

*Kearney, Nebraska  
March 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 March 8, 2022 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Bruce Lear, Tami James Moore and Jonathan Nikkila. Absent: Randy Buschkoetter. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Eric Hellriegel, Assistant City Manager; Tony Jelinek, Director of Utilities; Andy Harter, Director of Public Works; Gabe Kowalek, Police Lieutenant; and Scott Hayden, Director of Park and Recreation, were also present.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the City Council and a copy of their acknowledgment or receipt of such notice is attached to these minutes. Availability of the Agenda was communicated in the advance notice and in the notice to the Mayor and City Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

## **I. ROUTINE BUSINESS**

### **INVOCATION/MOMENT OF SILENCE**

With the absence of a minister, the Council held a moment of silence.

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There were no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **REZONE PROPERTY DESCRIBED AS THE VACANT LOT EAST OF 303 WEST 38TH STREET**

Mayor Clouse opened the public hearing on the application submitted by Khayat Rentals, LLC for Robert Khayat to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District for property described as Lot 13, EXCEPT the West 1.5 feet, Block 3, Skyline Drive Subdivision to the City of Kearney, Buffalo County, Nebraska (Vacant lot east of 303 West 38th Street) and consider Ordinance No. 8556.

Robert Khayat, Khayat Rentals, LLC presented this matter to the Council. Mr. Khayat stated he recently purchased the vacant lot and also owns the lot to the north. He plans to build a four-plex with each unit containing two (2) bedrooms and one (1) bathroom on the lot.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the application submitted by Khayat Rentals, LLC for Robert Khayat and introduced Ordinance No. 8556 rezoning from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District for property described as Lot 13, EXCEPT the West 1.5 feet, Block 3, Skyline Drive Subdivision to the City of Kearney, Buffalo County, Nebraska (Vacant lot east of 303 West 38th 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 Moore seconded the motion to close the hearing and suspend the rules for Ordinance No. 8556. 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. Nay: None. Buschkoetter absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8556 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. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Moore seconded by Lear that Ordinance No. 8556 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Lear. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8556 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.

**REZONE PROPERTY LOCATED AT 1100 EAST 25TH STREET**

Mayor Clouse opened Public Hearing 2 on the application submitted by Olsson for TFD Investments, LLC, a Nebraska Limited Liability Company (c/o Tom Fuller) to rezone from District M-1, Limited Industrial District to District C-3, General Commercial District for property described as Lots 11 and 12, Whiteaker and North's Place, an addition to the City of Kearney, Buffalo County, Nebraska (1100 East 25th Street). At the request of the Applicant and Developer, Olsson for TFD Investments, LLC, a Nebraska Limited Liability Company (c/o Tom Fuller), this item has been requested to be postponed to the March 22, 2022 City Council meeting.

Moved by Lear seconded by Clouse to postpone Public Hearing 2 pertaining to the rezoning of property located at 1100 East 25th Street to the March 22, 2022 City Council meeting. Roll call resulted as follows: Aye: Clouse, Moore, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

**REZONE PROPERTY LOCATED AT 3610 6TH AVENUE AND VACATE PROPERTY LOCATED AT 3610 6TH AVENUE AND 915 WEST 35TH STREET**

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

Mayor Clouse opened the public hearing on the application submitted by Trenton Snow for The First Baptist Church of Kearney, Nebraska, a Nebraska Non-Profit Corporation, to rezone from District C-O/PD, Office/Planned Development Overlay District to District R-1, Urban Residential Single-Family District (Low Density) for property described as a tract of land being part of Lot 1, Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska (3610 6th Avenue) and consider Ordinance No. 8558 and 2) the applications submitted by Trenton Snow for The First Baptist Church of Kearney, Nebraska, a Nebraska Non-Profit Corporation and Buffalo County School District 10-0007-000, a Nebraska Public School District, Kearney, Nebraska aka Kearney Public Schools to vacate Lot 1 and Lot 2, Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska (3610 6th Avenue and 915 West 35th Street) and consider Ordinance No. 8559.

Trenton Snow, a Nebraska surveyor presented this matter to the Council. Mr. Snow stated the First Baptist Church previously did a minor subdivision in the northeast corner of the property and had that rezoned to C-O/PD, same as the Church who at the time, was planning to sell it as a separate lot but has since decided to retain the property. Mr. Snow stated the Church is requesting to rezone and vacate the lot; they also plan to purchase a portion of the property to the west from Kearney Public Schools. Therefore, First Baptist Church is requesting both lots in Horizon Addition be vacated and replatted showing the new boundary lines for Lot 1 and Lot 2 on the proposed Horizon Second Addition plat.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the application submitted by Trenton Snow for The First Baptist Church of Kearney, Nebraska, a Nebraska Non-Profit Corporation and introduced Ordinance No. 8558 rezoning from District C-O/PD, Office/Planned Development Overlay District to District R-1, Urban Residential Single-

