

Kearney, Nebraska
May 12, 2020
5:30 p.m.

A meeting of the City Council of Kearney, Nebraska, occurred at 5:30 p.m. on May 12, 2020 and was convened via public video and teleconference means. The meeting was open to the public via video and teleconference means pursuant to the Governor's Executive Order No. 20-03 issued on March 17, 2020. Present via video and teleconference means were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Eric Hellriegel, Assistant City Manager; Bryan Waugh, Chief of Police; Brenda Jensen, Development Services Director and Nate Mollring, Director of Information Tech, were also present. Members of the media present included: Mike Konz, Kearney Hub; 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 public via video and teleconference means.

I. ROUTINE BUSINESS

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/RECOGNITIONS

Presentation of Commendation Award to Police Sergeants Michael Bogard and Ryan Ohri. Chief Bryan Waugh stated Sergeant Bogard and Sergeant Ohri are being recognized for their actions on February 2, 2020 when they were dispatched to a possible drowning at Fort Kearney State Recreation area where a female and a child had fallen through the ice. The training, use of equipment and teamwork resulted in a successful rescue by Sergeant Ohri and Sergeant Bogard of both individuals. Chief Waugh also thanked the Kearney Volunteer Fire Department, Good Samaritan Emergency Services Unit, Buffalo County Sheriff's Department and the Kearney County Sheriff's Office for their assistance that day.

Vice President, Randy Buschkoetter congratulated Sergeant Ohri and Sergeant Bogard on a very well deserved honor.

DESIGNATION AND RECOGNITION OF NATIONAL POLICE WEEK 2020.

Chief Waugh stated this week is designated to honor fallen Police Officers across the United States; it is also a time to reflect on the sacrifices Police Officers make.

Mayor Stanley Clouse thanked the Kearney Police Department for all they are doing during this time and is thankful they are staying safe.

Council Member Jonathan Nikkila thanked Police Officers family members for the giving of their family to assist the City.

REQUEST TO DISCUSS POTENTIAL CODE AMENDMENT REGARDING ALLOWANCE OF CHICKENS IN CITY LIMITS BY MERCADIES DAMRATOWSKI

Ms. Damratowski stated she is proposing a change to the urban chicken ordinance due to the current COVID crisis and the crisis being faced with the meat industry. Ms. Damratowski proposed an ordinance which would require: residents would be allowed to keep four chickens provided they are kept at a single-family residence; no roosters would be allowed; the slaughtering of chickens would not be allowed; chickens would need to be kept in a covered enclosure or fenced enclosure at all times; enclosures will not be placed closer than 15 feet to any residential structure or adjacent lot; enclosures must be kept within a fenced back yard; enclosures will not exceed 100 square feet (recommendation is 8-10 square feet per bird). Ms. Damratowski showed a picture of her parent's chicken enclosure for their four chickens that they keep in their backyard in Grand Island; Ms. Damratowski stated Grand Island allows chickens to be kept in the City limits.

Council Member Nikkila questioned what kind of feedback Ms. Damratowski's parents receive from their neighbors regarding the chickens they keep in their backyard? Ms. Damratowski stated unless someone is working with the chickens no one would know they are back there. She further stated there is no odor and her parents use the chicken feces for fertilizer in their garden.

Mayor Clouse thanked Ms. Damratowski for her presentation.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS**REZONE PROPERTY LOCATED AT 3985 COAL CHUTE ROAD**

Agenda Items 1 and 2 can be discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Blessing Premier Property, LLC, c/o Ron Blessing to rezone from District AG, Agricultural District to District RR-2, Rural Residential District (Intermediate Standards) and District C-3, General Commercial District for property described as a tract of land being part of Government Lot 8 located in the Northeast Quarter of Fractional

Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road) and consider Ordinance No. 8414.

