

THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL, July 22, 2019

A regular meeting of the City Council of Gering, Nebraska was held in open session on July 22, 2019 at 6:00 p.m. at Gering City Hall, 1025 P Street, Gering, NE. Present were Council President Morrison and Councilmembers Smith, Gillen, Backus, Holliday, Wiedeman and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl and City Attorney Matt Turman. Absent were Mayor Kaufman and Councilmember 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

Councilmember Morrison called the meeting to order at 6:02 p.m. She 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

Motion by Councilmember Wiedeman to excuse the absence of Councilmember Smith from the July 8, 2019 regular City Council meeting. Second by Councilmember Gillen. There was no discussion. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

Council President Morrison introduced and welcomed Renae Jimenez, the new Finance Director for the City of Gering.

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 Council President. 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 July 8, 2019 regular Council meeting
2. Approve Claims and Financials
3. Approve and file for record Subordination Agreement for loan to Johnson Cashway/Doll Land and Property, LLC
4. Approve and file for record TCD Quarterly report: April – June 2019

Claims:

6-29-19 TO 7-12-19

ACCELERATED RECEIVABLES \$35.97 COLLECTIONS, ACTION COMM INC \$207.00 WIFI BOOSTER @ FIVE ROCKS/PARTS G-11, ACUSHNET CO \$267.17 GOLF CLUB PUTTER, AMAZON CAPITAL SRV'S \$114.21 PARTS MADVAC/2 BOOKS, ANDERSON & SHAW \$161,046.83 PAY APP #4 PHASE II, BAKER & ASSOC INC \$10,833.75 DESIGN REVIEW FEES BALL PARK/CONSTRUCTING ENG PHASE II/NORTHFIELD DRAINAGE, BIBB ZAC \$236.00 CODY SCHOOL, BLUFFS SANITARY SUPPLY \$1,019.46 POOL CHEMICALS/SWEEPING COMPOUND/TOILET PAPER/CLEANING SUPPLIES/RV PARK TOILET PAPER, BORDER STATES INDUSTRIES \$1,668.09 COATED COPPER WIRE/ CONDUCTOR LUG / CONNECTORS / LUBE/FIVE ROCKS SIGN LIGHTS / TOOL RPR/ELECTRICAL PARTS/AMP ADA/NIPPLE, BUDGE-IT DRAIN SRV \$670.00 PLUMBER TO CLEAN DRAIN AT THE GOLF COURSE, CALLAWAY GOLF CO \$328.62 GOLF CLUB DRIVER/HEADWEAR LOGO'D HATS, CASH-WA DISTRIBUTING \$1,117.00 FRYER FOR CLUBHOUSE, CEN CON OF KANSAS \$28.45 OVER PAID FINAL 25-0585-03, CENTURY LINK \$2,688.41 MONTHLY TELEPHONE ALLOCATION, CITY PAYROLL TRUST \$4,990.14 FSA MEDICAL 125, CONNECTING POINT \$99.00 JULY SRV COUNT ON COPIER, CONTRACTORS MATERIALS \$330.75 EPOXY/SHACKLES/LINKS, COZAD SIGNS LLC \$150.00 CVB TOUR DE NE BANNER, CREDIT BUREAU SRV INC \$217.49 GARNISHMENT, CULLIGAN WATER CONDITIONING \$145.50 SALT, D & H ELECTRONIC SUPPLY \$20.59 BATTERY GEL/HOLDER, DALE'S TIRE & RETREADING \$3,512.08 TIRE G-13/TIRE G-10/TIRE G-9, DHHS DIVISION PUBLIC HEALTH \$37.00 WATER LAB, DISCOVER BANK \$166.29 GARNISHMENT 2, DOOLEY OIL INC \$30.39 GREASE FOR MOWERS, DUTTON-LAINSON CO \$1,183.59 CAPS/MOUNTS, ENVIRO SRV INC \$1,450.00 WATER LAB/WW LAB, FASTENAL CO \$373.59 GLOVES/DRILL BIT/GLASSES/BATTERIES, FAT BOYS TIRE & AUTO \$30.00 TIRE RPR, FERGUSON SIGNS \$2,990.00 REMAINDER BAL FOR NEW SIGN, FIRST STATE BANK \$367.77 IBEW UNION DUES, FLOYD'S SALES & SRV \$6,699.95 WORK G-9/PARTS/G-12/WORK G-6/WORK G-10, FOOS SHARON \$2,095.12 OVER PAID/WRONG AMT ENTERED, FORT

