

*Kearney, Nebraska
December 11, 2012
7:00 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on December 11, 2012 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, and Bob Lammers. Absent: None. Also present was incoming Council Member Jonathan Nikkila. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Brad Brandt, Scott Stober, Craig Bennett, Jerry Bumgardner, Brett Jacobitz, Sean Denney, Les Mock, Renae Reidy, Ken Tracy, Jerry Thompson, Barb Thompson, Jim Tacha, Dave Krueger, Terry Eirich, Gene Hinrichs, Gisel Theis, Dereck Dempcy, terry Seals, Shawn Munster, Sean Puls, Toby Badura, Gene Beerbohm, Robin Haase, Spencer Hinrichs, Mike Page, Kevin Royle, Dan Follmer, Max Gintzler, Matt Noffke, Thom Schneider, Dan Thompson, approximately 20 more volunteer firefighters, six students from UNK, Steve Altmaier from KGFW Radio, Mary Jane Skala from Kearney Hub, Nina Harrelson from NTV.

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. REORGANIZATION AND ROUTINE BUSINESS

INVOCATION

With the absence of a representative from the Kearney Ministerial Association, the Council held a moment of silent prayer.

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.

APPROVE MINUTES

Moved by Lammers seconded by Lear that the Minutes of Regular Council Meeting of November 27, 2012, and Minutes of the Kearney Area Solid Waste Agency Meeting of September 11, 2012 be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Motion carried.

CERTIFICATE OF VOTE

City Clerk read the following Certificate of Vote from the November 6, 2012 General Election for Kearney City Council by the Buffalo County Election Commissioner's Office:

Jonathan Nikkila	8,156
Stanley Clouse	7,447
Bruce Lear	5,152
Larry Butler	4,617
Jim Bungler	3,270

Lisa Poff
Buffalo County Election Commissioner's Office

Moved by Lear seconded by Buschkoetter to accept the Certificate of Vote from the Buffalo County Election Commissioner's Office. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ADMINISTER THE OATH OF OFFICE

City Clerk administered the Oath of Office to Council Members Stanley Clouse, Bruce Lear and Jonathan Nikkila.

NOMINATION FOR PRESIDENT/MAYOR

City Clerk stated that nominations would be received for President of the Council and Ex-Officio Mayor who will also serve as President of the Kearney Area Solid Waste Agency. Council Member Lear nominated Stanley Clouse for this position. Hearing no other nominations, nominations were closed. Stanley Clouse is nominated President of the Council and Ex-Officio Mayor who will also serve as President of the Kearney Area Solid Waste Agency. Roll call for those in favor of Stanley Clouse for President of the Council: Buschkoetter, Lear, Nikkila, Lammers, Clouse. City Clerk stated the ayes have it and Stanley Clouse is elected President of the Council and Ex-Officio Mayor who will also serve as President of the Kearney Area Solid Waste Agency.

NOMINATION FOR VICE-PRESIDENT

Mayor Clouse stated that nominations would be received for Vice-President of the Council. Council Member Lear nominated Randy Buschkoetter for this position. Hearing no other nominations, nominations were closed. Randy Buschkoetter is nominated Vice-President of the Council. Roll call for those in favor of Randy Buschkoetter for Vice-President of the Council: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Mayor Clouse

stated the ayes have it and Randy Buschkoetter is elected Vice-President of the Council.

REAPPOINTMENT OF MICHAELLE TREMBLY AS CITY CLERK

Moved by Clouse seconded by Lammers to reappoint Michaelle Trembly as City Clerk. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT SERVICE AWARDS

Mayor Clouse and Council Members recognized the following volunteer firefighters: Gene Beerbohm, 35 years; Terry Eirich, 25 years; Derek Dempcy, 10 years; Terry Seals, 10 years; Shawn Munster, 10 years; Seth Van Horn, 10 years; Sean Puls, 5 years; and Toby Badura, 5 years. Fire Chief Terry Eirich presented each with Service Awards.

RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT FIREFIGHTER COURSE I

Mayor Clouse and Council Members recognized the following volunteer firefighters for completing the Firefighter I Course: Robin Haase, Spencer Hinrichs, Mike Page, and Kevin Royle. Fire Chief Terry Eirich presented each with a plaque.

RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT FIREFIGHTER COURSE II

Mayor Clouse and Council Members recognized the following volunteer firefighters for completing the Firefighter II Course: Dan Follmer, Max Gintzler, Matt Noffke, Thom Schneider and Dan Thompson. Fire Chief Terry Eirich presented each with a plaque.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

DEVELOPMENT PLANS FOR NORTHEAST CORNER OF 39TH STREET AND 20TH AVENUE

Mayor Clouse opened the public hearing on the application submitted by Scott Stober (Applicant) for Brad Brandt (Owner) for Planned District Development Plan Approval for a medical clinic on property zoned District C-O/PD, Office/Planned Development Overlay District for property described as Lot 2, Colonial Estates 5th Addition, a replat of Block 2, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska

(northeast corner of 39th Street and 20th Avenue) and to consider Resolution No. 2012-219. Planning Commission recommended approval noting the deviation in the landscape strip along 39th Street near the southeast corner of the site.

