

Kearney, Nebraska
April 25, 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 April 25, 2017 in the Council Chambers at City Hall. Present were: Lauren Brandt, Deputy City Clerk; Vice-President of the Council Randy Buschkoetter, Council Members Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: Stanley A. Clouse, President of the Council. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Tony Jelinek, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Members of the media present included: Mike Konz from Kearney Hub 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 Brian Klein provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

Vice-President Buschkoetter 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 FOR A DAYCARE LOCATED WEST OF 17TH AVENUE AND NORTH OF 11TH STREET

Vice-President Buschkoetter opened the public hearing on the Application submitted by Marc Willis and Sun Development, Inc. a Nebraska Corporation for a Conditional Use Permit to operate a day care on property zoned District C-1, Limited Commercial District and described as Lot 8, Block 1, Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 17th Avenue and north of 11th Street) and to consider Ordinance No. 8141. Planning Commission recommended approval subject to the following conditions: (1) a copy of the State license from the Department of Health and Human Services shall be filed with the City; (2) Hours of operation will be 6:00 a.m. to 7:00 p.m. Monday through Friday; (3) Parking for employees shall be provided in the daycare center's off-street parking lot; and (4) Said Permit will automatically be renewed in five years as long as there are no legitimate complaints or concerns (sooner if the license from DHHS is modified). After five years, the possibility of a longer renewal period may be considered.

Paul Brungardt presented this matter to the Council. He represents Marc Willis and the Kearney Little Learners Conditional Use Permit application. The site is located on the northwest corner of 11th Street and 17th Avenue. To the southwest of this location is Yanney Heritage Park and Kenwood Elementary School and residential development to the north and east. The current site is zoned C-1 and is approximately two acres. The building is a 90 x 60 foot located on the north end. A tree line is located on the north edge of the property line and those trees will remain providing a 20-foot landscape buffer between the northern residents and the facility. One access is available off of 17th Avenue, none off of 11th Street. City staff requested that an access be placed off of 17th Avenue, approximately 150 feet from 11th Street, but due to a fire hydrant being located approximately 150 feet from 11th Street, the access was moved about 30 feet off. There is one directional flow through. In accordance with City Code, 18 parking stalls are required and 21 are shown on the plan.

This facility is going to have infants ranging from 4 to 5 years of age and younger. The policy will require that parents walk in their children and check them in (same for pick up). Although this is only a conditional use permit hearing, one of the processes discussed with the City is the creation of an unloading lane between the school and driveway lane. If a lane is ever required, there is space between the building and the parking lot that could allow for an unloading lane. Drainage will be collected on the south side where there is an existing storm sewer system that can collect this site.

Vice-President Buschkoetter asked if the drop off lane is going to be laid down now or will it be a greenspace in the interim. Mr. Brungardt stated the area will be a greenspace and if at a later time it is determined that a lane is needed, it would be installed. Vice-President Buschkoetter also asked if the applicants were comfortable with the conditions and Mr. Brungradt affirmed.

City Manager Michael Morgan noted that there is some confusion because a Conditional Use Permit is one action and the building code and site review is separate

from the Conditional Use Permit. City staff is also examining why CUPs are necessary in a commercial district. There are several other establishments that would significantly increase the impact of the neighborhood far more that would not require a Conditional Use Permit. City staff is evaluating why daycares in a C-1 zone be required to go through the CUP process. Council Member Lammers stated that in the past, daycares would convert a home into a daycare which is why the CUP was required. City Manager stated that City staff would agree in residential uses or an existing building that had something unique or different about it, the CUP is necessary but for a brand new construction in a C-1 zoning, the format of the process really does not make sense.

Vice-President Buschkoetter stated that when the location was originally zoned, a developer was going to build a convenience store. Assistant City Manager Paul Briseno stated he hopes to bring the code changes forward to next month's Planning Commission meeting. City Manager stated that City staff is no longer examining conditions that the State of Nebraska requires for daycares and CUPs make sense in a residential setting not in a commercial zoning. City staff will work with the applicant on the building permit side and go through those procedures separately.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Marc Willis and Sun Development, Inc. a Nebraska Corporation for a Conditional Use Permit to operate a day care on property zoned District C-1, Limited Commercial District and described as Lot 8, Block 1, Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 17th Avenue and north of 11th Street) subject to compliance with the conditions stated above and in said ordinance, and introduced Ordinance No. 8141 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 8141. Vice-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: Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Clouse 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. 8141 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8141 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Nikkila, Lear, Buschkoetter, Lammers. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8141 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 Lear seconded by Buschkoetter that Subsections 1 through 19 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse absent. Motion carried.

