

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,
MARCH 9, 2015**

A regular meeting of the City Council of Gering, Nebraska was held in open session on March 9, 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, Allred, Morrison and Cowan. Also present were Administrator Lane Danieizuk, 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 Gibbs to excuse the absence of Mayor Kaufman from the February 23, 2015 Regular City Council meeting due to his attendance at the League Mid-Winter Conference. Second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Morrison and 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).

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 February 23, 2015 Regular City Council Meeting
2. Approve claims

Claims:

2-19-15 to 3-2-15

21ST CENTURY EQUIPMENT \$66.70 FILTERS, ACTION COMM. INC. \$59.59 PARTS, ADAMS ELECTRIC SRV. \$230.00 RPR. LIGHTS, ADVANCE AUTO PARTS \$28.98 DEFOGGER CHR. EXCLUDING TAX, ALTEC IND. INC. \$92,293.87 F550 2015 TRUCK, AMAZON \$222.05 BOOKS, ATLAS LAWN EQUIPMENT CO. \$213.02 HYD. PUMP SHAFT, B & C STEEL \$1,113.55 SQUARE TUBE, BENZEL PEST CONTROL \$53.00 RODENT CONTROL, BLUFFS SANITARY SUPPLY \$172.68 RR SUPPLIES, BROADWAY OFFICE CENTRE \$426.48 BROTHER IMAGING DRUM, BRODART CO. \$106.35 CATALOGING SUPPLIES, BUFFALO WILD WINGS \$13.48 MEAL DURING NLETC TRAVEL: GLEIM, BURGER KING \$6.88 MEAL FOR ICC TRAINING: ROD, C & M AIR COOLED ENGINE \$356.31 MOWER RPR., CARD SRV. \$15,456.70 FEBRUARY CC TRANSACTIONS, CASEY'S GENERAL STORE #27 \$92.33 FUEL FOR NLETC TRNG: GLEIM, CENTRAL STATES WIRE PROD. \$8,363.29 WIRE FOR BALER, CENTURYLINK \$2,345.50 MONTHLY PHONE BILL ALLOCATION, CHARTER COMM. \$700.86 TV/INTERNET CHR., CHEAPOAIR \$600.70 AIREFARE GCSAA CONVENTION: WALSH, CITY INSURANCE FUND \$145,343.07 HEALTH PREM 125, CITY OF GERING \$15.48 GBC LUNCH: KAUFMAN, CITY OF GERING - GENERAL AC \$65,000.00 ACH PAYROLL TRANSFER, CITY PAYROLL TRUST \$6,250.42 FSA MEDICAL 125, COLORADO ASPHALT SRV. \$4,006.33 COLD ASPHALT MIX, COLORADO WILDLAND FIRE \$207.00 S-125 CLASS: AARON NAB, COMFORT INN \$194.04 HOTEL STAY FOR S-125 CLASS: NAB, CONNECTING POINT \$79.00 RPR. TO PRINTER & FAX MACHINE, CONOCO \$27.00 FUEL NYPD OFF. LUI FUNERAL: ENLOW, CONSOLIDATED MANAGEMENT \$380.50 MEALS FOR NLETC: GLEIM & MEDEIROS, CONTRACTORS MATERIALS \$175.92 HAMMER DRILL BIT, COUNTRY INN & SUITES \$336.00 HOTEL STAY 710 TRAINING: MODEC, CRESCENT ELECTRIC SUPPLY \$561.96 CONDUIT, FITTINGS, DANKO EMERGENCY EQUIPMENT \$67.38 HELMET CRESENTS, DAVID HUSTED \$100.00 NEW BOOTS, DENNIS SUPPLY CO. \$60.62 THERMOSTAT, DHHS DRINKING WATER & EN. \$40.00 POOL PERMIT, DIA \$24.00 PRKNG. FEES: OFF. LUI FUNERAL, DOOLEY OIL INC. \$6,981.90 SHOP BULK OIL, DUTTON - LAINSON CO. \$840.62 CLAMPS, ECOLAB \$151.63 RODENT CONTROL, EMBASSY SUITES \$370.42 HOTEL STAY FOR CONF: DOGGETT, ENERGY LABORATORIES INC. \$456.00 WATER LAB, ENVIRO SRV. INC. \$1,042.00 WASTEWATER LAB, ESRI \$1,295.00 ESRI USER CONF. REG: SERGIO, FASTENAL CO. \$1,948.05 BOLTS, FBI NATIONAL ACADEMY ASSOC. \$100.00 MBRSH. 2015 RENWAL: HOLTHUS, FEDEX \$84.97 WATER LAB, FIRST STATE BANK \$361.74 IBEW UNION DUES, FLOYD'S SALES & SRV. \$6.38 PART FOR G4, FORT DEARBORN LIFE INS. \$110.08 FIREFIGHTER LIFE INS., FRESH FOODS \$31.85 BOTTLED WATER & DISH SOAP, FURST - MCNESS CO. \$66.90 BENTONITE, GALE \$71.97 BOOKS, GERING CITIZEN

