

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,
April 14, 2014**

A regular meeting of the City Council of Gering, Nebraska was held in open session on April 14, 2014 at 7:00 p.m. at Gering City Hall at 1025 P Street, Gering, NE. Present were Mayor Mayo and Councilmembers Smith, Christensen, Gibbs, McFarland, Allred, Shields, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl, City Attorneys Jim Ellison and Matt Turman. Notice of the meeting was given in advance by publication in the Gering Citizen, the designated method of giving notice. All proceedings hereafter were taken while the meeting was open to the attendance of the public except as otherwise indicated.

CALL TO ORDER

Mayor Mayo called the meeting to order at 7:00 p.m. The Mayor noted that there was a quorum of the Council and City business could be conducted.

1. **Recital of the Pledge of Allegiance and Prayer by Pastor Gary Cole**
2. **Roll Call**
3. **Excuse Councilmember absence**

Motion by Councilmember Gibbs, second by Councilmember Shields to excuse the absence of Councilmember Allred from the March 24, 2014 Regular City Council meeting. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

OPEN MEETINGS ACT - NEB.REV.STAT. CHAPTER 84, ARTICLE 14

(As required by State Law, public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room). Agenda items may be moved up or down on the agenda at the discretion of the Mayor.

CORRESPONDENCE AND CITIZENS WITH BUSINESS NOT SCHEDULED ON THE AGENDA. None

CONSENT AGENDA:

1. Approve minutes of the March 24, 2014 Regular City Council Meeting
2. Approve claims

Claims:

3-20-14 to 4-8-14

AHLERS BAKING INC. \$13.99 REC. COMM. SKYP INTERVIEW, ALAMR UNIFORMS \$2,229.74 EQUIP. FOR NEW VEHICLES, ALLO COMMUNICATIONS \$759.00 TELE/INTERNET CHRGS., ALTEC INDUSTRIES INC. \$1,292.80 TRUCK RPR., AMAZON \$255.07 PLANNING COMM. BOOKS, AMERICAN CONCRETE INST. \$466.69 BLDG. CODE CATALOG MASONRY GUIDE. ATLANTIC TACTICAL \$68.99 SLINGS FOR DEPT. ISSUED SHOTGUN, AUTOMOTIVE WORKWEAR \$288.94 BLUE UNIFORM SHIRTS, BAIRD HOLM LLP \$75.00 POLICE/FIREFIGHTER PENSION, BLOOMBERG BUSINESSWEEK \$23.54 MAGAZINE SUB., BLUFFS SANITARY SUPPLY \$861.36 FACILITY CLEANING, BP MART \$58.89 GAS TRAVEL FOR K9, BROADWAY OFFICE CENTRE \$246.10 TONER FOR SHOP, BUCKYS EXPRESS \$44.95 GAS FOR FIREARMS TRAINING TRVL., BUDGE-IT DRAIN SRV. \$300.00 CLEAN GREASE BUILD UP FROM PIP, BURKETT REST EQUIP. \$2,849.00 FREEZER, C & M GOLF & GROUNDS \$525.40 RPRS., CALEB PIANO TUNING \$85.00 PIANO TUNING, CALLAWAY GOLF CO. \$856.19 GOLF CLUBS - DEMOS, CARD SRVS. \$11,237.63 FEBRUARY CREDIT CARD TRANSACTION CASEY'S GENERAL STORE #27 \$68.10 GAS FOR K9 TRAVEL, CENTURY LINK \$2,443.72 PHONE SRV., CITY INSURANCE FUND \$140,589.64 HEALTH PREM 125, CITY OF GERING \$3,299.60 WELLNESS GOLF, CITY OF GERING GENERAL ACCT. \$65,000.00 TRANSFER FUNDS TO COVER ACH, CITY OF LINCOLN \$18.00 MIDWINTER CONF. PARKING, CITY PAYROLL TRUST \$10,217.15 FSA MEDICAL 125, CLEVELAND GOLF \$1,543.11 GOLF CLUBS/PUTTERS/WEDGES, COMFORT INN \$739.10 BRUNZ HOTEL TRAINING, CONSOLIDATED MANAGEMENT C \$50.75 MEALS AT TRAINING CENTER, CORNHUSKER HOTEL \$1,146.16 COWAN MIDWINTER CONF. HOTEL, CREATIVE SIGNS DIVISION/C \$640.00 NEW DECALS ON 2008 CROWN VIC, CREDIT MANAGEMENT SRV. \$297.30 GARNISHMENT 2, CRESENT ELECTRIC SUPPLY \$108.81 ADAPTER FUSE, CULLIGAN WATER CONDITIONING \$91.70 SALT, CURVES \$36.38 WELLNESS, DALES TIRE & RETREADING \$942.46 FRONT TIRES FOR G1, DANA F. COLE & COMPANY \$5,000.00 ACCTING/AUDITING SRV., DEX \$649.62 ADVERTISING, DHHS, DRINKING WATER & EN. \$40.00 SWIMMING POOL PERMIT, DISCOVER BANK \$748.82 GARNISHMENT, DOLLAR GENERAL STORE #077 \$12.00 PLATES/NAPKINS COUNCIL LUNCH, DOOLEY OIL INC. \$1,335.85 OIL FOR BALER, DUTTON-LAINSON CO. \$13,085.08 WIRE, ECOLAB \$146.50 RODENT CONTROL, ELLIOTT EQUIPMENT CO. \$81.91 BUSHING, ENERGY LABORATORIES INC. \$456.00 LAB FEES, ENVIRO SRV. INC. \$911.00 WATER LAB, ESRI \$1,010.00 ESRI-GIS/GPS CLASS SERGIO, FAIRFIELD INN \$840.52 HOTEL GOLF CONF. WALSH, FASTENAL CO. \$1,770.37 VENDING, FAT BOYS TIRE & AUTO \$1,147.00 NEW TIRE ON FLATBED TRUCK, FATDOGS \$77.75 GAS TRAVEL FOR K9, FIRST NATIONAL BANK \$549,324.91 REINVEST SANT/KENO FUNDS, FIRST STATE BANK \$710.64 IBEW UNION DUES, FLOYDS SALES & SRV. \$481.15 G5/G1/G9/G8 OIL FILTERS, FLYING J TRAVEL PLAZA \$34.92 GAS FOR FIREARMS TRAINING TRVL., FRANK IMPLEMENT CO. \$317.68 RPS., FREMONT MOTOR SCOTTSBLUFF \$81.10 SIDE MIRROR, FRESH FOODS \$39.90 BOTTLED WATER, GAS MART 11 \$39.50 GAS FOR K9 TRAVEL, GERING CITIZEN \$686.62 PUBLICATION OF CITY COUNCIL MTG. 2/10, GERING CONVENTION & VISIT \$15,388.75 QUARTERLY PYMT., GERING VALLEY PLUMBING \$2,779.40 RPRS., GERING VOLUNTEER FIRE DEP. \$1,100.00 REGISTRATION FOR CLASS S-200, GREATAMERICA