The applicant has submitted Development Plans for a proposed medical office building on the north side of 39th Street, east of 20th Avenue. The property contains 1.287 acres and is zoned C-O/PD, Office District with Planned Development Overlay District. The building has a footprint of about 8,300 square feet and contains a partial basement for a total square footage of just over 12,000 square feet. The majority of the parking is contained in a large lot in front of the proposed building, but 15 spaces are also available along the public alley bordering the north side of the site. The alley parking is intended for employees. The proposed building itself will be quite handsome featuring a lot of brick and stucco with a hip roof. A complete Landscape Plan is provided that exceeds the City landscape requirements. The existing four-foot wide public sidewalks along both streets are in poor condition. The developer plans to remove the existing walks and replace them with new sidewalks five feet in width to better accommodate the school children walking to Windy Hills Elementary school. Stormwater detention has been calculated and runoff will either go to the existing inlet in 39th Street near the southeast corner of the site or north one block in 20th Avenue to an existing inlet.

One deviation is being requested. The front parking lot encroaches into the required landscape strip along 39th Street near the southeast corner of the site. The required landscape area is generally a minimum of ten feet in width, but in this case it narrows down to a lesser dimension. Staff supports this deviation.

Craig Bennett stated originally, this project had a site development plan and they came back to Council this summer and had the site rezoned from R-3 to C-O/PD. That is the reason they have come back to Council because of the development plan designation. The platted dimensions have not changed. The site is hinged on the west by residential and on the east and south by mixed used residential. The development plan has a connection point that will line up with the apartment complexes to the west of 20th Avenue. This development has a lot of green space so it is well under the maximum impervious area of 50.4. The required number of parking stalls is 47 and they have provided 55 stalls. Basically, the access point is off of 20th Avenue will be a curved access with perpendicular stalls in front of the building. The building will be facing the intersection of 20th Avenue and 39th Street. There will also be a sign located along 39th Street. The employees will access through the alley which is already paved to parking stalls in the back of the building. There will also be a garage with a sidewalk access. There is infrastructure to connect water and sewer and required detention for storm water with an outlet to the south.

Scott Stober stated the exterior of the building will be brick on the lower half with efface and sloped roofs which will tie into the residential nature of the area. This is a medium size commercial building, but they have tried to break it down to fit in with the scale of the neighborhood. The intent was not to use the total site but to maximize and get a nice building on the site that fits well, sits back from the corner and allows visibility and safety for the school children and traffic that comes along that street. They will be replacing one of the sidewalks on 20th Avenue on the east side of the building which has deteriorated over the years.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and adopt **Resolution No. 2012-219** approving the application submitted by Scott Stober (Applicant) for Brad Brandt (Owner) for Planned District Development Plan Approval for a medical clinic on property zoned District C-O/PD, Office/Planned Development Overlay District for property described as Lot 2, Colonial Estates 5th Addition, a replat of Block 2, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska (northeast corner of 39th Street and 20th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2012-219

WHEREAS, Scott Stober (Applicant) for Brad Brandt (Owner) have applied for Planned District Development Plan Approval for a medical clinic on property zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 2, Colonial Estates 5th Addition, a replat of Block 2, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska (northeast corner of 39th Street and 20th Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Scott Stober (Applicant) for Brad Brandt (Owner) for Planned District Development Plan Approval for a medical clinic on property zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 2, Colonial Estates 5th Addition, a replat of Block 2, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska (northeast corner of 39th Street and 20th Avenue) be approved subject to compliance with the following conditions:

- To remove the existing sidewalks and replace them with new sidewalks five feet in width to better accommodate the school children walking to Windy Hills Elementary.
- It is noted that the front parking lot encroaches into the required landscape strip along 39th Street near the southeast corner of the site. The required landscape area is generally a minimum of ten feet in width, but in this case it narrows down to a lesser dimension of 5.6 feet.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

DEVELOPMENT PLANS FOR PROPERTY WEST OF 22ND AVENUE AND SOUTH OF 10TH STREET

Mayor Clouse opened the public hearing on the application submitted by Craig Bennett and Les Mock (Applicant) for WNH, LLC (Owner) for Planned District Development Plan Approval for a medical office building on property zoned District C-O/PD, Office/Planned Development Overlay District for property described as Lot 1 of Block Three, Western Nebraska Development Addition to the City of Kearney, Buffalo County, Nebraska (west

of 22nd Avenue and south of 10th Street) and to consider Resolution No. 2012-220. Planning Commission recommended approval noting that all requirements contained in the Subdivision Agreement must be completed in their entirety before a Certificate of Occupancy will be issued.

The applicant has submitted Development Plans for a proposed medical office building (MOB) west of Yanney Heritage Park. The MOB is proposed on the same lot as the unfinished hospital building. The original Development Plans for this lot, Lot 1, Block 3 of Western Nebraska Development Addition, depicted a future MOB in roughly the same location as the new submission; however, the new version is attached to the hospital building whereas the original plan showed it as a free-standing building, and the size of the MOB has increased by some 9 to 12 percent. Therefore, staff required the applicant to submit the updated plans as Revised Development Plans for Planning Commission and City Council review.

The lot contains 15.93 acres and is zoned C-O/PD, Office District with Planned Development Overlay District. The combined building now has a footprint of about 93,400 square feet and contains a partial basement for a total square footage of about 108,800 square feet. 419 parking stalls are required and 500 are proposed. For the most part the exterior site improvements such as parking layout and landscaping have changed very little from the original plan. There are some minor changes but the two plans are very similar except for attaching the two buildings.