Mitch Humphrey with Buffalo Surveying Corporation presented this matter to the Council. Mr. Humphrey described the property's location and the access onto the property off of Coal Chute Road. Mr. Humphrey showed the location of the house site which contains 3.01 acres. The property owners are requesting this lot be zoned RR-2. The property owners are requesting the lot directly to the south, containing 3.28 acres, be zoned C-3. Mr. Humphrey stated the south lot will utilize the same driveway off of Coal Chute Road as the north lot. A 40-foot ingress/egress easement across the west side of the north lot will allow access to the south lot. Mr. Humphrey described the location of the well and septic system on the north lot and explained the south lot will be served by its own well and septic system with the location determined at the time the property is developed. A subdivision agreement included with the plat states the developer agrees not to protest future annexation and districts of both lots. Stormwater issues on the south lot will be addressed at the time of development.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Buffalo Surveying Corp. for Blessing Premier Property, LLC, c/o Ron Blessing to rezone from District AG, Agricultural District to District RR-2, Rural Residential District (Intermediate Standards) and District C-3, General Commercial District for property described as a tract of land being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road) and introduced Ordinance No. 8414 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8414. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, 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. City Clerk read Ordinance No. 8414 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, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance No. 8414 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, 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. 8414 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.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR BLESSING PREMIER SUBDIVISION

Agenda Items 1 and 2 can be discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Blessing Premier Property, LLC, c/o Ron Blessing for the Final Plat and Subdivision Agreement for Blessing Premier Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road) and consider Resolution No. 2020-67.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt Resolution No. 2020-67 approving the Application submitted by Buffalo Surveying Corp. for Blessing Premier Property, LLC, c/o Ron Blessing for the Final Plat and Subdivision Agreement for Blessing Premier Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2020-67

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Blessing Premier Subdivision, a subdivision being part of Government Lot 8 located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of Government Lot 8, located in the Northeast Quarter of Fractional Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska [such tract of land also described as being part of the Northeast Quarter of the Northeast Quarter of said Section 5], more particularly described as follows: Referring to the Northeast Corner of Fractional Section Five (5), and assuming the North line of the Northeast Quarter of Fractional Section 5 as bearing S 89°29'50" W and all bearings contained herein are relative thereto; thence on North line of the Northeast Quarter of

Fractional Section 5, S 89°29'50" W a distance of 662.96 feet to the Northwest Corner of the East Half of Government Lot 8 located in said Fractional Section 5, said point also being the Northwest Corner of a tract of land deeded to the State of Nebraska Department of Roads as described on Warranty Deed filed as Instrument 2013-5717, recorded on July 22, 2013 in the office of the Buffalo County Register of Deeds; thence leaving the North line of said Fractional Section 5, S 00°30'33" E on the West line of the East Half of Government Lot 8 located in said Fractional Section 5 and on the westerly line of said tract of land described on said Warranty Deed filed as Instrument 2013-5717, distance of 67.41 feet to the ACTUAL PLACE OF BEGINNING; thence leaving the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717 and continuing on the West line of the said East Half of Government Lot 8 located in Fractional Section 5, S 00°30'33" E a distance of 1244.04 feet to the Southwest Corner of the East Half of said Government Lot 8 located in Fractional Section 5, said point also being on the North line of the South Half of the Northeast Quarter of said Section 8; thence on the South line of said Government Lot 8 and the North line of the South Half of the Northeast Quarter located in Fractional Section 5, S 89°52'06" E a distance of 210.51 feet to a point on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717; thence on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, N 00°24'23" E a distance of 1013.63 feet; thence continuing on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, N 01°17'43" W a distance of 232.14 feet; thence continuing on the westerly line of the tract of land described on said Warranty Deed filed as Instrument 2013-5717, N 88°54'13" W a distance of 189.69 feet; thence continuing on the westerly line the tract of land described on said Warranty Deed filed as Instrument 2013-5717, S 83°48'31" W a distance of 34.25 feet to the place of beginning, containing 6.29 acres, more or less, all located in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

**FINAL PLAT AND SUBDIVISION AGREEMENT FOR JOHNSON COMMERCIAL
FOURTH ADDITION**

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. for Marlo Johnson for the Final Plat and Subdivision Agreement for

Johnson Commercial Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 7, located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (West of 625 East 1st Street and North of Interstate-80) and consider Resolution No. 2020-68.

