

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,  
April 13, 2020 (BY TELECONFERENCE)**

A regular meeting of the City Council of Gering, Nebraska was held on April 13, 2020 at 6:00 p.m. Due to on-going COVID19 precautions and pursuant to a Limited Waiver Executive Order by Governor Ricketts, the Gering City Council held this meeting by teleconference. Present were Mayor Kaufman and Councilmembers Smith, Gillen, Backus, Wiedeman, O'Neal, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl, Finance Director Renae Jimenez and City Attorney Jim Ellison. Absent was Councilmember Abel. 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 via teleconference to the public and media.

**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 present by teleconference and City business could be conducted.

1. Roll Call
2. Excuse councilmember absence

**Motion by Councilmember Morrison to excuse the absence of Councilmember Smith from the March 31, 2020 special meeting. Second by Councilmember O'Neal. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Wiedeman, O'Neal, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Abel. 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, in this case available in the Council packet or online at [nebraska.gov/open-meetings](http://nebraska.gov/open-meetings). Agenda items may be moved up or down on the agenda at the discretion of the Mayor. As required by State Law, additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and Council determines that the matter requires emergency action.

**CONSENT AGENDA:**

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

1. Approve minutes of the March 23, 2020 regular City Council meeting and the March 31, 2020 special City Council meeting
2. Approve Claims

**Claims**

3-20-2020 to 4-7-2020

24/7 FITNESS \$430.00; 911 CUSTOM \$270.00; ACCELERATED RECEIVABLES SOLUTI \$284.65; ACTION COMMUNICATIONS, INC. \$79.95; ACUSHNET COMPANY \$1,591.76; ALTEC INDUSTRIES, INC. \$259.00; AMERITAS LIFE INSURANCE COPR. \$1,106.28; AXON ENTERPRISE, INC \$1,542.50; BAKER & ASSOCIATES, INC. \$317.00; BH MEDIA GROUP HOLDING, INC. \$325.44; BKD RENTALS LLC \$2,154.20; BLACK HILLS ENERGY \$1,083.78; BLUFFS FACILITY SOLUTIONS \$765.19; BORDER STATES INDUSTRIES, INC \$112.56; BORDER STATES INDUSTRIES, INC \$27.92; BORDER STATES INDUSTRIES, INC \$300.63; BRENDA MILLER \$150.00; BRETHOURS HONEYWAGON EXPRESS \$180.00; CALLAWAY GOLF COMPANY \$222.96; CITY DIRECTORIES \$320.00; CITY INSURANCE FUND \$182,460.64; CITY OF GERING \$12,735.61; CITY PAYROLL TRUST \$4,950.79; CLARK PRINTING LLC \$381.25; COLLABORATIVE SUMMER LIBRARY P \$542.65; CONNECTING POINT \$886.00; CRESCENT ELECTRIC SUPPLY CO. \$37.58; CUTTER & BUCK \$37.75; D & H ELECTRONIC SUPPLY, INC. \$8.63; DANKO EMERGENCY EQUIPMENT CO \$430.79; DAS STATE ACCOUNTING-CENTRAL \$159.23; DLT SOLUTIONS, INC. \$1,118.70; DOOLEY OIL \$477.95; ECOLAB \$31.05; ELECTRIC PUMP, INC. \$1,103.40; ELITE TOTAL FITNESS \$228.00; ELLISON, KOVARIK & TURMAN LAW \$3,712.70; ENERGY LABORATORIES INC. \$427.00; FAIRBANKS SCALES, INC. \$1,125.29; FASTENAL COMPANY \$309.58; FIRST STATE BANK \$341.71; FLOYD'S TRUCK CENTER, INC. \$2,935.94; FRANK PARTS COMPANY \$429.65; FRESH FOODS INC. \$31.10 ; GERING U-SAVE PHARMACY \$16.38; GERING VALLEY PLUMBING & HTG. \$12,431.20; GREGORY'S LOCK SHOP LLC \$80.00; HALE MULTIMEDIA, LLC \$250.00; HAWKINS, INC. \$3,794.50; HEARTLAND BANK \$500.00; HULLINGER GLASS & LOCKS \$452.00; ICMA ELECTRONIC RETIREMENT \$709.74; IDEAL LAUNDRY AND CLEANERS, IN \$180.45; INDOFF INCORPORATED \$773.44; INGRAM LIBRARY SERVICES \$390.18; INLAND TRUCK PARTS CO. \$37.24; INTERNAL REVENUE SERVICE \$42,053.58; INTRALINKS, INC. \$419.00; IRBY TOOL & SAFETY \$642.00; JOHN HANCOCK USA \$14,208.09; JOHN HANCOCK USA POLICE \$6,193.48; JOHNSON CASHWAY CO. \$111.14; JOHNSON HARDWARE CO. \$350.00; JUNIOR LIBRARY GUILDS \$1,598.10; KANSAS GOLF & TURF INC \$2,302.21; KARLA MONTELONG \$150.00; LOGOZ LLC \$336.00; MATHESON TRI-GAS INC \$437.04; MATRIX TRUST COMPANY \$590.17; MCGARD LLC \$368.22; MEAT SHOPPE \$3,774.34; MENARDS \$772.78; MONEY WISE OFFICE SUPPLY \$31.49; NE CHILD SUPPORT PAYMENT CENTER \$647.09; NE DEPARTMENT OF REV (PR) \$13,427.94; NE DEPT OF REVENUE \$336.16; NE PUBLIC HEALTH ENVIRO LAB \$771.00; NEBRASKA RURAL RADIO ASSOC. \$576.00; NEMNICH AUTOMOTIVE LLC \$112.89; NKC

