

*Kearney, Nebraska
February 28, 2023
5:30 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on February 28, 2023 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, City Clerk; Council Members Randy Buschkoetter and Tami James Moore. Absent: Bruce Lear and Jonathan Nikkila. Jonathan Nikkila arrived at 5:32 p.m. Michael Morgan, City Manager; Michael Tye, City Attorney; Brenda Jensen, Assistant City Manager; Kayla James, Director of Finance; Tony Jelinek, Director of Utilities; Bryan Waugh, Chief of Police and Dan Lillis, Engineering Assistant, were also present. Members of the media present included: Mike Konz, 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/MOMENT OF SILENCE

With the absence of a minister, the Council held a moment of silence.

PLEDGE OF ALLEGIANCE

Council members led the 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 on the wall of the Council Chambers.

RECOGNITION/ORAL COMMUNICATIONS

Vice-President Randy Buschkoetter read the Proclamation for Kearney's 150th Anniversary Celebration. Mayor Clouse welcomed Broc Anderson, Community Engagement Director for Buffalo County Historical Society (BCHS).

Mr. Anderson stated several events are planned throughout 2023 including those listed in the Proclamation. Mr. Anderson thanked BCHS volunteers, Dr. Nathan Tye and BCHS Executive Director Jennifer Murrish for their work in organizing the events honoring Kearney's Sesquicentennial Anniversary.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

SALES TAX CAPITAL IMPROVEMENT PLAN

Mayor Clouse opened the public hearing on the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney, Nebraska.

Michael Morgan, City Manager presented this matter to the Council. Mr. Morgan stated this item reflects the annual public hearing requirement that was included in the CIP, Special Sales Tax when it was initially approved by the voters. Mr. Morgan stated the City maintains a list of projects that have been discussed previously and total approximately \$34,000,000. Mr. Morgan noted the Special Sales Tax fund continues to do wonderful things for the community and further noted that many of the projects get moved, changed or increase in cost.

Council Member Jonathan Nikkila praised the transparency and foresight provided to citizens.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and approve the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

BOARD OF EQUALIZATION

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization for the purpose of equalizing and levying special assessments on the lots and parcels of land in connection with Paving Improvement District Nos. 2020-002 and 2020-003; Water District Nos. 2020-592 and 2020-593 and Sewer District No. 2020-528 and consider Resolution No. 2023-31.

Paving Improvement District No. 2020-002; Water District No. 2020-003; Sanitary Sewer District No. 2020-528:

These districts were created on August 25, 2020. The districts are for public improvements for 6th Street from the West line of 22nd Avenue Easterly to the West line of Yanney Avenue.

Paving Improvement District No. 2020-003; Water District No. 2020-592

These districts were created on August 25, 2020. The districts are for public improvements for Centerline of 6th Street Northerly on 22nd Avenue to the South line of Lot 1, Western Nebraska Property Development Second Avenue.

There was no one present in opposition to this hearing.

After completion of the construction projects, the City hired a title company to complete property abstracts so that assessments could be levied. These districts have been completed and, in order to satisfy state law, when paving, water and sewer districts are completed, the City Council must act as a Board of Equalization to levy assessments on properties so benefited. Property owners will then be required to pay the first installment within 50 days (April 19) or they can pay the assessment over a 10-year period for paving and over a 5-year period for water and sanitary sewer.

Moved by Moore seconded by Buschkoetter to close the hearing for the Council to meet as the Board of Equalization for the purpose of equalizing and levying special assessments on the lots and parcels of land in connection with Paving Improvement District Nos. 2020-002 and 2020-003; Water District Nos. 2020-592 and 2020-593 and Sewer District No. 2020-528. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2023-31

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. The President and Council find and determine that the streets in Paving Improvement District Nos. 2020-002 and 2020-003 have been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. The President and Council find and determine that the water main heretofore ordered installed in Water District Nos. 2020-592 and 2020-593 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 3. The President and Council find and determine that the sanitary sewer main heretofore ordered installed in Sanitary Sewer District Nos. 2020-528 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sanitary sewer main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 4. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District Nos. 2020-002 and 2020-003 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 6.0 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of 14.0 per centum per annum until paid.

Section 6. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Water District Nos. 2020-592 and 2020-593 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 6.0 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of 14.0 per centum per annum until paid.

