

Kearney, Nebraska
April 9, 2024
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 April 9, 2024, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, City Clerk; Council Members Randy Buschkoetter, Tami James Moore, and Jonathan Nikkila. Absent: Bruce Lear. Brenda Jensen, Interim City Manager; Michael Tye, City Attorney; Kayla James, Director of Finance; Bryan Waugh, Chief of Police; Mike Young, Police Captain of Services; Kevin Thompson, Police Captain of Operations; Luke Dutcher, Assistant Director of Public Works; Sarah Sawin, Assistant Director of Utilities; Melissa Dougherty-O'Hara, Assistant Director of Development Services; Brad DeMers, Assistant to the City Manager; Dan Lillis, Engineering Assistant II; Jake Misener, Deputy City Clerk; Neil Miller, Buffalo County Sheriff; Dan Schleusener, Buffalo County Sheriff's Office Chief Deputy; Robert Tubbs, Buffalo County Sheriff's Office Lieutenant, and David Randel, Dispatcher were also present.

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 2024 YOUTH WEEK PROCLAMATION

Mayor Clouse read the Proclamation for Kearney Elks Lodge #984 Youth Week and presented it to the Elks members in attendance.

PRESENTATION OF SMALL BUSINESS WEEK PROCLAMATION

Mayor Clouse read the Proclamation for Small Business Week and presented it to Derek Rusher, President of Kearney Area Chamber of Commerce.

PRESENTATION OF NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

Mayor Clouse read the Proclamation for National Public Safety Telecommunicators Week and presented it to the Buffalo County Sheriff's Office 911 Communications Center employees in attendance.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS**REZONING FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF 2ND AVENUE AND 56TH STREET**

Public Hearings 1 through 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company, 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 Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Southwest corner of the intersection of 2nd Avenue and 56th Street) and consider Ordinance No. 8662.

Craig Bennett, Miller & Associates, presented this matter to the Council. Mr. Bennett described the 2.65-acre two-lot subdivision and stated that the proposed rezoning is compatible with the Future Land Use Map. The final plat is consistent with the preliminary plat presented in 2012. Additionally, Mr. Bennett detailed the infrastructure connectivity and circulation of the lots.

Council Member Jonathan Nikkila asked if the connectivity to 56th Street allowed for right-turn only. Mr. Bennett explained that north/south and east/west circulation would be available.

Interim City Manager, Brenda Jensen added that the intersections across 56th Street align, providing for a safer access point.

Council Member Randy Buschkoetter asked how much stacking would be available for cars waiting to cross 2nd Avenue. Mr. Bennett explained that there is 264 feet from the right-of-way, allowing for approximately 14 vehicles.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company and introduced Ordinance No. 8662 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 Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Southwest corner of the intersection of 2nd Avenue and 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 Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8662. 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, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. 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. 8662 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Buschkoetter that Ordinance No. 8622 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8622 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 and the Kearney Public Library.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR OAK PARK CENTER FOURTH

Public Hearings 1 through 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company, for the Final Plat and Subdivision Agreement for Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Southwest corner of the intersection of 2nd Avenue and 56th Street) and consider Resolution No. 2024-35.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2024-35 approving the Final Plat and Subdivision Agreement for Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska

(Southwest corner of the intersection of 2nd Avenue and 56th Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2024-35

