24" W on the North line of said 11th Avenue a distance of

66.09 to a 5/8" rebar at the Northwest corner of said 11th Avenue; thence S 25°29'29" E on the West line of said 11th Avenue a distance of 16.90 feet to a 5/8" rebar; thence continuing on said West line of 11th Avenue on a tangent curve to the Right having a central angle of 67°54'14", a radius of 267.00 feet, an arc length of 316.43 feet, and a chord bearing S 08°27'38" W a distance of 298.24 feet to a 5/8" rebar w/cap; thence S 42°24'45" W continuing on said West line of 11th Avenue a distance of 187.56 feet to the Point of Beginning, containing 3.25 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**ANNEXATION OF PROPERTY LOCATED NORTHWEST OF 48TH STREET AND 11TH 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 Miller & Associates for Grand West, LLC for the annexation of Fountain Hills Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Fountain Hills Ninth Addition (to include Lot 1 and the dedicated cul-de-sac), an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 48th Street and 11th Avenue) and consider Resolution No. 2017-184.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2017-184 approving the Application submitted by Miller & Associates for Grand West, LLC for the annexation of Fountain Hills Tenth Addition, an addition to the City of

Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Fountain Hills Ninth Addition (to include Lot 1 and the dedicated cul-de-sac), an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 48th Street and 11th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-184**

WHEREAS, an Application has been submitted by Miller & Associates for Grand West, LLC for the inclusion of Fountain Hills Tenth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being Lot 1 and the dedicated cul-de-sac of Fountain Hills Ninth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (now vacated), located in the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Referring to a pot at the Southwest corner of the Northwest Quarter of Section 26 and assuming the South line of said Northwest Quarter as bearing S 89°48'05" E and all bearings contained herein are relative thereto; thence S 89°48'05" E on said South line of the Northwest Quarter a distance of 1490.79 feet to the West line of 11th Avenue also being the Southeast corner of Fountain Hills Fifth Addition, an Addition to the City of Kearney, Buffalo County, Nebraska; thence Northeasterly on said West line of 11th Avenue on a non-tangent curve to the Right having a central angle of 21°19'48", a radius of 283.00 feet, an arc length of 105.35 feet, and a chord bearing N 31°44'51" E a distance of 104.75 feet; thence N 42°24'45" E continuing on said West line of 11th Avenue a distance of 284.72 feet to a 5/8" rebar w/cap at the Northeast corner of Lot 1, Block 4 of said Fountain Hills Fifth Addition and the ACTUAL POINT OF BEGINNING; thence N 47°36'14" W on the Northeasterly line of Block 4 of said Fountain Hills Fifth Addition a distance of 150.00 feet to a 5/8" rebar w/cap; thence N 42°30'59" E continuing on said Northeasterly line of Block 4 a distance of 40.19 feet a 5/8" rebar w/cap; thence N 42°05'00" W continuing on said Northeasterly line of Block 4 and it's Northwesterly extension a distance of 281.63 feet to a 5/8" rebar w/cap; thence N 64°30'31" E a distance of 505.93 feet to a 5/8" rebar w/cap; thence S 25°29'29" E a distance of 92.45 feet to a 5/8" rebar at the Northeast corner of 11th Avenue, as shown and dedicated on Fountain Hills Third Addition, a Subdivision to the City of Kearney, Buffalo County, Nebraska; thence S 67°27'24" W on the North line of said 11th Avenue a distance of 66.09 to a 5/8" rebar at the Northwest corner of said 11th Avenue; thence S 25°29'29" E on the West line of said 11th Avenue a distance of 16.90 feet to a 5/8" rebar; thence continuing on said West line of 11th Avenue on a tangent curve to the Right having a central angle of 67°54'14", a radius of 267.00 feet, an arc length of 316.43 feet, and a chord bearing S 08°27'38" W a distance of 298.24 feet to a 5/8" rebar w/cap; thence S 42°24'45" W continuing on said West line of 11th Avenue a distance of 187.56 feet to the Point of Beginning, containing 3.25 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 20, 2017 on the inclusion of Fountain Hills Tenth 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 Fountain Hills Tenth 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 November 14, 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 Fountain Hills Tenth 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 Fountain Hills Tenth 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 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**VACATE UTILITY EASEMENTS, AVENUE "O" AND MULTIPLE LOTS OF MARLATT ADDITION AND MARLATT SECOND ADDITION AND REZONING OF PROPERTY PERTAINING TO DEVELOPMENT OF MARLATT THIRD ADDITION**

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

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for Kearney Area Habitat for Humanity Inc. to (1) vacate a 10 foot wide utility easement being the North 10.00 feet of Lot 6 of Block Two and the North 10.00 feet of Lots 1 and 2 of Block One, the North 10.00 feet and the East 10.00 feet of Lots 3 and 6 of Block One, and the East 10.00 feet of Lots 4 and 5 of Block One, all in Marlatt Addition; together with a 5 foot wide Utility Easement being the Northwesterly 5.00 feet, except the East 10.00 feet thereof, of Lot 4 of Block One, Marlatt Addition; together with a 10 foot wide Utility Easement being the South 10.00 feet of Lots 10 and 11 of Block One, Marlatt Second Addition and consider Ordinance No. 8188; (2) vacate all of Avenue "O" abutting Lot 6, Block Two and Lot 1, Block One, Marlatt Addition from the North line of 17th Street to the North line of said Marlatt Addition; and 17th Street abutting Lots 1 through 6, Block One and Lot 11, Block Three, Marlatt Addition and Lots 10 and 11, Block One, Marlatt Second Addition from the Northerly extension of the West line of said Lot 10, Block One, Marlatt Second Addition to the North line of 16th Street and consider Ordinance No. 8189; (3) vacate Lot 6 of Block Two, Lot 11 of Block Three, and Lots 1 through 6 of Block One, Marlatt Addition and Lots 10 and 11, Block One, Marlatt Second Addition, and part of Lot 4, Austin Dean Addition and consider Ordinance No. 8190; and (4) to rezone from District R-2, Urban Residential Mixed-Density District and District RR-1, Rural Residential District (Rural Standards) to District R-1, Urban Residential Single-Family District (Low Density) property described as a tract of land being Lots 1 through 6, Block One, Marlatt Addition, an addition to the City

of Kearney, Buffalo County, Nebraska and part of Lot 4, Austin Dean Addition, an addition to the City of Kearney, Buffalo County, Nebraska (North of 16th Street, between 17th Street and Avenue P) and consider Ordinance No. 8191.

Craig Bennett from Miller & Associates presented this matter to the Council. Kearney Area Habitat for Humanity has negotiated with the property owner to the east and been able to accomplish something that Kearney Area Habitat for Humanity has wanted to do a long time ago when the area was first platted. The area is located north of 16th Street and 17th Street and is currently platted to be extended into the curve and had larger lots originally platted. As Kearney Area Habitat for Humanity has worked with the land owner to the east, the Kearney Area Habitat for Humanity has come to an agreement to buy the ground which allows the lots to be lined up with the street and makes the lot sizes work better.

Kearney Area Habitat for Humanity is asking to rezone the subdivision from RR-1 to R-1 as well as the area that was shown as RR-2 for the multi-family propose for the larger lots back to RR-1 which is 3.09 acres. There are existing utilities that run along 17th Street such as water, sewer and sanitary which have been stubbed out to the east end of the street for the next phase and will be able to tie into. Mr. Bennett discusses the progression of Marlatt Addition. The vacation that Kearney Area Habitat for Humanity is requesting is to vacate the right-of-way, the lots and the portion of the lot that was part of Austin Dean Addition and release the easements. Kearney Area Habitat for Humanity can increase from 10 residential lots to 17 residential lots. Mr. Bennett discusses the infrastructure for the property.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Applications submitted by Miller & Associates for Kearney Area Habitat for Humanity Inc. and introduced Ordinance No. 8188 to vacate a 10 foot wide utility easement being the North 10.00 feet of Lot 6 of Block Two and the North 10.00 feet of Lots 1 and 2 of Block One, the North 10.00 feet and the East 10.00 feet of Lots 3 and 6 of Block One, and the East 10.00 feet of Lots 4 and 5 of Block One, all in Marlatt Addition; together with a 5 foot wide Utility Easement being the Northwesterly 5.00 feet, except the East 10.00 feet thereof, of Lot 4 of Block One, Marlatt Addition; together with a 10 foot wide Utility Easement being the South 10.00 feet of Lots 10 and 11 of Block One, Marlatt Second Addition; Ordinance No. 8189 vacate all of Avenue "O" abutting Lot 6, Block Two and Lot 1, Block One, Marlatt Addition from the North line of 17th Street to the North line of said Marlatt Addition; and 17th Street abutting Lots 1 through 6, Block One and Lot 11, Block Three, Marlatt Addition and Lots 10 and 11, Block One, Marlatt Second Addition from the Northerly extension of the West line of said Lot 10, Block One, Marlatt Second Addition to the North line of 16th Street; Ordinance No. 8190 to vacate Lot 6 of Block Two, Lot 11 of Block Three, and Lots 1 through 6 of Block One, Marlatt Addition and Lots 10 and 11, Block One, Marlatt Second Addition, and part of Lot 4, Austin Dean Addition and Ordinance No. 8191 rezoning from District R-2, Urban Residential Mixed-Density District and District RR-1, Rural Residential District (Rural Standards) to District R-1, Urban Residential Single-Family District (Low Density) property described as a tract of land being Lots 1 through 6, Block One, Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and part of Lot 4, Austin Dean Addition, an addition

