

*Kearney, Nebraska
November 13, 2018
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 November 13, 2018 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; Peggy Eynetich, Deputy City Clerk, Wendell Wessels, Director of Finance; Eric Hellriegel, Assistant City Manager; Tony Jelinek, Director of Utilities; Jason Whalen, Fire Administrator and Shawna Erbsen, Administrative Services Director were also present. Members of the media present included: Mike Konz, Kearney Hub and Ryan Boyd, KGFW.

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 John Watson provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

RECOGNITION/ ORAL COMMUNICATIONS

Mayor Clouse welcomed members of Boys Town staff and issued a proclamation for Recognition of November 17, 2018 as National Adoption Day.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

FINAL ACTION ON REZONING AND PLANNED DISTRICT DEVELOPMENT PLAN FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 29TH STREET AND 2ND AVENUE

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

Mayor Clouse opened the public hearing on the applications by Tim Norwood for Nancy Norwood to rezone from District UC, Mixed Use Urban Corridor District to District UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District and the Planned District Development Plan Approval for the construction of an infill lot of mixed use building on property to be zoned District UC/PD, Mixed Use Urban Corridor/Planned Development Overlay District for property described as Lots 1 through 4, Block 29, Perkins and Harfords Addition to the City of Kearney, Buffalo County, Nebraska (Southwest corner of 29th Street and 2nd Avenue). The public hearings were previously heard, voted on and approved at the October 9, 2018 City Council meeting. However, due to these items not being published correctly they have been brought before the Council for final action in order to give adequate notice to the public on these public hearings. It should be noted there are no changes to the items from when they were previously heard on October 9, 2018.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearings and move for final action on items that were previously heard and approved October 9, 2018. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

CONDITIONAL USE PERMIT TO TEMPORARILY STORE DIRT AT 3985 COAL CHUTE ROAD

Mayor Clouse opened the public hearing on the application submitted by Blessing, LLC dba Blessing Premier Property for Ron Blessing for a Conditional Use Permit to temporarily store dirt on property zoned District AG, Agricultural District and described as part of the East half of the Northeast Quarter of the Northeast Quarter in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road) and to consider Ordinance No. 8295.

David Lenz with Blessing, LLC presented this matter to the Council. Blessing is requested the CUP for temporary storage of dirt on the property which is just off of the Kearney East Expressway, Cherry Avenue and Coal Chute Road. Blessing is looking to store the dirt for two years or less. 500 yards has already been hauled from the site. This site has been used for the airport project since the location is closer to the project site compared to Blessing's primary site which is located in west Kearney. Blessing will be moving dirt from this location to projects occurring in southwest Kearney, UNK Village and City of Kearney projects. There will be a crop cover placed at the location to contain the movement of any dirt and for erosion control.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by application submitted by Blessing, LLC dba Blessing Premier Property for Ron Blessing for a Conditional Use Permit to temporarily store dirt on property zoned District AG, Agricultural District and described as part of the East half of the Northeast Quarter of the Northeast Quarter in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road) and introduced Ordinance No. 8295 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. 8295. 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. 8295 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. 8295 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. 8295 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.

SRF FUNDING FOR WATER AND SANITARY SEWER INFRASTRUCTURE

Mayor Clouse opened the public hearing on the accepted written comments on the proposed improvements; and to meet clean water and drinking water SRF funding program requirements pertaining to water main improvements, sewer main improvements and looping water main and to consider Resolution No. 2018-167.

Chris Miller with Miller & Associates presented this matter to the Council. During the SRF funding process, it was determined that this public hearing was not required however since the hearing has been published for 30 days, he would present for any public comment. But again, a public hearing was not required for the project. There are two projects connected to this funding: 2019 Part 1 known as the Younes Center and 2019 Part 2 known as Patriot Industrial Park. 2019 Part 2 involves industrial development of 14 lots and is located south of Patriot Park Sports Complex and 2019 Part 1 is located north of I-80 and west on Talmadge Road.

Mr. Miller described the proposed construction plans for the water and sewer improvements connected to 2019 Part 1 and 2019 Part 2 projects. For the 2019 Part 2

project, the developer does not have to install a lift station as the sewer is all gravity feed.

The funding request for both projects is \$1.7 million for the sewer improvements and \$915,000 for the water system improvements.

