

*Kearney, Nebraska  
February 14, 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 February 14, 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; Bobbi Pettit, Assistant Development Services Director; and Bruce Grupe, City Engineer were also present. Some of the citizens present in the audience included: Trenton Snow, Richard Lush, Mitch Humphrey, Jonathan Nikkila, Gerry O'Rourke, Mark Benjamin, Chuck Becker, Paul Younes, Steve Altmaier from KGDW 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**

Pastor Tim Peterson from Kearney Evangelical Free Church provided the Invocation.

### **PLEDGE OF ALLEGIANCE**

Fourteen Boy Scouts from Troop 136 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 BRYSON ESTATES; 3500 WEST 35TH STREET ON THE NORTH SIDE OF KEARNEY LAKE**

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 Sally L. Bryson, Trustee of the Sally L. Bryson Revocable Trust dated June 14, 2000 (Owner) for the Final Plat and Subdivision Agreement for Bryson Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3500 West 35th Street on the north side of Kearney Lake) and consider Resolution No. 2012-12. Planning Commission recommended approval subject to recognition and acceptance of the listed deviations and the terms established in the Subdivision Agreement.

The applicant is requesting approval to develop a two-lot subdivision on the north side of Kearney Lake. The tract of land is 8.44 acres. One lot contains an existing house and the second lot is being subdivided for an additional house. The existing house takes access to West 35th Street by means of a long private lane. The proposed house is also planning on using the private lane through a mutual use easement between the two property owners. This project requires a Final Plat and Development Plan approval. The Preliminary Plat was approved by Planning Commission on January 20, 2012. The property is zoned R-1/PD because of the dual private lane access. Development Plan information has been submitted to meet the planned district overlay requirements.

The Preliminary Plat and Final Plat of Bryson Estates consist of two lots. The larger lot to the west, proposed Lot 2, contains the existing house and the private lane accessing the street. This lot consists of 5.52 acres. Lot 1 contains 2.92 acres and is the lot that the new residence will be built upon. Multiple elements of this subdivision are pre-existing and difficult or impossible to modify; the planned district gives the developer the ability to request deviations from Code requirements. Those deviations are listed below:

1. Access Width: Section 47-102 of the City Code requires a minimum of 40 feet of width for the private lane if more than one household is going to use the lane. The existing lane is only 33 feet in width with a 12-foot wide graveled driving surface. The developer is requesting that the Planning Commission and City Council accept the existing driveway at 33 feet in width as it is pre-existing and there is no reasonable way to acquire greater width. Planning Commission recommended approval of this deviation.

2. Paving: Chapter 55 of the City Code requires 6 inches of thickness for concrete paving of the private lane. The existing lane is all-weather gravel surfaced. Again, the developer is requesting that the Planning Commission and City Council accept the existing driveway with its gravel surfacing as it is pre-existing and will only serve two residences. Planning Commission recommended approval of this deviation.

3. Building Elevations: Planned Development Overlay generally requires architectural elevations and floor plans of proposed buildings to be approved by the Planning Commission and City Council as part of the approval process. PD Overlays are not typically associated with R-1, Single-Family zones. The intent is usually to apply these requirements to multi-family, commercial or industrial projects. The developer has shown the setbacks per code on all sides of proposed Lot 1 to establish a "building envelope." The new residence will be built such that it is contained within the building envelope that is shown. Therefore, no architectural plans will be coming back to the Planning Commission or City Council as the Chief Building Official can insure that the building location is correct when a building permit is issued. Planning Commission recognized this approach as a valid way to achieve the intent of the planned district overlay requirements.

4. Fire Protection/Potable Water: Although the developer can potentially get potable water to the house with a 1-inch supply line extended down the lane from West 35th Street, such a small supply will not meet fire protection requirements. An 8-inch water main with a 6-inch fire hydrant is required within 400 feet of the proposed house per the 2006 International Fire Code (IFC), section 508. If the house were to be sprinkled a fire hydrant is only required within 600 feet.

A preliminary Public Works Plan has been submitted and is on file at the City offices, but may be modified in coordination with the Fire Administrator and City Utilities Director. Many options were discussed during Planning Commission meeting; however, but the cost and feasibility of each option was unknown.

*Potential water option # 1.* A City water main must be extended a great distance from West 35th Street to reach the proposed residence. This proposal is costly, so other options have been considered. In order to move the project forward, the Owner has agreed in accordance with the Subdivision Agreement to pay all costs associated with extending an 8-inch water main from West 35th Street south in the 33-foot wide access and utilities easement terminating at a 6-inch fire hydrant with the final location of the hydrant to be approved by the Fire Administrator and City Utilities Director. The Owner shall pay all cost associated with this water main installation including required appurtenances. This option is considered the "fall-back" option as it is feasible yet expensive but may be the only acceptable option once the alternatives are investigated. If another feasible alternative is found by the Owner's engineer that will be less expense to the Owner, but still suitable to the City, the Owner will be granted approval to proceed with the alternative method of providing a fire hydrant after obtaining approval in writing from the Fire Administrator and City Utilities Director. The Public Works Plan will be modified accordingly. The Subdivision Agreement is currently written to accommodate this option.

*Potential water option # 2.* Connection to the water main in Hellman Subdivision to the west may be possible; however, 17th Avenue Place is a private lane and the utilities beneath it are considered an outlot that is privately owned and maintained by the lot owners. Therefore, an easement to connect to this water main will need to be negotiated with Mr. Hellman or the property owners in the subdivision. Such an easement may prove to be unobtainable or prohibitive in cost.

*Potential water option # 3.* Connection to the public water main to the east in North Lake Subdivision. Although the water main is publicly owned and operated by the City, once again easements across privately held property would need to be obtained and the cost and feasibility of obtaining the required easement(s) is unknown.

To summarize the water issue:

There are at least three options to obtain water volume and pressure that would adequately serve a fire hydrant and therefore meet fire codes. However, the cost and feasibility of each option is unknown. Therefore, in the interest of seeking approval of this project from City Council, the applicant has agreed by subdivision agreement that there is a default option that everyone agrees is feasible, yet costly. At a minimum the agreement will force the applicant to install the water main and hydrant all the way from West 35th Street at the applicant's expense before a building permit will be issued.

1. Sanitary Sewer must also be extended a great distance from West 35th Street. Sanitary sewer service will be provided with a low pressure sanitary sewer system, consisting of a force main and individual grinder pumps at the dwelling to be constructed. The existing dwelling will be allowed to remain on existing septic and drain fields until such time as the system fails. The existing dwelling will connect to the low-pressure force main at that time. The force main will be constructed according to City of Kearney specifications and owned and maintained by the City after it has been accepted as part of the City sanitary sewer system. The grinder pumps will be purchased, installed, owned, maintained and replaced by the property owner. A similar approach was applied in the Hellman Subdivision just to the west of this development and was approved by the Utilities Department.

2. Fire Protection Access: The International Fire Code requires an approved fire apparatus access lane a minimum of 20 feet in width with all-weather surfacing. There can be no obstructions in the fire access lane. The existing 12-foot wide gravel lane does not meet these requirements and a deviation is therefore requested. Planning Commission discussed this requirement at length including the need for an adequate turn-around at the end of the lane. Although opinions varied, in the end it was decided to allow the deviation in width as long as an adequate turn-around will be constructed at the end of the fire lane.

As previously mentioned, a Subdivision Agreement has been prepared to list the requested deviations. If the Planning Commission and City Council agree to these deviations the agreement will clearly state that the developer recognizes that the proposed development does not meet all code requirements and that all potential liability due to these deviations rests solely with the developer. By approving any aspect of this project the City makes no endorsement that all code requirements have been satisfactorily met and the City assumes no liability. The City Attorney wrote this section of the agreement.

Since the project is located in a planned development overlay district the developer has submitted development data for the proposed additional house. The deviations from code requirements that were previously discussed have been requested in writing. No architectural plans are required due to the R-1 zoning. The previously discussed building envelope approach will suffice.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This property is located on the north side of Kearney Lake, southwest of the Anderson's Subdivision and east of the Hellmann Addition. The Hellmann Addition is where 17th Avenue Place intersects with 35th Street. To his knowledge, this is the last of the unplatted land within the City limits. Dr. Jensen owned the property before the Bryson's who are the current owners. It has been in the family for approximately 50 years. This is an 8.44 acre site which is zoned R-1/PD which is a planned development. It was rezoned in 1996 when the Hellmann Addition was platted. Dr. Walter Martin is anticipated to purchase a portion of this property on the undeveloped site to build a home to the east of the Bryson's home. The Bryson's portion would be about 5.52 acres and the Martins would end up with 2.92 acres. An interesting point about this site is the access off of 35th Street is 700-800 feet long to get back to the house. The width of the access drive lane to the house site has been 33 feet wide for the last 50 years. One of the deviations being requested with this project is to recognize the 33-foot wide driveway to be used as access in lieu of the 40-foot width that is required by Code. They would like to continue to use the gravel driveway as it stands.

Regarding the Martin lot, it will be connected to City sewer and water. The City sewer will be through a low pressure grinder pump system (force main) potentially connecting up to 35th Street. There have been other alternatives discussed with City staff. It was agreed that if a more feasible alternative is found, it will be used. The owners agreed to do whatever is required because this is such a nice piece of property. The water line will consist of an 8-inch pipe that will extend down to the site and split off to serve the Martin house. The Bryson's water line cannot be connected to the new one. This plan has a multitude of deviations, but Mr. Humphrey stated the ones he presented were the major ones. He appreciated the City staff looking "outside the box" on this project within the City limits. This could have been done outside of the City limits, but in doing so it would have created a larger parcel. As the City grows, they would be working around this larger parcel which becomes expensive. The deviations are all contained in the Subdivision Agreement.

Council member Lammers inquired if they anticipate any further division of this property in the future. Mr. Humphrey stated their intent is just these two large lots at the present time. There are other large lots located around the lake. There are possibly one or two lots that are as large (3 acres) as the one Dr. Martin wants to purchase. None of the lots are as big as the five acres that the Bryson's own. He stated there are only two house sites on this property that would allow unobstructed views of the lake like the other homes have. So there are no plans to further subdivide.

Council member Lear asked by approving this Subdivision Agreement, would it limit the City's ability to require a paved road if this property were to develop in the future to access more housing. Mr. Humphrey stated that he believed that if more than two houses were to be accessed from that private drive then this waiver should no longer be considered. In 1996 when the Hellmann property was developed, they were approved for a private street which is a 33-foot wide drive that goes back a long way and serves eleven lots. In the future if there were to be more development on the Bryson's site, a new subdivision would be required to be created which would necessitate the revision of the detailed subdivision agreement in place. The City would require paving of the street according to Code.