LEASING CORP. \$204.49 COPIER LEASE, GREG'S AUTO BODY/PAINT \$1,961.00 HOOD FOR 344J, HAMPTON INN \$124.81 HOTEL FOR K9 PICK UP, HANDDRY \$363.00 RR HAND DRYERS, HAWKINS INC. \$2,920.00 WATER CHEMICALS, HD SUPPLY WATERWORKS LTD. \$1,150.00 WATER MAIN RPR., HEILBRUN \$346.66 BATTERY CHARGER/BOLTS, HGTV \$24.00 MAGAZINE SUB., HOKE WELDING & RPR. INC. \$876.33 FIX TAILGATE ON TRUCK, HOLIDAY INN \$96.03 HOTEL OF K9 PICKUP, HOLIDAY INN EXP. \$97.52 HOTEL STAY K9 PICKUP, HOME DEPOT \$413.48 FLOOR TILE, HONEY WAGON EXPRESS \$120.00 CLEAN GREASE TRAPS, HULLINGER GLASS & LOCKS \$65.00 DOOR RPR., HYDRONIC ENERGY INC. \$1,235.15 HEATER RPRS., ICMA ELECTRONIC RETIREMENT \$1,032.00 ICMA CITY ADMIN., IDEAL LINEN SUPPLY INC. \$125.15 SUPP., INFOGROUP \$155.00 CITY DIRECTORY BOOK, INTER. CODE COUNCIL INC. \$139.85 RESIDENTIAL INSPECTORS GUIDE, INTERNAL REVENUE SRV. \$72,206.09 FED/FICA TAX, INTERNATIONAL ASSOC. PLUM. \$150.00 INTL. ASSOC. OF PLUMBING/MECHANICAL, INTERSTATE BATTERIES/RAPID \$1,298.50 BATTERIES GREENS MOWER, INTRALINKS TECHNICAL SOLUTIONS \$2,592.85 NEW COMPUTER HENRY, JACKS UNIFORMS & EQUIP. \$193.69 UNIFORM PANTS, JC GOLF ACCESSORIES. \$194.24 TEES/BALL RPR. TOOLS, JL BECKER INC. \$718.75 SNOW REMOVAL, JO-ANN FABRICS & CRAFTS \$11.01 STORYTIME SUPP., JOHN HANCOCK USA \$25,593.91 JH RETIRE 6%, JOHNSON CASHWAY CO. \$186.99 TRAILER HARDWARE/SIDEBOARDS, JOHNSTONE SUPPLY \$91.27 WELL RPR., KATHLEEN A. LAUGHLIN \$330.00 GARNISHMENT 2. KNEB \$326.00 ADVERTISING, KOVARIK, ELLISON & MATHIS \$4,482.50 911/TELECOMMUNICATIONS LEGAL, KRIZ-DAVIS CO. \$16,322.38 STREET LIGHTING, KROGER FUEL \$54.43 GAS TRAVEL FOR K9, LL JOHNSON DISTRIBUTING \$447.07 RPRS/MOWER, LOGOZ LLC \$1,135.00 100YR. GREY POLO SHIRTS. LORMAN EDUCATION SRVS. \$339.00 SALES/USE TAX TRAINING MEJIA, LOVES TRAVEL SHOPS STORE \$34.43 GAS/FIREARMS TRAINING TRVL., MEAT SHOPPE \$30,920.13 CATERING COSTS, MENARDS \$529.78 PIPE FOR WASHER/SHOP. MG TRUST CO. LLC \$9,807.84 MG-T POLICE, MIZUNO USA INC. \$527.21 MENS GOLF SHIRTS, MONEY WISE OFFICE SUPP. \$95.99 STAMP/TAB INDEXES. MUNICIPAL ENERGY AGENCY \$433,595.96 POWER, MURDOCH'S RANCH/HOME \$400.14 K9 SUPP./DOG HOUSE/BRUSH/BO, NATIONAL INSURANCE SRV. \$976.88 VISION INSURANCE, NAZWEAR GRAPHICS & SCREENING \$2,051.60 CHRISTMAS BANNERS, NE CHILD SUPPORT PYMT. \$1,668.44 CHILD SUPPORT 1, NE DEPT. OF REV. (PR) \$10,667.19 STATE TAXES, NE DEPT. OF REV. \$56,742.42 FEB. SALES/USE TAX, NE PUBLIC POWER DISTRICT \$1,377.49 UTILITIES, NE SOCIETY OF ASSOC. EXEC. \$849.00 MARKETING NSAE SPONSORSHIP, NE SAFETY/FIRE EQUIPMENT \$95.00 INSPECTION, NEBRASKA DEPT. SOCIAL SRV. \$100.00 OVERPAID FINAL MONTALUO, NEBRASKA MUNICIPAL POWER \$2,537.08 POWER BILL, NEBRASKA SALT/GRAIN \$7,777.49 ICE MELT, NIKE USA INC. \$1,269.67 MENS SHIRTS, NORTHWEST PIPE FITTINGS \$137.34 LIFT STATION RPR., OREGON TRIAL PLUMBING/HEATING \$110.00 FILTER CHANGE, PANHANDLE CONCRETE PROD. \$279.28 MANHOLE RPR., PAYPAL \$468.85 NE MUNICIPAL CLERK TUITION, PETRO OF YORK \$66.10 GAS FOR K9 TRAVEL, PGA PROFESSIONALS \$60.00 THOMASON CONF. REGISTRATION, PING \$2,928.50 GOLF CLUBS, PITNEY BOWES GLOBAL FINAN. \$480.00 POSTAGE METER LEASE PYMT., POSTMASTER \$1,200.00 MAILING PERMITS, POWERPLAN OIB \$318.41 WORK ON HYDRAULIC PUMP, PRINT EXPRESS \$515.80 LETTERHEAD/ENVELOPES, PRO QUALITY PEST CONTROL \$29.00 PEST ELIMINATION, PUMP & PANTRY \$94.54 GAS FOR K9 PICKUP, PURCHASE POWER \$75.00 POSTAGE BY PHONE, RAY ALLEN MANUFACTURING C \$61.98 K9 SUPPLIES/COLLAR ECT., REGIONAL WEST MEDICAL CENTER \$50.81 MEDICAL SUPP., RESPOND FIRST AID SYSTEMS \$137.38 SUPP., ROBINSON ELECTRIC \$3,838.32 WELL RPR., ROOSEVELT PUBLIC POWER DISTRICT \$31.48 UTILITIES, RUNZA RESTAURANT \$11.76 FIRST NET BROADBAND PROJECT/SIDNEY, SANDBERG IMPLEMENT INC. \$346.46 PARTS CONTAINER, SCOTTS BLUFF CO. SHERIFF OFFICE \$40.72 JUVENILE SUMMONS, SCOTTS BLUFF COUNTY COURT \$326.46 GARNISHMENT 2, SCOTTSBLUFF TOWING SRV. \$85.00 FORD ESCORT TOWING FEES, SCOTTSBLUFF GERING UNITED WAY \$20.00 UNITED WAY CONTRIBUTION, SEVERN TRENT SRV. \$4,252.20 WELL RPR., SHAPE \$17.97 MAGAZINE SUB., SHELL \$321.61 FUEL, SIMMONS OLSEN LAW FIRM P \$1,450.00 FEB. CITY PROSECUTIONS, SIMON CONTRACTORS \$825.00 POT HOLE RPRS., SLAFTER OIL CO. \$751.25 OIL MAINT., SOLOMON CORP. \$3,370.50 TRANSFORMER, SOLUTIONS EAP \$244.55 COUNSELING SRVS., SPEED TECH LIGHTS \$140.25 STROBE LIGHTS, STAPLES CREDIT PLAN \$89.97 IPAD COVERS, STAR HERALD \$1,122.99 TALK OF TOWN NEWSLETTERS, SUBWAY \$35.00 SPECIAL COUNCIL MEETING LUNCH, SUGAR VALLEY FEDERAL CREDIT UNION \$2,486.16 CREDIT UNION, TARGET \$19.44 APPRECIATION DINNER DECORATIONS, TAYLOR MADE GOLF CO. \$5,858.75 SHOES, TEAM CHEVROLET \$49.44 PARTS, THE MIXING BOWL \$6.96 COUNCIL MBR. MTG. UPDATE, THOMPSON GLASS INC. \$27.56 RPRS., TITLEIST \$4,501.38 GOLF BALLS, TNEMEC CO. INC. \$202.50 WELL RPR., UNCLE NEALS \$40.56 GAS FOR FIREARMS TRAINING TRAVEL, UNL MARKETPLACE \$60.00 STEVE TRAINING, US AUTO FORCE \$12.56 TIRE RPR., VALLEY BANK - POLICE \$600.00 P.O. UNION DUES, VALLEY BANK & TRUST CO. \$11,659.26 HSA CTRB 125, VERIZON WIRELESS \$234.87 CELL PHONE CHARGES. WALMART COMM. \$154.48 AMMO FOR FIREARMS INSTRUCTOR, WAREHOUSE FITNESS CENTER \$38.00 WELLNESS, WATERWORKS INDUSTRIES \$93.84 SEWER LIFT STATION MAINT., WELFL KATHY \$89.00 CLERK ACADEMY TRAVEL EXPENSE, WESCO DISTRIBUTION \$401.25 CTIS., WESTCO \$10,418.83 UNLEADED, WINCHELL CLEANING SRV. \$830.00 CLEANING, WOLTERS KLUWER LAW & BUS. \$465.45 HR GUIDE TO STATE BY STATE LAW, WOMANS DAY \$8.00 MAGAZINE SUB., YMCA \$505.60 WELLNESS, YOUNG MENS CHRISTIAN \$10.00 YOUNG MENS CHR.

Motion by Councilmember Smith, second by Councilmember Shields to approve the Consent Agenda. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

PUBLIC HEARINGS:

CURRENT BUSINESS:

- 1. Consider approval of Economic Development Assistance Agreement for Inventive Wireless of Nebraska, LLC**

Motion by Councilmember Shields, second by Councilmember Gibbs to approve the Economic Development Assistance Agreement for Inventive Wireless of Nebraska, LLC for a \$10,000 grant for two full-time employees and a \$40,000 low-interest loan for replacement of equipment.

Discussion: Dennis Wiedeman, LB840 Application Review Committee Member, said Mr. Larson came before the group and the committee is in favor of approving his application. He said that Mr. Larson has repaid a loan before; we've had a good relationship with him.

The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

2. Future Food Energy (F2E) beef processing project report

Councilmember McFarland said she requested this to be on the agenda. To date we have not had an official report from anyone who has worked with the company. She said they had a town hall meeting roughly ten days ago. She thinks it's time to divulge to the public and the Council whatever is available, understanding that the names of the investors and financial information cannot be provided. She thinks they need to know what the City has done, and what the status is right now on the project.

Councilmember Shields thanked the public for standing behind her and for helping bring this out so Council can be transparent like they should be; it's hard to best serve our citizens if they don't know what is going on. She noted that coming up on the agenda there is a resolution to stop all activities with the meat packing plant.