Section 7. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sanitary Sewer District Nos. 2020-528 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 6.0 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of 14.0 per centum per annum until paid.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 14 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held February 14, 2023.
2. Approve the following Claims:

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

1000bulbs.com \$241.46 smcs; 3CMA \$400.00 smcs; AAS Sky Publishing \$57.75 smcs; Ace Irrigation \$45.31 smcs; AceK9 \$152.50 smcs; Adobe \$52.99 smcs; Advance Auto \$16.36 smcs; Adventure Enterprises \$1,175.00 smcs; AirClean Systems \$603.00 smcs; Alejandro's Salon \$54.94 smcs; Alfred Benesch \$24,170.92 co; All City Garage Door \$386.00 smcs; All Copy Products \$296.89 smcs; All Makes Auto \$772.47 smcs; Amazon \$11,682.38 smcs,co; American \$542.50 smcs,co; American Instants \$42.60 smcs; American Legion \$46.85 smcs; American Locksets \$548.35 smcs; Anythingtruck.com \$956.71 smcs; Apple \$2.97 smcs; Applebee's \$49.10 smcs; Aramark Uniform \$300.56 smcs; Ask Supply \$1,454.61 smcs; Assoc. Threat Assess. \$125.00 smcs; At-A-Glance \$48.04 smcs; ATT \$1,121.12 smcs; Aurora Coop \$1,046.00 smcs; Aussie Hydraulics \$8.62 smcs; Authorize.net \$10.00 smcs; Auto Value \$189.53 smcs; Avfuel \$105,407.70 smcs; Avtech Software \$299.95 smcs; Babbitts Online \$279.60 smcs; Baker & Taylor \$3,395.83 smcs; Bamford \$250.00 smcs; Barco Municipal \$206.58 smcs; Barney Insurance \$100.00 smcs; Bartlett Instrument \$105.00 smcs; Baum Hydraulics \$338.18 smcs; Blackstone Library \$275.44 smcs; Blackstrap \$40,021.74 smcs; Bluecross Blueshield \$640,336.14 smcs; Boehler, C \$60.00 smcs; Bombeck, B \$22.86 smcs; Bomgaars \$174.19 smcs; Border Industries \$800.36 smcs; Bosselman \$8,548.18 smcs; Bossfuels \$23,010.38 smcs; Broadfoot's \$2,372.28 smcs; Brown Construction \$70,575.28 co; Bubble Factory \$110.45 smcs; Buffalo Co. Court \$268.76 ps; Buffalo Co. Treasurer \$67.65 smcs; Buffalo Outdoor Power \$2,002.00 smcs; Builders \$2,297.86 smcs,co; Caldwell Tanks \$1,216,972.98 co; Carhartt \$139.06 smcs; Carolina GSE \$2,897.48 smcs; Carquest \$118.77 smcs; Cash Wa \$514.48 smcs; Center Point Large Print \$79.86 smcs; Central Hydraulic \$220.00 smcs; Central NE Bobcat \$224.56 smcs; Central NE Rehab \$100.00 ps; Chemsearch \$748.95 smcs; Chesterman \$134.00 smcs; Cintax \$284.43 smcs; City of KY \$383,059.22 smcs,ps; Clevenger Petroleum \$351.45 smcs; Comm. Action Partner. \$1,740.00 smcs; Comm. Health \$10.00 ps; Constantcontact.com \$125.00 smcs; Construction Rental \$608.39 smcs; Control Yours \$325.60 smcs; Copycat \$752.44 smcs; Cordova, T \$150.00 smcs; Court Reserve