TIRE \$15.48; NOHEMI LEAL \$150.00; NORTHWEST PIPE FITTINGS, INC \$547.42; OCLC, INC. \$160.66; PANHANDLE COOP ASSOCIATION \$2,225.82; PANHANDLE ENVIRONMENTAL SERVIC \$1,202.00; PATTLEN ENTERPRISES, INC \$783.80; PAYROLL TOTAL \$122,743.28; PEGGY SINER \$150.00; PFISTERER NORTH AMERICA \$134.78; POWERPLAN OIB \$199.20; QUADIENT LEASING USA, INC \$909.50; R & C WELDING & FABRICATION \$617.93; RECOVERY SYSTEMS COMPANY, INC \$52,345.00; SAMANTHA SNOCKER \$150.00; SANDBERG IMPLEMENT, INC. \$(31.56); SCB. COUNTY SHERIFF OFFICE \$19.22; SCOTTSBLUFF-GERING UNITED WAY \$127.50; SHAWNA WINCHELL \$130.00; SHERICE BLANCO \$150.00; SIRCHIE ACQUISITION CO., LLC \$102.15; SNELL SERVICES, INC \$20.65; STAPLES CREDIT PLAN \$219.98; STATE OF NEBRASKA \$242.80; SUGAR VALLEY FEDERAL CREDIT \$678.37; TEAM CHEVROLET \$375.00; THE ROCK PILE \$215.78; TWIN CITY DEVELOPMENT ASSOC \$25,000.00; VAN PELT FENCING CO., INC. \$303.11; VAN PELT FENCING CO., INC. \$34,572.00; WAREHOUSE FITNESS CENTER \$252.00; WATCH GUARD VIDEO \$357.00; WESCO RECEIVABLES CORP. \$1,712.00; WESTERN COOPERATIVE COMPANY \$3,507.64; WESTERN PATHOLOGY CONSULTANTS \$200.00; WESTERN STATES BANK \$9,781.28; WESTERN STATES BANK - POLICE \$516.00; WM RECYCLE AMERICA \$2,849.23; WYOMING BEARING & SUPPLY \$650.35; YMCA OF SCOTTSBLUFF \$314.50

**Motion by Councilmember Morrison to approve the consent agenda. Second by Councilmember Wiedeman. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Wiedeman, O'Neal, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Abel. Motion Carried.**

#### **PUBLIC HEARINGS:**

**1. Public hearing to consider an AEDS (Ag Estate Dwelling Survey) application on a tract of land that is part of the S ½ of the NE ¼ of Section 7, Township 21 North, Range 54 West of the 6<sup>th</sup> Principle P.M., in Scotts Bluff County, Nebraska**

Mayor Kaufman opened a public hearing to consider an AEDS (Ag Estate Dwelling Survey) application on a tract of land that is part of the S ½ of the NE ¼ of Section 7, Township 21 North, Range 54 West of the 6<sup>th</sup> Principle P.M., in Scotts Bluff County, Nebraska at 6:05 p.m.