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Oak Park Center Fourth, a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a corner box at the Northeast Corner of the Northeast Quarter of Section 26; thence S 00°22'13" W on the East line of said Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 470.92 feet to the Easterly extension of the North line of Lot 1, Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 89°37'47" W on said Easterly extension a distance of 74.52 feet to a 5/8" rebar w/cap on the West Right-of-Way line of 2nd Avenue and the Northeast corner of said Lot 1, Oak Park Center Second also being the POINT OF BEGINNING; thence continuing N 89°37'47" W on the North line of said Lot 1, Oak Park Center Second a distance of 292.77 feet to a 5/8" rebar w/cap at the Northwest corner of said Lot 1, Oak Park Center Second; thence N 00°22'13" E a distance of 15.38 feet to a 5/8" rebar w/cap; thence Northwesterly on a tangent curve to the Left having a central angle of 45°07'51", a radius of 150.00 feet, an arc length of 118.15 feet, and a chord bearing of N 22°11'43" W a distance of 115.12 feet to a 5/8" rebar w/cap; thence N 45°14'21" E a distance of 31.12 feet to a 5/8" rebar w/cap; thence Northeasterly on a tangent curve to the Left having a central angle of 44°52'09", a radius of 150.00 feet, an arc length of 117.47 feet, and a chord bearing of N 22°48'17" E a distance of 114.49 feet to a 5/8" rebar w/cap; thence N 00°22'12" E a distance of 160.38 feet to a 5/8" rebar w/cap on the South right-of-way line of 56th Street as platted in the City of Kearney, Buffalo County, Nebraska; thence S 87°54'15" E on said South right-of-way line a distance of 264.76 feet to a 5/8" rebar w/cap at said West right-of-way line of 2nd Avenue; thence S 00°34'45" E on said West right-of-way line a distance of 402.03 feet to the Point of Beginning, containing 2.65 acres, more or less, 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 9TH DAY OF APRIL, 2024.

ATTEST:
JAKE MISENER
DEPUTY CITY CLERK

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

ANNEXATION OF OAK PARK CENTER FOURTH

Public Hearings 1 through 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the request submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company, for the annexation of Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Southwest corner of the intersection of 2nd Avenue and 56th Street) and consider Resolution No. 2024-36.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2024-36 approving the annexation of Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Southwest corner of the intersection of 2nd Avenue and 56th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2024-36

WHEREAS, an Application has been submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company for the inclusion of Oak Park Center Fourth, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a corner box at the Northeast Corner of the Northeast Quarter of Section 26; thence S 00°22'13" W on the East line of said Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 470.92 feet to the Easterly extension of the North line of Lot 1, Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 89°37'47" W on said Easterly extension a distance of 74.52 feet to a 5/8" rebar w/cap on the West Right-of-Way line of 2nd Avenue and the Northeast corner of said Lot 1, Oak Park Center Second also being the POINT OF BEGINNING; thence continuing N 89°37'47" W on the North line of said Lot 1, Oak Park Center Second a distance of 292.77 feet to a 5/8" rebar w/cap at the Northwest corner of said Lot 1, Oak Park Center Second; thence N 00°22'13" E a distance of 15.38 feet to a 5/8" rebar w/cap; thence Northwesterly on a tangent curve to the Left having a central angle of 45°07'51", a radius of 150.00 feet, an arc length of 118.15 feet, and a chord bearing of N 22°11'43" W a distance of 115.12 feet to a 5/8" rebar w/cap; thence N 45°14'21" E a distance of 31.12 feet to a 5/8" rebar w/cap; thence Northeasterly on a tangent curve to the Left having a central angle of 44°52'09", a radius of 150.00 feet, an arc length of 117.47 feet, and a chord bearing of N 22°48'17" E a distance of 114.49 feet to a 5/8" rebar w/cap; thence N 00°22'12" E a distance of 160.38 feet to a 5/8" rebar w/cap on the South right-of-way line of 56th Street as platted in the City of Kearney, Buffalo County, Nebraska; thence S 87°54'15" E on said South right-of-way line a distance of 264.76 feet to a 5/8" rebar w/cap at said West right-

of-way line of 2nd Avenue; thence S 00°34'45" E on said West right-of-way line a distance of 402.03 feet to the Point of Beginning, containing 2.65 acres, more or less, Buffalo County, Nebraska; identified on the attached map; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on March 15, 2024 on the inclusion of Oak Park Center Fourth within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Oak Park Center Fourth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on April 9, 2024 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Oak Park Center Fourth shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Oak Park Center Fourth within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
JAKE MISENER
DEPUTY CITY CLERK

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

DEVELOPMENT OF ARBOR VIEW FOURTH

Mayor Clouse opened Public Hearings 4 through 8 on the applications submitted by Miller & Associates for Fox Creek Development pertaining to the development of Arbor View Fourth. At the request of the Applicant, these items have been requested to be postponed to the April 23, 2024 City Council meeting.

