

ACKNOWLEDGEMENT OF RECEIPT OF  
NOTICE OF MEETING

We, the undersigned, the duly qualified Mayor and Councilmembers, of and for the City of Gering, Nebraska, hereby acknowledge receipt of advance notice and the agenda for the meeting on January 25, 2016 at 6:00pm., in the Gering City Council Chambers, 1025 "P" Street.

*William A. Kaufman*  
Mayor

*David A. Smith*  
Councilmember

*J. Allen*  
Councilmember

*Laurence G. Gibbs*  
Councilmember

*Gregory A. ...*  
Councilmember

*[Signature]*  
Councilmember

*Don Christensen*  
Councilmember

*Sue Morrison*  
Councilmember

\_\_\_\_\_  
Councilmember

CERTIFICATE

Kathy Welfl, the duly appointed City Clerk for the City of Gering, Nebraska, do hereby certify that the items which were on the agenda were placed on the agenda not less than 24 hours prior to this meeting and that the news media so requesting, have been notified of the time, place, and subjects to be discussed at this meeting.

I hereby certify that *Councilmember Holliday* was/were absent from the meeting but that, to my personal knowledge, he/she/they received advance notice of the meeting.

*Kathy Welfl*  
Kathy Welfl, City Clerk

## NOTICE OF MEETINGS FOR JANUARY 2016

December 30, 2015 CITY OF GERING [share via](#) [Facebook](#) [Email](#)

Notice is hereby given of Public Meetings of the following Gering City Public Bodies. All meetings will be held in the Gering City Council Chambers or Conference Room, 1025 "P" Street unless otherwise noted.

The Gering City Council will meet at 6:00 P.M. on Monday January 11, 2016 and January 25, 2016.

The Plumbing Board will meet at 5:15 P.M. on January 5, 2016.

The Gering Library Board will meet at 5:00 P.M. on January 19, 2016 at the Gering Public Library, 1055 "P" Street.

The Planning Commission will meet at 6:00 P.M. on January 19, 2016.

The Keno Committee will meet at 4:30 P.M. on January 20, 2016.

The Annual meeting of the Board of Directors for the Gering Leasing Corporation will meet at 5:30 P.M. on January 25, 2016.

The Gering Parks, Cemetery & Tree Board will meet at 7:00 P.M. on January 25, 2016 at the park maintenance facility located at 900 Overland Trail (11th & J).

Members of the Gering City Council may be present at the following: Scottsbluff/Gering United Chamber of Commerce Annual Banquet January 26, 2016 from 6:00 - 9:00 pm at the Gering Civic Center, 1050 M Street Gering, NE.

Because one or more City Council members may attend these meetings or event, this notice is also published for the purpose of providing the public with notice that on the date and time designated, a quorum of the Council may be present at the same time as the meetings/event.

Any person with a disability desiring reasonable accommodation to attend a public meeting must contact the City Clerk's office at City Hall, 1025 "P" Street, Gering, NE by 12:00 p.m. five (5) days prior to the date of each meeting. Agendas kept current and up to date are available at the office of the City Clerk during normal business hours.

/s/Kathy Welfi, City Clerk

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,  
JANUARY 25, 2016**

A regular meeting of the City Council of Gering, Nebraska was held in open session on January 25, 2016 at 6:00 p.m. at Gering City Hall at 1025 P Street, Gering, NE. Present were Mayor Kaufman, and Councilmembers Smith, Christensen, Gibbs, Allred, O'Neal, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl and City Attorney Jim Ellison. Absent was Councilmember Holliday. 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 6:00 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 absence of Councilmember Smith from the January 11, 2016 regular City Council meeting. Second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. 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:**

1. Approve minutes of the January 11, 2016 Regular City Council Meeting
2. Approve Claims and Financials
3. File for record Contract Agreement between the City of Gering and Environmental Services, Inc.

**Claims:**

**1-5-16 to 1-19-16**

ACUSHNET CO \$77.00 1 PR OF GOLF SHOES, ALAMAR UNIFORMS \$526.39 NAME PATCHES, POLOS, HANDCUFF KEYS, 4 UNIFORM BELTS, 2 NAME BADGES, 2 SRV TABS, ALLO COMMUNICATIONS \$1,239.75 TELEPHONE/INTERNET CHR, B & C STEEL \$6.39 RPR'S, 1 ROUND BAR, BAVCO \$557.70 BACKFLOW PREVENTOR, BB BRIDAL SHOW \$300.00 BOOTH FEE FOR BRIDAL SHOW, BIG MACK HEATING/COOLING \$70.00 REPAIRED GAP IN DUCT, BLACKSTONE AUDIO INC \$395.47 9 AUDIOBOOKS, BLUFFS SANITARY SUPPLY \$406.30 CLEANING SUPPLIES, 1 CS PAPER TWLS, 1 CS T P, 1 MOP HEAD, BOOKS GALORE INC \$1,221.77 87 BOOKS, CENTER POINT LARGE PRINT \$44.34 2 BOOKS, CHARTER COMMUNICATIONS \$507.99 TV/INTERNET CHR, CHRISTIAN MEDIA INC \$192.25 RADIO ADVERTISING FOR CIVIC CENTER, CINDY BATT \$75.00 RV ROOM DEPOSIT REFUND, CITY OF GERING - GENERAL AC \$65,000.00 ACH TRANSFER PAYROLL, CITY PAYROLL TRUST \$3,754.44 FSA MEDICAL 125, COLLOPY PERFORMANCE & MACH \$20.00 RPR'S, CONNECTING POINT \$893.00 COPIER CONTRACT & 3 TONER CARTRIDGES, CONTRACTORS MATERIALS \$490.00 SUPPLIES & TOOLS, CORNHUSKER PRESS \$7.20 24 TOBACCO APPLICATIONS, CREDIT MAGAGEMENT SRV \$171.95 GARNISHMENT 2, CRESCENT ELECTRIC SUPPLY \$2,955.32 BOXES, 4 HEATERS, RPR'S, 3 POCKET KNIVES, CONNECTORS, 4 FUSES, 2 CONTACTORS, 1 PULL BOX, 25 SPLIT BOLTS, RPR'S, CULLIGAN WATER CONDITIONING \$220.25 4 SALT DELIVERIES, D & H ELECTRONIC SUPPLY \$69.95 1 CRIMPER TERMINAL, DAKOTA SUPPLY GROUP \$513.60 SCM UPGRADE RF UNIT, DALE'S TIRE \$84.34 FLAT RPR ON FORKLIFT, DANKO EMERGENCY EQUIPMENT \$225.99 1 PR OF BUNKER BOOTS, DATA MANAGEMENT INC \$241.00 GOLF GIFT CERTIFICATES, DITCH WITCH UNDERCON \$84.34 PART, DOOLEY OIL INC \$1,850.75 OIL FOR BALER, 2 DRUMS OF DEF FLUID, 220 GALLONS OF CAM 2 HYD 32 & 2 DRUMS OF OIL, ECOLAB \$239.71 RODENT CONTROL AT AMPITHEATER, WWTP & CENTRAL STORES, ENTERPRISE IRRIGATION DIS \$1,918.55 IRRIGATION TAXES FOR GUECK FLD, ENVIRO SRV INC \$988.00 WATER LAB, 1 LAB TEST & 2 WW LABS, ESC ENGINEERING \$8,302.47 NPPD LINE MOVE, EXPRESS COLLECTIONS INC \$195.74 GARNISHMENT 2, FASTENAL CO \$420.60 GLOVES, BATTRIES, EAR PLUGS, RPR'S, SUPPLIES, CENTRAL PLANT RPR'S & 16 BATTERIES, FAT BOYS TIRE & AUTO \$660.20 4 NEW TIRES, FIRST STATE BANK \$366.27 IBEW UNION DUES, FLOYD'S SALES & SRV \$1,625.86 RPR'S TO FREIGHTLINER DUMPTRUCK, RPR'S TO STERLING DUMP TRUCK, TRUCK PARTS, RPR'S TO G9 & G8, FREMONT MOTOR SCOTTSBLUFF \$25,212.68 PURCHASE OF 16' FORD EXPLORER & RPR'S TO 13' TAURUS, FYR - TEK \$26,752.91 AIR COMPRESSOR & FILL STATION, GALE \$32.38 2 BOOKS, GERING CITIZEN \$34.57 CC MTG NOTICE & NOTICE OF JAN MEETINGS, GERING CONVENTION & VISIT \$20,613.75 QRTL PYMT, GERING COURIER \$104.00 CHRISTMAS SAFETY AD, GERING MERCHANTS \$661.50 KENO FUNDS: MAKE GERING SHINE, GLENNA STREEKS \$75.00 RV ROOM DEPOSIT REFUND, GRAINGER \$295.53 WWTP VENT FOR RPR, GREASE N GO \$42.21 OIL CHANGE 15' FORD, GREGORY'S

