

**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 **14<sup>th</sup> day of March, 2018**, 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 7<sup>th</sup> day of March, 2018.

**AGENDA AS FOLLOWS:**

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| 1. Roll Call;   | <hr/> Mayor Alan Zavodny                   |
| 2. Pledge of Allegiance;  |  |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;  | <hr/> Council President Gary D. Smith      |
| 4. Minutes of the February 14 <sup>th</sup> , 2018 meeting of the Mayor and City Council;   |  |
| 5. Consideration of Claims;   | <hr/> Council member Thomas J. Kobus       |
| 6. Committee and Officer Reports;   |  |
| 7. Consideration of, and discussion with Henningsen Foods Inc., <ul style="list-style-type: none"><li>• Setting and approving Henningsen's contribution for the WWTP and sewer work;</li></ul>  | <hr/> Council member Dana E. Trowbridge    |
| 8. Consideration of authorizing Olsson Associates to advertise for bids for the WWTP improvements and sewer work with a bid opening date of April 3 <sup>rd</sup> at 1:30 p.m. and consideration of awarding a bid at the April 11 <sup>th</sup> Council Meeting;   | <hr/> Council member Kevin N. Hotovy       |
| 9. Discussion with Andy Riales of Black Hills Energy concerning a pipeline coming in from the east on "H" Street, traveling south on 11 <sup>th</sup> Street to "C" Street, and then west on "C" Street to about 2 <sup>nd</sup> Street;                            | <hr/> Council member Patrick J. Meysenburg |
| 10. Discussion concerning the final design for the intersections of 5 <sup>th</sup> & D and 5 <sup>th</sup> & E Streets, discussion concerning the total closure of some blocks to speed up the total construction time for each street, and Consideration of such; | <hr/> City Clerk Joan E. Kovar             |

11. Consideration of the bids received for a slurry pump at the Water Treatment Plant;
12. Public Hearing to consider annexing the Brian and Mistyn Kozisek property located at the corner of 14<sup>th</sup> & C Streets legally described as follows: A parcel of land located in the South Half of the Southwest Quarter of Section 20, Township 15 North, Range 3 East of the 6<sup>th</sup> P.M., Butler County, Nebraska, being described as follows: Referring to the Southeast corner of the South half of the Southwest Quarter of said Section 20; thence S90°00'00"W on the south line of said South Half of the Southwest Quarter, a distance of 1544.86 feet to the east right of way line of 14<sup>th</sup> Street and the Southeast corner of East David City, an addition to the City of David City, Nebraska; thence N00°58'30"W, on said east right of way line and the east line of said addition, a distance of 594.00 feet to the northwest corner of a tract of land as described in film book 2011, Page 1512 and recorded in the office of the Register of Deeds, for Butler County, Nebraska, and the point of beginning, thence continuing N00°58'30"W (assumed bearing) on said east lines, a distance of 273.28 feet, thence S89°59'34"E, a distance of 163.50 feet; thence S00°58'30"E parallel with said east lines, a distance of 270.66 feet to the north line of said tract of land; thence N89°54'39"W, on said north line, a distance of 163.43 feet to the point of beginning, containing 1.02 acres, more or less;
13. Consideration of Ordinance No. 1285 annexing the Brian and Mistyn Kozisek property, legally described above, on the first reading only;
14. Consideration of approving Par IV Restaurant & Lounge, 899 Park Drive, %Mason Samek, as a lottery sales outlet for Keno contingent upon receiving their liquor license;
15. Consideration of requesting bids for the demolition of the house at 897 North 5<sup>th</sup> Street;
16. Consideration of the application by Ka-Boomer's Enterprises, Inc. to sell permissible fireworks at 1510 4<sup>th</sup> Street;
17. Consideration of , and discussion with Nicholas Schneider, concerning the correction order he received on the property at 507 Oak Street;
18. Consideration of accepting the resignation of Street Supervisor Rodney Rech, effective March 30, 2018, and consideration of appointing a replacement;
19. Adjournment;

## CITY COUNCIL PROCEEDINGS

March 14, 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 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 March 8<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 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, Pat Meysenburg, John Vandenberg, Kevin Hotovy, and Dana Trowbridge, City Attorney Jim Egr, and City Clerk Joan Kovar.

Also present for the meeting were: Andy Riales of Black Hills Energy, Al Hottovy & Jonathan McCarville of Leo A. Daly, Fire Chief Matt Hilger and Doug Matulka of the Fire Department, Attorney Michael Mostek & Loretta Carroll of Mostek Law, Teruhisa (Terry) Tanaka, and Nathan & Christy Palensky of Henningsen Foods, Nicholas & Gretchen Schneider, David McPhillips, Planning Commission member Jim Vandenberg, Building Inspector Ray Sueper, Banner Press Editor Larry Peirce, Sewer Supervisor Travis Hays, Street Supervisor Rodney Rech, Street Foreman Chris Kroesing and wife Sarah, and others.

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 and asked those present to please silence their cell phones.

The minutes of the February 14<sup>th</sup>, 2018 meeting of the Mayor and City Council were approved upon a motion by Council member Kobus and seconded by Council member Smith. Voting AYE: Council members Hotovy, Meysenburg, Trowbridge, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims and Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Trowbridge, Hotovy, Smith, and Kobus. Voting NAY: None. The motion carried.

Mayor Zavodny asked for any comments or questions concerning the Committee and Officer Reports.

Council member Kobus made a motion to accept the Committee and Officers Reports as presented. Council member Smith seconded the motion. Voting AYE: Council members Meysenburg, Vandenberg, Trowbridge, Hotovy, Smith, and Kobus. Voting NAY: None. The motion carried.

Mayor Zavodny stated: "Item #7 (*Consideration of, and discussion with Henningsen Foods Inc., setting and approving Henningsen's contribution for the WWTP and Sewer work*) we are going to discuss some legal issues concerning an agreement with Henningsen Foods so I would entertain a motion to go into executive session."