Staff has met several times with the Development Team and expressed concerns regarding the incomplete status of the hospital building. At the latest meeting, the Development Team assured the City that the project will move forward. They understand and agree that the various components detailed in the Subdivision Agreement must be completed before any Certificate of Occupancy will be issued by the City. The following is a summary of key issues:

- The developers indicated that they will be applying for a new building permit to finish the hospital inside and out as the original permit has expired. They indicated that the original construction plans will be the basis for the new permit, no changes are proposed. Their anticipated completion date for the hospital is July 2013. Work on the MOB will commence in spring 2013.
- The developers have not yet transferred ownership of the public improvements (streets, water, sewer) to the City as stipulated in the agreement. They are working towards this goal with their lender to remove existing liens and transfer these items lien-free.
- The Subdivision Agreement along with the Landscape Master Plan that was originally submitted require a 70-foot wide no build landscape buffer with berms and 27 trees along the west side of Kea West Road. The developer understands that this landscaping is required as part of the development package for Lot 1, Block 3 (hospital/MOB site) even though this landscaping is not located on the lot. It was agreed that this landscaping can wait until spring 2013 given the upcoming winter weather. No Certificate of Occupancy for either hospital or MOB will be issued until the landscape buffer is complete.
- The parking lots need to be constructed in accordance with the revised plan for both the hospital and the MOB; however the construction schedule will likely be phased where the parking for the hospital is completed before the parking for the

MOB. There will be cross-parking agreements between the owners of the hospital and the owners of the MOB to insure unimpeded site circulation and access to parking. The Certificate of Occupancy will not be issued for either the hospital or the MOB if the required associated parking is not done.

- The stormwater system is in place including parking lot inlets and piping that direct the water to the detention cells which are also completely built.
- The Revised Development Plans depict the tree plantings on Lot 1, Block 3 pretty much the same as they were on the original plan. The agreement obligates the developer to install the street trees, turf grass, and irrigation system for the entire length of 22nd Avenue and 10th Street as they abutt this lot. Staff will work with the developer and contractors to insure the trees go in at the appropriate time. If they are planted prematurely they may be damaged by construction activity associated with the building and parking lots. No Certificate of Occupancy will be issued for either owner if the landscaping associated with their part of the building is not complete.
- At this time, the developers do not envision further subdividing of Lot 1, Block 3 into two lots – one for the hospital and one for the MOB. Instead, the owners of the hospital will actually own the entire building but lease back the MOB portion to the doctors.

City staff is pleased to see this project moving forward once again. A quality project will be a nice addition to the southwest quadrant of town.

Craig Bennett from Miller & Associates stated this is a one lot site and when this site was originally platted, there were several outlots on the exterior. The site is hinged south of 11th Street and west of Kea West Avenue and west of the Yanney Park area. This lot is just less than 16 acres where there is an existing structure that had been under construction for the hospital. The existing structure has a paved circle drive on the interior. The property is zoned C-O/PD and the change to the site is major enough that it was deemed necessary to bring it back through Planning Commission and Council.

Because of the way construction ended on this project, there are some things that are still outstanding that they want to complete. They needed to provide a 75 foot landscape buffer before the Certificate of Occupancy could be in place. The remaining lots in the area will continue to be undeveloped at this time. The goal is to complete the hospital and to build a new medical office building next to it. The existing structure has a 12-inch water main on the west and south sides, the detention cells are already in place for the first phase. Sanitary sewer is also constructed through this subdivision, as well as the paving and storm water conveyance systems. When they came to the Council in 2010, the medical office building was shown disconnected from the hospital.

Mr. Bennett stated that the conveyance of the public infrastructure (water, sanitary sewer and paving) had not been done. The City as of this meeting date is in receipt of a letter for the conveyance of those utilities which will be an item on the December 26 Council Agenda. That was one of the outstanding items before the Certificate of Occupancy is issued to them.

Les Mock from DWA Architects stated in the original plan there had not been any specific discussions with the owners about how the medical office building would be, so they made a guess at that time. Now that they are ready to proceed, they have discussed it with these groups and determined this is the layout they believe will work best for the proposed tenants. It is very similar to what was previously proposed. When the building was first built, there was a section that was just shelled in and not finished at the time due to construction costs. In the new plan, they are going to tie into that space and connect it to the medical office building so the tenants will have an interior link to the hospital. The overall circulation does not change. The parking will be to the west, with designated parking for the staff of the medical office building and the hospital. The patient parking will be convenient to either the hospital or medical office building entrance. They have separated these two uses and also for ambulance traffic when they finish out their emergency department in the future.

The original proposal on the master plan was about 44,000 square feet and this plan is just under 50,000 square feet. There is also a space in the back of the building that could be finished in the future with adequate parking depending on its use.

Construction will resume on the hospital building this week since the owners have closed on their construction financing. The general contractor has mobilized into town and there will be some activity before the end of the year. The majority of the activity will start after the first of the year. The hospital building is a precast concrete construction which was done because of the higher codes for hospitalization type usage. The medical office building will be similar and will use the same brick as is on the hospital, same window materials and same stone that is around the entryway. The medical office building will be using a nevus synthetic plaster system which costs less since they do not have the same requirements for the medical office building as the hospital. There will be a two story structure on the west where the Platte Valley Medical Group will be located and the rest of the building will be single story off that corridor for the potential 5-6 other tenants in this building. They have two tenants signed up and are working with others.

