

*Kearney, Nebraska
March 9, 2021
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 March 9, 2021 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Tami James Moore and Jonathan Nikkila. Absent: Bruce Lear. Michael Tye, City Attorney; Wendell Wessels, Director of Finance; 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

Boy Scouts from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There were no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

AMENDMENT TO LAND USE MAP FOR PROPERTY LOCATED EAST OF 11TH AVENUE BETWEEN 50TH STREET AND 55TH STREET

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Grand West LLC, a Nebraska Limited Liability Company (c/o Kent Holsten) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Neighborhood Mixed Use and Low Density Residential to Medium Density Residential property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street) and consider Resolution No. 2021-31.

Craig Bennett presented this matter to the Council. Mr. Bennett showed the location of the property and the property's correlation to City limits. The property includes 23.83 acres and will be consistent with surrounding zoning if the amendment to the LUM and the request for rezoning is approved. Mr. Bennett showed the future flow of the property and noted when future development occurs, it will need to account for allowing 52nd Street through it.

Council Member Jonathan Nikkila questioned if any discussion had occurred in development meetings as to when a traffic signal might be added at 56th Street and 11th Avenue? Mr. Bennett stated discussion has occurred and there are agreements in place addressing this issue when the area warrants the traffic signal. Mr. Bennett stated there are other collector streets in the area that will lead to other arterials and assist with traffic in the area.

Council Member Nikkila commented the development of the collector streets to arterials could take awhile to occur due to the amount of development from the area being discussed today to 2nd Avenue. Mr. Bennett agreed due to the amount of undeveloped area, but noted the Developer has constructed a connection due to the area having only one ingress/egress out. Mr. Bennett likened the area to the location north of Lighthouse Point on Country Club Lane where Good Samaritan Lutheran Village constructed an extension to Country Club Lane that is located outside of City limits in an easement. Mr. Bennett feels the City, along with cooperation from Developers, has done a great job of adding circulation when it is needed and before land is part of City limits.

Mayor Clouse reiterated that annexation is not included on the Agenda. Mr. Bennett agreed and stated the Developer is only requesting amendment to the LUM and for the property to be rezoned to R-3.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2021-31 approving the application submitted by Miller & Associates for Grand West LLC,

a Nebraska Limited Liability Company (c/o Kent Holsten) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Neighborhood Mixed Use and Low Density Residential to Medium Density Residential property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street). Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2021-31

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being a part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of Section 26; thence S 00°21'33" W on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 664.76 feet to the Southeast corner of Lot 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 00°21'33" W on said East line of the Northwest Quarter a distance of 1275.06 feet to the Northeast corner of Outlot B, Fountain Hills Eighth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 71°56'06" W on the Northerly line of said Outlot B a distance of 390.63 feet; thence N 87°42'12" W continuing on said Northerly line of Outlot B a distance of 222.08 feet; thence S 67°29'49" W continuing on said Northerly line of Outlot B a distance of 101.35 feet to the Northwest corner of said Outlot B and the East line of 11th Avenue as shown and dedicated on Fountain Hills Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 25°29'29" W on said East line of 11th Avenue a distance of 92.45 feet to the Northerly line of said 11th Avenue and the Easterly line of a 66.00 foot wide Permanent Right of Way & Utility Easement as shown on Document #2017-06550 recorded in the Buffalo County Register of Deeds Office; thence N 25°29'29" W continuing on said Easterly line a distance of 201.79 feet; thence Northerly continuing on said Easterly line and on a tangent curve to the Right having a central angle of 18°00'18", a radius of 267.00 feet, an arc length of 83.90 feet, and a chord bearing N 16°29'20" W a distance of 83.56 feet; thence N 07°29'11" W continuing on said Easterly line a distance of 698.55 feet to the Southeast corner of 11th Avenue as shown and dedicated on Fountain Hills Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 07°27'02" W on the East line of said 11th Avenue a distance of 184.23 feet to the Southwest corner of said Lot 2, Fountain Hills Seventh Addition; thence S 87°46'48" E on the South line of Lot 2 a distance of 960.84 feet to the Point of Beginning, containing 23.83 acres more or less, all in Buffalo County, Nebraska from Neighborhood Mixed Use and Low Density Residential to Medium Density Residential; and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by