Mitch Humphrey with Buffalo Surveying Corporation presented this matter to the Council. Mr. Humphrey demonstrated where the property is located on East 1st Street. The site is currently zoned C-3 and includes 2.82 acres which includes the formerly dedicated public right of way for East 1st Street. Paving, sewer and water are already available along East 1st Street; stormwater management will be addressed when the lot is developed. The site is located in the floodplain; therefore, any development will have to follow floodplain guidelines. Mr. Humphrey stated a subdivision agreement is included that addresses connection fees and various other items connected to development of the property that has been agreed upon by the property owners. Mr. Humphrey showed the location of a 40-foot strip of land, on the south side of the property, that Mr. & Mrs. Johnson have retained to allow visibility of an existing billboard sign from Interstate 80.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2020-68 approving the Application submitted by Buffalo Surveying Corp. for Marlo Johnson for the Final Plat and Subdivision Agreement for Johnson Commercial Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 7, located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (West of 625 East 1st Street and North of Interstate-80). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2020-68

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Johnson Commercial Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 7, located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of Government Lot 7 located in Fractional Section 13 and assuming the North line of said Government Lot 7 located in Fractional Section 13 as bearing S 86°50'00" E and all bearings contained herein are relative thereto; thence S 86°50'00" E and the North line of said Government Lot 7 located in Fractional Section 13, a distance of 526.9 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northeast Corner of Johnson Commercial Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing on the North line of said Government Lot 7 located in Fractional Section 13, S 86°50'00" E a distance of 425.27 feet; thence leaving the North line of said Government Lot 7 located in Fractional Section 13, S 03°13'13" E a distance of 256.99 feet; thence S 87°09'38" W a distance of 456.50 feet to the Southeast Corner of Lot 1 of said Johnson Commercial Third Addition; thence N 03°10'00" E and on the East line of said Johnson Commercial Third Addition, a distance of 303.14 feet to the place of beginning, containing 2.82 acres, more or less, of which

0.32 acres, more or less, are presently being used for road purposes on the North side, all located in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

DEVELOPMENT OF ISAAC ACRES LOCATED NORTH OF 70TH STREET ON 30TH AVENUE

Mayor Clouse opened Public Hearings 4 and 5 on the applications submitted by Trenton Snow for Charles and Kiley Isaac. Public Hearing 4 pertains to the rezoning of property located North of 70th Street on 30th Avenue to District RR-2, Rural Residential District (Intermediate Standards) and Public Hearing 5 pertains to the Final Plat for Isaac Acres. At the request of the Applicant and Developers, Trenton Snow for Charles and Kiley Isaac, these items have been requested to be postponed to the June 9, 2020 City Council meeting.

Moved by Clouse seconded by Nikkila to postpone Public Hearings 4 and 5 pertaining to the development of Isaac Acres located North of 70th Street on 30th Avenue to the June 9, 2020 City Council meeting. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

PROPOSED ACQUISITION FOR A PERMANENT RIGHT-OF-WAY GRANTED BY NEBRASKA PUBLIC POWER DISTRICT

Mayor Clouse stated that as Public Hearings 6 and 7 pertain to items associated with Nebraska Public Power District, he would be abstaining from any action due to a conflict of interest and requested that Vice-President Buschkoetter continue with the opening of these hearings. He further stated that he would be abstaining from action on all Consent Agenda and Consent Agenda Ordinance items.