Moved by Nikkila seconded by Moore to postpone Public Hearings 4 through 8 pertaining to the development of Arbor View Fourth. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

REZONING OF PROPERTY LOCATED EAST OF 625 EAST 1ST STREET

Public Hearings 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Jestin Clinch, Clinch Storage, LLC for Clinch Storage, LLC (current owner CRST, LLC, Dawn M Chavanu, Manager (MA)) to rezone from District AG, Agricultural District and District C-2, Community Commercial District to District C-3, General Commercial District for property described as a tract of land being part of Government Lot 7 and accretions located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the

6th P.M., Buffalo County, Nebraska; now annexed to the City of Kearney (East of 625 East 1st Street, a vacant parcel) and consider Ordinance No. 8665.

Jestin Clinch, Clinch Storage, LLC presented this matter to the Council. Mr. Clinch described the parcel proposed to be developed for RV storage and stated the development would contain approximately 1,000 feet of frontage, two driveways, landscaping along the front and back, and each building would contain 35% masonry coverage. Additionally, Mr. Clinch reviewed drainage and detention areas, including grass and greenspace.

Council Member Nikkila recommended contacting the City Forester to assist in selecting trees compatible with the soil.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the Application submitted by Jestin Clinch, Clinch Storage, LLC for Clinch Storage, LLC (current owner CRST, LLC, Dawn M Chavanu, Manager (MA)) and introduced Ordinance No. 8665 to rezone from District AG, Agricultural District and District C-2, Community Commercial District to District C-3, General Commercial District for property described as a tract of land being part of Government Lot 7 and accretions located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; now annexed to the City of Kearney (East of 625 East 1st Street, a vacant parcel) 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. 8665. 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, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. 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. 8665 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8665 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8665 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 and the Kearney Public Library.

CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 625 EAST 1ST STREET

Public Hearings 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Jestin Clinch, Clinch Storage, LLC for Clinch Storage, LLC (current owner CRST, LLC, Dawn M Chavanu, Manager (MA)) for a Conditional Use Permit for Warehousing (Enclosed), and described as a tract of land being part of Government Lot 7 and accretions located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; now annexed to the City of Kearney (East of 625 East 1st Street, a vacant parcel) and consider Ordinance No. 8666.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Jestin Clinch, Clinch Storage, LLC for Clinch Storage, LLC (current owner CRST, LLC, Dawn M Chavanu, Manager (MA)) and introduced Ordinance No. 8666 for a Conditional Use Permit for Warehousing (Enclosed), and described as a tract of land being part of Government Lot 7 and accretions located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; now annexed to the City of Kearney (East of 625 East 1st Street, a vacant parcel) 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. 8666. 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, Nikkila, Moore. Nay: None. Lear absent. 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. 8666 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Moore that Ordinance No. 8666 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8666 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 and the Kearney Public Library.

PROPOSED AMENDMENTS TO THE CITY CODE

Mayor Clouse opened the public hearing on the Proposed amendments to Section 47-105 "Accessory Buildings" of Chapter 47 "Supplemental Development Regulations" of the City Code to include: (1) removal and addition of language for supplemental development

regulations throughout the Section, for clarification purposes; (2) revising subsection titles; and (3) modifying development regulations all for better understanding and to provide guidance for the development of accessory buildings and consider Ordinance No. 8667.

Melissa Dougherty-O'Hara, Assistant Director of Development Services, presented this matter to the Council. Ms. Dougherty-O'Hara explained the proposed code amendments, which will reorganize the section and amend the language to provide clarity and ensure the intent of the code is being followed.

Council Member Nikkila questioned the minimum size required to obtain a permit for an accessory building. Ms. Dougherty-O'Hara stated that the minimum size requirement is 120 square feet.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing and introduced Ordinance No. 8667, as presented on the Proposed amendments to Section 47-105 "Accessory Buildings" of Chapter 47 "Supplemental Development Regulations" of the City Code to include: (1) removal and addition of language for supplemental development regulations throughout the Section, for clarification purposes; (2) revising subsection titles; and (3) modifying development regulations all for better understanding and to provide guidance for the development of accessory buildings 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. 8667. 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, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. 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. 8667 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8667 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8667 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 and the Kearney Public Library.

IV. CONSENT AGENDA

Moved by Clouse seconded by Nikkila that Subsections 1 through 12 of Consent Agenda

Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held March 26, 2024.

