

*Kearney, Nebraska*  
*October 8, 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 October 8, 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 Tami James Moore. Absent: Jonathan Nikkila. Brenda Jensen, City Manager; Michael Tye, City Attorney; Kayla James, Director of Finance; Sarah Sawin, Director of Utilities; Andy Harter, Director of Public Works; Bryan Waugh, Chief of Police, and Melissa Dougherty-O'Hara, City Planner, 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.

### **ORAL COMMUNICATIONS/RECOGNITION**

There were no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

### **REZONING OF PROPERTY LOCATED AT 1122 AVENUE B**

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Lee Fly (Applicant) for G.S.E.-Kearney, (Owner) to rezone from District M-1, Limited Industrial District to District M-1/PD, Limited Industrial District/Planned Development Overlay District for property described as the north half (150' X 280') of Lot 1775 in the Original Town of Kearney Junction, now known as the City of Kearney, Buffalo County, Nebraska plus the south 40 feet of the vacated 12th Street on the north line of said Lot and the east 20 feet of the vacated R.O.W. of Avenue "A" on the west line of said Lot, collectively aggregated into one lot with the overall dimensions of 190' X 300' (1122 Avenue B) and consider Ordinance No. 8697.

Tom Murphy, with Lee Fly, presented this matter to the Council. Mr. Murphy reviewed the proposed plan for the property which includes repairing the curbs and sidewalks, the creation of three (3) permanent driveways, the addition of landscaping including grass and trees, adding a trash enclosure, and installing a fence to screen the property from neighbors.

Council Member Randy Buschkoetter stated a citizen had reached out to him regarding vision clearance concerns that the proposed trees could potentially cause.

Brenda Jensen, City Manager stated this concern will be address during the building permit review process.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the Application submitted by Lee Fly (Applicant) for G.S.E.-Kearney, (Owner) and introduced Ordinance No. 8697 rezoning from District M-1, Limited Industrial District to District M-1/PD, Limited Industrial District/Planned Development Overlay District for property described as the north half (150' X 280') of Lot 1775 in the Original Town of Kearney Junction, now known as the City of Kearney, Buffalo County, Nebraska plus the south 40 feet of the vacated 12th Street on the north line of said Lot and the east 20 feet of the vacated R.O.W. of Avenue "A" on the west line of said Lot, collectively aggregated into one lot with the overall dimensions of 190' X 300' (1122 Avenue B) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 8697. 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, Moore, Buschkoetter. Nay: None. Nikkila 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. 8697 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8697 be passed, approved

and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8697 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.

**PLANNED DISTRICT DEVELOPMENT PLAN APPROVAL FOR PROPERTY LOCATED AT 1122 AVENUE B**

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Lee Fly/Powers Brown Architecture (Applicant) for G.S.E.-Kearney, (Owner) for Planned District Development Plan Approval for property to be zoned District M-1/PD, Limited Industrial District/Planned Development Overlay District and described as the north half (150' X 280') of Lot 1775 in the Original Town of Kearney Junction, now known as the City of Kearney, Buffalo County, Nebraska plus the south 40 feet of the vacated 12th Street on the north line of said Lot and the east 20 feet of the vacated R.O.W. of Avenue "A" on the west line of said Lot, collectively aggregated into one lot with the overall dimensions of 190' X 300' (1122 Avenue B) and consider Resolution No. 2024-139.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2024-139 approving the application submitted by Lee Fly/Powers Brown Architecture (Applicant) for G.S.E.-Kearney, (Owner) for Planned District Development Plan Approval for property to be zoned District M-1/PD, Limited Industrial District/Planned Development Overlay District and described as the north half (150' X 280') of Lot 1775 in the Original Town of Kearney Junction, now known as the City of Kearney, Buffalo County, Nebraska plus the south 40 feet of the vacated 12th Street on the north line of said Lot and the east 20 feet of the vacated R.O.W. of Avenue "A" on the west line of said Lot, collectively aggregated into one lot with the overall dimensions of 190' X 300' (1122 Avenue B). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear. Nay: None. Nikkala absent. Motion carried.

