

*Kearney, Nebraska
March 13, 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 March 13, 2012 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Lance Lang, City Planner were also present. Some of the citizens present in the audience included: Mark Benjamin, Mike Kalb, Trenton Snow, Lee Pohlhemus, Vicki Pohlhemus, Steve Altmaier from KGFW Radio, Kevin Hervert from Kearney Hub, NTV.

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

I. ROUTINE BUSINESS

INVOCATION

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

VACATE LOT 2, JOHNSON ESTATES (ORDINANCE NO. 7703) AND REZONE PROPERTY LOCATED WEST OF 4510 COTTONMILL AVENUE (ORDINANCE NO. 7704)

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

Because of a conflict of interest, Council member Lear vacated his chair and abstained from discussion and voting on this matter.

Mayor Clouse opened the public hearing on the Applications submitted by Trenton Snow (Applicant) for Heber and Carrie Crockett (Owner) as follows: (1) to vacate Lot 2, Johnson Estates, a subdivision being part of the West Half of the Southwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and consider Ordinance No. 7703; and (2) 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 Southwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of 4510 Cottonmill Avenue) and consider Ordinance No. 7704. Planning Commission recommended approval.

This project is located in the Two-Mile Extra-Territorial Jurisdiction on the west side of Cottonmill Avenue north of 39th Street. The application is basically a "land swap" between adjoining property owners. Due to the hilly topography of the site, one owner needs a small triangle of additional land to accommodate his driveway for a proposed rural residence. He is willing to give or sell property owner number two some of his land in exchange for the land he is receiving. The project requires vacation of part of an existing subdivision, rezoning a small parcel and approval of a preliminary and final plat.

Lot 2 of Johnson Estates, which will be referred to as the north property owner, is to be vacated and a small triangle of land will be added to the west side that is currently owned by the south property owner. The small triangle to be added consists of 0.93 acres and is also the property to be rezoned. A small corner of former Lot 2, Johnson Estates is being traded to the south property owner in exchange for the 0.93 acre triangle. The southwest corner of former Lot 2, Johnson Estates is to go to the south property owner as a small triangle containing roughly 0.15 acres. The 0.93-acre triangle and the property that was formerly Lot 2 of Johnson Estates minus the 0.15-acre triangle will be combined to form the new one-lot subdivision to be known as Murray Estates.

The north property that was formerly known as Lot 2, Johnson Estates is zoned RR-1, Rural Residential (Rural Standards). Since the 0.93 acre triangle is to be added to this property to form Murray Estates, the triangle needs to be rezoned from AG to RR-1.

The Preliminary and Final Plats for Murray Estates consist of one lot. The Preliminary Plat was approved by Planning Commission on February 17, 2012. The lot is the conglomeration of former Lot 2, Johnson Estates minus the 0.15-acre triangle plus the

0.93-acre triangular piece and consists of a total of 8.49 acres. The property to the south is larger than 10 acres so is not part of a subdivision.

In summary, the north property owner is giving or selling 0.15 acres to the south property owner so that the driveway will work. The south property owner is giving or selling 0.93 acres to the north property owner, which will be added to the existing holdings of the north property owner. The resulting amount of land will be less than 10 acres (8.49), which must therefore be platted. The use of these lots is for rural residences. They 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. He stated Dr. Crockett needs a triangular piece of ground that the Murrays own in order to facilitate his driveway to the house that he is planning to build. In exchange, he wants to swap a triangular shaped piece of land for it located to the north of the Murrays. By doing that, the piece the Murrays would own would be under ten acres so they have to vacate the lot in Johnson Estates and recreate a new lot, called Lot 1, Murray Estates. Dr. Crockett's piece will still be over twenty acres so that does not require a subdivision. The new Lot 1, Murray Estates was created and requires rezoning of that little piece they are adding to Murray's property that previously was owned by Dr. Crockett. This site is outside of the City Limits, but is within the two mile radius jurisdiction. There is no City water or sewer to the property, it is all private.

There was no one present in opposition to this hearing.

