

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,
April 28, 2014**

A regular meeting of the City Council of Gering, Nebraska was held in open session on April 28, 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, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl and City Attorney Jim Ellison. Absent was Councilmember Shields. 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 Councilmember Allred**
2. **Roll Call**
3. **Excuse Councilmember absence (None)**

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.

Lisa Betz, a business owner, member of the media and a member of the Gering Downtown Development Committee, stated in part that there might be strong disagreement but she asked each person present who plans to speak to keep an air of civility. When there is public discord in these meetings and in the news media, it reflects a negative light on our community. She added that business people do read the media reports from potential communities before making decisions about whether to locate there. In today's wired world, stories are posted online and stay there forever, easily searched and read by anyone thinking about coming to Gering. Not only do Gering's public battles weigh negatively against our future business opportunities, but right now there are people on the eastern part of the state considering whether to give Gering a \$350,000 Development Grant. She asked everyone to keep these things in mind before speaking. She stated that everyone can express themselves with tact, decorum and respect for each other and to please speak with an eye toward the future of Gering.

CONSENT AGENDA:

1. Approve minutes of the April 14, 2014 Regular City Council Meeting
2. Approve claims and financials
3. File for record Member Resolutions for Appointments – Representative and/or Alternate Representative to the MEAN Management Committee
4. Twin Cities Development Director's Quarterly Report – January-March 2014

Claims: 4-9-14 to 4-22-14

AIRGAS USA LLC \$36.91 WELDING SUPP., ALLO COMMUNICATIONS \$1,089.28 TELEPHONE/INTERNET CHRG., AM. LIBRARY ASSOC. \$17.10 PROGRAMMING NATIONAL LIBRARY WEEK, ANTIGUA GROUP INC. \$979.99 MENS SHIRTS, BAKER & ASSOC. \$640.00 BALER BUILDING FOOTING REVIEW, BAVCO VALVE CO. \$191.40 BACKFLOW PARTS, BENZEL PEST CONTROL \$102.90 PEST CONTROL, BIG MACK \$753.80 LABOR/MATERIAL FOR OPERATING, BLUFFS SANITARY SUPPLY \$149.12 TOILET PAPER/PAPER TOWELS, BRIDGESTONE GOLF \$292.85 GOLF HATS, BROADWAY OFFICE CENTRE \$1,437.59 COPY PAPER, BROWN/NELSON ELECTRIC \$107.42 HEAT PUMP FAN MOTOR, CALLAWAY GOLF CO. \$2,798.50 GOLF BALLS, CARR-TRUMBULL LUMBER CORP. \$77.58 SIDING NAILS FOR 525 O STREET &, CELLI'S CYCLE CENTER \$14.95 GOLF CART MAINT., CHARTER COMMUNICATIONS \$427.94 TV/INTERNET CHRG., CHEM DRY \$896.20 CLUBHOUSE CARPET CLEANING, CITY INSURANCE FUND \$138,630.74 HEALTH PREM 125, CITY OF GERING \$175.00 WELLNESS GOLF, CITY PAYROLL TRUST \$3,643.72 FSA MEDICAL 125, CLAUSE ALLEN \$31.00 REIMBURSE FOR CDL LICENSE, CNA SURETY \$375.00 MEJIA BOND, COMPANION CORPORATION \$320.00 CATALOGING SUPP., CONNECTING POINT \$62.00 COPIER CONTRACT SRV., CULLIGAN WATER CONDITIONING \$26.20 SALT, CUMMINS CENTRAL POWER \$671.30 EQUIPMENT RPR., CURVES \$36.38 WELLNESS, DALES TIRE AND RETREADING \$105.75 G6 FLAT TIRE, DHHS DIVISION/PUBLIC HEALTH \$18.00 WATER LAB, DISCOVER BANK \$374.41 GARNISHMENT, DOOR CLOSER SRV. \$165.000

