

Kearney, Nebraska
January 12, 2016
5:30 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on January 12, 2016, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Briseno, Assistant City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Lucas Dart, Duane Ruh, 4 UNK students, Steve Altmaier from KGFW Radio, Jessica Kokesh from Kearney Hub, Brent Wiethort from KKPR Radio.

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.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

VACATE PORTION OF FOUNTAIN HILLS THIRD ADDITION AND APPROVE THE FINAL PLAT FOR FOUNTAIN HILLS EIGHTH ADDITION

Mayor Clouse stated the developer requested to postpone public hearing on the Applications submitted by Buffalo Surveying for Fountain Hills Properties, LLC to (1) vacate Lots 1 through 18, inclusive, Lots 43 through 48 inclusive, and part of Outlot A, all in Block 2; and Lots 1 through 12 inclusive, and part of Outlot B, Block 3, all in Fountain Hills Third Addition; and (2) for the Final Plat and Subdivision Agreement for Fountain Hills Eighth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property as described above (4803-4827 and 4903-4917 10th Avenue).

Moved by Lammers seconded by Nikkila to postpone until January 26 Public Hearing 1 vacating a portion of Fountain Hills Third Addition and the final plat for Fountains Hills Eighth Addition. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter.

DEVELOPMENT PLANS FOR NORTHEAST CORNER OF 10TH AVENUE AND 11TH AVENUE

Mayor Clouse stated the the developer requested to postpone public hearing on the Application submitted by Brungardt Engineering for Fountain Hills Properties, LLC for Revised Planned District Development Plan Approval for the proposed construction of single story townhomes on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/ Planned Development Overlay District and described as a tract of land being part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northeast corner of 10th Avenue and 11th Avenue).

Moved by Lammers seconded by Nikkila to postpone until January 26 Public Hearing 2 for the revised development plans for the proposed construction of single story townhomes. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter.

IV. CONSENT AGENDA

Mayor Clouse stated with regard to Subsection 9, the figures have changed slightly; the preliminary design is \$24,302 with the fixed fee being \$2,647.75. Approval is based on these new amounts.

Moved by Nikkila seconded by Lear that Subsections 1 through 15 with the noted changes on Item 9 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held December 22, 2015.
2. Approve the following Claims:

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

Agri Coop \$2,513.05 smcs; Alamar \$2,228.55 smcs,ps; Alfred Benesch \$1,047.07 co; All City Garage Doors \$1,787.25 smcs; Amax Contracting \$108.00 smcs,co; Amazon \$4,404.78 smcs; Amer First Aid \$407.61 smcs; Anderson,B \$40.00 smcs; Archway \$75,000.00 smcs; Around the Campus \$445.00 smcs; Ask Supply \$923.73 smcs; Asphalt & Concrete Materials \$4,120.62 smcs; Aurora Coop \$119.20 smcs; BairdHolm \$7,000.00 co; Baker & Taylor \$2,147.60 smcs; Bamford \$1,175.00 smcs; Barney Abstract \$84.00 smcs; Baughman,J \$64.20 smcs; Beehive Industries \$11,546.00 smcs; Big Rack Shack \$2,200.00 smcs; Blessing \$269,887.24 co; BlueCross/BlueShield \$214,050.28 smcs; Boopsie \$4,495.00 smcs; Bosselman \$6,283.33 smcs; Briseno,H \$85.00 smcs; Briseno,P \$153.00 smcs; Broadfoot's \$2,269.00 smcs; Buffalo Co Reg of Deeds \$90.00 smcs; Buffalo Co Sheriff \$155,553.25 smcs; Buffalo Co Treasurer \$712.36 smcs; Bushnell,T \$100.00 smcs; Capital Business Systems \$174.00 smcs; Cash-Wa \$1,833.54 smcs,co; Certified Power \$1,475.41 smcs; Charter \$64.06 smcs; ChemSearch \$1,590.00 smcs; Chesterman \$255.00 smcs; City of Ky \$528,789.77 smcs,ps; Clevenger Petroleum \$219.81 smcs; Community Health Charities \$10.00 ps; Compasscom \$250.00 smcs; Consolidated Management \$508.50 smcs; D&M Security \$64.50 smcs; Danko Emergency \$315.00 smcs; Depository Trust \$45,592.50 ds; Diamond Tours \$56,202.00 smcs; Dish \$84.00 smcs; Dutton-Lainson \$255.31 smcs; Eakes \$3,474.31 smcs,co; Ed M. Feld Equipment \$1,302.46 smcs; EMC Ins \$11,247.05 smcs; Farmers Union Coop \$21.00 smcs; Fedorchik,T \$23.08 smcs; Fiddelke Heating \$1,178.53 smcs; Flaherty,T \$459.00 smcs; Frontier \$70.82 smcs; Gale \$2,764.09 smcs; General Traffic Controls \$4,370.00 smcs; Graham Tire \$1,380.92 smcs; Hach \$655.47 smcs; Hawthorne Jewelry \$271.00 ps; Hayden,S \$98.00 smcs; HD Supply \$19,892.38 smcs; Heartland Cleaning \$340.25 smcs; Highland Park \$1,812.85 smcs; Hometown Leasing \$157.20 smcs; Howe,C \$37.45 smcs ICMA RC \$8,762.94 ps; IRS \$290,703.83 ps; J&A Traffic Reports \$147.35 smcs; Jack Lederman \$171.94 smcs; JJ Keller & Assoc \$209.74 smcs; Johnson Hardware \$990.00 smcs; Kart-Man \$999.08 smcs; Ky Clinic \$887.50 smcs,ps; Ky Concrete \$10,079.35 co; Ky Hub \$3,504.56 smcs; Ky United Way \$524.00 ps; Kraft,R \$50.00 smcs; Kroll,D \$37.31 smcs; Krull Ins \$2,192.00 smcs; Larue Distributing \$36.90 smcs; Magic Cleaning \$4,740.00 smcs; Mail Express \$3,915.33 smcs; Maintenance Engineering \$119.49 smcs; Marlatt Machine \$639.73 smcs; Matheson-Linweld \$76.39 smcs; McCarty,D \$15.30 smcs; Medicap Pharmacy \$9,725.00 ps; Menards \$159.21 smcs; Metlife \$13,299.67 ps; Mid Amer Signal \$556.42 smcs; Midlands Contracting \$64,747.10 co; Mid-NE Garage Doors \$200.00 smcs; Midwest Connect \$48.98 smcs; Milco Environmental \$2,000.00 smcs; Miller & Associates \$6,705.15 smcs,co; Mitchell Repair \$600.00 smcs; Moreno,E \$8.19 smcs; Mueller-Staab,J \$576.00 smcs; Municipal Supply \$870.03 smcs; Nat'l Fire Protection \$1,305.00 smcs; NE Certified Arborist \$60.00 smcs; NE Child Support \$4,167.76 ps; NE Dept of Revenue \$110,897.64 smcs,ps; NE DOL/Finance \$140.00 smcs; NE League of Municipalities \$640.00 smcs; NE Public Health \$221.00 smcs; NE Rural Water Assn \$50.00 smcs; NE State Library \$64.50 smcs; Nelms,J \$62.25 smcs; Nolda,J \$20.00 smcs; Northwestern Energy \$2,148.89 smcs,co; OCLC \$630.59 smcs; Office Depot \$273.10 smcs; Olsson Associates \$6,631.27 co; Overhead Door \$70.00 smcs;

