

Kearney, Nebraska
September 10, 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 September 10, 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, Bruce Lear, and Jonathan Nikkila. Absent: Tami James Moore. Michael Tye, City Attorney; Kayla James, Director of Finance; Andy Harter, Director of Public Works; Sarah Sawin, Director of Utilities; Taylor Jaeger, Assistant Director of Finance; Melissa Dougherty-O'Hara, City Planner; Dennis Byrne, Police Lieutenant and Dan Lillis, Engineering Assistant II, 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 BY ALLO COMMUNICATIONS

Dave Miller, General Manager for ALLO Communications introduced his colleagues Brandon White, Don Larson and Lauren Bliss. Mr. Miller stated that in May of 2024, the construction phase of the all-fiber network was completed. Mr. Miller provided statistics (Exhibit A), including aerial vs buried lines, cable miles, and a coverage map and also described ALLO's Community Connect Project that provides free internet for three years to 10 non-profits in Kearney. Mr. Miller thanked the Public Works and Development Services Departments for their assistance and provided a Certificate to the City of

Kearney.

Council Members thanked Mr. Miller for his presentation.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

FINAL PLAT AND SUBDIVISION AGREEMENT FOR NORTHWESTERN ENERGY FIRST ADDITION

Mayor Clouse opened the public hearing on the application submitted by Olsson for Keith A. and Janice K. Kuebler, (Owners) for the Final Plat and Subdivision Agreement for Northwestern Energy First Addition, a subdivision a tract of land located in part of the Southeast Quarter of the Southeast Quarter Section 15, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (one-half mile south of the intersection of West 78th Street and 17th Avenue on the west side of the road) and consider Resolution No. 2024-114.

Douglas Stevenson presented this matter to the Council. Mr. Stevenson described the one-lot subdivision proposed for a gas-regulator station.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt Resolution No. 2024-114 approving the application submitted by Olsson for Keith A. and Janice K. Kuebler, (Owners) for the Final Plat and Subdivision Agreement for Northwestern Energy First Addition, a subdivision a tract of land located in part of the Southeast Quarter of the Southeast Quarter Section 15, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (one-half mile south of the intersection of West 78th Street and 17th Avenue on the west side of the road). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Moore absent. Motion carried.

RESOLUTION NO. 2024-114

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Northwestern Energy First Addition, a subdivision a tract of land located in part of the Southeast Quarter of the Southeast Quarter of Section 15, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska for a tract of land located in part of the Southeast Quarter of the Southeast Quarter of Section 15, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Commencing at the southeast corner of said Section 15; thence on an assumed bearing of N00°24'28"E, along the east line of said Section 15, a distance of 35.00 feet to the Point of Beginning. Thence N89°55'07"W, parallel to the south line of said Southeast Quarter of Section 15, a distance of 110.00 feet; thence N00°24'30"E a distance of 40.00 feet; thence S89°55'07"E a distance of 110.00 feet to a point on said east line; thence S00°24'30"W on said east line

a distance of 40.00 feet to the Point of Beginning. Said tract contains a calculated area of 4399.88 square feet or 0.101 acres more or less of which 0.045 acres is new dedicated road right-of-way all located in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

ADOPTION OF THE 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. 2024-115.

Luke Dutcher, Assistant Director of Public Works, presented this matter to the Council. Mr. Dutcher reviewed the One- and Six-Year Plan that was initially presented at the August 27th City Council Meeting and noted the Public Works Department did not receive any comments from the public following the initial presentation at the August 27th Council meeting.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2024-155 approving the adoption of the One- & Six-Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Moore absent. Motion carried.

RESOLUTION NO. 2024-115

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 10, 2024 in the Kearney City Council Chambers that the One Year City Street Plan for

fiscal year ending September 30, 2025 and the Six Year City Street Plan ending September 30, 2031, 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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

ACQUISITION OF A TRACT OF LAND FOR A PERMANENT WATER MAIN EASEMENT

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land located in Lot 1, Marshall Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for the purpose of a 20.00 Foot Permanent Water Main Easement from Essam Arram, Owner of Arram Equities, Inc., a Nebraska Corporation and consider Resolution No. 2024-116.