to the City of Kearney, Buffalo County, Nebraska (North of 16th Street, between 17th Street and Avenue P) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8188, 8189, 8190 and 8191. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8188, 8189, 8190 and 8191 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance Nos. 8188, 8189, 8190 and 8191 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 8188, 8189, 8190 and 8191 were declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **FINAL PLAT AND SUBDIVISION AGREEMENT FOR MARLATT THIRD ADDITION**

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Kearney Area Habitat for Humanity Inc. for the Final Plat and Subdivision Agreement for Marlatt Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, formerly known as Lot 6, Block Two (now vacated), Lot 11, Block Three (now vacated), and all of Block One (now vacated), Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lots 10 and 11, Block One (now vacated), Marlatt Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and part (now vacated) of Lot 4, Austin Dean Addition, an addition to the City of Kearney, Buffalo County, Nebraska (North of 16th Street, between 17th Street and Avenue P) and consider Resolution No. 2017-185.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt Resolution No. 2017-185 approving the Application submitted by Miller & Associates for Kearney Area Habitat for Humanity Inc. for the Final Plat and Subdivision Agreement for Marlatt Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of the Southwest

Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, formerly known as Lot 6, Block Two (now vacated), Lot 11, Block Three (now vacated), and all of Block One (now vacated), Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lots 10 and 11, Block One (now vacated), Marlatt Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and part (now vacated) of Lot 4, Austin Dean Addition, an addition to the City of Kearney, Buffalo County, Nebraska (North of 16th Street, between 17th Street and Avenue P). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-185**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Marlatt Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, formerly known as Lot 6, Block Two (now vacated), Lot 11, Block Three (now vacated), and Lots 1 through 6, Block One (now vacated) of Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and Lots 10 and 11, Block One (now vacated) of Marlatt Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and part (now vacated) of Lot 4 Austin Dean Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a 5/8" rebar at the Southeast corner of Lot 12, Block Three of Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska and assuming the East line of said Lot 12 as bearing N 01°09'59" E and all bearings contained herein are relative thereto; thence N 01°09'59" E on said East line of Lot 12 a distance of 134.39 feet to a 5/8" rebar w/cap at the Northeast corner of said Lot 12; thence S 89°00'40" W on the North line of said Lot 12 and Lots 13 and 14 of Block Three, Marlatt Addition a distance of 145.12 feet to a 5/8" rebar at the Southeast corner of Lot 9, Block One of Marlatt Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 01°13'32" W on the East line of said Lot 9 and it's Northerly extension a distance of 194.42 feet to a 5/8" rebar w/cap on the North line of 17th Street as platted on said Marlatt Addition; thence S 88°46'28" W on said North line of 17th Street a distance of 115.91 feet to a 5/8" rebar at the Southeast corner of Lot 5, Block Two of said Marlatt Addition; thence N 01°13'32" W on the East line of said Lot 5 a distance of 135.97 feet to a 5/8" rebar at the Northeast corner of said Lot 5 and the South line of an unplatted tract known as Tax Lot 6 of the Northwest Quarter of the Southwest Quarter of Section 6; thence N 89°26'21" E on said South line of Tax Lot 6 a distance of 120.11 feet to a 5/8" rebar at the Southeast corner of said Tax Lot 6 also being the Southwest corner of an unplatted tract known as Tax Lot 5 of the Northwest Quarter of the Southwest Quarter of Section 6; thence N 89°23'40" E on the South line of said Tax Lot 5 a distance of 367.65 feet to a 5/8" rebar; thence N 89°29'40" E continuing on said South line of Tax Lot 5 a distance of 49.41 feet to a 5/8" rebar w/cap on the North line of Lot 4 of Austin Dean Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 00°39'34" W a distance of 326.74 feet to a 5/8" rebar on the West line of said Lot 4 of Austin Dean Addition; thence S 01°14'11" W on said West line of Lot 4 of Austin Dean Addition a distance of 140.88 feet to a 5/8" rebar at the Southwest corner of said Lot 4 of Austin Dean Addition and the North line of 16th Street; thence N 89°29'05" W on said North line of 16th Street a distance of 265.05

feet to the Point of Beginning, containing 4.33 Acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**AMENDMENT TO LAND USE MAP FOR PROPERTY LOCATED EAST OF 1224 EAST 18TH STREET**

Public Hearings 6, 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corporation for the City of Kearney for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential and Commercial Mixed Use to Low Density Residential property described as all of vacated Avenue L as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, all in Buffalo County, Nebraska (East of 1224 East 18th Street) and consider Resolution No. 2017-186.

Mitch Humphrey presented this matter to the Council. The site is located east of Avenue K and west of Avenue M, north of 18th Street in a strip of land that was formally Avenue L which has since been vacated. The site contains a pump house that the City used for years. A portion of the property is zoned R-2 (west half) and the east half is zoned M-1 and was decided that it would be best to zone the entire 80x100 foot tract to R-2, Low Density Residential.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2017-186 approving the Application submitted by Buffalo Surveying Corporation for

the City of Kearney for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential and Commercial Mixed Use to Low Density Residential property described as all of vacated Avenue L as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, all in Buffalo County, Nebraska (East of 1224 East 18th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-186**

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 the East Half of the following described tract of land: All of Vacated Avenue "L" as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, more particularly described as follows: Beginning at the Southeast Corner of Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska, said point also being on the North line of 18th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence North on the East line of Lot 6 and Lot 5 of said Henthorn's Subdivision a distance of 100.0 feet to the Northeast Corner of said Lot 5, said point also being on the South line of a tract of land described in Warranty Deed recorded September 2nd, 2016 at Inst. 2016-05419 in the Office of the Buffalo County Register of Deeds; thence East on the North line of said Lot 5, if extended easterly, and on the South line of said tract of land described in said Warranty Deed a distance of 80.0 feet to a point on the West line of Lot 1010, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, said point being 100.0 feet North of the Southwest Corner of said Lot 1010; thence South on the West line of said Lot 1010 a distance of 100.0 feet to the Southwest Corner of said Lot 1010, said point also being on the North line of said 18th Street; thence West on the North line of said 18th Street a distance of 80.0 feet to the place of beginning, containing 0.09 acres (4,000 Sq. Ft.), more or less, Buffalo County, Nebraska from Commercial Mixed Use and Low Density Residential to Low Density Residential, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Commercial Mixed Use and Low Density Residential to Low Density Residential the use classification for the East Half of the following described tract of land: All of Vacated Avenue "L" as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, more particularly described as follows: Beginning at the Southeast Corner of Lot 6, Henthorn's Subdivision to the City

of Kearney, Buffalo County, Nebraska, said point also being on the North line of 18th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence North on the East line of Lot 6 and Lot 5 of said Henthorn's Subdivision a distance of 100.0 feet to the Northeast Corner of said Lot 5, said point also being on the South line of a tract of land described in Warranty Deed recorded September 2nd, 2016 at Inst. 2016-05419 in the Office of the Buffalo County Register of Deeds; thence East on the North line of said Lot 5, if extended easterly, and on the South line of said tract of land described in said Warranty Deed a distance of 80.0 feet to a point on the West line of Lot 1010, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, said point being 100.0 feet North of the Southwest Corner of said Lot 1010; thence South on the West line of said Lot 1010 a distance of 100.0 feet to the Southwest Corner of said Lot 1010, said point also being on the North line of said 18th Street; thence West on the North line of said 18th Street a distance of 80.0 feet to the place of beginning, containing 0.09 acres (4,000 Sq. Ft.), more or less, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**REZONE PROPERTY LOCATED EAST OF 1224 EAST 18TH STREET**

Public Hearings 6, 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corporation for the City of Kearney to rezone from District R-2, Urban Residential Mixed-Density District and District M-2, General Industrial District to District R-2, Urban Residential Mixed-Density District property described as all of vacated Avenue L as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, all in Buffalo County, Nebraska (East of 1224 East 18th Street) and consider Ordinance No. 8192.

