

CITY COUNCIL PROCEEDINGS

October 23, 2019

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the meeting room of the City Office, 557 North 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on October 17th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Thomas Kobus, Dana Trowbridge, Bruce Meysenburg, and Pat Meysenburg, City Attorney Jim Egr, and City Clerk Joan Kovar. Council members Kevin Hotovy, and John Vandenberg were absent.

Also present for the meeting were: Jill Mefford, Kelcie Keeling, Marianne Long and son Frank, Alyssa Ledon, Clayton Kovanda, Sheriff Tom Dion, and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room asked those present to please silence their cell phones.

The minutes of the October 9th, 2019 meeting of the Mayor and City Council were approved upon a motion by Council member Trowbridge and seconded by Council member Pat Meysenburg. Voting AYE: Council members Bruce Meysenburg, Kobus, Pat Meysenburg, and Vandenberg. Voting NAY: None. The motion carried.

Mayor Zavodny stated that Al Hottovy of Leo A. Daly will attend the November 13th Council Meeting to discuss the Downtown Renovation Project.

Therefore, Council member Trowbridge made a motion to table the discussion / presentation by Al Hottovy of Leo A. Daly, concerning the punch list and concerns regarding the Downtown Renovation Project. Council member Kobus seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

Council member Bruce Meysenburg made a motion to table consideration of Progress Estimate #22 for Constructors, Inc. in the amount of \$505,901.49 and Council member Kobus seconded the motion. Voting AYE: Council members Pat Meysenburg, Kobus, Trowbridge, and Bruce Meysenburg. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

Business owner Jill Mefford, and Chamber Director Kelcie Keeling, representing the Volunteer Committee of the Hallmark Christmas in October, were present to request street closings for the event scheduled for Wednesday, October 30, 2019.

Kelcie stated: "We will say that the whole process of working with Hallmark, and everyone with this event, has been amazing."

Jill agreed stating: "It's brought the community and the whole town together, it is amazing. This has grown. This is kind of like planning a wedding and not knowing how many exactly are showing up."

Kelcie stated: "We've already had 1600 posts from people that are coming, and those are single people on Facebook. So, are they each bringing a family of four people or what? So, what are we going to do with that many people in David City? I reached out to Kobza Motors so we do have a shuttle service; the Fairgrounds have graciously allowed us to use their parking lot, and so has Aquinas High School, because I feel it is going to be a parking nightmare. This will draw people to David City, even after this event, to see the decorations, etc."

Much discussion followed.

Council member Bruce Meysenburg stated: "I just think it's an amazing job that you are doing, putting this all together. It takes a lot of planning, and I'm just glad somebody is ramrodding the whole thing. So "Thank You". It's going to bring a lot of business to town; it should anyway."

Kelcie stated again: "Hallmark has been wonderful to work with. I feel like this is an honor we need to continue to build upon."

Mayor Zavodny stated: "If this goes well, I think Hallmark, they really seem to like what they've seen out of our town and our response, they could potentially come back and do some other things here. If we do well next Wednesday, it could be a really good partnership for us to showcase. I think it just benefits all of our downtown businesses, so it's all a good thing for us."

Council member Trowbridge made a motion to approve the request by Kelcie Keeling and Jill Mefford, for additional road closures for safety reasons, concerning the Hallmark Event scheduled for October 30, 2019: 5th Street from "C" to the Railroad Tracks ("F"); "D" Street from 5th to 6th; and "E" Street from 4th to 6th Street, or as needed. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Kobus, Pat Meysenburg, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

The following request was received from Henningsen Foods, Inc., concerning the Sewer Participation Agreement:



HENNINGSEN

October 10, 2019

City of David City, Nebraska
c/o Joan Kovar, City Clerk
557 North 4th Street
David City, Nebraska 68632

Attn: Mayor of David City, all Members of the City Council and the City Clerk

Re: Request to Amend the Sewer Participation Agreement and Permit (the "Agreement")
Between David City, Nebraska (the "City") and Henningesen Foods, Inc.

