

*Kearney, Nebraska
November 10, 2020
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 November 10, 2020 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, Tami James Moore and Jonathan Nikkila. Michael Morgan, City Manager; Michael Tye, City Attorney; Eric Hellriegel, Assistant City Manager; Bryan Waugh, Chief of Police; Shawna Erbsen, Administrative Services Director; and Brenda Jensen, Development Services Director were also present.

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

Mayor Clouse and 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.

RECOGNITION/ORAL COMMUNICATIONS

Deputy City Clerk administered the oath of office to Police K-9 Officer, Murphy.

PRESENTATION FROM KEARNEY HOSPITALS PERTAINING TO THE COVID PANDEMIC

Michael Schnieders, President of CHI Health Good Samaritan; Bill Calhoun, CEO of Kearney Regional Medical Center; Dr. Robert Messbarger, City Physician; and Jeremy Eschliman, Health Director for Two Rivers Public Health Department were all present to discuss the effects COVID has had on their respective hospitals and the community.

Mr. Schnieders discussed the rise in the number of patients CHI Health Good Samaritan

has seen since Labor Day and noted the large amount of stress on the healthcare system throughout local and state levels. Mr. Schnieders stated over the past week and a half, as the number of patients has increased, the severity of symptoms and overall conditions have gotten worse when compared to previous weeks. Additionally, as patient numbers have grown, the shortage of nurses has become a major concern everywhere; nurses and hospitals are pleading with everyone to wear a mask.

Mr. Calhoun feels more needs to be done at the community level to help ensure reduction in the level of transmission of the disease. Mr. Calhoun stated a vaccine is expected soon; however, once the vaccine becomes available, it will take months to administer. In addition, the current yearly flu vaccination rate is 52%; therefore, a vaccine cannot be depended on solely to stop the spread of COVID. Mr. Calhoun also has concerns with nursing shortages and feels without community help, this problem cannot be solved.

Council Member Nikkila questioned how other hospital services and care are being impacted with the increased numbers of COVID cases hospitals are currently seeing? Mr. Schnieders stated some elective surgeries are being deferred for patients who can wait without harm.

Mayor Clouse questioned how else communities could assist, in addition to wearing masks? Mr. Schnieders stated handwashing and social distancing help along with urging people to wear a mask.

Dr. Messbarger stated the peak has not been reached yet, once it is, it will be an additional 4 to 6 weeks before there is the potential for a decline. He further stated masking, along with a strategy to combine social distancing, the 3 C's (avoid crowded places, close contacts and confined spaces), handwashing and disinfecting along with the new DHM's going into effect at midnight could help slow the spread.

Council Member Nikkila asked where it seems transmission of COVID is happening the most? Dr. Messbarger stated they are seeing super spreader events at churches that do not require masks, wherever there are big collections of people, family gatherings and in small groups where friends are gathering that don't normally spend a lot of time together. He further stated the challenging part of this illness is 40% of people show no signs that they have it and another 40% have only mild symptoms so many people feel COVID is not a big deal; however, things change when spikes occur, when it effects vulnerable people and when seemingly healthy, low risk people get very sick from it.

Council Member Nikkila also asked Dr. Messbarger's interpretation of the new DHM's in retail settings regarding standing in line for 15 minutes. Dr. Messbarger stated when individuals standing in line are wearing masks and following social distancing guidelines, there is a low risk of transmission; the risk goes up the longer people stand in line without a mask. He stated masks do not stop the viral particle of COVID; however, the virus is also in respiratory droplets and masks do stop the majority of respiratory droplets; therefore, wearing a mask along with social distancing is much safer than social distancing alone.

Council Member Moore stated she feels misinformation is one of the biggest obstacles. She is concerned about headlines stating there are plenty of beds at hospitals and feels

citizens need to hear directly from nurses regarding staff shortages as well as directly from hospitals and people who have had COVID and struggled to get over it.

Mr. Eschliman feels the Governor's new DHM's do not go far enough and also feels 100% occupancy at bars and restaurants should be adjusted. He stated the City is doing a great job getting information out but feels communities are still failing as there were 817 cases in Buffalo County on a seven-day rolling average which shows uncontrolled prevalence of the disease. There is a need to look at the culture and how to create a culture of health and wellness. Mr. Eschliman feels if the City would come forth with a policy it would take the pressure off retailers. We need to cut through the politics of the issue as it is a health and safety issue and likened it to regulating the wearing of seatbelts, drinking and smoking laws.

Mr. Eschliman stated findings showed in the state of Kansas, where the Governor made an opt out clause for County's in Kansas regarding mask mandates the County's that had a mask mandate saw a 50% reduction in disease. Mr. Eschleman stated it is not all about masks, but they are the pinnacle of creating a culture of health and safety and keeping businesses open. He foresees this coming down to closing businesses again but feels there has been great success in schools and they are a great example on how it can work.

Council Member Lear stated Council has struggled with what the City's statutory authority is and questioned Mr. Eschleman on what enforcement would look like regarding mask mandates? Mr. Eschleman stated he had Two River's legal council look into this issue; they determined it comes down to a City Ordinance. As far as enforcement is concerned, because it is a regulation, it is a situation for law enforcement; but could also be dealt with through education of the public as well. Two Rivers is trying to change behaviors and protect people from themselves and from others.

Council Member Lear questioned why Two Rivers has not issued a mask mandate? Mr. Eschleman stated Two Rivers Board of Health fully supports mask mandates in their jurisdiction. He explained the Nebraska Department of Health and Human Services (DHHS) issued a finding that stated unless Two River's has a memorandum of understanding with all political subdivisions within their counties, a mask mandate would be unenforceable.