One of the concerns of the Planning Commission was the screening along Kea West and the other trees and parking. Those items are in the contract of the hospital contractor. Since that contract has been reopened, all requirements will be met prior to the medical office building being completed.

Council member Lammers asked if there was any change for the buffer on Kea West from the original plan. Mr. Mock stated there are no changes from the hospital drawings as presented to the City and approved on the original plan. The contract will be completed without any changes.

Mayor Clouse commented that all issues had been addressed in their Council packet after much discussion at the Planning Commission meeting.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2012-220** approving the application submitted by Craig Bennett and Les Mock (Applicant) for WNH, LLC (Owner) for Planned District Development Plan Approval for a medical office building on property zoned District C-O/PD, Office/Planned Development Overlay District for property described as Lot 1 of Block Three, Western Nebraska Development Addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2012-220

WHEREAS, Craig Bennett and Les Mock (Applicant) for WNH, LLC (Owner) have applied for Planned District Development Plan Approval for a medical office building on property zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 1 of Block Three, Western Nebraska Development Addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Craig Bennett and Les Mock (Applicant) for WNH, LLC (Owner) for Planned District Development Plan Approval for a medical office building on property zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 1 of Block Three, Western Nebraska Development Addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street) be approved subject to compliance with the terms and conditions detailed in the Subdivision Agreement must be completed before any Certificate of Occupancy will be issued by the City.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REVISED CONDITIONAL USE PERMIT TO CROSSROADS CENTER; ORDINANCE NO. 7659A

Mayor Clouse opened the public hearing on the revised application submitted by Crossroads Center (Applicant/Owner) for a Conditional Use Permit to expand the homeless shelter on property zoned District C-1/PD, Limited Commercial/Planned Development Overlay District and described as part of Lot 2, Grandview Estates Eighth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1404 East 39th Street) and to consider Ordinance No. 7659A. Planning Commission recommended approval allowing an increase of 15 additional persons and recognizing the shared parking agreement that has been proposed along with the five conditions listed in the ordinance.

The applicant is requesting an amendment to existing Conditional Use Permit (CUP) No. 2011-05 to add additional clientele at the Kearney Crossroads location. The request is for 15 additional persons to be added to the existing limit of 27 persons for a revised total of 42 persons.

The Mission is categorized as “Group Residential” in the “Use Types” Chapter 13 of the zoning ordinance. Required parking for Group Residential is one space per resident and the existing parking lot contains 27 parking spaces. In large part, the number of available parking spaces helped determine how many residents would be allowed under the initial CUP, e.g. 27 spaces equates to 27 residents. However, this quantity exceeds the number allowed by the zoning regulations. Chapter 46 of the zoning ordinance limits the total allowable number of persons in a group residential setting in C-1 to ten persons. City Council approved exceeding the cap set by Code by allowing up to 27 residents at the mission.

The Mission is requesting an increase in the maximum capacity of persons allowed by the CUP to provide more flexibility in allocating space to each of the different categories of residents. Some of the residents may be single adult males, or single adult females, but oftentimes there are families seeking assistance. A family could be mother, father and some number of children or a single parent family. In order to provide safety and privacy to all residents, the groups are segregated into different areas. Depending on the mix at any given time, there may be unoccupied rooms that cannot be offered to new arrivals because of the segregation issues.

Another reason the Mission would like the ability to accommodate more guests is related to longer term housing issues. Although some of the residents stay for a short period of time, some utilize the Mission as interim housing until they can afford market rate housing. These residents may lack the resources to attain self-sufficiency outside of the Mission environment, even after completing the education and treatment programs provided by the Mission. If the occupancy cap is increased, some of the available space would be allocated to meet these needs.

In order to add additional persons, the zoning ordinance requires Crossroads to provide a minimum of one additional parking stall for each additional resident. In discussions between the City Staff and Crossroads representatives, a quantity of 15 additional persons was agreed upon as a reasonable request. This means that the Mission needs at least 15 more parking stalls beyond what they currently have on-site. Their plan is to use some of the excess parking next door at Just for Ladies health spa in a shared parking arrangement. Just for Ladies requires 60 parking stalls to meet minimum Code requirements and there are 88 stalls on the property resulting in an excess of 28 stalls. Crossroads and Just for Ladies have prepared and executed a cross-parking agreement allowing Crossroads to use the extra 28 stalls on the Just for Ladies site. Since the extra parking is located within 300 feet of Crossroads and because a parking agreement is in place, this arrangement satisfies Code requirements. The expiration date of the parking agreement is tied to the expiration date of the initial CUP (which was five years, or to July 12, 2016). When the CUP expires, Crossroads must request renewal of the CUP and the parking agreement is designed to renew in five year increments unless it is terminated in writing by either party. This 5-year renewal cycle then coincides with the 5-year CUP cycle. Only 15 supplemental parking stalls are required by Code to accommodate the increase of 15 persons. The agreement is based on 28 parking stalls, which is 13 more stalls than required to meet the occupancy increase of 15 additional persons.

The concerns and observations of City Staff that the Council may wish to consider are summarized below.