City Engineer, Annie Folck, addressed Council with the administrative record. She noted that Council has approved a few Ag Estate Dwellings lately. According to the City code, for every AED site, the owner is supposed to reserve a balance of 80 acres of agricultural land. This application is a little different than a lot of them that the City has had because once the 2.5 acres is split off, that they're hoping to split off for the Ag Estate Dwelling, there will only be 22.31 acres remaining on the farm. This doesn't strictly meet the 80-acre requirement but it isn't necessarily against our code. Our code is a little bit open-ended in that it says that the Planning Commission and City Council can permit the creation of an AEDS out of less than 80 acres if the intent of the subsection is maintained. The intent of the subsection is to allow for the subdivision or sale of areas where there are existing farmsteads or an area of marginal use for agriculture that could be split off from the remainder of it. She stated that she does feel this application meets the intent of the code. She's a little concerned at the size of this one because it's so much smaller than any that we've ever done in the past. Some of the arguments in favor of it are that the property does have a pivot on it, the portion they're splitting off is not actively farmed; it's not under the pivot. That helps in the argument that it does meet the intent of the code. The other concern is that our code does require a 150-foot lot frontage for the Ag area for the Ag zone. The way that this property is already, it doesn't have 150-foot lot frontage; it never has. The current property only has about 30 feet of lot frontage along the county road, so it's not going to meet that requirement. Our code does state that if the Ag Estate Dwelling is of an interior section type, you could have an access road rather than the lot frontage. It does provide for an access road in our code. The plat shown in the packet shows a 20-foot, but staff have been working with the property owner and they've agreed to amend that to 25 feet. Council can approve this with the condition that they amend that to 25 feet if we need to, to meet code. Ms. Folck stated that it's difficult for her to make a positive recommendation on this because of the things that are out of line with what she would usually recommend. On the other hand, she's not going to make a negative recommendation on this application because overall it does meet the intent of the code. Planning Commission did recommend approval of the Ag Estate Dwelling.

Councilmember Morrison asked if there is nothing there that is farmable. Ms. Folck replied that the portion they are splitting off (from the existing farmstead) is not farmable, correct. Councilmember Morrison then asked if that means it's not an Ag Estate. Mrs. Folck replied that the purpose of an Ag Estate is to allow them to split off the portion that is not farmable for a dwelling site. Councilmember Morrison clarified that the other portion is not farmable. Mrs. Folck said the other portion is under a pivot, so it would be farmable; the remainder of this property from which they're splitting this off.

Councilmember Backus asked where the dwelling would go on this oddly shaped property. Ms. Folck replied that it's already there; it's on the south portion of the property. He asked why they're leaving that little chunk of frontage. She replied that we require a minimum of two acres so they were trying to make sure they had the minimum two-acre requirement for the Ag Estate Dwelling – that is why there is such a funny piece of property here. He asked if there is a downside to approving this. Ms. Folck replied where it's an existing farmstead she doesn't see where there's too much of a downside. Planning Commission asked what happens with the lot frontage. The biggest concern is any time you do an access road rather than having it along a platted right of way, there's a little concern because people don't always follow that or they run equipment across that that make it hard for people to access their property. She said that would be her biggest concern with it; especially if the property changes hands a few times. Ultimately that wouldn't be for the City to enforce, that would be a civil matter between the two parties, and the easement is on the plat so the person with the interior property has the legal right to use the access road. Mayor Kaufman added that it'll be a few years before the City will be developing the rest or part of that area.

