

Kearney, Nebraska
April 12, 2011
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 12, 2011, 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 City Manager; Kirk Stocker, Director of Utilities; Bobbi Pettit, Assistant Development Services Director; Shawna Erbsen, Human Resources Director; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Rhoda Brown, Marvion Reichert, Jane Musil, Ruth Sajevic, Nevabelle Howe, Mitch Humphrey, Lisa Parrish, Brent Adamson, Ron Fullmer, Roland Whitney, Kenn Fredrick, Jerry Bumgardner, Rochelle Lipker, Gene Boner, Brian Slater, Chris Griffing, Sheri Crow, Barb Wagner, Dan Bates, Shawna Alloway, Denny Casey, Gary Henry, Mary Kolstad, Karen Triplett, Cathleen Torpey Abels, Maria Rodriguez, Michelle Reed, 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

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS – POLICE DEPARTMENT VOLUNTEER PROGRAM

Ruth Sajevic stated the senior volunteer program began at the Police Department in

1994. They have volunteered several thousands of hours over the years. In 2011 they volunteered 1,680 which amount to \$16,800.

ORAL COMMUNICATIONS – PARKINSON’S AWARENESS MONTH PROCLAMATION

Mayor Clouse read and presented a Proclamation to Nevabelle Howe proclaiming April as Parkinson’s Awareness Month.

RECOGNITION – CAROL REED, SENIOR SERVICES ADVISORY BOARD

Mayor Clouse and Council Members recognized Carol Reed for serving two years on the Senior Services Advisory Board.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CDBG – NEIGHBORHOOD STABILIZATION PROGRAM 3 GRANT

Mayor Clouse opened the public hearing on the application to the Department of Economic Development for a Community Development Block Grant Neighborhood Stabilization Program 3 for the rehabilitation of a downtown building into a 14-unit apartment complex for households at or below 120 percent of the area median income and to consider Resolution No. 2011-29.

Candy Kuntz from Miller & Associates, the City’s Grant Administrator, presented this matter to the Council. The Neighborhood Stabilization Program is a funding category within the Community Development Block Grant program funded and developed by the Nebraska Department of Economic Development. This grant is available for local governments and non-profit organizations for housing projects that involve the purchase and rehabilitation of abandoned and foreclosed properties or the redevelopment of demolished or vacant properties. Priority for the third round of funding has been identified as creating low income housing.

The City of Kearney is requesting \$977,000 for construction of affordable housing in the City of Kearney plus 4 percent or \$39,080 for general administration for a total grant amount of \$1,016,080. Total project cost is estimated at \$1,232,500. The remaining \$255,500 will be contributed by the property owner.

The proposed project is a rental housing project in the downtown district in the City of Kearney. The property would renovate a three-story building into 14 two-bedroom apartments for income eligible persons. The first floor would house four apartments that would be handicapped accessible. The other two floors would contain five apartments each. The City’s 2004 Comprehensive Plan revealed a need for 1,097 rental units for persons with incomes of less than \$25,000; only 899 apartments have been added for that income level since 2004. Rental units will have rates capped by HUD LMI levels for

a period of 15 years. The LMI levels will be at 120 percent of the Area Median Income (AMI).

120 percent Income Limits are as follows:

1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
\$48,300	\$55,200	\$62,100	\$69,000	\$74,500	\$80,050	\$85,550	\$91,100

The timeline for this grant is as follows:

NSP3 Timeline	
Pre-Application Due	January 7, 2011
Full Application Due	April 28, 2011
Contract Negotiations	May 9 – 27, 2011
Contract Negotiation Items Due	July 1, 2011
Award Announcements & Contract Start Date	July 15, 2011
Release of Funds Information Due	September 15, 2011

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the application to the Department of Economic Development for a Community Development Block Grant Neighborhood Stabilization Program 3 for the rehabilitation of a downtown building into a 14-unit apartment complex for households at or below 120 percent of the area median income and adopt **Resolution No. 2011-29**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2011-29

WHEREAS, the City of Kearney, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program (CDBG) and the Dodd-Frank Wall Street Reform and Consumer Protection Act for funds distributed by the Department of Economic Development through the Neighborhood Stabilization Program (NSP); and

WHEREAS, the City Council of the City of Kearney, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of \$1,016,080 for rehabilitation of a downtown building into a 14-unit apartment complex for households at or below 120 percent of the area median income.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between City of Kearney and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 12TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CDBG – NEIGHBORHOOD STABILIZATION PROGRAM 1 GRANT UPDATE

Mayor Clouse opened the public hearing on the Community Development Block Grant Neighborhood Stabilization Program 1 to provide an update on Projects 09-EDR-04, 095N42, 10-ED-001, 09-ED-006 and 10-ED-004.

Candy Kuntz from Miller & Associates, the City's Grant Administrator, presented this matter to the Council. As a requirement for Community Development Block Grant (CDBG) and Neighborhood Stabilization Program 1 (NSP1) funding, the City of Kearney must conduct a 2nd public hearing during the course of a grant project. The purpose of the hearing is to update the public on the status of the project and gather public input regarding the project. These grants are available to local governments. This hearing encompasses five separate grant projects the City is completing or has recently completed.

The five projects are outlined below with the grant number, amount of CDBG funds and the amount of local match for each project.

09-EDR-04 – \$865,000 for infrastructure improvements for economic development activities to aid in job creation for The Buckle in southwest Kearney, [0600-Economic Development, Infrastructure Improvements, \$850,000; 0181-General Admin, \$15,000]; The City utilized \$1,500,000 of funds from a grant from the Economic Development Administration, \$259,000 of County and City Economic Development Program Income Reuse Funds, \$1,387,000 of funds from Tax Increment Financing (TIF) and approximately \$35,930 of local funds.

095N42 – \$110,000 of Neighborhood Stabilization Program 1 (NSP1) Funds for demolition of blighted structures within the City limits, [030-Clearance/Demolition, \$100,000; 0181-General Administration, \$10,000]; to date, the City has utilized \$11,896 of local funds thus far. This match has been through waiving the landfill fees for the debris from the demolished structures. The City has demolished 13 structures with the funds and will complete the 14th structure this spring.

10-ED-001 – \$505,000 for working capital for economic development activities to aid in job creation for Xpanxion [0700 Direct Financial Assistance to for-profit business, \$500,000; 0181-General Administration, \$5,000]; the benefitting business utilized \$763,229 of funds from a loan and existing capital to match this project.

09-ED-006 – \$77,500 for planning for eventual development of a speculative business/industrial park, [0630-Planning, \$75,000, 0181-General Administration, \$2,500]; the City used \$76,437 of local funds as match for this project.

10-ED-004 – \$680,000 for special economic development activity for development of a speculative business/industrial park/site which will eventually be occupied by eligible benefitted businesses, [0010-Real Estate Acquisition, \$675,000,

\$0181-General Administration, \$5,000]; the City used \$675,000 of local funds as match for this project.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing pertaining to the Community Development Block Grant Neighborhood Stabilization Program 1 which was a requirement providing an update on Projects 09-EDR-04, 095N42, 10-ED-001, 09-ED-006 and 10-ED-004. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

CONDITIONAL USE PERMIT TO CARL WHITNEY SAND & GRAVEL AND MID-NEBRASKA AGGREGATE AND CONNIE WAKELIN

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Carl Whitney Sand & Gravel and Mid-Nebraska Aggregate Inc. (Applicant) and Connie J. Wakelin, Trustee of Connie J. Wakelin Revocable Trust (Owner) for a Conditional Use Permit to locate a sand and gravel extraction operation on property zoned District AG, Agricultural District and described as that part of the Northwest Quarter of the Southeast Quarter lying south of the right-of-way of the Burlington Northern Railroad; that part of the Northeast Quarter of the Southeast Quarter lying south of the Chicago Burlington and Quincy Railroads right-of-way; the Southwest Quarter of the Southeast Quarter; and the Southeast Quarter of the Southeast Quarter, all in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east side of Cherry Avenue north of 11th Street). Planning Commission recommended the following conditions being incorporated into the Conditional Use Permit for the 11th Street site: a) The CUP allows the applicant the right to operate a temporary paving batch plant to produce asphalt and/or Portland cement concrete. The operation of the batch plant shall include import and export of all materials required to operate said plant, including, but not limited to; fuel, Portland cement, limestone, and chemical additives; b) This CUP shall be limited to a four year time limit but may be renewable at the end of the four year period if the paving construction project is still ongoing; c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape; d) All equipment shall also be removed from the site by the time the CUP expires; e) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate. 2. River gravel or river rock is not acceptable for rebuilding subgrade. 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule. Staff recommends that the road be watered and bladed every four hours when trucks are operating. 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times; f) Hours of operation shall not be limited; g) This operation shall meet all Federal or State agency requirements and standards.

The applicants are requesting two locations for construction batch plants to provide paving materials for the construction of the Cherry Avenue Interchange and Bypass project. This first site is located north of 11th Street between the existing and proposed alignments for Cherry Avenue. The second site is located south of Interstate 80 east of the Archway and is included on this agenda as Item No. 4. A Conditional Use Permit (CUP) is required for each of these sites since they are separate locations, even though the applicants are the same. The 11th Street site is zoned Agricultural. The applicant has submitted a rough site plan that indicates relative positioning of material stockpile areas, plant site and equipment, and construction roads.

Ron Follmer from Mid-Nebraska Aggregate presented this matter to the Council. He stated the Wakelin side would only be used for a plant site. There would be no gravel extraction on that site. All the extraction would be done on Dennis Clabaugh's site. They wanted to have a client site on each one to keep the truck traffic down for the south side during the first phase and then move up on 11th Street and Cherry Avenue for the second and third phase. Mr. Follmer stated he agrees to follow conditions a through g as stated in the Conditional Use Permit.

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 Carl Whitney Sand & Gravel and Mid-Nebraska Aggregate Inc. (Applicant) and Connie J. Wakelin, Trustee of Connie J. Wakelin Revocable Trust (Owner) for a Conditional Use Permit to locate a sand and gravel extraction operation on property zoned District AG, Agricultural District and described as that part of the Northwest Quarter of the Southeast Quarter lying south of the right-of-way of the Burlington Northern Railroad; that part of the Northeast Quarter of the Southeast Quarter lying south of the Chicago Burlington and Quincy Railroads right-of-way; the Southwest Quarter of the Southeast Quarter; and the Southeast Quarter of the Southeast Quarter, all in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east side of Cherry Avenue north of 11th Street) subject to compliance of the following conditions: a) The CUP allows the applicant the right to operate a temporary paving batch plant to produce asphalt and/or Portland cement concrete. The operation of the batch plant shall include import and export of all materials required to operate said plant, including, but not limited to; fuel, Portland cement, limestone, and chemical additives; b) This CUP shall be limited to a four year time limit but may be renewable at the end of the four year period if the paving construction project is still ongoing; c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape; d) All equipment shall also be removed from the site by the time the CUP expires; e) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate; 2. River gravel or river rock is not acceptable for rebuilding subgrade; 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule; the road will be watered and bladed every four hours when trucks are operating; 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times; f) Hours of operation shall

not be limited; g) This operation shall meet all Federal or State agency requirements and standards. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

CONDITIONAL USE PERMIT TO CARL WHITNEY SAND & GRAVEL AND MID-NEBRASKA AGGREGATE AND DENNIS CLABAUGH

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Carl Whitney Sand & Gravel and Mid-Nebraska Aggregate Inc. (Applicant) and Dennis Clabaugh (Owner) for a Conditional Use Permit to locate a sand and gravel extraction operation on property zoned District AG, Agricultural District and described as Lot 1 except the north 34 rods thereof and Lot 5 all in Section 17, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3825 East 1st Street South). Planning Commission recommended approval subject to the following conditions being incorporated into the Conditional Use Permit for the south site: a) This CUP shall be limited to a four year time limit but may be renewable at the end of the four year period if the paving construction project is still ongoing. b) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape. c) All equipment, including dredging equipment, must be removed from the site by the time the CUP expires. d) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate. 2. River gravel or river rock is not acceptable for rebuilding subgrade. 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule. Staff recommends that the road be watered and bladed every four hours when trucks are operating. 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times. e) Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 a.m. to 6:00 p.m.; f) This operation shall meet all Federal or State agency requirements and standards; g) The applicant shall apply for an Industrial Storm Water Permit, and a discharge permit if necessary, from the Nebraska Department of Environmental Quality. If said permit is issued, the applicant will provide the City of Kearney with a copy of the permit and abide by the conditions of the permit during the term of the Conditional Use Permit. h) Portable toilet facilities shall be utilized, properly maintained and protected from damage. i) Fuel storage areas shall be lined with a 60 mil high density polyethylene liner and bermed to contain the entire contents of the fuel storage container. The liner should extend over the berms and be anchored on the outside of the containment area.