Ladies and Gentlemen:

Per Sections 1 (a) and (b) of the above-referenced Agreement, the hydraulic flow from our facility to the POTW is limited to 150,000 gallons per day based on a 5-day average. With this letter we formally request an amendment to this and other sections of the Agreement to change the limit to 200,000 gallons per day based on a 5-day average. With your approval, we would prepare and present a formal contract amendment to memorialize this proposed change.

Please give favorable consideration to our request. We will make a representative available at a City Council meeting to provide additional information upon request.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Frank Anonia".

Frank Anonia
VP Of Egg Division
HENNINGSEN FOODS, INC.

Council member Trowbridge stated: "EPA suggested to them that they like the number 200,000 better than 150,000; they were more comfortable with moving forward, but, it gives us an opportunity to open that agreement again, because somehow as the agreements were put together, typewriter keys were hit incorrectly or additions were made incorrectly, to the BOD load, and they have 700 more pounds of BOD than they probably should, I believe that was the number, and we need to adjust that backwards."

Mayor Zavodny asked: "Is Craig (Reinsch of Olsson) working on that?"

Council member Trowbridge stated: "Yes, Craig's the one who brought it up. Craig is fine with the gallonage, but he said if we open it to change the gallonage, let's also adjust the BOD language back to where it should be."

Discussion followed.

Council member Trowbridge made a motion to approve the request by Henningsen Foods, Inc. to amend the Sewer Participation Agreement and Permit by changing the limit from 150,000 gallons per day based on a 5-day average, to 200,000 gallons per day based on a 5-day average, contingent upon a reevaluation of the BOD loading schedule. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Kobus, Bruce Meysenburg, Pat Meysenburg, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

Council member Kobus made a motion to authorize Mayor Zavodny to sign the Certification of City Street Superintendent and Resolution No. 25-2019 signing of the Year-End Certification of City Street Form 2019. Council member Trowbridge seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

**MUNICIPAL
ANNUAL CERTIFICATION OF PROGRAM COMPLIANCE
TO
NEBRASKA BOARD OF PUBLIC ROADS CLASSIFICATIONS
AND STANDARDS
2019**

In compliance with the provisions of the State of Nebraska Statutes, sections 39-2115, 39-2119, 39-2120, 39-2121, and 39-2520(2), requiring annual certification of program compliance to the Board of Public Roads Classifications and Standards, the City Village of David City
(Check one box) (Print name of jurisdiction)

hereby certifies that it:

- has developed, adopted, and included in its public records the plans, programs, or standards required by sections 39-2115 and 39-2119;
- meets the plans, programs, or standards of design, construction, and maintenance for its highways, roads, or streets;
- expends all tax revenue for highway, road, or street purposes in accordance with approved plans, programs, or standards, including county and municipal tax revenue as well as highway-user revenue allocations;
- uses a system of revenue and costs accounting which clearly includes a comparison of receipts and expenditures for approved budgets, plans, programs, and standards;
- uses a system of budgeting which reflects uses and sources of funds in terms of plans, programs, or standards and accomplishments;
- uses an accounting system including an inventory of machinery, equipment, and supplies;
- uses an accounting system that tracks equipment operation costs;
- has included in its public records the information required under subsection (2) of section 39-2520; and
- has attached to this certification, a copy of the resolution of the governing body authorizing the signing of this certification by the Mayor or Village Board Chairperson.

 *David Zavodny* 10/23/19
Signature of Mayor Village Board Chairperson (Required) (Date)

Signature of City Street Superintendent (Optional) 10/23/19
(Date)

Return the completed original certification and resolution by
October 31, 2019 to:
Nebraska Board of Public Roads Classifications and Standards
PO Box 84758
Lincoln NE 68509

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RESOLUTION

SIGNING OF THE
YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT FORM
2019

Resolution No. 25-2019

Whereas: State of Nebraska Statutes, sections 39-2302, and 39-2511 through 39-2515 details the requirements that must be met in order for a municipality to qualify for an annual Incentive Payment;

Whereas: The State of Nebraska Department of Transportation (NDOT) requires that each incorporated municipality must annually certify (by December 31st of each year) the appointment of the City Street Superintendent to the NDOT using the Year-End Certification of City Street Superintendent form;

Whereas: The NDOT requires that such certification shall also include a copy of the meeting minutes showing the appointment of the City Street Superintendent by their name as it appears on their License (if applicable), their License Number and Class of License (if applicable), and type of appointment, i.e., employed, contract (consultant, or interlocal agreement with another incorporated municipality and/or county), and the beginning date of the appointment; and

Whereas: The NDOT also requires that such Year-End Certification of City Street Superintendent form shall be signed by the Mayor or Village Board Chairperson and shall include a copy of a resolution of the governing body authorizing the signing of the Year-End Certification of City Street Superintendent form by the Mayor or Village Board Chairperson.