Council Member Lammers asked if there are problems with the Younes Center due to the water table and trying to do a gravity flow. Mr. Miller stated he has encountered this type of problem with other projects and although this is a problem, it is still very buildable.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt Resolution No. 2018-167 approving the accepted written comments on the proposed improvements; and to meet clean water and drinking water SRF funding program requirements pertaining to water main improvements, sewer main improvements and looping water main. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2018-167

WHEREAS, the City of Kearney, Nebraska recognizes that a properly functioning public water supply and sewer system is necessary to the health and welfare of the citizens of the City; and

WHEREAS, the Mayor and City Council have determined that portions of the City public water supply and sewer system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the City public water supply and sewer system may be obtained by loan from the Nebraska Department of Environmental Quality, subject to certain requirements and obligations;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska that they should execute the contract for loan between the Nebraska Department of Environmental Quality and the City of Kearney, Nebraska designated as Project Nos. C318010 and D311624, incorporated by reference into this Resolution as if fully set forth; and

BE IT FURTHER RESOLVED Stanley A. Clouse, Mayor, is hereby directed to execute the contract and all other documents necessary to facilitate the loans between the Nebraska Department of Environmental Quality and the City of Kearney, Nebraska for the purpose of repairing and improving the City public water supply and sewer system; and

BE IT FURTHER RESOLVED THAT Lauren Brandt, Clerk, be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS 13TH DAY OF NOVEMBER, 2018.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held October 23, 2018.

2. Approve the following Claims:

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

Acme Rentals \$950.78 co; Alfred Benesch \$7,449.40 co; All City Garage Door \$2,026.00 smcs; Ally B Designs \$350.00 smcs; Amazon \$2,544.99 smcs; American First Aid \$142.81 smcs; Ask Supply Co. \$1,607.34 smcs; Aurora Coop \$82.96 smcs; Baird Holm \$5,092.50 smcs; Baker & Taylor \$8,562.28 smcs; Baughman,J \$26.17 smcs; Becker,J \$42.00 smcs; Beehive Industries \$7,679.00 smcs; Blackstone Publishing \$1,066.22 smcs; Blessing, Inc. \$11,744.65 co; Blevins,D \$270.00 smcs; BlueCrossBlueShield \$85,658.98 smcs; Blueglobes \$297.09 smcs; Bomgar Corporation \$3,781.29 smcs; Bosselman \$20,936.59 smcs; Brandt,D \$125.00 smcs; Bridget Lavene Consulting \$2,500.00 smcs; Brilliance Publishing \$8.99 smcs; Broadfoot Sand & Gravel \$2,568.50 smcs; Bryant,S \$50.00 smcs; Budler,P \$24.00 smcs; Buffalo Co. Commissioners \$3,501.49 co; Buffalo Co. Reg. of Deeds \$28.00 smcs; Buffalo Co Court \$101.61 ps; Builders \$52.63 smcs; Capstone Press \$4,514.75 smcs; Cash-Wa \$542.06 smcs; CDW Government \$2,200.00 smcs; Center Point Print \$75.96 smcs; Central NE Sod Supply \$1,507.40 co; Chesterman \$397.20 smcs; Chief Supply \$212.13 smcs; Child's World \$2,003.75 smcs; Christensen,C \$340.00 smcs; Cigna \$7,376.18 smcs; Cissell, Blair & Jerromy \$32.20 smcs; City of Ky \$60,578.61 smcs, ps; Colling,G \$1,025.00 smcs; Comcate \$8,261.69 smcs; Comm. Act. Part.-Mid NE \$5,181.60 smcs; Consolidated Management \$1,062.11 smcs; Core & Main \$12,018.24 smcs; Country Partners \$39,581.45 smcs; Crane River Theater \$450.00 smcs;Creative Sites, LLC \$82,758.00 smcs; Credit Management \$81.35 ps; Crouch Recreation \$441.00 co; Cummins \$454.93 smcs; Dawson Public Power \$31,573.88 smcs; Debban, Harold & Eileen \$195.00 smcs; Depository Trust \$3,465,816.79 ds; Dettman,J \$90.00 smcs; Dish Network \$152.62 smcs; DPC Industries \$8,377.81 smcs; Dutton Lainson \$124.18 smcs; Eagle Distributing \$164.50 smcs; Eakes \$467.63 smcs;Engineered Controls \$29.70 smcs; Eustis Body Shop \$97.50 smcs; Farmers Coop \$972.00 smcs; Fastenal \$10,409.73 co; Fearnley,M \$63.77 smcs; Fedex \$29.39 smcs; First Lutheran Church \$2,500.00 smcs; Flaherty,T \$370.00 smcs; Freeze,M \$40.00 smcs; Gabel,K \$8.66 smcs; Gale \$856.87 smcs; General Traffic Controls \$2,220.00 smcs; Goos,R \$110.00

