

*Kearney, Nebraska*  
*April 10, 2018*  
*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 10, 2018 in the Council Chambers at City Hall. Present were: Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Bob Lammers and Jonathan Nikkila. Absent: Stanley A. Clouse, President of the Council and Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Julie Smith, Deputy City Clerk, Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Sarah Sawin, Assistant Director of Utilities; Scott Hayden, Director of Park and Recreation; 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 and Andrew Mihm.

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**

Vice-President Buschkoetter 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.

### **RECOGNITION/ORAL COMMUNICATIONS**

Vice-President Buschkoetter welcomed JoAnn Andersen, Victim Witness Director, and issued a Proclamation for National Crime Victims' Rights Week

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **DEVELOPMENT PLAN FOR 1206 AVENUE M**

Vice-President Buschkoetter opened the public hearing on the application submitted by Morton Buildings, Inc. for Ken and Linda Anderson for Planned District Development Plan Approval for the proposed construction of a heated warehouse on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 2, Frederick's Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1206 M Avenue) and consider Resolution No. 2018-43.

Paul Brungardt presented this matter to the Council. The site of the proposal is the Task Lighting facility. The owners wish to construct two additional warehouse facilities: an approximately 140 x 80 foot building (currently) and a 130 x 80 foot building (in the future). Because of residential space on the north and west side of this development, a 20-foot landscape buffer has been included in the plans. And due to the size and location of the buildings, a water line and fire hydrant will need to be added to the site in order to gain access to the back side of the building. Following analysis of cost and feasibility, it was determined to be cheaper to tap on to the 12-inch water line on the south side of 11th Street, run an 8-inch line up along the west side of the south property, and transfer over. The current owner of the adjacent property is Ron Blessing and Mr. Brungardt said he has been in talks with him regarding an easement. The easement document has been drawn up and is in Blessing's possession, so the easement should be finalized soon.

Mr. Brungardt further described the building. He explained that one of the provisions of the building had been to have the street side façade of the building be 35% masonry, and that he had asked the Planning Commission for a deviation on this, as the majority of the existing building has a metal skin.

Vice-President Buschkoetter stated that the Planning Commission had recommended approval subject to the specific deviations mentioned, and asked Mr. Brungardt if he understood these deviations and agreed to them. Mr. Brungardt stated he did understand and agree. Vice-President Buschkoetter asked for additional clarification on the status of the easement with Ron Blessing. Mr. Brungardt stated that the easement would be a benefit to Blessing as well, and that Blessing had not given any indication that he would oppose it.

There was no one present in opposition to this hearing.

#### **RESOLUTION NO. 2018-43**

WHEREAS, Morton Buildings, Inc. for Ken and Linda Anderson have applied for Planned District Development Plan Approval for the construction of a heated warehouse on property to be zoned District C-3/PD, General Industrial/Planned Development Overlay District and described as Lot 2, Frederick's Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1206 M Avenue).

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska, that the application of Morton Buildings, Inc. for Ken and

Linda Anderson for Planned District Development Plan Approval for the construction of a heated warehouse on property zoned District R-2PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as Lot 2, Frederick's Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1206 M Avenue) be approved subject to the granting of an easement from the neighbor to the south for a water line and without the requirement of 35% masonry on the side of the new building facing Avenue M.

PASSED AND APPROVED THIS 10TH DAY OF APRIL, 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2018-43 approving the Application submitted by Morton Buildings, Inc. for Ken and Linda Anderson for Planned District Development Plan Approval for the proposed construction of a heated warehouse on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 2, Frederick's Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (1206 M Avenue). Roll call resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear. Motion carried.

**CODE AMENDMENTS RELATED TO ACCESSORY BUILDINGS AND DRIVE-THROUGH PASS-BY LANES**

Ordinance No. 8232 authorizes amendments to the following chapters/sections of the City Code as follows: (a) Section 21-103 "Additional Requirements" of Chapter 21 "District R-3, Urban Residential Multi-Family District (Medium-Density)" to remove the current language of additional requirements and replace with language of notification of additional accessory building and group residential; (b) Section 22-103 "Additional Requirements" of Chapter 22 "District R-4, Urban Residential Multi-Family District (High-Density)" to add language of notification of additional accessory building requirements; (c) Section 47-104 "Setback Adjustments" of Chapter 47 "Supplemental Development Regulations" to add language pertaining to the placement of the UDLO swimming pool setback requirements together with the addition of swimming pool setbacks in complexes of more than six residential units following sub-item B-6; (d) Section 47-105 "Accessory Buildings" of Chapter 47 "Supplemental Development Regulations" to add language pertaining to additional requirements involving the addition of the UDLO parking area, accessory buildings, and garage setback requirements regarding complexes of more than six residential units; and (e) Section 49-109 "Stacking Requirements for Drive-Through Services" of Chapter 49 "Off-Street Parking" to create a new sub-item B and add language pertaining to alternative turnaround access for drive-through lanes and exceptions.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Nikkila and seconded by Buschkoetter that Ordinance No. 8232 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

## IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Lammers that Subsections 1 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Absent: Clouse, Lear. Motion carried.

1. Approve Minutes of Regular Meeting held March 27, 2018.

2. Approve the following Claims:

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

Acushnet \$4,604.04 smcs; Air Cleaning \$610.71 smcs; Almetek \$6,790.00 smcs; Amazon \$2,710.02 smcs; Andersen,J \$396.95 smcs; Ask Supply \$528.07 smcs; Aurora Coop \$79.84 smcs; Auto Value Parts \$859.37 smcs; Baker & Taylor \$3,189.75 smcs; Blackstone Audio Books \$771.22 smcs; Blackstrap \$1,399.26 smcs; Blessing \$78,518.36 co; BlueCross/BlueShield \$49,736.24 smcs; Bosselman \$45,934.81 smcs; Brandt,L \$94.92 smcs; Bridgett Lavene Consulting \$6,666.67 smcs; Brill,K \$31.00 smcs; Broadfoot's \$972.00 smcs; Brown,J \$700.00 smcs; BSN Sports \$1,732.26 smcs; Buffalo Co. Sheriff \$162,694.00 smcs; Builders \$517.72 smcs; Capital Business \$169.93 smcs; Carolina Software \$650.00 co; Carrot-Top Industries \$2,553.99 smcs; Cash-Wa \$281.62 smcs; Caudillo,J \$80.00 smcs; Center Point Publishing \$75.96 smcs; Central Fire \$70.50 smcs; Central Hydraulic \$11.51 smcs; Central NE Bobcat \$12,683.73 co; Chesterman \$300.00 smcs; CHI Health Good Sam \$2,815.00 smcs; Christensen, C \$264.00 smcs; CIGNA \$7,283.62 smcs; City of Ky \$45,464.47 co, smcs; City of Ky \$355,449.55 ps; Colling,G \$150.00 smcs; Community Health Charities \$18.00 ps; Community Partners \$1,000.00 smcs; Consolidated Mgmt. \$63.51 smcs; Core & Main \$161,917.76 smcs,co; Cummins \$1,461.65 smcs; Custom Products \$3,798.59 smcs; D & M Security \$70.50 smcs; DAS State Accounting \$794.39 smcs; Depository Trust \$14,301.25 ds; DPC Industries \$6,425.00 smcs; Dutton Lainson \$771.06 smcs; Eakes \$335.50 smcs; Elliott Equipment \$5,785.45 smcs; Engineered Controls \$3,760.00 smcs; Ensley Electrical \$58,010.90 co; Entenmann-Rovin \$621.50 smcs; Farmers Union \$26.40 smcs; Gale/Cengage Learning \$626.25 smcs; General Traffic Controls \$8,955.29 smcs; Happ,L \$31.00 smcs; Harshbarger,K \$416.59 smcs; Hickman,H \$35.39 smcs; Hill,M \$157.00 smcs; Hilltop Pet Clinic \$31.77 smcs; HM Life Insurance \$49,504.60 smcs; Holmes Plumbing \$381.84 smcs; Hometown Leasing \$316.28 smcs; Huerta's Upholstery \$395.00 smcs; Hy-Vee \$125.00 smcs; ICMA \$4,441.59 ps; Ipex \$2,000.00 smcs; IPMA-HR \$208.05 smcs; IRS \$148,304.36 ps; Jack Lederman \$54.20 smcs; Jack's Uniforms \$310.64 smcs; Johnson Controls \$609.40 smcs; Ky Area United Way \$701.88 ps; Ky Visitors Bureau \$33,712.46 smcs; Killion,C \$85.11 smcs; Konica Minolta \$672.33 smcs; KVFD \$86,650.00 ps; Kwiatkowski,L \$31.00 smcs; Landmark Implement \$4,312.26 smcs; Leach,C \$41.17 smcs; Library Ideas \$7,725.00 smcs; Lockmobile \$8.25 smcs; Mac Tools \$41.81 smcs; Magic Cleaning \$6,940.00 smcs; Matheson \$37.16 smcs; McCarty,D \$157.00 smcs; McLaughlin,P \$80.00 smcs; Mead Lumber \$205.20 co; Menards \$16.45 smcs; Microfilm