The applicants are requesting a second location for a construction batch plant for the Cherry Avenue Interchange and Bypass project. This site is located south of Interstate 80 east of the Archway on property owned by Dennis Clabaugh, street address 3825 East 1st Street South. The applicants are also seeking approval to dredge sand and gravel at this location to provide aggregate for both the north and south batch plants. A Conditional Use Permit (CUP) separate from the CUP considered in Agenda Item No. 3 is required for this site since it is a separate location, even though the applicants are the

same. The site is zoned Agricultural. When the dredging operation is complete, a new 12.5 acre sandpit lake will result for the future use and enjoyment of the property owner. The applicant has submitted a rough site plan that indicates relative positioning of dredge areas, material stockpile areas, plant site and equipment, and construction roads. Of the two sites that are proposed, staff has several concerns with this site and would prefer to limit use of this site for the following reasons:

The south site is in Zone 1 of the Wellhead Protection Overlay District, a restricted area intended to protect the water quality for the City of Kearney Wellfield. If a batch plant were allowed here, even on a limited basis, limestone, Portland cement, diesel fuel and other chemicals will be trucked in and stockpiled causing concerns in the Wellhead Protection Area.

In addition, the truck route itself poses concerns as materials are hauled to and from the site. This limited access road parallels the south side of I-80 and is generally plagued by the sandy soil conditions, poor sub-grade and high water table. This gravel road crosses the Interstate with a "local access only" viaduct which is narrower than a typical interstate crossing bridge designed for semi-truck traffic. This particular bridge is also more dangerous because there are sharp curves in the road at both ends of the bridge making sight distance and vehicle maneuvering difficult, especially for large trucks. For these reasons staff requested and has received a written letter from the Nebraska Department of Roads stating that the existing road network in this area, including the bridge, will be allowable for the proposed trucking operation. NDOR states in the letter that the road and the bridge are designed for public traffic, including trucks, and can accommodate the proposed increase in use.

The Utilities Department has contacted the Department of Environmental Quality regarding the application and requirements that they may have regarding the issuance of storm water and other permits.

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 Carl Whitney Sand & Gravel and Mid-Nebraska Aggregate Inc. (Applicant) and Dennis Clabaugh (Owner) for a Conditional Use Permit to locate a sand and gravel extraction operation on property zoned District AG, Agricultural District and described as Lot 1 except the north 34 rods thereof and Lot 5 all in Section 17, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3825 East 1st Street South) subject to compliance with the following conditions: a) This CUP shall be limited to a four year time limit but may be renewable at the end of the four year period if the paving construction project is still ongoing; b) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape; c) All equipment, including dredging equipment, must be removed from the site by the time the CUP expires; d) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate; 2. River gravel or river rock is not acceptable for rebuilding subgrade; 3. Applicant shall provide a written schedule to water and blade the length of

the gravel street surface with a motor grader and shall adhere to said schedule; the road will be watered and bladed every four hours when trucks are operating; 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times; e) Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 a.m. to 6:00 p.m.; f) This operation shall meet all Federal or State agency requirements and standards; g) The applicant shall apply for an Industrial Storm Water Permit, and a discharge permit if necessary, from the Nebraska Department of Environmental Quality. If that permit is issued, the applicant will provide the City of Kearney with a copy of the permit and abide by the conditions of the permit during the term of the Conditional Use Permit; h) Portable toilet facilities shall be utilized, properly maintained and protected from damage; i) Fuel storage areas shall be lined with a 60 mil high density polyethylene liner and bermed to contain the entire contents of the fuel storage container. The liner should extend over the berms and be anchored on the outside of the containment area. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

REZONING PROPERTY LOCATED AT 860 EAST 1ST STREET

Mayor Clouse opened the public hearing on the Application submitted by Mike Bober (Applicant) and Marilyn Macomber (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District RR-1, Rural Residential District (Rural Standards) property described as Lot 2, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (860 East 1st Street). Planning Commission recommended approval.

The applicant is requesting rezoning of a single rural residential parcel that is located north of Archway Parkway about ½ mile west of Avenue M. There is an existing house and some outbuildings on the lot. The house is currently served by well and septic systems. The size of the parcel is seven acres. The land around the house is undeveloped and rural in nature. The property is currently zoned R-1, Urban Residential Single-Family District (Low Density) and the applicant would like to rezone to RR-1, Rural Residential District (Rural Standards) to construct an outbuilding. The existing R-1 zoning limits the number of accessory buildings allowed on a lot to one. The pre-existing outbuildings that are located on this lot preclude any additional buildings under the current zoning. The size of accessory buildings in R-1 is also limited. RR-1 zoning will allow the applicant to construct the additional building that is desired.

Mike Bober (son of Marilyn Macomber) presented this matter to the Council. They intend to update the structure and clean the place up. To the north of the house, there is a concrete slab on which they would like to construct a steel and wood structure. There is an older structure to the west of that which they intend to disassemble within the next five years. They have a lot of antiques and old tools which they will remove from that building and put into the new building to keep them out of the weather.

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 Mike Bober (Applicant) and Marilyn Macomber (Owner) to

rezone from District R-1, Urban Residential Single-Family District (Low Density) to District RR-1, Rural Residential District (Rural Standards) property described as Lot 2, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (860 East 1st Street). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

FINAL PLAT FOR BEL AIR FOURTH ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Starostka Group Unlimited, Inc. (Owner) for the Final Plat for Bel Air Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of Avenue N, north and south of 66th Street) and to consider Resolution No. 2011-30.

The applicant is requesting approval to vacate some existing lots in Bel Air Second Addition and replat the property into a new lot configuration to be known as Bel Air Fourth Addition. The subject property is zoned R-1, Urban Single-Family Residential District (Low Density) and is located west of Avenue N and on both the north and south sides of 66th Street. The developer is taking eight existing single-family lots and reducing them somewhat in size into ten single-family lots.

Lots 1 through 4, Block One, Lots 1 through 4, Block Two and all of Avenue M Place and a part of 66th Street Place must be vacated so that the land can be replatted as Bel Air Fourth Addition. Eight lots are being vacated and ten new lots are proposed.

The Preliminary and Final Plat of Bel Air Fourth Addition consist of ten lots with five of them arranged around a cul-de-sac known as Avenue M Place on the north side of 66th Street Place and the remaining five lots are on the south side of 66th Street Place. The Preliminary Plat was approved by the Planning Commission at the March 18, 2011 meeting. A Public Works Plan has been previously prepared for the overall Bel Air property. The Developer Constructed Infrastructure Agreement was approved by City Council at the March 8, 2011 City Council meeting. No Subdivision Agreement is required. No building permits will be issued for Lot 5, Block Two until all public improvements are installed for the length of the lot.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This site is located on an undeveloped piece of property located at 66th Street and Avenue M. They want to vacate the four lots in block one which are the lots in the cul-de-sac on the north side and the four lots in block two which are the lots on the south side of 66th Street Place and reconfigure them so each has five lots. The street will remain essentially as it is. The Avenue M cul-de-sac and that portion of 66th Street Place will be vacated to simplify it for the Register of Deed's office to keep track of the platting.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Starostka Group Unlimited, Inc. (Owner) for the Final Plat for Bel Air Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of Avenue N, north and

south of 66th Street) and adopt **Resolution No. 2011-30**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2011-30

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat for Bel Air Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lots 1, 2, 3, 4, inclusive, Block One, Lots 1, 2, 3, 4, inclusive, Block Two, all of Avenue M Place, a street in the City of Kearney, Buffalo County, Nebraska, as it abuts said Lots 1 thru Lot 4, inclusive, Block One, and that part of 66th Street Place, a street in the City of Kearney, Buffalo County, Nebraska from the west line of Avenue N, a street in the City of Kearney, to the west line of said Lot 4, Block Two (if extended northerly) all in Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the aforescribed lots, blocks and streets to be vacated, and all located in the Southeast Quarter of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and all being more particularly described as follows: Referring to the southeast corner of the Northeast Quarter of Section 24 and assuming the east line of the Northeast Quarter of said Section 24 as bearing N00°08'04"E and all bearings contained herein are relative thereto; thence N00°08'04"E and on the east line of the Northeast Quarter of said Section 24 a distance of 343.00 feet; thence leaving the east line of the Northeast Quarter of said Section 24, N89°46'30"W a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being the southeast corner of Lot 1, Block Two, and the northeast corner of Lot 8, Block Two, Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing N89°46'30"W on the north line of said Lot 8, Block Two, a distance of 114.92 feet to the northwest corner of said Lot 8, Block Two; thence S86°24'40"W on the north line of Lot 7 of said Block Two a distance of 100.19 feet to the northwest corner of said Lot 7, Block Two; thence S86°33'39"W on the north line of Lot 6 of said Block Two a distance of 100.11 feet to the northwest corner of said Lot 6, Block Two; thence S89°56'55"W on the north line of Lot 5 of said Block Two a distance of 115.07 feet to the northwest corner of said Lot 5, Block Two, said point also being on the west line of Lot 4, Block Two and said point also being on the east line of Avenue L, a street in the City of Kearney, Buffalo County, Nebraska; thence N00°08'40"E on the west line of said Lot 4, Block Two and on the east line of said Avenue L, if extended northerly, a distance of 200.00 feet to a point on the north line of 66th Street Place, a street in the City of Kearney, Buffalo County, Nebraska; thence 89°52'02"E on the north line of said 66th Street Place and on the northerly line of said Bel Air Second Addition a distance of 129.84 feet to the southwest corner of Lot 4, Block One of said Bel Air Second Addition; thence leaving the north line of said 66th Street Place N00°11'36"E on the west line of said Block One a distance of 239.83 feet to the northwest corner of Lot 3 of said Block One; thence S89°52'52"E on the north line of said Block One a distance of 299.89 feet to the northeast corner of said Block One, said point also being the northeast corner of said Bel Air Second Addition; thence S00°08'04"W on the east line of said Bel Air Second Addition a distance of 426.85 feet to the place of beginning, containing 3.56 acres, more or less, all in Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County,

Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

PASSED AND APPROVED THIS 12TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING PROPERTY LOCATED AT 1210 EAST 11TH STREET

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

Mayor Clouse opened the public hearing on the Application submitted by Crossroads Center Rescue Mission (Applicant) and Gene Freeze (Owner) to rezone from District M-1, Limited Industrial District to District R-4/PD, Urban Residential Multi-Family (High Density)/Planned Development Overlay District property described as Lots 1, 2 and 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (1210 East 11th Street). Planning Commission recommended the application to rezone the property from M-1 to R-4 Planned Development and that allowed for 66 persons and 32 (with potential to add 8 in the future) off-street parking stalls.

The applicant is requesting rezoning of the former Prince of Peace Church building from District M-1, Limited Industrial District to District R-4/PD, Urban Residential Multi-Family District (High Density)/Planned Development Overlay District. The proposed use is to provide transitional housing for people who are homeless. Approval of Development Plans is also required.

At the January 2011 Planning Commission meeting, Crossroads made their initial presentation. Many concerns that were raised had little or nothing to do with the question at hand, whether or not the property should be rezoned. Those questions that were applicable to the zoning question could not be answered by the applicant without more preparation. Therefore, Planning Commission requested that a Planned District Overlay be applied to the project to garner more information and continued the public hearing to allow the Crossroads team time to prepare a Development Plan package. A hearing on the development plans for the facility was submitted for the March Planning Commission meeting as requested by the Planning Commission. Many of the questions regarding physical appearance of the building, site enhancements, and other exterior characteristics have now been addressed by the development plans. However, from a zoning standpoint the proposed occupancy of the structure continues to be the pivotal point of contention.

A great deal of activity has occurred since January. Staff has met extensively internally and with the Crossroads representatives in order to provide the best information possible to the Planning Commission and City Council. The Crossroads Board of

Directors retained the services of an architect to design the facilities and prepare the development plans. Two staff members toured the existing Crossroads facility in Hastings, Nebraska. Phone calls were made to the Planning Departments in Lincoln, Grand Island, Hastings, and North Platte to research how those communities regulate group residential uses. Martin Shukert, the consultant that prepared the ULDO and the Comprehensive Development Plan, was contacted to provide his opinion.

