

THE OFFICIAL PROCEEDINGS OF THE SPECIAL MEETING OF THE GERING CITY COUNCIL, MAY 29, 2020

A special meeting of the City Council of Gering, Nebraska was held on May 29, 2020 at 12:00 p.m. Due to on-going COVID19 precautions and pursuant to a Limited Waiver Executive Order by Governor Ricketts, the Gering City Council held this meeting by video/teleconference. Present were Mayor Kaufman and Councilmembers Smith, Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison and Cowan. Also present were City Administrator, Lane Danielzuk, City Clerk Kathy Welfl, Parks and Recreation Director Amy Seiler and City Attorney Matt Turman. Notice of the meeting was given in advance by publication in the Star-Herald, the designated method of giving notice. All proceedings hereafter were taken while the meeting was open to the attendance of the public except as otherwise indicated.

CALL TO ORDER

Mayor Kaufman called the meeting to order at 12:00 p.m. The Mayor stated that there was a quorum of the Council present and City business could be conducted.

1. Roll Call

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.

CURRENT BUSINESS:

1. Adopt Resolution 5-20-5 – A Resolution of the Mayor and City Council of the City of Gering, Nebraska, regarding use of municipal property for youth baseball and softball and risk of exposure to covid-19 upon recreational municipal property

RESOLUTION 5-20-5

**RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF GERING, NEBRASKA,
REGARDING USE OF MUNICIPAL PROPERTY FOR YOUTH BASEBALL AND SOFTBALL AND RISK
OF EXPOSURE TO COVID-19 UPON RECREATIONAL MUNICIPAL PROPERTY**

RECITALS

WHEREAS, the novel coronavirus, COVID-19, has been declared a worldwide pandemic by the World Health Organization, is extremely contagious, and is believed to spread mainly from person-to-person contact;

WHEREAS, on March 13, 2020, the Governor of the State of Nebraska declared a state of emergency related to COVID-19 within the entire State of Nebraska, and this state of emergency remains in effect;

WHEREAS, directed health measures are in effect for every County in the State of Nebraska through May 31, 2020, and are likely to be extended by the Governor in some form for most or all Counties after May 31, 2020;

WHEREAS, on May 11, 2020, the Governor announced that the directed health measure prohibiting all organized team sports, youth and adult, would be relaxed by the State of Nebraska beginning June 1, 2020, in order to permit the planned reopening of certain youth sports, specifically baseball and softball;

WHEREAS, a copy of the Youth Sports Reopening Guidelines dated May 11, 2020, are attached to this Resolution and incorporated herein as part of these Recitals;

WHEREAS, players, coaches, officials, and others who participate in baseball and softball games, practices, and related activities, and spectators who attend such activities, and all others who recreate on any City of Gering municipal property, risk the dangers of illness, disease, medical complications, injury or death, caused by or related to COVID-19, by voluntarily entering the grounds on which such activities or recreation take place, by watching such activities, and by participating or authorizing the participation of a minor, in baseball or softball games, practices, or related activities; and

WHEREAS, it is the intent of the City of Gering to permit the resumption of youth baseball and softball on municipal property, in accordance with the directed health measures and other laws and guidance issued by the State of Nebraska, including the Youth Sports Reopening Guidelines dated May 11,

2020, and such further laws and guidance that may be issued in the future, provided that every individual, organization, or group sponsoring such activities, and all participants and spectators, fully assume the health risks associated with these activities, including the inherent risk now present in any such activities as a result of the presence of COVID-19 in the State of Nebraska, and provided that participants and organizations in such activities sign an agreement that releases the City of Gering, its elected and appointed officials and employees, and all other participants in youth baseball and softball from liability associated with exposure to COVID-19 in the course of such activities.

