

*Kearney, Nebraska
November 8, 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 November 8, 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, Bruce Lear, and Bob Lammers. Absent: Don Kearney. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Bobbi Pettit, Assistant Development Services Director were also present. Some of the citizens present in the audience included: Steve Mercer, Curt Oreter, Betty Warren, Tom McCarty, Phil Jossi, Mitch Humphrey, Dr. Sri Seshadri, 10 UNK students, 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

Father Joseph Hannapel from St. James Catholic Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Three 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.

RECOGNITION

Mayor Clouse introduced and welcomed Dr. Sri Seshadri, Marketing & MIS Professor at UNK to the meeting.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT TO WERNER CONSTRUCTION; WEST OF CHERRY AVENUE, NORTH OF WASTEWATER TREATMENT PLANT

Mayor Clouse opened the public hearing on the Application submitted by Werner Construction, Inc. (Applicant) and Archview LLC (Owner) for a Conditional Use Permit to operate a gravel pit to provide aggregate for the Cherry Avenue Bypass and improvements to I-80 on property zoned District AG, Agricultural District and described as a tract of land being located in the Northeast Quarter, the East Half of the Northwest Quarter and Government Lots 3, 4, 5, 6, 7 and 12 in Section 8, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (west of Cherry Avenue, north of Wastewater Treatment Plant) and to consider Ordinance No. 7681. Planning Commission recommend approval subject to compliance with conditions 1 through 10.

The applicant is requesting a Conditional Use Permit (CUP) for removal of construction aggregate from an existing gravel pit on the Mercer property to supply material to the Werner construction batch plant on the Kappas property to the east. A CUP for the temporary batch plant was before the Commission last month and was approved by City Council October 11, 2011. The site is zoned Agricultural; therefore, a CUP is required for resource extraction. The material will be removed from the west end of the existing sandpit and hauled out along the north side of the City Waste Water Treatment Plant (WWTP) to existing Cherry Avenue then north to the batch plant site.

The applicant is seeking this CUP in conjunction with the Cherry Avenue Bypass Project. The material will be supplying the batch plant. Staff has addressed three components for this batch plant proposal:

1. Duration
2. Wellhead Protection Overlay District
3. Circulation

The duration of the permit will be six months past the completion of Phase I of the Cherry Avenue Bypass project. The applicant has requested that the application be renewable at the end of Phase I if he is awarded any project bids for Phase II. Staff supports granting this request.

This site is in the Wellhead Protection Overlay District, a restricted area intended to protect the water quality for the City of Kearney Wellfield. If an excavation project were allowed on a limited basis, the presence of heavy equipment and diesel fuel may cause concern for the Nebraska Department of Environmental Quality or the City due to the Wellhead Protection Area. The applicant is aware of the location of the site near the City's Wellfield and has indicated his willingness to abide by Section 45-104 Wellhead Protection Overlay Zone 1 of the Kearney City Code. Those regulations will be part of the conditions placed on this CUP.

The Utilities Department has contacted the Department of Environmental Quality on previous CUP applications regarding requirements that surround the issuance of storm water and other permits. In addition to the requirements of the City Code, State and Federal Agency regulations would also apply to the terms of the CUP.

The applicant has indicated that the primary purpose of the extraction operation is to provide material for the temporary batch plant to the east. Therefore, the applicant will be hauling material along a field road on Mercer property that crosses onto City property along the north side of the WWTP to existing Cherry Avenue, then north. City staff will monitor Cherry Avenue during the project for compliance with the road maintenance specifications included in the conditions of this permit. The applicant will also be limited on hours of operation in order to accommodate for the local use nature of the roads and nearby residences.

In order to address the duration, wellhead protection, and circulation issues associated with this project, staff recommends the following conditions be incorporated into the CUP:

1. This CUP shall be limited to a time limit of six months after the completion of Phase I of the Cherry Avenue Bypass project, but may be renewable at the end of the project if the applicant is awarded additional work for Phase II and a renewal is authorized by the Planning Commission and City Council.
2. 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.
3. All equipment must be removed from the site by the time the CUP expires.
4. This operation shall meet all Federal or State agency requirements and standards.
5. 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.
6. Portable toilet facilities shall be utilized, properly maintained and protected from damage.
7. Fuel storage areas, if located on-site, 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.
8. The applicant must adhere to the regulations set forth in 45-104 of the City of Kearney Wellhead Protection Zone 1:
 - a. Septic systems and leach fields are prohibited. All development must be directly connected to City sewer services, if available.

b. Any development must be connected to City water services if such services are available within 500 feet of the site. If a connection is impossible, all new wells shall be installed in accordance with Title 178 of the Nebraska Administrative Code. Well installation further requires the approval of both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.

c. Storage of petroleum and agricultural chemicals for resale shall be prohibited. Storage of over 500 gallons of petroleum and/or agricultural chemicals for personal use shall require approval by both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.

d. Surface water run-off shall be contained within the boundaries of any proposed development.

e. All development requires the written approval of the City's Director of Utilities and the appropriate State of Nebraska Department of Health.

9. The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the roads utilized for this project and CUP:

a. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch limestone or crushed concrete aggregate.

b. River gravel or river rock is not acceptable for rebuilding subgrade.

c. 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 during times that the site is active. Staff recommends that the road be watered and bladed every four hours when trucks are operating.

d. Applicant shall maintain a minimum two-inch average depth of gravel or rock surfacing on top of the road bed at all times.

10. Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 a.m. to 6:00 p.m.

Curt Oreter representing Werner Construction presented this matter to the Council. He stated this will be a gravel pit for two projects being done on Interstate 80, the new bypass west of the Wastewater Treatment Plant. The Conditional Use Permit was approved for the batch plant at a previous meeting. This is a continuation of that project. They agree with all the conditions that are listed in the ordinance.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Werner Construction, Inc. (Applicant) and Archview LLC (Owner) for a Conditional Use Permit to operate a gravel pit to provide aggregate for the Cherry Avenue Bypass and improvements to I-80 on property zoned District AG, Agricultural District and described as a tract of land being located in the Northeast Quarter, the East Half of the Northwest Quarter and Government Lots 3, 4, 5, 6, 7 and 12 in Section 8, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (west of Cherry Avenue, north of Wastewater Treatment Plant) and introduced Ordinance No. 7681 granting said Conditional Use Permit to Werner Construction, Inc. (Applicant) and Archview LLC (Owner) subject to compliance with the conditions set forth in the ordinance 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 close the hearing and suspend the rules for Ordinance No. 7681. 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. 7681 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, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7681 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. 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. 7681 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.

VACATE PORTION OF GREAT WESTERN ADDITION AND FINAL PLAT FOR GREAT WESTERN SECOND ADDITION; EAST OF AVENUE N, SOUTH OF 30TH STREET, AND NORTH OF 28TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Great Western Properties, LLC (Owner) for the Final Plat and Subdivision Agreement for Great Western Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lots 1, 2 and 3 (to be vacated), Great Western Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of Avenue N, south of 30th Street, and north of 28th Street) and consider Ordinance No. 7682 vacating Lots 1, 2 and 3, Great Western Addition and consider Resolution No. 2011-150. Planning Commission recommended approval.