**RESOLUTION NO. 2024-139**

WHEREAS, Lee Fly/Powers Brown Architecture (Applicant) for G.S.E.-Kearney, (Owner) have applied for Planned District Development Plan Approval for package distribution on property to be zoned District M-1/PD, Limited Industrial District/Planned Development Overlay District and described as the north half (150' X 280') of Lot 1775 in the original town of Kearney Junction, now known as the City of Kearney, Buffalo County, Nebraska plus the south 40 feet of the vacated 12th Street on the north line of said Lot and the east 20 feet of the vacated R.O.W. of Avenue "A" on the west line of said Lot, collectively aggregated into one lot with the overall dimensions of 190' X 300' and the address known as 1120 Avenue "B" all located in Buffalo County, Nebraska (1122 Avenue B).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Lee Fly/Powers Brown Architecture (Applicant) for G.S.E.-Kearney, (Owner) for Planned District Development Plan Approval for package distribution on property zoned District M-1/PD, Limited Industrial District /Planned Development Overlay District and described as the north half (150' X 280') of Lot 1775 in the original town of Kearney Junction, now known as the City of Kearney, Buffalo County, Nebraska plus the south 40 feet of the vacated 12th Street on the north line of said Lot and the east 20 feet of the vacated R.O.W. of Avenue "A" on the west line of said Lot, collectively aggregated into one lot with the overall dimensions of 190' X 300' and the address known as 1120 Avenue "B" all located in Buffalo County, Nebraska (1122 Avenue B) be approved subject to the following deviations:

1. Reduce the front yard setback along the A Avenue property line from 25 feet to 12.5 feet. This request allows for the addition of a permanent modular distribution center along Avenue A. Over the past 6 years, the temporary modular unit has existed with no reported complaints or issues in the general location as the proposed permanent modular unit.

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

**DEVELOPMENT OF WOODWARD 46TH AVENUE SECOND SUBDIVISION**

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the applications submitted by Buffalo Surveying Corp., (Applicant) for Marcile M. Woodward, Trustee and Joel D. Woodward (Owners), to (1) rezone from District AG, Agricultural District to District RR-2, Rural Residential District (Rural Standards) for property described as a tract of land being the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P. M., Buffalo County, Nebraska, EXCEPT THEREFROM; all of Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska and consider Ordinance No. 8698 and to (2) vacate Lot 1, Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska (1/2 mile north of 56th Street and 46th Avenue on the west side 46th Avenue) and consider Ordinance No. 8699.

Mitch Humphrey, Buffalo Surveying Corp. presented this matter to the Council. Mr. Humphrey demonstrated the location of the property and how ownership of the property was divided between Marcile Woodward and Joel Woodward. The proposed Woodward 46th Avenue Second Subdivision will consist of two lots; Joel Woodward will remain on Lot 1 which consists of approximately 5.55 acres, Lot 2 will consist of approximately 4.14 acres. Mr. Humphrey stated the lots are large enough to accommodate septic systems without issues and noted there were already buildings on this property.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the applications submitted by Buffalo Surveying Corp., (Applicant) for Marcile M. Woodward, Trustee and Joel D. Woodward (Owners), to (1) rezone from District AG, Agricultural District to District RR-2, Rural Residential District (Rural Standards) for property described as a tract of land being the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P. M., Buffalo County, Nebraska, EXCEPT THEREFROM; all of Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska and consider Ordinance No. 8698 and to (2) vacate Lot 1, Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska (1/2 mile north of 56th Street and 46th Avenue on the west side 46th Avenue) and introduced Ordinance Nos. 8698 and 8699 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 Nos. 8698 and 8699. 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, Moore. Nay: None. Nikkila 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 Nos. 8698 and 8699 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, Moore. Nay: None. Nikkila absent. Motion carried. Ordinances were read by number.

Moved by Moore seconded by Lear that Ordinance Nos. 8698 and 8699 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 8698 and 8699 are declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk and the Kearney Public Library.

