

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING  
OF THE MAYOR AND CITY COUNCIL OF  
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **23<sup>rd</sup> day of January, 2019**, in the meeting room of the City Office, 557 North 4<sup>th</sup> Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 16<sup>th</sup> day of January, 2019.

**AGENDA AS FOLLOWS:**

1. Roll Call;
2. Pledge of Allegiance;
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; \_\_\_\_\_  
Mayor Alan Zavodny
4. Minutes of the January 9<sup>th</sup>, 2019 meeting of the Mayor and City Council; \_\_\_\_\_  
Council President Kevin N. Hotovy
5. Consideration of the request by Brian and Mistyn Kozisek for a waiver from having to install a sidewalk in front of their new home at 324 N. 14<sup>th</sup> Street; \_\_\_\_\_  
Council member Thomas J. Kobus
6. Update by Leo A. Daly concerning the Downtown Renovation Project;
7. Discussion of / Consideration of the Northern Natural Gas high pressure gas line at the Wastewater Treatment Plant; \_\_\_\_\_  
Council member Dana E. Trowbridge
8. Consideration of Ordinance No. 1301, entitled: AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6<sup>th</sup> P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM, on the third and final reading; \_\_\_\_\_  
Council member Patrick J. Meysenburg  
  
\_\_\_\_\_  
Council member John P. Vandenberg  
  
\_\_\_\_\_  
Council member Gary D. Smith  
  
\_\_\_\_\_  
City Clerk Joan E. Kovar

9. Discussion / Consideration of available options to relocate and replace the water main that runs north/south on 8<sup>th</sup> Street between “D” and “E” Streets, in preparation of David City High School’s future building projects;
10. Consideration of the bids received for the athletic track renovation in the City Park;
11. Consideration of accepting a bid for the annual performance evaluation testing at the power plant;
12. Discussion / Consideration of the Revised Municipal Code Book as prepared by Municipal Code Services, Inc.;
13. Consideration of adjusting the compensation for Interim Wastewater Supervisor C.J. Novak and Interim Water Supervisor Aaron Gustin;
14. Consideration of rebuilding the cylinder for the baler at the Recycling Center;
15. Discussion only, with Scott Steager concerning re-zoning Lots 2 & 3, Block 8, Will Thorpe & Perkins 2<sup>nd</sup> Addition from R-2 (2 Family Residential) to I-1 (Light Industrial);
16. Adjourn

## CITY COUNCIL PROCEEDINGS

January 23, 2019

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 North 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 17<sup>th</sup>, 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 Agendas which are a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agendas, which were kept continuously current in the office of the City Clerk and were available for public inspection during regular office hours. No new items were added to the agendas during the twenty-four hours immediately prior to the opening of the Council meeting.

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

Also present for the meeting were: Brian & Mistyn Kozisek, Al Hottovy of Leo A. Daly, Craig Reinsch of Olsson, Bryan Kruger, Jeffrey Larson, and another gentlemen from Northern Natural Gas, Joseph McNally of Municipal Code Services, Deputy Clerk Tami Comte, Planning Commission Member Janis Cameron, Superintendent of David City Public Schools Chad Denker, Sam Stara, Scott Steager, Sheriff Tom Dion, Park/Auditorium Supervisor Bill Buntgen, Street Supervisor Chris Kroesing, and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

Council President Kevin Hotovy 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 January 9<sup>th</sup>, 2019 meeting of the Mayor and City Council were approved upon a motion by Council member Trowbridge and seconded by Council member Meysenburg. Voting AYE: Council members Kobus, Vandenberg, Smith, Meysenburg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

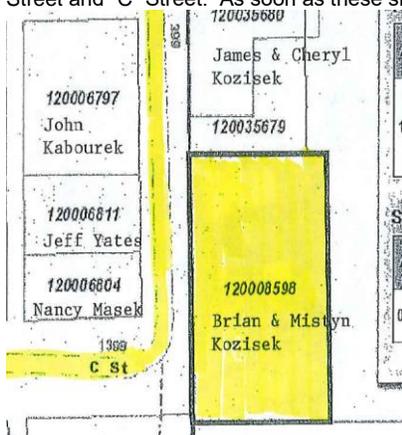
Brian and Mistyn Kozisek were present as they had requested a variance from having to install a sidewalk in front of their new home at 324 N 14<sup>th</sup> Street. The Planning Commission had granted an “extension” to constructing the sidewalk along the lot line until such time as connections are made to the west. Discussion followed.

Council member Trowbridge stated: “The agenda the Council received on Tuesday, January 22<sup>nd</sup>, stated: “Consideration of the request by Brian and Mistyn Kozisek for a waiver from having to install a sidewalk in front of their new home at 324 N. 14<sup>th</sup> Street”, while the previous agenda stated “Consideration of the request by Brian and Mistyn Kozisek for a variance from having to install a sidewalk...” and it truly is neither, it’s an extension.” Council member Trowbridge asked City Attorney Egr if the Council could proceed with that agenda item if it was announced incorrectly twice. Council member Trowbridge stated: “We are rubber stamping the action of the December 15<sup>th</sup> meeting of the Planning Commission in which they recommended granting Kozisek’s an extension to constructing the sidewalk along the lot line until such time as connections are made to the west, and all we can do is accept or reject their recommendation.” Discussion followed.

