

## **THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL, DECEMBER 13, 2021**

A regular meeting of the City Council of Gering, Nebraska was held in open session on December 13, 2021 at 6:00 p.m. at Gering City Hall, 1025 P Street, Gering, NE. Present were Mayor Kaufman and Councilmembers Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. Also present were City Administrator Pat Heath, City Clerk Kathy Welfl and City Attorney Jim Ellison. 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. and stated that a quorum of the Council was present 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 O'Neal to excuse the absence of Councilmember Smith from the November 22, 2021 regular City Council meeting. Second by Councilmember Gillen. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

4. Recognition of HR Director, Tammy Cooley

Administrator Heath stated that Tammy Cooley's last official day with the City will be December 26. He thanked her for six years of service to the City and to City employees. She has done a great job for the City and has taken on additional tasks when needed. He thanked her for her hard work and dedication. Tammy couldn't be present at the meeting, but Administrator Heath stated that he plans to recognize her at an employee lunch later in the month.

### **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 the Council determines that the matter requires emergency action.

### **CONSENT AGENDA:**

1. Approve minutes of the November 22, 2021 regular City Council meeting
2. Approve Claims
3. Approve TCD Quarterly Report, July – September, 2021

### **Claims 11-23-21 to 12-13-21**

21ST CENTURY EQUIPMENT \$138.96; ACE HARDWARE \$742.88; ACUSHNET COMPANY \$620.10; ALLO COMMUNICATIONS \$1,813.13; ALTEC INDUSTRIES, INC. \$137.25; AMAZON CAPITAL SERVICES \$604.22; ASHLEY SATUR \$75.00; B & C STEEL \$7,203.06; B & H INVESTMENTS, INC. \$195.00; BENZEL PEST CONTROL \$297.66; BH MEDIA GROUP HOLDING, INC. \$1,448.93; BLACK HILLS ENERGY \$901.61; BLACKSTONE AUDIO, INC \$34.95; BLUFFS FACILITY SOLUTIONS \$993.97; BORDER STATES INDUSTRIES, INC \$7,727.18; C & C MANUFACTURING LLC \$179.54; CALLAWAY GOLF COMPANY(\$2,236.56), CENGAGE LEARNING/GAGE \$21.99; CENTURYLINK \$1,420.72; CITY OF GERING \$854.51; CITY PAYROLL TRUST \$2,761.96; CONCRETE CATTLE COMPANY \$225.00; CONNECTING POINT \$309.65; CONTRACTORS MATERIALS, INC. \$384.04; CORE & MAIN LP \$384.85; CRESCENT ELECTRIC SUPPLY CO. \$179.72; CURTIS A. ECKMAN \$115.02; DAS STATE ACCOUNTING-CENTRAL \$134.49; DEARBORN LIFE INSURANCE COMPAN \$134.16; DHHS-ACCOUNTING \$1,911.90; DIETRICH DISTRIBUTING CO. \$191.00; DOCU-SHRED LLC \$52.00; DOMINIC WILLIAMS \$150.00; DOOLEY OIL \$41.20; DREAMSHARE PRODUCTIONS LLC \$1,020.00; DUSTIN KINNAN \$131.86; DUTTON-LAINSON COMPANY \$1,465.62; EAGLE ENGRAVING, INC. \$179.95; EAKES INC \$155.07; ECOLAB \$31.05; ELLIOTT EQUIPMENT CO. \$3,510.94; ELLISON, KOVARIK & TURMAN LAW \$398.75; ENERGY LABORATORIES INC. \$407.00; ESC ENGINEERING \$42,450.50; EXPRESS TOLL \$5.00; FAIRFIELD INN \$233.90; FASTENAL COMPANY \$1,264.39; FIRST STATE BANK \$395.65; FLOYD'S TRUCK CENTER, INC. \$5,544.10; FRANCISCOS BUMPER TO BUMPER IN \$220.00; FRANK PARTS COMPANY \$1,657.55; FREMONT MOTOR SCOTTSBLUFF, LLC \$105.36; FRESH FOODS INC. \$62.12; GALLS, AN ARAMARK COMPANY \$288.19; GEORGE MIRAMONTES \$150.00; GERING VOLUNTEER FIRE DEPT. \$1,023.00; GROUND UP CONSTRUCTION \$678.50; GWORKS \$19,153.26; HALEY KAMPBELL \$390.00; HEARTLAND EXPRESSWAY \$2,971.44; HENNING BROTHERS \$83.00; IDEAL LAUNDRY AND CLEANERS, IN \$529.23; INDOFF INCORPORATED \$458.13; INGRAM LIBRARY SERVICES \$416.66; INTERNAL REVENUE SERVICE \$46,085.43; INTRALINKS, INC. \$8,411.44; IRBY TOOL & SAFETY \$564.00; JC GOLF ACCESSORIES \$269.73; JENNIFER MEJIA \$75.00; JIM SCOTT \$147.69; JOHN HANCOCK USA \$14,595.24; JOHN HANCOCK USA FIRE \$597.19; JOHN HANCOCK USA POLICE \$7,277.04; JOHNSON CASHWAY CO. \$463.25; JORDAN MCBRIDE \$123.00; JUSTIN KL BERNHARDT \$175.00; K L WOOD & CO., LLC \$112,598.12; KANSAS GOLF & TURF INC \$1,137.89; KAREN SUE BRUNTZ \$425.00; KEVIN LEHR \$50.00; LEAGUE ASSOC./RISK MANAGEMENT( \$757.16), MACQUEEN

