

**THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL,
MAY 26, 2020**

A regular meeting of the City Council of Gering, Nebraska was held on May 26, 2020 at 6:00 p.m. Due to on-going COVID-19 precautions and pursuant to a Limited Waiver Executive Order by Governor Ricketts, the Gering City Council held this meeting by video/teleconference. Present were Mayor Kaufman and Councilmembers Smith, Gillen, Backus, Abel, Wiedeman, Morrison and Cowan. Also present were City Administrator Lane Danielzuk, City Clerk Kathy Welfl, City Finance Director Renae Jimenez, City Engineer Annie Folck and City Attorney Matt Turman. Absent was 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 via video/teleconference to the public and media.

CALL TO ORDER:

Mayor Kaufman called the meeting to order at 6:00 p.m. The Mayor stated that there was a quorum of the Council present by video/teleconference and City business could be conducted.

1. Roll Call
2. Excuse councilmember absence

Motion by Councilmember Wiedeman to excuse the absence of Councilmembers Smith and Morrison from the May 11, 2020 regular meeting. Second by Councilmember Gillen. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

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

Mayor Kaufman stated: As required by State Law, public bodies shall make available at least one current copy of the Open Meetings Act, in this case available online at nebraska.gov/open-meetings. Agenda items may be moved up or down on the agenda at the discretion of the Mayor. As required by State Law, additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and Council determines that the matter requires emergency action.

CONSENT AGENDA:

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

1. Approve minutes of the May 11, 2020 regular City Council meeting
2. Approve Claims and Financials

Claims 5-9-2020 to 5-22-2020

24/7 FITNESS \$430.00; ADIDAS AMERICA, INC \$664.92; ALLO COMMUNICATIONS \$1,919.61; AMAZON CAPITAL SERVICES, INC \$155.54; AMERITAS LIFE INSURANCE COPR. \$1,106.28; B & C STEEL \$37.74; BENZEL PEST CONTROL \$297.66; BH MEDIA GROUP HOLDING, INC. \$3,496.81; BKD RENTALS LLC \$2,154.20; BLACK HILLS ENERGY \$410.16; BLUFFS FACILITY SOLUTIONS \$299.18; BORDER STATES INDUSTRIES, INC \$123.04; CALLAWAY GOLF COMPANY \$4,766.15; CITY INSURANCE FUND \$179,749.06; CITY OF SCOTTSBLUFF \$2,807.94; CITY PAYROLL TRUST \$2,703.27; CLINE WILLIAMS WRIGHT JOHNSON \$5,022.00; CONNECTING POINT \$920.00; CONTRACTORS MATERIALS, INC. \$1,013.10; CORE & MAIN LP \$231.00; CROELL, INC \$666.00; CS PRECISION \$140.00; DALE'S TIRE \$62.00; DANKO EMERGENCY EQUIPMENT CO \$366.36; DOMINGO PALOMO \$150.00; DOOLEY OIL \$120.62; DREAMSHARE PRODUCTIONS LLC \$1,720.00; DYKES OIL INC. \$93.95; ECOLAB \$169.73; ELITE TOTAL FITNESS \$233.00; ELLISON, KOVARIK & TURMAN LAW \$17,260.00; FASTENAL COMPANY \$418.52; FAT BOYS TIRE & AUTO \$621.76; FELSBURG HOLT & ULLEVIG INC \$12,742.50; FIRST STATE BANK \$337.53; FLOYD'S TRUCK CENTER, INC. \$2,757.39; FRANK PARTS COMPANY \$1,449.92; FREMONT MOTOR SCOTTSBLUFF, LLC \$47.92; FRESH FOODS INC. \$11.60; GALL'S INC. \$(68.97); GARY NEU \$827.42; GROUND UP CONSTRUCTION \$590.00; GWORKS \$187.26; HEARTLAND BANK \$250.00; ICMA ELECTRONIC RETIREMENT \$709.74; IDEAL LAUNDRY AND CLEANERS, IN \$118.96; INDOFF INCORPORATED \$934.11; INGRAM LIBRARY SERVICES \$533.71; INLAND TRUCK PARTS CO. \$296.46; INTERNAL REVENUE SERVICE \$47,932.96; INTRALINKS, INC. \$5,231.84; JOHN HANCOCK USA \$16,686.75; JOHN HANCOCK USA POLICE \$6,458.58; JOHNSON CASHWAY CO. \$461.05; JOSE RODRIGUEZ \$95.00; JULIE MCDONALD \$300.00; KAREN SUE BRUNTZ \$425.00; KATHY WELFL \$26.98; KENNETH LEROY DODGE \$40.00; LEAGUE ASSOC./RISK MANAGEMENT \$104.61; LEAGUE OF NE. MUNICIPALITIES \$150.00; MACQUEEN EQUIPMENT, LLC \$866.78; MATHESON TRI-GAS INC \$124.21; MATRIX TRUST COMPANY \$534.68; MEAT SHOPPE \$3,933.04; MENARDS \$417.07; MONEY WISE OFFICE SUPPLY \$120.95; MUNICIPAL ENERGY AGENCY OF NE \$165,904.93; MUNICIPAL SUPPLY, INC. OF NE. \$226.41; MUTUAL OF OMAHA \$363.75; NE CHILD SUPPORT PAYMENT CENTE \$647.09; NE DEPARTMENT OF REV (PR) \$15,830.72; NE PUBLIC HEALTH ENVIRO LAB \$105.00; NE. SAFETY/FIRE EQUIPMENT, INC \$150.00; NEBRASKA GOLF ASSOCIATION \$560.00; NEBRASKA MUNICIPAL POWER POOL \$3,300.00; NEBRASKA RURAL RADIO ASSOC. \$576.00; OCLC, INC. \$160.66; ONE CALL CONCEPTS, INC \$91.74; PANHANDLE CLERK'S ASSOCIATION \$40.00; PANHANDLE COOP ASSOCIATION \$3,198.21; PANHANDLE ENVIRONMENTAL SERVIC \$873.00; PANHANDLE GEOTECHNICAL & \$380.00;