NOW, THEREFORE, BE IT RESOLVED by the City of Gering that any individual, organization or group sponsoring youth baseball or softball that wishes to use the playing or practice fields or any other facilities of the City of Gering, including all municipal recreational property, for baseball or softball games, practice, or any and all related activities, will be required to enter into the Covid-19 Youth Baseball and Softball Organizational Agreement attached hereto. These Agreements will be maintained by the Clerk and shall constitute an addendum to any other contract, license agreement, lease, or agreement allowing the use of the grounds of City of Gering by the same individual, organization, or group, if any.

BE IT FURTHER RESOLVED that, in order to enter the playing or practice fields or any other facilities of the City of Gering, including all municipal recreational property, to participate in baseball or softball games, practices, or related activities, all players, coaches, officials and other participants must sign the agreement titled COVID-19: City of Gering Youth Baseball and Softball Participants Agreement in substantially the same form as attached hereto. Each team wishing to participate on the grounds of the City of Gering must provide copies of signed Agreements for all participants affiliated with the team, together with a roster containing a complete list of the names of all players, coaches, officials, and others affiliated with the team. Copies of these documents must be provided to and shall be maintained by the municipal Clerk.

BE IT FURTHER RESOLVED that, for the avoidance of doubt as to the risk assumed by participants and spectators, in order to encourage compliance with directed health measures and guidelines, and in order to promote public safety, the applicable provisions of the Youth Sports Guidelines dated May 11, 2020, and as may be amended, including warning signs highlighting the risk of exposure to Covid-19, shall be posted publicly on all known playing and practice fields.

BE IT FURTHER RESOLVED that all participants and spectators shall comply with all federal, state and local laws and regulations, all directed health measures and guidelines, and all security policies or procedures established by the City of Gering relating to COVID-19 or other safety or hygiene precautions while present on municipal property, understanding that the City of Gering may elect to deny entrance to the grounds and facilities to any non-complying participant or spectator, or to require a non-complying participant or spectator to leave the premises at any time.

BE IT FURTHER RESOLVED that officials and employees of the City of Gering are authorized to execute the directives set forth in this Resolution.

RESOLVED AND ADOPTED this ____ day of _____, 2020.

Mayor

ATTEST:

City Clerk

(SEAL)

City Attorney, Matt Turman, stated that we are all trying to guess, among City staff and just in general as attorneys, what liability may lurk out there as it relates to COVID-19. Nobody really knows what the future holds on the liability end of things. We know there are lawsuits that have been filed all over the country and eventually we may see some in our area as well. Because of that, the League is recommending that communities take steps to try to reduce liability if possible. He and staff have sat in on some meetings with the League and their legal representatives and have tried to come up with a solution for Gering that balances the needs of our community to recreate, get outside and be healthy, with the needs of the City to protect themselves and mitigate risk. That is where this resolution and supporting documents have come from. The purpose of the documents is basically to let the community know that City property would be open for public use but in exchange for that they're going to have to agree not to sue the City. What we are asking is that these youth organizations sign a waiver on behalf of the City of Gering, in the City's favor. That also requires participation waivers on behalf of the youth that would be participating. We have

taken some documents that the League prepared and adapted them for our community and attached them to this resolution for Council to take a look at. Mr. Turman stated that he and City staff think this is a balanced approach where we are going to be working with our community in a way that's fairly simple, not overkill, but also will protect the City should there be a lawsuit in the future. There's nothing we can do to prevent that from happening but this would put us in a lot better position than if we didn't have any waiver at all.

Councilmember O'Neal asked if this transfers liability in any way to Gering Organized Baseball, or sports organizations; does this make them more accountable by doing this? Mr. Turman replied that it's going to make the City less accountable, it's not necessarily going to make sports organizations more accountable. However, we are requiring in our agreement with them that they are going to be responsible for enforcing the Directed Health Measures and the CDC guidelines. We're asking those organizations to police themselves, and make sure that they are following the rules just like we are all supposed to. From the City's standpoint, we don't have the resources to be able to do that so we are asking them to do that on their own behalf. From that standpoint, they may have a little extra burden that they didn't have before, but it is a burden we all have right now.