### **FINAL PLAT AND SUBDIVISION AGREEMENT FOR WOODWARD 46TH AVENUE SECOND SUBDIVISION**

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp., (Applicant) for Marcile M. Woodward, Trustee and Joel D. Woodward (Owners), for the Final Plat and Subdivision Agreement for Woodward 46th Avenue Second Subdivision, a subdivision being part of the South Half of the South Half of the

Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P.M., Buffalo County, Nebraska, with said tract of land being inclusive of Lot 1, now vacated, Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P. M., Buffalo County, Nebraska (1/2 mile north of 56th Street and 46th Avenue on the west side 46th Avenue) Resolution No. 2024-140.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2024-140 approving the application submitted by Buffalo Surveying Corp., (Applicant) for Marcile M. Woodward, Trustee and Joel D. Woodward (Owners), for the Final Plat and Subdivision Agreement for Woodward 46th Avenue Second Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P.M., Buffalo County, Nebraska, with said tract of land being inclusive of Lot 1, now vacated, Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P. M., Buffalo County, Nebraska (1/2 mile north of 56th Street and 46th Avenue on the west side 46th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkala absent. Motion carried.

#### **RESOLUTION NO. 2024-140**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Woodward 46th Avenue Second Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P.M., Buffalo County, Nebraska for a tract of land being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P.M., Buffalo County, Nebraska, with said tract of land being inclusive of Lot 1, now vacated, Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Northeast Quarter of Section 20, said point also being the Southeast Corner of Woodward 46th Avenue Subdivision, a subdivision being part of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of Section 20, Township 9 North, Range 16 West of the Sixth P.M., Buffalo County, Nebraska, and assuming the East line of the Northeast Quarter of said Section 20 as bearing S 00°48'50" E and all bearings contained herein are relative thereto; thence on the South line of the Northeast Quarter of said Section 20 and on the South line of Woodward 46th Avenue Subdivision, S 89°39'42" W a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast Corner of Lot One (1), now vacated, Woodward 46th Avenue Subdivision; thence continuing on the South line the Northeast Quarter and on the South line of said Lot 1, now vacated, Woodward 46th Avenue Subdivision, S 89°39'42" W a distance of 757.02 feet to the Southwest Corner of said Lot 1, now vacated, Woodward 46th Avenue Subdivision; thence continuing on the South line of said Northeast Quarter,

S 89°39'42" W a distance of 523.34 feet to the Southwest Corner of the Southeast Quarter of the Northeast Quarter; thence on the West line of the Southeast Quarter of the Northeast Quarter, N 00°36'33" W a distance of 329.89 feet to the Northwest Corner of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter; thence on the North line of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter, N 89°40'36" E a distance of 1329.19 feet to the Northeast Corner of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter; thence on the East line of the Northeast Quarter, S 00°48'50" E a distance of 289.55 feet to the Northeast Corner of said Woodward 46th Avenue Subdivision; thence leaving the East line of said Northeast Quarter and on the North line of said Woodward 46th Avenue Subdivision, S 89°39'42" W a distance of 50.00 feet to the Northeast Corner of said Lot 1, now vacated, Woodward 46th Avenue Subdivision; thence on the East line of said Lot 1, now vacated, Woodward 46th Avenue Subdivision, S 00°48'50" E a distance of 40.00 feet to the place of beginning. Containing 10.02 acres, more or less 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 8TH DAY OF OCTOBER, 2024.

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, October 7, 2024, by adding Subsection 12.