the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Neighborhood Mixed Use and Low Density Residential to Medium Density Residential the use classification for a tract of land being a part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of Section 26; thence S 00°21'33" W on the East line of said Northwest Quarter, and all bearings contained herein are relative thereto, a distance of 664.76 feet to the Southeast corner of Lot 2, Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska and the POINT OF BEGINNING; thence continuing S 00°21'33" W on said East line of the Northwest Quarter a distance of 1275.06 feet to the Northeast corner of Outlot B, Fountain Hills Eighth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 71°56'06" W on the Northerly line of said Outlot B a distance of 390.63 feet; thence N 87°42'12" W continuing on said Northerly line of Outlot B a distance of 222.08 feet; thence S 67°29'49" W continuing on said Northerly line of Outlot B a distance of 101.35 feet to the Northwest corner of said Outlot B and the East line of 11th Avenue as shown and dedicated on Fountain Hills Tenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 25°29'29" W on said East line of 11th Avenue a distance of 92.45 feet to the Northerly line of said 11th Avenue and the Easterly line of a 66.00 foot wide Permanent Right of Way & Utility Easement as shown on Document #2017-06550 recorded in the Buffalo County Register of Deeds Office; thence N 25°29'29" W continuing on said Easterly line a distance of 201.79 feet; thence Northerly continuing on said Easterly line and on a tangent curve to the Right having a central angle of 18°00'18", a radius of 267.00 feet, an arc length of 83.90 feet, and a chord bearing N 16°29'20" W a distance of 83.56 feet; thence N 07°29'11" W continuing on said Easterly line a distance of 698.55 feet to the Southeast corner of 11th Avenue as shown and dedicated on Fountain Hills Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 07°27'02" W on the East line of said 11th Avenue a distance of 184.23 feet to the Southwest corner of said Lot 2, Fountain Hills Seventh Addition; thence S 87°46'48" E on the South line of Lot 2 a distance of 960.84 feet to the Point of Beginning, containing 23.83 acres more or less, all in Buffalo County, Nebraska.

PASSED AND APPROVED THIS 9TH DAY OF MARCH, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

REZONE PROPERTY LOCATED EAST OF 11TH AVENUE BETWEEN 50TH STREET AND 55TH STREET

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Miller & Associates for Grand West LLC, a Nebraska Limited Liability Company (c/o Kent Holsten) to rezone from District AG, Agricultural District to District R-3, Urban Residential Multi-Family District (Medium Density) for property described as a tract of land being part of the

Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th Street) and consider Ordinance No. 8469.

There was no one present in opposition to this hearing.

Moved by Moore to close the public hearing on the application submitted by Miller & Associates for Grand West LLC, a Nebraska Limited Liability Company (c/o Kent Holsten) and introduced Ordinance No. 8469 to rezone from District AG, Agricultural District to District R-3, Urban Residential Multi-Family District (Medium Density) for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (East of 11th Avenue between 50th Street and 55th 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 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. 8469. 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, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. 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. 8469 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8469 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8469 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.

