

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,
MARCH 23, 2015**

A regular meeting of the City Council of Gering, Nebraska was held in open session on March 23, 2015 at 7:00 p.m. at Gering City Hall at 1025 P Street, Gering, NE. Present were Mayor Kaufman, and Councilmembers Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. Absent were Councilmember Allred and City Administrator Danielzuk. Also present were 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 Kaufman 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

Motion by Councilmember Morrison to excuse the absences of Councilmembers Smith, Holliday and Cowan from the February 19, 2015 Special City Council meeting. Second by Councilmember Gibbs. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred. Motion carried.

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

Mayor Kaufman stated 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. As required by State Law, additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and Council determines that the matter requires emergency action.

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 March 9, 2015 Regular City Council Meeting
2. Approve claims and financials

Claims:

3-3-15 to 3-18-15

21st CENTURY EQUIPMENT \$179.10 RPR'S., ACTION COMMUNICATIONS INC. \$275.55 RPR. PORTABLE RADIO, ALAMAR UNIFORMS \$4,072.71 VEHICLE PARTS FORD INTERCEPTOR, ALLO COMMUNICATIONS \$1,240.00 TELEPHONE/INTERNET CHR.G., ALMQUIST MALTZAHN GALLOWA \$1,000.00 BOOK KEEPING FOR LOSAP PLAN, B & C STEEL \$696.95 POST METAL FOR GATES, BENZEL PEST CONTROL \$159.80 PEST CONTROL, BIG MACK \$367.47 WORK ON THERMOSTAT, BLACKSTONE AUDIO INC. \$50.00 AUDIOBOOK, BLUFFS SANITARY SUPPLY \$938.41 MARCH CLEANING SRV., BOUND TO STAY BOUND BOOKS \$81.05 CHILDREN'S BOOKS, BROADWAY OFFICE CENTRE \$83.00 TONER FOR PRINTER/FRONT DESK, C & M AIR COOLED ENGINE \$92.86 RPR'S., CARR - TRUMBULL LUMBER CO. \$804.08 SEACREST 2/BIRCH IN CLOVE FIN., CENTER POINT LARGE PRINT \$44.34 BOOKS, CHARTER COMMUNICATIONS \$497.54 TV/INTERNET CHR.G., CITY OF GERING \$8.00 GBC LUNCH - KAUFMAN, CITY OF GERING - GENERAL AC \$65,000.00 ACH PAYROLL TRANSFER, CITY PAYROLL TRUST \$3,729.59 FSA MEDICAL 125, COAST TO COAST SOLUTIONS \$95.31 EVIDENCE TAPE, CONNECTING POINT \$62.00 COPIER SRV. CONTRACT, CONSOLIDATED MANAGEMENT C \$732.50 MEALS FOR 718/706 NELETC, CONTRACTORS MATERIALS \$223.20 RESPIRATOR, CREDIT MANAGEMENT SRV. \$177.93 CASE #CH1051, CRESCENT ELECTRIC SUPPLY \$270.33 BREAKER BOX, CULLIGAN WATER CONDITIONING \$176.85 SALT, D & H ELECTRONIC SUPPLY \$254.51 AV EQUIPMENT, DAKOTA SUPPLY GROUP \$4,157.70 METER SUPPLIES, DALE'S TIRE & RETREADING \$6,113.60 NEW TIRE, DANA F COLE & CO. \$21,900.00 AUDITING SRV. FOR FY 13 - 14, DEETER FOUNDRY INC. \$4,048.00 MAIN RPR., DHHS DIVISION/PUBLIC HEAL. \$398.00 WATER LAB, DIAMOND VOGEL PAINT CENTER \$612.00 PRO MAX LATEX PRIMER, DOMINGO PALOMO \$31.00 CDL LICENSE RENEWAL, DOOLEY OIL INC. \$1,419.45 RPR'S., DOOR CLOSURE SRV. \$276.00 RPR. MAIN CITY HALL BLDG. DOOR, DOUG PARKER \$31.00 CDL LICENSE RENEWAL, DUTTON - LAINSON CO. \$279.82 ELBOW - FUSE, ECKMAN CURTIS \$100.00 NEW BOOTS REIMBURSEMENT, ECOLAB \$84.87 PEST CONTROL, ELLIOTT EQUIPMENT CO. \$506.84 TOOL, ENERGY LABORATORIES INC. \$456.00 WATER LAB, ENVIRO SRV. INC. \$924.00 WASTEWATER LAB, ESC ENGINEERING \$1,825.00 ENGINEERING, FASTENAL CO. \$338.76 SHOP SUPPLIES, FAT BOYS TIRE & AUTO \$769.00 TIRES FOR 09 GMC SIERRA K1500, FIRST STATE BANK \$361.74 IBEW UNION DUES, FLOYD'S SALES & SRV. \$817.24 WORK ON G8, FORE RESERVATIONS INC \$2,150.00 POINT OF SALE FEES, FYR - TEK \$645.80 AIR