PANHANDLE HUMANE SOCIETY \$3,168.50; Payroll Checks \$143,178.64; PETTY CASH \$56.35; PLATTE RIVER GLASS RODNEY L FL \$190.00; POPULAR MECHANICS \$12.00; POSTMASTER \$800.00; POWERPLAN OIB \$651.34; REMINISCE \$14.98; RICK MARKHEIM \$95.00; RIVERSIDE DISCOVERY CENTER \$20,000.00; RUSCH'S GENERAL CONTRACTING \$1,945.00; SANDBERG IMPLEMENT, INC. \$319.84; SCB. COUNTY AMBULANCE SERVICE \$316.23; SCB. COUNTY SHERIFF OFFICE \$126.60; SCOTTSBLUFF-GERING UNITED WAY \$127.50; SECURITY NATIONAL BANK OF OMAH \$733.16; SENIOR CITIZENS CENTER \$525.00; SHAWNA WINCHELL \$130.00; SHERWIN WILLIAMS \$6,202.00; SIMMONS OLSEN LAW FIRM, P.C. \$1,500.00; SIMON CONTRACTORS \$3,022.98; SOLUTIONS EAP \$244.55; SOUTHWESTERN EQUIPMENT COMPANY \$1,207.89; STAPLES CREDIT PLAN \$186.98; SUGAR VALLEY FEDERAL CREDIT \$678.37; TEAM CHEVROLET \$94.20; TERRY CARPENTER, INC. \$650.00; THE ROCK PILE \$3,999.77; TORRINGTON SOD FARMS \$75.60; UNANIMOUS, INC. \$60.00; VALLEY AUTO LOCATORS LLC \$378.28; VERIZON CONNECT \$38.90; VERIZON WIRELESS SERVICES, LLC \$575.17; W & R INC. \$629.19; WAREHOUSE FITNESS CENTER \$252.00; WESTERN COOPERATIVE COMPANY \$5,987.95; WESTERN PATHOLOGY CONSULTANTS \$73.00; WESTERN STATES BANK \$7,068.26; WESTERN STATES BANK - POLICE \$516.00; WYOMING BEARING & SUPPLY \$73.20; YMCA OF SCOTTSBLUFF \$629.00

