

*Kearney, Nebraska
February 8, 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 February 8, 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; Wendell Wessels, Director of Finance; Eric Hellriegel, Assistant City Manager; Sarah Sawin, Assistant Director of Utilities; Luke Dutcher, Assistant Director of Public Works; Bryan Waugh, Chief of Police; Shawna Erbsen, Administrative Services Director and Brenda Jensen, Development Services Director, were also present. Several Boy and Cub Scouts and their family's were also in attendance.

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

Two 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.

RECOGNITION/ORAL COMMUNICATIONS

Mayor Clouse read the Proclamation recognizing February 6 – 13, 2022 as Scouting Anniversary Week.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

VACATE PROPERTY LOCATED AT 2116 AND 2202 EAST 34TH STREET AND FINAL PLAT AND SUBDIVISION AGREEMENT FOR WILLIAM GRACE ESTATES ADDITION

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

Mayor Clouse opened the public hearing on the applications submitted by Olsson for B & G Investments LLC to 1) vacate Lots 1 and 2, Block 1, William Estates, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 8552; and 2) the Final Plat and Subdivision Agreement for William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in the Southwest Quarter of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (2116 and 2202 East 34th Street) and consider Resolution No. 2022-35.

Jacob Reiter, Olsson presented this matter to the Council. Mr. Reiter stated approximately a year and a half ago he presented to Council a request to plat a two (2) lot addition called William Estates Addition, with plans to construct roughly 12 living units per lot. Since that time, the property owner has decided he would like to have each unit be located on its own lot. Mr. Reiter noted the prior plan was denser; this plan will have two (2) less triplexes and in general, will be less dense. He showed the two (2) lots, access and utility easements down the middle of William Estates Addition and the utility easement along the west, north and east side of William Estates that are all being requested to be vacated on the William Estates Addition plat. There will be nine (9) lots in the proposed William Grace Estates Addition; Lots 1, 4, 5, 6 and 9 will contain larger duplexes with two (2) bedrooms and the remaining four (4) lots will be one (1) bedroom. Mr. Reiter reviewed the current zoning as well as the infrastructure for the proposed Addition and noted each individual unit will get its own water and sanitary sewer service.

Council Member Jonathan Nikkila asked if the road shown on the proposed plat will be a private road and that is why there are no sidewalks shown? Mr. Reiter stated it is a private road with access and public utility easements; the only sidewalks are located along 54th Street.

Mr. Reiter noted the largest fire truck Kearney has is able to get in and out of the proposed Addition and further explained landscaping for the development. The owner plans to keep healthy trees already on the property with plans to plant the minimum number of trees on the frontage to meet landscaping requirements per Code. Mr. Reiter stated the owner will be installing a white vinyl fence around the perimeter of the development and further noted there are a handful of rear yard deviations in the five-foot range outlined in the Revised Planned District Development Plan. Each one (1) bedroom unit will have a one (1) car garage and each two (2) bedroom unit will have two (2) car garages which they feel provides ample parking in the development; it was also noted there is additional parking on the street. There will be four (4) single bedroom units and five (5) double bedroom units.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the applications submitted by Olsson for B & G Investments LLC and introduced Ordinance No. 8552 vacating Lots 1 and 2, Block 1, William Estates, an addition to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8552. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8552 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance No. 8552 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8552 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.

Moved by Lear seconded by Buschkoetter to adopt Resolution No. 2022-35 approving the Final Plat and Subdivision Agreement for William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in the Southwest Quarter of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (2116 and 2202 East 34th Street). Roll call resulted as follows: Aye: Clouse, Moore, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2022-35

