

**Kearney, Nebraska**  
**September 12, 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 September 12, 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, Deputy City Manager; Kayla James, Director of Finance; Tony Jelinek, Director of Utilities; Andy Harter, Director of Public Works; Nate Mollring, Director of Information Tech; Mike Young, Captain of Operations; Taylor Jaeger, Assistant Director of Finance; Melissa Dougherty-O'Hara, City Planner and Dan Lillis, Engineering Assistant, were also present. Members of the media present included: Mike Konz, Kearney Hub, and Brian Neben, NRG Media.

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.

### **ORAL COMMUNICATIONS**

There were no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **CONDITIONAL USE PERMIT FOR PROPERTY LOCATED WEST AND SOUTH OF 7310 2ND AVENUE**

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corporation for Kenneth E. Richter, Trustee for a Conditional Use Permit to operate a Resource Extraction site on property zoned District AG, Agricultural District, and described as a tract of land being part of the South Half of the Southeast Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (West and South of 7310 2nd Avenue) and consider Ordinance No 8646.

Mitch Humphrey, Buffalo Surveying Corporation, presented this matter to the Council. Mr. Humphrey described the 29.33-acre property request to continue to be utilized as a resource extraction site. The hours of operation and buffer requirements are consistent with the adjacent resource extraction site that was approved at the previous Council meeting; the flood plain located on the south side of the property will not be disturbed.

Mayor Clouse questioned if there was an extraction operation currently operating on this site. Mr. Humphrey stated there is and noted a Conditional Use Permit that was previously granted had since expired; City Staff notified the property owner of the expired permit and a new Conditional Use Permit was required to continue operations.

Council Member Randy Buschkoetter asked if resource extraction would be completed during the 5-year window of the Permit. Mr. Humphrey stated the demand for the material would dictate the timeframe of the operation.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Buffalo Surveying Corporation for Kenneth E. Richter, Trustee and introduced Ordinance No. 8646 granting a Conditional Use Permit to operate a Resource Extraction site on property zoned District AG, Agricultural District, and described as a tract of land being part of the South Half of the Southeast Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (West and South of 7310 2nd 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 Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8646. 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. 8646 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. 8646 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. 8646 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 NORTH OF 11TH STREET AND WEST OF SWEETWATER AVENUE**

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Trenton Snow, Surveyor for Joshua B. Petersen, Trustee to rezone from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land being part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1/4 mile north of 11th Street and west side of Sweetwater Avenue) and consider Ordinance No 8647.

Trenton Snow, Land Surveyor presented this matter to the Council. Mr. Snow stated the proposed zoning request is consistent with surrounding land. Mr. Snow stated the proposed four-lot subdivision will be served by private wells and septic systems and noted construction would most likely occur close to the road, the highest part of the lots, mitigating flood concerns. Mr. Snow stated the property is not in the 100-year floodplain.

Mayor Clouse questioned if all flooding concerns had been addressed. Mr. Snow stated flooding concerns were extensively discussed and addressed during the Planning Commission meeting.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Trenton Snow, Surveyor for Joshua B. Petersen, Trustee and introduced Ordinance No. 8647 rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) for property described as a tract of land being part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1/4 mile north of 11th Street and west side of Sweetwater 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. 8647. 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

concurrent in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8647 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. 8647 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. 8647 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 PETERSEN ESTATES**

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Trenton Snow, Surveyor for Joshua B. Petersen, Trustee for the Final Plat and Subdivision Agreement for Petersen Estates, a subdivision being part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1/4 mile north of 11th Street and west side of Sweetwater Avenue) and consider Resolution No. 2023-128.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2023-128 approving the application submitted by Trenton Snow, Surveyor for Joshua B. Petersen, Trustee for the Final Plat and Subdivision Agreement for Petersen Estates, a subdivision being part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1/4 mile north of 11th Street and west side of Sweetwater Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2023-128**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Petersen Estates, a subdivision being part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northeast corner of the Southeast Quarter of the Southeast Quarter of said Section 4 and assuming the North line of said Southeast Quarter of the Southeast Quarter as bearing N 89°47'30" W and all bearings contained herein are relative thereto; thence N 89°47'30" W on the aforesaid North line a distance of 1052.91 feet; thence S 00°12'30" W a distance of 66.00 feet; thence S 89°47'30" E parallel with the aforesaid North line a distance of 132.00 feet; thence S 00°07'42" W parallel with the East line of

the Southeast 1/4 of said section a distance of 532.38 feet to a point on the north right-of-way line of the Burlington Northern Railroad; thence S 80°29'14" E on the aforesaid north right-of-way line a distance of 933.49 feet to a point on the East line of said Southeast 1/4; thence N 00°07'42" E on the aforesaid East line a distance of 749.30 feet to the place of beginning all located in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