smcs; Habitat for Humanity \$168.72 smcs; Hawthorne Jewelry \$20,000.00 co; HM Life Insurance Co. \$48,181.60 smcs; HOA Solutions \$491.25 smcs; Hoehner Turf \$165.00 smcs; Hoffman,R \$791.00 co; Hometown Leasing \$159.08 smcs; Hotsy Equipment \$190.39 smcs; ICMA Retirement Trust \$7,114.08 ps;Insite Instrumentation \$137.00 smcs; Integrated Security Sol. \$340.00 smcs; IRS \$149,816.69 ps; Jack Lederman \$733.34 smcs; Jack's Uniforms \$431.64 smcs; Jensen,J \$47.12 smcs; Johnsen Engineering \$2,400.00 smcs; KABA \$775.00 smcs; Kantaras,J \$933.35 co; Ky Animal Shelter \$15,616.00 smcs; Ky Catholic \$1,242.28 smcs; Ky Comm. Foundation \$1,100.00 smcs; Ky Visitors Bureau \$53,540.14 smcs; Kiplinger Tax Letter \$76.00 smcs; Konica Minolta \$1,090.35 smcs; Larue Distributing \$72.00 smcs; Laser Technology \$3,990.00 co; Leach,C \$66.87 smcs; League of NE Municipalities \$90.00 smcs; Lerner Publishing \$3,297.85 smcs; Lindner,S \$20.00 smcs; Love Signs of GI \$1,940.00 smcs; Lowe,B \$981.50 co; Luft,J \$4.35 smcs; Magic Cleaning \$7,640.00 smcs; Marlatt Machine \$1,446.15 smcs; Matheson-Linweld \$70.49 smcs; McDowell,J \$31.00 smcs; Mead Lumber \$87.59 smcs; Merryman Perf. Arts Cent. \$72.15 smcs; Mid-NE Garage Doors \$955.00 smcs; Midwest Connect \$9,196.16 smcs;Miller & Associates \$8,942.28 smcs,co; Miller Signs \$304.00 smcs; Mirror Image \$171.30 smcs; Modin,N \$1,319.00 co; Municipal Code \$4,225.91 smcs; Municipal Supply \$6,644.70 smcs; Murphy Tractor \$3,032.49 smcs; Navigator Motorcoaches \$611.00 smcs; NE Child Support \$1,991.97 ps; NE Environmental \$150.13 smcs; NE Public Health \$660.00 smcs; NE Safety & Fire Equip. \$794.00 smcs; NE Statewide Arboretum \$130.00 smcs; NELTC \$450.00 smcs; Newell,B \$187.50 smcs; Northwestern Energy \$4,787.32 smcs; NP Realty \$1,422.25 co; One Call Concepts \$451.02 smcs; Overhead Door \$108.94 smcs; Ownes,J \$261.54 co; Payflex Systems \$4.25 smcs; Pep Co \$450.00 smcs; Pickens,C \$50.00 smcs; Platte Valley Comm \$210.00 smcs; Platte Valley Laboratories \$617.50 smcs; Poppe,B \$137.25 smcs; Pospahala,K \$55.00 smcs; Post,M \$39.21 smcs; Power Tech \$396.76 smcs; Presto-X \$365.23 smcs; R&J Development \$6,196.07 smcs; Radiant Heating & Air \$1,515.00 smcs; Rauert,B \$31.00 smcs; Ready Mixed Concrete \$151.67 smcs; Recorded Books \$59.43 smcs; Rohwer,A \$758.03 co; Rourke Publishing Group \$2,371.45 smcs; S & J Construction \$19,400.60 smcs; S & P Rentals \$711.84 smcs; S2O Design & Engineering \$18,570.00 smcs; Schindler Elevator Co. \$1,154.64 smcs; School District #7 \$6,440.35 smcs; Schriener,S \$100.00 smcs; Schwarz,Z \$164.50 smcs; See Clear Cleaning \$3,750.00 smcs; Silverstone Group \$4,860.00 smcs; Siteone Lanscape Supply \$7,430.57 smcs; Sonetics Corporation \$275.46 smcs; SOS Portable Toilets \$629.50 smcs; Southern Glaziers Wine \$1,559.24 smcs; Southernwestern Sales \$8,278.01 co; Strategic Materials \$489.68 smcs; Superior \$7,040.00 co; Supplyworks \$216.28 smcs; Taillon,R \$27.00 smcs; The Vault Self-Storage \$180.00 smcs; Thompson,J \$31.00 smcs; Todco Barricade \$21,200.00 smcs,co; Trade Well Pallet \$6,800.00 co; Tri-Cities Group \$293.15 smcs; Tye & Rowling \$13,854.35 smcs; Tyler Technologies \$1,529.25 smcs; Union Bank & Trust \$76,682.69 ps; US Bank \$131,713.10 smcs; Valley Forklift Sales \$286.48 smcs; Van Diest Supply \$2,709.50 smcs; Van Horn,S \$48.92 smcs; Verbeck,D \$100.08 smcs; Verizon \$7,081.26 smcs; Village Uniform \$305.70 smcs; Walters Electric \$500.00 smcs; Ward Laboratories \$19.25 smcs; Warren T Plumbing \$190.00 smcs; Watson,T \$324.71 smcs; Watts,J \$135.00 smcs; Wells Fargo \$113,717.98 ds; Wilco Life Insurance \$10.00 ps; William Thurston \$572.08 co; Winter Equipment \$9,002.10 smcs; Yant Equipment \$299.50 smcs; Zozaya,A \$100.00 smcs;; Payroll Ending 10/27/2018 -- \$458,077.91. 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 Class CG-122522 liquor license application and manager application for Travis Evans submitted by Angus Burgers & Shakes located at 421 West Talmadge Street, Suite 3.
- 4. Authorize the Mayor to send a letter of no recommendation to the Nebraska Liquor Control Commission on the manager application for Lloyd Lawson submitted by American Legion Post 52 located at 1223 Central Avenue in connection with their Class C-009067 liquor license.
- 5. Adopt Resolution No. 2018-168 appointing the terms vacated by Jim McKeon and David Crook on the Planning Commission.

