

*Kearney, Nebraska  
January 25, 2022  
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 January 25, 2022 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; Eric Hellriegel, Assistant City Manager; Sarah Sawin, Assistant Utilities Director; Andy Harter, Director of Public Works; Bryan Waugh, Chief of Police; Shawna Erbsen, Administrative Services Director and Brenda Jensen, Development Services Director, were also present. Members of the media present included: Mike Konz, Kearney Hub.

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.

### **ORAL COMMUNICATIONS**

There were no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **AMEND LAND USE MAP FOR PROPERTY LOCATED EAST OF ONTARIO ROAD AND TAHOE DRIVE, SOUTHWEST OF AVENUE M AND EAST 1ST STREET**

Moved by Nikkila seconded by Moore to remove Public Hearings 1, 2 and 3 from the table. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

Public Hearings 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Rural Estates and Agriculture to Low Density Residential for property described a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) and consider Resolution No. 2021-235.

Mayor Clouse stated Planning Commission recommended unanimous approval of the Land Use Map amendment and Rezoning but had majority approval with a vot of 6-3 for the Conditional Use Permit that is subject to 17 conditions (including three new conditions added since the December 14th City Council meeting) detailed in the ordinance. He stated although these are Public Hearings the items and part of the conditions were discussed at the December 14th Council meeting and the previous conditions were agreed upon; therefore, discussion will pertain to the three (3) new conditions added since the December City Council meeting. Mayor Clouse stated the first new condition is the Applicants agreeing to apply dust prevention/control solution to the south avenue M gravel road; Mitch Humphry, Buffalo Surveying Corp. stated the Applicants had agreed to this condition. Mayor Clouse stated the second new condition states the Applicants, prior to beginning the operation, are subject to receiving approval from the Buffalo County Board for improving south Avenue M to RL-2 County standard. Mr. Humphrey stated this condition was discussed at the Buffalo County Board meeting this morning and was unanimously approved. Mayor Clouse stated the third new condition pertains to the Applicants agreeing to return the property to R-1 zoning after the project is completed; this was discussed at the December meeting and was added as a condition to the Conditional Use Permit. Mr. Humphrey stated the Applicants were in agreeance with rezoning the property back to R-1 once the operation is complete.

Council Member Jonathan Nikkila questioned if the Conditional Use Permit would automatically return the property back to R-1 zoning? Michael Tye, City Attorney stated the applicants would need to come back in front of Council to request the property be rezoned back to R-1. Mr. Tye stated because the question was raised at the December 14th Council meeting, City staff felt it should be included as a condition.

Mayor Clouse stated safety concerns pertaining to the bridge structure were also discussed at the December meeting; Development Services Director, Brenda Jensen looked in to these concerns and found that the bridge meets State standards. Ms. Jensen also found that bridges throughout the State with the same width are used for gravel hauling operations. Additionally, Mayor Clouse stated historical traffic data from the past three (3) years was reviewed and showed there have been no accidents at the Avenue M bridge as it is currently used.

Michael Morgan, City Manager noted the State was contacted to clarify how the bridge is currently used and learned the State may get involved if there are repairs that are needed, but that involvement depends on the volume of daily traffic plus what repairs are necessary. From the State's perspective, there are no current repairs needed and also noted there are no limitations regarding traffic on the bridge.

Council Member Randy Buschkoetter questioned if the traffic count the State refers to is estimated? Mr. Morgan stated it would be an actual traffic count; however, the State has not conducted one yet and noted even if there were a larger number of vehicles per day on the bridge, it would only trigger improvements if they were necessary.

Council Member Nikkila questioned if width of the bridge is considered a necessary improvement? Mr. Morgan stated it is not as the current bridge meets safety requirements for travel for the general public and it meets the State's requirements.

Andy Harter, Director of Public Works agreed with Mr. Morgan's statements and stated even if the traffic count exceeds 400 vehicles per day, the State would not automatically issue a project for the bridge. Additionally, the improvement would need to be a major repair like a deck improvement or an abutment replacement. Mr. Harter also noted that if the bridge were built today, with a traffic count of 400 vehicles per day, the bridge width requirement would be the minimum standard of 21 feet, the current width is 20 feet. The bridge width would not increase until there were 700 vehicles travelling over it per day.

Mayor Clouse stated for clarification purposes the project could not move forward until the County road meets the County's minimum standards. Mr. Humphrey agreed and stated once the road is constructed, the County Highway Superintendent will need to approve it. The County's process to accept the road involves the Applicants maintaining the road for the first two (2) years, the following three (3) years the Applicants would continue to gravel the road while the County would do the day to day maintenance and after five (5) years the road becomes the County's road.

Mayor Clouse reviewed the initial Conditional Use Permit conditions other than the three (3) that were recently added and asked Mr. Humphrey if the Applicants were still in agreeance with them? Mr. Humphrey stated the Applicants have read, agreed to the conditions and signed the agreement.

Mr. Humphrey stated he has various documents and drawings pertaining to the road from Brungardt Engineering and stated the plans show the road has been straightened out as much as possible and moved as far north as possible, in an effort to keep it as far away from the residents as possible.

Carol Swanson of Kearney thanked the City Council and thanked everyone who addressed her main concern of safety, but stated she still has concerns about the length of time of the Conditional Use Permit and it potentially being forgotten. Mayor Clouse stated the Conditional Use Permit has an expiration date and if the permit holder wishes to extend the permit, they have to come back in front of Council to do so. At that time Council looks at any complaints pertaining to the permit as well as other items before granting an extension. Mr. Tye also noted that the agreement with the County states includes a timeframe pertaining to the road being built to County standards. He further noted that the City receiving complaints or there being any issues with the project, can be reasons for the permit to not be extended. Ms. Swanson questioned if the request for an extension goes in front of Planning Commission also, or just City Council? Council Member Buschkoetter stated it ultimately would end up in front of Council whether it went in front of Planning Commission or not.