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Moore Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

1. Approve Minutes of Regular Meeting held September 24, 2024.
2. Approve the following Claims:

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

5G Store \$2,813.85 smcs; A-1 Refrigeration \$492.00 smcs; Agri Coop \$3,591.57 smcs; Alfred Benesch \$78,118.99 co; All City Garage \$2,461.00 smcs; All Copy \$258.52 smcs; Amax Contracting \$246.24 smcs; Artisans \$320.00 smcs; Ask Supply \$2,094.91 smcs; Avfuel \$68,981.57 smcs; B & H Photo \$4,981.50 co; Baker & Taylor \$7,132.44 smcs; Barney Insurance \$469,382.08 smcs; Benson, G \$2,022.75 smcs; Berke, N \$31.00 smcs; Berry, M \$165.00 smcs; Beyondtrust \$6,278.08 smcs; Blackstrap \$15,729.77 smcs; BlueCross BlueShield \$179,820.54 smcs; BMI \$385.63 smcs; Bosselman \$19,875.83 smcs; Bossfuels \$19,537.86 smcs; Boyce, I \$15.86 smcs; Broadfoot's \$860.00 smcs; Buffalo Co. Sheriff \$257,323.25 smcs; Builders \$1,053.50 smcs,co; Buller Fixture \$2,530.00 co; Cash Wa \$3,941.74 smcs; Center Point Publishing \$81.81 smcs; Chesterman \$1,132.50 smcs; City Glass \$1,458.64 smcs; City of KY \$431,334.61 smcs,ps; CMH Interiors \$4,109.36 smcs; Coltsden, J \$525.00 smcs; Comfy Bowl \$150.00 smcs; Cummins \$7,684.79 smcs; Cutter & Buck \$4,540.08 smcs; Cutting Edge \$175.00 smcs; Dandee Concrete \$12,023.32 smcs; Dent Popper \$114.99 smcs; Depository Trust \$80,315.00 ds; Dinges Fire \$17,157.19 smcs; Double J Plumbing \$179.01 smcs; Eagle Distributing \$468.16 smcs; Eakes \$32,868.40 smcs,co; Edith Joi Boutique \$50.00 smcs; Family Practice \$91.00 smcs; Fisher, M \$37.58 smcs; Gale/Cengage \$460.63 smcs; Gear for Sports \$2,136.90 smcs; Give Nebraska \$6.00 ps; Glandt, P \$21.61 smcs; Gnuse Video & Photo \$2,744.42 smcs; Greater NE Cities \$1,000.00 smcs; Hawkins, J \$297.00 smcs; Hayden, S \$81.00 smcs; Heiman Fire Equipment \$14,723.00 smcs; Hibberd, A \$297.00 smcs; HM Life Insurance \$82,934.76 smcs; Hogeland, J \$165.00 smcs; Hometown Leasing \$808.23 smcs; Huebner, A \$32.37 smcs; Huso, B \$150.00 smcs; IRS \$213,227.52 ps; Jack Lederman \$41.87 smcs; Jack's Uniforms \$3,468.78 smcs; John T. Jones Const. \$285,178.23 co; Journal Communications \$945.00 smcs; K & J Elite Sports Turf \$62,302.50 co; KY Catholic \$150,000.00 smcs; KY Hub \$1,951.17 smcs; KY Literacy Council \$1,494.87 smcs; KY Trailers \$9,000.00 co; Lincoln Nat'l Life \$9,971.89 smcs; Lockmobile \$120.00 smcs; Logan Contractors \$1,663.25 co; Magic Cleaning \$7,890.00 smcs; Mayhew Signs \$64,079.00 co; McCoy, J \$297.00 smcs; Meyer, R \$365.00 smcs; Mid America Golf \$245,868.00 co; Mid American Signal \$10,800.00 smcs; Mid-NE Digging \$4,275.00 smcs; Midwest Petroleum \$6,104.63 smcs; Miller & Associates \$49,690.50 smcs,co; Mission Square \$7,612.31 ps; Mitchel 1 \$1,908.00 smcs; Morten Construction \$2.60 smcs; Motorola Solutions \$58,273.29 smcs; MPH Industries \$92.05 smcs; NE Child Support \$1,688.81 ps; NE Dept. Revenue \$125,130.87 smcs,ps; NE Municipal Clerks' Assn. \$200.00 smcs; NE Public Health \$2,457.00 smcs; NE Safety & Fire \$100.00 smcs; Nebraskaland Distrib. \$649.75 smcs; Nielsen Contracting \$243,407.75 co; Nielsen U Pick Pumpkin \$210.00 smcs; Northwestern Energy \$371.38 smcs; Novus \$50.00 smcs; Nuttelman, M \$26.18 smcs; Olsson Associates \$1,290.00 co; Paint Paradise \$375.00 smcs; Pep Co \$482.18 smcs; Polydyne \$16,758.72 smcs; Presto-X \$98.01 smcs; Prime Secured \$1,679.00 smcs; PVS DX \$15,956.00 smcs; Region 3 Behavioral \$10,363.32 smcs; Resource Mgmt. \$6,024.00 smcs; Rheome Tree Service \$250.00 smcs; School District #7 \$1,495.00 smcs; Schriener, D \$150.00 smcs; Sciachitano, D \$245.00 smcs; Shotkoski, Z \$28.57 smcs; Simply

