

THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL, July 13, 2020

A regular meeting of the City Council of Gering, Nebraska was held on July 13, 2020 at 6:00 p.m. at Gering City Hall, 1025 P Street, Gering, NE. Present were Councilmembers Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. Also present were City Clerk Kathy Welfl, Finance Director Renae Jimenez, City Engineer Annie Folck and City Attorney Jim Ellison. Absent were Mayor Kaufman, Councilmember Smith and City Administrator Danielzuk. 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:

Council President Morrison called the meeting to order at 6:03 p.m. and stated that there was a quorum of the Council present and City business could be conducted.

1. Pledge of Allegiance and Prayer
2. Roll Call
3. Excuse councilmember absence

Motion by Councilmember O'Neal to excuse the absence of Councilmember Backus from the June 22, 2020 special City Council meeting and Councilmember Morrison from the June 22, 2020 regular meeting. Second by Councilmember Wiedeman. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

OPEN MEETINGS ACT - NEB.REV.STAT. CHAPTER 84, ARTICLE 14

Council President Morrison 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:

(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 June 22, 2020 special City Council meeting, the June 22, 2020 regular City Council meeting and the June 25, 2020 special City Council meeting
2. Approve Claims

Claims 6-20-2020 to 7-9-2020

A & A PORTA POTTIES \$270.00; AC ELECTRIC MOTOR SERVICE \$3,825.09; ACTION COMMUNICATIONS, INC. \$525.00; ACUSHNET COMPANY \$220.62; ADIDAS AMERICA, INC \$421.92; ADOBE \$166.79; ALLO COMMUNICATIONS \$1,919.62; AL'S TOWING, INC \$225.00; AMAZON \$67.39; AMAZON CAPITAL SERVICES, INC \$237.32; ARBOR ROCK, LLC \$2,116.87; B & H INVESTMENTS, INC \$6.00; BAKER & ASSOCIATES, INC. \$796.25; BENCHMARK FR \$47.48; BETSY ROSS FLAG GIRLS INC \$158.50; BLACK HILLS ENERGY \$1,097.41; BLUFFS FACILITY SOLUTIONS \$2,185.72; BOMGAARS \$30.98; BORDER STATES INDUSTRIES, INC \$5,218.05; CALLAWAY GOLF COMPANY \$1,497.02; CASEY'S GENERAL STORE \$20.49; CENTURY BUSINESS PRODUCTS, INC \$164.46; CENTURYLINK \$3,000.74; CITY PAYROLL TRUST \$2,602.06; CONNECTING POINT \$1,871.17; CONSOLIDATED MANAGEMENT COMPAN \$512.16; CONTRACTORS MATERIALS, INC. \$48.00; CORE & MAIN LP \$5,704.00; CUMMINS CENTRAL POWER \$1,071.77; D & H ELECTRONIC SUPPLY, INC. \$24.45; DALE'S TIRE \$152.50; DAS STATE ACCOUNTING-CENTRAL \$159.52; DEARBORN LIFE INSURANCE COMPAN \$120.40; DEMCO, INC \$295.12; DEX \$46.00; DOOLEY OIL \$1,165.67; DUTTON-LAINSON COMPANY \$264.82; DYKES OIL INC. \$51.15; EASY PICKER GOLF PRODUCTS \$398.83; ECOLAB \$300.00; ELLIOTT EQUIPMENT CO. \$1,187.08; ENERGY LABORATORIES INC. \$460.00; E-Z-GO DIVISION OF TEXTRON, IN \$210.00; FASTENAL COMPANY \$906.91; FIRST STATE BANK \$337.53; FLOYD'S TRUCK CENTER, INC. \$6,836.61; FRANK PARTS COMPANY \$1,132.26; FREE CONFERENCE CALL.COM \$4.00; GEN PRO ENERGY SOLUTIONS \$342.50; GERING HOSPITALITY GROUP, LLC \$200,000.00; GERING VALLEY PLUMBING & HTG. \$119.00; GOLF AND SPORT SOLUTIONS, LLC \$2,036.67; GWORKS \$1,850.00; HAWKINS, INC. \$3,216.60; HF BASEBALL LLC \$50,000.00; HYDRO OPTIMIZATION & AUTOMATIO \$16,872.62; ICMA ELECTRONIC RETIREMENT \$709.74; IDEAL LAUNDRY AND CLEANERS, IN \$455.35; INDOFF INCORPORATED \$534.25; INGRAM LIBRARY SERVICES \$946.19; INLAND TRUCK PARTS CO. \$1,388.91; INTERNAL REVENUE SERVICE \$46,839.83; INTRALINKS, INC. \$5,435.39; IRBY TOOL & SAFETY \$3,747.95; JAMESLEE ZLOMKE \$20.00; JASON ROGERS \$38.80; JC GOLF ACCESSORIES \$522.46; JENNIFER ESKAM \$20.00; JOHN HANCOCK USA \$14,989.34; JOHN HANCOCK USA POLICE \$6,026.88; JOHNSEN CORROSION ENGINEERING \$764.00; JOHNSON CASHWAY CO. \$741.14; KARLA MONTELONGO \$75.00; LONDON FLATS, LLC \$754.74; MARIE PERSHALL \$75.00; MATHESON TRI-GAS INC \$52.74; MATRIX TRUST COMPANY \$556.20; MAVERIK \$25.43; MEAT SHOPPE \$6,370.08; MENARDS \$226.98; MEREDITH BOOKS \$10.00; MIDTOWN ANIMAL HOSPITAL, P.C. \$45.00; MIDWAY USA \$414.81; MIDWAY