Be it resolved that the Mayor Village Board Chairperson of David City
(Check one box) (Print Name of Municipality)
is hereby authorized to sign the attached Year-End Certification of City Street Superintendent form.

Adopted this 23rd day of October, 2019, at David City, Nebraska.
(Month)

City Council/Village Board Members

<u>John Vandenberg</u>	<u>Kevin Hotovy</u>
<u>Tom Kobus</u>	<u>Dana Trowbridge</u>
<u>Bruce Meysenburg</u>	<u>Pat Meysenburg</u>
_____	_____
_____	_____

City Council/Village Board Member Tom Kobus
Moved the adoption of said resolution
Member Dana Trowbridge Seconded the Motion
Roll Call: 4 Yes 0 No 0 Abstained 2 Absent
Resolution adopted, signed and billed as adopted.



Attest:

Joan E. Kovar
(Signature of Clerk)

Council member Trowbridge Hotovy made a motion to authorize Mayor Zavodny to sign the Year-End Certification of City Street Superintendent, for determining Incentive Payment, for fiscal year, January 1, 2019 to December 31, 2019. Council member Kobus seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

Year-End Certification of City Street Superintendent
For Determining Incentive Payment
January 1, 2019 to December 31, 2019

*This certifies that Dave Ziska, License Number S-1144 Class A
(Print name of Superintendent as appears on license card) (A or B)
was the appointed City Street Superintendent of David City, NE
(Print name of City or Village)
from January 1, 2019 to December 31, 2019
Month Date Month Date

and actually performed all of the following duties:

1. Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;
2. Developing an annual program for design, construction, and maintenance;
3. Developing an annual budget based on programmed projects and activities;
4. Submitting such plans, programs, and budgets to the local governing body for approval; and
5. Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets.

And further certifies that the superintending services of the above listed individual were provided by: (Check one)

Employment with this Municipality Contract (consultant) with this Municipality Contract (interlocal agreement) between this Municipality and the following listed Municipality(ies) and/or County(ies)

Alan Zavodny
Signature of Mayor Village Board Chairperson

* If more than one individual or the City Council or Village Board provided superintending services during the calendar year, list each successive superintendent on a separate form. The amount will be computed based on (a) your most recent Federal Census as certified by the Tax Commissioner; (b) whether or not your municipality appointed a licensed City Street Superintendent for all 12 months; (c) class of license, A or B; and (d) whether or not the Superintendent performed all of the duties listed. Reference Neb. Rev. Stat. §§39-2511 through 39-2515. If your city or village did not have an appointed City Street Superintendent, write "City Council" or "Village Board" as the name of "Superintendent." Failure to return the certification, meeting minutes and resolution may result in your municipality not receiving an Incentive Payment for Calendar Year 2019.

Note: In addition to this annual, Year-End certification of superintendent to the Nebraska Department of Transportation, (due December 31st), the municipality is also responsible for filling the "Municipal Annual Certification of Program Compliance" form with the Board of Public Roads Classifications and Standards (due October 31st). Reference Neb. Rev. Stat. §§39-2115, 39-2119, 39-2120, 39-2121 and 39-2520(2).

Return the completed original certification, meeting minutes and resolution by December 31, 2019 to:

Highway Local Liaison Coordinator
Boards-Liaison Services Section
Local Assistance Division
Nebraska Department of Transportation
PO Box 94759
Lincoln NE 68509-4759



City Clerk Kovar stated: "Resolution No. 21 – 2019 was passed at the September 11, 2019 Council meeting setting the fee for Chickens at \$200.00 per year. At the last council meeting, the Council decided to keep the regulations for chickens as defined in Chapter 3 Misdemeanors; Article 3 – Animals Generally, and suggested reducing the annual fee for chickens. So, we need to decide what you want the fee set at."