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

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

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

Mayor Clouse opened the public hearing on the adoption of the One- & Six-Year Street Improvement Plan and consider Resolution No. 2023-129.

Andy Harter, Director of Public Works presented this matter to the Council. Mr. Harter stated at the August 22, 2023 Council Meeting the One- & Six-Year Street Improvement Plan was presented and noted since that time, no public comments had been received.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2023-129 approving the adoption of the One- & Six-Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2023-129**

WHEREAS, the City of Kearney, Nebraska is required by Section 39-2119 of the Nebraska Revised Statutes to adopt a One- and Six-Year Street Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, at a Public Hearing held at approximately 5:30 p.m. on September 12, 2023 in the Kearney City Council Chambers that the One Year City Street Plan for fiscal year ending September 30, 2024 and the Six Year City Street Plan ending September 30, 2030, are hereby adopted as listed on the Summary of One Year Plan

and the Summary of Six Year Plan, marked as Exhibit "A" attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

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

Mayor Clouse stated the Consent Agenda was amended on Monday, September 11, 2023, to reflect a new final payment amount for Agenda Item 14.

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

1. Approve Minutes of Regular Meeting held August 22, 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 \$40,234.76 co; Adventure Enterprises \$5,350.00 smcs; Agri Coop \$5,897.90 smcs; Akah, Olivia \$56.91 smcs; Alfred Benesch \$53,057.30 co; All Copy Products \$228.59 smcs; All Safe \$875.51 smcs; Amax Contracting \$62.72 smcs; American Fence \$263.77 smcs; Aramark \$44.67 smcs; Arrow Seed Co \$4,624.00 smcs; Ask Supply \$3,088.21 smcs, co; Aurora Coop \$96.00 smcs; AvFuel \$116,126.43 smcs; Badejo, E Adeleke \$1,506.74 smcs; BairdHolm \$17,000.00 smcs; Baker & Taylor \$11,528.75 smcs; Baldwin, Janel L. \$925.00 smcs; Barcel Landscape Prods. \$7,027.00 smcs; Barlow, Jerry \$400.00 smcs; Bear Frame & Alignment \$670.80 smcs; Bert Gurney \$383.66 smcs; BlueCross BlueShield \$212,210.87 smcs; Bosselman Energy \$1,411.10 smcs; Bossfuels \$49,965.66 smcs; Bowman, Robyn \$125.17 smcs; Buffalo Co. Register \$32.00 smcs; Builders \$58.26 smcs; Byrne, Dennis \$198.00 smcs; Candy, Patty \$54.00 smcs; Carrot-Top Industries \$404.43 smcs; Carsten, Julia \$44.72 smcs; Caseguard Studio \$8,891.00 co; Cash Wa \$10,655.54 smcs; Cassel, McKenzie \$41.31 smcs; Celebrite USA \$4,200.00 smcs; Center Point Large Print \$79.86 smcs; Central Mercantile \$10.00 smcs; Central NE Bobcat \$5,895.83 co; Central Plains Library \$150.00 smcs; Central State Wire \$333.20 smcs; Certified Power \$60.42 smcs; Chesterman \$3,901.75 smcs; City of KY \$447,571.56 ps; Coldspring \$1,419.60 smcs; Comfort Inn & Suites \$8,595.20 smcs; Comm Helath Agencies \$10.00 ps; Compute North \$429,485.16 smcs; Core & Main \$20,192.07 smcs; Crane River Theater \$419.97 smcs; Crowne Plaza \$150.00 smcs; Cummins Sales & Service \$1,958.87 smcs; Curb-It \$648.00 smcs; Cutting Edge Cleaning \$350.00 smcs; Dan's Plumbing \$205.00 smcs; Decker, Glen \$54.00 smcs; Dell Marketing \$35,445.17 co; Deterdings \$235.99 smcs; Dish \$120.76 smcs; Ditch Witch of Nebraska