LOCK SHOP LLC \$260.00 DOOR LOCK RPR, GROUND UP CONSTRUCTION \$510.00 CLEANING SRV - DECEMBER, HARRINGTON INDUSTRIAL PLA \$495.25 CENTRAL PLANT RPR, HEARTLAND EXPRESSWAY \$9,214.80 MEMBERSHIP FEE, HEILBRUN \$1,322.91 SHOP SUPPLIES, RPR'S, 2 FUEL FILTERS, 1 OIL FILTER, 1 HYD FILTER, 8 SETS OF WIPER BLADES, 4 BOTTLES OF DE - ICER, 3 STROBE KITS, 2 HEADLIGHTS, 1 BATTERY, 1 OIL FILTER, 5 LAMPS, PARTS FOR TRUCK, 7 OIL FILTERS, 1 HYD FILTER, HENSLEY BATTERY & ELEC S \$253.65 3 BATTERIES, HOME DEPOT \$517.86 RPR'S, CARPET PROTECTION & RACK FOR CLEANING SUPPLIES, HOMETOWN ROOFING \$315.00 CREDIT BALANCE ON ACCOUNT, HUGO PANDURO \$75.00 RV ROOM DEPOSIT REFUND, ICMA ELECTRONIC RETIREMENT \$546.42 ICMA CITY ADMIN, IDEAL LINEN SUPPLY INC \$260.31 MAT CLEANING AT ADMIN BLDG, LIBRARY, CIVIC CENTER, CENTRAL STORES, 1 CASE OF 2-PLY TISSUE, MAINT SUPPLIES, CLEANING SUPPLIES & SHOP TOWELS, INGRAM LIBRARY SRV \$873.02 55 BOOKS, INLAND TRUCK PARTS CO \$376.08 1 BACKING PLATE, INTERNAL REVENUE SRV \$41,667.81 FED/FICA TAX, INTRALINKS TECHNICAL SOLUTIONS \$1,895.00 COMPUTER SUPPORT, IRBY TOOL & SAFETY \$1,110.02 12 CUT - OUTS, JACOBS AUTOGLASS \$175.00 WINDSHIELD INSTALL ON CAT, JOHN HANCOCK USA \$14,310.83 JH RETIRE 6%, JOHNSON CASHWAY CO \$752.28 WWTP RPR'S, 1 SHOVEL, 40 CHAINS, 1 COUPLER, 2 BOXES, CENTRAL PLANT RPR'S, 1 NOZZLE, 1 HWH DRILL, 1 BULB, 2 FILTERS, BAR RAIL RPR'S, 2 PROPANE CYLINDERS, RPR'S, 2 TEST PLUGS, 100 STAKES, SHOP SUPPLIES, 1 TREATED POST, 25 ALUM MARKERS, SUPPLIES, BATTERY FOR TRANSIT, 24 SHOP TOWELS, KATHLEEN A LAUGHLIN \$165.00 GARNISHMENT 2, KOVARIK, ELLISON, MATHIS \$2,888.75 RETAINAGE - JANUARY, KRIZ - DAVIS CO \$1,704.21 2 SHOP LIGHTS, 3 TERM KITS, 3 CONNECTORS, 221 BOTS, RPR'S, LL JOHNSON DISTRIBUTING \$406.75 RPR'S, LANE DANIELZUK \$149.00 MEAL EXP: 16 MIDWINTER CONF & BOARD OF DIRECTORS MTG, LEAGUE OF NE MUNICIPALITY \$371.00 16 MIDWINTER CONF REG: LANE, LINDA TODD \$75.00 RV ROOM DEPOSIT REFUND, MATHESON TRI - GAS INC \$214.92 SHOP SUPPLIES & 6 PR OF SAFETY GLOVES, MEAT SHOPPE \$14,524.67 CATERING COSTS & MANAGEMENT CONTRACT, MENARDS \$169.97 NEW BAR RAIL, COMPRESSOR WIRING, SHOP SUPPLIES, 4 WRENCHES, 1 FILTER, 4 TOGGLE BOLTS, SUPPLIES, PUMP FOR CENTRAL PLANT, WWTP RPR'S, MG TRUST CO LLC \$7,098.58 MG T - POLICE, MICHAEL TODD CO \$1,412.19 8 SNOW PLOW BLADES, MIKE'S SCREENPRINTING \$124.00 FIRE DEPT: 10 T-SHIRTS, MIRACLE RECREATION EQUIPMENT \$75.00 RPR'S, MONEY WISE OFFICE SUPPLY \$269.61 NAME PLATE & HOLDER FOR LYNDSEI, 1 PRINTER CARTRIDGE, 1 BOX OF STAPLES, 2 INK CARTRIDGES, 1 DZ LEGAL PADS, 1 DZ PENCILS, 1 PK OF SCOTCH TAPE, MTL INVESTMENT CORP \$50,000.00 LB840 LAUNDROMAT, MUNICIPAL ENERGY AGENCY \$2,317.08 DUES, MUNICIPAL SUPPLY INC OF \$1,774.63 MAIN RPR, NDEQ - FISCAL SERVICES \$6,098.74 SOLID WASTE DSPL FEE QRTL PYMT, NE CHILD SUPPORT PYMT \$827.56 CHILD SUPPORT 1, NE DEPARTMENT OF REVENUE \$61,114.07 DECEMBER SALES AND USE TAX, NE PUBLIC HEALTH ENVIRO LAB \$56.00 WATER LAB, NE SAFETY/FIRE EQUIPMENT \$105.00 EXTINGUISHER INSPECTION, NE STATE RECYCLING ASSOC \$300.00 MEMBERSHIP GRANT DONATION, NEBRASKA ENVIRONMENTAL PR \$3,325.43 3 BROOMS FOR SWEEPER, NEBRASKA PUBLIC POWER DISTRICT \$129.01 UTILITIES - 240066 HWY 92, NEBRASKA SALT & GRAIN \$9,225.08 SIDEWALK ICE SLICER SALT, NMC EXCHANGE LLC \$667.91 WINDSHIELD FOR BACKHOE, NORTHWEST PIPE FITTINGS \$21.27 CENTRAL PLANT RPR, OCLC INC \$138.65 CAT & ILL SUBSCRIPTION, OFF BROADWAY BUSINESS PRODUCTS \$1,031.89 COPY COUNT CHARGES, 2 BOXES OF FILE FOLDERS, CHAIR FOR PAUL'S OFFICE, NAME PLATE HOLDER FOR ROD, 1 DRUM UNIT & 1 CARTRIDGE, ONE CALL CONCEPTS INC \$34.35 LOCATE FEES, OREGON TRAIL PLBG & HEATING \$98.00 RR RPR'S, PANHANDLE COOP ASSOCIATION \$863.66 FUEL: 434 GALLONS, PANHANDLE GEOTECHNICAL \$875.00 K ST PROPERTIES ABESTOS SURVEY, PANHANDLE HUMANE SOCIETY \$3,134.00 ANIMAL CONTROL FEES, PAT HEATH \$75.95 WORK BOOT REIMBURSEMENT, POSTMASTER \$600.00 MAILING PERMITS, POTTER'S WHEEL \$288.86 OVERPYMT ON ACCNT REFUND, POWERPLAN OIB \$667.80 PARTS FOR 750J, RPR'S TO LOADER, PRINT BROKER \$416.92 2500 DISCONNECT NOTICES, PRINT EXPRESS \$433.66 5000 CITY OF GERING ENVELOPES, 250 GOLF CAR FEE LABELS, PT HOSE & BEARING \$96.98 CLEANER/DEGREASER, 16 HOSES & 4 FITTINGS, RECORDED BOOKS LLC \$132.29 4 AUDIOBOOKS, ROOSEVELT PUBLIC POWER \$8.67 UTILITES - SIGN: FINAL BILL, RYAN GUZMAN \$77.00 RPR'S TO SHOWER/TOILET: MCKINLEY HOME, SCB COUNTY AMBULANCE SRV \$316.23 AMBULANCE CONTRACT, SCB COUNTY SHERIFF OFFICE \$1,912.35 LEIN OVERTIME HOURS RMBRRSMT, SCOTTS BLUFF CO CONSOLID \$85.00 SILENT ALARM MONITORING, SCOTTSBLUFF GERING UNTIED \$71.54 UNITED WAY CTRB, SENIOR CITIZENS CENTER \$525.00 FINANCIAL SUPPORT, SHELL \$91.97 FUEL: 34.59 GALLONS, SHERRY OLIVER \$75.00 RV ROOM DEPOSIT REFUND, SIMMONS OLSEN LAW FIRM \$1,500.00 CITY PROSECUTOR BILL, SLAFTER OIL CO \$558.35 GREASE, 6 GALLONS OIL, 6 FILTERS, SOLOMON CORP \$2,130.94 2 CONTROLLERS, STAPLES CREDIT PLAN \$69.99 BRWNSFLD SUPPLIES, STAR HERALD \$120.56 LB840 MTG NOTICE, SPECIAL CC MTG NOTICE, CC CDBG MTG NOTICE, PERSONNEL COMMITTEE MTG, CC/PH MTG NOTICE, BID FOR EQUIPMENT, STATE OF NE/DAS COMM \$479.07 LONG DISTANCE PHONE CHGS, SUGAR VALLEY FEDERAL CREDIT \$1,268.08 CREDIT UNION, TERRY CARPENTER INC \$650.00 WATER WELL LAND RENT, THE ROCK PILE \$502.24 CONCRETE FINES & 10.97 TONS OF SAND, TWIN CITY AUTO \$167.09 VEHICLE RPR, VALLEY BANK - POLICE \$300.00 PO UNION DUES, VALLEY BANK & TRUST CO \$31,119.82 LANDFILL SINKING FUND: DEC & HSA CTRB 125, VERIZON WIRELESS \$761.51 IPAD FEES & ON CALL CELL/LAPTOP FEES, VIRGINIA MUES \$75.00 RV ROOM DEPOSIT REFUND, WALMART \$29.88 PHONE CARD FOR ROD, WESTCO \$1,463.26 PARTS FOR SPRAY TRUCK, 1 FUEL NOZZLE, 771 GALLONS OF DIESEL, WESTERN PRAIRIE TITLE \$495.50 NPPD LAND WARRANTY DEED, WINCHELL CLEANING SRV \$390.00 CLEANING SRV, YR ROUND EQUIPMENT \$53.65 MOWER RPR'S, PAYROLL CHECKS \$110,842.34 PAYROLL CHECKS ON 1-8-16

