

*Kearney, Nebraska
December 9, 2008
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 9, 2008 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Lance Lang, City Planner; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Gerry O'Rourke, Calvin Shearer, Tony Jelinek, Craig Bennett, Mitch Humphrey, Steve Altmaier from KGFW Radio, Sara Giboney from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION

Reverend Shannon Montgomery, Student at UNK, provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

APPROVE MINUTES

Moved by Kearney seconded by Lammers that the Minutes of Regular Council Meeting of November 25, 2008 and the Minutes of the Kearney Area Solid Waste Agency Meeting of September 9, 2008 be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

CERTIFICATE OF VOTE

City Clerk read the following Certificate of Vote from the Buffalo County Election Commissioner:

This letter is to certify the results of the November 4, 2008 General Election for Kearney City Council Members:

Stanley Clouse	8,747
Don Kearney	8,737
Bruce Lear	8,408

Glenda M. DeBrie
Buffalo County Election Commissioner

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

ADMINISTER THE OATH OF OFFICE

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

NOMINATION FOR PRESIDENT/MAYOR

City Clerk stated that nominations would be received 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 Stan Clouse for this position. Hearing no other nominations, nominations were closed. Stan 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 Stan Clouse for President of the Council: Kearney, Clouse, Buschkoetter, Lear, Lammers. City Clerk stated the ayes have it and Stan 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 Clouse 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, Lammers, Kearney, Buschkoetter, Lear. 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 Kearney seconded by Lear to reappoint Michaëlle Trembly as City Clerk. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

LAND USE MAP AMENDMENT NORTH OF 92ND STREET WEST OF ANTELOPE AVENUE

Public Hearings 1 and 2 pertain to the same development and were discussed together.

Mayor Clouse opened the public hearing on the Application submitted by John H. and Connie L. Allan (Applicant and Owner); Eric Allan and Brenda Whitcomb-Allan (Owner); Matthew C. and Kathleen L. Stoltenberg (Owner); BSBB, LLP (Owner); Kevin W. and Letta Taylor (Owner); Nathan C. and Megan J. Blazek (Owner); Keith A. and Jessica L. Greni (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Agricultural/Open" to "Rural Estates" for a tract of land described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope Avenue) and to consider approval of Resolution No. 2008-216. Staff and Planning Commission recommended approval of the Land Use Map amendment and rezoning for this property as presented.

City Planner Lance Lang presented this matter to the Council. The property owners in two rural subdivisions were recently informed that the Two-Mile Extra Territorial Jurisdiction Line (ETJ) of the City of Kearney has expanded due to recent annexation of property into the City Corporate Limit. The two subdivisions, known as Windy Meadows Subdivision and Windy Meadows Second Subdivision are now within the ETJ line and subject to City regulation instead of Buffalo County. The subdivisions were originally approved by Buffalo County and a few houses were built under County regulations. All new construction will be regulated by the City.

Currently this property is considered Agricultural by the City as it has just recently come into the City ETJ and was never zoned otherwise. All of the land in these two subdivisions must be rezoned from AG, Agricultural to RR-1, Rural Residential District (Rural Standards). The Future Land Use Map of the City of Kearney Comprehensive Development Plan must be amended to accommodate this rezoning request. The current map designation is "Agricultural/ Open" and the proposed land use designation is "Rural Estates." There are approximately 25 rural housing lots that are affected by

this action. These lots will be served by gravel streets and individual well and septic systems. The homes that have already been constructed will not be subject to retroactive inspection by the City, but all new construction, including additions to homes that were constructed under the County regulations must now meet City standards.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by John H. and Connie L. Allan (Applicant and Owner); Eric Allan and Brenda Whitcomb-Allan (Owner); Matthew C. and Kathleen L. Stoltenberg (Owner); BSBB, LLP (Owner); Kevin W. and Letta Taylor (Owner); Nathan C. and Megan J. Blazek (Owner); Keith A. and Jessica L. Greni (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Agricultural/Open" to "Rural Estates" for a tract of land described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope Avenue) and approve **Resolution No. 2008-216**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2008-216

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope Avenue) from "Agricultural/Open" to "Rural Estates", 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 "Agricultural/Open" to "Rural Estates" the use classification for the area described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter

of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope Avenue).

PASSED AND APPROVED THIS 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING NORTH OF 92ND STREET WEST OF ANTELOPE AVENUE

Mayor Clouse opened the public hearing on the Application submitted by John H. and Connie L. Allan (Applicant and Owner); Eric Allan and Brenda Whitcomb-Allan (Owner); Matthew C. and Kathleen L. Stoltenberg (Owner); BSBB, LLP (Owner); Kevin W. and Letta Taylor (Owner); Nathan C. and Megan J. Blazek (Owner); Keith A. and Jessica L. Greni (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards)" property described as a tract of land described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope Avenue).

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by John H. and Connie L. Allan (Applicant and Owner); Eric Allan and Brenda Whitcomb-Allan (Owner); Matthew C. and Kathleen L. Stoltenberg (Owner); BSBB, LLP (Owner); Kevin W. and Letta Taylor (Owner); Nathan C. and Megan J. Blazek (Owner); Keith A. and Jessica L. Greni (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards)" property described as a tract of land described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

LAND USE MAP AMENDMENT EAST OF CHERRY AVENUE ON THE NORTH AND SOUTH SIDES OF 56TH STREET

Public Hearings 3 and 4 pertain to the same development and were discussed together.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Buffalo County Economic Development Council

(Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Business Park", "Mixed Use 2" and "General Industrial" to "Light Industrial" for a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of 6th P.M.; part of Lots 11, 12, 13 and 14, all of Lots 15 through 26 inclusive and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska; and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., containing 257.82 acres, more or less, all located in Buffalo County, Nebraska (east of Cherry Avenue on the north and south sides of 56th Street) and to consider approval of Resolution No. 2008-217. Staff recommended approval of the vacation, land use map amendment, and rezoning for this property revising the rezoning request from M-1/PD to straight M-1 zoning. After discussion with the Planning Commission regarding planned versus non-planned zoning, the Planning Commission concurred and their recommendation is for M-1, Limited Industrial zoning district.

The Buffalo County Economic Development Council is marketing property around the Kearney Municipal Airport for lease or sale for industrial development. There are several tracts that could be considered depending on the programming requirements, operating characteristics, infrastructure demands and access requirements that each prospective company may identify. One important part of promoting this land is to be able to offer land that is zoned properly that meets the aforementioned functional needs for a given prospect. As you know, the rezoning process requires 60 to 90 days which can be seen as an unacceptable delay for companies on a tight timeline.

Therefore, the Buffalo County Economic Development Council and the City of Kearney are working together to identify sites that might be suitable for pre-development zoning to attract potential economic development prospects. The site before you today is the first site containing some 257.82 acres east of Cherry Avenue on the north and south sides of 56th Street extended east. A parcel of this size would be marketable for a number of different businesses or industries. The operating characteristics and needs of each prospect would determine the amount of land required and the exact location of that land within the overall tract. A subdivision or metes and bounds description, depending on the size of the site, could then be prepared to subdivide the land from the overall parcel.

The first step in this process is to vacate some old platting that was approved many years ago to "clean the slate" so to speak for re-parceling of the land in the future. Several lots and blocks and associated streets that are currently platted will be vacated as shown on the agenda. Next, the Future Land Use Map of the City of Kearney Comprehensive Development Plan must be amended to accommodate this rezoning request. The current map designation is a combination of "Business Park," "Mixed Use 2," and "General Industrial." The proposed land use designation is "Light Industrial." The corresponding zoning change is from District AG to District M-1, Limited Industrial District.