\$8,954.24 co; DPC Industries \$13,516.48 smcs; Eagle Distributing \$3,028.44 smcs; Eakes \$9,047.65 smcs; Ebsco Publishing \$4,590.00 smcs; Ed Broadfoot & Sons \$724.88 smcs; EJ's Outdoor Sports \$780.00 smcs; Elliott Equipment \$306,226.52 co; Emaint \$3,570.99 smcs; Entenmann-Rovin \$1,097.90 smcs; Erin McCartney, Chp 13 \$314.00 ps; ESChat \$932.28 smcs; Eshelman, Cynamon \$39.81 smcs; Family Practice \$169.00 ps; Federal Signal Co. \$27,056.00 co; Fire.com \$500.00 smcs; Flynn, Bryan \$244.98 smcs; Frontier \$2,266.28 smcs; Gale \$1,085.21 smcs; Gear for Sports \$782.86 smcs; Give Nebraska \$10.00 ps; Gleckler, Halle \$18.94 smcs; Graczyk Lawn \$1,622.00 smcs; Greater Nebraska Cities \$1,000.00 smcs; Grombacher, Kerry \$800.00 smcs; Harmon, Whitney \$472.50 smcs; Help Care Clinic \$5,000.00 smcs; Hidden Hills Repair \$82.46 smcs; HM Life Insurance Co. \$54,532.69 smcs; Hometown Leasing \$611.23 smcs; Hort, Kyle \$150.00 smcs; Integrated Security \$1,422.80 smcs; IRS \$415,393.23 ps; John T. Jones Const. \$1,235,436.18 co; Johnson Service Co \$7,200.00 smcs; Jurgens, Leah \$32.00 smcs; Kart-Man \$1,434.16 smcs; KY Builders Assn. \$700.00 smcs; KY Catholic School \$136.99 smcs; KY Equipment \$3,170.32 smcs; KY Vistors Bureau \$228,649.20 smcs; KY Women's Club \$2,526.00 smcs; Kirkham Michael \$7,800.00 smcs; Konica Minolta \$223.24 smcs; Lincoln Natl Life Ins. \$9,757.04 smcs; Lundeen Isaacson \$2,484.72 ps; MacQueen Equipment3 \$5,665.77 smcs; Magic Cleaning \$7,350.00 smcs; McLaughlin, Pat \$245.00 smcs; Mead Lumber \$47.18 co; Menards \$54.46 smcs; Microfilm Imaging Sys \$8,440.00 smcs; Mid American Signal \$1,301.45 co; Midlands Contracting \$27,503.87 co; Midwest Connect \$5,900.58 smcs; Mighty Ducts \$425.00 smcs; Milco Environmental \$1,619.35 smcs; Miller & Associates \$5,320.33 smcs; Mission Square Retire. \$17,029.19 ps; Mitchell1 \$1,903.56 smcs; Mostek Electric \$849.46 smcs; Motorola \$17,507.00 co; Municipal Supply \$20,204.12 smcs; NDEE \$7,750.00 smcs; NE Child Support Pmt \$3,339.31 ps; NE Dept of Revenue \$169,502.51 ps; NE Library Commission \$4,478.87 smcs; NE Machinery \$24,920.90 smcs; NE Machinery \$284,080.00 co; NE Pride Sweet Adelines \$35.00 smcs; NE Public Health \$452.00 smcs; Neal, Colton \$38.53 smcs; Nebraskaland Distributors \$3,089.60 smcs; Newsbank \$6,291.00 smcs; Northwestern Energy \$3,226.83 smcs; One Call Concepts \$54.16 smcs; Pacheco, Louis \$10.27 smcs; Paymentus \$1,349.70 smcs; Peerless Machine & MFG \$5,146.79 smcs; Pelesky, Holly \$100.00 smcs; Pep Co \$561.71 smcs; Pioneer Athletics \$1,380.00 smcs; Presto-X \$431.41 smcs; Rapid Fire \$250.00 smcs; Rasmussen Mechanical \$25,705.00 smcs; Ready Mixed Concrete \$3,310.58 smcs; Reinke's Refrigeration \$3,835.50 smcs; Rivershore \$951.00 smcs; RMV Construction \$527,147.40 co; S & J Construction \$49,299.25 co; Safe Center \$4,210.00 smcs; Sampson Construction \$154,774.81 co; Sandry Fire Supply \$9,950.00 co; Sapp Brothers \$2,918.75 smcs; Sazama, Sylvie \$576.95 smcs; School District #7 \$6,757.50 smcs; See Clear Cleaning \$350.00 smcs; Sherwin-Williams \$4,950.00 smcs; Sikes, Jacob \$235.53 smcs; SOS Portable Toilets \$530.00 smcs; State of NE/DAS \$45.99 smcs; Stryker Sales \$108.40 smcs; Studio's. A F \$95.87 smcs; Stutsman \$3,843.00 smcs; Taubenheim, Melissa \$707.27 smcs; Thomas, Sam & Merrilee \$113.00 smcs; Torrey, Paden \$13.77 smcs; Track Tennis \$6,500.00 smcs; Trade Well Pallet \$1,250.00 smcs; Tri-Cities Roofing \$846.47 smcs; Tumbleweed Press \$3,393.50 smcs; Turner Body Shop \$125.00 smcs; Twin City Hardware \$361.68 smcs; Tye & Rowling \$17,492.81 smcs; Union Bank & Trust \$216,224.61 smcs, ps; United Way of KY \$94.00 ps; Verizon \$11,509.88 smcs; Village Uniform \$197.70 smcs; Warrington, Dan \$159.00 smcs; Weldon, Cody \$245.00 smcs; Wessels, Wendell \$3,080.00 smcs; Western NRG \$225.00 smcs; White, Ethel \$60.00 smcs; Wilcac Life Ins. \$5.00 ps; Wilke Contracting \$16,989.00 co; Young, Jay \$204.00 smcs; Ziems, Hunter \$57.38 smcs; Payroll Ending 08/26/2023 -- \$636,938.78.