COMPRESSOR MAINTENANCE, GALE \$32.38 BOOKS, GARY'S CLEANING & RESTORATION \$1,674.00 CHAIR CLEANING, GEISLER ELISA \$75.00 RV ROOM DEPOSIT REFUND, GERING CITIZEN \$679.02 CONDENSED MINUTES, GERING COURIER \$163.11 WEDDING ADVERTISING, GERING VALLEY PLUMBING \$606.00 COOLER RPR., GLEIM ROBERT \$92.00 MEAL ALLOWANCE FOR NLETC TRIPS, GREASE N GO \$45.29 OIL CHANGE & SRV. FOR ACADIA, GREATAMERICA LEASING CORP. \$178.49 COPIES LEASE, GREY HOUSE PUBLISHING \$378.00 REFERENCE BOOK, HALE MULTI MEDIA \$200.00 WEBSITE HOSTING FEES 3/15 TO 2/16, HARRINGTON INDUSTRIAL PLA \$175.97 WELL RPR., HD SUPPLY WATERWORKS LTD. \$2,233.97 HYDRANT RPR., HEILBRUN \$771.89 BATTERY, HI TECH AUTO SRV. \$404.13 RPR. #21 DODGE 98 TRUCK, HOME DEPOT \$1,223.06 WELL RPR., HONEY - WAGON EXPRESS \$140.00 CLEAN GREASE TRAPS, ICMA ELECTRONIC RETIREMENT \$546.42 ICMA CITY ADMIN., IDEAL LINEN SUPPLY INC. \$347.19 MAINTENANCE SUPPLIES, INGRAM LIBRARY SRV. \$1,066.35 BOOKS/PERIODICALS, INLAND TRUCK PARTS CO. \$3,058.43 STERLING REAREND PARTS, INTERNAL REVENUE SRV. \$42,433.75 FED/FICA TAX, INTERNATIONAL ASSOC. PLUM \$150.00 MEMBERSHIP RENEWAL, INTRALINKS TECHNICAL SOLUTIONS \$2,403.14 COMPUTER SUPPORT, IRBY TOOL & SAFETY \$3,808.37 CUTOUTS - INSULATION, JAMES JACKSON \$46.00 MEALS FOR NLETC TRAINING, JOHN E REID & ASSOCIATES \$770.00 DENVER TRAINING - MODEC, JOHN HANCOCK USA \$12,942.30 JH RETIRE 6%, JOHNSON CASHWAY CO. \$8,140.99 MAPLE CABINET, JUAN MARQUEZ \$2,200.00 BASEMENT FINISH, HANG, TAPE, TEXT, KARENS CLEANING \$425.00 JANITORIAL SRV., KATHLEEN A LAUGHLIN \$165.00 GARNISHMENT 2, KAWASAKI KORNER \$69.98 RPR., KIMBALL COUNTY VISITORS \$10,000.00 GERING COMMITMENT TOURISM, KNEB \$326.00 RADIO ADVERTISING, KOIS BROTHERS EQUIPMENT \$2,150.00 PLASTIC BIN LIDS, KOVARIK, ELLISON, MATHIS \$2,930.00 RETAINAGE FEE - MARCH, KRIZ - DAVIS CO. \$5,740.73 CONNECTORS, LL JOHNSON DISTRIBUTING \$63,517.19 MOWER, LOGOZ LLC \$8.00 PLASTIC NAME PLATE CONF. ROOM #2, MAILFINANCE \$864.95 POSTAGE MACHINE LEASE PYMT., MB KEM ENTERPRISE \$1,018.00 COMMERCIAL OVHD, SRV. CALL, MEAT SHOPPE \$34,734.71 CATERING COSTS, MENARDS \$1,572.94 SOLID STRAND BAMBOO 8MM, MESSNER PATRICIA \$10.00 OVERPAID CEMETERY PLOT, MG TRUST CO LLC \$6,208.77 MG T - POLICE, MICRO MARKETING LLC \$16.17 NAT'L GEO; WILD CONGO DVD, MIDWEST LABORATORIES INC. \$8.75 LAB KIT, MIZUNO USA INC. \$959.14 GOLF SHIRTS, MONEY WISE OFFICE SUPPLY \$294.26 FOLDERS/RECEIPT BOOK, MUNICIPAL SUPPLY INC. \$8,077.13 MAIN RPR., MWC ENTERPRISES INC. \$1,206.00 OTTO CARTS 95 GAL., NDOR - LODGING \$439.82 FEB. LODGING TAX, NE CHILD SUPPORT PYMT. \$738.53 CHILD SUPPORT 1, NE DEPT OF REVENUE \$69,871.94 FEBRUARY SALES/USE TAX, NE PUBLIC POWER DISTRICT \$126.71 UTILITIES, NE SAFETY/FIRE EQUIPMENT \$95.00 FIRE ALARM INSPECTION, NEBRASKA CEMETERY ASSOC. \$40.00 MEMBERSHIP DUES, NEBRASKA DEPT OF RO \$15.00 SIGN PERMIT RENEWAL, NEBRASKA GOLF ASSOCIATION \$40.00 GOLF HANDICAP CERTIFICATION, NEBRASKALAND TIRE \$901.70 STERLING FRONT TIRES, NORTHWEST PIPE FITTINGS \$113.28 SUPPLIES, ONE CALL CONCEPTS INC. \$30.05 LOCATE FEES, PANHANDLE COOP ASSOCIATION \$532.00 DYED DIESEL, PANHANDLE GEOTECHNICAL \$230.00 COMPACTION TESTING, PANHANDLE HUMANE SOCIETY \$3,170.34 ANIMAL CONTROL/FEES, PANHANDLE PUBLIC HEALTH \$25.00 COMING TOGETHER TRAINING WELFL, PAYROLL CHECKS \$115,200.45 PAYROLL CHECKS ON 3-6-15, PAYROLL CHECKS \$203.73 PAYROLL CHECKS ON 3-17-15, PERALES CHRISTOPHER \$75.00 MEALS FOR BELLEVUE TRAINING, POLICE CHIEFS ASSOC. ON N. \$50.00 PCAN MEMBERSHIP DUES, POSTMASTER \$1,640.00 MAILING PERMITS, POWERPLAN OIB \$300.88 HOSE, PT HOSE & BEARING \$3,206.60 SNOW BLOWER PARTS, RANDOM HOUSE INC. \$18.00 AUDIOBOOKS, RESOURCE MANAGEMENT CO. \$649.35 NC TON 6, ROBINSON ELECTRIC \$29,299.62 ELECTRIC WORK AT NEW BUILDING, ROOSEVELT PUBLIC POWER DI. \$28.60 UTILITIES, ROSE BROS. INCORPORATED \$554.59 JOYSTICK CONTROL LEVER, RUSSELL'S EXCAVATION & CO. \$11,636.66 ADDITIONAL BLOCK FOR WALL, RUTERBORIES MICHELLE \$83.95 SUMMER READING WORKSHOP SIDNEY, SANDBERG IMPLEMENT INC. \$16,548.56 MOWER, SCB. CO DISTRICT COURT \$75.00 ALIMONY, SCB. COUNTY AMBULANCE SRV. \$316.23 AMBULANCE CONTRACT, SCB/GERING UNITED CHAMBER \$3,817.00 MEMBERSHIP INVESTMENT, SCOTTS BLUFF COUNTY COURT \$23.45 WITNESS FEES, SCOTTSBLUFF TOWING SRV. \$80.00 TOW FEE - 88 MERCURY COUGAR, SCOTTSBLUFF WINNELSON CO. \$115.33 REPLACE BATHROOM FAUCET, SCOTTSBLUFF - GERING UNITED \$10.00 UNITED WAY CTRB., SECRETARY OF STATE \$30.00 NEW NOTARY - TRAVIS ENLOW, SECURITY NATIONAL BANK TR. \$590.00 PENSION PLAN FEES, SENIOR CITIZENS CENTER \$525.00 FINANCIAL SUPPORT, SHELL \$1,149.55 FUEL, SHULTZ ASHLEY \$75.00 RV ROOM DEPOSIT REFUND, SIMMONS OLSEN LAW FIRM \$1,500.00 CITY PROSECUTOR BILL, SIMON CONTRACTORS \$332.50 MAIN RPR., SNELL SERVICES INC. \$19.80 SUPPLIES, SOLUTIONS EAP \$244.55 COUNSELING SRV., SOURCE GAS \$944.75 UTILITIES - FIRE HALL 1035 M STREET, STAPLES CREDIT PLAN \$194.47 EXTERNAL HARD DRIVE, STAR HERALD \$2,098.37 TALK OF THE TOWN, STATE OF NE/DAS COMMUNICATION \$298.35 LONG DISTANCE PHONE CHR.G., STOTZ EQUIPMENT \$11,447.76 EQUIPMENT LIFT, SUGAR VALLEY FEDERAL CREDIT \$1,268.08 CREDIT UNION, TERRY CARPENTER INC. \$650.00 WATER WELL LAND RENT - MARCH, THOMPSON GLASS INC. \$328.00 FIX GLASS AT CLUBHOUSE, UNANIMOUS \$1,170.00 JAN. WORK ON NEW CITY WEBSITE, UNITECH \$1,199.50 LIFT STATION MAINT., VALLEY BANK - POLICE \$320.00 PO UNION DUES, VALLEY BANK & TRUST CO. \$29,667.42 SINKING FUND - FEBRUARY, VERIZON WIRELESS \$327.24 AIR CARDS FOR CAMERAS, WALSH TOM \$256.00 GCSAA CONFERENCE TRVL. EXPENSE, WATCH GUARD VIDEO \$433.00 DVD DRIVE RPR., WELLS FARGO FINANCIAL LEASE \$124.57 LEASE PYMT., WESTCO \$6,435.86 DIESEL, WESTERN PATHOLOGY CONSULTANTS \$228.80 DRUG/ALCOHOL SCREENINGS, WESTERN PLAINS BUSINESS \$107.21 COPIER MAINTENANCE, WINCHELL CLEANING SRV. \$940.00 CLEANING SRV. LOBBY & BATHROOMS, ZM LUMBER CO DISTRIBUTING \$59.95 BARBLESS WIRE

