

THE OFFICIAL PROCEEDINGS OF THE REGULAR MEETING OF THE GERING CITY COUNCIL, APRIL 8, 2024

A regular meeting of the City Council of Gering, Nebraska was held in open session on April 8, 2024 at 6:00 p.m. at Gering City Hall, 1025 P Street, Gering, NE. Present were Mayor Ewing and Councilmembers Shields, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. Also present were City Administrator Pat Heath, City Clerk Kathy Welf and City Attorney Jim Ellison. Notice of the meeting was given in advance by publication in the Star-Herald, the designated method of giving notice. All proceedings hereafter were taken while the meeting was open to the attendance of the public except as otherwise indicated.

CALL TO ORDER

Mayor Ewing called the meeting to order at 6:00 p.m. and stated that a quorum of the Council was present and City business could be conducted.

1. Recital of the Pledge of Allegiance and Prayer

Councilmember Morrison introduced Boy Scout, Adam Engelhaupt, who was present to receive his Communications Badge. He is working towards his Eagle Scout.

2. Roll Call
3. Excuse councilmember absence

Motion by Councilmember Gillen to approve the absence of Councilmembers Backus and Cowan from the March 25, 2024 regular City Council meeting. Second by Councilmember Bohl. There was no discussion. Mayor Ewing called for the vote. "AYES": Shields, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

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

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

CONSENT AGENDA:

(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 March 25, 2024 Regular City Council Meeting
2. Approve Claims
3. Approve the February, 2024 Financial Report

Claims 3/26/24 – 4/8/24

911 CUSTOM \$6,302.39, A & A PORTA POTTIES \$150.00, AC ELECTRIC MOTOR SERVICE \$848.93, ACE HARDWARE \$186.22, ACUSHNET COMPANY \$6,899.17, ADIDAS AMERICA, INC \$289.77, ALLEN TAYLOR \$892.44, ALLO COMMUNICATIONS \$3,174.16, AL'S TOWING, INC \$150.00, ALTEC INDUSTRIES, INC. \$1,480.84, AMAZON CAPITAL SERVICES \$663.96, AMERITAS LIFE INSURANCE COPR. \$605.16, APPLIED CONCEPTS, INC. \$4,700.00, AT&T MOBILITY \$292.98, BAD BIRDIE GOLF \$1,159.00, BAKER & ASSOCIATES, INC. \$281.11, BENZEL PEST CONTROL \$165.00, BIG MACK HEATING & COOLING \$237.50, BLACK HILLS ENERGY \$3,258.87, BLUFFS FACILITY SOLUTION \$372.95, BORDER STATES INDUSTRIES, INC \$1,114.56, CALLAWAY GOLF COMPANY \$6,076.99, CENGAGE LEARNING/GAG \$126.68, CENTRAL IRRIGATION DISTRICT \$3,036.00, CHRIS GUTIERREZ \$75.00, CITY OF GERING \$19,415.63, CITY OF SCOTTSBUFF \$10,199.54, COLUMN SOFTWARE, PBC \$561.73, CONNECTING POINT \$34.68, CONTRACTORS MATERIALS, INC. \$575.50, COZAD SIGNS, LLC \$265.00, CROELL, INC \$1,538.50, DANKO EMERGENCY EQUIPMENT CO \$18,743.96, DE NORA WATER \$3,795.36, DEARBORN LIFE INSURANCE COMPAN \$137.60, DENNIS SUPPLY COMPANY \$71.28, DOOLEY OIL \$174.47, DUTTON-LAINSON COMPANY \$33.67, EAKES INC \$112.97, ECOLAB \$359.77, ENTERPRISE IRRIGATION DISTRICT \$1,934.45, EUROFINS ENVIRONMENTAL TESTING NORTH CENTRAL, LLC \$2,306.00, FASTENAL COMPANY \$874.87, FEDEX \$11.76, FIRST NATIONAL BANK OF OMAHA \$12,139.09, FIRST NATIONAL BANK OMAHA - POLICE \$584.00, FLOYD'S TRUCK CENTER, INC. \$911.02, FODS, LLC \$21,140.00, FRANK PARTS COMPANY \$1,883.62, FRONTIER OVERHEAD DOORS \$1,803.00, FYR-TEK, INC. \$1,354.49, GALLS, AN ARAMARK COMPANY \$1,116.08, GEORGE MIRAMONTES \$123.00, GERING FT-LARAMIE IRRIGATION \$9,392.40, GERING IRRIGATION DISTRICT \$1,247.50, GERING MERCHANTS \$7,351.35, GROUND UP CONSTRUCTION & CLEAN \$678.50, HEALTHBREAK, INC. \$595.00, HOME DEPOT CREDIT SERVICES \$100.00, HOMETOWN LEASING \$150.57, HULLINGER GLASS & LOCKS, INC. \$180.50, HYDRO OPTIMIZATION & AUTOMATION \$41,317.90, IDEAL LAUNDRY AND CLEANERS, INC. \$405.21, INDOFF INCORPORATED \$395.18, INGRAM LIBRARY SERVICES \$1,332.36, INTERNAL REVENUE SERVICE \$47,381.06, INTRALINKS, INC. \$6,145.00, IRBY TOOL & SAFETY \$5,300.30, J RODZ \$150.00, JC GOLF ACCESSORIES \$1,460.18, JIM SCOTT \$123.00, JOHN HANCOCK USA \$17,854.76, JOHN HANCOCK USA FIRE \$761.78, JOHN HANCOCK USA