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held February 23, 2021.
2. Approve the following Claims:

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

Alfred Benesch \$79,548.14 co; All City Glass \$82.50 smcs; Amazon \$1,445.83 smcs; Anderson Bros \$398.60 smcs; Ask Supply \$1,343.87 smcs; Avfuel \$38,109.37 smcs; Baker & Taylor \$3,792.04 smcs; BD Construction \$4,192.71 smcs; Bibliotheca \$9,495.00 smcs; Blackstone Publishing \$2,377.43 smcs; Blessing \$9,790.00 smcs; BlueCross BlueShield \$156,187.93 smcs; Bosselman \$23,631.68 smcs; Bridgett Lavene Consulting \$5,833.00 smcs; Brummels,D \$63.52 smcs; uffalo Co Sheriff \$2,115.00 smcs; C.A.N.D.O. \$3,500.00 smcs; Carquest \$117.91 smcs; Cash-Wa \$327.92 smcs; Center Point \$75.96 smcs; Central Hyd Systems \$2,514.00 smcs; Central NE Bobcat \$5,387.48 co; Cigna \$7,962.75 smcs; City of Kearney \$433,689.95 smcs,ps; Cold Spring \$708.75 smcs; Comm. Action of Mid NE \$270.00 smcs; Comm. Health Agencies \$58.00 ps; Community Service Fund \$52.00 ps; Compasscom \$225.00 smcs; Compute North \$43,063.87 smcs; Credit Management \$95.72 ps; Critical Hire \$150.00 smcs; Cutting Edge Cleaning \$192.50 smcs; Dan's Plumbing \$118.50 smcs; Day, Doris J \$47.23 smcs; DHHS Drinking Water \$80.00 smcs; Dish \$109.12 smcs; Drivers License Guide \$31.95 smcs; Eakes \$22,273.40 smcs; EMC Insurance \$7,987.26 smcs; ESO Solutions \$4,815.25 smcs; Excel Appraisal \$1,800.00 co; Expression Wear \$25.00 ps; Family Practice \$485.00 ps; Farmers Union \$715.00 smcs; Fastenal \$15.66 smcs; FedEx \$60.04 smcs; First Lutheran Church \$135.00 smcs; Frontier \$7,732.75 smcs; Gale \$1,097.53 smcs; Garcia,C \$11.66 smcs; Garcia,J \$62.50 smcs; Graczyk Lawn \$1,554.30 smcs; Greater NE Cities \$1,000.00 smcs; Grindstone Hardscapes \$2,440.90 smcs; Habitat for Humanity \$20.66 smcs; Harvey,L \$50.00 smcs; Hibberd,T \$15.00 smcs; HM Life \$58,212.90 smcs; Hometown Leasing \$1,266.10 smcs; ICMA \$7,438.74 ps; IRS \$161,957.67 ps; Jack Lederman \$699.42 smcs; Jack's Uniforms \$278.34 smcs; Kearney Animal Shelter \$10,000.00 smcs; Kearney Hub \$2,234.06 smcs; Kearney Visitors Bureau \$47,606.47 smcs; Kelly Supply \$25.54 smcs; Kirkham Michael \$3,135.00 smcs; Konica Minolta \$1,907.85 smcs; Kowalek,G \$121.00 smcs; Krny Children's Museum \$4,000.00 smcs; Krny Volunteer Fire Dept. \$750.00 ps; Landmark Implement \$23,250.00 co; Luke,D \$98.00 smcs; Mac Tools \$95.99 smcs; Macqueen Equipment \$7,644.04 smcs; Magic Cleaning \$5,490.00 smcs; Matthiessen,B \$42.57 smcs; Menards \$124.60 smcs; Mid-American Signal \$1,192.98 smcs; Mid-NE Garage Doors \$1,920.00 smcs; Midwest Connect \$7,330.72 smcs; Miller Signs \$1,448.00 smcs; Mostek Electric \$154.04 smcs; NE Child Support Pmt \$1,517.12 ps; NE Dept of Revenue \$97,107.64 smcs,ps; NE Machinery \$1,583.48 smcs; NE Public Health \$1,184.00 smcs; NE State Fire Marshal \$36.00 smcs; Newman Traffic Signs \$264.34 smcs; NLETC \$60.00 smcs; Northwestern Energy \$12,374.84 smcs; Nova Fitness \$747.13 ps; Oak Creek Engineering \$3,229.90 smcs; OCLC \$3,530.01 smcs; Olsson \$4,290.00 co; Overland Trails Council \$100.00 smcs; Paramount \$62.52 smcs; Payflex Systems \$556.75 smcs,ps; Pep Co \$50.00 smcs; Platinum Awards \$939.61 ps; Presto-x \$297.00 smcs; Ranglack,D \$9.27 smcs; RDG Planning \$15,537.50 smcs; Sapp Brothers \$17,844.67 smcs; Shredding Solutions \$56.70 smcs; Silverstone Group \$6,405.92 smcs; SOS Portable Toilets \$220.00 smcs; State of NE/DAS State \$1.40 smcs; Stevens, Christopher \$16.26 smcs; Stryker Sales \$1,092.00 smcs; Stutsman \$4,941.00 smcs; Tri City Sign \$2,651.38 smcs; Tri County Glass \$2,700.00 smcs; Tye & Rowling \$14,900.89 smcs; Union Bank & Trust \$87,424.76 ps;