Sarah Sawin, Director of Utilities, presented this matter to the Council. Ms. Sawin described the location of the proposed permanent water main easement to be used for fire safety purposes.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2024-116 approving the proposed acquisition of a tract of land located in Lot 1, Marshall Addition, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for the purpose of a 20.00 Foot Permanent Water Main Easement from Essam Arram, Owner of Arram Equities, Inc., a Nebraska Corporation. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore absent. Motion carried.

RESOLUTION NO. 2024-116

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a 20.00 Foot Permanent Water Main Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Essam Arram, Owner of Arram Equities, Inc., a Nebraska Corporation, has granted to the City of Kearney, Nebraska a 20.00 Foot Permanent Water Main Easement as follows:

20.00 FOOT PERMANENT WATER MAIN EASEMENT

Lot 1, Marshall Addition, an addition to the City of Kearney, Buffalo County, Nebraska being more particularly described as follows: referring to the southwest property corner of Lot 1 of Marshall Addition, an addition to the City of Kearney, Buffalo County, Nebraska, which is also the point of beginning; thence N89°52'55"E along the south line of said Lot 1 (assumed all bearings relative to) a distance of 243.00 feet; thence N0°11'09"E a distance of 20.00 feet; thence S89°52'55"W a distance of 243.00 feet; thence S0°11'09"W a distance of 20.00 feet along the west line of said Lot 1 to the point of beginning, containing 4860 sq. ft. more or less.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the 20.00 Foot Permanent Water Main Easement granted by Essam Arram, Owner of Arram Equities, Inc., a Nebraska Corporation, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Mayor is hereby authorized to make such minor changes, additions or deletions to the legal description as the Mayor deems reasonable or necessary.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Clouse seconded by Nikkila that Subsections 1 through 20 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore absent. Motion carried.

1. Approve Minutes of Regular Meeting held August 27, 2024.

2. Approve the following Claims:

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

Agri Coop \$4,430.37 smcs; Alfred Benesch \$64,686.77 co; All Copy \$281.31 smcs; Allen, L \$185.00 smcs; Arevalo, L \$286.00 smcs; Ask Supply \$592.15 smcs; Aurora Coop \$641.98 smcs; AvFuel \$46,745.06 smcs; Axon Enterprises \$3,685.61 smcs; Baker & Taylor \$6,770.87 smcs; Blackman, L \$54.00 smcs; BlueCross BlueShield \$181,076.22 smcs; Books Galore \$20,066.80 smcs; Bosselman \$19,764.38 smcs; Brite \$5,756.00 smcs; Broadfoot's \$3,110.92 smcs; Buffalo Co. Register \$104.00 smcs; Cacek, L \$204.00 smcs; Carrot-Top Industries \$3,154.32 co; Cash-Wa \$27,782.04 smcs, co; CDW Government \$4,671.60 smcs; Central Ag \$125.80 smcs; Central Comm. College \$300.00 smcs; Central NE Sr Golf Assoc. \$130.00 smcs; Chesterman \$2,335.50 smcs; City of KY