Moved by Kearney to close the public hearing and introduced Ordinance No. 7703 on the Application to vacate Lot 2, Johnson Estates, a subdivision being part of the West Half of the Southwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and introduced Ordinance No. 7704 on the Application 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 Southwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of 4510 Cottonmill Avenue) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 7703 and 7704. President of the Council asked for discussion or if anyone in the audience was interested in the ordinances. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 7703 and 7704 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion carried. Ordinances were read by number.

Moved by Lammers seconded by Buschkoetter that Ordinance Nos. 7703 and 7704 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 7703 and 7704 are 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 MURRAY ESTATES

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

Because of a conflict of interest, Council member Lear vacated his chair and abstained from discussion and voting on this matter.

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Heber and Carrie Crockett and Guy Murray and Heather Swanson (Owner) for the Final Plat for Murray Estates, Buffalo County, Nebraska for property described as a tract of land being part of the West Half of the Southwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of 4510 Cottonmill Avenue) and consider Resolution No. 2012-31.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Trenton Snow (Applicant) for Heber and Carrie Crockett and Guy Murray and Heather Swanson (Owner) for the Final Plat for Murray Estates, Buffalo County, Nebraska for property described as a tract of land being part of the West Half of the Southwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west of 4510 Cottonmill Avenue) and adopt **Resolution No. 2012-31**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion carried.

RESOLUTION NO. 2012-31

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Murray Estates of Buffalo County, Nebraska for a tract of land being part of the West Half of the Southwest Quarter and part of Lot 2 (now vacated), Johnson Estates, a subdivision being part of the West Half of the Southwest 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 Northwest corner of the Southwest Quarter of said Section 29 and assuming the West line of said Southwest Quarter as bearing S02°14'17"W and all bearings contained herein are relative thereto; thence S02°14'17"W on the aforesaid West line a distance or 1131.87 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being the Northwest corner of Lot 1 in said Johnson Estates; thence continuing S02°14'17"W on the aforesaid West line a distance of 488.77 feet; thence N70°46'E a distance of 178.9 feet to a point on the West line of said Lot 2 (now vacated); thence S19°13'20"E on the

aforesaid West line a distance at 96.52 feet; thence S65°32'28"E a distance of 162.44 feet to a point on the South line of said Lot 2 (now vacated); thence N71°43'55"E on the aforesaid South line a distance of 688.19 feet to the Southeast corner of said Lot 2 (now vacated); thence N19°13'26"W on the East line of said Lot 2 (now vacated) a distance of 248.11 feet to the Northeast corner of said Lot 2 (now vacated); thence N88°09'29"W on the North line of said Lot 2 (now vacated) a distance of 209.97 feet; thence N83°57'22"W continuing on the aforesaid North line a distance of 674.1 feet to the Northwest corner of said Lot 2 (now vacated); thence N19°13'26"W on the West line of said Lot 1 a distance of 64.0 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 13TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING PROPERTY LOCATED AT 2214 14TH AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by BD Construction (Applicant) and Loper Suites LLC (Owner) to rezone from District C-2, Community Commercial District to District C-2/PD, Community Commercial/Planned Development Overlay District property described as the south 49 feet of Lot 2, all of Lots 3, 4, 5, 6, 9, 10, and the south 49 feet of Lot 11, all in Block 9, Kearney Land & Investment Company 2nd Addition to the City of Kearney, Buffalo County, Nebraska, excepting therefrom the west 92 feet of Lot 7 and the west 92 feet of the south 30 feet of Lot 8, Block 9 thereof (2214 14th Avenue) and consider Ordinance No. 7705. Planning Commission recommended approval subject to approval of the requested deviations.

The applicant is requesting approval for a multi-family development south of the University at 2214 14th Avenue. You may recall that this site was once home to a mobile home park but was purchased several years ago and the mobile home park was demolished with the intention of building apartments. The property has changed hands several times and various development schemes have been presented to staff. None of the ideas to develop apartments on this site have come to fruition until now. Representatives from BD Construction have been working with City staff to come up with a feasible multi-family layout for this site. The site is surrounded by streets on three sides and an existing single family house sits on the southwest corner that is not part of this property. There are overhead utilities on all three streets and the site is tight for multi-family development. The applicants are therefore requesting several deviations that will require a planned district overlay. Consequently, the site must be rezoned from

C-2 to C-2/PD, Community Commercial/Planned Development Overlay District. Multi-family dwellings are an allowable use in C-2 zones.