United Way \$288.76 ps; Verizon \$7,673.79 smcs; Vertiv Services \$6,036.12 smcs; Volaire Aviation \$2,000.00 smcs; WudWurx \$80.00 smcs; Yanney,W \$170.00 smcs;; Payroll Ending 02/27/21 -- \$533,658.61. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve the Application for Special Assessment for Agricultural Deferral submitted by KPT&G, LLC with regard to Paving Improvement District No. 2001-865 for a tract of land located in part of Government Lot 3 and accretions thereto in Section 10, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of 6th Street and west of Yanney Avenue).

4. Accept the bids received for the 2021 Part 2 Improvements; Pony Express Road and adopt Resolution No. 2021-32 awarding the bid to Dan Roeder Concrete in the amount of \$294,626.00.

RESOLUTION NO. 2021-32

WHEREAS, Olsson and the City of Kearney have reviewed the sealed bids which were opened on March 2, 2021 at 2:00 p.m. for 2021 Part 2 Improvements; Pony Express Road; and

WHEREAS, the Engineer’s Opinion of Probable Construction Cost for the project was \$408,124.00; and

WHEREAS, Olsson and the City have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the amount of \$294,626.00 be accepted as the lowest responsible bid for 2021 Part 2 Improvements; Pony Express Road.

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 Dan Roeder Concrete be and is the lowest responsible bidder for the 2021 Part 2 Improvements; Pony Express Road to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete in the amount of \$294,626.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost in the amount of \$408,124.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President and 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 9TH DAY OF MARCH, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

5. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class A-124136 liquor license application and manager application for Eric Christensen submitted by Axe Holes II, LLC dba Axe Holes located at 5012 3rd Avenue, Suite 150.

6. Authorize the Mayor to execute the amendments to Loan Agreements between the Nebraska Department of Environment and Energy (NDEE) and the City of Kearney Amendment No. 01 for NDEE Project Nos: C317789, C317865, C317961, C318010, C318020 and Amendment No. 02 for NDEE Project No. C317956 pertaining to changes in the interest rate and administrative fee for each project and adopt Resolution No. 2021-33.

RESOLUTION NO. 2021-33

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 herein authorized and directed to execute the six (6) Amendments to Loan Agreements between the Nebraska Department of Environment and Energy (NDEE) and City of Kearney, Nebraska for the following NDEE Project Nos., attached hereto as Exhibit 1 through Exhibit 6:

- Exhibit 1: Amendment No. 01 for C317789;
- Exhibit 2: Amendment No. 01 for C317865;
- Exhibit 3: Amendment No. 01 for C317961;
- Exhibit 4: Amendment No. 01 for C318010;
- Exhibit 5: Amendment No. 01 for C318020; and
- Exhibit 6: Amendment No. 02 for C317956.