POLICE \$8,151.20, JOHNSON CASHWAY CO. \$185.01, JUNIOR LIBRARY GUILD \$1,302.12, LEE ENTERPRISES \$351.00, LEGACY COOPERATIVE \$498.96, LOGOZ LLC \$275.00, LOST RIVER SAND & GRAVEL, INC \$2,414.87, MARRIOTT CORNHUSKER HOTEL \$448.00, MATHESON TRI-GAS INC \$197.80, MAXWELL PRODUCTS INC. \$29,708.40, MCCROMETER INC \$6,711.08, MIDWEST CONNECT \$346.95, MIDWEST ELECTRIC TRANSFORMER \$147,903.88, MUNICIPAL SUPPLY, INC. OF NE. \$6,272.27, MUTUAL OF OMAHA \$4,766.05, NEBRASKA CHILD SUPPORT PAYMENT CENTE \$714.93, NEBRASKA DEPARTMENT OF REVENUE \$100.00, NEBRASKA DEPARTMENT OF REVENUE \$150.00, NEBRASKA DEPT OF ENVIRONMENT AND EN \$280.00, NEBRASKA MUNICIPAL FIRE CHIEFS \$517.00, NKC TIRE \$302.00, NORTHFIELD VILLA \$53.54, ONE CALL CONCEPTS, INC \$146.76, PANHANDLE ENVIRONMENTAL SERVICE, INC. \$1,847.00, PLATTE RIVER GLASS \$50.00, POWERPLAN OIB \$845.85, PT HOSE AND BEARING \$1,358.10, RECOVERY SYSTEMS COMPANY, INC \$107,882.00, REGIONAL CARE INC. \$57,083.84, RESCO \$18,382.50, RIVERSTONE BANK \$576.32, ROBYN BURGMAN \$250.00, RON'S TOWING & RECOVERY, LLC \$450.00, SANDBERG IMPLEMENT, INC. \$1,048.05, SCB COUNTY REGISTER OF DEEDS \$50.00, SCOTTS BLUFF CO. CONSOLIDATED \$90.00, SCOTTS BLUFF COUNTY COURT \$17.00, SCOTTS BLUFF COUNTY TREASURER \$11,209.33, SCOTTSBLUFF-GERING UNITED WAY \$230.67, SHAWNA WINCHELL \$950.00, SHERWIN WILLIAMS \$7,826.95, SIMON CONTRACTORS \$10,708.21, SIRCHIE ACQUISITION COMPANY, LLC \$340.00, SPEAK WRITE \$135.99, SUNBELT SOLOMON \$154,982.38, TAYLOR MADE GOLF COMPANY \$4,241.36, TERESA TOSH \$29,475.95, THE CIT GROUP \$960.10, THE TORO COMPANY \$175.00, TRAF-SYS \$66.00, TRANSUNION RISK AND ALTERNATIV \$75.00, TRANSWEST \$213.00, TWIN CITY AUTO, INC \$496.36, UNITED CHAMBER OF COMMERCE \$215.00, VALLEY AUTO LOCATORS LLC \$163.28, VAN PELT FENCING CO., INC. \$5,926.50, VERIZON WIRELESS SERVICES, LLC \$480.85, WARRIOR RUN \$1,090.26, WESCO RECEIVABLES CORP. \$22,204.13, WESTERN COOPERATIVE COMPANY \$24,155.04, WESTERN NEBRASKA PIONEERS BASEBALL CLUB \$12,500.00, YANDA'S MUSIC INC \$1,598.00, TOTAL CLAIMS \$979,210.11