The property is currently zoned Light Industrial District. Any and all residential uses are prohibited in M-1 under the current Code unless they existed prior to the Code's adoption. The location of the existing building is considered a mixed-use area. Across the street is commercial development in one direction, industrial development in another direction. A neighborhood park and residential homes round out the mixture of land uses in the area. A significant amount of open land has yet to be developed in the area, especially to the south. The site is located at the intersection of 11th Street and Avenue M; both arterial streets have been master planned to carry heavy traffic volumes into and out of the city.

The Future Land Use Map of the City of Kearney Comprehensive Development Plan shows the site designated as civic (most likely because of the Prince of Peace Church) surrounded by Mixed Use 1. Given these facts, it seems reasonable to consider R-4 zoning at this location. Staff has categorized the proposed use as "Group Residential" within the available use types listed in the Unified Land Development Ordinance (ULDO). This use type is specifically described as:

"The use of a site for the residence of more than three (3) unrelated persons, not otherwise defined as a family, in which occupants are accommodated in rooms not defined as dwelling units. Group Residential uses are limited to facilities that are officially recognized or operated by a college or university, government agency, or nonprofit organization."

Group residential has been determined by staff as the most appropriate land use classification for a homeless shelter or transitional housing facility within the ULDO. Group residential uses are allowed by right in the R-4 zone. A Conditional Use Permit (CUP) is required in AG, R-2, R-3, RM, and UC zones. It is to Crossroads advantage to seek approval of a "by right" zone as opposed to a CUP. This is the direction they have chosen with R-4 zoning. The Planning Commission has added the Planned Development Overlay to amend the rezoning request to R-4/PD.

Other residential uses that are allowed by right in R-4 include: single-family homes; duplexes; townhouses; multi-family apartments; lodging houses; manufactured housing; and retirement residential. Other civic uses that are allowed by right in R-4 include: administration buildings, recreational clubs, social clubs, colleges and universities, convalescent services, cultural services, day care, emergency residential, group care facilities, group homes, guidance services, health care clinics, parks and recreation facilities, primary education facilities, churches, safety services, and secondary educational facilities. A small number of other uses that are allowed by right in R-4 include: bed and breakfast, funeral services, and amateur radio towers.

Other facilities similar to Crossroads that are currently operating in Kearney include the following:

- The RAFT House (Residential Assistance to Families in Transition)
 - 2718 Avenue N;
 - Provides temporary residence to families working towards regaining self sufficiency;
 - M-1 zoning, Light Industrial District;
 - Approved in 1996 through CUP under the previous zoning ordinance;
 - Occupancy-addressed in CUP, but was based on number of units (currently 5 units).
 - (NOTE: only allowed in an M-1 zone because it was existing the day the ULDO was adopted.)

- The Christopher House (current property has been liquidated and no longer exists in the City of Kearney)
 - 2701 Central Avenue;
 - Boarding house for men with chemical dependency;
 - C-2 zoning, Community Commercial District;
 - Approved in 1996 by CUP under the previous zoning ordinance;
 - Occupancy – CUP requires maximum of 12 men plus the manager.
 - (NOTE: only allowed in a C-2 zone because it was existing the day the ULDO was adopted.)

- Boys and Girls Home of Nebraska
 - 1404 East 39th Street
 - C-1 zoning, Limited Commercial District;
 - Approved as a hospital in 2004 by CUP under the current ordinance;
 - Occupancy not addressed.
 - (NOTE: classified as a different use than group residential, but it is the only similar use that current ULDO has been applied to.)

The most contentious for Planning Commission was about maximum occupancy. The facility was not designed in time for the January Planning Commission and occupancy had not been addressed. The Planning Commission's requirement of a development plan has assisted Crossroads with determining an appropriate occupancy.

While the ULDO (Unified Land Development Ordinance) does address group residential in other zones (i.e. urban corridor), the greatest number of persons per structure it will allow is 15 in an R-4 zone. Staff advised the Crossroads team that any greater occupancy must be justified and approved through the planned development district process. The Planned Development District (PD) is intended to promote developments that are deemed advantageous to the City of Kearney by permitting project design that will surpass the quality of development resulting from the application of conventional zoning. The planned district overlay allows flexibility in project programming and design standards that may be unique to a particular project at a particular site. It is typically used to regulate site; however, one stipulation of a PD does address land use intensity and density. Therefore, staff believes that through the PD designation, Planning Commission and City Council have the ability to recommend and ultimately approve a

density of greater than 15 persons **IF** they believe this development is advantageous as well as appropriate for the City of Kearney.

Crossroads Mission has requested justification for the occupancy limit of 15 persons. Staff interprets the intent of the ULDO is to place limitations on the total number of occupants. This limit should ensure that a group residential use would appropriately fit into a residential or commercial setting. This intention is to prevent a situation where an excessive amount of persons are living under one roof. More than 15 unrelated persons living in one house would place an excessive amount of stress on a local neighborhood.

Crossroads Mission has requested an occupancy cap of 66 persons, which is more than four times the occupancy cap of 15 established by Table 46-1 in the ULDO. A request for a deviation of this magnitude, even within the context of a planned development district requires deeper analysis.

Through analysis of the scale of this request, staff has considered the following density comparisons:

1. ***Apply only the square footage requirements in Table 46-1, "Group Residential Density by Zoning District."*** The table shows that R-4 zoning allows group residential by right with a maximum number of unrelated persons in the structure of 15, a minimum amount of floor area per resident at 250 square feet, and a minimum amount of site area per resident at 650 square feet. Crossroads claims that 15 is an insufficient number to make this project financially feasible. The size of the entire site is 4.5 acres, roughly. $4.5 \text{ acres} \times 43,560 \text{ square feet (in an acre)} = 196,020 \text{ square feet of site area}$ divided by 650 square feet/person = 302 total persons that could fit on the site if the site were fully developed with multiple buildings. At a maximum of 15 people per building it would take 20 separate buildings to accommodate 302 people. It would be impossible to accommodate 15 separate buildings with all associated site requirements on this site. Therefore, the true maximum density is something less than 302 persons.

Crossroads approach to determining maximum occupancy is based on the minimum amount of floor area per resident (in Table 46-1) of 250 square feet per person. If the focus is limited only to the former church building as opposed to the entire site, and if a second story is added to the building, the total floor area in the building becomes 16,522 square feet. At 250 square feet per person, the maximum proposed occupancy is 66 persons ($16,522/250=66$). With this approach, the ratio of 250 square feet of building floor area for each person could be applied on a sliding scale such that smaller buildings have fewer residents while larger buildings with more floor space can accommodate more people.

2. ***Consider market rate apartments, which is allowable in R-4 zoning.*** R-4 multi-family zoning allows for 18 or more dwelling units per acre. At 4.5 acres the site could theoretically accommodate 81 units and at 4 persons per unit, the total number of renters could be 324.

If we focus only on the building and not the entire site and if we assume that the existing building is allocated one acre then the 18 units per acre and four residents per unit equates to 72 persons in the building. If 18 apartment units were located in this building, the off-street parking requirements would range from 27 to 54 stalls (depending on number of bedrooms per unit). At this point in time, 23 percent of Crossroads' guests own a vehicle. The ULDO requires one parking stall per guest for group residential uses. Parking requirements are also addressed through the development plan.

- 3. Use the building floor plan as a guide.** This option has merit since the project involves retrofitting a new use into an existing building. The architect has prepared a number of graphic illustrations of the project including a floor plan for the upper and lower floors. The ground floor is reserved for common shared activities such as the kitchen and dining hall, meeting rooms, and administrative offices. The second story consists of four living quadrants with four bedrooms per quadrant and shared bathroom, lounging and kitchenette facilities. The sixteen bedroom layout depicts two beds in each room for a total of 32 beds.

In addition to addressing maximum occupancy, the Crossroads team has prepared a complete development plan package that depicts all proposed enhancements to the existing building. Stairwells for exiting have been added to both ends of the building with an elevator in the south end. A rich variety of construction materials and architectural treatments are combined to transform a plain and ordinary block building into an attractive and stately addition to the area's built environment. A covered portico extends from the east façade of the structure over the drop-off lane to provide protection from the weather. A site plan depicts public sidewalks, a complete landscape plan, an outdoor patio with tables and seating available during nice weather and a new parking lot for 32 vehicles with room designated for eight additional future parking spaces.

The applicants are reminded that the Development Plans, if approved, represent a contract between the applicant and the City to fulfill all components as shown on the approved plans. If substantial modifications arise, the new plans are subject to another round of review at Public Hearings before the Planning Commission and City Council. Minor deviations may be approved administratively by DRT staff.

Assistant Development Services Director Bobbi Pettit addressed the Council. She gave a brief overview of what happened at Planning Commission and the rationale behind their decision. Crossroads first appeared before the Planning Commission in January 2011. At that time, there were a lot of unanswered questions by Crossroads, many of which pertained to the site design, parking, appropriate land use classification, landscaping, and traffic flow along an arterial street. At that time, Crossroads was not prepared to answer those questions. There were also concerns about how their facility would fit with the residential development around their site.

Planning Commission talked about approving it as an R-4 under a Conditional Use Permit. City Planner advised that was not possible because they were asking for a classification of "group residential". Under R-4 zoning a Conditional Use Permit does not apply, they are allowed to operate by right. Planning Commission suggested that a planned development was more appropriate because the site improvement issues that

were mentioned necessitated Crossroads to go back and work with City staff on how to make this work. Planning Commission also had several questions about the ultimate maximum occupancy which Crossroads was not able to answer at that time.

Crossroads was continued to the February meeting. City staff met several times internally and did an extensive amount of research based on group residential uses in cities in Nebraska and the U.S. They also met with the Crossroads staff several times. Ultimately, Crossroads decided on a maximum occupancy which helped the City staff in determining how they could apply the ordinance to protect the City's development goals and help Crossroads meet their mission at the same time. City staff agreed to make it a Planned Development. Crossroads then addressed the Planning Commission that they wanted to be able to house a maximum of 66 persons at once which was built into the plan as a stipulation. This was unique for the City of Kearney to actually use a planned development to address occupancy, but it is possible. The occupancy number determines the number of parking stalls required.

The site is already in a mixed use area with a lot of residential development, but R-4 would fit within this mixed use district as it continues to grow. The Unified Land Development Ordinance (ULDO) which the City adopted in 2004 permits group residential in many different zones from AG to Urban Corridor. The least restrictive zoning for Crossroads would be the R-4, which is why they decided to request the R-4. All other zones require stricter density requirements or stricter site requirements. The City Code states that the maximum occupancy for group residential in an R-4 zone is 15. At this time under the City's ULDO, 15 is the maximum that a group residential can have in any zone. These are the reasons that it was passed through Planning Commission.

The Planned Development is a tool to use in the ordinance when the Council deems the project to be in the best interest of the City of Kearney. It allows the Council more flexibility than just applying the more conventional zoning regulations or to place restrictions on it. The only way Crossroads could be allowed to house more than 15 people is through this Planned Development under the City's zoning ordinance.

She further stated that planned developments are used fairly frequently for high profile projects presented to the City. Anybody that develops in a planned development is required to produce a site plan, showing what the buildings are going to look like, how they will be utilized and traffic flow. She stated that since the ULDO went into effect in 2004, setting a maximum occupancy has not been used. There are stipulations within the planned development of requirements that must be met such as; landscaping, adequate off-street parking, setbacks from the street for pedestrians and also a stipulation that addresses land use intensity and land use density. This has not been an issue in the past. It has neither been requested nor has it been granted.

Council member Lear asked if a UC zoning has been considered for this project. Assistant Development Services Director stated Urban Corridor was considered and would be more appropriate because of 11th Street and Avenue N; however, that is a more restrictive zoning than the R-4/PD. Since this is a mixed used area along this beltway, staff believed whether they went with residential or commercial, it was still staying within the ultimate comprehensive plan and future land use.

Council member Lear stated that he believed they should not mix the zoning and the development aspects of what they do for any business, although they often do. He offered the scenario that if this project could no longer get funding, it would be converted into another use. By rezoning it to R-4, the expectation would be this is the only use for this property. He submitted the Avenue M and 11th Street intersection is very eligible for commercial development coming in from 11th Street or Cherry Avenue because it is a major intersection that will potentially develop over time. Assistant Development Services Director stated that Planning Commission did consider the fact of what would happen to the property if Crossroads goes away. Planning staff believed that it would still be a suitable location for residential development. It is an urban corridor, but also developing as a mixed use district.