PASSED AND APPROVED THIS 9TH DAY OF MARCH, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

7. Adopt Resolution No. 2021-34 approving Change Order No. 1 showing an extension to the Date of Substantial Completion to July 2, 2021 submitted by Crouch Recreation and approved by City staff for the new splash pad equipment, surfacing and installation at Collins Park.

RESOLUTION NO. 2021-34

WHEREAS, Crouch Recreation of Elkhorn, Nebraska has agreed to perform services in connection with the new splash pad equipment, surfacing and installation at Collins Park, and City staff, have filed with the City Clerk Change Order No. 1 extending the original substantial completion date from June 11, 2021 to July 2, 2021 as shown on Exhibit "A" 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. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF MARCH, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

8. Approve the Developer Agreement for Marlatt Addition Lot 12, Block 3; Marlatt Third Addition Lot 7, Block 2; & Marlatt Third Addition Lot 5, Block 3 between the City of Kearney and Paul Bartlett, as President of the Kearney Area Habitat for Humanity, Inc., a Nebraska Non-Profit Corporation in connection with future assessment costs for paving, storm sewer, water, and sanitary sewer infrastructure extensions of 16th Street that would specifically benefit Lot 12, Block Three, Marlatt Addition; Lot 5, Block 3, Marlatt Third Addition; and Lot 7, Block 2, Marlatt Third Addition and adopt Resolution No. 2021-35.

RESOLUTION NO. 2021-35

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Agreement – Marlatt Addition Lot 12, Block 3; Marlatt Third Addition Lot 7, Block 2; & Marlatt Third Addition Lot 5, Block 3” between the City of Kearney and Paul Bartlett, as President of the Kearney Area Habitat for Humanity, Inc., a Nebraska Non-Profit Corporation, 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 9TH DAY OF MARCH, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

9. Adopt Resolution No. 2021-36 approving Change Order No. 1 showing an increase in the amount of \$8,788.00 by Creative Sites, LLC and approved by City staff for the Collins Park playground structure.

RESOLUTION NO. 2021-36

WHEREAS, Creative Sites, LLC of Omaha, Nebraska has agreed to perform services in connection with the replacement of the Collins Park playground structure, and City staff, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$8,788.00 as shown on Exhibit “A” 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. 1, as shown on Exhibit “A”, be and is hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF MARCH, 2021.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8470 AUTHORIZING THE DEED OF SALE FOR PROPERTY TO BE KNOWN AS LOT 1, TECH ONE THIRD SUBDIVISION

Council Member Nikkila introduced Ordinance No. 8470 authorizing the deed of sale for a tract of land being part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 15 West, of the 6th P.M., Buffalo County, Nebraska (to be known as Lot 1, Tech One Third Subdivision, a subdivision being part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 15 West, of the 6th P.M., Buffalo County, Nebraska), subject to approval and recording of the final plat for Tech One Third Subdivision, a subdivision being part of the Northeast Quarter of the Northwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 15 West, of the 6th P.M., Buffalo County, Nebraska to Economic Development Council of Buffalo County, Inc., a Nebraska Non-Profit Corporation, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Moore seconded the motion to suspend the rules for Ordinance No. 8470. 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, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. 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. 8470 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Buschkoetter that Ordinance No. 8470 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8470 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.

ORDINANCE NO. 8471 AMENDING SEVERAL SECTIONS OF CHAPTER 9 "PUBLIC WORKS"