\$628,796.03 smcs,ps; Civic Plus \$4,156.38 smcs; Cold Spring \$745.50 smcs; Community Action \$1,366.00 smcs; Core & More \$1,127.07 smcs; Country Partners \$22,080.27 smcs; Crouch Recreation \$30,145.00 co; Crumm, S \$54.00 smcs; Cunningham's Journal \$40.00 smcs; Cutting Edge Cleaning \$85.00 smcs; Dan's Plumbing \$353.47 smcs; Davis, J \$54.00 smcs; Eagle Distributing \$1,751.60 smcs; Eakes \$96,886.28 smcs,co; Ebsco Publishing \$4,819.00 smcs; Ed Broadfoot & Sons \$1,427.00 smcs,co; EJ's Outdoor Sports \$2,700.00 smcs; Enriquiz, J \$54.00 smcs; Expression Wear \$160.00 ps; Fanatics \$60.00 smcs; Favinger, S \$113.00 smcs; Flashpoint Fire Equipment \$549.52 smcs; Gale/Cengage \$683.37 smcs; Geiselman, J \$119.59 smcs; Gibbons, V \$54.00 smcs; Give Nebraska \$9.00 ps; Graczyk Lawn \$1,622.00 smcs; Greater NE Cities \$1,000.00 smcs; Haeberle, S \$54.00 smcs; HelpCare Clinic \$5,000.00 smcs; HM Life Insurance \$82,839.75 smcs; Hometown Leasing \$443.23 smcs; IRS \$207,185.15 ps; Jack Lederman \$100.61 smcs; Jack's Uniforms \$132.00 smcs; Johnson Brothers \$3,600.00 smcs; Kalb, J \$2,890.00 smcs; Kappel, C \$2,890.00 smcs; KY Animal Shelter \$1,059.00 smcs; KY High School \$130.00 smcs; Kirkham Michael \$650.00 smcs; Kolbo, K \$56.30 smcs; Lawn Builders \$850.00 co; Leadsonline \$4,442.00 smcs; Leopold Painting \$13,701.60 smcs; Lerner Publications \$183.92 smcs; Letcher, C \$54.00 smcs; Lincoln Nat'l Life \$11,764.04 smcs; Loschen, R \$113.00 smcs; Luke, D \$204.00 smcs; Lush, K \$54.00 smcs; Lytle, P \$54.00 smcs; MacQueen \$424.41 smcs; Magic Cleaning \$9,090.00 smcs; Menards \$41.65 smcs; Mid America Structures \$9,239.00 co; Mid American Signal \$3,328.00 smcs; Mid NE Aggregate \$225.40 co; Mid NE Digging \$6,430.00 smcs; Milco Environmental \$905.98 smcs; Misko Sports \$31,820.00 co; Mission Square \$7,515.09 ps; Mojarrieta, Y \$39.51 smcs; Morten Construction \$27,180.00 smcs; Municipal Emergency \$225.74 ps; Municipal Supply \$565.35 co; NDEE \$150.00 smcs; NE Assoc. Senior Center \$130.00 smcs; NE Child Support \$1,688.81 ps; NE Dept. Revenue \$103,083.21 ps; NE Golf & Turf \$9,273.31 co; NE Pride Sweet Adelines \$35.00 smcs; NE Public Health \$1,430.00 smcs; Ne Safety & Fire \$165.00 smcs; Nebraskaland Distrib. \$1,164.58 smcs; New York Times \$2,184.00 smcs; Newsbank \$16,011.00 smcs; Northwestern Energy \$3,493.94 smcs; Novus Glass \$50.00 smcs; Nutrien Ag \$166.73 smcs; Pep Co. \$330.76 smcs; Platte Valley Auto \$483,682.00 co; Power DMS \$9,330.77 smcs; Power Tech \$1,950.00 smcs; Presto-X \$158.60 smcs; Rasmussen Mechanical \$2,564.72 smcs; Rayburn, J \$113.00 smcs; Reisbeck, D \$245.03 smcs; Sapp Brothers \$3,801.25 smcs; Saylor Screenprinting \$60.90 smcs; School District #7 \$3,595.00 smcs; Seller, R \$54.00 smcs; SOS Portable Toilets \$461.49 smcs; Southern Glazers \$232.20 smcs; State of NE/DAS \$73.71 smcs; Steffen, S \$105.92 smcs; Stubbs, K \$54.00 smcs; Stutsman \$2,745.00 smcs; Suburban Fire Protection \$28,852.46 smcs; Swanson, S \$54.00 smcs; Taubenheim, M \$16.36 smcs; Tilley Sprinklers \$125,000.00 co; Traveler's \$63.00 smcs; Turfwerks \$3,075.90 smcs; Turner Body Shop \$125.00 smcs; Tye & Rowling \$16,117.82 smcs; Union Bank & Trust \$109,537.84 ps; United Way \$81.00 ps; Village Uniform \$162.08 smcs; Volaire Aviation \$2,000.00 smcs; Wagner, C \$54.00 smcs; Young, J \$281.72 smcs; Payroll Ending 08/24/2024 -- \$674,126.16. 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. 2024-117 allowing the City of Kearney to increase its

“Budget Authority” by an additional one percent or \$176,171.04 which will be carried over to the 2024-2025 Budget as “Unused Budget Authority”.

RESOLUTION NO. 2024-117

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, 2024.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

5. Adopt Resolution No. 2024-118 repealing Resolution No. 2023-187 and adopt the 2024-2025 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2024-2025 year.

RESOLUTION NO. 2024-118

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 2023-2024 fiscal year was adopted by Resolution No. 2023-131 on September 12, 2023 by the City Council and amended by Resolution No. 2023-187 on December 19, 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 2024-2025 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, 2024.