Michael Tye, City Attorney, stated state statute created Municipal Health Board's and also provides a grant of authority for those Boards, the City of Kearney's Board of Health has the ability to evaluate regulation regarding masks and then make a recommendation to Council to consider an Ordinance; this process was what was used in Lincoln and Omaha. Mr. Tye stated in terms of enforcement it would consist of the issuance of a citation along with a fine.

Council Member Lear questioned if there could be potential legal ramifications with such an Ordinance being passed? Mr. Tye stated there is potential for litigation, but there is with any Ordinance passed.

There was discussion over the understanding of what the Governor and DHHS have stated regarding mask mandates in addition to the Two Rivers Public Health District's

signed agreements of MOU's (Memorandum of Understanding). Further discussion regarding Two River's authority regarding the issuance of a mask mandate was held and Mr. Eschleman stated early on, Two Rivers had proposed additional directed health measure changes for the City of Kearney and both the Governor and Chief Medical Officer stated they would not sign a directed health measure that contains a mask mandate.

Council Member Nikkila stated the issue whether Two River's has authority to create a mask mandate creates a governance challenge; City Council members are not medical professionals, but are instead elected officials that have to weigh both safety and freedom. He thinks it would make sense for these issues to be under Two River's authority. Mr. Morgan agreed and stated their purpose would be the Board of Health.

Council Member Lear thanked Dr. Messbarger for the information he has provided City Council as well as the input from both hospitals this evening and further thanked the staff at both hospitals. Mayor Clouse reiterated Council Member Lear's gratitude and further stated Council will work with Mr. Morgan to decide what can be done regarding the situation at hand.

Council Member Nikkila stated he feels enforcement is also something important to consider and encouraged the Board of Health to meet and consider what Council can do.

Council Member Buschkoetter stated he is a firm believer in people's right to choose; however, it has got to a point where steps need to be taken.

Moved by Buschkoetter seconded by Nikkila to request that the Board of Health meet to discuss what direction the City Council goes. All voted: Aye. Nay: None. Motion carried.

Mr. Morgan thanked Dr. Messbarger for his tireless efforts working with the City through this pandemic as well as the two hospitals represented this evening and Two Rivers. For the past six months members of the community that includes both hospitals and the school district have met weekly via phone and have come up with some great solutions for nursing homes and recommendations of what is needed from City government; the City has been giving free masks to businesses who have been requesting them. Mr. Morgan stated overall the weekly phone calls have been very beneficial and greatly appreciated.

Mayor Clouse thanked Mr. Schnieders, Mr. Calhoun, Mr. Eschleman and Dr. Messbarger for attending tonight's meeting. Council Member Nikkila further stated there is a nursing shortage even without COVID and feels as a City we should work with UNK, UNMC and both hospitals to help bring more nurses to Kearney.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

DEVELOPMENT OF TECH ONE THIRD LOCATED AT 3215 GLOBAL DRIVE PLACE

Mayor Clouse opened Public Hearings 1 through 3 on the applications submitted by Miller & Associates for the City of Kearney and Compute North NE05. Public Hearing 1 pertains to the vacation of Lot 2, Tech One Second Subdivision and rezoning of property located at 3215 Global Drive Place to District BP, Business Park District, Public Hearing 2 pertains to an amendment to the Land Use Map for property located at 3215 Global Drive Place and Public Hearing 3 pertains to the Final Plat and Subdivision Agreement for Tech One Third. At the request of the Applicant and City staff, these items have been requested to be further postponed to the November 24, 2020 City Council meeting.

Moved by Nikkila seconded by Moore to further postpone Public Hearings 1 through 3 pertaining to the development of Tech One Third located at 3215 Global Drive Place to the November 24, 2020 City Council meeting. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RECEIVE INPUT REGARDING PROGRESS OF COMPREHENSIVE DEVELOPMENT PROJECT (CDBG) 16-CD-203

Mayor Clouse opened the public hearing to receive input from the public on the progress of Community Development Block Grant (CDBG) 16-CD-203 for community/economic development activities.

Eric Hellreigel, Assistant City Manager, presented this matter to the Council. Mr. Hellreigel stated they are wrapping up another successful project that took place in central Kearney. The City received approximately \$395,000 through the Department of Economic Development that was used for sidewalk replacement and ADA curb ramp installation. Over 36,000 square feet of sidewalk was constructed, 82 linear feet of curb and gutter sections, 633 square yards of driveways and approaches and 19 additional detectable warning panels as part of the ADA ramp installation. There was a 2 to 1 match with the State with the City's portion of the funding coming from the Special Sales Tax Fund. The project came in approximately \$70,000 under budget.

Council Member Buschkoetter stated the project has made the neighborhood a lot more walkable.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing to receive input from the public on the progress of Community Development Block Grant (CDBG) 16-CD-203 for community/economic development activities. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

VACATE AN ALLEY BETWEEN AVENUE N AND AVENUE O FROM 20TH STREET TO 21ST STREET

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow

for RYGA, LLC (Gary Behlmann), to vacate a 14-foot-wide alley as it abuts Lots 1 through 14, Block 15, Whiteaker's Grove Addition to the City of Kearney, Buffalo County, Nebraska (alley between Avenue N and Avenue O from 20th Street to 21st Street) and consider Ordinance No. 8453.

Trenton Snow presented this matter to the Council. Mr. Snow stated the alley is located within a block that is completely owned by RYGA, LLC; the area currently has nothing on it. A utility locate was completed and no utilities were found in the alley; in addition, there is no traffic through the alley.