Council Member Nikkila introduced Ordinance No. 8471 amending several Sections of Chapter 9 "Public Works" of the City Code including: (a) Section 9-1551 "Right of Entry" of Division IV "Inspection and Monitoring" of Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" to remove the reference of City Engineer and replace with Director of Public Works or his/her duly appointed representative; (b) Section 9-1561 "Notice of Violation" of Division V "Enforcement" of Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" to remove the reference of City Engineer and replace with Director of Public Works or his/her duly appointed representative and update

the amount of allowable days to act or request a hearing with the City following notification of an abatement of a violation and/or restoration of affected property; (c) Section 9-1562 "Appeal" of Division V "Enforcement" of Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" to remove the reference of City Engineer and replace with Director of Public Works or his/her duly appointed representative; (d) Section 9-1563 "Abatement by City" of Division V "Enforcement" of Article 15 "City of Kearney Illicit Discharge Detection and Elimination Code" to remove the reference of City Engineer; (e) Section 9-1616 "General Requirements for Construction Activities" of Division II "Construction" of Article 16 "Construction and Post-Construction Stormwater Code" to remove the reference of NDEQ and replace with NDEE; (f) Section 9-1628 "Ongoing Inspection and Maintenance of Permanent BMPs" of Division III "Post-Construction" of Article 16 "Construction and Post-Construction Stormwater Code" to add sub-item C describing the City process if the owner, or responsible party fails, neglects, or refuses to perform maintenance, within five (5) days after receipt of notice, or request a hearing with the City, the City may have such work done, the costs and expenses of any such work shall be paid by the owner, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Moore seconded the motion to suspend the rules for Ordinance No. 8471. 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, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. 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. 8471 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Buschkoetter that Ordinance No. 8471 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8471 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

STAFF PRESENTATION ON PROPOSED NEBRASKA LEGISLATIVE BILL 408

Mayor Clouse opened Regular Agenda Item 1 for Council to receive the presentation from City staff on proposed Nebraska Legislative Bill 408 to Adopt the Property Tax Request Act. This presentation was for informational purposes only.

Wendell Wessels, Finance Director, presented this matter to the Council. Mr. Wessels discussed what is in the Bill and how it would impact the City. The Bill has been through the Revenue Committee and was advanced to General File. The Bill states a City's

request authority for any year shall be equal to the property tax request from the prior year multiplied by 1.03%. There are exceptions that include: 1) Cities may exceed the 3% limit with a majority vote of the governing body for two (2) consecutive years, but must be reduced in the subsequent year to insure property tax request doesn't exceed 9% over the three-year period; 2) The 3% limit could be exceeded by an amount approved by a majority of the registered voters in Kearney at a primary, general or special election.

The limit shall not apply to bonds approved by the voters of Kearney; however, the City of Kearney does not have any of these bonds as all bonds are approved by Council. The limit shall not apply to property tax requests that are derived from real growth such as new construction or annexations. The City could choose not to increase the property tax request by the full amount and carry over half of what wasn't taken in that year; as an example, if the City was allowed 3% and instead collected 2%, a half a percent could be carried over to a future year to be used later. This property tax request limit will apply to property tax requests set in 2022 through 2027 and could be extended.

As an example of what this Bill would mean for Kearney, if this Bill would have been in affect seven years ago, the City would have had to levy approximately \$1,900,000 less than we did.

TABLE 1

City of Kearney
LB408 Impact
(as of 3-9-2021)

Fiscal Year	Prior Year Tax Request	Allowed Property Tax Increase				Total Taxes Allowed	Actual Taxes Requested	Annual Shortfall	Actual Valuation	Maximum Levy Allowed
		Basic 3%	Percent Growth	Amount	Total					
FY15	\$ 2,734,567	\$ 82,037	2.11%	\$ 57,699	\$ 139,736	\$ 2,874,303	\$ 2,944,675	\$ (70,372)	\$ 1,977,987,892	0.14531
FY16	\$ 2,874,303	\$ 86,229	2.28%	\$ 65,534	\$ 151,763	\$ 3,026,067	\$ 3,091,862	\$ (65,795)	\$ 2,250,997,953	0.13443
FY17	\$ 3,026,067	\$ 90,782	1.69%	\$ 51,141	\$ 141,923	\$ 3,167,989	\$ 3,323,831	\$ (155,842)	\$ 2,419,795,459	0.13092
FY18	\$ 3,167,989	\$ 95,040	1.84%	\$ 58,291	\$ 153,331	\$ 3,321,320	\$ 3,503,087	\$ (181,767)	\$ 2,550,296,256	0.13023
FY19	\$ 3,321,320	\$ 99,640	1.33%	\$ 44,174	\$ 143,813	\$ 3,465,133	\$ 3,739,966	\$ (274,833)	\$ 2,722,747,853	0.12727
FY20	\$ 3,465,133	\$ 103,954	1.35%	\$ 46,779	\$ 150,733	\$ 3,615,866	\$ 4,244,297	\$ (628,431)	\$ 2,851,008,603	0.12683
FY21	\$ 3,615,866	\$ 108,476	1.05%	\$ 37,967	\$ 146,443	\$ 3,762,309	\$ 4,345,668	\$ (583,359)	\$ 2,919,102,531	0.12889
								\$ (1,960,399)		