The applicant has submitted a Development Plan package that includes the proposed site layout, architectural building elevations and a landscape plan. The following deviations are requested by the applicant:

- 1) A 15-foot deviation to the required 25-foot street yard along 15th Avenue resulting in a requested street side yard of ten feet.
- 2) A 15-foot deviation to the required 25-foot side yard along the north property line resulting in a requested side yard of ten feet.
- 3) A 10-foot deviation to the required 25-foot side yard along the south property line common to the single-family lot at the southwest corner of the site, resulting in a requested side yard of 15 feet.
- 4) A density deviation for one additional dwelling unit above the required maximum density of 24 for a total of 25 units. Density was calculated by dividing the site area of approximately 60,000 square feet by 2,500 square feet of site area per dwelling unit ($60,000/2,500 = 24$). Part of the justification for this deviation is due to the fact that the apartment buildings are designed to contain multiples of five dwelling units.
- 5) Landscape yard deviation of ten feet from the required 20-foot wide landscape yard along 15th Avenue.

An acceptable Landscape Plan has been submitted. Architectural elevations show 35 percent brick on the street facing facades as required by code.

Mark Benjamin, presented this matter to the Council for BD Construction. They are proposing an apartment complex which will consist of five townhomes located to the southeast of the property and twenty apartment units located to the west and northeast. The center unit and the northeast unit are 2-story units and the apartment complex on the southwest are single story. They spent a great deal of time and effort with City staff in trying to get this plan accomplished. Their first thought was this was a very nice piece of property to develop in a prime location and found that it was very difficult to accomplish. They have changed the composition about a half dozen times. The current plan can accommodate the on-street parking that is located on the northwest and to the center of the eastern part of the property. It also includes a very nice landscaping plan that will enhance that area.

He went on to explain the reasons for the deviations being requested. They wanted to make sure they had ample green space and actually had setbacks on 15th Avenue that were larger than on 14th Avenue. There are single family units on 14th Avenue and multiple family across the street on 15th Avenue. They shifted the apartments to the west so they could have a little more separation from the single family homes that border 15th Avenue across the street. City Planner Lance Lang was very involved with the landscape plan so they will have proper screening and large amounts of green space.

The single family unit consists of two bedrooms, single bath, kitchen, living room/dining area. All appliances will be furnished including washer and dryer. All units will be nicely finished and attractive. In an effort to try and enhance the area, the exterior will have more brick than required by Code and all sides of each complex will be brick. Each unit will have approximately 890 square feet. Most of the deviations were arrived at by working with City staff and the developer is in agreement with all of them.

Council member Lammers wanted to know what kind of plantings they will have in the green space. City Planner stated that he met with Mike Johnson from Johnson Landscape on the site. Mr. Lang stated that one of his concerns was the overhead utility lines on all three streets. Once they measured things at the site, they found there is plenty of room to get back away from the street and still plant what is considered the typical street trees like maples, oaks, lindens or other full canopy trees on all three sides. He thought that maples were the kind of trees they decided on, but would have to verify.

Mayor Clouse asked for an explanation between the C-2 and C-2/PD for those in attendance. City Planner stated that each of the zoning districts can be required to have an overlay applied to it which is the PD designation. One reason this is done is if the property is in a very visible part of the community where the Council wants to make sure that the project ends up with eye appeal. The PD can automatically be used based on the zoning map. In other cases like this one, where they ran into a lot of challenges with meeting the letter of the Code, the PD actually allows for the deviations to be negotiated with the developer. They would not support the deviations in every case; an example would be if they were doing an apartment project on 56th Street where it is all open land with no constraints. He stated working together, they came up with the idea to use the PD overlay to justify the deviations. This is a mixed neighborhood where there is light industrial, rental property, owner occupied properties so they tried to fit this project into the neighborhood the best way they could.