2. Approve the following Claims:

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

Alfred Benesch \$12,671.68 co; All American Sewer \$1,075.00 smcs; All Safe Industries \$287.85 smcs; AM Underground \$6.62 smcs; Ask Supply \$3,277.22 smcs; Aurora Coop \$635.28 smcs; AVfuel \$26,300.48 smcs; Barista's Daily Grind \$763.00 smcs; Bellairs, J \$75.00 smcs; BlueCross BlueShield \$153,827.46 smcs; Bossfuels \$23,216.29 smcs; Bruce Furniture \$1,856.00 co; Buffalo Co. Sheriff \$231,359.00 smcs; Builders \$40.65 smcs; Cal/Amp \$781.55 smcs; Caldwell Tanks \$415,109.34 co; Carquest \$20.39 smcs; Cash-Wa \$278.94 smcs; CDW Government \$9,266.58 smcs; Central States Wire \$335.20 smcs; Chesterman \$418.00 smcs; Chramosta, R \$122.00 smcs; Christensen, K \$156.00 smcs; City of KY \$658,344.65 smcs,ps; Cold Spring \$1,100.40 smcs; Comm. Action Partnership \$3,364.50 smcs; Country Partners \$23,310.71 smcs; Crouch Recreation \$58,830.00 co; Cutting Edge Cleaning \$350.00 smcs; Dahl, R \$28.51 smcs; Danko \$177.50 smcs; Depository Trust \$5,315.00 ds; Eagle Distributing \$906.51 smcs; Easy Picker \$318.54 smcs; Ed Broadfoot & Sons \$495.00 smcs; Family Practice \$496.00 smcs,ps; Faz, A \$81.00 smcs; Fiddelke Heating \$397.50 smcs; Fountain Hills Properties \$31.01 smcs; Give Nebraska \$9.00 ps; Greater NE Cities \$1,000.00 smcs; H&H Concrete \$4,500.00 smcs; Hard Head Veterans \$2,270.00 smcs; HM Life Insurance \$80,599.02 smcs; Hometown Leasing \$129.03 smcs; Hosick, D \$203.00 smcs; Hotsy Equipment \$1,059.66 smcs; Ingram, J \$195.00 smcs; Integrated Security \$2,738.00 smcs,co; IRS \$195,603.40 ps; J&A Traffic Products \$10,400.00 smcs; Jack Lederman \$845.21 smcs; Jack's Uniforms \$1,748.99 smcs; John T. Jones Const. \$1,413,736.52 co; Johnson Brothers of NE \$676.80 smcs; KY Hub \$1,156.36 smcs; Kelly Supply \$24.35 smcs; KSO CPAs \$31,710.00 smcs; Landmark Implement \$10,000.00 co; Ledbetter, M \$14.24 smcs; Lincoln Nat'l Life \$11,563.82 smcs; Lindner, L \$81.00 smcs; Logan Contractors \$4,641.90 co; Luke, B \$122.00 smcs; Mac Tools \$150.00 smcs; MacQueen Equipment \$1,882.03 smcs; Magic Cleaning \$6,250.00 smcs; Mara USA Corp. \$141,120.00 smcs; McCartney, Erin Chpt. 13 \$157.00 ps; MCL Construction \$2,998,731.83 co; Melsa, R \$23.66 smcs; Menards \$1,211.52 smcs; Midlands Contracting \$137,675.97 co; Mid-NE Garage Doors \$175.00 smcs; Midwest Alarm \$407.17 smcs; Midwest Connect \$4,840.56 smcs; Milco Environmental \$2,881.25 smcs; Miller & Associates \$50,109.65 smcs,co; Miller Signs \$375.00 smcs; Mission Square \$6,042.24 ps; Mitchell1 \$1,632.00 smcs; Most Dependable Foun. \$6,260.00 co; Motorola \$5,600.00 smcs; NE Child Support \$1,419.72 ps; NE Dept of Revenue \$95,981.39 smcs,ps; NE Law Enforcement \$70.00 smcs; NE Public Health \$2,328.00 smcs; NE Safety & Fire \$805.00 smcs; Nebraskaland Distrib. \$820.24 smcs; Northwestern Energy \$5,469.19 smcs; Nuttelman Fencing \$919.91 smcs; Olsson Associates \$9,675.00 co; Omni Engineering \$6,592.01 smcs; One Call Concepts \$16.76 smcs; Orgchart \$3,300.00 smcs; Otto Environmental \$31,423.40 smcs; Pep Co.