The R-4 is what Crossroads requested without recommendation from City staff. City Manager Michael Morgan stated that Crossroads looked at the table in the City Code and requested the R-4 based on item number 15 which allows as much flexibility as possible for a minimum of 250 square feet. There has been a lot of confusion about 15 and 250. These two numbers do not go together and are stand alone numbers and are not multiplied together. The City of Kearney has never used a planned development district to adjust any development related to this chart and those numbers. He posed the question "Can it be done?" The answer is, absolutely, the Council has the discretion to do that. Planned District Development has been used for many things, but not this specific purpose to allow a deviation such as 15 to 66 for occupancy. Generally, when a PD is requested it is for a new building, in this case it involves an existing building.

City Attorney Michael Tye stated that the PD designation, as the Council has seen in other projects, deals with the building, landscaping, setbacks, etc. There might be a unique parcel of property that somebody is trying to develop and might need a slight variance to develop. When a developer brings a planned district, he commits to build that building or develop that property pursuant to that planned development plan. The R-4 is selective because it is the highest density and occupancy that can be allowed in a residential zone for group residential. When Crossroads first came to the City, they did not have drawings of what the building site would look like, so a planned district was requested at that time. A very detailed plan was brought forward by the applicant for Planning Commission to consider.

Council member Buschkoetter stated that this facility is unique in its nature. It is not a traditional apartment complex or rental housing or a hotel. The question is if Crossroads goes away, what happens. Once the requirement is set in a PD, the City would not be able to pull that density requirement back which is a concern for the long term, but also why the PD makes sense.

Mayor Clouse asked how this differs from a multi-family development. Assistant Development Services Director stated if this was an R-4 multi-family development, they could put as many as 18 units or more on an acre. According to City Code, if there were four bedrooms per unit, there could be as many as four people in a unit which equals 72 people per acre. Mayor Clouse stated that this is group residential with unrelated persons which is significantly different than a multi-family.

Jerry Bumgardner, Interim Director of Crossroads in Hastings, presented this matter to the Council. He stated Crossroads is a rescue mission and what differentiates them from just being a homeless shelter is they do not just house people; they also feed them and provide a 4-phase program where they work with the person with their finances, medication and time management. They do not just clothe and feed them and put them back on the street, the goal is to get them back on their feet.

The facility they now have in Hastings is located in an area with a park, commercial and residential buildings which is just like the location in Kearney. Mr. Bumgardner stated they are excited about what they do in Hastings and it is their desire to do the same in Kearney. Immediately upon check-in for each person, they do warrant checks to make sure that no one questionable checks into their facility. They have the person sign a form that states they are not a sex offender. Crossroads does not allow sex offenders because they house families and children. If the person is awaiting classification, they do not allow them to stay in the facility.

From January 2011 to the present, in Buffalo County there were 52 individuals that have stayed at Crossroads. The age ranges of those 52 individuals were 18-19, 20-30 and 35-40. Currently, they have 13 they consider in an apartment who have graduated the 4-phase program. They have 34 men in the program. Fourteen have had jobs for a month or more in order to graduate to the next phase. Three are now getting GEDs, three are doing outpatient treatment and three are actually in high school to get their diploma. In total, they have unduplicated stats for 2011 including 240 individuals from January to the present of which 52 are from Buffalo County.

In doing the survey, it helped them to see that the majority of the people they serve are from Hastings, the second majority from Grand Island and the third from Kearney. In this homeless shelter they are serving mainly the tri-city area. The question has been about transients or people just passing through. The majority of people they service are local. Mr. Bumgardner stated he has been with Crossroads for four years and has seen a lot of people recover and get their lives back together. He stated that a person's average length of stay is 62 days for the Buffalo County area. The average number of people served daily is 82. If a person in the program can pay down \$2,000 worth of debt and save \$1,000 that is a guideline for their program success. The success rate to him applies to any person even if they do not complete all four phases, but they "get" the program before they leave. If they leave with a good attitude, after 62 days of turning in their money, saving receipts and have been accountable for their time that is a success to him. That would apply to 13 who are in the apartments right now. He stated that is a very high success rate to him.

Council member Buschkoetter asked what the highest number of occupants they have had at one time in Hastings and how that building compares in size to the one in Kearney. Mr. Bumgardner stated they actually have a 120-bed facility and have had 100+ beds occupied. This happened in the coldest months of the year and over the holidays. The length of stay was very short and they have not had that number stay over a long period of time. In Buffalo County, the breakdown is nine single women for 247 nights of stay, 27 single men for 1,503 nights of stay, two single moms and six children for 544 nights of stay and two dads, two moms and four children for a total 931 nights of stay which equal 3,325 nights of stay. The cause of homelessness for most of

those would be no affordable housing which they are asked about when coming to stay at Crossroads. Rochelle Lipker, Office Administrator for Crossroads, stated upon check in, they ask where their last permanent residence was and how long they stayed there.

Council member Kearney had to leave the meeting.

Council member Lear asked how people find their facility. Mr. Bumgardner stated the majority of people coming to crossroads are referrals from agencies, such as voc-rehab, Mary Lanning, paroles from Region III, Salvation Army Detox Center, Safe Centers, Richard Young, friends and family, Crossroads website and law enforcement.

Council member Lear stated in going through the list of supporters, he did not see Buffalo County Coalition or United Way and wondered why. Mr. Bumgardner stated they did not ask for a letter of support from them, but for no apparent reason. The only reason he could think of that they might not want Crossroads here would perhaps be the competition for fund raising.

Mr. Bumgardner stated one of the things, he believed differentiates them from other places is that they can be the place to stay until they can find someplace else to go, which is virtually impossible to do on short notice. That is why people are coming to Hastings and why he believes it is important to have a place here in Kearney.

Crossroads does not do government funding while other agencies do. Their funding is all through donations and they do receive a small portion from a grant. They presently receive support from the Kearney area to house people in Hastings. Mayor Clouse asked if there will be enough personal funding to support this new facility. Mr. Bumgardner added they also get funding from churches that want to help and want to get involved in helping these people. To keep expenses down they do not hire everything done in their facility. They allow the community to get involved such as churches, community members who want to help those less fortunate and there is an agency that allows retired people to come in and work in their facility. It is a huge factor when people take a personal hand and help others in their recovery. Everyone in the community is welcome to help without segregation or church affiliation. It is a community within a community.

Council member Lear asked Mr. Bumgardner if he believed that Kearney is currently providing adequate resources for its homeless population. Mr. Bumgardner stated that Kearney does not provide the emergency type shelter that a person or family needs. There are many agencies that can be called in the area where they can be put on a list, but the immediate needs of food, clothing and shelter are not readily available. That is why a family or an individual has to be transported to Hastings for a period of time for shelter, food and encouragement until they can work with the right person or agency to get permanent housing. He stated that the police do a good job of helping people through the emotional time and gets them to a temporary shelter. Council member Lear asked if there have been any surveys in the Kearney area to assess what our needs are. Mr. Bumgardner stated there have been no formal assessments done, but he believed through those they see at their facility, there is a definite need.

Kenn Frederick, Architect with Master Builders Associates, stated this building provides

a unique vision for this project. This building has had a myriad of uses which is a pre-cast concrete structure that is much like a bunker and as solid as can be. It needs a little help on the exterior. They want to establish a density for this building in terms of how many people will be allowed to be housed in the building. There was a comparison earlier in the meeting of market rated apartments versus what Crossroads is wanting to do, but they are very similar. In his estimation, if Crossroads ceases to exist, this building could be turned into market rate apartments fairly easily.

There are two existing buildings on site. The main building is located on the corner of Avenue M and 11th Street and there is also a storage building. They looked at all the non-conforming uses that the existing structures have and they certainly encroach on some of the setbacks, etc. There is not much to be done about that, but they can certainly use some mitigating factors to help that. They will be complying with all landscaping requirements, setbacks with any new structures on the building. Parking will also be complied with by having 32 stalls and 8 additional ones with an all concrete drive. The total site is about 4.5 acres, but the building site sets on about an acre. They have designed the required sidewalks along the streets and also interior sidewalks. There will be an outdoor patio area, designated outdoor smoking area that is fenced and a playground area.

The building does propose two additions which are vertical circulation additions. There will be a stairway tower and elevator on the south side and a stairway tower on the north side. There will be a delivery and service drive planned with trash containers, etc. He would liken the plan to a hotel or apartment complex look. One of the things that Crossroads requested is to comply with every Code that the City of Kearney has in the design and make the building look pleasing. The entryway element to be added is a transparent cover that would welcome people to come in. There would be a couple of emergency exits and service entry doors.

Mr. Frederick stated he worked with Ms. Pettit and Lance Lang to make a plan about what to do with this old building and come up with a good design. There will be an entry canopy with a vestibule that opens into an administrative area with a couple of offices, restrooms and conference room. After they check in, they can use the lounge, dining area, outdoor patio area and kitchen. There will be meeting rooms for use during the week, restrooms and mechanical space. Upstairs will be divided into four pods which are basically identical. Each of the pods has four bedrooms with a shared living, dining and small kitchenette space. These areas are met to be very flexible, but each can be closed off from the other pods. Council member Buschkoetter stated that would make 16 bedrooms and four apartment type spaces. Mr. Frederick stated if there were bunk beds in each bedroom, there could be a maximum of four people in each bedroom. This actually works out to be the same density factor as a market rate apartment complex would be.

One of the features they have used for the exterior is looking for different mixes of materials to enhance the building. It is a big building without much appeal as it appears right now. They have tried to use different material to break up the look vertically and horizontally and add some color to the building. They will be complying and actually exceeding the amount of masonry required in an R-4 zone on the street sides. This structure in Kearney will be about half the size of the Hastings facility. There are

approximately 120 beds in Hastings and occupancy runs about 80. This one has a maximum occupancy of 64 and regular occupancy would be in the 40 range. The current Crossroads building in Hastings was a nursing home facility so that building had some unique characteristics of its own. He read from the site regulation which states 18 units are allowed on one acre and each unit allows four people which equals occupancy of 72 people. They are not trying to exceed that number, but stay within the limits. The density of the Kearney building as it is designed has 16,522 square feet divided by 250 square feet equals 66 persons. No matter what this building ends up being used for that 250 square feet can be used as a regulator.

Mayor Clouse asked Mr. Bumgardner about the process of taking their people out for job training as they step through the program. Mr. Bumgardner stated many of them do not have jobs for one reason or another. They are allowed up to eight weeks to go through classes which are taught in the facility such as: how to fill out a resume, handle finances, etc. These classes are taught by volunteers who are usually qualified retired people. Mayor Clouse stated the reason he brought that up is because the Department of Labor closed its career centers in Kearney and if these people have to go to Hastings and Grand Island for a career center it would not make sense to house them here and transport them back and forth. Mr. Bumgardner stated they also have students teaching that are sent out by the college and many other volunteers.

Council member Lammers inquired about how they handle people who have had drug and alcohol problems. Mr. Bumgardner stated they are not allowed to use drugs or alcohol while at the facility. If they do use during their stay, they are required to go in for treatment or they can no longer stay. They can come in if they have a history, but are not currently using or they must leave and go back into treatment. The goal is to work with them to make sure they have a plan in place for their future. This is not a retirement home, they must move forward at some point. They do build a support system while they are there and that is why the progress has to be gradual. They have had people who have gone through the program and have moved out into the community and have come back to volunteer which is part of their recovery.

Captain Gene Boner of Hastings Police Department, 1203 North Highland Road, stated he wanted to give a perspective from a law enforcement standpoint. He has been on the Hasting Police force for 22+ years and on the Board of Directors of Crossroads for the past 6-7 years. Currently, he is the chair of the board and has been for the past three years. One of the things they have found through this process is they did not just decide to open a facility in Kearney. They have been approached by Kearney folks in civic organizations and various groups for a long period of time. They asked how Crossroads could help them. This is a plan that has been under development for years. The Crossroads facility in Hastings has been a dynamite success and a huge success for the community and a tool for the police. The Police Department gets calls all times of the day and night about people who are in a crisis who have gone to a church or other agency and asked for help and need an immediate place to go. Many times people do not know who else to call so they call the Police Department. They feel fortunate to have Crossroads to refer them to. As long as a person is not mentally ill or a danger to themselves or others and do not have a warrant out for them, they are welcomed to take them to Crossroads facility. They get immediate care, attention and help.