Council Member Buschkoetter questioned if the alley vacation clears the path for redesigning lot layout if the owner chose to do so? Mr. Snow stated that it could; however, this evening the vacation is for the alley only, the lot sizes will remain the same.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the application submitted by Trenton Snow for RYGA, LLC (Gary Behlmann) and introduced Ordinance No. 8453 vacating a 14-foot-wide alley as it abuts Lots 1 through 14, Block 15, Whiteaker's Grove Addition to the City of Kearney, Buffalo County, Nebraska (alley between Avenue N and Avenue O from 20th Street to 21st Street) 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. 8453. 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, Moore, Buschkoetter, Lear, Nikkila. 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. 8453 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8453 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8453 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.

VACATE AND REZONE PROPERTY LOCATED AT THE NORTHEAST CORNER OF 39TH STREET AND ANTELOPE AVENUE

Public Hearings 6 and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for TBK Transmissions, LLC, to (1) vacate all of Banner Avenue as it abuts Lots 2, 3 and 4, Block One on the West and Lot 1, Block Two on the East, all in Pete's Town & Country Addition AND Lot 1, Northeast Industrial Fourth Subdivision and consider Ordinance No. 8454 and (2) to rezone from District C-3, General Commercial District to District C-3/PD, General Commercial/Planned Development Overlay District for property described as Lot 1, Block Two, Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the West Half of the to be vacated Banner Avenue in Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Northeast corner of 39th Street and Antelope Avenue) and consider Ordinance No. 8455.

Craig Bennett, with Miller and Associates, presented this matter to the Council. Mr. Bennett demonstrated the location of the property and of Banner Avenue; Banner Avenue was platted but never improved. The future land use map showing MU-2 will not change; however, Developers are requesting that the current C-3 zoning be changed to C-3/PD. He demonstrated the location of the water main to serve the property and explained that the sanitary sewer is located halfway up Banner Avenue; therefore, when Banner Avenue, including the cul-de-sac, are vacated in their entirety, a utility easement and an ingress/egress easement for the two lots currently located along Banner Avenue, will be retained.

Mr. Bennett further demonstrated storm water drainage from the area and noted stormwater will be conveyed to the south into a storm water detention cell that will further convey it southwesterly to 39th Street. Access to the property will come off of 39th Street as well as a concrete approach onto Antelope Avenue. Mr. Bennett showed the location of the approximate 11,000 square foot building along and the garage bays as well as the rest of the proposed site plan which also included a future, proposed 40 x 40 building.

Council Member Nikkila questioned why the City allowed access onto 39th Street and thought the City would instead want to have fewer access points onto 39th Street due to the amount of traffic and speed on the street and instead would have focused more on access via Antelope Avenue? Brenda Jensen, Development Services Director stated the access off of 39th Street was already a platted access for Banner Avenue and additionally was allowed to maintain access to the two residential lots. Ms. Jensen stated there is enough separation off of the intersection for Public Works requirements.

Mayor Clouse stated he has concerns regarding the drainage that goes across to the west then goes north noting that historically it has been a terrible problem and questioned even though there had been some work done in the area, has there been any studies done?

Mr. Bennett agreed there are some challenges with the area and stated Mr. Blessing who is the landowner on the north side of the property has cleaned the ditch out; additionally, there was a pipe that was completely buried and has since been repaired as well as another pipe that collects water to the west and allows it to flow north. Mr. Bennett stated the flow/pattern that is currently there cannot be changed and noted the issue will not be improved with this project; however, tonight's project can not dump to the area without detaining the storm water. The rate at which the water is detained is at a 10-year storm which means Developers are required to create storm water detention for a 10-year storm for the increased run off between pre and post development.

Council Member Buschkoetter questioned if the proposed 40 x 40 building will serve as an outbuilding for storage? Mr. Bennett stated the building is intended to be used for storage for taller recreational vehicles.

Mr. Bennett explained the exterior façade, elevations and layout of the proposed building.

Council Member Nikkila thanked the Developers for investing in the community.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the applications submitted by Miller & Associates for TBK Transmissions, LLC and introduced Ordinance No. 8454 vacating all of Banner Avenue as it abuts Lots 2, 3 and 4, Block One on the West and Lot 1, Block Two on the East, all in Pete's Town & Country Addition AND Lot 1, Northeast Industrial Fourth Subdivision and Ordinance No. 8455 rezoning from District C-3, General Commercial District to District C-3/PD, General Commercial/Planned Development Overlay District for property described as Lot 1, Block Two, Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the West Half of the to be vacated Banner Avenue in Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Northeast corner of 39th Street and Antelope Avenue) 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 Nos. 8454 and 8455. 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, 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. Deputy City Clerk read Ordinance Nos. 8454 and 8455 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 Nikkila seconded by Moore that Ordinance Nos. 8454 and 8455 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 Nos. 8454 and 8455 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.