USA \$84.99; MIKE DAVIES \$730.38; MISTIE WALLACE \$100.00; MONEY WISE OFFICE SUPPLY \$210.92; MUNICIPAL PIPE TOOL CO., INC. \$1,188.09; MUNICIPAL SUPPLY, INC. OF NE. \$273.55; MURDOCH'S RANCH & HOME \$89.60; NDEQ - FISCAL SERVICES \$12,696.97; NE CHILD SUPPORT PAYMENT CENTE \$462.93; NE DEPT OF REVENUE \$378.44; NE PUBLIC HEALTH ENVIRO LAB \$173.00; NE STATE VOLUNTEER FIREFIGHTER \$720.00; NE. FIRE CHIEFS ASSOCIATION \$125.00; NE. SAFETY/FIRE EQUIPMENT, INC \$6,101.00; NEBRASKA FOREST SERVICE \$420.00; NEBRASKA GOLF ASSOCIATION \$603.00; NEBRASKA LAND \$21.00; NEBRASKA LAW ENFORCEMENT \$150.00; NEBRASKA PUBLIC POWER DISTRICT \$3,580.62; NKC TIRE \$262.11; NMC EXCHANGE LLC \$426.50; NORTHWEST PIPE FITTINGS, INC \$177.97; OCLC, INC. \$160.66; ONE CALL CONCEPTS, INC \$110.26; PANHANDLE COOP ASSOCIATION \$10,707.84; PANHANDLE ENVIRONMENTAL SERVIC \$2,102.00; PANHANDLE HUMANE SOCIETY \$3,168.50; PATTLEN ENTERPRISES, INC \$4,344.75; PAUL REED CONSTRUCTION & SUPP \$10,110.66; PAYROLL CHECKS \$153,527.40; PING INC \$101.80; POSTMASTER \$812.75; POWER SCREENING, LLC \$701.92; POWERPLAN OIB \$11,913.01; PRAISE WINDOWS \$280.00; PUMP & PANTRY \$21.00; QUADIENT LEASING USA, INC \$909.50; RECORDED BOOKS, INC. \$107.98; RED BARN SHOP, LLC \$73.87; RR DONNELLEY RECEIVABLES, INC. \$36.97; RUSSELL INDUSTRIES \$161.37; S & H UNIFORMS \$727.64; SANDBERG IMPLEMENT, INC. \$99.16; SCB. COUNTY AMBULANCE SERVICE \$316.23; SCB. COUNTY REGISTER OF DEEDS \$58.00; SCOTTS BLUFF COUNTY COURT \$17.00; SCOTTSBLUFF-GERING UNITED WAY \$127.50; SENIOR CITIZENS CENTER \$525.00; SENIOR CITIZENS CENTER \$550.00; SHAWNA WINCHELL \$1,040.00; SIMMONS OLSEN LAW FIRM, P.C. \$1,500.00; SIMON CONTRACTORS \$486,873.40; SOLUTIONS EAP \$244.55; SONNY'S TOWING \$125.00; SPEAK WRITE \$887.91; SPECTRUM \$678.83; SPRINGHILL SUITES BY MARRIOTT \$72.80; STAPLES CREDIT PLAN \$352.86; STATE OF NEBRASKA \$403.97; SUGAR VALLEY FEDERAL CREDIT \$528.37; TERRY CARPENTER, INC. \$650.00; THE ROCK PILE \$2,377.71; THE TORO COMPANY \$155.00; TORRINGTON SOD FARMS \$113.40; TRIHYDRO CORPORATION \$5,465.75; U.S. VENTURE, INC. \$313.96; UNANIMOUS, INC. \$335.00; VALLEY AUTO LOCATORS LLC \$1,481.19; VERIZON CONNECT \$38.90; VERIZON WIRELESS SERVICES, LLC \$574.86; VISTA PRINT \$20.00; WESTERN COOPERATIVE COMPANY \$8,118.15; WESTERN STATES BANK \$35,045.16; WESTERN STATES BANK - POLICE \$516.00; WHITING SIGNS, LLC \$350.00; WOMAN'S DAY \$24.97; WYOMING BEARING & SUPPLY \$658.17; ZOOM VIDEO COMMUNICATIONS \$12.91

