

Kearney, Nebraska
May 10, 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 May 10, 2011 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Suzanne Brodine, Assistant City Manager; Michael Tye, City Attorney; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Bobbi Pettit, Assistant Development Services Director; and Lance Lang, City Planner were also present. Some of the citizens present in the audience included: Trenton Snow, Jim Richter, Mitch Humphrey, Chris Riha, Ken Owens, Craig Bennett, 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

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT TO VIAERO WIRELESS, 500 WEST 4TH STREET

Mayor Clouse opened the public hearing on the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Apple Fun Center, Inc., dba The Big Apple (Owner) for a Conditional Use Permit to locate an antenna on property zoned District C-3, General Commercial District and described as a tract of land being part of Government Lot 4 in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (500 West 4th Street). Planning Commission recommended approval.

The applicant is requesting a Conditional Use Permit (CUP) to allow four to six 6-foot tall antennas and one 4-foot diameter microwave dish to be mounted on the roof of the Big Apple Fun Center, 500 West 4th Street.

The main goals of the applicant appear to be:

- Improve service coverage to their client base by adding additional antennas to their system in Kearney.
- Provide better signal strength to the indoor environs at the fun center.
- Use of existing structures to mount equipment as opposed to building new towers.
- Locating the equipment on the rooftop of a large structure to make it less noticeable.
- Provide telecommunications service to the community through line-of-sight technology during times of crisis when other types of communication systems may be compromised.

Staff believes that the proposed location is acceptable to enhance the coverage area for Viaero without building new towers. The equipment can be placed in such a way as to make it less noticeable from surrounding streets. Planning Commission raised some questions regarding the mounting system and total height of the proposed antennas. The slim antennas measure only inches across and are six feet in height. They will be mounted to a 6-foot pole with angle iron but the overall height will not exceed the 10-foot maximum allowed by code for roof-mounted antennas. The microwave dish will be mounted on an existing pole that formerly supported a larger satellite dish.

In terms of the priority ranking system established in the telecommunications ordinance, this property is well suited because the property is zoned commercial and the area features a mixture of commercial and industrial land uses. There are no residences or residential zoning near the site. Any associated equipment will be housed inside the existing Big Apple building. The addition of the roof-mounted antennas will provide line of sight technology between the Big Apple site and the Viaero tower next to the UNK campus. Sealed plans from a professional engineer will be required at the time of building permit. These plans shall indicate the mounting method, structural analysis; weight loads on the roof including wind loads and snow loads, etc.

Chris Riha, Viaero Wireless Site Acquisition Manager, presented this matter to the Council. Viaero Wireless is proposing an antenna site on top of the Big Apple Fun Center to increase the frequency strength for that immediate area, specifically inside their building. The closer the antenna, the stronger the frequency is. The site is located in a C-3 zoned district. The dish will be mounted on an existing pole in back of the Big Apple and the antennas will be on the roof. The dish will be communicating with the microwave dish located at the West Campus retail store. At this time, they are anticipating six antennas, a microwave dish and the rest of the "guts" will be inside the Big Apple Fun Center. The antennas height can range from two feet to six feet and will be mounted on poles. The total height will be under ten feet above the building in accordance with the City Code. The Event Center has a dish and some internal antennas which services just that facility.

Ken Owens, General Manager of Big Apple Fun Center, located at 500 West 4th Street was also present. He stated that the intent was to provide more services during State Bowling Tournaments and for any other guests who come to their facility because the majority cannot get phone service inside the building unless they are a Verizon customer. Mr. Riha stated when customers come in from other areas and have the GSM network; Viaero has a partnership agreement so they will be able to access the Viaero antennas and when their customers go to Lincoln and Omaha they can hop on their antennas.

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 NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Apple Fun Center, Inc., dba The Big Apple (Owner) for a Conditional Use Permit to locate an antenna on property zoned District C-3, General Commercial District and described as a tract of land being part of Government Lot 4 in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (500 West 4th Street). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

REZONING WEST OF COUNTRY CLUB LANE AND NORTH OF 36TH STREET

Public Hearings 2, 3 and 4 were discussed together but voted on separately.

Council member Kearney vacated his chair and abstained from discussion and voting on this matter.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) to rezone from District AG, Agricultural District to District R-1, Urban Residential Single Family (Low Density) District property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street). Planning Commission recommended approval.

The applicant is requesting approval to develop the next phase of housing in the Aspen Meadows development west of Country Club Lane on both sides of 37th Street. This project requires rezoning, final platting and annexation.

The applicant is requesting rezoning from District AG, Agricultural to District R-1, Urban Residential Single-Family (Low Density) for 2.46 acres of the total 8.29 acres of land that will be included in the Final Plat. The remaining 5.83 acres is already zoned R-1. The proposed use is for single-family homes. Adjacent zoning to the south and to the west is R-1, while the areas to the north and east remain undeveloped and zoned AG at this time and are not part of the land to be annexed. The Future Land Use Map of the City of Kearney Comprehensive Development Plan shows this area as "Low Density Residential." Therefore, the proposed zoning is in conformance with the Comprehensive Plan.

The Preliminary Plat for Aspen Meadows was approved by the Planning Commission on July 21, 2006. The Final Plat of Aspen Meadows Second Subdivision is in substantial conformance with the preliminary layout and consists of 18 lots on 8.29 acres. There are nine lots on the north side of 37th Street including five lots arranged around a cul-de-sac known as 25th Avenue Place. There are nine lots on the south side of 37th Street including four lots arranged around an "eyebrow." The average lot sizes are consistent with previously developed lots in the area. A Public Works Plan has been previously prepared for the overall Aspen Meadows property.