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 Corporation for the City of Kearney to rezone from District R-2, Urban Residential Mixed-Density District and District M-2, General Industrial District to District R-2, Urban Residential Mixed-Density District property described as all of vacated Avenue L as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, all in Buffalo County, Nebraska (East of 1224 East 18th Street) and introduced Ordinance No. 8192 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. 8192. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8192 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 8192 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8192 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 PUMP HOUSE 20 ADDITION**

Public Hearings 6, 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corporation for the City of Kearney for the Final Plat for Pump House 20 Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as all of vacated Avenue L as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, all in Buffalo County, Nebraska (East of 1224 East 18th Street) and consider Resolution No. 2017-187.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-187 approving the Application submitted by Buffalo Surveying Corporation for the City of Kearney for the Final Plat for Pump House 20 Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as all of vacated Avenue L as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, all in Buffalo County, Nebraska (East of 1224 East 18th Street). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2017-187**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Pump House 20 Addition, an addition to the City of Kearney, Buffalo County, Nebraska for all of Vacated Avenue "L" as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, more particularly described as follows: Beginning at the Southeast Corner of Lot Six 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska, said point also being on the North line of 18th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence North on the East line of Lot 6 and Lot 5 of said Henthorn's Subdivision a distance of 100.0 feet to the Northeast Corner of said Lot 5, said point also being on the South line of a tract of land described in Warranty Deed recorded September 2nd, 2016 at Inst. 2016-05419 in the Office of the Buffalo County Register of Deeds; thence East on the North line of said Lot 5, if extended easterly, and on the South line of said tract of land described in said Warranty Deed a distance of 80.0 feet to a point on the West line of Lot 1010, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, said point being 100.0 feet North of the Southwest Corner of said Lot 1010; thence South on the West line of said Lot 1010 a distance of 100.0 feet to the Southwest Corner of said Lot 1010, said point also being on the North line of said 18th Street; thence West on the North line of said 18th Street a distance of 80.0 feet to the place of beginning, containing 0.18 acres (8,000 Sq. Ft.), more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**VACATE LOTS 14 THROUGH 20 INCLUSIVE, BLOCK ONE, CASTLE RIDGE FIFTH AND FINAL PLAT FOR CASTLE RIDGE SIXTH**

Public Hearings 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Applications submitted by Applications submitted by Buffalo Surveying Corporation for Starostka Group Unlimited, Inc. for (1) the vacation of Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth and consider Ordinance No. 8193; and (2) the Final Plat for Castle Ridge Sixth and consider

## Resolution No. 2017-188.

Mitch Humphrey presented this matter to the Council. The project is located east of 19th Avenue and north of 51st Avenue Place. Starostka Group Unlimited, Inc. is taking the original Castle Ridge Fifth Plat and vacating the lots on the north side and adding to the lots of the tract that is unplatted. Starostka Group Unlimited, Inc. is vacating Lots 14 through 20. There were some discussions on what to do with the land to the north and in the end, the owner thought that it would best to make the lots bigger. All the utilities that serve the lots are in place.

Mayor Clouse asked if there are any homes built on some of the lots. Mr. Humphrey stated yes, there are some home that have been built but are not sold. Mayor Clouse asked how does that effect the easements. Mr. Humphrey stated it will not because the original lot lines are where the easements come through and the new lot lines will extend past the easements. Starostka Group Unlimited, Inc. will not relocate utilities and will extend the lot lines north of the easement.

Council Member Buschkoetter asked if there were utilities there presently. Mr. Humphrey stated yes.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Applications submitted by Buffalo Surveying Corporation for Starostka Group Unlimited, Inc. to vacate Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth and introduced Ordinance No. 8193 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 8193. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8193 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8193 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8193 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

Moved by Buschkoetter seconded by Clouse to adopt Resolution No. 2017-188 approving the Final Plat for Castle Ridge Sixth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land comprising of Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots 14 through 20 inclusive, to be vacated, and being part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 19th Avenue and West of 51st Street Place on North side). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-188**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Castle Ridge Sixth, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land comprising of Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots 14 through 20 inclusive, now vacated, and being part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Northeast Corner of the Northeast Quarter of Section 27 and assuming the East line of the Northeast Quarter of said Section 27 as bearing S 00°00'15" E and all bearings contained herein are relative thereto; thence on the East line of the Northeast Quarter, S 00°00'15" E a distance of 1437.56 feet to the Northwest Corner of Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, said point also being the Southeast Corner of Northridge Retirement Subdivision, a subdivision being part of the East Half of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence leaving the East line of the Northeast Quarter of said Section 27 on the line common to the North line of said Castle Ridge Fifth and the South line of said Northridge Retirement Subdivision, S 89°33'53" W a distance of 50.0 feet to the Northeast Corner of Lot 13, Block One of said Castle Ridge Fifth, said point being the Southeast Corner of Lot 1, Block Two of said Northridge Retirement Subdivision; thence on the line common to Lot 13, Block One, of Castle Ridge Fifth and Lot 1, Block Two, Northridge Retirement Subdivision, S 89°33'53" W a distance of 252.00 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of Lot 13, Block One of said Castle Ridge Fifth; thence continuing on the South line of said Lot 1, Block Two, Northridge Retirement Subdivision, S 89°33'53" W a distance of 293.93 feet; thence continuing on the South line of said Lot 1, Block Two, Northridge Retirement Subdivision, S 89°37'08" W a distance of 374.60 feet to a point being 41.65 feet easterly from the Southwest Corner of said Lot 1, Block Two, Northridge Retirement Subdivision, and said point being on the East line of Lot 21, Block One of said Castle Ridge Fifth, if extended northerly; thence leaving the South line of said Lot 1, Block Two, Northridge Retirement Subdivision and on the East line of said Lot 21, Block One, Castle Ridge Fifth, if extended northerly, S 00°29'41" E a distance of 127.42 feet to the Northeast Corner of said Lot 21, Block One, Castle Ridge Fifth; thence on the East line of said Lot 21, Block One, Castle Ridge Fifth, S 00°29'41" E a distance of 140.00 feet to the Southwest Corner of said Lot 21, Block One, Castle Ridge Fifth, said point being on the North line of 51st Street Place, a street as shown on

the plat and dedication of said Castle Ridge Fifth; thence on the North line of said 51st Street Place, N 89°30'51" E a distance of 440.01 feet to a point of curvature; thence on a 30.0 foot radius curve to the left forming a central angle of 41°24'35" an arc distance of 21.68 feet to a point of reverse curvature; thence on a 50.0 foot radius curve to the right forming a central angle of 103°31'15" an arc distance of 90.34 feet to a point of non-tangency, said point also being the Northwest Corner of Lot 11, Block One of said Castel Ridge Fifth, and said point bears S 80°08'06" E a chord distance of 78.54 feet from the previously described point; thence non-tangent on the Northwesterly line of said Lot 11, Castle Ridge Fifth, N 61°37'32" E a distance of 146.69 feet to a point on the West line of said Lot 13, Block One, Castle Ridge Fifth, said point bears N 00°00'15" W a distance of 3.55 feet from the Southwest Corner of said Lot 13, Castle Ridge Fifth; thence on the West line of said Lot 13, Block One, Castle Ridge Fifth, N 00°00'15" W a distance of 204.02 feet to the place of beginning, containing 3.98 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabits of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

### **ANNEXATION OF CASTLE RIDGE SIXTH**

Public Hearings 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corporation for Starostka Group Unlimited, Inc. for the annexation of Castle Ridge Sixth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land comprising of Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots 14 through 20 inclusive, to be vacated, and being part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 19th Avenue and West of 51st Street Place on North side) and consider Resolution 2017-189.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2017-189 approving the Application submitted by Buffalo Surveying Corporation for Starostka Group Unlimited, Inc. for the annexation of Castle Ridge Sixth, an addition to

the City of Kearney, Buffalo County, Nebraska for property described as a tract of land comprising of Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots 14 through 20 inclusive, to be vacated, and being part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 19th Avenue and West of 51st Street Place on North side). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-189**