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

**PUBLIC HEARINGS:**

**1. One and Six Year Plan Public Hearing - Street Superintendent, Casey Dahlgrin**

Mayor Kaufman opened the public hearing for the One and Six Year Plan at 6:03 p.m. Street Superintendent, Casey Dahlgrin presented the One and Six Year Plan as follows:

Summary of City of Gering 1 & 6 Year Plan  
2016

**1 Year Projects**

- Kimball Ave.
- Pacific Blvd. from the bridge North
- Country Club Road from 7<sup>th</sup> Street to 10<sup>th</sup> Street (complete R & R)
- Mark Drive (complete R & R)
- 17<sup>th</sup> Street from Yucca Drive South, 405' (complete R & R)

1 Year Plan Total \$1,391,480

**6 Year Plan**

- Rundell Road from D Street to Hwy. 71
- 7<sup>th</sup> Street from D Street to Hwy. 71
- 2<sup>nd</sup> Street & Hwy. 92 Intersection
- Five Rocks Road & Oregon Trail Blvd.

6 Year Plan Total \$1,220,000

Councilmember Gibbs asked about the distance for the Kimball Ave. project. Mr. Dahlgrin replied it will be the whole thing. Mayor Kaufman asked if anyone else in the Council Chambers had any questions about what was presented. Seeing none, the Administrative record and the public hearing were closed at 6:05 p.m.

**Motion by Councilmember Morrison to accept the One and Six Year Plan into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**1a. Consider approving the One and Six Year Plan**

**1b. Approve Resolution 1-16-2**

RESOLUTION 1-16-2

WHEREAS, at the regular meeting of the City Council of the City of Gering, Nebraska, held in the Gering City Council Chambers, 1025 "P" Street, Gering, Nebraska on January 25, 2016 at 6:00 p.m., a public hearing was held on the One and Six Year Street Improvement Program, as advertised and posted.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF GERING, NEBRASKA, THAT:

The One and Six Year Street Program for 2016 is hereby approved.