DEARBORN LIFE INS CO \$141.04 FIREFIGHTER LIFE INS, FRANK PARTS CO \$684.66 MULTIPURPOSE GREASE/GLOVES/SOCKETS/DRILL BITS/FILTER FOR MADVAC/FUEL CAP/SPARK PLUGS/STRUT & LEAK DETECT FOR ACADIA/V-BELT DOOR AT POOL/ RELAY FOR MOWER/OIL/BRAKE PADS/PARTS FOR PICKER, FRASER STRYKER PC LLO \$113.50 LABOR ATTORNEY BILL, FRESH FOODS \$55.92 CHIPS FOR APPRECIATION PICNIC, GALL'S INC \$325.78 UNIFORMS, GARVIN MARY \$41.50 OVER PAID FINAL 29-0316-13, GERING VALLEY PLUMBING \$259.00 PLUMBER TO CLEAN DRAIN, GREATAMERICA LEASING CORP \$100.00 COPIER LEASE, GROUND UP CONSTRUCTION \$737.50 JUNE 2019 JANITORIAL SRV, HACH CO \$502.42 FLUORIDE REAGENTS, HAWKINS INC \$1,558.03 AZONE & FILTER AID, HENKEL'S AG RPR CO \$1,749.54 WORK 6414 JD, HOME DEPOT \$98.42 PAINT FOR TABLES/PIPE FOR STORM DRAIN, HOSA FUTURE HEALTH PROFES \$1,500.00 ASSIST FUNDING ORLANDO TRIP, HYDROTEX \$331.14 FUEL STABILIZER FIRE TRUCKS, ICMA ELECTRONIC RETIREMENT \$642.24 ICMA CITY ADMIN, IDEAL LINEN SUPPLY INC \$184.75 9 RUG CHANGE OUTS, INDOFF INC \$316.26 BOOK CASES, INGRAM LIBRARY SRV'S \$423.89 25 BOOKS, INLAND TRUCK PARTS CO \$1,003.10 BRAKES FOR 621-218, INTERNAL REVENUE SRV \$47,432.09 FED/FICA TAX, JC GOLF ACCESS \$717.60 TEES/BALL MARKERS/RPR TOOL, JIRDON \$2,663.00 FERTILIZER, JOHN HANCOCK USA \$13,558.36 JH RETIRE 6%, JOHN HANCOCK USA POLICE \$5,774.66 MG T- POLICE, JOHNSON CASHWAY CO \$1,373.17 SPRAY PAINT/15 AMP GFI OUTLET/STAPLES/ MATERIALS TO FRAME CONCRETE/RPR TEES/KEY/PLUGS/PAINT MIXERS/NUT SETTER/ROPE FOR FLAG POLE/CHERRY WOOD/MATERIALS TO FRAME CONCRETE/ SCREWS/PLYWOOD/PAINT/BREAKER/SPRINKLER SYSTEM PARTS, KL WOOD & CO LLC \$6,930.36 6TH STREET WATER MAIN RPLCMNT, KOVARIK ELLISON MATHIS \$11,430.05 JULY 19 RETAINAGE-CITY ATTORNEY/BOA BOARD MEETING/LUNA CLAIM/COUNTY CUP COMM TOWER/OCCUPATION TAX ASSISTANCE, LEAGUE ASSOC RISK MANAGEMENT \$1,215.00 MUNICIPAL ACCTNG CONF, LEAVITT BRYCE \$236.00 CODY SCHOOL, LEHR KEVIN \$180.00 RPR ENGINE UNIT 30 & 24, LOGOZ LLC \$196.00 UNIFORM SHIRTS, MALY MARKETING \$270.00 CVB WEB SITE HOSTING, MASEK GOLF CAR CO \$59.08 COIL IGNITION MULE, MATRIX TRUST CO \$527.82 MG T-FIRE, MEAT SHOPPE \$10,335.62 CVB TOUR DE NE VOL MEALS/CATERING COSTS/MANAGEMENT CONTRACT, MENARDS \$222.67 SUPPLIES/SPRINKLER T/C/ ROPE/SNAP/SAFETY GLASSES/MATERIALS TO FIX FOUNTAIN #7/AMP GATE, MICHAEL TODD & CO \$701.80 BARRICADE STRIPPING, MILCO ENVIRONMENTAL SRV \$16,649.68 GAS MONITORING, MILLER CARISSA \$22.34 OVERPAID FINAL 4-0620-58, MONEY WISE OFFICE SUPPLY \$300.68 LEGAL PAPER/TRASH BAGS/INK CARTRIDGES SERGIO, MONUMENT SHADOWS GOLF \$480.00 RMBRSMNT EMPLOYEE SHIRTS, MONUMENT SHADOWS MENS ASSOC \$1,000.00 RMBRSMNT SPRING CLASSIC, NDOR LODGING \$1,001.42 JUNE 2019 LODGING TAX, NE CHILD SUPPORT PYMT \$794.64 CHILD SUPPORT 1, NE DEPT OF REVENUE \$54,795.92 JUNE 2019 SALES & USE TAX, NE DOL/BOILER INSPECTION \$75.00 BOILER INSPECTION, NE PUBLIC POWER DISTRICT \$54.28 UTILITIES 240066 HWY 92, NEBRASKA GOLF ASSOC \$330.00 HANDICAP FEES, NIKE USA INC \$478.75 GOLF PULLOVERS/7 GOLF SHIRTS, ONE CALL CONCEPTS INC \$100.64 LOCATE FEES, PANHANDLE HUMANE SOCIETY \$3,168.50 JULY 2019 FINANCIAL SUPPORT, PANHANDLE PARTNERSHIP FOR \$20.00 BOARD MASTERS TRNG LANE, PAYROLL CHECKS \$154,107.23 PAYROLL CHECKS ON 7-5-19, PETTY CASH \$76.87 PETTY CASH, POSTMASTER \$1,000.00 JULY 2019 MAILING PERMITS, POWERPLAN OIB \$31.46 COMPUTER FOR 2015 MOWER, PRINT EXPRESS \$241.15 RV PARK PYMT ENVELOPES, RECORDED BOOKS LLC \$170.98 5 AUDIO BOOKS, RODRIGUEZ JOSE \$150.00 TOW SRV, SANDBERG IMPLEMENT INC \$955.00 BLADES FOR BIG & LITTLE MOWERS/BLADE/CHAIN SAW CHAIN, SCOTTSBLUFF-GERING UNITED \$70.75 UNITED WAY CTRB, SENIOR CITIZENS CENTER \$525.00 JULY 19 FINANCIAL SUPPORT, SHERWIN WILLIAMS \$1,315.62 PAINT FOR SKATE PARK/AMP ADA PAINT/PAINT FOR CANS, SIMON CONTRACTORS \$610.50 GRAVEL/3.5 YDS CONCRETE, SOLUTIONS EAP \$244.55 COUNSELING SRV'S, STAPLES CREDIT PLAN \$150.63 FLASH DRIVES/CVB TOUR DE NE SUPPLIES, STAR HERALD \$121.83 ORDINANCE 2077, SUGAR VALLEY FEDERAL CREDIT \$678.37 CREDIT UNION, TEACHER'S CORNER \$22.44 6 PKGS OF STICKERS, TEAM CHEVROLET \$34.80 CABLE FOR CASEY'S PICKUP, TERRY CARPENTER INC \$650.00 WATER WELL LAND RENT, THE COPIER NINJA LLC \$244.13 COPY COUNT CHRGS, TRIHYDRO CORP \$13,947.75 NEW LANDFILL ASSESSMENT, VAN DIEST SUPPLY CO \$2,903.60 40 GAL MOSQUITO SPRAY, VERIZON WIRELESS \$1,365.81 WIRELESS ABILITY FOR MDT'S, WESCO DIST INC \$1,010.08 SWITCHES/RAIN GEAR, WESTCO \$14,369.58 DIESEL/ PARTS FOR KUBOTA/RELIEF VALVE FOR SPRAYER/UNLEADED FUEL/FUEL FOR PIT EQUIPMENT/FUEL FOR LANDFILL, WESTERN NE TOURISM \$200.00 RV WNTC DUES/ 5 ROCKS, WESTERN STATES BANK \$24,058.38 GERING/SCB SINKING FUND, WESTERN STATES BANK - POL \$340.00 PO UNION DUES, WINCHELL CLEANING SRV \$470.00 CLEAN HALLS/BATHS/OFFICE, WM RECYCLE AMERICA \$4,951.70 RECYCLING, WYOMING BEARING & SUPPLY \$4.68 PARTS FOR SHOP