Council Member Nikkila noted the way the project has been presented, the Developer will want this to end so houses can be built. He further questioned what enforcement options the City has if the Developers were not meeting the conditions during the four (4) year timeframe of the Conditional Use Permit? Mr. Tye stated the City has the ability to ultimately revoke the permit. City staff would first reach out to the Developer to inform them of the violation or complaint and work with them to bring the project back in to compliance; however, if the Developer refuses, the permit would come back in front of City Council where it could be revoked for not complying with the conditions which would stop the operation. Mr. Tye clarified the Conditional Use Permit is separate from the County's agreement, which is only a permit for the road. Council Member Buschkoetter noted if the Developer's permit was revoked, the Developer would have a certain period of time to remove the operation from the property; Mr. Tye agreed. Council Member Nikkila reminded neighbors that the City has a complaint drive enforcement office and encouraged calls if there are concerns, to that Department.

Council Member Tami Moore noted that this project has made Council focus on safety. She stated after having lived in Rolling Hills for over a decade, one entrance is not a good way for an area to develop and noted as this project continues, the number of homes and residents are expected to increase, so, going forward, a purposeful plan is needed to make sure there is better ingress and egress for the area.

Council Member Bruce Lear feels Council's willingness to issue Conditional Use Permits should be done somewhat reluctantly as they typically involve invasive activity that impinges on people living in and near these projects. He stated this project has unique circumstances that change the nature of a Conditional Use Permit in an R-1 zone and noted another important piece of this project to him is the timeframe. Council has renewed Conditional Use Permits in the past because no complaints were received; however, in this case, because residents close by and because some neighbors will be more affected by the traffic created by this project, it is his hope that this project is completed in four (4) years as there could be some reluctance to extend the permit unless everyone was happy with how the project was going. Council Member Buschkoetter agreed and further stated that usually, when these types of permits are extended, there are not any neighbors that are affected and with this project, there will be more neighbors living nearby so he would also hesitate to extend the project.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2021-235 approving the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Rural Estates and Agriculture to Low Density Residential for property described a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2021-235**

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 Northeast Quarter, part of Government Lot 1, part of Government Lot 2, part of accretion lands deriving from and adjacent to Government Lot 1, and part of accretion lands deriving from and adjacent to Government Lot 2 all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska [Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, herein after referred to as "said Section 13"], said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said tract being more particularly described as follows: Referring to the Northeast Corner of said Section 13 and assuming the North line of said Section 13 as bearing N 87°28'26" W and all bearings contained herein are relative thereto; thence S 01°36'11" E and on the East line said Section 13, and on the West line of said Section 18, as such line is drawn from the Northeast Corner of said Section 13 to a 2" Iron Pipe (Gas Pipe) as shown on a survey by Frank Jr. Green, Buffalo County Surveyor, Nebraska Registered Land Surveyor No. 18, dated May 9 – 12, 1947, a distance of 1305.45 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being more or less on an existing East – West fence line; thence leaving said existing East – West fence line and continuing S 01°36'11" E and on the East line of Government Lot 1 located in said Section 13, if extended, and on the West line of Government Lot 2 located in said Section 18, if extended, a distance of 1237.46 feet to said 2" Iron Pipe (Gas Pipe); thence leaving the East line of Government Lot 1 located in said Section 13, if extended, and leaving the West line of Government Lot 2 located in said Section 18, if extended, S 86°09'06" W a distance of 1291.97; thence N 05°57'13" E a distance of 171.91 feet; thence N 85°14'15" W a distance of 158.00 feet to the Southeast Corner of Lot Twenty-five (25), Block Two (2), Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, as said plat of Lake Villa Estates is filed on Microfilm Roll 78, Page 9268 on December 15, 1978, in the Office of the Buffalo County Register of Deeds; thence N 03°17'30" W and on the East line of said Lake Villa Estates a distance of 335.0 feet; thence continuing on the East line of said Lake Villa Estates the following courses and distances respectively: S 86°37'40" W a distance of 90.0 feet; thence N 03°20'32" W a distance of 125.00 feet; thence N 03°12'24" E a distance of

202.98 feet; thence N 20°16'16" W a distance of 142.72 feet; thence N 47°54'25" E a distance of 83.30 feet; thence N 01°44'36" E a distance of 110.00 feet to the Northeast Corner of Lot One (1), Block Six (6) of said Lake Villa Estates; thence continuing on the East line of said Lake Villa Estates; N 88°13'03" W a distance of 85.0 feet; thence N 01°45'50" E a distance of 229.76 feet to the Northeast Corner of Lot Three (3), Block Five (5) of said Lake Villa Estates, said point being more or less on an existing East – West fence line; thence leaving the East line of said Lake Villa Estates, S 88°12'24" E along said existing East – West fence line, more or less, a distance of 1562.03 feet to the point of beginning, containing 45.16 acres, more or less, all in Buffalo County, Nebraska; TOGETHER WITH; all that part of the Northeast Quarter of the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the Sixth Principal Meridian, that lies South of Interstate 80 Right-of-Way; together with all that part of Government Lot 3 located in the Northeast Quarter of said Section 13 which is more particularly described as follows: Referring to the Southwest Corner of said Government Lot 3 and running thence Easterly on the South line of said Lot 3 a distance of 621.5 feet to the ACTUAL PLACE OF BEGINNING; thence Northerly parallel with the West line of said Lot 3 a distance of 463.5 feet; running thence Easterly parallel with the South line of said Lot 3 a distance of 676.3 feet to the Southeast Corner of the more Easterly line of a tract of land deeded to H. Herman Oertwig by Deed recorded in Book 145, Page 597; and running thence Northerly on the Easterly line of said Oertwig property a distance of 492 feet, more or less, to a point on the South Right-of-Way line of Interstate 80; thence Easterly on said South Right-of-Way line to the East line of said Lot 3; and running thence Southerly on said East line to the Southeast Corner of said Lot 3, and running thence Westerly on the South line of said Lot 3 to the place of beginning, Buffalo County, containing 36.34 acres (the aforescribed tract contains a total of 82.5 acres, more or less) (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) from Rural Estates and Agriculture to Low 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 Rural Estates and Agriculture to Low Density Residential the use classification for a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lot 1, part of Government Lot 2, part of accretion lands deriving from and adjacent to Government Lot 1, and part of accretion lands deriving from and adjacent to Government Lot 2 all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska [Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, herein after referred to as "said Section 13"], said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said tract being more particularly described as follows: Referring to the Northeast Corner of said Section 13 and assuming the North line of said Section 13 as bearing N 87°28'26" W and all bearings contained herein are relative thereto; thence S 01°36'11" E and on the East line said Section 13, and on the West line of said Section 18, as such line is drawn from the Northeast Corner of said Section 13 to