The applicant is requesting approval to vacate three lots contained in an existing four-lot subdivision known as Great Western Addition. This subdivision is located on the property that previously housed the drive-in theater. Great Western Addition is zoned M-1 and was platted in 2008.

Lots 1 through 3, Great Western Addition will be vacated and replatted as Great Western Second Addition. Lot 4 will remain the sole lot in Great Western Addition; an auto oriented business is proposed for Lot 4.

The Preliminary and Final Plat of Great Western Second Addition consist of three lots with two access points to Avenue N (on the north side of Lot 2 and the south side of Lot 3) that were originally established with the platting of Great Western Addition. Lot 1 will likely be developed with an office building on the west side and convenience storage on

the east. The storage area will be fenced. The Preliminary Plat was approved by Planning Commission on October 21, 2011.

A Public Works Plan has been previously prepared for the property. The water main location and associated water easements have been revised on the new plat. A Subdivision Agreement has been prepared that will require the owner to enter into a developer constructed infrastructure agreement to construct an eight-inch water main from the existing water main located in Avenue N at the south line of Lot 3 eastward in the established easement and from the existing water main located in Avenue N at the north line of Lot 2 eastward in the established easement.

The Utilities Department recommends that the water main proposed to be constructed on the south side of Lot 3 be built before Lot 3 is developed. This should be done in order to avoid disturbing any development that might take place on Lot 3.

Stormwater detention must also be provided on each lot. Prior to the issuance of building permits, drainage design and calculation will be approved by the City Engineer.

Mitch Humphrey presented this matter to the Council. He stated this is the "old drive-in theater" site. The owners have made a decision to revise their plan for development of this property. They are requesting to vacate three of the lots and Lot 4, Great Western Addition to remain as is since it has been conveyed and sold. After the lots are vacated, they will be brought back as three new lots with the access being flipped to make a better plan.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Great Western Properties, LLC (Owner) for the Final Plat and Subdivision Agreement for Great Western Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lots 1, 2 and 3 (to be vacated), Great Western Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of Avenue N, south of 30th Street, and north of 28th Street) and introduced Ordinance No. 7682 vacating Lots 1, 2 and 3, Great Western Addition, an addition to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to close the hearing and suspend the rules for Ordinance No. 7682. 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. 7682 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 Clouse seconded by Lammers that Ordinance No. 7682 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. 7682 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.

Moved by Lammers seconded by Lear to adopt **Resolution No. 2011-150** approving the Final Plat and Subdivision Agreement for Great Western Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-150

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Great Western Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 1, Lot 2, and Lot 3, all now vacated, Great Western Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and being part of the Northwest Quarter of the Southwest Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the southwest corner of Section 31 and assuming the West line of the Southwest Quarter of Section 31 as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the West line of the Southwest Quarter of said Section 31 a distance of 1595.89 feet to a point being on the North line of Lots 6 thru 9, inclusive, Block 42, the South Half of Vacated Avenue "O" being North of 28th Street, a street in the City of Kearney, Buffalo County, Nebraska, and Lots 6 thru 10, inclusive, Block 43, all in East Lawn Addition to the City of Kearney, Buffalo County, Nebraska, said point also being on the South line of Lot 1, Great Western Addition, an addition to the City of Kearney, Buffalo County, Nebraska, if extended westerly; thence S88°57'35"E on the aforesaid North line and on the South line of Great Western Addition, if extended westerly a distance of 33.0 feet to the northwest corner of Lot 6, Block 43, East Lawn Addition to the City of Kearney, Buffalo County, Nebraska, said point being the southwest corner of said Great Western Addition; thence continuing S88°57'35"E on the aforesaid North line and the South line of said Great Western Addition a distance of 7.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the southeast corner of a strip of land dedicated for public road purposes and now being a part of Avenue "N", a street in the City of Kearney, Buffalo County, Nebraska, as said strip of land was dedicated and is shown on the plat of said Great Western Addition, with said plat filed at Instrument No. 2009-0704 in the Office of the Buffalo County Register of Deeds on February 4, 2009; thence continuing S88°57'35"E on the aforesaid North line and on the South line of said Great Western Addition a distance of 543.30 feet to the northeast corner of Lot 9, Block 42, East Lawn Addition, said point being on the West line of the Kearney Branch of the Union Pacific Railroad Company's Right-of-Way, formerly known as the K.& B.H. Railroad Right-of-Way, and said point also being the southeast corner of said Great

Western Addition; thence N18°27'20"E on the West Line of the aforesaid Railroad Right-of-Way and on the East line of said Great Western Addition and a distance of 608.00 feet to the southeast corner of Lot 1, Block 2, Sunny Acres Subdivision to the City of Kearney, Buffalo County, Nebraska, said point also being the northeast corner of said Great Western Addition; thence N88°54'11"W on the South line of Block 2, Sunny Acres Subdivision and on the North line of said Great Western Addition a distance of 735.96 feet to the northeast corner of said strip of land dedicated for public road purposes and now being a part of Avenue "N", said point also being the northwest corner of Lot 2, Great Western Addition; thence SOUTH on the East line of said strip of land dedicated for road purposes and now being a part of Avenue N, and on the West line of said Lot 2 and the West line of Lot 3, Great Western Addition a distance of 296.95 feet to the northwest corner of Lot 4, Great Western Addition, said also point being the southwest corner of said Lot 3, Great Western Addition; thence leaving the East line of said strip of land dedicated for road purposes and now being a part of Avenue N, S88°57'35"E on the North line of said Lot 4 and on the South line of said Lot 3, Great Western Addition a distance of 268.00 feet to the northeast corner of said Lot 4, Great Western Addition, said point being on the westerly line of Lot 1, Great Western Addition; thence S00°01'04"E on the East line of said Lot 4 and on the westerly line of said Lot 1, Great Western Addition a distance of 142.00 feet to the southeast corner of said Lot 4, Great Western Addition; thence N88°57'35"W on the South line of said Lot 4 and the northerly line of said Lot 1, Great Western Addition a distance of 268.00 feet to the southwest corner of said Lot 4, said point being on the East line of said strip of land dedicated for road purposes and now being a part of Avenue N, and said point being the northwesterly corner of said Lot 1, Great Western Addition; thence SOUTH on the East line of said strip of land dedicated for road purposes and now being a part of Avenue N, and the west line of said Lot 1, Great Western Addition a distance of 142.00 feet to the place of beginning, containing 7.651 acres, more or less, 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING NORTH OF THE INTERSECTION OF 56TH STREET AND PARKLANE

DRIVE

Public Hearings 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) to rezone from District AG, Agricultural District to District C-2, Community Commercial District property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of the intersection of 56th Street and Parklane Drive) and to consider Ordinance No. 7683. Planning Commission recommended approval.