The agenda states the proposed rezoning as a planned development incorporating a PD onto the M-1 for a rezoning to M-1/PD. After further discussion at DRT it has been determined that a planned district designation is not necessary for this property. The

Planning Commission was concerned that the proposed rezoning may be revised to a regular non-planned district. They felt it was more appropriate to require planned zoning. Staff explained the reasoning behind dropping the planned designation. The City currently owns the property and could add provisions to the sales contract to regulate design. Similarly, if a subdivision is involved, a subdivision agreement could address such issues. As potential prospects are considered, some of the larger ones will automatically trigger the planned zoning if their site exceeds 20 acres in M-1 zoning. Other, smaller prospects may be deemed as planned development projects by the City due to their operating characteristics. For example, the land abutting the north and south sides of 56th Street extended east to the airport terminal will be sensitive to develop as the gateway to the airport. Planned district development or special overlay zones with development standards will be used to manage development along this major arterial street. Any prospective developer will be advised by the Economic Development Council that the property has been rezoned for industrial use and utilities and access are available to the site, however planned district procedures may be required depending on which part of the overall tract they wish to develop. The planned procedures will require a full set of Development Plans be approved by the Planning Commission and City Council prior to building permits, similar to the process that the Baldwin Filters representatives are following with their expansion plans.

Craig Bennett from Miller & Associates presented stated the property is owned by the City of Kearney. The Buffalo County Economic Development Board has perspective buyers that would fit well with this property. They want to start the rezoning process to accommodate them. This entire area is 257 acres which is east and adjacent to Cherry Avenue. 56th Street does not currently bisect the parcel. There are plans by the County to extend and pave 56th Street from about where Eastbrooke ends now and pave out to and across the field to the Airport property. Part of the process is to help facilitate some of that right-of-way extension, as well as rezoning some of the area that they need to capture. They have been approached by people asking for larger parcels that would require M-1 zoning, somewhere in the 100+ acre type of parcels. They are not looking to put the entire 257 acres into M-1.

To start out the process, they do not know where the boundary of the M-1 will be and they need to have a little flexibility regarding that. The existing land use map shows agricultural. The future land use map as provided by the comp plan shows that this proposed area would be utilized as Mixed Use-2 which is commercial and office, development of business park and general industrial. The majority of it now is agricultural by default, but looking at the zoning of M-1 which would be contiguous to the south and the east side of the property. Primarily, the property that a potential buyer would come in to develop for that larger parcel would probably be on the south end. They want to reserve the right-of-way when 56th Street comes through to plat the parcels on either side of that right-of-way for different uses than M-1. They might want something with a little better curb appeal.

In 1959, there was a subdivision called "Proposed Industrial Subdivision" done by Frank Green which is currently platted with streets, lots and blocks already set up. When the plan for 56th Street is over-laid on that platted property, it is not in exact alignment. They determined this would be a good time to do some housekeeping and vacate a portion of that which would be easiest to vacate within the boundary. This will allow it to

be easier and cleaner to manage when 56th Street is extended. There is currently water and sanitary sewer along the south and east side of this parcel. Historically, taking a look at pictures during the 1960's you will see that these roads do exist with the airport and the military structures that are out there. Since then it has been converted to agricultural area. There are some street vacations that have taken place on the first block, but with the City ground that is currently available there are still some areas that need to be platted.

City Manager stated they will be taking all that land into consideration and try to develop all of these sites into the best views. At this time some are vacant, some are leased, and some have businesses on them. They are going to be taking into consideration the future use of the airport and this property and combine it into one comprehensive plan for the entire development of the air park. The goal is to develop a business park concept. Once City utilities, transportation infrastructure, future Cherry Avenue and 56th Street projects are underway, this is just one part of it.

Mayor Clouse asked if someone came and wanted to develop out there, would it slow down the process because it would be platted. City Manager stated it would slow down the process for the areas that are not platted, but if the areas are not zoned, it would definitely slow down the process. This will clean that up and eliminate all those old plats, streets and right-of-way and make sure they are consistent with 56th Street, as well as the ability to market this land. They want to maintain the maximum flexibility, but give the most potential and quick turn around time to meet some developers needs. They have had developers in the past that shied away once they realized that it was 90-120 days to do anything in this area. They are going to develop their own standards and requirements because it is City property.

City Manager continued to state they will have some stringent development standards that they can be applied, like to any City property. They want to make sure that they are sensitive to the 56th Street corridor. They want to make sure the City is prepared to go forward when a developer makes a request. After this process is done, they will look at the drainage, water, sewer and also possibly some connecting roads to get to this site. The Cherry Avenue Bypass will benefit it significantly when it is completed; however, before than they need to have some paved roads coming from east to west to the site and perhaps an extension of the road to the north. This is just the first step to clean up the long history of the airport.

Mr. Bennett stated the proposed 257 acres to be rezoned to M-1 would not require a potential buyer or company that would come in that wants larger than ten acres to go through that platting process. Having it zoned and in place is a plus because most will be looking at parcels greater than ten acres. That would expedite the process for them and not lose some potential buyers.

Council member Lammers expressed concern about M-1 zoning not having a lot of set guidelines. City Manager stated that everything must be approved by the City Council and is City property. He believed that Baldwin Manufacturing was a great example of City property that was sold with reasonable conditions on it to benefit the area as to what the City wanted it to look like. This would be the same process they would apply in this area. Conditions might be less, just because of the location. They are going to

be a little more sensitive around that 56th Street corridor and towards the airport. They have communicated to the Development Council what the City's concerns are and what restrictions are in place.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Buffalo County Economic Development Council (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Business Park", "Mixed Use 2" and "General Industrial" to "Light Industrial" for a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of 6th P.M.; part of Lots 11, 12, 13 and 14, all of Lots 15 through 26 inclusive and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska; and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., containing 257.82 acres, more or less, all located in Buffalo County, Nebraska (east of Cherry Avenue on the north and south sides of 56th Street) and approve **Resolution No. 2008-217**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2008-217

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land described as a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; part of Lots 11, 12, 13, 14, and all of Lots 15 through 26 inclusive, and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska, and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the southwest corner of the South Half of the Southwest Quarter of said Section 21; thence N01°16'27"W (an assumed bearing with all other bearings shown hereon relative thereto) on the west line of said Section 21 a distance of 1320.83 feet to the northwest corner of said South Half of the Southwest Quarter; thence N88°35'47"E on the north line of said South Half a distance of 2247.17 feet; thence S01°15'50"E a distance of 281.06 feet to the beginning of a non-tangent curve to the right having a central angle of 54°06'35", a radius of 1377.00 feet, an arc length of 1300.43 feet and a chord length of 1252.64 feet bearing S27°03'48"E; thence S05°48'20"W a distance of 86.10 feet; thence S07°52'19"W a distance of 307.37 feet; thence S27°56'28"W a distance of 331.42 feet to the south line of said Lot 11; thence N83°57'17"W on said south line extended westerly a distance of 130.32 feet to the southeast corner of said Lot 16 and the westerly line of Avenue B as platted on said Proposed Industrial Subdivision; thence S05°59'53"W on said westerly line a distance of 2834.42 feet; thence S88°44'46"W a distance of 744.91 feet to the easterly line of a 66 feet wide tract for railroad spur purposes; thence N01°26'33"W on said easterly line a distance of 416.05 feet to the north line of Kearney Industrial Park Second, Buffalo County, Nebraska, extended easterly; thence S88°26'43"W on said north line extended

