

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,
August 11, 2014**

A regular meeting of the City Council of Gering, Nebraska was held in open session on August 11, 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, Holliday, Allred, Shields, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl and City Attorney Jim Ellison. 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**
2. **Roll Call**
3. **Excuse Councilmember absence**

Councilmember Gibbs moved to approve the absences of Councilmember Shields and Morrison from the August 1, 2014 Special City Council meeting. Seconded by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, 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:

(Items under the Consent Agenda are proposed for adoption by one action for all items unless any member of Council requests that an item be considered separately.)

1. Approve minutes of the July 28, 2014 Regular City Council Meeting and the August 1, 2014 Special City Council meeting
2. Approve Claims

Claims:

7-23-14 to 8-6-14

ACCELERATED RECEIVABLES \$106.16 COLLECTIONS/BAD DEBT, ACCUSTAR SURVEYING \$320.00 SURVEYING, ADAMS ELECTRIC SRV. \$100.00 ELECTRIC RPR'S., ADVANCED SRV. INC. \$665.86 TEMP. SECRETARY POSITION WAGES, AGBD DETECT LAB CORP. \$75.00 DRUG TESTING NEW OFFICER, AHLER'S BAKING INC. \$21.98 WING MEETING/DONUTS, ALAMAR UNIFORMS \$667.10 UNIFORMS FOR GLEIM, AMAZON \$37.17 INK CARTRIDGES, ANTHONY INTERNATIONAL \$226.05 PARTS FOR CLUBHOUSE COOLER, APPLIED CONCEPTS INC. \$126.95 ANTENNA CABLE, BANNERSINVINYL \$82.85 BANNERS FOR TRUCK OTD, BIG MACK \$518.61 WORK, BLUFFS SANITARY SUPPLY \$451.34 EXAM GLOVES, PLATES, FORKS, BOMGAARS \$247.19 SHOVELS/SUPP., BRIDE'S \$12.81 MAG. SUB., BROADWAY OFFICE CENTRE \$90.40 SHOP TOWEL, CARD SRV'S. \$10,233.48 CREDIT CARD TRANSACTIONS - JUNE, CARR - TRUMBULL LUMBER CO. \$6,668.31 STAIR RAIL, CASE PARTS CO. \$48.99 PARTS FOR CLUBHOUSE FREEZER, CENTURY LINK \$2,429.17 MONTHLY TELEPHONE ALLOCATION, CENTURY LUMBER CENTER \$18.38 TAN DECK, CITY INSURANCE FUND \$136,540.70 HEALTH PREM 125, CITY OF GERING - GENERAL AC. \$65,000.00 ACH PAYROLL TRANSFER FUNDS, CITY OF SCOTTSBLUFF \$2,468.11 EMERGENCY MANAGEMENT FEES, CITY PAYROLL TRUST \$6,519.51 FSA MEDICAL 125, COLORADO ASPHALT SRV. \$3,951.22 COLD MIX, COMPLIANCE SIGNS \$284.50 NO SMOKING SIGN, CONTRACTORS MATERIALS \$865.00 SAFETY EQUIP., COWAN TROY \$130.00 WATERING FOR OTD, CRESCENT ELECTRIC SUPP. \$68.86 FISH TAPE, CRICKET \$21.95 MAG. SUB., CULLIGAN WATER CONDITIONING \$26.20 SALT, CURVES \$36.38 WELLNESS CURVES, D & H ELECTRONIC SUPP. \$223.10 AV SUPP., DAILEY DAN \$2,937.00 USED GATED PIPE, DALE'S TIRE & RETREADING \$1,620.12 G10 TIRE, DANKO EMERGENCY EQUIPMENT \$273.84 HOSE NOZZLE, DHHS DIVISION/PUBLIC HEALTH \$255.00 WATER LAB, DITCH WITCH UNDERCON \$35,303.93 TRENCHER, ELECTRIC PUMP \$5,374.52 WWTP PUMP REPLACEMENT, ELLIOTT EQUIPMENT CO. \$1,900.00 HOSE, ENVIRO SRV. INC. \$924.00 WW LAB, FAIRFIELD INN \$129.95 HOTEL STAY, FASTENAL CO. \$375.05 DRILL BITS, FEDEX \$172.68 WATER LAB, FIRST STATE BANK \$356.30 IBEW, FLOYD'S SALES & SRV. \$1,591.92 WORK ON G10. FORT DEARBORN \$113.52 FIREFIGHTER LIFE INS., FREMONT

MOTOR SCOTTSBLUFF \$530.38 ELECTRICAL PART FOR 2004 VIC., FRESH FOODS \$53.83 DRINKING WATER, FRESH STYLE \$18.00 MAG SUBSCRIPTION, FURST - MC NESS CO. \$90.40 BENTONITE, GALE \$48.57 BOOKS, GEMPLERS \$280.45 TIRE SEALANT, GENERAL PARTS \$78.93 RPR'S ON OVEN, GERING CITIZEN \$492.86 CONDENSED MINUTES PUBLICATION, GERING MERCHANTS \$4,477.52 KENO FUNDS FOR ART FESTIVAL, GERING VALLEY PLUMBING & HEATING \$476.60 RPR'S., GI TRAILER INC. \$718.25 PART G10 TARP, GOOD HOUSEKEEPING \$15.00 MAG. SUBSCRIPTION, GREATAMERICA LEASING CORP. \$178.49 COPIER LEASE, HEILBRUN \$661.43 TOOLS, HILTON \$412.96 SALT LAKE CITY STAY, HOKE WELDING & RPR. INC. \$37.50 WWTP RPR'S., HOLIDAY INN \$362.10 FINANCE CONF., HOME DEPOT \$444.12 PAINT, HONEY - WAGON EXPRESS \$120.00 CLEAN GREASE TRAPS, HUTCHENSON ENGINEERING \$319.16 SEAL FOR POOL SLIDE PUMP, HYATT REGENCY HOTEL \$1,915.20 HOTEL STAY, ICMA \$680.00 ICMA ANNUAL CONF. REGISTRATION, IDEAL LINEN SUPPLY INC. \$221.27 MAINTENANCE SUPP., INGRAM LIBRARY SRV. \$723.71 BOOKS/PERIODICALS, INTERNAL REVENUE SRV. \$47,076.25 FED/FICA TAX, INTERNATIONAL ARTIST \$36.00 MAG. SUBSCRIPTION, INTERSTATE BATTERIE/RAPID \$515.30 BATTERY PICKUP, INTRALINKS \$1,664.54 COMPUTER SUPPORT, JG ELLIOTT INS. \$40.00 NEW NOTARY BOND, JO - ANN FABRICS & CRAFTS \$8.34 SUPPLIES FOR SRP, JOHN HANCOCK USA \$13,008.08 JH RETIRE 6%, JOHNSON CASHWAY \$864.05 FOAM BOARD, JOHNSON SERVICE CO. \$7,974.00 MANHOLE RPR., KATHLEEN A LAUGHLIN \$165.00 GARNISHMENT 2, KLASSERT SAM \$110.01 INSPECTION HRS., KNEB \$357.00 ADVERTISING, KOVARIK ELLISON MATHIS \$3,114.95 CODE OF CONDUCT INVESTIGATION, KRIZ - DAVIS CO. \$198.19 BLANKET CANISTER, LARSON STEVE \$60.00 WATERING FOR OTD, LEAGUE OF NE MUNICIPALITY \$200.00 EDUCATION, LIED LODGE & CONFERENCE \$370.20 CONFERENCE, LOG IN/ACIP NET \$500.00 ANNUAL FEE, MARATHON SYSTEMS \$803.20 SUPP., MASEK GOLF CAR CO. \$480.00 UTILITY VEHICLE RENTALS - OTD, MATHESON TRI - GAS INC. \$61.00 SAW BLADE, MAXX SUNGLASSES \$90.00 SUNGLASSES, MEAT SHOPPE \$19,388.24 MEALS, MENARDS \$577.80 PAINT, MG TRUST CO LLC \$5,611.38 MG T - POLICE, MICHAEL TODD & CO. \$2,926.52 TRAFFIC CONES, MIDTOWN ANIMAL HOSPITAL \$76.00 K - 9 BOARDING, MIXING BOWL \$10.63 FOOD EXPENSE, MONEY WISE OFFICE SUPPLY \$120.69 PENS & PEN REFILL, MONUMENT PREVENSON COAL. \$1,440.43 KENO FUNDS, MINICIPAL SUPPLY INC. OF \$7,095.97 WATER MAIN RPR., MURDOCH'S RANCH & HOME \$23.52 ROPE FOR HOSE TIES, NAB AARON \$60.00 WATERING FOR OTD, NASRO \$485.00 SRO TRAINING, NATIONAL INSURANCE SRV. \$924.12 VISION INSURANCE, NDOR - LODGING \$453.04 COUNTY LODGING TAX - JUNE, NDOR - LOTTERY \$9,649.94 APRIL - JUNE LOTTERY TAXES, NE CHILD SUPPORT PYMT. \$796.72 CHILD SUPPORT 1, NE DEPT. OF REV. (PR) \$13,013.09 STATE TAXES, NE PUBLIC POWER DISTRICT \$4,386.92 UTILITIES, NEBRASKA LAW ENFORCEMENT \$176.00 LODGING FOR K - 9, NEBRASKA MACHINERY CO. \$3,186.50 EQUIPMENT RENTAL, NEBRASKA SALT & GRAIN \$7,850.04 STREET SALT, NEBRASKA WATER ENVIRONMENT \$240.00 GREAT PLAINS WASTE MANGMT CONF., NEOFUNDS BY NEOPOST \$56.00 POSTAGE, NORTHWEST PIPE FITTINGS \$499.91 MAIN RPR., OCLC INC. \$161.96 CAT & ILL SUBSCRIPTION, OMAHA WORLD HERALD \$451.88 SUBSCRIPTION, OREGON TRAIL DAYS ART SHOW \$575.00 PURCHASE OF ARTWORK, PANHANDLE GEOTECHNICAL \$128.00 5TH MAIN REPLACEMENT, PETTY CASH \$134.03 PETTY CASH, PIPE WORKS PLUMBING LLC \$871.06 INST. OF VALVES ON WATER LINES, POPULAR SCIENCE \$23.00 MAG. SUBSCRIPTION, POSTMASTER \$112.31 POSTAGE, POWERPLAN OIB \$4,542.42 EXCAVATOR RENTAL, PROGRESSIVE BUSINESS PUB. \$237.12 SUPERVISORS LEGAL RENEWAL, PUMP & PANTRY \$154.52 GAS FOR K - 9 SCHOOL, RAMADA INN \$99.00 HOTEL STAY, RANDY RAINES \$1,000.00 DIRECTING CITY BAND, RECORDED BOOKS LLC \$120.58 AUDIOBOOKS, ROGERS JASON \$269.00 MEALS FOR NEW ORLEANS TRAIN, SANDBERG IMPLEMENT INC. \$160.97 CHAINSAW PARTS, SCB. CO. DISTRICT COURT \$75.00 ALIMONY, SCB. COUNTY AMBULANCE SRV. \$316.23 AMBULANCE CONTRACT, SCOTTS BLUFF COUNTY COURT \$404.54 GARNISHMENT 2, SCOTTSBLUFF - GERING UNITED \$10.00 UNITED WAY CTRB., SCS ENGINEERS \$2,410.79 WATER, SENIOR CITIZENS CENTER \$525.00 FINANCIAL SUPPORT, SEVENTEEN \$17.97 MAG. SUBSCRIPTION, SEVERN TRENT SRV. \$975.62 RPR'S., SHELTERLOGIC CORP. \$709.47 TENTS, SHERWIN WILLIAMS \$176.72 PAINT SUPP., SHERYL'S LOG CABIN \$81.15 BREAKFAST FOR STAFF, SIMMONS OLSEN LAW FIRM \$1,500.00 CITY PROSECUTOR ACTIVITIES, SIMON CONTRACTORS \$4,415.00 CONCRETE, SOLUTIONS EAP \$489.10 COUNSELING SRV., SOURCE GAS \$222.90 METER RPR., SPECTER INSTRUMENTS \$395.00 AUTODILER ALARM SYSTEM, STAPLES CREDIT PLAN \$138.47 PRINTER, STAR - HERALD \$190.36 P/C & C.C. MTG. NOTICE, STATE OF NE/DAS COMMUNICATION \$276.26 LONG DISTANCE PHONE CHRGS., SUGAR VALLEY FEDERAL CREDIT \$1,218.08 CREDIT UNION, SUN MOUNTAIN SPORTS \$139.00 GOLF BAG, SUNSET \$24.00 MAG. SUBSCRIPTION, SUNSET LAW ENFORCEMENT \$381.00 FIREARM SUPPLY, TARGET \$11.51 SUPP. FOR SRP, TEAM CHEVROLET \$33.96 TRANSMISSION COOLER LINES, TERRY CARPENTER INC. \$650.00 WATER WELL LAND RENT, THE ROCK PILE \$1,268.62 SAND, US WEEKLY \$79.95 MAG. SUBSCRIPTION, VALLEY BANK - POLICE \$300.00 PO UNION DUES, VALLEY BANK & TRUST CO. \$4,137.02 HSA CTRB 125, VANCE JEFFREY \$90.00 WATERING FOR OTD, WALMART \$252.98 SUPP., WAREHOUSE FITNESS CENTER \$19.00 WELLNESS, WELLS FARGO FINANCIAL \$124.57 COPIER LEASE PYMT., WINCHELL CLEANING SRV. \$720.00 JULY CLEANING, YMCA \$505.60 WELLNESS, YOUNG MENS CHRISTIAN \$5.00 YOUNG MEN'S CHR.