a 2" Iron Pipe (Gas Pipe) as shown on a survey by Frank Jr. Green, Buffalo County Surveyor, Nebraska Registered Land Surveyor No. 18, dated May 9 – 12, 1947, a distance of 1305.45 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being more or less on an existing East – West fence line; thence leaving said existing East – West fence line and continuing S 01°36'11" E and on the East line of Government Lot 1 located in said Section 13, if extended, and on the West line of Government Lot 2 located in said Section 18, if extended, a distance of 1237.46 feet to said 2" Iron Pipe (Gas Pipe); thence leaving the East line of Government Lot 1 located in said Section 13, if extended, and leaving the West line of Government Lot 2 located in said Section 18, if extended, S 86°09'06" W a distance of 1291.97; thence N 05°57'13" E a distance of 171.91 feet; thence N 85°14'15" W a distance of 158.00 feet to the Southeast Corner of Lot Twenty-five (25), Block Two (2), Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, as said plat of Lake Villa Estates is filed on Microfilm Roll 78, Page 9268 on December 15, 1978, in the Office of the Buffalo County Register of Deeds; thence N 03°17'30" W and on the East line of said Lake Villa Estates a distance of 335.0 feet; thence continuing on the East line of said Lake Villa Estates the following courses and distances respectively: S 86°37'40" W a distance of 90.0 feet; thence N 03°20'32" W a distance of 125.00 feet; thence N 03°12'24" E a distance of 202.98 feet; thence N 20°16'16" W a distance of 142.72 feet; thence N 47°54'25" E a distance of 83.30 feet; thence N 01°44'36" E a distance of 110.00 feet to the Northeast Corner of Lot One (1), Block Six (6) of said Lake Villa Estates; thence continuing on the East line of said Lake Villa Estates; N 88°13'03" W a distance of 85.0 feet; thence N 01°45'50" E a distance of 229.76 feet to the Northeast Corner of Lot Three (3), Block Five (5) of said Lake Villa Estates, said point being more or less on an existing East – West fence line; thence leaving the East line of said Lake Villa Estates, S 88°12'24" E along said existing East – West fence line, more or less, a distance of 1562.03 feet to the point of beginning, containing 45.16 acres, more or less, all in Buffalo County, Nebraska; TOGETHER WITH; all that part of the Northeast Quarter of the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the Sixth Principal Meridian, that lies South of Interstate 80 Right-of-Way; together with all that part of Government Lot 3 located in the Northeast Quarter of said Section 13 which is more particularly described as follows: Referring to the Southwest Corner of said Government Lot 3 and running thence Easterly on the South line of said Lot 3 a distance of 621.5 feet to the ACTUAL PLACE OF BEGINNING; thence Northerly parallel with the West line of said Lot 3 a distance of 463.5 feet; running thence Easterly parallel with the South line of said Lot 3 a distance of 676.3 feet to the Southeast Corner of the more Easterly line of a tract of land deeded to H. Herman Oertwig by Deed recorded in Book 145, Page 597; and running thence Northerly on the Easterly line of said Oertwig property a distance of 492 feet, more or less, to a point on the South Right-of-Way line of Interstate 80; thence Easterly on said South Right-of-Way line to the East line of said Lot 3; and running thence Southerly on said East line to the Southeast Corner of said Lot 3, and running thence Westerly on the South line of said Lot 3 to the place of beginning, Buffalo County, containing 36.34 acres (the aforescribed tract contains a total of 82.5 acres, more or less) (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street).

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**REZONE PROPERTY LOCATED EAST OF ONTARIO ROAD AND TAHOE DRIVE,  
SOUTHWEST OF AVENUE M AND EAST 1ST STREET**

Public Hearings 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District AG, Agricultural District for property described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) and consider Ordinance No. 8538.

Moved by Lear to close the public hearing on the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District AG, Agricultural District for property described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) and introduced Ordinance No. 8538 rezoning from District R-1, Urban Residential Single-Family District (Low Density) to District AG, Agricultural District for property described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st 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. 8538. 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, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8538 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, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 8538 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8538 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.

**CONDITIONAL USE PERMIT FOR A RESOURCE EXTRACTION OPERATION TO BE LOCATED EAST OF ONTARIO ROAD AND TAHOE DRIVE, SOUTHWEST OF AVENUE M AND EAST 1ST STREET**

Public Hearings 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company for a Conditional Use Permit for a resource extraction operation on property to be zoned District AG, Agricultural District and described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) and consider Ordinance No. 8539.