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

BIDS:

1. Pickup bid – Parks Department

Parks and Recreation Director, Amy Seiler, stated that the Parks Department is requesting approval to purchase a 2019 Ford F Series, three-quarter ton truck with utility bed; \$40,000 was budgeted. The State bid came in at \$38,420.00. Staff then checked with local vendors and Fremont Motors provided them with a price of \$37,956.20. Staff recommends that the bid be awarded to Fremont Motors in the amount of \$37,956.20.

Motion by Councilmember Smith to approve staff's recommendation to accept the bid for the Parks Department from Fremont Motors in the amount of \$37,956.20. Second by Councilmember Wiedeman. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

PUBLIC HEARINGS:

1. Public hearing to consider an application for a Conditional Use Permit (CUP) on Block 16 Gardners Add Replat; Per Zoning and Sub-Division Regulations Section 7.2: BCB (C-2) Central Business District, Sub-Section 7.204 Exceptions, (11) Communication Towers. The property is otherwise known as 1718 11th Street in the City of Gering, Scotts Bluff County, Nebraska

Council President Morrison opened a public hearing to consider an application for a Conditional Use Permit at property otherwise known as 1718 11th Street in the City of Gering, Scotts Bluff County, Nebraska at 6:08 p.m.

Council President Morrison asked, as part of the public hearing process, if there were any Council Members that needed to declare a real or perceived conflict of interest. Seeing none, she turned the public hearing over to City Engineer, Annie Folck, to present the administrative record.

City Engineer Folck stated that this is an application for a communications tower, the location is on 11th Street (a map was displayed on the large overhead screens), just behind the court house. This application was originally received months ago. The Planning Commission considered the original application in May. At that time they did not give a positive recommendation to move forward. The reason for denying was that the tower that was originally proposed was 160 feet which exceeded the maximum allowed by code of 150 feet. They also had some concerns about the appearance of the tower being in the heart of our downtown district. After not receiving a positive recommendation from the Planning Commission the County decided rather than trying to move it straight forward to Council, they would work with staff to try to address some of the concerns. The tower is now proposed to be 150 feet which fits with what is allowable with a conditional use permit in the BCB zoning district. They also worked with staff to make some plans to improve the site so it is more aesthetically appealing so it blends in better with our downtown. Other changes are that they proposed a more attractive fence – rod iron fencing which would match what we’re doing in the downtown plaza. They also worked with our local community forester, who also designed our downtown civic plaza, and she put together a landscape plan that staff feel will be more than adequate for screening the unsightliness of the tower and will make it much more attractive for the downtown. It was determined that what was most important was on ground level or eye level; most people don’t look up and probably didn’t even realize that there was a tower on top of the existing court house that this tower would be replacing. With all these changes staff gives a positive recommendation for this permit. She added that the Planning Commission also spent a lot of time debating and considering this; with the changes they did give a positive recommendation and feel this will be suitable for our downtown.

On behalf of Scotts Bluff County, Randy Meininger presented a power point presentation.

**SCOTTS BLUFF COUNTY COMMUNICATIONS TOWER
IMPORTANCE OF BUILDING THE TOWER AT THE PROPOSED SITE**

COVERAGE: The proposed site has a very unique path to the existing county tower south of Mitchell. There are very few options to build in other locations.

