

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,  
APRIL 10, 2017**

A regular meeting of the City Council of Gering, Nebraska was held in open session on April 10, 2017 at 6:00 p.m. at Gering City Hall, 1025 P Street, Gering, NE. Present were Mayor Kaufman and Councilmembers Smith, Gillen, Backus, Wiedeman, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl and City Attorney Jim Ellison. Absent were Councilmembers Holliday and O'Neal. Notice of the meeting was given in advance by publication in the Star-Herald, 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 stated 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 (There were no absences to excuse)

**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 March 27, 2017 Regular City Council meeting
2. Approve Claims

**Claims:**

3-18-17 to 3-31-17

AIR & SPACE \$29.00 SUBSCRIPTION 1 YR, 24/7 WELLNESS \$120.00 WELLNESS, ACUSHNET CO \$9,634.83 HATS/6 TRIAL CLUBS RETURNED/GOLF BAGS/GOLF BALLS/ GOLF TOWELS/SOCKS/GOLF CLUBS TRIAL SET, AGUALLO NIKKI \$14.97 OVERCHARGED - DRIVING RING MBRSHIP, ALLO COMMUNICATIONS \$1,401.10 TELEPHONE/INTERNET CHRG, ALTEC INDUSTRIES INC \$342.50 TRUCK RPR'S, AMAZON \$408.60 UNIFORM - B STICKELS ACADEMY/3 DIGITAL SONGS FOR ST/REFUND MEMBERSHIP - AMAZON PRIME/EQUIPMENT RPR/1 25YD LOOP TAPE/ROLLER PARTS/4 BOOKS/7CHILDREN BOOKS/VELCRO, ANTIGUA GROUP INC \$2,220.57 MENS SHIRTS & OUTERWEAR, ARCHER SEATING \$300.00 SAMPLE STADIUM SEATS, ARMADA MEDIA CORP \$600.00 RADIO ADVERTISING, AULICK \$26.78 PLASTIC LINER, B & C STEEL \$326.24 SNOW BLADE RPR/1 - 1/4 X 5'3 PIPE HOWARD PLOW/4" SQ TUBING, B & H PHOTO \$1,199.80 BODY CAMERAS, BAKER & ASSOC INC \$6,965.00 PLAN - DESIGN PARK PLAZA, BENZEL PEST CONTROL \$132.90 PEST CONTROL, BLUFFS SANITARY SUPPLY \$431.76 HAND SOAP/CLEANING SUPPLIES/RR SUPPLIES/RR SUPPLIES/PAPER TOWELS/URINAL MATS/CLIPS/MOP HANDLE, BOMGAARS \$67.97 RUBBER MATS FOR TRUCK, BOUND TREE MEDICAL \$112.30 BATTERY FOR SUCTION UNIT, BRINK CONSTRUCTORS INC \$216,185.92 CONTRACTORS, BROADWAY OFFICE CENTRE \$681.30 BINDER CLIPS/CVB OFFICE SUPPLIES/PAPER FOR SCALE PRINTER/PENS/COLORED FILE FOLDERS/YELLOW HIGHLIGHTERS/POST IT NOTES/RECEIPT TAPE FOR REGISTER/EXPANDING FILE POCKETS, CALLAWAY GOLF CO \$1,131.17 GOLF BAGS, HATS, GLOVES/7 DEMO CLUBS RETURNED, CANON USA \$267.31 CAMERA RPR, CASEY'S GENERAL STORE #27 \$105.50 FUEL - K MASSIE ACADEMY, CENTER POINT LARGE PRINT \$45.54 (2) LARGE PRINT BOOKS, CHARTER COMM \$562.72 TV/INTERNET CHRG'S, CITY INSURANCE FUND \$139,172.86 HEALTH PREM 125, CITY OF GERING \$11,061.71 GOLF WELLNESS, CITY OF GERING - GENERAL AC \$65,000.00 ACH PAYROLL TRANSFER, CITY PAYROLL TRUST \$3,173.58 FSA MEDICAL 125, COBBLESTONE HOTEL & SUITE \$83.00 LODGING - AGRI TOUR CONF - KARLA, COLORADO CHAPTER OF THE \$199.00 MECHANICAL INSPECTION TEST, CONSOLIDATED MANAGEMENT \$177.49 MEAL CHRG'S - K MASSIE ACADEMY, CONTRACTOS MATERIALS \$250.00 ADA PANEL SIDEWALK, COOPER POWER SYSTEMS LLC \$92,538.95 D ST SUB RECLOSERS, COSTCO \$124.68 RR SUPPLIES, CREATIVE SIGNS DIVISION/C \$250.00 RPR/RPLC GRAPHICS - 2010 CHARGER, CREDIT MANAGEMENT SRV \$207.63 GARNISHMENT 2, CRESCENT ELECTRIC SUPPLY \$272.49 LAMP/25 LED 4' LIGHTS, CULLIGAN WATER CONDITIONING \$140.70 RPR SOFTNER, DALES TIRE & RETREADING \$4,057.12 FOUR TIRES/NEW TIRES - G8/FLAT RPR - ROTATE G10, DANKO EMERGENCY EQUIPMENT \$140.79 RPR KIT FOR NOZZLE, DEMCO \$99.62 BOOKMARKS 12 PKGS, DHHS DIVISION PUBLIC HEALTH \$18.00 WATER LAB, DLT SOLUTIONS INC \$1,046.37 YEARLY MAINT PLAN AUTODESK/CAD, DOLLAR GENERAL STORE #077 \$19.00 IPAD CHARGER/BAKING SODA & AMMONIA, DOOR CLOSER SRV \$200.00 OPEN SAFE FOR SEARCH WARRANT, DUTTON - LAINSON CO \$875.51 PHOTO CELL/BUSHING/ELBOW, DXP ENTERPRISES INC \$547.16 SAFETY EQUIPMENT, ECOLAB \$284.64 PEST CONTROL, ENERGY LABORATORIES INC \$456.00 WATER LAB, ENVIRO SRV INC \$871.00 WATER/WWW LAB, EPSON STORE \$96.27 PRINTER INK, ESC ENGINEERING \$13,832.29 D ST, EXPRESS COLLECTIONS INC \$55.50 GARNISHMENT 2, FAMILY DOLLAR \$3.77 BAIT FOR CAT TRAP, FASTENAL CO \$253.69 GLOVES/BATTERIES/BOLTS/SAFETY SUPPLIES/WWWTP RPR'S/SUPPLIES, FEDEX \$341.27 SHIPPING, FILL N CHILL \$28.50 FUEL - K MASSIE ACADEMY, FIRST STATE BANK \$337.76 IBEW UNION DUES, FLOYDS SALES & SRV \$7,788.98 LED TAIL