\$121.85 smcs; Cramer, J \$1,240.00 smcs; Culligan \$2,302.00 smcs; Cummins \$25.86 smcs; Cunninghams Journal \$98.04 smcs; Cutting Edge Cleaning \$350.00 smcs; Daigle Law \$125.00 smcs; Dan's Plumbing \$131.00 smcs; Dashlane \$900.00 smcs; Dell \$980.49 smcs; Dell Marketing \$3,046.68 co; Development Council \$23,332.00 smcs; Direct Sports \$754.89 smcs; Dish \$260.86 smcs; Displays2go \$273.89 smcs; DJI Service \$147.00 smcs; Dmilaco \$295.68 smcs; Dollartree \$18.73 smcs; Dowhy Towing \$250.00 smcs; Drivers License Guide \$31.95 smcs; DTS Technology \$32.99 smcs; Dunkin Donuts \$14.78 smcs; Dytrych, D \$2.57 smcs; Eakes \$1,548.47 smcs; Easy Picker Golf \$4,445.75 co; Ebay \$85.47 smcs; Echo - KY High \$250.00 smcs; Echo Electric \$879.10 smcs,co; Ecolab \$126.21 smcs; EH Wachs \$1,017.73 smcs; Eileen's Cookies \$22.80 smcs; Elder, E \$38.89 smcs; Eldt.com \$50.00 smcs; Electro Numerics \$75.65 smcs; Electronic Systems \$1,028.25 smcs; Elliott Equipment \$11,919.21 smcs; Embassy Suites \$2,288.58 smcs; Enterprise \$13.09 smcs; Epic Sports \$1,098.08 smcs; Ereplacementparts.com \$121.88 smcs; Express Market Place \$45.00 smcs; Express Que Place \$23.75 smcs; Eyemed \$1,816.51 smcs; FAA \$5.00 smcs; Facebook \$474.03 smcs; Family Fresh \$21.00 smcs; Family Practice \$418.00 ps; Farmers Union \$1,050.00 smcs; Fastenal \$289.41 smcs; Fiddelke \$480.38 smcs; Fireplace Stone \$2,865.83 co; Flock Safety \$83,300.00 smcs; Foote, K \$19.02 smcs; Friesen Chevrolet \$178.50 smcs; Frontier \$345.36 smcs; Fun Express \$40.33 smcs; Gale \$1,033.31 smcs; Galeton \$512.35 smcs; Garrett Tires \$16,122.93 smcs; Gear Zone \$124.72 smcs; Give Nebraska \$10.00 ps; Glass Doctor \$814.16 smcs; Gleason-Birnie, L \$25.95 smcs; Gonzalez, H \$15.35 smcs; Goodwin Tucker \$242.00 smcs; Gopher Sport \$254.91 smcs; Graham Tire \$1,404.11 smcs; Grainger \$2,745.34 smcs; Great Plains Comm. \$965.47 smcs; Greenhouse Megastore \$12,650.35 smcs; H6 Tactical \$282.55 smcs; Hach \$710.46 smcs; Harbor Freight \$27.80 smcs; Harper, A \$11.53 smcs; Harris Seeds \$127.81 smcs; Hartman, A \$25.00 smcs; HD Supply \$575.35 smcs; Heartland Motor \$36.36 smcs; Hobby Lobby \$394.94 smcs; Holiday Inn \$11,704.30 smcs; Holmes Plumbing \$22.76 smcs; Horticultural Products \$243.75 smcs; Hy-vee \$322.41 smcs; IACP \$240.00 smcs; IAPE \$65.00 smcs; ID Security Online \$64.31 smcs; Idexx Distribution \$1,809.69 smcs; IIMC \$225.00 smcs; Institute of Police Tech \$725.00 smcs; Integrated Security \$6,940.00 smcs; Invoicehome.com \$5.00 smcs; IRS \$186,576.84 ps; Jack Lederman \$3,744.89 smcs,co; Jack's Small Engines \$221.18 smcs; Jack's Uniforms \$2,320.07 smcs; Jackson Services \$427.45 smcs; John Deere Credit \$5,801.36 smcs; Johnstone Supply \$2,430.47 smcs; Joseph's College \$731.00 smcs; KY Ace & Garden \$371.71 smcs; KY Chamber \$80.00 smcs; KY Concrete \$683.48 smcs; KY Equipment \$281.30 smcs; KY Quality \$29.99 smcs; KY Winlectric \$1,892.88 smcs,co; KY Winnelson \$50.75 smcs; Kelly Supply \$893.60 smcs; Kirkham Michael \$5,425.00 smcs; Krahling, K \$27.32 smcs; Ktown Cakery \$18.00 smcs; Landmark Implement \$2,127.07 smcs; Law Tactical \$624.00 smcs; Lawn Builders \$3,592.54 smcs; LCL Truck \$1,790.92 smcs; LEE NE Media \$2,834.98 smcs; Lightbulbs.com \$14.32 smcs; Lindner, S \$658.64 smcs; LLRMI \$150.00 smcs; Lockmobile \$18.72 smcs; Lowes \$337.84 smcs; Macqueen Equipment \$4,632.09 smcs; Mallory Safety \$374.88 smcs; Marlatt Machine \$3,297.95 smcs,co; Marriott \$548.12 smcs; Masters True Value \$655.25 smcs; Matheson \$399.29 smcs; McCartney, Erin Chpt 13 \$157.00 ps; McCarty, D \$150.00 smcs; Mead Lumber \$248.85 smcs; Menards \$9,329.93 smcs,co; Merrill \$1,283.42 smcs; Michaels \$164.95 smcs; Microsoft \$178.99 smcs; Mid-Plains Equipment \$72.50 smcs; Mid-State Engineering \$526.00 co; Midway \$394.07 smcs; Midwest Connect \$30.00 smcs; Midwest Emergency \$862.00 smcs; Midwest Turf \$244.90 smcs; Miller Signs \$2,300.00 smcs; Mirror Image \$259.91 smcs; Mission Square \$7,818.28 ps; Moonlight Embroidery \$697.50 smcs; Municipal