A motion was made by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_ to adopt the One and Six Year Street Improvement Program for fiscal year 2016. On roll call vote, the following voted "AYE": \_\_\_\_\_ "NAY" \_\_\_\_\_ Absent: \_\_\_\_\_

Whereupon the Mayor declared said Motion carried and Resolution passed.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affix the seal of said City this 25<sup>th</sup> day of January 2016.

\_\_\_\_\_  
Tony A. Kaufman, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Welfl, City Clerk

**Motion by Councilmember Gibbs to approve the 2016 One and Six Year Street Plan and Resolution 1-16-2. Second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Alfred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**2. Public Hearing to consider an application for a BHC Zoning Overlay to be placed on the existing Heavy Industrial and Manufacturing District (MH), Light Industrial and Manufacturing District (ML), and Rural Residential Estate District (RRE) on all properties along the 10<sup>th</sup> Street Corridor from UPRR North to Country Club Road and from UPRR East to 7<sup>th</sup> Street.**

Mayor Kaufman opened the public hearing at 6:03 p.m. City Engineer and Planner, Paul Snarr, gave the Administrative Record.

Mr. Mayor and City Council Members,

This is Public Hearing to consider an application for a BHC Zoning Overlay to be placed on the existing Heavy Industrial and Manufacturing District (MH), Light Industrial and Manufacturing District (ML), and Rural Residential Estate District (RRE) on all properties along the 10<sup>th</sup> Street Corridor from UPRR North to Country Club Road and from UPRR East to 7<sup>th</sup> Street. This overlay is situated in a portion of the East Half (North of UPRR & South of Country Club Road) of Section 35, Township 22 North, Range 55 West of the 6<sup>th</sup> Principal Meridian.

Most of the businesses within the area as described above are not compliant with MH Zoning and this amendment to install a BHC Overlay would ensure zoning compliance with all properties and would enable zoning control and enhance future business growth along 10<sup>th</sup> Street, revitalizing the corridor to meet the intent of the 1995 Comprehensive Plan and make the area compatible with the business and commercial districts to the North and South.

*For clarification and in an attempt to ease concerns – the highest percentage of business' along this corridor fit BHC and not MH Zoning and this will have no effect on the existing business' other than placing all into compliance with zoning regulations. Both MH & BHC Zones will be a permitted use.*

**Administrative Record:**

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

- Application for the Change in Zoning – Overlay BHC with the Existing MH, ML, RRE Zoning (Zoning Amendment) was submitted by Staff October 22, 2015.
- Ron Moore, Executive Director of Panhandle RC&D (Resource Conservation & Development (now retired). Ron put together a slide presentation - study identifying the different land uses along this corridor and presented to this Commission, Council, and Public during the Planning Commissions regularly scheduled meeting held on September 18, 2012 (he was not able to be present; however asked me to present in his absence).
- Planning Commission Recommendation and Report to rezone a portion of 10<sup>th</sup> Street from U Street to Country Club Road from MH to BHC April 15, 2014. Public Hearing was scheduled for May 20, 2014.
- Planning Commission Public Hearing to rezone a portion of 10<sup>th</sup> Street from U Street to Country Club Road from MH to BHC May 20, 2014. Commission heard this hearing and set a continuance for June 10, 2014.
- Planning Commission Public Hearing to rezone a portion of 10<sup>th</sup> Street from U Street to Country Club Road from MH to BHC June 10, 2014. Commission had no Quorum and had to be re-scheduled for July 15, 2014.

- Planning Commission Public Hearing to rezone a portion of 10<sup>th</sup> Street from U Street to Country Club Road from MH to BHC July 15, 2014. Commission voted to continue/delay any further action on the change in zoning indefinitely for the upcoming City Council Public Hearing.
- City Council Public Hearing regarding the rezone of a portion of 10<sup>th</sup> Street from U Street to Country Club Road from MH to BHC and approved to no longer continue the public hearing and to request Planning Commission to formerly decline/deny the proposed rezone, October 13, 2014.
- City Council Public Hearing to rezone a portion of 10<sup>th</sup> Street from U Street to Country Club Road from MH to BHC, December 8, 2014 was recommended to deny per the Planning Commission's decision.
- Planning Commission - Recommendation and Report for a BHC Overlay (limits as referenced) 11/17/2015. Planning Commission tabled this action until the next regularly scheduled meeting 12/15/2015. The 12/15/2015 Meeting was cancelled due to weather and re-scheduled (Recommendation and Report and Public Hearing) for the Planning Commission on 1/19/2016 and City Council 1/25/2016.
- Letters concerning this Recommendation and Report and Public Hearing were sent meeting City of Gering Subdivision and Zoning Regulations and mailed on 10/29/2015.
- 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 October 29, 2015, January 7, 2016, and January 8, 2016.
- Planning Commission Public Hearing January 19, 2016 ended with a tie vote for recommendation to go before City Council scheduled for January 25, 2016.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing to consider adding a BHC Zoning Overlay on the existing Heavy Industrial and Manufacturing District (MH), Light Industrial and Manufacturing District (ML), and Rural Residential Estate District (RRE) on all properties along the 10<sup>th</sup> Street Corridor from UPRR North to Country Club Road and from UPRR East to 7<sup>th</sup> Street and request that you please keep this hearing open until all entries are put into this record.

Mayor Kaufman asked if anyone wished to speak in favor of this application. He added that he has had two phone calls regarding this item. Once we explained what was going on, the property owners were comfortable with it. The existing zoning will stay in place on the existing properties. We cannot afford to abandon some of the core businesses in our community that have made our community strong and in that corridor industrial businesses have served a great purpose for our community. The overlay will provide a dual purpose for future development; a prime example would be the Swift property on the corner which is zoned industrial but if somebody wanted to develop a business they could do that and adhere to the zoning regulations pertaining to a business that would potentially develop there. With it being dual, if somebody wanted to expand that was adjacent, and wanted to expand their industrial business they absolutely could. It's a benefit to the land owner because you get both benefits of dual zoning. Relative to our comprehensive plan and our economic development plan with the corridors we've adopted, this really does fit in as a good solution to a problem that has been facing us as a community for quite some time.

Del Webber, Mid-West Auto Supply, addressed Council. He said he's not totally in opposition; the only word he didn't like is "intention". He asked that Council, if they take this matter up, that they protect in

writing, not intention or in meaning, protect the rights of HM. That if you are MH your application for any development is viewed as only... or future applicants, somebody coming to town, that you can get online and look... and when you talk overlay it is restriction, restriction, restriction; that's the key word that is common in every definition he finds. That's the only fear with this. There are some really good things that could come from this and we're this close to having it stitched together. But protect it in writing, not interpretations. Personalities change, people change and what we meant to happen today can be interpreted differently later; that is the one loose end he wants tied down. Protect MH so that it is MH, not subject to somebody's interpretation, be it a Council, an employee, whatever; put it in writing and protect it.

Mayor Kaufman thanked Mr. Webber and replied that the way he understands it on what is being presented, it wouldn't be subject to interpretation. It's both, there is no interpretation. It is *both* zonings with no stipulations on restrictions of intent or use. He said to Mr. Webber, there is only one way to interpret that. City Attorney Ellison agreed that Mayor Kaufman is interpreting it correctly. He added that the minutes will reflect the intent of the Council and the comments made by the Mayor. That will be part of the permanent record as well.

