

**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 special meeting of said body and the agenda for such meeting to be held at 6:30 o'clock p.m. on the **27th day of June, 2018**, in the meeting room of the City Office, 557 North 4th 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 14th day of June, 2018.

Southerly 657.35 feet, to the Point of Beginning.

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;
4. Public Hearing on a Redevelopment Plan for the real estate described, pursuant to the Nebraska Community Development Law:

Parcel 1 and 2:

Lots One (1), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), and Thirteen (13), Block One (1), Schmid's Addition to the City of David City, Butler County, Nebraska.

Parcel 3:

A tract of land located in the North Half of the Northeast Quarter of the Southwest Quarter (N1/2 NE1/4 SW1/4) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska described as follows: Commencing at the Southeast corner of said North Half (N1/2); thence Westerly, 341.60 feet, on the South Line of said North Half (N1/2), to the Point of Beginning, said Point being the Southwest corner of a parcel of land conveyed in Microfilm Book 81, Page 521; thence continuing Westerly, 977.83 feet, on the last described line, to the Southwest Corner of said North Half (N1/2); thence Northerly, 658.98 feet, to the Northwest Corner of said North Half (N1/2); thence Easterly, 979.92 feet, on the North line of said North Half (N1/2); thence

Mayor Alan Zavodny

Council President Gary D. Smith

Council member Dana E. Trowbridge

Council member Thomas J. Kobus

Council member Kevin N. Hotovy

Council member Patrick J. Meysenburg

Council member John P. Vandenberg

City Clerk Joan E. Kovar

5. Discussion and Consideration of vacated "S" Street and any easements on the above listed property;
6. Consideration of an agreement with Henningsen Foods concerning sewer samplings, emissions, etc.;
7. Consideration of awarding a bid for the Wastewater Treatment Plant Improvements;
8. Consideration of hiring an engineering firm to conduct a traffic study for "S" Street / Highway 15;
9. Adjourn.

CITY COUNCIL PROCEEDINGS

June 27, 2018

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 4th Street, David City, Nebraska. The Public had been advised of the special meeting by publication of notice in The Banner Press on June 14th, 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 Gary Smith, Thomas Kobus, Dana Trowbridge, Patrick Meysenburg, and John Vandenberg, and City Clerk Joan Kovar. Council member Kevin Hotovy was absent.

Also present for the meeting were: Jeff Thompson, Exec VP Mfg., Timpote, Library Director Kay Schmid, Library Board Members Steve Smith, Jane Buresh, Heather Allen, and Larry Griffiths, Larry & David McPhillips, Jim Osborn, Larry Sabata, Park Supervisor Bill Buntgen, Street Supervisor Chris Kroesing, and Electric Supervisor Pat Hoeft.

The meeting opened with the Pledge of Allegiance.

Mayor Alan 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.

Mayor Zavodny stated the next agenda item was a public hearing on a redevelopment plan for the real estate described, pursuant to the Nebraska Community Development Law:

Parcel 1 and 2:

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City Clerk Kovar stated: "Mike Bacon, Bacon & Vinton, L.L.C., stated that Timpte was no longer interested in Tax Increment Financing, is that correct?"

Jeff Thompson, Exec. VP Mfg., Timpte, stated: "We will know more after we meet with the attorney on Tuesday, but right now the way the tax law appears it is going to be a challenge, they recently changed the tax codes."

Council member Trowbridge asked: "Can the City do Tax Increment Financing for pure infrastructure? I'm thinking road, but I'm also thinking we have to pay the \$150,000 off on the current, because you can't stack TIF on TIF."

Mayor Zavodny stated: "I talked to Mr. Bacon. I think that is the question we do need to explore. I think it's something we're going to want to look at, depending on what Timpte's going to want to do, to help us certainly with the "S" Street even though the grants going very well, and if there could be another ingress/egress and other infrastructure that we started to talk about, I think we're maybe going to look at that too. Mike explained to me why it didn't make a lot of sense for you guys, and I understand that totally. "

Council member Trowbridge stated: "I picked up on that saying that if there are some things that we can do that need to be done, and we can capture, even if we had to pay back the \$150,000, we might be able to roll it into the next issue and do an extra ingress/ egress for you guys."