1. Approve Minutes of Regular Meeting held April 11, 2017.

2. Approve the following Claims:

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

1000bulbs.com \$508.58 smcs; 3595 American \$368.27 smcs; 3Gstore.com \$1,306.41 co; A Wireless \$29.99 smcs; Adobe \$32.09 smcs; Agri Co-op \$1,297.63 smcs; Alert All \$562.50 smcs; Alertshirt \$1,364.59 smcs; Alfred Benesch \$109,694.97 co; All Makes Auto \$2,690.27 smcs; Alley Rose \$75.99 smcs; Allfuses.com \$135.00 smcs; Amazon \$8,816.54 smcs,co; Amer First Aid \$546.14 smcs; Americinn \$195.22 smcs; Andersen Wrecking \$65.00 smcs; Antelope Newsletter \$250.00 smcs; Appliance Service \$1,197.22 smcs; Aprons & Smocks \$68.84 smcs; Ask Supply \$566.65 smcs; Aurora Coop \$52.48 smcs; Aussie Hydraulics \$34.01 smcs; Auto Door Hardware \$77.32 smcs; Auto Value \$133.72 smcs; Baird Holm \$34.50 smcs; Baker & Taylor \$6,080.25 smcs; Beacon Athletics \$14,149.00 smcs; Bete Fog Nozzle \$277.78 smcs; Bibliotheca \$10,729.57 smcs; Big Rack Shack \$115.92 smcs; Blackstone Audiobooks \$235.74 smcs; Blessing \$1,131.30 smcs; Blick Art \$237.46 smcs; BlueCross BlueShield \$278,694.72 smcs; Boardtronics \$1,251.89 smcs; Bosselman \$24,453.32 smcs; Bowman,R \$400.00 smcs; Branson Surrey Inn \$500.00 smcs; Brown,J \$500.00 smcs; Buffalo Co Treasurer \$15.00 co; Buffalo Outdoor Power \$2,281.58 co; Buggy Bath \$14.00 smcs; Builders \$2,133.30 smcs,co; Cabela's \$369.98 smcs; Canva for Work \$119.40 smcs; Capital Business \$293.61 smcs; Carquest \$617.18 smcs; Cash-Wa \$461.20 smcs; CDW Govt \$7,035.00 smcs; Central Auto Electric \$78.00 smcs; Central Hydraulic System \$1,112.15 smcs; Central NE Bobcat \$84,226.89 smcs,co; CH Diagnostic \$490.00 smcs; Charter \$503.68 smcs; Cheesecake Omaha \$957.97 smcs; Chemsearch \$627.00 smcs; Chesterman \$718.20 smcs; Chicken Coop \$50.00 smcs; Chief Supply \$48.29 smcs; Churchill,C \$101.12 smcs; Cinas \$241.86 smcs; City of Ky \$358,074.63 smcs,ps; City of Scottsbluff \$480.55 smcs; Coldspring \$493.37 smcs; Community Health Charities \$6.00 ps; Compasscom Software \$124.95 smcs; Consec Life \$19.00 ps; Construction Rental \$174.14 smcs; Control Yours \$285.00 smcs; Cool-Tech \$75.00 smcs; Copycat \$1,486.33 smcs; Cornhusker Square \$22.50 smcs; Creative Teacher \$33.00 smcs; Crop Production Services \$375.00 smcs; Culligan \$234.00 smcs; Cummins \$1,031.69 smcs; Cunningham,S \$50.28 smcs; Curb-It \$726.00 co; Davis Equipment \$1,056.39 smcs; Dawson PPD \$20,354.45 smcs; Dell \$5,361.21 co; Demco \$471.76 smcs; Depository Trust \$31,641.25 ds; Diamond Vogel \$133.47 smcs; Dineen,F \$75.00 smcs; Discountmugs.com \$658.00 smcs; Dollar General \$13.45 smcs; Dons Hobby Guns \$8.36 smcs; Door Opener \$73.95 smcs; Dowhy Towing