Council member Smith made a motion to go into Executive Session to discuss a legal issue concerning an agreement or contract with Henningsen Foods concerning their required contribution towards the Wastewater Treatment Plant and other sewer work. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Vandenberg, Meysenburg, Hotovy, Smith, and Kobus. Voting NAY: None. The motion carried.

Mayor Zavodny stated, "At 7:03 p.m. we are going into executive session to discuss a contract with Henningsen Foods concerning their required contribution or costs towards the Wastewater Treatment Plant and other sewer work." Mayor Zavodny, Council members Trowbridge, Meysenburg, Smith, Hotovy, Kobus, and Vandenberg, City Attorney Egr, and City Clerk Kovar went into executive session at 7:03 p.m.

City Attorney Jim Egr stated 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 7:23 p.m.

Council member Smith made a motion that Henningsen Foods be required to pay 70% of the Wastewater Treatment Plant Improvements and other sewer work, with a deadline to accept or decline, by 5:00 p.m. on Friday, March 23, 2018. Council member Kobus seconded the motion.

Mayor Zavodny stated: "At this point we would like to give Henningsen's a chance to say anything they would want to say."

Attorney Mostek asked: "Is that offer open until that date?"

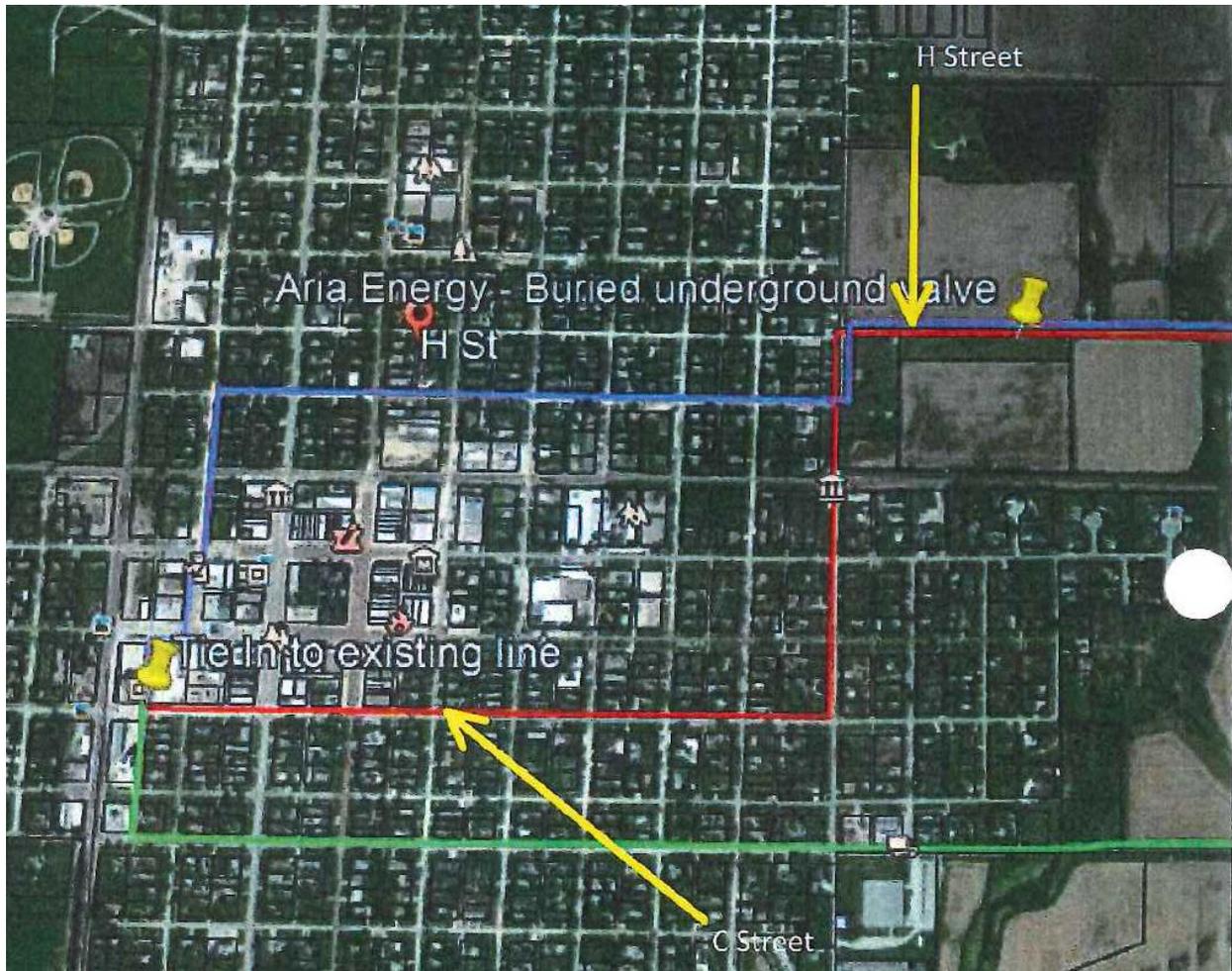
Mayor Zavodny stated: "It is 70% of the project and a deadline of 5:00 p.m. on Friday, March 23<sup>rd</sup> to accept or decline, so we're clear on what we will do at that point. You are well aware our EPA and DEQ timeline's ticking as well. We will go to Olsson's and look at a different design option, without factoring Henningsen's, if we don't have an agreement by that point. That's our moving forward. I just want to make sure we are abundantly clear on what our course of action is at this point, based on what we've decided. We know you need some time to go and look at that and see how it impacts you. Right now, it's throwing a dart to some extent, so now you have a firm number to go with."

Roll call on Henningsen's share of 70% of the Wastewater Treatment Plant Improvements and other sewer work, with a deadline to accept or decline by 5:00 p.m. on Friday, March 23, 2019. Voting AYE: Council members Hotovy, Meysenburg, Vandenberg, Trowbridge, Kobus, and Smith. Voting NAY: None. The motion carried.