Council member Buschkoetter asked for more information on the turnaround for a fire lane on this site. Mr. Humphrey stated with the development of the site plan for Mr. Martin's side of the lot, it would include a fire lane or large turnaround which must be approved by the Fire Department. This would be done as part of the platting process. This fire lane/turnaround was discussed at Planning Commission with the Fire Administrator.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and adopt **Resolution No. 2012-12** approving the Application submitted by Buffalo Surveying Corp. (Applicant) for Sally L. Bryson, Trustee of the Sally L. Bryson Revocable Trust dated June 14, 2000 (Owner) for the Final Plat and Subdivision Agreement for Bryson Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3500 West 35th Street on the north side of Kearney Lake). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2012-12**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Bryson Estates, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of Section 35 and assuming the North line of the Southwest Quarter of the Northwest Quarter of Section 35 as bearing S88°47'48"E and all bearings contained herein are relative thereto; thence S88°47'48"E and on the North line of the Southwest Quarter of the Northwest Quarter of Section 35 and on the North line of Hellman Addition, an addition to the City of Kearney, Buffalo County, Nebraska, a distance of 277.5 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northeast Corner of Lot 7, Hellman Addition; thence continuing on the North line of the Southwest Quarter of the Northwest Quarter of Section 35, S88°47'48"E a distance of 33.00 feet to the Northwest Corner of Lot 15, Anderson Acres Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the North line of the Southwest Quarter of the Northwest Quarter of Section 35, S00°42'53"W and on the West line of said Anderson Acres Subdivision a distance of 605.9 feet; thence continuing on the West line of said Anderson Acres Subdivision, S34°03'15"E a distance of 189.0 feet, said point being the Southwest Corner of Lot 12, Anderson Acres Subdivision; thence continuing on the South line of said Anderson Acres Subdivision, S89°20'14"E a distance of 309.6 feet to the Southeast Corner of Lot 11, Anderson Acres Subdivision, thence continuing on the South line of said Anderson Acres Subdivision, S36°09'24"E a distance of 164.3 feet to a point being on the Westerly bank of Kearney Lake, said point also being the Southwest Corner of Lot 7, Anderson Acres Subdivision; thence leaving the South line of said Anderson Acres Subdivision and on the Westerly and Northerly bank of Kearney Lake, S19°25'25"W a distance of 268.69 feet; thence continuing on the Westerly and Northerly bank of Kearney Lake the following courses and distances respectively; S49°17'27"W a distance of 226.73 feet; thence S63°06'09"W a distance of 94.08 feet;

thence S63°21'06"W a distance of 59.8 feet; thence N62°09'20"W a distance of 290.3 feet to the Southeast Corner of Lot 1, Hellman Addition; thence leaving the Northerly bank of Kearney Lake, N00°45'31"E and on the East line of said Hellman Addition a distance of 689.5 feet to a point on the South line of Lot 10, Hellman Addition; thence S89°26'30"E and on the South line of Lot 10, Hellman Addition a distance of 102.5 feet to the Southeast Corner of said Lot 10, Hellman Addition; thence N00°42'53"E and on the East line of said Hellman Addition a distance of 546.58 feet to the place of beginning, containing 8.44 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 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**DEVELOPMENT PLANS FOR BRYSON ESTATES; 3500 WEST 35TH STREET ON THE NORTH SIDE OF KEARNEY LAKE**

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 Sally L. Bryson, Trustee of the Sally L. Bryson Revocable Trust dated June 14, 2000 (Owner) for Planned District Development Plan Approval for a residential lot on property zoned District R-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District for property described as a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3500 West 35th Street on the north side of Kearney Lake) and consider Resolution No. 2012-13. Planning Commission recommended approval subject to recognition and acceptance of the listed deviations and the terms established in the Subdivision Agreement.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2012-13** approving the Application submitted by Buffalo Surveying Corp. (Applicant)

for Sally L. Bryson, Trustee of the Sally L. Bryson Revocable Trust dated June 14, 2000 (Owner) for Planned District Development Plan Approval for a residential lot on property zoned District R-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District for property described as a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3500 West 35th Street on the north side of Kearney Lake). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2012-13**

WHEREAS, Buffalo Surveying Corp. (Applicant) for Sally L. Bryson, Trustee of the Sally L. Bryson Revocable Trust dated June 14, 2000 (Owner) have applied for Planned District Development Plan Approval for a residential lot on property zoned District R-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District and described as a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of Section 35 and assuming the North line of the Southwest Quarter of the Northwest Quarter of Section 35 as bearing S88°47'48"E and all bearings contained herein are relative thereto; thence S88°47'48"E and on the North line of the Southwest Quarter of the Northwest Quarter of Section 35 and on the North line of Hellman Addition, an addition to the City of Kearney, Buffalo County, Nebraska, a distance of 277.5 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northeast Corner of Lot 7, Hellman Addition; thence continuing on the North line of the Southwest Quarter of the Northwest Quarter of Section 35, S88°47'48"E a distance of 33.00 feet to the Northwest Corner of Lot 15, Anderson Acres Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the North line of the Southwest Quarter of the Northwest Quarter of Section 35, S00°42'53"W and on the West line of said Anderson Acres Subdivision a distance of 605.9 feet; thence continuing on the West line of said Anderson Acres Subdivision, S34°03'15"E a distance of 189.0 feet, said point being the Southwest Corner of Lot 12, Anderson Acres Subdivision; thence continuing on the South line of said Anderson Acres Subdivision, S89°20'14"E a distance of 309.6 feet to the Southeast Corner of Lot 11, Anderson Acres Subdivision, thence continuing on the South line of said Anderson Acres Subdivision, S36°09'24"E a distance of 164.3 feet to a point being on the Westerly bank of Kearney Lake, said point also being the Southwest Corner of Lot 7, Anderson Acres Subdivision; thence leaving the South line of said Anderson Acres Subdivision and on the Westerly and Northerly bank of Kearney Lake, S19°25'25"W a distance of 268.69 feet; thence continuing on the Westerly and Northerly bank of Kearney Lake the following courses and distances respectively; S49°17'27"W a distance of 226.73 feet; thence S63°06'09"W a distance of 94.08 feet; thence S63°21'06"W a distance of 59.8 feet; thence N62°09'20"W a distance of 290.3 feet to the Southeast Corner of Lot 1, Hellman Addition; thence leaving the Northerly bank of Kearney Lake, N00°45'31"E and on the East line of said Hellman Addition a distance of 689.5 feet to a point on the South line of Lot 10, Hellman Addition; thence S89°26'30"E and on the South line of Lot 10, Hellman Addition a distance of 102.5 feet to the Southeast Corner of said Lot 10, Hellman Addition; thence N00°42'53"E and on the East line of said Hellman Addition a distance of 546.58 feet to the place of beginning, containing 8.44 acres, more or less, Buffalo County, Nebraska (3500 West

35th Street on the north side of Kearney Lake).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Buffalo Surveying Corp. (Applicant) for Sally L. Bryson, Trustee of the Sally L. Bryson Revocable Trust dated June 14, 2000 (Owner) for Planned District Development Plan Approval for a residential lot on property zoned District R-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District and described as a tract of land being a part of the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of Section 35 and assuming the North line of the Southwest Quarter of the Northwest Quarter of Section 35 as bearing S88°47'48"E and all bearings contained herein are relative thereto; thence S88°47'48"E and on the North line of the Southwest Quarter of the Northwest Quarter of Section 35 and on the North line of Hellman Addition, an addition to the City of Kearney, Buffalo County, Nebraska, a distance of 277.5 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northeast Corner of Lot 7, Hellman Addition; thence continuing on the North line of the Southwest Quarter of the Northwest Quarter of Section 35, S88°47'48"E a distance of 33.00 feet to the Northwest Corner of Lot 15, Anderson Acres Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska; thence leaving the North line of the Southwest Quarter of the Northwest Quarter of Section 35, S00°42'53"W and on the West line of said Anderson Acres Subdivision a distance of 605.9 feet; thence continuing on the West line of said Anderson Acres Subdivision, S34°03'15"E a distance of 189.0 feet, said point being the Southwest Corner of Lot 12, Anderson Acres Subdivision; thence continuing on the South line of said Anderson Acres Subdivision, S89°20'14"E a distance of 309.6 feet to the Southeast Corner of Lot 11, Anderson Acres Subdivision, thence continuing on the South line of said Anderson Acres Subdivision, S36°09'24"E a distance of 164.3 feet to a point being on the Westerly bank of Kearney Lake, said point also being the Southwest Corner of Lot 7, Anderson Acres Subdivision; thence leaving the South line of said Anderson Acres Subdivision and on the Westerly and Northerly bank of Kearney Lake, S19°25'25"W a distance of 268.69 feet; thence continuing on the Westerly and Northerly bank of Kearney Lake the following courses and distances respectively; S49°17'27"W a distance of 226.73 feet; thence S63°06'09"W a distance of 94.08 feet; thence S63°21'06"W a distance of 59.8 feet; thence N62°09'20"W a distance of 290.3 feet to the Southeast Corner of Lot 1, Hellman Addition; thence leaving the Northerly bank of Kearney Lake, N00°45'31"E and on the East line of said Hellman Addition a distance of 689.5 feet to a point on the South line of Lot 10, Hellman Addition; thence S89°26'30"E and on the South line of Lot 10, Hellman Addition a distance of 102.5 feet to the Southeast Corner of said Lot 10, Hellman Addition; thence N00°42'53"E and on the East line of said Hellman Addition a distance of 546.58 feet to the place of beginning, containing 8.44 acres, more or less, Buffalo County, Nebraska (3500 West 35th Street on the north side of Kearney Lake) be approved subject to compliance with the terms and conditions set forth in the Subdivision Agreement.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ORDINANCE NO. 7701 REZONING PROPERTY LOCATED AT KEA WEST TO 30TH AVENUE, SOUTH OF THE NORTH CHANNEL OF THE PLATTE RIVER**

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) to rezone from District AG, Agricultural District to District RR-1/PD, Rural Residential (Rural Standards)/Planned Development Overlay District property described as a tract of land located in part of Government Lots 6, 7, 8 and 9 and accretions abutting said Lots all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) and consider Ordinance No. 7701. Planning Commission recommended approval subject to recognition and acceptance of the listed deviations and the terms established in the Subdivision Agreement.