- The requested increase is 320 percent greater than the maximum density allowed by Code (42 persons versus 10 persons).
- Additional increases which deviate from Code requirements may set a precedent and appear to justify continued deviations resulting in further departures from Code requirements.
- Approval of the requested increase may encourage requests for deviations at other group residential settings.
- City staff has no adequate enforcement provisions to regulate the number of persons at this site at any given time. Unfortunate circumstances such as a fire, may prove that an increase above Code densities is an untenable situation, but would not be preventable without adequate enforcement.
- The existing building that Crossroads purchased was originally constructed as a group home with no CUP required and no restrictions on the number of occupants by the City (other than limits established by life safety concerns such as State Fire Marshal occupancy limits).
- There was no person or group in opposition to this request at the Planning Commission hearing, nor has City Administration received any written or electronic correspondence opposing an increase in population.
- The Mission has been open and operating since January 2012 with no major complaints or perceived problems.

Increasing the occupancy cap is a policy issue that was previously debated by Planning Commission and City Council in the initial request to exceed the code limit of ten persons. These issues are matters of policy beyond the capacity of Staff's authority. Therefore, Staff's position can perhaps best be described as neutral; neither in support nor in opposition while the City Council will debate a decision based on interpretation of policy. Planning Commission recommended approval of the CUP amendment allowing an increase of 15 additional persons and recognizing the shared parking agreement that has been proposed along with the conditions listed at the end of this memo.

For the reasons expressed herein, Staff remains neutral in regards to this request for a Revised Conditional Use Permit. Planning Commission decision was for the Revised CUP to be submitted to City Council with recommendation for approval with the following stipulations:

- 1) Revise the occupancy limit of CUP No. 2011-05 from 27 to 42;
- 2) Recognize, attach, and incorporate by direct reference the shared parking agreement between B & K Holl Family, LLC (Just for Ladies) and Crossroads Center;
- 3) Stipulate that cancellation of the parking agreement by either party at any time during the duration of the CUP contract will result in a reduction in population at Crossroads Center to 27 persons within 30 days;
- 4) Any modification to the parking agreement that results in less than 15 parking spaces available for Crossroads Center will reduce the population at Crossroads Center accordingly within 30 days;
- 5) Recognition that even though the executed parking agreement authorizes Crossroads Center the use of 28 parking stalls, this quantity shall provide no

justification for an increase of population at Crossroads Center above 15 persons, or whatever quantity of additional persons that the Council authorizes in the revised CUP above the original 27.

Jerry Bumgardner from Crossroad Center presented this matter to the Council. He stated that they would like to come before the Council every six months and report on the counties that the people are from that they are serving. He stated the next project they would like to do is a playground in the green space behind their facility for the families they serve at Crossroads. He also stated he had no issues with the conditions that were set forth in their revised Conditional Use Permit.

Mr. Bumgardner stated that since they opened in February 2012, they have been at capacity of the 27 occupants they were allowed to have at their facility. At the present time, they have 29 people on their waiting list. Their goal is to provide for as many people as they feel they can and are comfortable with. Council member Lammers asked how many people they can provide for above the 27 they are approved for. Mr. Bumgardner stated that presently, they are at capacity and daily have to turn people away. He stated that they were granted permission to raise the number of occupants in Hastings just this week. It has been an emergency to get them to Hastings from here because they can house more people there. The majority of people they serve are from this area (Buffalo County and adjacent counties) and these people would like to be with their families in this area. It has been a struggle to find other accommodations until they have a bed available for them. Some church groups have provided motel rooms, as well as other individuals have provided help.

Scott Stober from Wilkins Hinrichs Stober Architects stated they took a quick look at the Crossroads building and spent some time with Chief Building Inspector Max Richardson and believed that 56 people would be maximum number of residents for this building.

Mayor Clouse stated this is a little stretch from where they were in the beginning, but it has been proven over the last year that there is a need in our community for this type of service. One of the responsibilities of the Council is to meet some community needs. He believed that there is a real need so he was very supportive of this increase.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the revised application submitted by Crossroads Center (Applicant/Owner) for a Conditional Use Permit to expand the homeless shelter on property zoned District C-1/PD, Limited Commercial/Planned Development Overlay District and described as part of Lot 2, Grandview Estates Eighth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1404 East 39th Street) allowing an increase of 15 additional persons subject to compliance with the five conditions listed in the ordinance and introduced Ordinance No. 7659A 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. 7659A. President of the Council asked for

discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7659A by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7659A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7659A 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.

**PROPOSED AMENDMENTS TO CHAPTERS 52, 53 AND 54 OF CITY CODE;
ORDINANCE NO. 7777**

Mayor Clouse opened the public hearing on the proposed amendments to Chapters 52, 53 and 54 of the City Code to provide better clarification on the requirements for developing subdivisions. Planning Commission recommended approval.

City Planner Lance Lang presented this matter to the Council. Staff has been working on amendments to the subdivision chapters in the Unified Land Development Ordinance (ULDO), Chapters 52 to 54. These are the first three chapters that regulate subdivision of land.

- Chapter 52 Subdivisions: Basic Conditions
- Chapter 53 Subdivision Approvals & Procedures
- Chapter 54 Subdivision Design Criteria & General Standards

Many of the revisions can be considered “housekeeping” types of changes wherein specific titles, names or wording is changed to reflect recent changes in the City departmental structure. For example, the Development Services Department was created separate from the Public Works Department that previously managed these services. Therefore, many references to the Public Works Department have been changed to the Development Services Department. In like fashion, many of the City personnel have had changes in their title, eg. Planning Commission Clerk to Development Coordinator. These changes simply reflect accuracy in current terminology.