Mayor Mayo stated that he knows slim and nothing about this; he has been out of the conversation with the processing plant since early on. He sent an email on May 30 and 31, 2013 to the Council asking them to do their research and do their due diligence. People who have asked him he has told them freely what he knows. The things that have been said about the impact on the communities, he has tried to do research on that and has shared that with as many people as possible. He's happy to disclose what he knows afterwards; he did not sign a confidentiality agreement. He doesn't believe any elected official should be in a position to sign a confidentiality or non-disclosure agreement. He did track down two of the three communities who were allegedly negatively impacted and people are unhappy with the information he has come back with. He has not formulated a decision one way or the other. If the staff is negotiating with the company or companies coming in, he has asked staff to demand certain requirements of them, substantial financial requirements; just because you ask doesn't mean you'll get it. He attended a Twin Cities Development meeting about three weeks ago and they brought up that the new minority group of Future Foods Energy did purchase the plant in Aberdeen, South Dakota. He stated that he called them to confirm and they spent \$70 million cash for it. Their intention is to either bring it up to a production level and sell it or bring it up into production level and use it for themselves. When he asked if it had any other influence on what was looking forward or transpiring in our area, they said it had nothing to do with that; and that's the extent of the information he knows.

Councilmember McFarland asked the Mayor what prompted the email to Council last May; she's curious why he wanted eight people doing research. She stated that back in May TCD was still doing research on this project; what prompted that email? Mayor Mayo replied the reasoning behind that was because there was going to be people in the community as well as Councilmembers in Scottsbluff and other areas asking for information and he was giving them a heads up that people would be looking at it. If they chose not to do their due diligence and check on any of the information, that was their decision to do, not his. He has had a couple Council Members and many people in the community ask for information and he provided it. At the time the information he could provide was from a law enforcement standpoint; he dealt with Western Valley Pack and Packerland as a police officer. He also has experiences working as a journeyman meat cutter and has familiarity with processing plants and the FDA.

Councilmember McFarland said in her 12 years as an employee of the City and 12 years on the Council she has never seen where the Council Members were asked to do their own research independent from the group. She asked if we're still talking to these individuals. Mayor Mayo replied he doesn't know; he's not part of that group. Councilmember McFarland asked who is part of that group?

Administrator Danielzuk stated that Keith DeHaan sent him an email this morning on the project status and read the letter aloud: "We recognize and are saddened about all the exaggerated attention our inquiries have brought the Gering City Administrators and Board. Our original intent was simple; we were looking for a municipal and community partner in our efforts to add value to the high quality cattle being fed in the region. Our inquiries have not lead to a defined project at this point and we are still doing due

diligence. Due diligence takes a lot of time because of the significance and money involved for such a project. Everyone we have communicated with on the City administrative team was professional in our request for information and appeared to do a thorough job of investigating our company but showed no determination of advocacy. This relationship was similar to that with the Scottsbluff City staff as well and the public is misguided in thinking that we were kicked out of that community. Simply, our request to change city-owned property zoning was denied. Therefore, we are continuing our due diligence in other areas. But, we have not gone beyond the "study phase" of the project. Sincerely, Keith DeHaan, F2E"

Councilmember Shields said they keep talking about due diligence; she thinks as a Mayor and City Administrator due diligence should come to your Council Members and the citizens you're serving before anyone else. Mayor Mayo replied that if she would read her emails she would have seen that he sent out information and she chose not to agree with any of the information he sent her and she chose to put her finger in the proverbial political wind and see which way it blows. He said if she chose not to look and answer so she can answer her constituents when they call her, that is not his fault. Councilmember Shields said she has looked at emails and he shouldn't say she hasn't. She said they should have known all along what was going on. Councilmember McFarland said she isn't going to tolerate that. She isn't going to let the Mayor try to shift the blame onto Councilmember Shields. Mayor Mayo replied there is no shifting of blame and that Councilmember McFarland is equally guilty.

Robin Kinney, 1720 Cedar Street in Gering, addressed Council and said Jill and Rebecca both asked a question that the Mayor has talked circles around and not provided an answer to. They asked who was involved, what was involved and they asked for transparency. We're all here for answers.

Mayor Mayo said he has been out of the loop on this since shortly after the email went out to everybody else. Ms. Kinney said Lane has information, he has said nothing. She asked who else has information; you won't even provide us the names of the people who signed confidentiality agreements. We as citizens have a right to know what is going on in our community and so far they've got nothing but smoke and mirrors and no clear answers from anybody who claims to be in the know. Mayor Mayo said Allan Doll, through a FOIA request, asked who those individuals were three weeks ago. Mayor Mayo said it was provided to Council. Councilmember McFarland and Morrison replied that they didn't get it. Ms. Kinney asked that he provide them answers; that's all they're asking for. Mayor Mayo said he didn't have the names in front of him but the City Administrator, the Finance Director, the City Engineer all signed; Councilmember McFarland added that Pat Heath and Ron Doggett signed and the rest are support staff. Councilmember McFarland said she got the information from Allan Doll not from Mayor Mayo. Councilmember Allred added he hasn't seen a list of individuals either.

Kirk Arnold, 1000 9th Street in Gering, stated this is really disappointing. We have two Council Members that have raised their hand and asked questions. Why aren't the other Council Members doing the same? Do they know or do they not want to know. He said he's challenging the entire group. He would have thought the whole Council would have had their hand raised asking the question. It's sad and disappointing; that's not the way this country works and if this Council doesn't have the guts to ask, leave.

Councilmember Gibbs replied that he has two items on the agenda that address both issues and will probably put an end to the situation. Asking questions at this point is probably fruitless.

Councilmember Smith said there has been no beef packing plant that has come to the City. The Council has not been asked for any type of policy towards a beef packing plant. This has been stirred up through Facebook and a through a couple Council Members. It is long before any type of discussion is even ready to be brought before the Council or before the people.

Mr. Arnold said he understands what Councilmember Smith is saying but confidentiality agreements were put together by 10 people, and why? If there was nothing brought towards the City why did they have to sign that? He thinks there's more there and we'll find out and hopefully it's not too late. Why did they sign the agreements if it hasn't been brought up? It leaves a lot of suspicion, it shouldn't be that way;

everybody should be on board. This is a community and you were elected to represent this community. Why don't we have the facts?

Councilmember Smith said it's the administrator's job to put together information for the Council and when the Council needs that information the administrator needs to have that information. Perhaps he thought he needed to keep it quiet so that he could put together good information without outside bias. He hasn't talked to the Administrator about that, but he can see reasons for a confidentiality agreement. All the information that was gathered will come out but is this the time for it to come out? Mr. Arnold said he doesn't see why it couldn't be; it's sad the staff was told they couldn't talk about this.

City Attorney Jim Ellison stated to the Mayor and Council that they're getting off the topic as far as the agenda is concerned; the topic of releasing people from the confidentiality agreements is the third item on the agenda.

Councilmember Morrison said we've talked about how this has all played out. We've had two Councilmembers, and she's not blaming them, that have started this out with this mass hysteria and Mr. Arnold just made a remark about preserving the integrity of our community. What's everybody afraid of? We know nothing yet, we don't know if they're coming, we don't know what their plan is, we have no information but everything that has been decided so far has been decided on prejudice and bias; that is what has caused this mass hysteria in the first place. She added let's get some information, let's find out what this is. We all cry that we want industry here but when some industry comes in that might be a little bit different, then everybody gets up in arms and that's not right. We need to sit back and listen and see if it in any way can be beneficial. She said she hasn't made a decision, she doesn't know what the facts are. Sit back and let them speak their peace; if we don't like it we can tell them sorry, hit the road. It's that simple, but we know nothing. A packing plant in this day and age and modern technology is not going to be a Swifts; it won't be anything like that; let it play out. It will never be too late; until it comes before Council not one decision will ever be made. But don't base it on this mass hysteria, don't base it on prejudice. Wait and see, that's all we can do.

Mr. Arnold said he understands what Councilmember Morrison is saying but ten people have had to be quiet. Councilmember Morrison replied look what two people have done Can you imagine if ten people were talking?

Mayor Mayo said we're off topic again and asked if there is anything else regarding the project report. Councilmember McFarland said when this bubbled up it came from the constituents; people started calling us and saying I know this or that, can you confirm it. And the Councilwomen were saying we're clueless. She said when the Mayor came to her house he had all sorts of information to give her and tonight he seems to have forgotten all that. Mayor Mayo replied that the information he shared with her was in regards to the Pacific Partnership Trade Agreement and the TTIP for the European Trade Agreement and he also discussed with her the Nebraska Advantage Act and if they came in under any of those three guidelines he would oppose that. He also said if they do come in he has discussed it with the City Administrator that we require them to put up a 20 million dollar bond so that it sits there for 20 years; he said Councilmember McFarland poo-pood that idea. You never know what you get if you don't ask for it. If they put it up there then the interest rate would go to the City for that 20 years and the City could split that with the school district to off-set some of the costs that might be there. If the company leaves before the 20 year period they would deed that property over to the City and the City could sell it off or use it as an industrial site or however the City sees fit, and they (F2E) would lose that 20 million dollar bond. He said he's given just about everything he knows. Councilmember McFarland said she thinks they both know there are some lies and some very shady things.