WHEREAS, an Application has been submitted by Starostka Group Unlimited, Inc. for the inclusion of Castle Ridge Sixth, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land comprising of Lots 14 through 20 inclusive, Block One, Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots 14 through 20 inclusive, now vacated, and being part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Northeast Corner of the Northeast Quarter of Section 27 and assuming the East line of the Northeast Quarter of said Section 27 as bearing S 00°00'15" E and all bearings contained herein are relative thereto; thence on the East line of the Northeast Quarter, S 00°00'15" E a distance of 1437.56 feet to the Northwest Corner of Castle Ridge Fifth, an addition to the City of Kearney, Buffalo County, Nebraska, said point also being the Southeast Corner of Northridge Retirement Subdivision, a subdivision being part of the East Half of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence leaving the East line of the Northeast Quarter of said Section 27 on the line common to the North line of said Castle Ridge Fifth and the South line of said Northridge Retirement Subdivision, S 89°33'53" W a distance of 50.0 feet to the Northeast Corner of Lot 13, Block One of said Castle Ridge Fifth, said point being the Southeast Corner of Lot 1, Block Two of said Northridge Retirement Subdivision; thence on the line common to Lot 13, Block One, of Castle Ridge Fifth and Lot 1, Block Two, Northridge Retirement Subdivision, S 89°33'53" W a distance of 252.00 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of Lot 13, Block One of said Castle Ridge Fifth; thence continuing on the South line of said Lot 1, Block Two, Northridge Retirement Subdivision, S 89°33'53" W a distance of 293.93 feet; thence continuing on the South line of said Lot 1, Block Two, Northridge Retirement Subdivision, S 89°37'08" W a distance of 374.60 feet to a point being 41.65 feet easterly from the Southwest Corner of said Lot 1, Block Two, Northridge Retirement Subdivision, and said point being on the East line of Lot 21, Block One of said Castle Ridge Fifth, if extended northerly; thence leaving the South line of said Lot 1, Block Two, Northridge Retirement Subdivision and on the East line of said Lot 21, Block One, Castle Ridge Fifth, if extended northerly, S 00°29'41" E a distance of 127.42 feet to the Northeast Corner of said Lot 21, Block One, Castle Ridge Fifth; thence on the East line of said Lot 21, Block One, Castle Ridge Fifth, S 00°29'41" E a distance of 140.00 feet to the Southwest Corner of said Lot 21, Block One, Castle Ridge Fifth, said point being on the North line of 51st Street Place, a street as shown on the plat and dedication of said Castle Ridge Fifth; thence on the North line of said 51st Street Place, N 89°30'51" E a distance of 440.01 feet to a point of curvature; thence on

a 30.0 foot radius curve to the left forming a central angle of 41°24'35" an arc distance of 21.68 feet to a point of reverse curvature; thence on a 50.0 foot radius curve to the right forming a central angle of 103°31'15" an arc distance of 90.34 feet to a point of non-tangency, said point also being the Northwest Corner of Lot 11, Block One of said Castel Ridge Fifth, and said point bears S 80°08'06" E a chord distance of 78.54 feet from the previously described point; thence non-tangent on the Northwesterly line of said Lot 11, Castle Ridge Fifth, N 61°37'32" E a distance of 146.69 feet to a point on the West line of said Lot 13, Block One, Castle Ridge Fifth, said point bears N 00°00'15" W a distance of 3.55 feet from the Southwest Corner of said Lot 13, Castle Ridge Fifth; thence on the West line of said Lot 13, Block One, Castle Ridge Fifth, N 00°00'15" W a distance of 204.02 feet to the place of beginning, containing 3.98 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 20, 2017 on the inclusion of Castle Ridge Sixth 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 Castle Ridge Sixth, 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 November 14, 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 Castle Ridge Sixth 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 Castle Ridge Sixth 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 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**DEVELOPMENT OF PROPERTY LOCATED NORTH OF 39TH STREET AND EAST OF 11TH AVENUE AND CENTURY ROAD**

Mayor Clouse opened the public hearing on the Applications submitted by Buffalo Surveying Corporation for Travis and Nicole Edeal to (1) vacate a tract of land comprising of Lots 1 through 11 inclusive, Block One, Lots 13 through 23 inclusive, Block One, Lots 1 through 4 inclusive, Block Two, Lots 1 through 8 inclusive, Block Three, Lots 1 through 12 inclusive, Block Four, all of Century Road, all of 9th Avenue, all of 10th Avenue and all of 40th Street, all in Honey Hill Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots, Blocks, Road, Avenues and Street in said Honey Hill Estates Addition and consider Ordinance No. 8194; and (2) rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District and District C-O, Office District

property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska AND a tract of land being part of the East Half of the Southeast Quarter of the Southwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of 39th Street and East of 11th Avenue and Century Road) and consider Ordinance No. 8195.

Mitch Humphrey presented this matter to the Council. Travis and Nicole Edeal would like to find a way to develop the property. The property will be called the Loyd Glen Estates. The land was platted into the Honey Hill Estates project and has not been built out. The Edeal's would like to vacate the property that is located north of 39th Street and west of the old high school. The property sits to the west of E Free Church and east of Brandt Subdivision. With the vacation, the tract is entirely zoned single family residential.

The Edeal's would like to extend 10th Avenue to the south, curve it around into what is now known as Century Road that would be 41st Street. Then extend 10th Avenue down and develop the north part into single family residential lots which would be approximately 6.1 acres. In the first phase, the developer would plat the two streets and come up with lots that are smaller, same depths to match the design of Fountain Hills. In the second phase, the developers would like to build some duplex lots on bigger lots as there seems to be a market for duplexes.

The interesting question is what would the Edeal's do with the piece of property right up against 39th Street. It would be best served to have a non-retail office setting. The piece that sits north and south that will be zoned C-O. That is where the detention cell will go. Because there will be a cul-da-sac to access the commercial lot, the Edeal's would like an alternate access out so that will be part of the commercial lot itself in the future so that traffic can flow through and around the area. Mr. Humphrey does not have any good conceptual plans for what the site might look like in the future but will put a detention cell next to the residential lots to act as a buffer and catch a lot of storm water that runs off of the hill.

Vacation of the lots and the preliminary plat shows the commercial lot with the long narrow strip for access in and out. The detention cell lot or Outlay A would be platted as part of the first phase of the development and would contain 7.5 acres, leaving an excess of 10 acres that can be unplatted for a future phase of development.

Mr. Humphrey discusses the Final Subdivision Plat. As far as the public infrastructure, the water will need to be looped in and around into the public streets as it is extended to the streets currently. The future phases will loop a water line down to 39th Street to enhance water pressure and flow. The sanitary sewer will have to rebuild a good section of Century Road or 41st Street to enable the sanitary sewer connection that is needed for the site to work properly.

Council Member Buschkoetter asked about the access to the multi-family and commercial use, the only way to get there is to drive thru single family residential neighborhoods, correct. Mr. Humphrey stated yes. Council Member Buschkoetter stated this seems a little backwards as usually you go off of an arterial street into the more

traffic heavy areas and then get into the residential areas. In this area, citizens would drive through the residential areas to get to the higher traffic areas. Mr. Humphrey stated that is a good point. The developers looked at this area and believe they have a valid point because when there is a property or business that is in a zoning district that is non-retail office, typical office hours are during the day. There may be some traffic coming in and out of the site throughout the day but typically at night, the traffic shuts down.

Mr. Humphrey discussed his neighborhood by Walmart. Council Member Lammers stated there is a little bit of difference in Mr. Humphrey's neighborhood because cars will access 56th Street and 2nd Avenue.

Council Member Buschkoetter stated there can be a risk having kids in the front yards with heavier traffic usage, correct. Mr. Humphrey stated he would not say it is heavier traffic usage, he would say it is day to day usage. He thinks this is a viable option where the developer can have residential lots with the transition from single family to duplex lots with some non-retail commercial. Non-retail commercial might be an accountant or a lawyer, service industries or something along that line.

