

*Kearney, Nebraska  
May 22, 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 May 22, 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, 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 Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Hang Tat, Ashley Cortez, Jonathan Nikkila, Steve Altmaier from KGFW Radio, Mike Konz from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

### **INVOCATION**

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

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **AMEND LAND USE MAP FOR SOUTH OF 56TH STREET EAST OF ANTELOPE AVENUE**

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

Moved by Kearney seconded by Lammers to remove from the table Public Hearings 1 and 2 and Consent Agenda Item 4 pertaining to property located south of 56th Street east of Antelope Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse opened for discussion Public Hearing 1 on the Application submitted by City of Kearney, Nebraska (Applicant) and Two Sisters Farms, Inc. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 3 to Business Park for property described as 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 (south of 56th Street east of Antelope Avenue) and to consider Resolution No. 2012-61.

Assistant City Manager Suzanne Brodine presented this to the Council. Approximately 15 months ago the Planning Commission and City Council rezoned a 112-acre parcel of land at the southeast corner of 56th Street and Antelope Avenue from AG to BP/PD, Business Park District, Planned District Overlay. This development site is for a City driven project for economic development of a technology park. The City has continued to work with the Nebraska Department of Economic Development (NEDED) and the local Development Council to provide a shovel ready site for a technology park. The team plans to market this site to attract technology-based businesses such as Data Centers, Software Engineering and Testing Facilities, Co-location Facilities, Research and Development Buildings, Call Centers, or Disaster Recovery Facilities.

After further engineering studies it has been determined that acquisition of additional property to the south of the 112 acre parcel will provide greater flexibility in accommodating a technology park to the site. Parcel 2 is on the south side of the large drainage channel and it contains about 53 acres. The intent is to relocate the drainage channel to the south side of the 53 acre parcel when the property develops.

The new property is currently zoned agricultural, as it has never been developed to a higher use. The land has been farmed in row crops for many years. The property must be rezoned and a corresponding change must be made to the Future Land Use Map of the City of Kearney Comprehensive Development Plan to move this project forward. This is the same process as was followed for Parcel 1. After detailed analysis of prospective zoning alternatives, the team agreed that the most suitable zoning for the intended use on Parcel 1 is District BP, Business Park with a Planned District Overlay. The corresponding Land Use Amendment is also "Business Park." Parcel 2 needs to be treated similarly so that all the property can be combined and marketed together.

The City is treating this planned overlay in a different manner due to the sensitive nature and specific operating characteristics of these types of businesses. The City will manage the development standards through the PD overlay as each project comes forward on either or both of these tracts of land. The development requirements for such a site may depart from more typical standards for commercial and industrial development due to security needs, backup power provisions, and other unique considerations. As with Parcel 1, it is the City's intent to apply the findings and recommendations of the feasibility study as the basis for Planned District review and approval in the future. Therefore, there will be no Development Plans submitted of a traditional nature for Parcel 2 at this time. Alternatively, the development standards generally established by the 150 page report for Parcel 1 will also apply to Parcel 2. As projects come forward in the future the City Council will have ultimate authority in applying any and all detailed development standards they deem fit for the proposed development. Development standards that fall within the parameters of the guidelines established herein may be administratively approved. This approach will benefit the marketability of the site and expedite the review and approval process when a prospective developer seeks to develop the property.

The following are some general comments and information for your consideration. The standards that are italicized have been modified since the standards were approved for Phase 1 and all of the standards listed below apply to both Phase 1 and Phase 2:

- The property consists of Parcel 1 already zoned BP/PD containing 112 acres and Parcel 2 containing 53 acres proposed for Land Use Map Amendment and Rezoning.
- All required infrastructure is available or will be extended to the site this year. There is or will be adequate capacity to meet the service need of the site for all infrastructure. There is an existing NPPD substation on the site.
- An enterprise data center could be commissioned on this site within 14-18 months of contract.
- The team recommends that the City prohibit the following uses at this site:
  - Heavy industrial, power generation, fertilizer plants, radio towers.
- The team recommends that the following recommendations be adopted as the basis for zoning regulation of the property as a Planned District Overlay on both parcels:
  - *Increase maximum building height from 60 feet to 75 feet.*
  - Increase minimum lot size from 20,000 square feet to 2.5 acres.
  - Establish minimum setbacks at 200 feet along Antelope Avenue and 56<sup>th</sup> Street and at 50 feet from the interior loop road. Side and rear yards at 30 feet.
  - Increase maximum allowable building coverage from 50% to 60%.
  - Decrease maximum impervious area from 80% to 65%.
  - Maintain maximum floor area ratio at 2.0.
  - Remove the restriction requiring 50% of the off-street parking to be in the side or rear yard and allow 100% of the parking to be in the front yard, if desired.
  - Revise off-street parking requirements for data centers to be based on actual occupancy as opposed to square footage of the facility.

- 35% percent of any street facing façade shall be constructed with enhanced masonry materials.
- Maximum dBA sound level at 55 as measured at the nearest residential property line after 10 p.m. to 7 a.m. *(except for periodic generator testing and emergency generator use as in during power outages).*
- *Establish screening requirements specific to data centers on a case by case basis in consideration of the architecture of the building. Business Park screening standards per current Code will be waived.*
- For site lighting, add provisions allowing LED lighting with downcast cut-off fixtures. Disallow high and low-pressure sodium lamps.
- *Maximum fence height is 14 feet.*
- Remove requirements to screen parking lots.
- Modify landscape maintenance requirements to meet LEED standards.
- Remove off-street loading requirements for data centers.
- Require greater vehicle stacking based on building occupancy.
- Require greater vehicular stacking at technology park entrance.
- Modify tree replacement guidelines to insure any diseased, dying or dead trees are replaced according to the original approved Landscape Plan.
- *Allow limited solar, wind, and fuel cell generation for onsite use. Wind generation facilities must comply with existing height and placement regulations.*

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the public hearing and adopt **Resolution No. 2012-61** approving the Application submitted by City of Kearney, Nebraska (Applicant) and Two Sisters Farms, Inc. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 3 to Business Park for property described as 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 (south of 56th Street east of Antelope Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2012-61**

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land 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, more particularly described as follows: Beginning at the Southwest Corner of said Northwest Quarter and assuming the South line of said Northwest Quarter as bearing N 89°50'18" E with all other bearings shown hereon relative thereto; thence N 89°50'18" E on said South line a distance of 2639.28 feet to the Southeast Corner of said Northwest Quarter; thence N 89°50'18" E on the South line of said Northeast Quarter a distance of 140.00 feet; thence N 00°37'00" W leaving said South line and being parallel to the West line of said Northeast Quarter a distance of 485.22 feet to the beginning of a

tangent curve to the right having a central angle of  $51^{\circ}47'39''$ , a radius of 500.0 feet and an arc length of 451.99 feet; thence  $N 51^{\circ}10'39'' E$  tangent to said curve a distance of 350.10 feet to the beginning of a tangent curve to the right having a central angle of  $38^{\circ}39'39''$ , a radius of 447.00 feet and an arc length of 301.62 feet; thence  $N 00^{\circ}09'42'' W$  perpendicular to the tangent of said curve a distance of 104.00 feet to the North line of a Drainage Easement granted to Central Platte Natural Resources District (CPNDR), recorded as Inst. 2002-8421 in the Office of the Register of Deeds, Buffalo County, Nebraska; thence  $S 89^{\circ}50'18'' W$  on said North line a distance of 866.73 feet to a point on the West line of said Northeast Quarter; thence  $S 00^{\circ}37'00'' E$  on said West line a distance of 18.00 feet to the South line of a tract of land deeded to the City Of Kearney, recorded as Inst. 2011-964 in the Office of the Register of Deeds, Buffalo County, Nebraska; thence  $S 89^{\circ}35'04'' W$  on said South line a distance of 43.17 feet; thence  $S 00^{\circ}24'56'' E$  on said South line perpendicular to the previous course a distance of 2.00 feet; thence  $S 89^{\circ}35'04'' W$  on said South line perpendicular to the previous course a distance of 15.10 feet to the beginning of a tangent curve to the left having a central angle of  $38^{\circ}39'39''$ , a radius of 552.0 feet and an arc length of 372.47 feet; thence  $S 50^{\circ}55'25'' W$  on said South line tangent to said curve a distance of 47.51 feet; thence  $S 39^{\circ}04'35'' E$  on said South Line perpendicular to the previous course a distance of 6.00 feet; thence  $S 50^{\circ}55'25'' W$  on said South line perpendicular to the previous course a distance of 790.12 feet to the beginning of a tangent curve to the right having a central angle of  $18^{\circ}36'23''$ , a radius of 454.00 feet and an arc length of 147.43 feet; thence  $N 20^{\circ}28'12'' W$  on said South line radially to said previous curve a distance of 1.00 feet to the beginning of a curve to the right being concentric with the previously described curve extended, having a central angle of  $20^{\circ}03'16''$ , a radius of 453.00 feet, and an arc length of 158.56 feet; thence  $S 89^{\circ}35'04'' W$  on said South line tangent to said curve a distance of 224.87 feet; thence  $S 00^{\circ}24'56'' E$  on said South line perpendicular to the previous course a distance of 7.00 feet; thence  $S 89^{\circ}35'04'' W$  on said South line perpendicular to the previous course a distance of 1074.33 feet to the West line of said Northwest Quarter; thence  $S 00^{\circ}34'56'' E$  on said West line a distance of 514.20 feet to the point of beginning, containing 53.34 acres, more or less, of which 0.39 acres are currently in use as County Road Right-of-Way along the West side, all in Buffalo County, Nebraska (south of 56th Street east of Antelope Avenue) from Mixed Use 3 to Business Park, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Mixed Use 3 to Business Park the use classification for 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, more particularly described as follows: Beginning at the Southwest Corner of said Northwest Quarter and assuming the South line of said Northwest Quarter as bearing  $N 89^{\circ}50'18'' E$  with all other bearings shown hereon relative thereto; thence  $N 89^{\circ}50'18'' E$  on said South line a distance of 2639.28 feet to the Southeast Corner of said Northwest Quarter; thence  $N 89^{\circ}50'18'' E$  on the