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

PUBLIC HEARINGS:

1. **Final Plat - Stateline Producers Cooperative - Final Plat of Block 1, Stateline Producers Addition, A Re-Plat of Block 4, Upland Second Addition and Un-Platted Lands a subdivision generally located in the NE ¼ of the NE ¼ of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian Scotts Bluff County, Nebraska.**

The Mayor opened the public hearing at 7:05 p.m.

Administrator Danielzuk stated to the Mayor and Council Members that this is the public hearing for a Final Plat of Block 1, Stateline Producers Addition, A Re-Plat of Block 4, Upland Second Addition and Un-Platted Lands a subdivision generally located in the NE ¼ of the NE ¼ of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian Scotts Bluff County, Nebraska.

The property (platted area) was recently re-zoned from Light Industrial and Manufacturing District (ML) to Heavy Industrial and Manufacturing District (MH) and consists of consists of 3.41 Acres more or less.

Administrative Record:

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

- Application for this Re-Plat submitted by the property owners of Stateline Producers Cooperative dated May 12, 2014.
- Final Plat Mylar(s) submitted by the owner's representative Kelly Beatty, LS -476 of M.C. Schaff & Associates, May 13, 2014.
- Proof of Ownership Deed submitted by owner's representative Kelly Beatty, of M.C. Schaff & Associates, May 13, 2014.
- Public Hearing Notice published June 6, 2014 & July 19, 2014.
- Publication Notice and written notice was completed and sent to all property owners within 300 feet and Gering School Board per the requirements of the current City's Zoning and Subdivision Regulations Section 15.2 and are incorporated by reference in this Administrative Record.
- Scotts Bluff County GIS Department was given a preliminary and final plat for review and comment.
- Final Plat of Upland Second Addition to the City of Gering recorded 9-26-2002 Instrument No 2002-07478.
- Public Hearing for Zoning Change for the property owned by Stateline Producers Cooperative from Light Industrial and Manufacturing District (ML) to Heavy Industrial and Manufacturing District (MH) heard and approved by the Planning Commission 4-15-2014 and City Council 4-28-2014.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering Current 1995 Comprehensive Plan (Per Amendment No. 1 dated November 2001).
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Councilmember Christensen asked for a location other than the legal description. Clayton Neilson with MC Schaff stated they prepared the final plat. He said it's located behind the Gering Senior Center and the old rail depot, adjacent to the lumber yard. Mayor Mayo said in the packet there's a map.

Mayor Mayo admitted the Administrative record.

Mr. Neilson stated that the owner has three parcels and they're just combining them in to one. They have future plans to develop the rest of it so it just helps with the overall development of the parcel by making it one as opposed to three due to various set-back issues there.

No one in the Chambers spoke in opposition of the application. Councilmember Shields asked if we're just making all three parcels zoned the same. Mr. Neilson explained that all three parcels had already been re-zoned to Heavy. He said all we're doing is making three lots one lot; a final plat to make it one lot.

Mr. Danielzuk asked that if the Plat is recommended for approval the following conditions be set including:

1. Owners work with City Staff to change the address from 801 Railroad Street to an address off Depot Street (Possibly 2010 Depot Street) due to Railroad Street does not exist along their North line.
2. Owners comply with the conditions set forth in the zoning change.

Administrator Danielzuk said he was working with John Lightcap with respect to the change of address. Mr. Lightcap of Stateline Bean addressed the Council and said about a year and a half ago they went to the Post Office and wanted to change their address from a P.O. to the existing physical address. They asked why they had the 801 Railroad Street because they were told it didn't exist and the Post Office told them that was their address. They went through a labor intensive process to change letterhead, labels, envelopes and checks alerting customers all over the region and all over the globe that their address was changed to 801 Railroad and now they're being told to change it less than two years later. He's not saying they're not willing to change that address, they are in the process of assessing the costs to do that and they need a little more time.

Mr. Danielzuk asked that the Council still keep this condition as it was recommended by the Planning Commission and we'll work with John to try to make sure the address change is not overly burdensome.

This Final Plat meets the City Zoning and Subdivision Regulations requirements of Article 21: Plat Review and Submittal Requirements and Preliminary and Final Plat Procedures for Approval and Section 8.2 Heavy Industrial and Manufacturing District (MH) including lot requirements.

Mr. Danielzuk stated that he has completed his entry regarding the Public Hearing for the Final Plat of Block 1, Stateline Producers Addition, A Re-Plat of Block 4, Upland Second Addition and Un-Platted Lands and requested the Council's approval for said Plat and asked that they please keep this hearing open until all entries are put into this record.

The Administrative Record and Public Hearing were closed at 7:13 p.m.

1a. Consider approving or denying Final Plat - Stateline Producers Cooperative - Final Plat of Block 1, Stateline Producers Addition, A Re-Plat of Block 4, Upland Second Addition and Un-Platted Lands a subdivision generally located in the NE ¼ of the NE ¼ of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian Scotts Bluff County, Nebraska.

Motion by Councilmember Gibbs, second by Councilmember Morrison to approve the Final Plat - Stateline Producers Cooperative - Final Plat of Block 1, Stateline Producers Addition, A Re-Plat of Block 4, Upland Second Addition and Un-Platted Lands a subdivision generally located in the NE ¼ of the NE ¼ of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian Scotts Bluff County, Nebraska.

Discussion: Administrator Danielzuk asked for an amendment to include the conditions as set forth by the Planning Commission.

Councilmembers Gibbs and Morrison accepted the amendment to the motion respectively. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

Mayor Mayo moved Current Business item 1 up to follow the approval of the Final Plat for Stateline Producers Cooperative.

Current Business item 1: Consider approving and authorizing the Mayor to sign Resolution 8-14-1 - The final plat for Block 1, Stateline Producers Addition, being a Replat of Block 4, Upland Second

Addition and Unplatted Lands situated in the Northeast Quarter of the Northeast Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian otherwise known as 801 Railroad Street in the City of Gering, Scotts Bluff County, Nebraska

Motion by Councilmember Morrison, second by Councilmember Cowan to approve and authorize the Mayor to sign Resolution 8-14-1 - The final plat for Block 1, Stateline Producers Addition, being a Replat of Block 4, Upland Second Addition and Unplatted Lands situated in the Northeast Quarter of the Northeast Quarter of Section 2, Township 21 North, Range 55 West of the 6th Principal Meridian. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

PUBLIC HEARINGS CONTINUED...

2. Sales Only Plat–Gering Valley Estates, LLC & BCD Investment Partnership - Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering situated in the NW ¼ of the NW ¼ of Section 12, Township 21 North, Range 55 West of the 6th Principal Meridian, City of Gering, Scotts Bluff County, Nebraska.

The Mayor opened the public hearing at 7:17 p.m.

Administrator Danielzuk stated that this property was originally sold by a meets & bounds description without meeting the City of Gering Subdivision and Zoning regulations particularly Article 19: Application and Regulations, Section 19.2: Applicability, Subsection (2) No subdivision of land shall be permitted within the City Planning Jurisdiction unless a plat is approved in accordance with provisions of these regulations.

This is the public hearing for a Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering situated in the NW ¼ of the NW ¼ of Section 12, Township 21 North, Range 55 West of the 6th Principal Meridian, City of Gering, Scotts Bluff County, Nebraska.