Council member Trowbridge thought that before we authorize Olsson Associates to advertise for bids for the WWTP Improvements and sewer work, we should wait and see what answer we get from Henningsen's; did they accept or reject. It was discussed that a special council meeting could be scheduled to consider this after we have Henningsen's answer.

Therefore, Council member Trowbridge made a motion to table consideration of authorizing Olsson Associates to advertise for bids for the WWTP Improvements and sewer work. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Smith, Vandenberg, Meysenburg, Trowbridge, and Kobus. Voting NAY: None. The motion carried.

Andy Riales of Black Hills Energy was present to discuss a proposed pipeline coming in from the East on "H" Street, traveling south on 11<sup>th</sup> Street to "C" Street, and then west on "C" Street to about 2<sup>nd</sup> Street. This will be methane gas from the B.C. Landfill to Henningsen's.



Street Supervisor Rodney Rech stated: “The first notification that I got was from a gentleman from Black Hills Energy out of Iowa and they were going to come in on “G” Street which is a total nightmare for all departments. “H” Street is the best; that’s where they came in in 2008 and the original Timberline route was located. “C” Street has water mains, not as many storm sewers, but then they need to cross the new storm sewer system on the highway. Timberline bored everything from alley to alley. The gentleman I originally talked with said they want to bore the streets but then again they want to knife the parquets, but still you have a lot of service lines, sidewalks, cement driveways, sprinkler systems, etc. to contend with.”

Andy stated that he was not the engineer and didn’t really know why they selected “C” Street.

After much discussion, it was decided that Street Supervisor Rodney Rech would visit with Andy Riales about scheduling a meeting with Black Hills Energy to discuss this proposed pipeline at a time when the appropriate department heads and Al Hottovy from Leo A. Daly could all be present.

Al Hottovy and Jonathan McCarville of Leo A. Daly were present to discuss the final design for the intersections of 5<sup>th</sup> & “D” and 5<sup>th</sup> & “E” Streets as well as possible total closure of some blocks to speed up construction.

Jonathan McCarville stated: "During our discussion with the contractor this spring, it was noted that in Lincoln on one of the streets, I don't know if it was "O" Street or one of the streets in the hay market, but one of the big stars made out of brick in the street, they actually have to tear it out and replace it with concrete. So, that just led us down this road where we know that we had originally proposed brick intersections here, and there was some talk a long time ago about making them concrete, so I just wanted to do our due diligence and bring it up one final time just to express any hesitance that we have, but I'll follow that up with, I gave a friend in Broken Bow a call after we had that meeting and they just did a similar project to this and they have two intersections that are brick, now granted they're no way near as large as yours are, and actually the intersections are holding up just fine, and they concluded their project last year. I just wanted to bring this up again just to give anybody a chance to discuss it, but if the Council wants to proceed with brick streets and brick intersections we are fine with that as well."

Council member Kobus asked: "Fine with it, then how come you are you bringing it up?"

Jonathan stated: "Well, we are fine with it; concrete would work better in my opinion."

Council member Kobus stated: "That should have been done before all this."

Street Supervisor Rodney Rech stated: "I said that a year ago to Al (Hottovy) but everybody thought I was crazy."

Mayor Zavodny stated: "There are a bunch of issues we need to go through. 1) I know we're pretty unwilling to have to pay for a change order with something that we think we have pretty much a final design on, because you've designed it with bricks, so that becomes an issue. The other thing is, you know we worked so hard to get to where we have bricks incorporated into this design and I think losing the intersections makes it a very, very, small amount that remains brick and I don't think that was what was wanted in the end when the final design was decided on. Now, that being said, is there a minor change we can make that will kind of harness them or something, some kind of a border, a square border in the intersection to hold the bricks. What's it going to take to make sure that it works, I guess?"

Jonathan stated: "What I would propose is actually extending the concrete gutter out to better frame the brick. What this does is, the inside wheels that will be doing the turning movement would be along concrete and not brick, so that force would be on the concrete."

Mayor Zavodny asked: "How wide of a strip are we be talking about?"

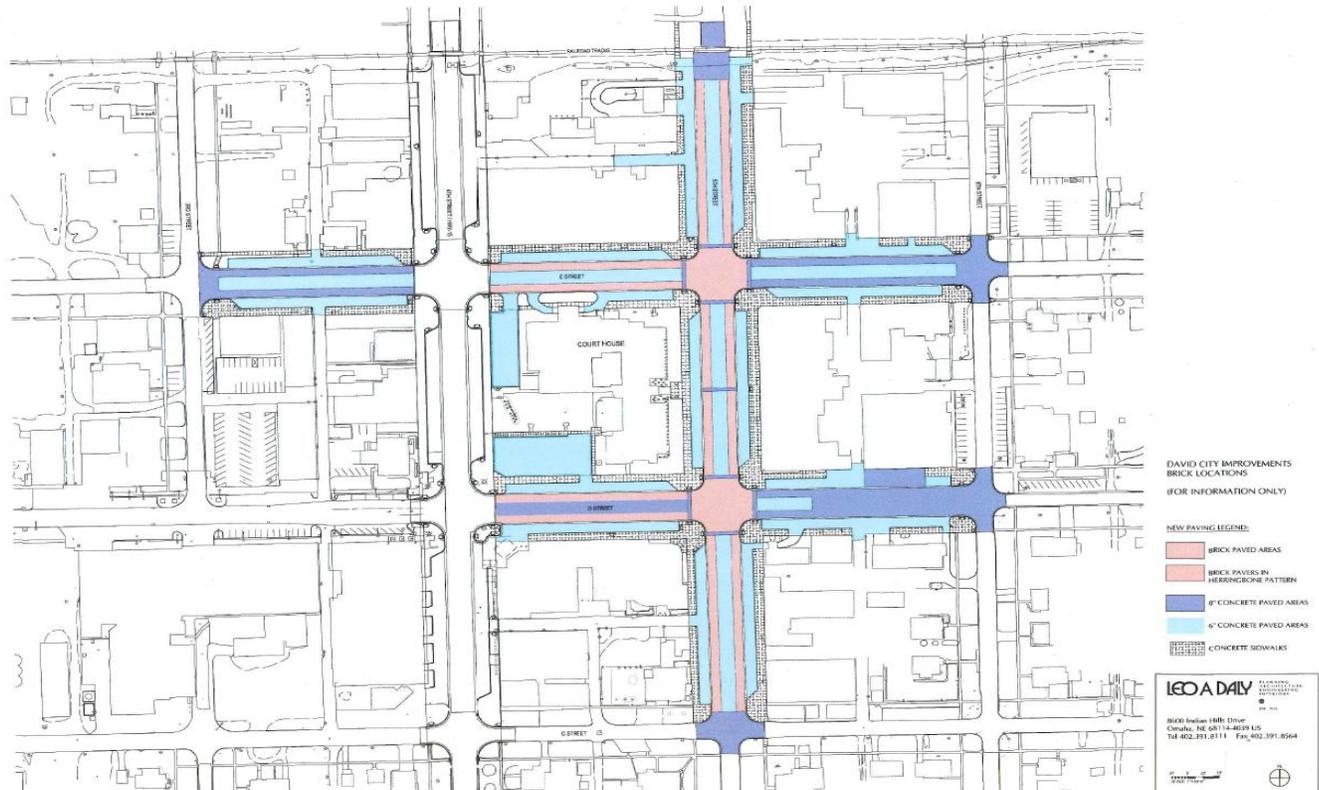
Jonathan stated: "Well it already comes out 2½' from the curb, so if we add on an additional 1½' - 2' probably, so you are talking about a 4½' wide swath of concrete along the edge of the road so where the radius' are."