Lee Pohlhemus, 2215 14th Avenue, voiced his concern on off-street parking. He lives directly across the street from the proposed site. He has no qualms about having an apartment complex across the street. His biggest concern is the off-street parking for the tenants of those units. The traffic flow is terrible in that area. Although he did not believe this is going to increase it, he stated he would like to see adequate off-street parking for the proposed facility or better enforcement of the parking code in that area. Mr. Benjamin stated in accordance with City Code, 50 parking stalls are required for the 25 units and their plan meets that requirement.

Vicki Pohlhemus, 2215 14th Avenue, asked where guests of the tenants of the complex are supposed to park. Mr. Benjamin stated as the developer, their responsibility is to meet the parking Code requirements for the residents of the development.

Director of Public Works Rod Wiederspan stated that parking is currently allowed on both sides of 14th Avenue. City Manager Michael Morgan stated that if there is a problem in the future, the neighbors could petition regarding that issue. When street parking has been banned in the past, the neighbors generally have come back and asked for it to be rescinded in many cases. Director of Public Works stated since this street is in close proximity to the University, it is a popular place for students to park and

walk to class. He believed by taking parking off one side, it would just make them park further into the neighborhood in front of existing residential homes. It is difficult to take away parking in that area. There are no time restrictions on the parking at this time. The Council members discussed the challenge that college students present with parking in this area. Each unit is allowed two parking stalls, but some tenants might only have one vehicle and open stalls could be used by others not in residence there. It is very difficult to enforce tenants only.

Moved by Clouse to close the public hearing and introduced Ordinance No. 7705 on the Application submitted by BD Construction (Applicant) and Loper Suites LLC (Owner) to rezone from District C-2, Community Commercial District to District C-2/PD, Community Commercial/Planned Development Overlay District property described as the south 49 feet of Lot 2, all of Lots 3, 4, 5, 6, 9, 10, and the south 49 feet of Lot 11, all in Block 9, Kearney Land & Investment Company 2nd Addition to the City of Kearney, Buffalo County, Nebraska, excepting therefrom the west 92 feet of Lot 7 and the west 92 feet of the south 30 feet of Lot 8, Block 9 thereof (2214 14th Avenue) 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 Kearney seconded the motion to close the hearing and suspend the rules for Ordinance No. 7705. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7705 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7705 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7705 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.

DEVELOPMENT PLAN APPROVAL FOR 2214 14TH AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by BD Construction (Applicant) and Loper Suites LLC (Owner) for Planned District Development Plan Approval for the construction of a 25-unit apartment complex on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District for property described as the south 49 feet of Lot 2, all of Lots 3, 4, 5, 6,

9, 10, and the south 49 feet of Lot 11, all in Block 9, Kearney Land & Investment Company 2nd Addition to the City of Kearney, Buffalo County, Nebraska, excepting therefrom the west 92 feet of Lot 7 and the west 92 feet of the south 30 feet of Lot 8, Block 9 thereof (2214 14th Avenue) and consider Resolution No. 2012-32. Planning Commission recommended approval subject to approval of the requested deviations.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by BD Construction (Applicant) and Loper Suites LLC (Owner) for Planned District Development Plan Approval for the construction of a 25-unit apartment complex on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District for property described as the south 49 feet of Lot 2, all of Lots 3, 4, 5, 6, 9, 10, and the south 49 feet of Lot 11, all in Block 9, Kearney Land & Investment Company 2nd Addition to the City of Kearney, Buffalo County, Nebraska, excepting therefrom the west 92 feet of Lot 7 and the west 92 feet of the south 30 feet of Lot 8, Block 9 thereof (2214 14th Avenue) and adopt **Resolution No. 2012-32** with the following deviations: (1) a 15-foot deviation to the required 25-foot street yard along 15th Avenue resulting in a requested street side yard of ten feet; (2) a 15-foot deviation to the required 25-foot side yard along the north property line resulting in a requested side yard of ten feet; (3) a 10-foot deviation to the required 25-foot side yard along the south property line common to the single-family lot at the southwest corner of the site, resulting in a requested side yard of 15 feet; (4) a density deviation for one additional dwelling unit above the required maximum density of 24 for a total of 25 units; and (5) landscape yard deviation of ten feet from the required 20-foot wide landscape yard along 15th Avenue. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2012-32