Blessed Boutique \$10.00 smcs; Sirsi Corporation \$39,323.82 smcs; Sloggett, H \$20.70 smcs; SOS Portable Toilets \$461.49 smcs; Spex Forensics \$1,030.00 smcs; State of NE/DAS \$33.39 smcs; Steinbrink's \$340.00 smcs; Stutsman \$1,647.00 smcs; Superior - Central Square \$46,800.00 smcs; Tennant Sales \$28,177.69 smcs,co; Timeclock Plus \$3,978.00 smcs; Trade Well Pallet \$2,230.00 smcs; Turner Body Shop \$250.00 smcs; Tye & Rowling \$16,693.64 smcs; Union Bank & Trust \$117,062.39 smcs,ps; United Way \$54.00 ps; US Cellular \$225.00 smcs; Verizon \$14,163.80 smcs; Vessco \$2,296.25 smcs; Volaire Aviation \$1,550.00 smcs; Warren-T Plumbing \$125.00 smcs; Wessels, W \$80.00 smcs; Payroll Ending 9/21/2024 -- \$668,289.01; Bruce Nielsen -- \$137.91. 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. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the new liquor license & manager application for Luke Moser (Manager) for Western Oil II, LLC dba Speedee Mart 2765 located at 1711 West 56th Street.

4. Consider Resolution No. 2024-141 authorizing the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area to include the annexed land described as Arbor View Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 2 in Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (lying east of Avenue N and south of 65th Street).

### **RESOLUTION NO. 2024-141**

WHEREAS, on June 13, 2023 the Kearney City Council passed and approved Resolution No. 2023-91 extending the corporate limits of the City of Kearney to include the contiguous and adjacent tract of land described as a tract of land being part of Government Lot 2 in Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at the Southwest Corner of Government Lot 2 in Section 19; thence N 00°14'22" E on the West line of said Government Lot 2, and all bearings contained herein are relative thereto, a distance of 940.03 feet to the Northwesterly extension of the Southwesterly line of Block 4, Arbor View First, an addition to the City of Kearney, Buffalo County, Nebraska and the Northwesterly extension of the Northeasterly line of Starostka Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 50°49'39" E on said Extension and on said Southwesterly line of Block 4 and said Northeasterly line of Starostka Estates Addition a distance of 291.64 feet to a 5/8" rebar w/cap at the Southeast corner of said Block 4 and the POINT OF BEGINNING; thence continuing S 50°49'39" E on said Northeasterly line a distance of 593.64 feet to a 5/8" rebar w/cap; thence N 39°10'21" E a distance of 340.00 feet to a 5/8" rebar w/cap on the Southwesterly line of Block 3 in said Arbor View First; thence N 50°49'39" W on said Southwesterly line of Block 3 a distance of 474.16 feet to a 5/8" rebar w/cap at the Northwest corner of said Block 3 and on the South line of 65th Street as platted in said Arbor View First; thence N 89°42'02" W on said South line of 65th Street a distance of 153.46 feet to a 5/8" rebar w/cap at the Northeast corner of said Block 4; thence S 39°10'21" W on the Southeasterly line of said

Block 4 a distance of 243.69 feet to the Point of Beginning. Containing 4.50 acres, more or less; and

WHEREAS, the Nebraska Public Power District (NPPD) will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of Kearney, to include the above described property into the corporate boundaries of the City of Kearney, Nebraska; and

WHEREAS, the City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement with NPPD approved on July 11, 1989, pursuant to which NPPD operates and maintains the electric distribution system owned by the City of Kearney; and

WHEREAS, it is determined by the City Council that it would be desirable and in the best interests of the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska, be authorized to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the above described property into the corporate boundaries of the City of Kearney, Nebraska in said retail service area.