Administrative Record:

Mr. Danielzuk stated to the Council Members 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 this Sales Only Plat was submitted by the property owners of Gering Valley Estates, LLC (Bobby L. Unzicker, Partner) & BCD Investment Partnership (Nancy J Bentley, Executive Director) dated January 14, 2014.
- Sales Only Plat Mylar(s) submitted by the owner's representative Kelly Beatty, LS -476 of M.C. Schaff & Associates, January 14, 2014 and owners did not have their signatures notarized and resubmitted the Sales Only Plat with Signatures May 5, 2014.
- Proof of Ownership Deed submitted by owner's representative Kelly Beatty, of M.C. Schaff & Associates, May 5, 2014.
- Public Hearing Notice published June 19, 2014 & July 3, 2014.
- Publication Notice and written notice was completed and sent to all property owners within 300 feet and Gering School Board per the requirements of the current City's Zoning and Subdivision Regulations Section 15.2 and are incorporated by reference in this Administrative Record.
- Scotts Bluff County GIS Department was given a preliminary and final plat for review and comment.
- Correspondence with Rick Ediger, Attorney with Simmons Olsen Law Firm, PC to assist getting this property in compliance with the City Subdivision and Zoning Regulations. This property was originally sold by a meets & bounds description without meeting the City of Gering Subdivision and Zoning regulations particularly Article 19: Application and

Regulations, Section 19.2: Applicability, Subsection (2) No subdivision of land shall be permitted within the City Planning Jurisdiction unless a plat is approved in accordance with provisions of these regulations.

- Ordinance 1848 changing the zoning from AGG/RM to RMH by the City of Gering City Council dated 4-23-2014.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering Current 1995 Comprehensive Plan (Per Amendment No. 1 dated November 2001).
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Danielzuk asked the Council that if the Plat is recommended for approval the following conditions be set including:

1. Prior to development of the property the owners would need to re-plat the Sales Only Plat to a Final Plat meeting the City of Gering Zoning and Subdivision Regulations. (per the Planning Commission meeting minutes)

This Final Plat meets the City Zoning and Subdivision Regulations requirements of Article 21: Plat Review and Submittal Requirements and Preliminary and Final Plat Procedures for Approval and Section 6.5 Multi Family Residential High Density District (RMH) including lot requirements.

Mr. Danielzuk stated to the Mayor and Council Members that he has completed his entry regarding the Public Hearing for the Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering and requested the Council's approval for said Plat and ask that they please keep this hearing open until all entries are put into this record.

No one in the Chambers spoke in favor or against the application. Councilmember Morrison asked what a "Meets and Bounds" description is. Administrator Danielzuk stated that it's not done in the legal sense of lots and blocks which is what you would normally find.

The Administrative Record and the Public Hearing were closed at 7:21 p.m.

2a. Consider approving or denying Sales Only Plat–Gering Valley Estates, LLC & BCD Investment Partnership - Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering situated in the NW ¼ of the NW ¼ of Section 12, Township 21 North, Range 55 West of the 6th Principal Meridian, City of Gering, Scotts Bluff County, Nebraska.

Motion by Councilmember Christensen to enter the final plat into the public record and approve the Sales Only Plat–Gering Valley Estates, LLC & BCD Investment Partnership - Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering situated in the NW ¼ of the NW ¼ of Section 12, Township 21 North, Range 55 West of the 6th Principal Meridian, City of Gering, Scotts Bluff County, Nebraska. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

The Mayor moved Current Business item 2 up to follow the approval of the Sales Only Plat.

Current Business Item 2: Consider approving and authorizing the Mayor to sign Resolution 8-14-2 - Sales Only Plat–Gering Valley Estates, LLC & BCD Investment Partnership - Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering situated in the NW ¼ of the NW ¼ of Section 12, Township 21 North, Range 55 West of the 6th Principal Meridian, City of Gering, Scotts Bluff County, Nebraska.

Motion by Councilmember Morrison, second by Councilmember Gibbs to approve and authorize the Mayor to sign Resolution 8-14-2 - Sales Only Plat-Gering Valley Estates, LLC & BCD Investment Partnership - Sales Only Plat for Lot 2, Block 1, Gering Valley Estates to the City of Gering situated in the NW ¼ of the NW ¼ of Section 12, Township 21 North, Range 55 West of the 6th Principal Meridian, City of Gering, Scotts Bluff County, Nebraska. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

PUBLIC HEARINGS CONTINUED...

3. Amendment to Zoning to change Section 8.2 MH Heavy Industrial and Manufacturing District, specifically Sections 8.202 (8) & 8.203 (3) from Permitted Accessory Uses and Structures to Section 8.204 (2) and (3) Exceptions requested by Councilman Gibbs on behalf of the Gering City Council

The Mayor opened the Public Hearing at 7:25 p.m.

Councilmember Gibbs made a point of clarification: He said number one he's not sure how this happened but between what the City Council approved and recommended to the Planning Commission and what the Planning Commission received and considered are not the same thing. The City Council unanimously recommended that we change the requirements for packing plants *only*. We never ever mentioned livestock auction and sale barns. He said he personally reviewed the tape of that meeting this afternoon with the Mayor and the City Clerk. The discussion never even mentioned livestock auction and sale barns. He said the only thing we ever wanted to consider was packing plants and he can read the excerpts from the minutes.

April 14, 2014 City Council meeting: "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."

Councilmember Gibbs said further down in that meeting Councilmember Allred said *"It's directly related to packing plants."* Councilmember Gibbs said he's not blaming the Planning Commission; he's not sure where it got changed. He said that was never our intent; that was not the motion we passed and he has no intention of passing anything that is going to have any affect on livestock auction/barns. Councilmember Gibbs said again that was not the intent; the intent is only to change it as it relates to packing plants.

Mayor Mayo asked if Councilmember Gibbs wanted his statement added to the Administrative Record, Councilmember Gibbs replied in the affirmative. Mayor Mayo asked if there was anything else for the Administrative Record.

Administrator Danielzuk said there was a public hearing at the July 15, 2014 Planning Commission meeting. The Public Hearing was on a proposal to amend Section 8.2 (MH) Heavy Industrial and Manufacturing District, specifically Section 8.202 Permitted Accessory Uses and Structures Subsection (8) "Livestock Auction and Sales Barn" & Section 8.203 Permitted Accessory Uses and Structures Subsection (3) "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry". **The recommendation would be to eliminate the above referenced Section 8.202 Sub-Sections (8) & Section 8.203 Subsection (3) as permitted uses and create within Section 8.204 EXCEPTIONS - adding Sub-Section (2) to read "Livestock**

Auction and Sales Barn" and adding Sub-Section (3) to read "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry".

Mr. Danielzuk said the Commission's recommendation at the public hearing was moved and seconded to not make any changes; leave it exactly the way it is. That was seconded and the vote was six "AYES" and one "NAY". That was the Planning Commission's recommendation, not to change anything.

Administrator Danielzuk said to the Mayor and Council Members, this is a public hearing to amend the change like he described earlier. You've been provided with the Administrative Record in your packets and asked for the Council Members 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. Mayor Mayo said it would be entered into the public record without reading it.

Administrative Record:

- Councilman Gibbs on behalf of the City Council requested this amendment verbally 4/11/2014.
- Recommendation and Report for this amendment was heard by the Planning Commission April 15, 2014 to delete Section 8.203 Subsection (3) and create Section 8.204 Exceptions: Subsection (2) using the same language within.
- Recommendation and Report for this amendment was heard by the Planning Commission May 20, 2014 to delete Section 8.202 Sub-Section (8) and 8.203 Subsection (3) and create Section 8.204 Exceptions: Subsection (2) and (3) using the same language within.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Public Hearing Notice published April 24/May 1/May 29, 2014, June, 19, 2014 and July 3, 2014.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Danielzuk added for the Administrative Record an article out of the Gering Citizen, Thursday, August 7, 2014 that was done by Governor Heineman or someone on his staff stating that Livestock Friendly County Program continues to grow. In part he wants to mention that the livestock friendly program is a way for counties to show they are actively supporting and nurturing the livestock industry. That they have an established process for working with livestock producers and that they are open to agribusiness and the benefits that comes from responsible livestock production. Scotts Bluff County is one of those counties.

Administrator Danielzuk said the other Administrative Record item is the Planning Commission Administrative Record for that public hearing; he wants that included in the Administrative Record (as follows).

Amendment to Zoning Section 8.2 MH Heavy Industrial & Manufacturing District

Chairman Ross read item D on the agenda that is a public hearing on a proposal to change Section 8.2 MH HEAVY INDUSTRIAL AND MANUFACTURING DISTRICT Specifically Section 8.202 PERMITTED PRINCIPAL USE AND STRUCTURE Sub Section (8) "Livestock auction and sales barn" and 8.203 PERMITTED ACCESSORY USES AND STRUCTURES Sub Section (3) "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing of animals or poultry" from a permitted principal use to a use by special exception, placed in Section 8.204 Sub-Section (2) "Livestock auction and sales barn" and Sub-Section (3) "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing of animals or poultry". (Open 7:20 pm)

CA Danielzuk addressed the Commissioners with the administrative record:

PLANNING/CITY COUNCIL MEETING
City Engineer/Director of Engineering & Community Planning
Administrative Record
Planning Commission Public Hearing: Tuesday, July 15, 2014 – 6 PM

Mr. Chairman and Commission Members,

(Public Hearing - Amendment to Zoning to change Section 8.2 MH Heavy Industrial and Manufacturing District, specifically Sections 8.202 (8) & 8.203 (3) from Permitted Accessory Uses and Structures to Section 8.204 (2) and (3) Exceptions requested by Councilman Gibbs on behalf of the Gering City Council)

This is a Public Hearing to amend Section 8.2 (MH) Heavy Industrial and Manufacturing District, specifically Section 8.202 Permitted Accessory Uses and Structures Subsection (8) "Livestock Auction and Sales Barn" & Section 8.203 Permitted Accessory Uses and Structures Subsection (3) "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry". The recommendation would be to eliminate the above referenced Section 8.202 Sub-Sections (8) & Section 8.203 Subsection (3) as permitted uses and create within Section 8.204 EXCEPTIONS - adding Sub-Section (2) to read "Livestock Auction and Sales Barn" and adding Sub-Section (3) to read "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry".

Administrative Record:

Commission Members – you have been provided with the administrative record in your packets and I would ask for the Commission's approval that I not read through the record unless you would like this read and that it be made a part of the official proceedings of this Public Hearing.

- Councilman Gibbs on behalf of the City Council requested this amendment verbally 4/11/2014.
- Recommendation and Report for this amendment was heard by the Planning Commission April 15, 2014 to delete Section 8.203 Subsection (3) and create Section 8.204 Exceptions: Subsection (2) using the same language within.
- Recommendation and Report for this amendment was heard by the Planning Commission May 20, 2014 to delete Section 8.202 Sub-Section (8) and 8.203 Subsection (3) and create Section 8.204 Exceptions: Subsection (2) and (3) using the same language within.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Public Hearing Notice published April 24/May 1/May 29, 2014, June, 19, 2014 and July 3, 2014.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Chairman & Commission Members, I have completed my entry regarding this public hearing to amend and delete Section 8.202 Sub-Sections (8) & Section 8.203 Subsection (3) as permitted uses and create within Section 8.204 EXCEPTIONS - adding Sub-Section (2) to read "Livestock Auction and Sales Barn" and adding Sub-Section (3) to read "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry". I would request to this Commission to please keep this hearing open until all entries are put into this record.

