

*Kearney, Nebraska
February 14, 2017
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 February 14, 2017 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear and Jonathan Nikkila. Absent: Bob Lammers. Michael Morgan, City Manager; Michael Tye, City Attorney; Lauren Brandt, Deputy City Clerk; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police, Sarah Sawin, Assistant Director of Utilities; Dan Lillis, Engineering Assistant II; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Kent Sundberg from eFree Church, Danielle Frank, Mike Konz from Kearney Hub, Andy Mihm and Kyle LaBoria from KGFW Radio.

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

Pastor Kent Sundberg provided the invocation.

PLEDGE OF ALLEGIANCE

Three Boy Scouts from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

Mayor Clouse announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and is posted on the wall of the Council Chambers.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT TO OPERATE DAY CARE AT 3307 AVENUE A

Mayor Clouse opened the public hearing on the Application submitted by Danielle Frank for Smiling Faces Academy, Inc. and CHI Health Good Samaritan Hospital for a Conditional Use Permit to operate a day care on property zoned District C-O, Office District and described as Lot 25, Northwest Quarter School Section Addition, an addition to the City of Kearney, Buffalo County, Nebraska (3307 Avenue A) and to consider Ordinance No. 8126.

Danielle Frank presented this matter to the Council. Smiling Faces is taking over the hospital day care so that it is not an open building. Assistant City Manager Paul Briseno explained that anytime a new applicant takes over a license where the City requires a Conditional Use Permit, it follows the state process and is straight-forward. There are a couple of conditions that City staff did recommend which follow the recommendations of the state. The additional item that Planning Commission added was to paint the circle drive directional signage but other than that, it is a fairly straight-forward process.

Discussion was held on recommendations made by City staff and Planning Commission. City Manager Michael Morgan stated the recommendation allowing only a maximum of 100 per 20 employees should be changed to rather reference that as long as state law requirements are met, the City would be fine. City Attorney Michael Tye stated that the licensure side of this is handled by the state and the City's perspective is more a matter of traffic flow, parking and access, etc. in the Conditional Use Permit. Council Member Lear recommended eliminating the requirement stating a maximum of 100 per 20 employees and include that a copy of the state license from the Nebraska Department of Health and Human Services would be required for the file.

Council Member Nikkila asked if this location would be a new third location rather than moving one of their current two facilities to this location. Ms. Frank stated that this is a new third location.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Danielle Frank for Smiling Faces Academy, Inc. and CHI Health Good Samaritan Hospital for a Conditional Use Permit to operate a day care on property zoned District C-O, Office District and described as Lot 25, Northwest Quarter School Section Addition, an addition to the City of Kearney, Buffalo County, Nebraska (3307 Avenue A) and introduced Ordinance No. 8126 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. 8126. 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. Lammers 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. 8126 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. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8126 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8126 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.

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 25 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

1. Approve Minutes of Regular Meeting held January 24, 2017.

2. Approve the following Claims:

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

Alfred Benesch \$6,608.19 co; All Makes Auto \$2,817.40 smcs; All Makes Office \$1,839.38 smcs; Ally B Designs \$195.00 smcs; Amazon \$5,161.54 smcs; Amer Compactor \$5,665.00 smcs; Amer First Aid \$651.18 smcs; Anderson,M \$85.60 smcs; Anderson,T \$4.88 smcs; Arctic Refrigeration \$174.00 smcs; Armagost,J \$69.18 smcs; Arner,D \$18.62 smcs; ASCAP \$341.00 smcs; Ask Supply \$1,627.48 smcs; Aurora Coop \$817.84 smcs; Auto Value Parts \$1,524.29 smcs; Baker & Taylor \$2,785.96 smcs; Bamford \$1,410.00 smcs; Bean,M \$43.83 smcs; Beatty,C \$34.97 smcs; Bibler,M \$25.12 smcs; Blackstone Audio \$474.71 smcs; BlueCross/BlueShield \$247,208.28 smcs; Bober,Y \$43.18 smcs; Bosselman Energy \$190.42 smcs; Brester Construction \$35.26 smcs; Briseno,P \$148.12 smcs; Broadfoot's \$1,139.50 smcs; Buffalo Co Reg Deed \$100.00 smcs; Builders \$28.14 smcs; Bungler,A \$50.00 smcs; Capital Business Systems \$404.69 smcs; Capstone Press \$50.98 smcs; Carrot-Top Industries \$985.01 smcs; Cash-Wa \$450.70 smcs; Center Point Publishing \$74.01 smcs; Central Hydraulics \$1,352.63 smcs; Central Plains Library \$45.00 smcs; Century 21 \$42.20 smcs; CH Diagnostic \$415.00 smcs; Charter \$252.73 smcs; Chesterman \$126.85 smcs; Cigna \$7,006.55 smcs; Cinium Financial \$43,137.00 smcs; City of Ky \$397,907.91 smcs,ps; Comm Action Partnership \$7,844.21 smcs; Community Health Charities \$6.00 ps; Complete Wedding \$360.00 smcs; Cool Tech \$84.75 smcs; Cooney,S \$29.44 smcs;