Vice-President Buschkoetter opened Public Hearings 6 and 7 on the proposed acquisitions for a Permanent Right-of-Way granted by Nebraska Public Power District, a Public Corporation and Political Subdivision of the State of Nebraska. City Staff requests Public Hearing 6 pertaining to Resolution No. 2020-70 be withdrawn. Public Hearing 7 pertains to a tract of land being part of the Northeast Quarter of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Resolution No. 2020-71.

Michael Tye, City Attorney, presented this matter to the Council. Mr. Tye stated these Hearings deal with the purchase of property from the City of Kearney by NPPD. The City will sell approximately 16 acres to NPPD for a purchase price of \$302,253; NPPD plans to build a substation on the property. Regarding Public Hearing 7, as part of the purchase agreement which is included for action under the Consent Agenda, the City will acquire additional right of way that is located adjacent to the existing substation for potential, future growth of 56th Street. Public Hearing 6 deals with property to the east which the City still owns; acquisition of the right of way on the property described in Public Hearing 6 will be addressed when that property is developed.

Vice President Buschkoetter questioned how the dollar amount for the property being purchased was arrived at. Mr. Tye stated the price was based on previous appraisals of land in the area.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to withdraw Public Hearing 6 and close Public Hearing 7 and adopt Resolution No. 2020-71 approving the proposed acquisition for a Permanent Right-of-Way granted by Nebraska Public Power District, a Public Corporation and Political Subdivision of the State of Nebraska for a tract of land being part of the Northeast Quarter of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Nikkila, Moore, Buschkoetter, Lear. Nay: None. Clouse abstained. Motion carried.

RESOLUTION NO. 2020-71

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for Permanent Right-of-Way and voted in favor to proceed with the acquisition; and

WHEREAS, Nebraska Public Power District, a public corporation and political subdivision of the State of Nebraska, have granted to the City of Kearney, Nebraska Permanent Right-of-Way as follows:

PERMANENT RIGHT-OF-WAY

A tract of land being part of the Northeast Quarter of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range

15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: BEGINNING at a mag nail at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 29; thence S 89°26'00" E on the North line of said Northwest Quarter of the Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 69.84 feet to the Northeast Corner of a tract of land Deeded to Nebraska Public Power District in a Warranty Deed recorded in Deed Book 204, Page 308 in the Buffalo County Register of Deeds Office; thence S 00°34'34" W on the East line of said tract of land Deeded to Nebraska Public Power District a distance of 50.00 feet to a 5/8" rebar w/cap; thence N 89°26'00" W parallel with and 50.00 feet Southerly of said North line, as measured at right angles, a distance of 69.40 feet to a 5/8" rebar with cap on the West line of said Northwest Quarter of the Northeast Quarter; thence continuing N 89°26'00" W a distance of 330.52 feet to a 5/8" rebar with cap on the West line of said tract of land Deeded to Nebraska Public Power District; thence N 00°34'16" E on said West line of a tract of land Deeded to Nebraska Public Power District a distance of 50.00 feet to the Northwest corner of said tract of land Deeded to Nebraska Public Power District and the North line of said Northwest Quarter of the Northeast Quarter; thence S 89°26'00" E on said North line of the Northwest Quarter of the Northeast Quarter a distance of 330.08 feet to the Point of Beginning, containing 0.46 acres more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and City Council of the City of Kearney, Nebraska that the Permanent Right-of-Way granted by Nebraska Public Power District, a public corporation and political subdivision of the State of Nebraska, to the City of Kearney be and is hereby approved and accepted.

BE IT FURTHER RESOLVED that recognizing that, after the date of this Resolution, circumstances may arise necessitating minor changes, additions or deletions to the specific legal description of the said Easement, the Vice-President of the Council is hereby authorized to make such minor changes, additions or deletions to the legal description as the Vice-President of the Council deems reasonable or necessary.