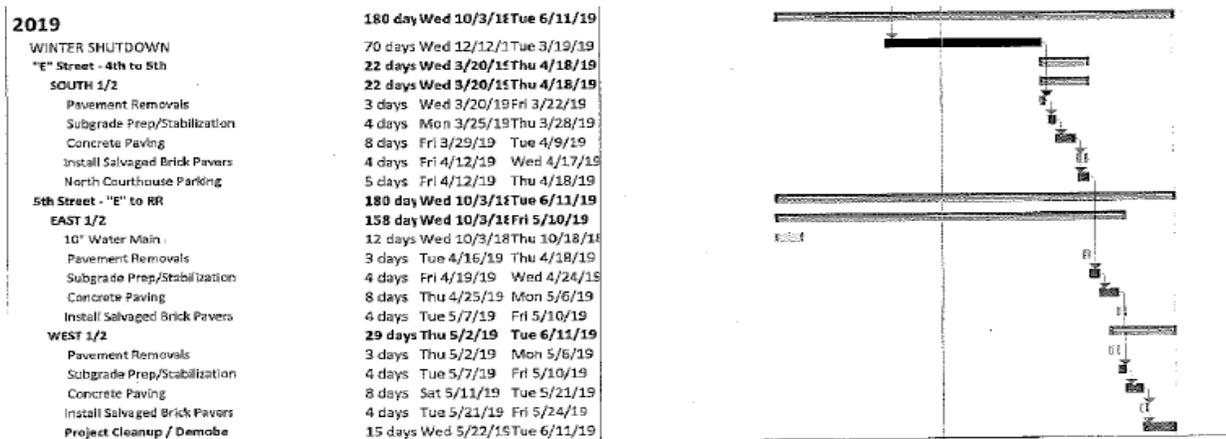
City Attorney Egr stated: “From the agenda item standpoint, a variance and/or a waiver was probably the wrong terminology but in relation to what was attached to the agenda item, in what they were asking for and what the explanation was, and the action of the Planning Commission in which they unanimously voted to grant them an extension, I think we can discuss it from that standpoint. I think we can make a decision to grant them an extension versus not giving them an extension, or follow the recommendation of the Planning Commission”.

Council member Trowbridge stated: “Good, as long as everybody in the room is comfortable and on the same page that we are going to discuss an extension of the time to put a sidewalk in.”

Council member Trowbridge made a motion to grant Brian and Mistyn Kozisek an extension in time (for constructing their sidewalk) until the sidewalk across the street reaches the south street and the east street from where they intersect and stop right now. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Hotovy, Kobus, Smith, and Trowbridge. Voting NAY: None. The motion carried. (Note: Nancy Masek has installed her sidewalks, however the City has not yet extended the sidewalk across the parkway to 14<sup>th</sup> Street and “C” Street. As soon as these sidewalk extensions are installed, Kozisek’s will be expected to install their sidewalk.)



Al presented the following time-line chart:



Al Hottovy stated: "Constructors Inc. are currently on a winter shutdown but will resume working on the Downtown Project on March 20<sup>th</sup> and they will be done on May 24<sup>th</sup> with the entire project. The last week, May 22<sup>nd</sup> thru June 11<sup>th</sup>, 2019 will be clean-up. Then after that if we find anything that needs to be done in terms of substantial completion, he'd be back here cleaning that up, if there's a broken slab or something, he'd be in here fixing those items. Right now, the projection is to be done by May 24<sup>th</sup> with everything. He could accelerate that if the weather straightened out a little bit here; snow isn't bad, it's this cold weather. Just for your information, the south half of "D" Street from 4<sup>th</sup> to 5<sup>th</sup> still has to be done, it has no concrete under it at this time. The intersection of 5<sup>th</sup> & "E" has to be redone; it does have concrete under it but the brick was just put there I hear, really bad, so it's coming back up."

Discussion followed concerning the demolition of Sue's Just A Buck, 502 5<sup>th</sup> Street. Jason Lavicky of Bank of the Valley was informed to contact Leo A. Daly concerning vehicle weight limits on the equipment to do the demolition. Al Hottovy said that they would give Jason a call to discuss this.

Al Hottovy continued: "The Banner Press stoop, 339 "E" Street; this building has a new owner, the Masonic Lodge. There is a 4" high step there, which would be a tripping hazard, so the stoop either needs to come out or we need a hand rail around the stoop. The Masonic Lodge said that they are taking the door out and it will now be a window."

Discussion followed. It was noted that the stoop is already in and the handrail was included in the original bid. It would be cheaper to put up the hand railing than to take out the stoop. Then too, if the Masonic Lodge ever decided they wanted the door again, the stoop will be there. So, it was decided that the handrails will be put up.