DEVELOPMENT OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF 39TH STREET AND ANTELOPE AVENUE

Public Hearings 6 and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for TBK Transmissions, LLC for Planned District Development Plan Approval for the proposed construction of a commercial transmission/auto repair building on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Block Two, Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the West Half of the to be vacated Banner Avenue in Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Northeast corner of 39th Street and Antelope Avenue) and consider Resolution No. 2020-174.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2020-174 approving the Planned District Development Plan Approval for the proposed construction of a commercial transmission/auto repair building on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Block Two, Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the West Half of the to be vacated Banner Avenue in Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Northeast corner of 39th Street and Antelope Avenue). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2020-174

WHEREAS, Miller & Associates for TBK Transmissions, LLC, have applied for Planned District Development Plan Approval for the construction of a commercial transmission/auto repair building on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Block Two, Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the

6th P.M., Buffalo County, Nebraska AND the West Half of vacated Banner Avenue in Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Northeast corner of 39th Street and Antelope Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates for TBK Transmissions, LLC, for Planned District Development Plan Approval for the construction of a commercial transmission/auto repair building on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 1, Block Two, Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska AND the West Half of vacated Banner Avenue in Pete's Town & Country Addition, a subdivision being part of Government Lots 4 and 5 located in the Southwest Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Northeast corner of 39th Street and Antelope Avenue) be approved subject to the following deviation:

1. The use of gravel outside the 39th Street yard.

2. The use of a private street in an ingress/egress easement.

3. The construction of the required public sidewalk along the street frontage is not required before the Certificate of Occupancy is issued for the first phase of development. The owner agrees, at their expense, to construct said sidewalk to City specifications in the future with the improvement of abutting properties or within 60 days from the time City Council deems such sidewalk necessary.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

REZONE PROPERTY LOCATED AT THE NORTHWEST CORNER OF 54TH STREET AND 2ND AVENUE

Public Hearings 8, 9 and 10 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company to rezone from District AG, Agricultural District to District C-2, Community Commercial District for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 54th Street and 2nd Avenue) and Ordinance No. 8456.

Craig Bennett with Miller and Associates presented this matter to the Council. Mr. Bennett described the location of the property that the Developers are requesting to be rezoned, platted and annexed. The Future Land Use Map currently shows the property as MU-2 which is consistent with C-2 zoning that is being requested. He reviewed the Infrastructure Feasibility Plan. The Final Plat consists of a 1.29-acre lot that has an owner self-imposed 50-foot site obstruction and building setback line which is double what is required by City Code.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company and introduced Ordinance No. 8456 rezoning from District AG, Agricultural District to District C-2, Community Commercial District for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 54th Street and 2nd Avenue) 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. 8456. 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, Moore. 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. 8456 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, Moore. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8456 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. 8456 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 OAK PARK CENTER SECOND

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company for the Final Plat and Subdivision Agreement for Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 54th Street and 2nd Avenue) and consider Resolution No. 2020-175.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2020-175 approving the Final Plat and Subdivision Agreement for Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska

(Northwest corner of 54th Street and 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2020-175

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a corner box at the Northeast Corner of the Northeast Quarter of Section 26; thence S 00°22'13" W on the East line of said Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 470.92 feet; thence N 89°37'47" W a distance of 74.52 feet to a 5/8" rebar w/cap on the West Right-of-Way line of 2nd Avenue and the POINT OF BEGINNING; thence continuing N 89°37'47" W a distance of 292.77 feet to a 5/8" rebar w/cap ; thence S 00°22'13" W parallel with said East line a distance of 191.22 feet to a mag nail in concrete joint at the Northwest corner of Lot Four (4), Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°44'43" E on the North line of said Lot 4 a distance of 295.93 feet to a 5/8" rebar w/cap on said West Right-of-Way; thence N 00°34'45" W on said West Right-of-Way line a distance of 190.65 feet to the Point of Beginning, containing 1.29 acres more or less, all 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 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

ANNEXATION OF OAK PARK CENTER SECOND

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company for the annexation of Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast

Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 54th Street and 2nd Avenue) and consider Resolution No. 2020-176.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2020-176 approving the annexation of Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Northwest corner of 54th Street and 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2020-176

WHEREAS, an Application has been submitted by Miller & Associates for Sorensen Acres, LLC, a Nebraska Limited Liability Company, for the inclusion of Oak Park Center Second, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter, Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: COMMENCING at a corner box at the Northeast Corner of the Northeast Quarter of Section 26; thence S 00°22'13" W on the East line of said Northeast Quarter, and all bearings contained herein are relative thereto, a distance of 470.92 feet; thence N 89°37'47" W a distance of 74.52 feet to a 5/8" rebar w/cap on the West Right-of-Way line of 2nd Avenue and the POINT OF BEGINNING; thence continuing N 89°37'47" W a distance of 292.77 feet to a 5/8" rebar w/cap ; thence S 00°22'13" W parallel with said East line a distance of 191.22 feet to a mag nail in concrete joint at the Northwest corner of Lot Four (4), Oak Park Center, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 89°44'43" E on the North line of said Lot 4 a distance of 295.93 feet to a 5/8" rebar w/cap on said West Right-of-Way; thence N 00°34'45" W on said West Right-of-Way line a distance of 190.65 feet to the Point of Beginning, containing 1.29 acres more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 16, 2020 on the inclusion of Oak Park Center Second within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Oak Park Center Second, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on November 10, 2020 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Oak Park Center Second shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Oak Park Center Second within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

IV. CONSENT AGENDA

Council Member Lear left the meeting at 6:55 p.m.