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

BIDS: None

PUBLIC HEARINGS:

1. Public hearing concerning an application to the Nebraska Department of Economic Development for a Community Development Block Grant ("CDBG"). This grant is available to local governments for community/economic development activities

Council President Morrison opened a public hearing concerning an application to the Nebraska Department of Economic Development for a Community Development Block Grant ("CDBG") at 6:08 p.m.

Jeff Kelley, Executive Director of the Panhandle Area Development District, addressed Council. As it relates to Prime Metal Products, Inc., Mr. Kelley stated that the project involves a Community Development Block Grant (CDBG) award of Seven Hundred Ninety-Six Thousand Dollars (\$796,000) with Seven Thousand Dollars (\$7,000) of that for grant administration. The City will contribute an estimated Two Hundred Eleven Thousand Dollars (\$211,000) in existing CDBG Program Income funds which will allow for a total of One Million Dollars (\$1,000,000) for the purchase of equipment. The City will conditionally grant the \$1,000,000 to Panhandle Regional Development, Inc., a non-profit development organization ("NDO"). The NDO will then utilize such conditionally granted CDBG funds to make a performance-based loan of \$1,000,000 to the business for the purchase of equipment associated with the expansion of the business at its Gering Nebraska facility (the "Project"). Five Hundred Thousand Dollars (\$500,000) of the One Million Dollar (\$1,000,000) performance-based loan will be forgiven after the Business satisfies a CDBG national objective and completes all of the lending requirements. The project's approximate cost of equipment is \$2,000,000, which will be funded with \$1,000,000 of CDBG loan and \$1,000,000 from a local financial institution.

The Company is a yellow label commercial sheet metal manufacturing business that will specialize in the production of spiral pipe, square duct and their associated fittings, as well as roof curbs and adaptors for new and replacement rooftops. No chemical bi-products will be emitted in the manufacturing process. This funding will permit the Company to create 33 new full-time equivalent positions, with at least 51% of them to be held by or made available to Low to Moderate Income ("LMI") persons. No displacement of businesses or individuals is expected to occur as result of this project.

Council President Morrison asked if anyone wished to speak in favor of the application. Seeing none, she asked if anyone wished to speak in opposition of the application. With no further comments, Council President Morrison closed the administrative record and the public hearing closed at 6:11 p.m.

