

ROLL CALL:

Present:

Mayor
Council Members

Verlin Janssen
Lonnie Warner
J Buddenberg
Jay Richeson
Aaron Colwell
Mike Bacon
Gary Greer
Tara Hite

Not Present:

City Attorney
City Administrator
City Clerk

Also present: McKenna Kolbo, Brian Copley, Shane Gruber – Building & Facilities Director.

Mayor Janssen opened the meeting at 5:30 p.m. Advance notice and a copy of the agenda was given to the Council and members of the press. City Council meetings are conducted in accordance with the Open Meetings Act, a copy of which is available for public inspection on the north wall of the Council Chambers.

PUBLIC HEARINGS:

A public hearing was opened at 5:30 to consider approval of Special Use Permit #183 – McKenna Kolbo to operate a preschool – The 99 Preschool, at 1721 Lake Avenue, currently zoned R-1.

McKenna Kolbo discussed Special Use Permit #183 – to operate a preschool – The 99 Preschool, at 1721 Lake Avenue, currently zoned R-1.

Richeson moved, Buddenberg seconded, to close the public hearing at 5:31 p.m. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

Richeson moved, Warner seconded, to approve Special Use Permit #183 – McKenna Kolbo to operate a preschool – The 99 Preschool, at 1721 Lake Avenue, currently zoned R-1. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

CONSENT AGENDA:

Buddenberg moved, Colwell seconded, approving the consent agenda that included:

- a) City Council minutes – May 5
- b) Treasurer Report – April
- c) Cemetery Board Minutes – May 4
- d) Cemetery Board Reports – April
- e) Planning & Zoning minutes – May 12
- f) Building Permits – April
- g) Community Redevelopment Authority Minutes – May 13
- h) Library Statistical Report – April
- a) Library Director’s Report – March 11 through May 12
- j.) Approval of Special Event Application for use of downtown street for Flatwater Hot Dog Feed on June 5th from 11:00 a.m. to 1:00 p.m.

Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

CLAIMS:

Warner moved, Richeson seconded, allowing payment of claims against the General Fund \$106,394.40; Special Funds \$5,408.18; PWD Fund \$383,153.31; May 13 payroll of \$61,841.87;

and Payroll Transmittals of \$30,597.79. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

Claims Codes: Bu- Building Upkeep, Eq-Equipment, Ex-Expense, Ma-Maintenance, Mi-Mileage, Misc-Miscellaneous, Re-Repairs, Se-Service, Su-Supplies, Ut-Utilities, CI-Capital Improvement, GU-Grounds Upkeep, Reim-Reimbursement, Tax-Tax, Ps-Personnel, Du-Dues.

General Fund Claims: Card Services \$2,097.28 Ex; Al's Lock & Safe Inc. \$638.00 Se; City of Lexington \$210.00 Ex; Dan Schumacher \$2,176.00 Bu; Gall's Parent Holdings LLC \$119.09 Ex; Georgia Reeves \$15.00 Se; Heritage Landscape Supply Group \$1,379.00 Re; Ingram Book Company \$598.15 Ma; John Deere Financial f.s.b \$778.80 Re; Riverside Painting LLC \$3,450.00 Se; Transunion Risk and Alternative Data Sol \$101.00 Ex; Vestis \$26.52 Se; Nebraska Department of Revenue \$600.41 Tax; Nebraska Department of Revenue \$446.94 Tax; Alexander Ballmer \$160.00 Se; Amazon Capital Services, Inc \$665.40 Ma; Bacon, Vinton, & Venteicher LLC \$425.00 Se; Black Hills Gas Distribution LLC \$318.53 Ut; Caselle, Inc. \$378.50 Se; Country Partners Cooperative \$3,110.18 Ex; Cubby's Inc. \$810.88 Ex; DARCA Inc. \$18,141.33 Ma; Darin Oliver \$379.41 Se; Dawson Public Power District \$141.65 Ut; Eakes Inc. \$124.23 Su; Eastside Animal Center \$35.00 Se; Eustis 66 Service Inc. \$1,689.00 Re; Fireworks Unlimited, Inc \$6,049.35 Misc; Gangwish Turf \$696.00 Gu; Hicken Lumber and Home Center Inc \$779.27 Ma; Ideal Linen \$43.93 Su; Kirks Trenching & Septic Service LLC \$160.00 Se; Paulsen Inc. \$948.00 Re; Peterson's Supermarket Inc. \$100.00 Ex; Platte Valley Arsenal LLC \$4,796.00 Ex; Pony Express Chevrolet Buick \$468.04 Re; Public Works Division \$4,487.07 Ut; Richard M Crown \$1,450.00 Se; RT ACE, LLC #18157 \$378.30 Re; S & S Auto Parts Inc \$526.16 Re; Syndicate Publishing LLC \$143.98 Ex; YMCA of the Prairie \$46,353.00 Pe.