EQUIPMENT, LLC \$2,675.53; MASEK DISTRIBUTING INC \$1,356.59; MATHESON TRI-GAS INC \$45.85; MB KEM ENTERPRISE \$100.00; MEAT SHOPPE \$28,233.62; MENARDS \$1,550.92; MIDSTATES EQUIPMENT & SUPPLY \$58,594.50; MIZUNO USA, INC. \$741.62; MOBIUS COMMUNICATIONS COMPANY \$30.00; MONUMENT INN & SUITES \$340.00; MUNICIPAL SUPPLY, INC. OF NE. \$5,842.52; NE CHILD SUPPORT PAYMENT CENTE \$462.93; NE DEPT. ENVIRONMENTAL QUALITY \$1,070.00; NEBRASKA LAW ENFORCEMENT \$485.00; NEBRASKA MUNICIPAL POWER POOL \$537.00; NEBRASKA TRAVEL ASSOCIATION \$650.00; NKC TIRE \$35.00; NMC EXCHANGE LLC \$82.76; NORTHWEST PIPE FITTINGS, INC \$1,174.95; OCLC, INC. \$163.87; ONE CALL CONCEPTS, INC \$111.50; PAGE MY CELL LLC \$600.00; PANHANDLE COOP ASSOCIATION \$18,260.60; PANHANDLE ENVIRONMENTAL SERVIC \$2,528.00; PATTLEN ENTERPRISES, INC \$1,873.60; PAYROLL 12/3/21 \$142,888.03; PING INC \$384.08; PLATTE RIVER GLASS RODNEY L FL \$250.00; POLICE CHIEFS ASSOC. OF NEBR. \$50.00; POSTMASTER \$1,544.00; POWER SCREENING, LLC \$3,179.51; POWERPLAN OIB \$481.50; PRAISE WINDOWS \$600.00; QUADIENT LEASING USA, INC \$863.91; REGANIS AUTO CENTER \$697.35; RICHARD KAUFMAN \$75.00; SANDBERG IMPLEMENT, INC. \$136.50; SANDRY FIRE SUPPLY \$5,558.00; SCOTTS BLUFF CO BUILDING & ZON \$75.00; SCOTTS BLUFF COUNTY TREASURER \$38,244.28; SCOTTSBLUFF-GERING UNITED WAY \$128.75; SHAWNA WINCHELL \$765.00; SHERWIN WILLIAMS \$377.84; SIMON CONTRACTORS \$5,584.60; SOLUTIONS EAP \$489.10; SOUTHWESTERN EQUIPMENT COMPANY \$1,676.80; SPECTRUM \$92.52; STAPLES CREDIT PLAN \$31.86; SUGAR VALLEY FEDERAL CREDIT \$528.37; TEAM CHEVROLET \$56.14; THE BOARD OF REGENT OF THE UNI \$25.00; TRACI BRUNZ \$75.00; TRANSUNION RISK AND ALTERNATIV \$75.00; TRIHYDRO CORPORATION \$9,376.10; UNANIMOUS, INC. \$30.00; UNITED STATES GOLF ASSOC, INC. \$150.00; USA BLUE BOOK \$1,065.99; UTILITY REFUND CHECKS \$554.53; VALLEY AUTO LOCATORS LLC \$2,343.39; VERIZON WIRELESS SERVICES, LLC \$1,298.93; WESCO RECEIVABLES CORP. \$14,084.52; WESTERN COOPERATIVE COMPANY \$17,279.40; WESTERN STATES BANK \$41,043.86; WESTERN STATES BANK - POLICE \$482.00; WINSUPPLY SCOTTSBLUFF NE CO. \$45.18; WINTER EQUIPMENT CO., INC. \$9,000.76; WM RECYCLE AMERICA \$2,178.42; WYOMING BEARING & SUPPLY \$506.57