Family District (Low Density) for property described as a tract of land being part of Lot 1, Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska (3610 6th Avenue) and on the application submitted by Trenton Snow for The First Baptist Church of Kearney, Nebraska, a Nebraska Non-Profit Corporation and Buffalo County School District 10-0007-000, a Nebraska Public School District, Kearney, Nebraska aka Kearney Public Schools and introduced Ordinance No. 8559 vacating Lot 1 and Lot 2, Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska (3610 6th Avenue and 915 West 35th 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 numbers of the ordinances on their first reading and then upon their final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 8558 and 8559. President of the Council asked for discussion or if anyone in the audience was interested in the ordinances. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Moore. Nay: None. Buschkoetter absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8558 and 8559 by number. Roll call of those in favor of the passage of said ordinances on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Moore. Nay: None. Buschkoetter absent. Motion carried. Ordinances were read by number.

Moved by Nikkila seconded by Moore that Ordinance Nos. 8558 and 8559 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinances, Ordinance Nos. 8558 and 8559 are declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **FINAL PLAT FOR HORIZON SECOND ADDITION**

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

Mayor Clouse opened the public hearing on the application submitted by Trenton Snow for The First Baptist Church of Kearney, Nebraska, a Nebraska Non-Profit Corporation and Buffalo County School District 10-0007-000, a Nebraska Public School District, Kearney, Nebraska aka Kearney Public Schools, for the Final Plat for Horizon Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being Lot 1 (to be vacated) and Lot 2 (to be vacated), Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of the Northwest Quarter of the Northeast Quarter and part of the Northeast Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3610 6th Avenue and 915 West 35th Street) and consider Resolution No. 2022-55.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing and adopt Resolution No. 2022-55 approving the application submitted by Trenton Snow for The First Baptist Church of Kearney, Nebraska, a Nebraska Non-Profit Corporation and Buffalo County School District 10-0007-000, a Nebraska Public School District, Kearney, Nebraska aka Kearney Public Schools, for the Final Plat for Horizon Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being Lot 1 (to be vacated) and Lot 2 (to be vacated), Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of the Northwest Quarter of the Northeast Quarter and part of the Northeast Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3610 6th Avenue and 915 West 35th Street). Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Lear. Nay: None. Buschkoetter absent. Motion carried.

### **RESOLUTION NO. 2022-55**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Horizon Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 1 (now vacated) and Lot 2 (now vacated), Horizon Addition, an addition to the City of Kearney, Buffalo County, Nebraska, being part of the Northwest Quarter of the Northeast Quarter and part of the Northeast Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of the Northeast 1/4 of said Section 35 and assuming the West line of said Northeast 1/4 as bearings S 00°15'50" W and all bearings contained herein are relative thereto; thence S 00°15'50" W on the aforesaid West line a distance of 50.0 feet to the actual place of beginning, said point being on the south line of 39th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence S 89°42'40" E on the aforesaid south line a distance of 1,060.36 feet to a point on the west line of 6th Avenue, a street in the city of Kearney, Buffalo County, Nebraska; thence S 01°13'46" W on the aforesaid west line a distance of 1,280.7 feet to a point on the north line of 35th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence N 88°40'10" W on the aforesaid north line a distance of 1,039.02 feet to a point on the West line of said Northeast 1/4; thence N 00°15'50" E on the aforesaid West line a distance of 53.85 feet; thence N 89°48'24" W on the north line of said 35th Street a distance of 775.17 feet to a point on the east line of 11th Avenue, a street in the City of Kearney, Buffalo County, Nebraska; thence N 00°18'27" E on the aforesaid east line a distance of 380.0 feet; thence N 89°37'18" W a distance of 14.0 feet; thence N 00°17'16" E on the aforesaid east line a distance of 811.90 feet to a point on the south line of said 39th Street; thence S 89°47'35" E on the aforesaid south line a distance of 788.57 feet to a point on the West line of said Northeast 1/4; thence N 00°15'50" E on the aforesaid West line a distance of 16.0 feet to the place of beginning, 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 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 MARCH, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**REZONE PROPERTY LOCATED WEST OF IMPERIAL AVENUE AND NORTH OF EAST U.S. HIGHWAY 30**

Public Hearings 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Prairie View Properties, LLC to rezone from District AG, Agricultural District to District M-1, Limited Industrial District for property described as a tract of land being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (West of Imperial Avenue and North of East U.S. Highway 30) and consider Ordinance No. 8560.

