

**Kearney, Nebraska**  
**April 13, 2010**  
**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 April 13, 2010, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle 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; Suzanne Brodine, Assistant to the City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Jim Lynaugh, Airport Manager were also present. Some of the citizens present in the audience included: Gene Willmes, Paul Brungardt, Mitch Humphrey, Arden Gealy, Gordan Gealy, Jill Gealy, Charles McGraw, Darren Robinson, Jeremiah Quintin, Steve Altmaier from KGFW Radio, Kevin Hervert 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**

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

### **PLEDGE OF ALLEGIANCE**

Boy Scout Andrew Harms 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.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **ANNEXATION OF STEINBRINK LANDSCAPING, 1930 AND 2010 30TH AVENUE**

Mayor Clouse opened the public hearing on the proposed annexation of the following tract of land to be included within the corporate limits: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083 (1930 and 2010 30th Avenue).

City Attorney Michael Tye presented this matter to the Council. The City has been investigating areas of the community that for one reason or another have not been annexed but are eligible for annexation. Most commonly, property is annexed into the corporate limits of the City through the subdivision process as the Final Plat for subdivided property contiguous to the corporate limits is filed at the Register of Deeds Office as "an addition to the City Of Kearney, Buffalo County, Nebraska." The City is then obligated to serve the property with municipal services within twelve months if the services are requested.

The second way to annex property is by agreement. The City received an agreement from Rocky Steinbrink favoring the annexation of their business which runs down the west side of 30th Avenue and the Steinbrink property abuts 30th Avenue for the length of the property. The Steinbrink property is currently served with municipal services. The Council accepted the agreement on February 9, 2010.

In accordance with Section 19-929 of the Nebraska Statutes, "the municipal governing body shall not take final action on matters relating to...the annexation of territory...until it has received the recommendation of the planning commission if such commission in fact has been created and is existent." The Planning Commission considered the proposed annexation at a public hearing held on March 19, 2010 and was approved. There were no members of the public that testified at said hearing.

In accordance with Section 16-117 of the Nebraska Revised Statutes, the City Council, on March 23, 2010, passed a resolution stating its intent to annex, approved an annexation plan, and set the public hearing for comment on the proposed annexation before the City Council for April 13. The Council will receive comments from the public with regard to the annexation.

Item 1 under the Regular Agenda is the ordinance annexing the property. Most generally, the City Council always suspends the rules requiring the reading on three different days and moves for final passage. However, in accordance with Section 16-404 of the Nebraska Revised Statutes, "...such requirement shall not be suspended for any ordinance for the annexation of territory." Therefore, the first reading of the ordinance by title is tonight, the second reading on April 27 and the final reading on May 11.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the proposed annexation of the following tract of land to be included within the corporate limits: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083 (1930 and 2010 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

#### **REZONING EAST OF 47TH STREET AND AVENUE N; RICKY JUHL**

Mayor Clouse stated that the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ricky B. Juhl (Owner) to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of 47th Street and Avenue N) was withdrawn by the applicant. The letter withdrawing this matter is on file. Therefore no action was taken.

#### **FINAL PLAT FOR JUHL ADDITION, EAST OF 47TH STREET AND AVENUE N**

Mayor Clouse stated the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ricky B. Juhl (Owner) for the Final Plat and Subdivision Agreement for Juhl Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of 47th Street and Avenue N) was withdrawn by the applicant. The letter withdrawing this matter is on file. Therefore no action was taken.

**ANNEXATION OF JUHL ADDITION, EAST OF 47TH STREET AND AVENUE N**

Mayor Clouse stated the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ricky B. Juhl (Owner) for the annexation of Juhl Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of 47th Street and Avenue N) was withdrawn by the applicant. The letter withdrawing this matter is on file. Therefore no action was taken.

**DEVELOPMENT PLAN FOR CAR LOT LOCATED AT 3890 CHERRY AVENUE; GENE WILLMES**

Mayor Clouse opened the public hearing on the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) for Gene Willmes (Owner) for Planned District Development Plan Approval for the construction of a car lot on property zoned District M-1/PD, Limited Industrial/Planned Development District and described as Lot 1, Slaughter Addition, a subdivision being part of the Northeast Quarter of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3890 Cherry Avenue) and to consider Resolution No. 2010-69. Planning Commission recommended approval and further recommended waiving any landscape requirements since the single lot with two uses is under common ownership. However, City staff recommends that this matter be denied or tabled until written verification from NDOR is provided by the applicant.

At the initial DRT meeting for this project in December 2009 staff expressed several concerns with this proposal. The primary concern is whether the Nebraska Department of Roads (NDOR) will allow any new development along the proposed Cherry Avenue Bypass corridor. In the past, NDOR has enacted a moratorium on development approvals by local government, such as rezonings, conditional use permits, subdivisions, or development plans in areas targeted for land acquisition for NDOR projects. This is because of the effect these projects may have on the price of land that NDOR is trying to acquire for right-of-way. Staff instructed Mr. Brungardt to talk to NDOR in regards to this matter, request written documentation, and to schedule another DRT meeting to discuss the outcome. The item was continued on the Planning Commission agenda for three months.

The day before the Planning Commission meeting in March 2010 Mr. Brungardt came to DRT to discuss the project. He said he had spoken to representatives from NDOR and they had indicated it would be ok to proceed with the car lot, but he did not have any written documentation to validate this claim. He did have documentation from the state that confirmed licensure to sell cars at this location in the mid-1990's. Use of the property as a car lot has not been continuous, so any "grandfathered" rights to a car lot have been forfeited. Also, it is staff's interpretation of the zoning code that a car lot is not an acceptable home based business and since the land proposed for the car lot consists of one lot that already contains a single-family house, the lot will likely need to be subdivided into two lots so that the house occupies one lot and the car sales occupies the other lot. In this manner the property can be used in such a way as to avoid having two different land uses on one lot. After that discussion Mr. Brungardt said

that he planned to give the Planning Commission a status update and continue to work with NDOR to get written confirmation that the car lot will be allowed. Surprisingly, the Planning Commission did not believe that the City should wait for any written confirmation from the state either confirming or denying the moratorium question.

City Staff has been conducting research on the moratorium issue. Acknowledgement from the City of Kearney dated July 31, 2008 that the City had received the NDOR Corridor Protection Plan for The Kearney East Bypass project was presented to the Council. This plan established a protection area 600 feet wide, 300 feet either side of the proposed East Bypass corridor. No permits can be issued by the City in this area unless they are first approved by the State. The proposed car lot falls within the boundary of this Corridor Protection Plan. The Owner will require several permits from the City in order to operate a car lot at this location such as a remodel permit for the sales office that is proposed to be retrofitted into an existing outbuilding. The office is required to have a handicap accessible bathroom. Entrance and exiting points from the site require City inspection and approval. A sign is required if the applicant is successful in obtaining a car dealers license from the state. The sign requires a permit from the City.

Staff's opinion, based on the above referenced Corridor Protection Plan, is that the City is not authorized to approve any permits unless NDOR allows them. It is unclear why the Planning Commission does not agree, but Staff believes that the City may incur liability if actions are taken independent of State approval. Staff has requested, from the beginning of this project, that the applicant provide written verification from NDOR that a car lot is acceptable at this location and permission for the City to issue permits for this project within the Corridor Protection Plan. The City has not received this documentation to date.

Paul Brungardt, Brungardt Engineering, presented this matter to the Council. Mr. Willmes lives on the southwest corner of 39th Street and Cherry Avenue. His property is in the protected corridor of the Cherry Avenue Bypass. For the past couple of years, Mr. Willmes did not know what he was allowed to do with this property until the time when the State will probably buy it. In the meantime, Mr. Willmes wants to implement a dual job and add a car dealership. He did this in the late 80's/early 90's on this facility. The proposal is to be able to bring in 12 cars and stack them on the north side along 39th Street. There is an existing garage that has a restroom. Some of the improvements that he wants to do are providing a paved entrance off of 39th Street and make an ADA compliant stall in front of his business. He would also make sure that the restroom is ADA compliant. The zoning is an M-1 (light industrial zone) where a car lot is permitted by the City Code. They are requesting a deviation from any landscaping features. Any trees that he is planning will probably increase the value of his property of his lot when the state has to come through and buy him out. They just received an email authorization from the State allowing him to put in this car lot with signage.

Director of Public Works Rod Wiederspan stated that the Cherry Bypass will be on the west side of this property. However, this is where the round-about will be located according to the current plan which will basically wipe out that corner. In the future, the state will be buying that residence.