\$363.08 CONDENSED MINUTES, GERING MERCHANTS \$400.32 MAKE GERING SHINE: SANTA VILLAGE, GERING U – SAVE PHARMACY \$72.58 GLUCOSE TEST STRIPS, GERING VALLEY PLUMBING \$185.00 MAINTENANCE ON BATHROOMS, GERING VOLUNTEER FIRE DEPT. \$513.12 PARRISH ABEL LES LUKERT CONF., GLEIM ROBERT \$92.00 MEAL ALLOWANCE FOR NLETC, HACH CO. \$552.14 LAB SUPPLIES, HD SUPPLY WATERWORKS LTD. \$8,921.34 METER PURCHASE, HEILBRUN \$1,142.01 BEARINGS, HENSLEY BATTERY & ELEC. S. \$830.40 BATTERIES, HOKE WELDING & RPR. INC. \$300.00 WELDING CYLINDERS, HOME DEPOT \$3.28 EVIDENCE FRIDGE & SAFETY HASPS, HOT ROD MAGAZINE \$29.97 MAG. SUBSCRIPTION, ICMA \$1,308.51 ANNUAL MEMBERSHIP DUES: DANIELZUK, ICMA ELECTRONIC RETIREMENT \$546.42 ICMA CITY ADMIN., IDEAL LINEN SUPPLY INC. \$565.22 SUPPLIES, INGRAM LIBRARY SRV. \$418.47 BOOKS/PERIODICALS, INLAND TRUCK PARTS CO. \$109.56 ORANGE FLOR. MAR., INTER. CODE COUNCIL INC. \$286.00 WYOMING ASSOC. MUN. EXAM: ROD, INTERNAL REVENUE SRV. \$39,823.14 FED/FICA TAX, INTERSTATE BATTERIE/RAPID \$219.90 VEHICLE RPR., INTOXIMETERS \$176.50 TANK FOR PBT TESTING, INTRALINKS TECHNICAL SOLUTIONS \$805.04 COMPUTER SUPPORT, JOHN HANCOCK USA, \$13,307.12 JH RETIRE 6%, JOHNS PUMP SRV. INC. \$3,657.15 WORK FOR NEW WELL, JOHNSON CASHWAY CO. \$165.51 SUPPLIES, JUSTIN BRUNZ \$75.00 RV ROOM DEPOSIT REFUND, KARENS CLEANING \$425.00 CLEANING SRV., KATHLEEN A LAUGHLIN \$165.00 GARNISHMENT 2, KEARNEY AMPRIDE \$28.00 FUEL FOR TRAINING: ROGERS, KNEB \$363.50 RADIO ADVERTISEMENT, KOVARIK, ELLISON, MATHIS \$2,811.25 SPECIAL PERSONNEL MATTER, KRIS – DAVIS CO. \$114.90 TOOLS, LL JOHNSON DISTRIBUTING \$862.14 RPR'S., LOGOZ LLC \$165.92 MULTICOLOR POLO, LYNN PEAVEY CO. \$267.50 BLOOD/ALCOHOL KITS, MARTIN CAROL \$100.00 MEALS FOR CLERK SCHOOL, MATHESON TRI – GAS INC. \$89.86 GAS FOR SHOP, MB KEM ENTERPRISE \$2,733.00 OVERHEAD DOOR, MEAT SHOPPE \$34,745.54 CATERING COSTS, MENARDS \$333.74 ELECTRIC WIRE & WALL PLATES, MERRICK & CO. \$150.00 WWTP POND COVER, MG TRUST CO LLC. \$5,769.13 MG-T POLICE, MICRO MARKETING LLC \$40.43 THE GREEN PRINCE DVD, MIKE'S SCREENPRINTING \$50.00 ENGRAVED PLAQUE: SHIELDS, MIZUNO USA INC. \$624.02 GOLF CLUBS, MONEY WISE OFFICE SUPPLY \$423.68 PRINTER CARTRIDGE, MOR ELECTRIC HEATING \$108.52 HEAT LAMPS, MUNICIPAL ENERGY AGENCY \$427,778.46 POWER BILL, MUNICIPAL SUPPLY INC. OF \$707.78 MAIN RPR. HYDRANTS, MURDOCH'S RANCH & HOME \$385.66 OFFICE SUPPLIES, NATIONAL INSURANCE SRV. \$1,031.12 VISION INS., NE CHILD SUPPORT PYMT. \$738.53 CHILD SUPPORT 1, NE DEPARTMENT OF REV (PR) \$11,295.86 STATE TAXES, NE PUBLIC POWER DISTRICT \$1,252.81 UTILITIES: PHEASANT DRIVE, NEBRASKA PGA \$100.00 GOLF ASSOC. DUES 2015, NEBRASKA SALT AND GRAIN CO. \$4,001.20 ICE SLICER, NEBRASKA SEC. OF STATE \$23.00 BIENNIAL REPORT FEES 15-26, NEOFUNDS BY NEOPOST \$826.90 POSTAGE, NORTHWEST PIPE FITTINGS \$8.42 BRASS ADAPTER, OCLC INC. \$133.25 CAT & ILL SUBSCRIPTIONS, OUR DESIGNS INC. \$96.65 TEN YEAR SRV. PINS, PANDA EXPRESS \$9.67 MEAL DURING NLETC TRAVEL: GLEIM, PANHANDLE COOP ASSOCIATION \$2,940.84 GRADER TIRES, PAYROLL CHECKS \$108,671.26 PAYROLL CHECKS ON 2-20-15, PERKINS RESTAURANT & BAKERY \$14.38 MEAL DURING NLETC TRAVEL: GLEIM, PETTY CASH \$87.69 POSTAGE, OPER, SUPPLIES, MISC., PILOT #416 \$27.86 FUEL FOR NLETC TRAINING: GLEIM, POSTMASTER \$280.68 ANNUAL PO BOX RENEWAL, POWERPLAN OIB \$225.91 CUTTING EDGE, PR DIAMOND PRODUCTS INC. \$460.00 SEWERLINE RPR. SAW BLADES, PRINT EXPRESS \$378.90 EXEMP TIME SHEETS & OVERTIME FRMS, QDOBA MEXICAN GRILL \$12.40 MEAL NLETC TRVL: MEDEIROS, RECORDED BOOKS LLC \$151.02 AUDIO BOOKS, RED BARN SHOP LLC \$61.25 RPR., ROBINSON ELECTRIC \$775.93 WWTP RPR., RR DONNELLEY \$58.52 GUN APPLICATION FORMS, S & S PLUMBING LLC \$2,671.54 WORK WELL, SANDBERG IMPLEMENT INC. \$146.18 TOOL, SANITAS TECHNOLOGIES \$195.00 STAT. SOFTWARE LIC. RENEWAL, SARNIRAND NICOLE \$75.00 RV ROOM DEPOSIT REFUND, SCB. CO VEHICLE REGISTRATION \$8,416.28 REGISTRATION FOR 2015 F550, SCB CO DISTRICT COURT \$75.00 ALIMONY, SCB COUNTY SHERIFF OFFICE \$18.00 SUMMONS FEES, SCHOLASTIC LIBRARY PUBLIS \$152.10 BOOKS, SCIENTIFIC AMERICAN \$19.95 SUBSCRIPTION RENEWAL – 6 ISSUES, SCOTTS BLUFF COUNTY CLERK \$309.12 ELECTION EXP. 2014 GEN., SCOTTS BLUFF COUNTY COURT \$313.93 GARNISHMENT 2, SCOTTSBLUFF-GERING UNITED \$10.00 UNITED WAY CTRB., SCS ENGINEERS \$2,445.54 WORK ON NEW LANDFILL, SHAPE \$17.97 ANNUAL SUBSCRIPTION, SHELL \$403.06 FUEL G-9 CITY PUMP NOT WORKING, SIMMONS OLSEN LAW FIRM \$1,737.50 CITY PROSECUTOR BILL, SIMON CONTRACTORS \$1,065.50 COLD MIX, SLAFTER OIL CO. \$50.45 OIL, SOURCE GAS \$540.47 UTILITIES: FIRE HALL 1035 M STREET, STALLION OILFIELD SRV. \$12.10 MAY NOT NEED SRV. SOON, STAPLES CREDIT PLAN \$68.64 TOOL BOX, STAR HERALD \$26.00 ADVERTISING, SUGAR VALLEY FEDERAL CRED. \$1,268.08 CREDIT UNION, SUN MOUNTAIN SPORTS \$49.48 GOLF CART TIRES, SYSCO DENVER INC. \$132.48 MAINTENANCE SUPPLIES, THINKGEEK INC. \$26.91 MOLDED MUGS FOR SRP PRIZES, UNIVERSITY OF NEBRASKA \$120.00 ADMIN. CDRS ONLINE CLASS: SNARR, UPS \$20.68 RETURN OF SUPPLIES, VALLEY BANK – POLICE \$320.00 PO UNION DUES, VALLEY BANK & TRUST CO. \$9,378.86 HSA CTRB 125, VAN PELT FENCING \$4.65 SLEEVE, VERIZON WIRELESS \$309.68 IPAD FEES, WALMART \$97.02 SUPPLIES, WASTEQUIP \$276.85 FLOW DIVIDER/COMBINER FOR G6, WELFL KATHY \$100.00 MEALS FOR CLERK SCHOOL, WESTCO \$5,696.40 DIESEL, WESTERN PLAINS BUSINESS \$143.77 COPIER MAINTENANCE, WESTERN TRAIL SPORTS POST \$20.22 HANDGUN CASE, WINCHELL CLEANING SRV. \$830.00 CLEANING LOBBY, BATHROOMS & OFFICE, WM RECYCLE AMERICA \$272.06 RECYCLING FEE, YMCA \$492.84 WELLNESS, YOUNG MENS CHRISTIAN \$5.00 YOUNG MEN'S CHR

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

PUBLIC HEARINGS:

1. Public Hearing to consider an application to change zoning requested by Steve Eich owner of Rich's Auto Wrecking and Used Cars, Inc. The re-zone request is addressed as 215 M Street located in part of the S1/2 NE Tax Lot 3 and Unplatted Lands located in Section 1, Township 21 North, Range 55 West of the 6th Principal Meridian from ML to MH.

Mayor Kaufman opened the Public Hearing at 7:02 p.m. and asked if there was anything for the Administrative Record.

Rod Sterkel, City Building Inspector, stated that this is the public hearing to consider an application to change zoning requested by Steve Eich, owner of Rich's Auto Wrecking and Used Cars, Inc. The re-zone request is addressed as 215 M Street located in part of the S1/2 NE Tax Lot 3 and Unplatted Lands located in Section 1, Township 21 North, Range 55 West of the 6th Principal Meridian from ML (Light Industrial and Manufacturing District) to MH (Heavy Industrial and Manufacturing District).

The surrounding boundary consists of AGG to the North – ML to the South & East – SMH and BHC to the West. Changing this property from ML to MH creates a spot zone in which the property does not connect to MH. In order to be contiguous with MH Zoning would require re-zoning from the West edge of the property owned by Rich's Wrecking and Used Cars, Inc. to possibly 21st Avenue (Lockwood Road) and would include the following property:

- 220594 Highway 92, Owner SC Blanton Enterprise, LLC (Part of the SW NE of Section 1, Township 21 North, Range 55 West of the 6th Principal Meridian & Unplatted Lands.
- 220810 East Highway 92, Owner TDM, LLC (Part of the S1/2 SE NE of Section 1, Township 21 North, Range 55 West of the 6th Principal Meridian & Unplatted Lands.
- UPRR property.