Mitch Humphrey, Buffalo Surveying Corp. presented this matter to the Council. Mr. Humphrey stated this will be the second phase of Prairie View Business Park project; the first phase is located to the west. The second phase will contain 15.49 acres and will directly abut Imperial Avenue. Mr. Humphrey stated the request to rezone the property from AG to M-1 will fill in the gap north of Highway 30 in this area. The lot sizes for the proposed Prairie View Business Park Second Subdivision will range from 2.02 acres to 4.57 acres. Because the lots are smaller in size, the well and septic systems are included in the design of the development. The proposed Prairie View Business Park Second Subdivision include five (5) lots with a portion of land dedicated for a road.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the application submitted by Buffalo Surveying Corp. for Prairie View Properties, LLC and introduced Ordinance No. 8560 rezoning from District AG, Agricultural District to District M-1, Limited Industrial District for property described as a tract of land being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (West of Imperial Avenue and North of East U.S. Highway 30) 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 Clouse seconded the motion to close the hearing and suspend the rules for Ordinance No. 8560. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Moore, Lear, Nikkila. Nay: None. Buschkoetter absent.

Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8560 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Moore, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 8560 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8560 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **FINAL PLAT AND SUBDIVISION AGREEMENT FOR PRAIRIE VIEW BUSINESS PARK SECOND**

Public Hearings 5 and 6 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application submitted by Buffalo Surveying Corp. for Prairie View Properties, LLC for the Final Plat and Subdivision Agreement for Prairie View Business Park Second, a subdivision being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (West of Imperial Avenue and North of East U.S. Highway 30) and consider Resolution No. 2022-56.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Moore to close the hearing and adopt Resolution No. 2022-56 approving the application submitted by Buffalo Surveying Corp. for Prairie View Properties, LLC for the Final Plat and Subdivision Agreement for Prairie View Business Park Second, a subdivision being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, for property described as a tract of land being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (West of Imperial Avenue and North of East U.S. Highway 30). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore. Nay: None. Buschkoetter absent. Motion carried.

### **RESOLUTION NO. 2022-56**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Prairie View Business Park Second, a

subdivision being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska for a tract of land being part of the North Half of the Southeast Quarter, part of Government Lot 2 and part of Government Lot 3 located in Fractional Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning the point of intersection with the East line of the Southeast Quarter of Section 27 and the Northerly right-of-way line of the Union Pacific Railroad, [such right-of way line being the Northerly line of a strip of land deeded to The State of Nebraska, Department of Roads as described on Quitclaim Deed filed as Instrument 2008-07658, recorded October 20, 2008 in the office of the Register of Deeds of Buffalo County, Nebraska, with said line herein after referred to as "the Northerly right-of-way line of the Union Pacific Railroad"] and assuming the Northerly right-of-way line of the Union Pacific Railroad as bearing S 73°08'00" W, and said point of intersection being S 00°05'55" E a distance of 1657.0 feet from the Northeast Corner of the Southeast Quarter of Section 27; thence leaving the East line of the Southeast Quarter of said Section 27 and on the Northerly right-of-way line of the Union Pacific Railroad, S 73°08'00" W a distance of 724.10 feet to the Southeast Corner of Lot 5, Prairie View Business Park, a subdivision being part of the North Half of the Southeast Quarter (N1/2 SE1/4), part of Government Lot 2 and part of Government Lot 3 located in Fractional Section Twenty-seven (27), Township Nine (9) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska; thence leaving the Northerly right-of-way line of the Union Pacific Railroad and on the East line of said Prairie View Business Park, N 00°05'55" W a distance of 991.34 feet to the Northeast Corner of Lot 1 of said Prairie View Business Park, said point also being on the Southerly line of 45th Street, a street as shown on the plat and dedication of said Prairie View Business Park, and such point being on a non-tangent 533.00 foot radius curve, concave northerly; thence on the Southerly line of said 45th Street and on said non-tangent curve forming a central angle of 21°31'04" an arc distance of 201.09 feet to a point of tangency, said point of tangency being N 79°08'32" E a chord distance of 199.90 feet from the previously described point; thence continuing on the Southerly line of said 45th Street N 68°23'00" E a distance of 210.23 feet to a point of tangency; thence continuing on the Southerly line of said 45th Street and on a 467.00 foot radius curve to the right forming a central angle of 21°31'04" an arc distance of 175.39 feet to a point of tangency; thence continuing on the Southerly line of said 45th Street N 89°54'05" E a distance of 130.00 feet to a point on the East line of the Southeast Quarter of said Section 27, said point being a distance of 727.18 feet Southerly from the Northeast Corner of the Southeast Quarter of said Section 27; thence leaving the Southerly line of said 45th Street and on the East line of the Southeast Quarter of said Section 27, S 00°05'55" E a distance of 929.26 feet to the place of beginning, containing 15.49 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 terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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 MARCH, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**RECEIVE PUBLIC COMMENT ON THE ESTABLISHMENT OF A CLEAN ENERGY ASSESSMENT DISTRICT TO ACCESS PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING**

Mayor Clouse opened the public hearing to receive the public's input on the establishment of a clean energy assessment district for owners of qualifying property to access Property Assessed Clean Energy (PACE) financing for energy efficiency improvements or renewable energy improvements to property located within the PACE district boundaries.