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land located in the Southwest Quarter of the Northeast Quarter of Section 31, Township 9 North, Range 15 West of the 6th P.M. in the City of Kearney, Buffalo County, Nebraska and more particularly described as follows: Beginning at the Southwest corner of the Lot 1, Block 1, Millennial Estates Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 89°24'41" W on the North line of 34th Street in the said City of Kearney, 230.00 feet to a point 30.0 feet East of the SW Corner of Lot 9, Block 124 of East Lawn Second Addition, an addition in the City of Kearney; thence N 00°35'57" E, 30.0 feet East of and parallel with the West lines of Lot 9 and Lot 4 of Block 124 of said East Lawn Second Addition, 319.90 feet to a point being on the South line of Lot 12, Block 1, said Millennial Estates Addition; thence S 89°24'32" E on the South line of Lots 8, 9, 10, 11, and Lot 12 of said

Block 1, Millennial Estates Addition, 230.05 feet to the SE corner of said Lot 8; thence S 00°36'31" W on the West line of Lots 1, 2, 3, 4, 5, and Lot 6 of said Block 1, 319.89 feet to the Point of Beginning; said tract contains a calculated area of 73,583 square ft or 1.69 acres more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PLANNED DISTRICT DEVELOPMENT PLAN FOR PROPERTY LOCATED AT 2116 AND 2202 EAST 34TH STREET

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

Mayor Clouse opened the public hearing on the Application submitted by Olsson for B & G Investments LLC for a Revised Planned District Development Plan Approval for the proposed construction of a multi-family residential development on property zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as Lots 1 through 9, inclusive, William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska (2116 and 2202 East 34th Street) and consider Resolution No. 2022-36.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2022-36 approving the Application submitted by Olsson for B & G Investments LLC for a Revised Planned District Development Plan Approval for the proposed construction of a multi-family residential development on property zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as Lots 1 through 9, inclusive, William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska (2116 and 2202 East 34th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. Nay: None. Motion carried.

RESOLUTION NO. 2022-36

WHEREAS, Olsson for B & G Investments LLC has applied for Revised Planned District Development Plan Approval for the proposed construction of a multi-family residential development on property zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as Lots 1 through 9, inclusive, William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska (2116 and 2202 East 34th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Olsson for B & G Investments LLC for Revised Planned District Development Plan Approval for the proposed construction of multi-family residential development on property zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as Lots 1 through 9, inclusive, William Grace Estates, an addition to the City of Kearney, Buffalo County, Nebraska (2116 and 2202 East 34th Street) be approved subject to the following deviations:

1. Minimum lot size for Lot 2 is 5,524 square feet and Lot 8 is 5,525 square feet.
2. 20-foot rear yard setbacks for Lots 1, 3, 4, 5, and 9.
3. 16-foot rear yard setbacks and 20-foot front yard setbacks for Lots 2, 3, 7, and 8.
4. 20-foot street side yard setbacks for Lots 1, 3, 7, & 9.

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF A 20.00-FOOT WIDE WATERLINE EASEMENT (A) GRANTED BY OE ENGINES, LLC

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 20.00-foot Wide Waterline Easement (A) granted by OE Engines, LLC, a Nebraska Limited Liability Company for a strip of land 20.00 feet wide being part of Lot 2, Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Waterline Easement purposes and consider Resolution No. 2022-37.

Sarah Sawin, Assistant Director of Utilities presented this matter to the Council. Ms. Sawin stated the two (2) easements are for the extension of the water main at the BluePrint Engines building as they will need it for fire protection for the planned expansion to the east of their building.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2022-37 approving the proposed acquisition for a 20.00-foot Wide Waterline Easement (A) granted by OE Engines, LLC, a Nebraska Limited Liability Company for a strip of land

20.00 feet wide being part of Lot 2, Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-37

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 Waterline Easement and voted in favor to proceed with the acquisition; and

WHEREAS, OE Engines, LLC, a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Waterline Easement as follows:

20.00-FOOT WIDE WATERLINE EASEMENT A

A strip of land 20.00 feet wide being part of Lot Two (2), Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Waterline Easement purposes. Said 20.00 feet wide Waterline Easement to be 10.00 feet on each side of the following described centerline: Commencing at the Northeast corner of Lot One (1), Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska; thence S 00°49'11" E on the line common to Lot 1 and Lot 2 in said Cherry Avenue Industrial Park, and all bearings contained herein are relative thereto, a distance of 135.07 feet to the POINT OF BEGINNING; thence N 89°10'49" E a distance of 230.45 feet; thence N 84°39'56" E a distance of 102.69 feet; thence N 89°10'49" E a distance of 161.70 feet; thence S 45°49'11" E a distance of 65.42 feet; thence N 89°10'49" E a distance of 69.05 feet to the Point of Termination. The side lines of said 20.00 feet wide Waterline Easement to be lengthened or shortened to form a continuous strip. Said 20.00 feet wide Waterline Easement contains 0.29 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Waterline Easement granted by OE Engines, LLC, a Nebraska Limited Liability Company, 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 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

PROPOSED ACQUISITION OF A 20.00-FOOT WIDE WATERLINE EASEMENT (B) GRANTED BY OE ENGINES, LLC

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the proposed acquisition for a 20.00-foot Wide Waterline Easement (B) granted by OE Engines, LLC, a Nebraska Limited Liability Company for a strip of land 20.00 feet wide being part of Lot 2, Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Waterline Easement purposes and consider Resolution No. 2022-38.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Nikkila to close the hearing and adopt Resolution No. 2022-38 approving the proposed acquisition for a 20.00-foot Wide Waterline Easement (B) granted by OE Engines, LLC, a Nebraska Limited Liability Company for a strip of land 20.00 feet wide being part of Lot 2, Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Waterline Easement purposes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2022-38

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 Waterline Easement and voted in favor to proceed with the acquisition; and

WHEREAS, OE Engines, LLC, a Nebraska Limited Liability Company, have granted to the City of Kearney, Nebraska a Waterline Easement as follows:

20.00-FOOT WIDE WATERLINE EASEMENT B

A strip of land 20.00 feet wide being part of Lot Two (2), Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska, dedicated for Waterline Easement purposes. Said 20.00 feet wide Waterline Easement to be 10.00 feet on each side of the following described centerline: Commencing at the Southeast corner of Lot One (1), Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 00°49'11" W on the line common to Lot 1 and Lot 2 in said Cherry Avenue Industrial Park, and all bearings contained herein are relative thereto, a distance of 155.34 feet to the POINT OF BEGINNING; thence N 89°10'49" E a distance of 260.47 feet; thence S 86°21'21" E a distance of 128.48 feet; thence N 89°10'49" E a distance of 216.91 feet to the Point of Termination. The side lines of said 20.00 feet wide Waterline Easement to be lengthened or shortened to form a continuous strip. Said 20.00 feet wide Waterline Easement contains 0.28 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Waterline Easement granted by OE Engines, LLC, a Nebraska Limited Liability Company, 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 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Nikkila seconded by Moore that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held January 25, 2022.
2. Approve the following Claims:

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

Accent Wire-Tie \$979.38 smcs; All City Garage Door \$1,877.00 smcs; All Copy \$241.96 smcs; Amazon \$1,083.59 smcs; Anderson Bros. \$736.28 smcs; Anderson,B \$163.00 smcs; Aramark \$75.64 smcs; ASI Signage Innovations \$2,438.33 co; Ask Supply \$765.00 smcs; Avfuel \$51,434.98 smcs,er; Baker & Taylor \$3,306.32 smcs; Blackstone \$40.00 smcs; BlueCross BlueShield \$112,292.77 smcs; Books Galore \$2,740.47 smcs; Brown,C \$181.06 smcs; Browne,J \$1,240.00 smcs; Buffalo Co Register Deeds \$326.00 smcs; Builders \$75.33 smcs; Burnett,M \$31.00 smcs; Cash Wa \$499.46 smcs; Center Point \$77.91 smcs; Chesterman \$156.00 smcs; Christensen,K \$115.00 smcs; City of Ky \$407,998.28 smcs,ps; Comm Act Part of Mid NE \$3,507.00 smcs; Community Health \$36.00 ps; Community Service Fund \$16.00 ps; Compute North \$133,698.76 smcs; Construction Rental \$375.00 co; Cummins \$245.11 smcs; Cutting Edge Cleaning \$250.00 smcs; Dmilaco \$60.00 smcs; Dowhy Towing \$300.00 smcs; Dutton-Lainson \$19.49 smcs; Eakes \$2,234.20 smcs; Ecolab \$114.87 smcs; Elliott Equipment \$290,013.80 smcs,co; ESChat \$191.94 smcs; ESO Solutions \$4,959.71 smcs; Eustis Body Shop \$120.00 smcs; Fairbanks Scales \$10,399.00 co; Family Practice Assoc \$775.00 ps; Fearnley,M \$285.11 smcs; FedEx \$37.89 smcs; Flaherty,T \$99.00 smcs; Gale \$1,098.55 smcs; Gear for Sports \$161.16 smcs; Greater NE Cities \$1,000.00 smcs; Griffith,S \$50.00 smcs; Hearing Access \$4,165.00 smcs; Hometown Leasing \$159.08 smcs; IACP \$240.00 smcs; IRS \$173,047.90 ps; Jack Lederman \$22.04 smcs; Jack's Uniforms \$740.92 smcs; Jelinek,A \$107.00 smcs; J-Spot \$125.00 co; Kathleen Laughlin, Trustee \$70.00 ps; Ky Animal Shelter \$10,609.00 smcs; Ky Catholic School \$1,004.47 smcs; Ky Winlectric \$8,629.99 smcs; Kiplinger Tax Letter \$105.94 smcs; Klingelhoef,C \$163.00 smcs; Konica Minolta \$444.73 smcs; LaQuinta \$192.00 smcs; Lincoln National Life \$7,989.80 smcs; Macqueen Equipment \$4,610.08 smcs; Magic Cleaning \$6,950.00 smcs; McEntee,S \$100.00 smcs; Menards \$69.86 co; Midwest Connect \$9,431.47 smcs; Mission Square Retirement \$7,116.81 ps; Molina,F \$163.00 smcs; Municipal Supply \$59,063.90 co; Murphy Tractor \$1,576.78 smcs; NE Child Support \$1,764.50 ps; NE Dept

of Revenue \$66,875.82 ps; NE Public Health \$426.00 smcs; NE Safety & Fire \$100.00 smcs; Newell,B \$300.00 smcs; Northwestern \$5,396.85 smcs; Olsson Associates \$13,550.00 co; Overdrive \$42,000.00 smcs; Overhead Door \$188.50 smcs; Paul,C \$120.00 smcs; Payflex Systems \$512.46 ps; Penworthy \$424.80 smcs; Pep Co. \$87.34 smcs; Platte River Harley \$1,927.93 smcs; Platte Valley Comm. \$2,351.90 smcs; Platte Valley Laboratories \$35.00 smcs; Presto-X \$242.00 smcs; Prospiant \$18,324.89 co; Ravenna Sanitation \$49.00 smcs; Raynor Garage Doors \$518.00 smcs; RDG Planning & Design \$8,732.88 co; Resource Mgmt. \$2,702.40 smcs; S & B Heating \$2,564.74 smcs; Sapp Brothers \$46,014.22 smcs; Sawin,S \$137.00 smcs; Sayler Screenprinting \$201.00 smcs; Schindler Elevator \$1,041.24 smcs; School District 7 \$2,285.00 smcs; Schroer,J \$255.00 smcs; Schwarz,G \$185.99 smcs; See Clear Cleaning \$950.00 smcs; Sid Dillon \$31,561.00 co; SOS Portable Toilets \$220.00 smcs; Starostka Group \$36,603.50 co; State of NE-DAS \$39.69 smcs; Stephens,K \$2.79 smcs; Stover,JJ \$36.00 smcs; Stutsman \$1,647.00 smcs; Sunbelt Rentals \$456.84 smcs; Svoboda,C \$460.00 smcs; Taillon,R \$832.00 smcs; Tennant Sales \$22,898.75 smcs; Tigerscorecard \$2,542.00 smcs; Trails & Rails Museum \$500.00 smcs; Turner Body Shop \$300.00 smcs; Tye & Rowling \$14,984.17 smcs; Union Bank & Trust \$92,425.71 ps; United Way of Ky \$251.76 ps; US Cellular \$150.00 smcs; Vanco \$92.72 smcs; Verizon \$530.00 smcs; Village Uniform \$257.38 smcs; Volaire Aviation \$550.00 smcs; Westerbuhr,D \$50.00 smcs; Wilkins Architecture \$106,931.20 co; Payroll Ending 01/29/2022 -- \$558,112.18. 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 submitted by Brad Vontz for Vontz Paving for Waters View Inc., a Nebraska Corporation to extend Conditional Use Permit No. 2019-05 to operate an asphalt batch plant located South of East 11th Street and East of Imperial Avenue for a period of three (3) years.
4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the Class CGK-124712 liquor license application and manager application for Trevor Schaben submitted by Thunderhead Brewing Company dba Thunderhead Brewing located at 18 East 21st Street.
5. Adopt Resolution No. 2022-39 repealing Resolution No. 2021-166 and adopt the 2021-2022 Comprehensive Fee Schedule amending the fees associated with Columbarium space, both single and double, at the Kearney Cemetery.