Paramount \$413.09 smcs; Payflex \$565.25 smcs,ps; Pulliam,R \$40.00 smcs; Pumphrey,R \$26.78 smcs; Random House \$299.25 smcs; Ready Mixed Concrete \$2,689.00 co; Recorded Books \$955.09 smcs; Rheome Tree \$990.00 smcs; Rich,T \$50.00 smcs; Sage,P \$64.20 smcs; Sapp Bros \$12,579.80 smcs; Schumacher Bros \$919.00 smcs; See Clear Cleaning \$2,050.00 smcs; Sensus Metering \$490.66 smcs; Shupe,M \$589.90 smcs; Snap-On Tools \$50.75 smcs; SOS Portable Toilets \$199.00 smcs; St of NE/AS Central \$11,352.56 smcs; Stitch 3 \$230.00 ps; Stroud,J \$43.29 smcs; Struss,J \$12.19 smcs; Sun Life Financial \$68,241.44 smcs; Sungard Public Sector \$18,424.27 co; Tacha,J \$50.00 smcs; Titan Machinery \$32,865.00 smcs,co; Traylor,C \$55.16 smcs; Tri-City Sign Co \$350.00 smcs; Tye Law Firm \$12,617.29 smcs; Tyler Technologies \$600.00 smcs; Union Bank \$144,316.24 ps; UNK-Finance Office \$3,000.00 smcs; USA Communications \$156.31 smcs; Valk Mfg \$5,643.28 smcs; Verizon Wireless \$1,600.51 smcs; Vermeer \$717.00 smcs; Vickrey,J \$609.18 smcs; Village Cleaners \$383.67 smcs; Waggoner Plbg \$6,362.90 smcs; Ward Labs \$106.00 smcs; Wells Fargo \$2,340.00 smcs; WPCI \$210.50 ps; Yandas Music \$130.80 smcs; Payroll Ending 12-26-2015 -- \$416,432.69. 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. 2016-3 appointing Mark Pullmann to serve on the Airport Advisory Board.

RESOLUTION NO. 2016-3

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, a vacancy currently exists on the Airport Advisory Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following person, as proposed by the Mayor of the City of Kearney, Nebraska, is hereby appointed to fulfill the vacated term as indicated:

AIRPORT ADVISORY BOARD

Mark Pullmann appointed to succeed Ron Hendrickson to July 31, 2020.

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Adopt Resolution No. 2016-4 accepting the bids received for the 2015 Part 2 Improvements consisting of Paving Improvement District No. 2014-967 for 49th Street from the west line of Lot 1, Block Four, Good Samaritan Society Kearney Village Subdivision, thence easterly to the south line of Lot 9, Block Four, Good Samaritan Society Kearney Village Subdivision, thence continuing northerly and easterly in 50th Street to the east line of Outlot B, Good Samaritan Society Kearney Village Subdivision and continuing easterly in 50th Street to a point located 140.38 feet east of the east line

of Outlot B, Castle Ridge Fourth Addition, approving Change Order No. 1 showing a decrease in the amount of \$21,825.00, and award the bid to Blessing LLC in the new contract price of \$561,598.50.

RESOLUTION NO. 2016-4

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on December 15, 2015 at 2:00 p.m. for the 2015 Part 2 Improvements consisting of Paving Improvement District No. 2014-967 for 49th Street from the west line of Lot 1, Block Four, Good Samaritan Society Kearney Village Subdivision, thence easterly to the south line of Lot 9, Block Four, Good Samaritan Society Kearney Village Subdivision, thence continuing northerly and easterly in 50th Street to the east line of Outlot B, Good Samaritan Society Kearney Village Subdivision and continuing easterly in 50th Street to a point located 140.38 feet east of the east line of Outlot B, Castle Ridge Fourth Addition; and

WHEREAS, the Engineer’s Opinion of Probable Construction Cost for the project was \$545,371.00; and

WHEREAS, the said engineers have recommended the bid offered by Blessing LLC of Kearney, Nebraska in the amount of \$583,423.50 be accepted as the lowest responsible bid for the 2015 Part 2 Improvements; and

WHEREAS, the scope of the project was substantially higher than the City budgeted funds that City staff negotiated with Blessing, LLC to reduce the scope of the project; and

WHEREAS, the Blessing, LLC and Miller & Associates have filed with the City Clerk Change Order No. 1 showing a decrease to the original contract sum in the amount of \$21,825.00, as shown on Exhibit “A”, attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$583,423.50
Change Order No. 1 (1-12-2016)	- 21,825.00
New Contract Sum	<u>\$561,598.50</u>

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer’s recommendation is hereby accepted and approved, that Blessing LLC be and is the lowest responsible bidder for the 2015 Part 2 Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk.