The applicant is requesting approval to rezone and plat property for a commercial development located on the north side of 56th Street and the east side of proposed Parklane Drive. The area to be rezoned includes street right-of-way for three abutting streets. The single lot subdivision is proposed to be rezoned to commercial zoning and annexed into the corporate limits of the City.

The property is currently zoned AG, Agricultural and must be rezoned to allow commercial use of the property. The requested rezoning category is C-2, Community Commercial. The land to the north, east, and west is zoned AG, Agricultural. The land to the south is developed and zoned R-2, Urban Residential Mixed Density and C-2, Community Commercial. The Future Land Use Map of the City of Kearney Comprehensive Development Plan shows this area as "Mixed Use 1." Therefore, the proposed zoning is in conformance with the Comprehensive Plan. The area to be rezoned contains 2.77 acres. This total includes the sixty-foot right-of-way for proposed Parklane Drive on the west side and proposed 57th Street on the north side. Also included in the area to be rezoned is the north fifty feet of 56th Street right-of-way. The total amount of land dedicated to the City of Kearney for public street right-of-way is 0.14 acres. The remaining developable lot area is 67,500 square feet or 1.549 acres.

The Preliminary and Final Plat of Ingalls Crossing Fifth Addition contains one lot of 2.63 acres. The Preliminary Plat was approved by Planning Commission on October 21, 2011. 57th Street terminates at the east side of the lot with a temporary cul-de-sac on the abutting property to the east. 33 feet of right-of-way is dedicated for 56th Street and the City had previously purchased 17 feet for a total of fifty feet. A 60-foot right-of-way is dedicated for 57th Street and Parklane Drive. A Public Works Plan has been submitted. The City has prepared a Subdivision Agreement that will require the proposed public improvements to be constructed per developer constructed agreement.

The property is contiguous with the City limits and will be served by municipal water and sanitary sewer. Therefore, this property shall be annexed into the corporate limits of the City as an "Addition to the City of Kearney."

The property affected by these actions has been in AG Deferment status since April 5, 2003 due to the improvements that took place along 56th Street. Once the rezoning action takes effect, the property will be assessed for approximately \$26,219.37, which

will be paid back to the City of Kearney over a maximum period of 10 years. The public improvements for Parklane Drive and 57th Street will be constructed at the developer's cost.

Mitch Humphrey presented this matter to the Council. He sees this a first phase of development in the northern part of Kearney as the development of some of the streets and connectivity to the Interstate occur. This acreage is located on the eastside of Parklane Drive extended and north of 56th Street which is presently unplatted. This is a request to rezone from agricultural district to community commercial and create a one lot subdivision so it can be developed. Infrastructure will be put in and constructed according to the minimum requirements by the developers and the subdivision and agreement has been signed by Mrs. Corrigan.

Tom McCarty, 100 Clearview Drive, spoke representing Mrs. Corrigan and her properties. He stated they are very proud of the development they have done for the City of Kearney and would like to see this addition move forward.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) to rezone from District AG, Agricultural District to District C-2, Community Commercial District property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of the intersection of 56th Street and Parklane Drive) and introduced Ordinance No. 7683 rezoning said property and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7683. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. 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. 7683 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7683 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. 7683 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.

FINAL PLAT FOR INGALLS CROSSING FIFTH ADDITION

Public Hearings 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the Final Plat and Subdivision Agreement for Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of the intersection of 56th Street and Parklane Drive) and to consider Resolution No. 2011-151. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and approve the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the Final Plat and Subdivision Agreement for Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of the intersection of 56th Street and Parklane Drive) and adopt **Resolution No. 2011-151**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-151

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the southeast corner of the Southwest Quarter of Section 24 and assuming the south line of the Southwest Quarter of Section 24 as bearing S89°38'03"W and all bearings contained herein are relative thereto; thence S89°38'03"W on the south line of the Southwest Quarter of said Section 24 a distance of 888.61 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the south line of the Southwest Quarter of said Section 24, S89°38'03"W a distance of 360.00 feet; thence leaving the south line of the Southwest Quarter of said Section 24, N00°21'57"W a distance of 335.00 feet; thence N89°38'03"E and parallel with the south line of the Southwest Quarter of said Section 24, a distance of 360.00 feet; thence S00°21'57"E a distance of 335.00 feet to the place of beginning, EXCEPTING THEREFROM; all that part of the north 17.0 feet of the south 50.0 feet of the aforescribed tract of land deeded to the City of Kearney, Nebraska, a municipal corporation, and described on Quitclaim Deed recorded August 12, 1994, on Microfilm Roll 94, Page 13006 thru 13007 filed in the Office of the Register

of Deeds of Buffalo County, containing 2.63 acres, more or less, 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF INGALLS CROSSING FIFTH ADDITION

Public Hearings 3, 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the annexation of Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of the intersection of 56th Street and Parklane Drive) and to consider Resolution No. 2011-152. Planning Commission recommended approval.

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 Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the annexation of Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of the intersection of 56th Street and Parklane Drive) and adopt **Resolution No. 2011-152**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-152

WHEREAS, an Application has been submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the inclusion of Ingalls Crossing Fifth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the southeast corner of the Southwest Quarter of Section 24 and assuming the south line of the Southwest Quarter of Section 24 as bearing S89°38'03"W and all bearings contained herein are relative thereto; thence S89°38'03"W on the south line of the Southwest Quarter of said Section 24 a distance of 888.61 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the south line of the Southwest Quarter of said Section 24, S89°38'03"W a distance of 360.00 feet; thence leaving the south line of the Southwest Quarter of said Section 24, N00°21'57"W a distance of 335.00 feet; thence N89°38'03"E and parallel with the south line of the Southwest Quarter of said Section 24, a distance of 360.00 feet; thence S00°21'57"E a distance of 335.00 feet to the place of beginning, EXCEPTING THEREFROM; all that part of the north 17.0 feet of the south 50.0 feet of the aforescribed tract of land deeded to the City of Kearney, Nebraska, a municipal corporation, and described on Quitclaim Deed recorded August 12, 1994, on Microfilm Roll 94, Page 13006 thru 13007 filed in the Office of the Register of Deeds of Buffalo County, containing 2.63 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 21, 2011 on the inclusion of Ingalls Crossing Fifth Addition 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 Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on November 8, 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 Ingalls Crossing Fifth Addition 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 Ingalls Crossing Fifth Addition 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

VACATE PART OF EASTBROOKE EIGHTH AND FINAL PLAT FOR EASTBROOKE ELEVENTH

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for PB & G Development, LLC (Owner) for the Final Plat for Eastbrooke Eleventh, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 in Block Three (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska (east of intersection of Avenue Q and 57th Street, south of 57th Street) and to consider Ordinance No. 7684 vacating Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 in Block Three and Lots 5, 6, 7, 8, 9, 10, 11 in Block Six, Eastbrooke Eighth and to consider Resolution No. 2011-153. Planning Commission recommended approval.

The applicant is requesting approval to vacate existing R-1 single family lots in Eastbrooke Eighth subdivision so that the lots can be replatted as larger lots in subdivisions to be known as Eastbrooke Eleventh and Twelfth. Some of the lots will be rezoned from R-1 to R-2 to allow duplex development.