WHEREAS, BD Construction (Applicant) and Loper Suites LLC (Owner) have applied for Planned District Development Plan Approval for the construction of a 25-unit apartment complex on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as the south 49 feet of Lot 2, all of Lots 3, 4, 5, 6, 9, 10, and the south 49 feet of Lot 11, all in Block 9, Kearney Land & Investment Company 2nd Addition to the City of Kearney, Buffalo County, Nebraska, excepting therefrom the west 92 feet of Lot 7 and the west 92 feet of the south 30 feet of Lot 8, Block 9 thereof (2214 14th Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of BD Construction (Applicant) and Loper Suites LLC (Owner) for Planned District Development Plan Approval for the construction of a 25-unit apartment complex on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as the south 49 feet of Lot 2, all of Lots 3, 4, 5, 6, 9, 10, and the south 49 feet of Lot 11, all in Block 9, Kearney Land & Investment Company 2nd Addition to the City of Kearney, Buffalo County, Nebraska, excepting therefrom the west 92 feet of Lot 7 and the west 92 feet of the south 30 feet of Lot 8, Block 9 thereof (2214 14th Avenue) 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 15-foot deviation to the required 25-foot street yard along 15th Avenue resulting in a requested street side yard of ten feet.

2. A 15-foot deviation to the required 25-foot side yard along the north property line resulting in a requested side yard of ten feet.

3. A 10-foot deviation to the required 25-foot side yard along the south property line common to the single-family lot at the southwest corner of the site, resulting in a requested side yard of 15 feet.

4. A density deviation for one additional dwelling unit above the required maximum density of 24 for a total of 25 units. Density was calculated by dividing the site area of approximately 60,000 square feet by 2,500 square feet of site area per dwelling unit (60,000/2,500 = 24). Part of the justification for this deviation is due to the fact that the apartment buildings are designed to contain multiples of five dwelling units.

5. Landscape yard deviation of ten feet from the required 20-foot wide landscape yard along 15th Avenue.

PASSED AND APPROVED THIS 13TH DAY OF MARCH, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

VACATE PORTION OF BEL AIR SECOND AND BEL AIR FOURTH AND AMENDMENT TO LAND USE MAP FOR PROPERTY LOCATED WEST OF THE INTERSECTION OF AVENUE N AND 66TH STREET

Mayor Clouse stated the applicant has requested to postpone until April 10, 2012 the Applications submitted by Buffalo Surveying Corp. (Applicant) for Starostka Group Unlimited, Inc. (Owner) as follows: (1) vacate Lots 1 through 5 of Block 3, all of Avenue L as it abuts Lot 5 of Block 3, all of that part of 66th Street Place as it abuts Lots 1 through 5 of Block 3, and all that part of 66th Street Place as it abuts part of Avenue L, all in Bel Air Second Addition, together with Lot 5 of Block 2 and all that part of 66th Street Place as it abuts said Lot 5 of Block 2, all in Bel Air Fourth Addition; and (2) an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Medium Density Residential for property described as Lots 1 through 5 inclusive of Block Three (to be vacated), Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska and part of 66th Street Place, a street in the City of Kearney, and part of Avenue L, a street in the City of Kearney (west of the intersection of Avenue N and 66th Street).

Moved by Lear seconded by Buschkoetter to postpone until April 10, 2012 the Applications to vacate a portion of Bel Air Second Addition and a portion of Bel Air Fourth Addition, and an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Medium Density Residential for property located west of the intersection of Avenue N and 66th Street. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

REZONING PROPERTY LOCATED WEST OF THE INTERSECTION OF AVENUE N AND 66TH STREET

Mayor Clouse stated the applicant has requested to postpone until April 10, 2012 the

Application submitted by Buffalo Surveying Corp. (Applicant) for Starostka Group Unlimited, Inc. (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as Lots 1 through 5 inclusive of Block 3 (to be vacated), Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska and part of 66th Street Place, a street in the City of Kearney, and part of Avenue L, a street in the City of Kearney (west of the intersection of Avenue N and 66th Street).