Al Hottovy stated: "Instead of a 2' curb and gutter you would have a 4 - 4½' curb and gutter; where the water inlets are."

Jonathan stated: "Yes, and that's the other reason behind it, it's not just the turning movement but because of where we are sending all the water. It's handling it now but if there's ever any water ponding there it would be on concrete and not on the brick."

Council member Trowbridge asked: "What type of motor vehicle causes the greatest problem on a brick intersection? A tandem axle or a single axle?"

Al Hottovy stated: "A single axle because of the movement, the turning, because you are pushing. Now, just to make sure everyone understands this is not a change order, because right now what you have in the bid under contract is the most expensive alternative. We bid concrete and we added an alternate and the Council decided to award the alternate, so the contract now has the most expensive item in it."



Council member Trowbridge stated: "The reason it is brick is that's what the Community wanted."

Mayor Zavodny stated: "I am going to fight for that, but if there is a small adjustment to make sure they'll hold in place; does it help us making them herringbone (pattern) or anything like that as far as structure, I'm just asking. Does any of that matter? The pattern it's laid in won't make a difference? No, ok."

David McPhillips stated: "I talked to Jon a little bit about this already and the only star that I am familiar with in Lincoln is downtown like on "O" Street that gets massive amounts of traffic. That's the only star that I am familiar with and it wasn't put in recently, I believe it was put in in the 70's when I was a young kid and my parents and I were living there. Has due diligence been done, have you taken a look at this?"

Jonathan stated: "Our contractor has, and so they're the ones that recommended that it be concrete, even though they would be taking a loss on this."

David McPhillips stated: "Right now, if I look at this in a practical matter, those bricks have been down there since 1905 and those intersections that exist right now are in very, very, good shape. We are going to be having the same traffic that's driving today on those and they're almost in perfect shape. They are going to be driving on them after construction, why would your construction not hold up as well as construction from 1905?"

Jonathan stated: "Oh there's certainly no reason to, it'll hold up just as long. I feel that concrete is a safer issue because there's no moving parts to it or very little moving parts to it. I'm not questioning the quality of the construction here, it's more of just a longevity of the project. But I understand that your brick streets have been here for 100 years, so I'm not saying that we can't do it, I'm not even making the recommendation that we make them concrete."

Mayor Zavodny stated: "Do you feel though the one thing we might need to change is extend that gutter just a little?"

Jonathan stated: "Yes."

Council member Kobus stated: "I can't see where that's going to do any good. Those brick are still going to move, they're going to move period. You get a tandem truck turning on them that back axle slides, and you get a loaded one, that's really bad."

David McPhillips stated: "Is that traffic going on downtown right now?"

Council member Kobus stated: "Well you've got semi's delivering stuff."

David McPhillips stated: "Right, and I don't see any destruction or degradation on those intersections right now."

Council member Kobus stated: "That's what I'm saying. We worked hard to get it this far, why did doubt come up now? I don't understand this."

Al Hottovy stated: "I don't think it's a doubt, I think it's an opportunity to make due diligence. The contract calls for brick, and we're standing by the design the bricks will last, except over years it will not last as long as concrete. So, we're giving you one last chance to say: "the decisions we made were sound and we stand by that decision". The problem we've got is that the contractor is moving in here and he's going to start tearing up the street."

Mayor Zavodny stated: "It's ironic we bring up the concrete. I got a call today saying, *"How come some of our sidewalks are cracking already? It's been four months or whatever."* Have you looked at them?"

Al Hottovy stated: "We're going to be looking at those and we're going to have them tear them out if they're cracking."

Mayor Zavodny stated: "You know, for the few months they've been there, and it's been brought up we have a lot of leaf imprints in the new concrete sidewalks. It's just, it has to be right. The tax payers of David City approved two sales tax extensions to get a project that should last us the next hundred years, so we have to get it right. If it's a minor change....., unless someone can make a compelling argument, I think you take the bricks out of our intersections then the whole project becomes "we didn't save our bricks".

Al Hottovy stated: "We'll accept that decision we just need to know if there's any second thoughts as to what the decision process was before."

Council member Kobus stated: "We shouldn't have to have second thoughts."

Mayor Zavodny stated: "Having this conversation's planting some doubts, I'm not going to lie."

Council member Kobus stated: "I've talked I don't know how many times, I told you guys what those bricks would do on an intersection before we even did it, and you told me "no problem, no problem. They drain good, they stay....."