Moved by Clouse to close the public hearing on the application submitted by Buffalo Surveying Corp. for Kdiver, LLC, a Nebraska Limited Liability Company for a Conditional Use Permit for a resource extraction operation on property to be zoned District AG, Agricultural District and described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st Street) and introduced Ordinance No. 8539 for a Conditional Use Permit for a resource extraction operation on property to be zoned District AG, Agricultural District and described as a tract of land being a part of the Northeast Quarter of the Northeast Quarter, part of Government Lots 1 and 2, part of accretion lands deriving from and adjacent to Government Lots 1 and 2, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, said tract also being a part of accretion lands deriving from and adjacent to Government Lot 2 located in Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (East of Ontario Road and Tahoe Drive, Southwest of Avenue M and East 1st 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 Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 8539. 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, 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. City Clerk read Ordinance No. 8539 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 Nikkila seconded by Moore that Ordinance No. 8539 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8539 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.

**PROPOSED ACQUISITION FOR A PERMANENT 5-FOOT WIDE UTILITY EASEMENT GRANTED BY STAROSTKA GROUP UNLIMITED, INC**

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent 5-foot wide Utility Easement granted by Starostka Group Unlimited, Inc., a Nebraska Corporation, for a tract of land located in part of Lot 6, Block Three, Millennial Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska and consider Resolution No. 2022-27.

Sarah Sawin, Assistant Utilities Director presented this matter to the Council. Ms. Sawin stated the 5-foot wide utility easement is along lot lines and although the primary use would be for NPPD, other utilities could use the easement as well.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-27 approving the proposed acquisition for a Permanent 5-foot wide Utility Easement granted by Starostka Group Unlimited, Inc., a Nebraska Corporation, for a tract of land located in part of Lot 6, Block Three, Millennial Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Nikkila, Moore, Buschkoetter, Lear. Nay: None. Clouse abstained. Motion carried.

**RESOLUTION NO. 2022-27**

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition

for a Permanent 5-foot wide Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Danny Starostka, President of Starostka Group Unlimited, Inc., a Nebraska Corporation, have granted to the City of Kearney, Nebraska a Permanent 5-foot wide Utility Easement as follows:

**PERMANENT 5-FOOT WIDE UTILITY EASEMENT**

A 5-foot wide Utility Easement located in part of Lot 6, Block Three, Millennial Estates Fifth Addition, an addition to the City of Kearney, Nebraska, and more particularly described as follows: Commencing at the southwesterly corner of Lot 6, Block 3, Millennial Estates Fifth Addition, said point being the Point of Beginning; thence on an assumed bearing of N 43°13'02" W, along the southwesterly line of said Lot 6, a distance of 5.00 feet; thence N 46°46'58" E, parallel with the southeasterly line of said Lot 6, a distance of 110.00 feet to a point on the southwesterly line of an existing 5-foot Utility Easement; thence S 43°13'02" E, along said southwesterly easement line, a distance of 5.00 feet to a point on the southeasterly line of said Lot 6; thence S 46°46'58" W, along said southeasterly line of Lot 6, a distance of 110.00 feet to the Point of Beginning. Said easement contains a calculated area of 550.00 square feet or 0.013 acres more or less.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent 5-foot wide Utility Easement granted by Danny Starostka, President of Starostka Group Unlimited, Inc., a Nebraska Corporation, to the City of Kearney be and is hereby approved and accepted.

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

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**IV. CONSENT AGENDA**

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

1. Approve Minutes of Regular Meeting held January 11, 2022.
2. Approve the following Claims:
  - PS Personnel Services
  - SMCS Supplies, Materials & Contractual Services
  - ER Equipment Rental