Al continued: "Just for information we added additional rock by Sack Lumber and State Farm; where the sidewalks aren't there it was getting wet in there so we had to add rock in there. All the painting will be redone in the Spring, the stripes and all that, they are going to repaint everything. We sent the bill to Joan to submit to the County for the south part of the improvements to the Court House. There will be another bill when they get the north side done. Between March and May, they will work on the south 1/2 of "E" Street from 4<sup>th</sup> to 5<sup>th</sup>, 5<sup>th</sup> Street from "E" to the Railroad. There is also a partial alley running north and south between 5<sup>th</sup> & 6<sup>th</sup> north of "E" will need to be done because it is totally broken up. (behind Sue's Just A Buck, 502 5<sup>th</sup>; Bank of the Valley will demolish and then build at this location) and the alley south of the U.S. Bank Drive-Inn will also be replaced."

Street Supervisor Chris Kroesing stated: "Just east of RB's, 405 D Street, I believe Butler County Welding has a storage unit there with an overhead door, and currently there are parking stalls there. They were wondering if they could get a driveway pattern put in there instead, when they do the painting, so people don't park there?" Al Hottovy said he would check into this.

Craig Reinsch of Olsson and Bryan Kruger and two other gentlemen from Northern Natural Gas, were present to summarize on-going discussions concerning construction activities at the wastewater treatment plant and the proposed construction near the existing high-pressure gas line that bisects the City's site from north to south.

Craig Reinsch provided the following discussion timeline concerning the construction activities:

As part of the due diligence design of the WWTP Improvements that are currently under construction, I forwarded preliminary versions of Sheets C2 and C3 to John Ryan with Northern Natural Gas on January 11, 2018 for review and consideration. John had initially reached out to Travis Hays requesting information about the project. Travis provided me with John's contact information so that I could present the project and request gas main bury depth information.

These sheets outline the new generator, existing generator building, and new gas management building with flare that are included in the project. For reference, this is on the west slope of Cell E. A response was received from John Ryan on February 5, 2018 with some information about existing gas main depths where it crosses the access road. No mention was made of additional submittal or setback requirements by Northern. The project was bid on April 3, 2018, considered by the City on April 14, 2018, with the Notice of Award signed on August 2, 2018, for reference.

As construction started, John Ryan, a Northern rep, visited the site on November 15, 2018, and informed the Contractor that there were additional site requirements that were not being followed in the vicinity of the gas main. The construction activity at the time was installation of silt fence at the ground level. I reached out to John Ryan as a continuation of the January 2018 email discussion and asked what additional information was required.

Shortly after that time, I was contact by Jeff Larson, a right-of-way agent with Northern. He admitted that their internal procedures for project review had not been followed with the preliminary plans that were submitted to John Ryan for consideration in January 2018. We discussed possible steps moving forward, which included a review of the City's project by their engineers. I provided him with an electronic copy of the plans on December 3, 2018. This was on the same day that he reached out to me.

Preliminary information about the new gas management building being too close to the existing gas main were stated by Jeff Larson via email on December 14, 2018. I also mentioned that we would need an opportunity to discuss the project challenges at this location due to relocating site features that had already been bid as part of the City's project and a "retroactive" review by the gas company due to the information not being properly forwarded internal to their organization. At this time I also requested a copy of the existing easement for the gas line. A copy of the easement was provided electronically on December 18, 2018. However, a specific easement width was not included in the original easement, which was dated as of August 8, 1930. Please note that the location of the existing generator building is approximately 20 feet west of the gas line. The proposed gas management building was sited 20 feet east of the gas line, to mimic the existing generator building setback. The flare was located per manufacturer's recommendations, which were a minimum of 25 feet from the propane tank, access road, and 75 feet from the proposed anaerobic liner. The new flare is proposed to be located over 25-feet in the air.

I received a response from Northern on December 20, 2018 that stated: "Northern completed its review and does not approve of the proposed project. There are multiple conflicts with our engineering standards.

- Flares are not permitted within a 102-foot potential impact radius.
- Buildings are not permitted within 35-feet of the pipeline. Proposed/future buildings will need to be outside of this standoff distance.
- Road crossings, including driveways, must cross the NNG pipeline at or near right angles. A parallel offset distance of 25-feet is recommended. Roads within this offset distance may be removed in the event NNG needs to access pipeline facilities in the area for maintenance.
- Foreign utilities must cross NNG pipelines at a perpendicular angle and have a preferred vertical separation distance of 24-inches, with 12-inches being the minimum separation distance. If the NNG pipeline is exposed during excavation at a dresser coupling or acetylene weld connection, NNG will need to install reinforcing sleeves over the connection. This will be at the expense of the encroaching party."

The 3<sup>rd</sup> and 4<sup>th</sup> bullet points were discussed verbally that same day as being met by the submitted plans. Our discussion included possible locations of the flare and building to address the first two bullet points. Based on the current layout, it would be possible to rotate the flare using the current length of flare piping, to meet this requirement. I requested that the building be left as it was designed, at 20-feet east of the gas main, as a negotiated term due to Northern not completing their review earlier in 2018 and now that the project was bid. Jeff stated over the phone that he agreed to take that request to their group for consideration. I also asked about the proposed generator to see if that could stay as located, or if it needed to be moved out of the 35-foot setback. Jeff stated that the existing propane tank did not need to be moved by the City, even though it is within the 35-foot setback as well.