LIGHTS/WORK G10 & G8/PARTS G6, G8 & G9/LIGHT G8/FILTER G1, FRANK PARTS CO \$2,188.95 TOW ROPE/SHOP SUPPLIES/PAINT SUPPLIES/LED LIGHT & GROMMET/BEACON/12V BATTERY & CORE, SEWER JET RPR/WWTP PUMP RPR/EQUIP RPR/FITTERS & OIL/4 BATTERIES/BATTERY WARRANTY/BATTERY CLEANER & BRUSH/2 CORE DEPOSIT/HYD HOSE & FITTINGS/EXHAUST TUBING/OIL & HYD FILTERS/OIL FILTER & MAINTENANCE - 4 RUNNER/HYD FILTER/LED LIGHT/TOW STRAP/4 BEARINGS/SHOP SUPPLIES, FRASER STRYKER PC LLO \$1,913.95 LEGAL SRV, FREMONT MOTOR SCOTTSBLUFF \$342.86 DOOR RPR FORD EXPLORER, FRESH FOODS \$18.54 HELP AT LANDFILL, GERING VALLEY PLUMBING \$969.60 RPR DISHWASHER & COOLER, GP GFOA \$50.00 GPGFOA MEMBERSHIP RENEWAL - MEJIA, GREG'S AUTO BODY & PAINT \$1,666.06 RPR ON 2014 TOYOTA 4RUNNER, HALE MULTI MEDIA \$200.00 WEBSITE HOSTING & SUPPORT, HAMPTON INN \$603.00 GCSAA CONFERENCE - T WALSH, HEALTH \$24.95 SUBSCRIPTION 1 YR, HERTZBERG NEW METHOD INC \$361.45 (30) CHILDRENS BOOKS, HGTV MAGAZINE \$34.97 SUBSCRIPTION 1 YR, HOBBY LOBBY \$97.05 OFFICE SUPPLIES/LABELS/INVITES, HOME DEPOT \$23.71 CABLE TIES/WIRE MARKER, HONEY - WAGON EXPRESS \$140.00 CLEAN GREASE TRAPS, HY - VEE \$57.97 GLEIM/BRUNZ - EPC TRANSPORT GAS, ICMA ELECTRONIC RETIREMENT \$552.14 ICMA CITY ADMIN, IDEAL LINEN SUPPLY INC \$169.59 MATS/MOPS/RAGS/CLEANING/TOWELS, INFINITY CONSTRUCTION INC \$2,200.00 CONCRETE/CTRY CLUB & GRNDVW RD, INGRAM LIBRARY SRV \$471.46 30 BOOKS/6 CHILDREN BOOKS, INLAND TRUCK PARTS CO \$477.54 CREDIT FOR TRUCK PARTS/SOLENIOD VALVE/DOMESTIC PUMP 1 & PUMP 3 RPR/DRIVELINE RPR, INTERNAL REVENUE SRV \$41,897.97 FED/FICA TAX, INTERNAT'L CODE COUNCIL \$72.00 INSPECTION BOOK TABS, INTRALINKS TECHNICAL SOL \$3,125.23 COMPUTER SUPPORT, IPMA - HR \$177.00 SERGEANT TESTING PACKETS, JACK'S UNIFORMS & EQUIPMENT \$54.89 VEHICLE PARTS, JC GOLF ACCESSORIES \$944.86 BALL MARKERS/CAP CLIPS/GOLF TEES/SPIKES FOR SHOES, JOHN HANCOCK USA \$13,797.97 JH RETIRE 6%, JOHNSON CASHWAY CO \$68.34 DRILL BITS/9 VOLT BATTERIES/TOOLS, JOHNSON DARLENE \$290.00 LEFT RV PARK EARLY, JOSEPH R HEWGLEY & ASSOC \$12,500.00 PHASE 1 COMPLETED BY ARCHITECT, KARENS CLEANING \$425.00 MAR JANITORIAL SRV'S, KNEB \$675.85 RADIO & TV ADVERTISING, KOVARIK, ELLISON & MATHIS \$8,922.00 RICH'S WRECKING & AUTO LEGAL/LB840 - FRESH FOODS, RWMC EMS TRAINING, DOMINOS, HOTEL, INDUSTRIAL PARK - SIMON/LEGAL FEES, KRIZ - DAVIS CO \$38,220.22 ELECTRICAL FOR NEW SHOP/D ST SUB/TOOLS/LAMP, LATSCH'S OFFICE PRODUCT \$72.91 BADGE, LEAGUE OF NE MUNICIPALITY \$305.00 HANDBOOK/MEALS - MIDWINTER CONF/WATER SCHOOL - PETERSON, DAVIS, JENKINS, CLOSSON, YEAGER, LOGOZ LLC \$63.00 UNIFORM FOR ACADEMY - STICKELS, MALY MARKETING \$1,048.32 CVB WEBSITE HOSTING/NEW MEETING PLANNERS GUIDES, MARRIOTT CORNHUSKER \$872.00 LODGING - BACKUS, GILLEN, KAUFMAN, MEJIA MIDWINTER CONF, MEAT SHOPPE \$18,312.69 CATERING COSTS, MENARDS \$363.96 T12 BALLAST/VEHICLE CLEANING SUPPLIES/RPR BATHROOM SINK/AIR COMP ACCESSORIES/GALV FITTINGS/T-POST POUNDER//3/4" BALL VALVE/TOOLS, MEYER KERRY \$75.00 RV ROOM DEPOSIT REFUND, MG TRUST CO LLC \$6,085.62 MG T - POLICE, MIDWEST MEETINGS/GUIDE \$1,000.00 CONVENTION ADVERTISING, MONEY WISE OFFICE SUPPLY \$665.26 BINDER CLIPS/INK CARTRIDGES/BINDERS FOR H MORENO/BINDERS/FILING CABINET FOR RECORDS/INK STAMPS FOR EVIDENCE/PAPER/LABELS, MONUMENT PREVENTION COAL \$2,000.00 LEGISLATION SESSION 10 YOUTH/2 SPONSOR, MORRILL COUNTY COURT \$118.94 GARNISHMENT 2, MUNICIPAL ENERGY AGENCY \$357,152.80 POWER BILL/RITA DUES, MUNICIPAL SUPPLY INC