The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

- 3. Approve the recommendation submitted by the Keno Committee on the allocation of non-departmental Keno funds designed for outside agencies.
- 4. Adopt Resolution No. 2023-130 allowing the City of Kearney to increase its "Budget Authority" by an additional one percent or \$170,213.56 which will be carried over to the 2024-2025 Budget as "Unused Budget Authority".

**RESOLUTION NO. 2023-130**

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Section 13-519.03 of the Nebraska Revised Statutes, as amended, allows governmental units to exceed the two and one half percent limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by an additional one percent as allowed pursuant to Section 13-519.03 of the Nebraska Revised Statutes, as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Section 13-519.03 of the Nebraska Revised Statutes, as amended, by an additional one percent.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2023.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

- 5. Adopt Resolution No. 2023-131 repealing Resolution No. 2023-19 and adopt the 2023-2024 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2023-2024 year.

**RESOLUTION NO. 2023-131**

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2022-2023 fiscal year was adopted by Resolution

No. 2022-180 on September 13, 2022 by the City Council and amended by Resolution No. 2023-19 on January 24, 2023; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2023-2024 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of October 1, 2023.

BE IT FURTHER RESOLVED that Resolution No. 2023-19 be and is hereby repealed in its entirety as of October 1, 2023

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

6. Adopt Resolution No. 2023-132 setting the 2023 City of Kearney property tax request at a different amount than the preliminary property tax request set for the City of Kearney by the Buffalo County Clerk.

**RESOLUTION NO. 2023-132**

WHEREAS, Nebraska Revised Statute 77-1632 provides that the City Council of the City of Kearney passes a majority vote a resolution or ordinance setting the 2023 property tax request; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request;

NOW, THEREFORE, the City Council of the City of Kearney, resolves that:

1. The 2023-2024 General Fund property tax request be set at \$4,679,086.73 and the 2023-2024 Bond Fund property tax request be set at \$288,528.72.
2. The total assessed value of property differs from last year's total assessed value by 7.44%.
3. The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be \$.138566 per \$100 of assessed value.
4. The City of Kearney proposes to adopt a property tax request that will cause its tax rate to be \$.148870 per \$100 of assessed value.
5. Based on the proposed property tax request and changes in other revenue, the total operating budget of the City of Kearney is less than the prior year by 5.87%.
6. A copy of this resolution be certified and forwarded to the County Clerk on or before October 15, 2023.