Council member Trowbridge stated: "You're talking about new brick. Is there a difference in old brick laid together versus the new brick laid together? I'm thinking there's got to be a difference and I'm guessing part of it is the depth of the product."

Al Hottovy said: "The thickness, these are thicker."

Council member Trowbridge stated: "Which I would think are less prone to move, I don't know."

Mayor Zavodny stated: "And we were surprised that we got some really good quality (bricks) when the highway was taken out, I will maintain, I walked these bricks a lot and I started to get concerned because we had a lot of them that were split and they were rounded, but the quality of the bricks that came off of the highway I feel really good about, they are almost pristine. If we can get those laid I'd feel better about that. I haven't heard any compelling reason we want to change from the bricks. Now, the closing of the streets. My belief, and I am going to throw one caveat out on this at this point, my understanding is, and I've heard nothing to change it, is our business owners said, "close both lanes" when we talked to them, because it will be faster. The one conversation I had, probably within the last couple of weeks was with the fire department and I think they make a good argument of, when we do the "D" Street though, do we keep one lane open there so the rescue unit has access to the highway faster?"

Fire Chief Matt Hilger stated: "I've discussed this with Jon McCarville of Leo A. Daly, and as long as we have half of our station open that's the big thing. When the highway was torn up we couldn't go down that street to get on the highway, and it all works out. I don't want to slow down this whole thing, and after talking with Jon at length, the plans already in place to leave half of our station accessible from somewhere, wherever, at a time, and so that's all we can ask for. In my opinion, the sooner we can get it done the better."

Mayor Zavodny stated: "I just wanted to make sure that you guys were comfortable that if we close that down you will have to take an alternative route."

Fire Chief Matt Hilger stated: "It might add 30 seconds to it. Like I said, when the highway was closed we didn't have access to it at all, and we survived."

Jon McCarville of Leo A. Daly stated: "I made all the calls that I could. The streets we are talking about here are "E" Street from 3<sup>rd</sup> to 4<sup>th</sup>, "E" Street from 5<sup>th</sup> to 6<sup>th</sup>, and "D" Street

between 5<sup>th</sup> & 6<sup>th</sup>; those are all concrete and those are the three streets we are talking about closing completely (for construction).”

Mayor Zavodny stated: “Let me ask, has anything happened with Bone Creek, have they been in touch with you at all?”

Jon stated that to his knowledge Bone Creek did not have the required funding to pay to have brick placed by the Bone Creek Museum instead of concrete. David McPhillips confirmed this saying that he didn't really have anything to do with this but he had heard that they did not have the required funding.

Jon McCarville of Leo A. Daly stated: “The majority of the people we talked to wanted the entire block closed at the same time during construction. Honestly, out of everyone I called there were only two who said they would prefer a half a block at a time. That should speed it up by about 3 – 4 weeks. They will start on “E” Street between 3<sup>rd</sup> and 4<sup>th</sup>.”

Mayor Zavodny stated: “Ok, we are going with our original plan and closing the streets entirely.

Al Hottovy asked: “What about 4<sup>th</sup> to 5<sup>th</sup> on D Street? That effects my discussion with the County, that's the only reason I am asking.”

Mayor Zavodny stated: “My more compelling reason is that the Fire Department doesn't feel that it's an issue, so close it. Why treat it any differently? And actually, for RB's Corner Stop, that poor guy, we got him on the highway, now we're going to get him again, the faster you can get out of there the better off it's going to be. We've disrupted him twice.”

Al Hottovy stated: “And it's a major trunk line to the School, so we are trying to get ahead of the school year. So, if you're okay with “D” Street from 4<sup>th</sup> to 6<sup>th</sup> we'd probably say shut it down.”

Mayor Zavodny stated: “That's what we're saying, close them.”

Fire Chief Matt Hilger did question why we have 6 parking stalls in the middle of “D” Street between 5<sup>th</sup> to the alley to the east. This is a busy street that the fire trucks utilize as well as school buses. Matt questioned if those could be eliminated. It is also a safety issue with the children darting out of parked cars in the center to run across the street to the north to the Dance Studio. Following discussion, it was decided that the business owners in that area will be visited to get their view points on whether they feel the 6 parking stalls should remain or be eliminated. Mayor Zavodny said that is something for the Council to think about and decide if they are worth keeping or not.

Council member Trowbridge made a motion to approve the purchase of a new slurry pump from Liberty Process Equipment, Inc., for the Water Treatment Plant, in the amount of \$1,772.00 plus shipping, etc. Council member Kobus seconded the motion. Voting AYE: Council members Hottovy, Smith, Meysenburg, Vandenberg, Trowbridge, and Kobus. Voting NAY: None. The motion carried.

Mayor Zavodny declared the Public Hearing open at 8:08 p.m. to consider annexing the Brian and Mistyn Kozisek property located at the corner of 14<sup>th</sup> & C Streets legally described as follows: A parcel of land located in the South Half of the Southwest Quarter of Section 20,

Township 15 North, Range 3 East of the 6<sup>th</sup> P.M., Butler County, Nebraska, being described as follows: Referring to the Southeast corner of the South half of the Southwest Quarter of said Section 20; thence S90°00'00"W on the south line of said South Half of the Southwest Quarter, a distance of 1544.86 feet to the east right of way line of 14<sup>th</sup> Street and the Southeast corner of East David City, an addition to the City of David City, Nebraska; thence N00°58'30"W, on said east right of way line and the east line of said addition, a distance of 594.00 feet to the northwest corner of a tract of land as described in film book 2011, Page 1512 and recorded in the office of the Register of Deeds, for Butler County, Nebraska, and the point of beginning, thence continuing N00°58'30"W (assumed bearing) on said east lines, a distance of 273.28 feet, thence S89°59'34"E, a distance of 163.50 feet; thence S00°58'30"E parallel with said east lines, a distance of 270.66 feet to the north line of said tract of land; thence N89°54'39"W, on said north line, a distance of 163.43 feet to the point of beginning, containing 1.02 acres, more or less. Mayor Zavodny asked for any comments from the public. There being no comments, Mayor Zavodny closed the Public Hearing at 8:09 p.m.

