

**Oberlin City Council meeting**  
**5:00 pm**  
**September 5, 2019**



**AGENDA**  
**CITY COUNCIL MEETING**  
Gateway 1 & 2 – Oberlin, Kansas  
September 5, 2019  
5:00 PM

**Meeting Called to Order** – Mayor Brandon Oien

**ROLL CALL** of the Members of the City Council and determination of a quorum.  
Marchello \_\_\_\_\_ Lohofener\_\_\_\_\_ Gawith \_\_\_\_\_ McHugh \_\_\_\_\_ McDougal \_\_\_\_\_  
City Attorney Steve Hirsch absent

**PLEDGE OF ALLEGIANCE to the Flag**

**PUBLIC COMMENT**

**BOARD APPOINTMENTS** –

1. League of Kansas Municipalities (LKM) Voting Delegate and Alternate
2. KMEA Director 2

**CONSENT AGENDA:** Discussion and possible action by motion to approve the following items and or reports:

- Approval of minutes of previous meetings
- Appropriation Ordinance (Payment of Bills)  
Motion\_\_\_\_\_ Second\_\_\_\_\_

**POOL TEAM-LEADER REPORT – Jennifer D’Amico**

**ADMINISTRATORS REPORT**

1. Next Council Meeting September 19, 2019
2. Miriam’s Hope Testimonials
3. Electric Purchasing
4. Bid Openings
5. ESP Energy Audit Reminder

**NEW BUSINESS**

1. Ordinance Regarding Snow Emergencies
2. Street Survey

**OLD BUSINESS**

1. KDHE Consent Agreement for Air Quality Permit and Approvals at the Power Plant

**EXECUTIVE SESSION**

#1 Executive Session on discussion under the attorney-client relationship exception. K.S.A. 75-4319(b) (2).

**REPORTS OF OTHER OFFICERS, BOARDS AND COMMITTEES**

- Mayors Report
- Public Works Department
- Police
- Board Reports
  - EDC 7-8-19 Minutes, 8-19-19 Agenda, Financials thru Jul19
  - Library Aug19 Minutes
- Other Reports

**ADJOURNMENT**

Motion\_\_\_\_\_ Second\_\_\_\_\_

**2019 CITY VOTING DELEGATE REGISTRATION**  
**League of Kansas Municipalities**

*Please print*

The Governing Body of the City of \_\_\_\_\_

has elected: Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

E-Mail Address \_\_\_\_\_

to be (check one)

voting delegate

alternate voting delegate

to represent the city in the conduct and management of the affairs of the League of Kansas Municipalities at the 2019 Annual Conference.

Signed: \_\_\_\_\_

City Clerk

Date: \_\_\_\_\_



## CERTIFICATE – DIRECTOR-2 (UNEXPIRED TERM)

### KANSAS MUNICIPAL ENERGY AGENCY BOARD OF DIRECTORS

This certificate duly documents the appointment of a **Director-2** to fill an **unexpired term** on the Board of Directors of the Kansas Municipal Energy Agency (KMEA) as provided for in Article V, Section 5.6 of KMEA's Bylaws.

I, the undersigned City Clerk of the City of \_\_\_\_\_, Kansas, a member of KMEA, do hereby certify that at a meeting of the City Governing Body duly held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_; and

Name:	_____	Title:	_____
Address:	_____		
City:	_____	State:	_____
		Zip Code:	_____
Office Phone:	_____	Cell Phone:	_____
		Fax:	_____
Email Address:	_____		

who (a) resides within the territory served by the City's electric utility; or (b) is an employee of the member, was appointed to fill an unexpired term on the KMEA Board of Directors; the term to begin immediately upon execution of this Certificate and end on April 30, 2021.

I further certify that the foregoing appointment is reflected in the official Minutes of the Governing Body of the City for the meeting on the date indicated above.

This certificate is given this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
City Clerk  
  
\_\_\_\_\_, Kansas

**REGULAR COUNCIL MEETING – August 15, 2019 - GATEWAY- 5:00 p.m.**

**CALL TO ORDER** – Mayor Brandon Oien called the meeting to order at 5:00 pm and all recited the Pledge of Allegiance to the Flag.

Roll Call of the Members of the City Council – Deb Lohofener, Kristin McHugh, Jim Marchello, and Scott Gawith entered at 5:10 pm. Majority of the Body Present.

**Others Present:** City Administrator Halley Roberson, City Attorney Steve Hirsch, Treasurer Steve Zodrow, Foreman David Sporn, Police Chief Brad Burmaster, Police Officer Denis Wangari, and Cynthia Haynes with the Oberlin Herald, Ruth Miesner, Heather, and Josiah McDougal, Brice Meitl, and City Clerk Sandy Rush entered at 5:10 pm.

**OATH OF OFFICE** – City Clerk Sandy Rush administered the oath of office to the new councilman Garret McDougal, replacing Brandon Oien.

**PUBLIC COMMENT** – Susan Nelson with the dog park committee, asked the council to consider allowing the pool to be used for a doggie dip for a two-hour event before it is drained as a fundraiser for the proposed dog park. After a short discussion and Foreman Sporn commented he had no problem, all approved.

**BUDGET HEARING** – McHugh moved, second by Marchello to close the regular meeting and open the budget hearing. Gawith moved, second by Lohofener to approve the proposed 2020 budget as presented. Mayor Oien opened the floor for comments, and Lohofener asked how much money was budgeted to EDC. She was told \$9840 and utility rebates for the triplex. Upon no further discussion, **Motion carried.** Marchello moved, second by McHugh to close the Budget hearing and open the regular meeting. **Motion carried.**

**CONSENT AGENDA** – Approval of minutes for August 1, 2019, regular Council meeting. Appropriation Ordinance - Payment of Bills. Lohofener moved, second by Gawith to approve the Consent Agenda. **Motion carried.**

**POOL TEAM-LEADER REPORT** – Dani Rouse reported on the pool, saying they had been busy with 713 patrons at the pool during fair week. They are planning September 2 to be the last day the swimming pool will be open.

**ADMINISTRATORS REPORT**

1. Next Council Meeting September 5, 2019
2. Roberson and Zodrow attended the Community Development Block Grant (CDBG) meeting and learned the Department of Commerce only provides grants for two phases of a project. Other options would be budgeting for phases three and four in the future. Different projects could be applied for different needs such as sewer line or manholes.
3. Energy study is included from Energy Solution Professionals the council to review and possibly pick some projects that could save the city money.
4. Land Bid for the 8 acres east of town on Highway 36 has been posted.
5. Two Fair booths were covered by city crew volunteers, and it was appreciated.
6. The recent storms caused the loss of only two poles, which was a great payoff for the infrastructure work. Typically damage would have been worse with such high winds.
7. Electrical Contract discussion will be presented at the next meeting. Roberson's goal is to make the city be more energy independent.