Moved by Moore seconded by Buschkoetter that Subsections 1 through 15 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

- 1. Approve Minutes of Regular Meeting held October 27, 2020.
- 2. Approve the following Claims:

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

Alfred Benesch \$2,872.43 co; All City Garage Door \$546.00 smcs; Amazon \$1,978.76 smcs; Ask Supply \$431.75 smcs; Avfuel \$27,709.95 smcs; Baker & Taylor \$5,826.41 smcs; Barney Building & Land \$9,386.00 smcs; Black Stone \$547.44 smcs; Bluecross Blueshield \$42,274.34 smcs; Bosselman \$22,198.20 smcs; Bridgett Lavene Consulting \$2,500.00 smcs; Brown,C \$64.20 smcs; Builders \$323.85 smcs; Cash-Wa \$183.60 smcs; Center Point Large Print \$75.96 smcs; Charlesworth Consulting \$13,500.00 smcs; City of Kearney \$573,542.68 ps,smcs; Clint Smith Graphics \$644.32 co; Coldspring \$239.40 smcs; Comm. Health Agencies \$159.00 ps; Comm. Service Fund \$87.00 ps; Compute North \$29,382.76 smcs; Conner,D \$31.00 smcs; Cornhusker Cleaning \$507.81 smcs; Credit Mgmt. \$93.92 ps; Cutter & Buck \$661.43 smcs; Cutting Edge Cleaning \$180.00 smcs; Eakes \$387.62 smcs; Ed Broadfoot \$325.00 smcs; Eigenberg,M \$100.00 smcs; Elliott Equipment \$5,838.01 smcs; Fairbanks Scales \$1,760.00 smcs; Family Advocacy \$2,000.00 smcs; Family Practice \$747.00 ps, smcs; Flaherty,T \$225.00 smcs; Gale/Cengage \$28.79 smcs; Garrett Tires \$166.50 smcs; GD Concrete \$57,478.25 co; Greater NE Cities \$1,000.00 smcs; Hanson,R \$400.00 smcs; HM Life Insurance Co \$60,476.56 smcs; Hometown Leasing \$159.08 smcs; Hydro Tech \$635.00 smcs; Hydronic Energy \$2,704.98 smcs; ICMA \$8,312.81 ps,smcs; IRS \$162,151.76 ps; Jack Lederman \$5.76 smcs; Jackson Services \$289.98 smcs; Johnson Controls \$4,326.00 smcs; Johnson Hardware Co. \$801.00 smcs; Kearney Concrete \$27,653.56 co; Kearney Crete & Block \$500.00 co; Kearney Winlectric Co \$23,518.88 co,smcs; Kelly Supply \$290.23 smcs; Konica Minolta \$1,252.22 smcs; Lawn Builders \$2,700.85 smcs; Levander's Body Shop \$2,021.96 smcs; Magic Cleaning \$5,560.00 smcs; Menards

\$267.25 smcs; id American Signal \$188.93 smcs; Midlands Contracting \$11,725.00 smcs; Midwest Connect \$4,832.12 smcs; Mieth,T \$53.50 smcs; Milco Environmental Serv. \$7,618.14 smcs; Miller & Associates \$63,275.00 co,smcs; Miller,S \$25.00 smcs; Mostek Electric \$1,740.02 smcs; NE Chapter IAAI \$75.00 smcs; NE Child Support \$1,517.12 ps; NE Dept. Revenue \$83,914.91 ps; Ne Public Health \$15.00 smcs; NE Safety & Fire \$225.00 smcs; NE Secretary of State \$30.00 smcs; NE Truck Center \$3,926.00 smcs; Nelson,R \$18.75 smcs; New Deal Deicing \$4,213.00 smcs; Nielsen Contracting \$115,618.50 co; Nielson,B \$25.44 smcs; Noller Electric \$3,444.91 smcs; Northwestern Energy \$2,096.58 smcs; Olsson Associates \$16,817.50 co; One Call Concepts \$460.30 smcs; Paramount \$31.26 smcs; Payflex \$531.25 ps,smcs; Pep Co \$50.00 smcs; Philby,J \$100.00 smcs; Presto-X \$301.00 smcs; Prime Communications \$1,153.00 smcs; Ready Mixed Concrete \$5,743.38 co; Resource Mgmt. \$1,227.60 smcs; Rheome Tree \$7,375.00 smcs; Rick's Towing \$175.00 smcs; Rodehorst,R \$84.00 smcs; S&J Construction \$50,079.75 co; S&S Striping \$250.00 co; Sapp Brothers \$34,829.53 smcs; Schmidt,L \$125.00 smcs; School District #7 \$631.45 smcs; Schwarz,G \$39.33 smcs; Schwarz,S \$75.00 smcs; See Clear Cleaning \$1,700.00 smcs; Seely,P \$22.76 smcs; Shredding Solutions \$45.00 smcs; Siteone Landscape \$3,495.54 smcs; Stitch 3 \$44.00 smcs; Stutsman \$3,843.00 smcs; Tch Central \$187.89 smcs; Travelers \$227,675.25 smcs; Trevino,J \$41.92 smcs; Tri City Concrete \$5,929.00 co; Turner Body \$60.00 smcs; Tye & Rowling \$14,604.34 smcs; Ty's Outdoor Power \$188.11 smcs; Underground Construction \$665.00 co; Union Bank & Trust \$86,018.63 ps; United Way \$497.50 ps; Van Diest Supply \$8,362.00 smcs; Vasquez,J \$75.16 smcs; Village Uniform \$194.60 smcs; Virtra \$134,856.11 co; Volaire Aviation Inc. \$2,000.00 smcs; Yeti \$11,336.40 smcs. 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. 2020-177 approving Amendment No. 3 to the Consultant Agreement between Alfred Benesch and Company and the City of Kearney for Airport Improvement Program Project No. 3-31-0045-032 in connection with the Taxiway 'A' & Connecting Taxiway Rehabilitation project at the Kearney Regional Airport for the addition of Preliminary and Bidding services and the reduction of Special (Geotechnical Investigation) and Design services to the existing contract.