RPR. TO FRONT DOOR, DUTTON-LAINSON CO. \$1,398.10 INSULATOR, ECOLAB \$82.00 PEST CONTROL, ENVIRO SRV. INC. \$1,028.00 WASTEWATER LAB, FASTENAL CO. \$56.94 RPR. ON G10, FIELD & STREAM \$19.97 MAGAZINE SUB., FIRST STATE BANK \$355.32 IBEW UNION DUES, FLOYD'S SALES/SRV. \$5,244.50 RPR. FOR G8, FOOTJOY \$4,085.55 GOLF SHOES, FORT DEARBORN \$110.08 FIREFIGHTER LIFE INS., FYR-TEK \$118.43 SEWER JET HOSE, GALE \$146.03 BOOKS, GALLS/AN ARAMARK CO. \$103.56 ELBOW/KNEE PADS, GERING CITIZEN \$754.15 CONDENSED MINUTES OF 3-10-14, GERING VALLEY PLUMBING/HEATING \$1,089.80 FURNACE RPR., HD SUPPLY WATERWORKS LTD \$659.50 METER PURCHASES, HEILBRUN \$1,663.05 BATTERY, ICMA ELECTRONIC RETIREMENT \$717.69 ICMA CITY ADMIN., IDEAL LINEN SUPPLY INC. \$267.25 MAINTENANCE SUPP., INFINITY CONSTRUCTION INC. \$75,290.00 FINAL PYMT. FOR TRAINING BUILDING, INGRAM LIBRARY SRV. \$1,328.80 BOOKS/PERIODICALS, INTERNAL REVENUE SRV. \$38,605.58 FED/FICA TAX, INTERNATIONAL CODE COUNCIL \$54.00 INSPECTION GUIDE, INTRALINKS TECHNICAL SOLUTIONS \$899.99 COMPUTER SUPPORT, JOHN HANCOCK USA \$13,335.76 JH RETIRE 6%, JOHNSON CASHWAY CO. \$226.22 HOSE FOR SHOP, KAREN'S CLEANING \$425.00 JANITORIAL SRV., KARSTEN GERING LLC \$57,444.40 MCKINLEY PROJECT HOME-1460 6TH STREET, KATHLEEN A LAUGHLIN \$165.00 GARNISHMENT 2, KAWASAKI KORNER \$34.89 SAFETY SWITCH, KLASSERT SAM \$1,136.77 INSPECTION CONTRACT HOURS, KOVARIK, ELLISON, MATHIS \$2,888.75 RETAINAGE - CITY ATTORNEY, KRIZ-DAVIS CO. \$4,169.04 LIGHT FIXTURES, LL JOHNSON DISTRIBUTING \$510.65 SPRINKLER RPR., LOGOZ \$90.00 JR. FIRE PATROL AWARDS, MARRIOTT CORNHUSKER \$984.00 COWAN HOTEL MIDWINTER CONFERENCE, MATHESON TRI-GAS INC. \$105.39 AWS WELDING MIX, MEAT SHOPPE \$14,766.98 MANAGEMENT CONTRACT, MENARDS \$220.32 RPR., MG TRUST CO. LLC \$8,466.23 MG-T POLICE, MIKE'S TREE SRV. \$780.00 STUMP REMOVAL, MONEY WISE OFFICE SUPPLY \$265.34 BINDERS,PRINT CARTRIDGES, NATIONAL INS. SRV. \$968.92 VISION INS., NE CHILD SUPPORT PYMT. \$796.72 CHILD SUPPORT 1, NE DEPT. OF REV. (PR) \$10,312.10 STATE TAX, NE DEPT. OF REVENUE \$66,422.90 MARCH SALES/USE TAX, NE PUBLIC POWER DISTRICT \$127.17 UTILITIES, NEBRASKA LIBRARY ASSOCIATION \$370.00 NLA MEMBERSHIP DUES, NE MUNICIPAL POWER \$3,742.50 DUES, NEBRASKALAND TIRE \$52.48 OIL CHANGE/TIRE RPR., NORTHWEST PIPE FITTINGS \$492.09 RPR., OCLC INC. \$140.56 ILL CAT SUBSCRIPTION, PANHANDLE HUMANE SOCIETY \$3,170.34 ANIMAL CONTROL/FEES, PIPE WORKS PLUMBING LLC \$95.00 SINK IN THE BREAK ROOM, POSTMASTER \$1,200.00 MAILING PERMITS, QUALITY BOOKS INC. \$17.24 BOOK, R & R PRODUCTS INC. \$1,038.37 MOWER RPR., RECORDED BOOKS LLC \$67.47 AUDIOBOOKS, REGIONAL BOOKS INC. \$17.38 BOOKS, RUSCH'S CONSTRUCTION \$2,586.60 BUILDING ADDITION, SANDBERG IMPLEMENT INC. \$26.40 PARTS CONTAINERS, SCOTTS BLUFF COUNTY COURT \$251.30 GARNISHMENT, SCOTTSBLUFF-GERING UNITED WAY \$10.00 UNITED WAY CTRB., SCS ENGINEERS \$2,242.20 WORK ON LANDFILL, SENIOR CITIZENS CENTER \$525.00 FINANCIAL SUPPORT, SEVERSON COMMUNICATIONS C \$120.00 PHONE RPR., SIGMA-ALDRICH \$97.60 WASTEWATER LAB, SMITHSONIAN BUSINESS VENT \$34.00 MAGAZINES, SNARR PAUL \$82.00 FLOODPLAIN/STORNWATER MGT., SOLOMON CORPORATION \$4,494.00 TRANSFORMER, SOURCE GAS \$770.92 UTILITIES, STATE OF NE/DAS COMMUNICATION \$296.73 LONG DISTANCE PHONE CHR.G., SUGAR VALLEY FEDERAL CRED. \$1,268.08 CREDIT UNION, TEACHERS CORNER \$9.69 PROGRAMMING - ST.,TERRY CARPENTER INC. \$650.00 WATER WELL LAND RENT, THE CHILD'S WORLD \$111.65 BOOKS, TITLEIST \$4,934.37 GOLF BAGS, TWIN CITY DEVELOPMENT \$12,500.00 QTRLY. DUES FOR JAN., FEB.,MARCH, VALLEY BANK - POLICE \$300.00 PO UNION DUES, VALLEY BANK & TRUST CO. \$5,109.08 HSA CTRB 125, WAREHOUSE FITNESS CENTER \$38.00 WELLNESS, WATERWORKS INDUSTRIES IN. \$1,550.28 LIFT STATION RPR., WESTCO \$12,382.50 FUEL, WESTERN PATHOLOGY CONSULTANTS \$228.80 DRUG SCREENING, WESTERN PLAINS BUSINESS SOLUTIONS \$110.14 COPIER MAINTENANCE, WINCHELL CLEANING SRV. \$610.00, YMCA \$505.60 WELLNESS, YOUNG MEN'S CHRISTIAN \$5.00 YOUNG MEN'S CHR.