RESOLUTION NO. 2022-39

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2021-2022 fiscal year was adopted by Resolution No. 2021-166 on September 14, 2021 by the City Council; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2021-2022 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted.

BE IT FURTHER RESOLVED that Resolution No. 2021-166 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

- 6. Reject the bids received for 2022 Side Load Refuse Compactor Truck.
- 7. Adopt Resolution No. 2022-40 approving the Developer Constructed Infrastructure Agreement for BluePrint Engines Waterline Extension between the City of Kearney and Norris Marshall, Manager of OE Engines, LLC, a Nebraska Limited Liability Company, for the construction of a water main to serve Lot 2, Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2022-40

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for BluePrint Engines Waterline Extension (2915 Marshall Avenue)" between the City of Kearney and Norris Marshall, Manager, of OE Engines, LLC, a Nebraska Limited Liability Company for the construction of a water main to serve Lot 2 of Cherry Avenue Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

- 8. Adopt Resolution No. 2022-41 certifying the appointment of Fire Administrator, Jason Whalen, to serve as the certificate administrator for the Volunteer Emergency Responders Incentive Act since enacted on January 1, 2017.

RESOLUTION NO. 2022-41

WHEREAS, Nebraska Revised Statutes §§ 77-3101 to 77-3106 details the Volunteer Emergency Responders Incentive Act which provides a \$250 refundable income tax credit, beginning January 1, 2017, to qualified active emergency responders, active rescue squad members, or active volunteer firefighters (volunteer members) who serve a county, city, village, or rural or suburban fire protection in Nebraska; and

WHEREAS, part of The Act requires that the volunteer department designate one of its members to serve as the certification administrator. The certification administrator must be confirmed and approved by the volunteer department's governing body; and

WHEREAS, no later than February 15 following the year of qualification, the certification administrator must file a completed Annual Certification for the Volunteer Emergency Responders Incentive Act (annual certification) with the Nebraska Department of Revenue (NDOR) and its volunteer department's governing body; and

WHEREAS, the Kearney Volunteer Fire Department has recommended that Fire Administrator, Jason Whalen, serve as the certification administrator, since the Act's enactment on January 1, 2017 and authorizes Jason Whalen to annually prepare, maintain, execute and submit the annual certification to the NDOR.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Fire Administrator, Jason Whalen, be approved and authorized to serve as the certification administrator for the Volunteer Emergency Responders Incentive Act and complete all responsibilities in connection with the Annual Certification, since the Act's enactment on January 1, 2017 and to continue serving in this capacity.

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

9. Adopt Resolution No. 2022-42 approving Change Order No. 1 showing an increase in the amount of \$78,610.00 and an extension of two weeks to the original project completion date and Application and Certificate for Payment No. 1 in the amount of \$214,457.99 submitted by Whinnery Construction, Inc. and approved by S2O Design and Engineering, Inc. for Phase II Enhancements of the Kearney Water Trail known as Kearney Whitewater Park.