City Engineer, Paul Snarr, stated that the wording on "intent" was revitalizing the corridor to meet the intent of the 1995 Comprehensive Plan; if you read the comprehensive plan that was the intent of that. Mayor Kaufman said but the intent of the '95 Comprehensive Plan was not to abandon our industrial businesses in that corridor. Mr. Snarr replied "correct".

Councilmember Christensen stated that many of the business in that location do not comply with that current zoning and this new overlay will clear that up so we can go on from here. He doesn't see anything wrong with that, he thinks we're accomplishing a lot by doing this overlay. We're helping the businesses that are there now.

Alan Doll, with B & C Steel, addressed the Council. He said they have been around for 70 years and they're concerned because if you read the overlay, what they're concerned with is that B & C becomes a non-conforming use by definition in the City's own zoning manual. He said as Del mentioned, intent is everything, but he thinks there should be some type of exemption for property owners that already have a filed plat prior to the new ordinance taking affect just to ensure that. For some of the properties there, their only use is what they are now. He thinks a lot of the uneasiness, just the way it sounds you're preparing to take value away from them by changing their zoning and then they're hand-cuffed and now they're non-conforming; he thinks if there could be an exemption for current property owners that have platted lands that are filed before the new ordinance, that would add to the clarification.

Mayor Kaufman replied to Mr. Doll, "To reiterate, you are conforming and would be conforming." Mayor Kaufman added that relative to what Mr. Doll's interpretation of the verbiage is, you would be conforming because it's dual purpose with no restrictions. Councilmember Smith said that we're not taking away your current zoning. What we're doing is we're overlaying another zone on top of it. There will be a motion here in a minute that will say that if you were under the ML or BHC or whatever regulates you now, that is the zone you would be regulated by. So you have your current zoning which you're in compliance with and that won't go away, it will just be a BHC so the property next to you, B & C could either expand into or a Highway Commercial business could move into that.

A non-audible comment came from the audience. Mayor Kaufman stated this has been months and months of research to get it to this point because we wanted to be sure what we brought to Council was correct in its interpretation and making sure we were thinking about existing businesses but at the same time thinking about future growth opportunities as well and making sure that corridor had the most growth flexibility for its existing users and potential future as well. This was a great solution for that because it allows for both. Mayor Kaufman asked if anyone else wished to speak in favor or against.

Paul Marietta addressed Council and said he is on the Planning Commission and he was one of those that voted against this. There are a couple reasons and he thinks we've covered quite a bit of it tonight. He thinks it's too vague to say we're going to do an overlay and if you want to have manufacturing you



can and if you want to have highway commercial you can. He said you're broadening rather than restricting. Every class of zoning restricts rather than broadens. You're going from wide-open country and you're zoning it to a specific use. He doesn't know if this has been tested, or if there are other examples of this somewhere other than the City of Gering, but to him it goes beyond common sense to think you can just say we're going to have two classes of zoning for the same piece of land. It goes against everything he understands. The other concern he has is the size of the area. It encompasses a lot of area that is outside the 10<sup>th</sup> Street corridor; all of 7<sup>th</sup> Street and Country Club Road. He said he thinks we're trying to sell this as we're getting everybody in the right zoning; everything's wrong and we're trying to make everything right. As he drives down 10<sup>th</sup> Street, as he looks at the businesses there, most of them are properly MH or they could be in both. He thinks it's a little misleading as well; that's why he voted against it.

Administrator Danielzuk added comments to the Administrative Record based on what he heard at this public hearing. Mr. Danielzuk entered into the Administrative Record the draft of the official proceedings of the Gering City Planning Commission meeting January, 19, 2016. He then read into the record comments for the Council and audience to consider.

*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. Neither the map of existing land uses, nor the future land use plan, is a zoning map.*

*The traditional image of a zoning map is one on which the community is shown divided into districts such that no districts overlap, and every parcel of land is included in a district. Mr. Danielzuk stated that we have that; it's outlined in part in our zoning ordinance. Two variations on this scheme have come into widespread use.*

1. *An Overlay Zoning District: Mr. Danielzuk stated it says "See also Base Zoning."*

*Mr. Danielzuk then stated that Commissioner Marietta read a definition that was given on overlay, the definition was from the Planner's Dictionary - American Planning Association: Overlay Zoning District and it says "See also Base Zoning District." Administrator Danielzuk stated that what's reflected in the minutes is: 'An area where certain additional requirements are superimposed upon a base zoning district...' and then there are three dots. In the minutes Mr. Marietta goes on to say 'I don't think you can overlay and broaden.' Mr. Danielzuk then said that he's not sure if in fact Mr. Marietta gave the whole definition or stopped; that's neither here nor there. Mr. Danielzuk then gave the full definition. "An area where certain additional requirements are superimposed upon a base zoning district or underlying zoning district and where the requirements of the base or the underlying district may or may not be altered."*

2. *Base Zoning District: A standard zoning district classification which is combined with an overlay district for purposes of development regulation specificity. The base (underlying) district regulations shall apply unless expressly superseded by overlay district provisions.*

*Mr. Danielzuk said you have it two different places by definition. An overlay zoning district that says requirements may or may not be altered AND a base zoning district that says the underlying district regulations shall apply unless expressly superseded by overlay district provisions.*

*Administrator Danielzuk went on to say the second variation, which we use, we use them both, are called floating zones. Many ordinances describe zoning districts that are unmapped but become fixed in the process of rezoning. These zones have a special purpose and most usually respond to a specific comprehensive plan recommendation.*

*An area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered. Floating zones may provide transition between uses, as described, or may address problems in geographic areas that have unique opportunities or constraints, such as an environmental resource or commercial or transportation center.*

Mr. Danielzuk referred back to the Planning Commission meeting minutes of January 19, 2016 for the record:

*'Chairman Ross read a definition from the Nebraska Planning Handbook: Overlay (Floating) Zones: ... Other overlay zoning districts may be explicitly demarcated with a special graphic pattern or boundary on the zoning map to indicate an area in which the special requirements of the overlay district are added to the requirements of the underlying zoning districts. For example, a highway corridor district could be added along important roads to require specific traffic-related improvements to be added to the requirements that already are imposed by the underlying zoning districts'. – Nebraska definition.*

*Mr. Danielzuk then stated: The first question to ask is whether a purported action of a local government in Nebraska has been statutorily authorized by the State of Nebraska. Zoning is a legislative function which extends from the police powers of municipalities in order to protect public health, morals, and general welfare. Courts generally give deference to municipal decisions of law regarding the welfare of the people. While municipalities are authorized to restrict land uses through zoning and other measures under their police powers, this power has limits such as a case in which a landowner is denied all economically beneficial use of the land, or where a landowner suffers a physical invasion of their property by the government, the validity of zoning regulations is presumed in the absence of sufficient evidence to the contrary.*

*Mr. Danielzuk then referenced The "Zoning Ordinance" of the City of Gering which states in part; as a purpose - The Zoning Ordinance is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. Objectives: To protect and promote appropriately located agricultural, commercial, and industrial pursuits in order to preserve and strengthen its economic base and; to protect and enhance real property values.*