Lots 3 thru 15, Block 3 and Lots 5 thru 11, Block 6 of Eastbrooke Eighth are proposed to be vacated so that the land can be replatted as Eastbrooke Eleventh and Twelfth. The purpose of the vacation is to create larger lots.

Lots 4 thru 11, Block 6 of Eastbrooke Eighth (Lots 5-11 to be vacated) are proposed for rezoning from R-1, Urban Residential Single-Family District to R-2, Urban Residential Mixed-Density District. These lots will be replatted as Eastbrooke Twelfth.

The Preliminary and Final Plat of Eastbrooke Eleventh contain 11 proposed R-1 lots that will occupy the same 2.90 acre area that was previously platted as 13 lots (now vacated) that were Lots 3-15, Block 3 of Eastbrooke Eighth.

The Preliminary and Final Plat of Eastbrooke Twelfth contain 6 proposed R-2 lots that will occupy the same 2.00 acre area that was previously platted as 8 lots (now vacated) that were Lots 5-11, Block 6 of Eastbrooke Eighth.

The Preliminary Plats for Eastbrooke Eleventh and Eastbrooke Twelfth were approved by Planning Commission on October 21, 2011.

A Public Works Plan was previously submitted when these properties were platted as Eastbrooke Eighth. No subdivision agreement is required.

Mitch Humphrey presented this matter to the Council. This is the same applicant doing two plattings that are essentially across the street from one another. These are essentially two projects Eastbrooke Eleventh and Eastbrooke Twelfth.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for PB & G Development, LLC (Owner) for the Final Plat for Eastbrooke Eleventh, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 in Block Three (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska (east of intersection of Avenue Q and 57th Street, south of 57th Street) and introduced Ordinance No. 7684 vacating Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 in Block Three and Lots 5, 6, 7, 8, 9, 10, 11 in Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7684. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. 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. 7684 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7684 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. 7684 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.

Moved by Clouse seconded by Lammers to adopt **Resolution No. 2011-153** approving the Final Plat for Eastbrooke Eleventh, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-153

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Eastbrooke Eleventh, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, said lots now vacated, Block Three, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, with said tract of land located in part of Government Lot 4 of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the East Half of the Southwest Quarter of Section 19 and assuming

the South line of the East Half of the Southwest Quarter and the South Line of Government Lot 4, as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence on the South line of the Southwest Quarter and on the South line of Government Lot 4, N89°54'11"W a distance of 1607.73 feet to the Southeast Corner of Eastbrooke Second, an addition to the City of Kearney, Buffalo County, Nebraska, said point also being the Southwest Corner of Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the South line of said Government Lot 4, NORTH on the East line of said Eastbrooke Second and the West line of said Eastbrooke Eighth a distance of 245.0 feet to a point on the South line of Outlot "A" of said Eastbrooke Eighth, said point also being on the North line of 57th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence S89°54'11"E on the South line of said Outlot "A" and the North line of said 57th Street a distance of 111.66 feet to a point of curvature; thence continuing on the South line of said Outlot "A" and on the North line of said 57th Street and on a 170.0 foot radius curve to the left forming a central angle of 05°01'14" an arc distance of 14.90 feet to the ACTUAL PLACE OF BEGINNING; said point being the Southeast Corner of said Outlot "A", thence continuing on the North line of said 57th Street and on the West line of Avenue "R", a street in the City of Kearney, Buffalo County, Nebraska, and on said 170.0 foot radius curve to the left forming a central angle of 88°26'04" an arc distance of 262.39 feet to a point of tangency; thence on the West line of said Avenue "R", N03°21'29"W a distance of 432.62 feet to a point of curvature; thence continuing on the West line of Avenue "R" and on a 1530.0 foot radius curve to the right forming a central angle of 02°12'27" an arc distance of 58.98 feet to a point of tangency; thence continuing on the West line of said Avenue "R", tangent N01°08'59"W a distance of 319.02 feet to the Southeast Corner of Lot 2, Block Three of said Eastbrooke Eighth, thence leaving the East line of said Avenue "R", S88°51'01"W and on the South line of said Lot 2, Block Three, Eastbrooke Eighth a distance of 130.0 feet to the Southwest Corner of said Lot 2, Block Three, Eastbrooke Eighth, said point also being on the East line of said Outlot "A"; thence S01°08'59"E and on the East line of said Outlot "A" a distance of 351.02 feet; thence continuing on the East line of said Outlot "A" the following courses and distances respectively: S03°22'27"E a distance of 398.99 feet; thence S02°03'36"W a distance of 109.73 feet; thence S30°58'48"W a distance of 48.68 feet; thence S04°55'28"E a distance of 86.18 feet to the place of beginning, containing 2.90 acres, more or less, 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING EAST OF INTERSECTION OF AVENUE Q AND 57TH STREET, SOUTH OF 57TH STREET

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for PB & G Development, LLC (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as a tract of land being Lots 4, 5, 6, 7, 8, 9, 10, 11 in Block Six (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska (east of intersection of Avenue Q and 57th Street, south of 57th Street) and consider Ordinance No. 7685. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for PB & G Development, LLC (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as a tract of land being Lots 4, 5, 6, 7, 8, 9, 10, 11 in Block Six (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska (east of intersection of Avenue Q and 57th Street, south of 57th Street) and introduced Ordinance No. 7685 rezoning said property 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 close the hearing and suspend the rules for Ordinance No. 7685. 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, Buschkoetter. 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. 7685 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, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7685 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. 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. 7685 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.

FINAL PLAT FOR EASTBROOKE TWELFTH

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

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for PB & G Development, LLC (Owner) for the Final Plat for Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lots 5, 6, 7, 8, 9, 10, 11 in Block Six (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska (east of intersection of Avenue Q and 57th Street, south of 57th Street) and consider Resolution No. 2011-154. 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 Buffalo Surveying (Applicant) for PB & G Development, LLC (Owner) for the Final Plat for Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lots 5, 6, 7, 8, 9, 10, 11 in Block Six (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska (east of intersection of Avenue Q and 57th Street, south of 57th Street) and adopt **Resolution No. 2011-154**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-154