Court House roof looking west

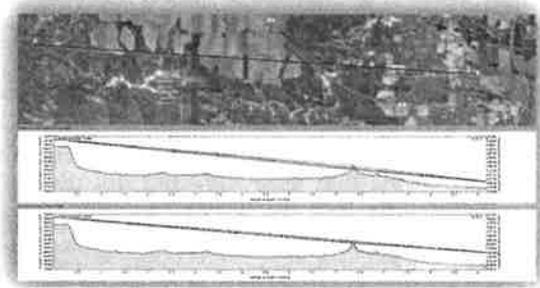
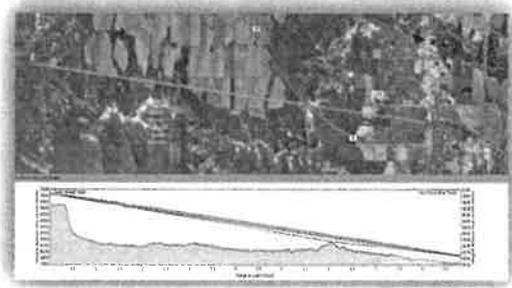


Path to South Mitchell



Path to South Mitchell





It is necessary for this tower to have a direct line of sight to South Mitchell tower in order to:

- Control Paging Repeater for all Fire Departments in Scotts Bluff County and Banner County
- Control Scotts Bluff County Sheriff Office Repeater
- Control South Mitchell 2 Tactical Repeater
- Control Scotts Bluff County Roads Repeater
- Connect with NE State Radio System and Nebraska State Patrol
- Connect with WY State Radio System and Wyoming State Patrol

If a new tower location becomes necessary, we will need to be sure that we can control the following equipment:

- Banner County
- Minatare
- Scottsbluff Rural Fire Department (Victory Hill)
- Scottsbluff Police Department, Wing, Scottsbluff Fire Department
- Gering Schools, Scottsbluff Schools, WNCC Tactical Radios
- Tornado sirens for Gering, Henry, Morrill, Mitchell, Scottsbluff, Terrytown, Western Sugar, Airport, Minatare, Melbeta

IMPORTANT SAFETY ISSUES TO CONSIDER FOR THE CITY OF GERING

This site is how the Communication Center talks to:

- Gering Schools
- Gering Police Department
- Gering Fire Department
- EMS – Emergency Medical Services
- City of Gering
- Tornado Sirens for Gering

Existing portable radio coverage (Basic) Portable radio coverage using a tower to the east Portable radio coverage with both locations



Scientific coverage map existing



Scientific coverage map eastern location



- White and Red 100% coverage
- Yellow 75% with poor coverage in basements
- Green 50% coverage and poor coverage in large buildings and basements
- Blue 25% coverage

IMPORTANT THINGS TO CONSIDER FOR THE CITY OF GERING

Coverage issues if the tower is moved away from the court house:

- The sheriff and other law enforcement radios may be unreliable in certain areas of the court house and administration building.

SAFETY ISSUES TO CONSIDER:

What happens if the courthouse tower fails?

- This can never be predicted, so the best answer is to over engineer the tower so the odds of failing are very remote.

Tower is designed to ANSI/TIA 222-G standards

- Structural Design Report by a Structural Engineer
 - 90 MPH no ice
 - 50 MPH with 1 inch of ice
 - Structure Class III

Tower is designed to ANSI/TIA 222-G standards

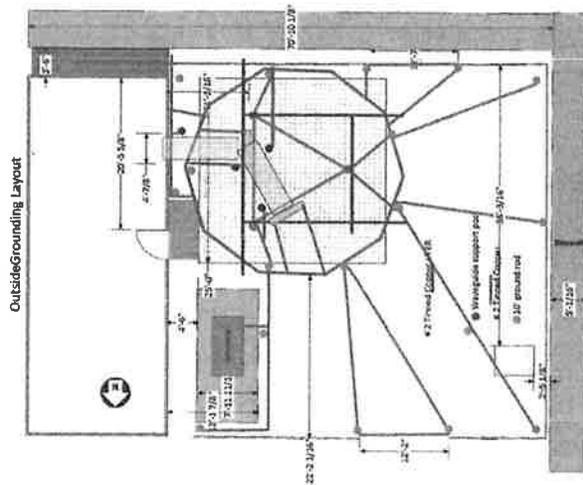
- Structure Class III
 - Class III: Structures used primarily for essential communications such as: civil or national defense; emergency, rescue or disaster operations; military and navigation facilities.
 - These are structures that due to height, use or location represent a substantial hazard to human life and/or damage to property in the event of failure and/or used primarily for essential communications.
 - Exposure Category C
 - This category includes flat, open country, grasslands and shorelines in hurricane prone region.
 - Topographic Category 1
 - No abrupt changes in general topography, e.g. flat or rolling terrain, no wind speed-up consideration shall be required.
- This tower has been engineered to withstand the wind and ice in Gering.

Concerns with existing tower and radio room:

- Tower was built 40 years ago.
- The new tower standards are much more rigorous (Revision G).
- The existing tower will not safely hold more antennas, therefore this will not allow the county's services to expand.
- The existing tower is anchored to parapet walls and the chimney.
- See Report from Mr. Klaas.

Concerns with existing tower and radio room

- Existing tower is not grounded to R56 standards and cannot be cost effectively brought to this standard.
 - R56 is an industry standard that minimizes damage to either the building or equipment should a lightning strike occur.
 - A direct lightning hit on the old tower may cause equipment damage or even structural damage to the court house.
- Because many coax cables penetrate the roof of the court house, there have been issues of the roof leaking on the equipment.