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

BIDS/PROPOSALS:

1. Approve purchase of Pad Mount Transformers – Electric Department

Electric Superintendent, Doug Parker, stated that the City received two bids for pad mount transformers. One from Sunbelt Soloman and one from RESCO. RESCO's bid was less than Sunbelt Soloman, however they had a stipulation that the price could change at the time of manufacturing. As far as the lead time, they only indicated they would slot the City in the 2024 manufacturing time. Sunbelt Soloman was \$11,000 higher, but their lead time was 10-14 weeks for most of them. The City has purchased from both of these companies; staff is comfortable with either one. Staff recommends accepting the bid from Sunbelt Soloman based on the fixed price, and the lead times are better.

Motion by Councilmember Morrison to award the pad mount transformer bid to Sunbelt Soloman in the amount of \$248,026.00. Second by Councilmember Gillen. There was no discussion. Mayor Ewing called for the vote. "AYES": Shields, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

2. Award Fuel Bid

City Engineer, Annie Folck, stated that the City advertised for summer fuel and received three bids. The low bid was from Sapp Bros. with a price of \$2.86 per gallon for #2 diesel and \$2.82 per gallon for gasoline. Staff is recommending going with the low bid which is Sapp Bros.

Councilmember Shields asked Engineer Folck if she knew if Sapp Bros. owned any property in Scotts Bluff County; she didn't see anything on the Assessor's site. Engineer Folck replied that she didn't know. She said that's not typically something the City checks. Since the City hasn't done business with them before, staff checked with Scotts Bluff County (who are currently contracted with Sapp Bros.) to make sure they have had good service and they said they haven't had any issues. Councilmember Shields stated that both Legacy Coop and Westco own property and pay taxes to the City and the County. She'd rather see the City go with one of them instead of Sapp Bros. Engineer Folck asked City Attorney Ellison to weigh in as it was her understanding that those are not things the City can take into account. Councilmember Shields stated she knows that; these are just her thoughts on it. She'd like to see local.

Attorney Ellison stated that unfortunately, legally the City cannot give local preference in situations like this. There were other times if it was out-of-state, the City has done bidding for other projects. But in a situation like this, the City cannot give local preference.

Councilmember O'Neal asked in an emergency case, they couldn't bring fuel here immediately, right? They don't have any place to store the fuel. She asked how that would be addressed. Attorney Ellison replied if it's an emergency, and they can't get it here, then he thinks the City goes to wherever they can get it. Councilmember O'Neal asked if that wouldn't be a good enough reason to go with somebody local rather than somebody far away. Because just like yesterday, the City had a situation where fuel was needed (due to a power outage). She asked if that wouldn't be a reason to not go with Sapp Bros. Councilmember Backus stated that the City could have a service-level agreement but it would have to be kicked back out if the City is going to add stipulations like that. Everybody else would have to address that also; the City can't throw a stipulation on right now. He thinks it's a valid question to throw in the bids if the City wants it to be deliverable within a certain amount of time.