Brenda Jensen, Assistant City Manager, presented this matter to the Council. Ms. Jensen explained what the PACE program is and noted it is available for commercial properties and multi-family residential projects that are over four (4) units, for new construction or rehabilitation. The financing is tied to energy efficiency or renewable energy portions of the project and is long-term, fixed rate, and non-recourse. If the property falls into default, a lien can be filed against the property. The PACE program was adopted by the State of Nebraska in 2016 and several cities in Nebraska have already adopted it. The district area for Kearney is the City's entire jurisdiction; City limits and the 2-mile ETJ. Ms. Jensen reviewed some of the uses the PACE program can be used for including insulation, water heating systems and windows. Although anyone is eligible for the program, Ms. Jensen stated the Program will be a great tool for Downtown property owners whose historic buildings are lacking in energy efficiency; this Program is also part of the 5-Point Plan put together for the Downtown District for 2022. PACE also encourages more energy efficient improvements and will support increased valuations of the property.

Mayor Clouse questioned where the money comes from? Ms. Jensen stated it comes from third party lenders, not the City, and gives Developers non-recourse funding that is tied to the valuation of their property. Council Member Bruce Lear stated any bank can be a lender under the PACE Program.

Council Member Jonathan Nikkila questioned how much administrative work the Program will require? Ms. Jensen stated the largest portion of the administrative work is upfront with the creation of the District and application. Once the City receives an application for the Program, the City has a committee set up to internally review the application. If the application meets all the requirements set out in the Ordinance, the application is approved and the Developer would then submit it to their lender. The primary lender would have to approve that financing would be a PACE loan.

Council Member Nikkila stated that the City would approve the projects. Ms. Jensen agreed and stated the City is essentially approving that the costs are associated with energy efficiency or renewable energy portions of the project.

Mayor Clouse questioned what non-recourse meant? Ms. Jensen stated that the funding is tied to the valuation of the property.

There was no one present in opposition to this hearing.

Moved by Moore seconded by Lear to close the hearing to receive public comment on the establishment of a clean energy assessment district and Property Assessed Clean Energy (PACE) financing. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Lear. Nay: None. Buschkoetter absent. Motion carried.

#### **IV. CONSENT AGENDA**

Mayor Clouse noted a correction is needed pertaining to Consent Agenda Item No. 10 which references Application and Certificate for Payment No. 1 for the Kearney Water Trail known as Kearney Whitewater Park. The payment number shown on the agenda is incorrect and should be identified as Application and Certificate for Payment No. 2 for the project.

Moved by Lear seconded by Clouse that Subsections 1 through 11 of Consent Agenda Item IV and to correct Item No. 10 by amending the Application and Certificate for Payment to No. 2 for the Kearney Water Trail known as Kearney Whitewater Park. Roll call resulted as follows: Aye: Clouse, Moore, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

1. Approve Minutes of Regular Meeting held February 22, 2022.
2. Approve the following Claims:

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

ABC Drug \$30.00 smcs; AccessData \$1,259.44 smcs; Alfred Benesch \$29,145.65 co; All Copy \$784.71 smcs; Amazon \$2,049.32 smcs; Aragon,A \$15.54 smcs; Argueta,M \$31.88 smcs; Artisans Photography \$120.00 smcs; Ashburn,W \$31.03 smcs; Ask Supply \$1,508.96 smcs; Aurora Coop \$2,331.60 smcs; AvFuel \$88,936.61 smcs; Baker & Taylor Books \$4,276.20 smcs; Baker Tilly \$8,250.00 smcs; Bamford \$250.00 smcs; Blessing \$5,780.56 smcs; BlueCross BlueShield \$180,863.39 smcs; Bosselman \$25,607.10 smcs; Briggs & Stratton \$3,000.00 co; Bruha,S \$17.07 smcs; Buffalo Co. Register \$92.00 smcs; Builders \$5,024.71 smcs,co; Cal/Amp \$1,575.10 smcs; Carquest \$133.38 smcs; Cash Wa \$441.65 smcs; Center Point Large Print \$77.91 smcs; Chalmers Ford \$34,675.00 co; Chesterman \$52.00 smcs; Child's World \$1,627.80 smcs; City of Ky \$41,939.21 smcs; Cold Spring \$301.30 smcs; Cole,M \$2.51 smcs; Comm Act Part of Mid NE \$3,300.00 smcs; Compute North \$146,902.83 smcs; Cornhsuker Cleaning \$88.55 smcs; Crouch Recreation \$140.00 smcs; Cummins \$304.12 smcs; Cutting Edge Cleaning \$125.00 smcs; D & M Security \$508.00 smcs; Dearness,N \$24.00 smcs; Double J Plumbing \$875.48 co; DPC Industries \$9,454.08 smcs; Duncan Theis Construction \$29,758.50