RESOLUTION NO. 2022-42

WHEREAS, Whinnery Construction, Inc. of Lake City, Colorado has performed services in connection with the continuation of Phase II Enhancements of the Kearney Water Trail known as Kearney Whitewater Park, and the City's engineer, S2o Design and Engineering, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$78,610.00 and an extension of two weeks to the original project completion date as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Whinnery Construction, Inc. and S2o Design and Engineering have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$214,457.99 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 583,917.50
Change Order No. 1 (2/8/2022)	<u>+ 78,610.00</u>
Contract Sum To Date	662,527.50
Current Payment Due	\$ 214,457.99

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

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

10. Adopt Resolution No. 2022-43 approving Application and Certificate for Payment No. 8 in the amount of \$138,026.45 submitted by RMV Construction and approved by Miller & Associates for the Wastewater Treatment Plant Phase II; Vehicle Storage Building.

RESOLUTION NO. 2022-43

WHEREAS, RMV Construction of Kearney, Nebraska has performed services in connection with the Wastewater Treatment Plant Phase II; Vehicle Storage Building, and the City’s engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 8 in the amount of \$138,026.45 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 1,516,900.00
Change Order No. 1 (10/26/2021)	- 2,724.00
Contract Sum To Date	1,514,176.00
Gross Amount Due	1,504,426.00
Retainage (7.5%)	- 113,143.80
Amount Due to Date	1,391,282.20
Less Previous Certificates for Payment	- 1,253,255.75
Current Payment Due	\$ 138,026.45

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 8, as shown on Exhibit “A” be and is hereby accepted and approved.

PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

11. Adopt Resolution No. 2022-44 approving Application and Certificate for Payment No. 5 in the amount of \$378,534.91 submitted by Midlands Contracting Inc. and approved by Miller & Associates for 2021 Part 5 Improvements; Extension of Talmadge Street (Bid A, Sanitary Sewer and Water).

RESOLUTION NO. 2022-43

WHEREAS, RMV Construction of Kearney, Nebraska has performed services in connection with the Wastewater Treatment Plant Phase II; Vehicle Storage Building, and

the City’s engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 8 in the amount of \$138,026.45 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 1,516,900.00
Change Order No. 1 (10/26/2021)	- <u>2,724.00</u>
Contract Sum To Date	1,514,176.00
Gross Amount Due	1,504,426.00
Retainage (7.5%)	- <u>113,143.80</u>
Amount Due to Date	1,391,282.20
Less Previous Certificates for Payment	- <u>1,253,255.75</u>
Current Payment Due	\$ 138,026.45

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 8, as shown on Exhibit “A” be and is hereby accepted and approved. PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

12. Adopt Resolution No. 2022-45 approving the Park Services Agreement between the Lighthouse Point Subdivision Homeowners Association, Inc., a Nebraska Non-Profit Corporation and the City of Kearney for the development of a City park and to outline the terms of how the park can be developed.

RESOLUTION NO. 2022-45

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Park Development Agreement between the City of Kearney, Nebraska, a Municipal Corporation and Lighthouse Point Subdivision Homeowners Association, Inc., a Nebraska Non-Profit Corporation for the development of a City park located on a parcel of property described as a tract of land being part of Lot 4, Block 8, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska, and said agreement outlines the terms of how the park can be developed, be and is hereby approved. The Agreement, marked as Exhibit ‘A’, is hereby attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Park Development Agreement on behalf of the City of Kearney. PASSED AND APPROVED THIS 8TH DAY OF FEBRUARY, 2022.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8553 AMENDING SEVERAL SECTIONS IN ARTICLE 30 OF CHAPTER 3 "BUSINESS REGULATIONS"