Cornhusker Cleaning \$445.72 smcs; Culligan \$379.79 smcs; Cummins \$1,969.85 smcs; DAS State Accounting \$5,902.26 smcs,co; Denison,M \$20.47 smcs; Dish \$91.03 smcs; Dix,J \$141.56 smcs; Dmilaco \$36.00 ps; Dowhy Towing \$100.00 smcs; DPC Industries \$6,408.33 smcs; Drivers License Guide \$29.95 smcs; Dutton-Lainson \$82.34 smcs; Eakes \$965.68 smcs; EMC Ins \$12,122.96 smcs; Emily Arrow Music \$240.00 smcs; Enforcement Video \$17,060.00 co; Evans,C \$49.65 smcs; Farmers Union \$630.00 smcs; Fearnley,M \$122.00 smcs; Felsburg Holt & Ullevig \$685.54 smcs; Fiddelke Heating \$237.69 smcs; Fountain Hills \$48.23 smcs; Frontier \$143.87 smcs; Gale \$697.62 smcs; Gall's \$985.85 smcs,ps; Garg,S \$23.03 smcs; Graphic Vision \$3,092.88 smcs; Grey House Publishing \$1,400.00 smcs; HD Supply \$31,147.00 smcs,co; Highland Park \$1,812.85 smcs; Hilton, Mabel \$23.30 smcs; HM Life Ins \$41,479.89 smcs; HOA Solutions \$1,309.98 smcs; Hometown Leasing \$157.20 smcs; Horn, Charles \$115.00 smcs; IACP \$150.00 smcs; ICMA \$4,812.98 ps; IES Commercial \$9,767.94 smcs; IRS \$159,950.60 ps; Jack Lederman \$1,705.21 smcs; Jacobs,J \$130.00 smcs; Jacobsen Orr \$274.65 smcs; Jelinek,T \$102.00 smcs; Ky Animal Shelter \$7,381.25 smcs; Ky Area United Way \$836.90 ps; Ky Chamber of Com \$35.00 smcs; Ky Concrete \$1,573.99 smcs; Ky Crete & Block \$40.56 smcs; Ky Hub \$8,393.33 smcs; Ky Theatre Boosters \$2,999.00 smcs; Ky Towing & Repair \$100.00 smcs; King Investments \$37.98 smcs; King,L \$29.75 smcs; Konate,R \$41.20 smcs; Konica Minolta \$1,705.51 smcs; Kripp,J \$21.12 smcs; Kucera Painting \$1,550.00 smcs; Landmark Implement \$27,675.00 smcs; League of NE Municipalities \$740.00 smcs; Lewis,J \$48.13 smcs; Liebschwager,D \$7.79 smcs; Life Ins \$464.00 ps; Little,P \$25.00 smcs; Lockmobile \$8.83 smcs; Loder,G \$7.16 smcs; Londer,P \$35.04 smcs; M & E Construction \$270.15 smcs; Mac Tools \$135.00 smcs; Magic Cleaning \$4,740.00 smcs; Mallum,R \$1.76 smcs; Matheson \$415.56 smcs; McEntee,S \$100.00 smcs; Menards \$632.87 smcs; Messenger \$18.53 smcs; Microfilm Imaging \$450.00 smcs; Mid-Ne Garage Doors \$100.00 smcs; Midwest Connect \$6,245.65 smcs; Miller & Associates \$22,423.25 co; Miller,L \$84.32 smcs; Miracle Recreation \$1,569.00 co; MOCIC \$250.00 smcs; Moore & O'Connor \$46.92 smcs; Mueggenberg,S \$41.06 smcs; Murphy Tractor \$237.70 smcs; NE Cemetery Assn \$40.00 smcs; NE Child Support \$2,188.20 ps; NE Dept of Labor \$24.00 smcs; NE Dept of Rev \$117,518.29 smcs,ps; NE Humanities Council \$125.00 smcs; NE Library Comm \$1,500.00 smcs; NE Machinery \$3,814.00 smcs; NE Public Health \$36.00 smcs; New Deal Deicing \$7,672.00 smcs; Newman Traffic Signs \$143.77 smcs; Noetzelman,J \$62.00 smcs; Northwestern Energy \$6,294.79 smcs; Nuhfer,S \$75.00 smcs; Oak Creek Engineering \$3,917.44 smcs; Office Solutions \$51.66 smcs; Officenet \$5,250.00 smcs; O'Hara Lindsay \$2,200.00 smcs; O'Keefe Elevator \$775.37 smcs; Olsson Associates \$25,048.50 co; Omaha World Herald \$101.40 smcs; One Call Concepts \$102.30 smcs; O'Neil Wood Resources \$7,585.00 smcs; O'Reilly Auto \$419.03 smcs; O'Rourke,G \$39.18 smcs; Outdoor Recreation \$1,294.00 co; Paramount \$306.79 smcs; Payflex Systems \$1,332.25 smcs,ps; Peerless Machine \$185.00 smcs; Penguin Random \$63.75 smcs; Physio-Control \$6,765.00 smcs; Platte Valley Comm \$384.54 smcs; Platte Valley Labs \$62.50 smcs; Prairie Land Construction \$5,378.00 co; Pulliam,R \$40.00 smcs; RW Sorensen \$2,250.00 smcs; Rasmussen Mechanical \$108.00 smcs; Rasmussen,R \$52.78 smcs; RDJ Specialties \$632.52 smcs; Recorded Books \$1,544.77 smcs; Redmans Shoes \$14.31 smcs; Reeder,L \$54.24 smcs; Region 12 ABPA \$85.00 smcs; Rheome Tree \$3,465.00 smcs; Rich,T \$50.00 smcs; Ritz,J \$65.71 smcs; Robb,G \$356.26 smcs; Rogers,E \$7.78 smcs; S&B Heating \$725.10 smcs; Saar,S \$63.72 smcs; Salvation Army \$36.28 smcs; Sanitation Products \$6,121.86 smcs; Sapp Brothers \$32,090.40