Chairman Ross asked for a motion to approve not to read through the administrative record and make it part of the official proceedings of this public hearing. Commissioner Parks made the motion to let the administrative record to be entered into the minutes without being read in its entirety.

Chairman Ross asked for more background information on why this was proposed. CA Danielzuk said this information is taken from the April 14, 2014 City Council meeting:

Agenda item:

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 Alfred.

CA Danielzuk explains why it went to the Council, where it was moved & seconded for the proposal, it was per the Planning & Zoning Regulations (Article 15: Amendment Section 15.1 General) "The City Council may from time to time supplement change or generally revise the boundaries of regulations contained in the Ordinance by amendment. A proposal for such amendment may be initiated by the City Council, Planning Commission or upon application of the owner of the property affected" (these are three ways you can do it). Submission was received from the City Council to look at it: Submission to Planning Commission (Section 15.2) "All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report (you did that). Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon (that where we are tonight). From the last meeting CA Danielzuk said he offered a number of things the Planning Commission would be required to look at related to making a recommendation on changing the district requirements that you are being asked to change. In part of the discussion at the City Council meeting, Chairman Ross was at the meeting & discussed with Councilmember Gibbs concerning the amendments to zoning, he understood correctly that any exception to the zoning regulations have to be done by application & review by the Planning Commission. At that time Chairman Ross did ask why the Planning Commission was not involved in the proposed amendment.

CA Danielzuk says "the proposal came from the Planning Commission down rather than an applicant up or the Planning Commission on their own volition". There are numerous things that occurred during that meeting that were not accurate. All of this centers on the permitted accessory use for processing plants, specifically the F2E project. The zoning district changes are coming from those discussions at the City Council level; that is the reason they are asking the Planning Commission to make the recommendation & report, develop the tentative guidelines & hold the public hearing. Your recommendations & finding of fact will go to the City Council for an official public hearing action.

Chairman Ross asks why livestock auction & sales barn included in this. Commissioner Parks said that we (meaning the Planning Commission) had done that, adding it to the exception. It was added with the intent of getting public feedback.

Chairman Ross asked if there was any public comment. Jerry Weekes (owner of Platte Valley Livestock) spoke that there was no written notice about this public hearing, he did not get one. This is where part of the mud comes into the eye. He would like to hear the public record of the April 14th meeting; he doesn't understand where all of this is coming from. He did speak at the last City Council meeting. This is what he told them:

- depending on the year they between 1400 & 2200 different consignments
- take in anywhere (depending on year & market) from \$40 to \$50 million dollars into Gering through the sales barn
- people come from all over the area
- he has meet with his attorney, if the zoning is changed it is called taking without compensation – he has legal right to go after if it is changed
- has owned for 25 years

Commissioner Koob asked Mr. Weekes what his interpretation is of what we are doing is. Mr. Weekes responded you want to change my zoning so that I can't add on without meeting with the Planning Commission, can't change anything with his building without meeting with the Planning Commission – is that not true. Chairman Ross said that is not true, we are not changing the zoning. This is about permitted uses; this does not cover you as an existing business, you can add on to your existing building as long as it meets City building codes. This is not the same as the previous discussion – 10th Street rezoning).

Mr. Weekes replied it almost is, it affects who I can sell to, what can be done with the property. Commissioner Parks said he "will break it down for him reading from the Zoning & Sub-Division Regulations, you currently are zoned MH – Heavy Industrial Manufacturing District – permitted uses for that particular zone are:

8.202 PERMITTED PRINCIPAL USE AND STRUCTURES: The following shall be permitted as uses by right.

- (1) Wholesale, storage and warehouse uses;
- (2) Signs subject to SECTION 10.15 of this Ordinance;
- (3) Agricultural uses;

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- (4) Automobile service stations;
- (5) Any industrial use which can meet the performance standards for this district set forth in SECTION 10.1602 of this Ordinance provided, such is not specifically prohibited;
- (6) Contractors yard;
- (7) Grain elevator;
- (8) Livestock auction or sales barn;
- (9) Auto wrecking yard or junk yard only when located inside a building or when wholly enclosed by a well-maintained fence not less than eight (8) feet in height.
- (10) Communication Towers (not to exceed 150 feet in height) (Ord. 1609, 3/98)
- (11) Tattoo parlor meeting the following conditions: (Ord. 1825, 4/06)"

Commissioner Parks did not read all of the exemptions for tattoo parlor. These are currently permitted in your zoning. The change that is proposed is not to eliminate that use but to make it a permitted use by exception. Mr. Weekes says this does affect him, if it is considered with no compensation you are wrong.

Dale Weber from Midwest Auto Supply spoke on this issue. This was designed once by people just like you, so we can operate our business – respect it. This affects the net worth of property owners, does not need to involve the sales barn – get rid of that verbiage. Do what you want on the other issue.

Steve Eich – Rich's Wrecking also spoke. He agrees with everything Dale Weber said, this is the way it has worked, there is no need for change. This job has been done once don't do it again.

John Rogers – works for Jerry Weekes at the sales barn. You have heard from the businesses but not heard from people who work at these businesses. He has worked for Jerry about 8 years; he has trouble dealing with people. This job works out well for him as well as another individual who he thought had mental problems. If he is forced out of business, who will employ the next person like myself or Tom; he's glad he can be productive. He will never be a millionaire but he gets to go to work every Monday, do his job & help himself or someone else.

Leo Hoehn from Scottsbluff also had comments. He would like to know what is motivating the exception, is it F2E. Commissioner Park said it was to encompass the sales barn with livestock auctions & hoping to hear from the public before any changes were made. What does he exception encompass asked Mr. Hoehn? Chairman Ross explained the process to Mr. Hoehn. Mr. Hoehn said this Commission could kill the project and the response was yes. Commissioner Parks told Mr. Hoehn that per the direction of the City Council, the Planning Commission was to look at the permitted uses in this zoning – meat packing is permitted; Council wanted the Commission to look at making it not a permitted use but a use by special exception in any MH area in the City limits & the two mile extra territorial area.

CA Danieizuk would like further discussion by the Planning Commission members – items to be considered when moving a recommendation forward to the City Council as a result of a public hearing. Has anyone looked at the 1995 Comprehensive Plan and how that deals with the elements before you tonight in the public hearing?

Commissioner Parks said he did go through the 1995 Plan:

- Developmental Plan page 80, Urban Revitalization/Renewal Areas recommendations to the City were Commissioner Parks read: "North 10th Street Industrial Uses should not be encouraged to continue along Tenth Street. Future industrial development should be directed along Seventh Street north of U Street. In Addition, trees or attractive fencing should be used to screen industrial areas along major thoroughfares".
- Central Business District recommends tearing down dilapidated buildings.
- Also on page 72, Commissioner Parks read: "Land Use, Commercial: The Tenth Street commercial corridor represents the City's most pronounced mixed land use areas, exhibiting several classifications of commercial and industrial land uses. Adequate land is available within the corporate boundary to accommodate projected growth. However, consideration should be given to providing commercially zoned land near major highway intersections, such as; the Highway #71 & #92 intersection and the future Highway #26 and Heartland Express interchange".
- Industrial: "Although the 10th Street Corridor between Gering and Scottsbluff was partially developed as an industrial area, the corridor now serves as an important commercial development location and transportation corridor moving traffic between the two cities. Therefore, future industrial development in this corridor should be discouraged".

Comment from Steve Eich about what Commissioner Parks just read – the City of Gering shouldn't be turning away any businesses, should look into bringing businesses in & have that business beautify that area. Commissioner Koob stated that when he was on the Council they never acted on anything or brought it out; he also agrees we should not run business off & possible work on improving the looks of 10th Street.

Chairman Ross authorized a 5 minute recess so that the tape can be changed (7:55 pm). Resume meeting at 8:00 pm.

Commissioner Deines asking if we grant the zone change a use by special exception vs a permitted use is something in place like a state statute that allows the business to continue to be used that way even if it changes ownership. CA Danielzuk responded if it was classified as a non-conforming use, if it is a use by special exception and granted the legal status it would not be considered a non-conforming use even though it still exists. Commissioner Deines asks if the change in ordinance gets put into effect & he (sales barn) is currently in business is the only way a special exception will come to the Planning Commission & Council is if it would change ownership. CA Danielzuk said that needs to be looked at, when he looks at the statute that controls that he doesn't get a feel that's the way the elements of the statute shakes out.

Jerry Weekes returned back to the podium to get clarification on two comments about if he can build on his property & the height of the fence Commissioner Parks read about. He wants the Commission to take into consideration future business coming to town & why try to change the zoning that they are in when they come to town. Improvements to help the City would be an overpass on 10th Street. The Commission still has not heard from all of the businesses on this issue, the notices were not in the right places to get everyone here. These changes are not business friendly.

Leo Hoehn with an additional comment that if this is a public hearing how was it advertised. How was the F2E advertised?

Chairman Ross said F2E sent a letter to the City of Gering stating they are considering our area. If they would want to come to the 10th Street corridor now as it is a permitted use, they would not have to come before the Planning Commission.

Leo Hoehn hopes that this is not the motivation or intent to discourage business from coming to the area. Chairman Ross replied that is not the intent at all.

ACA Turman said this is not a true zoning change & the 300 foot notification is not applicable with respect to any public meeting they will be noticed pursuant to the Open Meetings Act; notice of the meeting to be published & posted here at City Hall as standard procedure.

Commissioner Deines stated this ordinance amendment will affect one business; there is no way to send out notice since this is an ordinance amendment. Is there some way to notify?

Commissioner Koob asks what can or can't Mr. Weekes do if this is changed. Can he add to his business or property without coming to the Planning Commission other than the building permit? Based on how CA Danielzuk reads the statute he replied yes. Commissioner Koob said if he sells the business to someone else, would the person have to come to the Planning Commission or would Mr. Weekes have to come to the Planning Commission. Based on how CA Danielzuk reads the statute he replied no.

CA Danielzuk responds for clarification, he reads from the statute: "16-901 Zoning regulations; building ordinances; public utility codes; extension. Except as provided in section 13-327, any city of the first class may apply by ordinance any existing or future zoning regulations, property use regulations, building ordinances, electrical ordinances, plumbing ordinances, and ordinances authorized by section 16-240 to the unincorporated area two miles beyond and adjacent to its corporate boundaries with the same force and effect as if such outlying area were within the corporate limits of such city, except that no such ordinance shall be extended or applied so as to prohibit, prevent, or interfere with the conduct of existing farming, livestock operations, businesses, or industry." Based on his reading of the statute Mr. Weekes' business would not fall under the subsections of the statute. He will get a legal opinion of this but he thinks Mr. Weekes' is affected by some of the things discussed tonight based on the statute.