Mr. Wessels stated the Finance Department put together a second spreadsheet (below) that looked at the top 12 Nebraska Cities by population. The Table 1 consists of State aid, which Kearney does not receive, what was levied in the current fiscal year levy figure for property taxes, total of State aid and property taxes, and how much is collected from State aide and property tax per Capita. For Kearney the property tax collected is \$141 per person. Table 2 demonstrates if LB 408 were adopted the City of Kearney property tax per capita would fall to \$6 per person.

TABLE 2

City of Kearney
LB408 Analysis
(as of 3-9-2021)

City	Population	FY21 Actual				FY22 Allowable Increase Pursuant to LB 408 (without growth)			FY21 Actual Growth			
		State Aid	Property Tax	Total State Aid & Property Tax	Per Capita	3%	Growth (est.)	Per Capita	Valuation	Levy	Percent	Amount
Kearney	30,923	\$ -	\$ 4,345,668	\$ 4,345,668	\$ 141	\$ 130,370	\$ 45,630	\$ 6	\$ 2,919,102,531	\$ 0.14887	1.05%	\$ 29,993,260
B	24,210	\$ 94,249	\$ 4,670,563	\$ 4,764,812	\$ 197	\$ 140,117	\$ 71,460	\$ 9	\$ 1,827,937,402	\$ 0.25551	1.53%	\$ 25,196,617
C	24,733	\$ 437,913	\$ 7,167,197	\$ 7,605,110	\$ 307	\$ 215,016	\$ 68,088	\$ 11	\$ 1,618,995,929	\$ 0.44269	0.95%	\$ 15,277,179
D	22,327	\$ -	\$ 5,510,908	\$ 5,510,908	\$ 247	\$ 165,327	\$ 90,379	\$ 11	\$ 1,748,462,132	\$ 0.31519	1.64%	\$ 27,475,285
E	26,399	\$ 877,959	\$ 6,556,908	\$ 7,434,867	\$ 282	\$ 196,707	\$ 116,057	\$ 12	\$ 1,680,835,484	\$ 0.39010	1.77%	\$ 27,969,522
F	48,669	\$ 1,201,090	\$ 12,442,722	\$ 13,643,812	\$ 280	\$ 373,282	\$ 306,091	\$ 14	\$ 3,406,720,662	\$ 0.36524	2.46%	\$ 79,496,343
G	258,822	\$ -	\$ 76,751,142	\$ 76,751,142	\$ 297	\$ 2,302,534	\$ 1,312,445	\$ 14	\$ 23,999,731,796	\$ 0.31980	1.71%	\$ 398,064,076
H	25,224	\$ 1,313,695	\$ 6,923,837	\$ 8,237,532	\$ 327	\$ 207,715	\$ 155,786	\$ 14	\$ 1,539,701,283	\$ 0.44969	2.25%	\$ 32,679,528
I	462,049	\$ -	\$ 192,421,847	\$ 192,421,847	\$ 416	\$ 5,772,655	\$ 2,809,359	\$ 19	\$ 40,403,561,350	\$ 0.47625	1.46%	\$ 560,317,955
J	16,638	\$ -	\$ 9,653,091	\$ 9,653,091	\$ 580	\$ 289,593	\$ 155,415	\$ 27	\$ 1,755,107,309	\$ 0.55000	1.61%	\$ 26,547,463
K	23,889	\$ -	\$ 11,850,963	\$ 11,850,963	\$ 496	\$ 355,529	\$ 605,584	\$ 40	\$ 2,622,341,233	\$ 0.45192	5.11%	\$ 125,630,954
L	60,527	\$ 3,101,018	\$ 26,716,787	\$ 29,817,805	\$ 493	\$ 801,504	\$ 5,407,478	\$ 103	\$ 4,379,801,232	\$ 0.61000	20.24%	\$ 842,966,373