Outside Grounding Layout

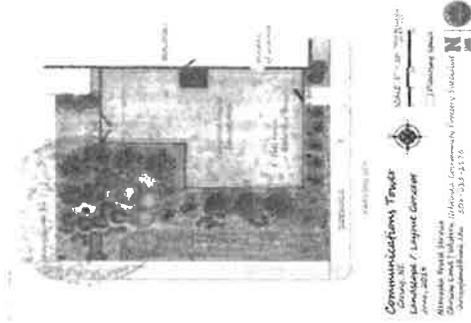
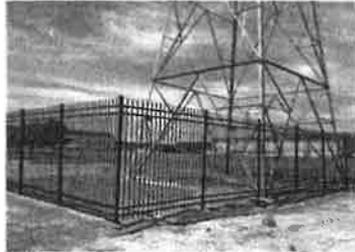
LONG TERM BENEFITS TO THE COMMUNICATION CENTER:

- The new communication equipment room and tower will be built to current R56 standards.
- When the county communication's expand services, there will be room to grow.

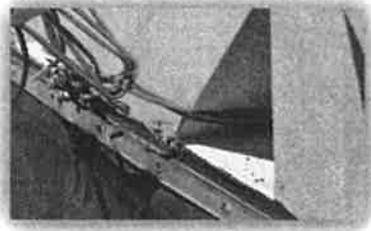
COURT HOUSE AESTHETICS:

- The Court House is listed on the register of historic places. This is a great asset for tourism in Gering.
- Besides the tower on the roof there are many other antennas attached to the roof.
- The antennas will all be removed, beautifying the court house.
- When the roof needs to be replaced the tower and antennas will not be in the way.

Although a security fence is necessary to keep people away from the tower, we have included on the following pages How we will make compound more attractive.



CURRENT CONDITIONS:



SUMMARY:

- We can agree that it would be catastrophic if the existing tower were to fail.
- If a new site must be acquired, it would take a considerable amount of time and money.
- Gering Police Department, Gering Fire Department and Scotts Bluff County Sheriff Office will have significant change in radio coverage, if this tower is moved.

Note: A complete copy of the Scotts Bluff County Communications Tower hand-out is available at the office of the City Clerk. A link to the full power point presentation is available through Action Communications.

Council President Morrison asked if there was anyone in Council Chambers wishing to speak in favor of this application. Seeing none, she asked if anyone wished to speak in opposition. Jim Ellison, 1715 11th Street, addressed the Council. He stated he is a business owner across the street from where the tower is proposed to be located. He agrees public safety is important, but it's also about trying to find the best fit. There ought to be some common sense comparison as to what you're looking at. When the County started looking at this months ago, they took shots of the detention center to try to see if the detention center would be a place they could locate the tower. They also looked near Central Stores on the edge of town to the east; they went a couple blocks south of the court house as well. They were looking at alternatives from the very beginning. They knew there may have to be a repeater system and would also have to consider some underground cable in the form of fiber optics. He added that even by their own stats, there is an alternative. Mr. Ellison showed a drawing to the Council that showed the path to South Mitchell. He explained that the map showed City property in various locations including the industrial site area. A portion of the drawing is an option he said, and he pointed out the path that the County said could be used. That he's aware, no one has looked at these options from the County point of view. He then presented a hand-out of information to the Council. He reviewed various pages of the hand-out with the Council. He stated that there is no cost analysis; the County has not even opened bids that he knows of. They say there is one bidder, but when he checked there were no bids that were opened or cost analysis to determine why this is necessarily the best option. It also appears that this system has no backup; what he has heard at this meeting tonight is that there is no backup. That there is no cost comparison tells him that Council isn't being told the whole story. He said there's a problem that this tower could grow; they even said there is going to be growth. Rick Derr, to the Star-Herald on January of 2019, said "The added height also gives the tower vertical real estate allowing more antennas to be added in the future." Mr. Ellison said whatever Council does right now could be setting a precedent and also something could be added to it (the tower).

Mr. Ellison went on to say that this tower is not exactly the most attractive thing for downtown Gering. He quoted Karla Niedan-Streeks at the Board of Adjustment hearing on May 21, 2019:

"Chairman Mooney asked Karla if the integrity/beauty of downtown would be impacted relating to tourism with this tower. Karla said yes from downtown revitalization committee & visitors bureau perspective. A 160-foot tower in the downtown is not aesthetically pleasing in addition to promoting as pedestrian friendly. Public safety is also important."

She added at the Planning Commission meeting on the same night:

"There has been much money spent in the City for creating our destination, this tower doesn't fit into the downtown area".

Mr. Ellison stated that Ray Richards told her at the Planning Commission meeting, after she asked if the tower could be constructed back on top of the court house, *"Not without a considerable amount of roofing."* Mr. Ellison said this means it is still another option.

Allowing this 15-story tower will set a precedent; if Council allows this tower in BCB, in the future if someone makes an application for a tower, they're going to be able to point to you tonight and say you allowed the County a tower, we want a tower too. There could be litigation if those people are denied. It raises a legal problem in the future. Council can refer to legal counsel if they'd like; he's speaking as a private citizen.

Mr. Ellison went on to say that this was never an emergency either; if you go back and look at what Ray Richards told the Star-Herald, January 8, 2019:

"We need to move, and it's a discussion that has happened several times over the years. With the changing of the guard over in Scottsbluff City Council and Mayor (Randy) Meininger's passion for communications, we started working on it aggressively the last two or three months."

Regarding safety, on the same day Mr. Richards was also quoted as saying:

"In the winter time ice can add weight to the tower, which when coupled with the wind and the weight of the tower's current antenna load, leads to potential problems."