Commissioner Koob asked Mr. Weekes "would you be opposed to us changing this if there is no affect you?" Mr. Weekes replied "I would." Commissioner Koob asked why. The first part of the response from Mr. Weekes was not audible due to him speaking from his seat & not being at the podium. What is audible is in bits & pieces that can't be put together; he covers many things when he speaks. The Planning Commission members were able to hear his comments.

Commissioner Koob asks if the City is considering pulling out the 1995 Comprehensive Plan & using it or is the new study going to represent the same. CA Danielzuk said "timing is everything", until there is a new comprehensive plan the existing policy document (which is the 1995 Comprehensive Plan) is the plan that local laws & regulations for conformity are based upon.

Dale Weber (bought his business in 1994) stated "very few pieces of my business operate the same way they did in 1994 – 1995. Why are we using something that old? How many businesses have left town since 1995? How much change has there been up & down 10th Street?" Address the real issue, don't pull a lot of people into it, it's ridiculous to keep changing things – "it's just flat wrong."

Tom Murphy comments there are not many people here tonight and this is a big deal. He sees this as a way for the City Council to nix the packing plant whether it is coming or not. New business coming into town is paramount for him; he came in 1996 & downtown was packed & thriving. We need any type of business we can get. These people are looking to bring millions of dollars into the community; people who would work at the packing plant will pay taxes (7%). The Council wants you to do their dirty work for them; the special exception permit gives them more ammo to nix the deal. He is against anything that will hurt business in the community. Need any business we can get doesn't matter what it is; he grew up in a town with a packing plant – money was great, the people were fine & paid well – it would be a fantastic deal for everyone. We live in a cattle community; he is asking that they postpone this at least the vote, have another public hearing, tonight you are slamming the door on any economic development especially agriculture that we thrive on. Surrounded by feedlots, manure means money.

Commissioner Parks says to close the public hearing & vote. Commissioner Koob recommends continuing the public hearing. Chairman Ross asks Commissioner Parks if that is his motion – yes; it was seconded by Commissioner Bohl. . On roll call vote, the following voted "AYE": Bohl, Deines, Hauck and Parks, "NAY": Koob, Reynolds and Ross. Absent: Ellison and Gealy.

Chairman Ross states that by the vote we will close the public hearing (8:27 pm). Commissioner Parks would like to recommend to not making the change; recommendation is to eliminate the above referenced Section 8.202 Sub-Sections (8) & Section 8.203 Subsection (3) as permitted uses and create within Section 8.204 EXCEPTIONS - adding Sub-Section (2) to read "Livestock Auction and Sales Barn" and adding Sub-Section (3) to read "Meat and poultry packing, slaughtering, eviscerating and skinning; and the rendering of by-products of slaughtering and killing animals or poultry". Commissioner Parks said his recommendation is we do not make the change to Section 8.2 MH Heavy Industrial and Manufacturing District. CA Danielzuk wants to make sure everyone is clear, "Mr. Parks your motion is to not" – Commissioner Parks responded "correct – not make any changes, leave it exactly the way it is". Chairman Ross asked for a second, it was seconded by Commissioner Hauck. On roll call vote, the following voted "AYE": Bohl, Deines, Hauck, Parks, Reynolds and Ross. "NAY": Koob. Absent: Ellison and Gealy.

Chairman Ross stated the motion passed not to recommend to the City Council any changes to the zoning.

This item on the agenda was brought up by Chairman Ross. He would like staff to do a study on U Street of traffic patterns. Reason this has been brought up is due to people driving on U Street thinking it is a 4 lane, you can be passed on the right & if you want to turn right off of U someone is driving on the right side of you. There is a lot of bicycle traffic as well as pedestrian (walking) traffic. See what can be done to straighten out potential problems on the street. Commissioner Parks said someone wanted to know if a bike lane could be put on U Street. Commissioner Hauck asked about the study – is it hazardous to pedestrians or cyclists. Commissioner Parks made a motion for City staff to do a complete & full engineering study from Five Rocks Road to 10th Street down U Street for any safety reasons; it was seconded by Commissioner Deines. On roll call vote, the following voted "AYE": Bohl, Deines, Hauck, Koob, Parks, Reynolds and Ross. "NAY": None. Absent: Ellison and Gealy.

Item 7 on the agenda is to Correct/Amend minutes of the May 20, 2014 meeting of the Gering City Planning Commission which were previously approved on June 23, 2014, and approval of Amended Minutes. ACA Turman states need to make sure the minutes reflect what occurred at the meeting whether any of the comments are liked or disliked or any discussion that was had; State statute requires everything of substance that is discussed is included in the minutes. To exclude the comments is not at the discretion of the Planning Commission members. This would correct the prior adoption of the minutes to comply with the Open Meetings Act. Chairman Ross asked for a motion to correct the minutes of the May 20,

2014 meeting of the City of Gering Planning Commission, motion was made by Commissioner Deines and was seconded by Commissioner Bohl. On roll call vote, the following voted "AYE": Bohl, Deines, Koob, Parks, Reynolds and Ross. "NAY": Hauck. Absent: Ellison and Gealy.

Mr. Danielzuk stated that he has completed his entry for now regarding this public hearing. He would open it up.

Mayor Mayo asked if anyone in the Council chambers wanted to speak in favor of the application. Seeing none he asked if anyone wanted to speak in opposition of this application. Seeing none he asked if the Council had any questions or comments regarding this application.

Councilmember Holliday stated that he wants to be really clear on what we're about to vote on here. Is it what Larry said because what he wants to make sure we avoid doing here is limiting somebody's opportunity to grow or change their business or potentially sell it. He wants to be very clear on exactly what we're voting on here. Councilmember Gibbs said we need to modify the item as it's presented on our agenda to exclude everything except packing plants; the only thing we were referring to is meat and poultry packing, slaughtering, eviscerating and skinning and the rendering of by-products of slaughtering and killing of animals and poultry. He said we have no intention of doing anything related to livestock auctions and sales barns. He doesn't think anyone on Council ever considered that when we talked about it three months ago and where it ever came from, he hasn't got the slightest clue. But that's what we want to do. Councilmember Gibbs asked City Attorney, Jim Ellison, if there's some way we can do that. He said all we want this to do is to require that a meat packing plant or a poultry processing facility, as defined in the ordinance, would have to come to the City Council for an exception to build rather than being able to build by right in a Heavy Industrial area. It does not preclude them from building if they meet what we want them to meet and that's the reason for this. He added that we just want to have an extra check on what they want to do before they can do it. Mr. Ellison replied that he thinks Councilmember Gibbs is accurate about that. The point is well taken and he thinks that's the nature of his motion. Councilmember Gibbs stated that's his motion. Administrator Danielzuk replied that Councilmember Gibbs can't do a motion yet.

Councilmember Morrison asked if this is going to just be for the 10th Street corridor or is this city-wide? Councilmember Gibbs replied this is for a packing plant anywhere in a Heavy Industrial zoned area, because Heavy Industrial zoning area is the only place they can put a packing plant now. It's just that currently they can do it by right; this just says they can do it only by exception.

Councilmember Smith said the motion in front of us includes the auction house, the sale barn and there has been a lot of zoning things come up on the 10th Street corridor and the rest of the City. He said there has been lot of confusion about it, so to pass something tonight changing it and passing it without going back to the Planning Commission with what Mr. Gibbs wants to do exactly, he doesn't think we should make any changes. Councilmember Smith added that he thinks if this isn't what you want then you need to vote it down and then you can go back to the Planning Commission or whatever you need to do.

Councilmember Gibbs said that once the Planning Commission has heard it the Council has the right to either accept or reject what the Planning Commission has recommended; and that's where he thinks we're at right now. Councilmember Smith replied what the Planning Commission heard included sale barns, so send it back to them with what you actually want and we can vote on that.

Councilmember Morrison said they voted six to one to not change anything whatsoever because of the information they had. We need to get this pinpointed and more specific so when they do their investigation then they come back to us with what we want, not with something that's around the fringes of this. She stated that she thinks that's a good idea because what we were presented and what we're really interested in getting have been two different things.

Mayor Mayo stated that we have Thomas P. Miller and Associates doing a comprehensive plan that we're participating in with the City of Scottsbluff and until they come back with their recommendations, it might be prudent to wait until we see what they say. Rawnda Pierce, TCD Director, responded to the Mayor's

comment and said that their report will not address zoning issues so waiting for that report would not be something that you're going to get a result on. She said zoning issues is not something the report will contain. They'll have a target industry and labor report study but they're not going to get into zoning issues. They'll have a site study also; there will be four components to the study. She said if you don't want to allow a packing plant in a Heavy Industrial zone then there's no reason to wait. If you want them to have to provide more information then there would be no reason to wait. Councilmember Gibbs said we don't want to eliminate them - the possibility; all we want to do is set some conditions if they decide they want to build here. Rawnda said that Dan's idea to take it back to the Planning Commission makes sense but that would not be addressed in any of the reports Thomas P. Miller is going to do.

Councilmember Gibbs asked Dick Ross, Chairman of the Planning Commission, if he thinks anyone understood that this is what Council is really trying to do. He added that he understands what they got wasn't what we're really trying to do so he's not blaming the Planning Commission. Mr Ross replied they acted strictly on what they saw in front of them and they, as a Planning Commission, thought it was pretty broad. They didn't try to infer anything else to what they had. He said in the Council's desire to control what a packing house might be, he doesn't understand what you're getting at because if they would apply for a conditional use or exception it's voted yay or nay; there would not be special clauses to that. If their exception were denied, that's the way it would come from the Planning Commission to you (the Council). He said unless they're wanting to have written into this exception special wording to show that they want to be able to determine certain aspects, he's afraid it will cause certain confusion down the road if this ever came before the Planning Commission because it would come to them before it would come to Council.

Councilmember Gibbs said basically what it would do, in his opinion, is give an extra level of check. Rather than them being able to just come to town and build a packing plant here because it's permitted by right, this says we as a Council and a Planning Commission have some additional questions as to specifically what they want to do and how they want to do it. Without this additional check we can't ask those questions.

Mr. Ross said that exception application they have to make is what they do now as it is. An example is storage units, a pet peeve of his; if anyone wants to build them they have to come through and apply for an exception. He said they quiz them as to what they want to put in there and why, etc. and that's what you're wanting to do. Councilmember Gibbs said he's not saying it won't be approved, if it's a good plan he has no problem approving it, but this just gives us an extra level of protection in case it's a bad plan. Mr. Ross said he sees what Mr. Gibbs is wanting and he thinks that as Commission members they would be able to understand what his intent is.