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

PUBLIC HEARINGS: None

BIDS:

1. City-wide Street bid

Paul Snarr, City Engineer, stated that we only had one bidder; the bid amount did not change and was 30% more than our estimate. We would like to deny the bid at this time and pursue alternate routes.

Motion by Gibbs to reject the bid and move on to whatever the City Engineer feels is necessary. Seconded by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred. Motion carried.

CURRENT BUSINESS:

Mayor Kaufman moved item 1 under Current Business to the last item under Current Business as the new appointee to Ward II will not have any information to make decisions on the agenda.

1. Consider approving Appointment for Ward II City Council vacancy (moved to item #3)

2. Consider approving Economic Development Assistance Agreement for JADS Trucking, Inc. Rawnda Pierce with TCD said JADS Trucking is owned by John Schlothauer and Doug Koob and their spouses. They run a contract with FedEx Ground to do routes. They are located at 185 E. M Street. They had one route, they've purchased three additional routes and they've done some trading with another; they now have five routes. This will employ two additional full-time employees; the employees will average about \$38,000-\$40,000 per year. With two more they'll have six full-time employees. The LB840 Committee recommended approval of this application for two FTE for a total of \$10,000.

Motion by Morrison to approve the Economic Development Assistance Agreement for JADS Trucking, Inc. Seconded by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Allred. Motion carried.