Moved by Lear seconded by Buschkoetter to postpone until April 10, 2012 the Application to rezone property located west of the intersection of Avenue N and 66th Street. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR STAROSTKA VIEW ADDITION

Mayor Clouse stated the applicant has requested to postpone until April 10, 2012 the Application submitted by Buffalo Surveying Corp. (Applicant) for Starostka Group Unlimited, Inc. (Owner) for the Final Plat and Subdivision Agreement for Starostka View Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lots 1 through 5 inclusive of Block 3, all of Avenue L, a street in the City of Kearney as it abuts said Lot 5 of Block 3 on the east, all that part of 66th Street Place, a street in the City of Kearney as it abuts said Lots 1 through 5 inclusive of Block 3, and all that part of 66th Street Place, a street in the City of Kearney as it abuts the aforescribed part of Avenue L on the north, all in Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; TOGETHER WITH Lot 5 of Block 2, and all that part of 66th Street Place, a street in the City of Kearney as it abuts said Lot 5 of Block 2 on the north, all in Bel Air Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (said lots and streets to be vacated) (west of the intersection of Avenue N and 66th Street).

Moved by Lear seconded by Buschkoetter to postpone until April 10, 2012 the Application for the final plat for Starostka View Addition. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

DEVELOPMENT PLANS FOR 66TH STREET PLACE AND AVENUE L

Mayor Clouse stated the applicant has requested to postpone until April 10, 2012 Application submitted by Brungardt Engineering (Applicant) for Starostka Group Unlimited, Inc. (Owner) for Planned District Development Plan Approval for duplex development on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District for property described as proposed Lot 1 of Block 2, Starostka View Addition, an addition to the City of Kearney, Buffalo County, Nebraska (66th Street Place and Avenue L).

Moved by Lear seconded by Buschkoetter to postpone until April 10, 2012 the Application for Planned District Development Plan Approval for duplex development on property located at 66th Street Place and Avenue L. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 9 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held February 28, 2012.
2. Approve the following Claims:

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

2020 Technologies \$592.80 co; Ahren,V \$460.00 smcs; All Makes Auto Supply \$2,125.61 smcs; Amer First Aid \$180.56 smcs; Anderson,H \$27.39 smcs; Antelope Newspaper \$320.00 smcs; Ask Supply \$2,539.27 smcs,co; Aurora Coop \$81.60 smcs; Auto Glass Pros \$34.73 smcs; Baker & Taylor Books \$2,683.52 smcs; Bamford \$13,695.00 smcs,co; B-D Construction \$1,200.00 smcs; Bennett,T \$1,082.25 smcs; Big Rack Shack \$115.80 co; Blessing \$2,770.00 smcs; Bluecross Blueshield \$31,668.09 smcs; Boss,M \$25.80 smcs; Bosselman \$14,693.44 smcs; Broadfoot's \$2,032.50 smcs; Brodine,S \$128.00 smcs; Builders Warehouse \$5,392.42 smcs,co; Carquest \$1,429.58 smcs; Cash-Wa \$85.60 smcs; Central Fire & Safety \$635.00 smcs; Central NE Bobcat \$3,991.86 co; Charter \$89.24 smcs; City of Ky \$56,515.19 smcs,ps; Colorado Fire Mechanics \$870.00 smcs; Cornhusker Cleaning \$304.60 smcs; Cornhusker State Ind \$3,500.00 co; Crushers \$650.00 smcs; Davis McLarty Agency \$1,750.00 smcs; DBSP \$1,000.00 smcs; Demco \$9,412.32 co; Dish Network \$68.71 smcs; Dugan Business Forms \$698.13 smcs; Dutton Lainson \$1,053.07 smcs; Eakes \$29,093.17 smcs,co; Eirich,T \$50.00 smcs; Elliott Equipment \$1,755.03 smcs; Engineered Controls \$345.00 smcs; Epley,G \$35.05 smcs; Every Child Ready to Read \$15.00 smcs; Farmers Union Coop \$487.28 smcs; Feddersen,M \$45.42 smcs; Filbert,J \$120.00 smcs; Fireguard \$118.70 smcs; Flaherty,T \$156.00 smcs; Frontier \$8,973.52 smcs; Gangwish Turf \$35.00 smcs; Garrett Tires \$249.95 co; Goodin,CR \$60.00 smcs; Gough,P \$150.00 smcs; H&H Distributing \$487.75 smcs; Hawthorne Jewelry \$16.36 ps; HD Supply \$24,221.62 smcs; Honeywell \$141.30 smcs; ICMA RC \$3,760.80 ps; IRS \$108,815.77 ps; Jack Lederman \$566.55 smcs,co; Jacobs,J \$125.40 smcs; Jasnoch,K \$50.55 smcs; K&K Parts \$820.75 smcs; Kart-Man \$902.05 smcs; Ky Clinic \$35.00 smcs; Ky Community Found \$35,109.00 smcs; Ky Floral \$50.24 smcs; Ky Hub \$173.56 smcs; Ky Visitors Bureau \$51,133.15 smcs; Konica Minolta \$1,152.75 smcs; KOSO M-Mac Intl \$1,313.26 smcs; Krull Ins \$1,950.00 smcs; League of NE Municipalities \$425.00 smcs; Lerner Publishing \$67.80 smcs; Mac Tools \$14.78 smcs; Magic Cleaning \$2,750.00 smcs; Mail Express \$63.40 smcs; Marlatt Machine \$975.00 smcs; Matheny,K \$103.59 smcs; Matheson Tri-Gas \$18.57 smcs; McManus,R \$5.33 smcs; Meier,B \$270.00 smcs; Menards \$325.06 smcs,co; Meridian Library Systems \$20.00 smcs; Michael Todd & Co \$1,645.72 smcs; Mid-NE Garage Doors \$1,200.00 smcs; Midwestern USA \$60.00 smcs; Milco Environmental \$4,500.55 smcs; Miller & Associates \$4,394.85 smcs; Milliman \$1,800.00 smcs; Moore & O'Connor \$35.10 smcs; Municipal Supply \$2,999.26

