

*Kearney, Nebraska
January 10, 2012
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 January 10, 2012, 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: Mitch Humphrey, Paul Brungardt, Dave Klone, Darren Robinson, Steve Altmaier from KGFW Radio, Kevin Hervert from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION

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

PLEDGE OF ALLEGIANCE

One Boy Scout from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

FINAL PLAT FOR EAST 56TH STREET ESTATES: ½ MILE EAST OF 56TH STREET AND AVENUE N

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Daniel Roeder (Owner) for the Final Plat and Subdivision Agreement for East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (2401 East 56th Street, ½ mile east of 56th Street and Avenue N) and to consider Resolution No. 2012-1. Planning Commission recommend approval subject to compliance with the conditions established in the Subdivision Agreement.

The applicant is requesting approval to subdivide 22.76 acres that consist of the former I Believe in Me Ranch on the south side of 56th Street into single-family residential lots. The property was recently rezoned in August 2011 to R-1 zoning. The topography of the site slopes to the southeast falling away from 56th Street.

The Preliminary Plat of East 56th Street Estates consist of 43 single-family lots ranging from around 11,000 square feet up to 36,000 square feet in size. The Planning Commission approved the Preliminary Plat on December 16, 2011. There is one large lot proposed at the southerly end of the subdivision that is labeled "Outlot A" and is reserved for stormwater management facilities. The street pattern consists of one north-south road labeled as Avenue S with two cul-de-sacs extending east from Avenue S. These two cul-de-sac streets plus one additional street are shown extended west from Avenue S to the west property line where they dead-end. The abutting property to the west is currently in agricultural use as row crop.

DRT staff expressed concerns to the developer regarding vehicular access and circulation. Until such time as additional road connectivity exists to the west, the proposed subdivision is a layout of roads and cul-de-sacs with only one ingress-egress point out of the subdivision where Avenue S intersects East 56th Street. City Code requires at least two means of access. Therefore, the developer is proposing a second access point reserved for emergency vehicle access only. An all-weather gravel drive will be constructed within a 20-foot wide ingress-egress easement that runs along the west edge of the property. The easement will traverse Lots 1 through 5 of Block 1 from 56th Street to 54th Street. A breakaway gate or similar barricade will be erected where the drive intersects 56th Street. The curb on 56th Street will not be dropped. Emergency vehicles will have to jump the curb and pass through the gate to access the drive. This drive will not become an alley open to daily public use. Once 54th Street and 52nd Street can be extended west to provide a second public access point the easement will be vacated and the emergency drive removed. The developer or a homeowners association will be responsible for upkeep and ongoing maintenance of the drive until it is no longer needed. With the emergency access in place the subdivision meets the requirement for two access points.

The Final Plat representing phase one will consist of 21 lots. The emergency access easement will be shown and labeled on the Final Plat along with requirements for future vacation.

A Public Works Plan has been submitted for the property that demonstrates feasibility of serving the development with public improvements. The preferred sanitary sewer route uses the Union Pacific Railroad right-of-way that abuts the site on the east side. The sewer will undercross the tracks close to 56th Street and then follow the tracks in an easement that has been granted permission by Union Pacific.

The Public Works Plan shows the stormwater detention facilities contained in the southerly Outlot A on the final plat. Since Outlot A is located outside the boundaries of the Final Plat, City staff is requesting a stormwater easement dedicated to the developer and the City mutually for Outlot A and the drainage way leading to Outlot A. The City Engineer will work with the developer at the time that building permits are submitted in order to review and approve final stormwater computations and facility design. No structures will be allowed on Outlot A other than those required for stormwater management.

A Subdivision Agreement has been prepared that will address the following issues:

- 1) Dedicate a 20-foot wide emergency ingress-egress easement from 56th Street to 54th Street along the rear lot line of Lots 1 through 5 of Block 1.
- 2) Construct a 20-foot all-weather gravel emergency access drive within the 20-foot easement.
- 3) Specify maintenance obligations for the emergency drive.
- 4) Limit the total number of lots that can be developed in the first phase to 21 lots as shown on the Final Plat.
- 5) Allow the owner to enter into a developer constructed infrastructure agreement to construct water, sanitary sewer, paving and stormwater facilities for phase one and offers the option of developer constructed improvements or creation of improvement districts for future phases.
- 6) Require a stormwater easement for Outlot A and the drainway leading to Outlot A.
- 7) Establish the maintenance responsibility for the stormwater management facilities.