Imagining \$550.00 smcs; Mid American Signal \$392.00 smcs; Mid-Ne Garage Doors \$100.00 smcs; Midwest Connect \$7,171.58 smcs; Midwest Radar \$920.00 smcs; Miller Signs \$500.00 smcs; Mirror Image \$405.30 smcs; Murphy Tractor \$1,240.54 smcs; NE Child Support Center \$2,320.13 ps; NE Dept of Labor \$600.00 smcs; NE Dept. of Revenue \$85,113.34 smcs, ps; NE Public Health Environmental \$1,990.00 smcs; NE Society of CPAs \$155.00 smcs; NMC Exchange \$495.32 smcs; Northwest Electric \$1,445.25 smcs; Northwestern Energy \$6,375.22 smcs; O'Keefe Elevator \$430.44 smcs; One Call Concepts \$358.26 smcs; Paramount \$149.98 smcs; Payflex Systems \$569.50 smcs, ps; Penguin Random House \$71.25 smcs; Platte Valley Comm. \$160.55 smcs; Presto-X \$154.00 smcs; Prime Communications \$3,838.94 smcs; Reams \$2,821.43 smcs; Recorded Books \$605.74 smcs; Resource Management \$3,766.08 smcs; Rodehorst,R \$89.99 smcs; Salem Press \$163.02 smcs; Schroeder,K \$80.00 smcs; See Clear Cleaning \$1,700.00 smcs; SOS Portable \$214.50 smcs; Star-Tran-City \$450.00 smcs; Sterling,B \$45.33 smcs; Superior \$924.00 smcs; Superior Swim \$1,053.57 smcs; Tour Edge Golf \$2,121.00 smcs; Trausch,A \$416.59 smcs; Tri-Co Glass \$2,074.00 smcs; Turner Body \$420.00 smcs; Tye Law Firm \$13,358.65 smcs; Uldrich,K \$696.00 smcs; Union Bank & Trust \$78,708.59 ps; UNMC \$675.00 smcs; Vanwall \$46,475.89 co; Verizon \$7,151.83 smcs; Village Uniform \$307.74 smcs; Waldinger \$334.00 smcs; Walters,R \$17.16 smcs; Watchguard Video \$976.00 co; Wheeler,J \$31.00 smcs; Woods & Aitken \$1,102.00 smcs; Payroll Ending 03/31/18 -- \$459,380.38. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

**3. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Applications as follows:**

a) Kearney BBQ on the Bricks to temporarily close Central Avenue from 25th Street to 23rd Street, 24th Street from 1st Avenue to Avenue A, 23rd Street from Central Avenue to 1st Avenue, 1st Avenue from 23rd Street to 24th Street, and the parking lot located north of the Museum of Nebraska Art on August 24 and 25, 2018;

b) Special Olympics for the Law Enforcement Torch Run to temporarily close the eastbound lane of 37th Street from 2nd Avenue to Avenue A, the southbound lane of Avenue A from 37th Street to 31st Street, 31st Street from Avenue A to Central Avenue, and Central Avenue and the north half of the MONA parking lot on May 15, 2018; and

c) Buffalo County Stampede 5K, 10K & Half Marathon to temporarily close portions of 11th Street, Kea West Avenue, 16th Avenue, 8th Street, 6th Avenue, Central Avenue, 16th Street, H Avenue, 22nd Street, and North Railroad Street on June 10, 2018.

**4. 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 4 and 5, 2018 and adopt Resolution No. 2018-44 making application to the Nebraska Department of Roads for a Permit to use the west southbound lane of Kearney East Expressway.**

**RESOLUTION NO. 2018-44**

WHEREAS, the City of Kearney has received and approved an application to conduct a cycling race on August 4 and August 5, 2018 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 4 and August 5, 2018 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 4 and August 5, 2018 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 Vice-President of the Council and Council of the City of Kearney, Nebraska, to approve the cycling race scheduled for August 4 and August 5, 2018 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 4 and August 5, 2018 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 10TH DAY OF APRIL 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

5. Approve the application for a Special Designated License submitted by Hi-Brand Kearney LLC dba Old Chicago in connection with their IK-066969 liquor license to cater and dispense alcoholic liquors inside The Archway located at 3060 East 1st Street on Saturday, April 28, 2018 from 5:00 p.m. until 12:00 a.m. for a wedding reception.