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 Paul Brungardt from Brungardt Engineering (Applicant) for Gene Willmes (Owner) for Planned District Development Plan Approval for the construction of a car lot on property zoned District M-1/PD, Limited Industrial/Planned Development District and described as Lot 1, Slaughter Addition, a subdivision being part of the Northeast Quarter of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3890 Cherry Avenue) and approve **Resolution No. 2010-69**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2010-69**

WHEREAS, Paul Brungardt from Brungardt Engineering (Applicant) for Gene Willmes (Owner) have applied for Planned District Development Plan Approval for the construction of a car lot on property zoned District M-1/PD, Limited Industrial/Planned Development District and described as Lot 1, Slaughter Addition, a subdivision being part of the Northeast Quarter of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3890 Cherry Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Paul Brungardt from Brungardt Engineering (Applicant) for Gene Willmes (Owner) for Planned District Development Plan Approval for the construction of a car lot on property zoned District M-1/PD, Limited Industrial/Planned Development District and described as Lot 1, Slaughter Addition, a subdivision being part of the Northeast Quarter of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3890 Cherry Avenue) be approved.

PASSED AND APPROVED THIS 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **LAND USE MAP AMENDMENT FOR 911 WEST TALMADGE STREET; ARDEN, GORDAN AND JILL GEALY**

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

Mayor Clouse opened the public hearing on the Application submitted by Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agriculture Preserve to Mixed Use 2 for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street) and to consider Resolution No. 2010-70. Planning Commission recommended approval of this project.

The applicant is requesting approval of a mixed-use, multi-phased development on 17.106 acres located at the Gealy's Greenhouse site at 911 West Talmadge Street. The Future Land Use Map of the City Comprehensive Development Plan must be amended to accommodate rezoning of this property. The proposed rezoning is District MU, a zoning district that is not used very often, but is designed to accommodate unique mixed-use projects such as this one. MU zoning requires submittal of Development Plans depicting the various elements of the project. The proposed project includes a mixture of equestrian uses and facilities, RV campground accommodations for overnight visitors, a commercial greenhouse with retail sales, a headlamp restoration business, associated parking, and a single-family residence.

The Future Land Use Map of the City Comprehensive Development Plan shows this area as best suited for Mixed Use 2 and Agricultural Preserve. The entire seventeen acres is proposed for rezoning to District MU. The Land Use Map needs to be amended so that the entire 17 acres is depicted as Mixed Use 2.

The Unified Land Development Ordinance describes the purpose of the MU District as follows: *District MU, Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development.*

The applicant is proposing about eight different components for this site that will be constructed in a phased development approach over the next four years. The MU District allows the City to approve and regulate the project under one zoning "umbrella" so to speak, without having to carve the 17 acres into several different zoning districts. The requirements of the MU District follow those of the Planned Development Overlay District, hence the requirement for a full Development Plan package submittal.

The applicant is proposing six phases of development as shown on the enclosed attachment titled "Turkey Creek Crossing Phasing Plan." The attachment lists the timeline and the components that are proposed for each phase of the development and also provides representative photographs of the types of buildings that are proposed. The attachment describes phasing of the project and the site plan depicts the location of the various improvements. In summary, the following improvements are proposed to be constructed in six phases over the next four years:

- Large outdoor riding arena to be covered within a 54,000 square foot building enclosure in a future phase
- Visitor and client parking and associated access drives
- RV campground designed to accommodate horse trailers
- Two stable barns
- Small covered riding arena
- Hot Walker (an exercise area to warm up the horses)
- Commercial building
- Single family residence

Projects developed in MU zoning districts with multiple uses may have varying parking requirements. Staff believes that the number of parking stalls required by Code for each use should be met. Whether or not the parking areas and associated drives are paved or not depends on the nature of the use. (M-1 and M-2 Industrial Districts are the only

zoning districts that clearly do not require hard surfacing according to Code.) Commercial uses, such as the retail greenhouse and the headlight restoration business require hard-surface parking and on-site circulation drives. Equestrian uses can be served by gravel or crushed concrete parking areas. A strip of hard surfacing large enough to meet handicap parking requirements should be located in close proximity to the riding arena entrance. The remaining parking associated with equestrian uses and the RV campground does not need to be paved. At the present time Talmadge Street is an unimproved gravel street across the frontage of this property. Staff recommends that the applicant be allowed to delay the hard surfacing requirement for the commercial uses until such time in the future as Talmadge Street is hard-surfaced. At the time that Talmadge Street is paved, the applicant shall have one year to provide paved surfacing for any parking lots and drives that are existing gravel or crushed concrete material serving the commercial uses. If some commercial elements of the phased project are not yet completed, future components that are added after Talmadge Street is paved shall be paved as they are constructed. In all cases, once Talmadge Street is paved, all access drives connecting to Talmadge Street shall be paved with Portland cement concrete to City standards for the width of the right-of-way plus ten feet onto the property. Drives servicing commercial parking lots would continue as hard surfaced while drives that do not connect to commercial parking lots could be crushed concrete or gravel for the remaining distance.

The Planning Commission raised some concerns regarding the access and circulation drives. First, they requested a second access point from Talmadge Street for improved circulation and to provide all-weather emergency vehicle access. There is an existing access easement along the west side of the property that can be developed for this purpose. In addition, the Planning Commission requested cross-sections of the proposed on-site roads or drives. The westernmost access will be reserved primarily as a secondary access especially for emergency vehicles. The fire code requires a minimum 20-foot wide all-weather surface. The main drive needs to be a minimum of 24 feet wide. Design sections of both roads from the Owner's engineer are shown in the attachments. The subgrade will be compacted if necessary and a minimum of three inches depth of aggregate material such as crushed concrete or rock will comprise the surfacing. Adequate drainage must be provided. Design standards for paved drives in the future can be coordinated with the City Engineer.

The phasing plan and associated deadlines are offered by the applicant as a best guess as to how the project will be developed. The City is not requiring the applicant to meet the timeline that has been presented, except in the case of the hard surfacing described above. If the project takes additional time to develop so be it, as long as the project is developed in accordance with the site plan and representations of buildings that have been submitted.

Substantial changes or deviations in the future from the plans that are presented will require Revised Development Plan approval by Planning Commission and City Council. Minor adjustments can be approved administratively by DRT.

An existing NPPD overhead electric line must be relocated and is proposed for removal or relocation after the fall of 2011. These facilities will be served with well and septic services until City services are extended west in Talmadge Street in the future. The

developer will connect to public services in the future and will be assessed for the cost of said water, sewer, and paving.

Mitch Humphrey presented this matter to the Council. Coming across the property is a floodway. It was discussed at the Planning Commission that this area be used as a preserve area or green space. They cannot build or make improvements that would impede the water flow so they are going to leave that alone and consider the rest of the site to the south as it is delineated. The amendment to the Land Use Map and rezoning will fit nicely into the existing uses around the property. The property to the north is in a floodway and owned by Fred Hammer. Cash-Wa owns that property off to the northeast part of which is also in the floodway. The wooded area will stay natural and will protect the floodway where the water could back up and flow into if it ever got that high. The Connell family owns that property to the west and was the previous owners of the Gealy property which was purchased from them in about 1985/1986. They have access on Talmadge Street to an acreage that consists of 60+ acres in the back. There is a gentleman who has a house site to the west. Another owner owns property which used to belong to the Connell family. That same individual owns ground to the south.

Mr. Humphrey stated they have been in contact with all the owners of the adjoining properties. None of them had any objections to the project. Mr. Hammer stated that he believes development in south Kearney is a good thing. Mr. Humphrey also talked to the legal representation for the party to the south and to the east and they had no objections.

The area off Talmadge Street that encompasses the greenhouse is zoned RR-1. The reason that it was zoned RR-1 is because it is also used as a residence. The request is to change the zoning to Mixed Use. The use of the site will be a multi-faceted project which will be phased in over a number of years. The first phase will consist of an outdoor riding arena with a stabling barn, an access drive and some of the parking lot. Another stabling barn and a covered riding area will be phased in. There will also be a "hot walker" which is a warm up for exercising the horses that will be competing in the roping events next door. The next phase will consist of another stabling barn (like the first one) and the balance of the parking lot.

They would also like to have 8-10 RV camper parking stalls so that when people come in off the Interstate and have their horse trailers in tow they have a place to park. They would have a place to keep their horses untrailerred overnight.

