

Kearney, Nebraska
May 9, 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 May 9, 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, Bruce Lear, Tami James Moore, and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Brenda Jensen, Assistant City Manager; Kayla James, Director of Finance; Tony Jelinek, Director of Utilities; Andy Harter, Director of Public Works; Amber Miller, Director of Development Services; Bryan Waugh, Chief of Police; Mike Young, Captain of Operations; Kevin Thompson, Police Captain; Dan Lillis, Engineering Assistant and Jake Misener, Deputy City Clerk, 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

PRESENTATION OF NATIONAL POLICE WEEK 2023 PROCLAMATION

Mayor Clouse read the Proclamation for National Police Week 2023 and presented it to the Kearney Police Department members in attendance. Bryan Waugh, Chief of Police expressed his gratitude to Council members.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONE PROPERTY LOCATED EAST OF CHERRY AVENUE AND SOUTH OF EAST 11TH STREET

Mayor Clouse opened the public hearing on the application submitted by Roger Harders for West Limited, LLC, to rezone from District AG, Agricultural District to District C-3, General Commercial District for property described as – North Tract, that part of the West half of the Northwest Quarter of Section 9, Township 8 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska and South Tract, that part of the Southwest Quarter of the Northwest Quarter of Section 9, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Cherry Avenue and South of East 11th Street) and consider Ordinance No. 8628.

Roger Harders presented this matter to the Council. Mr. Harders described the parcel and explained that the proposed rezoning would attract potential future development.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Roger Harders for West Limited, LLC and introduced Ordinance No. 8628 rezoning from District AG, Agricultural District to District C-3, General Commercial District for property described as – North Tract, that part of the West half of the Northwest Quarter of Section 9, Township 8 North, Range 15 West of the Sixth P.M., Buffalo County, Nebraska and South Tract, that part of the Southwest Quarter of the Northwest Quarter of Section 9, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Cherry Avenue and South of East 11th Street) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8628. 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, Nikkila, Moore, 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. 8628 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance No. 8628 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8628 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.

REZONE PROPERTY LOCATED AT 715 AND 805 22ND AVENUE

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for KPT&G, LLC a Nebraska Limited Liability Company, to rezone from District R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District to District C-O, Office District for property described as Lots 3 and 4, Block 2, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (715 and 805 22nd Avenue) and consider Ordinance No. 8629.

Craig Bennett, Miller & Associates presented this matter to the Council. Mr. Bennett described the location of the 10.37-acre parcel and that the proposed rezoning would be consistent with the surrounding property.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Miller & Associates for KPT&G, LLC a Nebraska Limited Liability Company and introduced Ordinance No. 8629 rezoning from District R-3/PD, Urban Residential Multi-Family District (Medium Density)/Planned Development Overlay District to District C-O, Office District for property described as Lots 3 and 4, Block 2, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (715 and 805 22nd 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. 8629. 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, Moore, Buschkoetter, Lear, Nikkila. 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. 8629 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8629 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8629 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.

REZONE PROPERTY LOCATED EAST OF 30TH AVENUE AND NORTH OF 56TH STREET

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, to rezone from District AG, Agricultural District to District C-2, Community Commercial District for property described as a tract of land being part of the South Half of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 56th Street) and consider Ordinance No. 8630.

Craig Bennett, Miller & Associates presented this matter to the Council. Mr. Bennett described the location of the 36.85-acre parcel and stated the proposed zoning is consistent with other properties along 56th Street.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation and introduced Ordinance No. 8630 rezoning from District AG, Agricultural District to District C-2, Community Commercial District for property described as a tract of land being part of the South Half of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 56th Street) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 8630. 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, Nikkila, Moore, 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. 8630 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Moore that Ordinance No. 8630 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8630 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.

REZONE PROPERTY LOCATED EAST OF 30TH AVENUE AND NORTH OF 56TH STREET

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

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, to rezone from District AG, Agricultural District to District RR-2, Rural Residential District (Intermediate Standards) for property described as a tract of land being part of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 56th Street) and consider Ordinance No. 8631.