RESOLUTION NO. 2018-168

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, two vacancies currently exist on the Planning Commission.

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 terms as indicated:

PLANNING COMMISSION

Christy Fitzgerald appointed to fulfill the term vacated by Jim McKeon. to July 31, 2020.

Joey Cochran appointed to fulfill the term vacated by David Crook to July 31, 2019.

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

PASSED AND APPROVED THIS 13TH DAY OF NOVEMBER, 2018.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

6. Approve the purchase of a 2020 Kenworth T370 Chassis with a 2019 Vactor RamJet 850 Sewer Jet Body Sanitary Sewer Jet Truck in the amount of \$265,903.65 submitted by Nebraska Environmental Products under the Sourcewell Cooperative Purchasing program to be used in Utilities Department.

7. Approve the purchase of a Ditch Witch JT10 Jet Trac Directional Drill and pumping equipment in the amount of \$174,634.03 submitted by Ditch Witch UNDERCON under the Sourcewell Cooperative Purchasing program to be used in Utilities Department.

8. Adopt Resolution No. 2018-169 approving the Developer Constructed Infrastructure Agreement between the City of Kearney and KAAPA Ethanol Holdings, LLC, for the construction of a water main to serve a parcel of land being Lots 1 and 2,

Block 2, Lake Villa Estates an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2018-169

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for KAAPA Ethanol Holdings, LLC" between the City of Kearney and KAAPA Ethanol Holdings, LLC., for the construction of a water main to serve a parcel of land being Lots 1 and 2, Block 2, Lake Villa Estates an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

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

PASSED AND APPROVED THIS 13TH DAY OF NOVEMBER, 2018.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

9. Adopt Resolution No. 2018-170 approving Amendment No. 5 to the Consultant Agreement with Alfred Benesch and Company for Project No. 3-31-0045-030 for the reconstruction of primary Runway 18/36.