The additional properties listed above fit both ML and MH Zoning per the 1984 City Zoning and Subdivision Regulations. Steve Eich indicated he was in the process of eliminating the 10th Street site to move to this proposed location provided the zoning is amended to meet MH Zoning Standards. If this is approved Rich's Auto Wrecking would be required to meet all requirements set forth in Section 8.2 Heavy Industrial and Manufacturing District including plat and plan requirements required by the City.

Administrative Record:

- Application for a Change in Zoning by Steve Eich owner of Rich's Auto Wrecking and Used Cars, Inc. December 12, 2014.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations Section 15.2 and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed change in zoning per zoning regulations.
- Public Hearing Notice published January 29, 2015.
- Letter from Evergreen Estates requesting to leave zoning as Light Industrial (adjoining property to the West-Zoned SMH – Special Mobile Home District).
- Letter from Bill Vaughan, Owner of Evergreen Estates West and Adjacent to the proposed Wrecking Yard requesting to leave as ML.
- Signatures (39 signatures) from residents within Evergreen Estates opposing the proposed wrecking yard and requesting to leave as ML.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Sterkel asked this Council that if this is approved the following conditions be set including:

1. The owner would need to adhere to the City of Gering Zoning and Subdivision Regulations for MH Zoning with strict compliance to meet building standards, screening/landscaping and storm drainage requirements to meet this historic corridor of Oregon Trail. This may require a berm (sized per staff) with a minimum of an 8 foot tall fence and trees for aesthetics.
2. Preliminary and Final Plat would need to be complete along with detailed building plans including a site plans meeting City Requirements prior to issuance of a building permit. Staff would need to review ingress/egress into the property to ensure access points meet guidelines.

Mr. Sterkel Stated to the Mayor and Council 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 it read and that it be made a part of the official proceedings of this Public Hearing.

Mr. Sterkel noted the part of the Administrative Record that was not in the packet: ***The City of Gering Comprehensive Plan (Amendment No. 1 dated November 2001) which states in the Transportation Section of the Plan that Hwy 92 (M Street) is a Major Arterial Street and in the Urban Design Section it states that "Future development in Downtown Gering should focus on improvements to the Downtown public environment. Making the Downtown area attractive is very important in order to draw tourist traffic off of Highway 92."***

Mayor Kaufman asked if any Council Member wished to have the Administrative Record read aloud. Seeing none he asked if anyone in the Chambers wished to speak in favor of this application. Mayor Kaufman stated that we want to try to keep public comments between three and five minutes.

Steve Eich, 1315 P Street, owner of Rich's Wrecking addressed the Council. He said he hoped Council had seen the example he sent of what type of facility he's proposing at the new location. He thinks the curb appeal will be a vast improvement over his current facility, also a major improvement to what's currently at that location. He said as far as the zoning fitting into the area, it really does. Their western property edge aligns with all other properties to the south that are also industrial zoned. Bordering the residential trailer park may not be the ideal plan but neither was it when it bordered light industrial as it is now and no one was making noise about that. This is the industrial end of town, Heavy Industrial properties already line the entrance into Gering on Hwy 92; industry has to happen somewhere or the City will not have the tax base to support itself. This seems to be the industrial side; he doesn't see it going away. He stated that no one wants a trailer park being built next door to them either; seems to make good sense to adopt a good neighbor policy. He's willing to put up a fence and plant trees, etc. to lower the exposure to them. As far as a comprehensive plan that speaks of downtown; this is hardly a downtown area. He said the model he showed is what he'd like to do and he will do more landscaping than that. He entertained questions.

Del Weber, Sentinel circle, stated that he owns Mid-West Auto Used Parts. He stated that he has nothing to gain, however he does believe it is the best thing for Gering. He has travelled and toured many facilities. The way our industry is going, to serve Gering the business Mr. Eich currently has is very land-locked; it doesn't facilitate growth. Mr. Weber's facility cleans up two thousand tons of steel from our streets. They are a destination bound business; people come from out of town to come to his business and do other business in Gering. He thinks this change would be a good way for Gering to grow. And it's not just one development that you're probably looking at because when one tenant moves out of a rental house another moves in and with that change comes additional growth too.

Mayor Kaufman asked if anyone else wished to speak in favor of this application. Seeing none he asked if anyone wished to speak in opposition of the application. Bill Vaughan addressed Council and stated he owns the mobile home park west to the proposed zoning; he resides at 2033 River Glen Drive in Berthoud, CO. He stated that he listened to what the inspector said about spot zoning. He said the Council should have in front of them a piece of paper with a map. He stated that Steve Blanton could not be here and asked if Mr. Vaughan would show the map and other document to the Council. Mr. Blanton stated on the document that he would not profit any by having this zoned HM and he doesn't want his property zoned to HM. Without Mr. Blanton's property being rezoned this would create spot zoning, which is not approved by the Gering. Also with Hwy 92 being a major thoroughfare, this will be what people see when they first come to town. In the Comprehensive Plan for Gering many times the word aesthetic and pleasing are mentioned. Also, on the Comprehensive Plan for Gering on page 74 it says "protect the general welfare of the residents", page 75 says "provide affordable housing", on page 77 it says "there should be a separation between residential and more intensive uses." Also on page 80 it says "future industrial development shall be on 7th Street north of U Street in Gering." He said that means over towards the old sugar factory and up towards the jail and areas where the comprehensive plan is encouraging more industrial uses to be located. If Mr. Eich left the business, whoever is next coming in may not be the clean operator that Steve would be. Mr. Vaughan said there are many things

that could go in there if Steve did not put his auto shop there. He then listed several uses from the City zoning book. He said he knows the City would like to keep Steve here because of his tax base, also the City wants to preserve the aesthetics of the community and Hwy 92 is an appropriate corridor and he understands in the new revised comprehensive plan that's what they're asking for. The citizens that are here are asking not to have a salvage yard next to them. This would mean a residential area and immediately elevated to a high industrial manufacturing area right next door without a distance in between for a buffer. Without Scott Blanton's land being up-zoned, this is going to create a spot zoning situation for Steve. He then asked the City Engineer what his opinion is of spot zoning.

Paul Snarr, City Engineer, stated this project probably shouldn't fly if Mr. Blanton's property doesn't come into play. It would have to include that whole piece north of M Street to come into MH zoning in order to comply and to not be considered spot zoning.

Councilmember Morrison said she thought A & B were all one. Mr. Snarr said "A" is the property that has been requested to be MH; "B" is Mr. Blanton's property and all of this is zoned ML. Mr. Blanton does not want his to be rezoned per his comments at the Planning Commission meeting. Parcel "C" is Murphy Tractor and he was alright with the zone. Councilmember Morrison asked if "B" was the irrigation place. Mayor Kaufman replied right. Mr. Snarr said of the three properties B does not want to come in but in order for this not to be a spot zone all three properties would have to be rezoned to an MH zone; Heavy Industrial. Right now it's zoned Light Industrial and has been for quite some time.

Mr. Vaughan thanked the Council and said to avoid a conflict of interest he would appreciate if those people who are personal friends with Mr. Eich would refrain from voting. He asked for a show of hands of those in the audience who do not want the wreckage yard next to them. Several raised their hands.

Kathy Youngs, who lives on #3 Cedarwood, near the proposed area to be rezoned, stated that many people in that area own their homes; they don't rent; it's a wonderful community. She indicated she's glad there isn't a salvage yard next to her property.