and the north line of Kearney Industrial Park, Buffalo County, Nebraska, a distance of 1336.74 feet to the west line of said Section 28; thence N01°16'22"W on said west line a distance of 3145.57 feet to the Point of Beginning, said tract containing 257.83 acres, more or less, all in Buffalo County, Nebraska (south of 13th Street between Avenue F and Avenue G and North of 11th Street) from "Business Park", "Mixed Use 2" and "General Industrial" to "Light Industrial", 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 "Business Park", "Mixed Use 2" and "General Industrial" to "Light Industrial" the use classification for the area described as a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; part of Lots 11, 12, 13, 14, and all of Lots 15 through 26 inclusive, and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska, and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the southwest corner of the South Half of the Southwest Quarter of said Section 21; thence N01°16'27"W (an assumed bearing with all other bearings shown hereon relative thereto) on the west line of said Section 21 a distance of 1320.83 feet to the northwest corner of said South Half of the Southwest Quarter; thence N88°35'47"E on the north line of said South Half a distance of 2247.17 feet; thence S01°15'50"E a distance of 281.06 feet to the beginning of a non-tangent curve to the right having a central angle of 54°06'35", a radius of 1377.00 feet, an arc length of 1300.43 feet and a chord length of 1252.64 feet bearing S27°03'48"E; thence S05°48'20"W a distance of 86.10 feet; thence S07°52'19"W a distance of 307.37 feet; thence S27°56'28"W a distance of 331.42 feet to the south line of said Lot 11; thence N83°57'17"W on said south line extended westerly a distance of 130.32 feet to the southeast corner of said Lot 16 and the westerly line of Avenue B as platted on said Proposed Industrial Subdivision; thence S05°59'53"W on said westerly line a distance of 2834.42 feet; thence S88°44'46"W a distance of 744.91 feet to the easterly line of a 66 feet wide tract for railroad spur purposes; thence N01°26'33"W on said easterly line a distance of 416.05 feet to the north line of Kearney Industrial Park Second, Buffalo County, Nebraska, extended easterly; thence S88°26'43"W on said north line extended and the north line of Kearney Industrial Park, Buffalo County, Nebraska, a distance of 1336.74 feet to the west line of said Section 28; thence N01°16'22"W on said west line a distance of 3145.57 feet to the Point of Beginning, said tract containing 257.83 acres, more or less, all in Buffalo County, Nebraska (south of 13th Street between Avenue F and Avenue G and North of 11th Street).

PASSED AND APPROVED THIS 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING EAST OF CHERRY AVENUE ON THE NORTH AND SOUTH SIDES OF 56TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Buffalo County Economic Development Council (Owner) to rezone from "District AG, Agricultural District" to "District M-1/PD, Limited Industrial/Planned Development Overlay District" property described as a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of 6th P.M.; part of Lots 11, 12, 13 and 14, all of Lots 15 through 26 inclusive and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska; and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., containing 257.82 acres, more or less, all located in Buffalo County, Nebraska (east of Cherry Avenue on the north and south sides of 56th Street).

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Buffalo County Economic Development Council (Owner) to rezone from "District AG, Agricultural District" to "District M-1, Limited Industrial District" property described as a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of 6th P.M.; part of Lots 11, 12, 13 and 14, all of Lots 15 through 26 inclusive and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska; and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., containing 257.82 acres, more or less, all located in Buffalo County, Nebraska (east of Cherry Avenue on the north and south sides of 56th Street). Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

FINAL PLAT FOR CAHILL SECOND SUBDIVISION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for John Cahill (Owner) for the Final Plat for "Cahill Second Subdivision" of Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 3.88 acres, more or less, Buffalo County, Nebraska (600 feet north of 30th Street and west of Cottonmill Avenue) and to consider approval of Resolution No. 2008-218. Staff and Planning Commission recommended approval of the vacation and subdivision plat for this property.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. The applicant is requesting approval to plat a tract of land that is in the Two-Mile Extra Territorial Jurisdiction on the west side of Cottonmill Avenue approximately 600 feet north of 30th Street. The property is zoned RR-1, Rural Residential District (Rural Standards).

The proposed subdivision will consist of one lot, 3.88 acres in size and is to be known as Cahill Second Subdivision. The Preliminary Plat for Cahill Second Subdivision was approved by Planning Commission on November 21, 2008. Staff waived contours on the Preliminary Plat. A letter from Buffalo County Highway Department was submitted by the applicant approving the use and location of the existing driveway cut for an additional residence and also confirming that no additional right-of-way needs to be dedicated along Cottonmill Avenue. No subdivision agreement is required. A Public Works Plan is not required. The property will be served by individual well and septic systems. Natural drainage is acceptable.

There was some concern at the Planning Commission that the balance of the unplatted property, some 26 or so acres, is left with inadequate access if this subdivision is approved as presented. After discussion staff assured the Commission that there are dedicated roads that provide access to the balance of the land. Due to the terrain, this area is difficult to access but there is acceptable access.

Mitch Humphrey from Buffalo Surveying stated the entire property encompasses approximately 26 acres. There is a concern for access to the remainder of the acreage. The City staff and Planning Commission seemed to be comfortable with the access to this site which is located west of Cottonmill Avenue and north of 30th Street. They are asking approval for partitioning off 3.88 acres on the westerly side of Cottonmill Avenue. There is a nice building site or two in there which is encompassed with a great deal of trees that were basically hand planted a number of years ago. Mr. Cahill intends on retaining the balance of the property for himself. There is a driveway access towards the southerly part of the subject property and there is a letter that was provided by the Buffalo County Highway Department recognizing the safety of that access point, as well as the lack of any additional requirements for right-of-way dedication.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for John Cahill (Owner) for the Final Plat for "Cahill Second Subdivision" of Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 3.88 acres, more or less, Buffalo County, Nebraska (600 feet north of 30th Street and west of Cottonmill Avenue) and approve **Resolution No. 2008-218**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2008-218

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "CAHILL SECOND SUBDIVISION" of Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the southwest corner of the Northwest Quarter of said Section 32 and assuming the south line of said Northwest Quarter as bearing N89°53'28"E and all bearings contained herein are relative thereto; thence

N89°53'28"E and on the aforesaid south line a distance of 1252.02 feet to a point on the east line of 58th Avenue, said point also being the southeast corner of Ellenwood Addition, a subdivision being part of the Southwest Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence leaving the east line of said 58th Avenue and the southeast corner of said Ellenwood Addition and continuing N89°53'28"E on the aforesaid south line a distance of 728.11 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N89°53'28"E on the aforesaid south line a distance of 366.24 feet to a point on the west line of Cottonmill Avenue; thence leaving the aforesaid south line N23°16'02"W and on the west line of said Cottonmill Avenue a distance of 545.43 feet; thence continuing on the west line of said Cottonmill Avenue, N16°40'02"W a distance of 201.0 feet to the southeast corner of VEL-CO Subdivision, a Subdivision being part of the East Half of the Northwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence S60°07'23"W and on the southerly line of said Lot 2, VEL-CO Subdivision a distance of 176.26 feet; thence leaving the southerly line of said VEL-CO Subdivision, S06°05'28"E a distance of 608.16 feet to the place of beginning, containing 3.88 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Kearney County, Nebraska.