3. Citizen Agenda Item – Motion to reconsider the action taken to change the zoning requested by Steve Eich, owner of Rich's Auto Wrecking and Used Cars, Inc. on March 9, 2015 – William Vaughan (Regarding zoning change from ML (Light Industrial Manufacturing) to MH (Heavy Industrial Manufacturing) on land located between the railroad and Highway 92 laying east of Pappas Blvd.)

Mr. Bill Vaughan, 2033 River Glen Drive in Berthoud, CO, thanked the Council for the opportunity to speak to them. He stated that when he retires he intends to move back to Gering. For that reason he has a vested interest in the appearance and the way the City of Gering looks and operates. He stated he put a pamphlet at their seats. Mr. Vaughan said the pleasing appearance of both 10th Street and Hwy 92, which is an historic corridor of the Oregon Trail which shows up on the map he gave the Council, should be preserved because of the aesthetic value to the City of Gering. Both are main corridors coming into the City; neither should have a salvage yard in plain view. He went on to say that on number two, the Gering City Administrator, Lane Danielzuk, stated that "the comprehensive plan serves as a guide for preservation of the valued existing conditions and the development of desired future changes and incorporates the following statements." Mr. Vaughan said this is in accordance with and directly from the minutes of your last City Council meeting.

"A. Residential and heavy manufacturing should not be adjacent to a residential area

B. A buffer zone should separate residential and heavy manufacturing."

Mr. Vaughan said on the A, B C map on page 4, that shows where a mobile home park, Steve Eich's property, Scott Blanton's property and Murphey's John Deere Tractor is (shown as A, B C). The way this original zoning was presented there was a vertical section separating residential on the left and heavy manufacturing on the right, which is the Lockwood's plant on the right; where the heavy manufacturing is located. They separated that all the way down to that green zoning area separating the residential and the heavy manufacturing areas. He then quoted Paul Snarr from the minutes of the last meeting: "The project probably shouldn't fly if Mr. Blanton's property doesn't come into play; it would have to include the whole piece north of M Street to come into the zoning in order to comply and not to be considered as spot

zoning." Mr. Vaughan said this was quoted from the March 9th Council meeting. He went on to say it says spot zoning is not in accordance with the comprehensive plan nor acceptable to the City of Gering since the land is not joined by another heavy manufacturing zone. Spot zoning has been done in the past but the City realized this is not a good plan for future development. Several citizens of the City of Gering appeared at the last City Council meeting on March 9th and expressed their opposition to the zoning change. It says we don't live in million dollar homes in the mobile home park but we deserve to be treated as human beings with respect and dignity. The same as people in million dollar homes deserve to be treated with respect and dignity also. Mr. Vaughan said he wonders if this zoning would be approved if it were next to some of those expensive homes; probably not.

He said some of those near this zoning change are retired, the rest have jobs. Some of the jobs and professions that are located within the mobile home park are a beautician, three nurses, a carpenter, cement worker, bookkeeper, and various other professions. He said please drive through the mobile home park and see that it is pleasing and well maintained, not a trashy place to live. The homes that are in the mobile home park have value just as the people who live in those homes. Mr. Vaughan went on to say that currently there are more than 200 acres of vacant land; he has checked this out with the zoning map with the City Engineer and some of the realtors in town. There are over 200 acres that are already zoned heavy manufacturing in the northeast section of Gering. Several realtors he spoke with said that just because there's no for sale sign on that property doesn't mean it's not for sale. He said if they're not ready to vote to keep the zoning as is and need more clarification, please send this back to Planning and Zoning for their review and recommendation. Planning and Zoning initially made the recommendation; they were considering all three parcels as what would be the zoning change. In that case then it would be next to the heavy manufacturing area, however now that "B", Mr. Blanton, does not want his zoning changed that creates section A, for Steve's property, to be not contiguous with any heavy manufacturing area. Mr. Vaughan said that Dick Ross, Chairman of the Planning and Zoning, stated that "Spot zoning was not discussed at their meeting because they were unaware of spot zoning being an issue at that time." Mr. Vaughan said because Mr. Ross thought all A, B and C were being considered for up-zoning. Mr. Vaughan said Mr. Ross stated that "Spot zoning is just not something the commission wants to do anymore and he thinks all the commission members are in agreement on that." Mr. Vaughan said now that spot zoning is an issue the Planning and Zoning Commission needs to be involved again for their review and recommendation. This is according to page 5 in the minutes of the last meeting.