Once these phases are completed, they want to put a cover on the open air riding arena so they can have events during inclement weather. The next phase will be a renovation of the greenhouse facility. They want to remove the east wing of the complex and rebuild the footings and foundation and put a commercial building there that will satisfy the business that Arden does when he is not working on his competition roping projects. This will match the architectural motif of the stabling barns and facilities.

The final phase is to build a residential house north of the pond for Arden and his family. The house will blend with the architectural style of the rest of the complex.

They are in agreement with the paving regulations when Talmadge Street is paved.

The Planning Commission desired that they look at the access points as it fits into Talmadge Street. One concern was the make up of the driveway and the road to make sure that it could carry heavily loaded traffic, such as fire trucks. They did not believe that the horse trailers would have an adverse affect on the roadway. They had an engineer look at it and submitted the results to the City Engineer. They also proposed an alternate ingress/egress driveway which would come around to the west side of the property and exit. This is similar to what they did for the theatre site. The Gealy's in 1986 were granted from the Connell family a 30-foot ingress/egress easement so they could get around to the back side of this property. That will be the location of their alternate access. The edge of the pond in this location will have to be filled in and brought up to grade to make sure a large vehicle could cross there on firm ground.

Mayor Clouse asked if there was going to be an odor issue out there. Mr. Humphrey stated he had talked to Arden about that and he did not believe that was going to be much of an issue with this facility. This is not going to be a stockyard.

Arden Gealy stated that one of the things that most people do in this type of development for an arena with a stable is that they share the wall because it is a lot less expensive. Normally, they would put the stall part of the barn on part of the arena which takes the air flow off of the barn and that is when you get that stagnant air build up in the barn. It also takes the airflow off of the arena. That is why he separated these out to get air flow with the concentration of horses in a small area. There will be some outside pens as well as the indoor stalls. The manure will be composted and spread over their alfalfa field. He stated if you compost it, it traps the smell inside the contents and kills the seeds from regenerating so that you do not get a bunch of weeds in the alfalfa field. That is the plan to compost the manure in a bunker and after two years to spread it.

Mr. Humphrey stated he met with the Convention Center owners and attorney and they did not express any concerns about this project. They were given some very preliminary plans and they addressed some of their issues that were brought up.

Council member Buschkoetter asked how much surface would be concreted in the future and if rainwater runoff would cause any potential problems. Mr. Humphrey stated that he had thought that crushed concrete or crushed rock would have been awesome for that parking lot. The horsemen say that is incorrect because it affects the horse's hoofs and can cause injury and there will be some expensive horses out there. A majority of this parking lot will be graveled or hard impermeable surface like you would see at the fairgrounds. The driveway coming in could be subsidized with crushed rock with some gravel top dressing of some sort per the engineer's recommendation for weight. So rainwater will not be an issue.

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 Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agriculture Preserve to Mixed Use 2 for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition

a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street) and approve **Resolution No. 2010-70**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2010-70**

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part of Government Lot 6, part of Government Lot 9 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of Government Lot 6 in said Section 11 and assuming the West line of said Government Lot 6 as bearing N 00°00'15" W and all bearings contained herein are relative thereto; thence N 00°00'15" W and on the aforesaid West line a distance of 1065.4 feet to a point, said point being on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North property line of Talmadge Street a distance of 30.03 feet to the Southwest Corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence continuing S 87°43'22" E and on the North property line of said Talmadge Street, and on the South line of said Lot 1, Gealy's Addition a distance of 215.0 feet to the ACTUAL PLACE OF BEGINNING; thence leaving the North property line of said Talmadge Street, N 00°00'15" W and on the East line of said Lot 1, Gealy's Addition, and parallel with the West line of said Government Lot 6 (if extended) a distance of 326.0 feet to the Northeast Corner of said Lot 1, Gealy's Addition; thence N 8°43'22" W and on the North line of said Lot 1, Gealy's Addition and parallel with the North property line of said Talmadge Street a distance of 215.0 feet to the Northwest Corner of said Lot 1, Gealy's Addition, said point being 30.0 feet Easterly of as measured at right angles from the West line of said Government Lot 6 (if extended); thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of said Government Lot 6 (if extended) a distance of 179.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence N 00°00'15" W a distance of 766.8 feet to a point on the centerline of the North channel of the Platte River; thence downstream and on the aforesaid centerline of the North channel of the Platte River N 25°53'21" E a distance of 101.2 feet; thence N 26°23'37" E a distance of 81.5 feet; thence N 61°52'46" E a distance of 184.3 feet; thence N 81°02'09" E a distance of 45.3 feet; thence S 72°56'39" E a distance of 116.6 feet; thence S 39°48'43" E a distance of 95.4 feet; thence S 11°22'14" E a distance of 126.8 feet; thence S 18°09'26" W a distance of 150.1 feet; thence S 59°53'35" W a distance of 76.7 feet; thence N 66°23'30" W a distance of 167.5 feet; thence S 49°09'03" W a distance of 36.3 feet; thence S 03°55'14" W a distance of 59.3 feet; thence S 41°24'38" E a distance of 93.0 feet; thence S 81°41'33" E a distance of 149.7 feet; thence S 68°58'12" E a distance of 195.8 feet; thence N 81°36'50" E a distance of 71.1 feet; thence leaving said centerline of the North channel of the Platte River S 00°13'38" W a distance of 974.65 feet to a point on the North property line of Talmadge Street; thence N 87°43'22" W and on the aforesaid North line of Talmadge Street a distance of 401.2 feet to the place of beginning, containing 17.106 acres, more or less; together with

rights of ingress and egress over and across a strip of land being 30 feet in width with said strip of land being more particularly described as follows: Beginning at the Southwest corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of Government Lot 6 and Government Lot 9 a distance of 505.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence S 00°00'15" E and on the West line of Government Lots 9 and 6 a distance of 504.15 feet to a point on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North line a distance of 30.03 feet to the place of beginning; EXCEPTING THEREFROM; Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska from Agriculture Preserve to Mixed Use 2, 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 Agriculture Preserve to Mixed Use 2 the use classification for a tract of land being part of Government Lot 6, part of Government Lot 9 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of Government Lot 6 in said Section 11 and assuming the West line of said Government Lot 6 as bearing N 00°00'15" W and all bearings contained herein are relative thereto; thence N 00°00'15" W and on the aforesaid West line a distance of 1065.4 feet to a point, said point being on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North property line of Talmadge Street a distance of 30.03 feet to the Southwest Corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence continuing S 87°43'22' E and on the North property line of said Talmadge Street, and on the South line of said Lot 1, Gealy's Addition a distance of 215.0 feet to the ACTUAL PLACE OF BEGINNING; thence leaving the North property line of said Talmadge Street, N 00°00'15" W and on the East line of said Lot 1, Gealy's Addition, and parallel with the West line of said Government Lot 6 (if extended) a distance of 326.0 feet to the Northeast Corner of said Lot 1, Gealy's Addition; thence N 8°43'22" W and on the North line of said Lot 1, Gealy's Addition and parallel with the North property line of said Talmadge Street a distance of 215.0 feet to the Northwest Corner of said Lot 1, Gealy's Addition, said point being 30.0 feet Easterly of as measured at right angles from the West line of said Government Lot 6 (if extended); thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of said Government Lot 6 (if extended) a distance of 179.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence N 00°00'15" W a distance of 766.8 feet to a point on the centerline of the North channel of the Platte River; thence downstream and on the aforesaid centerline of the North channel of the Platte River N 25°53'21" E a

distance of 101.2 feet; thence N 26°23'37" E a distance of 81.5 feet; thence N 61°52'46" E a distance of 184.3 feet; thence N 81°02'09" E a distance of 45.3 feet; thence S 72°56'39" E a distance of 116.6 feet; thence S 39°48'43" E a distance of 95.4 feet; thence S 11°22'14" E a distance of 126.8 feet; thence S 18°09'26" W a distance of 150.1 feet; thence S 59°53'35" W a distance of 76.7 feet; thence N 66°23'30" W a distance of 167.5 feet; thence S 49°09'03" W a distance of 36.3 feet; thence S 03°55'14" W a distance of 59.3 feet; thence S 41°24'38" E a distance of 93.0 feet; thence S 81°41'33" E a distance of 149.7 feet; thence S 68°58'12" E a distance of 195.8 feet; thence N 81°36'50" E a distance of 71.1 feet; thence leaving said centerline of the North channel of the Platte River S 00°13'38" W a distance of 974.65 feet to a point on the North property line of Talmadge Street; thence N 87°43'22" W and on the aforesaid North line of Talmadge Street a distance of 401.2 feet to the place of beginning, containing 17.106 acres, more or less; together with rights of ingress and egress over and across a strip of land being 30 feet in width with said strip of land being more particularly described as follows: Beginning at the Southwest corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of Government Lot 6 and Government Lot 9 a distance of 505.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence S 00°00'15" E and on the West line of Government Lots 9 and 6 a distance of 504.15 feet to a point on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North line a distance of 30.03 feet to the place of beginning; EXCEPTING THEREFROM; Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

PASSED AND APPROVED THIS 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING FOR 911 WEST TALMADGE STREET; ARDEN, GORDAN AND JILL GEALY**

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

Mayor Clouse opened the public hearing on the Application submitted by Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) to rezone from District RR-1, Rural Residential District (Rural Standards) and District M-1, Limited Industrial District to District MU, Mixed Use District for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street). Planning Commission recommended approval.