Please note that the "engineering standards" referenced in their email have not been shared for consideration or conformance. No work to modify the layout has been completed, as Northern mentioned another review of the layout. The stated internal meeting on the City's project was held on January 9, 2019. I followed up on January 15, 2019 as I had not heard back regarding Northern's project review meeting. Jeff Larson returned my call and stated that he didn't have good news for me. He shared that they were requiring additional setbacks for safety, all of which would be the City's financial responsibility. Due to the continuing changes in setback requirements, I requested that the updated information be submitted in writing. That letter was provided on January 16, 2019 and is included for your reference. Challenges for the City's current WWTP project are as follows:

- No explanation or standard was provided as to the change in setback from 102-feet as stated on December 20, 2018 to the 125-feet in the current letter.
- The second bullet point references "buildings", which could either mean the late-1990's generator building, as well as the new generator and gas management building. It was stated that the gas line needs to be reinforced due to the building(s) proximity to the line. However, the existing generator building has been in place for 20 years without impacting the gas main.
- The third bullet point is in reference to the City's existing access road along the top of the berm. This drive is used as access around the primary pumping station. Northern's comment could be interpreted that the City would need to relocate their existing access drive.
- New force main crossings are proposed as part of the City's WWTP project. It should be noted that Northern changed their crossing from a preferred separation of 24-inches with a 12-inch minimum in December 20, 2018 to only using 24-inches of separation in the current letter. It is good construction practice to expose utilities to ascertain field elevations at the crossings. The way that Northern has stated their pipe reinforcing requirements may make it so that the Contractor is less likely to fully expose the existing gas main for fear of exposing the joints. This combination has a high probability in additional project costs and delays.

These requested changes would result in additional length of flare piping and associated site modifications, and would mean increased project and redesign costs to the City. These costs are not known due to the changing requirements being submitted by Northern. It is my understanding that the City was unaware of these requirements at any time during the design or early construction process. When asked about Northern's communication with the City about their requirements, it was understood that this information has not been provided to the City by Northern. Safety with the proposed biogas and flare system is critical for proper operation, and are a necessary and welcome consideration. However, for Northern to require changes to the site after a delayed review of a project that results in added construction costs that will be fully borne the City should be brought to the Council's attention for consideration.

Representatives of the company will be at the January 23, 2019 council meeting to discuss this with the City. I will also be in attendance to participate in the discussion. I request assistance from the Council in considering this matter regarding current and future use of the City's existing WWTP site as well as potential construction cost increases due to Northern's requests. Please let me know what questions you have prior to next week's council meeting.

Please feel free to contact us with any additional questions that you may have.

Sincerely,



Craig Reinsch, PE

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On January 11, 2018, Craig had sent an e-mail to John Ryan of Northern Natural Gas that stated:

Good afternoon,

Attached please find 2 sheets that show the potential impacts to the existing natural gas line. As we discussed, it appears that the additional fill will be less than 5' in a small area. We will be installing a concrete sidewalk in the area.

Will you please also provide some depth profiles/information to include on our profiles for piping modifications shown north of the access road? This will help us provide updated information to the installing contractors. Please also let me know if any other information is required.

Thanks, Craig

Craig Reinsch, PE, ENV SP I Water/Wastewater I Olsson Associates  
601 P Street, Suite 200 | Lincoln, NE 68508 | [creinsch@olssonassociates.com](mailto:creinsch@olssonassociates.com)  
TEL 402474.6311 | DIR 402.458.5671 | FAX 402.474.5059

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From: Ryan, John <[John.Ryan@nngco.com](mailto:John.Ryan@nngco.com)>  
Sent: Monday, **February 5, 2018** 9:24 AM  
To: Craig Reinsch <[creinsch@olssonassociates.com](mailto:creinsch@olssonassociates.com)>  
Subject: RE: David City WWTP - gas transmission main coordination

From: Ferguson, John  
Sent: Thursday, February 01, 2018 11:02 AM  
To: Ryan, John <[John.Ryan@nngco.com](mailto:John.Ryan@nngco.com)>  
Subject: Schuyler BL depth

Water treatment plant depths:  
North ditch 3'6"  
Center of road: 6' 10"  
Sign south side of road 6'  
Sign south side of road 3' 10"

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From: Craig Reinsch <[creinsch@olsson.com](mailto:creinsch@olsson.com)>  
Sent: Wednesday/ **November 21, 2018** 8:29 AM

To: Ryan, John  
cc: James McClellen  
Subject: RE: David City WWTP - gas transmission main  
coordination  
Attachments: 20181119\_165659.jpg  
Good morning,

We are starting construction work on the project and have been told we cannot construct system features within 40' of the pipeline. Our on-site observer (email attached) was issued the attached document on site. Plans were submitted to you earlier this year (January/February) and no comments were received as to location, etc. Will you please clarify the comments received?

