

# **KEARNEY CITY COUNCIL**

## **AMENDED AGENDA**

**City Council Chambers, 18 East 22nd Street**

**September 10, 2013**

**7:00 p.m.**

### **I ROUTINE BUSINESS**

1. Announcement on Open Meetings Act.
2. Roll call.
3. Oral Communication:  
**Oath of Office to Police Officer Cody Struss**

### **II UNFINISHED BUSINESS**

None.

### **III PUBLIC HEARINGS**

1. Conduct a public hearing for the Council to meet as a Board of Equalization to assess costs in connection with Paving Improvement District Nos. 2011-946, 2011-949A, 2011-950, 2012-951, 2012-952; Water District Nos. 2011-562, 2012-563, 2012-564; Sanitary Sewer District Nos. 2011-502, 2012-503, 2012-504 and consider **Resolution No. 2013-165**.
2. Conduct a public hearing on for the Council to meet as the Board of Equalization to determine a connection fee in the amount of special benefits accruing to the property in Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1 and consider **Resolution No. 2013-166**.
3. Conduct a public hearing on submitting an application for the State Revolving Fund Loan for the construction of an Ultra Violet Disinfection Facility and consider **Resolution No. 2013-167**
4. Conduct a public hearing on the Application to the Nebraska Development Economic Development for \$250,000 community revitalization which includes street/sidewalk and storm sewer project and consider **Resolution No. 2013-168**.
5. Conduct a public hearing on the Application to the Nebraska Development Economic Development for \$305,000 for Midland Molding and consider **Resolution No. 2013-169**.
6. **Postponed until October 8, 2013.** Conduct a public hearing on the Application submitted by Buffalo Surveying (Applicant) for D.R. and Marilyn Nelson and Jim and Pamela Wilkinson (Owner) to rezone from District Ag, Agricultural District to District RR-1,

Rural Residential District (Rural Standards) property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska excepting therefrom a tract of land conveyed to Buffalo County, Nebraska as described in Warranty Deed filed at Instrument No. 1999-7128 recorded September 1, 1999 in the Office of the Buffalo County Register of Deeds (1/2 mile east of Cottonmill Avenue and 56th Street) and consider **Ordinance No. 7830**.

7. **Postponed until October 8, 2013.** Conduct a public hearing on the Application submitted by Buffalo Surveying (Applicant) for D.R. and Marilyn Nelson and Jim and Pamela Wilkinson (Owner) for the Final Plat and Subdivision Agreement for D. R. Nelson Subdivision, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 29, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska excepting therefrom a tract of land conveyed to Buffalo County, Nebraska as described in Warranty Deed filed at Instrument No. 1999-7128 recorded September 1, 1999 in the Office of the Buffalo County Register of Deeds (1/2 mile east of Cottonmill Avenue and 56th Street) and consider **Resolution No. 2013-170**.
8. Conduct a public hearing on the Application submitted by Miller & Associates (Applicant) for WNH, LLC (Owner) for Revised Planned District Development Plan Approval for a proposed helicopter pad on property zoned District C-O/PD, Office/Planned Development Overlay District on property described as Lot 1 of Block Three, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street) and consider **Resolution No. 2013-171**.
9. Conduct a public hearing on the Application submitted by Brock Arehart (Applicant) for JWB LLC (Owner) to rezone from District M-1, Limited Industrial District to District CBD, Kearney Center Mixed Use District property described as Lots 535, 536, 537, 538 except the south 17 feet of the north 18 feet, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (2001 Avenue A) and consider **Ordinance No. 7831**.
10. Conduct a public hearing on the Application submitted by REGA Engineering Group, Inc. (Applicant) and Roberta Corrigan Farms and Roberta Corrigan Trustee (Owner) for Planned District Development Plan Approval for the construction of Taco Bell on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District on property described as Lot 2, Ingalls Crossing Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of 2nd Avenue north of West 56th Street) and consider **Resolution No. 2013-172**.
11. Conduct a public hearing on the Application submitted by Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) to rezone from District M-2, General Industrial District to District M-2/PD, General Industrial/Planned Development Overlay District property described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) and consider **Ordinance No. 7832**.
12. Conduct a public hearing on the Application submitted by Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) for Planned District Development Plan Approval for an expansion to the Baldwin Filters Distribution Center on property to be zoned District M-

2/PD, General Industrial/Planned Development Overlay District on property described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) and consider **Resolution No. 2013-173**.