More substantial changes address department policy, procedures, timing and deadlines, and standards and specifications. The two most critical revisions for the development community are probably changing the Public Works Plan to the Infrastructure Feasibility Plan, requiring supplemental information associated with said plan, and increased focus on the Utilities Comment Form, the process whereby utility providers request easements. A section on street lighting requirements has been added. Erosion and

sediment control requirements have been updated to reflect current NPDES standards which is required of all communities by the EPA.

Development Services staff met with developer's representatives to gain input and discuss the proposed changes. Several modifications to the proposed amendments were made based on these discussions. Also, invitations were sent to a representative cross-section of the developers inviting them to two public meetings, one on October 22nd and one on October 23rd but no one attended.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the proposed amendments to Chapters 52, 53 and 54 of the City Code to provide better clarification on the requirements for developing subdivisions and introduced Ordinance No. 7777 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 7777. 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. 7777 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. 7777 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. 7777 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

IV. CONSENT AGENDA

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

1. Approve the following Claims:

PS	Personnel Services
SMCS	Supplies, Materials & Contractual Services
ER	Equipment Rental

CO	Capital Outlay
DS	Debt Service

Aflac \$2,929.22 ps; Alfred Benesch \$2,486.22 co; All Makes Auto Supply \$887.01 smcs; Amer First Aid \$677.40 smcs; Amer Red Cross \$38.00 smcs; AWWA \$1,615.00 smcs; Antelope Newspaper \$140.00 smcs; Ask Supply \$662.72 smcs; Aurora Coop \$54.40 smcs; Baker & Taylor Books \$3,523.91 smcs; Bamford \$1,854.30 smcs; Barney Ins \$5,101.50 smcs; Blessing \$891.00 smcs; Bluecross Blueshield \$59,886.26 smcs; Bosselman \$32,303.93 smcs; Brabec,R \$1,116.38 smcs; Brigham Lofts \$137,206.00 smcs; Broadfoot's \$91.00 smcs; Buffalo Co Reg Deeds \$84.50 smcs; Buffalo Co Treasurer \$41,571.50 smcs,co; Builders Warehouse \$207.47 smcs,co; Buysm Sod \$1,600.00 smcs; Capital Business Systems \$181.82 smcs; Capstone Press \$4,778.82 smcs; Cash-Wa \$1,624.16 smcs; Charter \$543.22 smcs; City of Ky \$304,688.40 smcs,ps; Copycat Printing \$244.14 smcs; Depository Trust \$26,061.25 ds; Dish \$68.70 smcs; Dmilaco \$1,587.24 smcs,ps; Dutton-Lainson \$1,160.09 smcs; Eakes \$12,340.09 smcs,co; Ecolab \$37.04 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$308.27 smcs; EMC Ins \$190.00 smcs; Gale \$805.08 smcs; Galls \$184.58 smcs; Garrett Tires \$2,269.60 smcs; Griffith,B \$11.35 smcs; Grove,J \$948.00 smcs; Gurney & Associates \$999.00 smcs; Hach Co \$4,502.70 smcs; Hoehner Turf \$125.00 smcs; Hoehner,C \$3,769.54 co; Hometown Leasing \$207.71 smcs; Horizon Middle School \$100.00 smcs; Hotsy Equipment \$6,000.00 co; ICMA RC \$3,800.67 ps; Infogroup \$2,968.00 smcs; IRS \$113,853.48 ps; Islam,I \$4,455.00 smcs; Jack Lederman \$27.28 smcs; JLC \$314,508.00 co; Jones Automotive \$437.60 co; K&K Parts \$1,340.20 smcs; Ky Crete & Block \$248.45 smcs; Ky Hub \$343.41 smcs; Ky Storytelling \$600.00 smcs; Ky United Way \$1,105.74 smcs,ps; Ky Visitors Bureau \$57,552.99 smcs,co; King,M \$31.00 smcs; Krull Ins \$1,950.00 smcs; Lawn Builders \$1,925.00 smcs; Leopold Painting \$9,745.00 co; Lincoln Winwater Works \$3,312.72 smcs; Magic Cleaning \$2,400.00 smcs; Mail Express \$42.53 smcs; Matheson Tri-Gas \$81.60 smcs; McIntosh,M \$75.00 smcs; Menards \$70.37 smcs; Metlife \$7,648.96 ps; Middleton Electric \$709.44 smcs; Midlands Contracting \$3,836.22 co; Mid-NE Garage Doors \$302.55 smcs; Miller & Associates \$5,536.34 smcs,co; Montgomery,L \$20.00 smcs; Moonlight Embroidery \$2,443.00 smcs; Municipal Supply \$6,668.32 smcs; NCS Equipment \$79.75 smcs; NE Child Support \$2,368.66 ps; NE Dept of Revenue \$37,050.75 ps; NE Public Health \$631.00 smcs; NE Safety & Fire \$440.00 smcs; NE State Fire Marshall \$120.00 smcs; Neopost \$6,000.00 smcs; NeRPA \$140.00 smcs; New World Systems \$6,236.84 co; NMC Exchange \$4,922.89 smcs; Northwestern Energy \$1,195.53 smcs; NRG Media \$39.00 smcs; Nuttelman Fencing \$5,464.65 smcs; O'Keefe Elevator \$367.97 smcs; Olive Software \$12,311.28 smcs; Outdoor Recreation \$212.00 smcs,ps; Overdrive \$3,650.00 smcs; Pat's Plumbing \$2,000.00 smcs; Payflex \$522.75 smcs,ps; PCS Mobile \$3,760.00 co; Pickens,C \$25.00 smcs; Platte Valley Comm \$35,311.30 co; Presto-X \$302.80 smcs; Pulliam,R \$40.00 smcs; Random House \$192.50 smcs; Recognition Unlimited \$71.00 smcs; Recorded Books \$1,950.53 smcs; Red Willow County \$2,335.00 smcs; Reiter,D \$55.14 smcs; Roper's Radiator \$1,015.00 smcs; RSG Home Improvement \$2,350.00 smcs; SA Foster \$637.81 smcs; Sage,P \$57.06 smcs; Saltzgaber,S \$32.09 smcs; Sapp Bros \$28,294.50 smcs; Schindler Elevator \$1,256.82 smcs; Shade Systems \$9,432.00 co; Smith Signs \$200.00 smcs; Snow,T \$50.00 smcs; Sonetics Corp \$580.00 smcs; St of NE/AS Central \$4,150.92 smcs,co; Steinbrink Landscaping \$220.00 smcs; Sun Life Financial \$52,488.25 smcs; Sunrise Middle School \$100.00 smcs; Turfwerks \$35,523.31 co; Tye & Rademacher \$11,101.42 smcs;

