

*Kearney, Nebraska  
December 15, 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 December 15, 2020 in the Council Chambers at City Hall. Present 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; Tony Jelinek, Director of Utilities; and Bryan Waugh, Chief of Police, 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.

### **ADMINISTER THE OATH OF OFFICE**

City Clerk administered the Oath of Office to Council Member Jonathan Nikkila.

### **ORAL COMMUNICATIONS/RECOGNITION**

### **RECOGNITION OF THE KEARNEY WASTEWATER TREATMENT PLANT**

The Kearney Wastewater Treatment Plant was recently awarded the 2020 Scott Wilber Outstanding Facility which is given for outstanding operation and maintenance of a wastewater treatment facility. Tony Jelinek, Director of Utilities presented a plaque to Clint Smith, Superintendent of the Kearney Wastewater Facility for the 2020 Scott Wilber Outstanding Facility. This award is given to treatment plants for outstanding maintenance and operational aspects. Mr. Jelinek thanked Mr. Smith and the Kearney Wastewater

Treatment Plant crew for their efforts put forth in order to receive this well-deserved award.

Mayor Clouse noted the receipt of this award is really outstanding as this award was earned during the timeframe that included the flood in Kearney. Council Member Jonathan Nikkila questioned who grants the award? Mr. Smith stated the award was received from the Nebraska Environmental Water Association (NWA), an Association that the Kearney Wastewater Treatment Plant is a member of. Council Member Nikkila noted that water and sewer are some of the most fundamental parts of City government and few people talk about them unless there is a problem; Council Member Nikkila stated he never hears anything from the community which means they are doing a great job and he is grateful for all they do.

Mayor Clouse thanked the entire crew from the Kearney Wastewater Treatment Plant.

### **REQUEST TO DISCUSS AIRPORT OPERATIONS**

Due to current weather conditions, Mr. William Ressler requested cancellation of his request to discuss airport operations, specifically the newest Fixed Based Operator (FBO) at the Kearney Regional Airport, Kearney Flight Services.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

None.

## **IV. CONSENT AGENDA**

The Consent Agenda was amended on Monday, December 14, 2020 to add an additional agricultural lease that has been received for the Kearney Regional Airport. This pertains to Item 4 on the Consent Agenda.

Moved by Nikkila seconded by Moore that Subsections 1 through 13 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held December 8, 2020.
2. Approve the following Claims:

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

Aurora Coop-\$51.52-smcs; Amazon-\$2,567.72-smcs; Ask Supply-\$532.11-smcs; Baker & Taylor-\$1,972.20-smcs; Bamford-\$250.00-smcs; Beacon Observer-\$26.00-smcs; Beehive Industries-\$11,546.00-smcs; Bluecross Blueshield-\$37,709.45-smcs; Books Galore-\$4,665.82-smcs; Bosselman-\$24,548.26-smcs; Buffalo Co. Attorney-\$18,750.00-smcs; Buffalo Co. Register-\$58.00-smcs; Buffalo Co. Sheriff-\$456.00-smcs; Cash Wa-\$54.70-smcs; Central Square-\$1,400.00-smcs; Central States Wire-\$204.90-smcs; Child's World-\$1,097.80-smcs; City of Ky-\$3,301.01-smcs; City of Ky CRA-\$88,383.00-smcs; City Plumbing-\$76.20-smcs; Comm Act Part-Mid NE-\$706.50-smcs; Compasscom-\$450.00-smcs; Core & Main-\$7,999.32-smcs; Cornhusker Cleaning-\$66.78-smcs; Covert Track-\$600.00-smcs; Cummins-\$303.54-smcs; Cutting Edge Cleaning-\$180.00-smcs; DPC Industries-\$6,944.89-smcs; Eakes-\$1,525.65-smcs; Elliott Equipment-\$2,819.22-smcs; ESChat-\$164.52-smcs; ESRI-\$12,437.53-smcs; Eustis Body Shop-\$200.00-smcs; Faith Christian School-\$10,000.00-smcs; FARO-\$1.84-smcs; Fearnley,M-\$91.19-smcs; First National-\$135.00-smcs; Garrett Tires-\$9,072.20-smcs; Goodwin Tucker-\$800.00-co; Graham Tire-\$113.00-smcs; Grimes,A-\$100.00-smcs; Home Depot-\$384.20-smcs; J&A Traffic-\$1,312.50-smcs; Jack Lederman-\$2,337.61-smcs; Jackson Services-\$293.84-smcs; Ky Concrete-\$12,079.04-co; Ky Hub-\$3,395.17-smcs; Ky Towing-\$300.00-smcs; Ky Winlectric-\$24,640.01-smcs,co; Killough,A-\$50.00-smcs; Konica Minolta-\$857.58-smcs; Lerner Publications-\$3,101.46-smcs; Mac Tools-\$61.10-smcs; Magic Cleaning-\$3,690.00-smcs; Marlatt Machine-\$11,747.55 -co; Midwest Connect-\$564.26-smcs; Minden Machine-\$5,554.32-smcs; Mirror Image-\$196.48-smcs; Molina,M-\$18.19-smcs; Mostek Electric-\$2,669.76-smcs; Municipal Emergency-\$291.17-ps; Murphy Tractor-\$5,764.10-smcs; NE Dept Environmental-\$150.00-smcs; NE Dept. Veterans'-\$20,000.00-smcs; NE Machinery-\$2,629.50-smcs; Nielsen Contracting-\$148,845.29-co; Northwestern Energy-\$5,664.00-smcs; One Call Concepts-\$312.41-smcs; Paramount-\$31.26-smcs; Ping-\$472.60-smcs; Ready Mixed Concrete-\$5,204.13-co; Resource Mgmt.-\$861.60-smcs; Rourke Educational Media-\$1,076.80-smcs; RR Donnelley-\$422.92-smcs; Sandry Fire Supply-\$29,715.00-co; Sapp Brothers-\$13,051.06-smcs; School District #7-\$13,129.00-smcs; See Clear Cleaning-\$2,050.00-smcs; Sherwin Williams-\$66.48-smcs; Silverstone Group-\$5,155.92-smcs; Steinbrink-\$400.00-smcs; Stitch 3, LLC-\$14.00-smcs; Stutsman-\$3,294.00-smcs; Suburban Fire-\$2,413.00-ps; US Postal Service-\$148.00-smcs; Walters Electric-\$3,600.00-smcs; Payroll Ending 12/05/2020 -- \$ 511,968.81. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Receive recommendations of Planning Commission and set January 12, 2021 at 5:30 p.m. as date and time for hearing on those applications where applicable.

4. AMENDED ITEM. Adopt Resolution No. 2020-197 approving the following Agricultural Leases at the Kearney Regional Airport from January 1, 2021 until December 31, 2021: B & B Bendfeldt Farms (176.6 irrigated acres, 56 dry land soybean acres, 27 acres dry land); B & B Bendfeldt Farms and Brett Bendfeldt (159.12 acres of gravity irrigated cropland and 60 acres of center pivot irrigated cropland); Don Hendrickson (193.5 irrigated acres and 57 gravity irrigated acres); Lee Potter (62 irrigated acres), David Fleming (364.36 non-irrigated acres) and Ron Hendrickson (75 dry land hay acres).

**RESOLUTION NO. 2020-197**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed on behalf of the City of Kearney, Nebraska to execute the following Agriculture Lease Agreements on property located at the Kearney Regional Airport from January 1, 2021 until December 31, 2021:

- B & B Bendfeldt Farms and Brenda Bendfeldt (176.6 irrigated acres) – annual cash rent is \$39,585.50;
- B & B Bendfeldt Farms and Brenda Bendfeldt (56 dry land soybean acres) – annual cash rent is \$5,096;
- B & B Bendfeldt Farms and Brenda Bendfeldt (27 dry land cropland acres) – annual cash rent is \$2,457;
- B & B Bendfeldt Farms and Brett Bendfeldt (159.12 acres of gravity irrigated cropland and 60 acres of center pivot irrigated cropland) – annual cash rent is \$46,419.60;
- David R. Fleming (364.36 non-irrigated acres) – annual cash rent is \$33,156.76;
- Don Hendrickson, dba Agrident, Inc. (193.5 irrigated acres) – annual cash rent is \$39,667.50;
- Don Hendrickson, dba Agrident, Inc. (57 gravity irrigated acres) – annual cash rent is \$11,685; and
- Lee Potter (62 irrigated acres) – annual cash rent is \$12,710; and
- Ron Hendrickson, dba Agrident, Inc. (75 dry land hay acres) – annual cash rent is \$4,275.