Mayor Mayo asked how would this affect the current packing house that's over there; Twin City Pack? He asked if this is only for the mega plants or does this include, or can we preclude, the small custom wholesale operations that we currently have? Councilmember Gibbs said he would think they would be grandfathered under the existing ordinance. City Attorney Ellison said yes they should be. Mayor Mayo asked for expansion and wholesale as well? Mr. Ellison said probably as it is, as it currently stands, if they try to do anything different it could restrict them. Mr. Gibbs said again that wouldn't be a problem necessarily, if it's a good proposal he doesn't see any reason why the Council wouldn't approve it. Councilmember Smith commented you are taking away their rights as land owners; you're not giving them the right to expand their business or sell it to who they want.

Councilmember Shields said she agrees with Councilmember Gibbs, she doesn't see why we couldn't vote on it the way Larry explained the way it should have been instead of sending it back to the Planning Commission because that would take a couple weeks to go there and then come back here. Councilmember Christensen added "and we already voted on it once". Administrator Danielzuk stated no you didn't. Councilmember Gibbs replied yes we did. Administrator Danielzuk said no you did not vote on it once. Councilmember Gibbs said that isn't what he saw in the minutes of the meeting because it was an eight to zero vote in favor of this. Administrator Danielzuk said let me go through it. He stated that in the amendment section of your Zoning Code it says a proposal for such amendment may be initiated by the City Council, Planning Commission or an application from an owner of property affected.

He said you did that April 14 under Current Business - Proposal for Amendment to Zoning Code 8.203. Submission to the Planning Commission - your agenda item: "Proposal for amendment by City Council to the City of Gering Zoning code in 8.203 (3) Meat and Poultry packing, slaughtering and eviscerating and skinning and the rendering of by-products of slaughtering and killing of animals and poultry, change from a permitted accessory use to a use by special exception." Administrator Danielzuk said what you did, what's *"all such proposed amendment shall first be submitted to the Planning Commission for recommendation and report."* That's all that you did; was move it back to the Planning Commission for recommendation and report. That man was in here at that meeting and queried the Council as to why they weren't participating. It came from the Council, top down, rather than from an applicant or from the Planning Commission itself.

Councilmember Gibbs asked Mr. Ellison, the Council is not bound by the recommendations of the Planning Commission, are we? They are advisory, correct? Mr. Ellison replied that's true except that it appears in this circumstance what the Planning Commission considered is probably not what you're considering tonight; he asked if he's understanding that correctly? Administrator Danielzuk replied not exactly. Mr. Ellison said maybe it needs to go back to the Planning Commission for clarification if that's what the Council may want to do. Councilmember Gibbs said he doesn't have a problem with that if that's the only way we can get this done. But he wants to make sure that what the Planning Commission gets this time is what we intend to do not what somebody else corrupted what we're trying to do. And he has no idea where it came from but he'd like to find out. Administrator Danielzuk replied that at the April 15 Planning Commission meeting, the first time that it came up for recommendation and report, nothing was done; there was no recommendation nor was there a report from the Planning Commission. As required in this amendment process, it says *"upon the development of tentative recommendations the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of the proceedings."* Mr. Danielzuk went on to say that on May 20, 2014, this is a recommendation and report: In their recommendation and report Commissioner Parks made the motion that Section 8.2 Heavy Industry and Manufacturing District Section 8.202 Subsection 8 Livestock Option and Sales Barn and section 8.203 Meat and Poultry packing, slaughtering, etc. be removed from a "Permitted Use" to Section 8.204 "Exceptions." Administrator Danielzuk said again let me remind you that the Planning Commission can move on their own initiative to make an amendment just like the City Council can do that; that's what was done at that meeting. It was done by the Planning Commission as part of their recommendation and report on May 20.

Councilmember Gibbs asked Mr. Ross if he has any idea why they would have expanded it. Mr. Ross replied no he doesn't. He stated that he doesn't have those minutes in front of him. Councilmember Gibbs said he thinks it's pretty clear what we want to do now all we got to do is figure out how to do it. It's got to go back to the Planning Commission but it's got to be specific and narrow to meat packing and processing only; not the expanded definition that was added there. Councilmember Gibbs asked the City Attorney how do we do that? Mr. Ellison replied that he supposes Council could make the recommendation that this should go back before the Planning Commission with more specifics. He added or you could table it; just table the vote on this. Administrator Danielzuk stated no you can't table it, this is a public hearing. Councilmember Gibbs said it probably should go back to the Planning Commission. Mr. Ellison said he would make that motion; if it's appropriate to go back to the Planning Commission for more clarification so everybody knows what's going on.

Mr. Ross stated to the Council that they have the recommendation from the Planning Commission in front of them right now. He said you can vote up or down on our recommendation; it would seem to him that Council could accept their recommendation then they as a Council could propose the narrow exception that we're talking about just for meat packing and poultry and send that to them for action at their Planning Commission. Councilmember Gibbs stated but that's what we did in April. Mr. Ross said okay, but it was expanded and he doesn't recollect why but we know now what you are wanting as a Council and he thinks he understands why. It would take another five weeks for them to get it because there is no time for publication to be made and all of the persons that would be affected by this to be notified. He doesn't believe there would be enough time to get it to this month's Planning Commission meeting which is next Tuesday night. Councilmember Gibbs asked the Clerk about the publication time. Clerk Welfl said she believes the rule is ten days in advance; the letters going out wouldn't be a huge deal.

Councilmember Gibbs said one of the concerns the Council had when they took the initial action was time. He's afraid if we keep putting this off we're going to get burned. Mr. Ross said that's another thing they ran into as far as the Planning Commission because letters had not gone out to the people that were going to be affected. He would like to see Council support their recommendation of denial of the proposed amendment as they have it and let's get the other in front of the Planning Commission so we can act on it.

Mayor Mayo asked if there were any more questions by Council. Councilmember Morrison asked if this can be approved and amended; can we approve this and go back in that narrow band and amend it? Administrator Danielzuk replied yes. Councilmember Morrison stated that she would move to approve... Mayor Mayo interrupted and said that we're not to that point; we're still in a public hearing.

Administrator Danielzuk stated that *"In the event the Planning Commission submits a failure to recommend, the City Council may take such action as it deems appropriate. Upon receipt of the recommendation of the Planning Commission, which the City Council disapproves, said governing body shall return and recommend such recommendations to the Planning Commission with a statement specifying the basis for disapproval."* It doesn't say that you can't finish it. Mr. Danielzuk stated that these are your rules; you have in front of you a recommendation from the Planning Commission that the Planning Commission disapproved. Councilmember Gibbs said it was the wrong motion. Mayor Mayo said but it's the motion they had in front of them. Councilmember Gibbs said he understands that, but it's not our intent. Councilmember Smith said this is the motion in front of us. Councilmember Shields asked if the Council can make the motion how Larry intended it to be and vote on it that way. Councilmember Gibbs asked: Can we not amend what's in front of us? Administrator Danielzuk replied yes; you can take such action as is deemed appropriate.

Leo Hoehn addressed Council and asked what is the ramification of the amendment Council is about to make or are you about to make an amendment? Mayor Mayo said he thinks what the Council is considering is voting no on the recommendation from the Planning Commission and narrowing the scope of this amendment to preclude everything except the meat processing, rendering and slaughtering of livestock, animals and poultry. Mr. Hoehn asked if that would go back to the Planning Commission then or would they act on that motion tonight? Mr. Danielzuk replied that the Council would have the authority to act on it tonight. Mr. Hoehn asked do we want to as a community cherry pick an industry or a business based on a rumor? He said to his knowledge he doesn't know that there has been a proposal made for a meat packing plant. He asked are we so flush with business opportunities here that we can cherry pick rumors? Councilmember Gibbs replied this does not preclude a packing plant locating here, all it does is require them to jump through one additional hoop. Mr. Hoehn said why don't you go back to the Planning Commission then because he thinks they're pretty explicit on all points that they were asked to consider and if it was just one, they said they are not in favor of change. Councilmember Gibbs stated that he did speak to one of the members of the Planning Commission since that meeting and he thinks he may have been the descending vote; he thought there was a great deal of confusion and it was not what the Council intended. Mr. Hoehn asked because it was not presented to them properly? Councilmember Gibbs replied yes. Mr. Hoehn said but they did vote six to one to include all points. Councilmember Gibbs said because they did not separate them; they did not have the authority to separate them. This was the proposal they got. Mr. Hoehn said his only point is that he's not sure why we are acting on a rumor of something that may be happening. He hears rumors every day; do we need to bring those to your attention? He said he's not sure that we have that many business opportunities that we should... he's not sure this sends a very good message to someone who may want to move to this community. He thinks it's bad business. Councilmember Gibbs said if someone comes to town with a proposal for a good packing plant, something we consider a good operation, there's no reason we wouldn't necessarily approve it. But if they come with a proposal that's under-financed with shaky ownership as this proposal that's rumored appears to have, he doesn't know that we would want to have it here. If we do not have this extra layer of protection they're going to be here whether we want them or not.

Councilmember Christensen stated to the Mayor that this thing is getting a little out of hand. Why don't we just send this back to the Planning Commission and start over.

Mayor Mayo asked if there was anything else for the Administrative Record. With no further comments Mayor Mayo closed the Administrative Record and the Public Hearing at 7:57 p.m.

3a. Consider approving or denying amendment to Zoning to change Section 8.2 MH Heavy Industrial and Manufacturing District, specifically Sections 8.202 (8) & 8.203 (3) from Permitted Accessory Uses and Structures to Section 8.204 (2) and (3) Exceptions requested by Councilman Gibbs on behalf of the Gering City Council

Councilmember Shields asked if Lane said we could amend this. Mayor Mayo replied yes.

Councilmember Smith moved to deny the changing of the zoning 8.2 at this time until it goes back to the Planning Commission and you have an additional plan to protect Twin City Pack.

Mayor Mayo clarified that Councilmember Smith's motion was to deny the amendment. Councilmember Smith replied yes. The Mayor stated that we have a motion to deny the amendment, do we have a second? Councilmember Morrison asked if she could make a comment; Mayor Mayo replied please. Councilmember Morrison said we've sent this through the Planning and Zoning and they have done their job, she asked if we can approve this the way they saw fit to do it and then come back in and amend it? Mayor Mayo said he thinks by denying it we are approving their... Councilmember Morrison interrupted and stated but they have done their job and now it's up to us to amend it. Administrator Danielzuk stated that you don't have to approve it the way it is and then amend it; you can amend it as part of the public hearing. He said we have a motion outlined to do that but you have a motion on the floor.

Mayor Mayo asked if we have a second to Councilman Smith's denying the amendment to zoning change as previously read. Councilmember Shields said she just wants to make sure she understands this right; by denying it the Planning Commission was saying they didn't want to make that the exception? Mayor Mayo replied they didn't want any changes; they wanted everything left as is. She asked so by Councilmember Smith denying it he's saying we do want to make the exception, right? Councilmember Smith stated actually he was going along with the Planning Commission; he said his motion was to deny the zoning change. Mayor Mayo said Councilmember Smith's motion by denying the amendment is approving the Planning Commission's recommendation not to change the zoning as it's proposed.