A Subdivision Agreement has been prepared to address:

- Creation of improvement districts
- Connection fees due for sanitary sewer
- Policy statement on oversizing
- Expedited district process to create improvement districts

This property is contiguous to the City limits and can be served with municipal services. Therefore, staff recommends that Aspen Meadows Second be annexed into the corporate limits of the City.

Craig Bennett from Miller & Associates presented this matter to the Council. The preliminary plat has already been completed for the entire development. The first phase of Aspen Meadows was a cul-de-sac and lots along the north side of 35th Street. Some of the area is currently outside the corporate limits so in addition to the Final Plat, they are rezoning and annexing this property into the City limits. They are asking for rezoning from AG to R-1 for the 2.46 acres, but the whole subdivision has a total of 8.29 acres. The remaining portion is already zoned R-1. From a comprehensive plan standpoint, it is always good to look and make sure this is consistent with the proposed low density residential, which it is. There are four lots west of this property which the owner obtained and purchased for the sake of this development. As he graded the area east of this draw, he found it more difficult to determine how to grade that area because there was another big draw so he decided to acquire those lots west of Country Club Lane. Now, 37th Street has connectivity and all the preliminary grading is done and was seeded last fall. They are basically continuing Country Club Lane all the way up to the north side of this phase, extending and allowing connectivity all the way back to 37th Street. Circulation in this phase will be able to go up to Country Club, on 37th Street

where there is a cul-de-sac and an eyebrow located to the west.

The final plat for the same 8.92 acres which included nine lots located on the north side of 37th Street and nine lots on the south side of 37th Street which are in compliance with the preliminary plat. There is a big storm sewer that goes through there and that is why this has been done in phases because it is quite expensive to take that 60" storm sewer through there. Public Works Director Rod Wiederspan indicated this will be a sewer district created which will be assessed back to the property and the developer and the City will each pay a portion of it.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) to rezone from District AG, Agricultural District to District R-1, Urban Residential Single Family (Low Density) District property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney abstained. Motion carried.

FINAL PLAT FOR ASPEN MEADOWS SECOND

Public Hearings 2, 3 and 4 were discussed together but voted on separately.

Council member Kearney vacated his chair and abstained from discussion and voting on this matter.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) for the Final Plat and Subdivision Agreement for Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street) and to consider Resolution No. 2011-46. Planning Commission recommended approval.

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 Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) for the Final Plat and Subdivision Agreement for Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street) and adopt **Resolution No. 2011-46**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney abstained. Motion carried.

RESOLUTION NO. 2011-46

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the northeast corner of said Northwest Quarter and assuming the east line of said Northwest Quarter as bearing $S00^{\circ}38'59''W$ and all other bearings shown hereon relative thereto; thence $S00^{\circ}38'59''W$ on the east line of said Northwest Quarter (also the west line of Altmaier Acres Subdivision in the City of Kearney, Buffalo County, Nebraska) a distance of 626.86 feet to the northeast corner of Lot 3, Brandt's Hillside Estates Addition to said City; thence $S70^{\circ}48'04''W$ on the north line of said Brandt's Hillside Estates Addition a distance of 477.89 feet to the northwest corner of Lot 1 of said Brandt's Hillside Estates Addition (also the easterly right-of-way of Country Club Lane as platted in said City) and the ACTUAL POINT OF BEGINNING; thence $S71^{\circ}21'09''W$ on the north line of Aspen Meadows Addition to said City a distance of 66.00 feet to the northeast corner of Lot 1, Block One of said Aspen Meadows Addition; thence $S70^{\circ}47'27''W$ on the north line of said Aspen Meadows Addition a distance of 185.00 feet to a point on the north line of said Addition and on the north line of Lot 2, Block One of said Addition; thence $S79^{\circ}34'44''W$ on the north line of said Addition a distance of 138.02 feet to a point on the north line of Lot 3, Block One of said Addition; thence $N89^{\circ}33'51''W$ on the north line of said Addition a distance of 496.28 feet to the northwest corner of said Addition and the northwest corner of Lot 7, Block One of said Addition and a point on the east line of Lot 9, Block Four, Meadowlark Estates Addition to said City; thence $N00^{\circ}43'25''E$ on the east line of said Meadowlark Estates Addition a distance of 462.09 feet to the northeast corner of Lot 1, Block Five of said Meadowlark Estates Addition and a point on the south line of Lot 1 of Patriot Addition to said City; thence $S89^{\circ}34'40''E$ on the south line of said Patriot Addition and the south line of Lot 1 of J.N. Addition to said City extended easterly a distance of 748.34 feet; thence southeasterly along a non-tangent curve to the left having a central angle of $10^{\circ}20'22''$, a radius of 467.00 feet, an arc length of 84.27 feet and a chord bearing $S14^{\circ}02'22''E$ a distance of 84.16 feet; thence $S19^{\circ}12'33''E$ a distance of 278.76 feet to the northwest corner of Lot 1, Brandt's Hillside Estates Addition to said City and the Point of Beginning, said tract containing 8.29 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 Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby

authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF ASPEN MEADOWS SECOND

Public Hearings 2, 3 and 4 were discussed together but voted on separately.

Council member Kearney vacated his chair and abstained from discussion and voting on this matter.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) for the annexation of Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street) and to consider Resolution No. 2011-47. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) for the annexation of Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street) and adopt **Resolution No. 2011-47**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney abstained. Motion carried.