*Mr. Danielzuk then referenced Gering Planning Commission meeting minutes from April 21, 2015 where a public hearing was held to consider amending zoning by adding a BHC overlay for the purpose of bringing non-conforming businesses into compliance and to better meet the City's Comprehensive Plan on three properties.*

*'Vice Chairman Gealy made the motion to amend zoning by adding a BHC overlay for the purpose of bringing non-conforming businesses into compliance and better meet the City's Comprehensive Plan. It was seconded by Commissioner Koob. On roll call vote, the following voted "AYE": Ellison, Gealy, Hauck, Koob, Ross and Sandberg. "NAY": None. Absent: Parks and Seiler.'*

*Mr. Danielzuk stated that the Planning Commission held a public hearing on January 19, 2016 to consider an application for a BHC Overlay to be placed on the existing Heavy Industrial Manufacturing, etc. At the close of that public hearing Chairman Ross asked for motion to recommend to the City Council installing the overlay district.*

*'Vice Chairman Hauck made the motion to add... (a BHC Zoning Overlay on the existing Heavy Industrial and Manufacturing District (MH), Light Industrial and Manufacturing (ML), and Rural Residential Estate District (RRE) on all properties along the 10<sup>th</sup> Street Corridor from UPRR North to Country Club Road and from UPRR East to 7<sup>th</sup> Street.) Motion was seconded by Commissioner Sandberg. On roll call vote the following voted "AYE": Hauck, Koob, Ross and Sandberg. "NAY": Doll, Gillen, Marietta and Seiler. Absent: Parks.'*

*Mr. Danielzuk stated that Seiler has been on the Planning Commission a while. She would have been a participant at the first go-around to amend the zoning district on April 21, 2015 but was absent. The Commission members that voted for this at the second meeting had all been a part of the first public hearing. The Commission members that voted no at the one on the 19<sup>th</sup> had not been a part of the first public hearing for the overlay. He added that he's not speculating on what that means; it's a matter of fact.*

*A BHC Overlay would ensure zoning compliance with all properties and would enhance future business growth along 10th Street, revitalizing the corridor to meet the intent of the 1995 Comprehensive Plan. With respect to policy-making vs. policy application, policy-making is a provision adding a zoning overlay to an existing zone(s), so that the Zoning Area for which uniform regulations governing the use, height, area, size and intensity of the use of the buildings, land and open spaces about buildings that are herein established control which specific district regulations are enforced therein. Mr. Danielzuk noted to Mr. Webber that he has it in writing; it's in the record.*

*Mr. Danielzuk then stated he wanted to visit with the Council about review authority of the Planning Commission and the Planning Commission in General. "The governing body which appoints a planning commission shall not hold any public hearing or take any action on matters relating to zoning, including amendments thereto, until it has received the recommendation of the planning commission." (Neb. Rev. Stat. 19-929 for municipalities).*

*A zoning ordinance: in part, under Amendment Consideration and Adoption, Section 15:3: "A vote either for or against by less than a majority of the Planning Commission present constitutes a failure to recommend".*

*Administrator Danielzuk said he would submit to you that under the current definition that the City Council has been asked to consider, is that in a zoning overlay district they use an area where certain additional requirements are superimposed upon a base zoning district or underlying zoning district and where the requirements of the base or underlying district may or may not be altered. Further, in using the definition that is a base zoning district definition, a standard zoning district classification which is combined with an overlay district for purposes of development regulation specificity and the base (underlying) district regulations shall apply and are not superseded by the overlay district provisions.*

Mayor Kaufman said to recap that, really what we're doing is exactly what we talked about before and that is you have two zones; the original zone that was in place that you were governed by is not changing. The overlay is not bringing in any additional regulation or restriction to use. It does not supersede, it allows dual purpose. We're giving more purpose and more flexibility for the properties in that corridor which is consistent with our Comprehensive Plan from 1995.

Mayor Kaufman asked if there are any additional comments. Councilmember Christensen asked Mr. Snarr if he sees, from the new overlay zoning, if it would reflect any future concerns or damage to the current property owners. Mr. Snarr replied that he does not; he thinks this is the perfect place for Business Highway Commercial; he does not foresee any problems.

Mr. Marietta addressed Council again and stated that since he got dressed down he thought he should state his case again. He said from the definitions Mr. Danielzuk just read, again, what he hears is the

overlay is superimposed and as long as the base district doesn't have any rules which go against that overlay, it's fine. But he believes the overlay will be the supreme zone for that area. That's going to be the one that dictates what happens. Until somebody goes to get a building permit on the property adjacent to their MH, we're okay. But once we have a company move in and Del wants to expand his wrecking yard, and they take him to court on that, then this is going to be settled by somebody different than us. You can read that definition, he thinks he understands what it's saying and he doesn't think it's saying that you can do both. He thinks it means that the overlay is going to be the new rule. If there's a discrepancy, and there will be, then the overlay has precedence; by definition that's what overlay is. It could be taken care of, for him, if there were a set of guidelines for this area. Something that says this is what it is, not going back to the minutes of the April 21 Planning Commission meeting, but looking at a set of guidelines specifically for this area. He doesn't think overlaying over two zones is very typical.

Mr. Danielzuk said as a City Council and a Planning Commission you've seen many examples over the years of overlay districts that have been applied within the City. Mr. Danielzuk said to Mr. Marietta that historically Mr. Marietta is wrong; "You're wrong by definition, you're wrong by the core precedence that have gone on before and dealt with these issues, you are right with respect to that no one knows what could happen in another arena."

Mr. Marietta said that he's not against the overlay, he's not against making that corridor more attractive to businesses. He thinks that's the Planning Commission's responsibility to make sure those things are taking place. He's not opposed to that, he just wants to do it the right way so that it does increase the value of that area and bring in businesses to that area. But he doesn't know if the right way is to say you can have a feedlot on this corner and a hotel right next door, which is basically what we're saying.

Mr. Webber thanked Mr. Danielzuk for his comments; he said it was very informative and helped a lot. But he heard two definitions, the first of which said "may or may not"; he'd like to get rid of that. The other one was fairly clear. Let's state the one definition we're going to use. We have variances and boards to address specific situations when they come up when a non-conforming use makes application to be nestled beside something that is zoned. He thinks we have those gears in the transmission, let's look at all of our options.

Mayor Kaufman stated that if he understands it correctly, the definition given on the "may or may not" portion means with an overlay you "may or may not restrict" and in this presented case, we are *not*. It is dual, and that is where he was going with... it is clearly the dual purpose and that is the intent.

Mayor Kaufman asked if there were any additional comments. Seeing none, the Administrative record and the public hearing were closed at 6:49 p.m.

**Motion by Councilmember Morrison to accept the Administrative Record into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

Councilmember Smith stated : Mr. Mayor & Council, I site and make reference to the zoning ordinance of the City of Gering, NE. Specifically, Article 2, Application of Regulations which Section 2.2 states in part: No building, structure, or land shall hereafter be used except in conformity with all of the zoning regulations herein specified for the district in which it is located.

The Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive Plan.