Mayor Mayo stated for the third time he will ask for a second to the motion. The motion was seconded by Councilmember Holliday. There was no further discussion. The Mayor called the vote. AYES: Smith, Christensen, Holliday, Allred, Morrison, Cowan. NAYS: Gibbs, Shields. Abstaining: None. Absent: None. Motion carried.

Councilmember Shields asked if they can now make an amendment to that. Councilmember Smith replied that he believes it will go back to the Planning Commission and they can look at what we actually want them to look at. Administrator Danielzuk stated first someone moves, someone seconds a motion to reconsider what you just did.

Mayor Mayo asked if there was a motion to reconsider the action just taken by Council and it has to be someone on the affirmative side.

Motion by Councilmember Cowan to reconsider the action just taken by Council, second by Councilmember Morrison. There was no discussion. The Mayor called the vote. AYES: Gibbs, Allred, Shields, Morrison and Cowan. NAYS: Smith, Christensen and Holliday. Motion carried.

Administrator Danielzuk stated that the motion would be a recommendation to eliminate the above referenced section 8.203 subsection (3) as a permitted accessory use and create within section 8.204 exceptions adding subsection (3) to read meat and poultry packing, slaughtering, eviscerating and skinning and the rendering of by-products of slaughtering and killing animals or poultry.

The motion for a recommendation to eliminate the above referenced section 8.203 subsection (3) as a permitted accessory use and create within section 8.204 exceptions adding subsection (3) to read meat and poultry packing, slaughtering, eviscerating and skinning and the rendering of by-products of slaughtering and killing animals or poultry was moved by Councilmember Gibbs. Mayor Mayo asked if there's a second to the motion as outlined by the City Administrator.

Councilmember Shields asked if this is to make the exception? Mayor Mayo replied yes.

Seconded by Councilmember Shields.

Discussion: Councilmember Smith stated as he pointed out earlier we still have an existing business that packs meat in the City of Gering that you're taking away their rights. He sees no reason not to have a recommendation come from the Planning Commission on how to protect the rights of that individual that owns that company before we make this vote.

Councilmember Shields stated that if she understood right she didn't think they were taking anything away; it's like Larry said - it's just an extra step that if that owner did want to do something he could come here and more than likely it would be approved if everything is legitimate. She said she doesn't think we're taking away their rights, it's just an extra step for us to find out what they're doing.

Councilmember Smith replied more than likely it's probably going to be a completely different Council when that gentleman comes and how would you know how the Council would vote down the road? Councilmember Shields said she doesn't but she knows we all want to better the community and like Larry said if everything is legitimate why wouldn't we want to help that business? Councilmember Smith said he's sure he won't be on the Council so he has no idea what the future Council would consider.

Councilmember Gibbs said we don't know but the thing is we can't bind a future Council, if they want to change what we're going to pass here they can change it in the future. Councilmember Holliday said his concern is that in business sometimes you have to be very fluid and agile and sometimes in order to make a smart, decisive business decisions you can't wait two weeks to come to City Council; sometimes you need to be able to act immediately. He thinks there's got to be a better way that they can come up with to protect what we're trying to do yet still support the businesses that we have in our community currently. He said it's a good business and he doesn't fully understand why we would want to limit it.

Councilmember Shields replied that we can do that; we've had lots of emergency Council meetings. If something did come up with this business and they needed to know right away, they don't have to wait the two weeks, we can meet that day or the next day; we just have to have a quorum so they're not limited to waiting the two weeks.

Councilmember Holliday stated that's understandable but we still need to protect the businesses that we have. Councilmember Gibbs said he agrees but we also have to protect the community and based on the feedback we got from people at that meeting in April he thinks this is what the people wanted. They want some extra level of protection from a bad operation and this protects us from a bad operation; it should not harm any good operation.

Councilmember Morrison said to Councilmember Gibbs but what you're basing this on, which is so unfair, is nothing but sheer rumor. Those kinds of decisions and these kinds of decisions for our community cannot be based on rumor. Councilmember Gibbs replied it's not based on rumor. She replied it is, because it was just this hysteria that started all this in the first place; we need to take care of what we've got here and the businesses that we've got here and if anybody comes to us for building, for any kind of building, they have to go through planning and zoning; that's just how it is. They then come to us. Councilmember Gibbs said if we don't have this then they don't have to come to us in this type of operation; it's guaranteed by right in a heavy industrial-zoned area. They can come in tomorrow and file for a building permit and we have no way to deny it if it's the worst operation in the world.

Councilmember Morison asked then why do we have to look at building permits for storage units and make them landscape and do all these things? Councilmember Gibbs replied in a lot of cases that's for structural reasons and lot set-backs and things like that, we're talking about a different operation here. Councilmember Morrison said well don't you think that something as huge as a packing plant would have to come back through here and do the same thing? Councilmember Gibbs replied for their structures yes. Councilmember Morrison replied then we would know they're going to do it that way. What they do after that, what somebody does as a business on their own, if you build a business and you go belly up that's not our problem. Councilmember Allred addressed the Mayor and stated that we have a motion on the floor and asked to please call the vote.

The Mayor stated that we have a motion and second for the motion as previously read. The Mayor called the vote. Councilmember Morrison asked to have the motion read again. Administrator Danielzuk stated the motion is: for a recommendation to eliminate the above referenced section 8.203 subsection (3) as a permitted accessory use and create within section 8.204 exceptions adding subsection (3) to read meat and poultry packing, slaughtering, eviscerating and skinning and the rendering of by-products of slaughtering and killing animals or poultry. "AYES": Christensen, Gibbs, Allred, Shields, Morrison, Cowan. "NAYS": Smith, Holliday. Abstaining: None. Absent: None. Motion carried.

Mr. Ross asked to address Council. He stated that when we (the Planning Commission) look at this exception it does not affect a current meat processing business that's in this type of zoning. He can think of two that are in the 10th Street corridor; it doesn't affect them - they are grandfathered. It doesn't affect them to expand their current business because they are grandfathered. He said if they would sell their business that is when the exception application would have to be made. He hopes that helps define how this exception works in the zoning area. He said we as the Planning Commission deal with the zoning; you have so many other things to deal with. He said every time they look at an exception they try to determine how it's going to affect all the people around them; the exceptions are hard to deal with. He said he hopes that helps Council a little bit as far as definition for that.

CURRENT BUSINESS:

3. Consider approval of Nebraska Liquor Control Commission Manager Application at Loaf 'N Jug #333, 2015 10th Street

Motion by Councilmember Smith to approve the application at Loaf N Jug #333, 2015 10th Street. Second by Councilmember Morrison.

Discussion: Administrator Danielzuk admitted the application and supporting documents for the administrative record.

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

4. Citizen Agenda Item: Redo fireplace at sled slope - John L. Fertig Jr.

John Fertig Jr. handed out drawings and information to the Council. He explained what he had done in the past to provide heat and warmth for kids and families who enjoyed the sled slope at the west end of Northfield Park. The stove there now is no longer viable. He proposed a new option for burning wood at the sled slope. Councilmember Cowan asked if he was going to use a fire screen. Mr. Fertig said he's going to ask Jay Templar about that. If Council wants a fire screen he needs to know because that adds extra costs to it as far as engineering it. He'd like people to be able to open it up and throw fire wood in it. He said there's plenty of adult supervision up there.

Mayor Mayo said basically what you have here is a burn barrel. Mr. Fertig replied yes, it's going to be a heavy duty, industrial strength burn barrel. Councilmember Smith asked wouldn't natural gas be cleaner, safer and easier? Mr. Fertig said if the City wants someone to just go up there and turn it on and leave it burn, that's something totally different. He thinks that would be more dangerous than just a fire place.

Mr. Fertig said he talked to Ron Ernst a week ago and he said he would talk to Jay. Mayor Mayo asked what the approximate cost is on this. Mr. Fertig said it depends but if we have to put a lid on it, it's going to zoom up to two grand, the way it is now it's about a grand. Councilmember Christensen asked about Keno money. John said he thinks he has worn out his welcome with Keno. Councilmember Morrison said she'd like to hear from Jay; the only thing she's worried about is having an open fire coming out of the top of that thing. She thinks it's a great idea but she wants to see what Jay says too. Councilmember Allred said he would like to have Mr. Fertig talk to Jay and Ron and come up with an approximate cost before we vote yay or nay.

Motion by Councilmember Gibbs for the Council to give tentative approval of this plan subject to Mr. Fertig coordinating this with the fire chief and the parks people. Second by Councilmember Morrison. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

5. Code of Conduct Violation Complaint Investigation Findings of Fact - Complaint filed by Julie Morrison against Jill McFarland

Mayor Mayo read the Code of Conduct report partially excerpted from the July 31 Administrative Committee meeting. He added that this complaint was filed prior to former Councilmember McFarland resigning from the City Council.

Administrative Committee Meeting EXCERPTED:

July 31 2014

Present: Councilmembers Gibbs, Cowan, Allred, Morrison, Mayor Mayo, Lane Danielzuk, Kathy Welfl, members of the media (Jerry Purvis and Dave Strang).

Chairman Cowan called the meeting to order at 5:30 p.m.

1. Open session meeting – **Code of Conduct** investigation discussion and findings regarding **Code of Conduct** complaint by Councilmember Julie Morrison; determination of violation; determination if sanctions should be imposed if violation determined; discussion of sanction to be imposed if finding a violation of the **Code of Conduct**.

1. **Continued violations of the Open Meetings Act by sending emails to all members even though she has been told to avoid doing this.**
It was clarified if staff can send mass emails. If they aren't expecting a reply then it's okay. If it is an ongoing dialogue, then it shouldn't be done.

Motion by Councilmember Cowan that "Continued violations of the Open Meetings Act by sending emails to all members even though she has been told to avoid doing this" was a violation of the **Code of Conduct Handbook** (page 6), Second by Councilmember Allred. There was no discussion. "Ayes": Cowan, Gibbs, Allred and Morrison. "Nays": None. Abstaining: None. Motion carried.

2. **Her conduct at meetings and her disrespectful conduct toward City Staff and Council Members, and her antagonistic attitude toward Mayor Mayo and Don Christensen. (Two sections of the Code of Conduct)**

Motion by Councilmember Morrison that Jill McFarland's conduct at meetings and her disrespectful conduct toward City Staff and Council Members was a violation of the Code of Conduct. Seconded by Councilmember Allred. There was no discussion. The vote was called. "Ayes": Cowan, Gibbs, Allred, Morrison. "Nays": None. Abstaining: None. Motion carried.