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

BIDS: None

PUBLIC HEARINGS:

1. Continue Public hearing concerning an amendment to the City of Gering's Community Development Block Grant (CDBG) Revolving Loan Fund (RLF). The RLF Program Guidelines and Re-Use Plan will be amended and the RLF will be discontinued, ceasing any business development funding activities

Mayor Kaufman stated that this public hearing was opened on April 27, 2020 and continued to May 11. At the May 11th regular Council meeting it was continued to May 26th. Legal has informed us that Council will be able to continue and hold this public hearing and consider acting on various issues related to the public hearing at the June 8, 2020 Council meeting.

Motion by Councilmember Morrison to continue a public hearing concerning an amendment to the City of Gering's Community Development Block Grant (CDBG) Revolving Loan Fund (RLF) to the June 8, 2020 regular Council meeting. Second by Councilmember Wiedeman. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

CURRENT BUSINESS:

1. Approve and authorize the Mayor to sign a Contract for Sale of Real Estate between the City of Gering and Crossroads Cooperative Association for Block 6, Pioneer Trails Industrial Park

City Engineer, Annie Folck, stated that this is the first property the City is selling out of the industrial park. It's related to the TIF that was approved at the previous meeting. This property is about 44 acres and is being sold to Crossroads Cooperative. The City is selling it for the same amount that it was purchased which is \$8600 per acre. This will be for a major expansion for Crossroads Cooperative. They will be investing over \$7,000,000 in private funds. Mayor Kaufman added that he thinks this is a great example of a public/private partnership.

Motion by Councilmember Gillen to approve and authorize the Mayor to sign a Contract for Sale of Real Estate between the City of Gering and Crossroads Cooperative Association for Block 6, Pioneer Trails Industrial Park. Second by Councilmember Morrison. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

2. Approve and authorize the Mayor to sign a Development Agreement between the City of Gering and Crossroads Cooperative for Block 6, Pioneer Trails Industrial Park

Annie Folck stated that this development agreement is related to the property that Council just acted on. The primary reason for this agreement is because whenever land is subdivided, the City requires that utilities be extended to those properties. The City needs to hold itself to those same standards. We are requiring that utilities be extended to the remainder of the industrial park. Crossroads has agreed to pay for an eight-inch water main and an eight-inch sewer line that would go to the property. That will be paid

for out of the TIF funds. Because the TIF is a contract approved with the Community Development Agency, we need a separate agreement with City Council. Crossroads will pay for the eight-inch lines, the City will pay for the oversized twelve-inch line as we're required by code. This will not be in this current fiscal year; it will come up in this next budget process. This will also make it more attractive for future developments to move in there. The agreement also addresses retention; retention will most likely go on the City's lot near the substation but the responsibility of the cost is to the developer. Councilmember Morrison asked if another developer comes in, will they also have to pay for these two lines to their property. Ms. Folck replied that this will bring them to the edge of the remainder of the property that is yet to be developed. As other entities come in there, they will be expected to do the same thing so that future developers have the same advantage to water and sewer to tie onto.

Motion by Councilmember Morrison to approve and authorize the Mayor to sign a Development Agreement between the City of Gering and Crossroads Cooperative for Block 6, Pioneer Trails Industrial Park. Second by Councilmember Smith. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

3. Approve and authorize the Mayor to sign a Right of Entry Agreement between the City of Gering and Crossroads Cooperative Association

Ms. Folck stated that the City cannot close on this property for more than 30 days due to the remonstrance period; Crossroads is very eager to get started with construction. They have wheat harvest coming up and they are hoping to be set up to handle the fall harvest. They have requested that they be allowed to get started a little earlier. It will primarily be surveying, soils testing and earth work. Staff is recommending approval so they can stay on their tight time lines and keep their project on track. Councilmember Backus asked, if something comes up during the remonstrance, will that be skin off their back (not the City's). Ms. Folck replied, that is correct.