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

#### **CURRENT BUSINESS:**

#### **1. LB840 Economic Development Citizens Advisory Committee update – Galen Larson, Citizens Advisory Committee Chairman**

Mayor Kaufman moved Current Business item #1 up on the agenda; LB840 Citizen's Advisory Chairman, Galen Larson, presented the annual update:

##### **LB840 Citizens Advisory Committee Annual Update - December, 2021**

The City of Gering LB840 Citizens Advisory Committee met on November 17, 2021. The Committee was updated by City legal counsel and staff regarding LB840 grants and loans that are not in compliance and another one that finally concluded with the sale of a property.

**Regarding Noah's Burritos** – After a fairly lengthy search and finally locating Noah Villafranca of Noah's Burritos, City Attorney Ellison reported that the food trailer, used as security for this particular loan/grant, is now owned by the City of Gering. Mr. Ellison has been working with authorities and legal counsel in Montana to secure the trailer and eventually sell it. An interested buyer in the Gering area may be purchasing the trailer, but the agreement to finalize the sale has not been signed as of this date. City staff and legal will keep the Committee and Council updated on this situation as it evolves. It is the hope of the City and the Committee that the trailer will be sold soon and this particular non-compliant case will be closed. All proceeds will go back to the LB840 Fund.

Mr. Ellison also reported at the November Citizens Advisory meeting that in 2014 the LB840 Committee recommended, and the City Council approved \$40,000 of LB840 funds to be used for modifications to a building located at 1720 10<sup>th</sup> Street, known as the old medical building. The improvements were made in order for the Daily Grind Coffee Shop to move in and continue operating in Gering. The Daily Grind operated at this location for approximately one year. The only way to secure the \$40,000 was for the City and the owner of the building to enter into a Right of First Refusal stipulating that if the building ever sold, the City would receive \$40,000 of the proceeds. Mr. Ellison was recently contacted by a realtor that the building was for sale and there was a buyer. Because the City was not interested in purchasing the building, it was negotiated that \$20,000 from the sale of the building would come back to the City to replenish the LB840 Fund for this project. This has now been completed and the City has received those funds.

There is one other applicant that was out of compliance and litigation has been ongoing. As of November 17, the City was closer to recouping funds from the applicant. A final update on this project will be provided at a later date.

**Motion by Councilmember O'Neal to enter the LB840 Citizen's Advisory Update Into the public record. Second by Councilmember Wiedeman. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**BIDS:****1. Approve emergency purchase of a 2020 John Deere 750L Crawler Dozer and authorize the Mayor to sign a Customer Purchase Order - Sanitation Department**

Environmental Services Director, Steve Mount, stated after receiving bids on November 30, 2021, staff are recommending buying a used dozer with only 558 hours. It has GPS which will help them maximize volume and the space in our current landfill and our new landfill. It will be replacing a 2006 model dozer with over 13,000 hours. Unfortunately, the turbo went out which would have cost the City a minimum of \$27,000 to replace the engine and other parts. A new dozer is 12-14 months out. The landfill is in desperate need of a dozer to help cover. The used dozer can be delivered the first or second week of January. Administrator Heath added that with the existing dozer breaking down during the bid process, an addendum was sent out asking for bids on a used dozer. The used dozer was the last machine in Murphey Tractor's rental fleet and there was no guarantee they would hold it until this meeting, for approval. Staff felt there wasn't time to call an emergency meeting; Administrator Heath, as purchasing agent for the City, authorized the emergency purchase of that dozer.

Councilmember O'Neal asked if the landfill has a dozer now. Mr. Mount replied that they are working without one right now. They're covering the best they can with a loader and the L-John. Mr. Heath added that there was no way the landfill could get by without a dozer for 12-14 months if staff went with the purchase of a new dozer, which was another reason for the emergency purchase. A dozer rental would have run roughly \$9200.00 per month, if a rental could even be found. Mr. Mount added that they are trading in the 2006 dozer (as it sits) for \$13,000.00 in trade value. Councilmember Bohl asked if they would be okay forgoing the purchase of the compactor this year (to offset the additional cost of the dozer). Mr. Mount replied, yes, they will.