OF \$340.73 SERVICELINE RPR, NATIONAL INSURANCE SRV \$1,584.34 VISION INSURANCE, NDOR - LODGING \$675.63 FEBR COUNTY LODGING TAX, NE CHILD SUPPORT PYMT \$627.56 CHILD SUPPORT 1, NE DEPARTMENT OF REV (PR) \$18,900.22 STATE TAXES, NE PUBLIC POWER DISTRICT \$1,224.60 UTILITIES - PHEASANT DR, NE SOCIETY OF ASSOC EXEC \$400.00 SPONSOR MARCH 2017 NSAE MTG, NEBRASKA ENVIRONMENTAL PR \$1,146.43 PART FOR SWEEPER, NEBRASKA FOREST SRV \$150.00 REGISTRATION S270 - A NAB/TREE CARE - SCHLAGER & BUSKIRK, NEBRASKA LAW ENFORCEMENT \$155.00 MATERIALS & CERTIFICATION FEE/TESTING - STICKELS, NEBRASKA MACHINERY CO \$1,665.46 GRADER & BACKHOE CUTTING EDGES, NEBRASKA PGA \$50.00 REGISTRATION - SPRING PGA THOMASON, NEOFUNDS BY NEOPOST \$2,515.46 POSTAGE, NORTH PLATTE NRD \$250.00 (250) POTTED TREES, NORTHWEST PIPE FITTINGS \$463.84 AIR LINE FOR NEW SHOP/OPERATING SUPPLIES/FITTINGS/300' PIPE/PVC GLUE/VALVE BOX, OCLC INC \$144.21 MAR CAT & ILL SUBSCRIPTIONS, OREGON TRAIL PLBH & HEAT \$477.00 KITCHEN SINK FAUCET, OUTDOOR LIFE \$11.97 SUBSCRIPTION 1 YR, PANHANDLE COOP ASSOC \$6,747.12 FUEL - LANDFILL/16 GAL FUEL/281 GAL FUEL, PAYPAL \$323.00 CLERK SCH REGISTRATION - MARTIN/SPRING CONFERENCE - HOLTHUS, PAYROLL CHECKS \$107,335.96 PAYROLL CHECKS ON 3-31-2017, POPULAR MECHANICS \$29.97 SUBSCRIPTION 1 YR, POSTMASTER \$20.10 MAIL PACKAGE, POWERPLAN OIB \$157.77 FORKLIFT RPR, PRINT EXPRESS \$997.69 WELCOME PADS - CONV WELCOME BAGS/INSPECTION FORMS, PSI - DIGITAL IMAGING SOL \$843.85 PLOTTER PAPER & INK CARTRIDGES, PT HOSE & BEARING \$133.00 PLOW BOLTS/PUMP #3 RPR/TRUCKFILL WELL RPR, QDOBA MEXICAN GRILL \$16.94 GLEIM/BRUNZ - EPC TRANSPORT MEAL, RECORDED BOOKS LLC \$26.69 (1) AUDIO BOOK, RED BARN SHOP LLC \$160.00 DOMESTIC PUMP RPR, REGIONAL WEST MEDICAL CENTER \$70.84 MEDICAL SUPPLIES. REPNET \$463.78 WATER MAIN MARKING POSTS, RESPOND FIRST AID SYSTEMS \$109.32 FIRST AID, ROBERT THOMASON \$531.84 NE SPRING PGA MEETING - LINCOLN, ROBINSON ELECTRIC \$3,271.03 WELL #4 RPR/LIFTSTATION RPR, SANDBERG IMPLEMENT INC \$220.04 (4) CASES MIXED OIL/MUFFLER GASKET, SCB CO VEHICLE REGISTRATION \$15.38 FORD 2017 SUPERCREW, SCB COUNTY HOUSING AUTHORITY \$45.00 PD CTY OF GERING/SHOULD BE SCB, SCB COUNTY REGISTER OF \$20.00 TORRES & SUHR DEEDS, SCHLICKBERND STEPHEN \$180.82 OVERPAID BILL - ACH & CREDIT CARD, SCOTTS BLUFF CO TOURISM \$1,464.75 ECLIPSE GLASSES, SCOTTS BLUFF COUNTY COURT \$116.00 COURT FEES, SCOTTSBLUFF TOWING SRV \$250.00 TOWING, SCOTTSBLUFF - GERING UNITED \$116.75 UNITED WAY CTRB, SEACREST & KALKOWSKI P C \$8,645.00 GENERAL DOWNTOWN REDEVELOPMENT, SHELL \$85.00 FUEL FOR SNOW BLOWER, SHERWIN WILLIAMS \$420.00 PAINT - CANS, SHERYLS LOG CABIN \$38.46 SNOW REMOVAL, SIMMONS OLSEN LAW FIRM \$1,500.00 CITY PROSECUTOR BILL, SIMON CONTRACTORS \$1,823.22 CRUSHED CONCRETE - 130 TONS, SIMS JENNA \$75.00 RV ROOM DEPOSIT REFUND, SNELL SRV \$2,825.00 CLUB HOUSE RPR'S/WATER PIPING, SONNYS TOWING \$100.00 TOWING, STAPLES CREDIT PLAN \$312.32 COMPUTER EXTERNAL HARD DRIVES/OFFICE SUPPLIES/PRINTER INK, STAR HERALD \$2,023.33 TALK OF THE TOWN NEWSLETTER/CONDENSED MINUTES/CC MTG NOTICE/NOTICE OF MEETINGS/POOL SLIDE BID/WEDDING AD/NEWSLETTER INSERTS, STATE OF NE/DAS COMMUNICATION \$190.88 LONG DISTANCE PHONE CHRGS, SUGAR VALLEY FEDERAL CREDIT \$1,078.37 CREDIT UNION, TAYLOR MADE GOLF CO \$1,924.19 GOLF SHORTS/SKORTS RETURNED/MENS SHOES, TEAM CHEVROLET \$375.00 WING VEHICLE LEASE, THE TOWER CO INC \$301.00 SEWERLINE RPR, THOMPSON GLASS INC \$3.00 3' SWEEP,