South line of said Northeast Quarter a distance of 140.00 feet; thence N 00°37'00" W leaving said South line and being parallel to the West line of said Northeast Quarter a distance of 485.22 feet to the beginning of a tangent curve to the right having a central angle of 51°47'39", a radius of 500.0 feet and an arc length of 451.99 feet; thence N 51°10'39" E tangent to said curve a distance of 350.10 feet to the beginning of a tangent curve to the right having a central angle of 38°39'39", a radius of 447.00 feet and an arc length of 301.62 feet; thence N 00°09'42" W perpendicular to the tangent of said curve a distance of 104.00 feet to the North line of a Drainage Easement granted to Central Platte Natural Resources District (CPNDR), recorded as Inst. 2002-8421 in the Office of the Register of Deeds, Buffalo County, Nebraska; thence S 89°50'18" W on said North line a distance of 866.73 feet to a point on the West line of said Northeast Quarter; thence S 00°37'00" E on said West line a distance of 18.00 feet to the South line of a tract of land deeded to the City Of Kearney, recorded as Inst. 2011-964 in the Office of the Register of Deeds, Buffalo County, Nebraska; thence S 89°35'04" W on said South line a distance of 43.17 feet; thence S 00°24'56" E on said South line perpendicular to the previous course a distance of 2.00 feet; thence S 89°35'04" W on said South line perpendicular to the previous course a distance of 15.10 feet to the beginning of a tangent curve to the left having a central angle of 38°39'39", a radius of 552.0 feet and an arc length of 372.47 feet; thence S 50°55'25" W on said South line tangent to said curve a distance of 47.51 feet; thence S 39°04'35" E on said South Line perpendicular to the previous course a distance of 6.00 feet; thence S 50°55'25" W on said South line perpendicular to the previous course a distance of 790.12 feet to the beginning of a tangent curve to the right having a central angle of 18°36'23", a radius of 454.00 feet and an arc length of 147.43 feet; thence N 20°28'12" W on said South line radially to said previous curve a distance of 1.00 feet to the beginning of a curve to the right being concentric with the previously described curve extended, having a central angle of 20°03'16", a radius of 453.00 feet, and an arc length of 158.56 feet; thence S 89°35'04" W on said South line tangent to said curve a distance of 224.87 feet; thence S 00°24'56" E on said South line perpendicular to the previous course a distance of 7.00 feet; thence S 89°35'04" W on said South line perpendicular to the previous course a distance of 1074.33 feet to the West line of said Northwest Quarter; thence S 00°34'56" E on said West line a distance of 514.20 feet to the point of beginning, containing 53.34 acres, more or less, of which 0.39 acres are currently in use as County Road Right-of-Way along the West side, all in Buffalo County, Nebraska (south of 56th Street east of Antelope Avenue).

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING FOR SOUTH OF 56TH STREET EAST OF ANTELOPE AVENUE**

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

Moved by Kearney seconded by Lammers to remove from the table Public Hearings 1 and 2 and Consent Agenda Item 4 pertaining to property located south of 56th Street east of Antelope Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse opened for discussion Public Hearing 2 on the Application submitted by City of Kearney, Nebraska (Applicant) and Two Sisters Farms, Inc. (Owner) to rezone from District AG, Agricultural District to District BP/PD, Business Park/Planned Development Overlay District property described as 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 (south of 56th Street east of Antelope Avenue) and to consider Ordinance No. 7720.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing and introduced Ordinance No. 7720 on the Application submitted by City of Kearney, Nebraska (Applicant) and Two Sisters Farms, Inc. (Owner) to rezone from District AG, Agricultural District to District BP/PD, Business Park/Planned Development Overlay District property described as 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 (south of 56th Street east of Antelope 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 Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7720. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7720 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7720 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. 7720 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.

### **LIQUOR LICENSE FOR EL MAGUEY MEXICAN RESTAURANT, 1104 2ND AVENUE**

Mayor Clouse opened the public hearing on the application for a Class I-98485 liquor license submitted by Four Cactuses, LLC, dba El Maguey Mexican Restaurant located at 1104 2nd Avenue, consider the manager application for Ruben Lopez Melendez, and consider Resolution No. 2012-76.

Attorney Hang Tat from 4939 South 24th Street, Omaha apologized for Mr. Melendez as he had a tire blow out and it was unclear whether he would be able to attend.

Ashley Cortez stated she is the First Assistant under the owners for managing the bar and presented this matter to the Council. She would be responsible for training of all employees and will also be part of the hiring process. They will be training by using an on line course and each employee will have to obtain a certificate for the course or show proof they have a certificate. They will also have to do a week's training on the floor to show they understand how to implement what they have learned. The employee will need to show they know how to check I.D.s and evaluate when not to over serve the customer. They will be getting a scanner to scan the I.D.s and will also get the black light pens. Ms. Cortez stated that if one of their employees served a minor, she would report them to law enforcement, as well as terminate them immediately. She would also report to law enforcement any minor who would come in to the restaurant and try to purchase alcohol.

Ms. Cortez stated she first learned to check I.D.s and serve alcohol when she was a security supervisor in a big casino in California. Part of that training was a 12-hour class on alcoholic beverage control and hands on training. They actually had stings conducted and training on when to involve law enforcement, and when to terminate an employee for careless serving, etc. She is bi-lingual and speaks Spanish. A requirement for their servers is they must be able to read and write English and have a knowledge of both languages in order to follow the laws. This does not include the wait staff who will be serving food only.

Chief Dan Lynch stated this situation is different from others in Kearney because the business is owned by foreign nationals. This gave the Police Department a little pause because they had never had this situation before. Their research indicated this is not an issue and there is no prohibition. They found that this same corporation holds at least three other liquor licenses and found that none of those have had any violations to speak of in their history.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the public hearing and adopt **Resolution No. 2012-76** recommending approval to the Liquor Commission the application for a liquor license submitted by El Maguey Mexican Restaurant located at 1104 2nd Avenue, and approve the manager application for Ruben Lopez Melendez. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

### **RESOLUTION NO. 2012-76**

WHEREAS, Four Cactuses, LLC, dba El Maguey Mexican Restaurant has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-98485 (Beer, Wine, Distilled Spirits, On and Off Sale) Liquor License to do business at 1104 2nd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor

Control Act; and

WHEREAS, Four Cactuses, LLC, dba El Maguey Mexican Restaurant also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Ruben Lopez Melendez; and

WHEREAS, a hearing was held relating to said application on May 22, 2012 and the cost of the published notice was \$11.29.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class I-98485 (Beer, Wine, Distilled Spirits, On and Off Sale) Liquor License to Four Cactuses, LLC, dba El Maguey Mexican Restaurant located at 1104 2nd Avenue, Kearney, Nebraska, and to approve the application for Corporate Manager of Ruben Lopez Melendez.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REDEVELOPMENT AREA #11 BLIGHTED AND SUBSTANDARD AND TO AMEND  
REDEVELOPMENT AREA #5 TO INCLUDE REDEVELOPMENT AREA #11**

Mayor Clouse opened the public hearing on declaring Redevelopment Area #11 and described as a tract of land beginning at the intersection of the south line of Block 2, Sunny Acres Subdivision and the west right-of-way line of the Union Pacific Railroad Corridor, thence southwest along said west right-of-way line to its intersection with the south line of 27th Street East, thence west along said south line to its intersection with the west line of Avenue M, thence north along said west line to its intersection with the north line of 30th Street East, thence east along said north line to its intersection with the west line of Avenue N, thence north along said west line to its intersection with the extended south line of Block 2, Sunny Acres Subdivision, thence east along said extended line across Avenue N and continuing east along the south line of said Block 2 to its intersection with the west right-of-way line of the Union Pacific Railroad, also the point of beginning, all located in the City of Kearney, Buffalo County, Nebraska to be blighted and substandard and in need of redevelopment; to amend Redevelopment Area #5 to include Redevelopment Area #11 and to consider Resolution No. 2012-77. Planning Commission recommended approval.