8. Miriam's Hope policy handbook attached. The group is looking at the old Cookson Hills buildings at Sappa Park for consideration of a home to house families in danger of losing their children to foster care.
9. Lightning struck the airport terminal, causing damages to the AWOS, wiring and radio system.

### **EXECUTIVE SESSION**

**#1** Executive Session on matters under the non-elected personnel matter exception, K.S.A. 75-4319(b)

(1). Mayor Oien called for a 5-minute Executive Session on personnel matters to include the mayor, administrator, city attorney, police chief, and council starting at 5:30 p.m. Gawith moved, second by Lohofener. **Motion carried.** The meeting resumed at 5:35 p.m. with no action.

**#2** Executive Session on matters under the non-elected personnel matter exception, K.S.A. 75-4319(b)

(1). Mayor Oien called for a 10-minute Executive Session on personnel matters to include the mayor, city attorney, and council starting at 5:35 p.m. Gawith moved, second by Lohofener. **Motion carried.** The meeting resumed at 5:45 p.m. with no action.

**#3** Executive Session on matters under the non-elected personnel matter exception, K.S.A. 75-4319(b)

(1). Mayor Oien called for a 5-minute Executive Session on personnel matters to include the mayor, administrator, city attorney, and council starting at 5:50 p.m. Marchello moved, second by McDougal. **Motion carried.** The meeting resumed at 5:55 p.m. Marchello moved, second by Lohofener to renew Administrator Roberson's contract as requested to be written up by Attorney Hirsch with an increase of \$2,000 per year. **Motion carried.**

### **REPORTS OF OTHER OFFICERS, BOARDS AND COMMITTEES**

- Mayors Report – thank you to Roberson for her work and welcomed McDougal.
- Public Works Department – Foreman Sporn 8-12-19 Report.
- Police – Police Chief Burmaster July 2019 Report. Burmaster introduced the newest police officer, Denis Wangari, to the council.
- Board Reports - **Chamber** - July 2019 Minutes and August Agenda and **BOZA** - Aug 1, 2019 Minutes
- Other Reports – Lohofener commented she had had many complaints and comments regarding the streets that were being worked on, and they were not good. She said most of the complaints were that they made them ugly. She would like to see a poll of the public for their opinion. Marchello said how much he appreciated the work and effort gone into the project and was glad it was an experiment, and now council knew the crew is capable of handling the project. After a long discussion, it was decided to use concrete on Ash Street and then poll the public for their opinions between Ash and Grand after both are completed.

### **ADJOURNMENT**

At 6:25 pm, Gawith moved, second by Lohofener to adjourn. **Motion carried.**

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Sandy Rush, City Clerk

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Brandon Oien, Mayor

# Longfellow Elementary School

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731 North Baltimore Avenue  
Hastings NE 68901  
402-461-7584

To whom it may concern:

It is my great pleasure to offer my recommendation for Luke and Corina Kliewer, the founders of Miriam's Hope in Hastings, Nebraska. Their genuine love for children and their well-being helped them realize a dream into reality. Luke and Corina created a place where true transformation and awakening take place.

My first encounter with Luke and Corina Kliewer took place when a new family arrived to Longfellow Elementary School. The children's mother requested an appointment to introduce herself and share information about her children. Luke and Corina accompanied her on her first visit. She was very respectful and assertive. She wanted to advocate for her children who have experienced some difficult times in their 6-7 years of life. I was impressed with the questions she asked and her sense of responsibility. Every time our school had parent conferences or other whole school events, this mother would attend them with her children and inquire about their progress. She was always polite with staff and called me by my name every time she would enter the office. This small act of kindness asks for kindness in return, so I quickly memorized her name and addressed her by her name every time I saw her. The progress in her conduct was the result of mentoring by the Kliewers.

Moreover, the progress we have observed in the children was definite and continuous. At the beginning of the school year, the younger student had some behavior problems. He would refuse to follow teacher's directions or wouldn't want to come to school and leave his mother. However, as time went by, we have seen less and less defiance and refusals. Both children smiled more often and showed more interest in learning and forming friendships.

At our school open house this year, when I saw the children with their mother, they all looked happy and rested. They told me that they spent 10 days vacationing and spending time as a family. Both children gave me warm hugs.

This kind of transformation does not happen very often. I attribute this success story to the hard work that was done by Miriam Hope's amazing program. The skills that many parents are lacking: the ability to belief in oneself, the willingness to be an advocate for one's children, the realization that many people want to be helpful and supportive – this is what was given to this mother who was lost, exhausted and in despair. My most important point is that Miriam's Hope provides families with tools that keep them together and make them stronger against any kinds of adversities. We need more Miriam's Hopes.

Sincerely,

*Irina B. Erickson*

Irina B. Erickson  
Principal

**HASTINGS MIDDLE SCHOOL**  
201 N MARIAN RD  
**HASTINGS, NEBRASKA 68901**  
TELEPHONE 402-461-7520

To whom it may concern,

My name is Jill Hoppe and I am a school counselor at Hastings Middle School. A student who resides at Miriam's Hope housing was a student here during her 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> grade years. During this time, this student had good attendance. In the three years she attended our middle school she missed a total of 14 days. She maintained a positive attitude and made many positive relationships with teachers and students alike. She was a good friend to others and took care of her schoolwork. On her grade reports she maintained all 3's and 4's. She was not a behavior problem and made good choices in the classroom. She was a pleasure to work with. While at HMS, we did not have any negative interactions with her mother.

Sincerely,



JM Hoppe

Hastings Middle School

School Counselor

To Whom It May Concern:

A couple of years ago I was able to work with Luke & Corina Kliewer through Miriam's Hope. I was impressed right off the bat with the kindheartedness they showed towards my student & his mother. I was approached by the mother of a student of mine to have a meeting with her and the founders of Miriam's Hope. The purpose of this meeting was to develop a plan to best assist her child to be successful at school. The Kliewers met with us to help her in advocating for her child. I could tell that they genuinely cared about the family and had the student's best interest in mind. They used information previously provided to them by the mother, prior to the meeting, to come up with a partial plan for the child. After the discussion of the plan and additional information given at the meeting, a formalized goal was set to help the mother make the child's educational and home life successful. Luke & Corina had also been working with the mother to get her and her son more involved in community activities to help him continue to grow socially.