**Councilmember Smith stated when adding a zoning overlay to an existing zone, he moves that the Zoning Area for which uniform regulations governing the use, control which specific district regulations are enforced therein. Seconded by Councilmember Christensen.**

**Discussion:** Councilmember Allred asked for the motion to be put into layman's terms. Mayor Kaufman said what was just read redefines in writing that the intent purpose for each individual zone, whatever the purpose and intent of that property is, those are the rules and regulations they'll be conforming to. Mr. Danielzuk said when adding a zoning overlay to an existing zone(s), that zoning area for which uniform regulations governing use... just look at the word "use", that's what's going to control this... that are herein established control which specific district regulations are in force, is what it's saying. Mr. Webber's use is already established in ML/MH district. Those regulations control, like they *always* have. If the use is something different that comes along in a space and it's a BHC "use" then the BHC district regulations control, that's what it's saying. Mr. Danielzuk explained to Mr. Webber that his zoning runs with the land, not him as a property owner. Mayor Kaufman explained we don't want to limit future expansion or expansion for existing businesses; they will get absolute both advantages. Councilmember O'Neal stated that she just wanted to be sure that it's clear for those businesses who had concerns that this will alleviate it and this will meet the intent in writing and she thinks it has been clarified for them. Councilmember Smith said it has to be clear to a lawyer and asked City Attorney Ellison if it was clear to him. Mr. Ellison replied as far as he can tell, yes. He suggested coming up with examples to determine if anything might create a problem. Councilmember O'Neal stated that what they were asking for is if they're MH now and they wanted to expand that they could do that, and this meets that and if someone else wanted to come in and do BHC, they could do that as well. Mayor Kaufman agreed; they can do that. Councilmember Smith re-read the language for the motion for clarification. He added that if you're ML now, those are the regulations that are going to be enforced. Mr. Webber said it's not just the old guys he wants to protect; he wants to protect the rights of the future applicants too. Mayor Kaufman replied "And they could." Councilmember Allred stated, being the devil's advocate, what kind of business are we trying to attract on that corridor by opening this up; it doesn't seem to be the best location for a hotel. Mr. Danielzuk replied it's a business decision, pure and simple. We're providing the opportunity for the use to come into the corridor. Councilmember Smith said ideally we'll have an industrial park down the road where we would like to guide new industry and we want to transition the corridor and clean it up but yet we also want to protect the rights of the businesses that are there and he thinks this does all of those things. It allows all the current property rights as well as a transition to BHC. Mr. Snarr said to keep in mind we do have a lot of businesses along 10<sup>th</sup> Street that are BHC only and they're not in compliance. Councilmember Allred said if an industrial park is in the future then let's work on that first and then change some things. Maybe it's more attractive to Del and his business to be in that industrial park. To Council this is all new information, are we jumping the gun? Does this need to happen now? Is everybody happy? That's where he wants to be.

**Mayor Kaufman stated we do have a motion and a second. The Clerk re-read the motion. "Councilmember Smith moved that when adding a zoning overlay to an existing zone, the Zoning Area for which uniform regulations governing the use, control which specific district regulations are enforced therein." The motion was seconded by Councilmember Christensen. There was no additional discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, O'Neal, Morrison, Cowan. "NAYS": Allred. Abstaining: None. Absent: Holliday. Motion Carried.**

**2a. Approve or deny a BHC Zoning Overlay to be placed on the existing Heavy Industrial and Manufacturing District (MH), Light Industrial and Manufacturing District (ML), and Rural Residential Estate District (RRE) on all properties along the 10<sup>th</sup> Street Corridor from UPRR North to Country Club Road and from UPRR East to 7<sup>th</sup> Street.**

**Motion by Councilmember Gibbs to approve a BHC Zoning Overlay to be placed on the existing Heavy Industrial and Manufacturing District (MH), Light Industrial and Manufacturing District (ML), and Rural Residential Estate District (RRE) on all properties along the 10<sup>th</sup> Street Corridor from UPRR North to Country Club Road and from UPRR East to 7<sup>th</sup> Street. Second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**3. Public Hearing for the Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition**

Mayor Kaufman opened the public hearing for the Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition at 7:05 p.m.

Mr. Snarr presented the Administrative Record.

Mr. Mayor and City Council Members,

This is a Public Hearing to consider an application for a Subdivision Plat submitted for the Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition to the City of Gering, located in the Northwest Quarter of the Southwest Quarter of Section 35, Township 22 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska.

The property owner on the application is Northfield Villa, Inc. and is zoned Multi Family Residential High Density District (RMH) and appended with a Planned Development District (SPD) and to my knowledge the owners would like to keep the zoning as referenced.

**Administrative Record:**

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

- City of Gering Zoning and Subdivision Regulations dated 1984.
- Application for the Subdivision Plat - Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition to the City of Gering, located in the Northwest Quarter of the Southwest Quarter of Section 35, Township 22 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska, submitted by Dennis Sullivan of MC Schaff & Associates December 16, 2015.
- Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition to the City of Gering, located in the Northwest Quarter of the Southwest Quarter of Section 35, Township 22 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska, submitted by Dennis Sullivan of MC Schaff & Associates January 11, 2016.
- Public Hearing Notice published 1/8/16
- Publication Notice and written notice was completed and sent per the requirements of the current City Zoning and Subdivision Regulations Section 21.2 and are incorporated by reference in this Administrative Record.
- Proof of ownership was submitted by Nebraska Title Company abstracting in the State of Nebraska under Certificate of Authority No. 662.
- City of Gering Current 1995 Comprehensive Plan (Per Amendment No. 1 dated November 2001)
- Planning Commission Public Hearing January 19, 2016 voted for recommendation to go before City Council scheduled for January 25, 2016.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

This Final Plat meets the City Zoning and Subdivision Regulations requirements of Article 21: Plat Review and Submittal Requirements and Final Plat Procedures for Approval.

Mr. Mayor and City Council Members, I have completed my entry regarding this Public Hearing for the Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition to the City of Gering and ask that you please keep this hearing open until all entries are put into this record.

Mr. Snarr explained that this is a preliminary and final plat. The owner is trying to clean up and separate both buildings and clean up the multiple legal descriptions of several lots. Mayor Kaufman asked if Council wished to have the Administrative Record read aloud. Seeing none, He asked if anyone wished to speak in favor or opposition of the application. Fred Wurst, a board member for the retirement communities, addressed Council and stated that this is something they felt needed to be done. It was not done when the Vista area was built (the building to the north). The south part is the Villa which was the original building and was subsequently added on to and expanded. In order to get their books up to date they felt it was necessary at this time in order to have a replat put on that. There is a road that runs to the north of the villa, which is the horse shoe area and the vista which is the north part of the facility. They'd like to keep that on a 50/50 basis so they could keep some control for the neighborhood as far as traffic that goes through that street. Being they own that road, it's a private road, they felt they should try to keep some control over that street for the residential area off to the east and northeast. That's the reason the replat splits that road that goes around in 50/50 amounts.

No one spoke in opposition of the application. The Administrative Record and the public hearing closed at 7:14 p.m.