**Motion by Councilmember Morrison to approve the emergency purchase of a 2020 John Deere 750L Crawler Dozer from Murphy Tractor & Equipment in the amount of \$319,024.40 and authorize the Mayor to sign a Customer Purchase Order. Second by Councilmember Smith. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**2. Approve purchase of a 2022 Freightliner 114 SD with 36-yard packer body (Garbage Truck) and authorize the Mayor to sign Contract Agreement and related documents - Sanitation Department**

Environmental Services Director, Steve Mount, stated that the City accepted bids for a new garbage truck on December 1, 2021. It will be replacing a 2008 Freightliner that has 137,000 miles on it. One bid was received from Floyd's Truck Center for the chassis and Southwestern Equipment for the packer body. The bid came in lower than what was budgeted.

Councilmember Bohl declared a perceived conflict of interest on this particular bid due to his employment with Floyd's Truck Center. City Attorney Ellison stated there is no legal conflict of interest.

Councilmember O'Neal asked if staff would advertise for sealed bids on the 2008 truck. Mr. Mount replied, yes.

**Motion by Councilmember Cowan to approve the purchase of a 2022 Freightliner 114 SD with 36-yard packer body in the amount of \$242,399 from Floyd's Truck Center and Southwestern Equipment and authorize the Mayor to sign Contract Agreement and related documents. Second by Councilmember Wiedeman. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**PUBLIC HEARINGS:****1. Public hearing to consider a planned development on a tract of land known as BLOCK 2, HERITAGE ESTATES, CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA**

Mayor Kaufman opened a public hearing to consider a planned development on a tract of land known as BLOCK 2, HERITAGE ESTATES, CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA at 6:15 p.m. City Engineer, Annie Folck, presented the administrative record.

<b>To:</b>	City Council	<b>Date:</b>	12/13/21
<b>From:</b>	Planning & Community Development	<b>Zoning:</b>	AG
<b>Subject:</b>	Recommendation & Report – Planned Development Review Application	<b>Property Size:</b>	18.74 acres
<b>Location:</b>	Block 2, Heritage Estates	<b>#Lots/Parcels:</b>	1
<b>Owner:</b>	VSL Gering II LLC	<b>City Council Public Hearing:</b>	12/13/21

**Public Notice:** This Public Hearing was noticed meeting City Zoning and Subdivision Regulations.

**Public Hearing**

The City of Gering has received an application for a conditional use permit for a Planned Development located at Block 2, Heritage Estates. This property is located just west of the existing Heritage Estates facility that is south of M Street and west of Five Rocks Road.

The application proposes developing the property into a facility that would have multiple residences. There are a total of 33 villas proposed, along with a future clubhouse. The villas would be single family homes in the 1300-1700 square feet range. Each villa would have a two-car garage, along with a driveway that could accommodate an additional two cars. The units will be marketed as independent living, so are expected to have a maximum of two occupants each.

The proposed utilities meet City standards with the exception of the streets. The streets are proposed to be narrower than City standards, and would be considered private streets, similar to the streets in the existing Heritage Estates facility. This means that the City would not be responsible for maintaining these streets. The streets would be a minimum of 25' from back of curb to back of curb. This is sufficient for two-way traffic, but would not allow any space for parking. A 5' sidewalk would be installed as well. Because of the residential nature of the development, the expected low occupancy of the residences, and the capacity for parking in driveways, City staff recommends that the proposed street width will be sufficient for the development.

The project is proposed to be developed in phases. The first phase will be the East Drive, with 15 villas. The second phase will be the West Drive, with an additional 18 villas. The East Drive will be a cul-de-sac until the West Drive is developed, at which point the two drives will be tied together in order to provide for more than one way in and out of the neighborhood.

The architecture and landscaping is proposed to be very similar to the existing Heritage Estates facility. The existing facility is well landscaped and well maintained, and staff recommends approval of the proposed expansion and approval of the planned development.