Special Fund Claims: First Concord Benefits Group \$679.77 Ps; Gothenburg Improvement Company \$3,910.07 Ex; City of Gothenburg \$324.90 Ex; City of Gothenburg \$10.74 Misc; Eakes Inc. \$343.53 Ex; Hometown Leasing \$139.17 Ex.

PWD Fund Claims: All Fasteners \$660.00 Reim; Bruce Hird \$105.80 Reim; City of Cozad \$100.00 Se; Gary Woolman \$129.80 Reim; Herb Doering \$139.80 Reim; Jeremy Wozney \$1,200.00 Reim; John Deere Financial f.s.b \$524.52 Re; John T Bell \$265.00 Gu; Municipal Supply Inc. \$222.58 Ma; Riverside Painting \$1,050.00 Se; Robert Boettcher \$65.80 Reim; Rodney Brooks \$129.80 Reim; Travis & Margaret Miner \$25.00 Reim; Vestis \$90.89 Se; Card Services \$2,185.79 Ex; Black Hills Gas Distribution LLC \$340.67 Ut; Blackburn Mfg. Co. \$344.20 Ma; Caselle, Inc. \$1,135.50 Se; City of Gothenburg \$59,171.96 Reim; Consolidated Electrical Distributors Inc. \$687.36 Ma; Country Partners Cooperative \$2,137.75 Ex; Darin Oliver \$156.52 Se; Dutton-Lainson Company \$2,283.38 Ma; Eakes Inc. \$1,028.48 Su; Essential Resource Group Inc. \$31.25 Se; Hicken Lumber and Home Center Inc \$98.81 Su; Island Supply Welding Co \$112.20 Su; John T Bell \$3,394.00 GU; Metering & Technology Solutions \$1,871.34 Ci; Midlands Contracting Inc. \$5,257.75 Se; Nebraska Public Power District \$199,400.36 Ut; One Call Concepts Inc. \$63.29 Se; Paulsen Inc. \$1,551.00 Ma; Peterson's Supermarket Inc. \$150.00 Misc; Public Works Division \$10,069.97 Ut; RT ACE, LLC #18157 \$640.81 Su; S & S Auto Parts Inc \$681.80 Re; Schaben Sanitation \$4,057.05 Se; Syndicate Publishing LLC \$121.20 Ex; Tryon Welding Inc \$125.60 Ma; Valley Promo LLC \$70.80 Ex; Wesco Distribution Inc \$81,275.48 Ci.

Payroll Transmittals: INTERNAL REVENUE SERVICE \$19,785.50 Tax; EMPOWER RETIREMENT \$9,642.88 Ps; NEBRASKA CHILD SUPPORT \$605.55 Ps; Credit Management Servic \$202.87 Ps; Credit Management Servic \$360.99 Ps

COMMUNITY COMMENTS:

City Administrator Greer stated Meat and Greet will be at Ehman Park Thursday May 21st at noon.

City Administrator Greer stated our Employee Recognition Dinner will be on May 29th at 6:00pm

DISCUSSION ITEMS:

City Administrator Greer discussed proposal from MKEC Engineering for NPPD Substation to JWC Substation 34.5kV Line Routing Study. This proposal is a line routing study for three-line

routes for the existing NPPD Substation located south of I-80 and East of Hwy 47 to the new JWC Substation.