Council Member Nikkila stated in fairness, C-O allows multi-family type living as well, more dense than R-2, correct. Assistant City Manager, Paul Briseno stated correct, it would allow up to a 35-unit multi-family. Mr. Humphrey stated that is true but that is not the intention with this development. The developers are focusing in on the non-retail commercial.

Mayor Clouse asked why C-O zoning was decided on in that location instead of trying to work it into residential. Mr. Humphrey stated the developers felt the site and visibility along 39th Street was good and did not feel that the non-retail commercial would have an adverse impact on the neighborhood.

Council Member Lammers stated he is concerned because the neighborhood to the west and east are R-1. To take areas, develop the areas and change the zoning to commercial, with no access to 39th Street, is difficult for him. Traffic is still going through the neighborhood, even though it might not be as of high usage traffic coming off of the area and through the residential area, people bought and built houses that are zoned R-1 believing the area behind their home is also zoned R-1.

Mr. Humphrey stated that is not exactly correct. The houses were primarily all built and the area was zoned agricultural. Council Member Lammers stated but when the area was zoned, the area was zoned R-1. Mayor Clouse stated the area certainly not zoned C-O. Mr. Humphrey stated the land to the east is zoned R-1 but contains a church and there is a lot more traffic coming in and out of that church. The church traffic is far greater than anything that this lot that would generate.

Council Member Lammers stated to get in and out of the church does not involve driving through the R-1 and R-2 neighborhoods. Mr. Humphrey stated drivers do go through residential neighborhoods but there was to be a road coming through the development known as 41st or 42nd Street but the church acquired the property to the north and combined into one large lot instead.

Council Member Nikkila stated he does like the compromise that the developer included the large outlot in terms of a buffer between the neighborhood on the west side. The buffer is nice. This area is hard because he understands the developer will have to find the right fit for the neighborhood because of the traffic concerns.

Mayor Clouse stated when the developer builds these lots; the lots are for sale correct. Mr. Humphrey stated yes. Mayor Clouse stated then there is no control over what could be built even though the intent is non-retail commercial. But whoever buys the lot; their intent may not be the same. Mr. Humphrey stated if the area is zoned C-O, the area has to be non-retail commercial as that would be what it is zoned.

Mayor Clouse asked what can go in there. City Manager stated there are a variety of C-O uses. Assistant City Manager stated it is usually professional type services such as architects, attorneys, services of that nature. There are also residential uses that can be put in, including up to a 35-unit complex. Otherwise, beyond a 40,000 square foot facility and commercial use, developers would have to put in a planned development district which means that the lot would come back before City Council to rezone. Any other high intensity uses would probably have to come back and be rezoned to something besides C-O.

Mr. Humphrey stated if he recalls correctly, unified land development ordinance for commercial or C-O zoning requires a planned development on tracts that are over four acres, is that correct. Assistant City Manager stated he believes so.

Mr. Humphrey stated if he purchased that lot being approximately five acres then by City Code, the area comes before City Council for review. City Manager stated the use can still be a variety of things. Just because the developer puts an overlay district on a planned development, the buyer is already anticipating certain uses. The planned development gives some discretion but not significant discretion.

City Attorney, Mike Tye stated once the property has been re-categorized as a commercial property it may be a planned district but the property is still commercial in nature. Planned district allows for the making of modifications of certain code elements because of the size of the lot and so yes there could be some input from a planned district standpoint but the property is still commercial. Mr. Tye recommended having the conversation now to determine whether City Council believes commercial is appropriate at that location or not. Planned District gets into the specifics of the type of building, buffering, parking, etc. but the property would still be commercial in nature if it has already been rezoned.

Council Member Lear stated the bottom line is even though the property would have to come back, Council could not really reject to anything that would be allowed in the C-O district. City Council could require the developer to have to do certain things, but if it is allowable by right in a C-O district and someone buys that property, City Council cannot come back and say the development pushes the envelope of being a little too impactful in terms of the City's vision of C-O. This property is an awkward location because the point of visibility is great. However due to not having access from 39th Street due to visibility limitations, the property is something that is easy to get to.

Mr. Humphrey stated the developers believed the non-retail professional office setting would be appropriate since the developer is not going through residential neighborhoods with the high traffic counts. The developers felt that with the positive recommendations received from the development review team and the positive comments received by Planning Commission, Mr. Humphrey did not expect this much discussion, even though the discussion is good, from City Council.

The developer believes this development is a good thing for the City, neighborhood and the way the land lays, works without an adverse impact on the neighbors. Mr. Humphrey has not personally received any negative comments from neighbors. The benefit to the neighbors would be creating the buffer area which would be used as a dual function; wide buffer area used for separation between the backyards and privacy and stormwater collection off of this site.

Council Member Lear stated Mr. Humphrey made the comment that the detention area could be as an access point. Mr. Humphrey stated yes, that is true, the thin strip would be the secondary access to the commercial lot. Council Member Lear asked for clarification of a secondary access. Mr. Humphrey stated the developer would put a drive-way there to serve if the intersection is blocked; the drive-way would be another way through to provide circulation in and out of the commercial lot.

Mayor Clouse asked if the development is on an expedited timeline. Mr. Humphrey stated the developer is asking to rezone on the entire property and conduct a first phase platting on the R-1 portion so the developers can get started in building the streets and detention cell. Council Member Lear asked the developer is not asking for the platting on the C-O/R-2 area. Mr. Humphrey stated no, the developer is not asking for final plat on the C-O/R-2 area.

Kirk Stocker, 3916 11th Avenue, stated that he is opposed to the rezoning of the property. He agrees with Council Member Buschkoetter's comment regarding traffic volumes that change from higher density directly off of arterial streets to less traffic into residential areas.

In this situation and without an access off of 39th Street, citizens go through R-1 to the proposed R-2 to commercial development. This will add traffic through the R-1 subdivisions even up through 9th and 10th Avenue. The property has been zoned R-1 for a number of years and is tough to develop due to what has happened with the sale of house without the tract.

When eFree church was built and platted, if the requirement would have been made to make 41st Street, this would have been better too. But Mr. Stocker hopes the City will not make another mistake tonight and rezone the property to C-O so that in five years from now; the City has to live with it. Once the property is rezoned from R-1, it seems like it is a slippery slope to rezone it again. Mr. Stocker believes leaving the property as R-1 is the best decision.

Ralph Hansen, 3915 11th Avenue, stated he first became aware of these public hearings after reading the newspaper so he did not attend the Planning Commission meeting. He echoes much of what Mr. Stocker stated. He believes the area was a buffer

between the more densely developed areas and what has been R-1. He moved to Kearney nine and a half years ago and bought the property knowing that the hayfield behind his home would be developed at some point and he accepted that.

However, proceeding with commercial development where there is not appropriate access off the main road would change the character of the area substantially. He understands that the original platting might not work and that there needs to be differences in water control. In the past there have been projects that have failed because of the problems of water control and he does commend the developer for including this in the proposed development. This development is going to substantially change the character of the area and he would like to see it maintained as a residential area and not commercial.

Mr. Stocker stated due to the size of the commercial lot there could be a five or six commercial/professional type offices built. He was really shocked to hear there could potentially be a 35 unit residential building built there.

Mr. Humphrey appreciated the citizens' concerns but he reiterated that the developer feels that the character of the neighborhood will not significantly change with the inclusion of the detention cell and buffer area. The detention cell would be up high preventing much of the storm water from going into the residents' backyards. The detention area and green space could include planting. These are considerations that he would hope the neighborhood would look at when viewing the project. Mr. Humphrey understands the traffic concerns however when examining the Honey Hill Plat, the developer is not changing the traffic pattern, as far as density, at all.

The lots in the Honey Hill Plat are 95-100 feet wide and the lots in Fountain Hills area are approximately 75 feet or narrower than that. Someone could potentially come in and retain the same street pattern and densify the area with smaller lots causing even more traffic flow through the neighborhood. Mr. Humphrey and the developer have been very sensitive to the traffic issue when developing this project.

Council Member Lear admits this area is difficult and he appreciates what Mr. Humphrey and the developer are trying do. In the general, a commercial office makes sense as the office would be right on 39th Street. However, he is a little hung up on the access issues that the development creates.

Mr. Humphrey believes that a solution could be to extend the turn lane on 39th Street, widen it out and put a right turn in and a right turn out onto the property, which would alleviate a lot of the concerns for in and out traffic for the commercial lot.