Councilmember Allred said he agrees with Councilmember Morrison and Smith. He directed to Mr. Arnold that he does have questions but he doesn't think right here is where they need to be asked. The email that Mr. Danielzuk read stated that nothing has even come to fruition on any plans. Until something is presented to the Council we can't make a decision on behalf of the City of Gering. He said we talk about lies - the first person who talked to him about this threw the number of \$10,000 to him about Mr. Mejia's trip; that was three fold what it cost. When we stop getting our information off of Facebook and

the social media and attend these meetings; he wishes we could fill up the City Council Chambers at every meeting. He said there are many things you don't have a clue on and it's not until there's all this panic before something ever gets done. Let's let the City Administrator and the City staff do their due diligence, they're not going to bring something in here before they bring it right here to have a decision made. We need Economic Development in Gering; we need retail, we need industrial and the list goes on. But if we think for a second we have to disclose all the information out there, what do you think is going to happen to retail property and industrial property? People are going to buy it up to sell for more money; that's not going to bring business into Gering. Let's let it play out and present some information. We have no idea what it's all about except the speculation of what it is.

Councilmember Shields said she didn't do this over prejudice, she just feels the citizens need to know what is going on.

Councilmember Christensen thanked Councilmember Morrison for her comments and said he for one doesn't know anything about this meat packing plant. He said on March 28 Councilmembers received an email from Councilmember McFarland and it said "I have done a huge amount of research on this packing plant idea". He said to Councilmember McFarland if she knows all about it, tell us what's going on. Councilmember McFarland said she spent about 20 hours and she can give some good background information on Keith DeHaan but she thinks that's off-track, but meet with her after the meeting. Councilmember Christensen said he wants to know now. She said Keith DeHaan has a very shaky background; in 2007 he worked with a plant in Iowa trying to get it reopened. It was built and closed and sat vacant for many years and she's sure he received payment for doing this. He worked with them about a year; the plant never did open. He then worked with a plant in Aberdeen, SD; it opened a little while and then it shut down and they're trying to get it opened again and she's sure he receives money every time he does something like this. When he was here in June he mentioned a plant in Harvey, ND and he was pretty sure he was going to have that plant up and running right away. He touted that as a success and as of a week ago it's still not open. Councilmember McFarland said he is the one common element in all three of these.

Bubba Anthony stated to the Council that TCD said not at this time; why did we (Gering) have to get involved? why the secrecy? Look what this has done. Gering pays \$50,000 to TCD, why did we have to do this? What came to the table after they visited with TCD to change anything and cause the confidentiality agreements? Neal Smith said his concern is who is at the helm here, who's guiding this. You (Council) didn't know something; this seems like it's backwards. Mayor Mayo said we've had 30 new businesses that have come to town. We've retained four that were going to close or go elsewhere, we lost two. Does Council know everything about those businesses before they came in? No. Family Dollar was looking almost two years before they came in here.

City Attorney Ellison reminded Council again that they were getting off topic.

3. Consider releasing City of Gering employees from confidentiality agreements related to F2E

Mayor Mayo entertained a motion.

Councilmember McFarland moved to consider releasing City of Gering employees from confidentiality agreements related to F2E, second from Councilmember Gibbs.

Discussion: Councilmember McFarland said this is one of her requests. She said the verbiage in the confidentiality agreement that was required or requested by the City said: "The unauthorized disclosure of which will damage the City of Gering and could immediately be used by City of Gering competitors." She thinks we've broken the silence through everything that has been said in the last couple of weeks. She thinks it would be a great gesture as to trying to be more transparent if we released these employees and the employees would be more comfortable to be released. She also thinks that nobody knows much of anything which scares her, and maybe some of these employees have something to share with the Public Works Committee. She encouraged Council to consider this.

Councilmember Christensen asked about the email she sent with the attachment and asked why she only sent it to him and Councilmember Gibbs and not the whole Council. Councilmember McFarland replied that she picked them because she knows they are good with words. She said Councilmember Gibbs did respond to her with some suggested changes. She noted that her attachment is included in the Council packet.

Councilmember Gibbs said it has been said that confidentiality agreements are not unusual, and he agrees, but most of the time they are requested by the company; in this case it appears the City has required them. He would like to know why; he finds it unusual that the City requested these. Councilmember McFarland stated that it's a true statement that they were requested by the City.

Mark Kinney addressed Council. He said he uses the social media a lot. He said from the employees he talked to, it looked like the City employees were going behind the Council's back. There wasn't a continuous dialogue there...that they (staff) had planned to go deal with this whole thing, get trips paid for and all this stuff. In conversations it looked like this whole thing was planned by City employees and the Council was not aware of it. He noted there is a lot of violence in packing plants. It's a very real possibility that people will get cut in breaking up fights.

Administrator Danielzuk asked the Council if they know if the City has a non-disclosure policy. Councilmember Gibbs said he's sure there would be as it relates to financial information that City residents would provide to the City and things in relation to that. Mr. Danielzuk said the standing committee that looked at the Non-disclosure Policy most recently was chaired by Emanuel Escamilla, the Vice-Chair was Jill McFarland, Rebecca Shields was on it, Don Christensen; Joyce Hillman-Kortum was an alternate and Dan Smith. On July 26, 2011 they were given, through an email, the personnel handbook revisions. At the official Council proceedings at the Regular City Council meeting on September 12, 2011 under Reports of staff, boards and standing committees, Councilmember Escamilla gave a report from the Personnel Committee that there had been extensive work and the committee made some good changes. It was moved by Escamilla and Councilmember Hillman-Kortum seconded, to approve the changes to the handbook as presented to the committee. All voted in favor; Smith and McFarland were absent. Mr. Danielzuk said there are eight pages to the document; he then talked about Policy 7.13, "Non-Disclosure" and the change that was made. The policy reads:

"The protection of confidential municipal information is vital to the interests and the success of the City. Such confidential information includes, but is not limited to, the following examples:

Customer account information

Personnel information

Information discussed in City Council executive sessions

Employees who improperly use or disclose confidential municipal information may be subject to disciplinary action, up to and including termination of employment".

Administrator Danielzuk said the personnel committee at that time made an adjustment; they changed the "will to may" and took out the last part of the sentence "even if they do not actually benefit from the disclosed information". It goes on to say that the City expects employees to follow the rules and conduct that will protect the interest and safety of the all the employees in the organization. One of those employee "Conduct and Work Rules" is "unauthorized use or release of sensitive or privileged information" - it is a violation of the employee handbook. Mr. Danielzuk said every City employee signs a "Receipt of Acknowledgement of the City of Gering Personnel handbook" in part stating that "I understand it is my responsibility to read and comply with the policies contained in this handbook and any revisions made to it". He said that's the first part of ensuring that employees take good care of the information that they receive when they receive it.

He asked Council, specifically Councilmembers Shields and McFarland, where else is there a non-disclosure issue. Councilmember McFarland replied that obviously you can't release certain information

in personnel files or utility customer information; she thinks largely what we're talking about is the Public Records Law in Nebraska and those things which can be disclosed and cannot be disclosed. She said if he could ask that with more detail she could probably...but why are we doing a quiz? Administrator Danielzuk replied because he wants them to tell him exactly what they know or don't know. Councilmember McFarland said she is very versed on Nebraska Public Records information.

Mr. Danielzuk said there is another non-disclosure policy in place in the City, it's found in section 7 of the Economic Development Plan for Economic Development projects in the City of Gering. In section 1, in 2003 the voters of the City of Gering approved an economic development Plan (the "Plan") pursuant to the Nebraska Local Option Municipal Economic Development Act, Sections 18-2701, et. Seq. (the "Act"). The program has been funded primarily by allocating a portion of the City Sales and Use Tax to the program. The core of the Act's process involves the formulation of a proposed plan (the Plan) for a local economic development program. The Plan forms the foundation for the collection and expenditure of local revenues for economic development, with voter approval, and the provisions of the Plan become the basis under which the municipality's program operates. In section 7 of the Plan that Council adopted, is a process to ensure confidentiality of business information received. *"In the process of gathering information about a qualifying business, the City may receive information about the business which is confidential and if released could cause harm to the business or give unfair advantage to competitors"*. State Law authorizes cities and other entities to maintain the confidentiality of business records which come into their possession.

"To protect the businesses applying for assistance and to encourage them to make full and frank disclosures of business information relevant to their application the City will take the following steps to ensure the confidentiality of the information it receives:

- 1. The adoption of an ordinance that makes such information confidential and punishes disclosure.*
- 2. A restriction on the number of people with access to the files with the program Administrator primarily responsible for their safe-keeping*
- 3. Requiring personnel that are involved in the program review to sign statements of confidentiality regarding all personal and private submittals by qualified business."*

Administrator Danielzuk asked if Council knew that. Councilmember McFarland said that she knew that we have always treated financial information from any outside entity with complete confidentiality and the reason we can do that is because that it's not actually dealt with under the Public Records Law and regulations because that information doesn't specifically belong to the City.