Thanks, Craig



Northern Natural Gas Company  
P.O. Box 3330  
Omaha, NE 68103-0330  
402 398-7200

January 16, 2019

Olsson Associates  
Craig T. Reinsch, PE, BCCE, MS, ENV, SP  
601 P Street, Ste. 200  
Lincoln, NE 68508

**RE: David City Water Treatment Plant, Butler County, Nebraska**

Dear Mr. Reinsch:

Thank you for the opportunity to review the plans provided by Olsson Associates for the proposed project at the David City Wastewater Treatment Plant in Butler County, Nebraska. The plans include multiple utility lines, new buildings, a new emergency generator, grading, a culvert, a road, and a new relief valve and flare on or near Northern Natural Gas Company's ("Northern") pipeline.

Northern is a natural gas transmission company and operates a 6-inch-diameter, high pressure, underground natural gas pipeline through the property owned by David City located in Section 25, Township 15 North, Range 2 East, in Butler County, Nebraska. Northern is the holder of a blanket easement, dated August 8, 1930, covering the east half of Section 25. The proposed project will encroach upon Northern's facilities. Northern does not approve of the project due to the following:

- Flares are not permitted within 125-feet of the pipeline. The proposed flare is shown at approximately 40-feet from the pipeline.
- Buildings are not permitted within 35-feet of the pipeline. The plans show two buildings approximately 20-feet from the pipeline. If the buildings are to remain at the current distances, the pipeline will need to be reinforced. This will be at the expense of the encroaching party.
- Road crossings, including driveways, must cross Northern's pipeline at or near 90-degree angles. A parallel offset distance of 25-feet is required. The proposed road crosses the pipeline at less than a 90-degree angle and runs parallel to the pipeline within the 25-foot offset.

- Foreign utilities must cross Northern's pipeline at a perpendicular angle and have a preferred vertical separation distance of 24-inches. There are several proposed utilities crossing the pipeline on the plans. If the pipeline is exposed during excavation at a dresser coupling or acetylene weld connection, the pipeline will need to be reinforced. This will be at the expense of the encroaching party.

Please let me know if Olsson Associates and/or David City has any questions or is interested in scheduling a meeting to further discuss the proposed project.

Sincerely,



Jeffrey R. Larson  
Senior Right of Way Agent  
[Jeff.Larson@nngco.com](mailto:Jeff.Larson@nngco.com)  
402-398-7618

City Attorney Jim Egr stated: "Hopefully, just to put things in more perspective, Northern Natural has a pipeline going through the property of the City's. The City has had its Wastewater Treatment Plant (WWTP) there for 20 some years; I think we have our generator building over there. Craig for Olsson Associates had made contact that we're going to be doing some improvements over there, it's been about a year ago, had sent drawings and so forth of what's happening about a year ago, and now just recently we've gotten, and correct me if I'm wrong Northern, ok please, and now we've got some issues coming up about the construction and where things have got to be in relation to that, and questions about the locations of things that the City wants to put there and the costs of doing those locations, and we have a difference of opinion to put it simply. We need to be able to sit down, before the weather gets better, and work these things out. As City Attorney, I think certain costs should be borne by Northern. I think there's been a long period of time where Northern should have done something to advise the City and I think Olsson Associates had filed what they thought were the standards on there, as to the basis for Northern's position, they take a different viewpoint on that. I think if we sit down and get this thing negotiated, I think we can work this thing out. That's kind of it in a simpler nutshell than all the background that Craig gave, and Craig needed to give that kind of background because it had all the e-mails, all the drawings, and all the stuff going back and forth, and I think Northern should be able to say it's piece too on that situation."

A Northern representative stated: "We work with Olsson all the time; we do a lot of projects with Olsson through our system. The way I understand it, we got the request for depths last February, we provided those, and then we didn't really hear anything back until construction began and then we got the final plans. So, we have been trying to get those approved through our engineering and stakeholders as quickly as we can because we don't want to hold up the project, but we did, as you know, have a couple of concerns with the setback of the building. We do have a standard, based on industry standards for setbacks regulated by the DOT, it's also based on that, so for this sized pipeline a permanent structure would need to be 35' away and I think the building is 20' so we're asking to see if that building can be moved another 15' just to meet that setback requirement, and the other concern we had was the location of the flare. I know we originally asked for 100', we did move it out to 125'."

City Attorney Egr asked what the "flare" was.

Craig Reinsch stated: "The "flare" is the way we are getting rid of the methane that's being generated off of the anaerobic lagoon."

The Northern representative continued: "So that's kind of where we are at with that, and Craig, we know we told you 100' originally, we might have some wiggle room on that, if you can put it at 100', if you can fit that into the plans, I think we can live with that. The main concern, if you could do that, is the location of the building. There is one there already that is 20' away, it's been there for quite a long time as I understand, and if we have another building on the other side another 20' away, all of a sudden we are squeezed into about a 40' corridor. According to the easement we could install a second pipeline in there, we don't have any plans to, but according to the easement we could. There's also some access concerns if we ever need to get in and work on that pipeline only having 40' between the two buildings, we're pretty squeezed. So, that's why we're asking to see if it could be moved another 15' or maybe even if you could do it over on the other side; the same side as the existing building is at?"