Council member Pat Meysenburg suggested setting the fee at \$10.00 / year, for the permitted number of chickens. Council member Pat Meysenburg introduced Resolution No. 26 - 2019 and moved for its passage and adoption. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, B. Meysenburg, P. Meysenburg, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried and Resolution No. 26 - 2019 was passed and approved as follows:

RESOLUTION NO. 26 - 2019

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska, that the following fees and charges be and hereby are established and shall be effective upon passage:

1-505(I)	Certified copies; fee	.25 per copy
2-514	Arborist; license fee	\$25.00
3-203	Dogs; license fee	\$10.00 if dog is spayed or neutered \$20.00 if dog is not spayed or neutered
3-221(C)	Dogs; impoundment ;	1 st - \$5.00, 2 nd - \$10.00, 3 rd - \$15.00
3-302	Chickens; keeping and raising permit fee	\$10.00
3-309	Exotic animal; first violation	\$25 fine; forfeiture of animal
3-309	Exotic animal; second violation	\$50 fine; forfeiture of animal
3-309	Exotic animal; third violation	\$75 fine; forfeiture of animal
3-309	Exotic animal; fourth violation	\$100 fine; forfeiture of animal
4-217(B)	Illegally parked; towing	\$75.00 min. charge plus sales tax
4-217(B)	Illegally parked; storage fee	\$25.00 minimum charge plus \$25.00 for each additional day
4-506(B)	ATV and UTV application fee	\$50.00
4-512(A)	Golf car application fee.....	\$10.00
5-201	Itinerant sales; permit fee.....	\$25.00 per 7 days
5-301	Amusement Devices, per electronic machine, etc.....	\$25.00
	Pool Tables, per table, per year.....	\$15.00
5-402(B)	Bingo; permit fee.....	\$10.00
5-402(C)	Bingo; permit renewal.....	\$10.00
6-204	Street closing; permit fee.....	\$10.00
7-503(F)	Utilities; solid waste; collector's license fee (annual).....	\$25.00
8-207	Burn barrel permit; fee.....	\$20.00
8-407	Fireworks, per year.....	\$250.00

DATED this 23rd day of October, 2019.

Mayor Alan Zavodny

ATTEST:

City Clerk Joan Kovar

Mayor Zavodny stated: "The next agenda item is consideration of cancelling the November 27th and December 25th Council Meetings. We have traditionally done this for the most part because of Thanksgiving and Christmas."

Council Member Trowbridge made a motion to cancel the November 27th and December 25th Council meetings. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Kobus, Trowbridge, and Pat Meysenburg. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried. [Thank You!]