The Turkey Creek Estates Development Team is proposing a rural residential lake development located north of I-80 and east and west of Kea West Road. The entire development that was preliminary platted on January 20, 2012 by the Planning Commission consists of approximately 200 acres and 71 lots. The development that will be final platted consists of approximately 108 acres and 38 lots. The approval process for this project involves: rezoning, final plat approval, and planned district approval.

The development team is proposing the portion to be final platted to also be rezoned from AG, Agricultural to RR-1/PD, Rural Residential Planned Development. The Future Land Use Map shows this area as "Rural Estates"; therefore, a Future Land Use Map amendment is not needed. Due to distance and water table constraints, the lots in this area cannot be served by city water and sanitary services at this time. Each lot will be served by individual well and septic, which is permissible in an RR-1 and appropriate for this development. Planning Commission had concerns over the environmental impact of 38 septic fields on the groundwater resource. The septic systems will have to meet Nebraska Department of Environmental Quality (NEDEQ) design requirements for septics located in areas with high groundwater tables. The Utilities Department has reviewed the proposed development and does not have concerns with the proposed septic drain fields as long as they are constructed to NEDEQ standards. In the future, sanitary sewer service could be provided by low pressure force main and grinder pumps if warranted.

The Planned District Overlay is being proposed because the applicant is requesting two deviations as follows:

1. Minimum lot size for RR-1 zoning districts is 3.0 acres. The proposed lots are somewhat smaller averaging 2.85 acres. There is a significant amount of open space in the development consisting of the sandpit lakes and other drainage channels that offset the slightly smaller size per lot.
2. The rear yard building setback required by code is 100 feet. The applicant is requesting that the rear yard setback be reduced to 50 feet. Most homes will back to one of the lakes where the lakes will supply additional open space to the rear as compared to conventional development. Some homes will back to

Turkey Creek where the rear yard setback ranges from 50 to 160 feet, but never less than 50 feet.

The preliminary plat for the entire proposed development, which spans from 30th Avenue on the west stretching approximately 1,200 feet east of Kea West Road was approved by Planning Commission last month. There are 71 lots on 200 acres. This preliminary plat has accounted for the alignment of proposed Talmadge Road through the development. Should Talmadge Road be constructed to serve the development, the east side of the development could also be served with city services. Therefore, the east side could be annexed in the future and the City will have the right to pursue annexation when Talmadge Road is constructed.

The northwest portion of the proposed development is being proposed for a final plat. This development consists of the following components:

1. Approximately 108 acres.
2. 38 lots.
3. A public access road, 1st Street that will connect Kea West Road and 30th Avenue.
4. A 10-foot wide drainage channel to be owned and maintained by the developer and/or homeowners association.
5. A sandpit lake to be owned and maintained by the developer and/or homeowners association.

This final platted portion will be rezoned as RR-1, served by individual well and septic, and will not be annexed. However, as part of the final plat approval process, a subdivision agreement has been drafted that requires the developer to waive rights of protest for paving districts in the event that Kea West Road is paved and/or Talmadge Road is extended. The subdivision agreement also clarifies that the developer and/or homeowners association will be responsible for the maintenance of the drainage channel and lake. In order to be approved by staff, the following components have been addressed:

1. An access easement 20 feet in width has been added at staff's request for Lot 11, Block 5.
2. Street widths are shown on the plat as requested by staff.
3. Proposed 1st Street is 160 feet wide. This is a wider street right-of-way than the norm. The developer has submitted cross sections of the proposed street right-of-way to the City Engineer per his request.
4. Drainage calculations are generally due at the time of building permit. In this case the City Engineer has received drainage calculations in conjunction with the road sections to demonstrate that the layout is feasible.
5. No utility easements were shown on the plat at Planning Commission. The developer has added 10-foot wide utility easements adjacent to the street right-of-ways as requested by staff.

As previously mentioned, Development Plans are required as the development team is requesting deviations under the Planned District Overlay. The requested deviations are as follows:

1. A rear yard building setback from 100 feet reduced to a minimum of 50 feet. These setbacks are for the homes that will back up to the sandpit lake and Turkey Creek.
2. Site area per housing unit reduced from 3 acres to 2.85 acres.

The development plans also show proposed well locations and proposed septic drain field locations to make sure that separation requirements between systems is adequate per NEDEQ regulations.

There was discussion held at the Planning Commission hearing regarding conservation easements along Turkey Creek for wildlife corridors. A 6-acre parcel was reserved for wildlife habitat on the north side of the creek when the west hospital project was approved. This property was earmarked for conservation by the City Council's action of amending the Future Land Use Map from "Agricultural" to "Conservation Reserve." The adjacent property associated with the hospital project is zoned commercial while the Turkey Creek project is a large lot rural residential project. Staff does not believe that an additional conservation easement is warranted on the south side of the creek given the existing conservation area on the north and the rear yard setbacks along Turkey Creek ranging from 50 to 160 feet in depth.

These setbacks apply to the primary structure so sheds, fences, play structures and the like will be permissible within the rear yard although it is anticipated that many prospective homeowners will want to preserve the natural surroundings along the creek anyway.

After meeting at DRT and with the team's representative, planning staff has determined the no build easement combined with RR-1 zoning is sufficient to protect this wildlife habitat area.

Kent Cordes from Miller & Associates presented this matter to the Council. He stated the Turkey Creek site is designated as rural estates type uses. Since that is what they are platting, it requires no amendment to the Land Use Map. Existing zoning on all sides of the property is agricultural. They are requesting rezoning to RR-1/PD which is the rural large lot planned district. There are 71 lots planned in the preliminary platted area with 38 in the final platted area. Talmadge Road from 2nd Avenue east of the property exists just north of the lake. They do not know exactly what route it will take in the future, but they did want to account for that coming through because they know it will go at least to Kea West Avenue. In the preliminary plat they have platted an area for Talmadge Road to extend down to Kea West. There is some language in the subdivision agreement about potentially changing that layout should the developer acquire this property in the future to make that layout even better. The layout for Talmadge Road is only in the preliminary plat and not in the final plat because there is a parcel of land that the developer does not own. If the developer acquires that parcel at some point that route would likely be changed to make a better intersection.

The lot sizes will be an acre and a half or larger. One of the reasons for a planned district is that they are requesting a deviation of a 50-foot rear setback instead of 100-foot rear setback as required. The reason for this is the lots are wide, but not very deep because of the existing lake and the North Channel Platte River runs on the north side of the property. The lake and channel make it limited on how deep the lots can be. There is a 160-foot platted right-of-way in the middle of the lot, south of the existing lake which will be planned as an overflow channel for the Platte River that currently exists there. They will maintain the road on either side of that channel so they do not have to have a lot of culverts and things crossing. Each of the lots on the north and the south will be served by driveways so they can get in and out without having to cross that channel.

The final plat consists of 38 lots, each an acre and half in size. They meet all RR-1 requirement with the exception of the rear yard setback which is the deviation and the site area per housing unit which is three acres in a RR-1 or about 2.85, but they do have a lot of other open area with the lakes and the outlots in this subdivision. They have also platted an extra buffer area along the west boundary at 30th Avenue in the event that the 30th Avenue viaduct would go through there. They have allowed 50 foot of right-of-way along 30th Avenue with an extra 50 foot buffer yard.

Mayor Clouse asked if the wells shown on the plat map were watering wells. Mr. Cordes stated the wells are for actual drinking wells. They are not going to connect to any of the City services at this time. They have high ground water in the area which makes it very cost ineffective because they would have to dewater to extend both water and sewer to the site. With the RR-1 designation, they can do wells and septic tanks which is part of the reason they have opted for this type of zoning.

Council member Buschkoetter expressed concern over being in a floodplain and problems that have occurred in other developments because of that. Mr. Cordes stated that because this is in a floodplain, basements will not be allowed. Floodplain regulations require that the lowest floor has to be a foot above the base flood elevation. Since Max Richardson is the floodplain administrator and the City's Chief Building Inspector, he would insure that when issuing the building permits that basements would be precluded due to the location of this site.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing and introduced Ordinance No. 7701 on the Application submitted by Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) to rezone from District AG, Agricultural District to District RR-1/PD, Rural Residential (Rural Standards)/Planned Development Overlay District property described as a tract of land located in part of Government Lots 6, 7, 8 and 9 and accretions abutting said Lots all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to close the hearing and suspend the rules for Ordinance No.

7701. 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, Lammer. 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. 7701 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. 7701 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. 7701 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 TURKEY CREEK SUBDIVISION**

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) for the Final Plat and Subdivision Agreement for Turkey Creek Subdivision, Buffalo County, Nebraska for property described as a tract of land located in part of Government Lots 6, 7, 8 and 9 and accretions abutting said Lots all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) and consider Resolution No. 2012-14.

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 Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) for the Final Plat and Subdivision Agreement for Turkey Creek Subdivision, Buffalo County, Nebraska for property described as a tract of land located in part of Government Lots 6, 7, 8 and 9 and accretions abutting said Lots all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) and adopt **Resolution No. 2012-14**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2012-14**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Turkey Creek Subdivision of Buffalo County, Nebraska for a tract of land located in part of Government Lots 6, 7, 8, and 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northwest corner of the Southwest Quarter of said Section 10 and assuming the