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

PUBLIC HEARINGS:

1. Zoning Application Change from ML to MH. Stateline Bean Producers Cooperative requested the zoning change to meet the current use of the property. The property is located at 801 Railroad Street, Gering, NE 69341 per the following plats and un-platted land:

- Upland Second Addition Block 4, Recorded in Scotts Bluff County, NE February 14, 1990, Instrument No. 792
- Un-Platted Land situated in Tax Lots 4 & 7 located in Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian per the Recorded Warranty Deed Instrument No. 2013- 3680 referenced as Parcels 1 and 2

The Mayor opened the Public Hearing at 7:07 p.m. Paul Snarr, City Engineer, presented the Administrative Record.

Mr. Snarr stated to the Mayor and Council that this is the public hearing for a change in zoning requested by John Lightcap, President of Stateline Bean Producers Cooperative, Nonstock, owners of Upland Second Addition Block 4 and Un-Platted Land situated in Tax Lots 4 & 7 located in Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian per the Recorded Warranty Deed Instrument No. 2013 - 3680 as recorded in Scotts Bluff County (site address: 801 Railroad Street, Gering, NE 69341).

Currently the zoning is Light Industrial and Manufacturing (ML) which does not permit grain elevators and has height restrictions of 45 feet. The change to Heavy Industrial and Manufacturing (MH) allows for grain elevators and structures meeting the height requirements for the existing structures and the proposed new structures. Stateline Bean has 2 existing structures that are approximately 70 feet tall and 1 structure that is approximately 60 feet tall and proposing to make improvements to the site and construct additional storage facilities that will be approximately 75 feet tall and possibly add a new office. This zoning change from ML to MH would meet the current use of the property and allow future development of the property.

Administrative Record:

Mr. Snarr stated to the Mayor and council that they have been provided with the Administrative Record in their packets and he asked for the Council's approval that he not read through the record unless they would like it read, and that it be made a part of the official proceedings of this Public Hearing.

Application for a Change in Zoning was submitted by John Lightcap, President of Stateline Bean Producers Cooperative, Nonstock, March 13, 2014 for 801 Railroad Street, Gering, NE 69341 for the following Plat and Un-Platted Land:

- Upland Second Addition Block 4, Recorded in Scotts Bluff County, NE February 14, 1990, Instrument No. 792 (Recorded in Book 191 Page 521).
- Un-Platted Land situated in Tax Lots 4 & 7 located in Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian per the Recorded Warranty Deed Instrument No. 2013- 3680 referenced as Parcels 1 and 2 as recorded in Scotts Bluff County, NE July 3, 2013.

AND

- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations Section 15.2 and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed change in zoning per zoning regulations.
- Public Hearing Notice published March 29, April 3, and April 17, 2014.
- Planning Commission Public Hearing Meeting dated April 15, 2014 and approved to move to City Council for Public Hearing.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Snarr asked that if this is approved the following conditions be set, including:

1. The owners plat all property included in this zoning change meeting State and Local standards with a 20' dedicated easement(s) for utilities. Easement(s) location to be determined at the time of platting by City and Owners Representative and not to conflict with proposed building placement.
2. Owner to meet the City of Gering Building and Subdivision Regulations as set forth in MH Zoning including the Industrial Performance Standards set forth in Section 10.1602 and Landscaping/Screening Standards set forth in Section 10.19.
3. Detailed building plans shall be required performed by owners Engineer meeting applicable codes adopted by the City prior to issuance of a building permit (2009 IBC, 2009 IEC, 2011 NEC, 2012 IGC, 2012 UPC, 2012 UMC).
4. Detailed site plan shall be required performed by owners Engineer meeting City site plan requirements including drainage calculations and retention ponds.