Craig Bennett, Miller & Associates presented this matter to the Council. Mr. Bennett described the location of the 84.94 acres and explained the Developer's request for the rezoning and final plat and subdivision agreement would allow for 3 to 4-acre lots. Mr. Bennett also detailed how water & sewer would be provided to the proposed subdivision.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the Application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation and introduced Ordinance No. 8631 rezoning from District AG, Agricultural District to District RR-2, Rural Residential District (Intermediate Standards) for property described as a tract of land being part of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 56th Street) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 8631. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Moore, Lear, Nikkila. 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. 8631 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Moore, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8631 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Buschkoetter Nikkila, Moore. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8631 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR SPRUCE HOLLOW WEST SECOND

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

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, for the Final Plat and Subdivision Agreement for Spruce Hollow West Second, a subdivision being part of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 58th Street (to be platted)) and consider Resolution No. 2023-67.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2023-67 approving the application submitted by Miller & Associates for DT Development, Inc., a Nebraska Corporation, for the Final Plat and Subdivision Agreement for Spruce Hollow West Second, a subdivision being part of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 30th Avenue and North of 58th Street (to be platted)). Roll call resulted as follows: Aye: Clouse, Nikkila, Lear, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2023-67

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Spruce Hollow West Second, a subdivision being part of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P. M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at a survey marker spike w/washer at the Northwest Corner of the Southwest Quarter of Section 22; thence S 00°08'08" W on the West line of said Southwest Quarter and the West line of Lot 1, Spruce Hollow West, a subdivision being part of the Northwest Quarter of the Southwest Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and all bearings contained herein are relative thereto, a distance of 395.90 feet to the Southwest corner of said Spruce Hollow West and the POINT OF BEGINNING; thence continuing S 00°08'08" W on said West line of the Southwest Quarter a distance of 1428.09 feet; thence S 89°51'52" E a distance of 1033.79 feet to a 5/8" rebar w/cap; thence Easterly on a tangent curve to the Left having a central angle of 37°40'34", a radius of 280.00 feet, an arc length of 184.12 feet, and a chord bearing of N 71°17'51" E a distance of 180.82 feet to a 5/8" rebar w/cap; thence N 52°27'34" E a distance of 60.64 feet to a 5/8" rebar w/cap; thence Easterly on a tangent curve to the Right having a central angle of 24°59'16", a radius of 217.00 feet, an arc length of 94.64 feet, and a chord bearing of N 64°57'12" E a distance of 93.89 feet to a 5/8" rebar w/cap; thence N 77°26'50" E a distance of 825.97 feet to a 5/8" rebar w/cap; thence Easterly on a tangent curve to the Right having a central angle of 06°59'30", a radius of 570.00 feet, an arc length of 69.56 feet, and a chord bearing of N 80°56'35" E a distance of 69.51 feet to a 5/8" rebar w/cap; thence N 05°33'46" W a distance of 66.00 feet to a 5/8" rebar w/cap; thence N 04°52'54" E a distance of 92.88 feet to a 5/8" rebar w/cap; thence N 15°12'26"

E a distance of 258.24 feet to a 5/8" rebar w/cap; thence N 23°10'26" E a distance of 249.68 feet to a 5/8" rebar w/cap; thence N 00°01'29" W a distance of 378.29 feet to a 5/8" rebar w/cap; thence N 23°36'35" W a distance of 66.00 feet to a 5/8" rebar w/cap; thence S 66°23'25" W a distance of 65.31 feet to a 5/8" rebar w/cap; thence Westerly on a tangent curve to the Right having a central angle of 01°48'49", a radius of 467.00 feet, an arc length of 14.78 feet, and a chord bearing of S 67°17'50" W a distance of 14.78 feet to a 5/8" rebar w/cap; thence N 00°42'16" E a distance of 458.33 feet to a 5/8" rebar w/cap on the North line of said Southwest Quarter; thence S 89°58'26" W on said North line a distance of 972.31 feet to a 5/8" rebar w/cap at the Northeast corner of the Northwest Quarter of said Southwest Quarter; thence S 89°57'43" W continuing on said North line a distance of 665.68 feet to a 5/8" rebar w/cap at the Northeast corner of said Spruce Hollow West; thence S 00°08'08" W on the East line of said Spruce Hollow West a distance of 395.90 feet to a 5/8" rebar w/cap at the Southeast corner of said Spruce Hollow West; thence S 89°57'43" W on the South line of said Spruce Hollow West a distance of 643.84 feet to the Point of Beginning. Containing 84.94 acres, more or less all in Buffalo County, Nebraska (East of 30th Avenue and North of 58th Street (to be platted)), duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