west line of said Section as bearing  $S00^{\circ}23'11''W$  and all other bearings shown hereon relative thereto; thence  $S00^{\circ}23'11''W$  on said west line a distance of 431.43 feet to the ACTUAL POINT OF BEGINNING and a point on the centerline of the North Channel of the Platte River; thence  $S89^{\circ}37'33''E$  along said centerline and all courses following are along said centerline until otherwise described, a distance of 37.00 feet; thence  $S62^{\circ}22'59''E$  a distance of 14.25 feet; thence  $S11^{\circ}52'03''E$  a distance of 27.53 feet; thence  $S03^{\circ}46'27''E$  a distance of 77.66 feet; thence  $S34^{\circ}20'32''E$  a distance of 22.99 feet; thence  $S48^{\circ}47'23''E$  a distance of 32.96 feet; thence  $S59^{\circ}59'28''E$  a distance of 49.05 feet; thence  $S68^{\circ}13'12''E$  a distance of 58.03 feet; thence  $S71^{\circ}56'52''E$  a distance of 106.03 feet; thence  $N75^{\circ}18'45''E$  a distance of 37.93 feet; thence  $N20^{\circ}12'26''E$  a distance of 94.95 feet; thence  $N30^{\circ}47'32''E$  a distance of 22.52 feet; thence  $N60^{\circ}20'15''E$  a distance of 72.79 feet; thence  $S65^{\circ}23'56''E$  a distance of 44.09 feet; thence  $N88^{\circ}50'40''E$  a distance of 122.71 feet; thence  $N48^{\circ}44'15''E$  a distance of 62.23 feet; thence  $S74^{\circ}10'14''E$  a distance of 60.31 feet; thence  $N72^{\circ}36'56''E$  a distance of 19.25 feet; thence  $N55^{\circ}17'45''E$  a distance of 55.20 feet; thence  $N72^{\circ}29'23''E$  a distance of 48.13 feet; thence  $N16^{\circ}45'50''E$  a distance of 10.71 feet; thence  $N17^{\circ}58'30''W$  a distance of 29.37 feet; thence  $N59^{\circ}54'08''W$  a distance of 44.86 feet; thence  $N00^{\circ}57'40''W$  a distance of 57.48 feet; thence  $N55^{\circ}53'15''E$  a distance of 16.68 feet; thence  $S84^{\circ}55'20''E$  a distance of 36.06 feet; thence  $N62^{\circ}33'56''E$  a distance of 28.30 feet; thence  $S62^{\circ}52'55''E$  a distance of 38.44 feet; thence  $N38^{\circ}47'35''E$  a distance of 23.96 feet; thence  $N52^{\circ}46'24''E$  a distance of 43.04 feet; thence  $S79^{\circ}38'46''E$  a distance of 32.24 feet; thence  $S42^{\circ}59'16''E$  a distance of 13.86 feet; thence  $S17^{\circ}08'02''E$  a distance of 35.90 feet; thence  $S57^{\circ}32'51''E$  a distance of 12.66 feet; thence  $N75^{\circ}24'11''E$  a distance of 40.22 feet; thence  $S62^{\circ}28'45''E$  a distance of 23.94 feet; thence  $S23^{\circ}03'59''E$  a distance of 55.33 feet; thence  $S78^{\circ}49'51''E$  a distance of 64.73 feet; thence  $N26^{\circ}36'02''E$  a distance of 55.46 feet; thence  $N69^{\circ}06'57''E$  a distance of 54.38 feet; thence  $N08^{\circ}12'34''E$  a distance of 24.72 feet; thence  $N28^{\circ}13'12''W$  a distance of 80.71 feet; thence  $N27^{\circ}23'43''E$  a distance of 57.63 feet; thence  $N68^{\circ}03'58''E$  a distance of 30.15 feet; thence  $N76^{\circ}32'58''E$  a distance of 63.56 feet; thence  $S65^{\circ}14'57''E$  a distance of 31.36 feet; thence  $S69^{\circ}03'13''E$  a distance of 65.54 feet; thence  $S73^{\circ}33'52''E$  a distance of 43.83 feet; thence  $N53^{\circ}03'50''E$  a distance of 45.81 feet; thence  $N43^{\circ}11'56''E$  a distance of 61.13 feet; thence  $N35^{\circ}21'40''E$  a distance of 39.20 feet; thence  $N47^{\circ}10'57''E$  a distance of 38.49 feet; thence  $N70^{\circ}13'41''E$  a distance of 20.32 feet; thence  $S86^{\circ}31'43''E$  a distance of 28.72 feet; thence  $S68^{\circ}53'51''E$  a distance of 21.83 feet; thence  $S53^{\circ}08'42''E$  a distance of 18.66 feet; thence  $S12^{\circ}53'12''W$  a distance of 53.00 feet; thence  $S26^{\circ}14'27''E$  a distance of 11.04 feet; thence  $S68^{\circ}42'54''E$  a distance of 22.75 feet; thence  $N80^{\circ}30'04''E$  a distance of 35.04 feet; thence  $S77^{\circ}37'19''E$  a distance of 52.01 feet; thence  $S41^{\circ}07'16''E$  a distance of 54.54 feet; thence  $S56^{\circ}17'24''E$  a distance of 19.72 feet; thence  $S76^{\circ}53'07''E$  a distance of 14.16 feet; thence  $N80^{\circ}53'24''E$  a distance of 35.42 feet; thence  $S78^{\circ}13'46''E$  a distance of 49.05 feet; thence  $N78^{\circ}08'29''E$  a distance of 83.50 feet; thence  $N64^{\circ}23'17''E$  a distance of 18.69 feet; thence  $S80^{\circ}16'38''E$  a distance of 66.85 feet; thence  $N63^{\circ}36'36''E$  a distance of 50.46 feet; thence  $N42^{\circ}34'10''E$  a distance of 45.51 feet; thence  $N58^{\circ}57'00''E$  a distance of 19.19 feet; thence  $N67^{\circ}44'01''E$  a distance of 49.96 feet; thence  $N51^{\circ}28'37''E$  a distance of 12.41 feet; thence  $N 02^{\circ}21'39''W$  a distance of 8.19 feet; thence  $N24^{\circ}51'35''E$  a distance of 60.46 feet; thence  $N64^{\circ}22'12''E$  a distance of 83.23 feet; thence  $S76^{\circ}22'59''E$  a distance of 77.87 feet; thence  $N75^{\circ}18'23''E$  a distance of 88.79 feet; thence  $S74^{\circ}37'50''E$  a distance of 39.20 feet; thence  $S28^{\circ}10'23''E$  a distance of 48.75 feet; thence  $S09^{\circ}18'20''E$  a distance of 31.94 feet; thence  $S24^{\circ}17'15''W$  a distance of 58.83 feet; thence  $S05^{\circ}32'42''E$  a distance of

19.77 feet; thence S60°14'17"E a distance of 79.97 feet; thence S42°53'27"E a distance of 19.48 feet; thence N87°08'03"E a distance of 29.28 feet; thence N32°47'01"E a distance of 48.08 feet; thence S88°15'22"E a distance of 25.57 feet; thence S13°35'50"E a distance of 59.11 feet; thence N84°54'05"E a distance of 82.40 feet; thence N56°47'13"E a distance of 22.73 feet; thence N73°25'38"E a distance of 20.73 feet; thence S66°48'59"E a distance of 64.92 feet; thence N86°46'40"E a distance of 46.64 feet; thence N56°56'53"E a distance of 67.29 feet; thence N69°44'44"E a distance of 45.57 feet; thence S77°17'04"E a distance of 41.68 feet; thence N64°06'34"E a distance of 51.03 feet; thence N09°11'43"E a distance of 45.14 feet; thence N55°56'30"E a distance of 26.91 feet; thence S71°34'38"E a distance of 41.47 feet; thence N71°34'38"E a distance of 22.81 feet; thence N36°53'23"E a distance of 19.67 feet; thence N62°02'15"E a distance of 23.76 feet; thence S71°34'38"E a distance of 35.25 feet; thence S24°51'31"E a distance of 31.83 feet; thence S36°38'43"E a distance of 92.30 feet; thence S87°30'44"E a distance of 30.20 feet; thence N59°16'57"E a distance of 28.23 feet; thence S86°49'21"E a distance of 47.29 feet; thence N38°15'59"E a distance of 70.95 feet; thence N56°19'44"E a distance of 35.46 feet; thence N80°20'49"E a distance of 31.27 feet; thence S36°02'48"E a distance of 17.83 feet; thence S23°00'12"W a distance of 23.49 feet; thence S00°00'00"W a distance of 39.32 feet; thence S55°01'38"E a distance of 24.01 feet; thence N65°36'07"E a distance of 101.54 feet; thence N72°46'13"E a distance of 39.82 feet; thence N40°03'01"E a distance of 42.81 feet; thence N59°36'25"E a distance of 34.97 feet; thence S79°38'27"E a distance of 54.67 feet; thence S52°58'38"E a distance of 43.54 feet; thence S30°31'41"E a distance of 45.15 feet; thence N80°58'06"E a distance of 21.98 feet; thence S52°27'53"E a distance of 25.82 feet; thence S84°21'34"E a distance of 27.52 feet; thence S60°22'28"E a distance of 33.32 feet; thence S44°12'44"E a distance of 25.39 feet; thence S66°35'12"E a distance of 23.40 feet to the east line of said Government Lot 9; thence leaving said centerline S00°59'07"W on said east line a distance of 892.00 feet; thence N89°00'51"W a distance of 599.81 feet; thence S01°02'46"W a distance of 842.04 feet; thence S89°00'25"E a distance of 557.41 feet; thence S06°05'55"W a distance of 66.26 feet; thence N89°00'25"W a distance of 548.20 feet to the beginning of a curve to the right having a central angle of 01°46'13", a radius of 280.00 feet, and a long chord bearing N88°07'18"W a distance of 8.65 feet; thence N87°14'12"W a distance of 251.12 feet; thence N02°45'48"E a distance of 66.00 feet; thence N04°52'14"W a distance of 278.33 feet; thence N85°07'46"E a distance of 30.97 feet; thence N70°55'06"E a distance of 137.27 feet; thence N17°00'06"E a distance of 93.85 feet; thence N06°35'11"W a distance of 65.25 feet; thence N82°11'24"W a distance of 128.43 feet; thence S83°46'29"W a distance of 712.72 feet; thence N87°42'39"W a distance of 187.26 feet; thence N78°11'22"W a distance of 169.60 feet; thence N86°08'45"W a distance of 222.54 feet; thence S87°42'39"W a distance of 187.26 feet; thence N83°25'21"W a distance of 326.47 feet; thence S85°41'13"W a distance of 265.20 feet; thence N85°03'27"W a distance of 260.42 feet; thence S88°47'41"W a distance of 237.05 feet; thence S55°01'34"W a distance of 91.34 feet; thence N34°58'26"W a distance of 243.96 feet; thence S80°37'53"W a distance of 66.97 feet; thence N89°37'32"W a distance of 300.00 feet to the west line of said Section 10; thence N00°23'11"E on said west line a distance of 879.11 feet to the POINT OF BEGINNING, containing 108.45 acres, more or less, all in Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**DEVELOPMENT PLANS FOR KEA WEST TO 30TH AVENUE, SOUTH OF THE NORTH CHANNEL OF THE PLATTE RIVER**

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) for Planned District Development Plan Approval for single family large lot development on property to be zoned District RR-1/PD, Rural Residential (Rural Standards)/Planned Development Overlay District for property described as a tract of land located in part of Government Lots 6, 7, 8 and 9 and accretions abutting said Lots all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) and consider Resolution No. 2012-15.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) for Planned District Development Plan Approval for single family large lot development on property to be zoned District RR-1/PD, Rural Residential (Rural Standards)/Planned Development Overlay District for property described as a tract of land located in part of Government Lots 6, 7, 8 and 9 and accretions abutting said Lots all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) and consider **Resolution No. 2012-15**. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