The Final Plat for East 56th Street Estates is presented as "An Addition to the City of Kearney, Buffalo County, Nebraska." As such, the property will become annexed into the City when approved by the City Council. The first phase of 21 lots will be annexed. No further development will occur until a second public access point is approved by the City and constructed by the developer or the emergency access is expanded accordingly to serve additional lots. Annexation of the remainder of the property will be postponed until future phases can be final platted.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This property was previously the site of the I Believe In Me Ranch located a few hundred feet east of the intersection of Eastbrooke Drive as it is now platted and 56th Street. The

total site is generally located in a linear fashion with the buildings remaining that were in place at the time the Ranch was functioning. The east line is the spur line that the Union Pacific owns and leases to Cargill or the Peavey Company. The west line is the farm field that he referred to as the Brook's property. Sanitary sewer and water are available to the site along the north side of the property. A unique feature about this property is the best way to service this site with gravity sewer would be to have the sewer in or onto the property from the railroad right-of-way, essentially tapping a manhole that is near the north side, along 56th Street and along the railroad right-of-way. The sewer would then go down adjacent to Mrs. Ourada's tract which will be left intact. It was necessary to obtain a license or permit from the railroad to place the sewer in that property. The City prefers this because it does not require any lift stations or having to accommodate any temporary solutions which is a good thing. In fact a lot of the Brook's property to the west may be served with the gravity sewer that will be installed. This accommodates the City's desire to place the sewer and tap into the street which will enter onto the Brook's property someday.

The frontage along the Roeder property is right at 350 feet wide which is difficult to provide alternate means of ingress and egress. Under normal circumstances, the City likes to see two means of ingress and egress via public streets. This cannot be done due to the linear nature of this property. This is similar to the development on 39th Street in the older subdivisions. On 39th Street, the blocks are actually 2 or 3 blocks long with connecting corridors going east and west or intersecting streets. They will essentially do the same with this site with the exception on the backsides of the lots abutting the west side of the property, they are going to dedicate an emergency access easement that the emergency vehicles can use should Avenue S (street that will traverse this site going east/west) be closed or inaccessible for any reason. This will not be open for an alley type situation to be used on a daily basis by the public. It has been proposed to put some grass pavers along 56th Street corridor right-of-way so that it looks like lawn or grass from the street. There will be regular rock or gravel surface approximately where the I Believe In Me Ranch driveway was. As future phases are developed and streets are extended to the west and the unplatted property belonging to the Brooks is developed, then they can go through the process of vacating this easement. The City will then have a more normal means of access from the north and south side of the property.

Another interesting feature about this development, which will become standard policy according to the City staff, is the way the storm water is maintained. The dedication of this plat will have some notations in the resolution and in the Subdivision Agreement for maintenance of the storm water facilities. The first phase of this development will encumber the lots from 56th Street south to the lot south of that first east/west cul-de-sac. The first phase will be for 21 lots and will dedicate (via a separate instrument or easement document) a passageway for the water along the east side of the property to a storm detention cell on the north side which will be approximately three acres in size. That storm cell will service all the water from the completed development. This detention cell will be maintained by the owners and Mr. Roeder will be putting an association together to take care of that situation.

Council member Lammers asked how wide the egress on the west side would be. This corridor will be about 20 feet wide per request from the Kearney Fire Department. This

20 feet will allow emergency vehicles to go in and out and it will be gated so only emergency vehicles can access it. Homeowners will not be able to build sheds or have gardens or anything that will obstruct that area. In the future when this easement is vacated that land can be used per City recommendations.