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

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

REZONE AND VACATE PROPERTY LOCATED SOUTH OF 16TH AVENUE AND EAST OF AVENUE O

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

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Gene McElhinny and Deb McElhinny, to 1) rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District for property described as Lots 1 thru 11, inclusive, Block 1 and Lot 7 and Lot 8, Block 2, Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 8632 and 2) vacate Lots 1 thru 11, inclusive, Block 1, Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska, (South of 16th Street and East of Avenue O) and consider Ordinance No. 8633.

Craig Bennett, Miller & Associates presented this matter to the Council. Mr. Bennett

detailed the Developer's intention to replat the existing 11 lots into 10 lots and noted the proposed rezoning would allow for slab-on-grade duplexes. Mr. Bennett also reviewed the utility infrastructure for the proposed development.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Miller & Associates for Gene McElhinny and Deb McElhinny and introduced Ordinance No. 8632 rezoning from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District for property described as Lots 1 thru 11, inclusive, Block 1 and Lot 7 and Lot 8, Block 2, Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and Ordinance No. 8633 vacating Lots 1 thru 11, inclusive, Block 1, Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska, (South of 16th Street and East of Avenue O) 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 Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8632 and 8633. President of the Council asked for discussion or if anyone in the audience was interested in the ordinances. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Moore, 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 Nos. 8632 and 8633 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried. Ordinances were read by number.

Moved by Nikkila seconded by Moore that Ordinance Nos. 8632 and 8633 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 8632 and 8633 are declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR TAYLOR VILLAS

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

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Gene McElhinny and Deb McElhinny, for the Final Plat and Subdivision Agreement for Taylor Villas, Lots 1 thru 11, inclusive, Block One (now vacated), Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of Government Lot 6 and Government Lot 7 in Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (South of 16th Street and East of Avenue O) and consider Resolution No. 2023-68.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2023-68 approving the application submitted by Miller & Associates for Gene McElhinny and Deb McElhinny, for the Final Plat and Subdivision Agreement for Taylor Villas, Lots 1 thru 11, inclusive, Block One (now vacated), Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of Government Lot 6 and Government Lot 7 in Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (South of 16th Street and East of Avenue O). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2023-68