6. Adopt Resolution No. 2018-45 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Marianne Hunt 2nd Addition between the City of Kearney and Gene and Deb McElhinney for improvements to serve Lots 1, 2, 3, 4, 6, 7, 10, 11, 14, 15 of Block One; Lots 1, 4, 5, 8, 9, 12, 13, 16 of Block Two; and Lots 2, 3, 4, 5, 6, 7 of Block Five, Marianne Hunt 2nd Addition.

**RESOLUTION NO. 2018-45**

WHEREAS, on the 14th day of March, 2017 the Vice-President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2017-35 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Gene and Deb McElhinny to construct paving, water, sanitary sewer and storm sewer improvements to serve Lots 1, 2, 3, 4, 6, 7, 10, 11, 14, and 15, Block One; Lots 1, 4, 5, 8, 9, 12, 13, and 16, Block Two; and Lots 2 through 7, Block Five of Marianne Hunt 2nd 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 Vice-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 Lots 1, 2, 3, 4, 6, 7, 10, 11, 14, and 15, Block One; Lots 1, 4, 5, 8, 9, 12, 13, and 16, Block Two; and Lots 2 through 7, Block Five of Marianne Hunt 2nd 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 10TH DAY OF APRIL, 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

7. Adopt Resolution No. 2018-46 approving the Agreement between the City of Kearney and KSO CPAs + Advisors for auditing services.

**RESOLUTION NO. 2018-46**

WHEREAS, Requests for Proposals were received and opened on May 30, 2003 for auditing services for the City of Kearney, Nebraska and the City of Kearney Community Redevelopment Authority; and

WHEREAS, the City received one proposal from McDermott & Miller, P.C. (now KSO CPAs + Advisors) and City Administration reviewed the proposal and

recommended the proposal offered by McDermott & Miller, P.C. of Kearney Nebraska, be accepted; and

WHEREAS, the recommendation from City Administration was accepted and approved on June 24, 2003 by the Kearney City Council; and

WHEREAS, on August 14, 2006 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three years; and

WHEREAS, on March 3, 2009 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three (3) years; and

WHEREAS, on January 25, 2012 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three (3) years;

WHEREAS, on January 9, 2015 the City received a proposal from McDermott & Miller, P.C. to extend the existing agreement an additional three (3) years; and

WHEREAS, on February 28, 2018 the City received a proposal from KSO CPAs + Advisors (formerly McDermott & Miller, P.C.) to extend the existing agreement an additional three (3) years.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska, that the recommendation from City Administration is hereby accepted and approved, that KSO CPAs + Advisors of Kearney, Nebraska, be accepted for auditing services for the City of Kearney, Nebraska, and the City of Kearney Community Redevelopment Authority for the three-year period beginning with the fiscal year ending on September 30, 2018, to be performed in accordance with the Proposal for Professional Audit Services, a copy of which marked "Exhibit A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF APRIL, 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

8. Adopt Resolution No. 2018-47 to remove bus parking on the west side of C Avenue, north of East 35th Street a distance of 536 feet.

**RESOLUTION NO. 2018-47**

WHEREAS, the Development Services Department, Public Works Department and the Police Department have reviewed the situation and found that there is an apparent safety concern with traffic and parked buses and have recommended that the west side of C Avenue, north of East 35th Street a distance of 536 feet be designated as "No Bus Parking" at any time.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the west side of C Avenue, north of East 35th Street a distance of 536 be and is hereby designated as "No Bus Parking" at any time.

BE IT FURTHER RESOLVED that the City Manager be and is hereby instructed to place appropriate signs designating these areas as directed by this Resolution.

PASSED AND APPROVED THIS 10TH DAY OF APRIL, 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

9. Adopt Resolution No. 2018-48 approving the Developer Constructed Infrastructure Agreement; Benchmark Development Phase II of Lot 5, Ingersoll Subdivision between the City of Kearney and WeisCo Properties, LLC by and through Brett Weis to construct public improvements for a sanitary sewer main to serve Lot 5, Ingersoll Subdivision.