Assistant City Manager Suzanne Brodine presented this matter to the Council. In February 2012 the Kearney Area Redevelopment Authority (CRA) contracted with urban planning consultants, Hanna:Keelan Associates, on a blight study and redevelopment plan for an area known as "Redevelopment Area #11" located in east-central Kearney, which generally includes a four block area bound by the Union Pacific Railroad (east), 27th Street East (south), Avenue "M" (west) and 30th Street East (north). A concentration of early to mid-1900s era dwellings is located on the west side of Avenue "N," with vacant parcels and industrial businesses to the east of Avenue "N".

The Redevelopment Plan is in generally in conformance with the Future Land Use Map of the City of Kearney Comprehensive Development Plan. The proposed zoning changes depicted on the Redevelopment Plan are based on existing use and would bring zoning into conformance with current use. No property within the Redevelopment Area will be rezoned solely as a result of the Planning Commission or City Council action on this Redevelopment Plan. The zoning changes will take place in the future as market forces cause developers to pursue development projects within the redevelopment area. The plan paints a picture of what the area might ultimately look like if the zoning recommendations are followed. This approach allows for better planning for infrastructure such as sanitary sewer, municipal water, storm drainage, and public streets.

Some general goals of the plan include:

- Tax Increment Financing incentives to develop undeveloped land within the redevelopment area in accordance with the Redevelopment Plan.
- Improvements to existing infrastructure, particularly utilities, to better serve the area.
- Development of a plan for screening or buffering commercial/industrial areas from residential land uses.
- Focus on the rehabilitation of residential structures generally west of Avenue "N".
- Removal and replacement of substantially dilapidated and substandard structures.
- Expand efforts to enhance pedestrian safety along the Avenue "N" corridor.

There are a couple of different developers who are interested in pursuing TIF in this property with some projects in the making. This was impetuous for looking at this area. It is contiguous with Area #5 which is why the CRA has made this recommendation to amend those two areas to be one rather than two small areas by themselves. Area #5 is directly to the south and covers the railroad corridor all the way through the City.

City Manager Michael Morgan stated that this property is a little different from most because of the residential. It is a combination of zonings with R-1, R-2 and some M-1 Industrial. The City will notify all of the property owners, although not required to do, about what is going on since there are residential properties in the area in order to address any concerns and answer questions.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the public hearing and adopt **Resolution No. 2012-77** declaring Redevelopment Area #11 and described as a tract of land beginning at the intersection of the south line of Block 2, Sunny Acres Subdivision and the west right-of-way line of the Union Pacific Railroad Corridor, thence southwest along said west right-of-way line to its intersection with the south line of 27th Street East, thence west along said south line to its intersection with the west line of Avenue M, thence north along said west line to its intersection with the north line of 30th Street East, thence east along said north line to its intersection with the west line of Avenue N, thence north along said west line to its intersection with the extended south line of Block 2, Sunny Acres Subdivision, thence east along said extended line across Avenue N and continuing east along the south line of said Block 2 to its intersection with

the west right-of-way line of the Union Pacific Railroad, also the point of beginning, all located in the City of Kearney, Buffalo County, Nebraska to be blighted and substandard and in need of redevelopment; and to amend Redevelopment Area #5 to include Redevelopment Area #11. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2012-77**

WHEREAS, a blighted and substandard study and declaration, and adoption of a redevelopment plan, is a requirement before an area can be considered eligible for Tax Increment Financing; and

WHEREAS, Hanna:Keelan Associates conducted a survey to determine whether all or part of an area in Kearney, Nebraska qualifies as a blighted and substandard area within the definition set forth in the Nebraska Community Development Law, Section 18-2103. Redevelopment Area #11 in the City of Kearney, Nebraska is described as follows: a tract of land beginning at the intersection of the south line of Block 2, Sunny Acres Subdivision and the west right-of-way line of the Union Pacific Railroad Corridor, thence southwest along said west right-of-way line to its intersection with the south line of 27th Street East, thence west along said south line to its intersection with the west line of Avenue M, thence north along said west line to its intersection with the north line of 30th Street East, thence east along said north line to its intersection with the west line of Avenue N, thence north along said west line to its intersection with the extended south line of Block 2, Sunny Acres Subdivision, thence east along said extended line across Avenue N and continuing east along the south line of said Block 2 to its intersection with the west right-of-way line of the Union Pacific Railroad, also the point of beginning, all located in the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Hanna:Keelan Associates submitted a document entitled "Blight & Substandard Determination Study & General Redevelopment Plan; Kearney Redevelopment Area #11", a copy of which marked Exhibit "A" is attached hereto and made a part hereof by reference, and recommended that the City find and determine the subject area to be "blighted and substandard"; and

WHEREAS, City of Kearney, Nebraska in furtherance of the purposes and pursuant to the provisions of Sections 18-2101 to 18-2154, Reissue Revised Statutes of Nebraska, 1943, as amended (collectively the "Act"), in 1997 declared and designated an area as being "blighted and substandard," as defined in the Act, being generally described as "Redevelopment Area #5" ("Area #5"), and more particularly described as follows: Beginning at the intersection of 29th Street and Antelope Road to the southern boundary of the Union Pacific Railroad right-of-way; commencing southwest along said right-of-way to the point of intersection with "F" Avenue; thence south along the east line of "F" Avenue to the junction of 19th Street; thence west along the south line of 19th Street to the intersection with "C" Avenue; thence south along the east line of "C" Avenue to the junction of 18th Street; commencing west along the south line of 18th Street to the intersection of the alley between "A" Avenue and Central Avenue; thence north along said alley to the point at which it intersects with the southern line of UPRR right-of-way; thence west to the point of intersection of the alley which runs between Central Avenue and 1st Avenue; commencing south along said alley to the junction with 17th Street; thence west along the south line of 17th Street to the intersection of 8th Avenue; thence south along the east line of 8th Avenue to the junction of 16th Street; commencing west along the southern line of 16th Street to the point one half block west

of the intersection with 16th Avenue; thence north from this point along the city corporate limits to a point at which the city corporate limit boundary turns and runs west; thence west along the city corporate limit to the extreme southwestern boundary of the City; thence north on corporate city limit line for approximately 550 feet; thence east for approximately 130 feet; commencing south for approximately 400 feet to the southwest corner of Lot 12; thence east on northern boundary of North Railroad Street for approximately 1,750 feet; thence east at slightly over a 90 degree angle for approximately 1,925 feet; thence north for approximately 200 feet; thence east to the junction with 15th Avenue; thence north along the west line of 15th Avenue to its intersection with 24th Street; thence east along the south line of 24th Street to the east line of 9th Avenue; thence south along said line to the south line of 22nd Street; thence west on said line to the east line of 14th Avenue; commencing south on said line to the intersection with the north line of 20th Street; thence east on said line to the west line of 9th Avenue; thence north on said line to the north line of 21st Street; thence east on the north line of 21st Street to the intersection of 4th Avenue; commencing north along the west line of 4th Avenue to the north line of 22nd Street; thence east along said line and street to the point at which the alley between 2nd Avenue and 3rd Avenue intersects said line and street; thence south along said alley to the point of intersection with the northern boundary line of the UPRR right-of-way; commencing along said boundary line in a north northeasterly direction to a point at which the alley between "B" Avenue and "C" Avenue intersects said boundary line; thence north along said alley to the north line of the junction of 24th Street; thence east along said line and street to the intersection of "E" Avenue; thence south along the east line of "E" Avenue to the intersection of 23rd Street; commencing east along the north line of 23rd Street to the intersection with "G" Avenue; thence north along the west line of "G" Avenue to the point of intersection of 25th Street; thence east along the north line of 25th Street to the junction of "I" Avenue; thence north on the west line of "I" Avenue to the north line of 26th Street; commencing east on the north line of 26th Street to the west line of "L" Street; commencing north on said line to the intersection with the north line of 27th Street; commencing east from the north line of 27th Street to the intersection of Grand Avenue; commencing east from the intersection with Grand Avenue to the point of intersection with the section line separating the Southwest 1/4 and Southeast 1/4 of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence north on section line to the center of Section 31, Township 9 North, Range 15 West of the 6th P.M.; thence east along said section line to the junction of the North-South Section line of the Northeast 1/4 of the Southwest 1/4 of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence north along said line for approximately 1,000 feet; thence east to the point of the beginning, all in the City of Kearney, Buffalo County, Nebraska.

