

*Kearney, Nebraska*  
*August 8, 2017*  
*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 August 8, 2017 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Lauren Brandt, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, 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; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Jason Whalen, Fire Administrator, and Shawna Erbsen, Administrative Services Director were also present. Members of the media present included: Kyle LaBoria from KGFW Radio and Mike Konz from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

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

Pastor Kelly Larsen provided the Invocation.

### **PLEDGE OF ALLEGIANCE**

Council members led the audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **FINAL PLAT FOR BOURLAND ADDITION**

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow for Joseph Bourland for the Final Plat for Bourland Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1300 East 11th Street) and consider Resolution No. 2017-135. Planning Commission recommended approval.

Trenton Snow presented this matter to the Council. He stated the property is located on 11th Street to the east of Avenue M. It is the lone residence on the property, in the midst of industrial and commercial property. The owner is looking to tear down the house and build a new house on the property.

In order to do that, the tract of ground needs to be brought into compliance with the City of Kearney's regulations and become an addition to the City of Kearney as it is currently described as a metes and bounds legal description. The property is already incorporated into the City limits so what is being requested tonight is to make the property known at Lot 1 of Bourland Addition rather than a lengthy directional and distance wise legal description.

An extra 17 feet of ground on 11th Street is being gained since 11th Street is an arterial. It was originally the 33-foot dedicated for public road right-of-way as a county road. Other than that, the property is a one lot subdivision and the City already has sewer and water access which will remain the same.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt Resolution No. 2017-135 approving the Application submitted by Trenton Snow for Joseph Bourland for the Final Plat for Bourland Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1300 East 11th Street). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

#### **RESOLUTION NO. 2017-135**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Bourland Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of said Section 6; thence easterly on the South line of said Section a distance of 760.8 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the afore described course a distance of 150.0 feet; thence with a deflection angle to the left and running in a Northerly direction 89°32' a distance of

333.45 feet; thence westerly a distance of 150.0 feet to a point on the East line of Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska; thence southerly on the aforesaid East line a distance of 333.3 feet to the place of beginning, 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 AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**VACATE PARTIAL UTILITY EASEMENT LOCATED NORTH OF 60TH STREET AND WEST OF 5TH AVENUE PLACE**

Mayor Clouse opened the public hearing on the Miller & Associates for DT Development, Inc. to vacate a utility easement being the east 20 feet of Outlot "B", Spruce Hollow Estates, an addition to the City of Kearney, Buffalo County, Nebraska as it abuts lots 5 and 6 of said Block One and EXCEPTING THEREFROM the 25 feet by 50 feet Sanitary Sewer Access Easement filed with the Buffalo County Register of Deeds as Instrument No. 2012-4810 (north of 60th Street and west of 5th Avenue Place) and to consider Ordinance No. 8167. Planning Commission recommended approval.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated the location of the easement that is being requested to be released is in Outlot "B" in Spruce Hollow Estates subdivision and is west of 5th Avenue Place, abutting two residential lots that are currently developed. Essentially this was an access easement when platted, to access the lift station that was created there.

Since that time, the access easement has been granted on either side of the lot to the lift station. The developer is asking to release the easement and if approved, would likely enter into some type of landscape easement to allow for tree trimming and things of that nature.

The partial release of the 20-foot easement is requested as the easement was platted clear up to 50-foot but it is partial because there was some additional easement granted when the lift station was built.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Miller & Associates for DT Development, Inc. to vacate a utility easement being the east 20 feet of Outlot "B", Spruce Hollow Estates, an addition to the City of Kearney, Buffalo County, Nebraska as it abuts lots 5 and 6 of said Block One and EXCEPTING THEREFROM the 25 feet by 50 feet Sanitary Sewer Access Easement filed with the Buffalo County Register of Deeds as Instrument No. 2012-4810 (north of 60th Street and west of 5th Avenue Place) and introduced Ordinance No. 8167 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 8167. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8167 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8167 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8167 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 PORTION OF EAST 11TH INDUSTRIAL PARK AND VACATE LOTS 4, 5, 6 OF EAST 11TH INDUSTRIAL PARK**

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for Brent Henderson to (1) rezone from District M-1, Limited Industrial District to District AG, Agricultural District property described as all of Lots 4, 5 and 6 and all of 8th Street Right-of-Way abutting said Lots 4, 5, and 6 on the South and U Avenue Right-of-Way abutting said Lot 6, East 11th Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska (west of U Avenue between 8th Street and 11th Street) and consider Ordinance No. 8168; and (2) vacate all of Lots 4, 5, and 6, East 11th Industrial Park and consider Ordinance No. 8169. Planning Commission recommended approval.