City Manager stated that from a traffic engineering standpoint, Mr. Humphrey's solution is more complicated and does not absolve the fact that the area was zoned R-1 for all of these years.

Council Member Lear stated with a little bit of buffering and different access, there could potential use for the property and not impact the citizens next to the area. Unfortunately whether City Council goes low impact commercial or even high density residential, the decision could creat a lot of traffic patterns back through the neighborhoods.

City Manager stated there is a reason the area has not developed; citizens purchased land and moved into houses that were next to R-1 and secondarily, the traffic flow situation does not work as the City has examined the situation. If the City could gain a right in and right out by the residential structure to the east of the property at the top of the hill, that would be okay but the lane cannot simply be widened. There are a lot of traffic engineering issues which may be why the property has not developed.

Council Member Buschkoetter acknowledged Mr. Humphrey's effort on this project as he has done a nice job to address water detention concerns and noise reduction. Council Member Buschkoetter believes Mr. Humphrey and the owners have their hearts in the right place and hopes Mr. Humphrey understands that there is a large element that the City Council cannot get away from as the impact could affect traffic patterns through R-1 residential area.

Council Member Lammers stated he believes the outcome could have been different if the area was zoned R-1 and R-2 initially and at some point, the owners could acquire access through the northeastern lot which would allow access onto 39th Street. Council Member Lammers has concerns with the C-O zoning as access would come through an R-1 and R-2 area and circle around through four blocks of neighborhood to get back to 39th Street.

Council Member Lear asked Mr. Humphrey if he would prefer City Council to take action on all of the single-family portions of the project and then come back and work on the project at a later date or does he wish to keep the area as one project.

Mr. Humphrey stated that is a good question as he did not anticipate the discussion tonight. Mr. Humphrey would first like to address Mr. Lammers comment about the northeastern lot in the northeast corner of the development. As part of the design for the overall neighborhood, the developer did meet with eFree Church to see if there could be an access onto 39th Street but they were unable to find a solution with the church or property owner of the northwestern lot. Since then, eFree Church has built the parking lot in the back and enhanced the use of the right turn in and right turn out. The developer did look into this option. The developer is between a rock and a hard spot as far as making the project work from a financial point of view because it will not work as a single family development.

Council Member Nikkila stated he realizes the fact that the property has not been developed for all of these years as single family may say something that the property will not work as single family but as Council Member Nikkila does not have an engineering or financial background, can Mr. Humphrey explain why R-1 does not work for the property.

Mr. Humphrey stated when examining the site, the lots are 95 feet wide or more by the standard basic 130 feet deep which is okay. The land slopes from the east to the west and there is a sharp depression which creates a lot of angulations resulting in a tremendous amount of over lot grading that would need to happen to make the project work for lots to be built on. The over lot grading is the majority of the expense based on what Mr. Humphrey has seen from the numbers thus making the project cost prohibited for anyone who comes into build the property out. The developer could not compete

with the marketplace with the lot costs.

Council Member Nikkila asked if R-2 makes the property more profitable and makes the grading worthwhile since it appears like R-2 is where most of the slope is. Mr. Humphrey stated the developer can work with the way the slopes go a little easier. There are some problem areas up on the north part of the property but the developer can make it work if the lots are bigger and duplexes are built as opposed to single family.

Council Member Lear stated he does not believe there is a problem with the R-1 and he may not even have a problem with R-2, however his concern involves the commercial zoning. He asked if Mr. Humphrey wants City Council to approve part of the project and get the developer moving on the approved section or if Mr. Humphrey would rather take some time with whole project. Mr. Humphrey stated on he believes it would be better to have some discussions. Council Member Buschkoetter stated postponement may Mr. Humphrey's best option.

City Manager stated postponement is fine but what is going to be solved. There is no new information that would come forward. The single family density that was there before will create at least this much traffic, if not more, with the previous and current plating. The only difference is what will go in the C-O zoning. City Manager recommends to either deny the project or approve the project or go back and make the C-O a planned development from the beginning, allowing control as to what goes in the C-O.

Council Member Lear and City Manager had discussion on the permissions allowed in a C-O zoning, planned development and the restrictions available to the City Council on applicable uses.

City Attorney, Mike Tye stated restrictions can be made but the underlying zoning is still commercial. City Manager stated there are still some restrictions that could be placed on the property that would help the traffic. Council Member Buschkoetter asked would the City be able to stop a unit of 30 odd apartments in a planned development district. City Manager stated yes because the C-O in the planned development is the actual use that City Council would be approving.

City Attorney stated he believes City Council has indicated some hesitations with commercial at the location based on what he has heard. Part of the question for the applicant is would it be productive to have more conversations with neighbors and think about this. It is hard to say whether the developer can come up with a different plan but the applicant has the ability to request to postpone the applications. He believes the opinion that has been shared is that the concern is the request to put commercial in an area with no access onto 39th Street and access coming through a residential area; which is a valid concern to be raised when a rezoning is being requested from residential to commercial. Does the applicant wish for Council to vote on the rezoning tonight or request to postpone the applications and City Council can decide where to go from there.

City Manager stated that a planned development district with the C- may be the only

thing that can change any of the conversation. This solution may not fix all of the issues but the planned development district is the only tool that he is aware of that gives City Council any ability.

City Attorney stated the applicant could evaluate and decide perhaps to go in a different direction given City Council's concerns. Many developers bring land through piece by piece and rezone different areas. The decision is up to the developer. City Manager stated the challenge for the applicant is the cost.

City Attorney stated there have been challenges with the property which causes the struggle of how to formulate the property to ensure it is appropriate. City Manager stated City staff looked into the right in, right out option at the house and although not preferred, it may be reasonable given the circumstances.

Mr. Humphrey stated he respects all of the comments. This is really a big infill project and trying to find a conclusion on how this should be developed. Council Member Buschkoetter respects all of the work that Mr. Humphrey and the developers have done however his concern is how much traffic will be brought through a residential area. Mr. Humphrey stated that 11th Avenue going north is a collector street which is important to note so maybe postponement is the best option.

City Manager asked if Mr. Humphrey had met with the church recently on the access point. Mr. Humphrey stated that discussions had been a couple years ago. City Manager stated there is room there for negotiation and possible potential for access.

City Manager asked Andy Harter, Assistant Public Works Director when the church was developed, the City required the secondary access only. Mr. Harter stated correct, originally it was gravel. City Manager asked if there are any conditions as to when the access would have to expand, if ever. Mr. Harter stated he does not believe so. Right now the access is used only as a right out; it is not a right in. Mr. Harter stated the access is mainly the church's emergency exit.

There was discussion on the postponement. City Attorney, Mike Tye stated if the public hearings get tabled or postponed, the hearings will get moved to the next agenda.

Moved by Lear seconded by Buschkoetter to postpone until November 28, 2017 public hearings 11, 12 and 13 on the Applications submitted by Buffalo Surveying Corporation for Travis and Nicole Edeal to (1) vacate a tract of land comprising of Lots 1 through 11 inclusive, Block One, Lots 13 through 23 inclusive, Block One, Lots 1 through 4 inclusive, Block Two, Lots 1 through 8 inclusive, Block Three, Lots 1 through 12 inclusive, Block Four, all of Century Road, all of 9th Avenue, all of 10th Avenue and all of 40th Street, all in Honey Hill Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots, Blocks, Road, Avenues and Street in said Honey Hill Estates Addition and rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District and District C-O, Office District property described as a tract of land being part of the Northeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska AND a tract of land

being part of the East Half of the Southeast Quarter of the Southwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of 39th Street and East of 11th Avenue and Century Road); (2) amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Neighborhood Mixed Use property; and (3) Final Plat and Subdivision Agreement for Loyd Glen Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land comprising of Lots 1 through 3 inclusive, and part of Lot 4 and part of Lots 16 through 23 inclusive, Block One, Lots 1 through 4 inclusive, Block Two, Lots 1 through 8 inclusive, Block Three, part of Century Road, part of 9th Avenue, and part of 10th Avenue, all in Honey Hill Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lots, Blocks, Road, and Avenues in said Honey Hill Estates Addition to be vacated, and being part of the East Half of the Southeast Quarter of the Southwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (North of 39th Street and East of 11th Avenue and Century Road). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **PERMANENT SANITARY SEWER MAIN EASEMENT**

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Sanitary Sewer Main Easement on property described as a strip of land 20.0 feet in width being part of the Southeast Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Resolution No. 2017-192.