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Taylor Villas, an addition to the City of Kearney, Buffalo County, Nebraska for Lots 1 thru 11, inclusive, Block 1 (now vacated), Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of Government Lot 6 located in the Northwest Quarter of the Southwest Quarter and Government Lot 7 located in the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at the Northwest corner of said Government Lot 6; thence $S01^{\circ}52'24''$ W on the West line of said Government 6, and all bearings contained herein are relative thereto, a distance of 853.93 feet to the Westerly extension of the North line of said Taylor Addition and the Westerly extension of the South line of 16th Street as platted in the City of Kearney; thence $S 88^{\circ}48'32''$ E on said Westerly extension and on said North line of Taylor Addition a distance of 654.41 feet to a 5/8" rebar w/cap on the East line of Avenue "O" as platted in said Taylor Addition and the Northwest corner of Block One (now vacated) in said Taylor Addition and the POINT OF BEGINNING; thence $S 88^{\circ}44'46''$ E continuing on said South line of 16th/ Street and the North line of said Block One (now vacated) a distance of 125.57 feet to a 5/8" rebar w/cap at the Northeast corner of said Block One (now vacated); thence $S 01^{\circ}59'11''$ W on the East line of said Block One (now vacated) a distance of 479.19 feet to a 5/8" rebar w/cap; thence $N 89^{\circ}09'23''$ W continuing on said East line of Block One (now vacated) a distance of 36.95 feet to a 5/8" rebar w/cap; thence $S 01^{\circ}18'21''$ W continuing on said East line of Block One (now vacated) a distance of 307.08 feet to a 5/8" rebar w/cap at the Southeast corner of said Block One (now vacated) and on the North line of 14th Street as platted in said Taylor Addition; thence $N 88^{\circ}44'41''$ W on said North line of 14th Street a distance of 124.98 feet to a 5/8" rebar w/cap on the East line of said Avenue "O"; thence $N 01^{\circ}14'22''$ E on said East line of Avenue "O" a distance of 316.89 feet to a 5/8" rebar w/cap; thence Northerly on said East line and on a tangent curve to the Right having a central angle of $10^{\circ}53'39''$, a radius of 270.00 feet, an arc length of 51.34 feet, and a chord bearing of $N 06^{\circ}41'11''$ E a distance of 51.26 feet to a 5/8" rebar w/cap; thence $N 12^{\circ}08'01''$ E continuing on said East line of Avenue "O" a distance of 171.00 feet to a 5/8" rebar w/cap; thence Northerly continuing on said East line and on a tangent curve to the Left having a central angle of $10^{\circ}56'45''$, a radius of 330.00, an arc length of 63.04 feet, and a chord bearing of $N 06^{\circ}39'38''$ E a distance of 62.95 feet to a 5/8" rebar w/cap; thence $N 01^{\circ}11'16''$ E continuing on said East line a distance of 187.99 feet to the Point of Beginning. Containing 2.37 acres more or less all in Buffalo County, Nebraska (South of 16th Street and East of Avenue O), duly made out, acknowledged, and certified, and

the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

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

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse left the meeting at 6:02 p.m.

Moved by Lear seconded by Buschkoetter that Subsections 1 through 11 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Lear, Nikkila, Moore, Buschkoetter. Nay: None. Clouse absent. Motion carried.

1. Approve Minutes of Regular Meeting held April 25, 2023.

2. Approve the following Claims:

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

911 Custom \$98.00 smcs; Agri Coop \$1,450.80 smcs; All City Garage Door \$1,454.00 smcs; American Fence \$225.74 smcs; Arneson, M \$5,000.00 smcs; Artisans \$171.20 smcs; ASCAP \$428.75 smcs; Ask Supply \$5,939.09 smcs; Aurora Coop \$64.00 smcs; AvFuel \$55,128.51 smcs; Baker & Taylor \$5,238.20 smcs; Beehive Industries \$11,546.00 smcs; BlueCross BlueShield \$96,144.00 smcs; Books Galore \$9,011.81 smcs; Bosselman Energy \$3,598.53 smcs; Bossfuels \$50,427.68 smcs; Brandt, L \$54.00 smcs; Broadfoot's \$2,590.14 smcs,co; Buffalo Co. Court \$268.76 ps; Builders \$1,013.35 smcs; Cash Wa \$4,763.92 smcs; Center Point Publishing \$79.86 smcs; Central NE Bobcat \$4,440.93 smcs; Chesterman \$2,266.20 smcs; City Glass \$3,800.00 smcs; City of KY \$433,134.11 smcs,ps; Comm. Health Agencies \$10.00 ps; Copycat \$567.37 smcs; Cutting Edge Cleaning \$175.00 smcs; Dancer, J \$13.00 smcs; Dan's Plumbing \$1,588.75 smcs; Data Axle \$415.00 smcs; Diamond Engineering \$164,253.40 co; Double J Plumbing \$1,106.34 smcs; Dutcher, L \$94.00 smcs; Eagle Distributing \$369.21 smcs; Eakes \$134.53 smcs; Easy Picker Golf \$620.31 smcs; Elder, E \$81.00 smcs; Entenmann-