RESOLUTION NO. 2011-47

WHEREAS, an Application has been submitted by Craig Bennett from Miller & Associates (Applicant) for Twin Falls, L.L.C. (Owner) for the inclusion of Aspen Meadows Second, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the northeast corner of said Northwest Quarter and assuming the east line of said Northwest Quarter as bearing S00°38'59"W and all other bearings shown hereon relative thereto; thence S00°38'59"W on the east line of said Northwest Quarter (also the west line of Altmaier Acres Subdivision in the City of Kearney, Buffalo County, Nebraska) a distance of 626.86 feet to the northeast corner of Lot 3, Brandt's Hillside Estates Addition to said City; thence S70°48'04"W on the north line of said Brandt's

Hillside Estates Addition a distance of 477.89 feet to the northwest corner of Lot 1 of said Brandt's Hillside Estates Addition (also the easterly right-of-way of Country Club Lane as platted in said City) and the ACTUAL POINT OF BEGINNING; thence S71°21'09"W on the north line of Aspen Meadows Addition to said City a distance of 66.00 feet to the northeast corner of Lot 1, Block One of said Aspen Meadows Addition; thence S70°47'27"W on the north line of said Aspen Meadows Addition a distance of 185.00 feet to a point on the north line of said Addition and on the north line of Lot 2, Block One of said Addition; thence S79°34'44"W on the north line of said Addition a distance of 138.02 feet to a point on the north line of Lot 3, Block One of said Addition; thence N89°33'51"W on the north line of said Addition a distance of 496.28 feet to the northwest corner of said Addition and the northwest corner of Lot 7, Block One of said Addition and a point on the east line of Lot 9, Block Four, Meadowlark Estates Addition to said City; thence N00°43'25"E on the east line of said Meadowlark Estates Addition a distance of 462.09 feet to the northeast corner of Lot 1, Block Five of said Meadowlark Estates Addition and a point on the south line of Lot 1 of Patriot Addition to said City; thence S89°34'40"E on the south line of said Patriot Addition and the south line of Lot 1 of J.N. Addition to said City extended easterly a distance of 748.34 feet; thence southeasterly along a non-tangent curve to the left having a central angle of 10°20'22", a radius of 467.00 feet, an arc length of 84.27 feet and a chord bearing S14°02'22"E a distance of 84.16 feet; thence S19°12'33"E a distance of 278.76 feet to the northwest corner of Lot 1, Brandt's Hillside Estates Addition to said City and the Point of Beginning, said tract containing 8.29 acres, more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on April 15, 2011 on the inclusion of Aspen Meadows Second within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Aspen Meadows Second, an addition to the City of Kearney, Buffalo County, Nebraska;

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on May 10, 2011 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Aspen Meadows Second shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Aspen Meadows Second within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

FINAL PLAT FOR PIPER SUBDIVISION

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for the City of Kearney (Owner) for the Final Plat for Piper Subdivision, Buffalo County, Nebraska for property described as a tract of land located on the North Half of the Southwest Quarter, the North Half of the Southeast Quarter, Government Lot 1 and Government Lot 4 of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (west of Airport Road and north of 39th Street) and to consider Resolution No. 2011-48. Planning Commission recommended approval.

The City of Kearney would like to plat 15.33 acres near the airport into six lots to make the property more marketable. The property is currently zoned M-1, Limited Industrial. The largest lot is 7.08 acres and the remaining lots vary from 1.10 acres to 2.26 acres. There are existing buildings on several of the proposed lots. Some of the properties are currently leased to outside tenants and some lots may potentially be sold in the future. Lot lines have been adjusted slightly to maximize setbacks to meet fire resistive construction requirements from property line to building walls. There are some existing rail spurs that transect the property. Water and sewer bisect this property in a north-south direction under the alignment of Avenue B (Piper Avenue).

City staff has reviewed the subdivision plats and offers the following comments:

- a) No Land Use Map amendment or rezoning will be required.
- b) A cul-de-sac turnaround is required at the south terminus of Avenue B (Piper Avenue).
- c) Part of Avenue B, also known as Piper Avenue, has been previously vacated but will be rededicated with this platting and will be graded and the surfacing will be restored to gravel.
- d) The rail spur that is located on the large lot can be removed.
- e) The rail spur that is north of the large lot and west of Piper Avenue extends eastward into Lot 3 and half of Lot 2. This rail line will be reserved for KVFD training for fire fighting in railroad situations.
- f) A 20-foot wide sanitary sewer easement is shown across the large lot.
- g) Not all of the lots created will abut City water and sanitary sewer mains. The water and sanitary sewer mains may be extended or the lots might be served by private service lines as approved on a case by case basis.
- h) A Public Works Plan has been submitted.
- i) The Planning Commission approved the preliminary plat for Piper Subdivision at the April 15, 2011 meeting.

Craig Bennett from Miller & Associates presented this matter to the Council. He represents the City of Kearney on this project. This property is currently located outside the City limits, but within the 2-mile jurisdiction. The City owns the 15.5 acres proposed to be platted. There are five buildings located on this parcel and some other amenities such as sanitary sewer and railroad tracks that bisect this parcel. It is bound on the east by Airport Road and 39th Street is hinged on the south side. Along the north and westerly side, there is a railroad spur which serves one of the businesses and continues on. The future land use map from the comprehensive plan shows this to be general industrial which is encompassed by all the properties. In subdividing it, they are not

asking for the use to change. The 15 acres is currently hinged by M-1 on all sides except for the south where there is some M-2 and little bit of M-1. They are not asking for that portion to be rezoned. There are six lots in this proposed subdivision known as Piper Subdivision. They are currently opening up Piper Avenue and the signage is in place. Years ago there was a subdivision that laid out these streets as Avenues A, B, C and continued going westerly. Those names have either been assumed or renamed as Kearney has grown. Using existing names could cause some conflict for 911 purposes; therefore, it was decided to name it Piper Avenue.