Mr. Snarr stated that he has completed his entry regarding this Public Hearing to consider the rezone as referenced in this Public Hearing of Upland Second Addition Block 4 and Un-Platted Land situated in Tax Lots 4 & 7 and requested that Council please keep this hearing open until all entries are put into this record.

The Mayor asked if anyone wished to speak in favor of the application: Clayton Neilson, with MC Schaff & Associates, stated that he's the engineer representing the owner. Councilmember Gibbs asked if they are proposing the cross hatch area on the map or the entire ML area they own. Mr. Neilson replied just

the cross-hatch area. Councilmember Christensen asked if the company agrees with all the conditions of the re-zoning. Mr. Neilson replied yes, he spoke to the owner and they concur with all the conditions. He said they will come back and plat the whole thing as one parcel. Councilmember Smith asked if it has always been light industrial. Mr. Neilson said it was there before any of it was ever zoned; they're doing this to bring it within Gering's Zoning Ordinances and to allow for future expansion on the sites.

No one else spoke in favor or opposition of the application.

Councilmember Smith asked if we want more grain elevators downtown; don't we want those industrial areas on the outskirts of town to be where they are built? Councilmember Morrison said it's probably because of the proximity to the Railroad. Mr. Neilson said they have a rail spur there; moving the elevators anywhere else they would lose access to the railroad spur. They still ship and receive by rail. Councilmember Smith asked if this will be for dry bean or pea operation. John Lightcap, General Manager of State Line, stated that as it exists today it will be predominantly for beans; he won't rule out the fact that some day they may take peas there; it will be set up for another commodity. The bins themselves will only be about 57 feet tall, the legs themselves would be in the 75-80 foot length; the legs would be the high thing. The bins are 45 feet to the eaves.

With no further comments the Administrative Record was closed and the Public Hearing was closed at 7:16 p.m.

1A. Consider approving or denying the requested zoning change to meet the current use of the property. The property is located at 801 Railroad Street, Gering, NE 69341 per the following plats and un-platted land:

- Upland Second Addition Block 4, Recorded in Scotts Bluff County, NE February 14, 1990, Instrument No. 792
- Un-Platted Land situated in Tax Lots 4 & 7 located in Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian per the Recorded Warranty Deed Instrument No. 2013- 3680 referenced as Parcels 1 and 2

Motion by Councilmember Gibbs to approve the Zoning Application Change from ML to MH for the property located at 801 Railroad Street, Gering, NE per the following plats and un-platted land:

- Upland Second Addition Block 4, Recorded in Scotts Bluff County, NE February 14, 1990, Instrument No. 792
- Un-Platted Land situated in Tax Lots 4 & 7 located in Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian per the Recorded Warranty Deed Instrument No. 2013- 3680 referenced as Parcels 1 and 2

And subject to the conditions as stated by the City Engineer. Seconded by Councilmember McFarland. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

2. Remove from Table Ordinance No. 1749

Motion by Councilmember Gibbs, second by Councilmember Christensen to remove Ordinance No. 1749 from table. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

3. Ordinance No. 1749 – An Ordinance to amend various sections of Title XI, "Zoning"; Chapter 1, "Zoning Regulations"; of the Municipal Code of Gering regarding zoning of and performance standards for mini-storage warehouses; and providing for an effective date thereof.

The Mayor opened the Public Hearing at 7:19 p.m. Administrative Record: None. Councilmember Gibbs stated we've recently discussed quite a bit about storage buildings and where to locate them in the community. Staff did research and it turns out that in November of 2003 an Ordinance 1749 was drawn up and passed through the Planning Commission but for some reason it didn't pass through Council. The only real change in the existing ordinance is section II; that amends section 7.2 in BCB Central Business District. It deletes the term exceptions for allowing mini storage rental buildings in BCB Zoning. Currently they are only allowed by exception. He said this would basically restrict them from locating in the Central Business District.

No one spoke in favor or opposition of the ordinance. Councilmember Gibbs said the Public Works Committee did meet on this and recommends the change.

The Mayor closed the Public Hearing at 7:21 p.m.

3A. Consider approval of Ordinance No.1749

Councilmember McFarland made a motion to introduce Ordinance No. 1749 entitled: AN ORDINANCE TO AMEND VARIOUS SECTIONS OF TITLE XI, "ZONING"; CHAPTER 1, "ZONING REGULATIONS"; OF THE MUNICIPAL CODE OF GERING REGARDING ZONING OF AND PERFORMANCE STANDARDS FOR MINI-STORAGE WAREHOUSES; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

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

The Clerk stated: Councilmember Morrison moved that the Ordinance be designated as Ordinance No. 1749 and the title thereof approved, and that the Statutory Rule requiring Ordinances to be fully and distinctly read on three different days be dispensed with, which motion was seconded by Councilmember Cowan. The roll was called "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

The motion to suspend the statutory rule having been concurred in by three-fourths of all members elected to the Council, was, by the Mayor declared to have carried.