smcs; Eakes \$3,206.99 smcs; Egge,G \$50.00 smcs; Elliott Equipment \$53,685.00 co; Engineered Controls \$12,000.00 co; Ensley Electric \$37,334.12 co; Fairbanks Scales \$213,585.14 co; Farmers Union \$665.00 smcs; Fedex \$56.11 smcs; Fisher,K \$75.00 smcs; Frontier \$7,056.61 smcs; Furby Plumbing \$550.00 smcs; Gale \$758.52 smcs; Goodwin Tucker \$50.00 smcs; Granger,J \$41.78 smcs; Granicus \$6,309.92 smcs; Greater NE Cities \$1,000.00 smcs; Hastings Tribune \$150.65 smcs; Healing Heart Therapy \$70.00 smcs; Hiemstra,M \$399.27 smcs; HM Life Insurance \$42,930.93 smcs; HOA Solutions \$763.02 smcs; Hometown Leasing \$1,088.85 smcs; Jack Lederman \$370.88 smcs; Jack's Uniforms \$28.00 smcs; Kart-man \$1,578.40 smcs; Ky Animal Shelter \$10,609.00 smcs; Ky Visitors Bureau \$140,882.66 smcs; Kirkham Michael \$16,500.00 co; Klingelhoef,C \$29.82 smcs; Konica Minolta \$1,239.24 smcs; Lincoln National Life \$8,033.05 smcs; Linner,T \$35.00 smcs; Livingston,S \$4.67 smcs; Logan Contractors \$1,179.50 smcs,co; Luke,D \$31.36 smcs; Mac Tools \$20.00 smcs; Magic Cleaning \$6,950.00 smcs; Malleck,J \$85.06 smcs; Menards \$247.45 smcs,co; Midwest Connect \$8,467.79 smcs; Milco Environmental \$9,095.18 smcs; Miller & Associates \$241,843.95 co; Miller Signs \$200.00 smcs; Moonlight Embroidery \$8,913.60 smcs; Municipal Automation \$333.98 smcs; Municipal Supply \$3,103.00 smcs; NE DHHS \$280.00 smcs; NE Public Health \$402.00 smcs; Nordhues,B \$31.26 smcs; Northwestern Energy \$8,844.15 smcs; NP Land Development \$32,330.34 co; Obermiller,L \$1.80 smcs; Odeys \$15,358.80 co; Olsson \$29,948.15 co; Outdoor Recreation \$447.20 smcs; Paulsen \$97,019.02 co; Penworthy \$701.44 smcs; Pep Co. \$87.34 smcs; Pioneer Manufacturing \$1,919.00 smcs, co; Porter Trustin Carlson \$20,950.00 co; Potter,B \$31.00 smcs; PPG Paint Store \$32,183.46 co; Presto-X \$189.00 smcs; Rasmussen Mechanical \$1,903.28 smcs; Resource Mgmt. \$5,444.60 smcs; Rheome Tree \$7,000.00 smcs; Riener,S \$1.65 smcs; RMV Construction \$109,020.80 co; RockIT \$256.33 smcs; S2O Design & Engineering \$18,270.38 co; Sanitation Products \$310.29 smcs; SCALES \$1,000.00 smcs; Schaben,T \$300.00 smcs; School District 7 \$4,840.00 smcs; Schumacher Fencing \$1,510.00 smcs; See Clear Cleaning \$2,050.00 smcs; Seth Denney Painting \$3,100.00 smcs; Sign Solutions \$505.26 smcs; Smith,K \$46.96 smcs; Smith,M \$150.00 smcs; SOS Portable Toilets \$220.00 smcs; Springer Roofing \$1,250.00 smcs; Staab,J \$336.00 smcs; Stevens,C \$11.71 smcs; Stutsman \$3,246.00 smcs; Tennant Sales \$24,634.92 co; Tepeyac \$9,862.05 smcs; TK Elevator \$480.82 smcs; Travis,J \$16.26 smcs; Tri Co Glass \$1,800.20 smcs, co; Twin City Hardware \$179.61 co; Tye & Rowling \$15,055.45 smcs; Tyler Technologies \$3,542.70 co; Union Bank & Trust \$212,068.17 smcs; University of NE-Lincoln \$70.00 smcs; Van Diest \$4,060.13 smcs; Vanco \$93.68 smcs; Verizon \$7,178.18 co, smcs; Vertive Services \$6,334.20 smcs; Village Uniform \$185.80 smcs; Volaire Aviation \$1,100.00 smcs; Ward Laboratories \$58.50 smcs; Waugh,B \$42.54 smcs; Weinand,M \$1,000.00 smcs; Wessels,W \$48.00 smcs; Whalen,J \$189.00 smcs; Whinnery Construction \$169,904.00 co; Window World \$965.00 smcs; Zabel,A \$39.98 smcs; Payroll Ending 02/26/2022 -- \$ 539,117.46. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

**3.** Adopt Resolution No. 2022-57 approving the adoption of the Disadvantaged Business Enterprise (DBE) Program for FY22-23-24 and designating Airport Manager Jim Lynaugh as the Liaison Officer for the implementation and monitoring of the DBE Program at the Kearney Regional Airport.