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 Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) to rezone from District RR-1, Rural Residential District (Rural Standards) and District M-1, Limited Industrial District to District MU, Mixed Use District for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street). Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

**DEVELOPMENT PLANS FOR 911 WEST TALMADGE STREET; ARDEN, GORDAN AND JILL GEALY**

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

Mayor Clouse opened the public hearing on the Application submitted by Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) for Development Plan Approval for proposed Turkey Creek Crossing Development consisting of an open air riding arena, two stable barns, one new commercial building, one future residence and the existing greenhouse complex on property to be zoned District MU, Mixed Use District for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street) and to consider Resolution No. 2010-71. Planning Commission recommended approval of this project. Staff recommended approval subject to compliance with the following conditions: (1) The Development Plan package that has been submitted is the basis for site improvements. Substantial changes or deviations in the future from the plans that are presented will require Revised Development Plan approval by Planning Commission and City Council. Minor adjustments can be approved administratively by DRT. (2) The timeline that has been submitted by the applicant in the phasing plan is an estimate and the City is not requiring each phase to be completed in compliance with the estimate as long as the approved Development Plan is followed. (3) The exception to time deadlines applies to the on-site paving requirements associated with Talmadge Street. At the time that Talmadge Street is paved, the applicant shall have one year to provide paved surfacing for any parking lots and drives that are existing gravel or crushed concrete material serving commercial uses and providing handicap parking for the riding arena. (4) If all elements of the phased project are not yet completed when Talmadge Street is paved, future parking that serves commercial uses that is added after Talmadge Street is paved shall also be paved as part of the building permit requirement. (5) In all cases, once Talmadge Street is paved, all on-site access drives connecting to Talmadge Street shall be paved with portland cement concrete to City standards for the width of the right-of-way plus ten feet onto the property. (6) Drives servicing commercial parking lots would continue as hard surfaced while drives that do not connect to commercial parking lots could be crushed concrete or gravel for the remaining distance. (7) The developer shall connect to public services once services are extended west in Talmadge Street and will be assessed the cost of said water, sewer, and paving.

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 Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) for Development Plan Approval for proposed Turkey Creek Crossing Development consisting of an open air riding arena, two stable barns, one new commercial building, one future residence and the existing greenhouse complex on property to be zoned District MU, Mixed Use District for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street) and approve **Resolution No. 2010-71** subject to compliance with the following conditions: (1) The Development Plan package that has been submitted is the basis for site improvements. Substantial changes or deviations in the future from the plans that are presented will require Revised Development Plan approval by Planning Commission and City Council. Minor adjustments can be approved administratively by DRT. (2) The timeline that has been submitted by the applicant in the phasing plan is an estimate and the City is not requiring each phase to be completed in compliance with the estimate as long as the approved Development Plan is followed. (3) The exception to time deadlines applies to the on-site paving requirements associated with Talmadge Street. At the time that Talmadge Street is paved, the applicant shall have one year to provide paved surfacing for any parking lots and drives that are existing gravel or crushed concrete material serving commercial uses and providing handicap parking for the riding arena. (4) If all elements of the phased project are not yet completed when Talmadge Street is paved, future parking that serves commercial uses that is added after Talmadge Street is paved shall also be paved as part of the building permit requirement. (5) In all cases, once Talmadge Street is paved, all on-site access drives connecting to Talmadge Street shall be paved with portland cement concrete to City standards for the width of the right-of-way plus ten feet onto the property. (6) Drives servicing commercial parking lots would continue as hard surfaced while drives that do not connect to commercial parking lots could be crushed concrete or gravel for the remaining distance. (7) The developer shall connect to public services once services are extended west in Talmadge Street and will be assessed the cost of said water, sewer, and paving. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

### **RESOLUTION NO. 2010-71**

WHEREAS, Arden Gealy (Applicant) and Gordan and Jill Gealy (Owner) has applied for Planned District Development Plan Approval for the proposed Turkey Creek Crossing Development consisting of an open air riding arena, two stable barns, one new commercial building, one future residence and the existing greenhouse complex on property to be zoned District MU, Mixed Use District and described as a tract of land being part of Government Lot 6, part of Government Lot 9 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of Government Lot 6 in said Section 11 and assuming the West line of said Government

Lot 6 as bearing N 00°00'15" W and all bearings contained herein are relative thereto; thence N 00°00'15" W and on the aforesaid West line a distance of 1065.4 feet to a point, said point being on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North property line of Talmadge Street a distance of 30.03 feet to the Southwest Corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence continuing S 87°43'22' E and on the North property line of said Talmadge Street, and on the South line of said Lot 1, Gealy's Addition a distance of 215.0 feet to the ACTUAL PLACE OF BEGINNING; thence leaving the North property line of said Talmadge Street, N 00°00'15" W and on the East line of said Lot 1, Gealy's Addition, and parallel with the West line of said Government Lot 6 (if extended) a distance of 326.0 feet to the Northeast Corner of said Lot 1, Gealy's Addition; thence N 8°43'22" W and on the North line of said Lot 1, Gealy's Addition and parallel with the North property line of said Talmadge Street a distance of 215.0 feet to the Northwest Corner of said Lot 1, Gealy's Addition, said point being 30.0 feet Easterly of as measured at right angles from the West line of said Government Lot 6 (if extended); thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of said Government Lot 6 (if extended) a distance of 179.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence N 00°00'15" W a distance of 766.8 feet to a point on the centerline of the North channel of the Platte River; thence downstream and on the aforesaid centerline of the North channel of the Platte River N 25°53'21" E a distance of 101.2 feet; thence N 26°23'37" E a distance of 81.5 feet; thence N 61°52'46" E a distance of 184.3 feet; thence N 81°02'09" E a distance of 45.3 feet; thence S 72°56'39" E a distance of 116.6 feet; thence S 39°48'43" E a distance of 95.4 feet; thence S 11°22'14" E a distance of 126.8 feet; thence S 18°09'26" W a distance of 150.1 feet; thence S 59°53'35" W a distance of 76.7 feet; thence N 66°23'30" W a distance of 167.5 feet; thence S 49°09'03" W a distance of 36.3 feet; thence S 03°55'14" W a distance of 59.3 feet; thence S 41°24'38" E a distance of 93.0 feet; thence S 81°41'33" E a distance of 149.7 feet; thence S 68°58'12" E a distance of 195.8 feet; thence N 81°36'50" E a distance of 71.1 feet; thence leaving said centerline of the North channel of the Platte River S 00°13'38" W a distance of 974.65 feet to a point on the North property line of Talmadge Street; thence N 87°43'22" W and on the aforesaid North line of Talmadge Street a distance of 401.2 feet to the place of beginning, containing 17.106 acres, more or less; together with rights of ingress and egress over and across a strip of land being 30 feet in width with said strip of land being more particularly described as follows: Beginning at the Southwest corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of Government Lot 6 and Government Lot 9 a distance of 505.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence S 00°00'15" E and on the West line of Government Lots 9 and 6 a distance of 504.15 feet to a point on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North line a distance of 30.03 feet to the place of beginning; EXCEPTING THEREFROM; Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Arden Gealy (Applicant) and Gordan