CO	Capital Outlay
DS	Debt Service

1000bulbs \$213.49 smcs; 4imprint \$272.10 smcs; AT&T \$679.40 smcs; Accuquilt \$213.57 smcs; Adobe \$77.91 smcs,co; AFC - Grand Island \$110.61 smcs; Aircraft Spruce \$118.83 smcs; Akerson,A \$27.63 smcs; Alert Shirt \$123.80 smcs; Alfred Benesch \$170,114.68 co; All Copy Products \$315.02 smcs; All Makes Auto \$3,066.61 smcs; Alley Rose \$50.00 smcs; Ally B Design \$700.00 smcs; Amazon \$11,428.86 smcs,co; American \$308.60 smcs; American Legion \$58.68 smcs; American Planning Assn. \$628.00 smcs; American Red Cross \$600.00 smcs; Anderson Bros Electric \$3,534.67 smcs; Anythingtruck.com \$225.35 smcs; Apple \$0.99 smcs; Aprons and Smocks \$118.18 smcs; Aramark Uniform \$401.26 smcs; ARFF \$95.00 smcs; ASFPM \$165.00 smcs; Aurora Coop \$6,862.00 smcs; Aussie Hydraulics \$250.20 smcs; Authorize.net \$10.00 smcs; Auto Value \$2,365.92 smcs; Automation Parts \$104.00 smcs; Avfuel Corporation \$71,017.82 smcs; B&H Photo \$9,912.25 smcs,co; Baker & Taylor \$523.33 smcs; Ballmer,J \$100.00 smcs; Baltic Networks \$764.79 smcs; Battery Guy \$41.85 smcs; Battery Junction \$28.24 smcs; Baye,S \$424.95 smcs; Beck,J \$558.56 smcs; BKG Booking \$692.82 smcs; Black Stone \$75.75 smcs; Blackstone Library \$160.00 smcs; Blessing \$30,444.07 co; BlueCross BlueShield \$190,908.70 smcs; Bokuku,T \$100.00 smcs; Boogaarts \$13.65 smcs; Bosselman \$25,993.98 smcs; Brady Worldwide \$191.69 smcs; Broadfoot's \$300.00 smcs; Brown Construction \$527,589.12 co; Brownells \$529.99 smcs; BSN Sports \$4,549.99 co; Buffalo Co Treasurer \$14.86 smcs; Buffalo Co Register Deeds \$98.77 smcs; Buffalo Outdoor Power \$211.55 smcs; Builders \$1,574.94 smcs; Cab Store \$119.98 smcs; California Air Tools \$999.00 smcs; Carquest \$169.78 smcs; Casey's \$20.16 smcs; Cash-Wa \$1,235.97 smcs; CC Warehouse \$285.38 co; Cellebrite \$289.00 smcs; Central District Health \$3,443.50 smcs; Central Hyd Systems \$2,266.80 smcs; Central NE Bobcat \$744.18 smcs; Chem Search \$319.00 smcs; Chesterman \$104.00 smcs; Choice Paint \$189.98 smcs; Christensen,P \$170.00 smcs; Cintas \$578.36 smcs; City of Ky \$38,730.52 smcs,ps; CMH Interiors \$2,157.45 smcs,co; Comm Act Part of Mid NE \$6,305.56 smcs; Commonwealth Electric \$3,013.97 smcs; Consolidate Mgmt. \$354.37 smcs; Constant Contact \$656.00 smcs; Construction Rental \$1,334.95 smcs; Control Yours \$200.00 smcs; Cook,K \$20.00 smcs; Copycat Printing \$1,078.65 smcs; Core & Main \$14,512.82 smcs; Country Partners \$21,838.36 smcs; Culligan \$1,869.90 smcs; Cummins \$720.00 smcs; Cutting Edge Cleaning \$405.00 smcs; Dan Roeder Concrete \$341,083.19 co; Dawson Public Power \$20,059.44 smcs; Dell \$2,337.04 smcs,co; Demco \$46.82 smcs; Dish \$260.20 smcs; Dmilaco Sports \$174.08 smcs; Dollar Tree \$6.42 smcs; Doubletree Hotels \$1,110.70 smcs; DuBry,S \$45.00 smcs; E Replacement \$110.68 smcs; Eakes \$870.91 smcs; Earl May \$24.99 co; Ebay \$15.49 co; Echo Electric \$141.15 smcs; Ecolab \$83.06 smcs; Ehrlich \$173.00 smcs; Eileen's Cookies \$80.15 smcs; Elliott Equipment \$1,837.73 smcs; Ellis Wheeler \$198.77 smcs; EMC Insurance \$105.04 smcs; Ensley Electrical \$29,790.50 co; Enterprise \$73.88 smcs; Epic Sports \$25.61 smcs; Erin Condren \$54.84 smcs; ESRI \$22,007.26 smcs; Exhaust Pros \$325.00 smcs; Expression Wear \$385.20 smcs; Eyemed \$1,377.87 smcs; Facebook \$50.00 smcs; Family Fresh \$17.73 smcs; Family Handyman \$6.99 smcs; Family Practice \$1,333.00 ps; Fastenal \$258.73 smcs; FBI Nat'l Academy \$371.00 smcs; FBINAA Iowa Chapter \$300.00 smcs; Find It Parts \$730.47 smcs; First Lutheran \$100.00 smcs; Forms Fulfillment \$143.29 smcs; Friesen Chevrolet \$20.44 smcs; Fritson Psych Services \$1,025.00 smcs; Frontier \$8,173.13 smcs; Gale/Cengage \$849.32 smcs; Galeton \$1,444.11 smcs; Galls \$450.97 smcs; Garrett Tires \$10,343.48 smcs;