**RESOLUTION NO. 2018-48**

BE IT RESOLVED BY THE VICE-PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Benchmark Development Phase II of Lot 5, Ingersoll Subdivision" between the City of Kearney and WeisCo Properties, LLC by and through Brett Weis, for the construction of public improvements for a storm sewer main to serve Lot 5, Ingersoll Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

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

PASSED AND APPROVED THIS 10TH DAY OF APRIL, 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

10. Approve the Plans and Specifications for the 2018 Archway Trail Improvements and set the bid opening date for May 1, 2018 at 2:00 p.m.

11. Approve the applications 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 cater and dispense alcoholic liquor as follows:

a) Inside Ellerbrock-Norris Insurance at 4004 6th Avenue on Thursday, April 26, 2018 from 4:00 p.m. until 10:00 p.m. for a business after hours event; and

b) Inside the Extension Building located at 1400 East 34th Street on Saturday, May 26, 2018 from 3:00 p.m. until 1:00 a.m. for a reception.

12. Accept the bids received for the sale of property located at 1100 Block East 16th Street and award the bid to Glen and Diane Miller in the amount of \$28,900.00.

13. Accept the bids received for the sale of property located at 1200 Block Avenue A and award the bid to Reed Miller in the amount of \$64,350.00.

14. Accept the bids received for the sale of property located at 1200 Block East 18th Street and award the bid to Glen and Diane Miller in the amount of \$28,900.00.

15. Accept the bids received for the sale of property located at 1600 Block Central Avenue and award the bid to Glen and Diane Miller in the amount of \$23,000.00.

16. Accept the Deed of Dedication received from the Good Samaritan Hospital Foundation acquiring right-of-way access for a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8231 AUTHORIZING SELL ORDINANCE**

Postponed from March 27, 2018 City Council Meeting. Ordinance No. 8231 authorizes the sale of a 35 foot parcel of land described as the East 35 feet of Lot 7, Block 27, Kearney Land and Investment Company's First Addition to the City of Kearney, Buffalo County, Nebraska to Patricia Misener.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8231 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

### **ORDINANCE NO. 8233 AUTHORIZING SELL ORDINANCE**

Ordinance No. 8233 authorizes the sale of an 80 foot by 126 foot parcel of land described as all of vacated Avenue L from the South right-of-way line of 16th Street to the North right-of-way line of 15th Street, TOGETHER WITH the South 7 feet of 16th Street abutting said vacated West half of Avenue L on the North, EXCEPT the West half of the South 180.75 feet of vacated Avenue "L" lying between 15th Street and 16th Street abutting part of Lot 3 and all of Lots 4, 5 and 6, Warwick Place, a subdivision of Lot 1358, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska, on the East, now platted as Lot 1, Rice Addition, an addition to the City of Kearney, Buffalo County, Nebraska to Glen and Diane Miller.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8233 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

### **ORDINANCE NO. 8234 AUTHORIZING SELL ORDINANCE**

Ordinance No. 8234 authorizes the sale of a 90 foot by 130 foot parcel of land described as the Lot 6, Block 5, Roe's Subdivision to the City of Kearney, Buffalo County, Nebraska, TOGETHER WITH the North half of vacated 12th Street as it abuts said Lot on the South AND TOGETHER WITH the vacated West 17 feet of Avenue A abutting said Lot and abutting said portion of vacated 12th Street on the East, all in Buffalo County, Nebraska to Reed Miller.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8234 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8235 AUTHORIZING SELL ORDINANCE**

Ordinance No. 8235 authorizes the sale of an 80 foot by 100 foot parcel of land described as all of Vacated Avenue "L" as it abuts Lot 5 and Lot 6, Henthorn's Subdivision to the City of Kearney, Buffalo County, Nebraska on the East and as it abuts the South 100 feet of Lot 1010, Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska on the West, now platted as Lot 1, Pump House 20 Addition, an addition to the City of Kearney, Buffalo County, Nebraska to Glen and Diane Miller.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8235 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8236 AUTHORIZING SELL ORDINANCE**

Approve Ordinance No. 8236 selling a 50 foot by 130 foot parcel of land described as Lot 1245, in the Original Town of Kearney Junction, now the City of Kearney, Buffalo County, Nebraska to Glen and Diane Miller.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8236 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8237 AMENDING THE SALARY ORDINANCE**

Ordinance No. 8237 repealing Ordinance No. 8205 and amend the Salary Ordinance reflecting the reclassification of a Evidence Technician position.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8237 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8221A CLARIFYING THE LEGAL DESCRIPTION**