PASSED AND APPROVED THIS 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

IV. CONSENT AGENDA

Moved by Moore seconded by Lear that Subsections 1 through 6 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Moore, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

1. Approve Minutes of Regular Meeting held April 28, 2020.
2. Approve the following Claims:

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

Air Cleaning Technologies-\$97.70-smcs; Alfred Benesch-\$1,074.30 -smcs; All Makes Auto-\$2,427.69-smcs; Alvine & Associates-\$612.65 -co; Amazon-\$1,123.36-smcs; American Cancer Society-\$550.00 -smcs; Arrow Seed-\$6,572.63-smcs; Ask Supply-\$139.58 -smcs; Aurora Coop-\$72.72-smcs; AV Fuel-\$10,373.32 -smcs; Baker & Taylor-\$6,008.55-smcs; Bamford-\$41,850.00 -smcs,co; Beacon Observer-\$26.00-smcs; Beehive Industries-\$5,773.00 -smcs; Blackstone -\$780.94-smcs; Blessing-\$23,818.77 -co; BlueCross BlueShield-\$80,434.78-smcs; Bosselman-\$12,232.18 -smcs; Buffalo Co. Register Deeds-\$34.00-smcs; Builders-\$11,866.34 -smcs,co; Cash-Wa-\$22.00-smcs; City of Ky-\$55,295.59 -smcs,ps; Comcate-\$2,168.69-smcs; Compasscom-\$450.00 -smcs; Core & Main-\$3,188.60-smcs; Country Partners-\$23,863.94 -smcs; Cox,K-\$45.00-smcs; Credit Mgmt. Services-\$463.37 -ps; Devitt,T-\$500.00-smcs; Diamond Vogel-\$50.94 -smcs; Dowhy Towing-\$400.00-smcs; Bridgette Lavene Cons.-\$2,500.00 -smcs; Eakes-\$142.95-smcs; Enforcement Video-\$6,150.00 -smcs; Engineered Controls-\$370.00-smcs; Family Practice Associates-\$626.00 -ps; Flowstate Marketing-\$1,940.00-smcs; Forensic Anthropological-\$65.00 -smcs; Foth,D-\$8.42-smcs; Freeburg,T-\$25.00 -smcs; Gale-\$932.76-smcs; Geiselman,J-\$25.00 -smcs; Greater NE Cities-\$2,000.00-smcs; Hitech-\$640.00 -smcs; HM Life-\$59,786.06-smcs; Hometown Leasing-\$159.08 -smcs; Horsley,C-\$8.07 -smcs; ICMA-\$6,858.11-ps; IES Commercial-\$9,375.00 -co; Infogroup-\$415.00-smcs; Integrated Security-\$334.00 -smcs; IRS-\$158,471.27-ps; Jack Lederman-\$84.20 -smcs; Jack's Uniforms-\$490.34-smcs; Johnson Controls-\$1,020.69 -smcs; Ky Animal Shelter-\$20,000.00-smcs; Ky Regional Medical-\$13,321.50 -smcs; Ky Towing-\$675.00-smcs; Ky Visitors Bureau-\$126,015.87 -smcs; Konica Minolta-\$1,186.74-smcs; Magic Cleaning-\$6,650.00 -smcs; Marlatt Machine-\$184.74-smcs; McCurry,C-\$97.50 -smcs; Mead Lumber-\$214.84-smcs,co; Menards-\$105.98 -co; Mid American Signal-\$8,474.00-smcs; Mid-NE Garage Doors-\$300.00 -smcs; Midwest Connect-\$7,097.73-smcs; Midwest Petroleum-\$4,547.00 -smcs; Milco Environmental-\$2,055.85-smcs; Miller & Associates-\$2,965.80 -smcs,co; Miller Signs-\$550.00-smcs; Miller,D-\$48.12 -smcs; Mintling,R-\$31.86-smcs; Montag,K-\$700.00 -smcs; Mueller Sprinkler-\$4,845.80-co; NE Child Support Center-\$2,287.35 -ps; NE Library Commission-\$1,500.00-smcs; NE Secretary of State-\$60.00 -smcs; Northwestern Energy-\$6,022.81-smcs; Olsson -\$31,160.40 -smcs,co; Otto Environmental-\$25,370.00-smcs; Peister,C-\$71.60 -smcs; Penworthy-\$558.97-smcs; Pep Co-\$150.00 -smcs; Platte Valley Comm.-\$2,833.58-smcs; Platte Valley Laboratories-\$550.00 -smcs; Plixer-\$1,428.90-smcs; Power DMS-\$306.50 -smcs; Powertech-\$2,034.92-smcs; Presto-X-\$126.00 -smcs; Reinertson,J-\$42.16-smcs; Resource Mgmt.-\$958.80 -smcs; Roth,K-\$89.96-smcs; Schnacker,G-\$225.00 -smcs; School District #7-\$6,657.40-smcs; See Clear Cleaning-\$350.00 -smcs; Sherwin Williams-\$18.21-smcs; Sid Dillion-\$55,116.00 -co; State of NE/DAS-\$30.80-smcs; Stutsman-\$3,294.00 -smcs; TCH Central-\$521.05-smcs; TL Sund-\$12,418.00 -co; Traffic Control-\$4,785.00-smcs; Transportation Control-\$7,494.16 -smcs; Trevino,R-\$93.89-smcs; Trugreen-\$282.00 -smcs; Turner Body Shop-\$100.00-smcs; Tye & Rowling-\$14,435.39 -smcs; Tyler Technology-\$3,062.50-smcs; Union Bank & Trust -\$82,789.74 -ps; Van Diest-\$584.00-smcs; Vessco-\$65,577.10 -co; Village Uniform-\$261.18-smcs; Western NRG-\$3,052.80 -smcs; Wilco Life Ins.-\$10.00-ps; Payroll Ending 04/25/2020 -- \$480,246.08. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Adopt Resolution No. 2020-72 approving Change Order No. 2 showing a decrease in the amount of \$8,000.00, Application and Certificate for Payment No. 5-Final in the