A copy of the Agreements, marked Exhibits “1”, “2”, “3”, “4”, “5”, “6”, “7”, “8” and “9” are attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

5. Adopt Resolution No. 2020-198 approving the Use and Operations Agreement for Annex A in Hangar T-926 located at the Kearney Regional Airport between the City of Kearney and Apollo Med Flight.

**RESOLUTION NO. 2020-198**

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 Use and Operations Agreement on behalf of the City of Kearney with Apollo Med Flight for Annex

A in Hangar T-926 located at the Kearney Regional Airport, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

6. Approve the Plans and Specifications for the Wastewater Treatment Plant Phase II; Vehicle Storage Building and set the bid opening date for January 19, 2021 at 2:00 p.m.

7. Approve the Plans and Specifications for the 2021 Part 3 Improvements; 56th Street/Cherry Avenue Sanitary Sewer Infrastructure set the bid opening date for January 19, 2021 at 2:00 p.m.

8. Approve the Residential Utility Connection Agreement for 5531 West Saddle Horse Drive between the City of Kearney and Jeffrey and Sonya Buskirk to extend public water and sanitary sewer mains infrastructure to Lot 13, Block Two, O'Brien Subdivision, Buffalo County, Nebraska and adopt Resolution No. 2020-199.

**RESOLUTION NO. 2020-199**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Residential Utility Connection Agreement for 5531 West Saddle Horse Drive" between the City of Kearney and Jeffrey and Sonya Buskirk extending public water and sanitary sewer mains infrastructure to Lot 13, Block Two, O'Brien Subdivision, 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 President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

9. Adopt Resolution No. 2020-200 setting the interest rate, providing equal annual installments, providing the interest rate for delinquent installments for special assessments for 2021 with regard to the creation of paving, water and sanitary sewer districts; and to establish a policy on reimbursing developers for infrastructure costs for Developer Constructed Infrastructure Agreements.

**RESOLUTION NO. 2020-200**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. Streets that have been improved by paving, curbing and guttering and incidental work, and/or the installation of water mains, and/or the installation of sanitary sewer mains shall be assessed to lots and parcels of ground where specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. All special assessments provided for by the laws of the state shall become due fifty (50) days after the date of levy and may be paid within that time without interest, but if not so paid, each installment, except the first, shall draw interest at the rate of 4.0 per centum per annum from the date the Board of Equalization convened until the same become delinquent. This interest rate is effective for the 2021 calendar year.

Section 3. Such assessments shall become delinquent in equal annual installments as follows:

Paving	Water	Sanitary Sewer
1/10th fifty days after date of Board of Equalization	1/5th fifty days after date of Board of Equalization	1/5th fifty days after date of Board of Equalization
1/10th one year after date of Board of Equalization	1/5th one year after date of Board of Equalization	1/5th one year after date of Board of Equalization
1/10th two year after date of Board of Equalization	1/5th two year after date of Board of Equalization	1/5th two year after date of Board of Equalization
1/10th three year after date of Board of Equalization	1/5th three year after date of Board of Equalization	1/5th three year after date of Board of Equalization
1/10th four year after date of Board of Equalization	1/5th four year after date of Board of Equalization	1/5th four year after date of Board of Equalization
1/10th five year after date of Board of Equalization		
1/10th six year after date of Board of Equalization		
1/10th seven year after date of Board of Equalization		
1/10th eight year after date of Board of Equalization		
1/10th nine year after date of Board of Equalization		

Such assessments shall become delinquent in equal annual installments over such period of years as set forth above. Delinquent installments shall bear interest at the rate specified in Section 45-104.01 of the Nebraska Revised Statutes, which is currently set at fourteen percent, and such rate may from time to time be adjusted by the Legislature, until paid and shall be collected in the usual manner for the collection of general taxes and shall be subject to the same penalties.

Section 4. Pursuant to Section 9-1310 of the Kearney City Code, the City will reimburse Developers for infrastructure costs considered the responsibility of the City as outlined in paragraphs 1, 2, 3, and 4 of Section 57-103(B) of the Kearney City Code based on the most recent unit price bids received by the City, and approved by the City Council, for similar projects. The attached schedule of unit price bids is hereby approved by the City Council and shall be used by the City Engineer to calculate infrastructure reimbursements to Developers for qualified Developer Constructed Infrastructure Agreements approved by the City Council during the 2021 calendar year. Developers will

not be reimbursed for infrastructure items not included on the attached schedule of unit price bids.

PASSED AND APPROVED THIS 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**10.** Adopt Resolution No. 2020-201 approving Application for Payment No. 1-Final in the amount of \$56,060.00 submitted by American Fence Company of Western Nebraska and approved by City staff for construction of the 2020 Impound Lot Fencing.