13. Conduct a public hearing on the Applications submitted by Miller & Associates (Applicant) for Joseph Sobotka, Richard and Gwendolyn Luth, and Excalibar Enterprises, Inc. (Owner) to (1) vacate Lots 1 and 2, Luth & Sobotka Industrial Park; Lots 149 thru 151 inclusive, Lots 201 thru 206 inclusive, Cottage Addition, 17th Street, the alley, east half of Avenue O and Avenue P abutting said lots and consider **Ordinance No. 7833**; and (2) rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska (east of Avenue M and north of 16th Street) and consider **Ordinance No. 7834**.
14. Conduct a public hearing on the Application submitted by Miller & Associates (Applicant) for Joseph Sobotka, Richard and Gwendolyn Luth, and Excalibar Enterprises, Inc. (Owner) for the Final Plat for Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska, including Lots 1 and 2, Luth & Sobotka Industrial Park, a subdivision to the City of Kearney (now vacated), Lots 149 thru 151 inclusive and Lots 201 thru 206 inclusive, part of Avenue O and Avenue P as platted in Cottage Addition to the City of Kearney (now vacated), and unplatted Tax Lot 8, City of Kearney, Buffalo County, Nebraska (east of Avenue M and north of 16th Street) and consider **Resolution No. 2013-174**.
15. Conduct a public hearing on the proposed amendments to the following chapters/sections of the City Code:
  - Clarification of selected use types in Chapter 13 "Use Types" and the addition of "Vertical Axis Wind Turbines" to Section 13-111 "Miscellaneous Type Uses" in Chapter 13 of the Code of the City of Kearney.
  - Amendments to Section 13-105 "Civic Use Types" of Chapter 13 "Use Types" to allow for pet cemeteries and pet crematoria; to better define and clarify Day Care Home Services (Limited); to define and regulate Day Care Home Services (General); to better define Day Care Centers; to define and regulate Group Care Facility (Limited).
  - Amendments to Section 13-107 "Commercial Use Types" of Chapter 13 "Use Types" to better define Auto Services Limited; to define and regulate Auto Services General; to delete Body Repair; to define and regulate Commercial Recreation Outdoor; to define and regulate Fuel Sales; to define and regulate Furniture and Appliance Stores; to delete the reference of pet cemeteries and crematoria, and veterinary hospitals for livestock and large animals from "Veterinary Services (General).
  - Amendments to Section 13-110 "Transportation Use Types" of Chapter 13 "Use Types" to better define Truck Terminal; to include Driving Range.
  - Amendment to Section 14-112 "Use Matrix: Levels of Permitted Uses of Chapter 14 "Zoning District Regulations" to delete the provision of Site Plan Approval and replace it with Planned Development.
  - Various amendments to Table 14-1 "Use Matrix" in Chapter 14 "Zoning District Regulations" of the Code of the City of Kearney, including corresponding changes resulting from the Chapter 13 "Use Types" amendments.

- Changes to the use categories of various uses in Table 14-1 between the functional categories of (a) permitted as a matter of right, (b) permitted by a conditional use, (c) planned development required, (d) prohibited.
  - Removal of the requirement for Site Plan Review for various uses in Table 14-1 “Use Matrix”, and instead requiring a PD, Planned District Overlay for certain uses that warrant a higher level of review.
  - Changes to the Civic Use Types category in Table 14-1 to include Day Care Home Services (Limited), Day Care Homes Services (General), Day Care Centers, and Group Care Facility (Limited)
  - Changes to the Commercial Use Types category in Table 14-1 to delete Body Repair and replace with Auto Services-General; and to include Fuel Sales.
  - Change to the Parking and Transportation Use Types category in Table 14-1 to include Driving Range and Vertical Axis Wind Turbines (VAWT).
  - New language in Section 46-104 “Supplemental Use Regulations: Civic Uses” of Chapter 46 “Supplemental Use Regulations” to include Day Care Homes Services and Day Care Centers.
  - New language in Section 46-111 “Supplemental Use Regulations: Miscellaneous Uses” of Chapter 46 “Supplemental Use Regulations” introducing regulations for vertical axis wind turbines.
  - Proposed reduction of the required rear yard setback from 30 to 25 feet for single-family residential lots that are irregularly shaped in Section 47-104 “Setback Adjustments” of Chapter 47 “Supplemental Development Regulations” and consider **Ordinance No. 7835**.
16. Conduct a public hearing on the issuance of automatic renewal of the liquor license held by The Garage Production Company, dba The Garage in connection with their Class CK-083704 liquor license located at 15 East 24th Street and consider **Resolution No. 2013-175**.
17. Conduct a public hearing for the purpose of adopting the City of Kearney Budget for the 2013-2014 Fiscal Year and consider **Ordinance No. 7836**.
18. Conduct a public hearing for the purpose of adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2013-2014 Fiscal Year and consider **Resolution No. 2013-176**.
19. Conduct a public hearing setting the 2013 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and consider **Resolution No. 2013-177**.

#### IV CONSENT AGENDA \*

1. Approve Minutes of Regular Meeting held August 27, 2013.
2. Approve the Claims.
3. Adopt **Resolution No. 2013-178** allowing the City of Kearney to increase its “Budget Authority” by an additional one percent or \$120,667.60 which will be carried over to the 2013-2014 Budget as “Unused Budget Authority”.