The Hastings location is in a residential area, with a park right across the street and a high school just down the street. There is a gas station and a McDonalds down the block. Due to a lack of education and information, the citizens in that area voiced opinions and concerns. They were worried they were going to have these sex offenders, drug and alcohol abusers and thieves living in their neighborhood. This was before his time on the board, but Crossroads did a good job of meeting with the community to explain what the program is and what they are about. He stated the support they have from the tri-city community, not just that area, is overwhelming.

Captain Boner referred to an article in the Hub after the Planning Commission meeting quoting statistics about the amount of crimes that were reported at Crossroads over a 5-year period. He was asked to provide those statistics as a captain of the services division. He stated he was gone the next day and not able to clarify some of those statistics with the news reporter who had contacted him. Captain Boner stated he became aware of some people who read those statistics and were concerned about all this crime. There have been a number of variables that have taken place over the last 5-6 years in Hastings.

The State in their infinite wisdom, decided that the regional centers were going to close, but they did not have any community based facility programs to handle the folks that had been getting treatment in the regional centers. Law enforcement opposed the closing of the regional centers because they knew what kind of a resource they were for them. At that time, they saw an increase in the amount of people who were being directed to Crossroads who were mental health folks in crisis. Because of that experience, Crossroads is very diligent in making sure that a person who might be mentally ill and a danger to themselves be properly evaluated. They get called as law enforcement to come and make that determination. Law Enforcement is the only agency that can make a determination that person needs emergency protective custody. Referring back to the Hub article, there was an average of 27 EPC reports or calls a year to the Crossroads Center. The peak year was in 2006 where they had 39 EPC evaluations and that has dropped to 21 in 2010. The reason for that decline is they have more community based care in place. They average 1.4 calls per year to Crossroads for disturbances, 2.8 calls per year for drug related offenses and 1.4 calls per year for theft reports. The average is 75 all inclusive calls per year to Crossroads. Someone might be in an accident out in front of Crossroads and the report comes in as Crossroads, but may be unrelated to the facility. He wanted to keep in mind those numbers can be skewed.

Brian Slatter, 1311 Avenue M, stated he would be the closest neighbor to the Kearney site. At some point he and his wife will have to sell their place because they will not be able to take care of it. He believed that it would be a little tougher to sell it to a developer with a homeless shelter close by. He went to their opening last winter on a Sunday and they remarked how they had room to expand. He wondered if sometime in the future the Hastings facility might relocate to Kearney. He stated that Nebraska and a handful of other states are in the best shape financially and Kearney is probably in the best financial shape in the state. He believed that if a drug and alcohol center were to be located in a bigger City, like Omaha, it would be a better place because they have more homeless. He stated you put a homeless shelter where the homeless are and not where there are only a few. A home in Kearney would draw people away from where they were

living.

Chris Griffing, 1108 Avenue K, stated that she had been a homeless parent in the past and now her kids are grown and have families of their own. For 16 years, she has been working the night shift in Kearney and she survived with a help from a lot of different agencies. There were times when she could have used some immediate assistance and believed there has been a need for a facility like this for a long time in Kearney. There are times when people need a place to go and she thought this would be good for the community. She also brought a note from her next door neighbor who also has a Habitat house. Her name is Valerie Mills and her message was that as good Christians we should embrace and help those who are less fortunate instead of turning our backs on them and putting them where we do not want to see them. Ms. Griffing stated that she lives in a very good area with a lot of police protection around them and they are very visible which makes her feel safe, especially since she works the night shift.

Dr. Sheri Crow, 6106 Avenue S, Assistant Professor and Coordinator of the School of Library Science Program at UNK, stated that she and husband, Steve, moved here from Colorado Springs in January 2009. It is evident that as cities grow, new problems develop. As these problems become bigger, cities begin looking for solutions. Kearney's growing pains are not pronounced right now, but by allowing a Christian mission to start here she believed the citizens of Kearney are taking pro-active measures to address what could be future problems. By taking the stance of providing a place that is not just a holding tank or a corral, they are giving people an opportunity to solve their problems and turn their lives around. She stated that we as a city are setting up a system designed to get people back on their feet and back to work and helping them to become solid and contributing citizens again. For these reasons she believes true solutions for helping people should be based on the principal of Christ. She supports the Crossroads Rescue Mission and she will volunteer once it is established in Kearney.

Barb Wegner, Cozad, Nebraska, stated that she works for Experience Works I and is an employment and training coordinator for seniors over the age of 55 who have no income. She has been working with Crossroads for approximately two years and has six participants who are all homeless and are now earning \$7.25 an hour for 20 hours per week. The staff works with them to get them into housing. She has three males who are Viet Nam Veterans and three females in her group. They are given training at the Crossroads Mission to help them move into other paid employment. She will be thrilled when a facility opens in Kearney because it will give her a location to place more people.

Marvion Reichert, 18 Rolling Hills, stated that he did not know anything about Crossroads until this meeting. He believed it was terrible for Kearney not to have a homeless center like Hastings and North Platte. Kearney has one of the best jails in the country and Kearney has a lot of good things going for it right now, but a homeless shelter is a necessity. His son lives along Highway 30 in Elm Creek and he has had people stop and ask for something to eat. His son on occasion has taken them to a Lexington shelter and got them lined up to work. One came back later and repaid him the money he had given him. He also picked up a person along the highway and took them to the Kearney Police station to get them some assistance. In his opinion, it is the

Christian thing to do. He lives near the Youth Development Training Center and people are building homes all around that area. No one there has expressed concern about losing their home values. He believed that having something like this facility will be an asset not a detriment to the values.

Rhoda Brown, 410 Tahoe Drive, Neighborhood Association, stated the Hastings Police Captain stated they met with their neighbors before opening the facility in Hastings. Ms. Brown stated that no one from Crossroads has contacted the Neighborhood Association here through this whole process. The Association meets at the Library every month and there has been no attempt made to step them through this mission's program, what they are proposing or what they foresee for the project. The first she knew of it is when the Planning Commission sign was posted for the first meeting. She did receive an invitation to their open house on a Friday afternoon. She had plans to leave town and was not able to attend on that Sunday. She believed that was very short notice and she could have changed her plans had she known in advance. They have not tried to be good neighbors to the Neighborhood Association because all the other projects in that area have always met with them one or two times before going ahead. To her knowledge, they also have not contacted any of the Neighborhood Association members who attended the Planning Commission meetings and asked for a quick meeting with them.

Ms. Brown stated they submitted a letter of concern with 75 signatures and 90 percent of those signatures were within the 2-3 block area of this proposed site. The signers of the petition were totally against the Mission going in their neighborhood. People living in the immediate area should have more of a say than people living outside the area. She has a concern about the truck traffic once Cherry Avenue gets open. Another concern is if they have children staying there, how many volunteers are they going to have to supervisor these children when they are not in school and their parents are going to work or taking classes. She also inquired where the money is going to come from for their monthly budget other than donations.

Shawna Alloway stated she is a former Kearney resident and currently lives at 409 South Perkins in Kenesaw, Nebraska. Her interest in these proceedings was to offer her support of Crossroads Mission coming to the City of Kearney. She wanted to share how Crossroads impacts more people in a community than just the homeless. Rescare Workforce Services is a contracted service provider for the State of Nebraska Department of Health and Human Services with offices across the State of Nebraska and in 25 other states. Kearney is in the central service area which also includes the cities of Hastings, Grand Island, Broken Bow, Holdrege and Ord. Rescare provides services to people who receive cash public assistance in the form of a TANIFF grant and are required to participate in the Employment First program. The services offered by Rescare are job seeking skills, employment retention and coaching career advancement. Their service delivery includes workshops and coaching and providing program participants work opportunities in the forms of community service and work experience placements. As a project manager she has had the opportunity to observe and listen as this issue has unfolded in the last few months. She wanted to share about the relationship they have built with Crossroads Mission in Hastings and how their services impact other community members as well as the homeless.

Since the start of 2010-2011 on July 1st, the Central Service area has received 1,322 referrals from DHHS. Year to date 1,298 have participated in job search workshops, 2,739 have had employment hours, 464 have participated in education components, 10 have obtained employment through their on the job training program, 252 participants have been assigned to work experience and 293 have been placed in community service sites. For the same period, 325 referrals were received in Kearney from DHHS. Year to date 260 have participated in job service workshops, 697 have had employment hours, 106 have participated in education components, all 10 of the on site job participants have obtained employment here in Kearney, 31 participants have been assigned to work experience, 75 have been placed in community service sites. During the same period in Hastings, 318 referrals were received from DHHS. Year to date 339 have participated in job workshops, 752 have had employment hours, 218 have participated in education, 138 have been assigned to work experience and 52 have been placed in community service site. There is some difference in the numbers in the different components; however, generally Hastings and Kearney are very similar.

Crossroads was working in partnership with the Department of Labor before Rescare contracted to provide work experience and community service opportunities. Since then, many placements for work experience have been set up at the Hastings Center both long term, up to six months or longer and short term, for as little as a few days. Participants get to learn about Crossroads and their mission while volunteering time and God given talents as part of the employment program. Participants complete many different tasks, including donations, running the cash register, organizing and cleaning the thrift store, answering phones, assisting guests, general office duties, child care and assisting staff with preparation for Crossroads programming.

Ms. Alloway stated there is homelessness in Kearney. They currently have eight known cases on their caseload meeting the definition of homeless and her guess is that number is actually much higher. They are not always forthcoming about their situation.

Dan Bates, 1119 Avenue K, stated that he is opposed to the zoning of this facility coming to his area because he thinks that it will lower his property value. Mr. Bates stated if the Council approves this facility, he will put his house up for sale and knows that his neighbor to the south lost the sale of their house because of it. He just thinks there are other areas where it could go in Kearney such as a light industrial area.

Denny Casey, 401 West 28th Street, stated that what a lot of people do not understand is that anybody could be homeless. He is a senior at UNK and will graduate with a degree in family studies and a minor in psychology and public health. Mr. Casey stated at one time, he was homeless and lived out of his truck under a bridge and it would not have taken him ten years to get this degree if he had the opportunity to take advantage of something like Crossroads. He asked what if it was your child that was homeless, there has to be an opportunity to be rejuvenated and refocused and become successful members of this community and other communities. Kearney prides itself on being a community that takes care of their own. Denial of this project would go against what Kearney stands for.

Gary Henry is employed by South Central Behavioral Services and they have offices in Hastings and Kearney where their corporate office is located. He has worked for South

Central since 1977 and was CEO for 19 years. He retired from that position but is still working for them in different roles. Over the years, they faced this issue several times; one example was they wanted to put in a group home in Hastings for mentally ill people to help them learn how to live independently. They wanted a facility for 12 people in a residential area, but they met with a lot of resistance and ended up with the United States Department of Justice coming in to sort things out. There was a lot of anger and emotions that set in, but it did come out in their favor. They have put hundreds of people through this group home, one at a time. Many of these people have come from Crossroads that gave them an opportunity to put themselves in one place, give up their additions and manage their mental illness. It takes a group of people to help the homeless. It has worked in Hastings and he believes it will work in Kearney.

Mary Kolstad stated that she too was a homeless person when she was a child. They lived in a boxcar until she was in high school. She believed that God has protected her and given her the ability to help others. She worked with her grandfather in the fields at 9-10 years of age, like the migrant workers in Colorado. She has given back by working as an interpreter for people who cannot speak English. She has used her talents to help others and there are people that cannot help themselves right now. She is willing to be one of the volunteers for the Crossroads Mission in Kearney.

Karen Triplett, 1010 Avenue F, stated that she has been a resident of southeast Kearney for ten years. She had shared this with the Planning Commission that she had driven by the former Prince of Peace building and wondered many times what was going to happen to that building. When she saw that Crossroads was interested in it, she was filled with joy. It was like an answer to her prayer. She is the Safe Kids coordinator. Her main passion is kids and she spends her days installing car seats for children so they will be safe. She has encountered situations where a mother has called her needing a car seat and when she asked for an address (because she likes to send them a reminder card) many times will say, "I'm being evicted or they are staying with other people so have no address." She has lived in Kearney all her life and even after traveling all over the world returned to Kearney ten years ago. Kearney is a lovely place where we put our homeless pets and have a rescue mission for horses. She posed the question, "Are human beings not worthy of something just as good for them?" She supports Crossroads.