Craig Miller from Miller & Associates presented this matter to the Council. He stated the property is a part of East 11th Industrial Park and originally before Council as six platted lots containing three narrow lots and a larger lot which is uniform to the other three that are being requested to vacate. There are utilities and development on the first two lots. Utilities are also included to serve the third lot which is located south of 11th Street.

With the remaining three lots, the utilities located in front of these roads have not been improved or extended yet. The developer is requesting the vacation of the lots and to rezone back to Agricultural District. The property is over 20 acres which allows the rezoning request.

The street as platted is 8th Street and U Avenue on the east and the frontage road would remain. The parcel that is known as Lots 4, 5 and 6 would be vacated with the right-of-way dedicated which lines up with other right-of-way and circulation throughout the community.

The property is located inside City limits and because of the size of the lot, the boundary that is being requested for rezoning is 23 acres and the remaining portion is 20.07 acres. The three lots would be over the 20 acres being rezoned back to Agricultural.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Applications submitted by Miller & Associates for Brent Henderson and introduced Ordinance No. 8168 rezoning from District M-1, Limited Industrial District to District AG, Agricultural District property described as all of Lots 4, 5 and 6 and all of 8th Street Right-of-Way abutting said Lots 4, 5, and 6 on the South and U Avenue Right-of-Way abutting said Lot 6, East 11th Industrial Park, an addition to the City of Kearney, Buffalo County, Nebraska (west of U Avenue between 8th Street and 11th Street) and Ordinance No. 8169 vacating all of Lots 4, 5, and 6, East 11th Industrial Park 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 Nos. 8168 and 8169. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 8168 and 8169 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance Nos. 8168 and 8169 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 8168 and 8169 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.

## IV. CONSENT AGENDA

Moved by Clouse seconded by Lammers that Subsection 10 of Consent Agenda Item IV be withdrawn at the request of Council. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

Moved by Lammers seconded by Nikkila that Subsections 1 through 9 and 11 through 13 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held July 25, 2017.

2. Approve the following Claims:

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

24 Hour Tees \$220.53 smcs; A-1 Refrigeration \$120.00 smcs; Acushnet \$1,259.95 smcs; Adventure Enterprises \$80.00 smcs; Alstrom,J \$48.80 smcs; Amazon \$716.81 smcs; Andersen,J \$152.00 smcs; Anderson,T \$476.00 smcs; Arner,D \$18.62 smcs; Ask Supply \$216.50 smcs; Aurora Coop \$51.36 smcs; Baker & Taylor \$4,560.81 smcs; Bamford \$225.00 smcs; Barney Abstract \$180.00 smcs; Baughman,J \$92.55 smcs; Beehive Industries \$1,800.00 smcs; Belgum,K \$56.67 smcs; Bennett,K \$87.20 smcs; Benson,G \$1,428.50 smcs; Bibler,M \$28.83 smcs; Blessing \$340,069.66 co; BlueCross/BlueShield \$138,173.82 smcs; Bosselman \$31,285.37 smcs; Bowman,R \$63.84 smcs; Brandt,G \$15.96 smcs; Broadfoot's \$1,649.88 smcs,co; Bruha,S \$220.00 smcs; Buffalo Co. Register Deeds \$260.00 smcs; Buffalo Co. Treasurer \$20.00 smcs; Builders \$115.13 smcs,co; Burge,B \$42.96 smcs; Capital Business \$169.93 smcs; Cash-Wa \$629.69 smcs; Cellebrite \$3,098.99 smcs; Cengage \$424.60 smcs; Center Point Publishing \$75.96 smcs; Central District \$4,101.00 smcs; Central States Investments \$47.42 smcs; Charter \$189.99 smcs; Chesterman \$1,616.00 smcs; Cigna \$7,072.04 smcs; City of Ky \$322.46 smcs; Clark Enersen \$3,720.19 co; Conroy,B \$255.46 smcs; Copycat \$321.12 smcs; Crane River Theater \$1,968.00 smcs; Culligan \$167.60 smcs; Cummins \$3,223.70 smcs; Czaplewski,M \$74.50 smcs; Danko Emergency \$89.21 smcs; DAS State Accounting \$6,362.09 smcs,co; David,T \$100.00 smcs; Decker,J \$88.21 smcs; Dent Popper \$400.00 smcs; Deterdings \$3,478.87 smcs; Dish \$94.03 smcs; Dockweiler,D \$63.00 smcs; DPC Industries \$5,473.11 smcs; Dutton-Lainson \$574.15 smcs; Eagle Distributing \$1,946.15 smcs; Eakes \$653.03 smcs; Engineered Controls \$204.00 smcs; Ericson,T \$20.85 smcs; Evers,B \$832.00 smcs; Fader,D \$27.67 smcs; Felsburg Holt & Ullevig \$687.50 smcs; Fiddelke \$60.00 smcs; Fire Com \$529.17 smcs; Flynn,B \$69.00 smcs; Fountain Hills Properties \$116.97 smcs; Frontier \$9,763.16 smcs;Fyfe,D \$50.00 smcs; Gall's \$203.89 ps; Gangwish Turf \$15.75 co; Garrett Tires \$35.80 smcs; Great Plains Safety \$392.55 smcs; Grey House Publishing \$194.95 smcs; Hall,M \$32.98 smcs; HD Supply \$128,212.76 smcs,co; Help Care Clinic \$2,500.00 smcs; Herman,T \$66.95 smcs; HM Life Insurance \$40,728.40 smcs; Hometown Leasing \$157.20 smcs; Integrated Construction \$16,116.30 co; Jack