Tony Jelinek, Director of Utilities presented this matter to the Council. He stated the utility easement is part of the Vetter project that has been approved and instead of building extra infrastructure, the developer is connecting infrastructure to an existing manhole that is 50 feet west of the 27th Avenue right-of-way. In order to connect to the infrastructure, there is an easement needed across private property of Central Community College. The Vetter's have obtained the easement from Central Community College for the City in the form of Sanitary Sewer Utility Easement.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-192 approving the proposed acquisition for a Permanent Sanitary Sewer Main Easement on property described as a strip of land 20.0 feet in width being part of the Southeast Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2017-192**

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

WHEREAS, the City Council has held a public hearing upon the proposed

acquisition for a Permanent Sanitary Sewer Main Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Central Community College Facilities Corporation, a Nebraska nonprofit corporation has granted to the City of Kearney, Nebraska a Permanent Sanitary Sewer Main Easement as follows:

#### PERMANENT SANITARY SEWER MAIN EASEMENT

A strip of land 20.0 feet in width being part of the Southeast Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, with said strip of land being 10.0 feet on each side of the following described centerline: Referring to the Southwest Corner of Section 3 and assuming the South line of the Southwest Quarter of Section 3 as bearing N 89°56'02" E and all bearing contained herein are relative thereto; thence on the South line of the Southwest Quarter of said Section 3, N 89°56'02" E a distance of 1540.00 feet to the Southeast Corner of a tract of land described on Limited Partnership Warranty Deed filed at Instrument 2014-07777, recorded on December 19, 2014 in the office of the Register of Deeds of Buffalo County, said point also being the Southwest Corner of "Brookestone Gardens Addition", an addition to the City of Kearney, Buffalo County, Nebraska: thence on the East line of said tract of land described on Limited Partnership Warranty Deed filed at Instrument 2014-07777 and on the West line of said "Brookestone Gardens Addition", N 02°13'27" W a distance of 75.05 feet to a point on the North line of a 30.0 foot Sanitary Sewer Main Easement filed at Instrument 2010-1287, recorded March 5th, 2010 in the office of the Register of Deeds of Buffalo County, said point being 75.0 feet North as measured perpendicular to the South line of the Southwest Quarter of said Section 3; thence continuing on the East line of said tract described as Limited Partnership Warranty Deed filed at Instrument 2014-07777 and on the West line of 27th Avenue as shown on the plat and dedication of said "Brookestone Gardens Addition", N 02°13'27" W a distance of 131.41 feet to the ACTUAL PLACE OF BEGINNING; thence leaving the East line of said tract of land described on Limited Partnership Warranty Deed filed at Instrument 2014-07777 and the West line of said 27th Avenue and on said centerline, S 12°28'55" W a distance of 134.54 feet to the point of termination, said point being on the North line of said 30.0 foot Sanitary Sewer Main Easement filed at Instrument 2010-1287, and said point also being 34.18 feet westerly from the West line of said 27th Avenue as measured on the North line of said 30.0 foot Sanitary Sewer Main Easement filed at Instrument 2010-1287 and parallel with the South line of said Southwest Quarter of said Section 3. The sidelines of the aforescribed strip of land to be extended or shortened as necessary to begin on the East line of said tract of land described on Limited Partnership Warranty Deed filed on Instrument 2014-07777 and on the West line of said 27th Avenue, and to be extended or shortened as necessary to terminate on the North line of said 30.0 foot Sanitary Sewer Main Easement filed at Instrument 2010-1287, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Sanitary Sewer Main Easement granted by Central Community College Facilities Corporation, a Nebraska nonprofit corporation to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

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

Moved by Nikkila seconded by Lear that Subsections 1 through 10 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held October 24, 2017.

2. Approve the following Claims:

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

Ace Irrigation \$387.50 smcs; Alfred Benesch \$15,711.10 co; Allison,M \$8.09 smcs; Amazon \$1,709.70 smcs; American Fence \$13,580.00 co; American Planning Assn. \$695.00 smcs; Anderson Bros \$1,707.85 smcs; Antelope Sprinklers \$1,080.00 co; Ask Supply \$904.38 smcs; Aurora Coop \$113.12 smcs; Baker & Taylor \$6,383.04 smcs; Baxter,C \$5.53 smcs; Beardslee,J \$30.00 smcs; Beehive \$7,697.00 smcs; Belan Bakery \$151.94 smcs; Bieber,M \$15.00 smcs; Blackstone Audio \$598.73 smcs; Blessing \$723,786.22 co; BlueCross/BlueShield \$230,573.44 smcs; Bolte,C \$163.20 smcs; Bomgar Corp \$3,635.84 smcs; Bosselman \$43,911.17 smcs; Bridgett Lavene Consulting \$6,666.67 smcs; Broadfoot's \$972.00 smcs; Brodine,D \$54.46 smcs; Buffalo Co. Register Deeds \$148.00 smcs; Builders \$23.74 smcs; Bush,S \$60.00 smcs; Capital Business Systems \$379.48 smcs; Cash-Wa \$1,369.43 smcs; Catterson,S \$30.00 smcs; Central States Wire \$4,130.34 smcs; CH Diagnostic \$415.00 smcs; Chavez,K \$51.31 smcs; Chesterman \$128.55 smcs; Chief Supply \$115.39 smcs; Child's World \$518.60 smcs; Cigna \$7,150.56 smcs; City of Ky \$56,934.33 co, smcs; City of Ky \$349,527.27 ps; Comfy Bowl \$50.00 smcs; Community Action Partnership \$470.00 smcs; Community Health Charities \$6.00 ps; Consolidated Mgmt. Co \$662.07 smcs; Cooperative Producers \$344.40 smcs; Core & Main \$7,949.34 smcs; Cummins \$1,482.55 smcs; Dam,J \$52.69 smcs; DAS State Accounting \$5,491.63 smcs; Deadwood Gulch Resort \$6,713.00 smcs; Deffencaugh,J \$1.08 smcs; Dell \$1,455.00 smcs; Dish \$94.03 smcs; Dmilaco \$508.66 smcs; DPC Industries \$3,335.41 smcs; Drumheller,M \$62.99 smcs; Dutton-Lainson \$3,374.01 smcs; Eagle Distributing \$458.90 smcs; Eakes \$1,406.03 smcs; Ebsco Industries \$3,424.00 smcs; Elliott Equipment \$12,523.63 smcs; eMaint Enterprises \$6,520.00 smcs; Enforcement Video \$562.00 co; Entenmann-Rovin \$228.50 smcs; Expression Wear \$860.00 smcs; Eynetich,J \$476.50 smcs; Fearnely,M \$64.50 smcs; Fichter,T \$15.00 smcs; Fisher,M \$46.71 smcs; Fort Bend Services \$5,653.44 smcs; Foster,D \$53.50 smcs; Frontier \$81.40 smcs; Fugleberg,D \$2.23 smcs; Gale/Cengage \$296.52 smcs; Garrett Tires \$4,953.28 smcs; Giboney,S \$350.00 ps; Glass Doctor \$85.64 smcs; Habitat for Humanity \$152.46 smcs; Hawthorne Jewelry \$990.00 ps; Hayden,S \$61.20 smcs; Heggemeyer,L \$144.50 smcs; HM Life Insurance \$40,819.47 smcs; HOA Solutions \$457.50 smcs; Holmes Plumbing

