

**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 **22<sup>nd</sup> day of May, 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 15<sup>th</sup> day of May, 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;
4. Minutes of the May 8<sup>th</sup>, 2019 meeting of the Mayor and City Council;
5. Consideration of Resolution No. 10 – 2019 setting the fees to be charged for miscellaneous items;
6. Consideration of Ordinance No. 1316 establishing and imposing rules for the raising and maintaining of chickens;
7. Consideration of the request by the Butler County Development Board to see if the City budget will allow for a Youth Sports Coordinator;
8. Consideration of accepting the resignation of Chris Palensky as an alternate on the Planning Commission;
9. Consideration of replacing the water meters at Lakeside Estates;
10. Consideration of the condition of "O" Street and possibly using an overlay of asphalt millings;
11. Consideration of hiring an attorney who specializes in nuisance properties;

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Mayor Alan Zavodny

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Council President Kevin N. Hotovy

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Council member Thomas J. Kobus

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Council member Dana E. Trowbridge

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Council member Patrick J. Meysenburg

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Council member John P. Vandenberg

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Council member Gary D. Smith

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City Clerk Joan E. Kovar

12. Consideration of the demolition bids received concerning the property at 715 4<sup>th</sup> Street, David City;
13. Consideration of Ordinance No. 1317 setting the time for removal of weeds or nuisance at five days;
14. Adjourn.

**CITY COUNCIL PROCEEDINGS**  
(Edited for publication)  
**May 22, 2019**

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the meeting room of the City Office, 557 North 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 May 16<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, Dana Trowbridge, Pat Meysenburg, and John Vandenberg, City Attorney Jim Egr, and City Clerk Joan Kovar. Council member Kevin Hotovy was absent.

Also present for the meeting were: Jeff Hilger, Butler County Development Board Executive Director Kelcie Keeling, Bryon Hartman, David McPhillips, Street Foreman Mat Asche, Building Inspector Ray Sueper, and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance. Mayor Alan Zavodny notified the public of the "Open Meetings Act" posted on the west wall of the meeting room and asked those present to silence their cell phones.

The minutes of the May 8<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 Kobus. Voting AYE: Council members Meysenburg, Smith, Vandenberg, Kobus, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

Council member Trowbridge made a motion to pass and approve Resolution No. 10 – 2019 setting the fees to be charged for miscellaneous items. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Vandenberg, Trowbridge, and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried and Resolution No. 10 – 2019 was passed and adopted as follows:

**RESOLUTION NO. 10 - 2019**

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

1-505(I)	Certified copies; fee	.25 per copy
2-514	Arborist; license fee	\$25.00

3-203	Dogs; license fee	<u>\$10.00 if dog is spayed or neutered</u> <u>\$20.00 if dog is not spayed or neutered</u>
3-221(C)	Dogs; impoundment;	1 <sup>st</sup> - \$5.00, 2 <sup>nd</sup> - \$10.00, 3 <sup>rd</sup> - \$15.00
3-309	Exotic animal; first violation	\$25 fine; forfeiture of animal
3-309	Exotic animal; second violation	\$50 fine; forfeiture of animal
3-309	Exotic animal; third violation	\$75 fine; forfeiture of animal
3-309	Exotic animal; fourth violation	\$100 fine; forfeiture of animal
4-217(B)	Illegally parked; towing	<u>\$75.00 min. charge plus sales tax</u>
4-217(B)	Illegally parked; storage fee	<u>\$25.00 minimum charge plus</u> <u>\$25.00 for each additional day</u>
4-506(B)	ATV and UTV application fee	<u>\$50.00</u>
4-512(A)	Golf car application fee	<u>\$10.00</u>
5-201	Itinerant sales; permit fee	<u>\$25.00 per 7 days</u>
5-402(B)	Bingo; permit fee	<u>\$10.00</u>
5-402(C)	Bingo; permit renewal	<u>\$10.00</u>
6-204	Street closing; permit fee	<u>\$10.00</u>
7-503(F)	Utilities; solid waste; collector's license fee	<u>\$25.00 annual fee</u>
8-207	Burn barrel permit; fee	<u>\$20.00</u>

DATED this 22<sup>nd</sup> day of May, 2019.

CITY OF DAVID CITY, NEBRASKA

\_\_\_\_\_  
 Mayor Alan Zavodny

ATTEST:

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 City Clerk Joan Kovar

Council member Trowbridge introduced Ordinance No. 1316 establishing and imposing rules for the raising and maintaining of chickens. Mayor Zavodny read Ordinance No. 1316 by title. Council member Trowbridge made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Vandenberg, Trowbridge, and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried.