Richeson moved, Warner seconded proposal from MKEC Engineering for NPPD Substation to JWC Substation 34.5kV Line Routing Study. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

Warner moved, Colwell seconded to approve appointment Tyler Kleinow to Fire Department. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

Richeson moved, Colwell seconded, to enter into executive session at 5:38 p.m. out of clear necessity for the public interest. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried. City Administrator Greer, City Clerk Hite, Attorney Copley, City Attorney Bacon joined the Mayor and Council.

The purpose of the executive session is strategy session with respect to pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body.

The Mayor and Council reconvened in open session at 6:13 p.m.

Colwell moved, Warner seconded, to approve and authorize Mayor Janssen to sign a settlement agreement and mutual release by and between Dayspring Bank, a Nebraska banking association formerly known as First State Bank, and the City of Gothenburg, Nebraska, a municipal corporation.

City Attorney Bacon discussed a proposed response to District Judge's Order in the Towers, LLC vs City of Gothenburg (Case No. 8:25-cv-412) in the United States District Court for the District of Nebraska. Bacon presented a proposed letter that the Council could adopt if it accurately described the reasons for the Council's decision on May 20, 2025, denying Special Use Permit #177 - Frank Boyd Inc. The letter is set forth herein:

May 19, 2026

The Towers LLC
9973 Valley View Road
Eden Prairie, MN 55344

RE: Special Use Permit
Written Denial of Special Permit #177 and Reasons for Denial Pursuant to 47
U.S.C. § 332(c)(7)(B)(iii)

To whom it may concern:

As you are aware, the City Council denied your request for special use for the operation of a wireless telecommunications facility, at SW ¼ of Section 2, Township 11 North, Range 25 West of the 6th P.M., currently zoned AG.

The Gothenburg City Council has reviewed the Order issued on May 7, 2026, in *The Towers, LLC v. City of Gothenburg* (Case No. 8:25-cv-412), and the special use permit application which is the subject of that action. In compliance with the court's Order, the Gothenburg City Council hereby notifies you that it has voted unanimously to deny your application for Special Permit #177 and sets forth the reasons for its denial herein. The City Council has determined:

1. The wireless telecommunications facility sought by your application would upset the district's existing character by undermining the district's residential and community-friendly nature, and its vision of promoting health, community, and outdoor recreation, such as walking and biking. Gothenburg Zoning Ordinance § 152.076(C)(6), imposes a requirement on special use permits that the proposed use must not change the character of the district:

(C) *Criteria.* Except as otherwise provided herein, no special use permit shall be granted by the City Council, without an affirmative vote of a majority of all members of the City Council and unless the proposed use is found to:

- (1) Be compatible with and similar to the use permitted in the district;
- (2) Not be a matter which should require rezoning of the property;
- (3) Not be detrimental to adjacent property;
- (4) Not tend to depreciate the value of the surrounding structures or property;
- (5) Be compatible with the stated intended use of the district;
- (6) Not change the character of the district; and
- (7) Be in accordance with the comprehensive plan.

(Ord. 850, passed 8-4-2009, § 702.03)

The City Council finds the testimony offered during the public hearing expressing citizen concerns over “a fundamental change to the character of the landscape” persuasive. The promotion of health, community, and outdoor recreation in the district is of substantial importance. Mr. Krog’s testimony described the tower as 105-feet tall, with a lightning rod on top and “of a monopole design.” The City Council determined that approving this facility in close proximity to a planned walking and biking trail in a new residential development area would undermine the experience of its citizens and be incompatible with the City’s goal of promoting health, community, and outdoor recreation in this district. The City Council has determined the planned facility does not satisfy § 152.076(C)(6) and has voted to deny the application on this ground.