and Jill Gealy (Owner) for Planned District Development Plan Approval for the proposed Turkey Creek Crossing Development consisting of an open air riding arena, two stable barns, one new commercial building, one future residence and the existing greenhouse complex on property to be zoned District MU, Mixed Use District and described as a tract of land being part of Government Lot 6, part of Government Lot 9 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of Government Lot 6 in said Section 11 and assuming the West line of said Government Lot 6 as bearing N 00°00'15" W and all bearings contained herein are relative thereto; thence N 00°00'15" W and on the aforesaid West line a distance of 1065.4 feet to a point, said point being on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North property line of Talmadge Street a distance of 30.03 feet to the Southwest Corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence continuing S 87°43'22' E and on the North property line of said Talmadge Street, and on the South line of said Lot 1, Gealy's Addition a distance of 215.0 feet to the ACTUAL PLACE OF BEGINNING; thence leaving the North property line of said Talmadge Street, N 00°00'15" W and on the East line of said Lot 1, Gealy's Addition, and parallel with the West line of said Government Lot 6 (if extended) a distance of 326.0 feet to the Northeast Corner of said Lot 1, Gealy's Addition; thence N 8°43'22" W and on the North line of said Lot 1, Gealy's Addition and parallel with the North property line of said Talmadge Street a distance of 215.0 feet to the Northwest Corner of said Lot 1, Gealy's Addition, said point being 30.0 feet Easterly of as measured at right angles from the West line of said Government Lot 6 (if extended); thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of said Government Lot 6 (if extended) a distance of 179.28 feet; thence S 89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence N 00°00'15" W a distance of 766.8 feet to a point on the centerline of the North channel of the Platte River; thence downstream and on the aforesaid centerline of the North channel of the Platte River N 25°53'21" E a distance of 101.2 feet; thence N 26°23'37" E a distance of 81.5 feet; thence N 61°52'46" E a distance of 184.3 feet; thence N 81°02'09" E a distance of 45.3 feet; thence S 72°56'39" E a distance of 116.6 feet; thence S 39°48'43" E a distance of 95.4 feet; thence S 11°22'14" E a distance of 126.8 feet; thence S 18°09'26" W a distance of 150.1 feet; thence S 59°53'35" W a distance of 76.7 feet; thence N 66°23'30" W a distance of 167.5 feet; thence S 49°09'03" W a distance of 36.3 feet; thence S 03°55'14" W a distance of 59.3 feet; thence S 41°24'38" E a distance of 93.0 feet; thence S 81°41'33" E a distance of 149.7 feet; thence S 68°58'12" E a distance of 195.8 feet; thence N 81°36'50" E a distance of 71.1 feet; thence leaving said centerline of the North channel of the Platte River S 00°13'38" W a distance of 974.65 feet to a point on the North property line of Talmadge Street; thence N 87°43'22" W and on the aforesaid North line of Talmadge Street a distance of 401.2 feet to the place of beginning, containing 17.106 acres, more or less; together with rights of ingress and egress over and across a strip of land being 30 feet in width with said strip of land being more particularly described as follows: Beginning at the Southwest corner of Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence N 00°00'15" W parallel with and 30.0 feet Easterly from the West line of Government Lot 6 and Government Lot 9 a distance of 505.28 feet; thence S

89°59'45" W a distance of 30.0 feet to a point on the West line of Government Lot 9; thence S 00°00'15" E and on the West line of Government Lots 9 and 6 a distance of 504.15 feet to a point on the North property line of Talmadge Street; thence S 87°43'22" E and on the aforesaid North line a distance of 30.03 feet to the place of beginning; EXCEPTING THEREFROM; Lot 1, Gealy's Addition, a Subdivision being part of Government Lot 6 and accretions located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge Street) be approved subject to compliance with the following conditions:

- The Development Plan package that has been submitted is the basis for site improvements. Substantial changes or deviations in the future from the plans that are presented will require Revised Development Plan approval by Planning Commission and City Council. Minor adjustments can be approved administratively by DRT.

- The timeline that has been submitted by the applicant in the phasing plan is an estimate and the City is not requiring each phase to be completed in compliance with the estimate as long as the approved Development Plan is followed.

- The exception to time deadlines applies to the on-site paving requirements associated with Talmadge Street. At the time that Talmadge Street is paved, the applicant shall have one year to provide paved surfacing for any parking lots and drives that are existing gravel or crushed concrete material serving commercial uses and providing handicap parking for the riding arena.

- If all elements of the phased project are not yet completed when Talmadge Street is paved, future parking that serves commercial uses that is added after Talmadge Street is paved shall also be paved as part of the building permit requirement.

- In all cases, once Talmadge Street is paved, all on-site access drives connecting to Talmadge Street shall be paved with portland cement concrete to City standards for the width of the right-of-way plus ten feet onto the property.

- Drives servicing commercial parking lots would continue as hard surfaced while drives that do not connect to commercial parking lots could be crushed concrete or gravel for the remaining distance.

- The developer shall connect to public services once services are extended west in Talmadge Street and will be assessed the cost of said water, sewer, and paving.

PASSED AND APPROVED THIS 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**KEARNEY REGIONAL AIRPORT DISADVANTAGED BUSINESS ENTERPRISE GOAL**

Mayor Clouse opened the public hearing on the City of Kearney's 2010 Disadvantaged Business Enterprise Goal for the Kearney Regional Airport and to consider Resolution No. 2010-72.

Airport Manager Jim Lynaugh presented this matter to the Council. The Disadvantaged Business Enterprise (DBE) program is fundamental in an effort to ensure equal opportunity for federally funded transportation projects across the country. In 1999

Congress developed the DBE program and viewed its success as an indispensable element of the nation's transportation system. On December 28, 1999, the City Council adopted the DBE Program. It is Kearney's policy to ensure that DBEs have an equal opportunity to receive and participate in Department of Transportation (DOT)-assisted contracts. It is also our policy to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet 49CFR Part 26 eligibility standards are permitted to participate as DBEs;
- Help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- Assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Airport's goal is updated each year that DOT-assisted contracts are anticipated. The Nebraska Department of Aeronautics (NDOA) bidders list contained only prime contractor bids in the past year. The Nebraska Department of Aeronautics added to this list by including engineers, contractors and suppliers that have had a subcontract or prime contract on an airport project between January 1, 2005 and October 31, 2009. The list was modified to add and/or delete an appropriate those who would not or could not be interested in work at the Airport. The list was then further refined based on the geographical area used to seek contractors for this year's project(s).

As a requirement, the City advertised in the Kearney Hub the availability of the Disadvantaged Business Enterprise Goal. The City has not received any comment. Therefore, the DBE Goal needs to be adopted.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the City of Kearney's 2010 Disadvantaged Business Enterprise Goal for the Kearney Regional Airport and approve **Resolution No. 2010-72**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2010-72**

WHEREAS, the Disadvantaged Business Enterprise (DBE) goal for the Kearney Regional Airport has been updated for fiscal year 2010 by the Nebraska Department of Aeronautics; and

WHEREAS, the City advertised the availability of the DBE goal in the Kearney Hub on February 16, 2010 allowing for public comment for 45 days; and

WHEREAS, the City Council on April 13, 2010 held a public hearing to consider any comments from the public of which there were none.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Disadvantaged Business Enterprise goal for the Kearney Regional Airport for fiscal year 2010 be and is hereby adopted.