Cathleen Torpey Abels, 2305 Lincoln Road, Amherst, Nebraska stated that before she moved to Nebraska she was newly divorced with lots of medical bills and very close to being homeless. This mission program really touches her heart and she believed there is a great need for it. She is also a current United Way supporter; she would be happy to have some of her donation go toward Crossroads. When she was with the United Way and attended the Homeless Coalition, she could see that this piece was missing in the spectrum of homelessness and the need for affordable housing. She actually went to Crossroads and got a tour and realized this is a really good piece that Kearney does not have. It will not take away from all the other good that is being done, but such a worthy cause.

Marie Rodriques, 1415 14th Avenue, stated she was the first director of the homeless shelter in Lexington. If Lexington can put together a very good program with United Way Funds and the federal funds they were able to put together with the donations of the

good people of Lexington and Churches coming together, she believed the good people of Kearney can do just as good, if not better. She thought the programming that Crossroads has is way above what they did in Lexington. They were only able to give people a roof with a cot and three hot meals a day. This is when the IBP first opened and was basically a response to get people into the plant. Kearney has a very different situation, but it has a good opportunity to show what they are made of and a win/win situation for everyone.

Council member Buschkoetter stated Captain Boner mentioned that Crossroads checked with the neighborhood in Hastings to let them know about their program. It has been brought up at this meeting that has not happened here in Kearney. He asked Mr. Bumgardner if he believed he has done a good job of informing citizens in the neighborhood. If this project is approved, would there be some steps taken to try to alleviate some of the concerns that folks in that neighborhood would have. Mr. Bumgardner stated they feel badly about the misinformation that was given or any perception that they are coming no matter what anyone says or believes. He stated that definitely is not what they wanted. Since they have come to Kearney, they brought their whole staff over to meet with agencies on two different days. They are open to working with anyone who would like to meet with them either in Hastings or here. Invitations have been set up (especially given to one individual) and they want to make amends to anyone that has been hurt in anyway. This is a big project and they are not planning on moving in tomorrow, so there is time to meet with everyone.

Council member Lammers asked Mr. Bumgardner if he was aware of any negative affect that Crossroads has had on property values in the Hastings area. Mr. Bumgardner stated he was not aware of any property that has been made less by Crossroads or any negative comments. He believed the proposal for the enhancement of the Kearney building, as it stands, is a great improvement over the way it looks today.

Council member Lammers stated he has no problem with the Crossroads Mission. His biggest concern from the beginning has been the total size and the 66 occupancy number. It seems like a large number compared to 15 which is the limit set for a group residential. He was not opposed to the R-4 zoning, but still trying to decide if 66 is the right number.

Mayor Clouse asked if a certain number of families can be regulated in a planned district. City Manager stated it is within the Council's purview to limit the number of families, but it may be difficult to manage and would have to ask how that would occur.

Council member Buschkoetter stated that he happened to be in Hastings for a soccer game not too far from Hastings High School which is just a stones throw away from Crossroads. It was a nice day and so they drove around and got something to eat at one of the fast food places in the area. There were kids riding their bikes in the street as kids do in residential neighborhoods. He asked around a little bit about Crossroads and did not get the sense of any negativity in the area. He did not have time to go for a tour, but the facility seemed to fit the surroundings fairly well. If you did not know it was there, you would not know the difference. People were sitting out on their porches and it kind of reminded him of his own neighborhood. It looks like a nursing home because previously that is what it was. In the short amount of time he was there, he did not get a

sense that property values went down.

Council member Buschkoetter stated he attended Prince of Peach Church in that building several times before they moved and it seems from time to time it is our responsibility to help the least of our neighbors. He agreed that 66 is a significant number and the concerns about the safety of the neighbors and their property values are all very valid concerns. He stated that a part of him also questions if Kearney does not have a facility for the homeless people, is Kearney really any safer if it is on the street and are desperate versus having an opportunity for a program to help them. He could not get past thinking that if Kearney turns its back on these people, is it making the community safer. If this failed because there was not enough homeless or not enough support, it would turn into some kind of housing complex which would not be radically different from what we see on 39th Street and 56th Street. He believed where the facility is located and how it fits into the zoning is within the Council's purview needs to be addressed. Crossroads screens people to make sure they do not have warrants out for them or are people who are on the sex offender registry. He cannot say that of his neighborhood because there is someone there on that registry which they have no control over.

Mayor Clouse suggested they could possibly only allow 30 unrelated individuals occupancy, but not to exceed 66 as allowed by multi-family. He suggested this so a future land use could not come in and have a bunch of single people and would have some recourse if they wanted a multi-family designation which would still fit.

Council member Lear stated there are other limits the Council has to work within for fair housing laws. His take on the matter was a bit different than what had been said so far. One of the things that he learned from the "I Believe in Me Ranch" matter from a few years ago is that it does not matter what the business is. He had a lot of people telling him at that time when he initially opposed it that he was not a Christian because he had an initial problem with that particular facility. The Council did come back and made a change to accommodate them and now as we know, that entity no longer exists because they engaged in activities that were inappropriate for their style. He believed that taught him to take the fact this is a homeless shelter, the fact is it is a Christian organization and the fact that they clearly help people in need, should be taken out of the equation.

He stated the first issue is zoning. This is an urban corridor zone for a reason and they should apply the urban corridor zoning. He agreed that R-4 can go within this area. In his opinion, it is properly zoned as UC. If this is not a candidate for UC zoning then why do they have the UC zone on the books? He believed that the R-4 zone is incorrect and it should be UC. Looking past the zoning issue, he looked at the plan of what should be developed on that site. He questioned if the density rule should be waived for something that was coming in there to make \$100,000 a year per head on some business entity. He answered that by saying, he would not waive the rule for them either. The only reason he would waive this rule is because in his heart he supports the mission in what they want to do. He had made the decision that it is wrong for him to support that kind of variation for that purpose. Although he might support this mission personally because it would probably have a beneficial outcome, the Council has rules for the protection of the public so they can reasonably know what to expect. The Council had not been given

any suggestion on a better way to write their Code. This is the Code and the guideline that they have to follow right now.

Council member Lammers stated that one of the reasons he was not opposed to the R-4 zoning is because they have changed zonings lots of times in the past. The zoning they have is a guideline and gives citizens a comfort level of where they might be headed. They have R-4 zoning within the City limits now on 39th Street and 56th Street. In his mind, it is not inappropriate to seek R-4 zoning in this particular area. He also understands Council member Lear's argument which is a good point.

Council member Buschkoetter stated that they have in Kearney R-4 zoning with this type of structure on arterial streets on 56th Street and 39th Street and virtually on every major arterial street in the City. There is R-4 zoning after you cross the overpass and head out toward the Middle School, granting that they are about a mile north of there. He was trying to think of an area where they actually use the UC zoning. The UC zoning has been underused. He believed the question why do they have UC zoning was a good one. The other question is does it fit with what Crossroads is trying to do or does R-4 fit better. He agreed with Council member Lammers that R-4 does fit in this situation.

Council member Lammers stated he still has more of a comfort level with the 40 person occupancy than the 66 level. He noted there are only 32 parking spaces which would seem to be adequate.

Mayor Clouse stated he did not have a problem with rezoning to R-4. He agreed two times the number of rooms is more in line than four times. So even if they agree on the R-4, density is still an issue. He was concerned about mixing that many unrelated people and multi-family which are two different things. He would agree to 30 individuals and then look to families with a cap of 66. He was not sure if that number is appropriate, but that would be a compromise. It does not fit the R-4 to go to the multi-family because that is not the use. It would be difficult to control that density number.

Council member Buschkoetter stated that he understands that they must house enough people to make it cost effective for them. If the limit is set at ten in a building that size that would not be cost effective. He did not know what the magic number would be, but understood there should be a compromise. If it were to revert to multi family with 16 bedrooms and living spaces and include the two floors, it would be no denser than any apartment complex that has been discussed on 39th Street on 56th Street. He asked for more input as the public hearing was still open.

Kenn Frederick, Architect with Master Builders Associates, stated that if the limit were set at 15 then Crossroad would do that, but it does not make sense for them to have 15 people on an acre. He has discussed with the Assistant Development Services Director that perhaps there is a flaw in the Code. The Code is what it is at the present time. The next best piece of information that the Code establishes is 250 square feet per person which establishes a good density. It does not matter if it is a homeless shelter or a market rate apartment. He believed using this measurement would be the most logical approach to this situation. He did not believe that Crossroads wants to exceed the maximum, but to fall within the Code.

Mayor Clouse stated they are being asked to mix things that really have no basis, they are just numbers. The most logical thing would have been that someone would have come forward and asked for a review of this Code before getting to this request for rezoning. The Code needs to be looked at and determined what it means in R-4. The Council wants to make the right decision for the community and for the neighbors. He suggested backing up and looking at this Code before making a decision. Mr. Frederick agreed. He had discussed this with Ms. Pettit and she actually went to the author of the Code and asked what the intent of the Code was. By right, the 72 number and the 18 units per acre times four are allow by Code today in multi-family. Group Residential is the sticky point and certainly 15 does not work for this facility.

Mr. Frederick stated the unique condition that this site has really establishes kind of a hardship. He offered this scenario as an option. If Crossroads were to demolish the building and build four separate structures within one acre, they could put 60 people in those buildings by right. In that case, 15 unrelated persons per structure would be allowed. That scenario does not meet the needs of what Crossroads wants to do. City Manager stated Mr. Frederick's statement was not necessarily accurate. Currently, that site is zoned as an M-1 and they cannot come in by right and put four separate units. It would still require rezoning to R-4. Mr. Frederick stated he was referring to if it were R-4 rezoning.

Mayor Clouse stated his concern was that if Crossroads goes away, a fraternity or sorority could be put in those buildings with unrelated people and density would be difficult to control as they have in other parts of town. So as Council member Lear pointed out earlier, the long range affects of the Council's decision must be taken into consideration.

Mr. Frederick stated that the City Planner and the Design Review Team and Ms. Pettit really worked on trying to get their heads around this thing. The purpose of the PD was to help establish a number to give the Council a comfort level about the maximum density. He agreed it is a difficult and unique situation. He also checked with the State Fire Marshall Code in Nebraska, that allows 200 square feet per person. According to the Fire Marshall, they could get 80 people in this residential building.

City Attorney Michael Tye stated in a PD designation, the Council could choose to restrict the use in the future. Criteria could be added that would exclude it from being something else in the future if this entity fails. The Council could designate a specific use for the site and require any change in that use must come back through the process because this is a planned district. He stated that unless the type of use changed even with change of ownership, it could be done by right. He clarified the reference to the fact that if they would "build it this way" this is what would be allowed. He stated that Crossroads does not have that option under a planned district and they must build it pursuant to the plans that they have presented to the City. Any change would necessitate coming back with a new plan. If they decided they do not want 16 bedrooms, they want only ten or a different number of people, they would have to come back with a new plan. The challenge remains; however, this is a group residential. In some respects, it is a mix of oranges and apples by referencing multi-family. While it is a more dense use, it is a completely different use that fits into a different category with

different requirements. The problem is the Code has a 15 number for this type of a use. He suspected the intent was that most group residential homes go into smaller buildings than this very large industrial type of a building. As a rule, you see homeless shelters in structures that do not have the type of footage that this building has. So he speculated that was the reasoning behind the number 15. In his experience regarding the blending of numbers from an enforcement standpoint would be easier to set a maximum occupancy for the building instead of trying to figure out how many are related and how many are unrelated.

Council member Buschkoetter stated since they adopted the ULDO in 2004, they still have not had the opportunity to experience every foreseeable scenario in each one of these Codes. As he recalls when they originally looked at this zoning, they were envisioning smaller group homes with smaller programs. That is how that number was established. He was on the Council at that time and they did not envision anything like this. City Manager stated that is why a review of the comprehensive plan and evaluation has to occur by State law every few years, to take into consideration different uses, trends, etc.

Council member Buschkoetter stated the Council has the capability to come up with a new zoning category and really are making a conditional use permit which they approve all the time. Mayor Clouse stated he believed there was no need for zoning if they can decide to do whatever they want. Council member Lammers stated that in essence if they use the planned development and the Council restricts it to a specific use for a specific number, they really have created a new zone for the project. Council member Lear stated his concern is even with limiting the type of use and they approve of the type of programs and the people that Crossroads serves, what happens in five years, if some other homeless shelter takes over and their focus is rehabilitating sex offenders. Although they need rehabilitation, is this the location for that to take place? He believed they must keep in mind this facility may or may not be Crossroads in the future.