Rovin \$811.00 smcs; Expression Wear \$277.00 smcs; Family Advocacy \$100,000.00 co; Family Practice \$882.00 smcs,ps; Fiddelke, N \$950.00 smcs; Gale/Cengage \$826.10 smcs; Garrett Tires \$10,041.75 smcs; Geist, D \$518.00 smcs; General Traffic Controls \$1,770.00 smcs; Gerdes, J \$81.00 smcs; Give Nebraska \$10.00 ps; Godfrey, S \$120.00 smcs; Greater NE Cities \$1,000.00 smcs; Harter, A \$94.00 smcs; Hayden, S \$54.00 smcs; Haynes, T \$27.39 smcs; Heartland Cleaning \$138.00 smcs; HM Life Insurance \$53,751.13 smcs; Hometown Leasing \$794.05 smcs; Independent Travel \$1,000.00 smcs; IRS \$191,714.28 ps; Jack Lederman \$17.46 smcs; Jack's Uniforms \$2,525.30 smcs; JCB Delivery \$76.00 smcs; John T. Jones Const. \$2,366,066.67 co; Johnson Fitness \$8,254.00 ps; Jump a Roo \$1,250.00 smcs; KY Crete & Block \$3,436.51 smcs; KY High School \$140.00 smcs; Konica Minolta \$405.04 smcs; Korgel, K \$237.50 smcs; Landmark Implement \$10,000.00 co; Lincoln National Life \$10,858.08 smcs; Logan Contractors \$4,254.46 smcs,co; Magic Cleaning \$6,950.00 smcs; McCartney, Erin Chpt. 13 \$157.00 ps; Menards \$217.47 smcs; Mid American Signal \$1,180.00 smcs; Midwest Connect \$9,581.73 smcs; Miller & Associates \$33,187.72 co; Mission Square \$7,643.97 ps; Mostek Electric \$622.63 smcs; MPH Industries \$6,717.00 co; NE Child Support \$1,986.51 ps; NE Dept of Revenue \$66,790.25 ps; NE Public Health \$230.00 smcs; NE Safety & Fire \$2,110.07 smcs; Nebraskaland Dist. \$846.29 smcs; Northwestern Energy \$7,730.51 smcs; Olson, C \$16.36 smcs; Overhead Door \$105.00 smcs; Paint Paradise \$300.00 smcs; Pep Co. \$249.21 smcs; Pioneer Athletics \$1,348.25 smcs; Prado Reyes, D \$46.35 smcs; Prairie View Roofing \$60,800.00 co; Presto-X \$89.10 smcs; Pro-Tint \$100.00 smcs; Province, N \$107.00 smcs; Rasmussen Mechanical \$214.00 smcs; Resource Mgmt. \$6,646.50 smcs; Rheome Tree \$3,900.00 smcs; RMV Construction \$104,488.60 co; Rokit Event Pros \$1,246.36 smcs; Schmitt, D \$94.00 smcs; School District #7 \$5,840.00 smcs; Schroer, J \$209.00 smcs; See Clear Cleaning \$1,700.00 smcs; Sign Center \$144.93 smcs; Sign Solutions \$121.43 smcs; Soca Juke Box \$3,500.00 smcs; SOS Portable Toilets \$179.00 smcs; Staroska Group \$30,675.07 co; State of NE/DAS \$20.16 smcs; Stutsman \$2,196.00 smcs; Traveler's \$128.00 smcs; Tri Co Glass \$165.00 smcs; Tri-City Trio \$1,500.00 smcs; Truck Center \$224,819.00 co; Twin City Hardware \$3,426.44 smcs; Tye & Rowling \$15,535.72 smcs; Union Bank & Trust \$101,980.96 ps; United Way \$94.00 ps; Vanco \$81.36 smcs; Verizon \$13,923.16 smcs; Village Uniform \$249.27 smcs; Volaire Aviation \$2,000.00 smcs; Wells Fargo \$50,568.36 ds; Yanda's Music \$3,000.00 smcs; Yellow Van \$411.60 smcs; Payroll Ending 04/22/2023 -- \$606,520.61. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Adopt Resolution No. 2023-69 approving Change Order No. 10 showing an increase in the amount of \$6,351.00 submitted by RMV Construction and approved by Wilkins ADP for the Harmon Park Sonatorium Restoration Project.