Motioned by \_\_\_\_\_, seconded by \_\_\_\_\_  
to adopt Resolution No. 2023-132. Voting yes were \_\_\_\_\_.  
Voting no were \_\_\_\_\_.

Dated this 12th day of September 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

7. Approve the City of Kearney Offstreet Parking District No. 1 Budget for the 2023-2024 Fiscal Year and approve the budget statement as the Annual Appropriation Bill and adopt Resolution No. 2023-133.

**RESOLUTION NO. 2023-133**

A RESOLUTION TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that after complying with all procedures required by law, the budget for the City of Kearney Offstreet Parking District No.1 presented and set forth in the budget statement (Annual Operating Budget and Program of Services for the Fiscal Year beginning October 1, 2023 through September 30, 2024) is hereby approved as the Annual Appropriation Bill. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of the City of Kearney Offstreet Parking District No.1. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Buffalo County, Nebraska, for use by the levying authority.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

8. Adopt Resolution No. 2023-134 approving the Kearney Area Solid Waste Agency Budget for the 2023-2024 Fiscal Year.

**RESOLUTION NO. 2023-134**

A RESOLUTION TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR THE KEARNEY AREA SOLID WASTE AGENCY; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES FOR THE KEARNEY AREA SOLID WASTE AGENCY.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that after complying with all procedures required by law, the budget for the Kearney Area Solid Waste Agency presented and set forth in the budget statement (Annual Operating Budget and Program of Services for the Fiscal Year beginning October 1, 2023 through September 30, 2024) is hereby approved as the Annual Appropriation

Bill. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of the Kearney Area Solid Waste Agency. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Buffalo County, Nebraska, for use by the levying authority.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

9. Adopt Resolution No. 2023-135 authorizing the Mayor to sign the certification of the Municipal Annual Certification of Program Compliance Form 2023 to the Nebraska Board of Public Roads Classifications and Standards as required by the Nebraska Department of Transportation.

**RESOLUTION NO. 2023-135**

WHEREAS, State of Nebraska Statutes, sections 39-2115, 39-2119, 39-2120, 39-2121, and 39-2520(2), requires an annual certification of program compliance to the Nebraska Board of Public Roads Classifications and Standards; and

WHEREAS, State of Nebraska Statute, section 39-2120 also requires that the annual certification of program compliance by each municipality shall be signed by the Mayor and shall include a copy of a resolution of the governing body of the municipality authorizing the signing of the certification form.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, the Mayor is hereby authorized to sign the attached Municipal Annual Certification of Program Compliance form.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

10. Adopt Resolution No.2023-136 approving Change Order No. 2 showing a decrease in the amount of \$51,615.00 and increasing the original contract time for Phase 1, two calendar days submitted by Sampson Construction Co., Inc. and approved by Alfred Benesch and Company for the construction of a Box Hangar located at the Kearney Regional Airport (AIP Project No: 3-31-0045-035).

**RESOLUTION NO. 2023-136**

WHEREAS, Sampson Construction Co., Inc. has performed services in connection with the construction of the Box Hangar (AIP Project No: 3-31-0045-035) at the Kearney Regional Airport, and the City's engineer, Alfred Benesch and Company, have filed with the City Clerk Change Order No. 2 showing a decrease in the amount of \$51,615.00 and increasing the original contract time for Phase 1, two (2) calendar days as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 6,000,756.00
Change Order No. 1 (08-08-2023)	+ 13,687.00
Change Order No. 2 (09-12-2023)	<u>- 51,615.00</u>
Contract Sum To Date	\$ 5,962,828.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, 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 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

**11.** Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class D-031733 manager application for Kelly Quintero submitted by Walmart Inc dba Walmart #598 located at 5411 2nd Avenue.

**12.** Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class D-125952 new liquor license application and manager application for Randy Cade submitted by Gas Solutions Inc. dba Shop EZ located at 102 East 25th Street.

**13.** Adopt Resolution No. 2023-137 approving Application and Certificate for Payment No. 15 in the amount of \$282,690.00 submitted by Caldwell Tank and approved by Miller & Associates for the 2.0 MG Elevated Water Tower.