Discussion followed.

City Attorney Egr stated: "The irony of the whole thing goes back to 1930, and the easement, back then they were never too concerned about dimensions, and it just said an easement across that whole property, it didn't say 40' wide or 50' wide, or anything like that, it just said the whole property. I was surprised when we did our legal research, the Courts have said it doesn't make any difference, we are subservient. So, the best interest for both parties, is that we work something out. Cost wise, I would be of the hope that we can work something out from a cost stand point, that Northern would pick up some costs associated with this that it would not all fall onto the City of David City. The reason I am saying that, is that information was out there for a year and looking over the correspondence going back and forth that the City shouldn't have to bear all the costs involved with this particular project. It we can work those kinds of things out..."

The Northern representative continued: "I think so too, but we would have to work it out outside of this meeting, don't you agree? I'm not in a position to make any decisions anyway, I'm in the right-of-way department, I work with the land, and Jeff and I work with developers every day so we're pretty familiar with how we handle it on our side, but if we get into discussions about cost share and that type of thing that would be different.

City Attorney Egr stated: "I'll let Craig take the lead and organize a meeting with Northern to come to some agreement regarding this, and if you need me to step in then, I'll step in."

Council member Hotovy made a motion to pass Ordinance No. 1301 on the third and final reading. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Meysenburg, Smith, Vandenberg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1301 was passed and approved as follows:

### **ORDINANCE NO. 1301**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6<sup>th</sup> P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF. DAVID CITY, NEBRASKA:

SECTION 1. It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said City;
- (b) Police, fire, mad snow removal benefits will be immediately available thereto, and City water service will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the Offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water service will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not affect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED and APPROVED this 23<sup>rd</sup> day of January, 2019.

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Council President Kevin Hotovy

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City Clerk Joan E. Kovar

**EXHIBIT "A"**

Northwest Quarter (NW $\frac{1}{4}$ ) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes, (120035344 – R.J. Hein)

AND LESS THE FOLLOWING THREE (3) TRACTS OF REAL ESTATE:

TRACT I: A tract of land located in the Southeast Quarter (SE $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the SE corner of said NW $\frac{1}{4}$ , thence westerly, 41.0 feet, on the South line of said NW $\frac{1}{4}$ , to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly Highway right-of-way line; thence westerly 325.00 feet, at a right angle to the last described line; thence southerly, 321.57 feet, parallel with said westerly Highway right-of-way line, to a point on the South line of said NW $\frac{1}{4}$ , thence easterly, 325.00 feet, on the South line of said NW $\frac{1}{4}$ , to the point of beginning, containing 2.40 acres, (120008578 – Michael & Sandra Burwell)

AND

TRACT II: A tract of land located in the Northwest Quarter (NW $\frac{1}{4}$ ) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast Corner of said Northwest Quarter; thence westerly, 41.0 feet, on the south line of said Northwest Quarter, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly highway right-of-way line, to the point of beginning, said point being 40.08 feet west of the east line of said Northwest Quarter; thence westerly, 340.00 feet, at a right angle to the last described line; thence northerly, 385.00 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 340.00 feet, at a right angle to the last described line, to a point on the westerly right-of-way line of Nebraska Highway Nebraska 15; thence southerly, 385.00 feet, on said westerly right-of-way line to the point of beginning, containing 3.00 acres, more or less. (120008595 – Edward & Gwendolynne Hein)

AND

TRACT III: A parcel of land located in a part of the East Half of the Northwest Quarter of Section 18, Township 15 North, Range 3, East of the 6<sup>th</sup> P.M., Butler County, Nebraska, being more particularly described as follows: Commencing at the Northeast Corner of said Northwest Quarter; thence N90°00'00"W (assumed bearing) on the North Line of said Northwest Quarter, a distance of 89.01 feet to a point on the westerly right-of-way line of State Highway No. 15, said point also being the point of beginning; thence S06°11'15"E on said westerly right-of-way line, a distance of 221.29 feet; thence N90°00'00"W parallel with said North Line, a distance of 253.85 feet; thence N00°00'00"E perpendicular to said North Line, a distance of 220.00 feet to a point on said North Line; thence S90°00'00"E on said North Line, a distance of 230.00 feet to the point of beginning, containing 1.22 acres, more or less. (120035346 – Samuel J. Stara)

AND

ALSO, EXCEPT THE RAILROAD RIGHT-OF-WAY.

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At the January 9<sup>th</sup> Council Meeting, Superintendent of Schools, Chad Denker, David City Public Schools, discussed further building projects, nothing official yet, but requested what options are available and the possibility of relocating and replacing the water main that runs north/south on 8<sup>th</sup> Street between “D” and “E” Streets. Craig Reinsch of Olsson was present to present and discuss various options for alternate locations and provided a tentative schedule.

