

*Kearney, Nebraska*  
*October 9, 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 October 9, 2018 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Peggy Eynetich, Deputy City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Eric Hellriegel, Assistant City Manager; Tony Jelinek, Director of Utilities; Rod Wiederspan, Director of Public Works and Dan Lynch, Chief of Police were also present. Members of the media present included: Mike Konz, Kearney Hub and Ryan Boyd, KGFW.

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 Andy Hagemann provided the Invocation.

### **PLEDGE OF ALLEGIANCE**

Council members led the audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

**VACATE 100-FOOT PLATTED SETBACK FOR PROPERTY LOCATED NORTH OF EAST 1ST STREET AND WEST OF ANTELOPE AVENUE**

Mayor Clouse opened the public hearing on the application submitted by Robin Rodriguez for Albert and Robin Rodriguez and Gale and Ollie Dady to vacate the 100-foot platted setback on property described as Lots 1, 2 and 3, Mom's Lakefront, a subdivision being part of Government Lot 7 and accretions located in Section 7, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, (North of East 1st Street and West of Antelope Avenue) and consider Ordinance No. 8292.

Robin Rodriguez presented this matter to the Council. Ms. Rodriguez would like to vacate the platted setback and have the property follow current code giving them a 50 foot setback instead. The setback runs along 1st street and where Antelope Avenue would be located. She would eventually like to build on one of the lots. Council Member Buschkoetter questioned why the setback was platted at 100 foot. Ms. Rodriguez was not sure. City Manager Michael Morgan stated staff has been looking consistently at in fill developments and questioning why the setback is 100 feet; staff prefers the smaller setback allowing more development on the lot.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by application submitted by Robin Rodriguez for Albert and Robin Rodriguez and Gale and Ollie Dady to vacate the 100-foot platted setback on property described as Lots 1, 2 and 3, Mom's Lakefront, a subdivision being part of Government Lot 7 and accretions located in Section 7, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, (North of East 1st Street and West of Antelope Avenue) and introduced Ordinance No. 8292 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 Deputy 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. 8292. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Deputy City Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. Deputy City Clerk read Ordinance No. 8292 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8292 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance,

Ordinance No. 8292 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.

**REZONE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 29TH STREET AND 2ND AVENUE**

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Tim Norwood for Nancy Norwood to rezone from District UC, Mixed Use Urban Corridor District to District UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District for property described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue) and consider Ordinance No. 8293.

Tim Norwood presented this matter to the Council. The area consists of four lots that set at the southwest corner of 29th Street and 2nd Avenue. There had previously been four houses and a garage that was used as a residence on the lots. The property located to the north is a multiple mixed use office building, catty corner is Trius Credit Union, to the east is residential use, to the south is an insurance office and the first lot to the west is a residence. They are asking for the rezoning due to deviations they are requesting to Code. The entrance to the complex will be off of 29th Street. There will be one additional curb cut to allow for a drive through for a teller and ATM lane on the west side that would exit onto 2nd or 3rd Avenue. The owner of the property to the west requested trees be placed for landscaping instead of a fence. The building itself will have brick on the front (north elevation), east, west, and the majority of the south side (that portion that is visible from 2nd Avenue). The HVAC units will be placed on the roof and on the east and north side there will be eaves over the windows with lighting. The area is well lit so there will be no additional lighting needed. Council Member Lammers questioned if there was any concern regarding the lighting from the neighbors on the west side. Mr. Norwood stated there was not and that they would not be adding any significant lighting other than accent lighting. The deviations they are requesting are to the front yard setback; City Code calls for 30 feet, they are asking it be changed to 21 feet, the side yard setback is 10 feet and they are asking for 6 feet. For the building itself code requires 5 feet of offset for every 100 feet of horizontal distance, they are requesting full relief of the 5 foot offset so for aesthetic reasons they are adding more brick than what's required and awnings so the building is attractive and finally they are requesting the 20 foot width of the side yard buffer yard be reduced to a 15 foot buffer.

Council member Nikkila questioned if a car parked in the alley by the residence would there be enough room to get another car through? Mr. Norwood stated the alleys aren't super wide, but are paved from 2nd Avenue to 3rd Avenue; it would really depend on the size of the vehicles that were parked. If they were large it may be difficult to get through.

Council member Lammers questioned if the parking was adequate for the building? Mr. Norwood stated it depends on what they end up with for tenants but he does not feel there will be a problem with parking.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the application submitted by Tim Norwood for Nancy Norwood to rezone from District UC, Mixed Use Urban Corridor District to District UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District for property described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue) and introduced Ordinance No. 8293 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 Deputy 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 close the hearing and suspend the rules for Ordinance No. 8293. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Deputy City Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. Deputy City Clerk read Ordinance No. 8293 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8293 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8293 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.

### **PLANNED DISTRICT DEVELOPMENT FOR CONSTRUCTION OF AN INFILL LOT OF MIXED USE BUILDING**

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Tim Norwood for Nancy Norwood for Planned District Development Plan Approval for the construction of an infill lot of mixed use building on property to be zoned District UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District and described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue) and consider resolution No. 2018-161.