TNEMEC CO INC \$302.88 PAINT FOR WELLS, TOMAHAWK LIVE TRAP \$103.23 CAT TRAP, TWIN CITY DEVELOPMENT \$12,500.00 QTRLY DUES – OCT THRU DEC 2016, UNIVERSITY OF NEBRASKA- LI \$360.00 PESTICIDE RECERT – DAHLGRIN/SHAW/COCHRAN/MOUNT/FARROW/WILLIAMS, VERIZON WIRELESS \$549.29 IPAD FEES/FEBR ON CALL CELL/LAPTOP FEES, VISTA PRINT \$16.98 BUSINESS CARDS – B STICKELS, WALMART \$189.53 MIRROR & SUPPLIES FOR ST/SUPPLIES TO STORE ACTIVITIES/SUPPLIES FOR TAB/SUPPLIES FOR CRAFT CLUB/SUPPLIES FOR SMILE PROGRAM, WALSH TOM \$275.00 GCSAA CONFERENCE, WAREHOUSE FITNESS CENTER \$90.00 WELLNESS, WESCO DISTRIBUTION INC \$272.85 VESTS, WESTERN PATHOLOGY CONSULT \$59.60 DRUG TESTING, WESTERN STATES BANK \$9,812.36 HSA CTRB 125, WESTERN STATES BANK – POL \$320.00 PO UNION DUES, WESTERN UNITED ELECTRIC \$12,859.50 FUSES/GLOVES & TESTING/CONNECTOR/BACKET/D SUB CONVERSION, WHOA & GO \$24.25 FUEL TO CONFERENCE – KARLA, WINCHELL CLEANING \$720.00 OPERATING SRV, WORTHMAN JON \$163.63 OVERCHARGED – FAMILY DRIVING RNG, YMCA OF SCOTTSBLUFF \$506.08 WELLNESS