RESOLUTION NO. 2018-170

WHEREAS, on June 28, 2016 the City Council adopted Resolution No. 2016-102 approving Amendment No. 1 and Amendment No. 2 to the Consultant Agreement with Alfred Benesch & 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; and

WHEREAS, on March 14, 2017 the City Council adopted Resolution No. 2017-33 approving Amendment No. 3 to 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; and

WHEREAS, on May 23, 2017 the City Council adopted Resolution No. 2017-86 approving Amendment No. 4 to 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; and

WHEREAS, Amendment No. 5 includes additional construction observation, material testing, and closeout services (related to FAA-required documentation); and

WHEREAS, the Amendment No. 5 has been approved by the Nebraska Department of Aeronautics (NDA) and the FAA;

NOW, THEREFORE, 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 Amendment No. 5 to the Consultant Agreement with Alfred Benesch and Company. Amendment No. 5, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF NOVEMBER, 2018.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

10. Approve the application for a Special Designated License submitted by McFarland Family Farms, LLC dba Mac’s Creek Winery in connection with their Class YK-56229 liquor license to dispense alcoholic liquor inside the Hilltop Mall located at 5011 2nd Avenue #56 on Saturday, December 8, 2018 from 4:00 p.m. until 8:00 p.m. for Wine Wonderland Tasting.

11. Adopt Resolution No. 2018-171 approving Change Order No. 2 showing an increase in the amount of \$10,350.00, Application and Certificate for Payment No. 2 in the amount of \$265,024.92 submitted by Morten Construction, LLC and approved by Miller & Associates for Downtown Improvements; Phase II for the construction of pedestrian level street lighting, electrical, sidewalk removal and replacement, irrigation, in-ground planters and site electrical amenities.

RESOLUTION NO. 2018-171

WHEREAS, Morten Construction, LLC has performed services in connection with the Downtown Improvements; Phase II for the construction of pedestrian level street lighting, electrical, sidewalk removal and replacement, irrigation, in-ground planters and site electrical amenities, 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 \$10,350.00 as shown on Exhibit “A” attached hereto and made a part hereby of reference; and

WHEREAS, Morten Construction, LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$265,024.92 as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$430,221.00
Change Order #1 (09-18-2018)	+ 7,752.00
Change Order #2 (11-13-2018)	+ <u>10,350.00</u>
Net Change by Change Orders	18,102.00
Contract Sum To Date	448,323.00
Total Completed & Stored to Date	447,384.35
Retainage (5%)	<u>22,369.22</u>
Amount Due to Date	425,015.13
Less Previous Certificates for Payment	<u>159,990.21</u>
Current Payment Due	\$265,024.92

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, as shown on Exhibit “A” and Application and Certificate for Payment No. 2, as shown on Exhibit “B”, be and is hereby accepted and approved.

PASSED AND APPROVED THIS 13TH DAY OF NOVEMBER, 2018.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

12. Approve the Plans and Specifications and Engineer's Opinion of Probable Construction Cost for the CDBG CD Phase 1 Sidewalk Replacement and set the bid opening date for December 4, 2018 at 2:00 p.m.

13. 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 Heartland Bank located at the 212 East 56th Street, on Thursday, December 6, 2018 from 5:00 p.m. until 12:00 a.m. for a business event;

b) Inside the Classic Car Collection located at the 3600 US-30 B, on Saturday, December 8, 2018 from 3:00 p.m. until 12:00 a.m. for a business event.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

REDEVELOPMENT PROJECT FOR BENDWAGER, LLC LOCATED EAST OF AVENUE E AND NORTH OF 1ST STREET

Mayor Clouse opened for discussion the redevelopment project submitted by Bendwager, LLC for Redevelopment Area #9 for an area described as Lot 3, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (East of Avenue E and North of 1st Street) and consider Resolution No. 2018-172.