Tim Norwood presented this matter to the Council.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt Resolution No. 2018-161 approving the application submitted by Tim Norwood for Nancy Norwood for Planned District Development Plan Approval for the construction of an infill lot of mixed use building on property to be zoned District UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District and described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2018-161**

WHEREAS, Tim Norwood for Nancy Norwood have applied for Planned District Development Plan Approval for the construction of commercial business space on property to be zoned UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District and described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Tim Norwood for Nancy Norwood for Planned District Development Plan Approval for the construction commercial business space on property zoned UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District and described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue) be approved.

PASSED AND APPROVED THIS 9TH DAY OF OCTOBER, 2018.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

### **IV. CONSENT AGENDA**

Moved by Lammers seconded by Nikkila that Subsections 1 through 7 and 9 through 10 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held September 25, 2018.
2. Approve the following Claims:
 

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

24 Hour Tees \$484.30 smcs; Adventure Enterprises \$400.00 smcs; Amazon \$774.81 smcs; Ask Supply \$389.80 smcs; Aurora Coop \$81.84 smcs; B2 Environmental \$450.00 smcs; Barney Building & Land \$9,386.00 smcs; Barney Insurance \$20,368.75 smcs; Big Air \$30,000.00 smcs; Blackstone Publishing \$586.21 smcs; BlueCross/BlueShield \$43,133.16 smcs; Blueglobes \$839.38 smcs; Bosselman \$3,952.33 smcs; Bridgett Lavene Consulting \$2,500.00 smcs; Brilliance Publishing \$35.98 smcs; Buffalo Co. Register Deeds \$426.00 smcs; Buffalo Co. Sheriff \$168,387.75 smcs; Buffalo Co Court \$94.40 ps; Builders \$146.29 smcs,co; Capital Business Systems \$180.90 smcs; Carquest \$47.76 smcs; Cash-Wa \$782.74 smcs; Chesterman \$330.55 smcs; Christian,L \$100.00 smcs; Cigna \$7,263.74 smcs; City of Ky \$405,828.63 smcs, ps; Civicplus \$3,474.45 smcs; Community Health Charities \$18.00 ps; Consolidated Mgmt. \$380.95 smcs; Country Partners \$22,606.63 smcs; Crane River Theater \$4,140.00 smcs; Credit Management \$18.34 ps; Cummins \$1,349.70 smcs; D&M Security \$70.50 smcs; Depository Trust \$79,301.25 ds; Diamond Engineering \$172,065.69 co; Economic Development \$175,000.00 smcs; Ed Broadfoot & Sons \$108.00 smcs; Ed Roehr Safety \$322.52 smcs; Edwards,R \$1.06 smcs; Eickhoff,J \$100.00 smcs; Eirich,D \$159.14 smcs; Eirich,T \$296.70 smcs; Electronic Systems \$10,690.20 co; Elliott Equipment \$10,296.00 smcs; EMC Insurance \$69.00 smcs; Faz,T \$200.00 smcs; Fugazi,A \$75.00 smcs; Gangwish Turf \$609.00 smcs; Gascoigne,K \$72.35 smcs; Granicus \$2,595.60 smcs; Haack,S \$69.55 smcs; Historical Information \$1,485.00 smcs; HM Life Insurance \$48,181.60 smcs; Hughes,CJ \$160.00 smcs; ICMA \$7,042.10 ps; Infinisource \$3,001.08 smcs; IRS \$152,168.06 ps; Jack Lederman \$122.25 smcs; JCB Delivery \$15.00 smcs; Johnson Brothers \$138.00 smcs; Ky Crete & Block \$185.00 smcs; Ky United Way \$656.88 ps; Ky Visitors Bureau \$114,647.53 smcs; Kelly Supply \$73.13 smcs; Konica Minolta \$871.58 smcs; Krueger,D \$177.00 smcs; LaRue Distributing \$72.00 smcs; League of NE Municipalities \$46,130.00 smcs; Lincoln Winwater \$723.32 smcs; Lush,M \$248.00 smcs; Magic Cleaning \$6,150.00 smcs; Marlatt Machine \$105.00 smcs; Matheson \$49.50 smcs; Mead Lumber \$101.90 co; Mid American Signal \$1,390.00 smcs; Midlands Contracting \$37,510.00 co; Mid-NE Garage Doors \$715.00 smcs; Midwest Connect \$7,068.46 smcs; Miller & Associates \$13,322.15 smcs,co; Miller Signs \$850.00 co; Moonlight Embroidery \$375.00 smcs; Morris Press \$656.38 smcs; Morten Construction \$159,990.21 co; Mostek Electric \$107.09 smcs; Naval Surface Warfare \$1,800.00 smcs; NE Child Support Pmt. \$1,991.97 ps; NE Dept of Revenue \$50,380.23 smcs,ps; NE Dept of Veterans' Affairs \$450,000.00 smcs; NE Public Health Environmental \$2,646.00 smcs; NE Safety & Fire \$125.00 smcs; Nebraskaland Distributors \$409.15 smcs; Newman Signs \$147.45 smcs; Northwestern Energy \$1,939.90 smcs; Nova Fitness \$514.50 ps; O'Keefe Elevator \$430.44 smcs; Olsson Associates \$13,660.00 co; Otto Environmental \$10,381.00 smcs; Paramount \$209.88 smcs; Payflex Systems \$531.25 ps; Platte Valley Laboratories \$62.50 smcs; Power DMS \$4,978.80 smcs; Pradon,K \$20.87 smcs; Presto-X \$328.23 smcs; Pulliam,D \$148.25 smcs; Ready Mixed Concrete \$446.19 smcs; Recorded Books \$1,674.77 smcs; Ridgeview Apartments \$4,202.41 co; Roth,K \$61.52 smcs; S&J Construction \$6,886.00 co; Sampson Construction \$1,004.00 smcs; Scorr Marketing \$750.00 smcs; See Clear Cleaning \$350.00 smcs; Shahan,J \$100.00 smcs; Sirsi \$27,548.81 smcs; Snap-On Tools \$140.25 smcs; Strategic Materials \$485.24 smcs; Trugreen \$170.00 smcs; Tye & Rowling \$13,320.60 smcs; Union Bank & Trust \$79,364.85 smcs,ps; University of NE-Ky \$1,000.00 smcs; Verizon \$6,557.96 smcs; Village Uniform \$413.91 smcs; Volaire Aviation \$385.01 smcs; Whalen,J \$177.00 smcs;