Councilmember Wiedeman stated that she also has concerns that Sapp Bros. has no property in Scotts Bluff County, they pay no taxes in Scotts Bluff County, they have no employees in Scotts Bluff County. None of those employees support the City of Gering and they are a very large company and have truck stops all up and down I80. Local companies pay all those things, they support their local community and then Sapp Bros. comes in and gives a low bid. She looked on their website and their unleaded gasoline is not top-tier; she knows Legacy Coop's is. Regarding emergency situations, when there were fires the City called its local company. Yesterday, the City called its local company to come in and give fuel and now legal and staff are saying the City can't consider that, but yet the local companies are the ones that are going to come to the rescue. She's not comfortable going with a bid to a company that their closest location is in Cheyenne, which is out of state. In Nebraska, it's Ogallala. If there's an emergency with fuel, they're not going to get here, and local people are. Local businesses support the City of Gering in a lot of other ways where this company is not going to. If this bid had gone to Westco, she would have no problem. But she has a problem going to a company that's not even operating in our local community. She stated shame on the County also for going to a company that doesn't pay taxes in their own county. Councilmember Shields stated that she agreed.

Councilmember Backus stated that it's still not something Council should consider. Council should consider the service-level agreement of that the City wants its gas by this amount of time. Just to be fair, the City can't consider those things. He stated that he thinks maybe Council should table it and work with staff because it seems like "we're not comparing apples and oranges here". He put that motion forward. Councilmember Shields asked if the Council wanted to stay local, can they vote on this and vote it down and do a different bid?

Councilmember Gillen stated that Council can't vote for something just because they're not a local entity. If they meet the requirements of the bid, then Council has to approve the low bidder. If they are meeting the requirements of what the City put out there, which they are, Council is required to approve the low bid. As a government entity, the City can't pay preferential treatment; it's unfortunate. He thinks everyone would love to go local, but everyone has to understand that Council has a duty and responsibility because this is tax dollars.

Councilmember O'Neal stated that she agrees, but she thinks it should be tabled and the City should have the right requirements in there because the Fire Department, and everybody else, uses fuel all the time and they use local fuel. She thinks there needs to be a stipulation if these guys are going to be the awarded ones, they need to be able to guarantee that they can get the fuel here in the amount of time the City needs it here. And if they can't, if not then the City will go somewhere else. She thinks it should be tabled and redone.

Mayor Ewing said there is a motion on the floor to table this item. He asked if there was a second. Attorney Ellison stated the only problem with that is now everybody has seen everybody else's bids and that's going to create a little bit of a problem. The other alternative is to vote on this up or down at this point in time and then maybe next time it comes around the City could consider doing something differently on the RFP next time. Just something to think about.

Mayor Ewing stated he would prefer to do business locally also. Each Council Member has a seat at the table and a vote – "If you don't like it, vote no, and then we just start over." He stated it's their option, they are the folks that are reporting to the citizens. Mayor Ewing stated there is still a motion (to table) on the floor; he asked if there was a second. For lack of a second, the motion died.

Mayor Ewing asked if there was any further discussion. With no further discussion, he entertained a motion to award the fuel bid to Sapp Bros. in the amount of \$141,042 which is 31,200 gallons of #2 Dyed Deisel fuel at \$2.86 per gallon and 18,500 gallons of Unleaded 87 (E-10) Gasoline at \$2.82 per gallon.

Motion by Councilmember Gillen to award the fuel bid to Sapp Bros. in the amount of \$141,042 which is 31,200 gallons of #2 Dyed Deisel fuel at \$2.86 per gallon and 18,500 gallons of Unleaded 87 (E-10) Gasoline at \$2.82 per gallon. Second by Councilmember Morrison. There was no discussion. Mayor Ewing called for the vote. "AYES": Gillen, Morrison. "NAYS": Shields, Backus, Bohl, Wiedeman, O'Neal, Cowan. Abstaining: None. Absent: None. Motion failed.