Lederman \$157.29 smcs; James,D \$240.00 smcs; Jones,R \$32.31 smcs; Karg,V \$73.58 smcs; Ky Builders Assn. \$402.00 smcs; Ky Chamber Comm. \$20.00 smcs; Ky Crete & Block \$422.00 smcs; Ky E-Free \$20.00 smcs; Ky Visitors Bureau \$47,177.94 smcs; Keenan,T \$17.95 smcs; Keizer,N \$1,800.00 smcs; Kinnison,B \$209.10 smcs; Koettters,J \$68.80 smcs; Kolbe,S \$248.46 smcs; Konica Minolta \$1,237.70 smcs; Lavene,K \$593.00 smcs; Lehmueller,B \$220.00 smcs; Lindner,S \$283.01 smcs; Little,P \$55.26 smcs; Loper Athletics \$476.00 smcs; Mackrill,R \$70.00 smcs; Magic Cleaning \$7,240.00 smcs; McMillan,E \$33.63 smcs; Menards \$90.26 smcs,co; Microfilm Imaging Systems \$11,156.00 smcs; Mid American Signal \$20,644.00 smcs; Mid-State Engineering \$347.50 co; Midwest Breathing \$38,169.90 co; Midwest Laboratories \$5,139.50 smcs; Midwest Turf \$2,486.33 smcs; Miller & Associates \$62,986.70 smcs,co; Minitex \$1,706.00 smcs; Mobotrex \$2,256.00 smcs; Motion Picture Licensing \$230.74 smcs; Municipal Emergency \$987.01 smcs; Municipal Supply \$1,828.39 smcs; Murphy Tractor \$4,665.46 smcs; Navigator Motorcoaches \$550.00 smcs; NE Amateur Softball \$125.00 smcs; NE Public Health \$36.00 smcs; NE Recycling Council \$125.00 smcs; Nebraskaland Distributors \$2,714.60 smcs; Newmeyer,M \$25.47 smcs; Nguyen,D \$75.00 smcs; Northwestern Energy \$257.86 smcs; Nova Fitness \$489.08 ps; Nutt,D \$70.00 smcs; O'Keefe Elevator \$430.44 smcs; Olsson Associates \$11,898.33 co; Osborne,P \$85.00 smcs; Outdoor Recreation \$943.80 co; Overdrive \$2,500.00 smcs; Pacific Bow Butts \$2,590.00 co; Paramount \$99.42 smcs; Payflex Systems \$42.50 smcs; Peerless Machine \$1,540.00 smcs; Penguin Random House \$60.00 smcs; Penworthy \$136.37 smcs; Prime Communications \$1,974.70 smcs; Progressive Electric \$65.00 smcs; Prosocki,C \$122.04 smcs; Provantage \$4,106.50 smcs; Pulliam,R \$40.00 smcs; R.W. Sorensen Construction \$360.25 smcs; RDG Planning \$2,854.34 smcs; Recorded Books \$150.92 smcs; Regional Development \$59.22 smcs; Reynolds,B \$252.00 smcs; Rheome Tree \$165.00 smcs; Rich,T \$50.00 smcs; Ritterbush,J \$46.87 smcs; Riverside Reading Store \$159.00 smcs; Robbins,J \$67.37 smcs; Roberts Pump & Supply \$2,296.50 smcs; Rodehorst,D \$54.82 smcs; SBF \$793.00 smcs; Schroeder,J \$209.10 smcs; See Clear Cleaning \$1,700.00 smcs; Sherwin Industries \$438.02 smcs; Shoemaker,B \$36.32 smcs; Stamm,E \$36.50 smcs; Steinbrook,S \$476.00 smcs; Subway \$367.15 smcs; Suchsland,T \$69.00 smcs; Sutton,S \$202.50 smcs; Suy,A \$35.00 smcs; Tacha,J \$50.00 smcs; Taillon,R \$147.10 smcs; Thompson,T \$53.90 smcs; Titan Machinery \$4,548.04 smcs; Trade Well Pallet \$1,700.00 smcs; Travel Insured Int'l \$1,104.00 smcs; Tri Square Enterprise \$44.59 smcs; Tri State Oil Reclaimers \$696.75 smcs; TruGreen ChemLawn \$170.00 smcs; TS Construction \$21.51 smcs; Tyler Technologies \$640.00 smcs; Ummel,J \$500.00 smcs; Van Diest \$925.25 smcs; Vanwall \$29,995.00 co; Verizon \$1,680.44 smcs; Vermeer Equipment \$1,165.99 smcs; Village Uniform \$5,000.00 smcs; Voltaire Aviation \$371.76 smcs; Walkenhorst,W \$28.57 smcs; Warrington,D \$729.65 smcs; Washa,J \$65.19 smcs; Welch,K \$35.49 smcs; Weldon,C \$48.80 smcs; Wentz,K \$152.00 smcs; Wetovick,D \$64.35 smcs; Wilke Contracting \$109,414.10 co; Wilson,S \$66.13 smcs; Zabel,A \$29.42 smcs; Payroll Ending 7/22/2017 -- \$496,211.09. 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. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Robert Steider submitted by B&R Stores, Inc., dba Apple Market located at 7 West 25th Street in connection with