**RESOLUTION NO. 2012-15**

WHEREAS, Miller & Associates (Applicant) for Turkey Creek Properties, LLC (Owner) have applied for Planned District Development Plan Approval for single family large lot development on property zoned District RR-1/PD, Rural Residential (Rural Standards)/Planned Development Overlay District and described as a tract of land located in part of Government Lots 6, 7, 8, and 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northwest corner of

the Southwest Quarter of said Section 10 and assuming the west line of said Section as bearing S00°23'11"W and all other bearings shown hereon relative thereto; thence S00°23'11"W on said west line a distance of 431.43 feet to the ACTUAL POINT OF BEGINNING and a point on the centerline of the North Channel of the Platte River; thence S89°37'33"E along said centerline and all courses following are along said centerline until otherwise described, a distance of 37.00 feet; thence S62°22'59"E a distance of 14.25 feet; thence S11°52'03"E a distance of 27.53 feet; thence S03°46'27"E a distance of 77.66 feet; thence S34°20'32"E a distance of 22.99 feet; thence S48°47'23"E a distance of 32.96 feet; thence S59°59'28"E a distance of 49.05 feet; thence S68°13'12"E a distance of 58.03 feet; thence S71°56'52"E a distance of 106.03 feet; thence N75°18'45"E a distance of 37.93 feet; thence N20°12'26"E a distance of 94.95 feet; thence N30°47'32"E a distance of 22.52 feet; thence N60°20'15"E a distance of 72.79 feet; thence S65°23'56"E a distance of 44.09 feet; thence N88°50'40"E a distance of 122.71 feet; thence N48°44'15"E a distance of 62.23 feet; thence S74°10'14"E a distance of 60.31 feet; thence N72°36'56"E a distance of 19.25 feet; thence N55°17'45"E a distance of 55.20 feet; thence N72°29'23"E a distance of 48.13 feet; thence N16°45'50"E a distance of 10.71 feet; thence N17°58'30"W a distance of 29.37 feet; thence N59°54'08"W a distance of 44.86 feet; thence N00°57'40"W a distance of 57.48 feet; thence N55°53'15"E a distance of 16.68 feet; thence S84°55'20"E a distance of 36.06 feet; thence N62°33'56"E a distance of 28.30 feet; thence S62°52'55"E a distance of 38.44 feet; thence N38°47'35"E a distance of 23.96 feet; thence N52°46'24"E a distance of 43.04 feet; thence S79°38'46"E a distance of 32.24 feet; thence S42°59'16"E a distance of 13.86 feet; thence S17°08'02"E a distance of 35.90 feet; thence S57°32'51"E a distance of 12.66 feet; thence N75°24'11"E a distance of 40.22 feet; thence S62°28'45"E a distance of 23.94 feet; thence S23°03'59"E a distance of 55.33 feet; thence S78°49'51"E a distance of 64.73 feet; thence N26°36'02"E a distance of 55.46 feet; thence N69°06'57"E a distance of 54.38 feet; thence N08°12'34"E a distance of 24.72 feet; thence N28°13'12"W a distance of 80.71 feet; thence N27°23'43"E a distance of 57.63 feet; thence N68°03'58"E a distance of 30.15 feet; thence N76°32'58"E a distance of 63.56 feet; thence S65°14'57"E a distance of 31.36 feet; thence S69°03'13"E a distance of 65.54 feet; thence S73°33'52"E a distance of 43.83 feet; thence N53°03'50"E a distance of 45.81 feet; thence N43°11'56"E a distance of 61.13 feet; thence N35°21'40"E a distance of 39.20 feet; thence N47°10'57"E a distance of 38.49 feet; thence N70°13'41"E a distance of 20.32 feet; thence S86°31'43"E a distance of 28.72 feet; thence S68°53'51"E a distance of 21.83 feet; thence S53°08'42"E a distance of 18.66 feet; thence S12°53'12"W a distance of 53.00 feet; thence S26°14'27"E a distance of 11.04 feet; thence S68°42'54"E a distance of 22.75 feet; thence N80°30'04"E a distance of 35.04 feet; thence S77°37'19"E a distance of 52.01 feet; thence S41°07'16"E a distance of 54.54 feet; thence S56°17'24"E a distance of 19.72 feet; thence S76°53'07"E a distance of 14.16 feet; thence N80°53'24"E a distance of 35.42 feet; thence S78°13'46"E a distance of 49.05 feet; thence N78°08'29"E a distance of 83.50 feet; thence N64°23'17"E a distance of 18.69 feet; thence S80°16'38"E a distance of 66.85 feet; thence N63°36'36"E a distance of 50.46 feet; thence N42°34'10"E a distance of 45.51 feet; thence N58°57'00"E a distance of 19.19 feet; thence N67°44'01"E a distance of 49.96 feet; thence N51°28'37"E a distance of 12.41 feet; thence N 02°21'39"W a distance of 8.19 feet; thence N24°51'35"E a distance of 60.46 feet; thence N64°22'12"E a distance of 83.23 feet; thence S76°22'59"E a distance of 77.87 feet; thence N75°18'23"E a distance of 88.79 feet; thence S74°37'50"E a distance of 39.20 feet; thence S28°10'23"E a distance of 48.75 feet; thence S09°18'20"E a distance of 31.94

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NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates (Applicant) for

Turkey Creek Properties, LLC (Owner) for Planned District Development Plan Approval for single family large lot development on property zoned District RR-1/PD, Rural Residential (Rural Standards)/Planned Development Overlay District and described as a tract of land located in part of Government Lots 6, 7, 8, and 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northwest corner of the Southwest Quarter of said Section 10 and assuming the west line of said Section as bearing S00°23'11"W and all other bearings shown hereon relative thereto; thence S00°23'11"W on said west line a distance of 431.43 feet to the ACTUAL POINT OF BEGINNING and a point on the centerline of the North Channel of the Platte River; thence S89°37'33"E along said centerline and all courses following are along said centerline until otherwise described, a distance of 37.00 feet; thence S62°22'59"E a distance of 14.25 feet; thence S11°52'03"E a distance of 27.53 feet; thence S03°46'27"E a distance of 77.66 feet; thence S34°20'32"E a distance of 22.99 feet; thence S48°47'23"E a distance of 32.96 feet; thence S59°59'28"E a distance of 49.05 feet; thence S68°13'12"E a distance of 58.03 feet; thence S71°56'52"E a distance of 106.03 feet; thence N75°18'45"E a distance of 37.93 feet; thence N20°12'26"E a distance of 94.95 feet; thence N30°47'32"E a distance of 22.52 feet; thence N60°20'15"E a distance of 72.79 feet; thence S65°23'56"E a distance of 44.09 feet; thence N88°50'40"E a distance of 122.71 feet; thence N48°44'15"E a distance of 62.23 feet; thence S74°10'14"E a distance of 60.31 feet; thence N72°36'56"E a distance of 19.25 feet; thence N55°17'45"E a distance of 55.20 feet; thence N72°29'23"E a distance of 48.13 feet; thence N16°45'50"E a distance of 10.71 feet; thence N17°58'30"W a distance of 29.37 feet; thence N59°54'08"W a distance of 44.86 feet; thence N00°57'40"W a distance of 57.48 feet; thence N55°53'15"E a distance of 16.68 feet; thence S84°55'20"E a distance of 36.06 feet; thence N62°33'56"E a distance of 28.30 feet; thence S62°52'55"E a distance of 38.44 feet; thence N38°47'35"E a distance of 23.96 feet; thence N52°46'24"E a distance of 43.04 feet; thence S79°38'46"E a distance of 32.24 feet; thence S42°59'16"E a distance of 13.86 feet; thence S17°08'02"E a distance of 35.90 feet; thence S57°32'51"E a distance of 12.66 feet; thence N75°24'11"E a distance of 40.22 feet; thence S62°28'45"E a distance of 23.94 feet; thence S23°03'59"E a distance of 55.33 feet; thence S78°49'51"E a distance of 64.73 feet; thence N26°36'02"E a distance of 55.46 feet; thence N69°06'57"E a distance of 54.38 feet; thence N08°12'34"E a distance of 24.72 feet; thence N28°13'12"W a distance of 80.71 feet; thence N27°23'43"E a distance of 57.63 feet; thence N68°03'58"E a distance of 30.15 feet; thence N76°32'58"E a distance of 63.56 feet; thence S65°14'57"E a distance of 31.36 feet; thence S69°03'13"E a distance of 65.54 feet; thence S73°33'52"E a distance of 43.83 feet; thence N53°03'50"E a distance of 45.81 feet; thence N43°11'56"E a distance of 61.13 feet; thence N35°21'40"E a distance of 39.20 feet; thence N47°10'57"E a distance of 38.49 feet; thence N70°13'41"E a distance of 20.32 feet; thence S86°31'43"E a distance of 28.72 feet; thence S68°53'51"E a distance of 21.83 feet; thence S53°08'42"E a distance of 18.66 feet; thence S12°53'12"W a distance of 53.00 feet; thence S26°14'27"E a distance of 11.04 feet; thence S68°42'54"E a distance of 22.75 feet; thence N80°30'04"E a distance of 35.04 feet; thence S77°37'19"E a distance of 52.01 feet; thence S41°07'16"E a distance of 54.54 feet; thence S56°17'24"E a distance of 19.72 feet; thence S76°53'07"E a distance of 14.16 feet; thence N80°53'24"E a distance of 35.42 feet; thence S78°13'46"E a distance of 49.05 feet; thence N78°08'29"E a distance of 83.50 feet; thence N64°23'17"E a distance of 18.69 feet; thence S80°16'38"E a distance of 66.85 feet; thence N63°36'36"E a distance of 50.46 feet; thence N42°34'10"E a distance of

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feet; thence N89°37'32"W a distance of 300.00 feet to the west line of said Section 10; thence N00°23'11"E on said west line a distance of 879.11 feet to the POINT OF BEGINNING, containing 108.45 acres, more or less, all in Buffalo County, Nebraska (Kea West to 30th Avenue, south of the North Channel of the Platte River) be approved subject to compliance with the terms and conditions of the Subdivision Agreement.