**Recommendation**

**Approve:** Recommend approval of the Planned Development located at Block 2, Heritage Estates.

**Deny:** Recommend denial of the Planned Development located at Block 2, Heritage Estates.

**Table:** Table considering the Planned Development located at Block 2, Heritage Estates.

Ms. Folck noted that these are not City-owned streets and City right-of-way; we had to have some easements put into place. The second action item is for the easements. Because water, sewer and electric lines go through this, typically those would be put in the public right-of-way, but there is no public right-of-way here – it's all privately owned. There are easements we're agreeing upon with the property owner to ensure that in any event that City staff need to get in there to do maintenance, that they have the legal right to be there. City legal counsel drafted the wording for the easements. The legal descriptions came from the applicant. She noted that on the easements, there is an access easement - that is because working with the adjacent property owners, the Wiedeman family, and working with Heritage Estates, we have agreed that we are still planning on putting in a drive-way along this property line that would go to the Grasslands (at Five Rocks). That will serve a dual purpose. It will allow staff to do some grading and put in a little bit of a berm there to help with runoff coming from the property upstream of Heritage Estates. It will typically be roped off to vehicular traffic except for large events (like the balloon glow or Oregon Trail Days). That will provide an additional outlet to let traffic out onto M Street rather than routing through the City's cemetery as we've done in the past.

Councilmember Backus asked how stormwater runoff will be handled. Ms. Folck replied that most of it will surface-drain. They do have curb and gutter. She showed a retention area on the overhead map

where the stormwater will drain. She thinks this will help alleviate some of the drainage concerns we have along M Street because we have issues during a large storm event there.

Councilmember Gillen clarified that there's no concern with the narrow streets for fire and rescue being able to turn around. Ms. Folck replied that the cul-de-sac should be sufficient for a turn-around. This project will be phased. The first phase is the east drive with 15 homes; it doesn't sound like it will be too much longer until they get to the second phase. When they get that, they'll have those two cul-de-sacs tied together which will provide a two-way in and two-way out that we like to see for fire and rescue. Until we get there, that would be the one concern temporarily, but the cul-de-sac is sized enough they could get a firetruck in there, turned around and back out.

Mayor Kaufman asked twice if anyone in the Council Chambers wished to speak in favor of the application. Engineers, Mike Olsen and Adam Vath with MC Schaff, addressed Council and stated they could answer any questions about this application if there were any. With no comments in favor, Mayor Kaufman asked twice if anyone wished to speak in opposition. With no further comments, the administrative record was closed and the public hearing closed at 6:24 p.m.

**1a. Consider approving or denying a planned development on a tract of land known as BLOCK 2, HERITAGE ESTATES, CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA**

**Motion by Councilmember Gillen to approve a planned development on a tract of land known as BLOCK 2, HERITAGE ESTATES, CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA. Second by Councilmember Morrison. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**1b. Consider approving Utility and Access Easements for planned development on a tract of land known as BLOCK 2, HERITAGE ESTATES, CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA**

**Motion by Councilmember Gillen to approve Utility and Access Easements for planned development on a tract of land known as BLOCK 2, HERITAGE ESTATES, CITY OF GERING, SCOTTS BLUFF COUNTY, NEBRASKA. Second by Councilmember Bohl. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**2. Public Hearing to consider the issuance or denial of a Class C Liquor License for Mi Sinaloa, LLC dba Mi Sinaloa Restaurant located at 310 M Street, Gering, NE**

Mayor Kaufman opened a public hearing to consider the issuance or denial of a Class C Liquor License for Mi Sinaloa, LLC dba Mi Sinaloa Restaurant located at 310 M Street, Gering, NE at 6:25 p.m. He noted that the applicant was present if Council had questions. Mayor Kaufman confirmed that City staff (Police Department) were okay with the application. Police Chief Holthus replied, yes.

Mayor Kaufman asked if anyone in the Council Chambers wished to speak in favor of the application. Attorney, Jerry Ostdiek, addressed the Council and stated he was appearing with the applicant, Staci Castro. Mr. Ostdiek stated that Ms. Castro has entered into a lease for the old Oregon Trail Lounge. She's going to be running a Mexican and American food restaurant; she will also be selling alcohol there. She and her husband have operated a construction business with a number of employees for about five years. She also has previous experience running a restaurant when it was in the mall; she thinks there will be better traffic for it at this location. She has gone through training for alcohol serving and she will have her staff, at least "a bunch" of them, go through additional training.

Mayor Kaufman asked if anyone else wished to speak in favor of the application. He then asked twice if anyone wished to speak in opposition of the application. With no further comments, the administrative record was closed and the public hearing closed at 6:28 p.m.