\$250.00 smcs; Dultmeier Sales \$440.94 smcs; Dutton-Lainson \$212.27 smcs; Eagle Distributing \$1,311.20 smcs; Eakes \$2,227.46 smcs; Earthway Products \$68.73 smcs; EB 2017 Tree Care \$310.00 smcs; Elder,E \$50.45 smcs; Elliott Equipment \$1,170.00 smcs; EMC Ins \$40,479.87 smcs; Estes,B \$380.00 smcs; Eustis Body Shop \$100.00 smcs; Expression Wear \$475.00 smcs; Facebook \$88.64 smcs; Fairbanks \$6.00 smcs; Family Fresh \$161.17 smcs; Fastenal \$4,904.32 smcs,co; FBI Natl Academy \$100.00 smcs; Fire Mountain Gems \$156.06 smcs; Flaghouse \$104.40 smcs; Flaherty,T \$195.00 smcs; FLSbanners.com \$143.40 smcs; Friesen Chevrolet \$61.94 smcs; Frontier \$9,874.76 smcs; Fuel Tech \$8,504.00 smcs; Gale Research \$25.41 smcs; Gannon Travel \$1,330.00 smcs; Garret Tires \$13,696.58 smcs; GD Construction \$26,714.63 co; Gillis,N \$375.00 smcs; Grainger \$765.82 smcs; GI Physical \$307.50 smcs; Great Plains Asbestos \$1,100.00 smcs; Grey House Publishing \$194.95 smcs; Grow Nebraska \$358.92 smcs; Hach \$1,114.65 smcs; Hampton Inn \$102.00 smcs; Hawney,E \$36.62 smcs; HD Supply \$11,513.22 smcs; Hinze,C \$36.41 smcs; HOA Solutions \$1,473.70 smcs; Hobby-Lobby \$491.64 smcs; Holmes Plbg \$933.73 smcs,co; Hunt,R \$150.00 smcs; Hyvee \$51.87 smcs; IA, NE, SD PRIMA \$40.00 smcs; Ibuyofficesupply.com \$152.60 smcs; ICMA \$10,399.46 ps; IRS \$302,107.17 ps; Jack Lederman \$1,060.28 smcs; Jack's Uniforms \$149.75 smcs; JJ Keller & Assoc. \$690.01 smcs; Johnson Service \$2,694.20 smcs; Johnstone Supply \$197.10 smcs; Jr's Western \$244.93 smcs; Ky Ace & Garden \$62.11 smcs; Ky Animal Shelter \$13,581.25 smcs; Ky Area United Way \$656.90 ps; Ky Chamber Comm. \$350.00 smcs; Ky Clinic \$1,916.00 ps; Ky Concrete \$6,786.58 smcs,co; Ky Crete & Block \$4,244.52 smcs,co; Ky Hub \$1,374.43 smcs; Ky Towing & Repair \$485.00 smcs; Ky Visitors Bureau \$300.00 smcs; Ky Warehouse \$1,108.07 smcs; Ky Winlectric \$265.88 smcs; Ky Winnelson \$574.25 smcs; Kelly Supply \$1,268.14 smcs; Keough,J \$29.93 smcs; Kittle,D \$979.00 smcs; Knox Company \$490.00 smcs; Koettters,J \$43.55 smcs; Konica Minolta \$1,566.31 smcs; Kroy Sign Systems \$246.24 smcs; Lafferty,M \$13.54 smcs; Landmark Implement \$837.68 smcs; Lawson Products \$333.95 smcs; League of NE Municipalities \$360.00 smcs; Light,B \$83.21 smcs; Lincoln Dodge \$49,510.00 co; Little Giant Ladder \$40.00 smcs; Lockhorn,S \$75.00 smcs; Logan Contractors \$1,148.15 co; Love S Country \$29.31 smcs; Marlatt Machine \$450.77 smcs; Marriott Cornhusker \$254.50 smcs; Marshall,I \$120.00 smcs; Matheson \$342.96 smcs; Maxwell Medals \$466.00 smcs; Maxx Sunglasses \$250.94 smcs; McGee,R \$42.03 smcs; McLaughlin,P \$134.20 smcs; Mead Lumber \$297.25 co; Meier,B \$528.00 smcs; Menards \$3,966.72 smcs,co; Messner,K \$70.00 smcs; Mid-Plains Equipment \$6,660.00 co; Midwest Connect \$956.19 smcs; Midwest Turf \$813.83 smcs; Miller,A \$400.00 smcs; Miller Signs \$6,264.00 smcs,co; Moonlight Embroidery \$1,500.00 smcs; Municipal Supply \$8,629.39 smcs; Murphy Tractor \$314.17 smcs; Navigator Motorcoaches \$910.00 smcs; NCL of Wisconsin \$443.56 smcs; NE Child Support Center \$4,017.32 ps; NE Dept Environment \$14,588.25 smcs; NE Dept of Rev \$78,111.26 smcs,ps; NE Dept Roads \$15,156.76 co; NE GIS/LIS \$600.00 smcs; NE Library Assn \$75.00 smcs; NE OCIO \$12.60 smcs; NE Peterbilt \$162.32 smcs; NE PGA \$50.00 smcs; NE Safety & Fire \$125.00 smcs; NE Sec of State \$30.00 smcs; NE Truck Center \$562.42 smcs; NEland Distributing \$2,603.00 smcs; Nelson's Furniture \$314.00 smcs; Network Fleet \$94.75 smcs; Network Solutions \$79.98 co; Niemack,D \$75.00 smcs; NMC Exchange \$207,958.00 co; Nolda,J \$111.00 smcs; Northern Safety \$496.94 smcs; Northern Tool \$942.56 smcs; Nova Fitness \$994.95 ps; NRG Media \$820.00 smcs; Oak Creek Engineering \$3,798.25 co; OCLC \$654.27 smcs; Office Depot \$190.76 smcs; Office Max \$1,730.15 smcs; Officenet \$74.30 smcs; O'Hara Lindsay \$2,000.00 smcs; O'Keefe Elevator \$25.00 smcs; Omaha