Motion by Councilmember Wiedeman to approve and authorize the Mayor to sign a Right of Entry Agreement between the City of Gering and Crossroads Cooperative Association. Second by Councilmember Abel. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

4. Adopt Ordinance No. 2087 - AN ORDINANCE PROVIDING FOR THE CONVEYANCE OF PROPERTY FROM THE CITY OF GERING, A MUNICIPAL CORPORATION, PROVIDING FOR THE TERMS OF SAID CONVEYANCE AND FOR PUBLICATION AND AN EFFECTIVE DATE HEREOF

Councilmember Wiedeman made a motion to introduce Ordinance No. 2087 - AN ORDINANCE PROVIDING FOR THE CONVEYANCE OF PROPERTY FROM THE CITY OF GERING, A MUNICIPAL CORPORATION, PROVIDING FOR THE TERMS OF SAID CONVEYANCE AND FOR PUBLICATION AND AN EFFECTIVE DATE HEREOF. Seconded by Councilmember Morrison. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

Councilmember Cowan moved that the Ordinance be designated as Ordinance No. 2087 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 Smith. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. 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. 2087 was read by title only, Councilmember Gillen moved that the Ordinance be passed as read, which motion was seconded by Councilmember Backus. "The question is shall Ordinance No. 2087 be passed?" There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. 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.

5. Approve and authorize the Mayor to sign Economic Development Assistance Agreement and Deed of Trust related to an LB840 grant for Crossroads Cooperative Association

Motion by Councilmember Morrison to approve and authorize the Mayor to sign an Economic Development Assistance Agreement and Deed of Trust related to an LB840 grant for Crossroads Cooperative Association. Second by Councilmember Smith. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: O'Neal. Motion Carried.

6. Approve and authorize the Mayor to sign Economic Development Assistance Agreement and Deed of Trust related to an LB840 grant for 16th Empire, LLC

Mayor Kaufman entertained a motion to approve and authorize the Mayor to sign an Economic Development Assistance Agreement and Deed of Trust related to an LB840 grant for 16th Empire, LLC.

Councilmember Wiedeman asked if Council could hear a little more about this application. Mayor Kaufman stated that our LB840 Chair was not able to attend this evening. Mayor Kaufman was in attendance at the LB840 meeting where the 16th Empire application was considered and a presentation was given. The Committee felt that the spirit and intent of LB840 funds in our community, especially with the fact that Scottsbluff does not have retail written in to the use for their LB840 funds, and the fact that we've really tried to wear down barriers in the past to reinvest dollars back into both communities as the community committees have seen fit. It was their recommendation to forward a positive recommendation to Council for their consideration relative to this application.

Councilmember Backus stated that he doesn't fault our LB840 Committee for sending this to Council; it meets the guidelines. Gering's plan allows for retail and restaurants, which is contrary to state statute which he's fine with because the oversight for LB840 is the citizens. Our voters have already approved that they want us to spend that money that way. It might be a lack of foresight and leadership on why this gentleman can't take his application to Scottsbluff. Scottsbluff's LB840 Committee could certainly hear this application, say no it doesn't meet the guidelines, send it to their Council with a negative recommendation and their Council could approve to do that. Because, once again, the citizens are the ones that oversight LB840. He said since our Gering citizens are oversighting him, he would not feel comfortable sending money to Scottsbluff. He thinks this gentleman needs to put some pressure on Scottsbluff and have them get with the program on using their LB840 money for local businesses. Councilmember Morrison added that she agrees with Councilmember Backus; she thinks the applicant has to start in his own backyard and see what they will do for him, and if not, look someplace else or come back again.