Ordinance No. 8221A amends Ordinance No. 8221 by clarifying the legal description pertaining to Paving Improvement District No. 2018-990 for 11th Avenue from the southwesterly line of Lot 1, Fountain Hills Tenth Addition, northwesterly to the northwesterly line of Lot 1, Fountain Hills Tenth Addition for recording purposes at the Buffalo County Register of Deeds Office.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8221A be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8222A CLARIFYING THE LEGAL DESCRIPTION**

Ordinance No. 8222A amends Ordinance No. 8222 by clarifying the legal description pertaining to Water Connection District No. 2018-1 for 11th Avenue from the southwesterly line of Lot 1, Fountain Hills Tenth Addition, northwesterly to the northwesterly line of Lot 1, Fountain Hills Tenth Addition for recording purposes at the Buffalo County Register of Deeds Office.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Lammers and seconded by Nikkila that Ordinance No. 8222A be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**VI. REGULAR AGENDA****LOS MAGUEYES ADDITION TO LIQUOR LICENSE**

Vice-President Buschkoetter opened for discussion the application for Addition to Liquor License submitted by Los Magueyes LLC, dba Los Magueyes in connection with their Class I-118141 liquor license located at 320 3rd Avenue.

Lauren Brandt, City Clerk, presented this matter to the Council. On March 21, 2018 the City Clerk's Office received an application from the Nebraska Liquor Control Commission regarding Los Magueyes' current liquor license indicating the owners wish to expand that liquor license. Mrs. Brandt stated she had sought input from Development Services, Fire, and Police Departments. Max Richardson, Chief Building Official, had reported that he had been working with inspectors on site at the facility and there were several concerns regarding structural, electrical, exiting, and fire suppression. The owners plan to expand the business into the adjacent north building, with a bearing wall in place currently. Due to City staff not having seen any set construction plans, they recommended that the application be denied at this time. This would allow Los Magueyes to bring construction plans forward and once inspections were completed, the owners could reapply to the Liquor Control Commission at a later date.

Vice-President Buschkoetter asked for clarification that this decision would push the owners' time frame back, but would not create a financial burden. Mrs. Brandt confirmed that this was the case. She has been in contact with the business manager and explained the recommendation, and that the business manager had understood.

Moved by Nikkila seconded by Buschkoetter to recommend denial of the application for Addition to Liquor License submitted by Los Magueyes LLC, dba Los Magueyes in connection with their Class I-118141 liquor license located at 320 3rd Avenue. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Absent: Clouse, Lear. Motion carried.

**ORDINANCE NO. 8238 AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES**

Ordinance No. 8238 authorizes the issuance and sale of bond anticipation notes of the City of Kearney, Nebraska, in the principal amount of \$1,270,000 for the purpose of providing interim financing for the costs of constructing street improvements in Paving Improvement District No. 2017-987 of said City pending the issuance of permanent General Obligation Various Purpose Bonds of the City; prescribing the form of said notes; agreeing to issue the City's general obligation various purpose bonds to pay the notes at maturity or to pay the notes from other available funds; entering into a contract on behalf of the City with the holders of said notes.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Buschkoetter and seconded by Lammers that Ordinance No. 8238 be postponed to the April 24, 2018 agenda. Clerk called the roll which resulted as follows: Aye: Nikkila, Lammers, Buschkoetter. Nay: None. Absent: Clouse, Lear.

**RECOGNITION FALLS DONATION PROJECT**

Vice-President Buschkoetter opened for discussion the consideration of Resolution No. 2018-49 on the recommendation for the creation of a steering committee to evaluate the Recognition Falls project, as there was a split recommendation from the Park & Recreation Advisory Board for the proposed creation and naming of Recognition Falls in the Harmon Park Rock Garden.

Lisa Reese Parish from the Kearney Public Schools Foundation introduced Steve England, of 3004 Country Club Lane, who presented this matter to Council. He stated that the initial ideas for the Recognition Falls project had occurred to him when he and his family were trying to find a way to commemorate his own wife's service to Kearney Public Schools following her retirement. Harmon Park's Rock Garden seemed like an ideal location for an improvement project that would accomplish this. After talking with area contractors, the proposed project developed to both commemorate former teachers and staff of Kearney schools as well as provide improvement and maintenance for a portion of the Rock Garden. Along with improvements to an area of the Rock Garden, a sidewalk would be improved with bricks that would be sold and engraved to commemorate former teachers and school staff. These bricks would also provide an income stream for maintenance of the project.