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

PASSED AND APPROVED THIS 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

FINAL PLAT FOR GREAT WESTERN ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Great Western Properties, LLC (Owner) for the Final Plat for "Great Western Addition" to the City of Kearney, Buffalo County, Nebraska for property described as Lots 1 through 10, inclusive of Block 28, Lots 1 through 12, inclusive of Block 29, all of Block 28; all of Block 29; Lot 5 of Block 30; Lots 1, 2, 3, 4, 5 of Block 42; Lots 1, 2, 3, 4, 5 of Block 43; 29th Street and 30th Street lying east of Avenue N and west of the west line of the K&BH Railroad right-of-way; Avenue O lying south of the north line of 30th Street and north of the center line of Blocks 42 and 43; Avenue P of the K&BH Railroad right-of-way, all in East Lawn Addition to the City of Kearney, Buffalo County, Nebraska (east of Avenue N, south of 30th Street and north of 28th Street) and to consider approval of Resolution No. 2008-219. Staff recommended approval. Planning Commission requested staff to check on the dead-end water line and additional 17-feet of Avenue N right-of-way with the Utilities and Public Works Departments respectively. The dead-end water line is acceptable and there is no need for an additional 17 feet of right-of-way along Avenue N. However, the applicant is dedicating 7 feet of right-of-way along Avenue N.

The applicant is requesting approval to plat a tract of land that was the drive-in theater located east of Avenue N between 28th Street and 30th Street. The property is zoned M-1, Limited Industrial District and the proposed use is convenience storage on proposed Lot 1, undetermined for Lots 2, 3, and 4. There are 130 storage units shown on Lot 1 with 12 parking stalls. Landscaping is provided. Several blocks in East Lawn Addition as shown on the agenda must be vacated to replat this property. The proposed subdivision will consist of four lots on 8.6 acres and is to be known as Great Western Addition. The Preliminary Plat for Great Western Addition was approved by the Planning Commission on November 21, 2008. The Public Works Plan shows a dead-end water line. Discussion was held at the Planning Commission meeting regarding adequate flow needed for fire protection as well as the issue of stagnant water. City Planner verified with the Utilities Director that a dead-end water line is acceptable. Staff requested seventeen (17) feet of additional land shall be dedicated on the east side of Avenue N on the Final Plat, but the Planning Commission did not believe that the additional land was necessary. Only two access points that meet the design criteria in the ULDO will be allowed on the Avenue N frontage.

Mitch Humphrey from Buffalo Surveying stated this site is commonly known at the "Drive-In" site which is located just east of 28th and 30th Street and east of Avenue N. There are plans for development of this property. To accommodate those plans, they have to take the 8.7 acres that the Drive-In theater site encompasses and vacate some lots. These vacations will be in combination with the streets that are located within the subdivision. The plat will divide the ground into four large lots. The property is zoned M-1 which has been there for a long time. The use of the property that they are anticipating will fit nicely into an M-1 zoning which will not be changed at this time. The preliminary plat that was presented caused some concerns for a proposed dead end water line and the dedication of right-of-way. The engineer spoke with the Utilities Department and came to the conclusion they cannot have that dead end water line. They recognize the fact that should the site be developed in such a way that they need portable water for any reason, they would have to loop that line and grant the easements accordingly and the Utility Department would have control over that situation.

The original intention was not to dedicate any right-of-way. The road right-of-way from the bottom of the Avenue M/N Overpass to 39th Street consists of 66 feet of right-of-way. Many of the homes are right at (then required) 15 foot setback line and the street is fully developed. The Code reads that on arterial streets they should grant 17 feet of right-of-way. Since this is a fully developed street, they went back and had a project problem resolution meeting after the Planning Commission and came to the conclusion that they could look at the old school arterial requirements and would be willing to dedicate seven feet which would, if they were to do both sides of the street at once, would accommodate 80 feet of right-of-way. There are a lot of areas (for example) along 39th Street east of Avenue N prior to the reconstruction project that was within an 80-foot section of road. For that reason, they are asking for a deviation from the present requirements.

They will plat one large lot that the owner has some specific uses for at this time and the three smaller lots will be used for business development. They are sharing access points which allow traffic flow on the main street. The access point for the two north

rectangular lots happens to be exactly right on the curb cut area for the exit area for the old drive-in site. The other shared access point will be quite a bit north of the original entrance into the drive-in which will make a much safer entrance into this site. The Graham Tire building sits right on the property line which would have obstructed the site lines looking up and down the street.

Council member Kearney asked why a dead end water line was put in the middle of the parking lot in the drive-in theater. Mr. Humphrey stated that it is not really a water line there yet, they are going to put in a fire line. They propose to have it be a dead end fire line.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Great Western Properties, LLC (Owner) for the Final Plat for "Great Western Addition" to the City of Kearney, Buffalo County, Nebraska for property described as Lots 1 through 10, inclusive of Block 28, Lots 1 through 12, inclusive of Block 29, all of Block 28; all of Block 29; Lot 5 of Block 30; Lots 1, 2, 3, 4, 5 of Block 42; Lots 1, 2, 3, 4, 5 of Block 43; 29th Street and 30th Street lying east of Avenue N and west of the west line of the K&BH Railroad right-of-way; Avenue O lying south of the north line of 30th Street and north of the center line of Blocks 42 and 43; Avenue P of the K&BH Railroad right-of-way, all in East Lawn Addition to the City of Kearney, Buffalo County, Nebraska (east of Avenue N, south of 30th Street and north of 28th Street) and approve **Resolution No. 2008-219**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2008-219

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "GREAT WESTERN ADDITION" to the City of Kearney, Buffalo County, Nebraska for a tract of land described as Lots 1 through 10 inclusive of Block 28; Lots 1 through 12 inclusive of Block 29; Lot 5 of Block 30; Lots 1 through 5 inclusive of Block 42; and Lots 1 through 5 inclusive on Block 43, with the aforescribed lots all now vacated; 29th and 30th Street lying east of Avenue N and west of the west line of the Kearney Branch of the Union Pacific Railroad Company's right-of-way, formerly known as the K. & B.H. Railroad right-of-way; Avenue O lying south of the north line of 30th Street and north of the centerline of Blocks 42 and 43; Avenue P lying south of the north line of 30th Street and northerly of the west line of the Kearney Branch of the Union Pacific Railroad Company's right-of-way, formerly known as the K. & B.H. Railroad right-of-way, with all of the aforescribed portions of Streets and Avenues all now vacated, all in East Lawn Addition to the City of Kearney, Buffalo County, Nebraska, and with all of the aforescribed vacated lots, vacated streets and avenues being part of the West Half of the Southwest Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southwest corner of Section 31 and assuming the west line of the Southwest Quarter of Section 31 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the west line of the Southwest Quarter of said Section 31 a distance of 1595.89 feet to a point being on the north line

of Lots 6 through 9 inclusive of Block 42, the south half of vacated Avenue O being north of 28th Street, a street in the City of Kearney, Buffalo County, Nebraska, and Lots 6 through 10 inclusive of Block 43, all in said East Lawn Addition to the City of Kearney, Buffalo County, Nebraska; thence S88°57'35"E and on the aforesaid north line a distance of 33.0 feet to the ACTUAL PLACE OF BEGINNING, said point being on the east line of Avenue N, a street in the City of Kearney, Buffalo County, Nebraska, said point also being the northwest corner of Lot 6 of Block 43, in said East Lawn Addition; thence continuing S88°57'35"E and on the aforesaid north line a distance of 550.30 feet to the northeast corner of Lot 9 of Block 42, in said East Lawn Addition, said point also being on the west line of the Kearney Branch of the Union Pacific Railroad Company's right-of-way, formerly known as the K. & B.H. Railroad right-of-way; thence N18°27'20"E and on the west line of the aforesaid railroad right-of-way a distance of 608.0 feet to the southeast corner of Lot 1 of Block 2, Sunny Acres Subdivision to the City of Kearney, Buffalo County, Nebraska; thence N88°54'11"W and on the south line of Block 2 of said Sunny Acres Subdivision a distance of 742.96 feet to the southwest corner of Lot 10 of Block 2, of said Sunny Acres Subdivision, said point also being on the east line of said Avenue N; thence SOUTH on the east line of said Avenue N a distance of 580.96 feet to the place of beginning, containing 8.681 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the 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 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMENDMENT TO CHAPTER 50 OF CITY CODE

Mayor Clouse opened the public hearing on the proposed amendment to Section 50-103 "General Sign and Street Graphics Regulations" of Chapter 50 "Sign Regulations" of the Kearney City Code to provide requirements for inflatable balloons, posters, pennants, ribbons, streamers, and spinners. Staff and Planning Commission recommend approval of the Code amendments as presented.