Council Member Nikkila commented that due to the City of Kearney's current property tax levy being so low, other comparable Cities would have the ability to raise revenue quickly whereas the City of Kearney would not. Mr. Wessels agreed. Council Member Nikkila suggested LB408 apply only to cities under a certain levy. Mr. Wessels stated that is what Kearney would like to see.

Council Member Randy Buschkoetter stated the City of Kearney is essentially being punished for doing things correctly.

Council Member Nikkila commented that is why a levy lid was created as that was the first attempt to do what LB408 is doing; now the State is trying to find other ways of restricting Cities who are going about the levy lid as it was intended for.

Mr. Wessels stated this would be the City's third lid on levies, previously there was a 45-cent lid per 100, next was a lid on restricted funds that the City has to go through every year and that is a two and a half percent lid on all types of restricted funds, including property tax, sales tax and a few others. Mr. Wessels hopes that if LB408 is adopted the lid on restricted funds (currently at two and a half percent) is removed.

Council Member Nikkila referred back to the initial spreadsheet that Mr. Wessels discussed and noted that the property tax jumped between 2020 and 2021 and questioned if that was the compounding of the 3%? Mr. Wessels stated the City increased the tax levy a penny at that time, for a four-year period. Previously, the City was just under 14 cents per hundred then in fiscal 2020 the City bumped it back up to just under 15 cents which was where it was six to seven years ago.

Mr. Wessels noted that approximately \$31,000,000 per year is given out in State aid. The amount of State aid is determined, among other things, by a formula for Cities that have a high tax levy. State aid began years ago when the Legislature provided aid to replace some of the revenues that were lost from sales tax exemptions. Mayor Clouse stated that State aid has been on the books and it has never been followed up on.

Mr. Wessels stated the City of Kearney is 100% against LB408 and is not sure if it will pass. There is currently another bill, similar to this bill, that would be on the ballot in 2022. The difference between Bills is the exemption for bonds. Under LB408, in order for bonds to be exempt they have to be voted on; under the Legislative resolution they do not, all bonds would be exempt. An additional difference is, once a vote is held and the Bill is placed in the Constitution, it most likely won't be removed; however, LB408 could be revised in the future. Mr. Wessels stated LB408 is simply not fair to Cities with a low tax request and further commented the City may not always use the 3%; however, it is nice to have the flexibility if 3% is needed.

Mayor Clouse and Council Member Buschkoetter both stated and agreed it is taking away the City's ability to be frugal.

Mayor Clouse thanked Mr. Wessels for his presentation to Council.

OPEN ACCOUNT CLAIM

Moved by Buschkoetter seconded by Nikkila that the Open Account Claim in the amount of \$85,744.96 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Moore. Nay: None. Clouse abstained. Absent: Lear. Motion carried.

VII. REPORTS

Council Member Buschkoetter encouraged everyone to receive the Covid vaccine when it is available to them.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 5:59 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter. Nay: None. Absent: Lear. Motion carried.

ATTEST:

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

**LAUREN BRANDT
CITY CLERK**