Council Member Moore introduced Ordinance No. 8553 amending several sections in Article 30 "Restaurant and Drinking Place Occupation Tax" of Chapter 3 "Business Regulations" of the City Code including: (a) Section 3-3001 "Intent and Purpose" to add the reference of an indoor sports complex; (b) Section 3-3002 "Definitions" to add to the existing definition of Drinking place to include any establishment offering on premises consumption of food and/or alcoholic and non-alcoholic beverages beginning January 1, 2023; (c) Section 3-3006 "Use of Revenue" to add the reference of an indoor sports complex; and (d) Section 3-3011 "Sunset Provision" to amend the current sunset date from January 31, 2025 to January 31, 2042, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules for Ordinance No. 8553. 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. 8553 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 Lear seconded by Buschkoetter that Ordinance No. 8553 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. 8553 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

ANNUAL FINANCIAL REPORT

Mayor Clouse opened for discussion the City of Kearney Annual Financial Report prepared by the accounting firm of KSO CPAs + Advisors.

Mindy Oman with KSO CPAs + Advisors presented this matter to the Council. Ms. Oman stated their responsibility is to express an opinion on the financial statements, based on their audit; in their opinion, the financial statements do present fairly which is a clean opinion. Highlights include the City's assets exceed liabilities at yearend by \$297,568,000, of this amount, \$45,812,000 is unrestricted and can be used to meet the City's ongoing

obligations and needs. The City's total net position increased by \$22,724,000 in comparison with the prior year; Governmental funds accounted for \$14,000,000 of that figure and the business type activities, including utilities, golf and airport, accounted for \$8,000,000 of the growth. On September 30th, the City's ending Governmental Fund balance was \$35,119,000 which was an increase of \$6,200,000 over the prior year; of that balance, \$4,900,000 is available to be used within the City's policies.

The City's total debt increased by only \$712,000 to \$51,600,000 in total; \$30,500,000 of the debt is back by the City and \$20,000,000 is bonds backed by specific revenue sources, such as utilities. The new debt included Certificates of Participation with the County for upgrading the Public Safety Communication System as well as notes for street improvement and utility bonds for improving the Water Works Plant and the water and sewer system. The largest Capital Asset Projects completed during the year included several paving improvement projects, Airport improvements and equipment, sewer improvement projects and many park upgrades.

Ms. Oman stated the findings KSO CPAs + Advisors had for the year included the lack of segregation of duties due to the small size of the Finance Department, this is not a new finding and noted the Finance Department has separated duties as best they can. She requested Council remain involved in looking at the financials and asking questions throughout the year. The other finding was due to the purchase of a piece of equipment purchased with Federal funds and noted when the purchase is done, there are specific guidelines with keeping track of this piece of equipment and the specific list was not completed at the time the audit but has since been implemented and the process is already in place to assist in tracking the equipment to meet all of the Federal guidelines. Overall, the Finance Department does a great job in paying attention to details and making sure all reports are correct and all records are complete.

Moved by Buschkoetter seconded by Clouse to accept the City of Kearney Annual Financial Report prepared by the accounting firm of KSO CPAs + Advisors. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Buschkoetter, Lear. Nay: None. Motion carried.

OPEN ACCOUNT CLAIM

Moved by Nikkila seconded by Moore that the Open Account Claim in the amount of \$12,420.76 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Moore, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

Wendell Wessels, Finance Director announced the hire of Kayla James, CPA, who currently is the Certified Internal Auditor for the University of Nebraska system, as the new Finance Director. Mr. Wessels stated Ms. James will train over the next year to take over the position after he retires.

Council Member Tami Moore stated this past weekend she flew out of the Kearney Airport and had a wonderful experience. Council Member Moore stated she visited with the Pilot

and Flight Attendants on her flight as she exited the flight in Denver; they are very aware of how good Kearney is in the smaller market and they commented about how full the flights are and how much they enjoy flying in and out of Kearney.

CLOSED SESSION

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 5:51 p.m. for the protection of the public interest to discuss personnel matters. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Moore. 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 6:13 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore, Buschkoetter. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Nikkila that Council adjourn at 6:13 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lear, Moore, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**LAUREN BRANDT
CITY CLERK**