WHEREAS, the City, in furtherance of the purposes and pursuant to the provisions of the Act, in 1997 adopted the Redevelopment Plan for Area #5 (the "Redevelopment Plan") for the redevelopment and correction of the blighted and substandard conditions then existing in Area #5, as designated by the City; and

WHEREAS, Area #11 is contiguous to Area #5 and similar in conditions and composition; and

WHEREAS, the City has duly reviewed the Redevelopment Study and the Redevelopment Plan originally prepared for it concerning Area #5 and the Redevelopment Study and the Redevelopment Plan prepared for Area #11, the City finds that: (a) the blighted and substandard conditions previously identified, despite

ongoing redevelopment efforts, still exist in Area #5 to a degree requiring ongoing redevelopment activity, as set forth in the Act, and (b), that the Redevelopment Plan previously adopted for Area #5 continues to be an appropriate plan for the redevelopment of Area #5, and (c) the blighted and substandard conditions identified in Area #11 exist to a degree requiring ongoing redevelopment activity, as set forth in the Act.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that:

1. The recitals and findings set forth above be incorporated herein; and
2. The City Council finds that:
  - a. The blighted and substandard conditions previously identified, despite ongoing redevelopment efforts, still exist in Area #5 to a degree requiring ongoing redevelopment activity, as set forth in the Act, and as originally determined by the City Council in June of 1997.
  - b. The Redevelopment Plan previously adopted by the City Council on June 10, 1997 for Area #5 continues to be an appropriate plan for the correction of existing blighted and substandard conditions and the ongoing redevelopment of Area #5.
3. Redevelopment Area #5 should continue to be designated and deemed "blighted and substandard" as defined by Neb. Rev. Stat. Section 18-2103 of the Act.
4. Redevelopment Area #11 should be designated and deemed "blighted and substandard" and in need of redevelopment in accordance with the terms and provisions of Section 18-2109, R.R.S.
5. The City Council does hereby adopt the findings herein and shall renew its declaration that Area #5 be deemed "blighted and substandard," as defined by Neb. Rev. Stat. Section 18-2103 of the Act; and that it re-adopt the original Redevelopment Plan for Area #5 and amend Area #5 to include Area #11 as defined above.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **PERMANENT UTILITY EASEMENTS FOR 50TH STREET AND 17TH AVENUE**

Mayor Clouse opened the public hearing on acquiring an interest in real property by purchase, dedication or eminent domain for permanent utility easements of the following tracts of land: (1) Temporary Construction Easement for a tract of land described as referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33 feet to the east right-of-way line of 17th Avenue, thence northerly along said east right-of-way line a distance of 212.24 feet to a point, said point being the Actual Point of Beginning, thence easterly perpendicular to said east right-of-way a distance of 20 feet to a point, thence northerly parallel with said east right-of-way a distance of 270.00 feet, thence deflecting right an angle of 13°29'45" and proceeding northeasterly a distance of 257.10 feet to a point, thence northerly parallel with said east right-of-way a distance of 100.00 feet to a point, thence deflecting left an angle of 38°39'35" and proceeding northwesterly a distance of 128.06 feet to a point on said east right-of-way line, thence southerly on said east right-of-way line a distance of 720.00 feet to the Actual Point of Beginning containing 0.69

Acres more or less, all in Buffalo County, Nebraska. (2) Permanent Utility Easement for a tract of land described as a part of the Southwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska more particularly described as follows: Referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33 feet to the east right-of-way line of 17th Avenue, thence northerly along the east right-of-way line of 17th Avenue a distance of 536.24 feet to a point on the south right-of-way line of 50th Street as platted in the City of Kearney extended easterly and the Actual Point of Beginning thence easterly perpendicular to said east right-of-way a distance of 20 feet, thence northerly parallel with said easterly right-of-way a distance of 66 feet to the north right-of-way line of said 50th Street extended easterly, thence westerly perpendicular to said easterly right-of-way a distance of 20 feet to a point on said easterly right-of-way, thence southerly on said easterly right-of-way a distance of 66 feet to the Actual Point of Beginning containing 0.03 Acres more or less, all in Buffalo County, Nebraska. (3) Permanent Utility Easement for a tract of land described as referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33.00 feet to the east right-of-way line of 17th Avenue, thence northerly parallel with the west line of said Northwest Quarter a distance of 708.26 feet to a point on said east right-of-way line, said point being the Actual Point of Beginning, thence deflecting right an angle of 45°00'00" and proceeding northeasterly a distance of 152.50 feet to a point, thence deflecting left an angle of 90°00'00" and proceeding northwesterly a distance of 25.00 feet, thence deflecting left an angle of 90°00'00" and proceeding southwesterly a distance of 127.50 feet to a point on said east right-of-way line, thence southerly along said east right-of-way line a distance of 35.36 feet to the Actual Point of Beginning containing 0.08 Acres more or less, all In Buffalo County, Nebraska and consider Resolution No. 2012-78.

Director of Public Works Rod Wiederspan presented this matter to the Council. At the February 28, 2012 Council meeting, the City Council approved the plans and specifications for the 2011 Part 9 Improvement Projects. These improvements included the construction of sanitary sewer, water main, storm sewer and paving for 50th Street from 17th Avenue to 300 feet west of 17th Avenue and the paving for 17th Avenue from 49th Street Place to 130 feet north of 50th Street.

A permanent easement for the construction of the sewer main and a separate permanent easement for the construction of the storm sewer are required to complete the construction. Additionally, a temporary easement is required to complete the grading for the project. The owner of the property has agreed to donate the permanent easements but has asked to be reimbursed for crop damages created by the grading operations in the temporary easement area. The City will reimburse the owner \$2,000 for crop damages.

Section 18-1775 of the Nebraska Revised Statute requires that a City of the first class acquiring an interest in real property shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and a public hearing.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the public hearing and adopt **Resolution No. 2012-78** on acquiring an interest in real property by purchase, dedication or eminent domain for permanent utility easements of the following tracts of land: (1) Temporary Construction Easement for a tract of land described as referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33 feet to the east right-of-way line of 17th Avenue, thence northerly along said east right-of-way line a distance of 212.24 feet to a point, said point being the Actual Point of Beginning, thence easterly perpendicular to said east right-of-way a distance of 20 feet to a point, thence northerly parallel with said east right-of-way a distance of 270.00 feet, thence deflecting right an angle of 13°29'45" and proceeding northeasterly a distance of 257.10 feet to a point, thence northerly parallel with said east right-of-way a distance of 100.00 feet to a point, thence deflecting left an angle of 38°39'35" and proceeding northwesterly a distance of 128.06 feet to a point on said east right-of-way line, thence southerly on said east right-of-way line a distance of 720.00 feet to the Actual Point of Beginning containing 0.69 Acres more or less, all in Buffalo County, Nebraska. (2) Permanent Utility Easement for a tract of land described as a part of the Southwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska more particularly described as follows: Referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33 feet to the east right-of-way line of 17th Avenue, thence northerly along the east right-of-way line of 17th Avenue a distance of 536.24 feet to a point on the south right-of-way line of 50th Street as platted in the City of Kearney extended easterly and the Actual Point of Beginning thence easterly perpendicular to said east right-of-way a distance of 20 feet, thence northerly parallel with said easterly right-of-way a distance of 66 feet to the north right-of-way line of said 50th Street extended easterly, thence westerly perpendicular to said easterly right-of-way a distance of 20 feet to a point on said easterly right-of-way, thence southerly on said easterly right-of-way a distance of 66 feet to the Actual Point of Beginning containing 0.03 Acres more or less, all in Buffalo County, Nebraska. (3) Permanent Utility Easement for a tract of land described as referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33.00 feet to the east right-of-way line of 17th Avenue, thence northerly parallel with the west line of said Northwest Quarter a distance of 708.26 feet to a point on said east right-of-way line, said point being the Actual Point of Beginning, thence deflecting right an angle of 45°00'00" and proceeding northeasterly a distance of 152.50 feet to a point, thence deflecting left an angle of 90°00'00" and proceeding northwesterly a distance of 25.00 feet, thence deflecting left an angle of 90°00'00" and proceeding southwesterly a distance of 127.50 feet to a point on said east right-of-way line, thence southerly along said east right-of-way line a distance of 35.36 feet to the Actual Point of Beginning containing 0.08 Acres more or less, all in Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2012-78**

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a temporary construction easement and two public utility easements with regard to the expansion of 17th Avenue at approximately 50th Street and voted in favor to proceed with the acquisitions; and

WHEREAS, Grand West, LLC, a Nebraska Limited Liability Company, by and through Steven D. Craig, its member, Anna L. Stehlik, Trustee, and Morrison Enterprises, LLC by and through Kenneth Morrison, its Manager have granted to the City of Kearney, Nebraska a temporary construction easement and two public utility easements as follows:

**TEMPORARY CONSTRUCTION EASEMENT**

A tract of land described as referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33 feet to the east right-of-way line of 17th Avenue, thence northerly along said east right-of-way line a distance of 212.24 feet to a point, said point being the Actual Point of Beginning, thence easterly perpendicular to said east right-of-way a distance of 20 feet to a point, thence northerly parallel with said east right-of-way a distance of 270.00 feet, thence deflecting right an angle of 13°29'45" and proceeding northeasterly a distance of 257.10 feet to a point, thence northerly parallel with said east right-of-way a distance of 100.00 feet to a point, thence deflecting left an angle of 38°39'35" and proceeding northwesterly a distance of 128.06 feet to a point on said east right-of-way line, thence southerly on said east right-of-way line a distance of 720.00 feet to the Actual Point of Beginning containing 0.69 Acres more or less, all in Buffalo County, Nebraska. A copy of the Easement and Map, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

**PERMANENT UTILITY EASEMENT**

A tract of land described as a part of the Southwest Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska more particularly described as follows: Referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33 feet to the east right-of-way line of 17th Avenue, thence northerly along the east right-of-way line of 17th Avenue a distance of 536.24 feet to a point on the south right-of-way line of 50th Street as platted in the City of Kearney extended easterly and the Actual Point of Beginning thence easterly perpendicular to said east right-of-way a distance of 20 feet, thence northerly parallel with said easterly right-of-way a distance of 66 feet to the north right-of-way line of said 50th Street extended easterly, thence westerly perpendicular to said easterly right-of-way a

distance of 20 feet to a point on said easterly right-of-way, thence southerly on said easterly right-of-way a distance of 66 feet to the Actual Point of Beginning containing 0.03 Acres more or less, all in Buffalo County, Nebraska. A copy of the Easement and Map, marked as Exhibit "B", is attached hereto and made a part hereof by reference.