smcs; Sawin,S \$102.00 smcs; Schindler Elevator \$802.56 smcs; School District #7 \$1,327.25 smcs; See Clear Cleaning \$2,050.00 smcs; Silverstone Group \$4,580.00 smcs; Sister Cities Int'l \$590.00 smcs; SiteOne Landscape \$6,566.64 smcs; Smith,B \$47.91 smcs; SOS Portable Toilets \$145.00 smcs; Struempler,D \$85.00 smcs; Tacha,J \$50.00 smcs; Titan Machinery \$1,193.52 smcs; Traffic Safety Store \$3,738.03 smcs; Transition Solutions \$35.59 smcs; Trenton Snow \$1,925.00 co; Tri State Oil Reclaimers \$66.25 smcs; Turner Body Shop \$240.00 smcs; Tye Law Firm \$13,125.32 smcs; Union Bank \$77,765.98 ps; Unique Management \$277.45 smcs; UNL \$200.00 smcs; Verizon \$1,641.52 smcs; Vermont Systems \$1,660.00 smcs; Vessco \$2,413.48 smcs; Village Cleaners \$344.61 smcs; Volquardsen,J \$61.18 smcs; Waggoner,C \$31.50 smcs; Wallace,S \$39.30 smcs; Walton,T \$40.00 smcs; Warrington,D \$558.39 smcs; Weinand,M \$2,250.00 smcs; West Apts \$88.58 smcs; Winlectric \$15.22 smcs; Payroll Ending 2/4/2017 -- \$405,973.80. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Adopt Resolution No. 2017-14 designating Airport Manager Jim Lynaugh as the Liaison Officer for the implementation and monitoring of the Disadvantaged Business Enterprise (DBE) Program at the Kearney Regional Airport.