Whereupon Ordinance No. 1749 was read by title only, Councilmember Smith moved that the Ordinance be passed as read, which motion was seconded by Councilmember Christensen. The question is shall Ordinance No. 1749 be amended and passed? The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

The passage and adoption of the Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed.

BIDS:

1. 2014 Park Department Rotary Mower

Parks Director, Ron Ernst, said this is a replacement for a model 2000 that we have now. He recommends the low bid from Stotz Equipment Co. Mr. Ernst said we have dealt with them before and they are a reputable dealer. The other mower might be good for parts only.

Councilmember McFarland moved to accept the low bid from Stotz equipment for the 2014 Rotary mower for \$47,625 for the Parks Department Rotary mower. Seconded by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

CURRENT BUSINESS:

1. Citizen Agenda Item: Discuss and consider future employment of Lane Danielzuk

The Mayor cautioned those speaking to this issue to take care and be cognizant of their comments.

Jim Ellison stated this is normally an issue for closed session. It is a personnel matter which clearly is something that can normally be considered for that purpose. However Mr. Danielzuk can waive that and ask that it be in open session. At that time Mr. Danielzuk waived his right to have this discussion in closed session. Mr. Ellison said Mr. Danielzuk would also have the opportunity to respond. As City Attorney for the City of Gering he wanted to provide everyone with some cautionary information because of the subject matter we're going to deal with. He said this is for the City Council and all citizens here tonight; Mr. Danielzuk is a City Administrator not a public official. In other words he's not an elected official. He has a liberty interest; he has a property interest because he is employed with the City of Gering. Mr. Ellison said because Mr. Danielzuk has a liberty interest he is advising members of the public, as well as the Mayor and Council, that they need to be very careful about what they say tonight. Statements made in this forum, whether made by the Council or members of the general public, have the potential to damage Mr. Danielzuk's reputation. He said they can proceed but he urges them to do so with caution as they've heard here tonight already. He said they can potentially be exposing themselves to liability in their capacity as officials or non-officials.

Bubba Anthony, 2305 17th Street addressed the Council. He said, in part, that he has been asked and has permission to speak by many citizens and business owners in Gering. He said he has lived in the valley since 1973 after leaving and coming back. He said social media, after it was revealed a City staff member went to Korea, is the newest form of media we have today. And through it citizens were informed of the actions of the administration. It was not accurate on the cost of the trip but what was accurate was the trip was true. He stated that many of us have had the opportunity to converse with Council Members, employees, business owners of Gering, news media and other valley residents. There are many merchants that are concerned about speaking out because of retribution and what it could do to their businesses. He has encouraged them to call Council people. We have heard that some City employees are looking for other opportunities which will mean the City could lose these valuable resources. Citizens have expressed and are still expressing serious concerns regarding what they are hearing in the news and how this portrays our city to the outside world over the past two months maybe even longer. We're talking about attracting businesses. We believe we can all agree that when a situation arises it needs to be addressed as soon as possible as to not allow any more damage to our town as a whole and a possible lengthy period of time to repair. No one likes to be in difficult positions but we are in one. But one needs to think about how and who brought us here. Those in charge need to understand their fiduciary relationship they have in their capacity and what fiduciary responsibility they have to the citizens of Gering. As concerned citizens of Gering we request the Council to do the following. Discuss and consider the employment of City Administrator, Lane Danielzuk for lack of transparency, leadership, cooperation, communication and lack of respect for Council, staff, Gering citizens, other community leaders, news media and the fiduciary responsibility he has failed to act upon. He stated that when we go into difficult situations we can all agree to disagree calmly, but we think it needs to be acted upon. He thanked Council for their time and asked for it to be discussed and considered.

Councilmember McFarland stated that she has talked to Council people and Mr. Ellison. Her concern right now is a lot of what is coming from the employees and business folks is hearsay, second-hand. That doesn't mean it isn't true, it doesn't mean we shouldn't look into it. But she's very hesitant to make a decision based on that. The one thing we do have that we know is an issue and that would be the discussion with F2E, the beef plant company, she doesn't know what went on, if there were any commitments made or any negotiations; we've been unable to garner that information. The one thing she would agree to that she thinks might solve this issue would be to request the Attorney General come in and do an investigation specifically to the F2E project, anything that transpired, to make sure that there was nothing below board or nothing that we should be concerned about.