BE IT FURTHER RESOLVED that the following deviations be accepted:

1. A rear yard building setback from 100 feet reduced to a minimum of 50 feet. These setbacks are for the homes that will back up to the sandpit lake and Turkey Creek.

2. Site area per housing unit reduced from 3 acres to 2.85 acres.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **REZONING SOUTH OF 5335 BISON ROAD**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Steven and Marni Garringer (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the East Half of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of 5335 Bison Road) and consider Ordinance No. 7702. Planning Commission recommend approval.

The applicant is requesting approval to develop a one-lot rural residential subdivision in Buffalo Hills Subdivision located generally south of 56th Street and east of Cottonmill Avenue. The property in question is on the east side of Buffalo Hills. It is located outside the corporate limits of the City, but within the Two-Mile Extraterritorial Jurisdiction. The property consists of three acres that have never been rezoned or platted. The property is therefore zoned Agricultural by default and since it is less than 10 acres, it must be formally subdivided.

The intended use is a single-family rural residence. The requested rezoning is from AG to RR-1, Rural Residential District (Rural Standards) which is in conformance with the Future Land Use Map of the City of Kearney Comprehensive Development Plan.

The Preliminary Plat and the Final Plat consist of one lot, 3.00 acres in size. The requirement to show topography on the Preliminary Plat has been waived by DRT staff. The property will take access from the existing gravel street known as Bison Road and will be served by well and septic. No Public Works Plan is required. No subdivision agreement is required.

Trenton Snow presented this matter to the Council. There are quite a few lots on this plat that were made lots before the City took them under their jurisdiction within the 2-mile radius. These lots were described by a metes and bounds legal description. This lot previously had a metes and bounds description around the boundary lines. This is a

housekeeping issue since they had not previously developed on it and now they want to build a house on this site. This will bring it under compliance with the City's rules and regulations by making it into a one lot subdivision. This subdivision would have three acres and access to it is along an easement road which connects with Buffalo Avenue off to the west. Since it is outside of Kearney's City limits, water and sewer is private on the site.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing and introduced Ordinance No. 7702 on the Application submitted by Trenton Snow (Applicant) for Steven and Marni Garringer (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the East Half of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of 5335 Bison Road) 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. 7702. 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, Lammer. 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. 7702 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. 7702 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. 7702 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 GARRINGER SUBDIVISION**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Steven and Marni Garringer (Owner) for the Final Plat for Garringer Subdivision, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of 5335 Bison Road) and consider Resolution No. 2012-16.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Trenton Snow (Applicant) for Steven and Marni Garringer (Owner) for the Final Plat for Garringer Subdivision, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of 5335 Bison Road) and consider **Resolution No. 2012-16**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2012-16**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Garringer Subdivision of Buffalo County, Nebraska for a tract of land being part of the East Half of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of Section 29, Township 9 North, Range 16 West and assuming the North line of said Northwest Quarter as bearing N89°54'W and all bearings contained herein are relative thereto; thence N89°54'W a distance of 39.0 feet; thence S00°12'54.4"E a distance of 906.95 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S00°12'54.4"E a distance of 422.9 feet; thence N66°17'27"W a distance of 437.58 feet; thence N06°42'27"E a distance of 248.66 feet; thence EAST a distance of 370.02 feet to the place of beginning, all in Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **IV. CONSENT AGENDA**

Mayor Clouse stated the Consent Agenda was amended on Monday by adding Subsections 15, 16, 17 and 18.

Moved by Lear seconded by Buschkoetter that Subsections 1 through 18 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held January 24, 2012.

2. Approve the following Claims:

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

AT&T \$169.25 smcs; ABA Recovery Services \$414.03 ps; Affiliated Computer Services \$1,065.00 smcs; Aflac \$3,196.16 smcs; Alfred Benesch \$2,022.64 co; All Make Auto Supply \$2,042.98 smcs; All Makes Office \$2,385.71 co; All Partitions & Parts \$67.00 smcs; Ally B Designs \$40.00 smcs; Amber Circle Music \$200.00 smcs; Amer First Aid \$409.98 smcs; Ask Supply \$1,092.61 smcs,co; Aurora Coop \$27.20 smcs; Baker & Taylor \$5,261.45 smcs; Bamford \$831.09 smcs; Baxter,M \$64.19 smcs; Beehive Ind \$17,313.00 co; Blessing \$18,275.81 co; Bluecross Blueshield \$189,494.26 smcs; Bob Derr Construction \$5,803.00 co; Bosselman \$29,306.95 smcs; Broadfoot's \$982.50 smcs; Bruha,S \$30.00 smcs; Buffalo Co Mutual Aid \$50.00 smcs; Buffalo Co Treasurer \$129.87 smcs; Buffalo Co Reg Deeds \$125.00 smcs; Builders Warehouse \$1,328.49 smcs,co; Cash-Wa \$400.90 smcs; Central District Health Dept \$3,465.50 smcs; Central Fire & Safety \$107.25 smcs; Chan,A \$61.19 smcs; Charter \$453.47 smcs; Chesterman \$197.21 smcs; City of Ky \$330,863.49 smcs,ps; Colling,G \$940.00 co; Commercial Maintenance \$376.36 smcs; Compass Tools \$1,420.00 smcs; Conseco Life Ins \$19.00 ps; Copycat Printing \$291.72 smcs; Credit Management Services \$840.62 ps; Culligan \$109.11 smcs; Cummins Central Power \$1,382.59 smcs; Dish Network \$196.23 smcs; Dowhy Towing \$75.00 smcs; Dutton-Lainson \$226.17 smcs; Eakes \$5,727.20 smcs,co; Eirich,T \$50.00 smcs; EMC Ins \$4,615.00 smcs; Emerson Network \$3,332.16 smcs; Express Distributing \$66.00 smcs; Fairbanks \$1,782.40 smcs; Fanci That \$65.10 smcs; Farmers Union Coop \$418.50 smcs; Fedex \$131.79 smcs; Fiddelke Heating \$56.25 smcs,co; Fireguard \$50.01 smcs; Fort Ky Shooting \$2,500.00 smcs; Frontier \$25.92 smcs; Gale \$1,082.02 smcs; Garrett Tires & Treads \$2,465.80 smcs; General Excavating \$282,545.25 co; Gough,P \$180.00 smcs; Great Plains One Call \$221.30 smcs; Grotrain,K \$34.28 smcs; Grupe,B \$92.00 smcs; Harland Technology \$1,401.00 smcs; Hawthorne Jewelry \$1,230.00 ps; Highland Park \$1,755.30 smcs; Hometown Leasing \$682.11 co; Hydrite Chemical \$3,612.39 smcs; Hydro Tech \$216.00 smcs; IACP \$120.00 smcs; ICMA RC \$7,532.85 ps; IRS \$214,932.90 ps; Jack Lederman \$1,311.80 smcs; K&K Parts \$1,091.63 smcs; Kallas,R \$35.49 smcs; Kart-Man \$1,839.10 smcs; Ky Catholic High \$1,227.49 smcs; Ky Community Found \$46,056.00 smcs; Ky Concrete \$6,400.29 smcs,co; Ky Crete & Block \$3,220.08 co; Ky Glass \$654.43 smcs; Ky Hub \$2,530.12 smcs; Ky Humane Society \$6,825.00 smcs; Ky Noon Rotary \$220.00 smcs; Ky Towing \$75.00 smcs; Ky United Way \$893.74 ps; Kehl Tree Service \$700.00 smcs; Krull Ins \$1,950.00 smcs; Krull,D \$41.04 smcs; Lawn Builders \$629.91 smcs; Londer,P \$23.17 smcs; Magic Cleaning \$3,010.00 smcs; Mail Express \$18.66 smcs; Main Street Ky \$35.00 smcs; Marsh Contracting \$1,890.00 smcs; Marsh,D \$35.74 smcs; Marty,L \$23.60 smcs; Matheson Tri-Gas \$19.23 smcs; McDermott & Miller \$21,910.00 smcs; Menards \$544.41 smcs; Metlife \$7,371.04 ps; Meusch Construction \$36.27 smcs; Mid-NE Lubricants \$143.60 smcs; Mid-State Engineering \$3,829.00 co; Midwest Mailing \$820.00 smcs; Midwest Storage Solutions \$65,657.00 co; Miller & Associates \$9,398.35 smcs,co; MOCIC \$250.00 smcs; Morgan,M \$23.76 smcs; Moonlight Embroidery \$1,776.50 smcs; Motorola Solutions \$29,045.00 smcs; NASC \$20.00 smcs; NE Child Support \$4,391.20 ps; NE Dept of

Environmental \$550.00 smcs; NE Dept of Revenue \$34,576.84 ps; NE Fire Administrative \$15.00 smcs; NE Safety & Fire \$274.05 smcs; Nelson's Furniture \$718.20 smcs; Neopost \$6,000.00 smcs; Netmotion Wireless \$3,105.99 smcs; New World Systems \$1,351.96 co; Nordhues,B \$40.31 smcs; Northwestern Energy \$26,781.93 smcs; Nova \$195.20 smcs; Novus \$75.00 smcs; NP Realty \$45.10 smcs; Office Depot \$352.91 smcs; Officenet \$68.98 smcs; O'Keefe Elevator \$353.82 smcs; O'Reilly Automotive \$746.90 smcs; O'Rourke,G \$176.39 smcs; Otto Environmental System \$16,491.00 smcs; Overhead Door \$1,214.00 smcs; Paramount Linen \$165.44 smcs; Pat's Plumbing \$2,404.50 smcs; Paulsen \$69,328.51 co; Payflex Systems \$1,852.00 smcs,ps; Peerless Machine \$1,170.00 co; Pep Co \$53.66 smcs; Pillar Design Studios \$4,200.00 co; Pitney Bowes \$45.00 smcs; Platte Valley Comm \$738.50 smcs; Play the West \$1,000.00 smcs; Presto-X \$444.20 smcs; Professional Collection \$332.65 ps; RW Sorensen Construction \$840.00 smcs; Rasmussen Mechanical \$188.50 smcs; RDG Planning & Design \$3,930.00 smcs,co; Recorded Books \$1,456.17 smcs; Recreonics \$1,748.89 smcs,co; RK Electric \$120.58 co; Roberts,J \$192.00 smcs; S&B Heating \$54.55 smcs; SA Foster \$440.92 smcs; Safelite \$292.90 smcs; Sapp Brothers \$41,989.65 smcs; Schidler Elevator \$641.03 smcs; Schumacher,D \$29.98 smcs; Sherwin Williams \$663.55 smcs; Sirchie Finger Print Lab \$1,545.50 smcs; Skala,D \$55.54 smcs; Snap-On Tools \$42.99 smcs; Snow,T \$50.00 smcs; Snyder & Hilliard \$35.67 smcs; Sorrell,K \$42.87 smcs; Springshare \$899.00 smcs; St of NE/AS Central \$4,502.93 smcs,co; Steinbrink,R \$150.00 smcs; Sun Life Financial \$52,461.85 smcs; Thompson Co \$43.43 smcs; Tree Amigos \$2,880.00 smcs; Tri-County Glass \$8,613.28 co; Turner Body Shop \$6,883.31 smcs; Tye & Rademacher \$10,851.22 smcs; Union Bank & Trust \$109,706.49 ps; UNK \$1,819.25 smcs,ps; Verizon Wireless \$611.42 smcs; Village Uniform \$550.79 smcs; Vollmer,L \$12.00 smcs; Walters Electric \$244.49 smcs; Wiederspan,R \$273.72 smcs; Wiegand Security \$90.00 smcs; William,M \$32.04 smcs; WPCI \$132.00 ps; Yanda's Music \$385.00 smcs; Yant Equipment \$805.00 smcs; Payroll Ending 1/28/2012 -- \$342,731.02. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 1978-01 to locate a manufactured home for security purposes located at 1202 West 19th Street for a period of one year.
4. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 2006-03 to stockpile snow and manure at 1202 West 19th Street for a period of one year.
5. Adopt **Resolution No. 2012-17** approving the Agreement between the City of Kearney and McDermott & Miller for auditing services.