City Planner Lance Lang presented this matter to the Council. City staff is proposing changes to Chapter 50, Sign Regulations as it pertains to temporary signs including balloons, pennants, streamers, flags, inflatables and other attention getting devices and to off-premise advertising in the form of hand-held signs, or character actors and costumes used for the purpose of advertising a business at another location.

One issue that was discussed at Planning Commission was the term “poster” and how posters can be differentiated from “banners” to eliminate confusion. It was suggested that perhaps the word “poster” be stricken from the language governing other attention getting devices because they are so similar to banners and banners are regulated under a separate section. Staff discussion of this issue resulted in the following conclusions.

- Posters and banners can be defined separately. In the past posters have been considered to be the smaller cardboard signs on stakes that are pushed into the ground and oftentimes displayed as a continuous line of such signs along the street twenty or so feet apart.
- Unfortunately, these types of signs are oftentimes displayed on public right-of-way between the sidewalk and the curb and in large quantities.
- Posters are not very durable or well anchored and tend to flap in the wind, which may be the look of movement that the advertisers want to achieve. However, these signs often blow away or become wind damaged.
- The following regulations shall apply to posters:
 - Size of each poster will be limited to four square feet or less. Larger than four square feet shall constitute a banner.
 - Staff recommends that posters be limited to no more than a period of 30 days on two separate occasions in any twelve month period as associated with a special event such as a grand opening, a seasonal sale, or similar.
 - There is no maximum or minimum number of posters allowed.
 - Posters cannot be placed on public right-of-way.
 - Permit and permit fees would be required.
- Banner signs are larger and according to current Code requirements must be attached to the building.
 - Businesses are limited to two per premise that do not exceed 64 square feet in area for each banner.
 - No permit or permit fee is required.

Staff believes that the Code can be amended to better define the differences between posters and banners and regulate them appropriately as discussed above.

The other attention-getting devices, such as balloons, pennants, flags, streamers, and inflatables were presented to the Planning Commission within a framework that would require the business using these types of displays to be an outdoor display oriented business. As such, these types of devices will no longer be limited to specified time limits, but will only be allowed to enhance the outdoor display of businesses that routinely use outdoor displays to market their products or services such as car lots, RV and boat sales, nurseries, lawn and garden stores, implement dealers, tire stores, etc. In no case can the display encroach into the public right-of-way including inflatables that float above the ground. There is no permit or fee required in this proposal.

Staff also presented a proposal to amend regulation of off-premise signage on public right-of-way. Businesses can currently legally advertise off-premise through the use of billboards or by using part of the sign budget on a particular property for off-premise advertising. The sign budget does not include use of temporary signage. Some businesses are using people to carry hand held signs to advertise their businesses at a remote location. Sometimes these people are dressed in costumes or as character

actors to draw more attention to them. Most of the time, the sign carriers are doing their promotion on property that is not owned by the business that is being promoted, and oftentimes the distance between the business and the promotion site, such as a busy street corner, is quite distant. The main consideration is public safety given the proximity to the street, speed of traffic, distraction to motorists, and the fact that the advertisers are sometimes dressed in costumes which may make it more difficult to see or walk safely. Discussion of this issue at Planning Commission revolved around the "proximity factor" or how close or how far from the business is acceptable? Staff has discussed this issue and is proposing limiting such advertising to the site where the product or service is sold. In no case can the advertisers occupy or use the public right-of-way. This approach will provide greater public safety by separating the advertisers from the street and will address the off-premise concerns by limiting the advertisers to their own property.

They considered throwing out the term of poster. From a City regulatory standpoint, it was important to have posters defined in the ordinance. The banners are typically vinyl or other material and bigger than four square feet in size (up to 64 square feet and there can be two at a time), but must be attached to the building (according to Code) and do require a permit. Posters are the smaller variety (four square feet or less and stick in the ground), such as realtors use or K-mart uses every 20 feet or so in a repetitive fashion to advertise a sale. These are very temporary, not very sturdy and get blown around and the City. The City definitely does not want them on the right-of-way. Under the definition section of Chapter 50, they better defined what a banner is and what a poster is.

There are some businesses that take advantage of using character actors, people dressed in costume or people carrying signs around off premise. The locations they choose are sometimes very busy intersections for notability and visibility of advertising their product. The actual business might be several blocks away. The only way off premise advertising is allowed in the Code is by billboard. In addition, they allow in the sign budget that a particular business can do off premise advertising according to City Code. The State Department of Roads has a different view of that issue. People with temporary signs and people parading around with signs would not be allowed for off premise advertising. Safety is one of the main issues with that because they are busy streets. Wearing costumes that might reduce sight visibility or are a possible trip hazard poses a safety hazard. The Planning Commission stated regarding the proximity issue, employees doing advertising must remain on their own site because otherwise they would be off premise.

City Manager stated at the end of the process there were some improvements in many areas, some compromise and some general cleaning up of the Code. Staff will be enforcing these Codes and will monitor these issues on the weekends. The signs up and down the right-of-way are illegal and always have been illegal. Staff will be sent out to monitor and staff does get called out occasionally when there is a complaint. These regulations are very enforceable and although each and every violation might not be caught, the majority will be. The City is aware some businesses that have violated these codes and are perhaps unaware of these new definitions. Those businesses will be sent a courtesy notice advising them of the regulations.

Council member Buschkoetter asked in terms of a public right-of-way if someone was carrying a sign or a sandwich board would that not be protected under the First Amendment. City Attorney Mike Tye stated that there is a distinction between what type of speech that person is communicating. If it is commercial speech (which is what we are dealing with here) when someone is advertising that can be regulated by the municipality. If it is political speech or some other expression that is a whole different matter. The distinction here is this is somebody who is trying to sell a product or attract customers to a business (commercial speech) which puts them into a whole different category. It would have First Amendment protection, unless there are public safety issues in the public right-of-way or other concerns that a municipality might have so it can be regulated. The City has the authority to determine where that commercial speech can occur and define how that is presented. This would definitely fit into that type of category.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the proposed amendment to Section 50-103 "General Sign and Street Graphics Regulations" of Chapter 50 "Sign Regulations" of the Kearney City Code to provide requirements for inflatable balloons, posters, pennants, ribbons, streamers, and spinners. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

IV. CONSENT AGENDA

Mayor Clouse stated the agenda has been amended to include Item 7 to approve the application for a Special Designated License submitted by the Chicken Coop.