**RESOLUTION NO. 2020-201**

WHEREAS, American Fencing Company of Western Nebraska of Grand Island, Nebraska has performed services in connection with the 2020 Impound Lot Fencing, and City staff, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$56,060.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$56,060.00</u>
Less Previous Certificates for Payment	<u>0.00</u>
Current Payment Due	\$56,060.00

WHEREAS, the Contractor has performed all of the required construction to complete the 2020 Impound Lot Fencing project and final payment is now due.

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. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**11.** Approve the request to waive future assessments for sanitary sewer connection fees to serve Lot 1, BT Acres Subdivision, a subdivision being part of the Southwest Quarter of the Southeast Quarter of Section 20, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and adopt Resolution No. 2020-202.

**RESOLUTION NO. 2020-202**

WHEREAS, on January 9, 2018, City Council passed Resolution No. 2018-4 approving the Final Plat and Subdivision Agreement for BT Acres Subdivision, a subdivision within Buffalo County, Nebraska between the City of Kearney and Charlotte Brandt Revocable Trust, by Kathryn L. Panas, Successor Trustee (referred to as "Owner"); and

WHEREAS, part of the Subdivision Agreement stated the Owner will not protest in the future any annexation or districts that maybe associated with this property and the land surrounding; and

WHEREAS, following approval of Resolution No. 2018-4, Lot 1 of BT Acres Subdivision was sold to Farm Credit Services of America who has since installed a private septic system without any monetary assistance available for public sewer connection; and

WHEREAS, as a result of the installation of a private septic system to serve Lot 1 of BT Acres Subdivision, the City of Kearney has agreed to waive the assessments for any future sanitary sewer connection fees for Lot 1 of BT Acres Subdivision as there was not monetary assistance available for public sewer connection at the time of the property being developed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that the City Council hereby approves and grants the waiver of any future assessments of sanitary sewer connection fees to serve Lot 1 of BT Acres Subdivision, a subdivision within Buffalo County, Nebraska.

PASSED AND APPROVED THIS 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

12. Approval the request to dissolve Conditional Use Permit No. 2005-03 due to the superseding of Conditional Use Permit No. 2019-06 for property located west of Yanney Avenue, north of Interstate 80 owned by Turkey Creek Properties, LLC.

13. Adopt Resolution No. 2020-203 approving Application for Payment No. 2 in the amount of \$134,059.31 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for 2020 Part 6 Improvements for 22nd Avenue and 6th Street in connection with Water District Nos. 2020-592 and 2020-593 and Sanitary Sewer Improvement District No. 2020-528 (Bid A, Water/Sewer).

**RESOLUTION NO. 2020-203**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with 2020 Part 6 Improvements for 22nd Avenue and 6th Street in connection with Water District Nos. 2020-592 and 2020-593 and Sanitary Sewer Improvement District No. 2020-528 (Bid A, Water/Sewer), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$134,059.31 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 331,180.00</u>
Contract Sum To Date	331,180.00
Gross Amount Due	283,800.90
Retainage (10%)	<u>- 28,380.09</u>
Amount Due to Date	255,420.81
Less Previous Certificates for Payment	<u>121,361.50</u>
Current Payment Due	\$ 134,059.31

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 15TH DAY OF DECEMBER, 2020.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8458 CREATING SANITARY SEWER CONNECTION DISTRICT NO. 2020-1**

Council Member Moore introduced Ordinance No. 8458 creating Sanitary Sewer Connection District No. 2020-1 commencing at the Northwest Corner of Lot 1, BT Acres Subdivision, thence East 743.96 feet, thence South 1,585.73 feet, thence West 283 feet, thence South 44.38 feet, thence West 843.83 feet, thence North 495.14 feet, thence East 66 feet, thence Northeasterly an arc distance of 158.21 feet, thence East 208.61 feet, thence North 990.50 feet to the point of beginning, all in Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules for Ordinance No. 8458. 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, 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. City Clerk read Ordinance No. 8458 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 Lear seconded by Buschkoetter that Ordinance No. 8458 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. 8458 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**

None.

**VII. REPORTS**

Council Members wished everyone a Merry Christmas and Happy New Year.

**VIII. ADJOURN**

Moved by Buschkoetter seconded by Clouse that Council adjourn at 5:38 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

**ATTEST:**

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

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