BE IT FURTHER 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 Exhibits “A”, be and is hereby accepted and approved.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost for the project of \$545,371.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt Resolution No. 2016-5 accepting the bids received for the first phase of the project which included antennae, radio equipment, software and 3,000 radio read units to attach to existing touch read meter pads and award the bid to HD Supply Waterworks in the amount of \$652,123.27.

RESOLUTION NO. 2016-5

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on December 22, 2015 at 2:00 p.m. for the first phase of the project which included antennae, radio equipment, software and 3,000 radio read units to attach to existing touch read meter pads; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$663,300.00; and

WHEREAS, the said engineers have recommended the bid offered by HD Supply Waterworks of Omaha, Nebraska in the amount of \$652,123.27 be accepted as the lowest responsible bid for the first phase of the project which included antennae, radio equipment, software and 3,000 radio read units to attach to existing touch read meter pads.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that HD Supply Waterworks be and is the lowest responsible bidder for the first phase of the project which included antennae, radio equipment, software and 3,000 radio read units to attach to existing touch read meter pads to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of HD Supply Waterworks in the amount of \$652,123.27 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost for the project of \$663,300.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Adopt Resolution No. 2016-6 approving Application and Certificate for Payment No. 5 in the amount of \$162,814.86 submitted by RMV Construction and approved by Miller & Associates for the Household Hazardous Waste Collection Facility.

RESOLUTION NO. 2016-6

WHEREAS, RMV Construction Company of Kearney, Nebraska has performed services in connection with the Household Hazardous Waste Collection Facility, and the

City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 5 in the amount of \$162,814.86 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$525,227.56
Change Order No. 1 (9-22-15)	- <u>3,672.00</u>
Contract Sum To Date	521,555.96
Gross Amount Due	513,140.40
Retainage (10%)	51,314.04
Amount Due to Date	461,826.36
Less Previous Certificates for Payment	<u>299,011.50</u>
Current Payment Due	\$162,814.86

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. 5, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

7. Adopt Resolution No. 2016-7 approving Change Order No. 2 showing an increase in the amount of \$765.00, Application and Certificate for Payment No. 5-Final in the amount of \$24,138.50, and accept the Certificate of Substantial Completion submitted by GD Concrete Construction and approved by Miller & Associates for the 2015 Part 3 Improvements; CDBG Sidewalks/Ramps.

RESOLUTION NO. 2016-7

WHEREAS, GD Concrete Construction of Overton, Nebraska has performed services in connection with the 2015 Part 3 Improvements; CDBG Sidewalks/Ramps, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$765.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference; and;

WHEREAS, GD Concrete Construction and Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$24,138.50 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$215,620.00
Change Order No. 1 (11-24-2015)	+ 2,500.00
Change Order No. 2 (1-12-2016)	+ <u>765.00</u>
Contract Sum To Date	218,885.00
Gross Amount Due	218,885.00
Retainage (0%)	.00
Amount Due to Date	218,885.00
Less Previous Certificates for Payment	<u>194,746.50</u>
Current Payment Due	\$ 24,138.50

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 31, 2015, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2-Final, as shown on Exhibit "A", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B" and the Certificate of Substantial Completion as shown on Exhibit "C" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt Resolution No. 2016-8 approving the Agreements for Acquisition of Trail Right-of-Way granted to the City of Kearney by Kappas Enterprises, Janet Fox, and Richard and Judith Tschirren.