2. The facility would negatively impact the aesthetics of the area, harming the visual experience of pedestrians, residents, and visitors in an otherwise rural residential area surrounded by natural aesthetics. The City Council finds the testimony offered during the public hearing expressing citizen concerns over disturbing an area that serves as a peaceful transition between a growing neighborhood and surrounding farmland persuasive. The proposed site for the tower lies in an acreage (the “tower acreage”) which is bordered on the west and south by R-1 zones (§ 152.020) as shown on the official Zoning Map of the City § 52.016. The R-1 zone is the most restrictive zone for residences. Additionally, the R-1 zone south of the tower acreage includes high value homes and a recent platted residential subdivision which was referenced by different Citizens in their public hearing testimony. The City has an interest in maintaining the rural aesthetics associated with farmland and adjacent residential areas. Mr. Krog’s testimony describing the tower as 105-feet tall, with a lightning rod on top and “of a monopole design” is incompatible with the natural aesthetic of the surrounding area.

Gothenburg Zoning Ordinance § 152.059 provides minimum requirements for towers within the City’s zoning jurisdiction and includes the requirement that tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the City. Further, through the ordinance, the City “encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties.” The visibility of the proposed tower from both neighboring residential properties and the public right-of-way, as citizens testified during the hearing, would be incompatible with the existing natural rural aesthetic. Further, this tower’s visibility from a planned future walking trail in a new platted residential development would be incompatible with the City’s goal of promoting health, community, and outdoor recreation in the district and abutting residences undermining the aesthetic experiences of the City’s residents and visitors. The City Council has considered the testimony offered during the hearing and finds the specific aesthetic concerns convincing. Each of Gothenburg Zoning Ordinance § 152.076(C)(3)–(7) are implicated by the specific aesthetic concerns voiced during the hearing. The City Council has determined the planned facility does not satisfy § 152.076(C)(3)–(7) due to the tower’s negative impact on the rural, natural aesthetics of the area and has voted to deny the application on each ground.

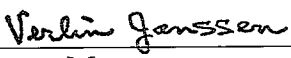
3. The facility would lead to the depreciation of surrounding property values in the area, including those of nearby homeowners. The City Council has considered the testimony of Mr. Krog that he did not expect the surrounding property value to depreciate, and finds the testimony speculative, uncertain, and unreliable. The City Council finds the testimony offered by Ms. Ackerman on the same subject is well-founded, specific, and reliable. Ms. Ackerman referenced “[a] peer-reviewed study published in Land Economics [that] found that homes within 1,500 feet of a cell tower experience property value declines of up to 20 percent, particularly when the tower is visible from the home.” She explained “This isn’t just theory. It’s a direct financial concern for homeowners like myself and others who are here tonight.” The City Council agrees and adopts Ms. Ackerman’s concerns over the depreciation of surrounding property values in the area. Based on the common knowledge of the City Council, a number of residences and a large portion of the new residential development lie well within 1500 feet of the proposed tower location. Testimony from other citizens also reference the visibility of the tower from Ms. Ostergard’s property and the high point of a planned walking trail. The City Council finds that, on balance, the testimony offered as to potential depreciation of surrounding property values supports a substantial and particularized concern over depreciation for its citizens and property owners. Gothenburg Zoning Ordinance § 152.076(C)(4) imposes a requirement that the proposed use “not tend to depreciate the value of the surrounding structures or property.” The City Council finds that the proposed use does not satisfy § 152.076(C)(4) because it would tend to depreciate the value of surrounding structures and property and has voted to deny the application on this ground.

The City Council has considered the concerns expressed at the hearing and finds those summarized above are legitimate, substantial, and supports denial of the application under governing law.

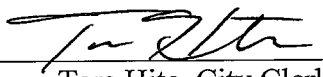
Enclosed are copies of the Council minutes expressly adopting the grounds for denial set forth herein, as well as copies of the June 6, 2025, correspondence and enclosures discussed in the Court’s order referenced above.

Richeson moved, Warner seconded to adopt the letter set forth herein as action by the Council setting forth the reasons for the Council’s decision on May 20, 2025, denying a Special Use Permit #177 - Frank Boyd Inc in response to District Judges’s Order in the Towers, LLC vs City of Gothenburg (Case No. 8:25-cv-412) in the United States District Court for the District of Nebraska. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.

Buddenberg moved, Richeson seconded, to adjourn the meeting at 6:19 p.m. Roll call vote: Yea – Warner, Buddenberg, Richeson, Colwell. No – none. Motion carried.



Verlin Janssen, Mayor



Tara Hite, City Clerk