Councilmember Morrison stated that there are two strikes against them right out of the gate. We've got to figure out a plus side because it meets no codes that we have. Will we find ourselves doing this all the way down the line; are we setting a precedent? Ms. Folck replied that the main reason this is a difficult decision is because of the layout of the existing property. In recognition of the fact that this was already split off at some point, the property boundaries make it extremely awkward and difficult to do. It is different than if, for example, someone wanted to do something like this when they had a parcel that was a perfect rectangle. There's no way to make this conform to code due to the previous layout of the property. She said that's where she's willing to bend and work with the applicant a little more and allow this to go through, where as if they were working with a blank slate and they could make changes to meet the requirements, we would require that of them; but that just isn't a possibility here. Councilmember Morrison said her concern is the City not following our own code.

Councilmember Gillen noted that this is not currently within City limits; it's just within our jurisdiction. Ms. Folck and the Mayor replied, that is correct. Councilmember Gillen said he would give a little more leeway for people that sit within our jurisdiction but not necessarily within our City limits. He would be more hard-lined on code enforcement within our City limits. It being non-conforming, and it never being able to be conforming, it puts us between a rock and a hard place. Mayor Kaufman replied those are important points. He added that as the City Engineer said, it's the spirit and intent; the property owners are trying to do the right thing and the appropriate thing to split off the dwelling. It's a little out of their control on how the property and boundary lines fall in relation to the existing farm that's still farmable and useful. It's very unique within that territory jurisdiction (that Council would have some say over). He definitely, however, wants to recognize Councilmember Morrison's point. He believes Council has very defensible positions from spirit and intent of the code and the enforcement piece relevant to what this application is trying to do. He feels the spirit and intent are in good faith in this case.

Mayor Kaufman asked if there was anyone who would like to speak in favor of this application. Seeing none, he then asked if anyone wished to speak in opposition of the application. Seeing none, the administrative record was closed and the public hearing closed at 6:17 p.m.

**Motion by Councilmember O'Neal to enter the administrative record for this public hearing into the public record. Second by Councilmember Smith. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Wiedeman, O'Neal, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Abel. Motion Carried.**

**1a. Approve or deny an AEDS (Ag Estate Dwelling Survey) application on a tract of land that is part of the S ½ of the NE ¼ of Section 7, Township 21 North, Range 54 West of the 6<sup>th</sup> Principle P.M., in Scotts Bluff County, Nebraska**

**Motion by Councilmember Wiedeman to approve an AEDS (Ag Estate Dwelling Survey) application on a tract of land that is part of the S ½ of the NE ¼ of Section 7, Township 21 North, Range 54 West of the 6<sup>th</sup> Principle P.M., in Scotts Bluff County, Nebraska. Second by Councilmember O'Neal. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Wiedeman, O'Neal, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Abel. Motion Carried.**

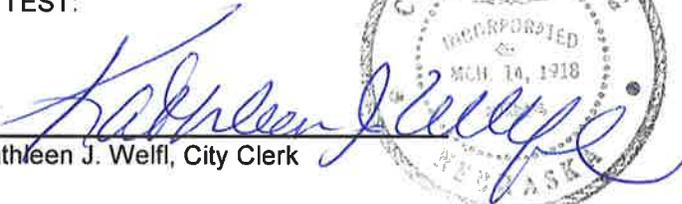
**BIDS:** None  
**CURRENT BUSINESS:** None

**CLOSED SESSION:** None  
(Council reserves the right to enter into closed session if deemed necessary.)

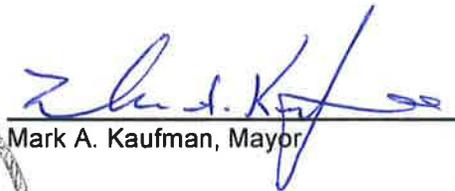
**ADJOURN:**  
Motion by Councilmember Morrison to adjourn. Second by Councilmember Gillen. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Wiedeman, O'Neal, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: Abel. Motion Carried.

Meeting adjourned at 6:20 p.m.

ATTEST:

  
Kathleen J. Welf, City Clerk



  
Mark A. Kaufman, Mayor