RESOLUTION NO. 2017-14

WHEREAS, Resolution No. 99-261 was passed and approved on December 28, 1999 by the Kearney City Council adopting the Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, as a requirement of the DBE Program, the Airport Manager is generally designated as the Liaison Officer and is responsible for implementing and monitoring all aspects of the DBE Program and will ensure that the Kearney Regional Airport will comply with all provisions of 49 CFR Part 26.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that Airport Manager Jim Lynaugh be and is hereby designated as the Liaison Officer for the implementation and monitoring of the Disadvantaged Business Enterprise (DBE) Program at the Kearney Regional Airport.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Approve the application submitted by Rick Shoemaker, owner of Huss Livestock Market, to extend the permit to locate a manufactured home for security purposes located at 1202 West 19th Street for a period of one year.

5. Approve the application submitted by Rick Shoemaker, owner of Huss Livestock Market, to extend Conditional Use Permit No. 2006-03 to stockpile snow and manure at 1202 West 19th Street for a period of one year.

6. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Application for Reconstruction submitted by Becker

Enterprises Inc., dba Bills Liquor West in connection with their Class D-082255 liquor license located at 1212-1214 West 24th Street.

7. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Application to conduct the Shamrock Shuffle to temporarily close portions of 6th Avenue, West 46th Street, 10th Street, West 45th Street, 11th Avenue, 17th Avenue, 19th Avenue, West 50th Street, West 48th Street, 4th Avenue, West 42nd Street, 7th Avenue, and Country Club Lane on March 18.

8. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Application to conduct the Senior Games Cycling to temporarily close portions of East 1st Street from the Archway to Avenue M, north on Avenue M to 11th Street, east on 11th Street to Kearney East Expressway, south on Kearney East Expressway to East 1st Street to the Archway on August 5 and 6 and adopt Resolution No. 2017-15 making application to the Nebraska Department of Roads for a Permit to use the west southbound lane of Kearney East Expressway.

RESOLUTION NO. 2017-15

WHEREAS, the City of Kearney has received and approved an application to conduct a cycling race on August 5 and August 6, 2017 beginning at 6:00 a.m. and ending at 10:30 a.m.; and

WHEREAS, the route for the cycling race will begin at The Archway located at 3060 East 1st Street, west on East 1st Street, north on Avenue M, east on 11th Street, south on Kearney East Expressway (using the west southbound lane) and east on East 1st Street concluding at The Archway; and

WHEREAS, with the passage of LB 589, the City of Kearney accepts the duties of protecting the public from damage, injury, or death on August 5 and August 6, 2017 beginning at 6:00 a.m. and ending at 10:30 a.m.; and

WHEREAS, the City of Kearney will assume control of the state highway property, more specifically the west southbound lane of Kearney East Expressway beginning at the intersection of 11th Street to East 1st Street on August 5 and August 6, 2017 from 6:00 a.m. until 10:30 a.m. and relinquish control of such state highway property to the state; and

WHEREAS, the City is not closing Kearney East Expressway; instead law enforcement will assist with traffic control along with barricade materials closing the west southbound lane of Kearney East Expressway from 11th Street to East 1st Street and

WHEREAS, the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said cycling race.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve the cycling race scheduled for August 5 and August 6, 2017 beginning at 6:00 a.m. and ending at 10:30 a.m. and that the City accepts the duties of protecting the public from damage, injury, or death associated with said cycling race.