World Herald \$71.58 smcs; O'Reilly Auto \$3,858.91 smcs,co; Orscheln \$296.10 smcs; Overstock \$66.97 smcs; Paramount \$356.90 smcs; Patterson,J \$5.41 smcs; Payflex \$556.75 ps; Paypal*allybdesign \$90.00 smcs; Paypal*atlazinter \$1,890.00 co; Paypal*Awisconewyo \$317.13 smcs; Paypal*Azalta \$995.00 co; Paypal*Bryanlarson \$1,220.08 co; Paypal*Cbrown1086 \$49.99 smcs; Paypal*Fishpond \$122.00 smcs; Paypal*IAPE \$50.00 smcs; Paypal*Lvsports \$230.00 smcs; Paypal*Madsya885 \$49.50 co; Paypal*Mittenmedia \$129.99 co; Paypal*Officedepot \$102.01 smcs; Paypal*Precisionro \$247.08 co; Paypal*Prestigefla \$98.23 smcs; Paypal*Syntekcompu \$325.00 co; Paypal*Techexpredss \$695.00 smcs; Paypal*Werepe \$1,050.00 co; Pdqcom \$225.00 co; Penguin Random House \$157.50 smcs; Pepperl,L \$11.00 smcs; Phillips 66 \$35.00 smcs; Physical Education Equip \$214.50 smcs; Physio Control \$220.00 smcs; Ping \$51.69 smcs; Pioneer Mfg \$969.25 smcs; Pizza Hut \$19.43 smcs; Platinum Awards \$54.35 smcs; Platte River Harley \$12,775.60 smcs; Platte Valley Auto \$1,603.40 smcs; Platte Valley Comm \$3,935.72 smcs,co; Platte Valley Medical \$168.00 ps; Plixer \$999.00 smcs; Positive Promotions \$31.89 smcs; Pot O' Gold \$155.00 smcs; PP*Lindasuph \$781.00 smcs; Presto-X \$485.76 smcs; Priceline \$323.61 smcs; Prime Communications \$1,795.00 co; Proactive Sports \$176.21 smcs; Pulliam,R \$40.00 smcs; Pump & Pantry \$53.40 smcs; Qualified Hardware \$1,406.00 smcs; Rainbow Online \$158.49 smcs; RDG Planning & Design \$3,553.88 smcs; Ready Mixed Concrete \$10,448.44 co; Reams \$1,942.40 smcs,co; Recorded Books \$528.90 smcs; Reiker \$130.27 smcs; Resource Management \$1,871.04 smcs; Rheome Tree \$4,785.00 smcs; Rich,T \$50.00 smcs; Riener,S \$4.99 smcs; Ring.com \$30.00 co; Riverdale Ready Mix \$1,012.88 smcs,co; Roberts,J \$9.33 smcs; Roth,K \$21.37 smcs; RR Products \$356.05 smcs; Russell's Appliance \$36.15 smcs; Safelite Autoglass \$300.00 smcs; Sahling Kenworth \$45.82 smcs; Salter,J \$134.20 smcs; Sams Club \$134.43 smcs; Samspon Construction \$43,220.00 co; SCC-On Line \$283.50 smcs; Schluntz,K \$10.44 smcs; Sears \$385.40 smcs; Shell Oil \$46.00 smcs; Sherwin Williams \$46.69 smcs; Sigma Aldrich \$442.16 smcs; Snap-On Tools \$1,816.31 smcs; Sonetics \$1,475.28 smcs; Steinbrink Landscaping \$78.75 smcs; Streakwave Wireless \$243.00 co; Sullwold,C \$75.00 smcs; Super Shine \$38.50 smcs; Supplyworks \$2,984.77 smcs; Tacha,J \$50.00 smcs; Target \$117.35 smcs; TechSoup \$75.00 co; Thaden,M \$80.00 smcs; Thomas Reuters-West \$1,224.00 smcs; Thompson,J \$15.25 smcs; Ticket Omaha \$708.50 smcs; Titan Machinery \$2,224.81 smcs; Titleist \$1,322.38 smcs; Tour Edge Golf \$476.24 smcs; Tractor-Supply \$1,574.48 smcs; Trans Iowa Equipment \$132.05 smcs; TRC Electronics \$55.60 smcs; Tri-Co Glass \$15.00 smcs; True,T \$30.92 smcs; Turfwerks \$1,794.44 smcs; Turner Body Shop \$525.00 smcs; Uldrich,K \$696.00 smcs; Union Bank & Trust \$146,141.70 ps; Unique Management \$375.90 smcs; UNK \$281.00 smcs; UNL Athletic Ticket \$356.00 smcs; UNL Marketplace \$64.27 smcs; UPS \$49.59 smcs; USPS \$206.48 smcs; Valley Forklift \$161.00 smcs; Van Diest Supply \$11,577.05 smcs; Van Wall \$1,733.14 smcs; Village at Ky \$153.02 Smcs; Village Plaza \$326.26 smcs; Walgreens \$7.27 Smcs; Wal-Mart \$1,296.70 smcs,co; Walters Electric \$3,268.61 smcs,co; Wasteworks \$650.00 Co; Waterlink \$668.73 smcs; Weller,B \$134.20 smcs; Wiedel,G \$156.00 smcs; Wilke Contracting \$113,406.30 smcs; Wilke's True Value \$409.12 smcs; WPCI \$210.50 Ps; Zable,A \$36.90 smcs; Zoro Tools \$1,706.80 smcs; Payroll Ending 4-15-2017 -- \$419,424.92. 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. Receive recommendations of Planning Commission and set May 9, 2017 at 5:30 p.m. as date and time for hearing on those applications where applicable.
- 4. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Applications as follows: (a) Nebraska Kidney Association for the Share A Spare Color Run 2017 to temporarily close the northbound lane of East 1st Street from Avenue M to The Archway Parking Lot (located west of the building) on April 29, 2017. (b) Special Olympics for the Law Enforcement Torch Run to temporarily close the southbound lanes of 39th Street, Avenue A, 31st Street and Central Avenue and the north half of the MONA parking lot on May 16, 2017. (c) Grand Lodge of Nebraska for the Masonic Band marching practice and marching parade to use University Drive, 29th Street and 5th Avenue on May 31, June 1 and June 2, 2017.
- 5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Jay Gates submitted by RMH Franchise Corporation dba Applebee’s Neighborhood Grill & Bar located at 5605 2nd Avenue in connection with their Class IK-101513 liquor license.
- 6. Adopt Resolution No. 2017-60 approving T-Hangar B-2 Lease Agreement at the Kearney Regional Airport between the City of Kearney and Randal Klinginsmith.