RESOLUTION NO. 2023-69

WHEREAS RMV Construction, LLC of Kearney, Nebraska has performed services in connection with Harmon Park Sonatorium Restoration, and the City's architect, Wilkins ADP, has filed with the City Clerk Change Order No. 10 showing an increase in the amount of \$6,351.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 1,301,400.00</u>
Change Order No. 1 (12-21-2021)	- 97,325.00
Change Order No. 2 (07-26-2022)	+ 3,566.00
Change Order No. 3 (09-13-2022)	+ 12,401.00
Change Order No. 4 (10-11-2022)	+ 13,796.00
Change Order No. 5 (10-11-2022)	+ 5,197.00
Change Order No. 6 (01-10-2023)	+ 62,522.00
Change Order No. 7 (01-10-2023)	+ 6,435.00
Change Order No. 8 (01-10-2023)	+ 12,722.00
Change Order No. 9 (01-10-2023)	+ 4,392.00
Change Order No. 10 (05-09-2023)	<u>+ 6,351.00</u>
Contract Sum To Date	<u>\$1,331,457.00</u>

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

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

4. Adopt Resolution No. 2023-70 approving Change Order No. 2 showing an increase in the amount of \$6,181.00 submitted by RMV Construction LLC and approved by Alfred Benesch and Company for AIP/CARES Act Project No. 3-31-0045-036 in connection with the Terminal Building Expansion project (re-bid) at the Kearney Regional Airport.

RESOLUTION NO. 2023-70

WHEREAS, RMV Construction, LLC of Kearney, Nebraska has performed services in connection with Terminal Expansion project at the Kearney Regional Airport Re-Bid (Airport Improvement Program/CARES Act Project No. 3-31-0045-036), and the City's engineer, Alfred Benesch and Company, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$6,181.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows;

Original Contract Sum	<u>\$ 4,773,394.00</u>
Change Order No. 1 (03-28-2023)	+ 18,331.98
Change Order No. 2 (05-09-2023)	<u>+ 6,181.00</u>
Total New Revised Contract Amount	<u>\$ 4,797,906.98</u>

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" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class I-125628 new liquor license application and manager application for Berenice Bravo submitted by Hermanos, LLC dba San Pedro Mexican Restaurant located at 3907 Central Avenue.

6. Adopt Resolution No. 2023-71 approving the Peterson Senior Activity Center Annual Nutrition Service Contract between the City of Kearney and Community Action Partnership of Mid-Nebraska.

RESOLUTION NO. 2023-71

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 Services Contract on behalf of the City of Kearney. The said Contract, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

7. Approve the recommendation on selecting Jake Misener as the Deputy City Clerk.

8. Approve the Lease Agreement between the City of Kearney and Vertical Lift Maintenance Solutions, LLC, a Nebraska Limited Liability Company, to lease an area of land that is 100 feet by 120 feet located at 4970 Airport Road and adopt Resolution No. 2023-72.

RESOLUTION NO. 2023-72

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute a Lease Agreement for an area of land that is 100 feet by 120 feet located at 4970 Airport Road, on behalf of the City of Kearney, Nebraska, with Vertical Lift Maintenance Solutions, LLC, a Nebraska Limited Liability Company. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

9. Adopt Resolution No. 2023-73 approving Change Order No. 9 showing an increase in the amount of \$18,876.77 submitted by Brown Construction and approved by RDG Planning & Design for the construction of the Community Tennis Facility.

RESOLUTION NO. 2023-73

WHEREAS, Brown Construction of Kearney, Nebraska has performed services in connection with the construction of the Community Tennis Facility, and the City's engineer, RDG Planning & Design, has filed with the City Clerk Change Order No. 9 showing an increase in the amount of \$18,876.77 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$	7,250,100.00
Change Order Nos. 1 & 2 (4/27/2021)	+	7,506.22
Change Order Nos. 3 & 4 (10/12/2021)	+	23,028.06
Change Order No. 5 (1/11/2022)	+	62,196.09
Change Order No. 6 (3/22/2022)	+	57,533.82
Change Order No. 7 (7/12/2022)	+	13,436.47
Change Order No. 8 (2/14/2023)	+	6,022.72
Change Order No. 9 (5/9/2023)	<u>+</u>	<u>18,876.77</u>
Contract Sum To Date	\$	7,438,700.15

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. 9, as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

10. Adopt Resolution No. 2023-74 approving the proposed waiver of 50% of the remaining building permit fees for The Museum of Nebraska Art (MONA) expansion project.