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

#### **BIDS:**

##### **1. 2017 - M Street and 9th Street Water Main Improvements**

Mayor Kaufman stated regarding item #1 under bids, as was noted in your packets, City staff will be opening bids for the M and 9<sup>th</sup> Street Water Main improvements on April 12, 2017 and would have been scheduled to submit to Council on April 24, 2017 for approval; however the contractors for the Cobblestone Hotel are starting construction the week of April 10<sup>th</sup>. Staff would like to request approval from Council to award the bid and start construction contingent upon Staff review/recommendation following the April 12, 2017 bid opening to ensure the City meets the scheduling of the utilities being installed for the Hotel.

Councilmember Morrison stated that we don't know what the bid will be, can we okay this? Mayor Kaufman stated that if Council is okay with it we can; Council would be giving authority to staff to award the bid in line with what we would normally do. Administrator Danielzuk stated that there is an Engineer's Estimate but it's confidential at this point. If Council wants to know what it is they can individually ask staff.

**Motion by Councilmember Wiedeman to approve giving staff permission to award the M and 9<sup>th</sup> Street Water Main Improvements bid and start construction pending that it comes in within the guidelines of the budget and upon staff review/recommendation following the April 12, 2017 bid opening to ensure the City meets the scheduling of the utilities being installed for the Hotel. Second by Councilmember Morrison. The Mayor called the vote. "AYES": Smith, Gillen, Backus, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday, O'Neal. Motion Carried.**

**CURRENT BUSINESS:** None

#### **PUBLIC HEARINGS:**

**1. Continuation of a Public Hearing to consider an application to amend zoning from Rural Residential Estates District (RRE) to Neighborhood Commercial District (BNC) on Lot 1, Block 2, Pappas Northwest Addition located on the Northwest corner of Five Rocks Road and Country Club Road containing approximately 4.6 acres. The property is situated in the Northeast Quarter of Section 34, T22N, R55W of the 6<sup>th</sup> PM in the City of Gering, Scotts Bluff County, Nebraska. This public hearing was opened at 6:06 p.m. on March 27, 2017. THIS PUBLIC HEARING WILL BE CONTINUED TO APRIL 24, 2017.**

Mayor Kaufman stated that a public hearing to consider an application to amend zoning from Rural Residential Estates District (RRE) to Neighborhood Commercial District (BNC) on Lot 1, Block 2, Pappas Northwest Addition located on the Northwest corner of Five Rocks Road and Country Club Road was opened at 6:06 p.m. on March 27, 2017. At the request of the applicant he entertained a motion to continue this public hearing to a date and time certain.

Motion by Councilmember Morrison to continue the public hearing to consider an application to amend zoning from Rural Residential Estates District (RRE) to Neighborhood Commercial District (BNC) on Lot 1, Block 2, Pappas Northwest Addition located on the Northwest corner of Five Rocks Road and Country Club Road to a date and time certain, approximately April 24, 2017 at 6:00 p.m. noting that Councilmember Gillen declared a conflict of interest on this matter at the March 27, 2017 City Council meeting which still stands. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Backus, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: Gillen. Absent: Holliday, O'Neal. Motion Carried.

2. Continuation of a Public Hearing to consider an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot (149' with antenna) monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska. A complete legal description of the property and easements is shown on the plans and will be recorded with the Scotts Bluff Register of Deeds between the Owner, Cheema Investments, LLC and Applicant, Horvath Communications. This public hearing was opened at 7:19 p.m. on March 27, 2017.