RESOLUTION NO. 2016-8

WHEREAS, the City has been working to obtain agreements with property owners so that the Kearney Hike-Bike Trail can be extended from where it currently ends at Cherry Avenue so that it will connect to the Fort Kearny Recreational Trail; and

WHEREAS, the City has finalized agreements with the property owners as follows:

- Agreement for Acquisition of Trail Right-of-Way granted by Kappas Enterprises, LLC consisting of an 8-foot paved hike-bike trail with an adjacent crushed rock surface trail.
- Agreement for Acquisition of Trail Right-of-Way granted by Janet K. Fox Revocable Trust dated February 15, 2005 consisting of an 8-foot paved hike-bike trail.
- Agreement for Acquisition of Trail Right-of-Way granted by Richard A. Tschirren and Judith A. Tschirren Revocable Trust dated July 23, 2013 consisting of an 8-foot paved hike-bike trail.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreements for Acquisition of Trail Right-of-Way be and are hereby approved. The Agreements, marked as Exhibits "A", "B", and "C", are 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 Agreements on behalf of the City of Kearney.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt Resolution No. 2016-9 approving the Consultant Agreement with Alfred Benesch and Company for Project No. 3-31-0045-030 for the reconstruction or rehabilitation of primary Runway 18/36 at the Kearney Regional Airport contingent upon FAA approval.

RESOLUTION NO. 2016-9

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute the Consultant Agreement with Alfred Benesch and Company for Project No. 3-31-0045-030 for the reconstruction or rehabilitation of primary Runway 18/36 which is being funded under the FAA Airport Improvement Program. Approval by the City Council is contingent upon FAA concurrence/approval. The Consultant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the Plans and Specifications for the installation of Harvey Park Ball Field Lighting; Phase 1 and set the bid opening date for February 2, 2016 at 2:00 p.m.

11. Adopt Resolution No. 2016-10 accepting the proposals received for the installment of a shelter located at The Archway, 3060 East 1st Street and award the bid to Fry & Associates in the amount of \$135,000.00.

RESOLUTION NO. 2016-10

WHEREAS, the City of Kearney has received sealed proposals which were opened on December 14, 2015 at 2:00 p.m. to provide an outdoor shelter, surfacing, and installation at the Archway tourist attraction; and

WHEREAS, the City has recommended the proposal offered by Fry & Associates of North Kansas City, Missouri in the amount of \$135,000.00 be accepted as the lowest responsible bid providing an outdoor shelter, surfacing, and installation at the Archway tourist attraction.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City's recommendation is hereby accepted and approved, that Fry & Associates be and is the lowest responsible bidder to provide an outdoor shelter, surfacing, and installation at the Archway tourist attraction to be constructed in accordance with the plans and specifications on file with the City Clerk and that the proposal of Fry & Associates in the amount of \$135,000.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Adopt Resolution No. 2016-11 approving the proposal submitted by Buxton of Fort Worth, Texas for the retail expansion, recruitment and sales tax analysis to develop a strategy for Kearney that will best support and enhance the existing retail base in its primary market area and assist in identifying spending patterns/demographics/psychographics of its residents and visitors.

RESOLUTION NO. 2016-11

WHEREAS, the City advertised and received proposals for retail expansion, recruitment and sales tax analysis to develop a strategy that will best support and enhance the existing retail base in our primary market area and assist in identifying spending patterns/demographics/psychographics of our residents and visitors; and

WHEREAS, after reviewing the proposals, staff is recommending Buxton of Fort Worth, Texas for the reason their methodology utilizes proven data and provides ancillary services that will prove beneficial to the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to accept the proposal received from Buxton and that the Mayor be and is hereby authorized to execute the Agreement on behalf of the City of Kearney. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt Resolution No. 2016-12 approving the policy for the adjustment of unusually high water and sewer bills resulting from leaks or water line breaks causing abnormally high water usage.

RESOLUTION NO. 2016-12

WHEREAS, the City of Kearney strives to be consistent with all customers when applying utility billing adjustments for unusually high water usage caused by leaks or water line breaks; and

WHEREAS, the following policy will provide guidelines that the City of Kearney will follow in determining if a customer is entitled to an adjustment and if so, how the calculation of the adjustment is made due to unusually high water and sewer bills resulting from leaks or water line breaks causing abnormally high water usage:

1. The City of Kearney is only responsible for maintenance of water lines up to and including the water meter.

2. The Utilities Director may approve an adjustment of the water usage charge in such cases subject to the following conditions having been satisfied:

a. The request for adjustment is made in writing within ten (10) days after the billing date (a waiver of said ten (10) day period may be made by the Utilities Director for good cause shown).

b. The customer must provide to the City of Kearney a copy of a bill for repairing the leak(s). The bill must be accompanied by a statement that a leak (or multiple leaks)

had been immediately repaired upon detection of abnormal water usage and a description describing where the leak(s) occurred.