\$165.38 smcs; Platte Valley Laboratories \$210.25 smcs; Presto-X \$158.60 smcs; Prime Secured \$2,920.27 smcs; Rasmussen Mechanical \$13,029.53 smcs; Resource Mgmt. \$1,113.00 smcs; S & J Construction \$15,882.45 co; S&B Heating \$3,468.28 smcs; Sampson Construction \$769,891.65 co; Sapp Brothers \$5,285.94 smcs; Schindler Elevator \$1,501.77 smcs; School District #7 \$2,150.00 smcs; See Clear Cleaning \$2,700.00 smcs; Siteone Landscape \$24,843.53 smcs; Snap-on Tools \$149.00 smcs; SOS Portable Toilets \$239.00 smcs; Southern Glazers Wine \$267.00 smcs; State of NE/DAS \$70.56 smcs; Stutsman \$3,294.00 smcs; Thurston Heating \$2,650.00 smcs; Titan Machinery \$2,026.06 smcs; TK Elevator \$4,219.07 smcs; Toole, D \$7.75 smcs; Traveler's Insurance \$314,565.42 smcs; Tye & Rowling \$16,192.60 smcs; Union Bank & Trust \$110,098.28 ps; Union Pacific \$375.86 smcs; United Way \$81.00 ps; USDA Wildlife Service \$800.00 smcs; Verizon \$13,170.94 smcs; Village Uniform \$162.08 smcs; Volaire Aviation \$2,000.00 smcs; Weis Co Properties \$81.64 smcs; Wessels, W \$200.00 smcs; Zimco Supply \$6,198.40 smcs; Payroll Ending 03/23/2024 -- \$632,106.45. 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. Accept the bids received for the Cottonmill Park Paving Improvements and adopt Resolution No. 2024-41, awarding the bid to JIL Asphalt Paving Company in the amount of \$453,108.25.

RESOLUTION NO. 2024-41

WHEREAS, Miller and Associates and the City of Kearney have reviewed the sealed bids which were opened on March 19, 2024 at 2:00 p.m. for the Cottonmill Park Paving Improvements; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$576,830.00; and

WHEREAS, Miller and Associates and the City have recommended the bid offered by JIL Asphalt Paving Co. in the amount of \$453,108.25 be accepted as the lowest responsible bid for Cottonmill Park Paving Improvements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted, that JIL Asphalt Paving Co. be and is the lowest responsible bidder for the Cottonmill Park Paving Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of JIL Asphalt Paving Co. in the amount of \$453,108.25 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$576,830.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
 JAKE MISENER
 DEPUTY CITY CLERK

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

4. Adopt Resolution No. 2024-42 approving the in-house work for the construction of lead-service line replacement by City personnel in connection with the Lead Service Line Replacement Project.

RESOLUTION NO. 2024-42

WHEREAS, the City Council, at the March 12, 2024, Council meeting, awarded the associated Concrete component of the Lead Service Line Replacement Project to Dan Roeder Concrete, Inc. in the amount of \$5,688.00 and Dandee Concrete, Inc. in the amount of \$5,544.00 and the associated Plumbing component of the Lead Service Line Replacement Project to Mid-Nebraska Digging, Inc. for \$7,400.00, Kearney Plumbing, Inc. for \$7,341.00, and Stegeman Solutions for \$2,875.00; and

WHEREAS, due to the size of the Lead Service Line Replacement Project and the amount of work required for its completion, City personnel will assist with the Project and perform in-house work on this Project.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, authorizes and approves Water Operations Staff to perform in-house work associated with the Lead Service Line Replacement Project, with the said Project being completed in accordance with the plans and specifications on file with the City Clerk, be and is hereby accepted.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
JAKE MISENER
DEPUTY CITY CLERK

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

5. Adopt Resolution No. 2024-43 approving the Application and Certificate for Payment No. 16-Final in the amount of \$30,000.00 to RMV Construction, LLC and the Letter of Final Completion submitted by Wilkins ADP and all approved by Wilkins ADP for Yanney Heritage Park Pavilion and Parking Lot.