#### **RESOLUTION NO. 2012-17**

WHEREAS, Requests for Proposals were received and opened on May 30, 2003 for auditing services for the City of Kearney, Nebraska and the City of Kearney Community Redevelopment Authority; and

WHEREAS, the City received one proposal from McDermott & Miller, P.C. and City Administration reviewed the proposal and recommended the proposal offered by McDermott & Miller, P.C. of Kearney Nebraska, be accepted; and

WHEREAS, the recommendation from City Administration was accepted and approved on June 24, 2003 by the Kearney City Council; and

WHEREAS, on August 14, 2006 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three years; and

WHEREAS, on March 3, 2009 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three (3) years; and

WHEREAS, on January 25, 2012 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three (3) years.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the recommendation from City Administration is hereby accepted and approved, that McDermott & Miller, P.C. of Kearney, Nebraska, be accepted for auditing services for the City of Kearney, Nebraska, and the City of Kearney Community Redevelopment Authority for the three-year period beginning with the fiscal year ending on September 30, 2012, to be performed in accordance with the Proposal for Professional Audit Services, a copy of which marked "Exhibit A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRURY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**6.** Adopt **Resolution No. 2012-18** approving the Goods and Services Agreement between the City of Kearney and Hydro Optimization and Automation Solutions, Inc. providing a new Water Production Supervisory Control and Data Acquisition (SCADA) system upgrade.

**RESOLUTION NO. 2012-18**

WHEREAS, over the past several years Hydro Optimization and Automation (HOA) Solutions has been selected as the provider of the Supervisory Control and Data Acquisition (SCADA) systems which is the computerized and automated control system that the Water Production Division uses to control the wells and booster pump stations and to monitor the water towers; and

WHEREAS, many of the components of the system need to be updated because the software operating systems are no longer supported, which increases the possibility of a system failure.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Goods and Services Agreement between the City of Kearney and Hydro Optimization and Automation Solutions, Inc. providing a new Water Production Supervisory Control and Data Acquisition (SCADA) system upgrade, the Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Adopt **Resolution No. 2012-19** approving the use of the Kiosk and Web-Site Information Agreement and charging fees associated with the kiosk located at the Kearney Cemetery.

**RESOLUTION NO. 2012-19**

WHEREAS, the Kearney Cemetery will be installing a kiosk that will act as an information system allowing family and friends to locate grave sites; and

WHEREAS, family members will be required to complete a Kiosk & Web-Site Information Agreement; and

WHEREAS, basic information on the kiosk is free but a fee of \$10.00 will be charged for each obituary with a picture; and

WHEREAS, businesses associated with the cemetery, such as funeral homes, monument companies or floral companies would be allowed to advertise on the kiosk for a fee of \$250.00 per year.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Kiosk & Web-Site Information Agreement be approved as to form for use at the Kearney Cemetery. A copy of said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

BE IT FURTHER RESOLVED that the fee in the amount of \$10.00 be approved for the placement on the kiosk of each obituary with a picture.

BE IT FURTHER RESOLVED that the fee in the amount of \$250.00 be approved for businesses associated with the cemetery, such as funeral homes, monument companies or floral companies would be allowed to advertise on the kiosk.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

8. Adopt **Resolution No. 2012-20** approving the Grassland Leases with Billy Dibbern for the West Half of Section 23, and the East Half of Section 14 and the Northeast Quarter of Section 23, all in Township 9 North, Range 17 West of the 6th P.M., Buffalo County, Nebraska.

**RESOLUTION NO. 2012-20**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Grassland Lease on behalf of the City of Kearney with Billy Dibbern for the West Half of Section 23, Township 9 North, Range 17 West of the 6th P.M., Buffalo County. The Grassland Lease, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Grassland Lease on behalf of the City of Kearney with Billy Dibbern for the East Half of Section 14 and the Northeast Quarter of Section 23, Township 9 North, Range 17 West of the 6th P.M., Buffalo County. The Grassland Lease, marked as Exhibit "B", is attached hereto and made a part hereof be reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Approve the application for a Special Designated License submitted by Kearney BBQ, dba Skeeter Barnes in connection with their Class IK catering liquor license to dispense beer and wine inside the Classic Car Museum located at 3600 East Highway 30, Suite B on March 13, 2012 from 5:00 p.m. until 8:00 p.m. for a reception.

10. Adopt **Resolution No. 2012-21** approving The Buckle’s option of extending Non-Owned Corporate Hangars T-922 and T-922A Lease at the Kearney Regional Airport.

**RESOLUTION NO. 2012-21**

WHEREAS, the City Council passed and approved Resolution No. 2009-130 on August 25, 2009 approving the Non-Owned Corporate Hangar Lease for Hangars T-922 and T-922A; and

WHEREAS, the said Lease Agreement provides The Buckle has the option of extending this Lease for two additional ten-year periods upon six months written notice to the City prior to the expiration of each subsequent term; and

WHEREAS, The Buckle has submitted a letter exercising their First Option to renew its Lease for The Buckle hangars for a renewal period of ten years, beginning October 1, 2012 and ending September 30, 2022 with five percent increases each two years.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to accept The Buckle’s First Option to renew its Lease for a period of ten years beginning October 1, 2012 and ending September 30, 2022 with five percent increases each two years. The letter, marked as Exhibit “A” is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

11. Adopt **Resolution No. 2012-22** approving Change Order No. 3 showing an increase in the amount of \$7,948.00 submitted by the World Theatre Foundation.

**RESOLUTION NO. 2012-22**

WHEREAS, Central Contracting, Inc. of Kearney, Nebraska has performed services in connection with the World Theatre Restoration Project, and the engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing an increase to the contract sum in the amount of \$7,948.00, as shown on Exhibit “A”, attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$451,900.00
Change Order No. 1 (12-27-2011)	+ 39,347.00
Change Order No. 2 (1-24-2012)	+ 11,468.00
Change Order No. 3 (2-14-2012)	<u>+ 7,948.00</u>
Contract Sum to Date	\$510,663.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 3, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**12.** Adopt **Resolution No. 2012-23** approving the Ground Lease for Above Ground Fuel Storage Tanks between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for above-ground fuel storage tank at the Kearney Regional Airport and rescind Resolution No. 2011-166.

**RESOLUTION NO. 2012-23**

WHEREAS, Premier Aviation Training and Management, LLC, dba Kearney Aviation Center desired to place a 12,000 gallon above-ground storage tank at the Kearney Regional Airport to purchase fuel in larger quantities; and

WHEREAS, on December 13, 2011, the City Council adopted Resolution No. 2011-166 approving the Lease between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for above-ground fuel storage tank at the Kearney Regional Airport; and

WHEREAS, with the completion of the construction of the pad for the above-ground fuel storage tank, it is necessary to rescind the original Lease to reflect the correct footage of the pad and the annual due for the ground lease.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Ground Lease for Above Ground Fuel Storage Tanks between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for above-ground fuel storage tank at the Kearney Regional Airport. The Ground Lease, marked as Exhibit A, is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that Resolution No. 2011-166 passed and approved on December 13, 2011 approving the Lease be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** 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 Krave Underground building located inside the Kaufmann Center, 2202 Central Avenue on March 3, 2012 from 7:00 p.m. until 1:00 a.m. for a reception/fund raiser.

**14.** Accept the bids received for the Brigham Lofts CDBG NSP3 Project and adopt **Resolution No. 2012-24** awarding the bid to Van Housen Construction in the amount of \$1,095,000.

## RESOLUTION NO. 2012-24

WHEREAS, Brungardt Engineering and the City of Kearney have reviewed the sealed bids which were opened on January 31, 2012 at 2:00 p.m. for the Brigham Lofts CDBG NSP3 Project; and

WHEREAS, the Architects, Joseph R. Hewgley Associates, estimated the cost of construction to be in the range of \$1,420,000 and \$1,450,000 for the said project; and

WHEREAS, Brungardt Engineering and City staff have recommended the bid offered by Van Housen Construction of Kearney, Nebraska in the sum of \$1,095,000 be accepted as the lowest responsible bid for Brigham Lofts CDBG NSP3 Project.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Van Housen Construction of Kearney, Nebraska be and is the lowest responsible bidder for the Brigham Lofts CDBG NSP3 Project to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Van Housen Construction in the sum of \$1,095,000 be and is hereby accepted.

BE IT FURTHER RESOLVED the Architects estimated cost of construction in the range of \$1,420,000 and \$1,450,000 be and is hereby accepted.

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**15.** 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 March 17, 2012 from 4:00 p.m. until 12:00 a.m. for a reception.

**16.** Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropic in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on March 17, 2012 from 6:00 p.m. until 1:00 a.m. for a dance.

**17.** 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 March 10, 2012 from 8:00 a.m. until 10:00 p.m. and March 11, 2012 from 12:00 p.m. until 8:00 p.m. for a bike show.