RESOLUTION NO. 2017-60

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar B-2 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Randal Klinginsmith, the Agreement, marked Exhibit “1”, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

- 7. Adopt Resolution No. 2017-61 approving the Agency Agreement between the City of Kearney and Nebraska Department of Aeronautics for Project No. 3-31-0045-31-2017 for the purpose of obtaining federal assistance in the development of the Kearney Regional Airport.

RESOLUTION NO. 2017-61

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. 3-31-0045-31-2017 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT.

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that:

1. The City of Kearney shall enter into an Agency Agreement with the Department of Aeronautics for Project No. 3-31-0045-31-2017 for the purpose of obtaining federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.

2. The Mayor of the City of Kearney is hereby authorized and directed to execute said Agency Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

3. The said Agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

8. Adopt Resolution No. 2017-62 approving the Grassland Lease for the East Half of Section 14 and the Northeast Quarter of Section 23 and the Grassland Lease for the West Half of Section 14, all in Township 9 North, Range 17 West of the 6th P. M., Buffalo County, Nebraska between the City of Kearney and Billy Dibbern.

RESOLUTION NO. 2017-62

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Grassland Lease on behalf of the City of Kearney with Billy Dibbern for the West Half of Section 14, Township 9 North, Range 17 West of the 6th P.M., Buffalo County. The term of the lease shall be for five years commencing on May 1, 2017 and ending on October 1, 2021. The Grassland Lease, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

BE IT FURTHER RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Grassland Lease on behalf of the City of Kearney with Billy Dibbern for the East Half of Section 14 and the Northeast Quarter of Section 23, Township 9 North, Range 17 West of the 6th P.M., Buffalo County. The term of the lease shall be for five years commencing on May 1, 2017 and ending on October 1, 2021. The Grassland Lease, marked as Exhibit "B", is attached hereto and made a part hereof be reference.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

9. Accept the bids received for the construction of the 2016 Part 4 Improvements; Avenue M Hike/Bike Trail and adopt Resolution No. 2017-63 awarding the bid to Wilke Contracting in the amount of \$243,398.40 for Bid A (Pedestrian Bridge) and to Dan Roeder Concrete in the amount of \$229,933.50 for Bid B (Trail and Storm Sewer).

RESOLUTION NO. 2017-63

WHEREAS, Oak Creek Engineering and the City of Kearney have reviewed the sealed bids which were opened on April 5, 2017 at 2:00 p.m. for the 2016 Part 4 Improvements; M Avenue Hike/Bike Trail and Pedestrian Bridge; and

WHEREAS, the Engineer’s Opinion of Probable Construction Cost for the Bid A (Pedestrian Bridge) was \$274,610.00 and Bid B (8-foot Trail and Storm Sewer) was \$305,607.00; and

WHEREAS, the said engineer has recommended the bid offered by Wilke Contracting Corporation of Kearney, Nebraska in the amount of \$243,398.40 for Bid A (Pedestrian Bridge) be accepted as the lowest responsible bid; and

WHEREAS, the said engineer has recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the amount of \$229,933.50 for Bid B (8-foot Trail and Storm Sewer) be accepted as the lowest responsible bid; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer’s recommendation is hereby accepted and approved, that Wilke Contracting Corporation be and is the lowest responsible bidder for the 2016 Part 4 Improvements; Bid A (Pedestrian Bridge) to be constructed in accordance with the plans and specifications on file with the City Clerk and that Wilke Contracting Corporation in the amount of \$243,398.40 be and is hereby accepted.

BE IT FURTHER RESOLVED that the City Engineer’s recommendation is hereby accepted and approved, that Dan Roeder Concrete be and is the lowest responsible bidders for the 2016 Part 4 Improvements; Bid B (8-foot Trail and Storm Sewer) to be constructed in accordance with the plans and specifications on file with the City Clerk and that Dan Roeder Concrete in the amount of \$229,933.50 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 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

10. Adopt Resolution No. 2017-64 approving Change Order No. 1 for an increase in the amount of \$225,714.35 and Application and Certificate for Payment No. 2 in the amount of \$256,460.40 submitted by Blessing, LLC and approved by Miller & Associates for the 2015 Part 13; Tech One Boulevard and Global Drive.