BE IT FURTHER RESOLVED that the City of Kearney will assume control of the state highway property, more specifically west southbound lane of Kearney East Expressway beginning at 11th Street to East 1st Street on August 5 and August 6, 2017

from 6:00 a.m. until 10:30 a.m. and that after such time the City will relinquish control of such state highway property to the state.

BE IT FURTHER RESOLVED that the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said cycling race.

BE IT FURTHER RESOLVED that the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said cycling race.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt Resolution No. 2017-16 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Fuller and Daley Second Addition.

RESOLUTION NO. 2017-16

WHEREAS, on the 12th day of April, 2016 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2016-63 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and BK Development, LLC. to construct paving, water, sanitary sewer and storm sewer improvements to serve Fuller and Daley Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for paving, water, sanitary sewer and storm sewer to serve the property described as Fuller and Daley Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Accept the bids received for the purchase of two new pad mount generators that will be placed at the Eaton's Lift Station and the East Highway 30/Cherry Avenue/South

Avenue M Lift Station for the Utilities Department and award the bid to Cummins Sales and Service in the amount of \$27,500.00.

11. Accept the bids received for the purchase of a compact track loader used in the Utilities Department and award the bid to Central Nebraska Bobcat in the amount of \$49,110.81.

12. Adopt Resolution No. 2017-17 approving the Interlocal Cooperation Agreement for Digital Geographic Data Sharing between the Kearney Public School District and the City of Kearney to share and exchange data, applications, or other non-sensitive digital spatial information.

RESOLUTION NO. 2017-17

WHEREAS, the City of Kearney, Nebraska, and the Kearney Public School District desire to enter into an Interlocal Agreement for digital geographic data sharing.

WHEREAS, both the City of Kearney, Nebraska and the Kearney Public School District desire to share and exchange data, applications, or other non-sensitive digital spatial information owned and/or maintained by the City of Kearney, Nebraska and the Kearney Public School District, either in hard copy format or electronic format.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to execute the Interlocal Cooperation Agreement for Digital Geographic Data Sharing between the City of Kearney, Nebraska, and the Kearney Public School District. A copy of the said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt Resolution No. 2017-18 approving the Agricultural Lease between the City of Kearney and Kirk and Jason Potter to lease 40.8 acres of irrigated cropland located on a tract of land located in part of the West Half of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

RESOLUTION NO. 2017-18

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agriculture Lease Agreement between the City of Kearney and Kirk Potter and Jason Potter to lease 40.8 acres of irrigated cropland located on a tract of land located in part of the West Half of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (adjacent to Tech Park) for an annual cash rent being \$9,588.00. The Agreement, marked Exhibit "1" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropicico in connection with their Class IBK-37623 catering liquor license to dispense alcoholic liquor in the Exhibit Building (alternate location is Exposition Building) located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, March 18, 2017 from 6:00 p.m. until 1:00 a.m. for a dance.
15. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Friday, March 3, 2017 from 3:00 p.m. until 12:00 a.m. for a wedding rehearsal.
16. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, March 4, 2017 from 3:00 p.m. until 12:00 a.m. for a wedding reception.
17. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Thursday, March 9, 2017 from 3:00 p.m. until 1:00 a.m. for a company event.
18. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, March 11, 2017 from 3:00 p.m. until 1:00 a.m. for a wedding reception.
19. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside the building and inside an outdoor 25 feet x 25 feet fenced area located in the parking lot east of the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, March 11, 2017 from 11:00 a.m. until 6:00 p.m. for a motorcycle show.
20. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to dispense alcoholic liquor inside the Ag Pavilion at the Buffalo County Fairgrounds, 3807 Avenue N, on Tuesday, March 14, 2017 from 3:00 p.m. until 1:00 a.m. for a bank event.
21. Approve the application for a Special Designated License submitted by Earn and Return Investments, dba The Cellar Bar & Grill in connection with their Class IK-064728

liquor license to dispense alcoholic liquors inside the Classic Car Collection Museum, 3600 East Highway 30, on Saturday, March 11, 2017 from 5:00 p.m. until 12:00 a.m. for a dinner.