US Bancorp Center \$6.25 smcs; US Govt Printing \$117.00 smcs; Union Bank & Trust \$58,082.12 ps; UNK Board of Regents \$428.47 ps; Van Diest Supply \$3,928.80 smcs; Verizon Wireless \$1,045.70 smcs; Village Uniform \$538.47 smcs; Wallwey,G \$99.99 smcs; Walsh,C \$146.52 smcs; Walters Electric \$500.00 smcs; Weiner,E \$474.00 smcs; Wells Fargo Bank \$2,000.00 smcs; Zimmerman Printing \$29.50 smcs; Payroll Ending 12-1-2012 -- \$366,473.48. 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.

2. Accept the bids received for the purchase of a custom fire aerial apparatus to be used by the Kearney Volunteer Fire Department and approve the recommendation on awarding the bid to Sutphen Fire Equipment in the amount of \$980,452.00.

3. Adopt **Resolution No. 2012-221** approving Application and Certificate for Payment No. 1 in the amount of \$585,574.01 submitted by Midlands Contracting and approved by Miller & Associates for the 2012 Part 2 Improvements consisting of Water Extension District No. 2012-1 for 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet to connect to the existing water main.

RESOLUTION NO. 2012-221

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2012 Part 2 Improvements consisting of Water Extension District No. 2012-1 for 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet to connect to the existing water main, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$585,574.01, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$682,026.50</u>
Contract Sum To Date	682,026.50
Gross Amount Due	616,393.69
Retainage	30,819.68
Amount Due to Date	585,574.01
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$585,574.01

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

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Adopt **Resolution No. 2012-222** approving Change Order No. 1 showing an increase in the amount of \$2,520.00, Application and Certificate for Payment No. 1-Final in the amount of \$56,140.00, and accept the Certificate of Substantial Completion submitted by Wilke Contracting and approved by Miller & Associates for the 2011 Part 14 Improvements; Avenue H Viaduct Repairs.

RESOLUTION NO. 2012-222

WHEREAS, Wilke Contracting of Kearney, Nebraska has performed services in connection with the 2011 Part 14 Improvements; Avenue H Viaduct Repairs, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$2,520.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Wilke Contracting and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$56,140.00, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$53,620.00
Change Order No. 1 (11-27-2012)	<u>+ 2,520.00</u>
Contract Sum To Date	56,140.00
Gross Amount Due	56,140.00
Retainage	.00
Amount Due to Date	56,140.00
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$56,140.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 19, 2012, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 1-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt **Resolution No. 2012-223** approving the Agreement between the City of Kearney and Wilkins Hinrichs Stober Architects for design services of a hangar to be located at the Kearney Regional Airport.

RESOLUTION NO. 2012-223

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

Agreement on behalf of the City of Kearney, Nebraska with Wilkins Hinrichs Stober Architects for design services of a hangar located at the Kearney Regional Airport. The Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Adopt **Resolution No. 2012-224** setting forth a statement of the City's official intent to issue tax-exempt bonds in the amount of \$1,000,000.00 for the purchase of a Fire Department Aerial Apparatus.

RESOLUTION NO. 2012-224

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska (the "City"), as follows:

Section 1. The President and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2. This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond proceeds provided is as follows:

Fire Department Aerial Apparatus	\$1,000,000.00
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2. The maximum principal amount of debt expected to be issued for such project is \$1,000,000.00.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt **Resolution No. 2012-225** approving the Development Constructed Infrastructure Agreement between the City of Kearney and TWL, LLC for paving, sanitary sewer and water improvements for Bel Air Fifth Addition and Lots 6 through 17 of Block Three, Bel Air Third Addition.

RESOLUTION NO. 2012-225

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement to construct the public improvements consisting of paving,

water and sanitary sewer for Bel Air Fifth and Addition and Lots 6 through 17 of Block Three, Bel Air Third Addition” between the City of Kearney and TWL, LLC be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with David Terveen on behalf of TWL, LLC to construct said infrastructure improvements as stated above.

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

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt **Resolution No. 2012-226** appointing Nicole Mailahn to fulfill the term vacated on the Advisory Board of Park & Recreation Commissioners and Brett Jacobitz to fulfill the term vacated on the Board of Adjustment.