#### PERMANENT UTILITY EASEMENT

A tract of land described as referring to the southwest corner of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, thence easterly along the south line of said Northwest Quarter a distance of 33.00 feet to the east right-of-way line of 17th Avenue, thence northerly parallel with the west line of said Northwest Quarter a distance of 708.26 feet to a point on said east right-of-way line, said point being the Actual Point of Beginning, thence deflecting right an angle of 45°00'00" and proceeding northeasterly a distance of 152.50 feet to a point, thence deflecting left an angle of 90°00'00" and proceeding northwesterly a distance of 25.00 feet, thence deflecting left an angle of 90°00'00" and proceeding southwesterly a distance of 127.50 feet to a point on said east right-of-way line, thence southerly along said east right-of-way line a distance of 35.36 feet to the Actual Point of Beginning containing 0.08 Acres more or less, all In Buffalo County, Nebraska. A copy of the Easement and Map, marked as Exhibit "C", is attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the temporary construction easement and two public utility easements granted by Grand West, LLC, a Nebraska Limited Liability Company, by and through Steven D. Craig, its member, Anna L. Stehlik, Trustee, and Morrison Enterprises, LLC by and through Kenneth Morrison, its Manager to the City of Kearney be and are hereby approved and accepted.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

#### **IV. CONSENT AGENDA**

Moved by Kearney seconded by Lammers to remove from the table Public Hearings 1 and 2 and Consent Agenda Item 4 pertaining to property located south of 56th Street east of Antelope Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse stated that because he has a conflict of interest, Subsection 16 of the Consent Agenda will be removed and voted on separately.

Moved by Lear seconded by Buschkoetter that Subsections 1 through 15 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held May 8, 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 \$295.47 smcs; Ace Hardware \$129.90 smcs,co; Adams Mystery Playhouse \$1,000.00 smcs; Adams,A \$19.75 smcs; Adams,J \$30.00 smcs; Advance Auto Parts \$29.99 smcs; Agri Coop \$3,169.05 smcs; Air Delights \$163.94 smcs; Alamar Uniforms \$164.30 smcs; Alfred Benesch \$12,813.73 co; All Makes Auto \$2,273.23 smcs; Amazon \$246.34 smcs,co; American \$861.05 smcs; Amer First Aid \$396.80 smcs; Amer Planning Assn \$1,872.47 smcs; Amsan \$1,002.16 smcs; Analytical Services \$1,490.00 smcs; Anderson Ford Lincoln \$42,707.00 co; Apple Market \$5.34 smcs; Apple Online Store \$906.69 smcs,co; Ask Supply \$71.25 smcs; Audible \$9.95 smcs; Aurora Coop \$81.60 smcs; Babygarten \$458.85 smcs; Baker & Taylor Books \$2,874.95 smcs; Barto,C \$40.00 smcs; Beckstrom,B \$7.81 smcs; Beerman,D \$26.77 smcs; Bennett,K \$36.52 smcs; Bennett,T \$1,626.00 smcs; Bluecross Blueshield \$116,698.84 smcs; Bob's Super Store \$18.68 smcs; Borman,D \$50.00 smcs; Bosselman \$15,618.62 smcs; Bowman,R \$400.00 smcs; Broadfoots \$714.00 smcs; Brophy,K \$17.79 smcs; Bruha,S \$190.00 smcs; Buffalo Co Treasurer \$18,795.00 co; Buffalo Co Weed Control \$140.00 smcs; Buffalo Outdoor Power \$519.82 smcs; Buggy Bath Car Wash \$37.45 smcs; Builders \$1,747.68 smcs; Cabela's \$388.50 smcs; Camera Doctor \$102.00 smcs; Capital Business Systems \$55.00 smcs; Carquest \$2,994.56 smcs; Casey's \$111.40 smcs; Cash-Wa \$2,240.12 smcs; CDW Government \$558.66 co; Center Point Large Print \$71.41 smcs; Central Auto Electric \$22.45 smcs; Central Hydraulic Systems \$551.02 smcs; Central NE Bobcat \$9,835.40 smcs,co; Chances R Restaurant \$599.44 smcs; Charter \$209.99 smcs; Chesterman \$1,261.80 smcs; City Glass \$416.04 smcs; City of Ky \$21,043.61 smcs,ps; CNA Surety \$200.00 smcs; Cold Spring Granite \$774.00 smcs; Comfort Suites \$83.33 smcs; Comfy Bowl \$100.00 smcs; Commercial Maintenance \$682.10 smcs; Community Action Partner \$11,826.38 co; Compasscom Software \$1,864.16 smcs; Complete Music \$250.00 smcs; Computer Warehouse #4 \$29.99 co; Conresource \$486.50 smcs; Conseco Life Ins \$19.00 ps; Construction Rental \$1,875.90 smcs; Cooperative Pro \$386.69 smcs; Copycat Printing \$1,540.07 smcs; Cornhusker Cleaning \$83.46 smcs; Corporate Edge \$1,048.95 smcs; CPS \$312.50 smcs; Crossroads Ford \$72.74 smcs; Culligan \$116.75 smcs; Cummins Central Power \$55.36 smcs; Cunningham,S \$239.42 smcs; D&S Lighting \$61.04 smcs; Dawson PPD \$28,637.49 smcs; Daylight Donuts \$37.50 smcs; Dell \$3,330.00 smcs; Demco \$75.57 smcs; DeMoss,J \$325.00 smcs; Discountmugscom \$852.75 smcs; Dish Network \$64.38 smcs; Displays 2 Go \$384.62 smcs; Dmilaco Sports Fashion \$119.92 ps; Dodds,T \$40.44 smcs; Dominion Construction \$10,371.68 co; Donohoe,A \$7.39 smcs; DPC Industries \$23,479.54 smcs; Dutton-Lainson \$30.52 smcs; Eakes \$29,407.36 smcs,co; Ecolab \$37.04 smcs; Eileens Cookies \$232.85 smcs; EMC Ins \$141.00 smcs; Enslow Publishers \$2,193.20 smcs; Entenmann-Rovin \$424.55 smcs; Eustis Body Shop \$75.00 smcs; Expression Wear \$274.00 smcs; Fairbanks Int'l \$3,553.83 smcs; Farmers Union Coop \$27.35 smcs; Fastenal \$3,135.01 smcs; Fire Rescue Magazine \$20.00 smcs; Fireguard \$6,124.45 co; Flagpole Co \$139.90 smcs; Footjoy \$5,195.77 smcs; Fromuth Tennis \$229.50 smcs; Frontier \$8,965.27 smcs;