2a. Recommend approving or denying a Class C Liquor License for Mi Sinaloa, LLC dba Mi Sinaloa Restaurant located at 310 M Street, Gering, NE

Motion by Councilmember Morrison to recommend approving a Class C Liquor License for Mi Sinaloa, LLC dba Mi Sinaloa Restaurant located at 310 M Street, Gering, NE. Second by Councilmember Wiedeman. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

**CURRENT BUSINESS:**

2. Approve and authorize the Mayor to sign an Agreement for Sale of Trailer pertaining to LB840 applicant, Noah Villafranca

Motion by Councilmember Morrison to approve and authorize the Mayor to sign an Agreement for Sale of Trailer pertaining to LB840 applicant, Noah Villafranca. Second by Councilmember Gillen. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

3. Approve Resolution 12-21-1 authorizing the Mayor to sign the Year-End Certification of City Street Superintendent

Motion by Councilmember Gillen to approve Resolution 12-21-1 authorizing the Mayor to sign the Year-End Certification of City Street Superintendent. Second by Councilmember Bohl. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

4. Approve Resolution 12-21-2 regarding Robidoux RV Park Rates

**Resolution 12-21-2**

WHEREAS, The Gering City Council, Gering, Nebraska shall establish fees for services at Robidoux RV Park.

WHEREAS, Robidoux RV Park Rates shall be as follows:

<b>Robidoux RV Park Fee Schedule</b>	
<u>Daily Rates</u>	
Full hook-up (E/W/S)	\$40.00
Electric/Water	\$36.00
Tent and Dry Camping	\$16.00
<u>Weekly Rates</u>	
Full hook-up (E/W/S)	\$240.00
Electric/Water	\$216.00
Tent and Dry Camping	\$96.00
<u>Monthly Rate</u>	
Full hook-up (E/W/S)	\$620.00
Electric/Water	\$550.00
Tent and Dry Camping	\$220.00
Dump Station	\$10.00 (Only applies to non-guests).

Applicable taxes will be applied at the time of transaction.

NOW THEREFORE BE IT RESOLVED that effective immediately, the City of Gering shall charge the aforementioned fees at the Robidoux RV Park.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2021.

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

ATTEST:

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Kathleen J. Welfl, City Clerk

Council received information regarding the previous rates. Councilmember Wiedeman stated that the cable is being eliminated and wanted to know if Wi-Fi was available for people to do streaming, etc. Parks & Recreation Director, Amy Seiler, replied that they will not be having cable any longer. The Wi-Fi services are being improved so they will be able to have streaming there; guests will be able to stream up to four devices at each site. It is not ready yet, the City is waiting on Allo to install that. There is Wi-Fi there currently, it's just in poor condition. She added that currently there are nine campers at the south end of the park; that's end of the park has good access.

**Motion by Councilmember Smith to approve Resolution 12-21-2 regarding Robidoux RV Park rates. Second by Councilmember O'Neal. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

#### **5. Approve Ordinance No. 2109 Designating Ward Boundaries**

**Councilmember Gillen made a motion to introduce Ordinance No. 2109 – AN ORDINANCE TO AMEND CHAPTER 11 WARDS, SUBSECTION 11.02 AS PART OF THE ORDINANCES OF THE CITY OF GERING, NEBRASKA, TO PROVIDE FOR THE RECLASSIFICATION OF CITY COUNCIL WARDS AND TO REPEAL THE EXISTING TITLE 1, CHAPTER 11, SUBSECTION 11.02 OF THE CITY ORDINANCES. Seconded by Councilmember Backus.**

**Discussion:** Councilmember Backus stated when he and Councilmember Gillen ran for Council many years ago, they got a map from the County and the boundaries were all wrong. He would like the City to make sure the County gets a copy and let them know how important it is that they keep it updated.

**Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**Councilmember Bohl moved that the Ordinance be designated as Ordinance No. 2109 and the title thereof approved, and that the Statutory Rule requiring Ordinances to be fully and distinctly read on three different days be dispensed with, which motion was seconded by Councilmember Wiedeman. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**The motion to suspend the statutory rule having been concurred in by three-fourths of all members elected to the Council, was, by the Mayor declared to have carried. Whereupon Ordinance No. 2109 was read by title only, Councilmember O'Neal moved that the Ordinance be passed as read, which motion was seconded by Councilmember Morrison. The question is shall Ordinance No. 2109 be passed? There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

The passage and adoption of the Ordinance having been concurred in by a majority of all members elected to the Council was by the Mayor declared passed.