22. Approve the application for a Special Designated License submitted by Earn and Return Investments, dba The Cellar Bar & Grill in connection with their Class IK-064728 liquor license to dispense alcoholic liquors inside The Archway, 3060 East 1st Street, on Thursday, March 23, 2017 from 3:00 p.m. to 11:00 p.m. for a social.

23. Adopt Resolution No. 2017-19 approving Change Order No. 6 for an increase in the amount of \$1,206.00 submitted by Sampson Construction and approved by Clark Enersen Partners for the construction of a new sports complex at Patriot Park.

RESOLUTION NO. 2017-19

WHEREAS, Sampson Construction Co. from Lincoln, Nebraska has performed services in connection with for the construction of a new sports complex at Patriot Park, and the City's engineer, The Clark Enersen Partners, have filed with the City Clerk Change Order No. 6 showing an increase to the contract sum in the amount of \$1,206.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$8,078,000.00
Change Order No. 1 (1-26-2016)	- 138,425.00
Change Order No. 2 (5-24-2016)	+ 35,563.00
Change Order No. 3 (7-26-2016)	+ 4,898.00
Change Order No. 4 (7-26-2016)	+ 20,839.00
Change Order No. 5 (12-20-2016)	+ 4,134.00
Change Order No. 6 (2-14-2017)	<u>+ 1,206.00</u>
Contract Sum To Date	\$8,006,215.00

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

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

24. Adopt Resolution No. 2017-20 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Judy Meadows Addition.

RESOLUTION NO. 2017-20

WHEREAS, on the 22nd day of March, 2016 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2016-52 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney, Judy Meadows, L.P. and Dana Point Development Corporation to construct water and sanitary sewer improvements to serve

Lots 1 and 2, Judy Meadows Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for water and sanitary sewer to serve the property described as Lots 1 and 2, Judy Meadows Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

25. Accept the bids received for the 2016 Part 3 Improvements for 56th Street from 4th Avenue to 19th Avenue and 17th Avenue from 50th Street to west City limits; AND 2013 Part 10 Improvements for Talmadge Street from 2nd Avenue to 4th Avenue and adopt Resolution No. 2017-21 awarding the bid to Blessing, LLC in the amount of \$2,572,124.59.

RESOLUTION NO. 2017-21

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on February 7, 2017 at 2:00 p.m. for the 2016 Part 3 Improvements for 56th Street from 4th Avenue to 19th Avenue and 17th Avenue from 50th Street to west City limits; AND 2013 Part 10 Improvements for Talmadge Street from 2nd Avenue to 4th Avenue; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$3,870,583.50; and

WHEREAS, Miller & Associates and the City have recommended the bid offered by Blessing Construction of Kearney, Nebraska in the amount of \$2,572,124.59 be accepted as the lowest responsible bid for 2016 Part 3 Improvements and the 2013 Part 10 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 Blessing Construction be and is the lowest responsible bidder for the 2016 Part 3 Improvements and the 2013 Part 10 Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the amount of \$2,572,124.59 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost

in the amount of \$3,870,583.50 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 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ONE AND SIX YEAR STREET IMPROVEMENT PLAN

Mayor Clouse opened for review the One and Six Year Street Improvement Plan and set the public hearing for February 28, 2017 to adopt the One and Six Year Street Improvement Plan.

Assistant Public Works Director Andy Harter presented this matter to the Council.