Mayor Mayo said to the best of his knowledge nobody from the City staff pursued F2E to come here. They apparently approached the City Administrator and staff shortly after or about the time that things went south for them in Scottsbluff. Regarding some of the issues that were brought up both by Mr. Anthony and Councilmember McFarland, the Economic Development Plan revisions that were adopted in 2008 is exactly the same version, verbatim, as the one in Scottsbluff which allows for the City Administrator or Manager to engage in exploration of economic development opportunities for the community. Also on April 18, 2011, the City Council voted unanimously for a chain of command policy which would follow from the top to the bottom City Administrator, Human Resources Department, First-line Supervisor, employee; it's something that all employees have been given, they have signed they have a copy of it; that is in Section 7.11. 7.13 also specifically says Non-disclosure, second paragraph changed from will to may be subject to disciplinary action even if they have not actually benefited from the disclosed information. Staff is following the chain of command and the policy procedures as outlined by the policies and procedures and Chain of Command that the City Council has adopted.

Councilmember McFarland said we have people in this community who are expecting some sort of action and resolution to what they see as a problem. She thinks we owe it to our constituents to take some sort of action and to that end she came up with the idea of the Attorney General. If someone else has a better idea she is more than happy to listen to is but she thinks these people want Council to do something.

Councilmember Gibbs asked the City Attorney's opinion. Mr. Ellison responded that he supposes that is a request that can be made; whether or not that's something the Attorney General's office will do or not, he doesn't know. Councilmember Gibbs said he thinks we have two points; one is the issue of F2E; he thinks Council addressed that at the last meeting when they amended our zoning ordinance for heavy industrial requiring Council approval for the location of any packing plant in the heavy industrial area, so that puts the control back in the Council. It is not something that can be located in that zoning by right any longer. He said the second issue relates to Mr. Danielzuk. In this case he doesn't agree exactly with the way things were handled on this particular issue by the City Administrator, but by far the actions he has taken in his tenure for the most part have been very good and very beneficial for this community so because of that he is not prepared to ask to terminate him based on one possible error in that time period. Unless someone has something that is a lot more serious than this he would want to continue his employment here.

Councilmember Morrison stated that through all of this, talking about Lane's employment, we have had the landfill worked on, the grocery store, the bean and hotel property worked on and granted at that point there were no letters signed, but she would like to know how many times someone came to Lane and said who's starting the new grocery store? And Lane, because of the confidentiality, would not say; he would not give that information up, but all of these things have gone on behind the scenes. Nobody tonight in the Council Chambers knew that there was going to be two new bean towers going on down here, but that didn't seem to bother anybody. Not once did I hear anybody say is that going to block or view or stop traffic. The whole upshot on this doesn't have a thing to do with transparency, nothing to do with the way things were done. It has to do with the packing plant and there's nothing to it yet. She added that anything that goes on has to go through this table before anything could happen. There are a lot of things that go on behind the scenes that you're unaware of, that sometimes we're not aware of every single thought and every action that comes through Lane's office. Just give it some time and see how it all plays out; listen please.

Mayor Mayo added in the past three years or under, we've had approximately 30 new businesses come to town and at least half a dozen we've been able to keep in town through business retention efforts. Some of it has come to town and some through the efforts and work of Mr. Danielzuk and our Planning Department staff. How many of you started to scream and squawk about 30 new businesses coming to town. He hasn't heard anyone complain about those. He only heard one Council Member complain about Family Dollar coming to town. Other than that he hasn't heard any complaints about what Mr. Danielzuk has done. The man has worked honestly, diligently, with the best interest of Gering at heart.

Monnette Ross addressed Council and stated that she'd like to speak on behalf of Lane; he has done an excellent job. She asked Mr. Danielzuk as they did all the work on the F2E and he did what he needed to do, she asked if he followed LB840 Guidelines to a T and did he follow State Statute working through this to get everything done; she asked him if he has done anything illegal? Administrator Danielzuk replied no. She said there was a Council meeting on March 10 and at that time the Council reviewed Lane's job. There was a committee that met and came back with glowing reports; extremely pleased. She said that Councilwoman McFarland (at that meeting) said that she forgot to mention the really good stuff he had done this year; PRT, landfill, downtown development, etc. Mrs. Ross said she would like everyone to see what he has done, give him credit for that and don't just look at the dark side. At that time when his contract was renewed they also advised that he be given a raise of 5%. She thinks we're extremely fortunate to have Lane working here and working with us. She stated that since the early 90's we have had some that were not good City Managers. She thanked Lane for his hard work and the way he has done things professionally for the City of Gering.

Councilmember Christensen asked why has there been such a change of attitude since we re-evaluated Lane in a few short weeks. Councilmember McFarland replied at that point we didn't know anything about F2E. We knew Scottsbluff had rejected it based on some fairly extensive research and we assumed that it was gone. It was after March 10 that we found out that it was still a project with some level of life. She thinks that's what started to turn some opinion.