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 7 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

1. Approve the following Claims: Ace Hardware \$394.06 smcs; Adam,K \$32.67 smcs; Advance Auto Parts \$53.53 smcs; Aflac \$2,604.74 ps; Alamar \$2,692.16 smcs; Alertshirt \$2,103.68 smcs; Allied Electronics \$1,239.61 smcs; Alltel \$1,270.52 smcs; Amazon \$183.66 smcs; Amer Electric \$665.10 smcs,co; Ameristar Casino Prairie \$61.44 smcs; Ampco Parking Eppley \$21.00 smcs; Amsan \$937.34 smcs; Andersen Wrecking \$100.00 smcs; Anderson,J \$14.93 smcs; Applemarket \$35.87 smcs; Arrow Seed \$437.50 smcs; Arrow Striping \$1,199.00 smcs; Ask Supply \$307.14 smcs; Aurora Cooperative \$2,759.19 smcs; Auto Glass Center \$456.00 smcs; BG Peterson \$114.10 smcs; B&M Cleaning \$150.00 smcs; Bags and Bows \$222.64 smcs; Baker & Taylor Books \$2,492.15 smcs; Bamford \$2,587.30 smcs; Barnes & Noble \$34.95 smcs; BBC Audiobooks \$439.22 smcs; Beckenhauer,T \$13.30 smcs; Best Lock \$790.72 smcs; Bike Shed \$38.99 smcs; Blessing Construction \$271,359.37 smcs,co; Blick Art \$33.74 smcs; Bosselman \$23,118.57 smcs; Brilliance Audio \$213.15 smcs; Broadfoot's \$1,950.00 smcs; Brodart Co \$157.69 smcs; Bronham,C \$21.39 smcs; Bruce Furniture \$8,882.18 co; Buffalo Air Service \$4,319.87 smcs; Buffalo Co Court \$231.41 ps; Buffalo Co Register Deeds \$21.00 smcs; Buffalo Co Treasurer \$14.00 co; Builders Warehouse \$3,328.27 smcs,co; Business Office Systems \$272.40 smcs; Cabela's \$4,546.34 smcs;

Carlson,C \$10.15 smcs; Carquest \$3,120.70 smcs; Casam \$194.85 smcs; Castle Mountain Lodge \$600.00 smcs; CDW Government \$616.54 smcs,co; CED Enterprise \$47.95 smcs; Central Fire & Safety \$2,727.50 smcs; Central Hydraulic \$233.89 smcs; Central States Industrial \$714.01 smcs; Central States Wire \$3,959.18 smcs; Charbonneau,T \$35.00 smcs; Charter \$615.59 smcs; Chief Construction \$10,021.50 co; Christianbookcom \$97.81 smcs; City of Kearney \$186,284.59 smcs,ps; College Savings Plan of NE \$100.00 ps; Commontime \$162.50 smcs; Computer Pros \$42.99 co; Concrete Workers \$60,564.62 co; Consec Life Ins \$24.00 ps; Conserv Flag Co \$146.28 ps; Construction Rental \$296.98 smcs; Copycat Printing \$573.08 smcs; Cowpoke \$311.90 smcs; Creative Teacher \$84.58 smcs; Crossroads Ford \$41.43 smcs; CRW Flags \$217.00 ps; Culligan \$196.00 smcs; Danko Emergency \$2,035.25 smcs,co; Dawson Co PPD \$17,303.72 smcs; Dell \$2,795.99 smcs,co; Depository Trust C \$633,385.00 ds; Diamond Vogel \$49.69 smcs; Dictationma \$68.28 smcs; Ditch Witch \$30.84 smcs; Dmilaco Sports \$250.50 smcs; Drummond \$110.79 smcs; Dutton-Lainson \$178.96 smcs; Eakes \$759.77 smcs; Eileens Cookies \$63.50 smcs; Eirich,T \$50.00 smcs; Engels Glass Design \$52.00 smcs; Entenmann-Rovin \$316.55 smcs; Enterprise \$70.00 smcs; Exit Light \$275.60 smcs; Expedia \$22.00 smcs; Expression Wear \$520.00 smcs,ps; Fairbanks Int'l \$1,868.68 smcs; Farm Plan \$56.22 smcs; Fastenal \$1,453.24 smcs; Fedex \$28.43 smcs; Fiddelke Heating \$543.71 smcs; Fireguard \$17.76 smcs; Fleetpride \$2,009.58 smcs; FOF/Films Media Group \$69.50 smcs; Footjoy \$33.90 smcs; Fox Print Direct \$696.15 smcs; Frontier \$256.57 smcs; Fyr-Tek \$2,755.40 smcs,co; Gale \$579.81 smcs; Galls \$133.07 smcs; Garrett Tires \$947.10 smcs; Gas Stop \$36.30 smcs; GE Money Bank \$2,068.80 smcs; Geredes,L \$595.80 smcs; Go Mobile Now \$25.42 co; Gooch Brake \$843.69 smcs; Gordon's Small Engine \$76.35 smcs; Graham Tire \$480.12 smcs; Grainger \$1,827.65 smcs,co; Great Plains Safety \$250.00 smcs; Greg Harris Attorney \$25.00 smcs; Greg Larson Sports \$118.33 smcs; Hach Co \$13,084.20 smcs,co; Handango \$159.80 smcs; Hardwareworldcom \$64.08 smcs; Hastings \$12.71 smcs; Hausmann Construction \$10,000.00 co; HD Supply \$1,641.04 smcs; Health & Human Services \$136.00 smcs; Heiman Fire Equipment \$1,229.00 smcs,co; Herbergers \$74.88 smcs; Heskett,K \$24.07 smcs; Hobby-Lobby \$57.29 smcs; Holiday \$46.21 smcs; Holiday Inns \$1,216.46 smcs; Holley Performance \$22.63 smcs; Holmes Plbg \$326.83 smcs,co; Hometown Leasing \$207.71 smcs; Hydrite Chemical \$1,782.84 smcs; Hydrologic \$1,012.53 smcs,co; IACP \$1,100.00 smcs; ICMA RC \$4,164.13 ps; ID-Ideascom \$8.10 smcs; Inland Truck Parts \$745.24 smcs; Interactive Study Systems \$3,089.90 smcs; IRS \$105,451.42 ps; Jack Lederman \$474.75 smcs; JcPenney \$2,329.26 smcs; Johnson Controls \$425.75 smcs; Johnson,S \$50.00 smcs; Johnstone Supply \$441.04 smcs; Jrs Western \$2,412.55 smcs; Just,J \$34.52 smcs; K&K Parts \$746.58 smcs; Ky Cinema 8 \$45.00 smcs; Ky Clinic \$35.00 smcs; Ky Concrete \$13,093.70 smcs,co; Ky Crete & Block \$117.25 smcs; Ky Glass \$65.91 smcs; Ky Hub \$5,192.90 smcs; Ky Humane Society \$4,000.00 smcs; Ky Implement \$20,254.37 smcs,co; Ky Truck Parts \$15.00 smcs; Ky United Way \$539.90 ps; Ky Warehouse \$1,614.68 smcs; Ky Winlectric \$166.99 smcs; Ky Yamaha \$491.91 smcs; Killion Motors \$94.13 smcs; Kirkham Michael \$14,695.16 co; Kmart \$226.08 smcs; Konica Minolta \$180.76 smcs; Kowalek,G \$24.40 smcs; Kucera Painting \$6,233.00 smcs; Kum & Go \$26.43 smcs; Lands' End Business \$304.89 smcs; Lawson Products \$980.38 smcs; Lincoln Truck Center \$116.52 smcs; Linweld \$421.32 smcs; Looseleaf Law \$60.90 smcs; Luth,J \$30.41 smcs; Magic Cleaning \$250.00 smcs; Mail Express \$28.87 smcs; Manary,M \$29.65 smcs; Marketing Displays \$171.08 smcs; McCarty,D \$67.89 smcs; Menards \$3,005.11 smcs,co; Metlife \$6,130.93 ps; Mid-