4. Approve the recommendation submitted by the Keno Committee on the allocation of non-departmental keno funds designed for outside agencies.
5. Adopt **Resolution No. 2013-179** repealing Resolution No. 2012-154 and adopt the 2013-2014 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2013-2014 year.
6. Approve the Applications for deferral of special assessments submitted by Patricia Norman and Grand West with regard to Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66 feet.
7. Adopt **Resolution No. 2013-180** approving the Grant Agreement between the City of Kearney and the Federal Aviation Administration for Project 3-31-0045-028-2013; the Wildlife Hazard Assessments Project at the Kearney Regional Airport.
8. Adopt **Resolution No. 2013-181** approving the Contract for Professional Services between the City of Kearney and Gander Island Consulting Services, Inc. providing services on the Wildlife Hazard Assessment Project.
9. Accept the bids received for the 2013 Part 11 Improvements consisting of Water District No. 2013-571 in Box Butte Avenue from 39th Street south to the south line of Northeast Industrial Second Subdivision and Northeast Industrial Sixth Subdivision and paving Box Butte Avenue and adopt **Resolution No. 2013-182** awarding the bid to Midlands Contracting in the amount of \$49,735.00 for the water and to Dan Roeder Concrete in the amount of \$212,174.00 for the paving.
10. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 28, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.
11. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 12, 2013 from 3:00 p.m. until 12:00 a.m. for a reception.
12. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 8, 2013 from 3:00 p.m. until 12:00 a.m. for a dance.

\* ***Any item listed on the Consent Agenda may, by the request of any single Council member, be considered as a separate item under the Regular Agenda Section of the Agenda.***

## V CONSENT AGENDA ORDINANCES \*

1. Approve **Ordinance No. 7837** repealing Ordinance No. 7752 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance.
2. Approve **Ordinance No. 7838** amending Section 3-1313 “Alcoholic Beverages; Locational Restrictions” of Article 13 “Alcoholic Beverages” of Chapter 3 “Business Regulations of the City Code to provide no alcoholic beverages or liquor shall be sold or dispensed at retail within 150 feet of the property of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children; to add a new section entitled Section 3-1313.1 “Alcoholic Beverages; Sale for Consumption on Premises Near Campus of College or University”; to add a new Section entitled Section 3-1313.2 “Alcoholic Beverages; Places Where Drinking Prohibited.”
3. Consider **Ordinance No. 7839** amending Section 8-805 “School Zones” of Article 8 “Speed Limitations” of Chapter 8 “Police” of the City Code to reestablish the school zone around the old Kenwood School site as Kearney Education Center School Zone and setting forth the speed limits.

## VI REGULAR AGENDA

1. Consider **Resolution No. 2013-183** approving the redevelopment project submitted by Habitat for Humanity for Redevelopment Area #7 for an area described as Lots 1 and 2 Luth & Sobotka Industrial Park to the City of Kearney, Buffalo County, Nebraska (Avenue M and east 17th Street).
2. Open Account Claim to NPPD - \$6,195.61.

## VII REPORTS

## VIII ADJOURN

Mayor Stanley Clouse  
4907 Linden Drive Place  
627-6730 cell  
238-5210 office  
[mayor@kearneygov.org](mailto:mayor@kearneygov.org)

Vice-President Randy Buschkoetter  
1110 13th Avenue  
234-5553 home  
440-0358 cell  
[citycouncil@kearneygov.org](mailto:citycouncil@kearneygov.org)

Council Member Bruce Lear  
4803 Avenue L Place  
234-5354 home  
237-2724 office  
[citycouncil@kearneygov.org](mailto:citycouncil@kearneygov.org)

Council Member Bob Lammers  
8 Crestview Place  
236-5273 home  
234-2577 office  
[citycouncil@kearneygov.org](mailto:citycouncil@kearneygov.org)

Council Member Jonathan Nikkila  
4 Regency Place  
224-4309 cell  
[citycouncil@kearneygov.org](mailto:citycouncil@kearneygov.org)

City Manager Michael Morgan  
18 East 22nd Street  
233-3214 office  
[mmorgan@kearneygov.org](mailto:mmorgan@kearneygov.org)

A current agenda is on file at the Office of the City Clerk at City Hall, 18 East 22nd Street, Kearney, Nebraska. For more information, call 233-3216 or visit our website at [www.cityofkearney.org](http://www.cityofkearney.org)

**ADDENDUM NO. 1****IV CONSENT AGENDA \***

13. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class I-064728 liquor license to dispense beer and distilled spirits in Parking Lot 13 on UNK Campus located at 2508 12th Avenue on September 21, 2013 from 11:00 a.m. until 3:00 p.m. for tailgating area.
14. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class I-064728 liquor license to dispense beer and distilled spirits in Parking Lot 13 on UNK Campus located at 2508 12th Avenue on October 5, 2013 from 10:30 a.m. until 3:00 p.m. for tailgating area.
15. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class I-064728 liquor license to dispense beer and distilled spirits in Parking Lot 13 on UNK Campus located at 2508 12th Avenue on October 19, 2013 from 10:00 a.m. until 1:00 p.m. for tailgating area.
16. Adopt **Resolution No. 2013-184** accepting the bid received for 2013 Part 7 Improvements; Downtown Lighting; approving Change Order No. 1 showing a decrease in the amount of \$451,195.30; and awarding the bid to Blessing, LLC in the new contract price of \$608,809.85.