**Motion to enter the Administrative Record for a Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition into the public record by Councilmember O'Neal, second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**3a. Approve or deny a Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition**

**Motion to approve a Final Plat of Lots 13 and 14, Block 21 Northfield First Addition being a Replat of Lots 8, 8A, and 12, Block 21 and 10.09' X 46.23' of a Vacated Alley along the Southeasterly side of Block 21 and Northwesterly side of Block 17, Northfield First Addition by Councilmember Gibbs, second by Councilmember Smith. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

BIDS: None

**CURRENT BUSINESS:**

**1. Consider approving Keno Committee recommendations**

- **Splash Foundation - \$4500**
- **Monument Prevention Coalition - \$5000**

Councilmember Smith asked that there be two votes and to separate the items and he asked to recuse himself from voting on the Splash Foundation as he serves on the Board of Directors for the Splash Foundation. Mayor Kaufman duly noted the request.

Darrell Bentley, Keno Committee Chairman, asked if Council had any questions. There were no questions. Mr. Bentley noted on the Monument Prevention Coalition that coaches, activity directors and teachers are involved with this and the funds are to help pay substitute teachers so they can attend a training; of all the things he thinks the schools should be involved in, drug and alcohol abuse is one of them. He feels it's a good program.

Mayor Kaufman thanked Mr. Bentley.

**Motion by Councilmember Gibbs to recognize the conflict of interest for Councilmember Smith, as he serves on the Splash Foundation Board, and to allow him to recuse himself. Second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**Motion by Councilmember Christensen to approve \$4500 in Keno funds for the Splash Foundation. Second by Councilmember Morrison. There was no discussion. The Mayor called the vote. "AYES": Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: Smith. Absent: Holliday. Motion Carried.**

**Motion by Councilmember Morrison to approve \$5000 for the Monument Prevention Coalition. Second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

## **2. Update from 911 Advisory Board – Ben Backus**

Ben Backus stated that in the interest of time he asked that he be allowed to enter his update and the status of the sinking fund into the administrative record, and not present it orally, as long as no one objects. There were no objections.

**Motion by Councilmember Gibbs to enter the Update from the 911 Advisory Board by Ben Backus into the administrative record. Second by Councilmember O'Neal. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

### **911 Advisory Board Report:**

November and December meetings were "snowed out" due to board members living in outlying areas travel was not safe.

#### **-Current Projects**

##### **-Mutual Aid Base Station at Lake Minatare Tower**

-Problem: currently held up due to improperly installed microwave link by the state, and they have stated it will be several months before they can start to address it.

-Solution: We are moving forward with exploring moving the current link to the jail, and buying a microwave link to run from the jail to the courthouse

##### **-Text to 911**

- project is proceeding with successful tests with Verizon and AT&T, Vieraero will be next.

##### **-911 Address Location Information**

-We are still pursuing a third party vendor, and discontinuing century link, this is currently on hold until text to 911 testing is finished



**-Future Projects:**

**-CAD/RMS (computer aided dispatch, records management system)**

-Brian Wasson stated RFP will be ready to go out most likely next month, he will be available to come to council with any questions on the RFP, the county is having their lawyer put their approval on the RFP to make sure we are meeting statutes and other legal requirements.

**-Amount of monies in fund:**

- Current Fund Balance: \$387,785.79 as of December 31, 2015

**3. Approve and authorize the Mayor to sign "Application to Serve as a Certified Operator for More than One Nebraska Public Water System" regarding the City of Kimball**

Mayor Kaufman stated that unfortunately our Public Works Director, Pat Heath, was not able to attend the meeting tonight. However, he gave us some information to share with Council on this item. This is an agreement with the State of Nebraska, Department of Health and Human Services, for the City of Gering to be a Shared Water Operator for the City of Kimball. Their superintendent retired a little sooner than expected and they don't currently have a Grade 3 operator which is required by the state. They have three water department employees that will be taking the class this spring to become Grade 3 Operators but until then they need us to step in. We have three employees in Gering's Water Department that are Grade 3 level operators. The State doesn't expect us to be there every day but if Kimball needs us we'll go. They have verbally agreed to pay salaries and mileage and reimburse the City for all costs. Administrator Danielzuk added that we have a similar relationship with the school district out at Cedar Canyon Schools; this isn't anything new. Mayor Kaufman added this is a way for us to be neighborly to our surrounding communities.

**Motion to approve and authorize the Mayor to sign "Application to Serve as a Certified Operator for More than One Nebraska Public Water System" regarding the City of Kimball by Councilmember Gibbs, second by Councilmember Christensen. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**4. Approve Resolution 1-16-3 regarding Gering Valley Estates**

**RESOLUTION NO. 1-16-3**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GERING, NEBRASKA:**

- a. Gering Valley Estates, LLC, is the owner of the real estate described on the attached Exhibit "A" (the "Real Estate").
- b. The City previously approved and adopted a final plat of the Real Estate which was platted as:  
  
Gering Valley Estates, Lot 1, Block 1, Phase 1, to the City of Gering, Scotts Bluff County, Nebraska
- c. It has been determined that there was a defect in the subdivision process.
- d. An Affidavit has been filed by the owner of the Real Estate, with the Scotts Bluff County Register of Deeds, stating that written notice of the defect has been given to the City pursuant to §76-200110(2) of the Nebraska Statutes.

**Resolved by the Mayor and City Council of the City that:**

1. The Council determines that the plat filed with the Scotts Bluff County Register of Deeds as Instrument No. 2010-1745 complied with the City's subdivision regulations other than the fact that it was not signed by the appropriate party and followed the conveyance to Gering Valley Estates, LLC.
2. Notwithstanding the fact that the City has 120 days from receipt of the Notice to record an objection to the Affidavit. The City Council waives such 120-day period.
3. The City Clerk shall cause a certified copy of this Resolution to be delivered to Gering Valley Estates, LLC in order that it may be filed with the Scotts Bluff County Register of Deeds.

Passed and Approved on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

**Motion to approve Resolution 1-16-3 regarding Gering Valley Estates by Councilmember Smith, second by Councilmember Morrison. There was no discussion. The Mayor called the vote. "AYES": Smith, Christensen, Gibbs, Allred, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday. Motion Carried.**

**CLOSED SESSION:**

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

**REPORTS: (Information only)**

**1. Council Liaison report – Twin Cities Development, Councilmember Smith**

Councilmember Smith stated that TCD has hired a Community Development Director to split up the duties that Ms. Pierce always had; both will be reporting to the Board of Directors for TCD. Mr. Overeynder will be using some new tools to help bring in new businesses. He also provided a pamphlet about the new E-Center.

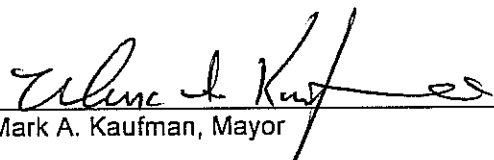
**OPEN COMMENT SECTION: (None)**

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

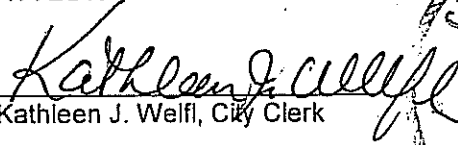
**ADJOURN**

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

Meeting adjourned at 7:28 p.m.

  
\_\_\_\_\_  
Mark A. Kaufman, Mayor

ATTEST:

  
\_\_\_\_\_  
Kathleen J. Welfl, City Clerk