their Class C-081872 liquor license.

- 4. Adopt Resolution No. 2017-136 approving Change Order No. 1 showing an increase the amount of \$2,694.00 and Application and Certificate for Payment No. 1 in the amount of \$191,425.03 submitted by Dan Roeder Concrete and approved by Oak Creek Engineering for the 2016 Part 4 Improvements; Avenue M Hike/Bike Trail Bid B (Trail and Storm Sewer).

**RESOLUTION NO. 2017-136**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2016 Part 4 Improvements; M Avenue Hike/Bike Trial Bid B (Trail/Storm Sewer), and the City's engineer, Oak Creek Engineering, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$2,694.00 and Application and Certificate for Payment No. 1 in the amount of \$191,425.03 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$229,933.50
Change Order No. 1 (8-8-2017)	+ 2,694.00
Contract Sum To Date	<u>232,627.50</u>
Gross Amount Due	212,694.48
Retainage (10%)	21,269.45
Amount Due to Date	191,425.03
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$191,425.03

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 and Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 8TH DAY OF AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK AND EX-OFFICIO MAYOR

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL

- 5. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney NE dba Alley Rose in connection with their Class IK-021763 liquor license to cater and dispense alcoholic liquor inside an outdoor area measuring 88'x41' located directed outside of the Museum of Nebraska Art located at 2401 Central Avenue on Saturday, August 26, 2017 from 6:00 p.m. to 12:00 a.m. for a reception.

- 6. Approve the application for a Special Designated License submitted by Kearney Investment Corporation dba Holiday Inn in connection with their CK-017964 liquor license to cater and dispense alcoholic liquors inside the Museum of Nebraska Art located at 2401 Central Avenue on Wednesday, September 20, 2017 from 5:00 p.m.

until 8:00 p.m. for a reception.

7. Adopt Resolution No. 2017-137 approving Change Order No. 3 showing an increase in the amount of \$1,318.00, Application and Certificate for Payment No. 7 – Final in the amount of \$16,116.30, and accept the Certificate of Substantial Completion submitted by Integrated Construction Management Services for the construction of a Vehicle Storage Building for the Utilities Department.

**RESOLUTION NO. 2017-137**

WHEREAS, Integrated Construction Management Services from Grand Island, Nebraska has performed services in connection with the construction of a Vehicle Storage Building for the Utilities Department, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing an increase to the contract sum in the amount of \$1,318.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Integrated Construction Management Services and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 7-Final in the amount of \$16,116.30 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$481,989.00
Change Order No. 1 (3-28-2017)	- 3,040.00
Change Order No. 2 (3-28-2017)	- 1,440.00
Change Order No. 3 (8-8-2017)	<u>+ 1,318.00</u>
Contract Sum To Date	478,827.00
Gross Amount Due	478,827.00
Retainage (0%)	.00
Amount Due to Date	478,827.00
Less Previous Certificates for Payment	<u>462,710.70</u>
Current Payment Due	\$ 16,116.30

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 1, 2017, 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. 7-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 8TH DAY OF AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

8. Approve the Plans and Specifications for 2017 Parts 1 Improvements; 11th Avenue Extension and set the bid opening date for September 6, 2017 at 2:00 p.m.