Michelle Reed, 1622 Avenue A, stated she had attended the two long Planning Commission meetings. She reminded them that all of these same issues were discussed at those meetings and came up with the result of what was presented to the Council. She trusts in the Planning Commission's judgment and the hard work they put into their decision.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Crossroads Center Rescue Mission (Applicant) and Gene Freeze (Owner) to rezone with an occupancy of 66 from District M-1, Limited Industrial District to District R-4/PD, Urban Residential Multi-Family (High Density)/Planned Development Overlay District property described as Lots 1, 2 and 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (1210 East 11th Street) subject to compliance with the following conditions: (1) Crossroads shall provide 32 off-street paved parking stalls with the potential to install eight additional parking stalls in the future; and (2) Crossroads shall fulfill all components of the plans and that any modifications shall require new plans to be presented to Planning Commission and City Council for approval; and (3) the property be restricted to the use as a homeless shelter/rescue mission. Roll call resulted as follows: Aye: Buschkoetter, Lammers. Nay: Clouse, Lear. Kearney absent. Motion failed.

Moved by Lear seconded by Clouse to close the hearing and remand back to the Planning Commission requesting a code review that addresses the needs of group residential housing in the City of Kearney. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

DEVELOPMENT PLANS FOR CROSSROADS RESCUE MISSION

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

Mayor Clouse opened the public hearing on the Application submitted by Crossroads Center Rescue Mission (Applicant) and Gene Freeze (Owner) for Planned District Development Plan Approval for rescue mission development on property to be zoned District R-4/PD, Urban Residential Multi-Family (High Density)/Planned Development Overlay District property described as Lots 1, 2 and 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (1210 East 11th Street) and to consider Resolution No. 2011-31.

Moved by Lear seconded by Buschkoetter to close the hearing and deny Resolution No. 2011-31 pertaining to the Application submitted by Crossroads Center Rescue Mission (Applicant) and Gene Freeze (Owner) for Planned District Development Plan Approval for rescue mission development on property to be zoned District R-4/PD, Urban Residential Multi-Family (High Density)/Planned Development Overlay District property described as Lots 1, 2 and 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (1210 East 11th Street) for the reason the matter has been remanded back to the Planning Commission requesting a code review that addresses the needs of group residential housing in the City of Kearney. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 13 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held March 22, 2011.

2. Approve the following Claims:

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

3M \$1,853.96 smcs; Aflac \$2,946.02 ps; Alamar Uniforms \$1,030.99 smcs; Alfred Benesch \$12,224.28 co; Ally B Designs \$36.00 smcs; Altwine,B \$40.81 smcs; Amer First Aid \$395.27 smcs; Anderson Bros \$706.50 smcs; Arctic Refrigeration \$318.26 smcs; ASCAP \$310.18 smcs; Ask Supply \$2,242.39 smcs; Audio Go \$235.90 smcs;

Aurora Coop \$4,259.20 smcs; Baird Holm \$3,683.75 smcs; Baker & Taylor Books \$3,396.47 smcs; Barney Abstract \$250.00 smcs; Beacon Athletics \$11,190.00 smcs; Bill's Trailer \$4,895.00 co; Bluecross Blueshield \$82,856.86 smcs; Bowman,M \$32.20 smcs; Brownells \$101.20 smcs; Buck,T \$117.90 smcs; Buffalo Co Sheriff \$127,027.00 smcs; Buffalo Co Treasurer \$18,764.00 smcs,co; Buffalo Outdoor Power \$17,380.00 co; Builders \$1,296.75 smcs,co; Camera Doctor \$236.00 smcs; Capstone Press \$43.48 smcs; Carquest \$3.75 smcs; Cash-Wa \$63.22 smcs; Central Contracting \$39,722.95 co; Central NE Bobcat \$6,650.14 smcs,co; Central State Wire Products \$3,686.74 smcs; Charter \$89.24 smcs; Chief Construction \$1,225.00 smcs; Choyeski,L \$6.49 smcs; City of Ky \$299,892.99 ps,smcs,co; Computer Hardware \$3,422.65 smcs; Copycat Printing \$110.65 smcs; Craig's Ag Supply \$50.00 smcs; Criner,C \$27.43 smcs; Crossroads Ford \$71.63 smcs; Crushers \$10,651.03 co; Cullen,M \$20.06 smcs; Cummins Central Power \$143.45 smcs; Danube,H \$125.00 smcs; Demco \$41.12 smcs; Depository Trust \$2,325,321.49 ds; Development Council \$224,358.00 smcs; Dish Network \$58.16 smcs; Dmilaco \$229.25 smcs; DPC Industries \$17,843.26 smcs; Dutton-Lainson \$269.28 smcs; Eakes \$629.38 smcs; Easy Picker Golf Products \$420.00 smcs; Eirich,D \$53.04 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$2,564.91 smcs; Emergency Services \$10.84 smcs; Evident \$217.50 smcs; Farmers Union Coop \$57.25 smcs; First Financial Investment \$383.68 ps; Flag Co \$2,539.00 co; Frontier \$58.96 smcs; Gale \$228.71 smcs; Gale Group \$210.00 smcs; Galls \$85.79 smcs; Gaylord Brothers \$116.04 smcs; GE Money Bank \$1,187.52 smcs; General Excavating \$284,982.22 co; Gough,P \$120.00 smcs; Graham Tire \$281.65 smcs; Great Plains One Call \$236.69 smcs; H&H Distributing \$996.25 smcs; Harmony Yoga \$100.00 ps; HD Supply \$11,982.55 smcs; Heuch,A \$21.59 smcs; Highsmith \$25.52 smcs; Hometown Leasing \$444.91 smcs,co; Hotsy Equipment \$525.00 smcs; HTMC \$85.00 smcs; Hydro Tech \$112.00 smcs; ICMA RC \$8,211.56 ps; IECA \$170.00 smcs; IRS \$202,802.91 ps; Intoximeters \$189.00 smcs; Isaac,B \$24.60 smcs; Jack Lederman \$239.68 smcs; James,D \$148.46 smcs; Ky Area United Way \$652.24 ps; Ky Concrete \$84.54 smcs; Ky Glass \$443.28 smcs; Ky Humane Society \$6,825.00 smcs; Ky Towing \$170.00 smcs; Ky Visitors Bureau \$50,105.13 smcs; Ky Winnelson \$300.00 smcs; Kelly Electric \$1,360.00 smcs; KGFW-AM \$72.00 smcs; Klein,A \$20.00 smcs; Konica Minolta \$1,324.12 smcs; Kowalek,G \$19.15 smcs; Krull Ins \$1,950.00 smcs; Landell-Thelen \$15,540.00 co; Lewis,R \$41.40 smcs; Lincoln Winwater Works \$46,996.69 smcs; Magic Cleaning \$1,350.00 smcs; Mail Express \$276.26 smcs; Marlatt Machine Shop \$2,165.00 smcs; Mathson Tri-Gas \$16.92 smcs; McCarty,D \$92.00 smcs; Menards \$1,157.30 smcs; Metlife \$6,663.26 ps; Mid Peterson Meal Program \$4,787.48 smcs; Mid Plains Heating \$1,308.00 smcs; Midwest Pump & Equipment \$1,155.40 smcs; Milco Environmental \$285.00 smcs; Miller & Associates \$62,223.75 smcs,co; Miller,J \$60.00 smcs; Morgan,M \$45.90 smcs; Mosbarger,B \$385.10 smcs; MPH Industries \$383.00 co; Mueller,K \$11.00 smcs; Municipal Automation \$1,984.70 smcs; Municipal Supply \$39,959.77 smcs; NE Child Support \$5,574.27 ps; NE Dept of Environmental \$12,077.88 smcs; NE Dept of Economic Dev \$130.00 smcs; NE Dept of Revenue \$59,925.02 ps; NE Dept of Roads \$9,913.36 co; NE DOL/Boiler Inspection \$108.00 smcs; NE Health & Human Serv \$887.99 co; NE Library Assn \$23.50 smcs; NE Natural Legacy \$100.00 smcs; NE Public Health \$2,725.00 smcs; NE Society of CPA \$125.00 smcs; NEland Distributors \$1,300.01 smcs; Norm's Plumbing \$102.75 smcs; Northwestern Energy \$12,143.24 smcs; Office Depot \$1,039.69 smcs; Officenet \$837.38 smcs; O'Keefe Elevator \$471.57 smcs; Omaha World Herald \$85.80 smcs; OMB Guns \$27.99 smcs; Ostrander,R \$57.50 smcs; Overhead Door \$242.30 smcs;

Paramount \$58.17 smcs; Pat's Plumbing \$465.00 smcs; Patterson,B \$100.93 smcs; Payflex Systems \$531.25 smcs,ps; Payton,D \$41.40 smcs; Platte Valley Comm \$297.08 smcs; Presto-X \$121.00 smcs; Pulliam,R \$40.00 smcs; RC Booth Enterprises \$118.00 smcs; Random House \$38.00 smcs; Recorded Books \$1,664.44 smcs; Reinke's Heating \$177.35 smcs; Research Technology \$114.95 smcs; Rheome Tree \$1,870.00 smcs; Safelite \$232.90 smcs; Sapp Bros \$53,832.72 smcs; Sensus \$152.25 smcs; Sherwin-Williams \$206.95 smcs; Sign Center \$92.00 smcs; Simondynes,S \$100.00 smcs; Sirchie Finger Print \$694.66 smcs; Snap-On Tools \$2,598.00 smcs; Snow,T \$50.00 smcs; State of NE/AS Central \$3,526.51 smcs,co; Suchsland,T \$41.40 smcs; Sun Life Financial \$42,903.82 smcs; Sydow,J \$40.00 smcs; Taylor Made \$2,780.24 smcs; Thompson,J \$32.20 smcs; Titleist \$7,039.44 smcs; Trade Well Pallet \$1,700.00 smcs; Turfwerks \$3,784.21 smcs; Tye & Rademacher \$12,370.09 smcs; Unique Management Serv \$295.35 smcs; Van Diest Supply \$16,168.82 smcs; Van Wall Equipment \$27,000.00 co; Verizon \$1,135.34 smcs; Village Uniform \$452.76 smcs; W.T. Cox Subscriptions \$9,400.86 smcs; Warrington,D \$134.00 smcs; Watchguard Video \$839.75 co; We Care Tree Care \$70.00 co; Weller,B \$41.40 smcs; Wellman,P \$59.23 smcs; Wells Business Banking \$88,696.04 ds; Wells Fargo Trade Capital \$163.13 smcs; West Payment Center \$1,454.43 smcs; Wiederspan,R \$149.88 smcs; Zimmerman Printers \$1,271.46 smcs; Payroll Ending 3-26-2011 -- \$330,398.86. 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. Adopt **Resolution No. 2011-32** appointing Ruby Martin to fulfill the term of Carol Reed on the Senior Services Advisory Board.

RESOLUTION NO. 2011-32

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

WHEREAS, a vacancy currently exists on the Senior Services Advisory Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following person, as proposed by the Mayor of the City of Kearney, Nebraska, is hereby appointed to fulfill the term of Carol Reed for the term indicated:

SENIOR SERVICES ADVISORY BOARD

Ruby Martin appointed to fulfill the term vacated by Carol Reed to July 31, 2012

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

PASSED AND APPROVED THIS 12TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Approve Change Order No. 6 showing an increase in the amount of \$14,494.00 submitted by JLC, Inc. and approved by Wilkins Hinrichs Stober Architects in connection with the Kearney Public Library Addition & Renovation Project and adopt

Resolution No. 2011-33.

RESOLUTION NO. 2011-33

WHEREAS, JLC, Inc. of York, Nebraska has performed services in connection with the Kearney Public Library Addition & Renovation Project, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 6 showing an increase to the contract sum in the amount of \$14,494.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$4,548,220.00
Change Order No. 1 (12-22-2009)	- 75,500.00
Change Order No. 2 (7-13-2010)	+ 2,128.00
Change Order No. 3 (9-14-2010)	+ 6,565.00
Change Order No. 4 (1-11-2011)	+ 15,556.00
Change Order No. 5 (1-11-2011)	+ 76,099.00
Change Order No. 6 (4-12-2011)	<u>+ 14,494.00</u>
Contract Sum to Date	<u>\$4,587,562.00</u>

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 6, as shown on Exhibits "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 12TH DAY OF APRIL, 2011.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

5. Approve the Plans and Specifications for the World Theatre CDBG Project and set the bid opening date for May 4, 2011 at 2:00 p.m.
6. Approve the Plans and Specifications for the 2010 Part 6 Improvements for Central Avenue from 18th Street to South Railroad Street and set the bid opening date for May 3, 2011 at 2:00 p.m.
7. Approve the application for a Special Designated License submitted by Thunderhead Brewing Co., dba Thunderhead Brewing in connection with their Class I-47918 and Class LK-47920 catering liquor license to dispense beer and wine inside an enclosed 120' x 120' fenced area located in the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue, on May 20, 2011 from 4:00 p.m. until 11:30 p.m. and on May 21, 2011 from 2:00 p.m. until 11:30 p.m. in connection with the Wine and Jazz Festival.
8. Approve the request submitted by Trevor Brown to temporarily block off 35th Street from 7th Avenue to 10th Avenue on May 21, 2011 from 6:30 p.m. until 9:30 p.m. for the Alumni Game and Softball Home Run Derby at Memorial Field.
9. Approve the recommendation from the Transportation Division of the Public Works Department to purchase a Combination Sewer Cleaner Truck from Mid-Iowa

Solid Waste Equipment Co. in the amount of \$243,791.00.