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

1a. Approve and authorize the Mayor to sign an MOU and other required documents pertaining to Prime Metal Products, Inc. The terms of the transaction have been modified and will be reflected in the grant agreements

Motion by Councilmember Wiedeman to approve and authorize the Mayor to sign an MOU and other required documents pertaining to Prime Metal Products, Inc. The terms of the transaction have been modified and will be reflected in the grant agreements. Second by Councilmember Gillen. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

CURRENT BUSINESS:

1. Consider approving an Addition of Entire Hotel Property pertaining to the Gering Hospitality Group, LLC Class I Liquor License

Valarie Williamson addressed Council and stated that she is the General Manager of the Cobblestone Hotel in Gering. Councilmember Wiedeman asked why they want to license the entire hotel. Ms. Williamson replied that they have guests that buy their drinks in the lounge and then take them to their room. They wanted to be able to do that legally. Her understanding was that their license was for the whole building, but when she looked into it, there are different licenses and that wasn't the original license they were trying to receive. At that point they asked to include the entire building. Council President Morrison clarified that if someone brings in their own alcohol, that doesn't fall under this license. Ms. Williamson replied that it doesn't, they cannot police what guests take into their rooms.

Motion by Councilmember Gillen to approve an Addition of Entire Hotel Property pertaining to the Gering Hospitality Group, LLC Class I Liquor License. Second by Councilmember Wiedeman. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

2. Approve and authorize the Mayor to sign a Professional Services Agreement between the Panhandle Area Development District and the City of Gering pertaining to Prime Metal Products, Inc.

Jeff Kelley, Executive Director of PADD, stated that this is standard with all Community Development Block Grants. As he read in the public meeting notice, there is \$7000 for general administration in the grant that's coming from Prime Metal Products. The Department of Economic Development requires that there is an agreement in place between the local government and Development District for the general administration duties. What those will entail for this project is submitting the request for the funds to the state and doing all the semi-annual reporting. With this project, as part of it, they'll have to track the job creation and retention of Prime Metal Products for a span of two years to make sure they do create and retain the 33 jobs that they agreed to hire and retain over a two-year period. That information is also reported to the City and to the Nebraska Department of Economic Development. If that requirement is not met, the State would have some questions concerning that. The agreement spells out what PADD's scope of work is; it will not exceed \$7000, which is what is budgeted in the grant. It's a pretty standard professional services agreement that they sign with governments for this type of thing.

Council President Morrison asked who is the owner of this equipment until it is paid down. Bryan Venable, Deputy Director of PADD, said that there are security agreements in place between both the bank, as the financial institution, and the NDO. There is a lien against the equipment and everything that is being purchased with the dollars until the full loans have been repaid. Mr. Kelley added that they verify that the equipment is on site and that what they bought is actually there; they have to submit supporting documentation to the state that they spent that much money.

Motion by Councilmember Wiedeman to approve and authorize the Mayor to sign a Professional Services Agreement between the Panhandle Area Development District and the City of Gering pertaining to Prime Metal Products, Inc. Second by Councilmember Gillen. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

3. Waive the second reading and move the third and final reading and adoption of Ordinance 2088 – AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, FOR THE REPEAL OF ALL ORDINANCES AND REGULATIONS IN CONFLICT HERewith; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE HEREOF; FOR THE CITY OF GERING, NEBRASKA

Council President Morrison entertained a motion to move the second reading of Ordinance 2088 and added that Council will not be adopting the ordinance this evening. Councilmember Wiedeman stated that some of the Council have some questions that they'd like City Engineer, Annie Folck, to answer in open session. She stated that the document talks about the Planning Commission being the final authority of certain things within that document. She asked for clarification. Ms. Folck replied that one of the things they were charged with, with this zoning code update, was to try to streamline processes and make them more efficient, and more business friendly, wherever possible. One of the things that we are able to do by state statute, as a community, is to allow the Planning Commission to have the final authority to approve a Conditional Use Permit. This will not affect any of the other things that go through Planning Commission such as re-zones, plats, etc. Those will still have to be approved by Council. Only when a business is asking for a Conditional Use Permit, that could then be approved solely by the Planning Commission and would not have to go through a second round of meetings with the City Council. State statute allows us to do it either way; it's actually fairly common practice for communities to have the Planning Commission do this. Scottsbluff, Alliance and Chadron are a few of them that she checked with, and they all do it this way. That is staff's recommendation also. She said if there are any concerns about it, it is certainly something we can discuss.