9. Adopt Resolution No. 2017-138 amending the payment installation schedule for Buffalo County Historical Society for Paving District No. 2015-979, Water District No. 2015-581 and Sanitary Sewer District No. 2015-518.

### **RESOLUTION NO. 2017-138**

WHEREAS, the City Council passed and approved Resolution No. 2017-111 on June 27, 2017 approving the equalizing and levying of special assessments on the lots and parcels of land for Paving Improvement District Nos. 2015-976, 2015-977, 2015-978, 2015-979, 2015-980; Water District Nos. 2015-579, 2015-580, 2015-581, 2015-582; Sanitary Sewer District Nos. 2015-516, 2015-517, 2015-518, 2015-519;

WHEREAS, the City of Kearney has received a written request from the Buffalo County Historical Society on July 26, 2017 requesting an extension of the scheduled levy payments from 10 years to 20 years for paving improvements and from 5 years to 10 years for water and sewer improvements for the South 250 feet of the West 206.30 feet of Lot 1, Block One, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID #603786157) of Paving Improvement District No. 2015-979, Water District No. 2015-581 and Sanitary Sewer District No. 2015-518.

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the request from the Buffalo County Historical Society requesting an extension of the scheduled levy payments from 10 years to 20 years for paving and from 5 years to 10 years for water and sewer, connected to the South 250 feet of the West 206.30 feet of Lot 1, Block One, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID #603786157) of Paving Improvement District No. 2015-979, Water District No. 2015-581 and Sanitary Sewer District No. 2015-518 is hereby accepted and approved. The Request for Extension, marked as Exhibit 'A', is hereby 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, that there be a levy against the Buffalo County Historical Society specifically for the South 250 feet of the West 206.30 feet of Lot 1, Block One, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID #603786157) set out in Exhibit "B" the amount set opposite the lot and parcel of ground for:

Section 1. Said assessment for the South 250 feet of the West 206.30 feet of Lot 1, Block One, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID #603786157) for Paving Improvement District No. 2015-979 shall become delinquent as follows:

- 1/20th fifty days after date of June 27, 2017
- 1/20th one year after date of June 27, 2017
- 1/20th two years after date of June 27, 2017
- 1/20th three years after date of June 27, 2017
- 1/20th four years after date of June 27, 2017
- 1/20th five years after date of June 27, 2017
- 1/20th six years after date of June 27, 2017
- 1/20th seven years after date of June 27, 2017
- 1/20th eight years after date of June 27, 2017
- 1/20th nine years after date of June 27, 2017
- 1/20th ten years after date of June 27, 2017
- 1/20th eleven years after date June 27, 2017

- 1/20th twelve years after date of June 27, 2017
- 1/20th thirteen years after date of June 27, 2017
- 1/20th fourteen years after date of June 27, 2017
- 1/20th fifteen years after date of June 27, 2017
- 1/20th sixteen years after date of June 27, 2017
- 1/20th seventeen years after date of June 27, 2017
- 1/20th eighteen years after date of June 27, 2017
- 1/20th nineteen years after date of June 27, 2017

Each installment, except the first, shall draw interest at the rate of 5.0 per centum per annum from June 27, 2017 until the same become delinquent and after they become delinquent at the rate of 14.0 per centum per annum until paid.

Section 2. Said assessment for the South 250 feet of the West 206.30 feet of Lot 1, Block One, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID #603786157) for Water District No. 2015-581 shall become delinquent as follows:

- 1/10th fifty days after date of June 27, 2017
- 1/10th one year after date of June 27, 2017
- 1/10th two years after date of June 27, 2017
- 1/10th three years after date of June 27, 2017
- 1/10th four years after date of June 27, 2017
- 1/10th five years after date of June 27, 2017
- 1/10th six years after date of June 27, 2017
- 1/10th seven years after date of June 27, 2017
- 1/10th eight years after date of June 27, 2017
- 1/10th nine years after date of June 27, 2017

Each installment, except the first, shall draw interest at the rate of 5.0 per centum per annum from June 27, 2017 until the same become delinquent and after they become

Section 3. Said assessment for the South 250 feet of the West 206.30 feet of Lot 1, Block One, Hammer-McCarty Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID #603786157) for Sewer District No. 2015-518 shall become delinquent as follows:

- 1/10th fifty days after date of June 27, 2017
- 1/10th one year after date of June 27, 2017
- 1/10th two years after date of June 27, 2017
- 1/10th three years after date of June 27, 2017
- 1/10th four years after date of June 27, 2017
- 1/10th five years after date of June 27, 2017
- 1/10th six years after date of June 27, 2017
- 1/10th seven years after date of June 27, 2017
- 1/10th eight years after date of June 27, 2017
- 1/10th nine years after date of June 27, 2017

Each installment, except the first, shall draw interest at the rate of 5.0 per centum per annum from June 27, 2017 until the same become delinquent and after they become delinquent at the rate of 14.0 per centum per annum until paid.