Two years after the original meeting, I can see that the work I initially assisted with has helped the child open up more and be a more positive person. I would recommend Miriam's Hope to parents if the situation arose. Even with just this single interaction, I could tell they have compassion for the families they work with.

Sincerely,

Monica Munter

1<sup>st</sup> Grade Teacher

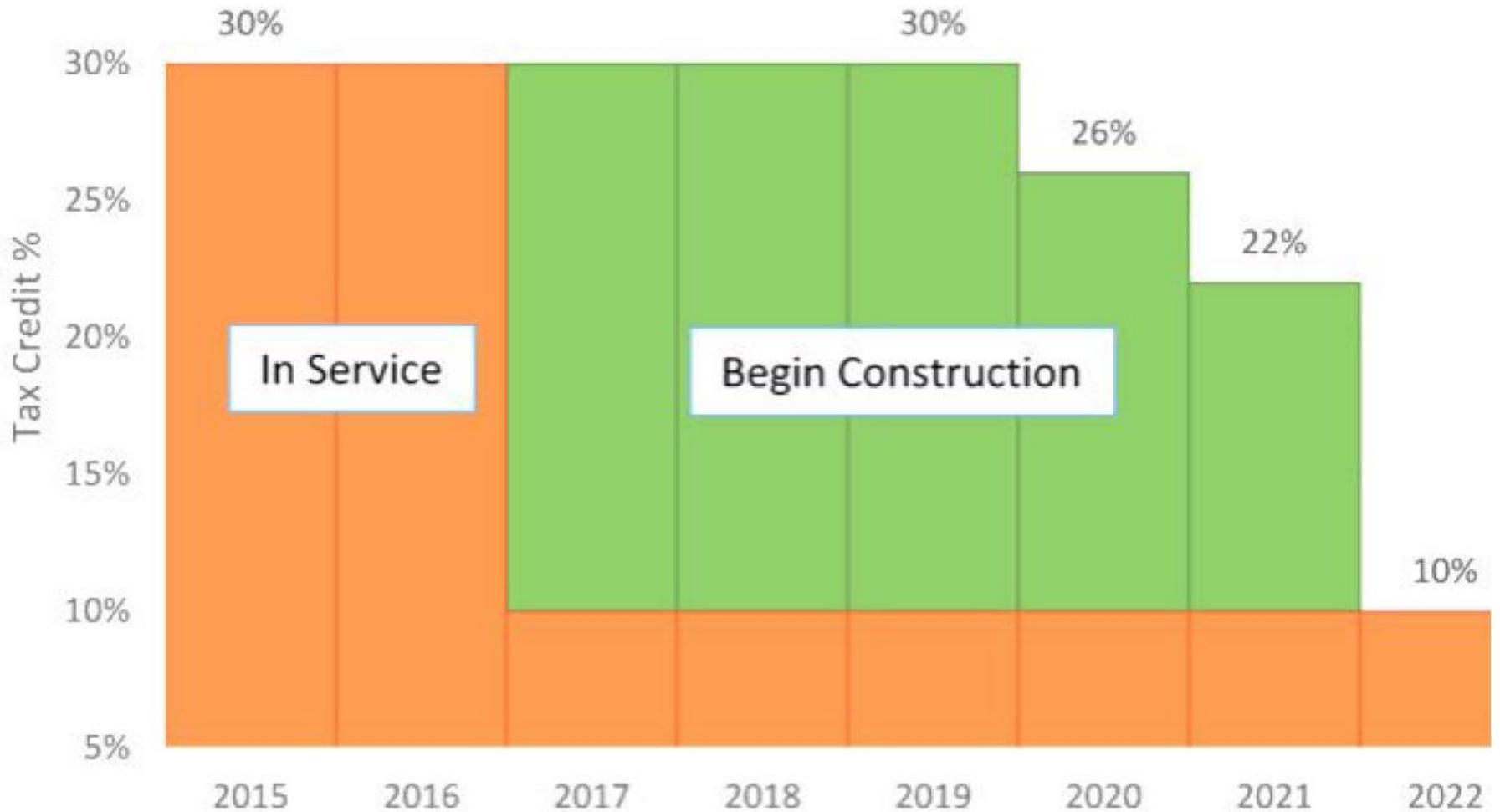
# Wholesale electrical market impacts

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- Contract timeframes
- Federal legislative changes
- Market reaction to legislative changes
- Impact for Oberlin

# Federal incentive timeframe

Investment Tax Credit Reduced After 2019



# Risks and risk mitigation

Risk	Risk mitigation
Legislation to continue incentives for investment partners (PPA)	Confident tax incentives will remain, if does not remain at 30% it is projected be 25%-30% range if project is started within specified timeframe grandfather occurs
What if this doesn't work	Investment partners (PPA) assume risk
How does solar integrate into Oberlin's line system	Pratt had the same question; power plant operator/journeyman said it was easy – same as power coming from the provider
What are we going to do with a solar field?	Managed maintained by PPA – all costs and staff belong to PPA – 15 years of prep time, great partnering opportunities with CCC.
Will we get caught 'holding the bag'	Win-win scenario – the relationship benefits both parties only when both parties succeed

# Why consider alternative energy?

- Innovation
  - ▣ Make Oberlin more energy independent
  - ▣ Making Oberlin more attractive for residences
  - ▣ Making Oberlin more attractive for business
- Education and job creation
  - ▣ Using local labor for construction
  - ▣ Local labor for contract maintenance
  - ▣ Partnering with schools for experience with alternative energy for students

# Things to get ready to hear

- PPA – this is a *Power Purchase Agreement*
- PPA is a contract between two parties:
  - ▣ 1 generates electricity
  - ▣ 1 purchases electricity
- PPA/ Power Purchase Agreement can be structured in various ways – Oberlin is already in a PPA with Sunflower Electric as our provider

# Things to get ready to hear

- Transmission charges – these charges are the cost for being part of the overall electrical grid.
- Transmission charges are unavoidable
- Oberlin pays significantly less for transmission charges because Oberlin owns it's own sub-station/transfer station
  - ▣ This easily represents a savings of \$7,000 - \$9,000 a month

# Incentive timeline

January 2020 the 30% tax incentive is reduced to 25%. This is creating a demand in the wholesale market – where Oberlin purchases power. Power production companies are aggressively pushing for commitments of electricity to maximize the tax, and financial incentives. This is driving prices down.