#### **6. Approve and authorize the Mayor to sign a letter of support to the Nebraska Racing and Gaming Commission on behalf of Scottsbluff Exposition and Racing Inc.**

**Motion by Councilmember Smith to approve and authorize the Mayor to sign a letter of support to the Nebraska Racing and Gaming Commission on behalf of Scottsbluff Exposition and Racing Inc. Second by Councilmember Wiedeman.**

**Discussion:** Mayor Kaufman stated that this is a letter of support for the project in general. It still has to go through the Gaming Commission. They will determine if they'll approve their own rules this Friday. There is quite a long process, but we're just showing some support for the potential of that project somewhere in our vicinity.

**Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**7. Approve and authorize the Mayor to sign Partial Termination of Easement by and between Adm. Dewey Post Number 1681, Veterans of Foreign Wars (VFW) and the City of Gering**

**Motion by Councilmember Morrison to approve and authorize the Mayor to sign Partial Termination of Easement by and between Adm. Dewey Post 1681, Veterans of Foreign Wars (VFW) and the City of Gering. Seconded by Councilmember Wiedeman.**

**Discussion:** Councilmember O'Neal verified that the City was unaware of the agreement and asked if the City had been waiving the water fees for the first 160,000 gallons. Administrator Heath replied that the City was unaware that this agreement or easement was done in the 1930's; it was not filed with the Register of Deeds. The City had no idea the easement was out there until the VFW gave us a copy. He added that ever since about 1938 or 1939, whenever that agreement was done, their first 160,000 gallons of water was not billed each year; we'd bill them after that. He stated staff knew the City had to do it; that's how it was caught, we were wondering why the City didn't charge them the first five or six months out of each year. City staff started questioning it and the VFW produced that document for us. The wells were off in 1991 when Mr. Heath came to the City; the City abandoned them shortly after he came - decommissioned them. Staff had no idea that easement agreement existed. There are other easement agreements the City has with the VFW for pipelines through the property, but we had no idea at the time, until they produced the document for us.

Councilmember Backus asked, going forward, if the VFW will have to pay for all their water usage. Administrator Heath replied, they will pay for their water usage as they use it from January 1, 2022. Councilmember Backus asked if voting against this would mean they would get to maintain free water for the VFW; Mr. Heath replied that they would maintain the first 160,000 gallons at no charge. The VFW has already signed the (new) agreement; they are aware of this and they are agreeing to this.

Councilmember Gillen asked what the benefit is for the VFW for signing the agreement and getting the easement taken off. Administrator Heath replied, really none. The way it was written, and it could be a scrivener's error, but it was written with an "out" for the VFW but not the City. The City has requested that and they have agreed to abandon or terminate that (old) agreement.

Councilmember Backus stated if there's a loop hole, let the Vets have free water. He stated he doesn't see a reason to not let them have it.

Administrator Heath said in 1938, when the agreement was originally done, it probably cost pennies to produce water, but now, in 2021, we're looking at somewhere between \$.75 - \$1.00 to produce a thousand gallons of water. He's all for the Veterans also, but the City does have to operate the system and there's a cost to operating that system.

Councilmember Bohl asked what their average annual usage is. Administrator Heath replied, if he's not mistaken, it's just over 300,000 gallons on the average, per year.

City Attorney Ellison stated that since 1939, or whenever the wells were put in, there was consideration back and forth between the City and the VFW. For the use of the wells, the VFW was given that benefit. When the wells went off-line, or were abandoned, then presumably that benefit goes away, as far as the City is concerned. One of the considerations going forward is there really is no consideration in the future for doing this. Under our (State) Constitution, the City is not allowed to give away services to one entity over another. That was one of the other thoughts that went in to this agreement. Councilmember Morrison stated that was her thought too; if we're going to give it to the VFW, then maybe we should do it for the American Legion. She stated she doesn't think we can do both (if we're talking about the Vets paying).

Councilmember Gillen added that he's wondering if the City has determined that it needs to be terminated because we're not using the wells. Why is this all of the sudden now a Council approval when the whole agreement was based upon the fact that we were using wells and the well terminated over 30 years ago and now we as a Council have to vote on something - he's kind of in Ben's camp but he's also in the City camp because we can't give away services and not do it across the board. He doesn't want to seem like we're nickel and diming our Veterans because we appreciate their service. This isn't a service question; this is more getting something cleaned up that probably should have been taken care of and brought up 30 years ago as opposed to something we're looking at today. Mayor Kaufman stated, that's exactly what it is.