The plat shows a large cul-de-sac on Piper Avenue which would allow a large tractor trailer or semi truck traffic to turn around. Lot 1 is about 1.6 acres, Lot 2 was split between two buildings and Lot 3 was split the same. Two of the lots have a railroad spur and the final plat shows an easement to keep and maintain that railroad spur open. Lot 4 and Lot 5 will each encompass a building. Lot 1 of the other block is a 7-acre parcel that has no buildings on it, although it does have City sanitary sewer infrastructure that currently bisects the property. It also has a railroad spur that intercepts the property line for Ace Irrigation and continues from there, but is now torn up.

The question that came up was if these lots that currently have buildings want to be served by City infrastructure would it be possible. There is currently water along Piper Avenue and Airport Road so the end lots would have access. If the middle lot wanted water, infrastructure would have to be put in along the street and there is room in that right-of-way to do so. The same is true for sanitary sewer. There is sanitary sewer along the west side of Piper Avenue and gravity would be extended east northeasterly to accommodate the middle lot.

There was some discussion at Planning Commission about the current condition of Piper Avenue which is basically a gravel surface. It is anticipated at this point, to keep it a gravel surface because it connects with another gravel road. Piper Avenue is not anticipated to connect to 39th Street. It has a terminus point at Ace Irrigation's north property line. They showed that terminus as a large cul-de-sac on the final plat. As the three lots are accessed, there may be larger vehicles coming in that would need to turn around in that area. If Ace Irrigation wanted to transport their large piping (some of their pipe is 90' long and requires disconnected trailers) they could exit through this location rather than that maze they have to 39th Street. The benefits in the long term for businesses out there would be to exit out to Piper Avenue and eventually be able to access Airport Road. Looking at the master plan of Cherry Avenue, they would be able to access 56th Street at Cherry Avenue and not have to go down Highway 30 and 39th Street, etc. He believed it made good sense to maintain that road surface for now.

City Attorney Michael Tye stated that he further explained to Planning Commission members that Piper Avenue essentially is a dirt road and the reason they want to rededicate it is so there is access into those lots. Piper Avenue as it goes to the north to Aeronca Street is also gravel, as well as any roads close to Piper Avenue and is used primarily for industrial purposes. The intent would be to leave Piper Avenue gravel, but to preserve that space for the cul-de-sac so if needed in the future it would be dedicated in the plat. The City will have to build up that road and bring it up to standard. Part of the intent of platting this property so they can define the different lots because right now it is a metes and bounds description which can be cumbersome both in terms of leasing

buildings to private individuals and they need to preserve that road right-of-way for future access to those parcels.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for the City of Kearney (Owner) for the Final Plat for Piper Subdivision, Buffalo County, Nebraska for property described as a tract of land located on the North Half of the Southwest Quarter, the North Half of the Southeast Quarter, Government Lot 1 and Government Lot 4 of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (west of Airport Road and north of 39th Street) and adopt **Resolution No. 2011-48**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2011-48

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Piper Subdivision of Buffalo County, Nebraska for a tract of land located on part of the Northeast Quarter of the Southwest Quarter, part of the Northwest Quarter of the Southeast Quarter, and part of Government Lot 1 and part of Government Lot 4, all in Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the South Quarter Corner of said Section 28 (also the Southeast Corner of Government Lot 4) and assuming the South line of said Section as bearing N89°13'07"E and all other bearings contained herein relative thereto; thence N89°13'07"E on said South line a distance at 71.36 feet to a point on the Westerly Right-at-Way of Airport Road as platted in said County; thence N06°44'49"E on said Westerly Right-of-Way a distance of 1673.84 feet to the ACTUAL POINT OF BEGINNING; thence continuing N06°44'49"E on said Westerly Right-of-Way a distance of 225.90 feet to the Southerly Right-of-Way of Aeronco Street as plotted in said County; thence S59°16'02"W on said Southerly Right-of-Way a distance of 986.47 feet to the Easterly Right-of-Way of now vacated Avenue 'B' (also known as Piper Avenue) as platted in said County; thence S06°43'23"W on said Easterly Right-at-Way a distance of 185.48 feet; thence S59°16'27"W a distance of 454.44 feet to the beginning of a non-tangent curve to the left having a central angle of 58°04'10", radius of 730.06 feet, an arc length of 739.91 feet, and a chord bearing S29°06'43"W a distance of 708.65 feet; thence S00°38'28"E a distance of 282.00 feet to the Northerly Right-of-Way of 39th Street as platted in said County; thence N89°07'09"E on said Northerly Right-of-Way a distance of 34.52 feet; thence N15°29'18"E a distance at 85.70 feet; thence N59°09'19"E a distance of 338.01 feet; thence N30°52'55"W a distance of 188.31 feet to the beginning of a non-tangent curve to the right having a central angle of 05°31'29", a radius of 791.29 feet, an arc length of 76.30 feet and a chord bearing N54°04'13"E a distance of 76.27 feet; thence N59°17'45"E a distance of 1027.20 feet; thence N30°47'07"W a distance at 330.45 feet; thence N59°09'19"E a distance of 346.03 feet; thence N59°26'10"E a distance of 292.39 feet to the point of beginning, containing 15.53 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through

16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING WEST SIDE OF BLUE MILL ROAD OFF OF 2ND AVENUE NORTH TO WOOD RIVER

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Blue Mill, L.L.C. (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west side of Blue Mill Road off of 2nd Avenue North to Wood River). Planning Commission recommended approval subject to a secondary access from the subdivision to 78th Street and also subject to providing a 15-foot wide easement along the west line of Lot 2.

The applicant is requesting approval to plat approximately 10.5 acres into two parcels. One lot contains the old homestead which will be demolished. These lots back up to the Wood River. Blue Mill Road will be extended approximately 945 feet further to the east from its current terminus.

The property is currently zoned AG, Agricultural and RR-1, Rural Residential District (Rural Standards). The portion that is currently zoned AG will need to be rezoned to RR-1. The Future Land Use Map of the City of Kearney Comprehensive Development Plan shows this area as "Low Density Residential." Therefore, the proposed zoning is in conformance with the Comprehensive Plan.