Mayor Kaufman stated that a public hearing to consider an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot monopole telecommunication facility/tower was opened at 7:19 p.m. at the March 27, 2017 City Council meeting and was continued to a date and time certain which was April 10, 2017 at approximately 6:00 pm. He stated that at this time we will continue this public hearing.

Paul Snarr, City Engineer, presented the Administrative Record.

**CITY OF GERING  
CITY COUNCIL PUBLIC HEARING  
ADMINISTRATIVE RECORD**

<b>To:</b>	City Council	<b>Date:</b>	April 10, 2017 & March 27, 2017
<b>From:</b>	Planning & Community Development	<b>Zoning:</b>	RRE
<b>Subject:</b>	Continuation - Public Hearing - Exception/Conditional Use Permit to Construct a Cell Tower	<b>Property Size:</b>	5,625 ft <sup>2</sup>
<b>Location:</b>	South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6 <sup>th</sup> Principal Meridian (SE Corner)	<b>#Lots/Parcels:</b>	1
<b>Owner/Applicant:</b>	Cheema Investments, LLC/Applicant: Horvath Communications	<b>Planning Commission:</b>	March 21, 2017

**Procedure**

1. Open Public Hearing
2. Overview of petition by City Staff
3. Presentation by Applicant
4. Solicitation of Public comments
5. Questions from the City Council
6. Close the Public Hearing
7. Render a decision (recommendation to the City Council)
8. Public Process: City Council determines final approval

**Public Notice:** This hearing was noticed in the paper and notice was posted on the property

**Hearing**

Mr. Mayor and City Council Members,

This is a continuation of the Public Hearing March 27, 2017 to consider an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot (149' with antenna) monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the

South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska. A complete legal description of the property and easements is shown on the plans and will be recorded with the Scotts Bluff Register of Deeds between the Owner, Cheema Investments, LLC and Applicant, Horvath Communications.

The property lies within AGG Zoning (General Agricultural District) and per the City of Gering Zoning and Subdivision Regulations, Section 5.1 AGG General Agricultural District does not allow for telecommunication towers as a permitted use; however is allowed under Section 5.104 Exceptions specifically Sub-Section (16) Communication Towers (not to exceed 150 feet in height) (Ord. 1609, 3/98).

The application for the Exception/Conditional Use Permit and plans were submitted to the City, February 28, 2017. The plans meet the height requirements of the City Zoning and Subdivision Regulations and meet applicable building codes including, but not limited to the NEC, IBC, AISC, ASTM, etc...

***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 Council Public Hearing held March 27, 2017 and moved to continue the Public Hearing on April 10, 2017 in order for the applicant to be present.
- Application for the Exception/Conditional Use Permit and plans were submitted to the City, February 28, 2017 by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications.
- Building Permit application was submitted February 28, 2017 by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications.
- Meets the City of Gering Airport Zoning requirements for the Western Nebraska Regional Airport, William G. Heilig Field, Scottsbluff, Nebraska height and distance requirements specifically Sections 10.2004 Subsection 1 through 5 which requires a horizontal zone with outer boundary at all times 10,000 feet beyond the landing area and height limit of 150 feet above the Airport elevation. This tower is located approximately 27,000 feet Southwest of the Western portion of the runway which puts the tower location out of this zone. Airport Elevation ±3950 feet above mean sea level (AMSL) per FAA Obstruction Evaluation Group. – Tower Elevation ±4140 feet (NAVD 88).
- Federal Aviation Administration "Determination Of No Hazard To Air Navigation" dated 11/9/2015 for Antenna Tower HV 1069 Gering West stating the aeronautical studies determination the structure does not exceed obstruction standards and would not be a hazard to air navigation provided Horvath Communications completes FAA Form 7460-2 "Notice of Actual Construction or Alteration" within 5 days after the construction reaches its greatest height (7460-2, Part 2).
- Email from Kandi Bremer, Nebraska Department of Aeronautics to Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications stating the tower does not violate any turning zone or approach zones at the site, dated 3/7/17.
- City of Gering 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, Article 15 Amendment, Section 15.2 Submission to City Council, 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 was published and sign notices were placed meeting City regulations.
- Planning Commission Public Hearing March 21, 2017 made motion for a positive recommendation for the Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot (149' with antenna) monopole telecommunication facility/tower and to move this Public Hearing to City Council.
- City Engineer/Director of Engineering & Community Planning Administrative Record as shown herein.

Addition to the Administrative Record: Mr. Snarr added that in the Phase I Environmental Site Assessment dated Dec. 10, 2015 completed by Teracon, their recommendation stated: "Based on the scope of services, limitations and findings of this assessment, Teracon did not identify RECs or BERs associated with the site or adjoining properties". Mr. Snarr stated they are recognized as business or environmental risks.