Emergency \$354.22 ps; Municipal Supply \$6,678.08 smcs; My Senior Center \$1,190.00 smcs; NAP Industrial \$89.91 smcs; Nat'l Registry EMT \$88.00 smcs; Nat'l School Resource \$40.00 smcs; Nays Online \$468.91 smcs; NE Arborists \$170.00 smcs; NE Child Support \$1,986.51 ps; NE Crane \$342.85 smcs; NE Dept. Revenue \$99,647.70 smcs,ps; NE Environment & Energy \$80.00 smcs; NE Generator \$1,120.74 smcs; NE Library Assn. \$60.00 smcs; NE Machinery \$556.80 smcs; NE Municipal Utilities \$874.00 smcs; NE Municipalities League \$471.00 smcs; NE Nursery & Landscape \$770.00 smcs; NE Safety \$716.00 smcs; NE Salt & Grain \$31,072.92 smcs; NE Truck Center \$3,744.64 smcs; Network Solutions \$269.91 smcs; New Deal Deicing \$8,420.29 smcs; Next Day Display \$133.48 smcs; NI SFM Boiler \$216.00 smcs; NI Site Payport \$16.40 smcs; Northern Safety \$142.08 smcs; Northwestern Energy \$810.35 smcs; Officemax \$2,276.86 smcs,co; Olsson \$937.50 co; Omnify \$437.50 smcs; O'Reilly Auto \$8.99 smcs; Parts Tree \$589.82 smcs; Paymentus \$1,085.00 smcs; Pep Co. \$406.71 smcs; Perkins \$155.99 smcs; Petro \$100.00 smcs; Petsmart \$343.96 smcs; Phillips 66 \$184.15 smcs; Pitney Bowes \$581.40 smcs; Platinum Awards \$573.00 smcs; Platte Valley Auto \$442.28 smcs; Playkleen \$736.24 smcs; Prairie Legacy \$18.78 smcs; Prestige Flag \$860.49 smcs; Presto-X \$168.52 smcs; Priority Mgmt. \$98.00 smcs; Proactive Sports \$420.00 smcs; Propay \$299.00 smcs; Quill \$431.03 smcs; Ready Mixed Concrete \$480.45 smcs; Redbox \$7.23 smcs; Reed, J \$2.50 smcs; Rentokil \$67.80 smcs; Road Builders \$3,109.79 smcs; Roy, J \$150.00 smcs; Safety Products \$582.53 smcs; Samsclub.com \$275.58 smcs; Sandry Fire \$932.15 smcs; Sayler Screenprinting \$434.75 smcs; Schindler Elevator \$1,141.20 smcs; Scholastic Education \$187.20 smcs; See Clear Cleaning \$997.50 smcs; Select Seeds \$56.45 smcs; Select Sprayers \$479.16 smcs; Senior Excursions Inc \$50,550.00 smcs; Sesac \$553.00 smcs; Sherwin Williams \$1,637.48 smcs,co; Shredding Solutions \$61.13 smcs; SignIt \$102.00 smcs; Siteone Landscape \$1,959.39 smcs; Sitescapes \$17,682.63 co; SLA Corp \$383.88 smcs; Socket-Tite \$2,197.19 smcs; SOS Portable Toilets \$179.00 smcs; Spectrum \$770.34 smcs; Square \$867.77 co; State Electrical \$278.00 smcs; Streamlight \$74.84 smcs; Stutsman \$1,098.00 smcs; Subway \$43.08 smcs; Supplyhouse \$174.18 smcs; Swallowtail Garden \$15.57 smcs; Target \$425.67 smcs; Therm-all \$330.63 smcs; Tillotson Enterprises \$3,286.00 co; Titan Machinery \$46.05 smcs; Total Backflow \$850.00 smcs; Tractor-Supply \$1,265.84 smcs; Transunion \$112.00 smcs; Traveler's \$18.00 smcs; Tri Co Glass \$9,900.00 co; Tri Mor K9 \$250.00 smcs; Triple Crown \$414.90 smcs; Trueleaf Market \$141.55 smcs; Turf Co. Direct \$231.45 smcs; TYR Tactical \$920.48 smcs; UASidekick \$899.90 smcs; Uline \$1,639.95 smcs; Union Bank \$100,914.64 ps; Unique Management \$198.05 smcs; United Way \$102.00 ps; Univ. of NE Event Reg. \$950.00 smcs; Univ. of NE Omaha \$443.00 smcs; UNL Marketplace \$27.08 smcs; UPS \$116.82 smcs; USA Bluebook \$1,454.59 smcs; USPS \$549.25 smcs; Viaero Event Center \$2,384.80 smcs; Village Services \$558.75 smcs; VVS \$32.92 smcs; Waldinger Corp. \$1,487.36 co; Walgreens \$32.42 smcs; Wal-Mart \$2,447.19 smcs,co; Walsh, C \$189.00 smcs; Weldon, C \$352.82 smcs; World Herald \$1.00 smcs; Youtube TV \$342.80 smcs; Zoom \$2,398.80 smcs; Payroll Ending 02/11/2023 -- \$584,366.54. 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 March 14, 2023 at 5:30 p.m. as date and time for hearing on those applications where applicable.
4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor

Control Commission on the Class CK-125469 liquor license application and manager application for Heath Smallcomb submitted by Joe's Honky Tonk LLC dba Joe's at the Depot located at 2023 1st Avenue.

5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Jean Castaneda submitted by The Cigarette Store, LLC dba Smoker Friendly #017 located at 620 East 25th Street, Suite 2 in connection with their Class C-102050 liquor license.

6. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class C-124531 liquor license application and manager application for Dereck Djernes submitted by Rising Entertainment, LLC dba Axe Holes located at 5012 West 3rd Avenue.

7. Adopt Resolution No. 2023-32 approving an amendment to the Real Estate Purchase Agreement between the City of Kearney and Prataria Ventures – Kearney LLC a Nebraska limited liability company.

RESOLUTION NO. 2023-32

WHEREAS, on December 20, 2022 the City Council adopted Resolution No. 2022-274 approving the Real Estate Purchase Agreement between the City of Kearney and Prataria Ventures – Kearney, LLC a Nebraska limited liability company for the purchase of real property; and

WHEREAS, Prataria Ventures – Kearney, LLC has requested an amendment to the aforementioned Real Estate Purchase Agreement, requesting a 90-day extension from the initial closing date of February 15, 2023 to May 15, 2023.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute the amended Real Estate Purchase Agreement between the City of Kearney and Prataria Ventures – Kearney, LLC., granting a 90-day extension to the initial February 15, 2023 closing date, with a new closing date of May 15, 2023 on behalf of the City of Kearney. The amended Real Estate Purchase Agreement is marked as Exhibit "A" and is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

8. Consider Resolution No. 2023-33 authorizing proposed funding for the Nebraska Firefighters Museum and Education Center to assist with the purchase of a new HVAC unit for the Museum.

RESOLUTION NO. 2023-33

WHEREAS, on February 13, 2023, the City of Kearney received a request from Jennifer Slater, Museum Director of the Nebraska Firefighters Museum and Education Center located at 2834 East 1st Street for assistance with expenses incurred for the replacement of the Museum’s HVAC unit; and

WHEREAS, the Nebraska Firefighters Museum and Education Center is dedicated to the courageous Firefighters of Nebraska – past, present and future; and

WHEREAS, the City of Kearney proposed a permanent location be established in Kearney for the Nebraska Firefighters Museum and Education Center locating the Museum to the west of The Archway Monument in 2009; and

WHEREAS, the Museum contains vintage firefighting equipment and gear, provides fire education and safety to children as well as adults and is home to the Nebraska Firefighters & EMS Memorial and the Nebraska Firefighters Hall of Fame; and