January/February 2019:	Design/survey (survey is scheduled for next week)
March 1, 2019:	Submit to NDHHS for permit review
March 14-28 or	Bidding. I have a few questions here. If the council needs to authorize the project for bidding, that may limit the number of times to bid the project. I have seen projects advertised for only 2 weeks, but 3 is better. <b>Option #1</b> would be to have the Council authorize going out for bid at their March 13 mtg, then bid the project on March 21, 28, and April 4 with the bid opening on April 4 <sup>th</sup> (tighter timeframe). <b>Option #2</b> would be to bid the project (without formal board approval) on March 14, 21, and 28, and open bids on April 2, 2019. This would provide more review time by the City/DCPS, if needed.
April 2 or 4, 2019:	Open bids (if the 4 <sup>th</sup> , it would be in the morning)
April 10, 2019:	Consider/award bids at the regular City Council meeting
1 month (April/May):	Contracts
2 months (May/July):	Construction
July 17, 2019	Substantial completion (new main in use)
July 31, 2019:	Final completion (seeding won't be in place as the window doesn't open until August 1). Perhaps this is bumped to August 2 to allow for seeding of affected areas (anticipated to be minimal).

Superintendent of David City Public Schools, Chad Denker, stated: “Speaking on behalf of the School Board, even though we haven’t finalized anything, I know we are more than willing to pay our fair share. Our thought was, if that is an old water main, it’s a cast iron pipe and we thought maybe it was 60 years old, so from the School Boards stand point we feel like at some point that water main is looking to get replaced anyway. What this project does is just simply moves up that time line, and so with us asking to move up that time line, we think it’s only reasonable that we would pay our fair share whatever that is, and whether we negotiate that behind the scenes, maybe start at a 50/50 split and go from there in terms of negotiating on who

pays. I don't want us to get caught up on that permitting us from making this happen. I think our School Board is more than willing to do whatever is right to make it happen, because we need this to happen in order for us to move forward with our plans. The other question we had is, I think you talked about connecting it on "D" Street between 8<sup>th</sup> and 9<sup>th</sup> and the one question I had is I just want to make sure, does that complete a complete loop then without a dead end anywhere?"

Craig Reinsch of Olsson stated: "It does. The only thing that it changes is you won't have a direct connection to the 10". Instead of being connected by the elementary school you will have to go an extra couple blocks. It is not something you will observe but that could be a change.

Council member Trowbridge made a motion to move forward with this project through Olsson's in conjunction with the School (David City Public School) and upon receiving bids, prior to the acceptance, we have a sit down with Superintendent Denker within an hour of the bid opening, and figure out who is paying what, and if an agreement is reached, we award the bid and move forward. Council member Meysenburg seconded the motion. Voting AYE: Council members Kobus, Smith, Vandenberg, Hotovy, Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

Park/Auditorium Supervisor Bill Buntgen stated that the bid opening for the renovation of the track was held on January 16<sup>th</sup>. Following is a recap of the bids received:

**DAVID CITY ATHLETIC TRACK BID**

BID BOND	CONTRACTOR	BID	COMPLETION DATE	REMARKS
X	McCONNELL & ASSOCIATES	\$136,725.00	August 15, 2019	
X	MIDWEST TRACK & TENNIS	\$119,000.00	August 15, 2019	
X	PRO TRACK & TENNIS	\$113,000.00	August 15, 2019	Not to specs-Track Binder & primer(Glue)
				Specs called for Advanced Polymer Product
				Not Accella Polyurethane

Park Supervisor Buntgen stated that the time frame would be about May 20<sup>th</sup>, right after state track meet, to August 15<sup>th</sup>, and that includes stripping it, marking it, etc.

DCHS Superintendent Chad Denker stated: "I had some questions if you don't mind. When they strip off that top layer, are they going to, I assume, fix any asphalt repairs?"

Park Supervisor Buntgen stated: "Yes; there are some cracks in the asphalt and they will repair and fix those."

Chad Denker continued: "The other question I had was on the high jump apron there is probably about a 2" drop off from one end to the other, and so as a high jumper, when you're high jumping you're either running up hill or downhill, neither which is ideal. So, is there any consideration about leveling that asphalt out so that's it's a flat surface that the kids are jumping instead of either an incline or a decline, because I think this would maybe be the opportune time to potentially fix that if it's at all fixable, I don't know if it is. It may or may not be a quick repair."

Councilmember Trowbridge said: "Ok, this one slopes from west being high, to east being low, which is the natural curvature of that field I believe.

Chad Denker stated: "And maybe it needs to for drainage purposes, I don't know, maybe that's the best we can do, but I just felt remiss if I didn't say anything and we spend \$119,000 on a track surface and everybody says well why didn't you when you had the opportunity to potentially make it flat."

Park Supervisor Buntgen stated: "When they designed it, they did make it slope, so it could be possibly be because of drainage."

Councilmember Trowbridge said: "Well, let's look into it. Bill, would you talk with Ron Mimick (of Aquinas High School) also and make sure that somebody doesn't decide that they'd like one more, long jump lane; we'd rather know that sooner than later if they want to pay for it, or he may have something else like Chad had to take a look at."