Gangwish Turf \$99.00 co; Garrett Tires & Treads \$2,687.44 smcs; GD Concrete \$43.96 smcs; GE Money Bank \$1,137.68 smcs; Gear for Sports \$224.69 smcs; Gellerman,B \$27.73 smcs; Godaddycom \$99.90 smcs; Graham Tire \$183.25 smcs; Grainger \$761.66 smcs; GI Clinic \$222.00 smcs; Great Plains One Call \$449.69 smcs; Grimes,A \$31.00 smcs; H&H Distributing \$506.30 smcs; Hach Co \$914.51 smcs; HD Supply \$1,456.60 smcs; Historic Rail Adventures \$778.70 smcs; Hobby-Lobby \$395.09 smcs; Holmes Plbg \$325.06 smcs; Hooker Brothers Sand \$437.42 smcs; Horton,J \$21.32 smcs; HTM Sales \$422.33 smcs; I-80 Eppley Express \$175.00 smcs; ICMA Membership \$568.42 smcs; ICMA RC \$3,755.71 ps; INF City Directories \$768.00 smcs; Inland Truck Parts \$96.61 smcs; IRS \$108,246.97 ps; Intl Code Council \$125.00 smcs; Intl Erosion Control \$170.00 smcs; Invensys Metering \$107.95 smcs; Isaac,B \$17.11 smcs; ISU Extension \$250.00 smcs; Jack Lederman \$1,529.61 smcs; Jack's Uniforms \$5,024.15 smcs; James,D \$600.00 smcs; Jerry's Sports Center \$95.21 smcs; Johnson Controls \$2,583.46 smcs; Johnson Hardware \$1,052.00 smcs; Johnson Service \$2,280.00 smcs; Johnstone Supply \$489.10 smcs,co; Jones,P \$220.00 smcs; Jordan,A \$90.00 smcs; Jump A Roo \$600.00 smcs; Just Blinds \$76.00 smcs; K&K Parts \$541.29 smcs; Kampovitz,K \$39.00 smcs; Kart-Man \$4,584.17 smcs; Ky Centre Vac \$16.00 smcs; Ky Clinic \$646.00 ps; Ky Concrete \$24,984.43 smcs,co; Ky Crete & Block \$812.73 smcs,co; Ky Hub \$10,352.44 smcs; Ky Humane Soc \$6,825.00 smcs; Ky Implement \$1,469.30 smcs; Ky Towing \$275.00 smcs; Ky Warehouse \$7,084.55 smcs; Ky Winlectric \$6.61 smcs; Ky Winneslon \$279.89 smcs; Ky Yamaha \$551.95 smcs; Kelly Electric \$374.50 smcs; Kelly Supply \$269.10 smcs; Keough,J \$21.39 smcs; KHGI/KWNB \$2,000.00 smcs; Kindle \$24.28 smcs; Kmart \$12.99 smcs; Koelzer,K \$38.02 smcs; LCL Truck Equipment \$12,407.00 co; League of NE Municipalities \$650.00 smcs; Liewer,J \$7.40 smcs; Lindner,S \$71.15 smcs; Linweld \$162.31 smcs; Lockmobile \$135.00 smcs; Logan Contractors Supply \$513.33 smcs; Logmeincom \$399.50 co; Lynch,C \$50.00 smcs; Magic Cleaning \$7,560.00 smcs; Mahlberg,B \$29.49 smcs; Mail Express \$1,037.04 smcs; Marlatt Machine Shop \$49.00 smcs; Mason,L \$41.27 smcs; Matheson Tri-Gas \$60.60 smcs; Maverick Books \$41.98 smcs; McCarty,D \$42.30 smcs; McCleary,J \$55.00 smcs; McKeon,L \$15.38 smcs; McMaster-Carr \$458.22 smcs; Medtech Forensics \$299.00 smcs; Menards \$2,409.11 smcs,co; Meridian Library Systems \$20.00 smcs; Microfilm Imaging Systems \$2,050.00 smcs; Mid-NE Garage Doors \$2,515.00 smcs; Midwest Fence \$8,150.00 co; Midwest Turf \$1,671.41 smcs; Milco Environmental \$2,200.00 co; Millennium Biltmore Hotel \$577.33 smcs; Moonlight Embroidery \$1,765.00 smcs; Municipal Emergency \$1,947.56 ps; Municipal Supply \$2,317.75 smcs; Murphy Tractor Equipment \$436.42 smcs; Nabb,F \$45.00 smcs; Napa All Makes \$218.23 smcs; NCHSoftwarecom \$82.57 smcs,co; NCL of Wisconsin \$68.95 smcs; NCS Equipment \$12,641.44 smcs,co; NE Amateur Softball Assn \$2,046.00 smcs; NE Child Support \$2,138.82 ps; NE Code Officials Assn \$160.00 smcs; NE Dept of Environmental \$599,708.77 smcs,ds; NE Prof Licensing \$90.00 smcs; NE Public Health \$1,689.00 smcs; NE Truck Center \$516.40 smcs; NEland Distributors \$299.25 smcs; New World Systems \$600.00 co; Newegg \$266.68 co; Newman Traffic Signs \$3,414.67 smcs; Northern Safety \$199.42 smcs; Northern Tool \$56.19 smcs; Northwest Electric \$6,262.05 smcs; Northwestern Energy \$1,046.12 smcs; NY Computer Exchange \$319.98 smcs; O&S Flying Service \$16,104.00 smcs; OCLC \$368.36 smcs; Office Max \$552.87 smcs; Officenet \$568.34 smcs; Olsson Associates \$3,480.00 smcs; Omaha World Herald \$105.78 smcs; O'Reilly Automotive \$1,267.04 smcs; Oriental Trading \$106.82 smcs; Orscheln \$570.32 smcs; Oshkosh \$184.03 smcs; Osterbuhr,A \$11.68 smcs; Overhead Door \$430.69 smcs; Paramount

\$166.75 smcs; Parsons,T \$31.00 smcs; Party America \$65.96 smcs; PATC \$35.00 smcs; Paypal \$25.99 smcs; PBD Ala-Graph Editions \$45.00 smcs; Peister,B \$11.87 smcs; Ping \$70.08 smcs; Pioneer Research \$780.73 smcs; Pioneer Revere \$955.00 smcs; Platte River Radio \$500.00 smcs; Platte Valley Comm \$743.50 smcs; Potratz,K \$41.16 smcs; Presto-X \$556.32 smcs; Priority Management \$80.50 smcs; Pro Garage Door \$145.80 smcs; Proactive Sports \$308.72 smcs; Provantage \$994.02 smcs,co; Pump & Pantry \$70.47 smcs; Quezaba,G \$24.42 smcs; Quill \$1,268.13 smcs; Random House \$92.25 smcs; Ready Mixed Concrete \$1,470.88 co; Recognition Unlimited \$251.85 smcs; Reinke's Heating \$272.13 smcs; Reserve Account \$750.00 smcs; Resource Management \$1,122.24 smcs; Rheome Tree \$2,270.00 smcs; Rolanka Intl \$511.87 smcs; Russell's Appliance \$550.00 smcs; Sacramento State College \$56.00 smcs; Safariland \$895.00 smcs; Safelite Auto Glass \$781.94 smcs; Sahling Kenworth \$1,089.08 smcs; Salina Blueprint \$7,155.00 smcs; Sanitation Products \$453.80 smcs; Sapp Brothers \$32,904.03 smcs; Scott,D \$20.24 smcs; Seton Name Plate Co \$75.25 co; Shanks,A \$237.00 smcs; Sherwin Williams \$3,823.04 smcs; Sibbel,Z \$17.14 smcs; Skeeter Barnes \$4,942.47 smcs; Smart Sign \$137.70 smcs; Smith Signs \$400.00 smcs; Snap-On Tools \$401.60 smcs; Spiegel,D \$16.71 smcs; Sprinklerwarehousecom \$208.74 smcs; Stagecoach \$35.31 smcs; Stanley Works \$718.97 smcs; Steinbrink Landscaping \$3,199.99 smcs; Stickney,C \$60.00 smcs; Superior Signals \$611.46 smcs; Supershuttle \$37.76 smcs; Swanson,L \$8.38 smcs; Target \$221.38 smcs; Tarpomatic \$904.43 smcs; Terry's Tickets \$500.00 smcs; Texoma Golf \$611.32 smcs; Theis,J \$60.00 smcs; Tielke Sandwiches \$46.75 smcs; Titleist \$11,987.96 smcs; Torco,M \$17.07 smcs; Towne Place Suites \$751.56 smcs; Tractor-Supply \$1,898.22 smcs; Trans Iowa Equipment \$112.24 smcs; Trenton Snow \$125.00 smcs; Tri City Outdoor Power \$865.31 smcs; Tri-County Glass \$253.94 co; Turfwerks \$277.57 smcs; Turner Body Shop \$255.00 smcs; Tye & Rademacher \$11,141.27 smcs; Union Bank & Trust \$54,094.28 ps; Unique Management Services \$241.65 smcs; United Seeds \$92.50 smcs; UNL Athletic Ticket Office \$22.00 smcs; UPS Store \$77.15 smcs; USA Blue Book \$2,027.09 smcs; USPS \$574.31 smcs; Van Diest Supply \$3,818.44 smcs; Verizon Wireless \$74.98 smcs; Vermont Systems \$394.00 smcs; Village Uniform \$439.87 smcs; Visor Versa \$283.50 smcs; Wald & Co \$13,000.00 smcs; Walgreens \$3.53 smcs; Walmart \$4,037.52 smcs,co; Walters Electric \$336.44 co; Ward Lab \$36.30 smcs; When To Work \$180.00 smcs; Wicks Sterling Trucks \$81.24 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$159.84 smcs; WPCI \$157.00 ps; Yanda's Music \$18,323.05 smcs; Younghans,J \$23.14 smcs; Zikmund,A \$70.00 smcs; Zimmerman Printers \$144.02 smcs; Payroll Ending 5-5-2012 -- \$348,324.00. 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. Receive recommendations of Planning Commission and set June 12, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. **Postponed April 24, 2012.** Adopt **Resolution No. 2012-72** approving developing standards to be applied toward the development of the Tech oNE Crossing Business Park located at the southeast corner of 56th Street and Antelope Avenue.

#### **RESOLUTION NO. 2012-72**

WHEREAS, Gensler is a global architecture, design and planning firm that prepared

a Site Master Plan and Marketing Report, dated April 1, 2010 for the City of Kearney to guide the development of a technology park; and

WHEREAS, it has been determined to be in the best interests of the City of Kearney to adopt development standards to be applied toward the development of the Tech ONE Crossing Business Park.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Site Master Plan and Marketing Report dated April 1, 2010 be and is hereby adopted as development standards to be followed toward the development of Tech ONE Crossing Business Park, which from time to time may be amended by City staff. A copy of the Site Master Plan and Marketing Report, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Approve the request submitted by The Great Platte River Road Archway Monument to temporarily close Central Avenue from Talmadge Street to 1st Street and to temporarily close 1st Street from Central Avenue to Cherry Avenue on June 16, 2012 from 7:00 a.m. until 7:00 p.m. in connection with the Pow Wow Celebration.