BE IT FURTHER RESOLVED that the President be and is hereby authorized to execute on behalf of the City of Kearney a joint application with NPPD to the Nebraska Power Review Board and to cooperate with NPPD in the prosecution of its application.

BE IT FURTHER RESOLVED that such joint application shall be prosecuted at the sole cost and expense of NPPD.

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

5. Consider Resolution No. 2024-142 authorizing the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area to include the annexed land described as Arbor View Third, an addition to the City of Kearney, Buffalo County, Nebraska, being a part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M. Buffalo County, Nebraska (south of the intersection of East 65th Street and Avenue R).

**RESOLUTION NO. 2024-142**

WHEREAS, on December 12, 2023 the Kearney City Council passed and approved Resolution No. 2023-171 extending the corporate limits of the City of Kearney to include the contiguous and adjacent tract of land described as A tract of land being part of Government Lot 2 and part of the Southeast Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at the Southwest Corner of Government Lot 2 in Section 19; thence N 00°14'22" E on the West line of said Government Lot 2, and all bearings contained herein are relative thereto, a distance of 976.72 feet to the centerline of 65th Street, as platted in Arbor View First, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°42'02" E on said centerline

a distance of 969.72 feet; thence continuing on said centerline Easterly on a tangent curve to the Right having a central angle of 08°53'06", a radius of 750.00 feet, an arc length of 116.31 feet, and a chord bearing of S 85°15'28" E a distance of 116.19 feet; thence continuing on said centerline Easterly on a tangent curve to the Left having a central angle of 01°37'59", a radius of 750.00 feet, an arc length of 21.38 feet, and a chord bearing of S 81°37'55" E a distance of 21.38 feet to the Northerly extension of the East line of Outlot A, Block 3 in Arbor View First; thence S 03°28'02" E on said Northerly extension of said East line of Outlot A, Block 3 a distance of 30.54 feet to a 5/8" rebar w/cap and the POINT OF BEGINNING; thence continuing S 03°28'02" E on said East line of Outlot A, Block 3 a distance of 97.74 feet to a 5/8" rebar w/cap; thence S 15°10'23" E continuing on said East line of Outlot A, Block 3 a distance of 243.38 feet to a 5/8" rebar w/cap; thence S 00°14'22" W continuing on said East line of Outlot A, Block 3 a distance of 234.45 feet to a 5/8" rebar w/cap; thence S 89°44'06" E a distance of 340.00 feet to a 5/8" rebar w/cap; thence N 00°14'22" E a distance of 620.80 feet to a 5/8" rebar w/cap on the Easterly extension of the South line of Lot 4, Block 2, Arbor View First; thence N 89°42'02" W on said Easterly extension of said South line a distance of 35.00 feet to a 5/8" rebar w/cap; thence S00°14'22" W on the Southerly extension of the East line of said Lot 4, Block 2 a distance of 60.00 feet to a 5/8" rebar on the South right-of-way line of said 65th Street; thence N 89°42'02" W on said South right-of-way line of a distance of 283.34 feet to a 5/8" rebar w/cap; thence Northwesterly on a tangent curve to the Right having a central angle of 06°49'24", a radius of 780.00 feet, an arc length of 92.89 feet, and a chord bearing of N 86°17'20" W a distance of 92.83 feet to the Point of Beginning. Containing 4.75 acres, more or less; and

WHEREAS, the Nebraska Public Power District (NPPD) will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of Kearney, to include the above described property into the corporate boundaries of the City of Kearney, Nebraska; and

WHEREAS, the City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement with NPPD approved on July 11, 1989, pursuant to which NPPD operates and maintains the electric distribution system owned by the City of Kearney; and

WHEREAS, it is determined by the City Council that it would be desirable and in the best interests of the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska, be authorized to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the above described property into the corporate boundaries of the City of Kearney, Nebraska in said retail service area.