smcs; NE Child Support \$2,195.60 ps; NE Dept of HHS \$80.00 smcs; NE Forest Service \$40.00 smcs; NE Library Assn \$40.00 smcs; NE Public Health \$226.00 smcs; NE Rural Water Assn \$850.00 smcs; NE State Fire Marshal \$240.00 smcs; NEland Distributors \$462.74 smcs; Neopost \$6,000.00 smcs; New World System \$985.00 co; Nordhues,B \$34.51 smcs; Northwestern Energy \$17,246.73 smcs; O'Keefe Elevator \$200.00 smcs; Olsson Associates \$2,900.00 smcs; O'Reilly Automotive \$486.10 smcs; Overhead Door \$65.00 smcs; Platte Valley Labs \$680.00 smcs; Presto-X \$300.30 smcs; Pulliam,R \$40.00 smcs; Quintana,E \$11.69 smcs; RW Sorensen \$3,500.00 smcs; Random House \$200.00 smcs; Ready Mixed Concrete \$380.63 smcs; Recorded Books \$2,043.14 smcs; Reinke's Heating \$106.45 smcs; Richards,K \$35.00 smcs; Roesler,A \$92.00 smcs; SA Foster \$396.00 smcs; Sage,P \$48.15 smcs; Snow,T \$50.00 smcs; Spaulding,J \$23.55 smcs; Star Homes \$80.25 smcs; St of NE/AS Central \$3,550.54 smcs; Sun Life Financial \$52,748.15 smcs; Sutton Rentals \$46.95 smcs; Theis,G \$72.72 smcs; Thiems,T \$40.23 smcs; Thompson Co \$73.69 smcs; Tool Doctor \$136.73 smcs; Traver,K \$8.35 smcs; Tri City BMX \$444.22 smcs; Tri-Cities Group \$181.59 smcs; Tye & Rademacher \$10,815.27 smcs; Union Bank \$55,395.07 ps; Verizon Wireless \$1,075.37 smcs; Vermeer Equipment \$176,800.00 co; Village Uniform \$643.92 smcs; Walsh,C \$154.29 smcs; Walz,Q \$13.02 smcs; Wells Fargo Bank \$103,580.00 smcs; West Villa Animal Hospital \$268.67 co; Wick's Sterling Trucks \$2,296.25 smcs; Wiegand Security \$90.00 smcs; Yellow Van Cleaning \$4,000.00 co; Payroll Ending 2-25-2012 -- \$342,479.96. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Adopt Resolution No. 2012-36 approving the Developer Constructed Infrastructure Agreement for Lot 1 of Block Two, Northacre Sixth Addition between the City of Kearney and L & P Investments, LLC.