January of 2020 tax incentives will reduce – impacting purchase price of electricity and anticipated to drive prices higher. The impact is expected to be somewhat small, but the trend is expected to continue to increase commensurate with federal incentives reducing.

ORDINANCE # \_\_\_\_\_  
An ordinance regarding snow emergencies.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OBERLIN, KANSAS:

- Section 1. Finding of governing body. The governing body of the City of Oberlin, Kansas, finds that parking and operating motor vehicles on certain streets covered by a heavy accumulation of snow is a matter affecting the health, safety and welfare of the citizens of the city, for the reasons that parked and stalled vehicles impede snow removal operations and cause serious traffic congestion.
- Section 2. Whenever snow has accumulated, or there is a possibility of snow, or forecasted accumulation of snow, to such a depth that snow removal operations are likely, a traffic emergency shall be deemed to exist which shall require vehicle owners or operators to remove their vehicles from emergency snow routes. A snow emergency will be posted, if at all possible, on the city website or social media and such notification is sufficient for purposes of this ordinance.
- Section 3. Removal of vehicles. All vehicles and trailers parked on emergency snow routes must be removed when a traffic emergency exists as set forth in section two above. Any vehicle or trailer parked on an emergency snow route after such traffic emergency has been declared may be removed, or caused to be removed, by a police officer to the nearest garage or other place of safety, and the vehicle or trailer may not be recovered until the towing and storage charges are paid. The police department may also ticket vehicles. Violation of this ordinance is an offense that carries a penalty of up to 30 days in jail and/or a fine of up to \$1000.
- Section 4. Emergency snow routes. Emergency snow routes and priority sanding areas shall be designated in writing by the city. Emergency snow route signs shall be installed on the emergency snow routes in accordance with said designation.
- Section 5. Repealer. All ordinances in conflict herewith are hereby repealed.
- Section 6. Effective Date. This ordinance shall take effect and be in full force from and after its publication in the official city newspaper.

Passed by the council and approved by the Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

# Street survey

- How important are aesthetically pleasing streets to you?
- How do you think the street repair on Grand looks?
- In terms of cost all concrete streets will be approximately 30% more. As a citizen are you willing to pay more for all concrete streets?
- If a street has proper drainage and proper driving conditions how important is it to you the street itself is pleasing to the eye?

**\*\*Still working on survey questions please send any questions you would like to see included.\*\***

**STATE OF KANSAS**  
**BEFORE THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT**

IN THE MATTER OF:

City of Oberlin Municipal Power Plant  
107 West Commercial  
Oberlin, Kansas 67749

Case No.18-E-2 BOA

Source ID No. 0390009

**CONSENT AGREEMENT AND FINAL ORDER OF THE SECRETARY**

The Parties hereto are the Kansas Department of Health and Environment (“KDHE”), City of Oberlin Municipal Power Plant (“Oberlin”) (“the Parties”). Oberlin owns and operates five (5) stationary reciprocating internal combustion engines (“RICE”) and is subject to Kansas air quality permits and approvals, described below in the Findings of Fact.

KDHE has made Findings of Fact and Conclusions of Law that are set forth below, based on KDHE’s position that Oberlin failed to comply with K.A.R. 28-19-750, which adopts by reference *40 CFR Part 63, Subpart ZZZZ – National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines* (“MACT ZZZZ”), which constitutes violations of applicable laws and regulations.

The Parties have met and exchanged information on these disputed facts, and in the interests of conserving resources and avoiding litigation, have agreed that it is in the best interests of the Parties and the public health and environment to resolve this matter by agreement.

The Parties recognize, and the Secretary of KDHE (“Secretary”) by entering into this Consent Agreement and Final Order (“CAO”) finds that this CAO has been negotiated by the Parties in good faith and avoids litigation between the Parties and this CAO is fair, reasonable, and in the public interest.

The Secretary, having information that Oberlin violated laws governing air quality and pollution control in Kansas, K.S.A. 65-3001, *et seq.*, (the “Kansas Air Quality Act” or “KAQA”) and regulations promulgated thereunder, deems it in the public interest to dispose of the matter by agreement and on an informal non-adjudicatory basis.

NOW, THEREFORE, before taking any testimony, without the adjudication or admission of any fact or law except as provided in the Jurisdiction section below, and with the consent of the Parties, this CAO is entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, (“Date of the CAO”) by and between KDHE and Oberlin. Upon the Secretary’s signature, it will become the Final Order in this case.

Upon execution of this CAO by the Secretary, Oberlin voluntarily and knowingly waives any and all rights conferred upon it by the Kansas Administrative Procedure Act ("KAPA"), K.S.A. 77-501, *et seq.*, and voluntarily and knowingly waives the right to an appeal and review of this CAO and matters leading up to the execution of this CAO under the Kansas Judicial Review Act, K.S.A. 77-601, *et seq.* KAPA authorizes KDHE to enter into an informal settlement of this matter without the necessity of proceeding to a formal hearing, K.S.A. 77-505.

By signing this voluntary CAO, Oberlin accepts the terms and conditions contained herein.

### **JURISDICTION**

1. The KDHE is a duly authorized agency of the State of Kansas created by an act of the legislature. K.S.A. 75-5601, *et seq.*
2. The Secretary of the KDHE has general jurisdiction over matters involving the environment and the public health and safety of the people of Kansas, K.S.A. 65-101 *et seq.*, including general jurisdiction of matters involving air quality pursuant to the Kansas Air Quality Act, K.S.A. 65-3001, *et seq.*
3. The City of Oberlin is organized under Kansas law and registered to do business in the State of Kansas as a "municipal energy agency" under K.S.A. 12-885, *et seq.*
4. The Secretary has authority and jurisdiction to issue and enforce this CAO. In any action by KDHE to enforce the terms of this CAO, Oberlin agrees not to contest the authority or jurisdiction of the Secretary of KDHE to issue this CAO. The terms of this CAO shall be construed in accordance with the laws of the State of Kansas.

### **STATEMENT OF PURPOSE**

5. In entering into this CAO it is the mutual objective of KDHE and Oberlin (1) to resolve all claims against Oberlin for all identified violations of the Kansas Air Quality Act, K.S.A. 65-3001, *et seq.*, and regulations adopted thereunder, addressed in this CAO; and (2) to assess an appropriate penalty for these violations cited in the CAO.