Mayor Kaufman asked if anyone else wished to speak in opposition, seeing none he began to close the Administrative Record, however at that time Dick Ross, Chairman of the Planning Commission, raised his hand to speak. Mr. Ross stated that when the Planning Commission met to discuss this application all of these concerns were pointed out to them. One big concern that was pointed out is a buffer between the mobile home park and the proposed facility. On the east side of the mobile home park is an alley, it is not a standard alley but it is truck width. There is an irrigation ditch that runs on the east side of the alley which gives additional buffer; there is a tree row that also gives some buffer. The applicant knows that the City would require a privacy fence and a minimum height of six feet; the Planning Commission recommended a ten foot fence. He also plans, according to what Mr. Eich told them, that he would be putting additional shrubbery and trees in. These are all concerns that residents of the mobile home park have and they're all legitimate. But the proposed facility wants to work to make things as compatible as can be. They discussed the problems of animals, if you had driven by that facility in the last 20 years it was unsightly. It is clean today because the owner cleaned it up to put it on the market. The animals might still be there; they don't know to what extent that might be. The Planning Commission tried to explore all avenues before they took a vote and listened intently to the opponents of the change. They voted their conscience and what they thought would be in the best interest of Gering. Councilmember Gibbs asked Mr. Ross how much consideration was given by the Planning Commission to the issue of spot zoning. Mr. Ross said he didn't think they addressed the spot zoning whatsoever. They as a Commission discourage spot zoning but history along M Street is full of spot zoning. For a half of a block north and south off of M is Business Highway Commercial so residential properties along that highway are in non-compliance and by being in non-compliance if something should happen to the properties, they could not be rebuilt because they are non-compliant and per codes would not be able to. He said they have, in his history on the Planning Commission, they have done some spot zoning and it just isn't something they want to do anymore; he thinks all the commissioners are in agreement on that.

Rawnda Pierce with TCD stated that an item later on the agenda relates pretty closely to what we're talking about, regarding the Brownfields grant. The corridor is the area we're looking at to clean up and

this is one of your gateways. She thinks if the Council works with this business we need to have the landscaping and so forth in place. One of the activities of the Brownfields grant is to have community meetings and do planning and re-use activities and bring professionals in to look at that. She suggested that that might be a good opportunity to look at if this is the best place to put that or would there be another place because you're going to have professionals and that's what they do. She wanted to make Council aware of that. She's not for or against the application but Council will have an opportunity because they're hiring someone to look at this; she just wanted to throw that out there.

John Vaughan stated he grew up in this area; he said they understand that our industry needs a place to go. There is absolutely a need for automobile salvage facilities in this community. All they're suggesting is that it should be put in a place where it's complimentary to its surrounding uses like an industrial corridor. Adjacent to residential uses is not modern urban planning and it's not approved by your comprehensive plan. This isn't his theory, this is what the founding fathers and others who guided the direction of this City said they wanted to see here. If you put in heavy industrial and your residents nearby leave, then you have a residential area that isn't appealing for residential uses anymore. Do you really want that industrial corridor marching closer into town? The beauty of light industrial zoning is that it has to be enclosed. We're not dealing with the noise aspects or other issues you get when you have massive amounts of things being stored outside over a period of time. He encouraged the Council to look at their own comprehensive plan; he asked for a show of hands how many Council Members would like to have a salvage yard built in their own backyard.

Councilmember Allred stated that he grew up with the county yard behind his house; it didn't affect him. He said cars just sitting there don't make a lot of noise. Mr. Vaughan said the use of heavy equipment to get those cars in and out does. The leaking of fluids out of tanks; there are environmental hazards. He hasn't heard anything about a mitigation plan for them. He thanked the Council for their time.

Patricia Goodrow, #1 Cedarwood Grove spoke in opposition of salvage yards. Eileen Miller, #9 Sprucewood Grove stated that the Mayor had closed the period for comments and support of this project but the Planning Commission spoke in favor of it after that period had been closed. She requested that his remarks be removed from the record. Mayor Kaufman stated that he started down that path but he stopped; he did not actually name the time that the hearing was over. He said we actually have a couple comments from staff that are needed to finish up; it is still open.

Mayor Kaufman asked if there are additional comments. Mr. Eich stated he believes Mr. Blanton was not in favor because it wasn't beneficial to him; it's also not detrimental to him. He said it actually would be beneficial if he ever decided to sell his property. As far as rats and mice and environmental things, they take very good care to drain everything inside a controlled environment. All fluids are taken out of the cars inside the buildings. Their property is not polluted now nor is the one they were at before. They've been in business for 40 years; that's not an issue in their business. It's about being responsible; he's trying to be responsible with this entire plan. He believes that is the edge of the industrial sector of town. He does have plans for a buffer as was stated. He'll do the best he can to make them happy.

Mr. Weber with Midwest Auto addressed the issue with hazmat fluids. Any oil changing facility produces ten times more hazmat than they do. Trucking companies change oil frequently too. He said ours is reused, speaking for him, they reuse and resell the fluids; it simply is not there.

Tammy Vaughan 3660 W. 25th in Greeley spoke to real estate and stated that she deals with zoning a lot. What she heard tonight is that this is not recommended. If you have one owner who does not wish to change their zoning, it's not recommended.

Lisa Wieborg, 10580 Road 88, Bridgeport, NE. She stated that community development and growth is good for our community. If we're going to clean up an area and add value to it, she can't see that there's anything wrong with that. If you start at the end of M Street, you have Murphy's Tractors, the trailer park, the Oregon Trail Lounge which has loud noise and a beer garden on the outside, you have a liquor store, a Laundromat, a grocery store, the Civic Center, another restaurant, a hotel and more residential. There is a lot of spot zoning in that area. She thinks they need to let it go through; he'll have fences and trees.

She stated that she owns the property beside Steve Eich. Councilmember Christensen asked her if the relocation of the Eich property would be a benefit to her next door project. She replied yes it would because she may want to expand her business.

A discussion broke out with a few members of the audience; Mayor Kaufman asked that the debate be left to the Council and not among the audience.

The Mayor asked for additional comments, seeing none, Rod Sterkel asked this Council that if the application is approved the following conditions apply:

1. The owner would need to adhere to the City of Gering Zoning and Subdivision Regulations for MH Zoning with strict compliance to meet building standards, screening/landscaping and storm drainage requirements to meet this historic corridor of Oregon Trail. This may require a berm (sized per staff) with a minimum of an 8 foot tall fence and trees for aesthetics.
2. Preliminary and Final Plat would need to be complete along with detailed building plans including a site plans meeting City Requirements prior to issuance of a building permit. Staff would need to review ingress/egress into the property to ensure access points meet guidelines.

Mr. Sterkel stated to the Mayor and Council Members that he has completed his entry regarding this Public Hearing to consider an application to change zoning requested by Steve Eich, owner of Rich's Auto Wrecking and Used Cars, Inc. and asked that they please keep this hearing open until all entries are put into this record.

Administrator Danielzuk entered entries and comments for the Administrative Record including the wellhead protection area of one of the well heads that is in the vicinity of the proposed zoning amendment change and the map that Mr. Blanton prepared for the Council.

Mr. Danielzuk then stated that the Comprehensive Plan serves as a guide for the preservation of valued existing conditions and the development of desired future changes. It is the local government's planning and implementation program that guides physical growth and development in Nebraska villages, cities and counties, along with every other state in the nation. A realistic future time horizon for most comprehensive plans is ten to twenty years; ours is a little over that. Zoning is the most common tool for implementing the comprehensive plan as such it is extremely important to write the zoning ordinance into and incorporate the goals and policies of the plan; they need to blend. Zoning should be applied consistently and in conformance with the Comprehensive Plan. A zoning ordinance in a city must be consistent with and in accordance with the comprehensive development plan in that jurisdiction (Neb. Rev. Stat 19-903 for municipalities). The State Supreme Court has not required that all zoning be exactly as shown on the land use plan; however, the Court has required communities to acknowledge the plan in order for re-zoning to be valid.

There are two parts to the zoning ordinance: a zoning map and a zoning text. A common point of confusion regarding the zoning map concerns its relationship with the map of existing land uses and the future land use plan (map). Neither the map of existing land uses, nor the future land use plan, is a zoning map. The existing land use map depicts current actual use of the land, irrespective of the zoning of individual parcels. The future land use plan depicts, in part, the long-range goals of the comprehensive plan and is intended as a general guide for designating the boundaries of the zones that are defined in the zoning ordinance.

Definitions: Since zoning is a regulatory device, it is important that citizens understand what those regulations mean and how they apply. Definitions are very important to understanding the application of zoning regulations.

District Regulations: The fundamental purpose of the zoning ordinance is to establish districts where similar land uses are grouped together and governed by a common set of standards, such as lot sizes, setbacks, height requirements, and design standards. The common district classifications are agriculture, residential, commercial and industrial; most communities subdivide these classifications to further group similar types of land uses together while at the same time continuing to keep them separate from other incompatible uses.