Councilmember Gibbs said that's the difference in this case the way he sees it. The outside company, as far as he's aware, did not request this confidentiality agreement; this was an internal City request. He cannot say that that cannot be good to a point, but the thing is, the information if it was confidential within the City should have at least been disclosed, at least in part, to the City Council in executive session as a part of an economic development project so they were not totally unaware of what was going on.

Councilmember Smith said the confidentiality agreement as Lane read, and the employees signing the agreement, encouraged the company to be more forthright and truthful with their economic information which is what the City wanted in this case because we didn't particularly trust the F2E Company. Councilmember Gibbs asked but if they didn't feel it was important enough to sign a confidentiality agreement, why did we feel it was necessary? Apparently the information they were providing at this point was not anything that they figured was putting them at a competitive disadvantage. Councilmember Smith replied again to encourage the most truthful economic gain from the company. Councilmember Gibbs said that's not what we're asking for; we just want to know what was happening, that they were even talking to the company.

Administrator Danielzuk provided a comparison between Open Government Policy vs. protecting confidential private business information. He said Nebraska Law is geared towards a general policy of open government whenever possible; Open meetings Laws, Public Records Statutes, Freedom of Information. Nebraska Law also recognizes that maintaining the confidentiality of private business information is necessary to encourage economic development and growth. As a result we have

exceptions to the Public Records Statute for commercial and proprietary information and information obtained by public bodies with duties of investigation, explanation and examination of businesses. Requirements to maintain confidentiality of potentially economically viable information, most importantly requirements in the LB840 Enabling Statute, which is the Local Option Municipal Economic Development Act requiring municipalities to take steps that will ensure the privacy and confidentiality of business information provided to the City. The LB840 Enabling Statute goes so far as to criminalize the unauthorized disclosure of any business information which is confidential. Related to that, a violation of Gering's Economic Development Plan would also be a general violation of Gering's City Code and punishable criminally as a misdemeanor. To the extent that there is a conflict between two statutes on the same subject the specific statute controls over the general. In this matter the general statutes regarding open government must yield to more specific statutes regarding confidentiality of business information under the Local Option Act Exceptions to Public Records and Trade Secrets Act.

Mr. Arnold said he understands what Lane just read, but is there any information that they (F2E) actually made application to the LB840 Committee? He said that's the only time it applies; was there an actual application made? Mayor Mayo said he has not seen one. Councilmember Gibbs said that's not necessarily the case; they can be in the discussion phase before they apply. His point is that if they didn't request confidentiality why did the City do it with internal confidentiality, and the fact that Council wasn't aware of what was going on. He said we don't need details but we should have been made aware that they were even looking.

Matt Turman addressed the Council and members of the audience. He said there are a number of different issues that are getting confused. He said he will focus primarily on whether or not you need to apply for LB840 funds to receive those protections. He said you do not, you just need to be a qualifying business. The Economic Development Plan and the Provisions that are included within, would protect information that is received by the City. The issue of whether or not F2E has requested confidentiality is probably moot. The Economic Development Plan says that if the City receives the information, that information is to be kept confidential.

Mr. Turman said whether or not confidentiality is requested or not is probably not that important in this issue. It's our understanding that F2E did request the information remain confidential or at least was under the understanding that if they provide information to the City the City would keep that information confidential on their behalf. The problem we see with regard to that issue is that the City of Gering may not have authority to lift those confidentiality agreements. F2E has the benefit of those agreements, they are the parties that are benefited by the confidentiality so if the City were to try to lift those confidentiality provisions, and require City staff to divulge that information, it could expose the City to liability or any damages that might occur to F2E as a result. He said it's important to keep that in mind as you (the Council) are thinking about whether or not you want to authorize lifting those confidentiality agreements and the fact that the City may not have any actual authority to do so.

Councilmember Gibbs said the question he has is that they have come to the understanding in the last few days that this request came from within the City, not at the request of F2E, he doesn't see any documentation saying that F2E made this request. If he did he would understand Mr. Turman's point; if it was done within the City he doesn't see the point. Mayor Mayo said as he understands Mr. Turman, if F2E acted accordingly and provided information with the understanding that the information they were providing or sharing with the City, whether Council or staff members, was to be held in confidence that they come to that reasonable expectation that it would be held in confidence regardless of whether they asked for the confidentiality agreements or not, and thus that could expose them to potential harm. Mr. Turman replied that's exactly right. He said it's really an issue; these sorts of cases are factually-based and little differences make a big difference when it comes to a liability issue like this. What the Mayor indicated is essentially a cause of action in Contract Law called Promissory Estoppel which is that they had an understanding that we would keep it confidential. Whether it was an email or any actual documentation one way or the other is probably not relevant. If they had a reasonable belief, reasonable expectation of confidentiality, we're entitled to give that to them.

Councilmember Gibbs said he doesn't question that we should get all the details, we shouldn't because it is important and for competitive reasons, he can see why shouldn't have that. But the fact that we were not even aware that any discussions were taking place and that could have been presented in executive session where we are sworn by law to confidentiality, and that's where we weren't given any information. Mr. Turman said The Economic Development plan does also have a provision that deals with what information the City Council may come to know. Under section 6 sub 4 it says the City Council shall generally not be presented with any information which has been determined by the Program Administrator or the Application Review Committee as confidential. The plan does specifically state that Council generally will not be receiving any information from a qualifying business. Councilmember Gibbs said that's LB840 and if they haven't applied for LB840...Mr. Turman said as a qualifying business you're entitled to the provisions, not necessarily just applicants.

Councilmember McFarland said it never occurred to her whether it was legal or not legal to have employees sign these but as she's learned tonight the personnel policies already cover it, so this was over and above and beyond and really wasn't something we had to do. She thought this would be a gesture of good faith for our constituents and would indicate to them that we will try to be more transparent and we will open the door a little bit so these folks don't have to walk home in fear tonight that they may be disciplined.

Tom Cozad addressed Council and said this company isn't ready to build, before they can build they have to go to the City and apply for a building permit and they have to talk to the waste treatment plant, etc. He can't see what all the turmoil is about. He thinks feathers were ruffled because Council wasn't informed; he thinks we're putting the cart before the horse.

Councilmember Gibbs said if they decide to come to town tomorrow and if they buy a piece of land that's zoned heavy industrial, they can build there. We can't legally deny a building permit if they're building a structure in a zoned area where you are permitted by right to build that type of structure; it would have been too late to stop it at that point.

Mr. Anthony stated that this isn't about a packing house; a lot of time and money was spent on this when TCD already had all the due diligence that was needed. Neal Smith said this has nothing to do with confidentiality, it has to do with the direction of the City; who we elected should know what's going on.

Vicky Weber, 665 D Street, asked when the confidentiality agreements were signed. Councilmember McFarland replied the first five were signed in October and the last five were signed in December. Mrs. Weber said her husband talked to the Mayor after that and that's not what the Mayor told him. She said there is a lot of ambiguity and stated the Mayor was twisting what they talked about; she's disappointed in what she's seeing.

Councilmember Smith said he was at the TCD meetings and there was a lot of issues but the main reason was they (F2E) was 80 million dollars short to back their facility, so that is why TCD chose at that time...because all of their financial paperwork showed they were short on funding. As you know financial situations do change, there could be other investors. Apparently their financial picture changed at some point. Neal Smith replied wouldn't you have liked to have known at some point though? At some point you keep your board abreast of what's happening. When you have this kind of secrecy you're going to have people showing up at meetings like this.

Councilmember McFarland called the question:

Mayor Mayo said we have a motion to consider releasing employees from the F2E confidentiality agreement.

The Mayor asked if Councilmember McFarland wanted to refine the motion.

Councilmember McFarland stated her motion would be for the Council to release the ten employees from the confidentiality agreements, the five salaried that signed in October

and five hourly people that signed on December 23. Councilmember Gibbs asked for an amendment that we would release them from confidentiality agreements required by the City for information that was not specifically prohibited from being released by the company involved. Councilmember McFarland accepted the amendment.

Further discussion: Mr. Turman interjected that the issue of whether the City has any authority to release these agreements is pretty doubtful. He stated that our job is not to take an issue or stand; we're trying to protect the City from liability. The Economic Development Plan was voted on by the voters of the City of Gering; they approved it and the only people that can amend, revise or change the provisions of it are the voters of the City of Gering. Councilmember Gibbs said but at this point in time this does not relate to an LB840 project which is what Mr. Turman is specifically referring to. Mr. Turman said what he's referring to is the Economic Development Plan which applies to any qualifying business, whether they've applied or not.

Councilmember McFarland stated that this is ridiculous, she was trying to provide an opportunity for ten people and make a gesture to the public and show that maybe we are more transparent than we pretended to be and take a positive stand for our employees.