Mr. Vaughan said on page 77 on the Comprehensive Development Plan for the City of Gering it states that residential and more intensive uses shall be separated. Land zoned for specific uses will be protected from encroachment of conflicting land uses. Heavy Manufacturing shall not be adjacent to residential. On the next map on page 5 are the areas showing they had originally intended to up-zone until Mr. Blanton said he did not want his up-zoned. Mr. Vaughan said he also has signatures of those that protested that they did not want the zoning. The next three pages are full of signatures. He included photos of Mr. Eich's current location on 10th Street. He said the last page is what we don't want inside the City of Gering which was a salvage yard south of town. He said he would appreciate the Council's time and consideration and thanked them for allowing him to speak to them.

Mayor Kaufman thanked Mr. Vaughan. He asked if there were any other comments. Eileen Miller, #9 Spruce Wood Grove in Gering, addressed the Council. She said she just wanted to clarify something. She said she saw Kathy, the Clerk, about this situation the day after the last meeting. She said Mr. Ross from the Planning Commission stated that there was a tree line between the mobile home park and the subject property. She said she went to see Kathy the day after the meeting and she showed her the Ariel photo of Mr. Eich's property. Ms. Miller said there is no tree line. She told Kathy to look at the picture and said there is no tree line and she looked at the picture and said you're right, there is no tree line. Ms. Miller said she needs to clarify that as a misstatement. Mayor Kaufman told Ms. Miller that he appreciated that and thanked her.

Steve Eich, 1315 P Street in Gering, said he feels like there has already been two public meetings for public comment on this. We've already had two votes. He doesn't want to waste anymore Council time on it. He doesn't feel anything has changed. He said if Council has questions for him he'd be happy to answer them.

Mayor Kaufman thanked Mr. Eich and asked if there were any additional comments. Seeing none Mayor Kaufman asked the Council if there is a motion for reconsideration. Councilmember Gibbs asked if the Mayor could clarify the fact that only those that voted with the majority can make the motion. Mayor Kaufman stated that only Council Members who voted in the affirmative at the last Council meeting can make that motion; there are only four people tonight that are eligible to make that motion. The other two that voted against cannot make that motion. Seeing none, the Mayor referred to Mr. Ellison.

City Attorney Ellison asked the Mayor if he may make a comment; Mayor Kaufman said please. Mr. Ellison stated that he has done some study on what the Council did on March 9th. He has some significant legal concerns about what was done. He would prefer to express his legal opinions in closed session so we can have a full understanding of where he's coming from. He said he's only asking for it because it calls for legal consequences of what has been done in the past and what they may do in the future or may not do in the future. He asked that they please consider doing that (closed session); he's not sure they have all of the information they need from his point of view; he strongly urged them to reconsider or at least go into closed session and then consider what to do thereafter.

Mayor Kaufman thanked Mr. Ellison and asked the Council if there was a motion to go into closed session based on Mr. Ellison's comments.

Councilmember Gibbs said based on our legal counsel's recommendation he would ask that they go into closed session to discuss the legal ramifications of this decision.

Councilmember Gibbs moved that the City Council enter into closed session according to section 84-1410 of the Nebraska Public meetings law for the purpose of discussion of strategy, negotiation, and guidance from legal counsel, legal consequences of City Council action including potential litigation, and protection of the public interest related to zoning issues of property requested for change in zoning by Richs' Wrecking Auto, Steve Eich and Request for Reconsideration by Bill Vaughn.

Mayor Kaufman stated that we have a motion by Councilmembers Gibbs that the City Council enter into closed session according to section 84-1410 of the Nebraska Public meetings law for the purpose of discussion of strategy, negotiation, and guidance from legal counsel, legal consequences of City Council action including potential litigation, and protection of the public interest related to zoning issues of property requested for change in zoning by Richs' Wrecking Auto, Steve Eich and Request for Reconsideration by Bill Vaughn. The Mayor then asked if there was a second.