Mr. Snarr continued: Mr. Mayor and City Council Members, this completes my entry regarding this Public Hearing to consider an Exception/Conditional Use Permit as submitted by Horvath Communications for the construction of a 145 foot monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska, and ask for your recommendation to approve, deny, or continue as stated in your packets as provided:

**Recommendations**

Approve - Make a POSITIVE RECOMMENDATION to consider approval of this Exception/Conditional Use Permit as submitted by Horvath Communications for the construction of a 145 foot monopole telecommunication facility/tower with the following conditions:  
Deny - Make a NEGATIVE RECOMMENDATION to consider this Exception/Conditional Use Permit as submitted by Horvath Communications for the construction of a 145 foot monopole telecommunication facility/tower for the following reason(s):  
CONTINUE - Make a motion to CONTINUE the Public Hearing to consider this Exception/Conditional Use Permit as submitted by Horvath Communications for the construction of a 145 foot monopole telecommunication facility/tower for the following reason(s):

Mayor Kaufman asked if anyone wished to speak in favor of the application. Jeffrey Skinner, Authorized Horvath/Verizon Agent, Waukee, Iowa, stated that Paul did a great job describing the application. He entertained questions from Council. He stated that this site and the application brought forward are critical to Verizon's needs to continue the growth of their network to meet all the demands they face. It's a capacity site meaning there's coverage to make a cell phone call but the needs for them to keep up with all the requirements to process data from the individual users in this section of town is just about exhausted. There are two sites in town that just can't keep up with the demand. This site is critical to keeping the network as it exists, flowing the way it is, in order to keep all their customers happy. He said the site itself, you can see by the drawings, will also hold an additional three carriers if three potential wireless providers would like to come on at some point. They have FFA approval and have submitted environmental approvals from all the required agencies including State Fish and Game.

Councilmember Backus asked if this is a vendor-neutral site. Mr. Skinner replied that in this case, it's becoming more and more common, Horvath and Verizon Wireless partnered with one another. Horvath is the one actually building the site. Horvath is an anchor tenant that is already secured to go on it.

With no further comments in favor of the application, Mayor Kaufman asked if anyone wished to speak in opposition of the application. Alan Taylor, 100 Five Rocks Road, Gering, addressed the Council. He stated they live catty-corner from the proposed location. He asked Mr. Skinner the size of the culverts. Mayor Kaufman stated that Mr. Taylor is addressing Council; those questions can be answered after that. Mr. Taylor then stated where they're located there are two culverts between the area where they want to put the tower. There is extreme flooding that goes on all the time, it's always full; they don't get cleaned out regularly. They're 24 inches currently. He's worried that the culverts Mr. Skinner is going to replace is not all of them that are necessary to make it work. He said secondly, he knows the zoning plan is old and outdated, it was from 1995 and reapproved in 2010 that the City wanted it to be residential. He personally thinks, and others he has asked... if that tower is right there, nobody is going to want to build right there. He noted, from the pictures he gave to Council, that 1000 feet north next to the Robidoux Campground, that nobody is going to want to live next to either. Why not have it moved 1000 feet? Mr. Taylor stated that Mr. Skinner mentioned in the Planning meeting that that was in his area originally. He also has in his pictures that it (the tower) will be the first thing you see when you're coming into town. On page 4, there aren't any houses in a 300 foot area that had to be notified. Mr. Taylor said there's only two houses there; he wishes there had been some kind of communication before they were bombarded last time they had the meeting. He felt like it was overwhelming the way it was. He stated that Mr. Skinner has been planning this for a year and a half and didn't even have the courtesy to walk across the street. Mr. Taylor asked if he could at least disguise it; other communities are doing that (cactus, flagpole, etc.). He wouldn't want to see it; that's his key point.

Administrator Danielzuk introduced Alan Taylor's document with four examples into the Administrative Record. He stated that on behalf of the City he would like to introduce into the record the unofficial proceedings of the Gering City Planning Commission meeting from March 21, 2017. "Commissioner Erdman made the motion to: Make a POSITIVE RECOMMENDATION to the City Council to consider this Exception/Conditional Use Permit as submitted by Horvath Communications for the construction of a 145 foot monopole telecommunication facility/tower with the following conditions: Subsection 5.104 (16) Communication towers not to exceed 150 feet in height. Commissioner Rechsteiner seconded the motion. On roll call vote, the following voted "AYE": Allen, Erdman, Hauck, Kaufman, Marietta, Parks and Rechsteiner. "NAY": Arnold and Bowman. Absent: None." It passed by a majority vote, 7-2.

Mr. Danielzuk stated that he wanted to clarify for the administrative record some of the comments related to this public hearing. He then spoke to section 704 of the 1996 Act: Local zoning authority is generally preserved by section 704. Numerous cases recite that in general Section 704 preserves local zoning

authority with most of its requirements (substantial evidence, short time period to appeal zoning decisions) being taken directly from local zoning law with the additions being mainly the addition of some procedural requirements and a ban on considering RF radiation.