Mayor Mayo stated the question has been called, the motion has been made, revised, accepted and re-made. The Mayor called the vote. "AYES": Christensen, Gibbs, McFarland, Shields. "NAYS": Smith, Allred, Morrison, Cowan. Abstaining: None. Absent: None. Mayor Mayo stated due to a split vote the motion dies.

Councilmember Gibbs called for the point of order. He said the Mayor has to vote; it was a tie vote and there is a full Council present. Mayor Mayo said the Mayor does not need to vote, the statute says it can die for a lack of second, had it passed he would have asked a member on the affirmative side of that motion to reconsider due to the legal ramifications that may fall.

Councilmember Gibbs asked for a legal opinion. City Attorney, Jim Ellison, said the Mayor can vote if the Mayor wants to vote to create the majority either way but there is no requirement that the Mayor has to vote.

4. Consider approving Resolution 4-1-14 – A Resolution pertaining to F2E and affirmative exploration by staff

The Mayor asked for a motion to introduce Resolution 4-1-14. Motion by Councilmember Gibbs, second by Councilmember McFarland

Discussion: Councilmember Gibbs read the resolution...

"Be it resolved by the Gering City Council that on April 14, 2014 that we offer our thanks to F2E for their possible interest in locating in the City of Gering but feel that their proposed facility would not be a good fit for the community, or be of benefit to our constituents.

NOW, THEREFORE, BE IT RESOLVED BY

The City Council of the City of Gering, Nebraska, that the City of Gering's Mayor be authorized and directed to proceed with signing a resolution to further direct staff to cease any further exploration into the project and terminate any further contacts with F2E regarding this proposed project".

Councilmember Morrison asked Councilmember Gibbs how does he know that it's not a good fit for the community. Councilmember Gibbs replied based on the information he saw at the meetings in Scottsbluff last year, unless the project has changed totally and we don't know that, we have no indication that it has. Councilmember Morrison said we don't have any indication it has not though. Councilmember Gibbs said

based on the lack of information we have, he's concerned. Councilmember Morrison said let's get some more information; let's be more open-minded, we can always say no.

Councilmember Christensen said Councilmember Gibbs was quoted as saying there is very little interest by the Council to see this happen; how does he know there's little interest by the Council without asking. Councilmember Gibbs said that's what they're discussing right now; the resolution is here to vote for or against. Councilmember Smith said he thinks the zoning change we're going to vote on next protects the City; it protects the City from any kind of packing plant that may come in. He asked that we are allowed to get the information to the Council and not run scared from this; let's look at the information. The zoning change protects the City, people and Council and gives all the protection we need. He said let's vote this down and move on to what's important.

Monnette Ross, 2240 20th Street in Gering, addressed the Council. She asked if it is true or not true that if they decide to build outside the legal limits of Gering, if they decide to build in the County, we don't have a thing to say about it, is that correct or not? Mayor Mayo said only if they build in our two-mile zoning district. She said so they can build outside that two miles and this whole thing would be moot; as it stands right now we do not have the land or property in that area that could be conducive to their needs nor is our sewage set up to handle their needs. At this point over two miles outside of town is a whole bunch of hot air and we have nothing to do with it. Councilmember Gibbs said they couldn't build out in the middle of nowhere because they don't have sewer facilities.

Councilmember McFarland called the question.

Mayor Mayo stated we have a motion on the floor to introduce and authorize the Mayor to sign resolution 4-1-14, a resolution pertaining to F2E and affirmative exploration by staff. Councilmember Gibbs changed his motion to "approve" instead of "introduce", Councilmember McFarland agreed.

Further Discussion: Mayor Mayo stated that as he understands it, it is authorizing him to sign the resolution telling them we don't want them here and mail it off. Councilmember Gibbs stated that is correct.

The Mayor called the vote. "AYES": Gibbs, McFarland, Shields. "NAYS": Smith, Christensen, Allred, Morison, Cowan. Abstaining: None. Absent: None. Motion failed.

5. Proposal for amendment to Zoning Code 8.203

Councilmember Gibbs moved for a proposal for amendment to Zoning Code 8.203. Seconded by Councilmember Allred.

Discussion: Councilmember Gibbs said he requested this be amended in the current City Zoning currently under the heavy industrial zoning. If someone were to come to town and buy a piece of land currently zoned heavy industrial they could build a packing plant there without any comment whatsoever as far as the Council approving or denying it. The amendment will change it from a use permitted by right to a use permitted by special exception which would require an affirmative vote of the City Council.

Dick Ross, Chairman of the Gering City Planning Commission, said he has served on the committee for nearly 20 years. He stated that they have always been involved in at least discussion concerning amendments in zoning. They have been asked for input because they have to deal with those things before they come to you as a City Council. Any exception to a zoning regulation has to be done by application and then reviewed by the members of the Planning Commission. He asked why weren't they involved in this proposed amendment so they might have known what is going to happen because in the future they might have to deal with it.

Councilmember Gibbs said this was considered time sensitive. If someone were to purchase land tomorrow and we had not taken action we could not do anything about it. So by doing it now if someone should come to town and want to establish a packing plant in an area where we don't want it but it's currently zoned heavy industrial, we would at least have the ability to review that project and accept or reject it.

Councilmember Allred asked Mr. Ross if he's opposed to this change. Mr. Ross said yes because it will discourage the possibility of development. Councilmember Gibbs asked why. Mr. Ross replied somebody interested in building... if people see that we are putting further restrictions on what someone might want to do that would help us as a City they're going to take a closer look and say let's go elsewhere, let's go where they're more willing to work with us. Pursuant to this entire discussion tonight, we're discouraging anything.

Mayor Mayo asked if he could clarify. If the Council approves this amendment to the resolution is it of your opinion that another industry that may or may not be questionable coming might look at a spot change in the zoning to prevent them from coming in as well. Mr. Ross said he thinks it could possibly happen. Councilmember Gibbs said he disagrees totally. Mr. Ross said he thinks this amendment; he respects Councilmember Gibbs, but this whole thing has been knee-jerk and it has been driven by Facebook and coffee shops and they're going to break ground tomorrow. Do we want to encourage things or do we want to just fight and the City of Gering never grow? Councilmember Gibbs said he has always favored economic development in this community but we have to weigh the economic development with the quality of life we have here. There are certain things that do not fit well in our community. He's not willing to sacrifice our quality of life to get a few jobs. That's why he wanted the opportunity to look at this project before it comes here and have the ability to either approve or reject it. If we do nothing to change the zoning allowed in that heavy industrial zoning then we have no control. Mr. Ross said tomorrow night is the Planning Commission meeting, this could have been put on the agenda for tomorrow night's Planning Commission meeting. It could have been put on last month's agenda but we didn't have a meeting last month. Councilmember Gibbs said we didn't have an issue last month. Mr. Ross said the Planning Commission could have dealt with it tomorrow night and then at the next Regular City Council meeting you would have had a proposal from the Planning Commission to approve or not; and that would only be two weeks away.

Councilmember Allred said he agrees with Councilmember Gibbs in this instance. He apologize that it wasn't able to come to the Planning Commission. But he guarantees Mr. Ross that F2E is watching closely at what happens tonight. If they had the desire to come here, and for lack of a better term, stick it to us, they could do exactly that and buy a parcel of land and we wouldn't be able to do anything about it in the two weeks that it would take to go through Planning Commission and bring it back to Council. I see nothing in this amendment that could hurt another business that has a desire to come to the City of Gering. It's directly related to packing plants. Mr. Anthony said they can also change the zoning anytime they want.

Councilmember Cowan said he wants to see the study; he wants to see this particular zoning change go through tonight so we can protect the City of Gering; that's all we're here for is to protect the City of Gering.

Mayor Mayo added that he spoke with Twin Cities Development about some other potential projects they're working on and this will have a direct impact on one of those projects.

The Mayor stated: With that the motion has been made to change or amend zoning Code 8.203; motion by Councilmember Gibbs, seconded by Councilmember Allred.

Further Discussion: Councilmember Gibbs stated he doesn't see how this would negatively impact any project that might be proposed; all it says is we have to vote on it.

The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

6. Develop a process to help ensure communication between the City Administrator, staff, and elected officials

Councilmember McFarland said she requested this item; after the last hour can you see why? She doesn't have an answer to this but she thinks there have been enough issues and enough problems that have come to light this last month and a lot of things that have come out tonight. She thinks we need to look at this; she does not know what the answer is. She doesn't know if the City Administrator should come up with a process and then come back to Council, if they want to send it to a committee, if they want to have an attorney write the process, but she'd like to hear from the other seven sitting at the table.

Councilmember Allred said he doesn't think this is something that can be resolved this evening; he recommends it go to a committee at best. Councilmember Gibbs suggested the Administrative Committee. Councilmember McFarland said Admin would be happy and asked Councilmember Allred if he'd like to make that as a motion. The Mayor stated that the Personnel Committee would be the one that would directly affect it the most. Councilmember McFarland said she thinks Admin. Councilmember Cowan asked if they'd have this done by the end of the month; Councilmember McFarland replied no. She said the Personnel Committee was started specifically to help the Mayor and the Administrator with personnel decisions that were difficult and challenging; she thinks that committee has only met three times since its inception. Administrative deals with process, policy and contract, so she'd go Admin. Councilmember Gibbs said it's the Mayor's prerogative to send it where he wants. Mayor Mayo said based on what's listed in the Personnel handbook he would recommend it go to the Personnel Committee, but whoever you choose.