### **PARTIES BOUND**

6. This CAO shall apply to and be binding upon the Parties, their agents, successors, and assigns upon all persons, contractors, and consultants acting under or for either the KDHE, Oberlin or both.
7. The Parties agree to undertake all actions required of them by the terms and conditions of this CAO.
8. Notwithstanding the terms of any contract, Oberlin is responsible for compliance with this CAO and for ensuring that its contractors and agents comply with this CAO.

9. The Parties agree that the Secretary has jurisdiction to enter into this CAO and further agree to venue in the 3<sup>rd</sup> Judicial District, Shawnee County, Kansas, for any action to enforce this CAO.
10. The activities conducted under this CAO are subject to approval by KDHE. Oberlin shall provide to KDHE, at its request, all necessary information consistent with this CAO.
11. Oberlin and the Secretary specifically and expressly agree and acknowledge that this CAO is entered into freely and voluntarily and for the purposes of settling and resolving all identified claims and allegations, and for the purpose of avoiding the additional costs, efforts and delay associated with administrative proceedings, and to effect a conclusion of these matters in the most expedient manner. Oberlin has had an opportunity to read and review this CAO and fully understands the terms and conditions contained herein.

### LIABILITY

12. Nothing in this CAO shall be construed as an admission of any fact or an acknowledgment of any liability by any party. Nothing herein shall be legally binding or have any effect on the position of the Parties on any matter that may be included in any other agreements negotiated between them. Neither the State of Kansas, nor any agency thereof shall be held out as a party of any contract entered into by Oberlin in carrying out activities pursuant to this CAO.

### FINDINGS OF FACT

13. City of Oberlin operates the Oberlin Municipal Power Plant located in Oberlin, Kansas. This facility operates under Source ID 0390009.
14. On August 28, 1996, KDHE issued an Air Emission Source Class II Operating Permit to City of Oberlin for the operation of five (5) dual fuel fired engines listed below:
  - A. Unit #1 Nordberg model FSG 138 HSC engine, rated 1600 horsepower ("HP").
  - B. Unit #2 Nordberg model FSG 138 HSC engine, rated 1200 HP
  - C. Unit #4 Nordberg model FSG 138 HSC engine, rated 2160 HP
  - D. Unit #5 Nordberg model FSG 138 HSC engine, rated 2800 HP
  - E. Unit #6 Nordberg model FSG 138 HSC engine, rated 2110 HP
15. All engines referenced in paragraph 14 are subject to K.A.R. 28-19-750, which adopts by reference *40 CFR Part 63, Subpart ZZZZ – National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines* ("MACT ZZZZ").
16. In 2013, during an unannounced inspection, Oberlin mentioned the desire to operate their engines under the emergency engines requirements of MACT ZZZZ.

17. On March, 27, 2018, Oberlin disclosed to KDHE that Oberlin is contractually obligated to the regional power pool. Under MACT ZZZZ an engine cannot be considered emergency if it is contractually obligated to provide energy.
18. In accordance with MACT ZZZZ, the owner or operator of affected facilities and/or equipment is required to conduct an initial performance test to demonstrate compliance with the applicable emission standards within 180 days after the compliance date.
19. In accordance with MACT ZZZZ, the owner or operator of an affected source is required to submit an initial notification no later than 120 calendar days after the effective date.
20. In accordance with MACT ZZZZ, the owner or operator of an affected source is required to submit compliance reports either on a semi-annual or annual basis depending upon the use of the engine.
21. In accordance with MACT ZZZZ, the owner or operator of an affected source is required to reduce Carbon Monoxide (“CO”) emissions by 70%.
22. In accordance with MACT ZZZZ, Oberlin’s compliance date was May 3, 2013.
23. On June 7, 2018, KDHE received an email from Oberlin indicating their willingness to work with KDHE to resolve the noncompliance issues.
24. Based on the violations, KDHE staff calculated a penalty in the amount of \$25,000 using standard KDHE procedures for assessing penalties.

#### **CONCLUSIONS OF LAW**

25. Oberlin is a person within the meaning of K.S.A. 65-3002(j).
26. The Secretary of KDHE is authorized to issue orders for compliance with air quality statutes and regulations as set forth in K.S.A. 65-3011.
27. Pursuant to K.S.A. 65-3018, the Secretary is authorized to impose civil penalties for violations of any provisions of K.S.A. 65-3025.
28. Pursuant to K.S.A. 65-3025, it is unlawful for any person to violate any provision of an approval or permit issued and any rule or regulation promulgated under the Kansas Air Quality Act.
29. Based on the above Findings of Fact and Conclusions of Law, the Secretary finds that Oberlin has violated, K.A.R. 28-19-750 and K.S.A. 65-3025, which authorizes the imposition of a penalty not to exceed \$10,000 per violation per day and constitutes an actual and substantial economic deterrent for the violations set forth in the Findings of Fact.

30. Based on the Findings of Fact and Conclusions of Law and as an actual and substantial economic deterrent, the Secretary concludes a civil penalty of \$938, derived from \$25,000 reduced by \$23,750 for two Supplemental Environmental Projects (“SEPs”) and \$313 for cooperativeness, should be assessed against Oberlin.
- A. The first SEP is a project to replace 300 streetlights with LED bulbs. This SEP is budgeted to cost \$20,000 and provides environmental benefit in the form of reduced emissions from lower electrical consumption.
  - B. The second SEP is a project to undertake planting of native wildflowers at a local park. This SEP is budgeted to cost \$4,500 and provides environmental benefit in the form of ground cover.
31. KDHE and Oberlin hereby agree to final resolution of all penalties and actions pursuant to the Terms of Settlement that follow.

#### **TERMS OF SETTLEMENT**

32. The Secretary has agreed to take no further action administrative or civil against Oberlin based on the violations cited herein, however, reserving the right to consider the foregoing violations in assessing any future penalties, in return for strict compliance with the following conditions.

#### **SCHEDULE OF COMPLIANCE**

33. The following SCHEDULE OF COMPLIANCE is now agreed to and adopted by the parties. It is mutually agreed to and ordered that Oberlin shall:
- A. Complete the two separate SEPs by December 31, 2019.
  - B. Submit a letter to KDHE detailing each SEP’s completion signed by a City of Oberlin official and include any purchase receipts from the projects. This letter must include a summary of material and labor costs and a narrative explaining the project and be submitted no later than 30 days after the completion of each project.