Spot zoning: Spot zoning results when a zoning ordinance creates a single parcel, or "small" island of property with restrictions on its use different from those imposed on the surrounding property. Spot zoning is not automatically invalid if there is a reasonable basis to treat the spot-zoned property differently from the surrounding property. Factors to consider in deciding if there is a reasonable basis for spot zoning include the size of spot zoned, the uses of surrounding property, possible changing conditions of area, prior uses to which subject property has been put, and the property's suitability and adaptability for various uses.

The procedures for adopting or amending a zoning ordinance in municipalities (Neb. Rev. Stat. 19-904 and 19-905).

Procedures for Counties and Municipalities: the Legislative body must be advised by the Planning Commission; Mr. Danielzuk stated that has been done. Public hearing required, notice of public hearings, hearings by Planning Commission and Legislative Body. Mr. Danielzuk stated that the Planning Commission had theirs; yours is tonight.

Additional Procedures for Municipalities: Notice Requirement for Residents of the Municipality; we've done that. Notice Requirements for Non-Resident Property Owners, we've done that. Requirement to Notify the Board(s) of Education; the letter he has says we've done that.

Vote Requirement When Zoning Change is Protested: In municipalities, if a proposed change to the zoning ordinance is formally opposed by people living in or adjacent to the area affected by the proposed change, a super-majority vote of the local governing body is required to make the change. Specifically a favorable vote of three-fourths of all members of the city council (Neb. Rev. Stat. 19-905) is required if a protest document is signed by either of the following:

1. The property owners of twenty percent or more of the land area of the lots located within the area subject to a proposed zone change; or
2. the owners of twenty percent or more of the land area of lots immediately adjacent on the sides and rear and on street frontage opposite to the area subject to the proposed zoning change (including an area extending 300 feet away from the points of land adjacency and from the street frontage of lots across the street).

Mr. Danielzuk said we do not have a protest document that's signed that way.

He went on to talk about the Planning Commission February 17, 2015 meeting minutes. In the minutes Scott Blanton is one of those property owners that spoke. *"Vice Chairman Gealy asked what Scott thought about the zone change and Scott replied that he is opposed."* Mr. Danielzuk stated that's your best testimony. The testimony you heard prior to that with respect to the application is hearsay. The testimony that you have received and have listened to as part of the official proceedings is the testimony that is probably more credible.

Mr. Danielzuk then talked about the Comprehensive Plan. It was done in 1995, with an amendment in 2001. The amendment for all points dealt with the Gering by-pass and constructively was not central to any changes to the 1995 plan. He stated that between 2010 and 2014 we grew by approximately 54 residents.

Population: Population is a consideration in any future growth and a significant part of the comprehensive plan.

Street Designations: There are three major street designations in the City of Gering. The major arterials are Hwy. 71 and 92 and 10th Street. One of the transportation planning issues at one time was that the city may need to develop frontage roads on east M Street where strip commercial development may arise with the Heartland Expressway. He added that we haven't seen it yet.

Urban design: Urban design in the plan is designated as its first theme. Strongly defining entrances is the first theme in the plan. It is designed to upgrade the experience entering the urban area and to provide succinct directional information in an attractive manner. With increased tourism and travel in the area it is particularly important to direct people to businesses and community centers. Attractive

entrances also give a positive and lasting first impression. Application to this theme should involve developing highway gateways featuring monument style entrance signs, landscaping and directional information. The area of highest priority for highway gateways is Hwy. 92 east of County Road 1055.

Site development standards should also be established along this corridor with minimum landscaping and tree planting requirements, screening of salvage yards, surfacing of parking lots. Sign standards should be established to improve the aesthetics and to protect the view of the monument.

Mr. Danielzuk said if you look at the future land use plan in the 1995 plan you wouldn't even see it because it doesn't go out that far. The future land use plan for the two mile extra-territorial zoning area though does have something to say about it. It does show the trailer park and it does show that area that is being considered in the public hearing tonight. And in the future development plan for the City of Gering in our 1995 plan it is a commercial development area.

He concluded by saying sometimes he doesn't know that we pay enough attention to what we hear or what we read. The Chair of the Planning Commission is right, there are all kinds of spot zoned areas and other things. How they got there most people have forgotten by now. But they're there; they exist. That doesn't make that right. Every case that comes before the Planning and Zoning Commission and then to the City Council for consideration is a case on its own merit and own volition and not supposed to be judged by prior practice or prior behaviors.

Mr. Danielzuk said back in 2012 we had a public hearing for a zoning change from BCB Central Business District to Residential Medium Density District. There was a single applicant that started that whole process and then the City staff on their own volition, based on what they believed was in the best interests of the community, pushed it forward on several of the lots. The Planning Commission at their December 18th meeting moved forward on no decision and left it up to the Council. That area was the 700 and 800 blocks of M Street on the south side. The applicant was trying to sell their home to a buyer and financing had to be residentially zoned. Upon looking at the site, staff recommended extending the re-zoning per the above referenced lots to meet existing conditions and be in line with our zoning regulations and Comprehensive Plan. The zoning recommendation was consistent with the 1995 Comprehensive Plan for use as single family dwelling. At the close of the public hearing and after listening to the comments and staff recommendation, the motion was moved and seconded and approved to deny the application for rezoning. He said like Lisa Wieborg said, all along that stretch we have different issues, we have different uses, we have different zoning districts; we have a lot of stuff. He would recommend that the Council consider strongly what they've heard tonight both from a staff perspective and from a community perspective and take great care in the decision they're going to make.

With no further comments The Mayor closed the Administrative Record and the Public hearing closed at 8:07 p.m.

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

1a. Consider approving or denying application to change zoning requested by Steve Eich owner of Rich's Auto Wrecking and Used Cars, Inc. The re-zone request is addressed as 215 M Street located in part of the S1/2 NE Tax Lot 3 and Unplatted Lands located in Section 1, Township 21 North, Range 55 West of the 6th Principal Meridian from ML to MH.

The Mayor entertained a motion to approve or deny the application to change zoning requested by Steve Eich, owner of Rich's Auto Wrecking and Used Cars, Inc. The re-zone request is addressed as 215 M Street located in part of the S1/2 NE Tax Lot 3 and Unplatted Lands located in Section 1, Township 21 North, Range 55 West of the 6th Principal Meridian from ML to MH.

Councilmember Cowan asked for clarification regarding being friends and not voting on an issue; should he abstain because he's friends with a lot of people here. City Attorney Ellison said to have a friendship relationship, under Nebraska Law, does not prevent you from voting. It's only if you have a financial interest in the project. If you have a financial interest in the project there is a conflict of interest that needs to be declared.

Councilmember Christensen asked Mr. Eich that if this Council should approve this zoning does he agree to follow all the conditions that are set forth in the proposal including fences, berms, landscaping. Mr. Eich said yes he does; everything within reason. Councilmember Morrison asked to clarify what Murphy Tractor is. The Mayor replied that it's Light Industrial. Councilmember Allred replied they're all three light right now (A, B & C on the map). Councilmember Smith asked if they're rezoning all three properties; the map says proposed re-zoning and it has all three properties. Councilmember Gibbs said the agenda item just addresses the one property. He said if you look at the existing zoning now, we currently have Light Industrial between the Heavy Industrial to the east and the Residential to the west. One of the purposes of zoning to protect residential is to soften the transition between a heavy industrial area and a residential area. That's what the Light Industrial zoning does currently. He stated that he thinks if you abut Heavy Industrial directly next to residential property you've destroyed that.

Councilmember Gibbs moved to deny the request. Mayor Kaufman stated there is a motion by Councilmember Gibbs to deny the request. He asked if there was a second. The motion failed for lack of a second.