Council member Meysenburg introduced Ordinance No. 1285 annexing the Brian and Mistyn Kozisek property located at the corner of 14<sup>th</sup> & "C" Streets legally described above. Council member Hotovy made a motion to approve Ordinance No. 1285 on the **1<sup>st</sup> reading only**. Council member Trowbridge seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Trowbridge, Meysenburg, and Hotovy. Voting NAY: None. The motion carried.

#### **ORDINANCE NO. 1285**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, THE BRIAN AND MISTYN KOZISEK PROPERTY LOCATED AT THE CORNER OF 14TH & "C" STREETS LEGALLY DESCRIBED AS FOLLOWS: A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: REFERRING TO THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE S90°00'00"W ON THE SOUTH LINE OF SAID SOUTH HALF OF THE SOUTHWEST QUARTER, A DISTANCE OF 1544.86 FEET TO THE EAST RIGHT OF WAY LINE OF 14TH STREET AND THE SOUTHEAST CORNER OF EAST DAVID CITY, AN ADDITION TO THE CITY OF DAVID CITY, NEBRASKA; THENCE N00°58'30"W ON SAID EAST RIGHT OF WAY LINE AND THE EAST LINE OF SAID ADDITION, A DISTANCE OF 594.00 FEET TO THE NORTHWEST CORNER OF A TRACT OF LAND AS DESCRIBED IN FILM BOOK 2011, PAGE 1512 AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS, FOR BUTLER COUNTY, NEBRASKA, AND THE POINT OF BEGINNING, THENCE CONTINUING N00°58'30"W (ASSUMED BEARING) ON SAID EAST LINES, A DISTANCE OF 273.28 FEET, THENCE S89°59'34"E, A DISTANCE OF 163.50 FEET; THENCE S00°58'30"E PARALLEL WITH SAID EAST LINES, A DISTANCE OF 270.66 FEET TO THE NORTH LINE OF SAID TRACT OF LAND; THENCE N89°54'39"W ON SAID NORTH LINE, A DISTANCE OF 163.43 FEET TO THE POINT OF BEGINNING, CONTAINING 1.02 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; 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 parcel of land located in the South Half of the Southwest Quarter of Section 20, Township 15 North, Range 3 East of the 6th P.M., Butler County, Nebraska, being described as follows: Referring to the Southeast corner of the South half of the Southwest Quarter of

- said Section 20; thence S90°00'00"W on the south line of said South Half of the Southwest Quarter, a distance of 1544.86 feet to the east right of way line of 14th Street and the Southeast corner of East David City, an addition to the City of David City, Nebraska; thence N00°58'30"W, on said east right of way line and the east line of said addition, a distance of 594.00 feet to the northwest corner of a tract of land as described in film book 2011, Page 1512 and recorded in the office of the Register of Deeds, for Butler County, Nebraska, and the point of beginning, thence continuing N00°58'30"W (assumed bearing) on said east lines, a distance of 273.28 feet, thence S89°59'34"E, a distance of 163.50 feet; thence S00°58'30"E parallel with said east lines, a distance of 270.66 feet to the north line of said tract of land; thence N89°54'39"W, on said north line, a distance of 163.43 feet to the point of beginning, containing 1.02 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City electricity, water, and sewer 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 Section 1 (a) above.

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: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

SECTION 6: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

**PASSED on 1<sup>st</sup> reading only, March 14, 2018.**

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As Mason Samek has received the liquor license for Par IV, Council member Hotovy made a motion to approve Par IV Restaurant & Lounge, 899 Park Drive, % Mason Samek, as a lottery sales outlet for KENO. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Vandenberg, Smith, Kobus, and Hotovy. Voting NAY: None. The motion carried.

The Milda Gray house at 897 North 5<sup>th</sup> Street was discussed. Building Inspector Ray Sueper had mailed the following correspondence and received the following response:

December 13, 2017

Ms. Milda Gray  
1125 North 3<sup>rd</sup> Street, Apt. 220  
David City, NE 68632

RE: Property Condemnation.

Ms. Gray,

The property located at 897 North 5<sup>th</sup> Street, David City, Butler County, Nebraska has been condemned for significant Building Code and Property Maintenance violations. It is also my understanding that the property is vacant and yet still being used to store personal property within. The house must be either repaired to meet minimum property maintenance Codes, or it must be demolished, within 60 days of the date on this notice. A copy of the property maintenance code was provided to you in an earlier mailing.

If no significant action is taken within the 60 day timeframe the City may choose to demolish the home and assess the cost to you along with any applicable fines. Please provide the City with a dated timeline to bring the property into compliance or demolish it, whichever you choose.

The City Code violations are as follows:

- 1) **2015 International Property Maintenance Code, (IPMC), Appendix A** – Within any Residential District, the conversion of a Single-Family residence or premises into a Commercial Storage Premises, whether occupied or not, shall constitute a violation of the City's Residential Zoning Ordinance.
- 2) **Section 302.4 of the 2015 IPMC Weeds** – All premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches. All noxious weeds and worthless vegetation shall be prohibited.
- 3) **Section 304.2 Maintenance of Buildings and Premises** – All buildings, or portions thereof, shall be adequately maintained so as to be free of deterioration that endangers or is likely to endanger the life, limb, health, property, or welfare of the public or occupants thereof. All exposed surfaces, windows and doors of buildings, structures and premises upon which they are located shall be adequately maintained so as not to present a deteriorated or blighted appearance. Inadequate maintenance of the premises shall include, but not be limited to: Premises which have substantial and noticeable conditions of blight, abandonment, or disrepair.

Please be advised; you have 30 days to appeal this decision.

Respectfully,

Ray Sueper  
City of David City  
Building Inspector  
402-365-3135

I am appealing the decision  
about my house.

We are doing our best to  
get my stuff out of there.