#### **ASSESSMENT OF A CIVIL PENALTY**

34. Pursuant to K.S.A. 65-3018 and K.S.A. 65-3025, KDHE hereby assesses a civil penalty in this matter as set forth below for the violations of K.A.R. 28-19-750 and K.S.A. 65-3025. Subject to the conditions that follow, Oberlin understands and agrees to a total penalty of \$938 as an actual and substantial economic deterrent for the violations cited above. Oberlin shall remit to KDHE a check or money order in the amount of \$938 within 30 days of the date of service of this CAO. The civil penalty payment shall be made payable to the Kansas Department of Health and Environment, and submitted to:

Kansas Department of Health and Environment  
Office of Legal Services, Suite 560  
1000 SW Jackson  
Topeka, Kansas 66612-1371

35. Further, Oberlin has funded two local SEPs. The first in the amount of \$20,000 to convert the city street lighting to LED. The second in the amount of \$4,500 for a park environmental enhancement and beautification. See attached email in packet.
36. Failure or refusal to comply with this CAO, or any portion thereof, shall subject Oberlin to the imposition of further civil penalties and court action to enforce the terms of the CAO. Oberlin reserves the right to contest such penalties.

**BEST PROFESSIONAL JUDGMENT**

37. The requirements of this CAO represent the best professional judgment of KDHE at this time based on the available information. If circumstances change significantly so that data indicates an immediate threat of danger to the public health or safety, or the environment, or a significantly different threat other than the alleged deficiencies addressed herein, then KDHE reserves the right to modify dates or requirements herein as it deems reasonably necessary and Oberlin reserves the right to appeal any such modifications or additional requirements.

**FORCE MAJEURE, EXCUSABLE DELAY, MODIFICATION**

38. The following shall constitute the governing terms for force majeure, excusable delay and modification of the CAO.
  - A. Oberlin shall perform the requirements under this CAO within the time limits set forth herein unless; the performance is prevented or delayed solely by events, which constitute force majeure. For purposes of this CAO, force majeure is defined as any event beyond the control of Oberlin that could not be overcome by due diligence and delays or prevents performance by a date required by this CAO. Such events do not include increased costs of performance or changed economic circumstances. Any delay caused in whole or in part by action or inaction by state authorities shall be considered force majeure and shall not be deemed a violation of any obligations required by this CAO.
  - B. Oberlin shall have the burden of proving all claims of force majeure. Failure to comply by reason of force majeure shall not be construed as a violation of this CAO.
  - C. Oberlin shall notify KDHE in writing within seven days after becoming aware of an event that Oberlin knew, or should have known, constituted force majeure. Such notice shall estimate the anticipated length of delay, its cause, measures to be taken to minimize the delay, and an estimated timetable for implementation of these

measures. Failure to comply with the notice provision of this section shall constitute a waiver of Oberlin right to assert a force majeure claim and shall be grounds for KDHE to deny Oberlin an extension of time.

- D. Within seven days of the receipt of written notice from Oberlin of a force majeure event, KDHE shall notify Oberlin of the extent to which modifications to this CAO are necessary. In the event that KDHE and Oberlin cannot agree that a force majeure event has occurred, or if there is no agreement on the length of the extension, the dispute shall be resolved as set forth in paragraph 39, herein.
- E. Any modifications to any provision of this CAO shall not alter the schedule for performance or completion of other tasks required by this CAO unless specifically agreed to by the Parties in writing and incorporated into this CAO.
- F. This CAO may be amended by mutual agreement of KDHE and Oberlin. Such amendments shall be in writing, shall have as their effective date the date on which they are signed by both Parties and shall be incorporated into this CAO.

#### **DISPUTE RESOLUTION**

- 39. The Parties recognize that a dispute may arise between them regarding implementation of the action to be taken as herein set forth or other terms or provisions of this CAO.
  - A. If such dispute arises, the Parties will endeavor to settle it by informal negotiations between themselves. If the Parties cannot resolve the issue informally within a reasonable period of time, either of the Parties may notify the other in writing stating its position with regard to the dispute and the reasons therefore. A party receiving such a notice of dispute will respond in writing within five (5) business days stating its position. KDHE or Oberlin shall then have an additional five (5) business days to respond. If the Parties are still unable to reach an agreement, the matter shall be referred to the KDHE Director of Environment, who shall decide the matter and provide a written statement of his decision, which shall be incorporated into the CAO. The Parties agree that any such action shall be deemed a final action subject to judicial review under the Kansas Administrative Procedures Act and the Kansas Act for Judicial Review of Agency Actions.
  - B. This dispute resolution procedure shall not preclude any party from having direct recourse to court if otherwise available by applicable law.

#### **OTHER CLAIMS AND PARTIES**

- 40. Nothing in this CAO shall constitute or be construed as a release for any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation not a signatory to this CAO for any liability it may have arising out of or relating in any way to the subject violations alleged in this CAO.

**EFFECTIVE DATE, TERMINATION**

- 41. This CAO shall become effective when signed by the Secretary of the Department of Health and Environment.
- 42. This CAO will be terminated upon written notice by KDHE to Oberlin that all provisions of the CAO have been completed. Such notice shall not be unreasonably withheld.

**AUTHORIZATION OF SIGNATORIES TO EXECUTE  
THE CONSENT ORDER AND BIND THE PARTIES**

- 43. The Parties hereto have affixed their signatures on the dates inserted below to acknowledge their agreement to this CAO. The signatories to this CAO certify that they are authorized to execute and legally bind the Parties they represent to this CAO.

IT IS THEREFORE ORDERED AND AGREED that this CAO, when signed by all the Parties hereto, shall become a Final Order of the Secretary of KDHE.

IT IS SO ORDERED.

\_\_\_\_\_  
Lee A. Norman, M.D., Acting Secretary  
Kansas Department of Health & Environment

\_\_\_\_\_  
David Sporn  
City of Oberlin

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

I do hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2019 a true and correct copy of the foregoing CONSENT AGREEMENT AND FINAL ORDER was deposited in the United States mail, postage paid, and addressed to:

David Sporn  
City of Oberlin  
1 Morgan Drive  
Oberlin, Kansas 67749

\_\_\_\_\_  
KDHE Staff Member

**Oberlin-Decatur County Economic Development  
Meeting Minutes  
July 8, 2019**

<b>Members Present</b>	Mark Starr, Chairman; Matt Ostmeyer, Vice-Chairman; Danielle Wasson, Secretary; John Sater, Treasurer; Ken Badsky; Lisa Votapka
<b>Guests Present</b>	Shayla Williby, EDC Marketing Director; Stan McEvoy Decatur Co. Commissioner (arrived at 5:49 p.m.); Deb Pochop, Rawlins Co. Dental (via telephone)
<b>Call to Order</b>	Meeting called to order at 5:32 pm.
<b>Consent Agenda</b>	Financials were removed from the consent agenda as they have not been received as of meeting time. Ken moved to approve the two sets of minutes; John seconded the motion. Motion carried by unanimous board approval.
<b>Property Insurance Update</b>	Shayla is working with Aaron Hale from Keller Leopold out of Norton, and Michelle Stithman from Heritage in Stockton. Both said that it would be possible to separate out the Golden Age Center and the bowling alley and movie theater. Both will send insurance quotes as well as a list of pros and cons for insuring the Golden Age Center separately. Shayla will also speak with the county concerning the Golden Age Center and the possibility of obtaining insurance for that property with KCAMPS.
<b>Future of Acquired Property</b>	Shayla has ordered a "For Sale" Banner" for the old Dairy Inn property on Highway 36. The lot is getting weedy and needs to be taken care of. The current asking price for the property is \$20,000. Members discussed whether a certain type of business was preferred to purchase the property; all members agreed that an open business on the property was most desirable. Lisa suggested that the asking price be contingent upon the purchaser bringing a business plan for the business that will occupy the property in order to receive the \$20,000 asking price. Purchasers without a business plan will pay a higher purchase price. Shayla will contact Patrick Inman to apply some ground sterilent to keep the weeds back.
<b>Tasha – Bonus</b>	According to the contract with Tasha Carmen as manager of the bowling alley, an annual bonus is to be paid that totals 35% of the net pizza sales over the past calendar year. As of this time, the bonus has not been paid. Lisa moved to pay the bonus owed in the amount of \$1,900; Ken seconded the motion. Motion carried by unanimous board approval.
<b>Rawlins Co. Dental</b>	Deb from Rawlins Co. Dental had some questions for the board, Mark put her on speaker phone to speak with the board. Their attorney wanted more specific language concerning ownership of the dental equipment purchased, whether it be purchased with EDC grant funds or other grant funds obtained by RCDC. Also, the language in the existing agreement is too vague in regards to renegotiating terms after the end of three years. Mark will revise the verbiage and re-issue the agreement o RCDC. Deb reported that she had also been in contact with KDHE regarding registration of the Oberlin office. She has also consulted with their equipment technician regarding locating some gently used equipment to purchase. Their technician had also worked on the equipment with Dr. Fredrickson had the dental office open and he highly recommended replacing the compressor. Deb and Ken are to meet with the county commissioners tomorrow to discuss a possible tax abatement for the office.
<b>Bankruptcy Update</b>	None was given.
<b>Available Board Position</b>	Shayla reported she had spoken with Tia Horinek from Norcatur and had a couple of individuals from the area interested in the available board position. She recommended finding someone from that area to fill the position vacated by Jack Kanak since we do not have other board representation from that area of the county. She did request that board members with suggestions email her.
<b>Rural and Remote/Grant Guidance</b>	Shayla met with Kade Wilcox from Rural and Remote. This company helps train individuals living in rural areas for jobs that can be done remotely, such as computer coding. He is interested in having a hub in Oberlin at the BEE Building that could employ 12-15 people.  Shayla asked if the board would be agreeable to her working on a grant for submission to the

**Oberlin-Decatur County Economic Development  
Meeting Minutes  
July 8, 2019**

	Hansen Foundation for building upgrades. The board agreed that this would be a positive step forward.
<b>Other Business</b>	<p>Shayla will contact the Secretary of State's office and ask how a ballot question for additional mill levy funding could be worded. If the EDC is to seek funding by election, a decision needs to be made soon as time is running out to get that on the November ballot. Cynthia Haynes would like to speak to the City of Oberlin concerning Chamber of Commerce funding and she has offered to speak on EDC's behalf as well. Mark offered to attend the City Council meeting with her.</p> <p>John reported that Rotary will pursue a grant to purchase a new popcorn machine for the bowling alley.</p> <p>Heather Morgan hosted a meeting attended by 10 businesses on June 25<sup>th</sup>. She received a grant from Kansas State University to provide branding and assist with marketing to businesses in northwest Kansas. The meeting was hosted by the EDC. She would be able to make a new website for the EDC at the price of \$135 per year. The website would be built and edited by Shayla. She agreed that this would be positive for the EDC, to keep information up-to-date and provide videos and pictures of projects the EDC is working on.</p>
<b>Adjournment</b>	Meeting adjourned at 6:52 pm. The next meeting is scheduled for Monday, July 8 <sup>th</sup> at 5:30 pm at the BEE Building.

Respectfully Submitted,

Danielle Wasson  
Secretary

**Oberlin-Decatur County Economic Development  
Meeting Agenda  
August 19, 2019**

**Attending** Mark Starr, Chairman \_\_\_\_\_; Matt Ostmeyer, Vice-Chairman \_\_\_\_\_; Danielle Wasson, Secretary\_\_\_\_\_; John Sater, Treasurer \_\_\_\_\_; Ken Badsky \_\_\_\_\_; Lisa Votapka\_\_\_\_\_; Shayla Williby, Marketing Director \_\_\_\_\_

**Consent  
Agenda** 1.) Minutes July 8, 2019 Meeting  
2.) Minutes July 30, 2019 Special Meeting  
3.) June Treasurer Report & Financials

**Old Business** 1.) Leta Meitl – Tanning Bed  
2.) Property Insurance Update  
3.) Tax Status of Owned Buildings  
4.) Dentist  
5.) Future EDC Funding  
6.) Veterans Housing Project  
7.) Available Board Position  
8.) Dairy Inn Lot  
9.) BEE Building Update

**New  
Business** 1.) Highway 36 Property – Alex Heeger  
2.) KACF Conference October 27-29  
3.) Project/Corn Stover  
4.) Director/Board Member Liability Insurance  
5.) Shayla Request for Additional Time Off or Raise

**Executive  
Session** Non-Elect Personnel

**Next  
Meeting** September 9, 2019 at 5:30 p.m.

**OBERLIN DECATUR AREA ECONOMIC**  
**104 S PENN AVE**  
**OBERLIN, KS 67749**  
**Multi Column Divisional Profit and Loss**  
**For the period January 01, 2019 To July 31, 2019**