Councilmember Allred stated that he wants everyone to consider how many ranchers and farmers spend their hard earned dollars in our community. He hasn't heard one opinion about whether this possibility would benefit any local ranchers or cattle growers, or implement dealers or trailer sales people. He said we're so hung up with the fact that it might be bad business. He has no idea; he has not lived in some of the other towns (with packing plants). He's not about to speculate at this point whether or not a meat packing plant is good for Gering but he wants everyone to consider the amount of agriculture that is done around our community. If there is an opportunity for cattle growers, etc. to get more money for their product because there's a closer opportunity to sell it, he thinks it's worth looking at. He thinks the City staff, at this point, are doing just fine. As far as what's on the table right now he's not prepared to make a vote in the favor of terminating Mr. Danielzuk; there's not been anything he has seen at this point that he's done to negatively affect our city.

Brady Uhrich, 970 18th Street, addressed Council and commended Mr. Danielzuk for taking actions to better the community. He thinks it would be wrong to terminate his employment with the City of Gering.

Dick Ross, 2240 20th Street, stated as a member of the Planning Commission he has worked with Lane on several occasion. When Lane first came here we were in the interim of City Engineers and Lane was very helpful in educating the Planning Commission members about their responsibilities; getting them more up to speed on the issues and how to handle them. Even since Lane no longer works with the Planning Commission, he has helped Mr. Ross with what he is supposed to do in leading the Planning Commission. He's all in favor of keeping Mr. Danielzuk.

Mayor Mayo asked if Council wished to take any action. Hearing none, he moved on to Current Business Agenda item 2.

2. Approve Keno Committee Recommendations:

- City of Gering
- John Fertig
- Gering Civic Center
- High Plains Auto Club
- Sugar Valley Rally
- Nebraska Chautauqua
- Veterans & Military Families Emergency Relief Organization
- Gering Merchants Arts Festival
- Gering Merchants 2014 Sugar Valley Rally Finish Line Luncheon

Keno Committee Chairman, Darrell Bentley, addressed Council regarding the applications and recommendations. Councilmember Gibbs thanked Mr. Bentley and the Keno Committee for their hard work.

Motion by Councilmember Gibbs to approve the Keno Committee recommendations as presented. Seconded by Councilmember Morrison. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

3. Consider approving and authorizing the Mayor to sign contract with Sports Facilities Advisory

Motion by Councilmember Smith to table approving and authorizing the Mayor to sign a contract with Sports Facilities Advisory. Seconded by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, McFarland, Allred, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Shields. Motion carried.

4. Discuss and consider process to ensure communication between the City Administrator, staff, and elected officials

Councilmember Christensen stated that he requested this be placed on the agenda. He cannot come up with a reason why we need to come up with a process as previously mentioned by Councilmember McFarland. We have one of the best methods he knows of communicating with the public with the media. They do a fantastic job communicating what goes on in the City of Gering and we do not need a process to override that.

Councilmember McFarland said that she never suggested that it would override and she stated that she talked to Don on Friday and he wasn't real comfortable with the word "process". If the committee wanted to change that word she's fine... she just wanted to talk about ways they could improve communication. Councilmember Christensen noted an email that Councilmember McFarland sent that said "she holds herself responsible in that she didn't think she phrased this accurately. She never intended to develop one process that would define communication between Lane and the Council and that's what Don thought we were doing". Councilmember Christensen asked Councilmember McFarland how she knew that's what he thought. She replied that she talked to him on the phone and he shared that with her.

Councilmember Christensen said this communication thing has been pointed directly at Lane Danielzuk for three weeks and that's where we find ourselves in this predicament right now. We can rely on the press to deliver the news on what's going on in this City Hall, we don't need a process. He stated that he's going to make a motion that we do not put this thing on the table of any other committee and that we just vote yes or no - do we want a process at this meeting tonight and we end this thing now. He doesn't want this process in any committee, we just maintain status quo.

Mayor Mayo stated that we have a motion from Councilmember Christensen that we do not put this on any of the committees, Personnel or otherwise, and we maintain the status quo regarding communication between the administrator, staff and elected officials. Seconded by Councilmember Smith

Discussion: Councilmember McFarland stated that if we have a committee, where ever it may be, and we have a conversation about communication and we come up with ways to improve communication, isn't that a good thing? What do we lose if we try to do this?

Robin Kinny, 1720 Cedar in Gering, addressed Council and said if she has a question about something that is going on in her community she should be able to ask any Council Member and have some sort of information conveyed back to her. She thinks there should be a process in place.

Maunette Loeks with the Star-Herald addressed Council and stated that she has a concern about this discussion that Council keep going into Executive Session to talk about businesses that might be locating here and what the statement would be to the public. She's not aware of anything under the Open Meetings Act that covers that kind of activity. So she's asking them not to go into executive session on that item. These discussions shouldn't be happening via emails, telephone calls or in executive session.