### **RESOLUTION NO. 2022-57**

WHEREAS, Resolution No. 99-261 was passed and approved on December 28, 1999 by the Kearney City Council adopting the Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, since the original adoption of the DBE Program on December 28, 1999, the U.S. Department of Transportation (DOT) has updated the objectives of the program, which are defined in the Policy Statement for DBE Program FY22-23-24, dated in September 2021; and

WHEREAS, as a continued requirement of the DBE Program, the Airport Manager is generally designated as the Liaison Officer and is responsible for implementing and monitoring all aspects of the DBE Program and will ensure that the Kearney Regional Airport will comply with all provisions of 49 CFR Part 26.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska hereby find and determine that it is in the best interest of the Kearney Regional Airport/City of Kearney, Nebraska that the Disadvantaged Business Enterprise Program for FY22-23-24, dated in September 2021, be and is hereby adopted and approved. A copy of the Disadvantaged Business Enterprise Program for FY22-23-24, marked Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that Airport Manager Jim Lynaugh be and is hereby designated as the Liaison Officer for the implementation and monitoring of the Disadvantaged Business Enterprise Program at the Kearney Regional Airport.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the Disadvantaged Business Enterprise Program, on behalf of the City of Kearney.

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

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

4. Adopt Resolution No. 2022-58 approving Change Order No. 1 showing a decrease in the amount of \$114,660.00 and Application and Certificate for Payment No. 6 in the amount of \$300,864.88 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. 2022-58**

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with 2021 Part 5 Improvements; Extension of Talmadge Street (Bid A, Sanitary Sewer and Water), and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease to the contract sum in the amount of \$114,660.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Midlands Contracting and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 6 in the amount of \$300,864.88 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$ 2,343,960.00</u>
Contract Sum To Date	2,343,960.00
Gross Amount Due	1,561,603.78
Retainage (5%)	- 78,080.19
Amount Due to Date	<u>1,483,523.59</u>
Less Previous Certificates for Payment	<u>1,182,658.71</u>
Current Payment Due	<u>\$ 300,864.88</u>

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. 6, as shown on Exhibit “B” be and are hereby accepted and approved.

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

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

5. Approve the renewal agreement with the City of Kearney and Tri-City Auction Center to provide auctioneering services for property to be sold at police auction by the Kearney Police Department and adopt Resolution No. 2022-59.

**RESOLUTION NO. 2022-59**

WHEREAS, the City Council passed and approved Resolution No. 2021-47 on March 23, 2021 approving the Agreement for Auction Services between the City of Kearney and Tri-City Auction Center for auctioneering services for property to be sold at police auction by the Kearney Police Department; and

WHEREAS, both the City of Kearney and Tri-City Auction desire to the renew the Agreement for Auction Services for auctioneering services for property to be sold at police auction by the Kearney Police Department.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Renewal Agreement for Auction Services between the City of Kearney and Tri-City Auction Center for the purpose of auctioneering services for property to be sold at police auction by the Kearney Police Department 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 Renewal Agreement for Auction Services on behalf of the City of Kearney.

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

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

6. Approve the Non-Owned Corporate Hangar Lease Agreement for T-922 and T-922A between the City of Kearney and The Buckle, Inc. and approve Resolution No. 2022-60.

**RESOLUTION NO. 2022-60**

WHEREAS, the City Council passed and approved Resolution No. 2002-201 on August 27, 2002 approving the Non-Owned Corporate Hangar Lease for Hangar T-922; and

WHEREAS, the City Council passed and approved Resolution No. 2009-81 on June 23, 2009 approving the Non-Owned Corporate Hangar Lease for Hangar T-922A and later, both The Buckle and the City of Kearney agreed to combine the leases for Hangars T-922 and T-922A. On August 25, 2009, City Council passed and approved Resolution No. 2009-130 approving the Non-Owned Corporate Hangar Lease for Hangar T-922 and Hanger T-922A; and

WHEREAS, The Buckle and the City of Kearney have agreed to extend the current Non-Owned Corporate Hangar Lease for T-922 and T-922A for an additional 10 years, resulting in a termination date of September 30, 2032.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that Resolution No. 2002-201 passed and approved on August 27, 2002, Resolution No. 2009-81 passed and approved on June 23, 2009 and Resolution No. 2009-130 passed and approved on August 25, 2009 be and are hereby repealed.