RESOLUTION NO. 2024-43

WHEREAS RMV Construction, LLC of Kearney, Nebraska has performed services in connection with Yanney Heritage Park Pavilion and Parking Lot, and the City's architect, Wilkins ADP, has filed with the City Clerk Application and Certificate for Payment No. 16 – Final in the amount of \$30,000.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ <u>3,653,600.00</u>
Change Order No. 1 (07-26-2022)	+ 23,433.00
Change Order No. 2 (09-13-2022)	+ 17,883.00
Change Order No. 3 (10-11-2022)	+ 395.00
Change Order No. 4 (01-10-2023)	- 7,195.00
Change Order No. 5 (01-10-2023)	+ 3,947.00
Change Order No. 6 (01-10-2023)	+ 9,676.00
Change Order No. 7 (03-14-2023)	+ 1,348.00
Change Order No. 8 (04-11-2023)	+ 611.00
Change Order No. 9 (04-11-2023)	+ 802.00

Change Order No. 10 (06-13-2023)	+ 5,560.00
Change Order No. 11 (06-13-2023)	+ 5,241.00
Change Order No. 12 (06-13-2023)	+ 1,261.00
Change Order No. 13 (06-13-2023)	+ 3,671.00
Change Order No. 14 (06-13-2023)	+ 532.00
Change Order No. 15 (07-11-2023)	+ 3,026.00
Change Order No. 16 (01-09-2023)	+ 5,932.00
Change Order No. 17 (01-09-2023)	+ 5,890.00
Change Order No. 18 (01-09-2023)	+ 18,032.00
Change Order No. 19 (01-09-2023)	<u>+ 1,375.00</u>
Contract Sum to Date	\$3,755,020.00
Gross Amount Due	\$3,755,020.00
Total Retainage	<u>0.00</u>
Amount Due to Date	3,725,020.00
Less Previous Certificates for Payment	<u>-3,725,020.00</u>
Current Payment Due	\$ 30,000.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of April 3, 2024, as shown by Exhibit “B” 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 Application and Certificate for Payment No. 16 – Final, as shown on Exhibit “A” and the Letter of Final Completion as shown on Exhibit “B” be and are hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
 JAKE MISENER
 DEPUTY CITY CLERK

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

6. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Tammy Watson submitted by Fraternal Order of Eagles 2722, located at 17 West 24th Street, in connection with their Class C-11097 liquor license.

7. Adopt Resolution No. 2024-44 confirming Joseph Cipov to fulfill the term vacated by Michaela Lewis (County Representative) on the Advisory Board of Park & Recreation Commissioners.

RESOLUTION NO. 2024-44

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;

WHEREAS, one resident of Buffalo County vacancy currently exists on the Advisory Board of Park & Recreation Commissioners.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following person, as appointed by the Buffalo County Board

of Commissioners for the Advisory Board of Park & Recreation Commissioners, is hereby appointed to fulfill the vacated terms as indicated:

ADVISORY BOARD OF PARK & RECREATION COMMISSIONERS

Joseph Cipov, as appointed by the Buffalo County Board of Commissioners, confirmed to fulfill the term vacated by Michaela Lewis to July 31, 2028.

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

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
JAKE MISENER
DEPUTY CITY CLERK

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

8. Adopt Resolution No. 2024-45 accepting the Proposal received from BerganKDV for Professional Auditing Services for the City of Kearney and the City of Kearney Community Redevelopment Authority for the year ending September 30, 2024.

RESOLUTION NO. 2024-45

WHEREAS, the City of Kearney’s Audit RFP Review Committee consisting of the Interim City Manager, Director of Finance, and the Assistant Director of Finance reviewed the sealed proposal received in February 2024 for Professional Auditing Services for the City of Kearney, Nebraska and the City of Kearney Community Redevelopment Authority; and

WHEREAS, the Audit RFP Review Committee has recommended the proposal offered by BerganKDV in the amount of \$79,850.00 for audit services for the year ended September 20, 2024 be accepted.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the recommendation from the Audit RFP Review Committee is hereby accepted and approved, and that BerganKDV be accepted for auditing services for the City of Kearney, Nebraska, and the City of Kearney Community Redevelopment Authority for the year ended September 20, 2024, to be performed in accordance with the Proposal for Professional Audit Services.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
JAKE MISENER
DEPUTY CITY CLERK

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

9. Approve the Program Guidelines and Checklist for the City of Kearney in connection with the Nebraska Affordable Housing Trust Fund (NAHTF) New Construction Rental Program for the Younes Workforce Housing Project.