amount of \$65,577.10, and accept the Certificate of Substantial Completion submitted by Vessco, Inc. and approved by Miller & Associates for the Solids Dewatering Equipment Facility for the Utilities Department.

RESOLUTION NO. 2020-72

WHEREAS, Vessco, Inc. from Chanhassen, Minnesota has performed services in connection with the construction of a Solids Dewatering Equipment Facility for the Utilities Department, and the City’s engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing a decrease to the contract sum in the amount of \$8,000.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Vessco, Inc. and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$65,577.10 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 643,070.00
Change Order No. 1 (6/12/18)	- 56,537.00
Change Order No. 2 (5/12/20)	<u>- 8,000.00</u>
Contract Sum To Date	578,533.00
Gross Amount Due	578,533.00
Retainage (10%)	<u>- 0.00</u>
Amount Due to Date	578,533.00
Less Previous Certificates for Payment	<u>512,955.90</u>
Current Payment Due	\$ 65,577.10

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 3, 2020, as shown by Exhibit “C” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit “A”, Application and Certificate for Payment No. 5-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 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

4. Adopt Resolution 2020-73 approving the Real Estate Purchase Agreement between Nebraska Public Power District, a Public Corporation and Political Subdivision of the State of Nebraska and the City of Kearney for the purchase of approximately 16 acres of land described as a tract of land being part of the Northeast Quarter of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

RESOLUTION NO. 2020-73

BE IT RESOLVED BY THE VICE-PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the “Purchase Agreement between Nebraska Public Power