RESOLUTION NO. 2017-64

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2015 Part 13 Improvements; Tech One Boulevard and Global Drive, and the City’s engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$225,714.35 for the addition of Alternate Bid B to complete the paving of Global Drive and Tech One Boulevard from Global Drive west to Antelope Avenue, as shown on Exhibit “A”,

attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$256,460.40 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$372,734.15
Contract Sum To Date	372,734.15
Gross Amount Due	360,459.15
Retainage (10%)	- 36,045.92
Amount Due to Date	324,413.24
Less Previous Certificates for Payment	<u>67,952.84</u>
Current Payment Due	\$256,460.40

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. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 2, as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
 LAUREN BRANDT
 DEPUTY CITY CLERK

RANDY BUSCHKOETTER
 VICE- PRESIDENT OF THE COUNCIL

11. Adopt Resolution No. 2017-65 approving Change Order No. 1 showing a decrease in the amount of \$610.00 and Application, and Certificate for Payment No. 1-Final in the amount of \$69,970.00, and Certificate of Substantial Completion submitted by Sargent Irrigation Inc. and approved by Miller & Associates for the Eastbrooke Park Irrigation Well.

RESOLUTION NO. 2017-65

WHEREAS, Sargent Irrigation, Inc. of Broken Bow, Nebraska has performed services in connection with the Eastbrooke Park Irrigation Well, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease to the contract sum in the amount of \$610.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$69,970.00 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$70,580.00
Change Order No. 1 (4-25-2017)	<u>- 610.00</u>
Contract Sum To Date	69,970.00
Gross Amount Due	69,970.00
Retainage (0%)	.00
Amount Due to Date	69,970.00,
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$69,970.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 23, 2017, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 1-Final, as shown on Exhibit "B" and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved. PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

12. Adopt Resolution No. 2017-66 approving Grant Guidelines for the Downtown Kearney Commercial Rehabilitation Program.

RESOLUTION NO. 2017-66

WHEREAS, the City of Kearney has been awarded a CDBG Downtown Revitalization grant (CDBG 15-DTR-104) in the amount of \$350,000; and

WHEREAS, the Nebraska Department of Economic Department has recommended the City of Kearney implement a Commercial Rehab Program that would inject and spur investment into downtown buildings; and

WHEREAS, the Commercial Rehab Program will accept applications from interested developers and business owners whom may receive funding for energy efficiency improvements, removal of architectural barriers for accessibility, façade renovations, and other commercial rehabilitation activities; which could include structural, electrical, plumbing, and fire prevention improvements; and

WHEREAS, it is anticipated that the Commercial Rehab Program will be available to applicants the summer of 2017.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, the Commercial Rehabilitation Program Application and Guidelines be and are hereby approved. A copy marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

13. Adopt Resolution No. 2017-67 closing the alley lying between 19th Street and 20th Street and Avenue H and Avenue G as it abuts Lots 11 through 15, Scotts Subdivision and Lots 587 through 591, Original Town of Kearney Junction, all in the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2017-67

WHEREAS, the City of Kearney requests to close the alley from 19th Street to 20th Street between G Avenue and H Avenue abutting Lots 11 through 15, Scotts Subdivision and Lots 587 through 591, Original Town of Kearney Junction, all in the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, City staff have reviewed the alley and connectivity of the properties that abut the alley and recommend closure of the alley as both properties have necessary access from 20th Street, 19th Street and G Avenue; and

WHEREAS, the closure of the alley will not impact the flow of traffic in the surrounding neighborhood; and

WHEREAS, the City of Kearney will remove the alley gravel and plant grass allowing for vegetation to grow and temporarily block each alley entrance to assure the vegetation is not disturbed; and

WHEREAS, the City will notify property owners of the closure; and

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve the closure of the alley from 19th Street to 20th Street between G Avenue and H Avenue abutting Lots 11 through 15, Scotts Subdivision and Lots 587 through 591, Original Town of Kearney Junction, all in the City of Kearney, Buffalo County, Nebraska.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

14. Approve the application for a Special Designated License submitted by Glacial Till Vineyard & Winery, LLC in connection with their YK080900 liquor license to dispense alcoholic liquors inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on May 12 and 13, 2017 from 5:00 p.m. until 11:30 p.m. each day for a wine tasting event.

15. Approve the application for a Special Designated License submitted by James Arthur Vineyards, LLC in connection with their YK036431 liquor license to dispense alcoholic liquors inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on May 12, 2017 from 5:00 p.m. until 11:00 p.m. and May 13, 2017 from 3:00 p.m. until 11:00 p.m. for a wine tasting event.