Council member Trowbridge made a motion to accept the bid of Midwest Track & Tennis in the amount of \$119,000.00. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

The following bids were received for the annual performance evaluation testing at the power plant:

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Council member Trowbridge made a motion to accept the low bid of Process Measurement Company in the amount of \$6,102.28. Council member Vandenberg seconded the motion. Voting AYE: Council members Meysenburg, Smith, Kobus, Hotovy, Vandenberg, and Trowbridge. Voting NAY: None. The motion carried.

Joseph McNally of Municipal Code Services, Inc. was present to discuss the revised Municipal Code Book. Joseph stated: "When you hired us, you hired us to bring your ordinances up to current State Statutes to include all of the ordinances that you have adopted and put them together in a rough draft. We did that and we presented that to you; this is the rough draft. We asked for you to go over it and let us know when you could meet with us so we could go over the rough draft to discuss it. We never heard back and it's probably my fault because we had a lot of other towns and we just didn't follow up on it as we probably should have, but we are at the point now where we would like to continue it; you've only paid for half of the contract.

After discussion, it was decided that Joseph McNally will meet with City Clerk Kovar and Deputy Clerk Comte in the near future to finalize the updated code book.

The next agenda item was consideration of adjusting the compensation for Interim Wastewater Supervisor C.J. Novak and Interim Water Supervisor Aaron Gustin.

Council member Trowbridge stated: "Not to pick on this particular item but I don't know where we are headed. I'm looking backwards, and this is the way we have done this for the last 8 years. We get the new people lined up and they're generally people we have, and we move them into the temporary position, and then we change their compensation and then we wait about a month and then we make them the boss, and for eight years it hasn't worked, and you don't get better at fixing things if you keep doing them the way you used to be doing them and expecting a different result. So, I don't know, is that where we're headed?"

Council President Hotovy stated: "I don't think so at all, and whether that is the case, I don't have a crystal ball. I'm just looking at the fact that if someone has more responsibility put in front of them, they should be compensated accordingly."

Council member Trowbridge stated: "As long as that promise isn't being made indirectly, that this is where you are going to stay, this is during an interim period. Our interim city administrator is 8 years old at it."

Council President Hotovy stated: "That's my thing. If I was going to take on more responsibility in signing documents and submitting stuff to State entities that is extremely important for the quality of our water and wastewater, I don't think in my opinion, myself, I wouldn't do that without getting compensated for it; maybe you guys have a different opinion."

Council member Trowbridge stated: "I'm not saying that's bad. I'm just saying what comes next? We're following the same path we've followed for eight years and in my estimation it has never worked. This will be our 5<sup>th</sup> Wastewater Supervisor in eight years."

Discussion followed. It was noted that since these are "interim" positions, if the employee does not actually get the job, the employee would go back to their regular pay.

Council member Hotovy made a motion to set the "interim pay" for Interim Wastewater Supervisor C.J. Novak at \$21.35/hr. and Interim Water Supervisor Aaron Gustin at \$21.35/hr. effective January 10, 2019. Council member Vandenberg seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Smith, Kobus, Hotovy, and Vandenberg. Voting NAY: None. The motion carried.

Street Supervisor Chris Kroesing reported that the cylinder is leaking on the baler at the Recycling Center and it needs a new belt. Chris stated: "I got a bid from Riekes Equipment out of Lincoln, they've done work on our balers over there since I've started at the City. Their bid was \$2,234.00 and that's with us helping them to take it out. If they have to haul a fork lift out here to get it out, then it's going to be more, but we said that we would be able to help them out."

Council member Trowbridge stated: "Are we to the point, that we visited earlier about the power plant, that maybe sometime it's time to pull the plug?"

Discussion followed in which it was noted that this is a service that the City provides but we lose money on this venture every year.

Council member Trowbridge made a motion to table indefinitely, consideration of rebuilding the cylinder for the baler at the Recycling Center. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Vandenberg, Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Scott Steager was present to "discuss only" Lots 2 & 3, Block 8, Will Thorpe & Perkins 2<sup>nd</sup> Addition. This property is located on the southeast corner of 3<sup>rd</sup> & "M" just south of the Butler Public Power District. Scott was representing himself saying that he was considering acquiring this property from Mark Sloup if the Council would consider rezoning the property from R-2 (2 Family Residential) to I-1 (Light Industrial). Scott would purchase the property for the purpose of putting storage units on it. Scott was wondering if that would even be an option around the Council table or if it's dead in the water and he should look somewhere else. It was noted that normally the Planning Commission would act on this and make a recommendation to

the Council. Discussion followed. Some comments were made that they felt there was a shortage of residential lots already.

There being no further business to come before the Council, Council member Trowbridge made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Vandenberg, Kobus, Smith, Hotovy, and Trowbridge. Voting NAY: None. The motion carried and Council President Hotovy declared the meeting adjourned at 8:45 p.m.



CERTIFICATION OF MINUTES  
January 23<sup>rd</sup>, 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 January 23<sup>rd</sup>, 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.

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Joan Kovar, City Clerk