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 Corp. (Applicant) for Daniel Roeder (Owner) for the Final Plat and Subdivision Agreement for East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (2401 East 56th Street, ½ mile east of 56th Street and Avenue N) and adopt **Resolution No. 2012-1**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2012-1

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the northwest corner of the Northeast Quarter of said Section 30 and assuming the west line of said Northeast Quarter as bearing S00°17'52"E and all bearings contained herein are relative thereto; thence S00°17'52"E and on the west line of the Northeast Quarter of said Section a distance of 739.90 feet; thence leaving the west line of the Northeast Quarter of said Section, S89°56'47"E a distance of 661.84 feet to a point of intersection on a non-tangent curve, said point being on the west right-of-way line of the Kearney Branch of the Union Pacific Railroad; thence on a 1,889.67 foot radius non tangent curve, concave westerly, forming a central angle of 12°03'58" an arc distance of 397.96 feet to a point being N10°01'15"E a chord distance of 397.22 feet from the previously described point; thence leaving said railroad right-of-way line, N89°47'49"W a distance of 374.43 feet; thence N01°55'04"W a distance of 347.89 feet to a point that intersects on the north line of the Northeast Quarter of said Section; thence N89°56'46"W and on the aforesaid north line a distance of 348.70 feet to the place of beginning, containing 9.16 acres, more or less, of which 0.27 acres, more or less, are presently being used for road purposes on the north side. Said tract also being described as part of Tax Lot 2, Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved

and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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

PASSED AND APPROVED THIS 10TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF EAST 56TH STREET ESTATES; ½ MILE EAST OF 56TH STREET AND AVENUE N

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Daniel Roeder (Owner) for the annexation of East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (2401 East 56th Street, ½ mile east of 56th Street and Avenue N) and consider Resolution No. 2012-2. Planning Commission recommend approval subject to compliance with the conditions established in the Subdivision Agreement.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buswchkoetter to close the hearing and approve the Application submitted by Buffalo Surveying Corp. (Applicant) for Daniel Roeder (Owner) for the annexation of East 56th Street Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the West Half of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (2401 East 56th Street, ½ mile east of 56th Street and Avenue N) and adopt **Resolution No. 2012-2**. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2012-2

WHEREAS, an Application has been submitted by Buffalo Surveying Corp. (Applicant) for Daniel Roeder (Owner) for the inclusion of East 56th Street Estates, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Northwest Quarter of the Northeast Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the northwest corner of

the Northeast Quarter of said Section 30 and assuming the west line of said Northeast Quarter as bearing S00°17'52"E and all bearings contained herein are relative thereto; thence S00°17'52"E and on the west line of the Northeast Quarter of said Section a distance of 739.90 feet; thence leaving the west line of the Northeast Quarter of said Section, S89°56'47"E a distance of 661.84 feet to a point of intersection on a non-tangent curve, said point being on the west right-of-way line of the Kearney Branch of the Union Pacific Railroad; thence on a 1,889.67 foot radius non tangent curve, concave westerly, forming a central angle of 12°03'58" an arc distance of 397.96 feet to a point being N10°01'15"E a chord distance of 397.22 feet from the previously described point; thence leaving said railroad right-of-way line, N89°47'49"W a distance of 374.43 feet; thence N01°55'04"W a distance of 347.89 feet to a point that intersects on the north line of the Northeast Quarter of said Section; thence N89°56'46"W and on the aforesaid north line a distance of 348.70 feet to the place of beginning, containing 9.16 acres, more or less, of which 0.27 acres, more or less, are presently being used for road purposes on the north side. Said tract also being described as part of Tax Lot 2, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on December 16, 2011 on the inclusion of East 56th Street Estates 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 East 56th Street Estates, 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 January 10, 2012 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 East 56th Street Estates 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 East 56th Street Estates within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 10TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 6 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 December 27, 2011.