RESOLUTION NO. 2023-74

WHEREAS, on April 30, 2023, the City of Kearney received a request from The Nebraska Museum of Art (MONA) to waive future building permit fees pertaining to their expansion project located at 2401 Central Avenue, as shown in Exhibit A; and

WHEREAS, the City of Kearney, in a continued effort to support MONA and their expansion project, proposes waiving 50% of the remaining building permit fees (\$56,196.00) for an adjusted total balance due of \$28,098.00.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the proposed 50% waiver of the remaining building permit fees (\$56,196.00) be granted, resulting in an adjusted building permit fee balance of \$28,098.00.

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

11. Adopt Resolution No. 2023-75 approving the Real Estate Purchase Agreement between Airport Road Rentals, LLC, a Nebraska Limited Liability Company, (Delux MFG., Co., a Nebraska Corporation), and the City of Kearney for the purchase of property described as the east 1.3 acres of Lot 1, Patriot Second Subdivision, a subdivision being a part of the Southeast Quarter of the Northwest Quarter, part of the Southwest Quarter of the Northeast Quarter, Part of the Northeast Quarter of the Southwest Quarter, and part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

RESOLUTION NO. 2023-75

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the Real Estate Purchase Agreement between Airport Road Rentals, LLC, a Nebraska Limited Liability Company, (Delux MFG., Co., a Nebraska Corporation) and the City of Kearney, Nebraska, a Municipal Corporation, for the purchase of real property which is described as the east 1.3 acres of Lot 1, Patriot Second Subdivision, a subdivision being a part of the Southeast Quarter of the Northwest Quarter, part of the Southwest Quarter of the Northeast Quarter, Part of the Northeast Quarter of the Southwest Quarter, and part of the Northwest Quarter of the Southeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, be and is hereby accepted and approved. The Agreement, marked as Exhibit "A" is attached hereto and made a part hereof.

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

PASSED AND APPROVED THIS 9TH DAY OF MAY, 2023.

ATTEST:
PEGGY EYNETICH
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

INTRODUCTION OF AMBER MILLER, DEVELOPMENT SERVICES DIRECTOR AND JAKE MISENER, DEPUTY CITY CLERK

Vice-Chairperson Buschkoetter opened Regular Agenda Item 1 pertaining to the introduction of Development Services Director, Amber Miller and Deputy City Clerk, Jake Misener.

Brenda Jensen, Assistant City Manager introduced Jake Misener, Deputy City Clerk and Amber Miller, Director of Development Services who were recently hired.

ANNUAL PRESENTATION FROM THE BUFFALO COUNTY ECONOMIC DEVELOPMENT COUNCIL

Vice-Chairperson Buschkoetter opened Regular Agenda Item 2 for Council to receive an informational presentation from The Buffalo County Economic Development Council.

Trevor Lee, President of Buffalo County Economic Development Council (BCEDC), provided the annual update to Council. Mr. Lee detailed several areas of emphasis that the BCEDC focused on over the past year including business retention, expansion and recruitment, community engagement, and workforce housing. Council members thanked Mr. Lee for his presentation.

VII. REPORTS

City Manager, Michael Morgan, gave a brief update on new wayfinding signage that has been placed throughout Kearney. Additionally, Mr. Morgan stated the City's water tower was highlighted on the cover photo of Nebraska Good Water News Magazine showcasing the new lighting that was added earlier this year.

VIII. ADJOURN

Moved by Buschkoetter seconded by Nikkila that Council adjourn at 6:14 p.m. Roll call resulted as follows: Aye: Moore, Buschkoetter, Lear, Nikkila. Nay: None. Clouse absent. Motion carried.

ATTEST:

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

PEGGY EYNETICH
CITY CLERK