Payroll Ending 09/29/2018 -- \$485,238.68. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class C-009051 manager application for Kearney Country Club located at 2800 19<sup>th</sup> Avenue.
4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class C-122674 liquor license and manager applications for Gillies Bar Inc dba The Otherside located at 15 East 24<sup>th</sup> Street.
5. Approve the Application for Special Assessment for Agricultural Deferral submitted by CHI Health Good Samaritan Foundation with regard to Paving Improvement District No. 2018-991, Water District No. 2018-589 and Sanitary Sewer District No. 2018-525 for 54th Street westerly 49 feet from the west corner of 17th Avenue Place, thence northerly 310 feet dissecting Lot 2, Block One, Northridge Retirement Subdivision, thence westerly 345.1 feet to the west lot line of said Lot 2, Block One, Northridge Retirement Subdivision, thence westerly 55.71 feet thence southerly 310 feet, thence southerly along the west lot lines of Lots 17, 16 and 15, Northridge Estates of Kearney, a distance of 250 feet, thence easterly dissecting Lots 15, 12 and 7, Northridge Estates of Kearney, a distance of 401 feet, thence northerly 250 feet dissecting Lots 7, 8, and 9, Northridge Estates of Kearney.
6. 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 Copycat Printing located at 2100 Avenue A, on Thursday, October 25, 2018 from 4:00 p.m. until 8:00 p.m. for a Chamber Event.
  - b) Inside Fanci That located at 2214 Central Avenue, on Thursday, November 8, 2018 from 4:00 p.m. until 8:00 p.m. for a Chamber Event.
7. 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 located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, November 10, 2018 from 6:00 p.m. until 1:00 a.m. for a dance.
8. Item tabled and will be brought forward at a future date.
9. Approve the application for a Special Designated License submitted by WRG-Cellar LLC dba The Cellar Restaurant in connection with their Class IK-122176 catering liquor license to dispense alcoholic liquor in The Archway located at the 3060 East 1st Street, on Friday, October 26, 2018 from 5:00 p.m. until 11:00 p.m. for a fundraiser.
10. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Applications as follows:
  - a) Tracy Dethlefs on behalf of CHI Good Samaritan Hospital for the temporary closure of three parking stalls in front of the NRG Media Building located at

2223 Central Avenue on October 25, 2018.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8294 REPEALING ORDINANCE NO. 8289 CREATING PAVING IMPROVEMENT DISTRICT NO. 2018-994**

Council Member Nikkila introduced Ordinance No. 8294 repealing Ordinance No. 8289 creating Paving Improvement District No. 2018-994 for 19th Street from the southeast corner of Lot 770, thence northerly 131 feet, thence westerly 140 feet, thence southerly 346 feet, thence easterly 130 feet, thence northerly 185 feet, thence easterly 10 feet, thence northerly 30 feet to the point of beginning, all in Original Town Kearney Junction, Buffalo County, Nebraska, 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 Deputy 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 suspend the rules for Ordinance No. 8294. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Deputy City Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. Deputy City Clerk read Ordinance No. 8294 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, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8294 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8294 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

## **VI. REGULAR AGENDA**

### **OPEN ACCOUNT CLAIM**

Moved by Buschkoetter seconded by Lammers that the Open Account Claim in the amount of \$1583.55 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

## **VII. REPORTS**

City Manager Michael Morgan, Mike Tye, City Attorney and Council thanked Chief

Lynch for his years of service to the City.

**VIII. ADJOURN**

Moved by Clouse seconded by Lammers that Council adjourn at 5:51 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**ATTEST:**

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

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**PEGGY EYNETICH  
DEPUTY CITY CLERK**