RESOLUTION NO. 2020-177

WHEREAS, on November 26, 2019 the City Council adopted Resolution No. 2019-212 approving the Consultant Agreement with Alfred Benesch and Company for Airport Improvement Program Project No. 3-31-0045-032 for the reconstruction or rehabilitation of Taxiway 'A' & Connecting Taxiway Rehabilitation project at the Kearney Regional Airport which is being funded under the FAA Airport Improvement Program; and

WHEREAS, on March 10, 2020, Amendment No. 1 was approved, the amendment added the final design and bidding phases to the existing contract with Benesch; and

WHEREAS, on July 14, 2020, Amendment No. 2 was approved, the amendment added Construction Observation/Closeout/Material Testing services to the existing contract with Benesch; and

WHEREAS, Amendment No. 3, marked as Exhibit "A" attached hereto and made a part hereof by reference, is to supplement Benesch's existing contract by the addition of Preliminary and Bidding Services and reduce Special (Geotechnical Investigation) and

Design services; and

WHEREAS, the Federal Aviation Administration (FAA) has already reviewed the proposed negotiated amendment and provided verbal approval on October 29, 2020 in the execution of the amendment by the City of Kearney, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute Amendment No. 3 to the Consultant Agreement with Alfred Benesch and Company. Amendment No. 3, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

4. Accept the bids received for the 2020 Part 1 Improvements for the removal and replacement of N Avenue from 28th Street to 39th Street in connection with Paving Improvement District No. 2020-004 and adopt Resolution No. 2020-178 awarding the bid to Blessing Construction in the amount of \$2,666,533.00.

RESOLUTION NO. 2020-178

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on November 3, 2020 at 2:00 p.m. for the 2020 Part 1 Improvements for the removal and replacement of N Avenue from 28th Street to 39th Street in connection with Paving Improvement District No. 2020-004; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$2,815,376.00; and

WHEREAS, Miller & Associates and the City have recommended the bid offered by Blessing Construction, LLC of Kearney, Nebraska in the amount of \$2,666,533.00 be accepted as the lowest responsible bid for 2020 Part 1 Improvements for the removal and replacement of N Avenue from 28th Street to 39th Street in connection with Paving Improvement District No. 2020-004.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the said Engineer's recommendation is hereby accepted, that Blessing Construction, LLC be and is the lowest responsible bidder for the 2020 Part 1 Improvements for the removal and replacement of N Avenue from 28th Street to 39th Street in connection with Paving Improvement District No. 2020-004 to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction, LLC in the amount of \$2,666,533.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$2,815,376.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:

STANLEY A. CLOUSE

PEGGY EYNETICH
DEPUTY CITY CLERK

PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

5. Adopt Resolution No. 2020-179 approving Application for Payment No. 4 in the amount of \$62,135.32 submitted by The Diamond Engineering Company and approved by Oak Creek Engineering for the Cherry Avenue Pedestrian Bridge Replacement.

RESOLUTION NO. 2020-179

WHEREAS, The Diamond Engineering Co. of Grand Island, Nebraska has performed services in connection with the Cherry Avenue Pedestrian Bridge Replacement, and the City's engineer, Oak Creek Engineering, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$62,135.32 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 358,130.42</u>
Contract Sum To Date	358,130.42
Gross Amount Due	318,393.60
Retainage (10%)	<u>- 31,839.36</u>
Amount Due to Date	286,554.24
Less Previous Certificates for Payment	<u>- 224,418.92</u>
Current Payment Due	\$ 62,135.32

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 4, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

6. Adopt Resolution No. 2020-180 approving the Hangar T-385 Lease Agreement between the City of Kearney and Fred Krause for aircraft storage at the Kearney Regional Airport.

RESOLUTION NO. 2020-180

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute Hangar T-385 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Fred Krause. The Agreement, marked as Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

7. Approve the following T-Hangar Lease Agreements at the Kearney Regional Airport: Jeffrey Scott Baker, John Jacobsen and John Schulte and adopt Resolution 2020-181.

RESOLUTION NO. 2020-181

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the following T-Hangar Lease Agreements, on behalf of the City of Kearney, Nebraska:

B-09 – Jeffrey Scott Baker
C-06 – John Jacobsen
C-08 – John Schulte

The Agreements, marked Exhibits 1 through 3 inclusive, are attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
 PEGGY EYNETICH
 DEPUTY CITY CLERK

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

8. Adopt Resolution No. 2020-182 accepting and approving the funding for special projects and/or priorities that were previously delayed due to the financial uncertainty involving the COVID-19 pandemic.

RESOLUTION NO. 2020-182

WHEREAS, the City of Kearney desires to reconsider the following specific projects and priorities that were delayed as a result of the COVID-19 pandemic:

Project	Amount
Whitewater Project	\$100,000
Harmon Park Sonatorium renovation (Phase One)	\$150,000
Downtown improvements	\$150,000
Sidewalk replacement through Kearney neighborhoods	\$100,000
Collins Park splashpad	\$100,000
East Kearney Dog Park located off Avenue N on City property	\$50,000
Sustainability improvements including energy audits, improvements, and environmental	\$150,000
Quiet Zone at the Central Avenue Rail Crossing	\$200,000
Brick repairs on Downtown Kearney streets	\$150,000
Expansion and improvement to Community Wi-Fi locations	\$150,000
Buffalo County Historical Society Trails and Rails Museum’s assessments for paving, water and sewer.	\$50,500