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lots 5, 6, 7, 8, 9, 10, and 11, said lots now vacated, Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, with said tract of land located in part of Government Lot 4 and part of the East Half of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the East Half of the Southwest Quarter of Section 19 and assuming the South line of the East Half of the Southwest Quarter and the South Line of Government Lot 4, as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence on the South line of the Southwest Quarter and on the South line of Government Lot 4, N89°54'11"W a distance of 1607.73 feet to the Southeast Corner of Eastbrooke Second, an addition to the City of Kearney, Buffalo County, Nebraska, said point also being the Southwest Corner of Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the South line of said Government Lot 4, NORTH on the East line of said Eastbrooke Second and the West line of said Eastbrooke Eighth a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast Corner of Lot 1, Block Seven of said Eastbrooke Second Addition, and said point also being on the North line of 56th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence continuing NORTH on the East line of said Lot 1, Block Seven, Eastbrooke Second a distance of 135.00 feet to the Northeast Corner of said Lot 1, Block Seven, Eastbrooke Second, said point also being in the South line of 57th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence S89°54'11"E on the South line of

said 57th Street a distance of 111.56 feet to a point of curvature; thence continuing on the South line. of said 57th Street and on a 230.0 foot radius curve to the left forming a central angle of 43°17'01" an arc distance of 173.75 feet to a point of non-tangency, said point being on the southerly line of 57th Street Place, a Street (cul-de-sac) in the City of Kearney, Buffalo County, Nebraska; thence on the southerly line of said 57th Street Place S50°40'53"E a distance of 9.09 feet to a point of curvature; thence continuing on the southerly line of said 57th Street Place and on a 230.0 foot radius curve to the left forming a central angle of 21°32'26" an arc distance of 86.47 feet to a point of non-tangency; thence continuing on the southerly line of said 57th Street Place, non-tangent, and on a 50.0 foot radius curve, concave northwesterly, forming a central angle of 153°56'56" an arc distance of 134.35 feet to the Southwesterly Corner of Lot 4, Block Six of said Eastbrooke Eighth, said point also being N78°46'12"E a chord distance of 97.43 feet from the previously described point; thence leaving the southerly line of said 57th Street Place S89°54'11"E and on the South line of said Lot 4, Block Six, Eastbrooke Eighth a distance of 123.88 feet to the Southeast Corner of said Lot 4, Block Six, Eastbrooke Eighth, said point also being on the West line of Lot 12 of said Block Six, Eastbrooke Eighth, thence S00°05'49"W and on the West line of said Lot 12, Block Six, Eastbrooke Eighth a distance of 170.00 feet to the Southwest Corner of said Lot 12, Block Six, Eastbrooke Eighth, said point also being on the North line of said 56th Street; thence N89°54'11"W and on the North line of said 56th Street a distance of 571.06 feet to the place of beginning, containing 2.00 acres, more or less, 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

VACATE PART OF EASTBROOKE EIGHTH AND REZONING EAST AND WEST OF 56TH STREET AND EASTBROOKE DRIVE ON THE NORTH

Public Hearings 9, 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Camron, Inc. (Owner) to rezone from District AG, Agricultural District and District R-2, Urban Residential Mixed-Density District to District R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District property described as a tract of land being Lot 12 in Block Six (to be vacated) and Lot 1 in Block Seven, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo

County, Nebraska together with a tract of land being part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north) and consider Ordinance No. 7686 vacating Lot 12, Block Six, Eastbrooke Eighth and Ordinance No. 7687 to rezone the property. Planning Commission recommended approval.

The applicant is requesting approval to vacate and replat property in Eastbrooke Eighth subdivision. The applicant is also requesting a rezone of the property. The proposed Eastbrooke Thirteenth will include land that is not currently inside City limits; therefore, staff is also requesting annexation.

Lot 12, Block Six of Eastbrooke Eighth is requested to be vacated so that an additional ten feet of depth can be added to the lot when it is replatted as part of Eastbrooke Thirteenth. In this manner the two proposed lots for apartment development will be of equal depth.

The rezoning request is from AG, Agricultural and R-2, Urban Residential Mixed-Use District to R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District. The planned district overlay is required for multi-family projects that exceed 36 units. Preliminary layouts for this site indicate that the density will be higher than 36 units. The area to be rezoned contains 9.747 acres. The previously unplatted 10-foot strip is the property that is being rezoned from AG and added to the larger area to become Eastbrooke Thirteenth.

The Preliminary and Final Plat of Eastbrooke Thirteenth contain one proposed multi-family lot. The proposed lot mirrors the lot on the east side of Eastbrooke Drive that is part of Eastbrooke Eighth. Both lots will be developed as multi-family apartments. A Public Works Plan was previously submitted when these properties were platted as Eastbrooke Eighth. No subdivision agreement is required. The Preliminary Plat for Eastbrooke Thirteenth was approved by Planning Commission on October 21, 2011.

The rear ten feet of Eastbrooke Thirteenth will need to be annexed into City limits. The remainder of the multi-family property was previously annexed.

Mitch Humphrey presented this matter to the Council. He is representing Tim Norwood, developer of the Eastbrooke development. As noted in the comprehensive plan that was developed by Marty Schukert at the time for the City, they provided a collector street with a boulevard design, landscaping, medians and wider right-of-way, etc. At the intersection of Eastbrooke Drive and 56th Street they anticipate that this intersection would develop similar to what is on the west side of Eastbrooke along Avenue N. When Eastbrooke Drive was located east and west, it lines up with what is known as Avenue R in the Grandview Estates. Grandview Estates is where Sunrise Middle School is located. Avenue R is conceptually projected to intersect Eastbrooke Drive at that location.

The thought process behind the large lots were to provide a space for duplex or condominium type developments; however, with the difficulty in financing some of these condominium projects and with the City's recent housing study showing the need for

affordable housing this location lends itself for that.

Mr. Norwood is projecting to develop this into a higher density apartment complex. Since this is a planned development, the developer is required to have the plans approved by City staff and City Council. As part of the first phase of this project, they need to do some "housekeeping" which is to rezone. Due to the fact that the lot to the west is ten feet short going north and south, it necessitates placing the development of the housing units and parking lot onto that lot so they will be somewhat similar to the east lot. They are going to add ten feet onto that west lot and rezone it from a little bit of agricultural (10 foot strip) and urban residential mixed-density to urban residential multi-family (medium density) and then vacate the lot that is there and do a one lot subdivision. For all practical purposes, this will be the same as the east lot. They would have done it originally many years ago if they would have known about this change. This will not affect the lot to the north. There will either be duplex lots or single family dwellings and shaving off ten feet is not a problem. The public works issues are worked out very similar to Eastbrooke Eleventh and Twelfth projects with what is on file. When they bring this forward, they will react with a developer agreement or districts. Mr. Humphrey was not sure when Mr. Norwood will be ready to go forward with the project.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Camron, Inc. (Owner) to rezone from District AG, Agricultural District and District R-2, Urban Residential Mixed-Density District to District R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District property described as a tract of land being Lot 12 in Block Six (to be vacated) and Lot 1 in Block Seven, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska together with a tract of land being part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north) and introduced Ordinance No. 7686 vacating Lot 12, Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7686. 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. 7686 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. 7686 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear,

Lammers, Buschkoetter. 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. 7686 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.

Council Member Lear introduced Ordinance No. 7687 rezoning from District AG, Agricultural District and District R-2, Urban Residential Mixed-Density District to District R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District property described as a tract of land being Lot 12 in Block Six (to be vacated) and Lot 1 in Block Seven, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska together with a tract of land being part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. 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. 7687 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7687 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. 7687 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.