BE IT FURTHER RESOLVED that the President be and is hereby authorized to execute on behalf of the City of Kearney a joint application with NPPD to the Nebraska Power Review Board and to cooperate with NPPD in the prosecution of its application.

BE IT FURTHER RESOLVED that such joint application shall be prosecuted at the sole cost and expense of NPPD.

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

6. Adopt Resolution No. 2024-143 approving the request by Kearney Gaming, LLC to provide a keno-type lottery operation at The Crafty Dog, Inc. located at 1325 2nd Avenue, Suite A.

**RESOLUTION NO. 2024 - 143**

WHEREAS, the City of Kearney entered into a Lottery Operator Agreement on August 4, 2001 with Kearney Gaming, LLC, to operate a keno-type lottery on behalf of the City; and

WHEREAS, Section 4.A. LOTTERY FACILITIES of the Lottery Operator Agreement requires Kearney Gaming, LLC to receive approval of the City Council prior to operating a keno-type lottery from any location within the City of Kearney; and

WHEREAS, Kearney Gaming, LLC has requested that 1325 2nd Avenue, Suite A, Kearney, Nebraska (The Crafty Dog Sports Bar and Grill) be approved as a location to operate a keno-type lottery on behalf of the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that 1325 2nd Avenue, Suite A, Kearney, Nebraska (The Crafty Dog Sports Bar and Grill) is hereby approved as a location for Kearney Gaming, LLC to operate a keno-type lottery on behalf of the City of Kearney.

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

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

7. Adopt Resolution No. 2024-144 approving the Developer Constructed Infrastructure Agreement for Saadi First, an Addition to the City of Kearney, Buffalo County, Nebraska between the City of Kearney and Camil Saadi, Managing Member of WinStar Enterprise, LLC, a Nebraska Limited Liability Company for the construction, public improvements: water main, sanitary sewer main, paving and storm sewer main to serve Saadi First, an Addition to the City of Kearney, Buffalo County, Nebraska.

**RESOLUTION NO. 2024-144**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Saadi First, an Addition to the City of Kearney, Buffalo County, Nebraska" between the City of Kearney and Camil Saadi, Managing Member of WinStar Enterprise, LLC, a Nebraska Limited Liability Company, for the construction, public improvements: water main, sanitary sewer main, paving and storm sewer main for Saadi First, an Addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit "A" is attached hereto and made a part hereof.

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

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

8. Adopt Resolution No. 2024-145 continuing the Agreement between the City of Kearney and Tye & Rowling, PC, LLO for legal services as City Attorney.

**RESOLUTION NO. 2024-145**

WHEREAS, the City of Kearney entered into an Agreement for Legal Services and the Tye & Rowling, PC, LLO on September 13, 2015 to provide legal services to the City of Kearney; and

WHEREAS, said Agreement was continued for an additional three years on August 25, 2009, October 9, 2012, October 13, 2015, September 25, 2018, and again on September 14, 2021; and

WHEREAS, in accordance with the terms of the Agreement, City staff is recommending continuing the Agreement with Tye & Rowling, PC, LLO for an additional three years, commencing on October 1, 2024 with the annual sum increasing to One Hundred Ninety-Five Thousand Seven-Hundred Twenty Dollars and no Cents (\$195,720.00), with a three percent (3%) increase on October 1, 2025 and a three percent (3%) on October 1, 2026.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Legal Services dated October 1, 2024 between the City of Kearney, Nebraska and Tye & Rowling, PC, LLO for services as outlined in said Agreement. The Agreement, marked as Exhibit "A" is attached hereto and made a part hereof.