	<b>ECONOMIC DEVELOPMENT</b>	<b>BOWLING ALLEY</b>	<b>SUNFLOWER CINEMA</b>
<b>Income</b>			
CONTRIBUTIONS - GIFTS	\$0.00	\$535.00	\$3,484.87
SALES	0.00	40,941.46	23,410.48
CREDIT CARD SALES	0.00	36,200.80	94.73
DECATUR CO TAX DRAW	19,097.44	0.00	0.00
CITY OF OBERLIN	17,210.00	0.00	0.00
RENTAL INCOME	12,322.20	0.00	100.00
ADVERTISING REVENUE	0.00	0.00	1,362.00
INTEREST INCOME	2,042.45	83.48	0.00
MISC INCOME	0.00	2,711.80	2,629.16
GIFT CERTIFICATE SALE:	0.00	649.39	537.06
<b>Total Income</b>	<b>50,672.09</b>	<b>81,121.93</b>	<b>31,618.30</b>
<b>Net Income</b>	<b>50,672.09</b>	<b>81,121.93</b>	<b>31,618.30</b>
<b>Expense</b>			
ACCOUNTING & LEGAL	\$1,727.52	\$0.00	\$0.00
ADVERTISING	133.50	62.00	42.00
CONTRACT LABOR	1,407.17	1,102.39	1,102.39
DUES FEES SUBS	969.98	220.00	120.00
INSURANCE	3,863.64	5,161.06	4,431.42
INTEREST	0.00	1,815.47	1,815.43
PROPERTY TAXES	2,594.76	1,328.78	1,328.77
REPAIRS	1,783.26	602.85	154.70
SALES TAX	0.00	6,926.35	1,951.30
WAGES	19,404.24	13,766.10	526.71
OFFICE EXPENSE	137.44	0.00	0.00
PAYROLL TAXES	6,736.07	2,871.00	115.48
TELEPHONE	555.00	550.16	0.00
SUPPLIES	377.05	1,946.81	827.25
UTILITIES	8,675.72	2,565.62	2,523.12
MISC	22.25	0.00	0.00
<b>Total Expense</b>	<b>48,387.60</b>	<b>38,918.59</b>	<b>14,938.57</b>
<b>Cost of Goods</b>			
PURCHASES	\$0.00	\$35,442.87	\$14,940.35
<b>Total Cost of Goods</b>	<b>0.00</b>	<b>35,442.87</b>	<b>14,940.35</b>
<b>Net Profit/(Loss)</b>	<b>2,284.49</b>	<b>6,760.47</b>	<b>1,739.38</b>
Principal Loan Payments		(2469.30)	(2469.29)
<b>Total</b>		<b>4291.17</b>	<b>(729.91)</b>

**OBERLIN DECATUR AREA ECONOMIC**  
**104 S PENN AVE**  
**OBERLIN, KS 67749**  
**Date Range Balance Sheet**  
**For the period ending 01/01/2019 - 07/31/2019**

01/01/2019 - 07/31/2019

**ASSETS**

**Current Asset**

CKG - THE BANK - 110100811 - EDC	31,376.18
SVGS - THE BANK - EDC	69,678.29
CKG - FB&T - 2102007 - REV LOAN	112,955.33
CKG - FNB - 700018779 - SUNFLOWER	19,411.80
SVGS - FNB - SUNFLOWER	6,804.82
Total Current Asset	240,226.42

**Fixed Asset**

LAND & BLDGS	50,437.75
BLDG - 104 S PENN	50,000.00
HWY 36 PROPERTY	19,888.07
BLDG - SENIOR CTR/CINEMA/BOWLING	544,242.49
EQUIPMENT	209,690.79
Total Fixed Asset	874,259.10

**Other Asset**

N/R REVOLVING LOAN #5	7,393.15
N/R REVOLVING LOAN #7	9,287.06
INSURANCE ON R/E	(6,771.83)
GRANT INCOME PENDING	(27,000.00)
Total Other Asset	(17,091.62)

Total ASSETS	1,097,393.90
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**LIABILITIES**

**Current Liability**

N/P FB&T - SUNFLOWER REC	(17,366.18)
N/P - THE BANK - SUNFLOWER REC	(96,963.37)
N/P KS CENTER FOR ENT #2	(14,829.66)
Total Current Liability	(129,159.21)

**Long Term Liability**

SUSPENSE	65.98
GIFT CARD BALANCE	(873.97)
Total Long Term Liability	(807.99)

Total LIABILITIES	(129,967.20)
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**CAPITAL**

NET WORTH	(967,426.70)
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Total CAPITAL	(967,426.70)
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<b>Total Liabilities and Capital</b>	<b>(1,097,393.90)</b>
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# **2019 Board Meeting Notes for Month of August**

**Attending:** Matt Barnes Jim Wasson Ruth Wolfram Ronda Schroer

Violet Shaw Marlene Moxter- Pres. FoOLs

Minutes from previous month approval:  
motioned by: Violet  
Seconded by: Jim  
Passed or Opposed: Passes

Financial Statement Approval: For August  
Motioned by: Ruth  
Seconded by: Jim  
Passed or Opposed: Passes

## Donations:

\$1500 from Humanities Kansas for TALK series to cover discussion leaders.  
\$250 memorial from Susan Betts McMonagle for June and Cloyce Harold  
\$47.70 from FoOLs from Summer Reading and Story Hour.

## Personnel:

No report

## Facility and Maintenance:

Nothing new to report.

## Financials:

Stacey has completed the financials and the checks are ready to be signed.

## Miscellaneous:

\*Board training is scheduled for Wednesday, September 25<sup>th</sup>, at 5:30 pm to 7:30 pm. George Seamon from NWKLS will be leading the training in the basement and the library boards from Jennings and Norcatur will be attending. We will provide food and drinks. The menu was planned and work was divided among the board.

\*Summer reading program is completed. There were 61 sign-ups and 42 finished the program. Several did the required time or pages twice. We had three program events this year with a total of 108 attending, including adults. This is better than last year.

\*On September 12<sup>th</sup> there will be a Sensory Storytime workshop held at Oakley. Sharyn will be attending. This is for inclusion of all children and all types of learning styles.

\*Marlene gave a FoOLs report:

They had a fair booth this year. The mystery theater will be October 19<sup>th</sup> on a Saturday at the museum. Elizabeth Orr is the director this year. Story walk was set up in Centennial Park at fair time. It was well attended. Another will be during homecoming.

\*Kem Bryan reported to Ronda that she nearly fell in the parking lot of the library. The repairs have never been done. She was wondering about working with Ronda on a grant to get the area repaired. They will be looking into the possibility.

Jim motioned for adjournment and Violet seconded. Meeting was adjourned.

Next meeting Monday September 23rd, 2019 at 5 p.m.