The Preliminary and Final Plat of Richter's 6th Subdivision contains two lots on 10.83 acres. The Preliminary Plat was approved on April 15, 2011 by the Planning Commission. A good portion of the lots is accretion or floodplain. The floodplain is shown on the Preliminary and Final Plat. The requirement to show contours on the Preliminary Plat has been waived. These lots are about five acres apiece, larger than the average lot sizes in previous Richter phases to the west.

At this time, Blue Mill Road is the only platted access in and out of the current subdivision. The applicants are aware they cannot plat any more lots without a second access. Currently, there is a field road access that is being used to the south of the proposed subdivision that connects to 78th Street. At the time of Planning Commission, NDOR had not yet approved a permanent access point onto 78th Street at the current

field road location. In order for this subdivision to be approved the City requests written permission from NDOR to allow the access at 78th Street and a description of the exact location. An ingress-egress easement to traverse the adjoining property will be required under separate instrument since the easement lies outside the boundary of the proposed subdivision.

A Subdivision Agreement has been prepared regarding the second access. Temporary fire apparatus accessing the road from 78th Street shall have an unobstructed width of not less than 20 feet and unobstructed vertical clearance of not less than 13 feet 6 inches. The road shall be designed and maintained to support the imposed load of fire apparatus and surfaced to provide all weather driving capabilities (minimum = compacted gravel surface). Planning Commission also requested a 15-foot wide ingress-egress easement along the west side of Lot 2 of proposed Richter's 6th Subdivision to allow utility companies access north and to the rear of the platted lots. A Public Works Plan is not required. This subdivision is outside the City Limits. City water and sanitary sewer are not available, have not been requested and are not required.

Trenton Snow, 1309 Central Avenue, presented this matter to the Council. When they did the platting of Blue Mill Road to conform to the existing roadway some work was done on the west end of this parcel. This parcel is west of the other five Richter Subdivisions. These two lots are bigger than the existing house lots in this area. These are over three acres which DEQ recommends for well and septic locations. They are both rural lots outside of the City limits and will not need to be annexed but are in the ETJ of the City. The easement deed for the access road has been approved by the City Attorney and the agreement has been signed. The final plat shows the 15-foot easement for the electric lines to access the electrical lines on the north side of the existing houses.

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 Trenton Snow (Applicant) for Blue Mill, L.L.C. (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west side of Blue Mill Road off of 2nd Avenue North to Wood River). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

FINAL PLAT FOR RICHTER'S 6TH SUBDIVISION

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Blue Mill, L.L.C. (Owner) for the Final Plat for Richter's 6th Subdivision, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west side of Blue Mill Road off of 2nd Avenue North to Wood River) and to consider Resolution No. 2011-49. Planning

Commission recommended approval subject to a secondary access from the subdivision to 78th Street and also subject to providing a 15-foot wide easement along the west line of Lot 2.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Trenton Snow (Applicant) for Blue Mill, L.L.C. (Owner) for the Final Plat for Richter's 6th Subdivision, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west side of Blue Mill Road off of 2nd Avenue North to Wood River) and adopt **Resolution No. 2011-49** subject to a secondary access from the subdivision to 78th Street shall be provided and also to provide a 15-foot wide easement along the west line of Lot 2. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2011-49

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Richter's 6th Subdivision of Buffalo County, Nebraska for a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 13 and assuming the East line of said Northwest Quarter as bearing S00°26'40"E and all bearings contained herein are relative thereto; thence S00°26'40"E on the aforesaid East line a distance of 561.95 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the centerline of the Wood River; thence continuing S00°26'40"E on the aforesaid course a distance of 535.26 feet; thence S89°29'26"W a distance of 946.52 feet to a point on the East line of Richter's 2nd Subdivision to Buffalo County, Nebraska; thence N00°28'40"W on the aforesaid East line of Richter's 2nd Subdivision and the East line of Richter's 3rd Subdivision, a subdivision being part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, a distance of 600.27 feet to a point on the centerline of said Wood River; thence downstream N71°00'21"E on said centerline a distance of 18.51 feet; thence N10°52'09"W leaving said centerline a distance of 34.8 feet to a point on the existing high bank of the Wood River; thence N71°24'55"E on said existing high bank a distance of 159.5 feet; thence continuing on said existing high bank N86°23'35"E a distance of 97.1 feet; thence S66°14'36"E on the aforesaid existing high bank a distance of 195.5 feet to a point on the centerline of said Wood River; thence S19°39'47"W on the aforesaid centerline a distance of 135.18 feet; thence continuing on said centerline S07°45'13"E a distance of 181.38 feet; thence S67°41'13"E a distance of 89.71 feet; thence N66°23'47"E a distance of 261.0 feet; thence N51°54'32"E a distance of 186.0 feet to the place of beginning, containing 10.83 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

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

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMEND LAND USE MAP AT 6430 EAST HIGHWAY 30

Public Hearings 8, 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Advent Group, L.L.C. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agricultural/Open to Light Industrial for property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30) and to consider Resolution No. 2011-50. Planning Commission recommended approval.

The applicant is requesting approval of a two lot subdivision at 6430 East Highway 30, the location of Master's Transportation, Inc. The development is located outside the City Limits in the Two-Mile Extraterritorial Zoning Jurisdiction. City water and sanitary sewer is not available, is not required and has not been requested by the owner. The size of the parcel to be subdivided is 6.00 acres.