PASSED AND APPROVED THIS 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

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

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

1. Approve Minutes of Regular Meeting held March 23, 2010 and Minutes of Emergency Meeting held March 29, 2010.

2. Approve the following Claims:

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

3M \$1,567.00 smcs; Ace Hardware \$133.20 smcs; Advance Auto Parts \$2.99 smcs; Aflac \$2,871.62 ps; Alertshirt \$73.18 smcs; Al-Jon Mfg \$12.11 smcs; All Makes Office Equipment \$719.00 co; Amazon \$71.84 smcs,co; Amer Electric \$164.94 smcs; Amer First Aid & Safety \$107.38 smcs; Amer Legion \$271.30 smcs; Amsan \$6,256.68 smcs,co; Andersen,B \$69.55 smcs; Apex Controls \$298.78 smcs; Apple Market \$19.12 smcs; Ask Supply \$2,050.85 smcs,co; Aurora Coop \$54.40 smcs; Ayers Distributing \$272.00 smcs; B2B Computers \$358.00 co; Baker & Taylor \$6,331.10 smcs; Barney Abstract \$450.00 smcs; BBC Audiobooks \$300.17 smcs; Beacon Athletics \$101.08 smcs; Big Deal Electric \$132.31 smcs; Bike Shed \$420.98 smcs; Blessing Construction \$1,167.36 smcs; Bluecross Blueshield \$121,096.44 smcs; Bobs Super Store \$365.77 smcs; Bornhoff,S \$37.05 smcs; Bosselman \$8,105.92 smcs; Broadfoot's \$73.65 smcs; Bubble Factory \$121.25 smcs; Buffalo Co Sheriff \$122,850.00 smcs; Buffalo Wild Wings \$22.00 smcs; Buggy Bath Car Wash \$9.00 smcs; Builders \$2,375.22 smcs,co; Cabela's \$39.99 smcs; Cableties and More \$44.27 smcs; Camera Doctor \$118.00 smcs; Campbell Pet Co \$36.21 smcs; Capstone Press \$3,546.99 smcs; Carpartscom \$213.47 smcs; Carquest \$1,757.83 smcs; Cash-Wa Distributing \$674.77 smcs,co; Central Hydraulic \$1,161.02 smcs; Central NE Bobcat \$484.90 smcs; Central State Wire Products \$2,194.60 smcs; CH Diagnostic \$445.00 smcs; Charles Sargent Irrigation \$916.07 smcs; Charter \$909.89 smcs; Chesterman \$115.25 smcs; Cit Group \$1,799.88 smcs; City of Ky \$267,905.45 smcs,co,ps; Cold Spring Granite \$160.20 smcs; College Savings Plan of NE \$190.00 ps; Comark Distributors \$200.69 smcs; Comm. Action Partnership \$10.00 smcs; Consec Life Ins \$24.00 ps; Construction Rental \$595.09 smcs; Cool Tech \$79.50 smcs; Cooperative Producers \$194.10 smcs; Copycat Printing \$428.79 smcs; CPS \$61.49 smcs; Credit Management Services \$14.13 ps; Crossroads Ford \$1,053.82 smcs; Culligan \$170.40 smcs; Cullum and Brown \$550.07 smcs; Cummins Central Power \$406.48 smcs; Custom Conveyer \$1,372.35 smcs; D&M Security \$64.50 smcs; Dahlstedt,J \$195.00 smcs; Danko

Emergency \$96.03 smcs; Delta Systems \$1,895.00 smcs; Depository Trust \$270,995.00 ds; Deterdings \$52.00 smcs; Development Council \$4,335.77 smcs; Diamond Vogel \$74.74 smcs; Dish Network \$50.63 smcs; Displays 2 Go \$394.98 co; DPC Industries \$4,634.06 smcs; Dugan Business Forms \$501.46 smcs; Dultemeier Sales \$90.41 smcs; DXPE \$451.79 smcs; E&S Tools \$5.97 smcs; Eakes \$2,129.55 smcs,co; Earl May's \$9.99 smcs; Easy Picker Golf Products \$699.79 smcs; Ecolab \$218.06 smcs; Eileen's Cookies \$15.75 smcs; Eirich,T \$50.00 smcs; Emergency Services \$2,116.00 smcs; Engelhardt,J \$20.00 smcs; Ereplacementpartscom \$42.37 smcs; Express Distributing \$140.00 smcs; Fairbanks \$3,536.57 smcs; Family Roots Publishing \$37.19 smcs; Farm Plan \$1,621.83 smcs; Farmers Union \$65.46 smcs; Fastenal \$984.85 smcs; FIMCO \$328.53 smcs; Firecom \$60.46 smcs; Fore!Reservations \$1,500.00 smcs; Foster,L \$39.42 smcs; Frontier \$236.76 smcs; Frontierair \$443.40 smcs; Fyr-Tek \$363.31 smcs; Gale \$432.18 smcs; Garrett Tires & Treads \$1,369.46 smcs; Gaylord Opryland \$240.87 smcs; GE Money Bank \$2,250.73 smcs; Gealy's \$838.67 smcs; Gempler \$89.50 smcs; Gensler \$32,834.48 smcs; Godaddycom \$44.68 smcs; Goodwill Industries \$1,914.60 smcs; Graham Tire \$350.76 smcs; Grainger \$1,816.23 smcs; Great Plains One Call \$251.20 smcs; Great Plains Safety \$600.00 smcs; Grombacher,K \$300.00 smcs; H&H Distributing \$1,044.40 smcs; Hach \$1,298.52 smcs; Harris Seeds \$11.75 smcs; Hart,S \$5.00 smcs; Hayneedle \$74.88 smcs; HD Supply \$8,482.40 smcs; Hobby-Lobby \$478.29 smcs; Hohnholt,C \$45.85 smcs; Holmes Plumbing \$135.72 smcs; Hometown Leasing \$444.91 smcs,co; Honeywell First Responder \$668.26 smcs; Hoover's Inc. \$255.00 smcs; Hotsy Equipment \$466.07 smcs; HP Home Store \$134.91 smcs; Hydrite Chemical \$14,127.11 smcs; IBT \$660.10 smcs; ICMA RC \$9,145.41 ps; IES Industrial \$781.00 smcs; Instawares \$44.99 co; IRS \$209,781.31 ps; Int'l Erosion \$170.00 smcs; Int'l Assn of Chief of Police \$240.00 smcs; Jack Lederman \$11.77 smcs; James W. Bell Co \$553.46 smcs; Jelinek,T \$15.00 smcs; Johnstone Supply \$17.28 smcs; Joseph's of Ky \$430.50 smcs; K&K Parts \$1,709.29 smcs; Karatedepot.com \$252.45 co; Ky Clinic \$1,705.00 ps; Ky Concrete \$629.96 smcs; Ky Crete & Block \$999.46 co; Ky Glass \$35.91 smcs; Ky Hub \$4,009.87 smcs; Ky Humane Soc \$6,500.00 smcs; Ky Implement \$1,412.24 smcs; Ky Noon Rotary \$105.00 smcs; Ky Towing \$415.00 smcs; Ky United Way \$640.50 ps; Ky Visitors Bureau \$39,755.34 smcs; Ky Warehouse \$332.75 smcs; Ky Winlectric \$492.98 smcs,co; Ky Yamaha \$866.28 smcs; Kelly Supply \$222.38 smcs; KHGI/KWNB \$6,760.00 smcs; Killion Motors \$503.48 smcs; Kindle-Denver Post \$5.99 smcs; Kindle-Wall Street Journal \$14.99 smcs; Kirkham Michael \$318.45 co; Kmart \$119.69 smcs; Knapp, Donna \$125.00 smcs; Konica Minolta \$378.81 smcs; Kusek,S \$13.44 smcs; Lafferty,J \$41.80 smcs; Laser Link Golf \$404.00 smcs; Lasertec of NE \$389.97 smcs; Lawson Products \$114.74 smcs; LCL Truck Equipment \$2,657.85 smcs; LECC \$285.00 smcs; Lieske Law Firm \$428.24 smcs; Lincoln Winwater Works \$6,694.64 co; Linweld \$182.35 smcs; Lips Printing \$69.09 smcs; Little Caesars \$36.00 smcs; Lockmobile \$25.50 smcs; Logan Contractors \$112.50 smcs; Logitech \$16.15 co; LVNV Funding \$471.48 ps; Macruim Reflect \$359.90 co; Magic Cleaning \$3,400.00 smcs; Mail Express \$279.35 smcs; Marlatt Machine Shop \$613.45 smcs; McCarty,D \$70.80 smcs; McMaster-Carr \$614.45 smcs; Menards \$3,405.94 smcs; Meridian Library System \$10.00 smcs; Metlife \$6,391.48 ps; Midlands Contracting \$36,344.17 co; Mid-NE Aggregate \$814.03 smcs; Mid-NE Garage Doors \$800.00 smcs; Midwest Breathing \$105.07 smcs; Mid-West Regional \$1,000.00 smcs; Midwest Service \$8,766.22 smcs; Miller & Associates \$8,191.00 co; Miller Signs \$570.00 smcs; Moonlight Embroidery \$1,104.50 smcs; Morgan,M \$88.19 smcs; Motorola \$26,340.00 smcs; Municipal Supply