American Specialties \$301.10 smcs; Midwest Turf \$440.04 smcs,co; Miller & Associates \$2,813.68 smcs,co; Milliman \$1,800.00 smcs; Misko Sports \$67.50 smcs; Moonlight Embroidery \$1,307.00 smcs; Municipal Emergency \$1,925.00 co; Municipal Supply \$107.00 smcs; Napa All Makes Auto \$3,413.74 smcs; NCS Equipment \$84.62 smcs; NE Child Support \$2,659.58 ps; NE Community Foundation \$80.00 smcs; NE Dept of Environmental \$328,214.19 smcs; NE Dept of Revenue \$29,997.19 ps; NE St Fire Marshal \$360.00 smcs; NE St Library/Publications \$57.00 smcs; NE Statewide Arboretum \$175.00 smcs; NE Supreme Court \$57.00 smcs; NE Truck Center \$23.35 smcs; NE Well Drillers Assn \$200.00 smcs; Need Decals \$282.00 smcs; Neopost \$8,000.00 smcs; NeRPA \$225.00 smcs; New World Systems \$49,930.00 smcs; Newegg \$126.08 co; Newman Signs \$893.47 smcs; Nivel Parts \$112.11 smcs; NMC \$907.69 smcs; Northwestern Energy \$10,555.13 smcs; NWA Air \$30.00 smcs; Officemax \$1,225.46 smcs,co; Officenet \$329.00 smcs; Old Navy \$96.30 smcs; Omaha World Herald \$75.40 smcs; O'Reilly Auto \$1,540.92 smcs; Oriental Trading \$213.89 smcs; Orscheln \$887.12 smcs,co; Owl Systems \$593.14 smcs; Paintball Online \$200.45 smcs; Paramount \$21.00 smcs; Paulsen \$121,682.70 co; Payflex Systems \$484.50 ps; Paypal \$656.13 smcs,co; PBD Ala-graph Editions \$41.85 smcs; Personal Best \$45.95 smcs; Pet Pick-ups \$672.28 smcs; Platte Valley Comm \$1,762.59 smcs,co; Polk Directories \$297.00 smcs; Presto-X \$78.00 smcs; Prochaska,T \$42.64 smcs; Provantage \$2,684.43 smcs,co; Pumpkin Patch Child Care \$3,666.00 smcs; Quality Inn Suites \$126.00 smcs; Quill \$431.45 smcs; Rademacher,J \$30.67 smcs; Radioshack \$321.88 smcs; Random House \$560.00 smcs; Ray Allen Manufacturing \$54.40 co; Raynor Garage Doors \$92.80 smcs; Ready Mixed Concrete \$6,616.01 co; Reams \$1,693.05 smcs; Recognition Unlimited \$138.94 smcs; Recorded Books \$2,087.62 smcs; Redmans Shoes \$6,044.34 smcs; Reinkes Heating \$202.00 smcs; Rocky Mountain Holiday Inn \$912.88 smcs; Russells Appliance \$249.00 smcs; S.A. Foster Lumber \$5.33 smcs; Sahling Kenworth \$604.15 smcs; Salina Blueprint \$267.04 co; Sanitation Products \$902.05 smcs; Schmidt,J \$15.68 smcs; Sears \$742.45 smcs; S-F Analytical Laboratory \$490.00 smcs; Sheraton Hotels \$1,435.92 smcs; Sherwin Williams \$336.94 smcs,co; Show Me Cables \$53.87 co; SHRM \$160.00 smcs; Siel Construction \$59,906.81 co; Signature Sports \$29.54 smcs; Smith Signs \$90.00 smcs; Snap-On Tools \$4.60 smcs; Softchoice \$1,052.13 co; Solid Waste Agency \$41,782.07 smcs; Sports Village \$26.74 smcs; Standard Equipment \$100.99 smcs; Starbucks \$80.00 smcs; St of NE/AS Central \$3,555.22 smcs; St of NE/DAS Comm \$18.52 smcs; St of NE/HHS Lab \$3,484.00 smcs; Steinbrinks Landscaping \$153.99 smcs; Strategic Materials \$282.12 smcs; Suburban Air Freight \$250.00 smcs; Sun Life Financial \$24,658.54 smcs; Sunmart \$94.94 smcs; Sunrise Middle School \$100.00 smcs; Supershuttle \$24.00 smcs; Sutphen Corp \$118.50 smcs; Sydow,J \$40.00 smcs; Target \$72.02 smcs; Taser Int'l \$450.00 smcs; Taubenheim,J \$32.00 smcs; Teledyne \$222.56 smcs; Ten Thousand Villages \$25.00 smcs; Tigerdirectcom \$114.93 co; Tintsman,R \$40.00 smcs; Tractor-Supply \$3,980.18 smcs; Tri City Outdoor Power \$20.55 smcs; Troyer Products \$83.61 smcs; UAP \$18.64 smcs; Ulverscroft Large Print Books \$852.00 smcs; Uncle Neals \$17.18 smcs; Underground Construction \$2,420.00 smcs; United Air \$255.50 smcs; United Way \$400.00 smcs; UPS \$16.80 smcs; US Bank \$1,050.00 smcs; USPS \$110.47 smcs; Versa Products \$5,904.00 co; Vessco \$503.27 smcs; Village Uniform \$388.63 smcs; Vollmer,K \$22.64 smcs; Waldenbooks \$8.79 smcs; Walgreens \$20.96 smcs; Wal-mart \$2,923.63 smcs,co; Warren-T Plbg \$4,906.39 co; Water Environment Fed \$423.00 smcs; Wearguard \$96.29 smcs; Wenick,S \$32.57 smcs; West Villa Animal Hospital \$35.30 co; Wilke Donovans \$174.99 smcs,co; World

Herald \$263.68 smcs; Youngscatalogcom \$236.73 smcs; Yousendit \$9.99 smcs; Zimmerman Printers \$333.07 smcs; Payroll for Longevity Ending 11-30-2008 -- \$41,633.86; and Payroll Ending 12-6-2008 -- \$310,086.22. 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. Approve Change Order No. 2 showing an increase in the amount of \$8,600.00 submitted by Siel Construction, Inc. and approved by Miller & Associates in connection with the Landfill Construction – Cell 7 Project and approve **Resolution No. 2008-220**.

RESOLUTION NO. 2008-220

WHEREAS, Siel Construction, Inc. of Franklin, Nebraska has performed services in connection with the Landfill Construction – Cell 7 Project, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$8,600.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference.

Original Contract Sum	\$743,317.80
Change Order No. 1 (7-22-2008)	+ 7,476.00
Change Order No. 2 (12-9-2008)	<u>+ 8,600.00</u>
New Contract Price	\$759,393.80

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. 2, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

3. Approve the Agreement between the City of Kearney and the Nebraska Department of Roads for Project No. STPD-30-4(148) to improve Highway 30 from Avenue B to Avenue L and approve **Resolution No. 2008-221**.

RESOLUTION NO. 2008-221

WHEREAS, on October 14, 2008 the Council approved Resolution No. 2008-181 authorizing the Mayor to execute the Agreement between the City of Kearney and the Nebraska Department of Roads for Project No. STPD-30-4(148) for reimbursement of funds for engineering services to rehabilitate the water lines in Highway 30 from Avenue B to Avenue L; and

WHEREAS, the Nebraska Department of Roads determined an error was made in the amount for the engineering costs in the agreement; that the City would be reimbursed eighty percent of the engineering cost for a sum of \$5,520.00.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Agreement for Project No. STPD-30-4(148) on behalf of the City of

Kearney. A copy of said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that Resolution No. 2008-181 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Approve **Resolution No. 2008-222** appointing Kristin Olmstead and Ann Snider to serve on the Advisory Board of Park & Recreation Commissioners.