Councilmember Gibbs asked City Attorney, Jim Ellison, if Council is still allowed to discuss an economic development project that might be confidential in executive session as they always have under the Open Meetings Law. Mr. Ellison replied that it depends on how it comes about; he can't say without looking at the specific project. It's got to fit under the guidelines of the Open Meetings Laws.

Jean Bauer, 900 18th Street, addressed Council and stated that it's the Mayor's job to get these eight people with the same vision toward Gering. It requires him to be a leader instead of being divisive. She thinks what Jill is proposing is that it goes to a committee to try to open up some of those lines of communication.

Councilmember Smith stated that today he tried to get minutes from the Admin Committee about Mr. Danielzuk's evaluation; he said we have no minutes from the Admin committee, the City has no minutes. If you go to a Rec Committee, the City staff has the minutes, anybody in the City has access to our minutes and they should; that's what open government is. He said there is no transparency in the Admin Committee, it's all secret. Councilmember McFarland replied that it is not.

Mayor Mayo said we made a recommendation off the Mayor's report at the last meeting that asked for the committees to have all their reports done by City staff. The other committees want staff to take minutes to make sure they get out. He said we've got one committee that doesn't want staff to take minutes nor does that one committee leader send out minutes to anybody. He hasn't seen any in almost two years coming from that one committee. We've asked for them, not seen them.

Mayor Mayo stated we have a motion on the floor. Councilmember McFarland asked for a point of clarification and stated she has a couple more comments. Councilmember Christensen called for a vote. She stated that what she understands is that Mr. Christensen is asking for us to rescind the motion from the previous meeting. What she understands from Robert's Rules of Order, if notice is not given prior to tonight that that is his intent, which obviously it wasn't given, it would take six people to rescind that motion. She also thinks the motion needs to be rephrased to fit that language. Councilmember Christensen asked the Clerk to re-read the motion. City Clerk Welfl stated that Councilmember Christensen made a motion that we do not put this on the table of any other committee, we just make a vote that we do or don't want a process motion, we just maintain status quo regarding communication between staff and public officials; second by Councilmember Smith. Councilmember McFarland said it still doesn't have the right language because we're rescinding a motion from a previous meeting.

Point of order was called by Councilmember Gibbs; he noted the minutes from the last meeting and it stated *"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."* He said based on what he just read he would have to agree with Councilmember McFarland's analysis that this would require a motion to rescind that motion. Administrator Danielzuk stated it would be a motion to reconsider. City Attorney Jim Ellison agreed with a motion to reconsider.

Motion by Councilmember Christensen to reconsider the motion from the previous Council meeting regarding the process to ensure communication. Seconded by Councilmember Smith. There was no discussion. The Mayor called the vote. AYES: Smith, Christensen, Gibbs, Allred, Morrison, Cowan. NAYS: McFarland. Absent: Shields. Abstaining: None. Motion carried.

Motion by Councilmember Christensen that Council does not send the request for process to any committee and we remain status quo. Seconded by Morrison.

Discussion: The Mayor stated, as he understands, a vote yes means it is to remain status quo; Councilmember Christensen replied that is correct.

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

5. Discussion and potential action regarding litigation: City of Gering v. Scottsbluff County (Communication services/Constructive Trust of funds)

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

REPORTS OF STAFF, BOARDS AND COMMISSIONS AND STANDING COMMITTEES:

1. Department/Staff Reports

2. Committee Reports & Council Member Comments

- Councilmember Smith reported that the Rec Committee met. Regarding field 4 & 5 by the pool, funds have been put together by the GGSA and the schools and the Keno funds for a scoreboard, fencing, dug-outs and to skin the fields. One field will be fenced and have a dug out for the High School girls and GGSA; the field closest to the armory. Field 4 won't have a fence.

3. Administrator's Report

- Administrator Danielzuk said the City has been working with the North Platte NRD. He read an email from David Wolfe regarding the Recycling MOU; the language has been agreed upon. There will be a press conference with future information on May 8 about recycling region wide.

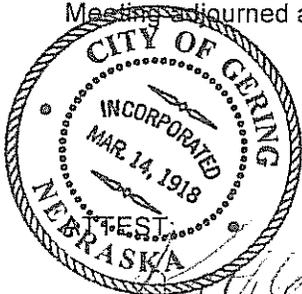
4. Mayor's Report

- Mayor Mayo stated the Mayor's Prayer Breakfast will be on May 1; tickets are \$8.25 each. Also he spoke with UP recently on the train depot; they have changed their policies and no longer help communities with the cost of moving depots. It's probably less expensive to have a local mover do it than their mover. She agreed the depot would have community historical significance.
- City officials met with HUDD last week and discussed low-interest funding for energy efficiencies and other projects for downtown revitalization. Also Water Week is coming up May 4-10; he read a proclamation regarding the value of water.

ADJOURN

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

Meeting adjourned at 8:26 p.m.



Kathleen J. Welfl, City Clerk

Edwin Mayo, Mayor