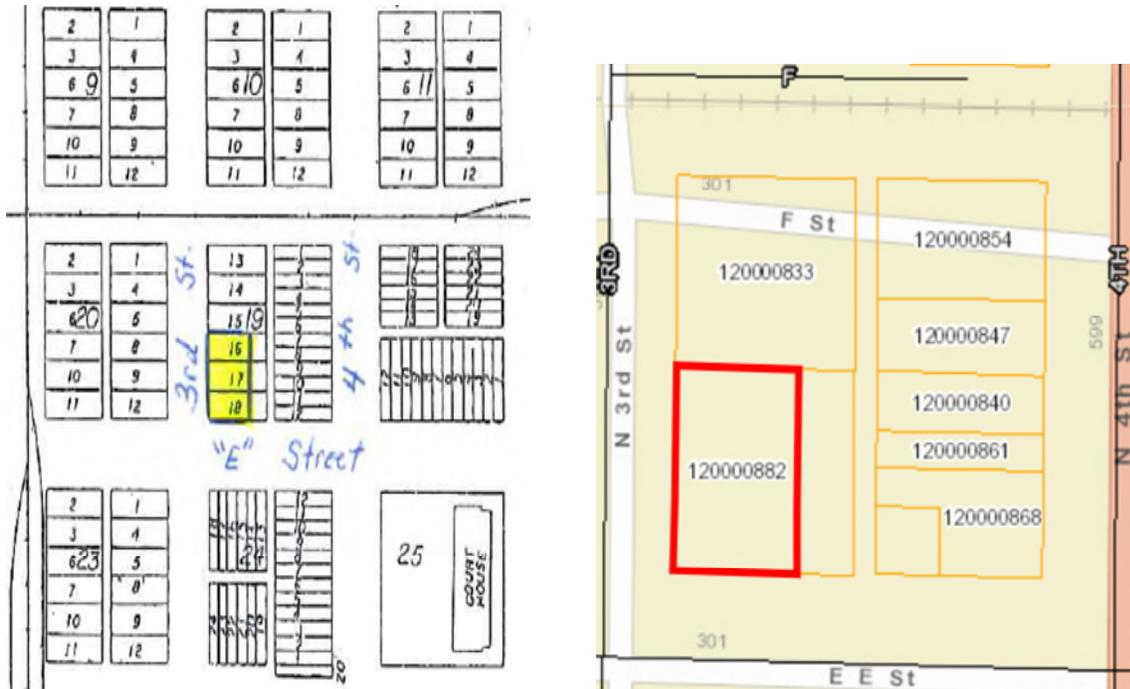
Council member Trowbridge made a motion to advance to Agenda Item #14 – Consideration of Resolution No. 27 – 2019 and Council member Kobus seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

Council member Trowbridge introduced Resolution No. 27 - 2019 and moved for its passage and adoption. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Kobus, P. Meysenburg, B. Meysenburg, and Trowbridge. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried and Resolution No. 27 - 2019 was passed and approved as follows:

RESOLUTION NO. 27 - 2019

WHEREAS, Nebraska State Statute 17-503 allows any city of the second class to convey any real and personal property owned by it providing the passage of a resolution directing the sale at public auction or by sealed bid of such real and personal property and the manner and terms thereof; and,

WHEREAS, the City of David City, Nebraska, is the owner of the property legally described as the West 95' of Lots 16, 17, and 18, Block Nineteen (19), Original Town, David City, Butler County, Nebraska, and,



WHEREAS, the City of David City, Nebraska, desires to sell said property, as is, to the bidder that is deemed by the City Council of the City of David City, Nebraska as the most favorable. The City of David City, Nebraska reserves the right to reject any and all bids.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City of David City, Nebraska be allowed to conduct a sale of real property and that notice shall be given that said property is for sale, as is, and that sealed bids be accepted until 3:00 o'clock p.m. on December 11th, 2019 for the sale of the property. All sealed bids shall be publicly opened and read aloud during the Regular City Council Meeting on December 11th, 2019 which convenes at 7:00 o'clock p.m. at the City Office, 557 North 4th Street, David City, NE. Terms of the sale will include a 10% down-payment with the balance payable within 90 days. The buyer shall pay all closing costs associated with said property.

BE IT FURTHER RESOLVED that the City of David City, Nebraska shall set a minimum price of Fifteen thousand dollars (\$15,000.00) and this price shall serve as a minimum price for all sealed bids.

BE IT FURTHER RESOLVED that the sale of real property and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in David City, Nebraska.

Dated this 23rd day of October, 2019.

Mayor Alan Zavodny

(ATTEST)

City Clerk Joan Kovar

Council member Kobus made a motion to go into Executive Session to discuss a personnel matter. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Bruce Meysenburg, and Kobus. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried.

Mayor Zavodny stated that the City Council was going into executive session to discuss a personnel matter.

The City Council, Mayor Zavodny, City Attorney Jim Egr, and City Clerk Joan Kovar went into executive session at 7:35 p.m.

City Attorney Egr advised the Mayor and Council that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 7:50 p.m.

There being no further business to come before the Council, Council member Kobus made a motion to adjourn. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Kobus, and Bruce Meysenburg. Voting NAY: None. Council members Hotovy and Vandenberg were absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 7:50 p.m.



CERTIFICATION OF MINUTES
October 23rd, 2019

I, Joan Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of October 23rd, 2019; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan Kovar, City Clerk