Councilmember Christensen seconded the motion. There was no discussion. The Mayor called the vote. "AYES": Christensen, Gibbs, Cowan. "NAYS": Smith, Holliday and Morrison. Absent: Allred. Abstaining: None. Motion failed.

3. (Moved to item 3 from item 1) Consider approving Appointment for Ward II City Council vacancy Mayor Kaufman stated that Council conducted interviews with four candidates last Thursday for the Ward II vacancy. They included Jeff Kelley, Michael Gillen, Wade Soule and Pamela O'Neal. He noted that Pam's name was spelled incorrectly on the agenda last week; it should have been O'Neal, not O'Neil. Mayor Kaufman stated that after consulting with the Council over the weekend he would like to entertain a motion to appoint Pamela O'Neal as the new Ward II Councilmember.

Motion by Councilmember Gibbs, second by Councilmember Cowan to appoint Pamela O'Neal to the Ward II vacancy. There was no discussion. The Mayor called the vote. "AYES": Smith, Gibbs, Holliday, Cowan. "NAYS": Christensen and Morrison. Absent: Allred. Abstaining: None. Mayor Kaufman voted "YES". Motion carried.

Mayor Kaufman congratulated Pam O'Neal. An unidentified member of the audience asked for clarification on the tie vote and asked if the Mayor can break that tie. Mayor Kaufman stated that for a majority-vote-we-have-to-have-five;so-he-can-only-vote-in-instances-when there is four or a tie of four and

four to make that fifth vote. City Attorney Ellison stated that the Mayor can create the majority which doesn't necessarily require a tie but if he has four votes he can make the fifth vote. Mayor Kaufman clarified that a vote of three and three he could not, Mr. Ellison said no, you have to have the fifth vote.

At that time the Clerk administered the oath of office to Ms. O'Neal. Councilmember O'Neal took her seat with the Council.

CLOSED SESSION: (Council reserves the right to enter into closed session if deemed necessary.)

REPORTS: None

OPEN COMMENT SECTION: Discussion or action by Council regarding unscheduled business will not take place. This section is for citizen comment only.

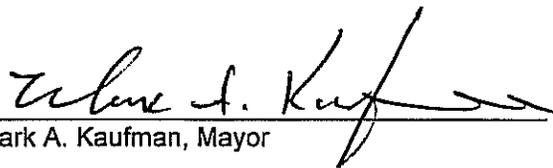
Kirk Arnold, 1000 9th Street in Gering, stated that he understands Council can take no action on this. He said he did a little research; the City of Gering spent a half a million dollars; tax payers' money. Two instances, one was on the Weinhold property and the Lane property. He said he has a copy of the minutes. He said he's a little concerned that the City Council spent a half a million dollars that he doesn't know if we'll ever get back. The Lane property sold for \$75,000 and cost approximately \$90,000 to clean up. He asked what the final bill was on that. City Attorney Ellison stated the Council cannot have any discussion. Mr. Arnold said from what he sees we spent at least \$75,000 plus clean up. He doesn't know that we'll ever get the money back. He said the grant has to be paid back so we have that to pay back plus \$75,000. He said he also read the minutes relative to the Weinhold property. The Council went ahead and purchased 10 acres for \$300,000 with the option of \$15,000 per year to buy the balance. He said the City Engineer suggested that we look at some other opportunities for the landfill. If the EPA doesn't pass it out there we own a \$300,000 piece with 10 acres with one residence on it and property next to it that will never be developed, at least not by the City. He said he hopes that the new Councilmember and moving forward this Council will apply some really good common sense, business sense, with their purchases. He understands we have some Westco property that was given to the City and has to be cleaned up; who knows what that's going to cost. He said hopefully this City looks really hard before the next time they write a check for half a million dollars.

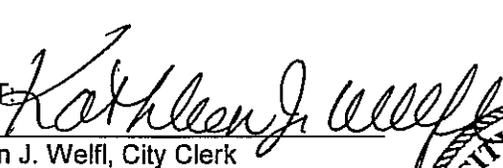
There were no other comments.

ADJOURN

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

Meeting adjourned at 7:29 p.m.


Mark A. Kaufman, Mayor

ATTEST 
Kathleen J. Welfl, City Clerk