2. Approve the following Claims:

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

Aflac \$2,839.20 ps; Alfred Benesch \$14,224.54 co; Amer First Aid \$139.00 smcs; Analytical Services \$375.00 smcs; Anderson Bros \$331.34 smcs; Ask Supply \$346.19 smcs; Audio Go \$187.94 smcs; Aurora Coop \$54.40 smcs; Baird Holm \$1,900.00 smcs; Baker & Taylor \$8,183.25 smcs; Bamford \$1,125.00 smcs; Blessing \$303,639.15 smcs,co; Bluecross Blueshield \$101,309.26 smcs; Bosselman \$43,073.97 smcs; Bruha,S \$60.00 smcs; Buffalo Co Sheriff \$131,438.25 smcs; Builders \$494.09 smcs,co; Cash-Wa \$519.90 smcs; CH Diagnostic \$1,015.00 smcs; City of Ky \$251,221.07 smcs,ps; Community Action \$227.50 smcs; Culligan \$115.10 smcs; Danko \$99.00 smcs; Dawson Co PPD \$21,006.46 smcs; Dell \$4,797.65 co; Dmilaco \$315.94 ps; Eakes \$6,368.90 smcs; Ecolab \$36.00 smcs; Elliott Equipment \$6,904.00 smcs; Fairbanks \$1,075.48 smcs; Farmers Union Coop \$728.75 smcs; Fiddelke \$93.75 smcs; Fireguard \$663.11 smcs; First Natl Bank Omaha \$5,216.35 smcs; Fleetpride \$1,100.50 smcs; Frontier \$8,402.91 smcs; Gale \$283.10 smcs; Galls \$34.78 smcs; Garcia Chicoine Enterprise \$3,667.10 smcs; GE Money Bank \$2,221.18 smcs; Gear for Sports \$2,911.41 smcs; HD Supply \$5,919.37 smcs; Heartland Transmission \$1,832.50 smcs; ICMA RC \$3,802.27 ps; Insite Instrumentation Group \$1,520.00 smcs; IRS \$108,272.50 ps; Interstate All Battery \$542.60 smcs; James,D \$330.00 smcs; Joe,C \$5,528.00 smcs; Ky Clinic \$35.00 smcs; Ky Comm Foundation \$10,637.00 smcs; Ky Humane Society \$6,825.00 smcs; Ky United Way \$561.24 ps; Ky Yamaha \$12,197.00 smcs,co; Konica Minolta \$1,362.06 smcs; Krull Insurance \$1,950.00 smcs; M&E Construction \$6,087.50 co; Mac Tools \$163.19 smcs; Magic Cleaning \$750.00 smcs; Marlatt Machine Shop \$745.00 smcs; Marsh Contracting \$1,680.00 smcs; Meier,B \$220.00 smcs; Menards \$144.93 smcs; Metlife \$7,429.51 ps; Mid-NE Garage \$2,025.00 smcs; Midway Chevrolet \$66.04 smcs; Midwest Labs \$2,074.30 smcs; Midwest Machinery \$57.00 co; Miller & Associates \$11,475.00 smcs; Mostek Electric \$279.00 co; Municipal Emergency \$201.99 smcs; Municipal Supply \$2,297.95 smcs; NCL of Wisconsin \$1,433.50 smcs; NE Child Support \$2,195.60 ps; NE Dept of Revenue \$68,293.26 smcs,ps; NE Electrical Services \$68,505.00 co; NE Library Assn \$315.75 smcs; NE Library Commission \$1,500.00 smcs; NE Rural Water Assn \$100.00 smcs; Neopost \$6,000.00 smcs; Newman Traffic Signs \$1,104.46 smcs; NMC Exchange \$2,965.06 smcs; Novus \$40.00 smcs; Overhead Door \$116.46 smcs; Paramount \$295.00 smcs; Paulsen \$12,808.03 co; Payflex Systems \$527.00 ps; Presto-X \$106.20 smcs; Random House \$742.00 smcs; Ready Mixed Concrete \$1,968.75 smcs; Recorded Books \$774.38 smcs; Reinke's Heating \$466.26 smcs; Sensus \$1,650.00 smcs; Skyline Publishing \$250.00 smcs; State of NE/AS Central \$3,514.65 smcs; Sun Life Financial \$52,591.80 smcs; The Andersons \$90,000.00 smcs; Tiburon Financial \$417.78 ps; Titleist \$192.00 smcs; Transit Works \$9.13 smcs; Union Bank & Trust \$53,785.86 ps; United Way \$400.00 smcs; UNK \$3,000.00 smcs; Verizon \$1,075.37 smcs; Village Uniforms \$163.20 smcs; Walters Electric \$307.99 smcs; Wellman,P \$19.25 smcs; Whitt,S \$35.00 smcs; Wick's Sterling Trucks \$1,210.27 smcs; Wooden,T \$135.00 smcs; Yanda's Music \$1,917.00 smcs; Payroll Ending 12-31-2011 -- \$333,496.27. 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 Kearney Area Community Foundation to temporarily close the parking lot located north of the Museum of Nebraska Art from 6:00 a.m. on May 16, 2012 until 12:00 p.m. on May 22, 2012 for the 5th Annual Nebraska Wine and Jazz Festival.