Garringer,D \$275.00 smcs; General Collection \$49.13 smcs; Glass Doctor \$149.60 smcs; Go Daddy \$359.76 smcs; Gopher Sports \$156.69 smcs; GPM Pump \$2,087.62 smcs; Graczyk Landscape \$1,575.60 smcs; Graham Tire \$610.44 smcs; Grainger \$2,074.87 smcs; Grauf,N \$15.72 smcs; Happ,L \$100.00 smcs; Heartland Motor Sports \$210.87 smcs; Helgeson,D \$67.00 smcs; Hobby Lobby \$182.54 smcs; Holmes Plumbing \$1,050.86 smcs,co; Home Depot \$2,198.90 smcs; Horizon \$208.48 smcs; Husker Irrigation \$669.61 smcs; Hy-vee \$54.07 smcs; IACP \$1,225.00 smcs; Integrated Security \$480.00 smcs; Invoice Home \$5.00 smcs; IRS \$221,864.19 ps; Jack Lederman \$468.25 smcs; Jack's Small Engine \$45.07 smcs; Jack's Uniforms \$177.89 smcs; Jackson Services \$364.30 smcs; Jmac Supply \$289.93 smcs; Johnson Controls \$3,109.00 smcs; Johnson Landscape \$2,470.00 smcs; Johnstone Supply \$413.60 smcs; Kathleen Laughlin, Trustee \$70.00 ps; Ky Ace & Garden \$88.81 smcs; Ky Animal Shelter \$10,609.00 smcs; Ky Area Builders \$420.00 smcs; Ky Chamber Comm. \$1,945.00 smcs; Ky Concrete \$1,724.45 smcs,co; Ky Crete & Block \$1,603.05 smcs; Ky Equipment \$87.74 smcs; Ky Powersports \$106.85 smcs; Ky Quality Sew \$5.98 smcs; Ky Volunteer Fire \$92,675.00 smcs; Ky Winlectric \$4,433.59 smcs; Ky Winnelson \$265.42 smcs; Kelly Supply \$5,364.43 smcs,co; Kluver,J \$34.14 smcs; Konica Minolta \$106.98 smcs; Kring,J \$150.00 smcs; Lamps Plus \$1,380.30 smcs; Landmark Implement \$2,688.17 smcs; Lee NE Media Group \$3,505.83 smcs; Librarica \$907.35 smcs; Lincoln National Life \$9,205.42 smcs; LLRMI \$125.00 smcs; Lockmobile \$15.60 smcs; Longleaf Services \$200.88 smcs; Lulzbot \$138.67 smcs; Lyman Products \$134.82 smcs; Macqueen Equipment \$492.31 smcs; Magic Cleaning \$400.00 smcs; Mallory Safety \$290.00 smcs; Marsh, Karen \$36.25 smcs; Master True Value \$693.46 smcs,co; Matheson Trigas \$132.64 smcs,co; McGee,G \$250,000.00 co; Menards \$3,927.31 smcs; Merrill Company \$925.92 smcs; Microsoft Store \$105.94 co; Mid American Signal \$23,645.00 smcs; Midland Scientific \$32.10 smcs; Midlands Contracting \$359,809.55 co; Midwest Connect \$516.40 smcs; Midwest Turf \$1,297.67 smcs; Mirror Image \$631.58 smcs; Mission Square Retirement \$7,158.15 ps; Moonlight Embroidery \$3,654.70 smcs; Mountain High Equipment \$175.10 smcs; Municipal Supply \$4,059.62 smcs; Municode \$158.54 smcs; Nat'l Assn. \$40.00 smcs; NE Arboretum \$75.00 smcs; NE Aviation \$230.00 smcs; NE Child Support Pmnt \$1,764.50 ps; NE Dept Environmental \$17,460.91 smcs; NE Dept of Revenue \$76,108.37 smcs; NE Floodplain \$70.00 smcs; NE Generator \$3,497.72 smcs; NE Library Assn. \$90.00 smcs; NE Library Commission \$1,225.45 smcs; NE Machinery \$890.51 smcs; NE Rural Water Assn. \$500.00 smcs; NE Safety & Fire \$100.00 smcs; NE Truck Center \$2,832.59 smcs; NE Turf Assn. \$550.00 smcs; NE Wildlife \$4.32 smcs; Netgate \$716.54 co; Netmotion \$311.16 smcs; Newegg \$79.16 co; NI E and A Renew \$80.00 smcs; NI State Payport \$245.98 smcs; NLETC \$350.00 smcs; Northern Safety \$159.84 smcs; Northern Tool \$107.55 smcs; Northwest Electric \$1,750.74 smcs; Northwestern Energy \$25,253.12 smcs; Northwestern University \$60.00 smcs; Office Max \$1,021.07 smcs; Officenet \$75.83 smcs; Old Navy \$98.93 smcs; Olsson \$1,669.53 co; O'Neill Wood Resources \$41,600.00 smcs; Optics Planet \$317.37 smcs; O'Reilly Auto \$1,099.63 smcs; Orscheln \$463.70 smcs; Otterbox Lifeproof \$128.29 co; Panera Bread \$42.18 smcs; Paper Mart \$79.27 smcs; Paramount \$99.10 smcs; Peavey \$195.50 smcs; Phillips 66 \$32.54 smcs; Ping \$440.64 smcs; Pitney Bowes \$621.00 smcs; Platinum Awards \$236.35 co; Platte Valley Auto Mart \$70.77 smcs; Platte Valley Comm. \$2,873.85 smcs; Platte Valley Medical \$150.00 ps; Poster My Wall \$29.95 smcs; Powertech \$630.08 smcs; Prestige Flag \$1,610.28 smcs; Presto-X \$235.00 smcs; Priority Mgmt. \$98.00 smcs; Pssav.com \$79.81 co; Quill \$167.70 smcs; Ready Mixed Concrete \$678.00 co; Reams \$6,321.25 smcs; Redbox \$3.96 smcs; Redman's Shoes \$200.00 smcs; Rentokil