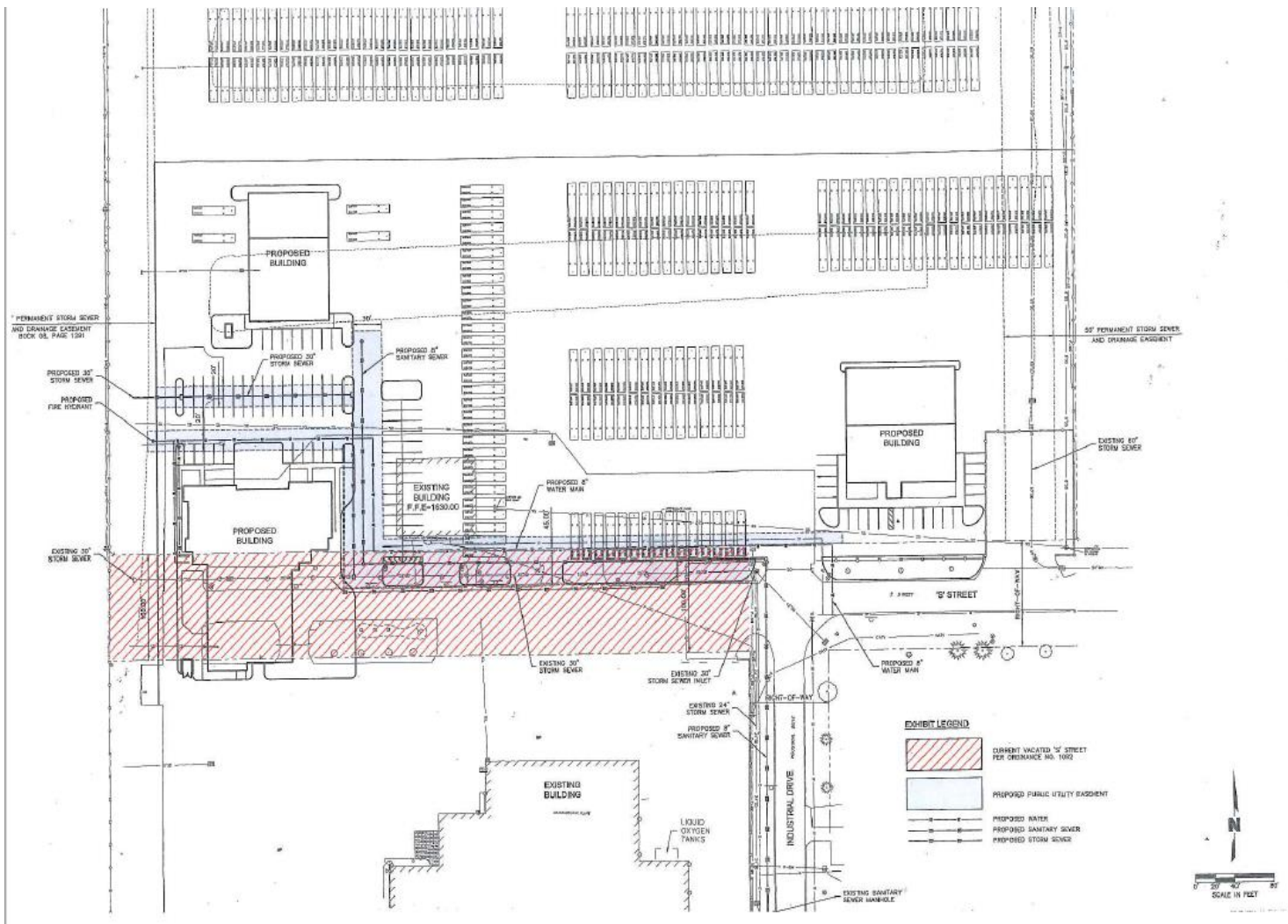
Jeff Thompson stated: "As a community, you might be able to pick up a lot of infrastructure."

Council member Trowbridge stated: "Yes, and it may open some residential availability to the north."

Mayor Zavodny stated: "We talked about that too, if that could be some Flex usage, we certainly need housing, I have talked to R.J. (Hein), so he's at least open to it. I think what we want to do then at this juncture, and if you're comfortable with it, if you decide later on..., I think we table this indefinitely and then move on to other business."

Council member Trowbridge made a motion to table indefinitely a public hearing on a redevelopment plan for the real estate described above. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Trowbridge, Vandenberg, and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried.

A representative of Olsson Associates stated that he was filling in for Eric Beiermann and he presented a map and stated: "What you are looking at, kind of highlighted in red, is the vacated "S" Street portion which is the easement in question. So right now, to our knowledge, there's an existing 24" storm sewer that comes up north from Industrial Drive and then heads west in that red area. Pat (Hoeft), I believe you mentioned that the electric lines in this area were removed in 2016. So, I think what we've been meeting with Timpte and discussing, which you will also see on that exhibit, is some gray hatched areas where what we had talked previously about, the City was potentially extending public water main and public sanitary sewer into the Timpte property generally following that gray hatched pattern that you are looking at, and then also another piece of an easement would be to redirect that 30" storm sewer to go up north of the Timpte Office Building and then back to the west to the existing drainage ditch. The intent was to request to vacate the easement language within the portion of "S" Street which was vacated in that red area, and then look at the potential to dedicate new easements for these utilities that were shut off and the new route that we are showing here. Currently the proposed office building kind of straddles where that 30" storm sewer line comes through, so we would take it north and then back west around the building. I don't have any cost estimates yet on this infrastructure.



Discussion followed in which it was stated that City Attorney Jim Egr will be asked to draft an ordinance releasing the easements on the vacated "S" Street and then it will be on the July 11th Council agenda for consideration. The City will need to engage someone to conduct a traffic study at 4th Street (Hwy 15) and "S" Street.