Councilmember Allred said, regarding M Street, we talk about entry ways into our city, he would invite everyone to drive east to 21st Ave. or Sugar Factory Road and see what they're currently picturing when they drive into our city. It's not kept up in his opinion on both sides of M Street. The property in question, at one time, was in need of attention along with many other areas. The corridor of M Street from 5th Street all the way east is either Business Highway Commercial, Light Industrial or Heavy Industrial. There is no Residential with the exception of the trailer home park which he would suspect is half of a block wide if he's not mistaken. There's Heavy Industrial directly to the south and to the east a little bit and continues with Light Industrial. We have a current business owner who has been in Gering for 40 years who wants to improve his business and it's his understanding that Mr. Eich would consolidate two or three of his locations into this new one. Mr. Eich said three. Councilmember Allred said the new location has the potential of becoming something better; with Mr. Eich's proposal do we give him the benefit of the doubt. He went on to say that Mr. Weber said he has individuals from out of the area that come to his location; Mr. Eich probably has the same situation. Councilmember Allred said he's not speaking in favor or opposition of this application but he wants Council to consider the fact that earlier in the discussion the Comprehensive Plan has been in place for 20 years and there has been zero growth with the exception of one or two places, but not really new construction or a new business. He's not sure what else we see in the future in this current location for our town. We can't get businesses to succeed on the downtown in some areas and we're looking at a mile almost from downtown. He asked that that be taken into consideration.

Councilmember Morrison said we have asked these businesses on 10th Street, as that being our major corridor, to do something different and to maybe move out of that area so we can make room for other businesses to go down there other than what Steve has such as motels, hotels, restaurants or whatever we want if that's our corridor connecting two cities. She said Steve says this is what I'll do and he comes to the Council and says this is what he has done. She thinks it would be pretty unbeneficial of us to kick him in the teeth and say "No, now we've changed our mind, you can't go there either". She added that we can't have it both ways. We can either ask these people to do what we've asked them to do which he has done, or they can pick up their business and go somewhere else.

Councilmember Gibbs asked if Mr. Eich could locate somewhere that is already Heavy Industrial. Councilmember Morrison asked where? Councilmember Gibbs replied there is land south and east that is already in our zoning jurisdiction. Mr. Eich said there wasn't anything large enough that was for sale; they don't exist, he has tried.

Councilmember Christensen said this Council has discussed the need to come up with some kind of a plan; they've talked about it many times. There is a need for the City of Gering to do some planning to improve 10th Street as a corridor between Scottsbluff and Gering.

Councilmember Morrison asked if this man doesn't give his land up, then we're at this spot zoning, correct Lane? Mayor Kaufman rephrased it and said if property owner B (that owns B) withholds his property, would we in fact be approving spot zoning activity? Mr. Danielzuk replied that he wouldn't want to venture to guess one way or another in trying to determine those kinds of things. He said he did outline for them a number of factors they should be considering if in fact they're going to think about what would truly be the definition of spot zoning.

Councilmember Morrison asked legally if he does not give up his property for the change and then this is approved, would this be illegal because that would be spot zoning? Mayor Kaufman asked the City Attorney if he has a ruling on spot zoning. Mr. Ellison said he hasn't studied this particular project in detail; there was a lot he heard that was new tonight. Generally spot zoning is frowned upon and without studying this in more detail he couldn't give a definitive opinion but it could be considered to be spot zoning which is generally frowned upon and should not be acted upon accordingly. Councilmember Gibbs added if it is not contiguous to another Heavy Industrial zoned area it would be spot zoning in his definition. Mr. Ellison replied that it could be, yes. Mr. Ellison said he would have to research it in more detail to give a definitive answer tonight.

Mayor Kaufman asked if there were any more comments or questions. He repeated again he would entertain a motion to either approve or deny an application to change the zoning requested by Steve Eich, owner of Rich's Auto Wrecking and Used Cars Inc.

Motion by Councilmember Holliday to approve the application. Second by Councilmember Smith.

Discussion: Councilmember Allred clarified that they're only voting on a zoning change for the one said property, section A on this map. Mayor Kaufman replied correct. Councilmember Morrison asked if this gets approved and this gentleman doesn't give up this right then what happens. She said it sounds to her like property B is not going to budge, so then what? Councilmember Gibbs replied we'd have spot-zoned A. Mr. Danielzuk said one of the things that didn't come up is that all of the property owners in and around the area that's affected by the re-zone, all have property interests and property rights. Mr. Eich's property interest isn't any stronger than the other fellow's or the folks in the trailer park; they all have roughly similar property rights and property interests in the property they have. Mr. Eich has a property interest in the property because he has either bought it or has a contract for sale and that gives him a property interest. But the property rights for all three property owners are similar; there isn't one that is any stronger than the other. You have two property owners who have been using their properties a certain way for a longer period in time but he doesn't believe that in and of itself changes the perspective on the right itself.

Mayor Kaufman stated we currently have a motion and a second on the table, is there any additional discussion?

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

2. Public Hearing to consider an application submitted by staff to change zoning generally located in Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE from AGG to RM including the Central Church of Christ Addition, Shadow Lane Estates, Inc., & Walrath Subdivision.

Mayor Kaufman opened the Public Hearing at 8:26 p.m. and asked if there was anything for the Administrative Record.

Mr. Sterkel stated to the Mayor and Council that this is the Public Hearing to consider an application submitted by Staff to change zoning generally located in Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE from AGG (General Agriculture District) to RM (Residential Medium Density District) more particularly described as follows:

- Central Church of Christ Addition, Blocks 1 and 2 Situated in a part of the NE ¼ SE ¼ of Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE. (1245 Five Rocks Road).
- Shadow Lane Estates, Inc., Part of the N ½ SE, Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE (Unplatted Land) (1005 Five Rocks Road)
- Walrath Subdivision – Lots 1 through 7, Block 1, a Subdivision of Part of the SE ¼ Se ¼, Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE and Unplatted Land North of said Lot 1 (Addresses include 955, 975 ,985, 995 Five Rocks Road).
- Walrath Subdivision - Lot 8B, Replat of Lots 8A and 9A, Block 1 Walrath Subdivision and Vacated 20' Alley, situated in part of the SE ¼ of the SE ¼ of Section 3, T 21 N., R 55 W of the 6th PM, Scotts Bluff County, NE (Not Addressed).

Property owners Daryl and Nancy Leavenworth requested to construct a garage on their property (in June 2015) located at 995 Five Rocks Road and as zoned AGG was non-conforming requiring 25 acres and were turned down on their building permit. After looking into this property and all adjacent property owners, Staff would recommend changing this to RM to meet zoning conformity. The surrounding boundary consists of RM to the North and East – RM and AGG to the South – RMH and AGG to the West.

Administrative Record:

Mr. Sterkel stated to the Mayor and Council that they have been provided with the Administrative Record in their packets and he asked for this 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 a Change in Zoning by Staff December 23, 2014.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations Section 15.2 and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed change in zoning per zoning regulations.
- Public Hearing Notice published January 29, 2015.
- Planning Commission Public Hearing 2/17/2015 with recommendation for City Council Public Hearing.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Sterkel stated he has completed his entry regarding this Public Hearing to consider this change in zoning from AGG to RM and asked that they please keep this hearing open until all entries are put into this record.

Mayor Kaufman asked if the Council wished to have the Administrative Record read aloud. Seeing none he asked if anyone wished to speak in favor of the application. Seeing none he asked if anyone wished to speak in opposition.

Herb Rainey, 60585 CR 29, Minatare, stated he is the Chairman of the Central Church of Christ. Their only question, after going to the Planning Commission meeting, is why did they include the Central Church of Christ property. They're not opposed to what they want to do, but they're questioning why they

chose to include the church; it has been like it has been forever. He also asked what changes, going from the AGG to the Residential, could that potentially mean for a church property.

Jerry Gealy, 1745 Kings Rd., a member of the Planning Commission, stated the reason they added that is so it would be contiguous and the zoning would go all the way through and churches are allowed in this area or this particular zone. Mr. Rainey asked if they wanted to expand the uses of the church, does that change what we can use the church property for. City Engineer, Paul Snarr, replied that anything in that area that is zoned AGG, if they need a building permit, if they need an addition, we have no choice but to deny it because in order to get a building permit in an AGG zone you have to have 25 acres. That's why this re-zone is happening; most of the properties are an acre or less or close to that. It better fits the area and in visiting with the assessor that's what they look at when they look at all the properties we're rezoning tonight. He said they'd have a better chance at getting a permit. You can have a home occupation on an RM zone.

With no further comments, the Administrative Record was closed the Public Hearing closed at 8:32 p.m.