For the purpose of tonight's hearing Mr. Danielzuk wanted to give the members of the community and the applicant constructive notice that this is a public hearing for an Exception/Conditional Use Permit to construct a cell tower, nothing more, nothing less. This is a zoning case, and a zoning application. This language (Section 704) does not extend to such local regulations as building codes, permits and environmental restrictions. As it relates to building and safety codes, in the unlikely event that this section applies to them, they generally only require compliance with technical or engineering related provisions (correction of structural defects, added bracing to accommodate increased loads). Again there are severe constitutional issues if this section were to require approval of structures which do not comply with state and local safety codes.

Finally, with respect to Section 704, Mr. Danielzuk stated that he wants to make it clear it requires the federal government to take steps to help licensees in spectrum-based services such as PCS and cellular get access to preferred sites for their facilities. Federal agencies and departments will work directly with the licensees to make federal property available for this purpose. The FCC is directed to work with the states to find ways for states to accommodate licensees who wish to erect towers on state property or use state easements or rights-of-way. Administrator Danielzuk stated that's what he wants to emphasize there. With respect to Section 704-A, such language would not have been necessary if cellular providers already had access/condemnation authority under 704-A. Mr. Danielzuk added that the applicant has addressed the rest of his questions with respect to the public hearing process.

Councilmember Backus asked what the reasoning was for not locating the tower closer to the RV Park. Mr. Skinner replied that in his due diligence he's handed basically a "search ring" which can be any various given shape. In this case his search ring extended to the south to where the proposed location is and just a bit further south and then north up towards the amphitheater/RV Park; basically just the highway corridor. His job is to find a suitable site that meets their criteria as well as the landowner's criteria which is how they submitted the application that is on file. It involved the landowner's preference as to where it would be located as well as Verizon's and Horvath's; the current location that the application suggests. Number one is the access to it; on the north part of the property there is no current access into the road, number two it's on a hill so it's unknown as to... again when you're first doing your due diligence with no given access into that part of the property can you secure a new access, and three looking at that location, just from a public standpoint, as much as that amphitheater is used in the summer and the RV Park. It's very rare that he finds a site that doesn't offend someone.

Paul Snarr, City Engineer, reminded everyone that this is agricultural ground and in order for anyone to build in this zoning district it requires 25 acres unless it's subdivided and platted and subdivided. As far as the culverts go they are replacing one and installing a new one. These are engineered drawings; they are putting in an 18 inch and a 24 inch culvert to handle storm water.

Mr. Taylor addressed Council again and stated that Mr. Skinner said there is no entry, and in fact there is an entry right at that exact point, you can actually see it on his pictures. There's no problem there with that. They are already 24 inch storm drains right now and they are not handling it; unless they make it bigger it's not going to work. His family has been there since 1972 and every year it floods over. He stated that they get one to two inches of mud every year in their yard.

With no further discussion the Mayor closed the Administrative Record and the Public Hearing closed at 6:26 p.m.

**Motion by Councilmember Smith to enter the Administrative Record for this public hearing into the public record. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Gillen, Backus, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday, O'Neal. Motion Carried.**

**2a. Remove from table: Approve or deny an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a**

145 foot (149' with antenna) monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska. A complete legal description of the property and easements is shown on the plans and will be recorded with the Scotts Bluff Register of Deeds between the Owner, Cheema Investments, LLC and Applicant, Horvath Communications.

Motion by Councilmember Smith to remove from table: Approve or deny an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot (149' with antenna) monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Gillen, Backus, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday, O'Neal. Motion Carried.

2b. Approve or deny an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot (149' with antenna) monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska. A complete legal description of the property and easements is shown on the plans and will be recorded with the Scotts Bluff Register of Deeds between the Owner, Cheema Investments, LLC and Applicant, Horvath Communications.

Motion by Councilmember Smith to approve an Exception/Conditional Use Permit as submitted by Jeffrey Skinner, Authorized Horvath Agent of Horvath Communications for the construction of a 145 foot (149' with antenna) monopole telecommunication facility/tower to be constructed in the SE corner of the following described property: Part of the South Half of the Northeast Quarter of Section 10, Township 21 North, Range 55 West of the 6<sup>th</sup> Principal Meridian, Scotts Bluff County, Nebraska. A complete legal description of the property and easements is shown on the plans and will be recorded with the Scotts Bluff Register of Deeds between the Owner, Cheema Investments, LLC and Applicant, Horvath Communications. Second by Councilmember Cowan. There was no discussion. The Mayor called the vote. "AYES": Smith, Gillen, Backus, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Holliday, O'Neal. Motion Carried.

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

**REPORTS:** None.

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

Meeting adjourned at 6:30 p.m.

ATTEST:

Kathleen J. Welfl, City Clerk



Mark A. Kaufman, Mayor