3. Such adjustments of water usage shall not exceed one hundred percent (100%) of the difference between average water usage for the preceding twelve month period and the abnormally high water usage resulting from the leak; however, the average usage for the same period of the prior year may be used if staff determines it is the most appropriate indicator of actual usage for the period being adjusted. If twelve (12) months of history is not available, an average of the most current consumption history may be used to compute the credit available to the customer.

4. Adjustments will be calculated over the billing periods when the water leak occurred, up to a maximum of two (2) billing periods.

5. In no case shall there be more than one (1) such adjustment in any two (2) year period.

6. In the case of a leak occurring in the service line between the water meter and the building the meter serves, the Utilities Director may approve an adjustment of the sewer usage charge if, in addition to the above conditions, it has been demonstrated the leaking water has not entered the sanitary sewer system.

7. In no case shall the Utilities Director approve an adjustment to water or sewer usage charges for abnormal usage attributable to lawn irrigation systems, faulty toilets, leaking faucets, or other interior plumbing facilities (pipes, water heaters, water softeners, furnaces, etc.) within the building the water meter serves.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the above policy providing guidelines that the City of Kearney will follow in determining if a customer is entitled to an adjustment and if so, how the calculation of the adjustment is made due to unusually high water and sewer bills resulting from leaks or water line breaks causing abnormally high water usage be and is hereby approved.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the applications for Special Designated Licenses submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine, and distilled spirits in the Exposition Building and the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on February 13, 15, 16, 17, 18, 19, 20, 2016 from 10:00 a.m. until 1:00 a.m. and on February 14 and 21, 2016 from 11:00 a.m. until 12:00 a.m. for the Cattlemen's Classic.

15. Adopt resolution No. 2016-13 approving Change Order No. 3 showing a decrease in the amount of \$107,448.00, Application and Certificate for Payment No. 6-Final in the amount of \$147,141.49, and accept the Certificate of Substantial Completion submitted by Blessing Construction and approved by Olsson Associates for the 2014 Part 6 Improvements consisting of Paving Improvement District No. 2014-965 for Avenue N from 25th Street north to the north line of Lot 3, Hartman & Dryden's.

RESOLUTION NO. 2016-13

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2014 Part 6 Improvements consisting of Paving Improvement District No. 2014-965 for Avenue N from 25th Street north to the north line of Lot 3, Hartman & Dryden’s Addition, and the City’s engineer, Olsson Associates, have filed with the City Clerk Change Order No. 3 showing a decrease to the contract sum in the amount of \$107,448.00 as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Blessing Construction and Olsson Associates have filed with the City Clerk Application and Certificate for Payment No. 6-Final in the amount of \$147,150.61 as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$872,819.97
Change Order No. 1 (9-22-2015)	+ 96,221.75
Change Order No. 2 (12-8-2015)	+126,859.10
Change Order No. 3 (1-12-2016)	<u>-107,448.00</u>
Contract Sum To Date	988,452.82
Gross Amount Due	988,452.82
Retainage (5%)	.00
Amount Due to Date	988,452.82
Less Previous Certificates for Payment	<u>841,302.21</u>
Current Payment Due	\$147,150.61

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of December 23, 2015, as shown by Exhibit “C” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 3, as shown on Exhibit “A”, Application and Certificate for Payment No. 6-Final, as shown on Exhibit “B” and the Certificate of Substantial Completion as shown on Exhibit “C” be and are hereby accepted and approved.

PASSED AND APPROVED THIS 12TH DAY OF JANUARY, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

None.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Lear seconded by Buschkoetter that Council adjourn at 3:58 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**