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

9. Approve the purchase of a 2025 Western Star 47X with the Henderson 5-Yard Dump Body, Henke Snow Plow, and Plow Hitch combination in the amount of \$217,747.00 submitted by Truck Center Companies under the Nebraska State Bid Purchasing Contract program to be used at the Public Works/Transportation Department.

10. Approve the purchase of a 2025 ALTEC DM47E Derrick truck with a Freightliner chassis in the amount of \$310,905.00 submitted by Altec, Inc. under the Sourcewell Cooperative Purchasing Contract program to be used at the Public Works/Transportation Department.

11. Approve Resolution No. 2023-97A repealing and rescinding Resolution No. 2023-97 pertaining to the Developer Constructed Infrastructure Agreement Sun West Fifth Addition, Lot 2 between City of Kearney and Mike Lewis, Member of Old Towne Enterprises, LLC, a Nebraska Limited Liability Company for the construction of a water main for a fire hydrant to serve Lot 2, Sun West Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska due to a change in ownership.

## **RESOLUTION NO. 2023-97A**

WHEREAS, the City Council approved Resolution No. 2023-97 for the agreement entitled “Developer Constructed Infrastructure Agreement for Sun West Fifth Addition, Lot 2” between the City of Kearney and Mike Lewis, Member of Old Towne Enterprises, LLC, a Nebraska Limited Liability Company for the construction of a fire hydrant to serve Lot 2, Sun West Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska at the June 27, 2023 City Council meeting; and

WHEREAS, the developer, Mike Lewis, has since sold the property to a new owner who entered into a new, separate Developer Constructed Infrastructure Agreement with the City of Kearney that was approved at the September 24, 2024, Council meeting by Resolution No. 2024-137; and

WHEREAS, the City has no reimbursable costs associated with the previous Developer Constructed Infrastructure Agreement as construction was never started by the developer/owner, Mike Lewis.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that Resolution No. 2023-97 approving the “Developer Constructed Infrastructure Agreement for Sun West Fifth Addition, Lot 2” between the City of Kearney and Mike Lewis, Member of Old Towne Enterprises, LLC, a Nebraska Limited Liability Company for the construction of a fire hydrant to serve Lot 2, Sun West Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby rescinded and repealed.

PASSED AND APPROVED THIS 8TH DAY OF OCTOBER, 2024.

ATTEST:  
PEGGY EYNETICH  
CITY CLERK

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

12. ADDENDUM ITEM: Approve the Kearney Police Department purchase of updated taser equipment from Axon Enterprises, Inc. in the amount of \$384,970.00.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8700 REPEALING ORDINANCE NO. 8695 AND AMENDING THE SALARY ORDINANCE**

Council Member Clouse introduced Ordinance No. 8700 repealing Ordinance No. 8695 and amend the Salary Ordinance reflecting pay plan adjustments, 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 suspend the rules for Ordinance No. 8700 repealing Ordinance No. 8695 and amend the Salary Ordinance reflecting pay plan adjustments. 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, Moore. Nay: None. Nikkila 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.

8700 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, Moore. Nay: None. Nikkila absent. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance No. 8700 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Moore, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8700 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**

### **NPPD PRESENTATION AND UPDATE ON 115 KV TRANSMISSION PROJECT**

Mayor Clouse opened for discussion the NPPD presentation and update on 115 KV Transmission Project.

Paul Brune, NPPD, presented this matter to the Council. Mr. Brune provided Council members with a handout (Exhibit A) and introduced NPPD staff in attendance along with Watt's Electric staff out of Waverly who have been hired to complete the project. Mr. Brune gave a brief review of the project noting it started in January 2022 and reviewed the construction process and safety procedures they will follow throughout the project; staging will occur and materials will be stored at the Buffalo County Fairgrounds. The project will be built through the winter to minimize disruption with farming activities and should be completed by Spring of 2025.

## **VII. REPORTS**

Council Member Tami James Moore stated that those from the City who traveled to Kearney's Sister City, Opava in the Czech Republic at the beginning of September to partake in their 800th Anniversary festivities enjoyed their time there and the historical nature of Opava's Anniversary.

## **VIII. ADJOURN**

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