\$579.60 smcs; Napa All Makes Auto \$2,449.26 smcs; NCS Equipment \$58.83 smcs; NE AWWA \$40.00 smcs; NE Business Banking \$89,720.75 ds; NE Child Support \$5,762.40 ps; NE Dept of Rev \$58,532.33 smcs,ps; NE DOL/Boiler Inspection \$180.00 smcs; NE Emergency Mgt \$460.00 smcs; NE Equipment \$139.84 smcs; NE Licensed Beverage Assn \$180.00 smcs; NE Planning & Zoning \$140.00 smcs; NE Public Health \$1,753.00 smcs; NE Society of CPAs \$125.00 smcs; NE Truck & Equipment \$696.28 smcs; NE Truck Center \$347.76 smcs; NE@online \$500.00 smcs; NEland Distributors \$995.16 smcs; Neopost \$7,000.00 smcs; Newegg \$749.85 co; Newman Signs \$1,575.30 smcs; Nitrodesk \$149.72 smcs; NMC \$2,300.66 smcs; Northern Safety \$52.54 smcs; Northgate Vet Clinic \$85.00 smcs; Northwestern Energy \$12,833.78 smcs; Nutter,R \$40.00 smcs; Office Max \$619.52 smcs; Officenet \$1,100.92 smcs,co; O'Keefe Elevator \$453.44 smcs; Omaha World Herald \$83.20 smcs; O'Reilly Auto \$1,686.73 smcs; Orscheln \$257.84 smcs; Otis Air Service \$33.30 smcs; Outdoor Sports \$30.00 smcs; Overhead Door \$109.43 smcs; Oxford University Press \$87.05 smcs; Paper Direct \$42.94 smcs; Paramount Linen \$1,098.90 smcs; Park Seed \$7.63 smcs; Party America \$7.28 smcs; Payflex Systems \$531.25 ps; Pep Co \$51.10 smcs; Pet Pick-ups \$745.44 smcs; Pickering,N \$13.66 smcs; Ping \$2,021.67 smcs; Pioneer Revere \$289.35 smcs; Platte Valley Comm \$298.30 smcs; Portfolio Recovery Assoc \$616.82 ps; Presto-X \$142.80 smcs; Provanage \$591.14 smcs; Pulliam,R \$40.00 smcs; QuatreD \$10,979.53 co; Quill \$474.04 smcs; Radiant Heating \$297.35 smcs; Radioshack \$28.97 smcs; Random House \$160.00 smcs; Raynor Garage Doors \$192.00 smcs; Recognition Unlimited \$764.80 smcs,ps; Recorded Books \$721.24 smcs; Redmans \$1,054.50 smcs; Restaurant Source \$521.62 smcs; RKI Instruments \$181.60 smcs; RR Donnelley \$491.59 smcs; Ryan,L \$295.00 smcs; Sahling Kenworth \$656.83 smcs; Sanitation Products \$1,962.25 smcs; Sapp Brothers \$5,359.00 smcs; Scorr Marketing \$54.00 smcs; Sears \$63.06 smcs; Serv U \$355.25 smcs; S-F Lab \$490.00 smcs; Sherwin Williams \$29.66 smcs; Silver Star \$348.29 co; SIM \$45.00 smcs; Snap-On Tools \$108.75 smcs; Snow,T \$50.00 smcs; Softchoice \$876.64 smcs,co; SOS Portable Toilets \$100.00 smcs; Sport Supply Group \$1,232.44 smcs; SPS VAR \$3,750.00 co; State of NE/AS Central \$3,501.12 smcs; Steinbrink Landscaping \$300.00 smcs; Stocker,K \$13.21 smcs; Sun Life Financial \$38,348.40 smcs; Sydow,J \$40.00 smcs; Target \$31.99 smcs; Taylor Made \$2,778.70 smcs; Teledyne Isco \$520.00 smcs; Tessco \$235.89 smcs; Tetley,J \$2,227.95 smcs; Thomson West \$99.00 smcs; Titleist \$4,030.97 smcs; Tmax Gear \$713.16 smcs; Tractor-Supply \$1,037.28 smcs; Trembly,M \$188.80 smcs; Tri-City Outdoor \$861.30 smcs; Tye & Rademacher \$11,782.45 smcs; United Air \$1,085.80 smcs; Upbeat \$1,680.24 co; UPS \$119.96 smcs,co; US Marker Board \$269.27 co; USA Blue Book \$540.77 smcs; USA Outdoor \$5,880.00 smcs; USPS \$514.97 smcs; Van Diest \$455.66 smcs; Verizon Wireless \$1,140.34 smcs; Vermeer \$139,800.00 smcs; Village Uniform \$414.05 smcs; Vornhagen,K \$150.00 ps; Wallingford Sales \$228.45 smcs; Wal-mart \$1,021.61 smcs; Walters Electric \$1,350.00 co; Wellman,P \$58.84 smcs; West Villa Animal Hospital \$58.00 co; Weston Woods \$1,946.75 smcs; Westside Wholesale \$824.25 smcs; Wiederspan,R \$83.96 smcs; Wilke Donovans \$581.08 smcs,co; Williams,M \$264.00 smcs; World Herald \$273.68 smcs; Xavus Solutions \$1,773.50 co; Yanda's Music \$219.88 smcs; Zimmerman Printers \$635.00 smcs; Payroll Ending 3-27-2010 -- \$322,316.08. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

- 3. Approve the Agricultural Lease between the City of Kearney and Tom Larsen and Ted Larsen and approve **Resolution No. 2010-73.**

**RESOLUTION NO. 2010-73**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed on behalf of the City of Kearney, Nebraska to execute the Agriculture Lease Agreement with Thomas Larsen and Theodore Larsen for 127 under pivot irrigation acres and 9 non-irrigated acres for an annual cash rent of \$21,182.02 on property located at the Kearney Regional Airport from January 1, 2010 until December 31, 2010. A copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

- 4. Approve the application to extend Conditional Use Permit No. 1995-02 granted to Cathleen Headlee to locate a dog grooming business at 211 East 30th Street and for a period of one year.

- 5. Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and WNH, LLC for the construction of paving, water, sanitary sewer and storm sewer within Western Nebraska Property Development Addition and approve **Resolution No. 2010-74.**

**RESOLUTION NO. 2010-74**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Western Nebraska Property Development Addition" between the City of Kearney and WNH, L.L.C., a Nebraska Limited Liability Company to construct water, sanitary sewer, storm sewer and paving to serve Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Sean Denney, Chairman of WNH, L.L.C. to construct said water, sanitary sewer, storm sewer and paving 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 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

- 6. Approve **Resolution No. 2010-75** allowing the City to expend funds on the 56th Street Paving/Storm Sewer Project from the proceeds of the Series 2010 Highway

Allocation Fund Pledge Bonds.

**RESOLUTION NO. 2010-75**

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:

2010 56th Street Paving/Storm Sewer Project	\$450,000.00
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2. The maximum principal amount of debt expected to be issued for such project is \$450,000.00.

PASSED AND APPROVED THIS 13TH DAY OF APRIL, 2010.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Approve the Agreement with the UNK Alumni Association to temporarily close the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue, from 7:00 a.m. on October 2, 2010 through 12:00 a.m. on October 3, 2010.

8. Approve the application for a Special Designated License submitted by JUAN LAZO, dba El Tropic in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 1, 2010 from 6:00 p.m. until 1:00 a.m. for a dance.

9. Approve the application for a Special Designated License submitted by JUAN LAZO, dba El Tropic in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 29, 2010 from 6:00 p.m. until 1:00 a.m. for a dance.

10. Approve the request submitted by Good Samaritan Health Systems and Kearney Park & Recreation to conduct the Good Samaritan Olympiad 5K on June 26, 2010 beginning at 7:30 a.m. The route will begin at Good Samaritan Hospital, south on Avenue A to 27th Street, east on 27th Street to Avenue I, north on Avenue I to Tabor Street, west on Tabor Street to Avenue K, south on Avenue K to 34th Street, west on 34th Street to Avenue G, south on Avenue G to 33rd Street, east on 33rd Street to

Avenue H, south on Avenue H to 27th Street, west on 27th Street to Avenue A, north on Avenue to Good Samaritan Hospital.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7584 – CREATE PAVING DISTRICT NO. 2010-941**

Item Nos. 1, 2 and 3 pertain to the development of Talmadge Street. The City and the developer, Paul Younes, entered into a Subdivision Agreement on October 16, 2009. Pursuant to the Subdivision Agreement, the City agreed to create improvement districts for paving, water and sewer improvements in Talmadge Street. The City will pay for the paving and stormwater improvements with a bond issue which will be funded annually for twenty years by the Special Sales Tax Fund. The sanitary sewer and water improvements will be funded by the Sanitary Sewer Fund and Water Fund. Special assessments will be levied for the sanitary sewer and water improvements to repay the Sanitary Sewer Fund and Water Fund for the developers' share of the project costs.