BE IT FURTHER RESOLVED that Resolution No. 2023-187 be and is hereby repealed in its entirety as of October 1, 2024

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

6. Adopt Resolution No. 2024-119 authorizing the Mayor to sign the certification of the Municipal Annual Certification of Program Compliance Form 2024 to the Nebraska Board of Public Roads Classifications and Standards as required by the Nebraska Department of Transportation.

RESOLUTION NO. 2024-119

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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

7. Adopt Resolution No. 2024-120 setting the 2024 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk.

RESOLUTION NO. 2024-120

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 2024 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 2024-2025 General Fund property tax request be set at \$5,055,801.33 and the 2024-2025 Bond Fund property tax request be set at \$289,329.65.

2. The total assessed value of property differs from last year's total assessed value by 7.60%.
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 \$.138356 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 13.22%.
6. A copy of this resolution be certified and forwarded to the County Clerk on or before October 15, 2024.

Motioned by _____, seconded by _____
 to adopt Resolution No. 2024-120. Voting yes were _____.
 Voting no were _____.

Dated this 10th day of September 2024.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

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

8. Approve the City of Kearney Offstreet Parking District No. 1 Budget for the 2024-2025 Fiscal Year and approve the budget statement as the Annual Appropriation Bill and adopt Resolution No. 2024-121.

RESOLUTION NO. 2024-121

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, 2024 through September 30, 2025) 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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
 PEGGY EYNETICH

STANLEY A. CLOUSE
 PRESIDENT OF THE COUNCIL

CITY CLERK

AND EX-OFFICIO MAYOR

9. Adopt Resolution No. 2024-122 approving the Kearney Area Solid Waste Agency Budget for the 2024-2025 Fiscal Year.

RESOLUTION NO. 2024-122

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, 2024 through September 30, 2025) 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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

10. Accept the proposals received for the Preferred Food Service Vendor - SportsPlex, and award the proposals submitted by Nightlife Concepts, Inc. dba Cunningham’s Journal and Pizza Ranch.

11. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the new liquor license application for Cesar O Orona for Las Americas Kearney located at 3915 2nd Avenue.

12. Approve the recommendation from the Development Services Division on the annual renewal of the following manufactured home court license until May 31, 2025: East Lawn Mobile Homes Estates, 2900 and 3010 Grand Avenue.

13. Consider Resolution No. 2024-123 approving the assignment of the Real Estate Purchase Agreement for Lot 1, Block 2, Younes Center Eleventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska from Talmadge Jam, LLC to NMN Express, Inc., a Nebraska Corporation.

RESOLUTION NO. 2024-123

WHEREAS, on July 23, 2024, City Council adopted Resolution No. 2024-97 approving the Real Estate Purchase Agreement between Talmadge JAM, LLC, a Nebraska Limited Liability Company, and the City of Kearney, a Municipal Corporation for the sale of real property legally described as Lot 1, Block 2, Younes Center Eleventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Talmadge JAM, LLC, a Nebraska Limited Liability Company, wishes to assign its duties of the Real Estate Purchase Agreement to NMN Express, Inc., a Nebraska Corporation.

NOW, THEREFORE, BE IT RESOLVED that the Assignment of the Real Estate Purchase Agreement be and is hereby accepted and approved. The Assignment, marked as Exhibit A, is attached hereto and made a part hereof.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

14. Adopt Resolution No. 2024-124 approving the Developer Constructed Infrastructure Agreement for Lot 1, Marshall Addition between the City of Kearney and Essam Arram, Owner of Arram Equities, Inc., a Nebraska Corporation to build, public improvements: fire hydrants, to serve Marshall Addition (404 West 8th Street).

RESOLUTION NO. 2024-124

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Marshall Addition (404 W. 8th Street)" between the City of Kearney and Essam Arram, Owner of Arram Equities, Inc., a Nebraska Corporation, for for a permanent water main easement located in Lot 1, Marshall Addition, an addition to the City of Kearney, Buffalo County, Nebraska being more particularly described as follows: referring to the southwest property corner of Lot 1 of Marshall Addition, an addition to the City of Kearney, Buffalo County, Nebraska, which is also the point of beginning; thence N89°52'55"E along the south line of said Lot 1 (assumed all bearings relative to) a distance of 243.00 feet; thence N0°11'09"E a distance of 20.00 feet; thence S89°52'55"W a distance of 243.00 feet; thence S0°11'09"W a distance of 20.00 feet along the west line of said Lot 1 to the point of beginning, containing 4860 sq. ft. more or less. be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

15. Consider Resolution No. 2024-125 approving the use of NorthWestern Energy funds to help offset the Development Council of Buffalo County's portion of shared project

costs and Furniture, Fixtures, and Equipment (FF&E) cost for the Forward Kearney project.