RESOLUTION NO. 2008-222

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, vacancies currently exist on the Advisory Board of Park & Recreation Commissioners.

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 terms on the Advisory Board of Park & Recreation Commissioners for the term indicated:

ADVISORY BOARD OF PARK & RECREATION COMMISSIONERS

Kristin Olmstead to fulfill the term of Julie Anderson to July 31, 2012

Ann Snider appointed to succeed Tracey Shada 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 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the Certificate of Substantial Completion submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober Architects in connection with the construction of the Harmon Park Activity Center and approve **Resolution No. 2008-223**.

RESOLUTION NO. 2008-223

WHEREAS, Hausmann Construction has performed services in connection with the construction of the Harmon Park Activity Center, and the City's architect, Wilkins Hinrichs Stober Architects, have filed with the City Clerk the Certificate of Substantial Completion certifying the work is completed as of November 26, 2008 as shown on Exhibit "A", attached hereto and made a part hereof by reference:

Original Contract Sum \$1,644,000.00

Change Order No. 1 (1-23-2007)	+	300.00
Change Order No. 2 (1-23-2007)	+	5,577.50
Change Order No. 3 (7-10-2007)	-	1,147.59
Change Order No. 4 (9-11-2007)	+	4,269.40
Change Order No. 5 (12-11-2007)	-	<u>8,999.31</u>
Contract Sum To Date		\$1,642,922.61

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF DECEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Reappointment of Randy Buschkoetter to serve on the Kearney Visitors Bureau, and the reappointment of Stan Clouse and Bruce Lear to serve on the Buffalo County Economic Development Council.

7. Approve the application for a Special Designated License submitted by CHICKEN BONES OF KEARNEY, INC., dba "Chicken Coop Sports Bar & Grill in connection with their Class I-54354 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on January 10, 2009 from 12:00 p.m. until 1:00 a.m. for a for a wedding reception.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7491 – REZONE NORTH OF 92ND STREET WEST OF ANTELOPE AVENUE (PERTAINS TO PUBLIC HEARING 2)

Council Member Clouse introduced Ordinance No. 7491, being Subsection 1 of Agenda Item VI to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards)" property described as a tract of land described as Lots 7, 8 of Block 1; Lots 2, 3, 4 of Block 2, Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 of Block 1; Lots 1, 2, 3, 4, 5 of Block 2, Windy Meadows Second Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 7, Township 9 North, Range 15 West of 6th P.M., Buffalo County, Nebraska (north of 92nd Street west of Antelope 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 Kearney 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, Lear, Lammers, Kearney, 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. 7491 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7491 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, 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. 7491 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7492 – VACATE PART OF PROPOSED INDUSTRIAL SUBDIVISION (PERTAINS TO PUBLIC HEARING 4)

Council Member Lammers introduced Ordinance No. 7492, being Subsection 2 of Agenda Item VI to vacate all of Lots 15 through 25, inclusive, and streets running within and abutting said lots excepting Cherry Avenue and Avenue B, all located in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska and being part of the South Half of the Southwest Quarter of Section 21 and part of the North Half of the Northwest Quarter of Section 28, and all being located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of Cherry Avenue on the north and south sides of 56th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear 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, Kearney, Buschkoetter, Lear, 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. 7492 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7492 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance,

Ordinance No. 7492 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7493 – REZONE EAST OF CHERRY AVENUE ON THE NORTH AND SOUTH SIDES OF 56TH STREET (PERTAINS TO PUBLIC HEARING 4)

Council Member Lammers introduced Ordinance No. 7493, being Subsection 3 of Agenda Item VI to rezone from “District AG, Agricultural District” to “District M-1, Limited Industrial District” property described as a tract of land being part of the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of 6th P.M.; part of Lots 11, 12, 13 and 14, all of Lots 15 through 26 inclusive and streets running within and adjacent to said lots all in Proposed Industrial Subdivision, Kearney Air Field, Kearney, Nebraska; and part of the Northwest Quarter and part of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., containing 257.82 acres, more or less, all located in Buffalo County, Nebraska (east of Cherry Avenue on the north and south sides of 56th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear 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, Kearney, Buschkoetter, Lear, 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. 7493 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7493 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7493 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7494 – VACATE PART OF EAST LAWN ADDITION (PERTAINS TO PUBLIC HEARING 6)

Council Member Buschkoetter introduced Ordinance No. 7494, being Subsection 4 of Agenda Item VI to vacate Lots 1 through 10, inclusive of Block 28, Lots 1 through 12, inclusive of Block 29; Lot 5 of Block 30; Lots 1, 2, 3, 4, 5 of Block 42; Lots 1, 2, 3, 4, 5 of Block 43; all in East Lawn Addition to the City of Kearney, Buffalo County, Nebraska (east of Avenue N, south of 30th Street and north of 28th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be

suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. 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, Lammers, Kearney, 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. 7494 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7494 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, 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. 7494 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7495 – AMEND CHAPTER 50 OF CITY CODE (PERTAINS TO PUBLIC HEARING 7)

Council Member Kearney introduced Ordinance No. 7495, being Subsection 5 of Agenda Item VI to amend 50-102 “Definitions” of Chapter 50 “Sign Regulations” of the Kearney City Code to define banner and to provide a definition for poster; to amend Section 50-103 “General Sign and Street Graphics Regulations” of Chapter 50 “Sign Regulations” of the Kearney City Code off-premise signs on public property is clarified to include hand-held signs carried by persons and persons dressed in costumes or as character actors for the purpose of advertising a service or product; to provide regulations for hand-held signs; to define posters shall not exceed four square feet in area and three feet in height; to provide regulations for inflatable balloons, pennants, ribbons, streamers, flags, spinners and other similar moving devices, 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, Kearney, Buschkoetter, Lear, 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. 7495 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7495 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7495 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.

MANAGER APPLICATION FOR VETERANS FW 759

Mayor Clouse opened for discussion the Application for Manager for Raelyn Huber submitted by Veterans FW 759 in connection with their Class C liquor license located at 2215 1st Avenue.

Raelyn Huber, 3011 Avenue E, presented this matter to the Council. She has taken the course for training in Alaska and also in Nebraska which she completed last July. She has not had a liquor license of her own, but has had courses in serving over the years. The VFW lost their Commander who had the liquor license in his name. She then became the manager to keep the VFW going. They employ three servers, but one of them is leaving on December 22nd. She is having all the bartenders go through TIPS training. She did her training on line. She plans to have someone from the program here in Kearney come in and talk to her staff about it. She will give them a choice if they want to do it here in town or on line.

Mayor Clouse asked Chief Lynch if they have had any problems with the VFW. The Chief responded they have had no problems.

Moved by Lear seconded by Buschkoetter to approve the Application for Manager for Raelyn Huber submitted by Veterans FW 759 in connection with their Class C liquor license located at 2215 1st Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

OPEN ACCOUNT CLAIMS: STAN CLOUSE - \$30.23, HORIZON MIDDLE SCHOOL - \$100.00, PLATTE VALLEY STATE BANK - \$47,134.84, NPPD - \$4,393.39, SCHOOL DISTRICT #7 - \$3,541.85

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$30.23 payable to Stan Clouse, in the amount of \$47,134.84 payable to Platte Valley State Bank, and in the amount of \$4,393.39 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$100.00 payable to Horizon Middle School and in the amount of \$3,541.85 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:03 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**