Mr. Ellison said the tower Mr. Richard's is talking about is the tower on the court house which is only 60 feet tall. Now we're talking about a tower that's 150 feet tall and the ice dropping from that is going to be horrendous and potentially a safety hazard. Not only that, but then with the comment that they're going to add more antennas and more material to the top of the tower, they're increasing the safety hazard, not only to pedestrians but to anybody around it. That creates a problem.

Mr. Ellison said he would ask that Council simply look at the alternatives rather than just approving this tonight. They can either make a more robust roof as was suggested (by Ray Richards and others) on the existing court house, then they only have to go up 60 feet and have the perfect shot. Or, go out east, and look for another alternative out there. But it takes some coordination and it takes some people who are willing to talk about it, and again, there is no indication of what the costs are. There's no indication on whether there are cost savings. It's just the County says *no, we want the tower here, this is the only place we're willing to look at*; when history suggests that's not the way this all started. He would ask that Council consider it, not just the short-sighted issue here, and try to consider what's going to happen in the future. If it's built on a different location just on the east edge of town, you don't have problems necessarily with the height of the tower and less people would care about the aesthetics of it, and it would allow much more room for expansion without the opposition. It would also be a place that would provide a proper fit between trying to protect the downtown and also allow for future growth.

Note: A complete copy of Mr. Ellison's Communications Tower hand-out is available at the office of the City Clerk.

Councilmember Smith said if they build the tower somewhere else they're still going to have to build the tower at the court house to send a repeater to. Mr. Ellison said one of the questions that came up at the

Planning Commission on May 21, was what if you build it to the east, couldn't you just run fiber optic over to the court house? The answer was yes we could. In terms of a backup, maybe there are some backups that could be used as well. Mr. Ellison said he's not a technologist in this type of thing, he just thinks someone needs to take a closer look before you just approve it and then all of a sudden the County is back here in two or three years saying they need more room, they need to go higher, and then you've got a problem. If they looked at a different location not only would it solve the problem, potentially fiber optics could be run underground to the court house. Then if they want backups they'll have to figure out a way to get backups and he has not heard anything about that necessarily on the tower that's being proposed here.

Councilmember Gillen said what they're currently requesting is 150 feet which is currently the max that is allowed in BCB by exceptional use, so if they would request to go higher that would be a violation of our current standards. It would not be a permissible use to go above the 150 feet unless we change our BCB standards to something other than the 150. Mr. Ellison replied that is correct; they could go higher but they would have to jump through a lot of hoops, but that's probably what's going to happen - he thinks it's probable. He said why not avoid that problem in the future; locate it someplace else where nobody particularly cares how high you go. With the close proximity to the new civic plaza, which the City spent a lot of money on, he doesn't think this is a good look for Gering.

Councilmember Cowan stated that they heard about a repeater. What's it going to look like if we have to move it out there. Mr. Meininger replied that it has been thrown out that you have a repeater; it's not that easy to do that with the current system they have unless they scrap everything and go to a different type of radio system. The current system doesn't have the capacity to do that. When we're talking about a backup system we're talking about how does it link to get to that tower that has to rebroadcast it back over the Wild Cat Hills to Banner County and to South Mitchell. He said they agree that fiber is good and he continued to explain how fiber optic would have to be set up; when they go into the building they can't be any closer than 60 feet when they enter the building which causes some issues. He further explained how the backup would have to work. When you're talking about adding a repeater in the current system you would have to add a tower somewhere in the proximity of Ward I or IV to be able to add a repeater. It would also cause first responders to switch to a different frequency in those sectors. Councilmember Morrison asked if 150 is the max that's allowed currently because of the airport. Mr. Meininger replied that 150 is allowable by the FAA currently for the area where they're asking to put it. If they go east they have to go back to the FAA because you start running into issues with their runway.

Councilmember Gillen asked if the only antennas going on this tower are for public safety; not private enterprises. Mr. Meininger replied that the current bid specs that are at the County Clerk's office are designed with public safety, with those antennas. He doesn't know where you put school, that's not necessarily public safety but they're on there. There's the Roadrunner bus that's tied into that - those don't tie into public safety but they're all part of our community. There is nothing in the specs that would be for things like cell phone antennas; those are a different ball game when you get into those verses public safety; it's not spec'd out for those.

Councilmember Wiedeman asked about the ice dropping; she speculates the fenced area should be wide enough around the tower to accommodate any ice that might drop off of that tower. Mr. Meininger replied the way it's designed is if there is ice fall, it's designed to fall straight down. Data shows that there is a greater chance of ice with power lines than with communication towers.

Mr. Meininger added that it is not possible to strengthen the roof and meet current standards; it's not feasible to do that. You also don't want to load that (current tower/system) any more; he elaborated more about the guy wires on the existing tower; the current structure will not support the tension that it takes to put those up. If you start getting an ice load on that you have an issue there. Councilmember Wiedeman asked if, with the new tower, all of the existing structure/tower will come off the court house; Mr. Meininger replied correct.

Councilmember Cowan asked what the height is of the other tower in Gering; Mr. Meininger wasn't sure but he knew it was at least 100 feet. Councilmember Cowan commented that he didn't think they've had any trouble there.

Councilmember Backus asked City Attorney Turman, with the positive recommendation from the Planning Commission and where this meets our BCB for conditional use, if this is denied could we open ourselves up to litigation by the County? Mr. Turman replied that you're always subject to possible litigation; there's nothing you can do to prevent that, so yes it's definitely a possibility. But that litigation could go both ways too; you're always at risk for liability. Councilmember Morrison asked if the County is responsible for the cost. Mr. Meininger replied that's it's a County project; it will come out of the County. One of the funding sources could go back to the 911 Advisory Task Force; mutual funds go into that.