I don't know just when  
we will get done ~~with the~~

with the weather icy  
conditions and real cold  
temperatures it is not  
that easy to predict a day.

I don't have any money to fix  
it up, else I would have  
done it a long time ago.

I don't want to lose everything.

A one person budget gets  
you no where.

I talked to legal aid and  
they said you people can

not go on a persons property  
taking pictures of everything

and maybe even going into  
house without contacting  
a person that is trespassing

on a privately owned property.  
you should be contacted first.

I am going to sell it as soon  
as I can. I need to find ~~the~~ <sup>the</sup> ~~deed~~ <sup>deed</sup>.

my son also has to travel  
from Lincoln. He works

and I work so we do not have  
a lot of time to work at it.

M. B. B.

Mayor Zavodny stated: "I am assuming this is her letter of appeal."

Building Inspector Ray Sueper stated: "It is, but it very much missed the deadline."

Mayor Zavodny stated: "It doesn't really address the issues, it gives reasons why we are at the position we are in, is what I gather from reading it."

Building Inspector Ray Sueper stated: "There is no resolution, she is not in compliance. She has been properly notified."

Mayor Zavodny asked: "So we have met all of the legal responsibilities? Counsel do you have any concerns about any of this? We want to make sure we are covered on this, because this is a big step."

City Attorney Egr stated: "No. When she says she can't find the deed all she has to do is get a copy at the Court House."

Council member Trowbridge stated: "I would suggest requesting bids for the demolition of this given house, after a ten (10) or fourteen (14) day settling period between the City and the people that own this property. I think she could sell this property if she would put a sign in the front yard and let the world know it's for sale."

Discussion followed.

Council member Trowbridge made a motion to proceed with requesting bids for the demolition of the house at 897 North 5<sup>th</sup> Street, but not until after 5:00 p.m. on March 23<sup>rd</sup>. Council member Kobus seconded the motion. It was noted that in the meantime, hopefully tomorrow, Building Inspector Ray Sueper will talk with Mrs. Milda Gray to inform her that this is what is going to happen. Voting AYE: Council members Meysenburg, Vandenberg, Smith, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Council member Kobus made a motion to approve the application by Ka-Boomer's Enterprises, Inc. to sell permissible fireworks at Dan & Jan Sypal's business property located at 1510 4<sup>th</sup> Street, David City, Nebraska. Council member Smith seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

Nicholas Schneider, who had received a correction order regarding his property at 507 Oak Street, stated: "I would like to know in the Statutes if it's illegal to park licensed, insured, trailers on residential property? Is it illegal or legal?"

Building Inspector Ray Sueper stated: "Residential zoning ordinance allows a boat, trailer, and/or camper to be placed on paved surfaces on residential lots in the City of David City."

Nicholas Schneider said: "I would like to see that in writing because I have been in the office several times."

Building Inspector Sueper stated: "It's in the Accessory Building regulations."

Mayor Zavodny asked if we could provide Nicholas with that and Ray stated "yes".

**Section 4.14 Accessory Buildings and Uses.**

\*Accessory buildings located within the corporate limits of the City of David City, and are located within the R-1, R-2, R-3 or RM Districts, that are not attached to a primary structure must comply with the following regulations:

- A) The design and construction of an accessory building shall be consistent with that customarily used in residential construction, similar in color and style to the primary structure on the same lot.
  - i. Exception: Accessory Buildings under 200 square feet.
  - ii. Carports under 400 square feet.
- 1) It shall be constructed of new, grade stamped materials, unless approved in advance by the Building Inspector.
- 2) Accessory structures with open sides must be professionally rated or engineered to resist a 90 MPH wind and shall have footings designed in accordance with the assigned weight and wind loading.
- 3) The sidewalls of the building shall not exceed 10 feet from the lower of the exterior grade or the interior floor and the overall height shall not exceed 17 feet.
- 4) It shall have a maximum width of 40 feet on its widest side.
- 5) It shall not occupy more than 40% of the remaining, buildable area on the lot.
- 6) It must be separated from other flammable structures by at least ten feet.
- 7) It shall be set back a minimum of 20 feet from any street side property line or flush with the primary structure.
- 8) If the square footage is greater than 500 square feet; 3 feet by 6 inch continuous footings are required.
- 9) If the square footage is between 400 and 500 square feet, a monolithic slab footing may be used.
- 10) Accessory buildings less than 400 square feet may be anchored to a slab of poured concrete no less than 4 inches in thickness.
- 11) Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet.
- B) No accessory building shall be constructed prior to construction of the principal building.
- C) No accessory building shall be constructed on a separate lot from the principal structure.
- D) No accessory building shall be constructed or placed on an easement.
- E) Standard wood building material shall maintain at least 6 inches of clearance to the exterior grade. Wood which contacts the concrete or masonry directly shall be Pressure Treated.
- F) Rear and side yard setbacks shall be 6 foot from property lines.
- G) The rear setback shall increase to 10 feet if a garage door is placed on the rear alley side.
- H) Storage of any boat, camper, trailer or other vehicle shall not be permitted in any required yard; except that a boat, boat trailer, or camp trailer may be placed in a rear or side yard on an approved rock or concrete driveway.
- I) If a primary structure is removed or demolished from a parcel, the detached accessory building must be removed or demolished within six months of such removal or demolition; unless new construction is begun on a new primary structure within the immediately following six-month period.

Nicholas Schneider said: "Ok, can I get a mixed-use permit for one year for that property? That's a lot of work to clean up if I buy it, and I don't plan on buying it unless I can use it for a little while."

It was asked who owns it now and Nicholas stated Steve Maguire and Mark Holoubek.

Nicholas Schneider said: "I want to put duplexes and buildings on it, residential, its not permanent storage but I've got to knock trees down, I've go to clean up buildings, that's a lot of work in there. It used to be an auction yard for how many years? And everywhere I seem to dig I find bricks and junk in the dirt. If I'm going to invest money to do it, I have to have some use of it while this stuff is going up."

Discussion followed in which Nicholas stated that he is basically talking about the lot right behind, west of the house at 479 Oak Street.