Council Member Lear introduced Ordinance No. 7584, being Subsection 1 of Agenda Item V creating Paving Improvement District No. 2010-941 for Talmadge Street from the west lot line of Lot 1, Interstate Fifth Addition east to the east lot line of Lot B, Interstate Subdivision, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to 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, Buschkoetter, Lear, Lammers, Kearney. 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. 7584 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7584 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7584 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. 7585 – CREATE WATER DISTRICT NO. 2010-560**

Item Nos. 1, 2 and 3 pertain to the development of Talmadge Street. The City and the developer, Paul Younes, entered into a Subdivision Agreement on October 16, 2009. Pursuant to the Subdivision Agreement, the City agreed to create improvement districts for paving, water and sewer improvements in Talmadge Street. The City will pay for the

paving and stormwater improvements with a bond issue which will be funded annually for twenty years by the Special Sales Tax Fund. The sanitary sewer and water improvements will be funded by the Sanitary Sewer Fund and Water Fund. Special assessments will be levied for the sanitary sewer and water improvements to repay the Sanitary Sewer Fund and Water Fund for the developers' share of the project costs.

Council Member Lear introduced Ordinance No. 7585, being Subsection 2 of Agenda Item V creating Water District No. 2010-560 for Talmadge Street from the west lot line of Lot 1, Interstate Fifth Addition east a distance of 118.52± feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7585 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7585 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7585 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. 7586 – CREATE SANITARY SEWER DISTRICT NO. 2010-500**

Item Nos. 1, 2 and 3 pertain to the development of Talmadge Street. The City and the developer, Paul Younes, entered into a Subdivision Agreement on October 16, 2009. Pursuant to the Subdivision Agreement, the City agreed to create improvement districts for paving, water and sewer improvements in Talmadge Street. The City will pay for the paving and stormwater improvements with a bond issue which will be funded annually for twenty years by the Special Sales Tax Fund. The sanitary sewer and water improvements will be funded by the Sanitary Sewer Fund and Water Fund. Special assessments will be levied for the sanitary sewer and water improvements to repay the Sanitary Sewer Fund and Water Fund for the developers' share of the project costs.

Council Member Lear introduced Ordinance No. 7586, being Subsection 3 of Agenda Item V creating Sanitary Sewer District No. 2010-500 for Talmadge Street from the west lot line of Lot 1, Interstate Fifth Addition east to a point that is 14.13± feet west of the northeast corner of said Lot 1, Interstate Fifth Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and

said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter 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, Buschkoetter, Lear, Lammers, Kearney. 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. 7586 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7586 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7586 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. 7587 – CREATE PAVING DISTRICT NO. 2010-942**

Items 4 and 5, the City received letters from property owners requesting paving 18th Street from 8th Avenue to 9th Avenue and for 7th Avenue from 18th Street to 19th Street. These two streets are graveled streets. In accordance with the City's paving assessment policy (Resolution No. 2006-103), residential properties that have graveled streets wherein the special assessments would be paid as follows: 50 percent by special sales tax funds and the other 50 percent would be assessed against the property in the district. The City Budget includes funds for special sales tax to pay 50 percent for the two graveled streets. The remaining balance will be assessed against the property affected.

Council Member Lear introduced Ordinance No. 7687, being Subsection 4 of Agenda Item V creating Paving Improvement District No. 2010-942 for 18th Street from 8th Avenue to 9th Avenue, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to 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, Buschkoetter, Lear, Lammers, Kearney. 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. 7587 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was

read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7587 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7587 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. 7588 – CREATE PAVING DISTRICT NO. 2010-943**

Items 4 and 5, the City received letters from property owners requesting paving 18th Street from 8th Avenue to 9th Avenue and for 7th Avenue from 18th Street to 19th Street. These two streets are graveled streets. In accordance with the City's paving assessment policy (Resolution No. 2006-103), residential properties that have graveled streets wherein the special assessments would be paid as follows: 50 percent by special sales tax funds and the other 50 percent would be assessed against the property in the district. The City Budget includes funds for special sales tax to pay 50 percent for the two graveled streets. The remaining balance will be assessed against the property affected.

Council Member Lear introduced Ordinance No. 7588, being Subsection 5 of Agenda Item V creating Paving Improvement District No. 2010-943 for 7th Avenue from 18th Street to 19th 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 Buschkoetter 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, Buschkoetter, Lear, Lammers, Kearney. 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. 7588 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7588 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7588 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**

### **ORDINANCE NO. 7589 – ANNEXATION OF STEINBRINK LANDSCAPING, 1930 AND 2010 30TH AVENUE (PERTAINS TO PUBLIC HEARING 1)**

Council Member Clouse introduced Ordinance No. 7889, being Subsection 1 of Agenda Item VI annexing the following tract of land to be included within the corporate limits: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083 (1930 and 2010 30th Avenue) and moved that Ordinance No. 7589 be placed on first reading by title and that the City Clerk be permitted to read Ordinance No. 7589 on its first reading. Council Member Kearney seconded the motion to place Ordinance No. 7589 on first reading. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by title on first reading.

### **ORDINANCE NO. 7590 – REZONING EAST OF 47TH STREET AND AVENUE N (PERTAINS TO PUBLIC HEARING 2 – WITHDRAWN)**

Mayor Clouse stated that Ordinance No. 7590 rezoning property located east of 47th Street and Avenue N was withdrawn by the applicant. Therefore, no action was taken.

### **ORDINANCE NO. 7591 – REZONING AT 911 WEST TALMADGE STREET (PERTAINS TO PUBLIC HEARING 7)**

Council Member Kearney introduced Ordinance No. 7591, being Subsection 3 of Agenda Item VI to rezone from District RR-1, Rural Residential District (Rural Standards) and District M-1, Limited Industrial District to District MU, Mixed Use District for property described as a tract of land being part of Government Lot 6 excepting therefrom Lot 1, Gealy's Addition a subdivision being part of Government Lot 6 and accretions, part of Government Lot 9 and accretions all located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (911 West Talmadge 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 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, 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. 7591 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 Lammers seconded by Lear that Ordinance No. 7591 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. 7591 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. 7592 – VACATE PORTION OF 10TH STREET FROM AVENUE F TO AVENUE H**

The applicant is requesting vacation of the north thirty feet of 10th Street as it abuts part of Lot 6, Pennock's Subdivision and Lots 12 and 13 of Block 2, South Park Addition between Avenue F and Avenue H. 10th Street to the east has been previously vacated with Brown Transfer Addition. 10th Street extends west from Avenue F but the alignment is jogged to the north. The Community Action Partnership of Mid-Nebraska has been working on developing the property to the north of 10th Street for a possible bus barn and maintenance facility for the RYDE buses if grant monies become available. The 30 feet of vacated 10th Street would add a 30-foot strip of usable land to their property.

There is a sanitary sewer line located in 10th Street. Therefore, the City Utilities Department requests that the vacated north 30 feet of 10th Street be maintained as a utility easement to provide access to the sewer.

Charles McGraw was present to answer any questions.

Council Member Lear introduced Ordinance No. 7592, being Subsection 4 of Agenda Item VI to vacate the north 30 feet of 10th Street between Avenue F and Avenue H as it abuts the south 286.77 feet of Lot 6, Pennock's Subdivision and Lots 12 and 13 of Block 2, South Park Addition, all in the City of Kearney, Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to 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. 7592 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 Buschkoetter seconded by Clouse that Ordinance No. 7592 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. 7592 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.

**OPEN ACCOUNT CLAIMS: NPPD - \$451.07, PLATTE VALLEY STATE BANK - \$96,959.96, SCHOOL DISTRICT #7 - \$1,982.80**

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$96,959.96 payable to Platte Valley State Bank, and in the amount of \$451.07 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 Lear seconded by Clouse that Open Account Claims in the amount of \$1,982.80 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**

### **WECOMING HOME 1195TH TRANSPORTATION COMPANY**

Mayor Clouse stated the 1195th Transportation Company will be coming home on Friday after 11 months in Iraq. Mayor Clouse encouraged the citizens of Kearney to help welcome the soldiers home.

## **VIII. ADJOURN**

Moved by Kearney seconded by Lammers that Council adjourn at 7:44 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

**ATTEST:**

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

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**MICHAELLE E. TREMBLY**  
**CITY CLERK**