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Non-Owned Corporate Hangar Lease for T-922A and T-922 on behalf of the City of Kearney, Nebraska, with The Buckle, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

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

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

- 7. Accept the proposals received for the Lighthouse Point Park Shelter Structure and Playground and award the proposal submitted by Fry & Associates in the amount of \$140,000.
- 8. Accept the bids received for the purchase of a Front Load Refuse Compactor Truck to be used in the Sanitation Division of the Utilities Department and award the bid to Elliott Sanitation Equipment in the amount of \$285,670.75.
- 9. Adopt Resolution No. 2022-61 approving Application for Payment No. 1 in the amount of \$161,838.20 submitted by Midlands Contracting Inc. and approved by Miller & Associates for the Patriot Boulevard Water Main Extension.

**RESOLUTION NO. 2022-61**

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the Patriot Boulevard Water Main Extension, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$161,838.20 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$ 176,035.00
Contract Sum To Date	176,035.00
Gross Amount Due	170,356.00
Retainage (10%)	<u>- 8,517.80</u>
Amount Due to Date	161,838.20
Less Previous Certificates for Payment	<u>0.00</u>
Current Payment Due	\$ 161,838.20

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

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

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**10.** Adopt Resolution No. 2022-62 approving Application and Certificate for Payment No. 1 in the amount of \$169,904.00 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. 2022-62**

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 Application and Certificate for Payment No. 2 in the amount of \$169,904 as shown on Exhibit "A" 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
Less Previous Certificates for Payment	214,457.99
Current Payment Due	\$ 169,904.00

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

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

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

11. Approve the funding allocation of \$50,000 to the Platte River Resilience Fund to support the efforts to improve water conveyance, reduce flood risks and provide more water for regenerating wells in the Platte River in central Nebraska by creating open, un-vegetated river channels.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8561 ADOPTION OF THE CLEAN ENERGY ASSESSMENT DISTRICT**

Council Member Clouse introduced Ordinance No. 8561 adopting the Clean Energy Assessment District creating a clean energy assessment district to enable property assessed clean energy financing for property owners and authorize the clean energy assessment district to enable third-party lenders to accept applications and enter into financing agreements with property owners within the boundaries of the district. (*Pertains Public Hearing 7*), 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 suspend the rules for Ordinance No. 8561. 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. Nay: None. Buschkoetter absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8561 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. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Moore that Ordinance No. 8561 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Lear. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8561 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**

### **REDEVELOPMENT PROJECT FOR MILLENNIUM DEVELOPMENT, LLC FOR PROPERTY LOCATED NORTH OF STATE STREET, WEST OF UNIVERSITY DRIVE AND SOUTH OF REGENTS BOULEVARD**

Mayor Clouse opened for discussion the Resolution No. 2022-63 approving the redevelopment project submitted by Millennium Development, LLC for Redevelopment Area #10 for an area described as Lots 2 through 17, Block One, and Lots 1 through 19, Block Two, all in University Village Fourth Addition in the West Half of the Northeast Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County,

Nebraska (North of State Street, West of University Drive and South of Regents Boulevard).

Wendell Wessels, Finance Director, presented this matter to the Council. Mr. Wessels stated Millennium Development LLC would like to construct seven (7) ten-plex buildings and seven (7) four-unit townhomes; the project will be located in University Village. Mr. The current valuation of the property is \$0; total new valuation once the project is completed is estimated to be \$14,819,630. Upon completion of the project, the estimated annual increment in real estate taxes is \$271,532.

On February 28th, the Community Redevelopment Authority (CRA) moved that the Project be granted 90% of the annual increment in real estate taxes, not to exceed the lessor of \$3,665,681, or the certified eligible Project Costs over a period not to exceed fifteen years beginning with Tax Year 2023. The CRA approved Project costs totaling \$4,038,143.

After the Redeveloper and City have received the lessor of \$3,665,681 or the certified eligible Project Costs, the political subdivisions will receive 100% of the taxes generated from the valuation increment.

Mr. Wessels stated that Staff recommends City Council approve the Project be granted 90% of the annual increment in real estate taxes, not to exceed the lessor of \$3,665,681 or the certified eligible Project Costs over a period not to exceed fifteen years beginning with Tax Year 2023 and pass a resolution authorizing the CRA Chairman, Treasurer, and Legal Counsel of the authority to execute a Redevelopment Contract with the Redeveloper.

Council Member Nikkila questioned the \$0 valuation of the land and asked if that was due to it being State owned? Mr. Wessels agreed. Additionally, Council Member Nikkila asked if the land is being sold to the Developer? Mr. Wessels stated the University will continue ownership of the land and will lease this portion of the land to the Developer. Council Member Nikkila questioned if in this situation, the Assessor is able to separate the value of the land from the value of the buildings? Mr. Wessels stated the Assessor is able to; there will be a value for the land and a separate value for the structures.

Mr. Wessels stated this project will be Phase II; Phase I is nearly complete and has separate valuations for the buildings and land.