The applicant is requesting rezoning from District AG, Agricultural to District M-1, Limited Industrial. The proposed use is for Auto Sales/Service which is allowed by right in C-3, M-1 and M-2 zoning districts. The Future Land Use Map of the City of Kearney Comprehensive Development Plan shows the area to be "Agricultural/Open" and will need to be amended to "Light Industrial." Adjacent lands are undeveloped at this time; however, there is a concrete crushing operation not too far to the north.

The Preliminary Plat and the Final Plat of Master's Business Park consist of two lots on 6.00 acres. The Preliminary Plat was approved on April 15, 2011 by the Planning Commission. This subdivision will have a shared access drive off of Highway 30. Access is shown on the west end of the parcel with an ingress-egress easement to provide access across the one lot to the second lot. A Subdivision Agreement is not required. A Public Works Plan is not required.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. The managing member is John Goodbrake of Masters Transportation. This business is

located at 6430 East Highway 30. Mr. Goodbrake wants to divide the lot into two platted lots so he can divide up some business enterprises that he has there under separate ownerships. In order to get building permits, the platting is necessary. Lot 1 is the east lot and would be accessed off Highway 30 and that will be used for ingress/egress easement that will be platted as part of this project. There is no need for a subdivision agreement or a public works plan because they are not dedicating any new streets and not accessing public utilities at this point and time. The airport property is to the north and west of this site. The City does not have any public utilities out there and there is really no need for them.

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 Mitch Humphrey from Buffalo Surveying (Applicant) for Advent Group, L.L.C. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agricultural/Open to Light Industrial for property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30) and adopt **Resolution No. 2011-50**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2011-50

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest corner of Government Lot 3 in Section 27, Township 9 North, Range 15 West; thence westerly on the North line of Government Lot 4 a distance of 100.0 feet; thence southerly parallel with the West line of Government Lot 3 a distance of 608.0 feet to a point on the North right-of-way line of Union Pacific Railroad; thence northeasterly on and along the aforesaid North right-of-way line a distance of 440.83 feet to the ACTUAL PLACE OF BEGINNING; thence continuing northeasterly on the aforescribed course a distance of 660.17 feet; thence with a deflection angle to the left of 73°08' a distance of 329.2 feet; thence left 90°00' a distance of 605.35 feet; thence left 87°21' a distance of 521.11 feet to the place of beginning, Buffalo County, Nebraska from Agricultural/Open to Light Industrial, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Agricultural/Open to Light Industrial the use classification for a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the

South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest corner of Government Lot 3 in Section 27, Township 9 North, Range 15 West; thence westerly on the North line of Government Lot 4 a distance of 100.0 feet; thence southerly parallel with the West line of Government Lot 3 a distance of 608.0 feet to a point on the North right-of-way line of Union Pacific Railroad; thence northeasterly on and along the aforesaid North right-of-way line a distance of 440.83 feet to the ACTUAL PLACE OF BEGINNING; thence continuing northeasterly on the aforesaid course a distance of 660.17 feet; thence with a deflection angle to the left of 73°08' a distance of 329.2 feet; thence left 90°00' a distance of 605.35 feet; thence left 87°21' a distance of 521.11 feet to the place of beginning, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING AT 6430 EAST HIGHWAY 30

Public Hearings 8, 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Advent Group, L.L.C. (Owner) to rezone from District AG, Agricultural District to District M-1, Limited Industrial District property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30). Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Advent Group, L.L.C. (Owner) to rezone from District AG, Agricultural District to District M-1, Limited Industrial District property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

FINAL PLAT FOR MASTER'S BUSINESS PARK

Public Hearings 8, 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Advent Group, L.L.C. (Owner) for the Final Plat for Master's Business Park, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located

in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30) and to consider Resolution No. 2011-51. Planning Commission recommended approval.

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 Mitch Humphrey from Buffalo Surveying (Applicant) for Advent Group, L.L.C. (Owner) for the Final Plat for Master's Business Park, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30) and adopt **Resolution No. 2011-51**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2011-51

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Master's Business Park of Buffalo County, Nebraska for a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest corner of Government Lot 3 in Section 27, Township 9 North, Range 15 West; thence westerly on the North line of Government Lot 4 a distance of 100.0 feet; thence southerly parallel with the West line of Government Lot 3 a distance of 608.0 feet to a point on the North right-of-way line of Union Pacific Railroad; thence northeasterly on and along the aforesaid North right-of-way line a distance of 440.83 feet to the ACTUAL PLACE OF BEGINNING; thence continuing northeasterly on the aforescribed course a distance of 660.17 feet; thence with a deflection angle to the left of 73°08' a distance of 329.2 feet; thence left 90°00' a distance of 605.35 feet; thence left 87°21' a distance of 521.11 feet to the place of beginning, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Kearney seconded by Lammers that Subsections 1 through 11 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney,

Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held April 26, 2011.