Councilmember Morrison moved that this process be turned over to the Personnel Committee. If any further study or work needs to be done on it, it can be run in front of the Admin Committee. Seconded by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

7. Consider action on Consolidated Interlocal Cooperative Agreements with Scotts Bluff County for Communication Services including 911 Emergency Services

Councilmember Cowan moved to approve the Interlocal Agreement with Scotts Bluff County for Communications Services including 911 Emergency Services. Second by Councilmember Christensen.

Discussion: Councilmember McFarland said she's still not comfortable with this. The things she has problems with are small in number and miniscule, but she's concerned if we get in a perpetual agreement they will never get discussed. Councilmember Morrison asked that Mr. Masterton give the Council a definite amount of money and a timeline of what we're going to have to pay and when we're going to have to get that done instead of an open-ended contract.

County Board of Commissioners Chairman Mark Masterton addressed the Council with Commissioner Marker, Communications Director Ray Richards and their attorney Phil Kelly who is representing them in this issue. He stated that Council received a letter that they approved last week outlining the history of what's going on. He said Scotts Bluff County has an interlocal agreement with all the communities in Scotts Bluff County except for Gering and Minatare. The County Board wants to work with the communities in the county to provide a comprehensive communications center for all the agencies in the County. He said the County has no plan to terminate the 911 Emergency Service for any portion of Scotts Bluff County. He said it's budget time and we have decisions to make that are going to affect all

the communities in the county and we don't believe we should be entering into a separate agreement with the City of Gering and the Village of Minatare simply because we have nine other communities that have already signed the agreement and they're going to stick with that agreement. What they're asking for tonight is an up or down vote simply because it is budget time and we have to move on with this issue; basically you want to sign the agreement or you don't.

Councilmember McFarland said the agreement says the Advisory Board (and she interprets advisory to be "advice") is responsible for adopting procedures for the purchase, acquisition and upgrade of equipment, adopting a budget to be recommended to all political sub-divisions. She asked doesn't the county already have procedures; what if the Advisory Committee decides they don't like yours? As far as the budget goes, Ray would be the only Department Head over there that doesn't do his own budget and take it to the County Commissioners. Why would he need the Advisory Board to prepare his budget?

Chairman Masterton said at the request of many of the communities involved, we decided it would be best to have the Advisory Board. The Advisory Board comes up with the list of equipment and the costs and they recommend to the various political sub-divisions that they represent. That doesn't mean that you have to pass whatever the Advisory Board comes up with; however if you don't pass it, that means you passively agree to the fact that you don't want to be in the Communications Center anymore. Councilmember McFarland says the agreement says "adopting a budget to be recommended to all political sub-divisions" it by-passes the Commissioners. She would think he'd be more concerned about that than she is. He said they have their share they would be paying. Councilmember Smith said that's not the overall budget, that's just the equipment; the only thing they have say about is the equipment. Councilmember McFarland said it doesn't say that; Chairman Masterton replied it does. Phil Kelly said it's for equipment, software, maintenance agreements, license agreements, etc. Mayor Mayo said that has been specified through the entire contract. Commissioner Marker said it has only been about the equipment, not the operations.

Mayor Mayo read Paragraph 5 of the County's agreement:

5. ADVISORY BOARD DUTIES. The Advisory Board shall be responsible for adopting, maintaining and amending procedures governing the purchase, acquisition and upgrade of equipment to operate the Communications Center, adopting a budget for recommendation to all political subdivisions participating in the Communications Center; and any other things necessary to purchase, acquire and upgrade equipment for the Communications Center and backup system. All actions of the Advisory Board shall require an affirmative vote of the majority of votes when a quorum of the Advisory Board is present.

City Attorney Jim Ellison said in paragraph 12 there is a reference to the software, licensing, etc. As he reads it's, this agreement not only covers equipment, but licensing, software, anything that is used to run that equipment.

Mayor Mayo said if a community doesn't vote for the approval, he thinks there are eleven in the county, if six of them vote not to approve the budget are they automatically out of the contract, the other five carry on? Phil Kelly replied that if the Advisory Board does not adopt a budget by a majority vote then they'll have to go back to work, they have to come back with a different budget that they do adopt by a majority vote. Mr. Kelly said if the majority of the Advisory Board quorum doesn't vote for a budget, there won't be a budget; they'll have to redo it. Councilmember Gibbs said the Advisory Board could vote for the budget but the communities might still reject that budget. Mr. Kelly replied the Advisory Board is formed with the idea that they'll have input from their communities and Councils; that the person you appointed will report back to you and get your input and take your information back to the Advisory Board in public session under the Open Meetings Law and hopefully come back with a consensus, a majority vote. Ultimately if they adopt a budget and if two or three or four communities don't pay their share, the agreement provides they can be terminated from the Communications Center, for non-emergency services. Councilmember McFarland asked if they can make sure that all the cities receive notice of when the meetings are. Mr. Kelly replied yes.

Councilmember McFarland said she's concerned that it says the Advisory Board reports to the County, which is fine, and whatever they do is reported to the cities within seven days and the cities have 15 days to request to be on the County Commissioner agenda. So if we don't agree we can come and say we'd like to discuss something. She interprets that to mean if you don't do anything silence is acceptance. She thought that wasn't appropriate in a contract; to have silence indicate acceptance. Mr. Kelly said remember you have a member on the advisory board, that person is your representative. Hopefully that person will be talking with you and reporting to you. Councilmember McFarland asked the City Attorney for his opinion. Jim Ellison stated that if the Advisory Board is meeting, and six people show up out of 11 and four out of the six vote to adopt a budget that means it carries and it binds all communities. And if the communities don't pay their fair share, according to the way this agreement is prepared and worded, then they're going to have to opt out and they won't be provided with the service. The way it is written it only requires a majority of those who show up not a majority of the people that are on the Advisory Committee. Mr. Kelly said the simple solution for that dilemma is not to appoint anybody to represent Gering who isn't going to show up. The intent is a good faith, cooperative situation so that everyone will show up and contribute so as a whole we can have a better Communications Center than can be done independently.

Councilmember McFarland asked why we couldn't get to a final agreement. Mr. Kelly stated that we had negotiations on both sides, sometimes those result in an agreement sometimes they don't. His client decided that after a good faith attempt to resolve the contract language, there was an agreement that the County had with all the communities except Gering or Minatare, and it was time to move forward. He doesn't think he or Jim would want to talk about the negotiations. We tried to reach an agreement but we could not; it was budget time so we had to move on. He stated we invite you to adopt the agreement the other communities adopted.

Councilmember Gibbs asked if the agreement provides for an alternate delegate with voting authority; it says you'll send an Advisory Board Member. Mr. Kelly replied that it doesn't say that specifically that he recalls, but the County's not going to care if the City sends an alternate to make sure you're always represented.

Chuck Cowan addressed Council and asked what the reason is for not voting for this; we don't have a second chance to do this. That system was created for the whole county. If you want to do a system for Gering it's going to be a huge tax burden for Gering.

Councilmember McFarland added, in part, that she thinks we all agree we need a communications Center, the County has provided this service for decades in a responsible manner, neither of us would ever deliberately put a resident in jeopardy wherever they live, we must preserve the safety of every County resident, no one City would ever choose to start their own dispatching center, the County would be hard-pressed to pay for the total cost of the upgrade and they needed financial assistance, and we have to make sure that we never let this happen again.

Mayor Mayo stated that we have a motion from Councilmember Cowan, second by Councilmember Christensen to accept the Interlocal Agreement with Scotts Bluff County for Communications Services including 911 Emergency Services.

Further discussion: Chairman Masterton reminded the Mayor that we need to include the money. He said the current year 2013, is \$59,024.21. Ray Richards stated that the Advisory Board has put together a proposed budget of \$66,729.72 for this budget cycle; Gering's portion is \$15,347.83. That pays for service contracts, bay stations, Geo Com, Code Red, Emergency Medical Dispatch, Single Point of Failure for Recording, Micro-key system, etc.

Councilmember McFarland asked about the original amount of \$492,000 plus. We were told that was the best estimate projection of what they'll need. Mr. Richards said that amount was a function of Excel; the number was moot; we can't see five years into the future. Mr. Richards said that was just an estimate. He clarified that they are not expecting the City to pay 23% of that figure.

Councilmember McFarland asked if Councilmember Cowan and Christensen would be willing to draw back their motion so Council can go into executive session. She stated she thinks we're being double-billed. Councilmember Christensen responded no and called for the vote.