Mr. Ellison addressed Council again and stated with regard to the Court House there is a report that Steven Klaus, a structural engineer, said that the court house is an option, they would have to shore it up a little bit. The other part about that is that if you go further east he thinks there is potential to go a little bit higher; nobody knows what the airport is going to do there. It's not that far, we're talking five or six blocks from the current location. He doesn't anticipate it's going to be a big deal, but nobody has checked it out. As far as the profit motive is concerned, if the County were approached by some cellular company that wants to hang something up there and pay the cost, he thinks that's very possible and he thinks it's probable. Based on what Ray Richards said at the last Planning Commission meeting, they're going to start contracting with other counties to provide service, so the profit motive is there. He would just like Council to consider what they're getting into here.

With no further comments Council President Morrison closed the administrative record and the public hearing closed at 6:53 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. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

1a. Approve or deny a Conditional Use Permit (CUP) on Block 16 Gardners Add Replat; Per Zoning and Sub-Division Regulations Section 7.2: BCB (C-2) Central Business District, Sub-Section 7.204 Exceptions, (11) Communication Towers. The property is otherwise known as 1718 11th Street in the City of Gering, Scotts Bluff County, Nebraska

Motion by Councilmember Cowan to approve a Conditional Use Permit (CUP) on Block 16 Gardners Add Replat; Per Zoning and Sub-Division Regulations Section 7.2: BCB (C-2) Central Business District, Sub-Section 7.204 Exceptions, (11) Communication Towers at property otherwise known as 1718 11th Street in the City of Gering, Scotts Bluff County, Nebraska. Second by Councilmember Smith. There was no discussion. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

CURRENT BUSINESS:

1. Consider approving Keno Committee Requests

- **City of Gering, \$1500**
- **Gering Legion Baseball, \$10,000**

Keno Committee Chairman, Darrell Bentley, stated that one of their first Keno projects years ago was for the Boy Scouts to put a flag pole up in Carl Gray Park. Later the American Legion took it over. \$1500 will cover three big flags that can be flown the Fourth of July through Oregon Trail Days, Flag Day, etc. Then they'll take those down and put up smaller flags for the rest of the year. That's what the \$1500 is for.

The next one is for the Gering Legion tournament coming up next week. They requested quite a bit more money than the committee is recommending be granted to them but told the committee they'd be pleased with whatever they get. He feels this is a good opportunity to show off our new ball field that we're really proud of. There will be eight teams coming. Promotional materials sent out will highlight various amenities in Gering that families can visit. He said this is a good opportunity for us to show off our community really well. Team members presented the committee with a signed game ball that Mr. Bentley then presented

to the Mayor and Council. He's hoping things like that can be displayed someday in a trophy case in the lobby at City Hall.

Mr. Bentley added that we're fortunate in Gering to handle Keno money the way we do. It doesn't go into the budget; we use it as it comes up. The City of Gering, referring to the citizens of Gering who have benefited from all this, has gotten \$1,209,000 to improve property, purchase things such as the microphones that Council uses, security cameras, bathrooms in Gardner Park, additions to the ball diamonds, the fireman's practice site and more. All of that has gone to the City of Gering. That doesn't include the schools, downtown merchants, Farm and Ranch Museum, CVB and others. He said he's proud of how Gering has used their money rather than to just put it in the budget and it disappears. Council President Morrison thanked Mr. Bentley for what he and his committee do.

Motion by Councilmember Wiedeman to approve the Keno Committee recommendations as presented: \$1500 for the City of Gering and \$10,000 for Gering Legion Baseball. Second by Councilmember Gillen. There was no discussion. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

2. Approve and authorize the Mayor to sign LWCF Grant Agreement for Quad Field Project

Motion by Councilmember Wiedeman to approve and authorize the Mayor to sign Land and Water Conservation Fund Grant Agreement for the Quad Field Project. Second by Councilmember Smith. There was no discussion. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

3. Approve Resolution 7-19-2 related to appointment of Director and Alternate Director to the MEAN Board of Directors, MEAN Management Committee, NMPP Member's Council and ACE Board of Directors

Resolution No. 7-19-2

Appointment to MEAN Board of Directors

Director to MEAN Board of Directors

This is to certify that the ____City Council____ of the ____City____ of ____Gering____, State of ____Nebraska____ duly appointed ____Tammy Cooley____ to serve as director to represent the ____City____ of ____Gering____ on the Board of Directors of the Municipal Energy Agency of Nebraska. *The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et seq. (1987).*

Alternate Director to MEAN Board of Directors

This is to certify that the ____City Council____ of the ____City____ of ____Gering____, State of ____Nebraska____ duly appointed ____Lane Danielzuk____ to serve as alternate director to represent the ____City____ of ____Gering____ on the Board of Directors of the Municipal Energy Agency of Nebraska. The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et seq. (1987).

Appointment to MEAN Management Committee

WHEREAS, the ____City Council____ of ____Gering____, State of ____Nebraska____, is a party to the Electrical Resources Pooling Agreement and, pursuant to the terms of such Agreement, it is the responsibility of the ____City Council____ of ____Gering____ to designate a representative and alternate representative to the Municipal Energy Agency of Nebraska Management Committee provided for under the terms of said Agreement.

NOW THEREFORE, BE IT RESOLVED by the ____City Council____ of the ____City____ of ____Gering____, State of ____Nebraska____, that: The ____City____ Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of ____Tammy Cooley____ as representative to said MEAN Management Committee. The ____City____ Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of ____Lane Danielzuk____ as alternate representative to said MEAN Management Committee.