2. Approve the following Claims:

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

4Imprint \$3,357.45 smcs; Aflac \$2,902.87 ps; Amax Contracting \$335.68 smcs; Amer First Aid \$197.25 smcs; Analytical Services \$250.00 smcs; Arens,S \$29.94 smcs; Ask Supply \$64.90 smcs; Audio Go \$255.90 smcs; B2 Environmental \$5,300.00 co; Bacon,T \$49.23 smcs; Baker & Taylor Books \$3,245.48 smcs; Bamford \$725.00 smcs; Blessing Construction \$4,500.00 co; Bluecross Blueshield \$35,399.88 smcs; Bosselman \$29,219.23 smcs; Broadwell,R \$261.62 smcs; Broadfoot's \$660.00 co; Bornhoff,S \$37.05 smcs; Bruha,S \$30.00 smcs; Buffalo Co Reg Deeds \$47.50 smcs; Buffalo Co \$561.00 smcs; Builders Warehouse \$726.95 smcs; Capper's \$16.95 smcs; Cash-Wa \$96.93 smcs; Central Contracting \$49,409.10 co; Central Hydraulic Systems \$5,287.30 smcs; Charter \$89.24 smcs; Chesterman \$46.80 smcs; City of Ky \$400,914.53 smcs,ps; Cook,R \$2,400.00 smcs; Cool Tech \$79.50 smcs; Copycat Printing \$455.51 smcs; Cross,J \$45.00 smcs; Dandee Concrete \$780.00 smcs; Danko Emergency \$100.45 smcs; Dmilaco \$91.00 smcs; Dutton-Lainson \$264.58 smcs; Eakes \$713.04 smcs; Eirich,T \$50.00 smcs; Engelhardt,J \$41.00 smcs; Environmental Systems \$1,350.00 smcs; Erie Computer Co \$1,399.30 smcs; Eynetich,P \$288.35 smcs; Farmers Union Coop \$75.25 smcs; First Financial Investment \$195.26 ps; Flaherty,T \$86.00 smcs; Gale \$206.98 smcs; Galls \$139.17 smcs; Gangwish Turf \$107.25 smcs; Garrett Tires & Treads \$150.95 smcs; General Excavating \$146,366.28 co; Goos,R \$45.00 smcs; Graham,A \$55.85 smcs; Grey House Publishing \$216.05 smcs; H&H Distributing \$944.40 smcs; HD Supply \$957.20 smcs; Hill,M \$19.88 smcs; Hometown Leasing \$207.71 smcs; ICMA RC \$3,840.42 ps; Info USA Marketing \$330.00 smcs; IRS \$101,968.00 ps; Investment Property \$2,750.00 smcs; J Gardner & Associates \$310.00 smcs; Jack Lederman \$70.02 smcs; James,D \$180.00 smcs; Jelinek,T \$5.00 smcs; JEO-Engineering \$2,640.00 smcs,co; Jones,S \$36.67 smcs; K&D Motor \$643.53 smcs; Ky Concert Assn \$100.00 smcs; Ky Crete & Block \$111.21 smcs,co; Ky Hub \$776.80 smcs; Ky United Way \$964.86 ps; Ky Visitors Bureau \$41,072.89 smcs; Konica Minolta \$665.95 smcs; Krepel,J \$496.00 smcs; Krull Ins \$1,950.00 smcs; Landell-Thelen \$104.38 smcs; Lantzer,J \$35.00 smcs; Lincoln Winwater Works \$422.66 co; Lindner,S \$49.84 smcs; Lucas Electric \$113.30 smcs; Magic Cleaning \$1,700.00 smcs; Mail Express \$22.96 smcs; Marlatt Machine Shop \$354.65 smcs; Matheson Tri-Gas \$197.05 smcs; Metlife \$9,715.67 ps; Mid-NE Aggregate \$739.65 smcs; Midwest Turf \$482.24 smcs; Miller & Associates \$673.30 co; Moonlight Embroidery \$714.00 smcs; Morris Press \$558.80 smcs; NE Child Support \$2,861.15 ps; NE Dept of Rev \$83,210.63 smcs,ps; NE DOL/Office of Safety \$100.00 smcs; NE Sec of State \$30.00 smcs; NEland Distributors \$845.94 smcs; NE-LTAP \$190.00 smcs; Neopost \$643.92 smcs; Niemoth,C \$37.54 smcs; Northwestern Energy \$1,566.43 smcs; Office Depot \$105.14 smcs; O'Keefe Elevator \$161.00 smcs; On Site Mobile Sharpening \$110.48 smcs; Otto Environmental \$15,491.75 smcs; Payflex Systems \$565.25 smcs,ps; Platte Valley

Comm \$65.80 smcs; Pulliam,R \$40.00 smcs; RW Sorensen Construction \$1,500.00 smcs; Ready Mixed Concrete \$2,178.00 co; Recorded Books \$495.60 smcs; RNDC-Eagle Division \$409.70 smcs; RNDC-Falcon Division \$351.70 smcs; Sand,M \$38.41 smcs; Schriener,S \$31.00 smcs; Sherwin Williams \$157.64 smcs; Shultis,K \$288.35 smcs; Sid Dillon \$20,652.00 co; Smiley,J \$4.00 smcs; Snap-On Tools \$89.85 smcs; Snow,T \$76.34 smcs; Stanley Security Solutions \$1,052.83 smcs; St of NE/AS Central \$3,974.58 smcs,co; Sterling Distributing \$699.84 smcs; Straka,D \$100.00 smcs; Sun Development \$20.55 smcs; Sun Life Financial \$42,903.82 smcs; Sydow,J \$40.00 smcs; Sysco \$313.50 smcs; Taylor,A \$60.00 smcs; Tri-Cities Group \$187.80 smcs; TruGreen ChemLawn \$190.00 smcs; Tye & Rademacher \$10,744.11 smcs; US Bank \$135.00 smcs; Verizon \$1,135.47 smcs; Village Uniform \$572.40 smcs; Walsh,V \$21.11 smcs; Watchguard Video \$564.25 co; Wegner,T \$210.00 ps; Wellness Works \$250.00 ps; Wheeler,L \$35.00 smcs; Wies Fire & Safety \$500.00 smcs; Wolf,D \$36.67 smcs; Yant Equipment \$180.00 smcs; Payroll Ending 4-23-2011 -- \$329,784.06. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N on June 18, 2011 from 5:00 p.m. until 1:00 a.m. for a reception.

4. Approve the Agreement between the City of Kearney and the Nebraska Department of Roads for Project No. STP-URB-10-2(119) for the improvement on 2nd Avenue from 25th Street to 31st Street and adopt **Resolution No. 2011-52**.