Councilmember Allred said one of the points of the Advisory Board is that the amount given tonight (handed out) is an estimated budget that they would like to go into discussions about with a member of each community to adopt; this is not set in stone. They have no idea what those numbers are going to be in the future, but we do know what they spent in 2013/14 with the percentage of what Gering's share is which is the \$59,024.21. He thinks we need to move on; agree to pay that and appoint someone to this Advisory Board and move on.

Mayor Mayo asked Councilmember Cowan if he wanted to withdraw his motion or move forward; Councilmember Cowan replied keep moving forward.

City Attorney Ellison asked the Mayor if he could make one other comment. Mr. Ellison asked about an email between Mr. Kelly, Mr. Richards and Mr. Warner; it had something to do with the Sleuth system and whether it's going to be abandoned and adopting a different system. He said Mr. Richards noted in the email *"In our initial invitations to vendors we are being introduced as an agency beginning to look for a new RMS Cad Platform. As we move ahead we will use a Department of Justice template for scoring purposes. The initial response from these vendors indicates the investment of \$400,000 to \$700,000 depending on options desired or demanded by the agencies."* Mr. Ellison asked if that is something that has been discussed tonight and is this something the City of Gering will have to consider in the future.

Mr. Masterton replied that it has not been discussed tonight and it would be a decision that would have to be discussed by the Advisory Committee. City Attorney Ellison asked about upgrades to the backup system in Scottsbluff and is that included in these figures?

Mr. Richards stated that the system in the EOC Building in Scottsbluff is a very much smaller set of equipment for use of an incident so they can have their own dynamic group over there. It can be used for Road barricades or traffic signals and other situations. They just spent sixty-some thousand dollars to upgrade that equipment. They just used it for Severe Weather week and it works fine. It's not designed to replace the current consolidated communications center; it's not designed for that load of calls and radio traffic. If that building was to stand up to a certain incident, and that EOC was operating, they could come up with a smaller system to work over there for certain emergencies.

Mr. Richards said he can't speak on behalf of the Advisory Board; they may decide to keep it. Mayor Mayo said assuming worst case scenario and we have to change out and repurchase, this is the formula you would use, 23% of \$500,000? Mr. Richards replied yes. Councilmember Gibbs said this is one of the problems he has had with this agreement; we are delegating some of our budgeting and taxing authority to this Advisory Board; when they set the budget we have to take it or we lose our 911 services. Councilmember Allred clarified that we won't lose 911 services and that's why we have someone on the Advisory Board; they will be communicating with the Council. It's not going to be done behind closed doors.

Mr. Masterton noted that the County pays for the facility, the employees and overhead and they also pay their fair share on what the Advisory Board comes up with. Councilmember Gibbs said he will vote for the agreement tonight, not because he thinks it's a good agreement, he thinks the agreement stinks. He doesn't think the County has ever negotiated in good faith and it was presented on a take it or leave it basis and it has changed virtually nothing since the beginning.

Councilmember Smith asked the Mayor to call for the vote.

Mayor Mayo stated the vote was called; we have a motion to accept the Interlocal Agreement with Scotts Bluff County for Communications Services including 911 Emergency Services...

Additional comment from the audience: Teressa Greenough, 305 Margaret Drive, asked to comment; the Mayor allowed her comment. She stated that there is one entity missing and that's Valley Ambulance; does Scottsbluff pay their part of the service? The Mayor replied it's his understanding they are a separate entity and they'll be included at the end of their agreement. Councilmember McFarland replied to the comment; Councilmember Smith stated to the Mayor that the vote has been called.

The Mayor asked Councilmember Cowan if he wanted to add the \$59,024.21 to his motion; he replied yes as did Councilmember Christensen for seconding the motion. The Mayor called the vote. "AYES: Smith, Christensen, Gibbs, Allred, Shields, Cowan. "NAYS": McFarland and Morrison. Abstaining: None. Absent: None. Motion carried.

8. Approve appointment to the Scotts Bluff County Communications Center Advisory Board

Motion by Councilmember McFarland to appoint Ben Backus to the Scotts Bluff County Communications Center Advisory Board, second by Councilmember Gibbs.

Discussion: Councilmember Gibbs suggested we appoint an alternate at the same time; he thinks it should be someone from the Council. The Mayor asked Councilmember Christensen if he would be an Alternate; he accepted. Councilmember McFarland withdrew her motion.

Motion by Councilmember Gibbs, second by Councilmember Smith to appoint Ben Backus to the Scotts Bluff County Communications Center Advisory Board with Councilmember Christensen being the Alternate. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, Shields, Morrison, Cowan. "NAYS": McFarland. Abstaining: None. Absent: None. Motion carried.

REPORTS OF STAFF, BOARDS AND COMMISSIONS AND STANDING COMMITTEES:

1. **Department/Staff Reports**
Comments or reports were given by Darrell Vance and Diane Downer
2. **Committee Reports & Council Member Comments:** None
3. **Administrator's Report:** Administrator Danielzuk stated that LB1092, Highway Bonding Bill, went down in defeat; it fell two votes short.
4. **Mayor's Report**
 - 1.) For quite some period of time, I have had a concern that "Council Committee Minutes" have not been circulated between the participating Committee Chair(s) and the rest of the Council Members. There has also been disparaging comments from one (1) or more Committee Chairs "Staff should not be taking Committee minutes and sending them out, the Committee Chair(s) should be doing that "

Since I have learned that important past committee minutes/discussions could not be located when needed and some Committee Chairs have not been sharing information from their committees to the balance of the Council or the Mayor and Committee meetings are advertised making the minutes a part of the public record, these changes are being made as we move forward.

 - A.) The Clerk or Clerk's designee will attend all advertised Committee Meetings.
 - B.) The Clerk or Clerk's designee will take minutes of all advertised Committee Meetings.
 - C.) Since the meetings are of general informational nature, the minutes will be emailed to all Council Members and printed for a record for future review and research as any other City document.
 - D.) They will be placed on the consent agenda so they can be filed for public record
 - E.) They will also be posted on the City Web Site for public review.
 - F.)
- 2.) July 22, 2013 a memo was sent to all Council members and City Staff regarding scheduling of committee meetings.

Prior to the end of 2012 committee meetings were scheduled through the Mayor for any number of reasons, some of which included, but are not limited to: 1) assistance to ensure appropriate documentation was obtained and available to all committee members and staff, 2) making sure all committee members and staff understood the purpose of the committee meeting, 3) meeting the committee expectations of being properly prepared and reducing friction between the elected committee members and staff.

This is in the "City of Gering Code of Conduct for Elected Officials" specifically addressed in "**Council Conduct with City Staff**" and "**Council Conduct with One Another.**"

- 3.) Recently there has been a Council Member or two(2) who have also stepped well over the boundaries established in the "City of Gering Code of Conduct for Elected Officials" addressed in "Council Conduct with City Staff," specifically listed in those bullet points as well as the boundaries specified in the Nebraska State Statutes. (I will provide some of those statutes to Council if requested.)
- 4.) Those members of Staff and/or Council victimized by your conduct could seek any number of actions ranging from Council sanctions to legal recourse.
- 5.) It appears that a Council Member has recently made a public issue regarding the current procurement policy making disparaging remarks, about the policy and Staff who conducted themselves under the current policy. Since clamor is being made it should be noted the procurement policy was rewritten in 2000 condensing a 2 lb document to 6 pages. It has twice been rewritten, 2004 and again in 2008. At least 75% of this current Council participated in both rewriting endeavors.
- 6.) At the same public meeting, in which the Mayor and majority of Council members were "asked" not to attend, a political candidate inquired why the City owns rental properties (the former Weinhold homestead) and why the rental home(s) were not advertised for rent via RFP.

Apparently this candidate either didn't like the answer I had provided about a week earlier OR the candidate was attempting to make "political hay."

To ease the research burden on the "hosting" Council Member, the answer is still the same today as it was when I first answered this question and when the land was purchased.

The homestead was purchased at "the appraised fair market value." The purchase was made in an open meeting of the City Council. The contract includes the balance of the farmstead to be purchased at the appraised price at the time of the initial contract, pending a successful environmental analysis as part of the sighting process. Again this was discussed and approved at an open meeting of the City Council.

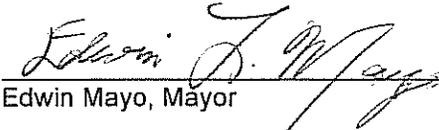
The rent(s) charged for any of the homes on the farmstead are based on fair market value. The tenants are selected from those who answer the news paper advertisements listed in the "home rental" section of the local news paper(s) as is any other rental property list listed with a real estate property manager. Basically the first person or persons who can meet the deposit, rent and rental contract requirements may rent the home. Just like any other privately held rental property.

ADJOURN

Motion by Councilmember Morrison to adjourn. Seconded by Councilmember Gibbs. There was no discussion. The Mayor called the vote. "AYES": Smith,

Christensen, Gibbs, McFarland, Allred, Shields, Morrison, Cowan. "NAYS": None.
Abstaining: None. Absent: None. Motion carried.

Meeting adjourned at 9:41 p.m.


Edwin Mayo, Mayor

ATTEST:

Kathleen J. Welfl, City Clerk