FINAL PLAT FOR EASTBROOKE THIRTEENTH

Public Hearings 9, 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Camron, Inc. (Owner) for the Final Plat for Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lot 12 in Block Six (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska together with a tract of land being part of the South Half of the Southeast Quarter of the Southwest

Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north) and to consider Resolution No. 2011-155. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and approve the Application submitted by Buffalo Surveying (Applicant) for Camron, Inc. (Owner) for the Final Plat for Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being Lot 12 in Block Six (to be vacated), Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska together with a tract of land being part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north) and adopt **Resolution No. 2011-155**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-155

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 12, Block Six, now vacated, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 19, and assuming the South line of said Southwest Quarter as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence N89°54'11"W and on the aforesaid South line of the Southwest Quarter a distance of 1036.75 feet to a point on the West line of Lot 12, now vacated, Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska if extended southerly; thence leaving the South line of the Southwest Quarter, N00°05'49"E a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast corner of Lot 1, Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska, and the Southwest Corner of said Lot 12, Block Six, Eastbrooke Eighth; thence continuing N00°05'49"E on the West line of said Lot 12, Block Six a distance of 439.04 feet to the Northwest Corner of said Lot 12, Block Six; thence continuing N00°05'49"E a distance of 10.0 feet; thence S89°54'11"E and parallel with the North line of said Lot 12, Block Six a distance of 496.79 feet to a point on the West line of "Eastbrooke Drive", a street in the City of Kearney, Buffalo County, Nebraska; thence on the West line of said "Eastbrooke Drive", S00°05'49"W a distance of 424.04 feet; thence continuing on the West line of said "Eastbrooke Drive", S45°05'49"W a distance of 35.36 feet to a point on the North line of 56th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence on the North line of said 56th Street, N89°54'11"W and parallel with the South Line of the Southwest Quarter a distance of 471.79 feet to the place of beginning, containing 5.114 acres, more or less, 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF EASTBROOKE THIRTEENTH

Public Hearings 9, 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Camron, Inc. (Owner) for the annexation of Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north) and to consider Resolution No. 2011-156.

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 Buffalo Surveying (Applicant) for Camron, Inc. (Owner) for the annexation of Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east and west of 56th Street and Eastbrooke Drive on the north) and adopt **Resolution No. 2011-156**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-156

WHEREAS, an Application has been submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for the inclusion of Eastbrooke Thirteenth, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being Lot 12, Block Six, now vacated, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the South Half of the Southeast Quarter of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 19, and

assuming the South line of said Southwest Quarter as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence N89°54'11"W and on the aforesaid South line of the Southwest Quarter a distance of 1036.75 feet to a point on the West line of Lot 12, now vacated, Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska if extended southerly; thence leaving the South line of the Southwest Quarter, N00°05'49"E a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast corner of Lot 1, Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska, and the Southwest Corner of said Lot 12, Block Six, Eastbrooke Eighth; thence continuing N00°05'49"E on the West line of said Lot 12, Block Six a distance of 439.04 feet to the Northwest Corner of said Lot 12, Block Six; thence continuing N00°05'49"E a distance of 10.0 feet; thence S89°54'11"E and parallel with the North line of said Lot 12, Block Six a distance of 496.79 feet to a point on the West line of "Eastbrooke Drive", a street in the City of Kearney, Buffalo County, Nebraska; thence on the West line of said "Eastbrooke Drive", S00°05'49"W a distance of 424.04 feet; thence continuing on the West line of said "Eastbrooke Drive", S45°05'49"W a distance of 35.36 feet to a point on the North line of 56th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence on the North line of said 56th Street, N89°54'11"W and parallel with the South Line of the Southwest Quarter a distance of 471.79 feet to the place of beginning, containing 5.114 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 21, 2011 on the inclusion of Eastbrooke Thirteenth 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 Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on November 8, 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 Eastbrooke Thirteenth 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 Eastbrooke Thirteenth 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 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

PROPOSED ACQUISITION ADJACENT TO ARCHWAY PARKWAY

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land being all that part of Lot 3 in Section 13, Township 8 North, Range 16 West of the 6th

P.M., Buffalo County, Nebraska (property along Archway Parkway) and to consider Resolution No. 2011-157.

City Attorney Michael Tye presented this matter to the Council. The Warranty Deed that was granted to the City by Renee Putnam is for a small parcel of property along Archway Parkway that the owner has offered to sell to the City of Kearney. This property is presently vacant land and the City is interested in purchasing this property for future use. The property has been valued at \$1,890.00 by the assessor's office and the owner of the property has agreed to sell the property for this amount. The property will be deeded to the City free and clear of any and all liens and encumbrances and all real estate taxes have been paid.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the proposed acquisition of a tract of land being all that part of Lot 3 in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (property along Archway Parkway) and adopt **Resolution No. 2011-157**. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-157

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for City purposes and voted in favor to proceed with the acquisition; and

WHEREAS, Renee Putnam, a single person, has granted to the City of Kearney, Nebraska a Warranty Deed for City purposes for all that part of Lot 3 in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at a point on the North right-of-way line of Interstate Highway No. 80, which is 1162.1 feet East and 1187.5 feet North of the Southwest corner of said Lot 3; thence North 240 feet, more or less, to the center line of Walker Channel; thence southwesterly following the center line of said Walker Channel to its intersection with the said North right-of-way line of said Interstate Highway No. 80; thence easterly along said right-of-way line of said Interstate Highway No. 80 to the place of beginning.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Warranty Deed granted by Renee Putnam, a single person, to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 8TH DAY OF NOVEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

PROPOSED ACQUISITION FOR RIGHT-OF-WAY EASEMENT ON 5TH AVENUE

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land being the East 8 feet of the North 90 feet of Lot 1, Block 60, Perkins and Harford's Addition to the City of Kearney, Buffalo County, Nebraska and to consider Resolution No. 2011-158.

Director of Public Works Rod Wiederspan presented this matter to the Council. At the October 25, 2011 City Council meeting, the City Council approved the plans and specifications for 2011 Part 7 Improvements – 5th Avenue from North Railroad Street to 25th Street

On October 13, City staff met with Bonnie Marshall the owner of the apartment house on the west side of 5th Avenue and 25th Street. Staff explained to her that the existing angle parking presented a safety concern with traffic because of the shallow depth of the existing stalls and the fact that the vehicle tails extend into the driving lane on 5th Avenue. As a result of the discussion, it was the consensus of both parties to eliminate the first parking stall closest to the intersection and move the remaining five parking stalls west so they do not encroach into the driving lanes. In order to construct this improvement with the 5th Avenue project the City needs to secure an easement from the property owner to reconstruct the angle parking and sidewalk west of the current right-of-way.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the proposed acquisition of a tract of land being the East 8 feet of the North 90 feet of Lot 1, Block 60, Perkins and Harford's Addition to the City of Kearney, Buffalo County, Nebraska and adopt **Resolution No. 2011-158**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-158

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for permanent right-of-way purposes and voted in favor to proceed with the acquisition; and

WHEREAS, Bonnie J. Marshall, Trustee, has granted to the City of Kearney, Nebraska a Permanent Right-of-Way Easement for right-of-way purposes for a tract of land being the East 8 feet of the North 90 feet of Lot 1, Block 60, Perkins and Harford's Addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way Easement granted by Bonnie J. Marshall, Trustee, to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 8TH DAY OF NOVEMBER, 2011.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated that the Agenda was amended on Monday to include Subsections 10 and 11 to the Consent Agenda.