\$185.00 smcs; Resource Mgmt. \$1,680.00 smcs; Reverse Osmosis \$110.22 smcs; Rheome Tree \$5,450.00 smcs; Ring Central \$66.67 smcs; RMV Construction \$522,001.25 co; Rokit Eve \$418.19 smcs; S&B Heating \$607.90 smcs; Sahling Kenworth \$4,885.19 smcs; Samsung \$85.59 co; Sandry Fire \$597.70 smcs; Sanitation Products \$625.15 smcs; Sayler Screenprinting \$399.12 smcs; Schanou,J \$223.00 smcs; Schlund,D \$57.41 smcs; Schumacher Brothers \$1,990.00 smcs; Schwarz,Z \$223.00 smcs; Scooter's Coffee \$45.00 smcs; Seat Covers \$288.80 smcs; See Clear Cleaning \$350.00 smcs; Sherwin Williams \$60.92 smcs; Shotkoski,R \$26.01 smcs; Shredding Solutions \$45.00 smcs; Silverstone Group \$6,598.08 smcs; Skywest \$236,339.80 smcs; SLA Corp \$374.74 smcs; Snap-On Tools \$950.00 smcs; Southern Police Institute \$1,375.00 smcs; Spectrum \$462.57 smcs; Steel Toe Shoes \$256.79 smcs; Stitch 3 \$168.00 smcs; Streakwave Wireless \$258.35 co; Stutsman \$2,745.00 smcs; Superior Signals \$1,430.61 smcs; Surveillance Video \$2,626.79 smcs; Target \$311.72 smcs; Tech Masters \$222.00 smcs; Tennis Supply \$78.06 smcs; Tidei,J \$100.00 smcs; Titan Machinery \$2,146.67 smcs; Tool Nut \$213.96 smcs; Townplace Suites \$596.77 smcs; Tractor Supply \$579.23 smcs; Traffic Safety \$143.15 co; Transunion \$118.90 smcs; Travelers \$57.40 smcs; Treetopia \$310.29 smcs; Tri Mor K9 \$198.00 smcs; Triple Crown Products \$2,702.43 smcs; Twin City Hardware \$1,163.67 smcs; Tye & Rowling \$15,205.43 smcs; Uline \$232.96 smcs; Union Bank & Trust \$101,508.74 ps; Unique \$179.00 smcs; United States Flag \$199.06 smcs; UNO \$616.00 smcs; UPS Store \$143.89 smcs; USA Comm. \$190.54 smcs; USPS \$474.04 smcs; Valley Forklift \$745.66 smcs; Vanco \$101.82 smcs; Verizon \$9,597.04 smcs; Village Services \$210.68 smcs; VVS \$223.95 smcs; Wal-mart \$1,312.88 smcs,co; Walters Electric \$11,500.00 co; Warren-T Plumbing \$375.00 smcs; Wastecorp Pumps \$255.83 smcs; Waterlink \$682.12 smcs; Wilcac Life \$10.00 ps; Wilkins Hinrichs Stober \$4,411.91 co; Williamson-Dickie \$21.39 smcs; WPCI \$377.50 ps; Young, Cole \$24.75 smcs; Zimmerman Printing \$179.50 smcs; Zoho Corp. \$806.00 smcs; Zoom \$11.91 smcs; Payroll Ending 01/15/2022 -- \$531,360.37. 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 February 8, 2022 at 5:30 p.m. as date and time for hearing on those applications where applicable.
4. Adopt Resolution No. 2022-28 approving the Annual Redevelopment Project Report as required by State Statute 18.2117.02.

### **RESOLUTION NO. 2022-28**

WHEREAS, on March 21, 2018, Governor Ricketts signed LB 874 which took effect on July 19, 2018; and

WHEREAS, Section 18-2117.02 of LB 874 states that on or before May 1 of each year, each authority shall compile information regarding the approval and progress of redevelopment projects that are financed in whole or in part through the division of taxes as provided in section 18-2147 and report such information to the governing body of the city and to the governing body of each county, school district, community college area, educational service unit, and natural resources district whose property taxes are affected by such division of taxes; and

WHEREAS, the report is required to include the following information:

1. Total number of active redevelopment projects within the city that have been financed in whole or in part through the division of taxes as provided in section 18-2147.
2. Total estimated project costs for such redevelopment projects.
3. A comparison between the initial projected valuation for property included in each such redevelopment project as described in the redevelopment contract and the assessed value of the property included in each such redevelopment project as of January 1 of the year of the report.
4. The number of such redevelopment projects approved by the governing body in the previous calendar year.
5. Information specific to each such redevelopment project approved by the governing body in the previous calendar year, including the project area, project type, amount of financing approved, and total estimated project costs.
6. The number of such redevelopment projects for which financing has been paid in full during the previous calendar year and for which taxes are no longer being divided pursuant to section 18-2147.
7. The percentage of the city that has been designated as blighted; and

WHEREAS, on January 10, 2022, the Community Redevelopment Authority approved the 2022 annual report.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the 2022 Annual Report required by Section 18-2117.02 of LB 874 as set forth in the attached report, marked Exhibit "A," attached hereto and made a part hereof by reference, are hereby approved.

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

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 I-124524 liquor license application and manager application for Trista Cress submitted by Golden Ticket Cinemas Inc dba Golden Ticket Cinemas located at 5031 2nd Avenue, Suite #33.
6. Accept the proposals received for the City Hall Boiler Replacement and award the proposal submitted by Rasmussen Mechanical Services in the amount of \$55,417.
7. Adopt Resolution No. 2022-29 approving the revised Kearney Public Library Policy Manual as recommended by the Library Advisory Board.

**RESOLUTION NO. 2022-29**

WHEREAS, the "Policy Manual for the Kearney Public Library" of the Kearney Public Library was adopted on September 12, 2006 by Resolution No. 2006-156; and

WHEREAS, in 2008 the Library Advisory Board determined it was necessary to revamp the entire policy and brought forward a new policy which was adopted by the City Council by Resolution No. 2008-57 on April 8, 2008; and

WHEREAS, on April 10, 2012, April 13, 2015, May 23, 2017, October 8, 2019, July 28, 2020 and again on July 27, 2021 the Council approved the revised policy by

Resolution Nos. 2012-59, 2015-74, 2017-85, 2019-186, 2020-112 and 2021-126 respectively; and

WHEREAS, the Library Advisory Board has made some changes and is recommending the City Council approve the changes and adopt the revised policy.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the recommendation from the Library Advisory Board, on adopting a revised Kearney Public Library Policy Manual, a copy marked as Exhibit "A", attached hereto and made a part hereof, be and is hereby adopted.

BE IT FURTHER RESOLVED that the revised policy adopted in 2021 by Resolution No. 2021-126 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

8. Adopt Resolution No. 2022-30 approving Change Order No. 1 increasing the substantial completion date to October 28, 2022 and the final completion date to November 11, 2022 submitted by Duncan Theis Construction, Inc. and approved by Olsson for the Yanney Park Maintenance Building.