; and

WHEREAS, as funding for the above described list of proposed projects and priorities has become available through the General Fund, it is anticipated that some projects may be completed in 2021 while others may be started in 2021, but not completed until a future date, based on matching donations/grants or project logistics.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the funding for specific projects and priorities identified as:

<u>Project</u>	<u>Amount</u>
Whitewater Project	\$100,000
Harmon Park Sonatorium renovation (Phase One)	\$150,000
Downtown improvements	\$150,000
Sidewalk replacement through Kearney neighborhoods	\$100,000
Collins Park splashpad	\$100,000
East Kearney Dog Park located off Avenue N on City property	\$50,000
Sustainability improvements including energy audits, improvements, and environmental	\$150,000
Quiet Zone at the Central Avenue Rail Crossing	\$200,000
Brick repairs on Downtown Kearney streets	\$150,000
Expansion and improvement to Community Wi-Fi locations	\$150,000
Buffalo County Historical Society Trails and Rails Museum's assessments for paving, water and sewer.	\$50,500

be accepted and are hereby approved.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

9. Adopt Resolution No. 2020-183 appointing City employee Brandon Shaffo (License No. S-1572, Class A) to continue serving until further notice as the City Street Superintendent with regard to requirements and duties with the Nebraska Department of Transportation as he has served in this capacity since November 6, 2015.

RESOLUTION NO. 2020-183

WHEREAS, State of Nebraska Statutes, sections 39-2302, and 39-2511 through 39-2515 details the requirements that must be met in order for a municipality to qualify for an annual Incentive Payment; and

WHEREAS, The State of Nebraska Department of Transportation (NDOT) requires that each incorporated municipality must annually certify (by December 31st of each year) the appointment of the City Street Superintendent to the NDOT using the Year-End Certification of City Street Superintendent; and

WHEREAS, The NDOT requires that such certification shall also include a copy of the documentation of the city street superintendent appoint, i.e., meeting minutes; showing the appointment of the City Street Superintendent by their name as it appears on their License (if applicable), their License Number and Class of License (if applicable), and type of appointment, i.e., employed, contract (consultant, or interlocal agreement with another incorporated municipality and/or county), and the beginning date of the appointment; and

WHEREAS, The NDOT also requires that such Year-End Certification of City Street Superintendent shall be signed by the Mayor and shall include a copy of a resolution by the governing body authorizing the signing of the Year-End Certification of City Street Superintendent by the Mayor.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor is hereby authorized to sign the attached Year-End Certification of City Street Superintendent.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

10. Adopt Resolution No. 2020-184 calling for the redemption of Combined Utilities Revenue and Refunding Bonds, Series 2011, in the principal amount of \$190,000.

RESOLUTION NO. 2020-184

BE IT RESOLVED AND ENACTED BY THE MAYOR AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, as follows:

Section 1. That the following bonds, in accordance with their option provisions, are hereby authorized to be irrevocably called for redemption on December 15, 2020, after which date interest on the bonds will cease:

Combined Utilities Revenue and Refunding Bonds, Series 2011, dated March 25, 2011, in the outstanding principal amount of \$190,000, numbered as they are shown on the books and records of the Paying Agent and Registrar, maturing in the principal amount and bearing CUSIP numbers as follows:

<u>Principal Amount</u>	<u>Maturity Date December 15</u>	<u>Interest Rate</u>	<u>CUSIP</u>
\$30,000	2021	3.90%	486894 JD1
30,000	2022	4.10	486894 JE9
30,000	2023	4.25	486894 JF6
30,000	2024	4.40	486894 JG4
35,000	2025	4.50	486894 JH2
35,000	2026	4.60	486894 JJ8

Said bonds are hereinafter referred to as the "Refunded Bonds."

Section 2. The Refunded Bonds are to be paid off at the office of the Treasurer of the City of Kearney, Nebraska, as paying agent and registrar (the "Paying Agent and Registrar").

Section 3. A true copy of this Resolution shall be filed by the City Clerk with the Paying Agent at least thirty (30) days prior to call date and the City Treasurer is hereby instructed to take appropriate action to mail notice to registered owners at least thirty (30) days prior to the call date.

PASSED AND APPROVED this 10th day of November, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

11. Adopt Resolution No. 2020-185 approving Application for Payment No. 2 in the amount of \$88,102.53 submitted by Blessing Construction and approved by Miller & Associates for the 2020 Part 7 Improvements; Downtown Asphalt project.

RESOLUTION NO. 2020-185

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2020 Part 7 Improvements for the resurfacing construction of 24th Street from 2nd Avenue to Central Avenue, 23rd Street from 2nd Avenue to 1st Avenue, 22nd Street from 2nd Avenue to Central Avenue, 21st Street from 2nd Avenue to 1st Avenue, North Railroad Street from 5th Avenue to Central Avenue, 1st Avenue from 25th Street to 21st Street, and E Avenue from 25th Street to 23rd Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$88,102.53 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 447,590.00</u>
Contract Sum To Date	447,590.00
Gross Amount Due	423,328.00
Retainage (5%)	<u>- 21,166.40</u>
Amount Due to Date	402,161.60
Less Previous Certificates for Payment	<u>- 314,059.07</u>
Current Payment Due	\$88,102.53

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 2, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

12. Adopt Resolution No. 2020-186 approving Change Order No. 2 showing a decrease in the amount of \$16,537.24, Application for Payment No. 3-Final in the amount of \$49,085.93 and accept the Certificate of Substantial Completion submitted by J.I.L. Asphalt Paving Company and approved by Miller & Associates for 2020 Part 4 Improvements for the removal and replacement of asphalt roadway of 20th Street/Q Avenue/Coal Chute Road from M Avenue east to the City limit.