Finance Director, Wendell Wessels, presented this matter to the Council. The CRA received a project request for TIF from Bendwager as known as Heartland Motor Sports who are considering construction of a 2,500 square foot building which includes areas for showroom, service and storage. The project would be located east of Avenue E and north of 1st Street and includes 4.17 acres. The total new valuation of the property until completion is estimated to be \$729,665 and the current valuation of the property is \$116,550 resulting in the increment of \$613,115 in valuation. The estimated annual increment in real estate taxes would be \$11,113. The developer is asking for project costs totaling \$319,065 for grading and erosion control, onsite infrastructure, onsite paving, landscaping, signage and exterior lighting. On November 8, 2018, the CRA moved that the project be granted 90% of the annual increment and real estate taxes not to exceed the lessor of \$319,065 or the certified eligible project costs for a cost of 15 years. Administration supports this recommendation.

Moved by Lammers seconded by Nikkila finding that the redevelopment project set forth in the application submitted by Bendwager, LLC would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment

financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 90 percent of the annual increment in real estate taxes, not to exceed the lesser of \$319,065.00, or the certified eligible Project Costs over a period not to exceed fifteen years beginning with Tax Year 2019 and to adopt Resolution No. 2018-172 granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Bendwager, LLC. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2018-172

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 #9 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 Lot 3, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID 608001030); 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 3, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID 608001030) 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 3, Abood Addition, an addition to the City of Kearney, Buffalo County, Nebraska (Parcel ID 608001030) 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 13TH DAY OF NOVEMBER, 2018.

ATTEST:
LAUREN BRANDT
CITY CLERK

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

UPDATE ON THE KEARNEY AD HOC HOUSING COMMITTEE REPORT

Mayor Clouse opened for discussion the update on the Kearney Ad Hoc Housing Committee Report.

Assistant City Manager, Eric Hellriegel presented this matter to the Council. This update is a continuation of the 2017 housing study which was adopted, resulting in the creation of an ad hoc committee. Former Assistant City Manager, Paul Briseno, provided an update back in May 2018. Following the busy development season, there has been a lot of private development which has helped work on the initiatives created from the 2017 Housing Study. Assistant City Manager described the 2017 Housing Study Initiatives outlined in his council memo.

Council Member Lammers asked if there has been any research on mobile home development. Assistant City Manager stated that this topic has been brought up in the past. There is currently not any available zoning for additional mobile homes to go with in the community. There have not been any applications put forth to DRT or Planning Commission in quite some time but it is certainly something that would be looked at should it come forward.

Council Member Nikkila provided his thoughts on what he liked from the projects connected to the initiatives. He asked about the downtown revitalization grant money and any updates on this project. Assistant City Manager stated that as part of the 2nd Story Redevelopment Program, staff received two applications. The challenge for downtown projects is timing. These projects require much expense and face tough barriers. Staff must continue to evaluate if the \$100,000 is enough for most of these projects being considered and evaluation will be ongoing.

Council Member Nikkila asked about Millennial Estates and if there have been any concerns expressed regarding city services. City Manager, Michael Morgan, stated that it is hard to know if there are any concerns as there are ongoing construction projects which remain in this development area. Council Member Nikkila was wondering about the narrower streets and if there was feedback received from police or fire. Mayor Clouse stated that the area is very congested when driving through but there are still many construction vehicles in the area.

Council Member Buschkoetter stated that the major function of the government with housing is to get out of the way and streamline the process as much as possible. But where leadership can do more is through the downtown redevelopment aspects as well as through investments being made by the high school and community college to

provide more educational programs for contractors and construction workers, which have a shortage in the community. He believes it is key for government to find a way for development to be profitable for people to build houses which would result in the construction of the different types of housing resulting in meeting the needs described in the study and the needs of the community.

Assistant City Manager stated that since 2013, over 1,200 multi-family units have entered the community which has resulted in allowing choice in housing styles.

VII. REPORTS

Council Member Lammers congratulated Tami Moore and Randy Buschkoetter on winning the election and congratulated Marion McDermott for running for City Council as it takes courage to put your name on the ballot and he appreciates those efforts.

City Manager thanked Deputy City Clerk, Peggy Eynetich for filling in as acting City Clerk while Lauren Brandt was out on maternity leave.

Mayor Clouse read the Nebraska Game & Parks proclamation recently presented to the City of Kearney.

VIII. ADJOURN

Moved by Clouse seconded by Lear that Council adjourn at 6:06 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**

**LAUREN BRANDT
CITY CLERK**