10. Approve the Deed of Trust with Power of Sale between Talmadge JAM, LLC, a Nebraska Limited Liability Company, and the City of Kearney for property described as a tract of land being part of Government Lot 9, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, in connection with NAFCT Contract No.

23-TFRH-34008.

11. Approve the Promissory Note between the City of Kearney and Talmadge JAM, LLC, a Nebraska limited Liability Company, in connection with NAFCT Contract No. 23-TFRH-34008.

12. Adopt Resolution No. 2024-46 approving the Restrictive Covenant for property described as a tract of land being part of Government Lot 9, Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, pursuant to provisions regarding the reuse of Nebraska Affordable Housing Trust Funds between the State of Nebraska Department of Economic Development and the City of Kearney, Nebraska, a municipal corporation in connection with NAFCT Contract No. 23-TFRH-34008.

RESOLUTION NO. 2024-46

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Interim City Manager is authorized and directed to execute the Restrictive Covenant on behalf of the City of Kearney, Nebraska, pursuant to provisions regarding the reuse of Nebraska Affordable Housing Trust Funds (NAHTF) between the State of Nebraska Department of Economic Development and the City of Kearney, for real property described as a tract of land being part of Government Lot 9 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at the Southeast corner of Government Lot 7 of said Section 11; thence N 00°25'12" E on the East line of said Government Lot 7 and Government Lot 9, and all bearings contained herein are relative thereto, a distance of 1690.63 feet the POINT OF BEGINNING; thence Westerly on a non-tangent curve to the Left having central angle of 00°40'06", a radius of 2000.00 feet, an arc length of 23.33 feet, and a chord bearing of N 89°21'54" W a distance of 23.33 feet; thence N 89°41'49" W a distance of 53.10 feet; thence Southwesterly on a tangent curve to the Left having a central angle of 55°11'37", a radius of 100.00 feet, an arc length of 96.33 feet, and a chord bearing of S 62°42'23" W a distance of 92.65 feet; thence S 35°06'34" W a distance of 6.55 feet; thence Northwesterly on a non-tangent curve to the Left having a central angle of 21°28'43", a radius of 453.00 feet, an arc length of 169.82 feet, and a chord bearing of N 65°37'47" W a distance of 168.83 feet; thence N 00°00'00" E a distance of 229.31 feet; thence N 90°00'00" E a distance of 364.99 feet; thence S 25°25'12" W a distance of 298.92 feet; thence Westerly on a non-tangent curve to the Left having a central angle of 00°51'35", a radius of 2000.00 feet, an arc length of 30.01 feet, and a chord bearing of N 88°36'03" W a distance of 30.01 feet to the Point of Beginning, containing 2.18 acres, more or less located in Buffalo County, Nebraska, that may be occupied only by income-eligible persons and shall be subject to cost of housing and rent limitations in accordance with applicable regulations and as set forth in the NAHTF Contract No. 23-TFRH-34008 and marked as Exhibit A, attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2024.

ATTEST:
JAKE MISENER
DEPUTY CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIM

Moved by Moore seconded by Buschkoetter that the Open Account Claim in the amount of \$14,935.93 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Moore, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

Council Member Tami James Moore stated she attended one of the accessory building presentations, and found it was informative and well-attended.

Interim City Manager Brenda Jensen thanked Ms. Dougherty-O'Hara for her diligent work on the City Code amendments. Additionally, Ms. Jensen provided an update on the Accessory Dwelling Unit forums, SportsPlex Topping Out Ceremony, and Essential Airline Service bids.

CLOSED SESSION

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 6:03 p.m. for the protection of the public interest to discuss personnel 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 personnel matters. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Buschkoetter seconded by Clouse that Council reconvene in regular session at 6:35 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 6:35 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**