WHEREAS, the City of Kearney, in support of the ongoing benefit that the Nebraska Firefighters Museum and Education Center provides to tourists, past and present Firefighters, Firefighter families and the citizens of Kearney, desires to pledge and allocate \$35,000.00 from Special Sales Tax, to assist with expenses incurred for the replacement of the Museum’s HVAC unit.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, be authorized to grant \$35,000.00 from the City of Kearney, for expenses incurred for the replacement of the Museum’s HVAC unit.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

9. Adopt Resolution No. 2023-34 approving Change Order No. 2 showing a decrease in the amount of \$140,097.85 and Application and Certificate for Payment – Final in the amount of \$47,956.42 and accept the Certificate of Substantial Completion submitted by Wilke Contracting Corp. and approved by Oak Creek Engineering for the 2020 Part 3 Improvements; 2nd Avenue Overpass Extension Joint Repair.

RESOLUTION NO. 2023-34

WHEREAS, Wilke Contracting Corp. of Kearney, Nebraska has performed services in connection with the 2020 Part 3 Improvements; 2nd Avenue Overpass Extension Joint Repair, and the City’s engineer, Oak Creek Engineering, have filed with the City Clerk Change Order No. 2 showing a decrease in the amount of \$140,097.85 as shown in Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Wilke Contracting Corp. and Oak Creek Engineering have filed with the City Clerk Application and Certificate for Payment – Final in the amount of \$47,956.42 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 915,169.05
Change Order No. 1 (09/13/2022)	+ 121,193.00
Change Order No. 2 (02/22/2023)	- 140,097.85
Contract Sum To Date	896,264.20

Retainage (0%)	0.00
Less Previous Certificates for Payment	- 848,307.78
Current Payment Due	\$ 47,956.42

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 23, 2022, as shown by Exhibit “C” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit “A”, Application and Certificate for Payment – Final, as shown on Exhibit “B” and the Certificate of Substantial Completion as shown on Exhibit “C” be and are hereby accepted and approved.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

10. Adopt Resolution No. 2023-35 appointing Jonathan Brandt and Wendell Wessels to fulfill vacancies on the City of Kearney Facilities Corporation.

RESOLUTION NO. 2023-35

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, vacancies currently exist on the City of Kearney Facilities Corporation.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to fulfill the vacated terms as indicated:

CITY OF KEARNEY FACILITIES CORPORATION

Jonathan Brandt appointed to fulfill the term vacated by Brian Symington.

Wendell Wessels appointed to fulfill the term vacated by Robert Moncrief.

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

11. Adopt Resolution No. 2023-36 approving the submission of 2 QCT Grant Applications, a new grant program through the Nebraska Department of Economic Development, submitted by Staff, as part of the QCT Grant Application process.

RESOLUTION NO. 2023-36

BE IT RESOLVED that the President and Council of the City of Kearney, Nebraska formally approve Staff submitting two (2) QCT Recovery grant applications, a new grant program through the Nebraska Department of Economic Development, for grant funding for two (2) projects in Downtown Kearney: fire suppression system installation and stormwater improvements at four (4) intersections and that this Resolution documents the approval of City Council as requested in the grant application.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

12. Adopt Resolution No. 2023-37 approving an amendment to the Development Agreement for the Kearney indoor sports complex between the City of Kearney and the Kearney Visitor’s Bureau

RESOLUTION NO. 2023-37

WHEREAS, On November 8, 2022 the City Council adopted Resolution No. 2022-250 authorizing the City Manager to execute the Development Agreement on behalf of the City of Kearney with the Kearney Visitor’s Bureau pertaining to the development of the indoor sports complex; and

WHEREAS, the City of Kearney submitted an amendment to the Development Agreement, marked as Exhibit “A” attached hereto and made a part hereof by reference, to the Kearney Visitor’s Bureau requesting the first two years of the annual payment in the amount of \$300,000.00 be designated for construction costs with the remainder of the annual payments going towards operational costs, extending the annual payments from 20 years to 22 years and allocate the \$1,000,000.00 endowment for construction costs instead of ongoing operation costs; and

WHEREAS, all other provisions of the Agreement will remain in full force and effect; and

WHEREAS, on February 22, 2023, the Kearney Visitor’s Bureau agreed to and signed the Amended Development Agreement.