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

2a. Consider approving or denying application submitted by staff to change zoning generally located in Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE from AGG to RM including the Central Church of Christ Addition, Shadow Lane Estates, Inc., & Walrath Subdivision

Motion by Councilmember Morrison, second by Councilmember Gibbs to approve the application submitted by staff to change zoning generally located in Section 3, Township 21 North, Range 55 West of the 6th Principal Meridian, Scotts Bluff County, NE from AGG to RM including the Central Church of Christ Addition, Shadow Lane Estates, Inc., & Walrath Subdivision. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

3. Public Hearing to consider an application for a Conditional Use/Special Exception requested by Paul Reed Farms, LLC to allow an HMA or Concrete Batch Plant in MH (Heavy Industrial and Manufacturing District)

The Mayor opened the Public Hearing at 8:34 p.m. and asked if there was anything for the Administrative Record.

Mr. Sterkel stated that this is the public consider an application for a Conditional Use/Special Exception requested by Paul Reed Farms, LLC to allow an HMA or Concrete Batch Plant in MH (Heavy Industrial and Manufacturing District) located in part of the West ½ and Accretion Grounds of Section 36, Township 22 North, Range 55 West of the 6th Principal Meridian including Government Lots 2 & 3. Access to this property is from a private road owned by Paul Reed Construction connecting between 7th and U Streets.

The surrounding boundary consists of AGG and MH with the City sewage lagoons to the East and the North Platte River to the North. The Accretion Ground to the North is approximately 2000 feet and the South line of the North Platte River approximately 3000 feet. The present use of the property is aggregate mining, crushing, and gravel storage. The intent of MH Zoning is to provide space for the widest range of industrial operations permitted in the City, for those industrial uses which are able to meet the performance standards to protect nearby non-commercial and non-industrial uses from environmental impacts.

Paul Reed Construction would be required to obtain permitting through NDEQ and said NDEQ would monitor the contaminants produced from an HMA or Concrete Batch Plant including contaminants and air emissions.

Administrative Record:

Mr. Sterkel stated to the Council that they have been provided with the administrative record in their packets and he asked for their 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 a for a Conditional Use/Special Exception requested by Paul Reed Farms, LLC to allow an HMA or Concrete Batch Plant in MH, dated January 22, 2015.
- City of Gering Current Subdivision and Zoning Regulations dated March 1984 – specifically MH Zoning and Performance Standards in Section 10.1602.
- City of Gering 1995 Comprehensive Plan (Amendment No. 1 dated November 2001).
- Publication Notice and written notice regarding this zoning change was completed and sent to all owners of land within 300 feet per the requirements of the City's Zoning and Subdivision Regulations Section 15.2 and are incorporated by reference in this Administrative Record. Signs were also posted on site for the proposed change in zoning per zoning regulations.
- Public Hearing Notice published January 29, 2015 and February 5, 2015.
- Planning Commission Public Hearing 2/17/2015 with recommendation for City Council Public Hearing.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Sterkel stated that he would ask this Council if this is approved the following conditions be set including:

1. In the event complaints or issues arise with those wanting screening between this operation and the accretion grounds and North Platte River to the North, Owner to agree to screen.

Mr. Sterkel stated that he has completed his entry regarding this Public Hearing to consider an application for a Conditional Use/Special Exception requested by Paul Reed Farms, LLC to allow an HMA or Concrete Batch Plant in MH and asked that they please keep this hearing open until all entries are put into this record.

Mayor Kaufman asked if the Council wished to have the Administrative Record read aloud. Seeing none he asked if anyone wished to speak in favor of the application. Seeing none he asked if anyone wished to speak in opposition.

Ben Backus asked where on the map will it be located. Mr. Snarr replied that it's zoned MH and pointed on the map where it would be located. Mr. Backus asked if anybody has spoken to the County about the jail; do they have any concerns? Mr. Snarr said they were sent letters. He thinks it's Warner Construction that is looking at putting in a temporary hot mix asphalt plant in this area. We would ensure that it stays within the MH zone; AGG is not zoned for something like this. They're also looking at somewhere down the road, a concrete batch plant.

Mr. Ross, Planning Commission Chairman, addressed Council and said the announcement in the Star-Herald for tonight's meeting stated that this application was so that Paul Reed could have a facility to have the paving project at the Wild Cat Hills. He said they aren't the ones that are going to be doing the paving; they may be supplying some aggregate or something like that, but it was reported incorrectly in the paper. He thinks in the future the City Council needs to let people in the media know that they need to report things correctly. Councilmember Christensen asked him to clarify the error. Mr. Ross said it was in the Star-Herald. Maunette Loeks stated she took it from the minutes. Mr. Ross then read a portion of the minutes aloud. "Adam Reed spoke to the Commissioners about the application. It's a 15-20 acre area in MH that they are still farming. Warner Construction contacted them one month ago; they had been awarded the repaving project through the Wild Cat Hills. They are looking at a plant site; Reed's site makes sense for an asphalt plant." Mr. Ross said it says right in the minutes of the Planning

Commission, Warner Construction. Comments were exchanged between Ms. Loeks and Mr. Ross; Mayor Kaufman asked to keep it to point of order.

Councilmember Gibbs said the minutes of the Planning Commission say that plant is going to be temporary but could develop into something permanent; are we being asked to approve a temporary permit or a permanent permit? Councilmember Morrison asked and are we approving a concrete plant or an asphalt plant? Mr. Snarr stated it was a little confusing when they addressed the Planning Commission during their last meeting. But when the application was filled out they had a drawing showing a hot mix asphalt plant and then they had a drawing in the AGG section showing a concrete batch plant. The area where the concrete batch plant would go would have to be rezoned Heavy Industrial. They were okay with that but tonight we're just approving hot mix asphalt plant temporarily; he doesn't know what temporary is, could be five or ten years. He thinks they (Council) can set the limit. Councilmember Morrison said if we do the asphalt plant is it zoned correctly now and then they'll have to go back and rezone again? Mr. Snarr replied that it's zoned correctly; the Asphalt plant. They're looking at putting it in the MH zone and Warner Construction did get the project for the Wild Cat Hills but who knows, it could turn into a larger job. If asphalt becomes needed here they may stay a little longer.

Councilmember Allred said he reads the application as stated - conditional use/special exception requested by Paul Reed Farms LLC to allow an HMA or concrete batch plant in MH. It's not until later in the explanation of the agenda item that the word temporary is used so temporary is not in the agenda item title. Mayor Kaufman stated that's how he reads it as well.

Mr. Snarr said he would probably set a time frame and then they can come back. They are heavily monitored by the state, EPA and NDEQ for air quality. Councilmember Smith asked Paul if MH is the zone we would want a plant like this to be in. Mr. Snarr replied they have to meet criteria set forth in section 10.16 of our zoning manual regarding noise, pollution, etc. Councilmember Allred asked if this is a special exception because we don't want a concrete batch plant or the asphalt to just go up in any random industrial area. Mr. Snarr said yes.

Councilmember Gibbs asked if we're just approving the asphalt area at this time. Mr. Snarr replied yes.

Mayor Kaufman asked if there were any more entries for the Administrative Record.

Mr. Snarr said due to the fact that Warner may not select to move into Paul Reed's farm and the way that the application is written - hot mix asphalt plant or concrete batch plant - he would look at either or; one or the other. It's not set in stone that Warner will be moving into that area. Councilmember Gibbs said it has to be in the area that is already zoned Heavy Industrial, if they wanted to go into the additional space they'd have to come back. Mr. Snarr said correct, so one or the other.

The Mayor closed the Administrative Record with no further comments and the Public Hearing closed at 8:46 p.m.

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

3a. Consider approving or denying application for a Conditional Use/Special Exception requested by Paul Reed Farms, LLC to allow an HMA or Concrete Batch Plant in MH (Heavy Industrial and Manufacturing District)

Motion by Councilmember Gibbs, second by Councilmember Morrison to approve the application for a Conditional Use/Special Exception requested by Paul Reed Farms, LLC to allow an HMA or Concrete Batch Plant in MH (Heavy Industrial and Manufacturing District) There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs,

Holliday, Allred, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

BIDS:

1. Carpet bid for City Hall/Administration building

Motion by Councilmember Morrison, second by Councilmember Smith to approve the one and only carpet bid from Don Schmidt Carpet for \$41,800.00.