\$21.46 smcs; Hometown Leasing \$157.20 smcs; ICMA \$10,369.40 ps; IPEX \$2,500.00 smcs; IRS \$323,908.41 ps; Jack & Kitty \$137.50 smcs; Jack's Uniforms \$223.89 smcs; John Deere Financial \$897.26 smcs; Johnson Service \$1,125.00 smcs; Johnson,D \$100.00 smcs; Ky Animal Shelter \$7,381.25 smcs; Ky Area United Way \$623.40 ps; Ky Hub \$115.00 smcs; Ky Volunteer Fire \$3,250.00 smcs,ps; Ky Winlectric \$2,631.51 smcs; Kelly Supply \$3.34 smcs; Kiplinger Tax Letter \$76.00 smcs; Kitt,L \$140.00 smcs; Konica Minolta \$386.61 smcs; Lawn Builders \$350.00 smcs; LCL Truck Equipment \$2,022.52 smcs; Ledesma,D \$40.09 smcs; Legendary Holdings \$90.00 smcs; Lerner Publishing Group \$1,876.06 smcs; Lied Center \$2,404.00 smcs; Lindner,S \$125.73 smcs; Magic Cleaning \$6,940.00 smcs; Marshall,I \$100.00 smcs; Matheson \$230.76 smcs; McKeon,T \$130.00 smcs; Menards \$253.61 smcs; Michael Todd \$6,879.66 smcs; Midwest Connect \$6,914.21 smcs; Midwest Storage \$863.85 smcs; Midwest Turf \$69.34 smcs; Milco Environmental \$300.00 smcs; Miller & Associates \$24,833.37 smcs,co; Moonlight Embroidery \$2,919.50 smcs; Morin,A \$264.00 smcs; Municipal Supply \$16,968.40 smcs; Navigator Motorcoaches \$900.00 smcs; NE Child Support Center \$3,881.75 ps; NE Dept of HHS \$28.75 smcs; NE Dept of Labor/Finance \$120.00 smcs; NE Dept of Revenue \$49,726.12 ps; NE Dept of Transportation \$20.58 smcs; NE Environmental Products \$4,913.10 smcs; Ne Golf Association \$3,570.00 smcs; NE Public Health Environmental \$36.00 smcs; NE Safety & Fire \$157.21 smcs; Nebraskaland Distributors \$261.75 smcs; NERPA \$420.00 smcs; Nielsen,B \$63.94 smcs; NLETC \$150.00 smcs; Northwestern Energy \$980.18 smcs; Nova \$138.24 ps; Office Depot \$596.13 smcs; O'Hara Lindsay \$2,000.00 smcs; Olsson Associates \$1,043.75 co; One Call Concepts \$494.94 smcs; Outdoor Recreation \$299.26 co; Overhead Door \$75.00 smcs; Paramount \$277.99 smcs; Platte Valley Laboratory \$62.50 smcs; Payflex Systems \$578.00 smcs,ps; Penguin Random House \$10.00 smcs; Pep Co \$86.34 smcs; Pfeifer,D \$59.92 smcs; Pickens,C \$50.00 smcs; Pinneo,H \$95.00 smcs; Platte Valley Comm \$513.89 smcs; Pohlman,K \$40.12 smcs; Presto-X \$245.00 smcs; Pulliam,R \$40.00 smcs; Purinton,G \$30.00 smcs; Ready Mixed Concrete \$200.09 smcs; Recorded Books \$1,440.08 smcs; Red Willow Co HHW \$3,015.00 smcs; Rich,T \$50.00 smcs; Rourke Publishing \$1,705.05 smcs; Sage,P \$65.00 smcs; Salazar,C \$21.29 smcs; Sandry Fire \$609.00 smcs; Schanou,J \$476.50 smcs; School District #7 \$5,993.15 smcs; Schriener,S \$100.00 smcs; See Clear Cleaning \$2,050.00 smcs; Severson,P \$125.00 smcs; Shotkoski Services \$415.23 smcs; Silverstone \$4,720.00 smcs; Sirsi Corporation \$27,903.28 smcs; Smith,G \$15.47 smcs; Snap-On Tools \$1,498.02 smcs; Sorensen Group \$5,020.95 smcs; SOS Portable Toilets \$235.00 smcs; Steffensmeier,J \$1,250.00 smcs; Stitch 3 \$10.00 smcs; Tacha,J \$50.00 smcs; Thompson Co. \$65.36 smcs; Thompson,K \$191.65 smcs; Tielke's Sandwiches \$16.80 smcs; Tokay Software \$790.00 smcs; Tour Edge \$626.88 smcs; Trent,R \$38.84 smcs; Tri-County Glass \$108.75 smcs; Tye Law Firm \$13,636.60 smcs; Uldrich,K \$15.00 smcs; Union Bank & Trust \$153,190.76 ps; USA Communications \$155.95 smcs; USGA \$110.00 smcs; Van Diest \$2,673.11 smcs; Verizon \$1,640.43 smcs; Vessco \$310.92 smcs; Village Uniform \$777.66 smcs; Walsh,C \$186.05 smcs; Ward Laboratories \$21.75 smcs; Wasteworks \$546.20 smcs; Weller,B \$13.80 smcs; Wells Fargo \$113,251.31 smcs,ds; Werner,K \$31.04 smcs; Wilco Life Insurance \$19.00 ps; William Kent Krueger \$2,602.00 smcs; Williams,M \$53.50 smcs; Yant Equipment \$105.00 smcs; Payroll Ending 10/28/2017 -- \$432,856.93, Payroll Ending 11/11/2017 -- \$427,255.45. 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. Accept the bids received for the purchase of a side load refuse compactor truck used in the Utilities Department and award the bid to Wicks Trucks in the amount of \$251,441.00.
- 4. Accept the bids received for the purchase of a hook lift truck used in the Utilities Department and award the bid to Nebraska Truck Center in the amount of \$145,760.00.
- 5. Adopt Resolution No. 2017-193 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Lot 1, Bearcat Corner Addition between the City of Kearney and Buffalo County School District 10-007.

**RESOLUTION NO. 2017-193**

WHEREAS, on the 24th day of March, 2015 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2015-59 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Buffalo County School District 10-007 to construct water mains for domestic water use and fire protection for Lot 1, Bearcat Corner Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

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

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

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

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for water mains for domestic water use and fire protection to serve the property described as Lot 1, Bearcat Corner Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

- 6. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and/or Parking Restrictions Permit Application submitted by Bridgett Lavene on behalf of Downtown Kearney to extend the Downtown Christmas Walk to include the use of 6 parking stalls in front of 2205 Central Avenue on November 30, 2017.

- 7. Approve the application for a Special Designated License submitted by CHI Health Good Samaritan to dispense alcoholic liquor inside CHI Health Good Samaritan located at 10 East 31st Street on Friday, December 1, 2017 from 5:30 p.m. until 7:00

p.m. for a charity/holiday event.

- 8.** Accept the bids received for the purchase of a four-wheel assist tractor with cab and mounted loader to be used in the Landfill and award the bid to Kearney Equipment in the amount of \$36,220.00.
- 9.** Approve the applications 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 cater and dispense alcoholic liquor as follows:

  - a) Inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Tuesday, December 5, 2017 from 11:00 a.m. until 7:00 p.m. for a business event;
  - b) Inside Heartland National Bank located at 212 East 56th Street, on Wednesday, December 6, 2017 from 4:00 p.m. until 9:00 p.m. for a business event;
  - c) Inside Landmark Implement located at 3108 Highway 30 East, on Wednesday, December 6, 2017 from 3:00 p.m. until 8:00 p.m. for a business event;
  - d) Inside the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Wednesday, December 13, 2017 from 5:00 p.m. until 11:00 p.m. for a business Christmas party;
  - e) Inside the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, December 16, 2017 from 3:00 p.m. until 1:00 a.m. for a reception;
  - f) Inside the Expo Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, December 16, 2017 from 5:00 p.m. until 1:00 a.m. for the P.B.R. Bull Riding Event;
  - g) Inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, December 16, 2017 from 5:00 p.m. until 1:00 a.m. for the P.B.R. Bull Riding Event;
  - h) Inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, December 30, 2017 from 3:00 p.m. until 1:00 a.m. for a reception;
  - i) Inside the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Sunday, December 31, 2017 from 3:00 p.m. until 12:00 a.m. for a reception;
  - j) Inside the Expo Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, January 6, 2018 from 5:00 p.m. until 1:00 a.m. for a cage fight; and
  - k) Inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, January 13, 2018 from 5:00 p.m. until 1:00 a.m. for a concert.
- 10.** Approve the application for a Special Designated License submitted by Kearney Area Chamber of Commerce to dispense alcoholic liquor inside The Archway located at 3060 East 1st Street on Thursday, December 7, 2017 from 5:00 p.m. until 8:00 p.m. for a holiday reception.

**V. CONSENT AGENDA ORDINANCES**

None.

**VII. REPORTS**

**CLOSED SESSION**

Moved by Lear seconded by Buschkoetter that Council adjourn into closed session at 7:08 p.m. for the protection of the public interest to discuss real estate matters and possible litigation matters. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss real estate matters and possible litigation matters. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Buschkoetter seconded by Lear that Council reconvene in regular session at 7:51 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

**VIII. ADJOURN**

Moved by Buschkoetter seconded by Lear that Council adjourn at 7:51 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**LAUREN BRANDT  
CITY CLERK**