The following is the proposed One Year Street Plan:

Location	Est. State Cost	Est. City Cost	Est. Total Cost
Talmadge from 2nd Avenue to 150 feet west of 3rd Avenue		\$482,000	\$482,000
31st Street and A Avenue intersection improvements		\$325,000	\$325,000
56th Street from 6th Avenue west 4300 feet		\$1,328,000	\$1,328,000
17th Avenue from 1800 feet south of 56th Street to 56th Street		\$882,200	\$882,200
E Avenue from 25th Street to 27th Street		\$340,000	\$340,000
31st Street from A Avenue to D Avenue		\$550,000	\$550,000
10th Avenue from 57th Street Place to 59th Street Place		\$150,000	\$150,000
59th Street from 10th Avenue east 160 feet		\$57,000	\$57,000
17th Avenue from 56th Street north 500 feet		\$240,600	\$240,600
47th Street Place from 6th Avenue west 475 feet		\$285,000	\$285,000
22nd Avenue from hospital entrance south 370 feet		\$220,000	\$220,000
TOTAL	\$0	\$4,859,800	\$4,859,800

The following is the proposed Six Year Street Plan:

Location	Est. State Cost	Est. City Cost	Est. Total Cost
18th Street from Central Avenue to 1st Avenue - Storm		\$670,000	\$670,000
1st Avenue from 18th Street to South Railroad Street - Storm		\$1,532,000	\$1,532,000
30th Avenue from 39th Street north 2640 feet		\$2,808,000	\$2,808,000
Country Club Lane from 165 feet north of 37th Street to		\$426,000	\$426,000

39th Street – 410 feet			
25th Street and 9th Avenue		\$110,000	\$110,000
31st Street from E Avenue to I Avenue – 1300 feet		\$714,000	\$714,000
30th Avenue Bridge Expansion		\$2,100,000	\$2,100,000
A Avenue from 25th Street to 27th Street – 700 feet		\$485,000	\$485,000
11th Street from 7th Avenue to 14th Avenue		\$1,375,000	\$1,375,000
11th Street from A Avenue to F Avenue		\$1,460,000	\$1,460,000
N Avenue from 28th Street to 39th Street		\$2,100,000	\$2,100,000
TOTAL	\$0	\$13,780,000	\$13,780,000

Council Member Buschkoetter asked what improvements would be made to Avenue N. Assistant Public Works Director stated the improvements are primarily just reconstruction of the paving (surface replacement). The storm sewer is pretty much set there.

Council Member Nikkila asked if there was a way to widen 11th Street (near Kenwood) when the road is re-worked to relieve traffic. Assistant Public Works Director stated that the City is fairly limited on how the roadway lays out.

Assistant Public Works Director discussed the college curves project which is a state project. The City is working with the state on this project and looking at 2019 for construction on this project as it has gone through multiple design phases. Council Member Nikkila asked for an explanation on some of the changes that will be made. Assistant Public Works Director explained that the state will be closing some of the access onto the highway including eastbound being closed at 9th Avenue and also close access at 8th Avenue. 7th Avenue will be the full intersection and 6th Avenue will have closed access. Council Member Lear clarified that basically citizens will not be able to turn left when southbound off of 9th Avenue and will not be able to turn left onto 9th Avenue if eastbound.

Mayor Clouse asked for clarification on the projected project dates by year for the six year plan by project number. Andy listed the project number followed by the projected project year: 433 was 2020, 434 was 2020, 631 was 2018, 540 was 2019, 593 was 2019, 615 was 2022. City Manager reminded Council that these projected dates are very fluid, especially the 2020 dates and beyond. He also stated that the Assistant Public Works Director is using the state reported form but staff can create a separate form for Council and the public which would include the projected dates.

Discussion was held on projected planning and traffic counts for 30th Avenue (including the overpass), 11th Avenue and 56th Street (including trails).

Moved by Clouse seconded by Nikkila to set the public hearing for February 28, 2017 to adopt the One and Six Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

CREATION OF A STORM WATER UTILITY

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened for discussion amending the Kearney City Code by adding a new Article 5 entitled "Storm Water Utility" to Chapter 10 "Utilities" by providing the creation of a storm water utility; program responsibility; operating budget; surcharge fee schedule established; delinquent accounts-lien against property; and the monthly assessment for storm water utility to be assessed starting with April 1, 2017 utility bill and to consider Ordinance No. 8127.

Finance Director Wendell Wessels presented this matter to the Council. In September of 2005, the City was issued an MS4 permit for its storm water system by the NDEQ. Also, on September 27, 2016, the City Council approved a resolution authorizing the Mayor to enter into an Administrative Order for Compliance on Consent with the EPA with regard to the City of Kearney's storm water management system. At that time there was also discussion regarding the expenses that the City currently incurs, and will incur in the future to comply with the EPA's Administrative Order for Compliance on Consent.