NOW, THEREFORE, 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 Amended Development Agreement on behalf of the City of Kearney, Nebraska with the Kearney Visitor’s Bureau, pertaining to the development of the indoor sports complex, a copy of the amended Agreement, marked as Exhibit “1”, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

13. Adopt Resolution No. 2023-38 approving Application and Certificate for Payment No. 6 in the amount of \$1,208,219.37 submitted by John T. Jones Construction Co. and approved by Miller & Associates for the WWTP Phase II Improvements; Water Resource Recovery Facility.

RESOLUTION NO. 2023-38

WHEREAS, John T. Jones Construction Co. has performed services in connection with WWTP Phase II Improvements; Water Resource Recovery Facility, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 6 in the amount of \$1,208,219.37 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 35,218,367.00</u>
Contract Sum To Date	35,218,367.00
Gross Amount Due	8,824,467.27
Retainage	- <u>877,429.53</u>
Amount Due to Date	7,947,037.74
Less Previous Certificates for Payment	<u>6,738,818.37</u>
Current Payment Due	\$ 1,208,219.37
Balance to finish, including retainage	\$ 27,271,329.26

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. 6, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

14. Adopt Resolution No. 2023-39 approving Application and Certificate for Payment No. 3 in the amount of \$159,443.93 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the Booster Pump Stations, Renovations and Associated Improvements.

RESOLUTION NO. 2023-39

WHEREAS, Midlands Contracting, Inc of Kearney, Nebraska has performed services in connection with Booster Pump Stations, Renovations and Associated Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$159,443.93 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 2,185,960.00</u>
Change Order No. 1 (09/13/2022)	- <u>345,373.00</u>
Contract Sum To Date	1,840,587.00
Gross Amount Due	652,400.77
Retainage (10%)	- <u>65,240.08</u>

Amount Due to Date	587,160.70
Less Previous Certificates for Payment	<u>427,716.77</u>
Current Payment Due	\$ 159,443.93

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. 3, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 28TH DAY OF FEBRUARY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ANNUAL FINANCIAL REPORT

Mayor Clouse opened for discussion the City of Kearney Annual Financial Report prepared by the accounting firm of KSO CPAs + Advisors.

Mindy Oman with KSO CPAs + Advisors presented this matter to the Council. Ms. Oman stated in their opinion, the financial statements do present fairly which is a clean opinion. Highlights from the year include the City's assets exceed liabilities at yearend by \$320,871,000, of this amount, \$49,850,000 is unrestricted and can be used to meet the City's ongoing obligations. The City's total net position increased by \$23,000,000 in comparison with the prior year; on September 30th, the City's Governmental Funds had ending fund balances of \$67,000,000, an increase of \$31,900,000 from the prior year; of the \$67,000,000, \$4,800,000 is available to be used within the City's policies.

The City's total debt increased by \$31,400,000, this includes \$32,600,000 of recreational facilities bonds for the Indoor Sports Complex, \$895,000 of highway allocation fund pledge bonds for street improvements; the City received \$2,500,000 of the \$34,000,000 possible on the issue for improvements to the Wastewater Treatment Facility Plant and the City received \$800,000 of the \$8,000,000 bond issue for the Water Tower and Booster Station. The largest Capital Asset Projects completed during the year included Taxiway A for \$6,600,000; several paving projects totaling \$5,200,000; the Whitewater project for \$772,000, and Airport improvements for the Parking Lot and T-Hangar were \$1,450,000. Governmental activities increased the City's net position by \$10,800,000 and the Business type, which includes utilities, golf and the Airport, accounted for growth of \$12,500,000.

Ms. Oman stated KSO CPAs + Advisors found the City to be in good shape financially.

Moved by Clouse seconded by Nikkila to accept the City of Kearney Annual Financial Report prepared by the accounting firm of KSO CPAs + Advisors. Roll call resulted as

follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

OPEN ACCOUNT CLAIM

Moved by Nikkila seconded by Moore that the Open Account Claim in the amount of \$100,478.82 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Moore, Buschkoetter. Nay: None. Clouse abstained. Lear absent. Motion carried.

VII. REPORTS

None.

CLOSED SESSION

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 5:47 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

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

Moved by Clouse seconded by Moore that Council reconvene in regular session at 6:21 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 6:22 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

ATTEST:

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

**PEGGY EYNETICH
CITY CLERK**