6. Adopt **Resolution No. 2012-79** prohibiting parking on the north side of 4th Street from 4th Avenue west to the new entrance to Cash-Wa Distributing's fenced campus.

**RESOLUTION NO. 2012-79**

WHEREAS, the City has received a request from Cash-Wa Distributing concerning parking along the north side of 4th Street west of 4th Avenue to Cash-Wa Distributing's new entrance into their fenced campus; and

WHEREAS, the Public Works Department and the Police Department have reviewed the situation and found that there is an apparent parking problem concerning Cash-Wa's added incoming off-street truck parking west behind the Big Apple as well as inside the fenced Cash-Wa campus; and

WHEREAS, the Public Works Department and the Police Department have recommended that the north side of 4th Street from the corner of 4th Avenue west to Cash-Wa Distributing's new entrance into their fenced campus be designated as "No Parking" at any time.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the north side of 4th Street from the corner of 4th Avenue west to Cash-Wa Distributing's new entrance into their fenced campus be and is hereby designated as "No Parking" at any time.

BE IT FURTHER RESOLVED that the City Manager be and is hereby instructed to place appropriate signs designating the area as directed by this Resolution.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Approve the application for a Special Designated License submitted by Nebraska Aids Project to dispense beer and wine in the East Gallery of the Museum of Nebraska Art and in the outside garden area located on the east side of the building located at 2401 Central Avenue on June 9, 2012 from 3:00 p.m. until 9:00 p.m. for a fund raiser.
8. Accept the bids received for the 2011 Part 12 Improvements; Harmon Park Inclusive Playground and adopt **Resolution No. 2012-80** awarding the bid to Dostals Construction in the amount of \$202,599.00.

**RESOLUTION NO. 2012-80**

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on May 15, 2012 at 2:00 p.m. for the 2011 Part 12 Improvements; Harmon Park Inclusive Playground; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$180,340.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Dostals Construction of Gretna, Nebraska in the sum of \$202,599.00 which includes the alternate material be accepted as the lowest responsible bid for 2011 Part 12 Improvements; Harmon Park Inclusive Playground.

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 Dostals Construction of Gretna, Nebraska be and is the lowest responsible bidder for the 2011 Part 12 Improvements; Harmon Park Inclusive Playground to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dostals Construction of Gretna, Nebraska in the sum of \$202,599.00 which includes the alternate material be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$180,340.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Adopt **Resolution No. 2012-81** approving the Peterson Senior Activity Center Annual Nutrition Service Contract between the City of Kearney and Community Action Partnership of Mid-Nebraska to serve as the meal service provider.

**RESOLUTION NO. 2012-81**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to execute the Peterson Senior Activity Center Annual Nutrition Service Contract on behalf of the City of

Kearney. The said Contract, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**10.** Adopt **Resolution No. 2012-82** approving Application and Certificate for Payment No. 1 in the amount of \$472,220.10 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2011 Part 7 Improvements; 5th Avenue from North Railroad Street to 25th Street.

**RESOLUTION NO. 2012-82**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2011 Part 7 Improvements; 5th Avenue from North Railroad Street to 25th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$472,220.10, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$854,474.00
Contract Sum To Date	854,474.00
Gross Amount Due	524,689.00
Retainage	52,468.90
Amount Due to Date	472,220.10
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$472,220.10

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**11.** 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 Holmes Supply, 2003 Avenue C, on June 22, 2012 from 3:00 p.m. until 7:00 p.m. for an open house.

**12.** 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 in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 23, 2012 from 3:00 p.m. until 12:00 a.m. for a reception.

**13.** Approve the Agreement submitted by the Central Nebraska Auto Club to temporarily block off Central Avenue from 25th Street to North Railroad Street, 24th Street from 1st Avenue to Avenue A, 23rd Street from 1st Avenue to Avenue A, 21st Street from 1st Avenue to Avenue A, the parking lot located west of Cunningham's Journal, the parking lot located behind City Hall, and the parking lot located north of MONA in conjunction with Cruise Nite 2012 on July 21, 2012. Parking on these public properties will be prohibited on July 21, 2012 beginning at 2:00 a.m.

**14.** Adopt **Resolution No. 2012-83** approving the Cruise Nite parade scheduled for July 21, 2012 at 5:00 p.m. beginning at Railroad Street and Central Avenue, north on Central Avenue and dispersing at the intersection of 28th Street and Central Avenue.

### **RESOLUTION NO. 2012-83**

WHEREAS, the City of Kearney has received and approved an application to conduct a parade on July 21, 2012 beginning at 5:00 p.m. and ending at 6:30 p.m.; and

WHEREAS, the route for the parade will begin at Central Avenue and Railroad Street, go north on Central Avenue and dispersing at the intersection of 28th Street and Central Avenue; and

WHEREAS, with the passage of LB 589, the City of Kearney accepts the duties of protecting the public from damage, injury, or death on July 21, 2012 beginning at 5:00 p.m. and ending at 6:30 p.m.; and

WHEREAS, the City of Kearney will assume control of the state highway property, more specifically the intersection of Central Avenue and 25th Street (Highway 30) on July 21, 2012 from 5:00 p.m. until 6:30 p.m. and relinquish control of such state highway property to the state; and

WHEREAS, the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said parade; and

WHEREAS, the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said parade.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve the parade scheduled for July 21, 2012 beginning at 5:00 p.m. and ending at 6:30 p.m. and that the City accepts the duties of protecting the public from damage, injury, or death associated with said parade.

BE IT FURTHER RESOLVED that the City of Kearney will assume control of the state highway property, more specifically the intersection of Central Avenue and 25th Street (Highway 30), on July 21, 2012 from 5:00 p.m. until 6:30 p.m. and that after such time the City will relinquish control of such state highway property to the state.

BE IT FURTHER RESOLVED that the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said parade.

BE IT FURTHER RESOLVED that the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said parade.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:

STANLEY A. CLOUSE

MICHAELLE E. TREMBLY  
CITY CLERK

PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**15.** Approve the request submitted by HOPE to temporarily close the parking stalls on the east side of 1st Avenue from 23rd Street to 24th Street on June 23, 2012 from 8:00 a.m. until 12:00 a.m.

Moved by Buschkoetter seconded by Kearney that Subsection 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Lear, Lammers, Kearney, Buschkoetter. Nay: None. Clouse abstaining. Motion carried.

**16.** Adopt **Resolution No. 2012-84** authorizing the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the newly annexed land of Bel Air Fifth Addition to the City of Kearney, Buffalo County, Nebraska (west of the intersection of Avenue N and 66th Street).

#### **RESOLUTION NO. 2012-84**

WHEREAS, on April 10, 2012 the Kearney City Council passed and approved Resolution No. 2012-34 including "BEL AIR FIFTH ADDITION" within the corporate boundaries of the City of Kearney said property described as Lots 1 through 5, inclusive, Block Three, all of Avenue "L", a street in the City of Kearney, Buffalo County, Nebraska as it abuts said Lot 5, Block Three 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, Block Three, and all that part of 66th Street Place as it abuts the aforescribed part of Avenue "L" on the North, all in Bel Air Second Addition, together with Lot 5, Block Two, and all that part of 66th Street Place, a street in the City of Kearney, as it abuts said Lot 5, Block Two on the North, all in Bel Air Fourth Addition, all being located in the City of Kearney, Buffalo County, Nebraska, with the aforescribed lots and streets now vacated and located in the Southeast Quarter of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all being more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of Section 24 and assuming the East line of the Northeast Quarter of said Section 24 as bearing N00°08'04"E and all bearings contained herein are relative thereto; thence N00°08'04"E on the East line of the Northeast Quarter of said Section 24 a distance of 343.0 feet; thence leaving the East line of the Northeast Quarter of said Section 24, N89°46'30"W a distance of 50.0 feet to the Northeast Corner of Lot 8, Block Two of said Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, said point also being the Southeast Corner of Lot 1, Block Two, Bel Air Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and said point also being on the West line of Avenue "N", a street in the City of Kearney, Buffalo County, Nebraska; thence leaving the West line of said Avenue "N" and continuing N89°46'30"W and on the line common with the North line of Lot 8, Block Two of said Bel Air Second Addition, and the South line of Block Two, of said Bel Air Fourth Addition a distance of 114.92 feet to the Northeast Corner of Lot 7 of said Block Two, Bel Air Second Addition; thence S85°24'40"W on the line common with the North line of Lot 7 of said Block Two, Bel Air Second Addition and the South line of said Block Two, Bel Air Fourth Addition a distance of 100.19 feet; thence S86°33'39"W on the line common with