Councilmember Wiedeman asked if this has been communicated to the local sports organizations. Amy Seiler, Parks and Recreation Director, replied that she has given notice to G.O. Baseball that the City is working on a waiver. She made them aware that they will need to sign this waiver before they will be able to practice on our fields. Legion Baseball is also aware of it and our travel softball teams. Gering Girls Softball Association had cancelled their season so this will not be relevant to them unless they choose to practice on our fields. Everything related to the waivers came about quite suddenly; staff had to meet on Wednesday of this week to fine-tune all this information. However, the sports organizations knew that there was a waiver that would be coming out and that she would provide them with the waivers if the resolution was passed.

Mayor Kaufman stated that the COVID situation has been quite fluid for quite some time. Staff and our legal team have done the very best they can with the resources and timeline they've been given, to be responsive with some sort of solution that opens our Parks system up and opens up our facilities to our youth sport programs. There are numerous communities across the state that are not going to open. He applauded City staff and our team for coming up with solutions that get us back to normal. He asked for patience from the public and a little latitude as we're trying to feel our way through this. He asked Council to communicate that if they're being questioned. No one could have ever foreseen what we're going through. He's pleased with the solutions being brought forward to our community in an effort to get our facilities open and operational.

Councilmember Backus asked about other types of infectious diseases, injuries, etc. Mr. Turman responded that probably some of the larger communities in the state would require waivers for all injuries. Given that we know that this risk is out there, we're just taking steps that are recommended, to reduce our liability.

Councilmember Cowan asked if we're going to need something like this for all of our facilities. Administrator Danielzuk replied that we've addressed the issue that has come down through the Governor's Office. We have chosen not to address the issue beyond what the Governor has asked for and what the requirements are.

Councilmember Morrison asked if every parent is going to sign the waiver or just the organizer, and how would it be possible to ever trace this back to the City. Mr. Turman replied that there is a waiver for the organizer to sign and one for each parent to sign on behalf of their child. He agrees that it would be an uphill climb to prove where the exposure came from. However, there could be circumstances where someone could make the case if there are a number of cases all at once.

Councilmember O'Neal asked if the waivers will come back to the City. Ms. Seiler replied yes, they are required to come back to the City and there is a requirement that a roster of all the participants be provided along with the waivers. The City Clerk's office will organize how we're going to keep track of all of that.

Councilmember Gillen said he thinks this is an important step. As the Mayor said, he appreciates staff's time and effort getting some of our amenities back open to the public; he definitely sees a lot of comments online about not having enough things for kids to do in the community. He thinks this allows parents to make a choice on what their families can do. He applauds staff and Mr. Turman's work to find a way to make it work for our children in our community.

Mr. Turman added that there will be some signs going up, that Amy has been working on, that will remind people to be careful. It will remind people that if they participate in these activities there is a risk of exposure.

Councilmember Abel said it comes down to common sense; don't be in big groups. The organizations are going to have to police themselves. All we're trying to do is minimize our liability.

Councilmember Smith asked if there will be a limit to how many kids can be in a dugout. Mr. Turman replied that in the latest guidelines by the Governor, there are limitations; they're staggered. On June 1st there's no dugout use at all. On June 18th they change again so that dugouts can be used. There are very specific guidelines for how the organizations are supposed to run the event. The guidelines will be attached to the waivers. Ms. Seiler stated that we are required to have signs at each field notifying people what the rules are. The expectations will be very clear. Coaches are responsible for enforcing the guidelines.

Motion by Councilmember Gillen to adopt Resolution 5-20-5 – A Resolution of the Mayor and City Council of the City of Gering, Nebraska, regarding use of municipal property for youth baseball and softball and risk of exposure to covid-19 upon recreational municipal property. Second by Councilmember Wiedeman. There was no discussion. The Clerk called the roll. "AYES": Smith, Gillen, Backus, Abel, Wiedeman, O'Neal, Morrison and Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

ADJOURN:

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

Meeting adjourned at 12:21 p.m.

ATTEST:


Kathleen J. Weiff, City Clerk




Mark A. Kaufman, Mayor