16. Approve the application for a Special Designated License submitted by Feather River Vineyards in connection with their YK070913 liquor license to dispense alcoholic liquors inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N on May 12 and 13, 2017 from 5:00 p.m. until 11:00 p.m. each day for a wine tasting event.

17. Adopt Resolution No. 2017-68 accepting the Certificate of Substantial Completion submitted by Sampson Construction and approved by Clark Enersen Partners for the construction of the new sports complex at Patriot Park.

RESOLUTION NO. 2017-68

WHEREAS, Sampson Construction Co. from Lincoln, Nebraska has performed services in connection with the construction of a new sports complex at Patriot Park including the building, site hardscape, site electrical, sports fields (excluding irrigation system, turf and grasses, plant material and entrance sign), and the City's engineer, The Clark Enersen Partners, have filed with the City Clerk a Certificate of Substantial Completion with the completion date of April 7, 2017 as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

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 Custer Federal State Bank located at 341 South 10th Avenue, on May 18, 2017 from 3:00 p.m. until 9:00 p.m. for a business after hours event.

19. Adopt Resolution No. 2017-69 repealing Resolution No. 2017-22 and adopt the 2016-2017 Comprehensive Fee Schedule amending the Special Designated Liquor License fee requirement from per day to per event.

RESOLUTION NO. 2017-69

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, amended by Resolution No. 2017-207 on December 13, 2016, and amended by Resolution 2017-22 on February 14, 2017 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 25, 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 25, 2017.

BE IT FURTHER RESOLVED that Resolution No. 2017-22 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 25TH DAY OF APRIL, 2017.

ATTEST:
LAUREN BRANDT
DEPUTY CITY CLERK

RANDY BUSCHKOETTER
VICE- PRESIDENT OF THE COUNCIL

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIM

Moved by Buschkoetter seconded by Lammers that the Open Account Claim in the amount of \$78,628.31 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Clouse absent. Motion carried.

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$8.03 payable to Goodwill Industries be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Lammers. Nay: None. Buschkoetter abstained and Clouse absent. Motion carried.

VII. REPORTS

City Manager Michael Morgan stated he would report on the Special Event Applications when all members of Council are present.

The City is nearing the 6-month anniversary with PenAir. Over the past five months, enplanements were up 71 percent and trending is estimated for 7,500 enplanements for the year, which is far better than last year's 4,000 enplanements. PenAir hopes to plan a few upcoming local events and are working the Chamber.

A new antenna for the federal government's Automated Weather Operating System that is housed at the Airport has been installed and by the end of May the system will have been completely replaced. This system has been one of the reasons for the delays. At times, if the weather station is not recording properly the aircraft is prohibited from taking off even if the weather is 75 degrees and sunny. PenAir is exploring the option of developing their own weather observer program.

At the last Council meeting there was a citizen who expressed concerns with respect to Andersen Wrecking. The first concern was an alley and at tonight's meeting, the Council closed the alley. Both adjacent property owners were pleased and this closing should reduce some of the traffic concerns. City staff met with Andersen Wrecking and learned that Andersen's is using a process that infuses a substance into their crusher to eliminate oxygen which helps reduce explosions. The struggle Andersen's face is that they receive partially smashed vehicles that cannot be physically checked and small cylinders are left in the vehicle.

Buildings at Patriot Park are nearing finalization (painting, cleanup, etc.). The biggest concern is trying to get the grass blends outside of the outfields to grow. The high wind causes the dirt to get blown into the outfields of the baseball facility. The warning tracks are a special material which has to be completely dug out and replaced every time this happens. Staff is considering bringing in high, large sprinkler systems that are normally seen on sod farms to see if these systems can water those areas, causing the grass to grow and lessen the dirt.

The last stretch of the hike/bike trail has been scraped and cleaned. The paving will likely begin once the rain ends. Vice-President Buschkoetter stated this project is exciting as the trail will go from Cottonmill Park to Fort Kearny Recreational Park.

Council Member Lammers wished to send condolences to the Don Jobman family. Don is a longtime KVFD member who recently lost his wife Leta. Leta had previously served as KVFD Auxiliary President.

VIII. ADJOURN

Moved by Lammers seconded by Nikkila that Council adjourn at 5:52 p.m. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse absent. Motion carried.

ATTEST:

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

LAUREN BRANDT
DEPUTY CITY CLERK