10. Approve the request submitted by Ally Kaiser to conduct the Komen Central Nebraska Race for the Cure on October 1, 2011 beginning at 7:30 a.m. The route will begin east of Cushing Coliseum, east on the sidewalk parallel with 28th Street, south on the sidewalk parallel with 9th Avenue, west on the sidewalk parallel with 24th Street, north on the sidewalk parallel with University Drive Circle, east on the sidewalk parallel with University Drive, south on the sidewalk parallel with 9th Avenue, west on the sidewalk parallel with 24th Street and ending east of 15th Avenue.

11. Approve the Agreement to Sell Property and Divide Net Proceeds and the Purchase Agreement pertaining to Lot 6 of Block 1, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska and adopt **Resolution No. 2011-34**.

RESOLUTION NO. 2011-34

WHEREAS, the City of Kearney is part owner of Lot 6 of Block 1, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the City of Kearney acquired an interest in certain property in that area which was part of a well house and lagoon which served that development prior to City services being provided; and

WHEREAS, City services have now been connected to that neighborhood and there is no longer a need for the City to maintain ownership of this parcel; and

WHEREAS, there is also a portion of this lot that was taken back by the City of Kearney for non-payment of assessments; and

WHEREAS, the City of Kearney owns approximately 83 percent of the front footage of this lot and the remaining 17 percent is owned by Elizabeth and Pat Merrifield and the James L. Connell Trust; and

WHEREAS, there has been an offer to purchase this lot for \$25,000; and

WHEREAS, it has been proposed that the City agree to the sale of the lot with the City to receive 83 percent of the net proceeds of the sale and the remaining 17 percent to be paid to Elizabeth and Pat Merrifield and the James L. Connell Trust, as shown on the Agreement to Sell Property and Divide Net Proceeds and the Purchase Agreement.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Agreement to Sell Property and Divide Net Proceeds and the Purchase Agreement on behalf of the City of Kearney, as shown on Exhibits "A" and "B", attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 12TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. 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 7, 2011 from 6:00 p.m. until 1:00 a.m. for a dance.

13. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropico 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, 2011 from 6:00 p.m. until 12:00 a.m. for a dance.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7637 GRANTING CONDITIONAL USE PERMIT TO CARL WHITNEY SAND & GRAVEL AND MID-NEBRASKA AGGREGATE AND CONNIE WAKELIN (PERTAINS TO PUBLIC HEARING 3)

Council Member Clouse introduced Ordinance No. 7637, being Subsection 1 of Agenda Item VI granting a Conditional Use Permit to Carl Whitney Sand & Gravel and Mid-Nebraska Aggregate Inc. (Applicant) and Connie J. Wakelin, Trustee of Connie J. Wakelin Revocable Trust (Owner) to locate a sand and gravel extraction operation on property zoned District AG, Agricultural District and described as that part of the Northwest Quarter of the Southeast Quarter lying south of the right-of-way of the Burlington Northern Railroad; that part of the Northeast Quarter of the Southeast Quarter lying south of the Chicago Burlington and Quincy Railroads right-of-way; the Southwest Quarter of the Southeast Quarter; and the Southeast Quarter of the Southeast Quarter, all in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east side of Cherry Avenue north of 11th Street) subject to compliance of the following conditions: a) The CUP allows the applicant the right to operate a temporary paving batch plant to produce asphalt and/or Portland cement concrete. The operation of the batch plant shall include import and export of all materials required to operate said plant, including, but not limited to; fuel, Portland cement, limestone, and chemical additives; b) This CUP shall be limited to a four year time limit but may be renewable at the end of the four year period if the paving construction project is still ongoing; c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape; d) All equipment shall also be removed from the site by the time the CUP expires; e) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate; 2. River gravel or river rock is not acceptable for rebuilding subgrade; 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule; the road will be watered and bladed every four hours when trucks are operating; 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times; f) Hours of operation shall not be limited; g) This operation shall meet all Federal or State agency requirements and standards, 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, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7637 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. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7637 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7637 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. 7638 GRANTING CONDITIONAL USE PERMIT TO CARL WHITNEY SAND & GRAVEL AND MID-NEBRASKA AGGREGATE AND DENNIS CLABAUGH (PERTAINS TO PUBLIC HEARING 4)

Council Member Clouse introduced Ordinance No. 7638, being Subsection 2 of Agenda Item VI granting a Conditional Use Permit to Carl Whitney Sand & Gravel and Mid-Nebraska Aggregate Inc. (Applicant) and Dennis Clabaugh (Owner) to locate a sand and gravel extraction operation on property zoned District AG, Agricultural District and described as Lot 1 except the north 34 rods thereof and Lot 5 all in Section 17, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3825 East 1st Street South) subject to compliance with the following conditions: a) This CUP shall be limited to a four year time limit but may be renewable at the end of the four year period if the paving construction project is still ongoing; b) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape; c) All equipment, including dredging equipment, must be removed from the site by the time the CUP expires; d) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate; 2. River gravel or river rock is not acceptable for rebuilding subgrade; 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule; the road will be watered and bladed every four hours when trucks are operating; 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times; e) Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 a.m. to 6:00 p.m.; f) This operation shall meet all Federal or State agency requirements and standards; g) The applicant shall

apply for an Industrial Storm Water Permit, and a discharge permit if necessary, from the Nebraska Department of Environmental Quality. The applicant will provide the City of Kearney with a copy of the permit and abide by the conditions of the permit during the term of the Conditional Use Permit; h) Portable toilet facilities shall be utilized, properly maintained and protected from damage; i) Fuel storage areas shall be lined with a 60 mil high density polyethylene liner and bermed to contain the entire contents of the fuel storage container. The liner should extend over the berms and be anchored on the outside of the containment area, 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, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7638 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. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7638 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7638 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. 7639 REZONING PROPERTY AT 860 EAST 1ST FIRST (PERTAINS TO PUBLIC HEARING 5)

Council Member Clouse introduced Ordinance No. 7639, being Subsection 3 of Agenda Item VI rezoning from District R-1, Urban Residential Single-Family District (Low Density) to District RR-1, Rural Residential District (Rural Standards) property described as Lot 2, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (860 East 1st 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, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7639 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. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7639 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7639 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. 7640 VACATING PORTION OF BEL AIR SECOND ADDITION
(PERTAINS TO PUBLIC HEARING 6)**

Council Member Clouse introduced Ordinance No. 7640, being Subsection 4 of Agenda Item VI vacating Lots 1, 2, 3, 4 inclusive of Block 1, Lots 1, 2, 3, 4 inclusive of Block 2, all of Avenue M Place, a street in the City of Kearney, as it abuts said Lots 1, 2, 3, 4 inclusive of Block 1 and that part of 66th Street Place from the west line of Avenue N, a street in the City of Kearney, Buffalo County, Nebraska, to the west line of said Lot 4 of Block 2 (if extended northerly) all in Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of Avenue N, north and south of 66th 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, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7640 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. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7640 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7640 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. 7641 REZONING PROPERTY AT 1210 EAST 11TH STREET
(PERTAINS TO PUBLIC HEARING 7)**

Based on the matter being remanded back to the Planning Commission, Council

Member Lear denied Ordinance No. 7641, being Subsection 5 of Agenda Item VI rezoning from District M-1, Limited Industrial District to District R-4/PD, Urban Residential Multi-Family (High Density)/Planned Development Overlay District property described as Lots 1, 2 and 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (1210 East 11th Street). Council Member Buschkoetter seconded the motion. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

EAST KEARNEY BYPASS – SUPPLEMENTAL AGREEMENT NO. 4

Mayor Clouse opened for discussion the Supplemental Agreement No. 4 between the City of Kearney, Buffalo County, and the Nebraska Department of Roads amending Section 3 (d) of Supplemental Agreement No. 3 setting forth the expenditure of federal earmarked funds and the funds to be expended between the State and the City for the Kearney East Bypass – Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) and to consider Resolution No. 2011-35.

City Manager Michael Morgan presented this matter to the Council. This agreement stipulates the cost they expected after much negotiation with the State. This is the final agreement (at least at this stage) for funding of Phase I of the Cherry Avenue Bypass and limits the City's total cost to under \$2 million in local funds. He stated that the City has KENO funds will be set aside in the future, once the KENO funds that are going toward the golf course are done. The KENO funds will go toward the estimated cost of the City's surface transportation program funding that it has received annually and has been accumulating for some time toward the rest of the cost. He was pleased with the State and their effort to negotiate and believed that the City received a very fair and appropriate agreement.

Moved by Clouse seconded by Lammers to approve the Supplemental Agreement No. 4 between the City of Kearney, Buffalo County, and the Nebraska Department of Roads amending Section 3 (d) of Supplemental Agreement No. 3 setting forth the expenditure of federal earmarked funds and the funds to be expended between the State and the City for the Kearney East Bypass – Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) and adopt **Resolution No. 2011-35**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-35

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute Supplemental Agreement No. 4 between the State of Nebraska Department of Roads, the City of Kearney, and Buffalo County with regard to Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) (the Kearney East Bypass Project) amending Section 3 (d) of Supplemental Agreement No. 3 setting forth the expenditure of federal earmarked funds and the funds to be expended between the State and the City. A copy of the said Supplemental Agreement No. 4, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 12TH DAY OF APRIL, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

**CAPITAL IMPROVEMENT PLAN – EXPENDITURE FOR INCLUSIVE PLAYGROUND
AND CLEAN UP OF TURKEY CREEK**

Mayor Clouse opened for discussion the recommendation from City Manager on ½ Cent Sales Tax Capital Improvement Plan.

Specifically, \$150,000 has been added this year for the inclusive playground so they can pursue matching grant funds. Also, \$60,000 has been added for next year to match a \$60,000 grant from the NRD to clean up Turkey Creek from the Yanney Park bridge to 2nd Avenue.

City Manager Michael Morgan provided a brief update which included a revised format of the spending plan. They have provided a formatted document for the Council's approval. They are going to put it out for the public to also view; it includes debt ratios and the targets that the City is at. They are specifically recommending that the inclusive playground be included in this funding program at \$150,000 during this year and next year \$60,000 to help match the funding associated with cleaning up Turkey Creek which they believe they will be getting a fifty percent match on. Those were the only two changes they were asking for approval at this meeting. The inclusive playground group is asking to move forward so they can go ahead and solicit funds. They will go through the entire plan in a few weeks based on the citizen input they receive over that time.

Moved by Lammers seconded by Lear to approve the recommendation from City Manager on ½ Cent Sales Tax Capital Improvement Plan and proceed forward this year with the \$150,000 expenditure for the inclusive playground and the expenditure of \$60,000 in 2011-12 to clean up Turkey Creek from the Yanney Park bridge to 2nd Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

**OPEN ACCOUNT CLAIMS: NPPD - \$317.24, PLATTE VALLEY STATE BANK -
\$99,773.50, SCHOOL DISTRICT #7 - \$3,826.30**

Mayor Clouse stated with the abstention of Council members Buschkoetter and Lammers and the absence of Council member Kearney, the Open Account Claim to School District #7 will be placed on the April 26 Council agenda for approval.

Moved by Lear seconded by Buschkoetter that Open Account Claim in the amount of \$317.24 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Clouse abstained. Kearney absent. Motion carried.

Moved by Buschkoetter seconded by Clouse that Open Account Claim in the amount of \$99,773.50 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear abstained. Kearney absent. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Clouse seconded by Buschkoetter that Council adjourn at 9:55 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**