4. 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 January 28, 2012 from 5:00 p.m. until 12:00 a.m. for a reception.

5. Extend the variance granted to the Tri-City Arena for the requirement to hard surface the east and west over-flow parking lots, the extension to the west and pave the street known as Platte Road and adopt **Resolution No. 2012-3**.

RESOLUTION NO. 2012-3

WHEREAS, on April 9, 2002, the City Council adopted Resolution No. 2002-94 approving an Agreement between the City of Kearney and the Tri-City Arena allowing the following matters be completed by April 8, 2012: (1) the remainder of the Arena's east parking lot to be hard surfaced; (2) the Arena's west parking lot to be hard surfaced; and (3) extend and pave Platte Road to the west from the existing concrete portion of said street to the Arena's west property line; and

WHEREAS, the current owner has prioritized and completed approximately \$700,000 in internal improvements to the facility and is requesting a time extension for paving the parking lot; and

WHEREAS, it has been determined to be in the best interests of the City to allow an additional 10-year extension (April 8, 2022) of the conditions set forth in Resolution No. 2002-94.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the request submitted by the Viaero Event Center, formerly Tri-City Arena, allowing an additional 10-year extension (April 8, 2022) of the conditions set forth in Resolution No. 2002-94 be and is here by granted. A copy of Resolution No. 2002-94 and Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF JANUARY, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve Plans and Specifications for the Brigham Lofts CDBG NSP3 Project and set the bid opening date for January 31, 2012 at 2:00 p.m.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7697 SELLING PROPERTY TO ROBERT COOK

Several years ago the City abandoned a water supply well on property located at the southeast corner of 8th Avenue and 19th Street. The well was abandoned due to age and mechanical failure. Due to encroachment of potential contaminate sources the well was not re-drilled for continued use as a water supply.

In 2003 the property was leased to a private company to be used as a parking lot to benefit a warehouse located across the street to the north of 19th Street. The tenant did not renew the lease in 2010; another tenant was not found and no other City Department expressed a need for the property so Administration advertised the property for sale.

On December 13, 2011 the City received sealed bids for the sale of the property. At the last Council meeting, Council awarded the bid to Robert Cook in the amount of \$22,000. The money from the sale of the property will be placed in the Water Retained Revenues Fund as revenue to support the Water Fund.

Council Member Clouse introduced Ordinance No. 7697, being Subsection 1 of Agenda Item V selling to Robert G. Cook Lot 13 except the east 5.0 feet thereof, and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way except the east 5.0 feet thereof all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (southeast corner of 8th Avenue and 19th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7697 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. 7697 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. 7697 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7698 AMENDING SECTION 8-617 OF CITY CODE

In the last session of the Nebraska Unicameral, changes were made to the state DUI statutes increasing a couple of penalty provisions. The City has always tried to update our City Code relating to driving under the influence so that it matches state statute. The Buffalo County Attorney's office charges most DUI cases under the City Code and has requested the attached changes to the Code so that both state statute and City Code reflect the changes made by the Unicameral.