PASSED AND APPROVED THIS 8TH DAY OF AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK AND EX-OFFICIO MAYOR

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL

**10.** WITHDRAWN. Adopt Resolution No. 2017-139 approving the Grant Agreement between the City of Kearney and FAA for the Runway 18/36 Reconstruction at the Kearney Regional Airport (AIP Project No. 3-31-0045-031-2017).

**RESOLUTION NO. 2017-139**

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A GRANT AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR PROJECT NO. 3-31-0045-031-2017 FOR THE RUNWAY 18/36 RECONSTRUCTION AT THE KEARNEY REGIONAL AIRPORT

WHEREAS, the City of Kearney, Nebraska has submitted a project application to the Federal Aviation Administration for Project No. 3-31-0045-031-2017 Runway 18/36 Reconstruction at the Kearney Regional Airport; and

WHEREAS, the Federal Aviation Administration has approved the project for the Kearney Regional Airport.

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

1. The City of Kearney shall enter into a Grant Agreement with the Federal Aviation Administration for Project No. 3-31-0045-031-2017 for the purpose of obtaining federal assistance for the Runway 18/36 Reconstruction at the Kearney Regional Airport. The Grant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

2. The Mayor of the City of Kearney is hereby authorized and directed to execute said Grant Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

PASSED AND APPROVED THIS 8TH DAY OF AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**11.** Approve the application for a Special Designated License submitted by Earn & Return Investments Inc. dba The Cellar Bar & Grill in connection with their IK-064728 liquor license to cater and dispense alcoholic liquors inside The Archway located at 3060 East 1st Street on Friday, September 8, 2017 from 5:00 p.m. until 11:00 p.m. for a class reunion social.

**12.** Approve the applications for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 liquor license to cater and dispense alcoholic liquor as follows:

a) Inside the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, September 2, 2017 from 3:00 p.m. until 1:00 a.m. for a reception; and

b) Inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, September 9, 2017 from 3:00 p.m. until 1:00 a.m. for a reception.

13. Approve the Street/Sidewalk/Parking Lot Closure, Traffic Control and or Parking Restrictions Permit Application submitted by Chais Meyer to conduct the SUNday Night Market as part of Black Out on the Bricks and temporarily close the MONA Parking Lot from 2:00 p.m. until 10:00 p.m. on August 20, 2017.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 8170 AMENDING SECTION 8-1517 RESIDENCY RESTRICTIONS FOR SEX OFFENDERS OF ARTICLE 15 GENERAL OFFENSES OF CHAPTER 8 POLICE CITY CODE**

Council Member Nikkila introduced Ordinance No. 8170 amending the Kearney City Code by amending the definition of sex offender under Section 8-1517 "Residency Restrictions for Sex Offenders" of Article 15 "General Offenses" of Chapter 8 "Police", and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules for Ordinance No. 8170. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 8170 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 8170 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8170 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 PROPERTY LOCATED WEST OF 2ND AVENUE AND SOUTH OF TALMADGE STREET**

Mayor Clouse opened for discussion for the redevelopment project submitted by Danco II 2767 Kearney, LLC dba Speedee Mart for Redevelopment Area #2 for an area described as Lot 1, Danco KN Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 2nd Avenue and south of Talmadge Street) and to consider Resolution No. 2017-140.

Assistant City Manager Paul Briseno presented this matter to the Council. The property

has been requested to redevelop Speedee Mart which is at the corner of Talmadge and 2nd Avenue. Speedee Mart is recommending reconstruction of the mini mart convenience store as well as adding a fast food restaurant. The currently valuation of the property is \$923,035.00. The valuation when the project is complete is estimated at \$2,500,000.00, creating an increase of \$28,228.00 a year estimated.

Within this valuation is Talmadge Street, estimated at \$50,000.00. They are projecting a portion to be paid out of this TIF. The CRA did recommend approval based at 90% annual increment not to exceed \$381,076.00. Staff also recommends approval.