Administrator Danielzuk stated to the Council that in their plan, the latest version 2009-2030, in subsection IV, it says "*A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance*". If there's a lot of heartburn over that particular section of the plan, then the Council as a body probably should consider doing something with respect to that specific subsection. He said otherwise you really don't have a valid reason, for that reason alone, to not accept this application. Councilmember Backus replied that that is correct, he asked Administrator Danielzuk to speak to his comment in regards to the guidelines of the state statute for qualifying businesses. Administrator Danielzuk replied that he can't speak to the guidelines; he added that Councilmember Backus is right that the City of Scottsbluff is authorized, under the new statute, to do retail. They have chosen, constructively, not to; which is a policy decision made by their City Council.

Councilmember Morrison asked if Scottsbluff has to follow the same guidelines that Gering does as far as retail and restaurants. Administrator Danielzuk replied that they were not given the statutory authority until recently to be able to do retail, based on population.

Mayor Kaufman stated that there was discussion within the LB840 Committee at the presentation. It was vetted out and discussed. The Committee is made up of Gering business men and women, bankers and accountants. They reviewed the application and made a recommendation for Council's consideration.

Councilmember Gillen stated that he appreciates Councilmember comments. He stated that Council is looking at a lot of projects between Gering and Scottsbluff. We're asking that Scottsbluff consider investing funds in businesses that are choosing to locate within the Gering City limits. If the business qualifies, and if the LB840 Committee (that Council appointed to review the applications and make a determination on what's in the best interests for the community as a whole) comes back with a positive recommendation, it almost takes the authority away from them... why have them review if Council isn't going to take into consideration their thoughts and opinions on a business that they feel qualifies and should be awarded LB840 funds. We don't want these businesses that want to locate in Gering to feel that they can't approach Scottsbluff because they are in our City limits. We want the LB840's to work together. Sometimes there are things we can do that may not be in the guidelines of what Scottsbluff can do, and the contrary might be true in some situations as well. He added that we have good stewards on the LB840 Committee and he feels that if they felt this is worthwhile, after vetting the application and speaking to the owners, then it's something that Council should definitely consider. Councilmember Backus responded that the LB840's job is not to look at the big picture. They are to be an impartial group to go over that checklist so that an initial applicant gets a fair shake to make it to Council. They would actually be remiss to not recommend this because it meets the guidelines. They aren't supposed to look at the big picture like Council is.

Jesse Martinez, owner of 16th Empire, LLC, stated that he understands what Councilmember Backus is saying, but what they have been doing, especially this past year, is for kids and all sports and not just for Scottsbluff. They do this for Gering and the Mitchell area - free meals for the kids that participated. They're trying to bring everybody together, it's not solely for Scottsbluff kids to benefit from. They've offered free lunches for kids during this unfortunate time with COVID. They deliver free lunches to kids that aren't able to get that in Gering as well as what they do for the sports teams.

Mayor Kaufman again entertained a motion to approve and authorize the Mayor to sign an Economic Development Assistance Agreement and Deed of Trust related to an LB840 grant for 16th Empire, LLC. With no motion made, he entertained the motion one last time. Hearing none, Mayor Kaufman stated it fails for lack of a motion.

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

REPORTS:

1. Liaison report –Airport Authority, Councilmember Abel

Related to the Airport Authority, Councilmember Abel reported the following:

- There were 1435 boardings in January
- 1220 boardings in February
- 647 boardings in March
- 55 boardings in April

He stated that they're hoping the restrictions will be lifted and they will get their boarding numbers back up. They are hoping that the federal government will waive the requirements for the boardings to get that federal money at the end of the year. They are also building on to their current fire station; their new truck will not fit into the current one the way it is. They are building north to the current fire station and will have two. Anderson-Shaw was awarded the bid at \$1,506,307.75; the project is 100% funded by the federal government. They should be breaking ground within the next month.

OPEN COMMENT SECTION: Mayor Kaufman stated an open comment period will be held. Discussion or action by Council regarding unscheduled business will not take place. None

ADJOURN:

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

Meeting adjourned at 6:37 p.m.

Mark A. Kaufman
Mark A. Kaufman, Mayor



ATTEST:

Kathleen J. Well
Kathleen J. Well, City Clerk