Appointment to NMPP Members' Council

NOW, THEREFORE, BE IT RESOLVED by the _____City Council__ of the __City____ of _____Gering_____, State of _____Nebraska_____, that: Such __City_____ be and hereby is a member of the Nebraska Municipal Power Pool. The _____City Council_____ of the __City____ of _____Gering__, State of __Nebraska_____, does hereby appoint _____Tammy Cooley_____, as the representative of the __City____ of _____Gering_____, State of __Nebraska__ to the Members' Council of the Nebraska Municipal Power Pool.

The _____City Council_____ of the __City____ of _____Gering_____, State of __Nebraska_____, does hereby appoint _____Lane Danielzuk_____ as the alternate representative of the __City____ of _____Gering_____, State of _____Nebraska_____, to the Members' Council of the Nebraska Municipal Power Pool.

Appointment to ACE Board of Directors

WHEREAS, the _____City____ of _____Gering_____, State of Nebraska, is a party to the Interlocal Agreement creating the Public Alliance for Community Energy and, pursuant to the terms of said Agreement, it is the responsibility of the _____City Council_____ to designate a representative of the _____City____ of _____Gering_____ to the Public Alliance for Community Energy Board of Directors provided for under the terms of said Agreement.

NOW, THEREFORE, BE IT RESOLVED by the _____City Council_____ of the _____City_____ of _____Gering_____, that: The _____City____ Clerk is hereby directed to give written notice to the Public Alliance for Community Energy of the appointment of _____Tammy Cooley_____ as the _____City____'s representative to said Board of Directors. The _____City____ Clerk is hereby directed to give written notice to the Public Alliance for Community Energy of the appointment of _____Lane Danielzuk_____ as the _____City____'s alternate representative to said Board of Directors.

This is to certify that the appointments set out above were approved by the _____City Council_____ of the _____City____ of _____Gering_____, State of _____Nebraska_____, at their meeting on _____July 22_____, 2019_____.

Clerk

(SEAL)

Motion by Councilmember Gillen to approve Resolution 7-19-2 related to appointment of Director and Alternate Director to the MEAN Board of Directors, MEAN Management Committee, NMPP Member's Council and ACE Board of Directors. Second by Councilmember Smith. There was no discussion. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

4. Approve request for Public Safety Committee meeting – Agenda item: Discussion of feral cat issue and other issues related to pets and animals

Motion by Councilmember Smith to approve a request for Public Safety Committee meeting – Agenda item: Discussion of feral cat issue and other issues related to pets and animals. Second by Councilmember Gillen. There was no discussion. Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

5. Discussion of claims by Dave and Belen Luna for mobile home moving expenses and other costs

Motion by Councilmember Wiedeman to approve and authorize the Mayor to sign a Complete and Final Release Related to Moving Expenses for David and Belen Luna. Second by Councilmember Smith.

Discussion: Councilmember Backus stated that Council put a lot of thought into this. He knows that some of the Council is not completely happy with the outcome but he thinks we can finally put this behind us and just move on from the whole situation.

City Attorney, Matt Turman, suggested amending the motion to "approve and pay the claim subject to a signed release". Councilmembers Wiedeman and Smith agreed to amend the motion with Mr. Turman's proposed language.

Council President Morrison called the vote. "AYES": Smith, Gillen, Backus, Holliday, Wiedeman, Morrison. "NAYS": Cowan. Abstaining: None. Absent: O'Neal. Motion Carried.

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

OPEN COMMENT SECTION:

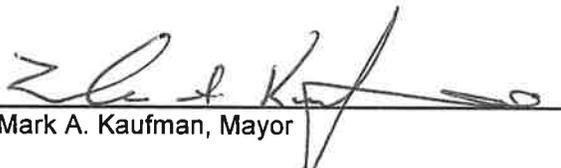
Discussion or action by Council regarding unscheduled business will not take place. This section is for citizen comment only.

Nancy Fisher, 1320 M Street, Gering, addressed the Council. She has been a citizen of the County for 67 years. She said she's the one who requested the public safety meeting for the animals that are at large in town and wondered when that meeting would be. City Clerk Welfl replied that at this time a date has not been set for that; she will contact the Committee Chair to find an appropriate day and time and then she will contact the committee and advertise the meeting. She said she would be happy to let Ms. Fisher know when that is. Ms. Fisher asked if the community will be invited. Ms. Welfl replied that it is a public meeting so it will be advertised and the door will be open so if the public wishes to attend the meeting, they can do that. Ms. Fisher said she has been advised not to include any of the people with whom she is having problems. Ms. Welfl replied, again it will be publicized so it's made public for anybody to attend if they want to. Ms. Fisher asked if the City Council does anything for the rulings of animals at large. Ms. Welfl replied that she is not in a position to answer that question. Ms. Fisher asked if anyone on the board is able to answer that. Council President Morrison replied no. Councilmember Smith stated that the City has a policy for animals at large. City Attorney Turman stated that since this is not on the agenda, there cannot be any discussion between Council and the person commenting. He added that we can certainly put this on a future agenda if Ms. Fisher is interested in that, or she can visit with City staff between now and next week. Ms. Fisher stated that she was advised that if and when this meeting was going to happen she could read it in the paper. She also stated that she spoke with the Chief of Police at her home for two hours. She really would like help, the Police told her she should deal with this on her own; they don't get involved. She added that her ward representative is very helpful.

ADJOURN:

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

Meeting adjourned at 7:09 p.m.


Mark A. Kaufman, Mayor

ATTEST:


Kathleen J. Welfl, City Clerk