Moved by Clouse seconded by Lammers that Subsections 1 through 11 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held October 25, 2011.

2. Approve the following Claims:

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

911 Custom \$263.59 Smcs; Adams,J \$20.00 Smcs; Aflac \$2,815.56 Ps; Alfred Benesch \$11,593.24 smcs,co; Amax Contracting \$836.12 Co; Analytical Services \$1,125.00 Smcs; Anderson,J \$33.78 Smcs; Ask Supply \$1,291.86 Smcs; Aurora Coop \$136.00 Smcs; Baker & Taylor Books \$4,383.03 Smcs; Bamford \$133.52 Smcs; Barney Ins \$4,139.00 Smcs; Bennett,T \$1,335.00 Smcs; Bishop,J \$41.29 Smcs; Blessing \$285,135.53 Co; Bluecross Blueshield \$230,572.32 Smcs; Bosselman Energy \$55,782.16 Smcs; Boulder Designs \$2,212.50 Co; Brandt,M \$3.27 Smcs; Brown Properties \$7,301.45 Co; Buffalo Co Reg Deeds \$25.50 Smcs; Buffalo Co Treasurer \$46.00 smcs,co; Builders \$2,228.28 smcs,co; Cash-Wa \$298.90 Smcs; CDW Govt \$18,051.50 Co; Central Contracting \$27,600.75 Co; Charter \$39.99 Smcs; City of Ky \$290,667.99 smcs,co,ps; Community Action \$4,937.44 Smcs; Credit Acceptance \$417.78 Ps; DLT Solutions \$3,000.00 Smcs; Dmilaco Sports Fashion \$3,053.00 Ps; Dutton-Lainson \$55.02 Smcs; Eakes \$2,434.13 smcs,co; Ecolab \$36.00 Smcs; Eirich,T \$50.00 Smcs; Enterprise Electric \$1,400.00 Smcs; Fedex \$37.41 Smcs; Firewerks Fire Apparatus \$544.88 Smcs; Flaherty,T \$198.00 Smcs; Fletcher,L \$20.00 Smcs; Frontier \$380.90 smcs,co; Gale \$6,135.04 Smcs; Garrett Tires & Treads \$5,777.80 Smcs; GD Concrete \$5,328.00 Co; GE Money Bank \$1,342.63 Smcs; General Excavating \$258,711.17 Co; Great Plains One Call \$423.25 Smcs; HD Supply \$3,788.26 Smcs; High Plains Books \$4,094.50 Smcs; HOA Solutions \$380.64 Smcs; Hoehner Turf \$125.00 Smcs; Hometown Leasing \$207.71 Smcs; Hoven Concrete \$280.00 Smcs; HSBC Bank of Nevada \$334.16 Ps; HTMC \$1.09 Smcs; Husker Auto Group \$27,997.70 Co; ICMA \$38,251.54 Smcs; Info USA \$2,968.00 Smcs; IRS \$117,570.04 Ps; Jack Lederman \$159.03 Smcs; Ky Hub \$1,994.57 Smcs; Ky Noon Rotary \$110.00 Smcs; Ky Rental Pros \$72.92 Smcs; Ky United Way \$591.24 Ps; Ky Visitors Bureau \$42,440.95 Smcs; Koehler,S \$28.05 Smcs; Konica Minolta \$1,053.09 Smcs; League of NE Municipalities \$100.00 Smcs; Linda's Upholstery \$246.88 Smcs; Londer,P \$33.47 Smcs; Magic Cleaning \$750.00 Smcs; Marriott \$238.00 Smcs; Matheson Tri-Gas

\$19.23 Smcs; MD Construction \$160.41 Smcs; Menards \$34.20 Smcs; Merryman Performing Arts \$295.20 Smcs; Metlife \$7,327.19 Ps; Michl,K \$54.14 Smcs; Microfilm Imaging \$6,957.00 Smcs; Mid NE Lubricants \$30.60 Smcs; Mid-NE Aggregate \$658.23 Smcs; Midwest Mailing \$265.00 Smcs; Miller & Associates \$164,270.11 smcs,co; Miller Signs \$2,765.00 Smcs; Moonlight Embroidery \$6,052.75 Smcs; Morgan,M \$45.51 Smcs; Mostek Electric \$13,308.82 Co; Municipal Supply \$960.19 Smcs; NCS Equipment \$267.00 Co; NE Child Support \$2,195.60 Ps; NE Dept of Revenue \$108,407.17 smcs,ps; NE Library Commission \$1,193.00 Smcs; NE Public Health \$546.00 Smcs; NE State of Recycling \$20.00 Smcs; NE Truck Equipment \$1,334.76 Smcs; NE Turf Products \$807.92 Smcs; Neopost \$6,643.92 Smcs; Northwestern Energy \$781.83 Smcs; NP Construction \$10.70 Smcs; NWEA \$250.00 Smcs; Overhead Door \$95.00 Smcs; Paramount \$25.00 Smcs; Paulsen \$358,226.83 Co; Payflex Systems \$531.25 ps; Petska,B \$100.00 smcs; Pillar Design Studios \$3,220.00 co; Platte Valley Comm \$115.00 smcs; Platte Valley Labs \$105.00 smcs; Presto-X \$106.00 smcs; Pulliam,R \$390.00 smcs; Random House \$320.00 smcs; Rasmussen Mechanical \$1,720.06 smcs; RDG Planning \$8,646.00 smcs, co; Read Aloud NE \$20.00 smcs; Recorded Books \$617.97 Smcs; Riddle,J \$39.47 Smcs; Riverdale Ready Mix \$392.91 Smcs; Roesler,A \$80.25 Smcs; Safariland \$895.00 Smcs; Sapp Brothers \$29,654.19 Smcs; Schindler Elevator \$864.48 Smcs; Shea,S \$210.00 Smcs; Sign Center \$4,676.00 Co; Snow,T \$400.00 Smcs; Solid Waste Equipment \$5,359.60 Smcs; State of NE/AS Central \$5,381.23 smcs,co; Steinbrink Landscaping \$20,119.43 Co; Suggitt,J \$184.89 Smcs; Sun Life Financial \$42,777.73 Smcs; Sutton Rentals \$18.73 Smcs; Thompson Co \$60.63 Smcs; Thompson,J \$419.34 Smcs; Turner Body Shop \$250.00 Smcs; Venjohn,K \$46.06 Smcs; Verizon Wireless \$1,064.80 Smcs; Village Uniform \$519.32 Smcs; Wallace,S \$42.48 Smcs; Walter,M \$18.68 Smcs; Walters Electric \$818.17 smcs,co; Water Environment Fed \$96.00 Smcs; We Care Tree Care \$85.00 Co; Wegner,T \$236.25 Ps; Whaley,S \$61.05 Smcs; Wiederspan,R \$51.00 Smcs; Windy Prairie Systems \$20,000.00 Co; Young,M \$40.98 Smcs; Zimmerman Printing \$829.68 Smcs; Payroll Ending 10-22-2011 -- \$361,827.96. 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 Agreement between the City of Kearney and the Museum of Nebraska Art to temporarily block off the parking on the east side of Central Avenue from 24th Street to 25th Street, the north side of 24th Street from Avenue A to Central Avenue on April 13 and 14, 2012 from 4:00 p.m. until 11:00 p.m.; and to temporarily block off the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue beginning at 7:00 a.m. April 11, 2012 until 5:00 p.m. on April 16, 2012 in connection with their Biennial fundraiser.