District, a public corporation and political subdivision of the State of Nebraska and the City of Kearney" for the purchase of real property which is legally described as: A tract of land being part of the Northeast Quarter of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a mag nail at the Northwest Corner of the Northwest Quarter of the Northeast Quarter of Section 29; thence S 89°26'00" E on the North line of said Northwest Quarter of the Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 69.84 feet to the Northeast Corner of a tract of land Deeded to Nebraska Public Power District in a Warranty Deed recorded in Deed Book 204, Page 308 in the Buffalo County Register of Deeds Office; thence S 00°34'34" W on the East line of said tract of land Deeded to Nebraska Public Power District a distance of 50.00 feet to a 5/8" rebar w/cap at the POINT OF BEGINNING; thence S 89°26'00" E parallel with and 50.00 feet Southerly of said North line, as measured at right angles, a distance of 100.00 feet; thence S 00°34'34" W a distance of 382.92 feet to a 5/8" rebar with cap; thence S 89°26'00" E a distance of 536.00 feet to a 5/8" rebar with cap; thence S 00°34'34" W a distance of 670.00 feet to a 5/8" rebar with cap; thence N 89°26'00" W a distance of 979.96 feet to a 5/8" rebar with cap; thence N 00°04'12" E a distance of 670.15 feet to a 5/8" rebar with cap on the South line of said tract of land Deeded to Nebraska Public Power District; thence S 89°24'48" E on said South line of a tract of land Deeded to Nebraska Public Power District a distance of 349.92 feet to a 5/8" rebar at the Southeast corner of said tract of land Deeded to Nebraska Public Power District; thence N 00°34'34" E on the East line of said tract of land Deeded to Nebraska Public Power District a distance of 382.92 feet to Point of Beginning, containing 16.00 acres more or less, all in 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 City Manager be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

5. Adopt Resolution No. 2020-74 approving Change Order No. 3 showing a decrease in the amount of \$4,727.12, Application and Certificate for Payment No. 15-Final in the amount of \$16,040.63, and accept the Certificate of Substantial Completion submitted by Walters Morgen Construction, Inc. and approved by Miller & Associates for the construction of construction of the Solids Handling Building at the Wastewater Treatment Facility.

RESOLUTION NO. 2020-74

WHEREAS, Walters-Morgan Construction, Inc. of Manhattan, Kansas has performed services in connection with the construction of the Solids Handling Building at the Wastewater Treatment Facility, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing a decrease to the contract sum in the amount of \$4,727.12 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Walters-Morgan Construction, Inc. and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 15-Final in the amount of \$16,040.63 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 3,976,000.00
Net Change by Change Orders	<u>- 767,873.37</u>
Contract Sum To Date	3,208,126.63
Gross Amount Due	3,208,126.63
Retainage (0%)	<u>- 0.00</u>
Amount Due to Date	3,208,126.63
Less Previous Certificates for Payment	<u>- 3,192,086.00</u>
Current Payment Due	\$ 16,040.63

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of May 4, 2020, as shown by Exhibit “C” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 3, as shown on Exhibit “A”, Application and Certificate for Payment No. 15-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 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

6. Adopt Resolution No. 2020-75 approving Change Order No. 5 showing an increase in the amount of \$25,282.00, Application and Certificate for Payment No. 8-Final in the amount of \$200,395.15 and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete, Inc. and approved by Miller & Associates for 2019 Part 1 Improvements; Younes Center Sixth in connection with Paving Improvement District Nos. 2019-996 and 2019-997 (Bid B).

RESOLUTION NO. 2020-75

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with 2019 Part 1 Improvements; Younes Center Sixth Addition in connection with Paving Improvement District Nos. 2019-996 and 2019-997 (Bid B), and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 5 showing an increase to the contract sum in the amount of \$25,282.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 8-Final in the amount of \$200,395.15 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 807,529.50
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Change Order No. (8/13/19)	+ 273,047.50
Change Order No. 2 (8/27/19)	+ 120,683.00
Change Order No. 3 (9/24/19)	+ 91,531.00
Change Order No. 4 (9/24/19)	+ 6,500.00
Change Order No. 5 (5/12/20)	<u>+ 25,282.00</u>
Contract Sum To Date	1,324,573.00
Gross Amount Due	1,324,573.00
Retainage (0%)	<u>- 0.00</u>
Amount Due to Date	1,324,573.00
Less Previous Certificates for Payment	<u>- 1,124,177.85</u>
Current Payment Due	\$ 200,395.15

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of May 1, 2020, as shown by Exhibit “C” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 5, as shown on Exhibit “A”, Application and Certificate for Payment No. 8-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 12TH DAY OF MAY, 2020.