PUBLIC HEARINGS:

1. Public hearing to consider recommending the issuance or denial of a Class I liquor license for Western Nebraska Pioneers Baseball Club at the Oregon Trail Park Stadium, 800 13th Street, Gering, NE

Mayor Ewing opened a public hearing to consider recommending the issuance or denial of a Class I liquor license for the Western Nebraska Pioneers Baseball Club at the Oregon Trail Park Stadium, 800 13th Street, Gering, NE at 6:16 p.m. The applicants were present. Chuck Heeman, 1765 21st Street, Gering, addressed the Council. Councilmember Bohl clarified that the application stated that he was going from a Class A to a Class C license with catering. Mr. Heeman replied, yes. The reason for that is that there may be some events where they want to have different offerings than just beer. Councilmember Wiedeman stated that the application states it's a C under I; that's on-site sale only. She clarified that he's not going to go somewhere else and serve alcohol. Mr. Heeman replied that he does not see that happening.

Mayor Ewing asked twice if there was anyone in the Council Chambers wishing to speak regarding this application. With no further comments the public hearing closed at 6:18 p.m.

1a. Recommend the issuance or denial of a Class I liquor license for Western Nebraska Pioneers Baseball Club at the Oregon Trail Park Stadium, 800 13th Street, Gering, NE

Motion by Councilmember Wiedeman to recommend approval of a Class I liquor license for the Western Nebraska Pioneers Baseball Club at the Oregon Trail Park Stadium, 800 13th Street, Gering, NE. Second by Councilmember Morrison. There was no discussion. Mayor Ewing called for the vote. "AYES": Shields, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

CURRENT BUSINESS:

1. Staff Report regarding a Zone Change from RM Medium Density to RH High Density for a property located in the SW ¼ of Section 1, Township 21 N, Range 55 W, as described in Instrument #2023-4951, Exhibit A, "Tract 1", generally located between D Street and K Street and between 5th Street and Pappas Boulevard

Engineer Folck stated that Council received information in their packets. There have been some changes. One of the things that was in her staff report last week, was that the City has been in discussions with the property owner who was going to be putting some covenants to limit the development to fourplexes or less. City officials received an email from the applicant that came in last night and was read this morning that he no longer wishes to put covenants on the property. It was also discussed to only rezone a portion of the property. He stated (in the email) that it is his desire for the City to act on the rezone one way or another, yes or no, on rezoning the entire property with no covenants on there.

Because this is a pretty big departure from what was presented in the packet, and everything that Council had to review over the weekend, staff visited with legal and they are strongly recommending that it be tabled at this time to allow staff time to go through and redo the staff report and all the information that will be presented to Council (and be included in the administrative record). It is staff's and legal's recommendation that Council table this matter at this time. Councilmember Morrison asked if this has to go back through Planning and Zoning. Engineer Folck replied, it does not. All the information about the covenants came

about after the Planning Commission meeting; their recommendation stands regardless of what's decided on that. Councilmember Wiedeman clarified that the covenants were mentioned in the public hearing two weeks ago, correct? Engineer Folck replied, that's correct.

ORDINANCES:

1. Consider approval of Ordinance No. 2142 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GERING, NEBRASKA; AMENDING THE ZONING DISTRICT OF CERTAIN LAND WITHIN THE CITY OF GERING, NEBRASKA; AND AMENDING THE ZONING DISTRICT MAP OF THE CITY OF GERING, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM

Motion by Councilmember Wiedeman to table item number 1 under Ordinances regarding the consideration of approval of Ordinance No. 2142. Second by Councilmember O'Neal. There was no discussion. Mayor Ewing called for the vote. "AYES": Shields, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

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

ADJOURN:

Motion by Councilmember Gillen to adjourn. Second by Councilmember Cowan. There was no discussion. Mayor Ewing called for the vote. "AYES": Shields, Gillen, Backus, Bohl, Wiedeman, O'Neal, Morrison, Cowan. "NAYS": None. Abstaining: None. Absent: None. Motion Carried.

Meeting adjourned at 6:21 p.m.

ATTEST:


Kathleen J. Welfi, City Clerk


Kent E. Ewing, Mayor