Nicholas stated: "I'm not looking at getting anywhere close to the waterway. I might ask the Council to split it in half, at one time, but that's down the road. I can at least put one structure up and go from there, but just build it on that back piece behind the existing house and put an access road going out each direction cause I've talked to the City guy about putting a culvert in on the back side, so that way I don't have to drive downtown, I don't like driving downtown, so I'd rather leave out the gravel road and away from everybody, but in order for me to do that I've got to tear trees out and I've got to have equipment back there and right now there's only 3 trailers back there that are even semi's; there's 2 flat beds, and 1 hopper. One end dump is going to be disappearing in two weeks when my contract kicks up at Lakeside so there would only be 3 trailers back there plus a livestock trailer, pickup flatbed."

Council member Meysenburg questioned: "Is that property zoned Residential or Commercial?" It is zoned Residential.

Mayor Zavodny stated: "There in lies the problem. Because of how it's zoned, he's not able to do what he's currently doing as far as usage, so that's why he's here tonight to explain why he's where he is."

Nicholas stated: "I've been in contact with Kobza, Zach Chadwick, Jason Campbell about doing construction, but it's all got to go through in order for me to make it feasible with the bank."

Council member Trowbridge asked: "What do the trailers have to do with any of that?"

Nicholas stated: "He's told me to get them off."

Council member Meysenburg stated: "Because they're not supposed to be in residential."

Nicholas stated: "I understand that but they've been there for a year and nobody's ever said a word."

Council member Trowbridge stated: "But that doesn't make it right."

Nicholas stated: "I understand that doesn't make it right but I'm trying to buy it right now, and it's either I go buy a commercial property or an acreage out in the country, or I buy this and develop this. The question is, and this is a question I have for the City, do you prefer me to spend my money somewhere else, or do you prefer I spend my money here in town?"

Mayor Zavodny stated: "So really the issue is, without you owning the property currently, Maguire and Holoubek are in violation."

Building Inspector Sueper stated: "Believe it or not, Steve Maguire is the complainant against him that initiated the correction order on this property."

Nicholas stated: "That's not what he told me this morning."

Mayor Zavodny asked: "Have we been in contact with Mr. Maguire of the fact that he's in violation of the zoning?"

Building Inspector Sueper stated: "I have not spoken to him directly. I basically had a hand-written note from the secretary, where she had taken a complaint from him, and it was on my desk and I was to respond to it when I showed up for work that day."

Mayor Zavodny stated: "This has gotten a lot more complicated because you don't even own the property. I think this is something that you and Steve need to work out now, and I think it's something that we as a City need to talk to the current property owners and say "here's the deal (explain the zoning regulations)"

Discussion followed.

Building Inspector Ray Sueper stated that he will work with Nicholas on cleaning up some of the main eyesores and the nuisance issues at 479 Oak Street, and he will also visit with the property owners to the west (Maguire & Holoubek) on the violations that are occurring.

Street Supervisor Rodney (Sod) Rech presented the following:

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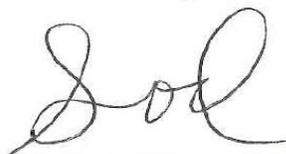
**Mayor and City Council:**

A short note to let you know of my retirement and resignation as Street Supervisor as of March 30, 2018. After almost 45 years and serving as Street Supervisor since 2012, it is time!

I would like to say a BIG THANK YOU to past Mayors, Councils, and Administrators as well as the current one's. And finally, I would like to thank past and present employee's.

It has been a great opportunity to work for the City of David City and serve the residents of our community.

Thank You very much!



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Mayor Zavodny stated: "It is with great appreciation, knowing Sod (Rodney Rech) for a long time and your faithful service to the community, before we accept your resignation, I want to say that on behalf of the City we are very grateful for your service for all those many years. I know the citizens have benefitted from your devotion to the City, so "Thank You" for that. It is with regret that I ask the Council to consider accepting Sod's letter of resignation effective March 30, 2018. *[Sod has employed by the City since 8/1/73 – 3/30/18; so, 44 years 8 months]*

Council member Trowbridge made a motion to accept, with great regret, the resignation of Street Supervisor Rodney Rech, effective March 30, 2018. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Vandenberg, Kobus, and Trowbridge. Voting NAY: Council member Smith. The motion carried.

Mayor Zavodny stated: "Now that your resignation has been accepted we move on to the second part of this, and this was a succession plan that we've been working on for a year in training Chris, and it is my recommendation to the Council that effective March 31, 2018, that we would promote Chris Kroesing to the position held by Sod."

Council member Trowbridge stated: "Do we have a plan that we could help him through what it takes to become a certified street superintendent? Or, do you have any desire to? It depends on what direction he wants to go, we aren't trying to tell you that you have to, but if you wish to do so, I would encourage the City to support you."

Council member Hotovy stated: "He can come back to us with an answer, he might want to get his feet underneath himself first."

Mayor Zavodny stated: "I agree with Council member Hotovy. That's something to consider; it's worth looking at."

Council member Hotovy made a motion to appoint Chris Kroesing to the Street Supervisor position effective March 31, 2018, replacing Sod (Rodney Rech) following his retirement. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Vandenburg, Kobus, Smith, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

City Clerk Kovar advised the Mayor and Council that she and Tami will be attending the Clerk's Academy in Grand Island on March 27 – 29<sup>th</sup> so they will not be present for the regularly scheduled Committee of the Whole Meeting on March 28<sup>th</sup>. Discussion followed.

Mayor Zavodny scheduled a special council meeting for Monday, March 26<sup>th</sup> at 6:30 p.m. in which to discuss the decision of Henningsen Foods. A Committee of the Whole Meeting will immediately follow the special meeting, replacing the regular meeting of Wednesday, March 28<sup>th</sup>.

There being no further business to come before the Council, Council member Smith made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:38 p.m.



CERTIFICATION OF MINUTES  
March 14, 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 March 14<sup>th</sup>, 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.

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Joan Kovar, City Clerk