Discussion: Councilmember Holliday asked if there were no other bids that came in. Clerk Welfl replied no, that was the only bid that came in. He asked how many did we send out. She said we sent out to the local vendors and also reached out beyond that and this was the only bid we received. Councilmember Gibbs asked if all the carpet is bad, it doesn't look that bad to him. He thought the carpet in the Council chambers doesn't look that bad. Clerk Welfl said this has been an on-going discussion since before she started with the City and she thinks where it started to become an issue is where it's unraveling in the main area and people were tripping. He said he didn't have a problem replacing it where it needs to be replaced but just didn't know if it was necessary to replace it all if some of it is still good. She replied that we could consider that, but it would look more uniform. He said he understands but he hates to spend the money if this carpet has another five years left in it. Mr. Snarr said the Council Chambers is the best room in the building.

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

CURRENT BUSINESS:

1. Approve and authorize the Mayor to sign Landfill Agreement between the City of Gering and Village of Morrill

Motion by Councilmember Christensen, second by Councilmember Smith to approve and authorize the Mayor to sign Landfill Agreement between the City of Gering and the Village of Morrill.

Discussion: Councilmember Holliday clarified that the charge would be \$175. He asked what we charge local businesses. Darrell Vance, Environmental Services Director, replied that it's based on tonnage. After talking with Lane we're trying to help the local communities out as they lost their landfill privileges. He has taken one load in currently and they have about a ton and a half on there; we're making about \$75 per load. We're not making a lot of money but we're trying to help a local community. Councilmember Holliday asked if we're charging Gering the same as them from the aspect that it is quite a great distance to go to Morrill than it is to go locally so there is going to be added costs; are we covering those added costs by this fee? Mr. Vance replied yes.

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

2. Consider approval of RFQ/RFP Phase I ESA Brownfields Grant

Rawnda Pierce, Director of TCD, said tonight was a perfect example of why this is needed. This proposal is to hire a qualified environmental professional to do Phase I and Phase II, community meetings, planning and reuse activities for specific properties. We have six in question already that have signed up that have signed waivers. They've gotten the City's form filled out to go ahead and proceed. She thinks it's becoming more obvious that this needs to happen. She asked the Council to approve the request; she thinks it's going out to a lot of people who are interested in doing the work.

Motion by Councilmember Christensen, second by Councilmember Holliday to approve the RFQ/RFP for Phase I and Phase II EAS Brownfields Grant. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

3. Request for Standing Committee Agenda item – Administrative Committee (to consider adjusting prices of the McKinley houses)

Rawnda Pierce said at one of the houses we had the high school kids finish the basement because it's just a two bedroom, one bath and of the people who've looked at it there would be more interest if it was finished in the basement. The high school kids are ahead of schedule on the house they're building so Paul, Lane and Rawnda looked at it and asked them to go ahead and frame out the basement; that will be in need of adjustment. We have another one with a crawl space that might need adjustment. She feels it's time to look at it and look at these prices; we've only set prices once, they've never been adjusted. We'll look at them one by one; some may need to go up because we've done some additional work, some of them may need to be adjusted down; we need to look at them all based on what has been done. One house has sold so far.

Motion by Councilmember Smith, second by Councilmember Allred to approve Request for Standing Committee Agenda item – Administrative Committee (to consider adjusting prices of the McKinley houses). There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

4. Approve Audited Financial Statement for FY 13-14

Kevin Sylvester with Dana Cole & Co. reviewed the audit with the Council. Councilmember Christensen asked if all of our financial operations are in good shape. Mr. Sylvester replied in layman's terms you're in good shape. He said he told Mr. Mejia that he wants to be under ten adjustments; there is always going to be adjustments. It's not always going to work perfectly. He feels ten adjustments would be good; we're at about 17 now. He said it looks like the City's in good financial health as of 9/30/2014.

Motion by Councilmember Christensen, second by Councilmember Cowan to approve the Audited Financial Statement for FY 13-14. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Holliday, Allred, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion carried.

5. Discussion of an Application to the Nebraska Oil & Gas Commission regarding a waste water disposal site in southern Sioux County

Alice Wineman, 1515 17th Street in Gering, stated to the Council that her intent is to protect our water supply by not allowing waste water to be put in an abandoned well above the Ogallala Aquifer which is believed to be the largest supply of water in the world. There is much history of these types of wells failing and contaminating water supplies in both rural and cities therefore she feels the Council should do all things possible to protect our water. The other issue is the matter of safety and what this City has in place in case of an accident or spill of this possible hazardous liquid; is our landfill certified to take this kind of unknown liquid?

She said the company is T-Rex Corporation, they had previously been established under the company name Rancher's Oil. They have filed for bankruptcy twice and have been sued three times in the last five years. There are three people at the head of this new company and they are an LLC. The corporation plans to transport 80 loads a day, 24 hours a day, seven days a week. She said the water is 99% highly concentrated salt water; the other 1% is made up of hazardous chemicals. The proposed well is 25 years old and has been examined by a petroleum engineer, Dale Wickersham of Wickersham Consulting LLC. His primary concern, according to Mrs. Wineman, is soil and aquifer contamination from surface spills and leaks. T-Rex is asking for the maximum allowable injection pressure at .7 psi. He believes that this is at or near the fracture gradient. The corporation needs to stay under the fracture gradient by a significant margin to ensure they do not start fracking and injecting out of zone.

She said another strong concern is public safety with the truck traffic they anticipate, the current access is in no way adequate. She realizes it's not right here in our own city. If the well is approved and dumping begins, the corporation plans to make this well the largest injection well in the United States. Contaminated water will be shipped from all over the United States to southern Sioux County. The Oil and Gas Commission has told T-Rex that they would be allowed to bring 287 times the radiation of allowed drinking water. There could potentially be 400 gallons of Benzene and carcinogens pumped in the well per day. The surface around the well is a major concern; there is a likelihood of spills at some

point. If there is enough spillage the nearby ground and aquifer could be subject to contamination and no fool proof protection. This would flow into Spotted Creek and then into the North Platte River. Although the EPA has been doing a study about injection wells the information has not been released yet. She added that hopefully as representatives of the City of Gering you will all support not taking a chance for our people.

Bess Carnihan, CR N in the suburbs of Stegal, Mr. Eeds, 1515 18th Street, Mitchell, Patty Goodschmidt, 1950 Hwy 29, Mitchell, NE, Robin Kinney, 1720 Cedar Street, Gering and Deanna Sandford, 1965 Q Street also addressed the Council with similar and additional concerns.

Administrator Danielzuk asked Mrs. Wineman for a copy of her notes.

Mayor Kaufman stated that he asked staff to take a look at this; he read a statement from Pat Heath, Public Works Director: There is no proof this will affect our wells; Mr. Heath does not believe it will harm them. If he had a concern he would have been all over this. He's not concerned it will affect our wells or our drinking water; he has done his own research. He cannot say for certain if the aquifer would be affected (for example by ground water affecting the Niobrara River, etc.); extensive research would have to be done to find that out and we may never really know. Mr. Heath would recommend this Council not send a letter for or against this application; it's way beyond the influence on our wells.

Ken Mabery, 1408 Ave. P in Scottsbluff, stated that he was in attendance as a private citizen. He stated that the City has invested heavily in tourism. The proposal has a high chance of affecting tourism with public safety as far as traffic competing with heavy trucks. In addition heavy truck traffic will deteriorate infrastructure that is not budgeted for additional upkeep.

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

REPORTS:

1. Mayor's Report

- Update of League, Mid-Winter Conference

Mayor Kaufman said the conference was great and provided a great opportunity to network with other officials across the state. He highly encouraged the Council to take the opportunity to attend those conferences. He has copies of the manuals if anyone is interested.

2. Administrator's Report - Administrator Danielzuk forfeited his report due to the late hour

- Federal Level – Waters of the U.S.
- Towns banning sledding to reduce risk
- When states and municipalities clash over regulations, who comes out on top?
- FCC backs municipal broadband expansions
- Legislative Update, LB151, 150, 266, 596, 238, 445

OPEN COMMENT SECTION: There were no comments from the public.

ADJOURN

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

Meeting adjourned at 9:48 p.m.

ATTEST:

Kathleen J. Welfl, City Clerk

Mark A. Kaufman, Mayor