Mayor Zavodny stated: "I think we need to look at Tax Increment Financing for the City to pursue. If you (Jeff Thompson – Timppte) are far enough along, have you considered what else you may need to be able to make this go as smoothly as possible?"

Jeff Thompson stated: "Mike Bacon actually suggested that we talk to Tim Moll of Seward who has a lot of experience in this area." *[Tim is the head of the Business Services Practice Group of the firm Rembolt/Ludtke and enjoys working on business planning matters with an emphasis on tax related issues.]*

Mayor Zavodny stated: "Thank you for everything you've done, I think it's progressing well and I'm happy about that. For now, I think we'll leave that be."

Mayor Zavodny continued with the next agenda item, that being, consideration of an agreement with Henningsen Foods.

Council member Trowbridge stated: "Concerning the samplings, Craig (Reinsch of Olsson Associates) was asked very clearly by the committee, three weeks ago, to reach out to Terry Tanaka. (Teruhisa "Terry" Tanaka, SVP Operations and Corporate Management, Henningsen Foods, Inc.) There is a paragraph on sampling protocol that has been suggested, and I asked Craig, for the committee, to reach out to Terry and for he and Terry to work together to come to a paragraph of sampling protocol that they both could live with, and three weeks later we haven't gotten that done. So, the committee is going to move ahead and use the sampling protocol that was at our last meeting."

City Clerk Kovar stated: "I do know Craig had said that he would be on vacation and on business travels during June and July."

Council member Trowbridge stated: "Craig and Travis (Hays – Water/Sewer Supervisor) wish to keep the hammer above Henningsen with "we want to charge you incident charges of \$150.00 a day continuing"... For the people that don't know, we have charged that company \$153,000.00 in the last year and a half and they have paid them, so we love these incident charges, and I think it's nothing other than punishment. Henningsen is spending \$500,000.00 in-house to stop the PH variances and the fluctuations that we've been charging them incident charges for. Half a million dollars of their money inside their walls to keep us happy. I believe it will work; Craig isn't sure if it will work. If it does work, we have no issue, it's a moot point. I can't believe they would spend \$500,000.00 and end up with a product that doesn't work."

Mayor Zavodny said: "Well it does lead us to the playing devil's advocate, what if? What happens if we continue to have problems?"

Council member Trowbridge stated: "If we continue to have.....then Craig says, it will hurt the sewer piping, and I didn't know that we used cast iron sewer pipe. The PH fluctuations would eat the pipe."

Council member Kobus stated: "That's a new one on me."

Council member Trowbridge stated: "Well if we do slip linings it doesn't matter does it? I think that's a very "weak excuse" is what I think it is."

Council member Kobus stated: "This has gone on long enough and there is no one that works on it harder than he did to get it to work and we are right there. I think we ought to go with either the last agreement or something simpler than what we have now to get this thing going. It's ridiculous already. I mean, as far as I can see, Craig and Travis need to back off. I think it comes to the point now where there's going to be some argument on who knows who, where, when, and how, and I think they need to back off and the City should make the decision and go for it."

Mayor Zavodny stated: "We need an agreement in place. What concerns me more than anything is, we set a deadline of December 1st, and here we are for all intents and purposes, July 1st and we still don't have it, and at the end of the day our differences with Henningsen's aren't the biggest issue here, the biggest issue is our compliance with the EPA and that's on us. So, we've got to move forward and we can't move forward with the design without Henningsen's being on board, you know that's dangerous, so we need to work out this very small area of real estate."

Council member Kobus stated: "They're right there, they will do it."

Council member Trowbridge stated: "I think we've got it worked out, we use the sampling protocol that's in this paragraph and we move forward with it. We don't have any risks to speak of Alan. It's just kind of an ego trip and I don't think those need to interject into business. If this is acceptable, which the committee and Egr believes is acceptable, their attorney will have the agreement on paper by the end of the week which is Friday. He (Attorney Mostek) has been held up, as of late, when a tree fell through his house. There's no more arguments."

Mayor Zavodny asked: "How do you wish to proceed?"

Council member Trowbridge made a motion to authorize Mayor Zavodny to sign the agreement upon it's drafting. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Kobus, Smith, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

Council member Trowbridge made a motion to table consideration of awarding a bid for the Wastewater Treatment Plant Improvements. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Kobus, Vandenberg, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

Mayor Zavodny stated: "Consideration of hiring an engineering firm to conduct a traffic study for "S" Street / Highway 15. The next step on our standpoint to get this grant, that we've been favorably reviewed for by the Nebraska Department of Roads, is to have the traffic study so they can help design what we're really going to need."

Council member Kobus made a motion to hire Olsson Associates to conduct a traffic study for "S" Street / Highway 15. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Trowbridge, Meysenburg, Smith, and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried.

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, Smith, Vandenberg, Kobus, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 6:55 p.m.



CERTIFICATION OF MINUTES
June 27, 2018

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 June 27th, 2018; 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