RESOLUTION NO. 2020-186

WHEREAS, J.I.L. Asphalt of Grand Island, Nebraska has performed services in connection with the 2020 Part 4 Improvements for the removal and replacement of asphalt roadway of 20th Street/Q Avenue/Coal Chute Road from M Avenue east to the City limit, 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 \$16,537.24 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, J.I.L. Asphalt and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$49,085.93 as shown on Exhibit "B"

attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 466,284.70
Change Order No. 1 (07-28-2020)	0.00
Change Order No. 2 (11-10-2020)	<u>- 16,537.24</u>
Contract Sum To Date	449,747.46
Gross Amount Due	449,747.46
Retainage (0%)	<u>- 0.00</u>
Amount Due to Date	449,747.46
Less Previous Certificates for Payment	<u>- 400,661.53</u>
Current Payment Due	\$49,085.93

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 15, 2020, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit "A", Application and Certificate for Payment No. 3-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 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

13. Adopt Resolution No. 2020-187 approving Change Order No. 1 showing an increase in the amount of \$13,498.00 and Application and Certificate for Payment No. 2 in the amount of \$104,901.74 submitted by Morten Construction, LLC and approved by Miller & Associates for the 2020 Trail Restoration.

RESOLUTION NO. 2020-187

WHEREAS, Morten Construction, LLC of Kearney, Nebraska has performed services in connection with the 2020 Trail Restoration, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$13,498.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Morten Construction, LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$104,901.74 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows

Original Contract Sum	\$ 201,450.00
Change Order No. 1 (11-10-2020)	<u>+ 13,498.00</u>
Contract Sum To Date	214,948.00
Gross Amount Due	214,948.00
Retainage (2%)	<u>- 4,298.96</u>
Amount Due to Date	210,649.04
Less Previous Certificates for Payment	<u>- 105,747.30</u>
Current Payment Due	\$ 104,901.74

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A" and Application and Certificate for Payment No. 2, as shown on Exhibit "B"

be and are hereby accepted and approved.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2020.

ATTEST:
PEGGY EYNETICH
DEPUTY CITY CLERK

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

14. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Application for Reconstruction submitted by World Theatre Foundation, dba World Theatre in connection with their Class I-100700 liquor license located at 2318 Central Avenue.

15. Approve the purchase of a Genie TZ50 Hybrid Towable Boom Lift in the amount of \$48,445.00 submitted by Nebraska Machinery under the Sourcewell Cooperative Purchasing Contract program to be used in the Park & Recreation Department.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

SECOND READING OF ORDINANCE NO. 8450

Council Member Buschkoetter introduced the second reading of Ordinance No. 8450 annexing the following: a tract of land being part of the South Half of the Southwest Quarter of Section 21, part of the Northwest Quarter and part of the West Half of the Northeast Quarter of Section 28, part of the East Half of the Northeast Quarter of Section 29, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, Lots 1 and 2, Patriot First Subdivision, a Subdivision being part of the East Half of the Northwest Quarter and part of the West Half of the Northeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and including all of those parts of Cherry Avenue, Avenue A (aka Airport Road), Avenue B (aka Piper Avenue) and 56th Street, lying within the above described lands all in Buffalo County, Nebraska (located South of 56th Street between the Kearney East Expressway and Airport Road, West of Airport Road, North and West of Cessna Street, West of Piper Avenue, North of Patriot Boulevard, East of Cherry Avenue and Kearney East Expressway), and moved that Ordinance No. 8450 be placed on second reading. Council Member Clouse seconded the motion to place on second reading. 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, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried. Deputy City Clerk read Ordinance No. 8450 on second reading.

ORDINANCE NO. 8450

An Ordinance Of The City Of Kearney, Nebraska, To Extend The Boundaries And Include Within The Corporate Limits Of, And To Annex To The City Of Kearney, Nebraska A Tract Of Land Being Part Of The South Half Of The Southwest Quarter

Of Section 21, Part Of The Northwest Quarter And Part Of The West Half Of The Northeast Quarter Of Section 28, Part Of The East Half Of The Northeast Quarter Of Section 29, All In Township 9 North, Range 15 West Of The 6th P.M., Buffalo County, Nebraska, Lots 1 And 2, Patriot First Subdivision, A Subdivision Being Part Of The East Half Of The Northwest Quarter And Part Of The West Half Of The Northeast Quarter Of Section 28, Township 9 North, Range 15 West Of The 6th P.M., Buffalo County, Nebraska And Including All Of Those Parts Of Cherry Avenue, Avenue A (Aka Airport Road), Avenue B (Aka Piper Avenue) And 56th Street, Lying Within And Abutting The Above Described Lands, Entirely Discussed And Described In The Metes And Bounds Legal Provided In Ordinance No. 8450, To Provide Service Benefits Thereto; To Confirm Zoning Classifications; To Repeal All Ordinances And Resolutions Or Parts Thereof In Conflict Herewith; And To Provide For Publication In Pamphlet Form By Authority Of The City Council And Effective Date Of This Ordinance.

VII. REPORTS

Council Member Buschkoetter noted it has been a great fall season for athletics in the City of Kearney

Council Member Moore stated that the entire number of deaths in Nebraska equal the entire population of Mayor Clouse's hometown and Council Member Moore's hometown so it is a big deal and she is pleased that Council heard from the tonight's speakers.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 7:01 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Moore. Nay: None. Lear absent. Motion carried.

ATTEST:

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

**PEGGY EYNETICH
DEPUTY CITY CLERK**