### RESOLUTION NO. 2023-137

WHEREAS, Caldwell Tank of Louisville, Kentucky and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 15 in the amount of \$282,690.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 4,973,000.00</u>
Change Order (10-11-2022)	- 10,991.50
Change Order (05-23-2023)	<u>+ 12,000.00</u>
Contract Sum To Date	4,974,008.50
Gross Amount Due	4,679,658.50
Retainage (10%)	<u>- 467,965.85</u>
Amount Due to Date	4,211,692.65
Less Previous Certificates for Payment	<u>- 3,929,002.65</u>
Current Payment Due	\$ 282,690.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Application and Certificate for Payment No. 15, as shown on Exhibit "A" is hereby accepted and approved.

PASSED AND APPROVED THIS 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

**14.** AMENDED Adopt Resolution No. 2023-138 approving Change Order No. 2 showing a decrease in the amount of \$17,436.00, Application and Certificate for Payment No. 7-Final in the amount of \$66,072.73, and accept the Certificate of Substantial Completion submitted by Nielsen Contracting and approved by Miller and Associates for the 2022 Part 3 Improvement - 11th Street; A Avenue to F Avenue.

### RESOLUTION NO. 2023-138

WHEREAS, Nielsen Contracting, LLC of Kearney, Nebraska has performed services in connection with the 2022 Part 3 Improvement - 11th Street: A Avenue to F Avenue, and the City's engineer, Miller & Associates have filed with the City Clerk Change Order No. 2 showing a decrease in the amount of \$17,436.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Nielsen Contracting and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 7-Final in the amount of \$66,072.73 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 1,920,274.00
Change Order No. 1 (10-25-2022)	+ 28,486.00
Change Order No. 2 (09-12-2023)	<u>- 17,436.00</u>
Contract Sum To Date	\$ 1,931,324.00
Gross Amount Due	\$ 1,931,324.00
Retainage (0%)	<u>- 0.00</u>
Amount Due to Date	\$ 1,931,324.00
Less Previous Certificates for Payment	(- 1,865,611.20)
Less Actual Previous Amount Paid	<u>- 1,865,251.27</u>
Current Payment Due	\$ 66,072.73

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of January 6, 2023, 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 No. 7-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 12TH DAY OF SEPTEMBER, 2023.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

15. Approve the recommendation from the Development Services Department on the annual renewal of the manufactured home court license for East Lawn Mobile Homes Estates, 2900 and 3010 Grand Avenue, until May 31, 2024.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8648 REPEALING ORDINANCE NO. 8643**

Council Member Lear introduced Ordinance No. 8648 repealing Ordinance No. 8643 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of health and dental benefits for active full-time employees; to provide for payment of health benefits for early retiree employees pursuant to Resolution No. 2019-68A, 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 suspend the rules for Ordinance No. 8648. 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. 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 Buschkoetter seconded by Clouse that Ordinance No. 8648 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. 8648 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**

### **ORDINANCE NO. 8649 ADOPTING THE CITY OF KEARNEY BUDGET FOR THE 2023-2024 FISCAL YEAR AND APPROVING THE BUDGET STATEMENT AS THE ANNUAL APPROPRIATION BILL**

Mayor Clouse opened Regular Agenda Item 1 for consideration of approving Ordinance No. 8649 adopting the City of Kearney Budget for the 2023-2024 Fiscal Year and approving the budget statement as the Annual Appropriation Bill.

Council Member Nikkila thanked Ms. James and her team for their hard work.

Council Member Clouse introduced Ordinance No. 8649 adopting the City of Kearney Budget for the 2023-2024 Fiscal Year and approving the budget statement as the Annual Appropriation Bill, 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 suspend the rules for Ordinance No. 8649. 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. 8649 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 Nikkila seconded by Moore that Ordinance No. 8649 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. 8649 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.

## **VII. REPORTS**

Michael Morgan, City Manager stated plans are underway for a November 1st Open House for the Airport Terminal expansion, with more details to follow.

Mayor Clouse thanked Ms. James and the Finance Department for their work on the 2023-2024 Budget.

## **VIII. ADJOURN**

Moved by Clouse seconded by Nikkila that Council adjourn at 5:47 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, 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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**PEGGY EYNETICH  
CITY CLERK**