4. Approve the request submitted by the Main Street Kearney and the Downtown Improvement Board for the 2011 Christmas holiday events as follows: (1) temporarily block off four parking stalls in front of Nelson's Furniture, 2109 Central Avenue from November 23, 2012 until December 23, 2011; (2) temporarily block off four parking stalls in front of The Solid Rock, 2010 Central Avenue on December 1, 2011 from 8:00 a.m. until 9:00 p.m.; (3) temporarily block off all parking stalls in front of the Kearney Hub, 13 East 22nd Street on December 1, 2011 from 8:00 a.m. until 9:00 p.m.; (4) temporarily block off four parking stalls in front of KGF Radio, 2223 Central Avenue on December 1, 2011 from 8:00 a.m. until 9:00 p.m.; (5) temporarily block off four

parking stalls in front of Yanda's Music, 2301 Central Avenue on December 1, 2011 from 8:00 a.m. until 9:00 p.m.; (6) temporarily block off two parking stalls in front of Fort Theatre Dentistry, 2205 Central Avenue on December 1, 2011 from 8:00 a.m. until 9:00 p.m.; and (7) temporarily block off two parking stalls in front of Time For Baby, 2304 Central Avenue on December 1, 2011 from 8:00 a.m. until 9:00 p.m.

5. Approve the recommendation from the Downtown Improvement Board on the request submitted by Lori Koeppé to temporarily block off four parking stalls in front of the Kauffman Center, 2123 Central Avenue on December 3, 2011 from 9:30 a.m. until 1:30 p.m. for the Make a Wish Christmas Party.

6. Reject the bids received for the 2011 Part 6 Improvements consisting of Paving Improvement District No. 2010-946, Water District No. 2011-562 and Sanitary Sewer District No. 2011-502 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac.

7. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 1, 2011 from 4:00 p.m. until 12:00 a.m. for a fund raiser.

8. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 3, 2011 from 3:00 p.m. until 12:00 a.m. for a dance/reception.

9. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 17, 2011 from 3:00 p.m. until 12:00 a.m. for a rodeo.

10. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropicó 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 December 3, 2011 from 6:00 p.m. until 1:00 a.m. for a dance.

11. 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 December 10, 2011 from 5:00 p.m. until 12:00 a.m. for a reception.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7680 ANNEXING 404 EAST 56TH STREET

Moved by Lammers seconded by Lear that Ordinance No. 7680 be placed on second reading by title and that the City Clerk be permitted to read Ordinance No. 7680 annexing into the City limits a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street). President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. City Clerk read Ordinance No. 7680 by title on second reading.

ORDINANCE NO. 7688 AMEND CHAPTER 8 PERTAINING TO DOWNTOWN PARKING

Assistant Development Services Director Bobbi Pettit presented this matter to the City Council. Main Street Kearney (MSK) has presented the Downtown Improvement Board (DTIB) with a petition of 71 signatures from downtown business owners, employees, and MSK board members. The petition is in favor of changing 2-hour parking to 3-hour parking. The parking study portion of the downtown revitalization study was also provided to the Council. The study documents a parking shortage in Downtown Kearney that is most intense on the blocks adjacent to Central Avenue. The study also identified the areas where the parking shortage will become more severe if/when housing units are added to the second stories along Central Avenue.

Staff researched similar communities across the country in which 3-hour parking was allowed in certain parts of the downtown district in order to better accommodate customers and clients. Other communities also struggled with employees utilizing the 3-hour parking zones, which must be enforced by employers. Downtown Kearney is continuing to increase in office space in addition to retail uses. The only form of public transit that exists in Kearney is the RYDE program, which is on demand and cumbersome for daily transportation. Therefore, employees must drive to work.

Staff supports any viable use in Downtown Kearney and is in support of the code change. However, staff also recognizes the rights of employers to provide appropriate parking spaces for their employees and believes that the code change is one piece of a comprehensive program for equitably providing free parking in Downtown Kearney. As a second piece of the program, staff is working with RDG on realistic proposals for reconfiguring existing parking lots such as the public parking lot behind City Hall, which is currently being considered. Staff is also identifying other "pockets" in the downtown where off-street parking can be added to accommodate large employers.

On November 2, 2011, the DTIB voted in favor of amending the city code from 2-hour parking to 3-hour parking.

The Police Department also requested changing the time limit to 8:00 a.m. until 6:00 p.m., Monday through Friday.

The City Code is being amended as follows:

- Section 8-913 designating 2-hour parking on Central Avenue from 30th Street to 31st Street and Central Avenue from South Railroad to 19th Street.
- Section 8-913.1 designating 3-hour parking in areas in the downtown district.
- Section 8-914 changes the 2-hour courtesy parking tickets to 3-hour courtesy parking tickets.
- Section 8-917 needs to be clarified for the areas designated as 8-hour parking within the downtown district.

The fees for parking tickets are \$25. From March-July of 2011, 500 tickets were issued in downtown, creating revenue of approximately \$12,500, which is turned over to Kearney Public Schools per an interlocal agreement. In that same time frame, the DTIB has validated seven parking tickets for customers.

A 3-hour time limit should decrease the number of trips officers must make, thereby decreasing un-reimbursable expenses associated with parking enforcement.

Council Member Lear introduced Ordinance No. 7688, being Subsection 2 of Agenda Item VI amending the following sections of Article 9 "Stopping, Standing and Parking" of Chapter 8 "Police" of the City Code: Section 8-913 "Two-Hour Parking; Generally" to allow the designated two hour parking within the downtown area to become three hour parking; to amend Section 8-914 "Two-Hour Parking; Courtesy Parking Tickets" that the courtesy parking tickets be amended to 3-hour; and to amend Section 8-917 "Prohibited in Excess of Eight Hours" to clarify the areas within the downtown district as 8-hour parking, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. 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. 7688 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 Buschkoetter seconded by Clouse that Ordinance No. 7688 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. 7688 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 - \$54,788.32

Moved by Clouse seconded by Lammers that the Open Account Claim in the amount of \$54,788.32 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter. Nay: None. Lear abstained. Kearney absent. Motion carried.

VII. REPORTS

PRESENTATION ON CONDITION OF CITY STREETS

Director of Public Works presented a PowerPoint showing the deterioration of some of the streets and curbs within the City of Kearney.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 7:55 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**