Mr. England addressed questions that have been asked of him, including why the project would be located at Harmon Park instead of on one of the school grounds. His response was that the Harmon Park location is a very long standing, permanent location where dollars spent on a project such as this can be leveraged to create an area that is exceptional for the community. Another reason was that often schools no longer have open campuses, so a commemorative project such as this might not be accessible to the public at all times.

Vice-President Buschkoetter stated that since Harmon Park Rock Garden is such an iconic part of Kearney, any changes can be somewhat controversial, and asked if another Kearney park could be used. Mr. England stated that the preference was for

Harmon Park, since that was the original idea that had excited the project originators, and they felt the donated money could be best leveraged in that area to the benefit of the City, the park and the recognition area. Mr. England further stated that as long as the steering committee has a goal of making the project work, the project originators would be able to work through any issues.

Council Member Lammers stated his appreciation for the project concept and expressed the concern that the rock used in the project be a match for the existing rocks in the Rock Garden. Mr. England stated that the group has been in contact with Grindstone Hardscapes, who have said they already have suitable stone for the stone staircase in the proposed plan. Mr. England further stated that the intention of the project is to enhance the area but not stand out as being new.

Council Member Nikkila stated that he has had community members express both concerns and support of the project, and that this interest in the project showed how much Kearney residents care about the Rock Garden in Harmon Park. He further clarified that the item on the table this meeting was to send the project to a steering committee.

Vice-President Buschkoetter asked if the steering committee would report to the Advisory Board of Park & Recreation Commissioners first before the item came to City Council. City Manager Mike Morgan stated that the project was far enough along, and that since there would be members of the Park Board on the committee, the steering committee would report directly back to City Council with their recommendation.

Mr. England stated that the group hoped to have sufficient positive feedback from the City Council to feel confident in investing further funds in enhanced planning and design. The funds donated for the project and the sale of engraved bricks would cover maintenance costs, so that the City would not have to pay to maintain the finished project. The sale of bricks provides an opportunity for smaller contributors to be a part of the project.

Council Member Nikkila clarified that the project would be open to all Kearney educators. Vice-President Buschkoetter asked if UNK teachers and staff would be included in the commemorative project. Mr. England stated that if interest in donating on behalf of UNK teachers and staff was expressed, the Kearney Public Schools Foundation would make that decision.

Council Member Nikkila stated that the sale of bricks for ongoing maintenance costs was a good idea, but that future, larger maintenance costs could be encountered, such as a pump system for the waterfall, and he encouraged the community to think about allowing for and fund raising for this. Mr. Nikkila said that another issue that had been raised was that of setting a precedent with this project that could influence future proposals for changes.

Council Member Lammers said that the public / private partnership is something that has always been encouraged in Kearney, where opportunities are sought out to work together to create something nice for the community, and that this project seems to fit that mold.

Vice-President Buschkoetter expressed his appreciation for the project concept, along with concerns about the location based on the history of the Rock Garden. The Rock Garden had originally been constructed as a WPA project in the 1930's. Mr. England stated that intent of the project was to correct the years of wear and tear on the area and provide a recognition space as well.

Council Member Lammers stated that enhancing the area does not necessarily change the integrity of the park. Mr. England stated that the project does not include tearing out any existing features. Vice-President Buschkoetter closed discussion and restated that the item on the table was the creation of a steering committee.

Moved by Lammers seconded by Nikkila to approve Resolution 2018-49, recommending the creation of a steering committee to evaluate the Recognition Falls project. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Nikkila. Nay: None. Absent: Clouse, Lear. Motion carried.

### **RESOLUTION NO. 2018-49**

WHEREAS, in November 2017, Kearney Public Schools Foundation submitted a Donation Proposal Application to the City of Kearney for a project on the east side of the Harmon Park Rock Garden referred to as Recognition Falls, intended to thank and recognize former teachers and staff from any of the Kearney schools;

WHEREAS, the Harmon Park Rock Garden was built in the 1930's and both the Harmon Park Rock Garden and Harmon Park were listed on the National Register of Historic Places in 2010;

WHEREAS, to date, no major modifications have taken place in the Harmon Park Rock Garden and other than a few benches, no other recognition projects have been installed in the Harmon Park Rock Garden;