RESOLUTION NO. 2012-36

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lot 1, Block Two, Northacre Sixth Addition" between the City of Kearney and L & P Investments, L.L.C., a Nebraska Limited Liability Company, to construct water and sanitary sewer to serve the property described as Lot 1, Block Two, Northacre Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Danny Starostka on behalf of and L & P Investments, L.L.C. to construct said water and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 13TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Adopt Resolution No. 2012-37 approving the Developer Constructed

Infrastructure Agreement for Lot 1, Ingalls Crossing Fifth Addition between the City of Kearney and Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm.

RESOLUTION NO. 2012-37

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lot 1, Ingalls Crossing Fifth Addition" between the City of Kearney and Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership, to construct paving, storm sewer, water and sanitary sewer to serve the property described as Lot 1, Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Roberta Corrigan on behalf of and Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm to construct said paving, storm sewer, water and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 13TH DAY OF MARCH, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense wine in the Classic Car Collection building located at 3600 East Highway 30, Suite B on March 30, 2012 from 5:30 p.m. until 7:30 p.m. for a sampling/tasting.

6. 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 inside the Museum of Nebraska Art, 2401 Central Avenue on April 13, 2012 from 7:00 p.m. until 12:00 a.m. for a reception.

7. Approve the application for a Special Designated License submitted by Kearney BBQ, dba Skeeter Barnes in connection with their Class IK-55865 catering liquor license to dispense beer, wine and distilled spirits in the Food Court inside the Great Platte River Road Archway Monument located at 3060 East 1st Street on April 17, 2012 from 5:00 p.m. until 11:30 p.m. for a reception.

8. Approve the recommendation submitted by the Downtown Improvement Board on the temporary closing of the parking stalls on the south side of 24th Street from the alley to Avenue A on March 23, 2012 from 8:00 a.m. until 12:00 a.m.

9. Approve the recommendation submitted by the Downtown Improvement Board on the temporary closing of the parking lot located between 23rd Street and 24th Street abutting 1st Avenue on June 23, 2012 from 8:00 a.m. until 12:00 a.m.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7708 VACATING PORTION OF 21ST AVENUE NORTHWEST

On August 14, 2001 the City Council approved the development of Sunny Meadows Estates Subdivision which is located south of 42nd Street and west of 20th Avenue. The Planning Commission had recommended vacating the northwest portion of 21st Avenue Northwest abutting Lot 8, Park Meadow Addition and at a later Council meeting to vacate the southwest portion of 21st Avenue Northwest.

The City was contacted by Barney Abstract concerning the vacation of the southwest portion of 21st Avenue Northwest. It has been determined that the City did not vacate the southwest portion. A letter from Buffalo Surveying requesting the City to vacate that portion that needed to be done in 2001 was provided to the Council.

Ordinance No. 7708 vacating the southwest portion of 21st Avenue Northwest is merely a housekeeping matter.

Council Member Clouse introduced Ordinance No. 7708, being Subsection 1 of Agenda Item V vacating that portion of 21st Avenue Northwest as it abuts Lot 1 of Block 1, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney 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, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7708 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, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7708 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7708 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIMS: SCHOOL DISTRICT #7 - \$3,474.35

Moved by Clouse seconded by Kearney that the Open Account Claim in the amount of \$3,474.35 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

CLOSED SESSION

Moved by Kearney seconded by Lammers that Council adjourn into closed session at 7:21 p.m. for the protection of the public interest to discuss real estate and personnel matters. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss real estate and personnel 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 Kearney seconded by Lammers that Council reconvene in regular session at 8:08 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Lammers seconded by Buschkoetter that Council adjourn at 8:08 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**