the North line of Lot 6 of said Block Two, Bel Air Second Addition and the South line of said Block Two, Bel Air Fourth Addition a distance of 92.91 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Lot 4 of said Block Two, Bel Air Fourth Addition; thence continuing S86°33'39"W on the line common with the North line of said Lot 6, Block Two, Bel Air Second Addition and the South line of said Block Two, Bel Air Fourth Addition a distance of 7.20 feet to the Northeast Corner of Lot 5 of said Block Two, Bel Air Second Addition; thence S89°56'55"W on the North line of said Block Two, Bel Air Second Addition a distance of 115.07 feet to the Northwest Corner of said Lot 5, Block Two, Bel Air Second Addition, said point being on the East line of said Avenue "L"; thence leaving the East line of said Avenue "L" N89°52'13"W and on the North line of Lot 6 and Lot 7, if extended easterly of said Block Three, Bel Air Second Addition a distance of 254.92 feet to the Northwest Corner of said Lot 7, Block Three, Bel Air Second Addition; thence N83°30'52"W on the North line of Lot 8 of said Block Three, Bel Air Second Addition a distance of 90.65 feet; thence N83°28'03"W on the North line of Lot 9 of said Block Three, Bel Air Second Addition a distance of 179.18 feet to the Northwest Corner of said Lot 9, Block Three, Bel Air Second Addition, said point also being the Northeast Corner of Lot 9, Bel Air First Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N89°56'46"W on the North line of said Lot 9, Bel Air First Addition a distance of 77.84 feet to the Northwest Corner of said Lot 9, Bel Air First Addition, said point also being the Southwest Corner of Lot 2 of said Block Three, Bel Air Second Addition; thence N00°06'18"E on the West line of said Block Three, Bel Air Second Addition a distance of 170.12 feet to the Northwest Corner Lot 1 of said Block Three, Bel Air Second Addition; thence N89°52'02"E on the North line of said Block Three, and the North line of said 66th Street Place, Bel Air Second Addition, and the North line of Bel Air Fourth Addition and the North line of said 66th Street Place, Bel Air Fourth Addition a distance of 723.30 feet to a point on the West line of Lot 4, if extended northerly, of said Block Two, Bel Air Fourth Addition; thence S00°08'40"W on the West line of said Lot 4, if extended northerly, Block Two, Bel Air Fourth Addition a distance of 199.18 feet to the place of beginning, containing 3.17 acres, more or less, Buffalo County, Nebraska (west of the intersection of Avenue N and 66th Street); and

WHEREAS, the Nebraska Public Power District (NPPD) will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of Kearney, to include the above described property into the corporate boundaries of the City of Kearney, Nebraska; and

WHEREAS, the City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement with NPPD approved on July 11, 1989, pursuant to which NPPD operates and maintains the electric distribution system owned by the City of Kearney; and

WHEREAS, it is determined by the City Council that it would be desirable and in the best interests of the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska, be authorized to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the above described property into the corporate boundaries of the City of Kearney, Nebraska in said retail service area.

BE IT FURTHER RESOLVED that the Vice-President be and is hereby authorized to execute on behalf of the City of Kearney a joint application with NPPD to the Nebraska Power Review Board and to cooperate with NPPD in the prosecution of its application.

BE IT FURTHER RESOLVED that such joint application shall be prosecuted at the sole cost and expense of NPPD.

PASSED AND APPROVED THIS 22ND DAY OF MAY, 2012.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7726 EXTEND FRANCHISE AGREEMENT TO NORTHWESTERN NATURAL GAS**

The City of Kearney has negotiated an extension of the Franchise Agreement between the City of Kearney and Northwestern Natural Gas to provide natural gas services within the City of Kearney. This Franchise extends for a period of 10 years with an option for renewal. Northwestern will hold the City harmless and provide a Certificate of Insurance pursuant to the Ordinance. Northwestern is obligated to comply with City Code in the placement of its gas lines and facilities and is also obligated to pay an occupation tax.

Council Member Clouse introduced Ordinance No. 7726, being Subsection 1 of Agenda Item V extending the Franchise Agreement with Northwestern Natural Gas to provide natural gas services within the City of Kearney for a period of ten years, 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, 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. 7726 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. 7726 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. 7726 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**ORDINANCE NO. 7727 CREATING WATER EXTENSION DISTRICT NO. 2012-1**

City staff is requesting that the Council create Water Extension District No. 2012-1 to extend a 16-inch diameter water main in 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet to connect to the existing water main serving the airport water system which is located near the southwest corner of the National Guard Armory site. The water main will follow the 56th Street road right-of-way to Cherry Avenue and the proposed road right-of-way for 56th Street from Cherry Avenue to an existing water main located just east of Piper Avenue in the Airport road system.

Water Extension District No. 2012–1 will serve the Tech oNe Technology Park and will provide an additional connection between the Airport water system and the City of Kearney water distribution system.

Property owners abutting the water main will have the opportunity to request an agricultural deferral of assessments deferring the payment of assessments until the zoning of their property changes from the existing Agricultural zoning.

Council Member Clouse introduced Ordinance No. 7727, being Subsection 2 of Agenda Item V creating Water Extension District No. 2012-1 for 56th Street from the existing water main located ½ mile east of Antelope Avenue eastward approximately 5,446 feet to connect to the existing water main serving the airport water system which is located near the southwest corner of the National Guard Armory site, 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, 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. 7727 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. 7727 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. 7727 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 CLAIM: NPPD - \$78,876.60**

Moved by Lammers seconded by Lear that the Open Account Claim in the amount of \$78,876.60 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse abstained. Motion carried.

**VII. REPORTS****UPDATES FROM CITY MANAGER**

City Manager Michael Morgan updated the Council on several matters. Finance Director Wendell Wessels has done a significant amount of work on the budget. After they completed the preliminary budget review, things are looking positive. Kearney is fortunate, as a community, in comparison to others in the area. It was their understanding from Council that they wanted another year of no property tax increases. To date, it looks like they will be able to meet that goal.

They have made a concerted effort in the last few years regarding sidewalks. At the present time, they are working on the ADA compliant sidewalk ramps and there will be a significant number of park sidewalks done this summer. The lack of sidewalks around City parks was a concern that was stated several times during the Listening Sessions.

The bid was approved at this meeting for the All Inclusive Playground bid and that will be moving forward this summer.

The bid has been awarded for the Yanney Park parking lot and the paving will take place later this year.

50th Street and 17th Avenue is also under construction.

The Terminal landscaping is complete at the Airport.

He discussed the projects with upcoming bids. The Park & Rec parking lot (Phase I – expansion) is under design by the City Engineer. The railroad parking lot across the street from the Park & Rec building has been a problem for a long time. Although that parking lot is owned by the railroad, the City uses it a lot. The City has received funds from the CRA to go towards the \$140,000 to \$150,000 cost range of redoing that lot. It will be good for the downtown area to get that done.

They are still struggling with what the state will authorize for the Downtown lighting project. There are \$200,000 of sales tax funds for that project, plus the Downtown grant that was submitted. It is uncertain what the state will approve.

The extension of the 56th Street waterline will proceed. The completion of that waterline combined with the eventual County's extension will complete all the infrastructure necessary for that 56th Street Corridor to the Airport. With this purchase and rezoning of the property, all 165 acres are now zoned appropriately and ready to be marketed as a data park.

One thing the staff has been debating and he has discussed with Public Works Director Rod Wiederspan is the State of Nebraska took bids for 2nd Avenue from 25th Street to 31st Street on May 17th. It is unknown what the schedule is yet and they are a little concerned about what that schedule will be. The Central Avenue project from 25th Street to 31st Street was moved back a year already. It is likely they will be coming back and recommending it be moved back yet another year. They do not want Central Avenue and 2nd Avenue under construction at the same time.

The 5th Avenue project is under construction and Roeder Construction is ahead of schedule. In next year's CIP, they have 5th Avenue from 14th Street to 15th Street as a possibility. They have another street project that they could delay for a year which is in about the same cost range. They might be visiting with the contractor to see if he can get 5th Avenue from 14th Street to 15th Street done which would completely finish 5th Avenue very soon. The construction is generally cheaper when the contractor is already in the area and with the work he has done and the bid prices, it might be advantageous to complete that project at this time.

Next year, they will be doing Avenue N from 25th Street to 28th Street.

They also have the Airport project slated.

Another project that is lingering on the list, that has been discussed by Council, but no decision has been reached, is the Skate Park. The design for the Skate Park has been completed with the possibility of it being done in two different phases.

Eventually, the Harmon Tennis Court lighting project will have a bid coming in.

The City staff has been approached by a couple of organizations to contribute towards a large shelter at Baldwin Park for the soccer clubs in that area.

Clean up of Turkey Creek will be finished later this year once it gets dried out.

There is a lot happening on Capital projects. From a development standpoint, they are the busiest they have been in some time. Due to the reduction of building permits a few years ago when they had a vacancy in the Inspector position, they have not filled that position for over two years. They are now advertising to fill that Building Inspector/Electrical position because of the number of single family permits and interest in several large commercial projects. It will take a few months to get that new person up to speed. We do not have a full time electrical inspector on staff at this time and a few have been helping and cross training.

Mayor Clouse said they continue to move forward with the utilities infrastructure for the data park regardless of what happens. Worst case scenario is that we place our water/sewer loops ahead of schedule. Darren Robinson from the Economic Development Council is attending a data center conference this week and is talking to data center prospects where he will be aggressively marketing the Kearney site.

**VIII. ADJOURN**

Moved by Kearney seconded by Lammers that Council adjourn at 7:26 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

**ATTEST:**

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

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**MICHAELLE E. TREMBLY  
CITY CLERK**