WHEREAS, on March 15, 2018, the Kearney Public Schools Foundation presented the concept of Recognition Falls to the Park and Recreation Advisory Board and after a presentation and discussion, the Park & Recreation Advisory Board made a motion to approve the concept, resulting in a four to four tie vote;

WHEREAS, City of Kearney staff recommends the creation of a steering committee to evaluate, develop and provide a complete recommendation to City Council, for ultimate approval regarding the Recognition Falls concept due to the historical nature of the Harmon Park Rock Garden;

WHEREAS, the steering committee will consist of members from the City Parks staff, Kearney Public Schools Foundation representatives and two Park and Recreation Advisory Board members, allowing for an approach to the Recognition Falls project that will meet the goals of the Foundation, while preserving the integrity of the Harmon Park Rock Garden.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, to approve the creation of a steering committee to evaluate, develop and provide a complete recommendation to City Council, for ultimate approval regarding the Recognition Falls concept due to the historical nature of the Harmon Park Rock Garden.

PASSED AND APPROVED THIS 10TH DAY OF APRIL, 2018.

ATTEST:  
LAUREN BRANDT

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

**SUFFICIENCY REPORT FOR PROTEST OF PAVING IMPROVEMENT DISTRICT NO. 2018-989, WATER DISTRICT NO. 2018-588 AND SANITARY SEWER IMPROVEMENT DISTRICT NO. 2018-524**

Regular Agenda items 4 through 7 were discussed and voted on together.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Nikkila and seconded by Buschkoetter that the report from the City Clerk on the sufficiency of objection/protest filed in connection with Ordinance No. 8226 creating Paving Improvement District No. 2018-989, Ordinance No. 8227 creating Water District No. 2018-588, Ordinance No. 8228 creating Sanitary Sewer Improvement District No. 2018-524 for all of 16th Street from the east lot line of Lot 7, Block 2, Marlatt Third Addition, thence westerly to a point 38.92 feet west of the east lot line of Lot 12, Block Three, Marlatt Addition be postponed to the April 24, 2018 agenda. Clerk called the roll, which resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8239 REPEALING ORDINANCE NO. 8226**

Ordinance No. 8239 repeals Ordinance No. 8226 creating Paving Improvement District No. 2018-989 for all of 16th Street from the east lot line of Lot 7, Block 2, Marlatt Third Addition, thence westerly to a point 38.92 feet west of the east lot line of Lot 12, Block Three, Marlatt Addition.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Nikkila and seconded by Buschkoetter that Ordinance No. 8239 be postponed to the April 24, 2018 agenda. Clerk called the roll, which resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8240 REPEALING ORDINANCE NO. 8227**

Ordinance No. 8240 repeals Ordinance No. 8227 creating Water District No. 2018-588 for all of 16th Street from the east lot line of Lot 7, Block 2, Marlatt Third Addition, thence westerly to a point 38.92 feet west of the east lot line of Lot 12, Block Three, Marlatt Addition.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Nikkila and seconded by Buschkoetter that Ordinance No. 8240 be postponed to the April 24, 2018 agenda. Clerk called the roll, which resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Absent: Clouse, Lear.

**ORDINANCE NO. 8241 REPEALING ORDINANCE NO. 8228**

Ordinance No. 8241 repeals Ordinance No. 8228 creating Sanitary Sewer District No. 2018-524 for all of 16th Street from the east lot line of Lot 7, Block 2, Marlatt Third Addition, thence westerly to a point 38.92 feet west of the east lot line of Lot 12, Block

Three, Marlatt Addition.

With the absence of Mayor Clouse and Council Member Lear, it was moved by Nikkila and seconded by Buschkoetter that Ordinance No. 8241 be postponed to the April 24, 2018 agenda. Clerk called the roll, which resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Absent: Clouse, Lear.

## **VII. REPORTS**

Council stated that their thoughts are with Mayor Stan Clouse as he recovers from surgery. Vice-President Buschkoetter shared that he had recently visited with Mayor Clouse and wished to express thanks on his behalf to the community for all of their cards, letters, and phone calls.

## **VIII. ADJOURN**

Moved by Buschkoetter seconded by Lammers that Council adjourn at 6:16 p.m. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Nikkila. Nay: None. Absent: Clouse, Lear. Motion carried.

**ATTEST:**

\_\_\_\_\_  
**RANDY BUSCHKOETTER**  
**VICE-PRESIDENT OF THE COUNCIL**

\_\_\_\_\_  
**LAUREN BRANDT**  
**CITY CLERK**