Moved by Buschkoetter seconded by Clouse to approve the finding that the redevelopment project set forth in the application submitted by Danco II 2767 Kearney, LLC dba Speedee Mart 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 \$381,076, or the certified eligible Project Costs over a period not to exceed fifteen years beginning with Tax Year 2018 and to adopt Resolution No. 2017-140 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Danco II 2767 Kearney, LLC dba Speedee Mart. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

#### **RESOLUTION NO. 2017-140**

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 #2 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 Lot 1, DANCO KN Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID 600066000); 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 Lot 1, DANCO KN Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID 600066000) 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 Lot 1, DANCO KN Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID 600066000) 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 AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**PLACEMENT OF KANEKO ARTWORK COLUMNS AT YANNEY HERITAGE PARK**

Mayor Clouse opened for discussion the placement of three Kaneko Artwork Columns at Yanney Heritage Park and to consider Resolution No. 2017-141.

Tom Tye on behalf of the Yanney Heritage Park Foundation presented this matter to the Council. He stated that a private donor that would like to give to the Yanney Foundation and the City of Kearney, three sculptures by Jun Kaneko. Jun Kaneko is a world renowned artist located in Omaha whose artwork is displayed throughout the world.

These sculptures are three columns that stand 12 and a half feet tall, 30 inches in diameter and weight 3,000 pounds apiece. The columns are made out of fired ceramic that are then sealed to protect from water and other elements.

The columns will be located in the center of the roundabout circle at Yanney Park. This location was chosen to minimize the impact on irrigation and also has easy access to electricity that will allow for nighttime illumination. Citizens will be able to see the artwork clearly from 11th Street.

The Board is hoping to have the columns installed in very short order so that they can be dedicated about the mid to later part of September. The Board is in the process of coordinating the installation. The Yanney Heritage Park Foundation presented the artwork to the Park Advisory Board who approved and made a recommendation to move on City Council for final approval.

Once the columns are obtained, they become property of the Yanney Heritage Park Foundation and there is no ongoing obligation to the Kaneko Studio or anything like that. The Yanney Heritage Park Foundation reserves the right to advertise them as they are displayed. Going forward, the Yanney Heritage Park Foundation does not have to engage Jun Kaneko for repairs and if for some reason the City doesn't want the columns anymore or wishes to relocate them, that is in the City's discretion to do that.

The donor for the Yanney Foundation has covered all the installation details. The columns are protected with a coating on the outside so as water hits them or if they are graffitied which inevitably would happen, they are fairly easy to clean.

Council Member Lammers asked what kind of base do the columns have under them. Mr. Tye stated that has been the biggest challenge. There are 7-foot concrete footings that go into the ground. A fixed galvanized steel rod goes up through the top of the column and the columns will sit on top of the beam as there is a bracket on the top which will stabilize the columns. There is a cap that then goes on top of the column so that no debris gets in there. The columns are being professional installed.

The Parks staff has been involved from day one to ensure an ease of mowing around the columns. There is a four-inch extension from the concrete base and a four-inch lip to accommodate the mowers.

Moved by Clouse seconded by Lammers to adopt Resolution No. 2017-141 approving the placement of three Kaneko Artwork Columns at Yanney Heritage Park. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

#### **RESOLUTION NO. 2017-141**

WHEREAS, the Yanney Heritage Park Foundation has requested permission from the Advisory Board of the Park and Recreation Commissioners and City Council to permanently place three Jun Kaneko sculptures in Yanney Heritage Park located at 2020 West 11th Street, Kearney, Nebraska; and

WHEREAS, Jun Kaneko is an artist based out of Omaha, Nebraska who has pieces of his art placed throughout the world; and

WHEREAS, the three sculptures are columns that stand 12 ½ feet tall, 30 inches in circumference and weigh approximately 2,000 pounds each; and

WHEREAS, the columns would be placed in the round-about located west of the Peterson Senior Activity Center due to less disruption of the irrigation system and ease of accessibility for electricity; and

WHEREAS, the art work will be donated by a private donor and the Yanney Heritage Park Foundation will pay for the installation and lighting. Final installation is expected in the fall of 2017 and at the donor's specific request; the sculptures would be dedicated to three individuals for their service to Yanney Heritage Park;

WHEREAS, the Advisory Board of the Park and Recreation Commissioners approved the recommendation for the request from Yanney Heritage Park Foundation to proceed to City Council for final approval.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, approve of the request from the Yanney Heritage Park Foundation

to permanently place three Jun Kaneko sculptures in Yanney Heritage Park, specifically in the round-about located west of the Peterson Senior Activity Center.