**18.** Adopt **Resolution No. 2012-25** approving the Option to Purchase Agreement between the City of Kearney and Two Sisters Farms, Inc. for the purchase of a tract of

land located in part of the South Half of the Northwest Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

### **RESOLUTION NO. 2012-25**

WHEREAS, the City of Kearney and Two Sisters Farms, Inc. desire to enter into an Option to Purchase Agreement showing the City's intent to possibly purchase an additional 53.34 acres just to the south of the 112 acres that the City has already purchased for the Tech Park within a 5-year period.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager is hereby authorized and directed to execute the Option to Purchase Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **V. CONSENT AGENDA ORDINANCES**

#### **ORDINANCE NO. 7693A – AMEND ORDINANCE NO. 7693 TO CORRECT LEGAL DESCRIPTION**

The Council previously approved Ordinance No. 7693 creating a paving district for 50th Street west of 17th Avenue in Hoehner Estates Third Addition. An error in the legal description was found and the ordinance needs to be amended to correct it. This item is a housekeeping matter.

Council Member Buschkoetter introduced Ordinance No. 7693A, being Subsection 1 of Agenda Item V correcting the legal description in Paving Improvement District No. 2011-949 for 50th Street from 17th Avenue west to the west line of Hoehner Estates Third Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney 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. 7693A 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. 7693A 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. 7693A 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**

### **ADDITION TO PREMISES FOR BILL'S LIQUOR, 2402 2ND AVENUE**

Mayor Clouse opened for discussion the Application for Addition to the Licensed Premise submitted by Becker Enterprises, dba Bill's Liquor, located at 2402 2nd Avenue in connection with their Class C liquor license.

Chuck Becker, 6312 Avenue Q Place, presented this matter to the Council. He stated that they are in the process of adding on to their location at 2402 2nd Avenue. He stated they had some stepping stones in Omaha that got them behind schedule on this project.

Moved by Lammers seconded by Lear to approve the Application for Addition to the Licensed Premise submitted by Becker Enterprises, dba Bill's Liquor, located at 2402 2nd Avenue in connection with their Class C liquor license. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

### **REVIEW ONE & SIX YEAR STREET IMPROVEMENT PLAN**

Mayor Clouse opened for review the One & Six Year Street Improvement Plan and set the public hearing for February 28, 2012 to adopt the One & Six Year Street Improvement Plan.

City Engineer Bruce Grupe presented this matter to the Council. The following is the One Year Plan.

#### Summary of One Year Plan

Location	Est. State Cost	Est. City Cost	Est. Total Cost
Cherry Avenue Interstate Interchange & Cherry Avenue To 11th Street	\$17,800,000	\$1,500,000	\$19,300,000
17th Avenue from 49th Street North 600'		\$784,000	\$784,000
1st Street from Cherry Avenue West 2700'	\$1,000,000	0	\$1,000,000
2nd Avenue from 25th Street to 32nd Street	\$840,000	\$840,000	\$1,400,000
50th Street from 17th Avenue West 550'		\$489,000	\$489,000
5th Avenue from North Railroad Street to 25th Street		\$762,000	\$600,000
13th Street Place West		\$68,000	\$68,000

He commented on Phase I, the Cherry Avenue Bypass includes a street that ties into the street in front of the Archway. He also stated the piece of 50th Street west to 17th Avenue that is still gravel will be done this year. In doing so, they will be making 50th Street and 17th Avenue a little safer by raising it about four foot so that is why both are included in this project.

A big project is 5th Avenue from North Railroad Street to 25th Street which is under contract and scheduled to start in the spring. Also 2nd Avenue from 25th Street to 32nd Street is a job they partnered with the Department of Roads to replace that part of the roadway. The State is presently having some challenges with acquiring some of the right-of-way which is causing the delay. As soon as this is accomplished, it will go to bid hopefully in April, but if not then it goes to the June letting. Director of Public Works Rod Wiederspan stated if it bids in April, they would expect to have the project 90 percent completed by winter. The lanes would be constructed, but sidewalks and sod work might not be done by that time. If it does not let until June, it is questionable if they can get the entire project done this year.

Council member Buschkoetter expressed concern over this being a major street that might not be able to be completed this year. City Manager Michael Morgan stated that is a question they have struggled with, but this is a State project and they control when the start date is going to be. Director of Public Works stated that if it does not get let until June, he anticipated that they would phase it in similar to what they did on Highway 30. Perhaps construct a portion of it this year and come back and do the remainder next year.

Council member Lear asked if it is common that they would run into problems acquiring right-of-way. Mr. Grupe stated in the past the system has been a little more lax and they allowed projects to be let without having the right-of-way because there is a 2-3 month time period there. The Federal Highway Commission tightened up on the Department of Roads and the City and they are not allowing that anymore.

Council member Lammers asked what the base on the project from North Railroad Street to 25th Street on 5th Avenue is anticipated to be like. Mr. Grupe stated they anticipate the same problems with the base as on the other 5th Avenue project. The original project was to just overlay it with asphalt, but this will be a complete removal and replacement like they ended up doing on the original project. They are going to pull the base up (asphalt & concrete) grind it up and use it in the sub-base for the new pavement. They expect the base to be poor, but not quite as bad as the original because it is not quite as old of a road as some of the other pieces.

Mayor Clouse asked how much maintenance the City is going to be able to do to get it through this winter on 2nd Avenue and 5th Avenue because some of those huge potholes are brutal right now. Director of Public Works stated they are going to go in and fill those yet this week. With the rain, the moisture got in and froze and created quite a few potholes that showed up after this last freeze/thaw. They are basically going to "band-aid" them up until they can get in there and reconstruct them.

City Engineer stated they had a developer step forward and request a district on 13th Street Place just west of 17th Avenue. They will be bringing districts to Council in the near future so it can be completed this year. That concluded his summary of the One Year Plan.

The following is the Six Year Plan.

## Summary of Six Year Plan

Location	Est. State Cost	Est. City Cost	Est. Total Cost
Central Avenue from 26th Street to 31st Street		\$1,420,000	\$1,420,000
5th Avenue from 14th Street to 16th Street		\$200,000	\$200,000
16th Street from Central Avenue to 1st Avenue		\$200,000	\$170,000
Talmadge from 2nd Avenue to 150' West of 3rd Avenue		\$277,129	\$277,129
56th Street from 2nd Avenue West to 4th Avenue		\$570,000	\$570,000
Cherry Avenue Phase II – 11th Street to 56th Street	\$22,200,000	\$322,084	\$22,522,084
Cherry Avenue Phase III – 56th Street to Glenwood Corners	\$11,760,000	\$240,000	\$12,000,000
Avenue M from 11th Street South 500'		\$572,000	\$572,000
Central Avenue from 12th Street to 16th Street – Storm		\$2,608,000	\$2,608,000
29th Street from 6th Avenue to 8th Avenue		\$417,000	\$417,000
Avenue N from 25th Street to 28th Street		\$871,904	\$871,904
Central Avenue from 16th Street to 18th Street – Storm		\$1,394,000	\$1,394,000
18th Street from Central Avenue to 1st Avenue – Storm		\$627,000	\$627,000
8th Street from 2nd Avenue to 3rd Avenue		\$493,000	\$493,000
1st Avenue from 18th Street to South Railroad Street – Storm		\$1,424,000	\$1,424,000
30th Avenue from 39th Street North 2640'		\$1,710,000	\$1,710,000
25th Street and 9th Avenue		\$567,049	\$567,049
39th Street from 30th Avenue West 5700'		\$1,634,000	\$1,634,000
Country Club Lane from 520' North of 35th Street to 39th Street – 800'		\$976,000	\$976,000

Mr. Grupe asked for any questions regarding the Six Year Plan Summary. Mayor Clouse stated that Central Avenue from 26th Street to 31st Street has been pushed back contingent on what happens to 2nd Avenue. Director of Public Works stated that project was originally planned for this year, but they moved 17th Avenue and 50th Street up a year so they did not have all three tore up at the same time.

Council member Lear asked what the estimated lifespan of 39th Street to 30th Avenue and about Avenue N since they are on the Six Year Plan. Director of Public Works stated on Avenue N there are some traffic challenges they would like to take care of first from 25th Street to 28th Street. They plan to do some manipulating of the traffic signals in the near future to take care of some safety problems they have had. This will be a short term fix. They will then take a look at realigning them.

Council member Lear commented he believed that the life of Avenue N north is about at an end. City Manager agreed and stated 11th Street and Central Avenue and several other streets are at an end. This is why they have been expressing to citizens that the City is significantly into the street business for the next several years. The funding from the ½ cent sales tax that went to a lot of the special projects is no longer going to be available in the coming years as they switch into heavy street work. For those 2nd through 6th year projects will be added as the City gets further down the road and it knows what sales taxes are available. The City has some major streets that need rebuilt and Avenue N is one of them. City Engineer added that 39th Street also has stretches that have not been done.

City Manager stated that the north/south streets, Central Avenue, 2nd Avenue, Avenue N and 5th Avenue get high volumes of traffic. These are all big projects with high dollar costs. The City is planning for these projects and will certainly get to them. He wanted everyone to keep in mind they have done some major streets in the past few years with 39th Street and 11th Street. On the Six Year Plan, these projects are prioritized each year as the greatest needs arise. Other factors that affect projects are changing travel patterns, funding changes and STP money in the future will have more flexibility than it does today with the new funding format from the State. That State money will be de-regulated and the City will receive a guaranteed amount per year, although less than previous years, will be more useable. The City has not made plans for those dollars as they are not quite there yet. At present, Cherry Avenue is using several prior years of the accumulated STP funds. A few years out the City will be able to use those funds for some of these projects.

Council member Lammers stated that it was his understanding that the project on Country Club Lane was the developer's responsibility to pave that section as it developed. City Engineer stated they put projects on the report that they foresee might be done in the future even though they are developer driven. City Manager added that the State requires the reporting of these projects regardless of the funding.

Moved by Lear seconded by Buschkoetter to set the public hearing for February 28, 2012 to adopt the One & Six Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

#### **OPEN ACCOUNT CLAIMS: NPPD - \$85,434.34**

Moved by Buschkoetter seconded by Lammers that the Open Account Claim in the amount of \$85,434.34 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Clouse abstained. Kearney absent. Motion carried.

## **VII. REPORTS**

### **CLOSED SESSION**

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 7:46 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. 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 matters. 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 Clouse seconded by Lammers that Council reconvene in regular session at 8:36 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

**VIII. ADJOURN**

Moved by Buschkoetter seconded by Lear that Council adjourn at 8:36 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**MICHAELLE E. TREMBLY  
CITY CLERK**