RESOLUTION NO. 2024-125

WHEREAS, the NorthWestern Energy Fund Committee, has recommended to the City Council that \$150,000.00 of the NorthWestern Energy Funds be used to offset the Development Council of Buffalo County’s one-third share of the construction costs and furniture, fixtures and equipment for the new building that will house the Kearney Area Chamber of Commerce, Development Council of Buffalo County and Kearney Visitor’s Bureau; and

WHEREAS, the City Council has deemed it to be in the best interests of the City of Kearney to commit \$150,000.00 of the NorthWestern Energy Funds as requested.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve \$150,000.00 of the NorthWestern Energy Funds for the Development Council of Buffalo County’s one-third share of the construction costs and furniture, fixtures and equipment for the new building that will house the Kearney Area Chamber of Commerce, Development Council of Buffalo County and Kearney Visitor’s Bureau.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute all grant related documents.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

16. Approve the Plans and Specifications for the 2024 Part 5 Improvements (29th Avenue & West LaPlatte Road) and set the bid opening date for October 1, 2024 at 2:00 p.m.

17. Adopt Resolution No. 2024-126 approving Change Order No. 4 showing an increase in the amount of \$97,906.93 submitted by John T. Jones Construction Co. and approved by Miller & Associates for the WWTP Phase II Improvements; Water Resource Recovery Facility.

RESOLUTION NO. 2024-126

WHEREAS, John T. Jones Construction Co. has performed services in connection with WWTP Phase II Improvements; Water Resource Recovery Facility, and the City’s engineer, Miller & Associates, have filed with the City Clerk Change Order No. 4 showing an increase in the amount of \$97,906.93 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 35,858,000.00
Change Order No. 1 (07-12-2022)	- 639,633.00

Change Order No. 2 (08-22-2023)	+	21,141.00
Change Order No. 3 (08-13-2024)	+	156,336.00
Change Order No. 4 (09-10-2024)	+	<u>97,906.93</u>
Contract Sum To Date	\$	35,493,750.93

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

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
 PEGGY EYNETICH
 CITY CLERK

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

18. Adopt Resolution No. 2024-127 approving the Application and Certificate for Payment No. 2 in the amount of \$223,109.10 and Change Order No. 1 showing an increase in the amount of \$24,811.00 submitted by Nielsen Contracting, LLC and approved by Miller & Associates for 2024 Part 3 Improvements - 28th Street from Avenue I to Avenue L.

RESOLUTION NO. 2024-127

WHEREAS, Nielsen Contracting, LLC has performed services in connection with 2024 2024 Part 3 Improvements - 28th Street from Avenue I to Avenue L, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$223,109.10 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Contract Sum To Date	<u>711,585.00</u>
Gross Amount Due	330,955.00
Retainage 10%	- <u>33,095.50</u>
Amount Due to Date	297,859.50
Less Previous Certificates for Payment	- <u>74,750.40</u>
Amount Due this Application	\$223,109.10

WHEREAS, Nielsen Contracting, LLC and Miller & Associates have filed with the City Clerk, Change Order No. 1, showing an increase in the amount of \$24,811.00 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 711,585.00
Change Order No. 1 (09-10-2024)	- <u>24,811.00</u>
Contract Sum To Date	\$ 736,396.00

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. 2 as shown on Exhibit "A" and Change Order No. 1, as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
 PEGGY EYNETICH

STANLEY A. CLOUSE
 PRESIDENT OF THE COUNCIL

CITY CLERK

AND EX-OFFICIO MAYOR

19. Adopt Resolution No. 2024-128 approving the Developer Constructed Infrastructure Agreement for Arbor View Third & Arbor View Fourth, phase I, an addition to the City of Kearney, Buffalo County, Nebraska between the City of Kearney and Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company to construct the public improvements, water main, sanitary sewer main, paving and stormsewer main to serve Arbor View Third, an Addition to the City of Kearney, Buffalo County, Nebraska; and Arbor View Fourth, an Addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2024-128