Councilmember Morrison asked, if something pops up that maybe the Council doesn't agree with, and the Planning Commission already has the go-ahead, then are there any repercussions? Can Council come back and say "wait a minute", or is it a done-deal because nobody's going to be the watchdog for the Planning Commission. Ms. Folck replied that essentially it will already be approved by Planning Commission. Any decision the City makes, whether it's Planning Commission or the Council, can always be challenged in court. As far as Council having the authority to override the Planning Commission, that is not an option the way the regulations are proposed right now. Councilmember Wiedeman clarified that it's just for Conditional Use Permits. Ms. Folck replied that is correct, if it's specifically listed as a conditional use in that zone. Councilmember Wiedeman asked if a resident goes to the Planning Commission for that purpose and they vote it down, that resident has no other recourse and cannot go up the chain to the Council then. Ms. Folck replied that is correct; the way we have it worded right now.

Councilmember Gillen stated that if we've already decided as a Council that this is an authorized use under Conditional Use Permit in those zones - that's really our authority, to establish that conditional use per the zones. If we're not willing to accept the conditional use that we've already adopted in those zones, then we need to change our zoning rules on what we will accept as a conditional use in those zones. But if we've already determined it's okay, then he thinks we're doing a disservice to a business to make them sit through another month worth of meetings before they can continue doing what they're needing to do as a business. So really, our authority is that we need to look at our zoning rules and what's under the conditional use, and if we're not comfortable with those then we can remove those as a conditional use and then the applicant would have to come to Council to get those added into the zone as

an authorized use. This is something that the rest of the valley has already adopted and he thinks we need to make sure we stay business friendly.

Council President Morrison asked if it's going to take a majority of the Planning Commission; what happens if two people show up? Ms. Folck replied that a couple of years ago the Planning Commission adopted by-laws. In order for anything to pass through Planning Commission, they have to have a majority of those present. There are nine people on the Planning Commission; they can have a quorum with five, or a majority of those present, except that they cannot pass a vote with less than four. They felt that if only five people showed up, that three people is not sufficient. Depending on how many people are there, there has to be a minimum of four votes.

Councilmember Wiedeman moved the second reading of Ordinance 2088 – AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, FOR THE REPEAL OF ALL ORDINANCES AND REGULATIONS IN CONFLICT HERewith; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE HEREOF; FOR THE CITY OF GERING, NEBRASKA. Second by Councilmember O'Neal. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

4. Request for a Personnel Committee – Agenda item: Consider moving the Drafting/ GIS Technician to another grade level

Motion by Councilmember Gillen to approve a request for a Personnel Committee with agenda item: Consider moving the Drafting/ GIS Technician to another grade level. Second by Councilmember O'Neal. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

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

ADJOURN:

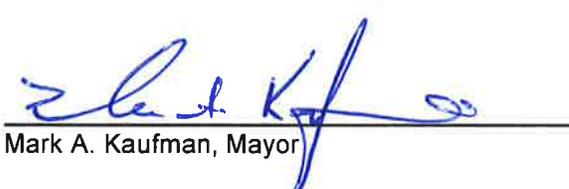
Motion by Councilmember Gillen to adjourn. Second by Councilmember Wiedeman. There was no discussion. Council President Morrison called the vote. "AYES": Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: Smith. Motion Carried.

Meeting adjourned at 6:26 p.m.

ATTEST:


Kathleen J. Welfl, City Clerk




Mark A. Kaufman, Mayor