5. **Her Facebook postings that are embarrassing and disrespectful to the City, The Mayor, City Council and the City Staff.**

Councilmember Allred moved that Number 5 "Her Facebook postings that are

embarrassing and disrespectful to the City, the Mayor, City Council and the City Staff" is a violation of the Code of Conduct (page 4) specifically her Facebook posts that are disrespectful to the Mayor and Council." Seconded by Councilmember Morrison.

The motion is based only on the Facebook posts, not on the public comment. The vote was called. "Ayes": Cowan, Gibbs, Allred and Morrison. "Nays": None. Abstaining: None.

Audrey stated that the Committee determined that items 1, 2 and 5 were violations. She said the Committee needs to decide if there should be a sanction. If that passes, they need to determine what the punishment will be.

Administrator Danielzuk stated what the sanctions could be. They include:

Admonition: An Admonition shall be a verbal statement approved by the City Council and made to the individual by the Mayor, or his/her designee, or if the complaint is against the Mayor, the Deputy Mayor or his/her designee.

Reprimand: A reprimand shall be administered to the individual by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor.

Censure: A resolution of censure shall be a resolution read personally to the individual in public. The resolution shall be prepared at the direction of the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor.

Councilmember Allred moved that it was determined that the facts found in 1, 2 and 5 were violations of the Code of Conduct and that they be reported to the full Council. Seconded by Councilmember Gibbs. There was no discussion. The vote was called. "Ayes": Cowan, Gibbs, Allred and Morrison. "Nays": None. Abstaining: None. Motion carried.

Councilmember Allred moved that the Committee will report to the full Council to determine if there should be a sanction of either admonition, reprimand, censure or nothing and that the definitions of each will be provided to the Council. Seconded by Councilmember Gibbs. There was no discussion. The vote was called. "Ayes": Cowan, Gibbs, Allred and Morrison. "Nays": None. Abstaining: None. Motion carried.

End of Code of Conduct report.

Regarding the Code of Conduct Investigation Findings of Fact, the Mayor entertained a motion.

Motion by Councilmember Allred to accept the findings of the Administrative Committee regarding the Code of Conduct complaint against Jill McFarland in addition the City Council makes the same findings as the Administrative Committee regarding the violation of Code of Conduct with respect to Councilperson Morrison's complaint against former Councilmember McFarland. Seconded by Councilmember Christensen.

Discussion: Councilmember Holliday requested that he be allowed to abstain for this vote due to a conflict of interest considering he was not on the Council at the time of these complaints of conduct as well as a conflict of interest because he and Ms. McFarland are still running for the same seat against each other. Mayor Mayo asked Attorney Audrey Elliott of this is a conflict of interest to which she replied yes.

The Mayor entertained a motion to allow Councilmember Holliday to abstain from this vote. Councilmember Gibbs moved to allow Councilmember Holliday to abstain from this vote, second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: Holliday. Absent: None. Motion carried.

The Mayor stated with the Conflict of Interest resolved, regarding the motion by Councilmember Allred and second by Councilmember Christensen (as stated above: Motion

by Councilmember Allred to accept the findings of the Administrative Committee regarding the Code of Conduct complaint against Jill McFarland in addition the City Council makes the same findings as the Administrative Committee regarding the violation of Code of Conduct with respect to Councilperson Morrison's complaint against former Councilmember McFarland. Seconded by Councilmember Christensen). The Mayor stated please vote.

Councilmember Shields asked if she could ask a question. The Mayor replied yes. Councilmember Shields asked do we still have to do this since Jill's not on the Council anymore? Mayor Mayo replied yes we do.

With no other questions or comments the Mayor called the vote: "AYES": Smith, Christensen, Gibbs, Allred, Morrison, Cowan. "NAYS": Shields. Abstaining: Holliday. Absent: None. Motion carried.

6. Consider imposing a Sanction regarding Code of Conduct Complaint investigation pertaining to former Council Member Jill McFarland

Councilmember Gibbs moved the sanction of Admonition for former Councilmember McFarland be imposed in absentia as she is no longer a councilmember, but the acts that lead to this sanction occurred during her tenure as a Gering City Councilmember. Said sanction shall be public admonition for the following violations: 1 - By sending mass emails to Council Members, a violation of the open meetings act, 2 - by being disrespectful toward City Staff and Council Members in a public setting, 3 - by posting items on social media making derogatory personal comments about other Council Members, the Mayor, and staff rather than the positions they may have espoused in debate. We therefore publicly admonish her for those violations on this day August, 11, 2014.

Mayor Mayo stated that we have three motions that need to be taken; we've taken care of one. The second is the recommendation from the Administrative Committee regarding whether a sanction of any kind or nothing at all be considered. He asked Councilmember Gibbs if we can wait on his motion until the third motion. Councilmember Gibbs agreed to hold off from his motion.

Mayor Mayo stated regarding the recommendation of the Administration Committee that a sanction of admonition, reprimand, censure or nothing at all be considered and imposed, is there a motion? The motion was moved by Councilmember Allred and seconded by Councilmember Morrison. There was no discussion. The Mayor called the vote: "AYES": Smith, Christensen, Gibbs, Allred, Shields, Morrison, Cowan. "NAYS": None. Abstaining: Holliday. Absent: None. Motion carried.

Councilmember Gibbs moved the sanction of Admonition for former Councilmember McFarland be imposed in absentia as she is no longer a councilmember, but the acts that lead to this sanction occurred during her tenure as a Gering City Councilmember. Said sanction shall be public admonition for the following violations: 1 - By sending mass emails to Council Members, a violation of the Open Meetings Act, 2 - by being disrespectful toward City Staff and Council Members in a public setting, 3 - by posting items on social media making derogatory personal comments about other Council Members, the Mayor, and staff rather than the positions they may have espoused in debate. We therefore publicly admonish her for those violations on this day August 11, 2014. Seconded by Councilmember Cowan.

Discussion: Councilmember Smith said he's not sure that's really firm enough. He believes at least a reprimand is required concerning what has gone on over the last couple of months. Councilmember Morrison said to set a precedence she agrees with Dan, it has been very disruptive. It has been hard to do our work and our jobs and she thinks the reprimand would be closer to set a precedence as to this is not how things need to be done.

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

The Mayor stated the motion failed; do we have another motion?

Councilmember Allred moved that the sanction of reprimand for former Councilmember McFarland be imposed in absentia as she is no longer a councilmember, but the acts that lead to this sanction were during her tenure as a Gering City Councilmember. Seconded by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Allred, Shields, Morrison, Cowan. "NAYS": Gibbs. Abstaining: Holliday. Absent: None. Motion carried.

Mayor Mayo stated that the sanction of reprimand will be recorded and forwarded on to Ms. McFarland. He added he has one last comment on this; Ms. McFarland was invited to attend the Council meeting since she was on the agenda and the comments that came back were less than cordial in his opinion.

Mayor Mayo stated: "Now that the Code of Conduct queries are completed, it is time to try to put all of this strife behind us. For reasons unknown to me, there has been some harsh words, accusations, disparaging comments and outright lies leveled at several members of THIS Council, by a former Council member. If made to anyone other than a public figure, those comments could, and would, be construed as slander and defamation of character.

Even though the comments were maliciously made in various public settings, including Facebook, in an attempt to embarrass and impugn the reputations of members of THIS Council, I am proud say that I did not hear the slandered members respond in any manner other than professional when asked to discuss any Code of Conduct allegations against them or Former Councilmember McFarland.

Ms. McFarland, you recently stated on Facebook and in emails that you 'just want to be left alone to go off into the sunset.' If this is truly what you want, then appear before the Elections Board and sign a "Letter of Declination from Nomination" and be removed from this fall's ballot.

I don't think I am speaking out of line when I say from all your friends and former colleagues on THIS Council, we wish nothing but the best for you and say Go with God as you pursue your new endeavors."

Mayor Mayo stated the Code of Conduct Investigation and sanctions are now closed.

7. Consider setting prices for 525 O Street and 1455 5th Street

Rawnda Pierce stated that she would like to make a recommendation to Council. The appraisals on the properties were ordered by the City but somehow they went out in the packets. She has recommendations for the Council based on square footage costs. She thinks the appraisals are not market rate and she doesn't think good comparisons were used so she'd like to let Council decide how they want to handle it. There are several things to consider such as the private developer who's building houses and what he's going to price his houses at and how that affects the appraisal; we need to take that into consideration.

City Attorney Ellison said they can either do it in public or opt for closed session because Council is setting a price. Councilmember Shields said she's fine doing this in the open.

Ms. Pierce said based on the square footage, 1455 5th Street is 1243 square feet and she proposes a price of \$142,000 for this house which is \$114 per square foot which is below the market rate. It was built by the High School Construction Class. It has a crawl space, three bedrooms, two bath with a double car garage; she thinks \$142,000 is a very reasonable price for that house. The developer will be selling his

houses in the \$157,500 - \$162,000 range with square footages of 1130-1150 square feet and a one-car detached garage.

Councilmember Gibbs said his only concern is if someone goes to buy one of these houses and the appraisal comes in at the low end. Ms. Pierce said the Council will have to consider that. She said you can always go down but you can't go up.

Motion by Councilmember Gibbs, second by Councilmember Smith to accept the proposal of \$142,000 for 1455 5th street. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None . Abstaining: None. Absent: None. Motion carried.

Rawnda Pierce then proposed setting the price for 525 O Street at \$156,000 which is \$120 per square foot. It has a full basement with a roughed in bath, so it could be a five bedroom, three bath home with a two-car garage. Councilmember Allred asked if the basement is unfinished. Ms. Pierce replied that it's roughed in, the wiring and insulation is in as well as the bathroom; basically all it needs is sheetrock. She said it would cost another \$5000 to finish the basement. Councilmember Allred thinks these prices are too high for this part of town. Ms. Pierce said if we go any lower we're going to harm a private developer.

Motion by Councilmember Smith to approve the recommendation of \$156,000 for 525 O Street. Seconded by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Shields, Morrison, Cowan. "NAYS": None . Abstaining: None. Absent: None. Motion carried.

BIDS: None

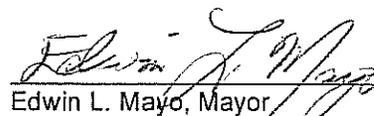
REPORTS OF STAFF, BOARDS AND COMMISSIONS AND STANDING COMMITTEES:

1. Department/Staff Reports (informational only)
2. Committee Reports & Council Member Comments
3. Administrator's Report
4. Mayor's Report
 - 2014 Annual Conference League of Municipalities
 - Update on local economic development efforts
 - Legacy of the Plains invitation for the fifth Monday in September

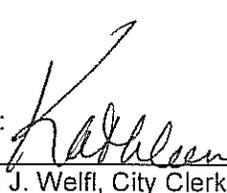
ADJOURN

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

Meeting adjourned at 9:16 p.m.


Edwin L. Mayo, Mayor

ATTEST:


Kathleen J. Welfl, City Clerk