PASSED AND APPROVED THIS 8TH DAY OF AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**AGREEMENT OF SALE AND LAND LEASE BETWEEN THE CITY OF KEARNEY AND NEBRASKALINK, INC.**

Mayor Clouse opened for discussion the agreement for the sale of a fiber hut building and long term land lease between the City of Kearney and NebraskaLink, Inc. to purchase the fiber hut building serving TechONE Crossing and lease the land to serve the Tech Park and adopt Resolution No. 2017-142.

City Attorney Michael Tye presented this matter to the Council. He stated the City has negotiated the sale of a fiber hut building at the Tech Park. The building was purchased when the City was in the process of discussing the Facebook proposal. It is a building where fiber optic is located and NebraskaLink has shown an interest in purchasing the building and then entering into a long-term land lease so that they can install fiber at that location. NebraskaLink would purchase the building for \$10,000.00 and the land lease for the square ground where the building is located would start at \$100.00 per month for years one through five and then go to \$125 per month for years six through ten. NebraskaLink would then have a couple options at five years each with increased rental for those time periods. NebraskaLink would own the building; the City would retain the underlying property. The hope is that having a fiber optic provider at that location will be another incentive for when technology companies come and look at the TechPark as they would know that the fiber optic is installed and ready to go.

Mayor Clouse asked if this purchase prohibits any co-location. City Manager Michael Morgan stated the building is not large enough. Only one tenant can occupy this building.

Council Member Lammers asked how the lease payments were calculated. City Attorney stated initially he had discussions with NebraskaLink on whether they would buy land or the building and both parties settled on the idea that it would be better off if NebraskaLink owned the building but the City would maintain property. Discussions came back and forth with the company on what the City thought was appropriate and what would allow the City to recapture their investment which was part of the calculation but also because the City did purchase the building initially to do some ground work and development there.

Moved by Lammers seconded by Nikkila to adopt Resolution No. 2017-142 approving agreement for the sale of a fiber hut building and long term land lease between the City of Kearney and NebraskaLink, Inc. to purchase the fiber hut building serving TechONE Crossing and lease the land to serve the Tech Park. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**RESOLUTION NO. 2017-142**

WHEREAS, the City of Kearney installed a carrier hotel, also described as a fiber hut, to provide telecommunication infrastructure to serve TechONE Crossing; and

WHEREAS, a telecommunications carrier, NebraskaLink Holdings, LLC, has expressed interest in developing the facility to serve TechONE Crossing; and

WHEREAS, NebraskaLink Holdings, LLC had previously entered into an agreement for a temporary structure at TechONE Crossing; and

WHEREAS, NebraskaLink Holdings, LLC now desires to enter into an agreement to purchase the existing City-owned fiber hut.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to execute a purchase agreement for the fiber hut and an associated long term land lease for the structure with NebraskaLink Holdings, LLC to serve the TechONE Crossing.

PASSED AND APPROVED THIS 8TH DAY OF AUGUST, 2017.

ATTEST:  
LAUREN BRANDT  
CITY CLERK

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

**VII. REPORTS**

City Manager Michael Morgan reported that the City has been in discussions over the last two days regarding the situation with PenAir to try and determine what the Federal Government's obligation requirements are on the contracted parties (PenAir) with their Central Air Service contract. Initially, the City's reaction was to ensure the public knew what was occurring and then to follow up with the federal government. The City's request for immediate re-bid was granted and the federal government will issue that re-bid notice (which is somewhat of a request for proposal) within this week or early next week. There will likely be a 30-day timeline which is a quicker timeline than normal in this case of a quick review and request of the communities affected. There are three or four communities who will be included in this round of proposals.

The City also learned that the Department of Transportation (DOT) will be issue a hold order on PenAir. The order requires PenAir to remain in Kearney until such time that an air service carrier resides in Kearney to replace them. That sounds simple, however, if PenAir choses to vacate when that order is in place, PenAir could be subject to significant fines and the DOT has fined other carriers in similar cases. However, the City Manager is not sure what that means when an air service carrier files for bankruptcy.

When PenAir stated that they will be in Kearney for 90 days, they do not get to make that decision per say and so it could be very possible that air service remains until such time in January/February when a new carrier, if selected, would takeover. That said PenAir may choose to make another decision other than that. The City has no commitment from anything other than what was stated in the press releases provided. The City will continue communication with PenAir and the DOT. City Manager appreciates the DOT's quick response to this to try and assist the City of Kearney.

**VIII. ADJOURN**

Moved by Lammers seconded by Nikkila that Council adjourn at 5:55 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**LAUREN BRANDT  
CITY CLERK**