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Constructed Infrastructure Agreement for Arbor View Third & Arbor View Fourth, phase I, An Addition to the City of Kearney, Buffalo County, Nebraska” between the City of Kearney and Timothy J. Norwood, Sr., Member of Fox Creek Development, LLC, a Nebraska Limited Liability Company, for the construction of the public improvements, water main, sanitary sewer main, paving and stormsewer main to serve Arbor View Third, an Addition to the City of Kearney, Buffalo County, Nebraska; and Arbor View Fourth, an Addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 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 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

20. Adopt Resolution No. 2024-129 approving the Title VI Compliance Plan for the Kearney Regional Airport and appointing the Airport Manager as the Title VI Coordinator for the Kearney Regional Airport.

RESOLUTION NO. 2024-129

WHEREAS, the U.S. Department of Transportation (DOT) distributes Federal financial assistance (FFA) for thousands of projects, programs, and activities yearly to State and local governments; and

WHEREAS, Order DOT 1000.12C dated June 11, 2021, “The U.S. Department of Transportation Title VI Program” directs DOT operating administrations to ensure that recipients of Federal financial assistance comply with their statutory obligations to ensure against discrimination on the basis of race, color, national origin, age, sex (including sexual orientation and gender identity), or creed; and

WHEREAS, the Kearney Regional Airport is a recipient of FAA Airport Improvement Program (AIP) and/or Bipartisan Infrastructure Law (BIL) grants; and

WHEREAS, the Kearney Regional Airport is required to confirm to the FAA its probable compliance with nondiscrimination requirements per the nondiscrimination

requirements applicable to airport sponsors that include Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) (“Title VI”), Age Discrimination Act of 1975, P.L. 94-135, (42 U.S.C. § 6102), Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), and the U.S. Department of Transportation’s (DOT) implementing regulations for Title VI, at 49 CFR Part 21 as a condition of receiving an AIP/BIL grant (Airport Sponsor Assurance 30) and AIP Grant Assurances, 85 Fed. Reg. 18755 (February 20, 2020) (Assurance 30).

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Kearney Regional Airport Title VI Plan which includes reference to a Limited English Proficiency (LEP) Plan be and is hereby adopted.

BE IT FURTHER RESOLVED that the Airport Manager be and is hereby appointed to serve as the Kearney Regional Airport Title VI Coordinator.

BE IT FURTHER RESOLVED that this Plan will be updated no less than once every three (3) years and will only be readopted by City Council and resubmitted to the FAA for significant changes to policies or federal guidelines.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2024.

ATTEST:
PEGGY EYNETICH
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8695 ADJUSTING THE SALARY ORDINANCE

Council Member Clouse introduced Ordinance No. 8695 repealing Ordinance No. 8689 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 Nikkila seconded the motion to suspend the rules for Ordinance No. 8695. 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, Buschkoetter. Nay: None. Moore 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. 8695 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, Buschkoetter. Nay: None. Moore absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8695 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Moore absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8695 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.

VI. REGULAR AGENDA

ORDINANCE NO. 8696 ADOPTING THE CITY OF KEARNEY BUDGET FOR THE 2024-2025 FISCAL YEAR

Mayor Clouse opened Regular Agenda Item 1 for consideration of approving Ordinance No. 8696 adopting the City of Kearney Budget for the 2024-2025 Fiscal Year and approving the budget statement as the Annual Appropriation Bill.

There was no further discussion by Council on the City of Kearney Budget for the 2024-2025 Fiscal Year

Council Member Lear introduced Ordinance No. 8696 adopting the City of Kearney Budget for the 2024-2025 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 Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8696. 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, Lear, Nikkila. Nay: None. Moore 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. 8696 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8696 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Moore absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8696 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.

OPEN ACCOUNT CLAIM

Moved by Clouse seconded by Nikkila that the Open Account Claim in the amount of \$101.60 payable to Grant Buschkoetter be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila. Nay: None. Buschkoetter abstained. Moore absent. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 5:47 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Moore absent. Motion carried.

ATTEST:

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

**PEGGY EYNETICH
CITY CLERK**