ATTEST:
LAUREN BRANDT
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8416 AUTHORIZING THE DEED OF SALE TO NEBRASKA PUBLIC POWER DISTRICT

Council Member Lear introduced Ordinance No. 8416 authorizing the deed of sale for a tract of land being part of the Northeast Quarter of the Northwest Quarter, and part of the Northwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska to Nebraska Public Power District, a Public Corporation and Political Subdivision of the State of 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 City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules for Ordinance No. 8416. 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: Buschkoetter, Lear, Nikkila, Moore. Nay: None. Clouse abstained. 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. 8416 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Moore. Nay: None. Clouse abstained. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Nikkila that Ordinance No. 8416 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Nikkila, Moore, Buschkoetter, Lear. Nay: None. Clouse abstained. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8416 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 Nikkila seconded by Moore that the Open Account Claim in the amount of \$5,788.80 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Moore, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

Vice President Buschkoetter stated he is proud of how the community continues to unite together.

Council Member Nikkila suggested the City should pursue reasonable rules regarding chickens and hopes Council and Staff will consider this issue.

Council Member Tami Moore agrees with Council Member Nikkila regarding a chicken ordinance. Additionally, Council Member Moore agrees with Vice President Buschkoetter and is happy with how the community and citizens are handling social distancing.

Mayor Clouse commented there will be challenges on opening places back up. Michael Morgan, City Manager, noted there are some broad changes to the Directed Health Measures (DHM) going in to effect on May 18th and stated City staff, with regard to sporting events, will be meeting with the school district, the YMCA and coaches to make sure everyone is on the same page going forward.

Council Member Bruce Lear requested Mr. Morgan review the changes going in to effect on May 18th. Mr. Morgan reviewed the relaxation of current DHM's that were released to the public earlier by the Governor and Two Rivers Public Health.

Council Member Nikkila questioned what the difference was between bars and restaurants. Mr. Morgan stated bars only sell alcohol whereas restaurants sell both food and alcohol. Mayor Clouse stated the Governor had clarified earlier that bars without food are more for socializing only. Mayor Clouse further commented that now that restrictions are being relaxed it will fall more to personal accountability and responsibility and doing what is best for one's own self.

Council Member Moore commented people are confused regarding the rational for the changes being made.

Mayor Clouse feels citizens are doing a great job, especially when looking at the number of cases in Buffalo County but noted the medical community feels this is far from over and that we may still see a spike in numbers in the future.

Vice President Buschkoetter questioned if swimming pools will be opened this summer? Mr. Morgan stated the Governor has suggested a July 15th opening date. The City of Kearney has not made a decision regarding whether pools will be opened; additionally there are concerns regarding the ability to hire seasonal staff. Splash pads and playground openings are also being discussed.

Council Member Nikkila questioned when bathrooms at City Parks will be opened. Mr. Morgan stated restroom openings are also being discussed. The City of Kearney has been consulting with Dr. Messbarger, City Physician, regarding the opening of pools, playgrounds, splash pads and Park restrooms.

Mr. Morgan stated there are less than 20 COVID patients in Kearney hospitals and no patients with COVID are on ventilators.

Mayor Clouse stated at the weekly meeting with several other Nebraska Mayors, similar questions are arising in other Nebraska communities regarding pools opening, parades being held and whether there will be 4th of July celebrations.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 6:22 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

ATTEST:

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

**LAUREN BRANDT
CITY CLERK**