Council Member Clouse introduced Ordinance No. 7698, being Subsection 2 of Agenda Item V amending Section 8-617 "Chemical Tests; Refusal; Penalties" of Article 6 "Operation of Vehicles" of Chapter 8 "Police" of the Code of the City of Kearney to reflect the amendments made in the Nebraska Statutes regarding penalties for Driving Under the Influence, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7698 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. 7698 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. 7698 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7699 REPEAL ORDINANCE NO. 7669 AND AMEND THE ANNUAL SALARY ORDINANCE

Following the retirement of the Park and Recreation Director, a careful evaluation of the Park and Recreation Departmental structure and staffing needs was conducted. Based upon my review, I believe the following reorganization would be mutually beneficial to the department and the community:

- The City Manager will serve as the Department Head.
- Reclassification of Park Superintendent and Recreation Superintendent pay grade from 30 to 32.
- Reclassification of Administrative Assistant position to Office Manager pay grade 24.
- An additional \$10,000 annually for clerical support.

- The addition of a Recreation Graduate Assistant to serve in an intern capacity.
- Additional funds added for a new Maintenance position or several seasonal positions.

Salary Ordinance No. 7699 includes adjustments for permanent positions. The difference in the previous Director salary and the recommended reorganizational changes result in an approximate budgetary savings of \$19,000 annually.

City Manager Michael Morgan stated as has been the policy in the past, when there is a vacancy at the department head level, that position is evaluated. During the course of that evaluation, it became quite clear that the staff within the department is quite capable, competent and skilled in their technical areas. What is interesting about Park and Recreation is there are two divisions which operate very differently. This became quite clear as they went through the process. With the retirement of Neal Lewis and the departure of one of the recreation coordinators, who is going back to his home state and getting married, they believed that it was appropriate to make this decision a little sooner. It has now been over 90 days which is a typical length of time that it would take to evaluate a department. His overall conclusion was the department has a tremendous amount of assets and is very skilled in all their technical areas. The biggest concern he had was they did not have enough staff especially in areas of maintenance, efficiency with clerical administration and their recreational areas.

Over the past few years, the Park Board had also raised concerns about the increase in the workload on the staff within the Park & Recreation Department. In this year's budget for the first time, they have a maintenance position. After looking at these things, he concluded it would be a good idea to take advantage of the key positions: Park Superintendent, Recreation Superintendent, office manager and golf course manager who are all very capable of doing their jobs on a daily basis. The ordinance presented at this meeting reflects some changes in compensation for some co-department head positions within the Park and Recreation Department and to provide them with compensation equal to expectations and performance of their job duties. Staff has worked on these new job descriptions for some time which will allow these employees more discretion to be able to do their jobs and whenever possible to use administrative support.

Also, with that reorganization and the savings of a management position, they decided to take the resources that were left over and put those into an additional maintenance person or seasonal staff which will be determined by Park Superintendent and Recreation Superintendent. This will give them the flexibility to make those decisions. The bottom line is a savings of over \$100,000. On a day to day basis, this department needs very little supervision, if any. The classifications and compensations for the individuals involved at the superintendents' level are equal to some department heads. The reality with the co-department heads is two people reporting to the City Manager, instead of one each doing the best job in their areas.

Council Member Buschkoetter introduced Ordinance No. 7699, being Subsection 3 of Agenda Item V repealing Ordinance No. 7669 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or

uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance with an effective date of January 29, 2012, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7699 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 Clouse seconded by Lammers that Ordinance No. 7699 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. 7699 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIMS: NPPD - \$68,252.80, PLATTE VALLEY STATE BANK - \$120.00, SCHOOL DISTRICT #7 - \$4,194.91

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

Moved by Lammers seconded by Lear that the Open Account Claim in the amount of \$68,252.80 payable to NPPD be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear. Nay: None. Clouse abstained and Kearney absent. Motion carried.

Moved by Clouse seconded by Lammers that the Open Account Claim in the amount of \$120.00 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear abstained and Kearney absent. Motion carried.

VII. REPORTS

CLOSED SESSION

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 7:24 p.m. for the protection of the public interest to discuss real estate matter. Roll call

resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss real estate matter. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Lammers seconded by Lear that Council reconvene in regular session at 8:18 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 8:18 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**