The proposed ordinance establishes a storm water utility to assist the City and its responsibility for the operation, construction, maintenance and repair of storm water drainage system facilities to provide adequate systems of collection, conveyance, detention, treatment and release of storm water in the reduction of potential hazards to property and life resulting for storm water runoff, improvement in general health and welfare through reduction of undesirable storm water conditions and improvements to the water quality and the storm and surface water system and its receiving waters.

The ordinance also establishes a monthly water surcharge fee for residential and non-residential properties. The proposed monthly storm water surcharge fee for residential properties is \$1 per month and the proposed storm water surcharge fee for non-residential properties is \$3 per month beginning in April of 2017.

The monthly residential and non-residential storm water surcharge fee will generate approximately \$200,000 annually for the storm water utility. The \$200,000 will be used to fund personnel costs, approximately \$84,000 in operating costs and approximately \$66,000 in capital costs and approximately \$50,000 costs incurred for the operation of the storm water utility. Staff would recommend the approval of Ordinance No. 8127 which establishes the storm water utility and also Resolution No. 2017-22 which amends the Comprehensive Fee Schedule to include the storm water surcharge fee for residential and non-residential properties. The storm water surcharge fee will appear on the existing utility bill that customers get.

Wendell mentioned that in previous years the City received about \$59,000 from the State of Nebraska for storm water management and this year the state cut that down to about \$26,000. Then in the proposed budget that the governor presented, it is down to zero so the City is losing about \$60,000 a year from the State of Nebraska for those unfunded mandates.

City Manager Michael Morgan stated that true costs of the program is not in this budget; this is not the true cost of the entire budget. So when examining a federal mandate, the cost is much higher. The City wanted to begin building up funds for those infrastructure improvements that the City will need to make in the future when certain development costs are not covered, the City will have funds set aside to cover. That was the goal of

the program. The City does not have any specific capital projects for the funds so if the City does not spend it, they will add to it each year so if a project arises in the future, the City will have funding.

Council Member Nikkila asked for clarification as to whether or not the two personnel costs mentioned are current employees. City Manager clarified that funds will actually fund one current full-time employee and one current part-time employee (an Engineering Assistant and PT Code Inspector), not requiring the Public Works Department to hire additional positions.

Council Member Lear introduced Ordinance No. 8127 amending the Kearney City Code by adding a new Article 5 entitled "Storm Water Utility" to Chapter 10 "Utilities" by providing the creation of a storm water utility; program responsibility; operating budget; surcharge fee schedule established; delinquent accounts-lien against property; and the monthly assessment for storm water utility to be assessed starting with April 1, 2017 utility 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. 8127. 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, Buschkoetter, Lear. Nay: None. Lammers 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. 8127 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8127 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8127 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.

REVISED COMPREHENSIVE FEE SCHEDULE SETTING FEES FOR STORM WATER UTILITY

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened for discussion Resolution No. 2017-22 repealing Resolution No. 2016-207 and adopt the 2016-2017 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2016-2017 year.

Moved by Clouse seconded by Nikkila to adopt Resolution No. 2017-22 repealing Resolution No. 2016-207 and adopt the 2016-2017 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2016-2017 year. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

RESOLUTION NO. 2017-22

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 2016-2017 fiscal year was adopted by Resolution No. 2016-151 on September 13, 2016 and amended by Resolution No. 2016-207 on December 13, 2016 by the City Council; 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 2016-2017 fiscal year beginning on April 1, 2017; 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 April 1, 2017.

BE IT FURTHER RESOLVED that Resolution No. 2016-207 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 14TH DAY OF FEBRUARY, 2017.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

VII. REPORTS

CLOSED SESSION

Moved by Nikkila seconded by Clouse that Council adjourn into closed session at 6:06 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss real estate 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 Lear that Council reconvene in regular session at 6:17 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 6:17 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**