Moved by Moore seconded by Lear finding that the redevelopment project set forth in the application submitted by Millennium Development, LLC would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 90 percent of the annual increment in real estate taxes, not to exceed the lessor of \$3,665,681, or the certified eligible Project Costs over a period not to exceed fifteen years beginning with Tax Year 2023 and to adopt Resolution No. 2022-63 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Millennium Development, LLC. Roll

call resulted as follows: Aye: Clouse, Moore, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

### **RESOLUTION NO. 2022-63**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #10 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as Lots 2 through 17, Block One, and Lots 1 through 19, Block Two, all in University Village Fourth Addition in the West Half of the Northeast Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Parcel ID 608745368 and 608745370, buildings only); and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as Lots 2 through 17, Block One, and Lots 1 through 19, Block Two, all in University Village Fourth Addition in the West Half of the Northeast Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Parcel ID 608745368 and 608745370, buildings only); is hereby determined to be feasible and in

conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as Lots 2 through 17, Block One, and Lots 1 through 19, Block Two, all in University Village Fourth Addition in the West Half of the Northeast Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (Parcel ID 608745368 and 608745370, buildings only); shall be divided, for a period not to exceed 15 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

6. Recognizing that, after the date of this Resolution, circumstances may arise necessitating changes, additions or deletions to the specific legal description of the Redevelopment Project (described in Paragraphs 1 and 4 above and the attached Exhibit "B"), the City Manager is hereby authorized to make such changes, additions or deletions to the legal description as the City Manager deems reasonable or necessary, together with the authority to execute all documents, certificates or instruments necessary in connection therewith, specifically including the execution of an Amended Allocation

Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project.  
PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2022.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

### **OPEN ACCOUNT CLAIM**

Moved by Lear seconded by Nikkila that the Open Account Claim in the amount of \$152.10 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Moore. Nay: None. Clouse abstained. Buschkoetter absent. Motion carried.

### **STAFF UPDATE ON YANNEY GARDENS PROJECT**

Mayor Clouse opened Regular Agenda Item 3 for Council to receive a Staff update on Yanney Gardens project. This presentation was for informational purposes only.

Scott Hayden, Park and Recreation Director stated Phase I of three (3) of the Gardens at Yanney Park was completed last fall and was an approximately \$1,600,000. Phase II will consist of four (4) additional gardens and a green space; Phase III will consist of a pavilion and a parking lot. This project is in partnership with the Yanney Park Foundation. Mr. Hayden stated the City is fortunate to have two (2) Horticulturists on staff, Coelette Gruber who began working with the Park and Recreation Department last summer and Kendra Larkin, Horticulturist Assistant who started a few weeks ago.

Ms. Gruber reviewed the art that is currently located in the Garden and noted more art is forthcoming. The Gardens are meant to be educational gardens for learning and volunteering; ultimately this will be a community garden. This spring, The Big Dig will be held which will consist of approximately 70 volunteers who will plant all of the annuals in the Garden. Ms. Gruber noted the four (4) additional gardens will consist of a rose garden that will contain over 500 roses, a zero-scape garden, which is a water conservation garden and an edible garden that will contain both fruits and vegetables most of which will be donated to the Food Pantry.

Council Member Nikkila questioned if Ms. Gruber feels this Park system will affect other parks in the City? Ms. Gruber stated it will and noted a database is being created containing a list of plants and how to care for them. She hopes this will also help the City do more conservation gardens.

Council Member Tami Moore stated she was on the Board when the vision for this Park was presented and noted it has turned out better than what was first proposed.

Kendra Larkin introduced herself to the Council. She received her Bachelor's Degree in Horticulture specializing in Landscape Design. Ms. Larkin previously worked at Campbell's Nursery in Lincoln where she was a Landscape Designer and then moved on to Great Plains Nursery. Mayor Clouse welcomed Ms. Larkin.

## **VII. REPORTS**

Council Member Bruce Lear stated the Kearney Catholic Boys Basketball team won the first round of the State Basketball Tournament.

Council Member Moore stated she attended the League of Municipalities Conference in Lincoln and noted that Mayor Clouse's presentation was a great representation of Kearney.

Michael Morgan, City Manager stated City crews are preparing for the upcoming snowstorm.

### **CLOSED SESSION**

Moved by Clouse seconded by Nikkila that Council adjourn into closed session at 6:10 p.m. for the protection of the public interest to discuss possible litigation matters. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Moore. Nay: None. Buschkoetter absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss possible litigation 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 Lear seconded by Clouse that Council reconvene in regular session at 6:57 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Moore, Lear. Nay: None. Buschkoetter absent. Motion carried.

## **VIII. ADJOURN**

Moved by Clouse seconded by Nikkila that Council adjourn at 6:57 p.m. Roll call resulted as follows: Aye: Clouse, Moore, Nikkila, Lear. Nay: None. Buschkoetter absent. 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**