**RESOLUTION NO. 2022-30**

WHEREAS, Duncan Theis Construction, Inc. of Kearney, Nebraska has performed services in connection with the Yanney Park Maintenance Building, and the City's engineer, Olsson, have filed with the City Clerk Change Order No. 1 increasing the substantial completion date to October 28, 2022 and the final completion date to November 11, 2022 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 are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

9. Approve the Plans and Specifications for the Water Utility Communication Line and set the bid opening date for February 15, 2022 at 2:00 p.m.

10. Adopt Resolution No. 2022-31 approving the utilization of the Construction Management at Risk Method for the proposed Kearney Indoor Sports Complex in accordance with Sections §13-2901 through §13-2914 of the Nebraska Revised Statutes and Section 1-1520 "Political Subdivision Construction Alternatives Act" to Article 15 "Purchasing" of Chapter 1 "Administration".

**RESOLUTION NO. 2022-31**

WHEREAS, the City of Kearney, Nebraska desires approval to utilize the process of the Construction Management at Risk method for the proposed Kearney Indoor Sports Complex in accordance with Sections §13-2901 through §13-2914 of the Nebraska Revised Statutes and Section 1-1520 "Political Subdivision Construction Alternatives Act" to Article 15 "Purchasing" of Chapter 1 "Administration" of Kearney City Code; and

WHEREAS, City Council by Ordinance No. 8551 adopted on January 11, 2022, added a new section entitled Section 1-1520 "Political Subdivision Construction Alternatives Act" to Article 15 "Purchasing" of Chapter 1 "Administration" to the Code of the City of Kearney, that approved the utilization of alternative construction methods including Construction Management at Risk for eligible projects; and

WHEREAS, City staff believes the proposed construction of a new indoor sports complex in Kearney is an appropriate project for use of this method and requests approval of the same.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Construction Management at Risk option for construction of the proposed indoor sports complex, in accord with Sections §13-2901 through §13-2914 of the Nebraska Revised Statutes and Section 1-1520 "Political Subdivision Construction Alternatives Act" to Article 15 "Purchasing" of Chapter 1 "Administration" of Kearney City Code, is approved.

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

11. Adopt Resolution No. 2022-32 approving Change Order No. 4 showing a decrease in the amount of \$211,243.35 submitted by Paulsen, Inc. and approved by Alfred Benesch and Company for AIP Project No. 3-31-0045-032 in connection with the Taxiway 'A' & Connecting Taxiway Rehabilitation project at the Kearney Regional Airport.

**RESOLUTION NO. 2022-32**

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with Taxiway 'A' and Connecting Taxiways Rehabilitation (AIP 3-31-0045-032) at the Kearney Regional Airport, and the City's engineer, Alfred Benesch and Company, have filed with the City Clerk Change Order No. 4 showing a decrease to the contract sum in the amount of \$211,243.35 (contingent upon FAA concurrence/approval) as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows;

Original Contract Sum	\$ 6,070,824.60
Change Order No. 1 (9-8-2020)	- 30,400.00
Change Order No. 2 (6-8-2021)	+ 18,314.00
Change Order No. 3 (10-26-2021)	+ 0.00
Change Order No. (1-25-2022)	- <u>211,243.35</u>
Total New Revised Contract Amount	\$ 5,847,495.25

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. 4, as shown

on Exhibit "A" be and is hereby accepted and approved (contingent upon FAA concurrence/approval).

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**12.** Adopt Resolution No. 2022-33 approving Change Order No. 2 showing a decrease in the amount of \$20,748.25 submitted by Paulsen, Inc. and approved by Alfred Benesch and Company for Airport Improvement Program/CARES Act Project (No. 3-31-0045-034) in connection with the Parking Lot Expansion project at the Kearney Regional Airport.

**RESOLUTION NO. 2022-33**

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with Parking Lot Expansion project at the Kearney Regional Airport (Airport Improvement Program/CARES Act Project No. 3-31-0045-034), and the City's engineer, Alfred Benesch and Company, have filed with the City Clerk Change Order No. 2 showing a decrease to the contract sum in the amount of \$20,748.25 (contingent upon FAA concurrence/approval) as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows;

Original Contract Sum	\$ 997,448.50
Change Order No. 1 (10-26-2021)	+ 1,472.00
Change Order No. 2 (01-25-2022)	<u>- 20,748.25</u>
Total New Revised Contract Amount	\$ 978,172.25

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" be and is hereby accepted and approved (contingent upon FAA concurrence/approval).

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**13.** Approve the Agreement between the City of Kearney and Central Nebraska Auto Club on behalf of Cruise Nite 2022 which describes parking on these public properties that are prohibited on July 16, 2022 beginning at 2:00 a.m. and adopt Resolution No. 2022-34.

**RESOLUTION NO. 2022-34**

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 Agreement, on behalf of the City of Kearney, Nebraska, with the Central Nebraska Auto Club, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF JANUARY, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **OPEN ACCOUNT CLAIM**

Moved by Buschkoetter seconded by Nikkila that the Open Account Claim in the amount of \$80,044.52 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Moore, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

## **VII. REPORTS**

Mr. Morgan noted that Mike Konz with the Kearney Hub had a good article on the fairly extensive list of Capital Projects.

Mayor Clouse thanked Mr. Morgan and stated the list is impressive. Mayor Clouse also thanked Mr. Konz for the article.

### **CLOSED SESSION**

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 6:02 p.m. for the protection of the public interest to discuss personnel matters. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss personnel matters. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Buschkoetter seconded by Lear that Council reconvene in regular session at 6:25 p.m. Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

## **VIII. ADJOURN**

Moved by Clouse seconded by Nikkila that Council adjourn at 6:25 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lear, Moore. Nay: None. Motion carried.

**ATTEST:**

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

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**LAUREN BRANDT  
CITY CLERK**