Councilmember Bohl asked City Attorney Ellison for clarification if the agreement was essentially deemed over or null and void when the wells went off-line. Mr. Ellison replied, yes, the language of the agreement was intended only for a consideration between the City and the VFW to accommodate the City having the wells there. It was a benefit to the City and a detriment to the VFW to have to mess with that, but when that goes away, technically the agreement should go away too – there's no consideration for that anymore. Councilmember Bohl asked if this agreement is even a valid agreement then. Mr. Ellison replied, it's a valid agreement, yes. That's why we're here before Council; when Pat first approached legal with this they determined, after looking back at it, that there would have to be an agreement to terminate it. That's what's before Council today.

**Mayor Kaufman called the vote. "AYES": Smith, Gillen, Bohl, Wiedeman, O'Neal, Morrison. "NAYS": Backus, Cowan. Abstaining: None. Absent: None. Motion Carried.**

**8. Approve reappointment of Jana Shimic to the Planning Commission**

**Motion by Councilmember Gillen to approve the reappointment of Jana Shimic to the Planning Commission. Second by Councilmember Smith. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**9. Approve appointment of Matt Kautz to the Planning Commission**

**Motion by Councilmember Gillen to approve the appointment of Matt Kautz to the Planning Commission. Second by Councilmember Wiedeman. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**10. Approve reappointment of Steve Eich, Josh Schlaepfer and Brian Judy to the Board of Adjustment**

**Motion by Councilmember Morrison to approve the reappointment of Steve Eich, Josh Schlaepfer and Brian Judy to the Board of Adjustment. Second by Councilmember O'Neal. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**11. Approve reappointment of Mike Donovan and Don Gentry to the Park, Cemetery and Tree Board**

**Motion by Councilmember Wiedeman to approve the reappointment of Mike Donovan and Don Gentry to the Park, Cemetery and Tree Board. Second by Councilmember Gillen. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**12. Approve reappointment of Galen Larson to the Civil Service Commission**

**Motion by Councilmember Morrison to approve the reappointment of Galen Larson to the Civil Service Commission. Second by Councilmember Gillen. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**13. Approve appointment of Eric Wilcox to the LB840 Citizens Advisory Committee**

**Motion by Councilmember Wiedeman to approve the appointment of Eric Wilcox to the LB840 Citizens Advisory Committee. Second by Councilmember O'Neal. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**14. Consider a motion to ratify all actions of Kathy Welfl, the City's LARM representative, identified in the minutes of the LARM Virtual Annual Members' Meeting of the League Association of Risk Management on October 22, 2020, including the election of nominees to the LARM Board of Directors**

**Motion by Councilmember Wiedeman to ratify all actions of Kathy Welfl, the City's LARM representative, identified in the minutes of the LARM Virtual Annual Members' Meeting of the League Association of Risk Management on October 22, 2020, including the election of nominees to the LARM Board of Directors. Second by Councilmember Smith.**

**Discussion:** Councilmember O'Neal stated there were 144 people gone according to the minutes. Clerk Welfl replied that LARM's Board of Directors By-laws state that a majority of those present constitutes a quorum, that's how they were able to do that, to vote. Mayor Kaufman concurred.

**Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**15. Consider holding only one regular meeting in the month of December, 2021**

**Motion by Councilmember Morrison to approve holding only one regular meeting in the month of December, 2021. Second by Councilmember O'Neal. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**16. Approve Resolution 12-21-3 regarding processing claims**

**Resolution 12-21-3**

**Whereas,** City of Gering claims are to be approved by Council for payment;

**Whereas,** The Gering City Council has chosen not to hold a second regular meeting in December, 2021 (which would have been held on the fourth Monday of the month);

**Whereas,** claims need to be processed and paid in a timely manner;

**NOW THEREFORE BE IT RESOLVED** that City staff are authorized to prepare and pay claims that have been processed as if the second meeting in December, 2021 was held. The paid claims will then be presented to Council for review at the first meeting in January, 2022.

**Adopted this 13<sup>th</sup> day of December, 2021.**

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Mark A. Kaufman, Mayor

ATTEST:

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Kathleen J. Welfl, City Clerk

**Motion by Councilmember Gillen to approve Resolution 12-21-3 regarding processing claims. Second by Councilmember Wiedeman. There was no discussion. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

**CLOSED SESSION:** (Council reserves the right to enter into closed session if deemed necessary.) 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. Mayor Kaufman called the vote. "AYES": Smith, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.**

Meeting adjourned at 6:51 p.m.

ATTEST:

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Kathleen J. Welfl, City Clerk



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Mark A. Kaufman, Mayor