RESOLUTION NO. 2011-52

WHEREAS, City of Kearney, Nebraska and Nebraska Department of Roads (NDOR) wish to enter into an Agreement for State Project No. STP-URB-10-2(119) for the improvement on 2nd Avenue from 25th Street to 31st Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Stanley A. Clouse, Mayor of the City of Kearney, Nebraska is hereby authorized and directed to execute the attached Agreement between City of Kearney, Nebraska and the NDOR for Project No. STP-URB-10-2(119) for the improvement on 2nd Avenue from 25th Street to 31st Street.

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the application for a Special Designated License submitted by the World Theatre Foundation to dispense beer, wine and distilled spirits in the Masonic Temple Building located at 2318 Central Avenue on June 11, 2011 from 5:00 p.m. until 11:30 p.m. for a fund raiser.

6. Approve the application submitted by Cheryl Schroeder to extend Conditional Use Permit No. 1998-05 to operate a bed and breakfast at 2915 5th Avenue for a period of one year.
7. Approve the request submitted by the Nebraska State HOG Rally to conduct a motorcycle parade on May 28, 2011 beginning at 5:30 p.m. The route will begin at the parking lot located north of the Museum of Nebraska Art, south on Central Avenue to Railroad Street, west on Railroad Street to 1st Avenue, north on 1st Avenue to 24th Street, east on 24th Street to Central Avenue, south on Central Avenue and ending at Railroad Street.
8. Accept the bids received for the 2010 Part 6 Improvements for Central Avenue from 18th Street to South Railroad Street and adopt **Resolution No. 2011-53** awarding the bid to Blessing LLC in the amount of \$886,999.00.

RESOLUTION NO. 2011-53

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on May 3, 2011 at 2:00 p.m. for the 2010 Part 6 Improvements for Central Avenue from 18th Street to South Railroad Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$928,223.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Blessing LLC of Kearney, Nebraska in the sum of \$886,999.00 be accepted as the lowest responsible bid for 2010 Part 6 Improvements for Central Avenue from 18th Street to South Railroad Street.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Blessing LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2010 Part 6 Improvements for Central Avenue from 18th Street to South Railroad Street to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing LLC of Kearney, Nebraska in the sum of \$886,999.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$928,223.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 10TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the Plans and Specifications for the 2011 Part 3 Improvements for improvements to the 2nd Avenue medians between Talmadge Street and Interstate 80 and set the bid opening date for June 7, 2011 at 2:00 p.m.

10. Approve the application for a Special Designated License submitted by Nebraska Aids Project to dispense beer and wine in the East Gallery of the Museum of Nebraska Art and in the outside garden area located on the east side of the building located at 2401 Central Avenue on June 11, 2011 from 11:00 a.m. until 5:00 p.m. for a fund raiser.

11. Approve the request submitted by Seth Van Horn on behalf of the Torch Run Committee to conduct the Nebraska Special Olympics Torch Run on May 13, 2011 beginning at 3:30 p.m. The route will begin at Fire Station 1, north on Avenue A to 24th Street, west on 24th Street to 1st Avenue, south on 1st Avenue to Railroad Street, east on Railroad Street to Central Avenue, north on Central Avenue to 24th Street, east on 24th Street to Avenue A, south on Avenue A and ending at the Chicken Coop.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7643 GRANTING A CONDITIONAL USE PERMIT TO VIAERO WIRELESS FOR 500 WEST 4TH STREET (PERTAINS TO PUBLIC HEARING 1)

Council Member Lammers introduced Ordinance No. 7643, being Subsection 1 of Agenda Item VI granting a Conditional Use Permit to NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Apple Fun Center, Inc., dba The Big Apple (Owner) to locate an antenna on property zoned District C-3, General Commercial District and described as a tract of land being part of Government Lot 4 in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (500 West 4th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7643 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7643 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7643 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. 7644 REZONING WEST OF COUNTRY CLUB LAND AND NORTH OF 36TH STREET (PERTAINS TO PUBLIC HEARING 2)

Council Member Buschkoetter introduced Ordinance No. 7644, being Subsection 2 of Agenda Item VI rezoning from District AG, Agricultural District to District R-1, Urban Residential Single Family (Low Density) District property described as a tract of land located on part of the Northeast Quarter of the Northwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of Country Club Lane and north of 36th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney abstained. 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. 7644 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 abstained. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7644 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney abstained. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7644 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. 7645 REZONING ON WEST SIDE OF BLUE MILL ROAD OFF OF 2ND AVENUE NORTH TO WOOD RIVER (PERTAINS TO PUBLIC HEARING 6)

Council Member Lammers introduced Ordinance No. 7645, being Subsection 3 of Agenda Item VI rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west side of Blue Mill Road off of 2nd Avenue North to Wood River), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one

responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7645 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7645 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7645 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. 7646 REZONING AT 6430 EAST HIGHWAY 30 (PERTAINS TO PUBLIC HEARING 9)

Council Member Lammers introduced Ordinance No. 7646, being Subsection 4 of Agenda Item VI rezoning from District AG, Agricultural District to District M-1, Limited Industrial District property described as a tract of land being part of Government Lot 2 and part of Government Lot 3 located in the South Half of the Southeast Quarter of Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6430 East Highway 30), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7646 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7646 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7646 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

OPEN ACCOUNT CLAIMS: PLATTE VALLEY STATE BANK - \$48,804.46, SCHOOL DISTRICT #7 - \$3,784.75

Moved by Clouse seconded by Lammers that the Open Account Claim in the amount of \$48,804.46 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear abstained. Motion carried.

Moved by Kearney seconded by Lear that the Open Account Claim in the amount of \$3,784.75 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

POLICE DEPARTMENT COMMENDATION

Council members commended the Police Department on the outstanding job and quick response regarding the mountain lion that was located in the southwest residential neighborhood.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:41 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**