RESOLUTION NO. 2012-226

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, a vacancy currently exists on the Advisory Board of Park & Recreation Commissioners and the Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to fulfill the vacated terms as indicated:

ADVISORY BOARD OF PARK & RECREATION COMMISSIONERS

Nicole Mailahn appointed to fulfill the term vacated by Ann Snider to July 31, 2013.

BOARD OF ADJUSTMENT

Brett Jacobitz appointed to fulfill the term vacated by Jonathan Nikkila to July 31, 2013.

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2012-227** approving the Avenue A corridor from 25th Street to 31st Street be signed to stop east-west traffic and allow free flowing north-south traffic which would include the removal of the north and south bound stop signs at the intersection of Avenue A and 29th Street, and the installation of east and west bound stop signs at the intersections of Avenue A and 26th, 27th, 29th and 30th Streets.

RESOLUTION NO. 2012-227

WHEREAS, since the installation of the traffic signals located on Avenue A at the intersections of 31st Street and 39th Street, the north-south traffic movements have continued to increase and the signals have encouraged the use of Avenue A as a direct route to downtown; and

WHEREAS, the recent increase in traffic movements are indicative to considering the north-south movement as the primary direction of vehicular travel for this corridor; and

WHEREAS, an engineering study has been performed on Avenue A at the intersections of 26th Street, 27th Street, 29th Street, and 30th Street over the past months to determine if these intersections would warrant stop signs at the intersections to allow Avenue A to be the primary north-south vehicular travel direction; and

WHEREAS, the engineering study determined the Avenue A corridor from 25th Street to 31st Street does warrant stopping east-west traffic and allowing free flowing north-south traffic at the intersections of Avenue A and 26th, 27th, 28th, 29th and 30th Streets.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Avenue A corridor from 25th Street to 31st Street be signed to stop east-west traffic and allow free flowing north-south traffic which would include the removal of the north and south bound stop signs at the intersection of Avenue A and 29th Street, and the installation of east and west bound stop signs at the intersections of Avenue A and 26th, 27th, 29th and 30th Streets. The signage at the intersection of Avenue A and 28th Streets would remain unchanged.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to erect the necessary and proper signs.

PASSED AND APPROVED THIS 11TH DAY OF DECEMBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N on January 5, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7778 SELLING PORTION OF PIPER SUBDIVISION

Chief Industries has recently inquired as to whether or not they could purchase two buildings adjacent to their property and near the Kearney Regional Airport. Chief is in need of additional storage space and would like to acquire these buildings so that they can fix them up and use them for additional storage. The buildings are not presently used for aviation purposes. At the last Council meeting, the Council approved the Purchase Agreement for Chief to purchase both buildings for \$115,000.00.

In accordance with Section 16-202 of the Nebraska Revised Statutes, the City shall proceed by ordinance directing the conveyance of such real estate. Notice of such sale and the terms thereof shall be published for three consecutive weeks which also provides for a 30-day remonstrance against such sale.

Council Member Clouse introduced Ordinance No. 7778, being Subsection 1 of Agenda Item V selling Lots 2 and 3 of Block 1, Piper Subdivision located on Airport property to Chief Industries, Inc., 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 suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7778 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 Lammers seconded by Nikkila that Ordinance No. 7778 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. 7778 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

PIZZA HUT MANAGER APPLICATION FOR RENAE REIDY

Mayor Clouse opened for discussion the Manager Application for Renae Reidy submitted by Peak Interests, dba Pizza Hut in connection with their Class A-33603 liquor license located at 1412 2nd Avenue.

Renae Reidy, presented this matter to the Council. She has been employed by the Pizza Hut located at 1412 2nd Avenue for five years. She has been the assistant manager for three years and two months ago took over being the manager. She has been a part of the orientation and training they do with their employees. Their policy is to do in-house training of their employees at orientation and as part of their employee file they must sign off that they are old enough to serve alcohol, understand the liquor laws and that serving a minor would result in their immediate termination. They also do alcoholic training throughout the year where each employee must read through the alcohol laws even if they are not serving alcohol. She does not allow her minors to even check IDs; that is only done by the employees who are over 21. Those employees who are old enough have all been through the TIPS training provided by Region III.

Moved by Nikkila seconded by Lear to recommend approval to the Nebraska Liquor Control Commission the Manager Application for Renae Reidy submitted by Peak Interests, dba Pizza Hut in connection with their Class A-33603 liquor license located at 1412 2nd Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

ORDINANCE NO. 7775 ANNEXING 1300 EAST 11TH STREET

Mayor Clouse stated Ordinance No. 7775 annexing into the City limits property located at 1300 East 11th Street will be placed on second reading by title only.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7775 annexing a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M. Buffalo County, Nebraska (1300 East 11th Street) be placed on second reading by title only. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

City Clerk read Ordinance No. 7775 by title.

OPEN ACCOUNT CLAIMS: NPPD - \$3,550.38, STANLEY CLOUSE - \$146.25

Moved by Buschkoetter seconded by Lammers that Open Account Claims in the amount of \$3,550.38 payable to Nebraska Public Power District and in the amount of \$146.25 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

Mayor and Council members welcomed Jonathan to the Council. Council member Nikkila stated he looked forward to serving the community and working with the Council.

VIII. ADJOURN

Moved by Lear seconded by Buschkoetter that Council adjourn at 8:01 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**