The Council discussed Ordinance No. 1316, and for clarity, amended the ordinance to add ducks, geese, and all other fowl as prohibited. They also discussed existing chickens and stated that the life expectancy of a chicken is 7-8 years and grandfathering of existing chickens will terminate at death. All chickens must be outside in a predator proof coop, meaning that

there has to be a covering over the chickens so that raccoons, or any other animal, cannot gain access inside the coop.

Council member Kobus made a motion to pass and adopt Ordinance No. 1316 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Trowbridge, Vandenberg, Meysenburg, Kobus, and Smith. Voting NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1316 was passed on 3<sup>rd</sup> and final reading as follows:

**ORDINANCE NO. 1316**

**AN ORDINANCE OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA; PERMITTING THE RAISING AND MAINTAINING OF CHICKENS WITHIN THE CITY; ESTABLISHING AND IMPOSING RULES FOR THE RAISING AND MAINTAINING OF CHICKENS IN THE CITY; PROVIDING FOR A PERMIT AND PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

SECTION 1. That the keeping and raising of chickens shall be allowed in the City of David City subject to the following:

a. Prior to maintaining and raising any chickens within the City an application shall be made to the City Clerk on form provided by him/her. If the application conforms to the following regulations the Clerk shall be authorized to issue the permit. A permit fee of \$12.00 for up to six chickens shall be submitted with the application.

b. No more than 6 chickens are allowed.

c. Roosters, Ducks, Geese, Hawks, and/or any other fowl are prohibited within the City. Crowing hen chickens over the age of 4 months are prohibited within the city.

d. No more than 6 chickens will be permitted on any property within the city. The minimum number of chickens is two (2) for the social wellness of the chickens.

e. A predator proof coop with a minimum of 2 square feet per chicken shall be provided. In order to be "predator proof"; there has to be a secure covering over the top to prohibit racoons, or any other varmint from getting inside the coop. The coop shall not be larger than 100 square feet and shall be located in the backyard of the owners/renter's property. There shall also be a predator proof enclosed run with a minimum of 5 square feet per chicken. Chickens shall not be allowed to roam free outside of the coop/enclosed run. Chickens are not to be kept in a residence, on a porch, or in an attached garage.

f. All coops and runs shall be kept clean and free from objectionable odor. Waste (feed, manure, litter) must be disposed of promptly in an environmentally responsible manner piling of waste materials on the owners/renter's property is not permitted. All waste must be housed in an insect/vermin proof container.

g. All chicken food must be kept in an animal/rodent proof container.

h. The keeping of residential chickens are for the benefit of the owner/renter and cannot be used for a business or monetary gain, including the sale of eggs. No slaughtering of chickens can take place within city limits at any time. Dead chickens must be removed and disposed of within 24 hours.

i. If a resident currently has more than the allowed 6 chickens, any grandfathered chickens terminate at death; they cannot be replaced.

SECTION 2: If a complaint is made to the City about noise, odor, or other violation(s) of this Ordinance the Butler County Sheriff's Department shall promptly investigate the complaint and contact the owner/renter to give him/her the opportunity to correct such complaint. If the complaint is not corrected within 24 hours of the sheriff's office contact the sheriff's office may issue a citation to be filed with the Butler County Court for violation of this Ordinance.

SECTION 3: The keeping of chickens within the City without a permit; the failure to promptly dispose of chicken waste or maintain the chicken coop or run in an odor free condition or to fail to promptly dispose of dead chickens, as set forth above, shall be a violation of this Ordinance and be punishable by a fine of not more than \$500.00. Each day's violation shall be a separate offense.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall go into force and effect from and after its passage, approval and publication as required by law.

Dated this 22<sup>nd</sup> day of May, 2019.

CITY OF DAVID CITY

By \_\_\_\_\_  
Mayor Alan Zavodny

ATTEST:

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City Clerk Joan Kovar

Butler County Development Board Executive Director Kelcie Keeling, and Bryon Hartman, were present to discuss if the City budget will allow a youth sports coordinator to help the City and County thrive.

Kelcie Keeling stated: "I've done some research and called upon other communities that are similar in population and size to David City; pretty much all of them had a City recreation program for a director. I called upon Wahoo, Milford, Ashland, Waverly, Geneva, Valentine, Ord, Minden, Auburn, West Point, Central City, and even Imperial. Imperial has 2,000 people; they actually have two people that are running the programs. The part-time one is the organizer for soccer, the other one is the organizer for baseball. Their wrestling and basketball programs are similar to how they are here; it is more of a school regulated program. They actually have swim meets, and we have a great pool here that I could see that happening here in David City as well. I just want to see if there is money in the budget for somebody to be the City recreation director."

Mayor Zavodny stated: "That's an open-ended question as far as the budget. We have the sales tax now, that I think we can use to purchase supplies and stuff, but we can't put any money towards a salary or a person. So, the budget would have to be a priority that comes from probably at least some seed money for a couple of years from this entity here. Then the caveat would be, you need to have programs that will be self-sustaining; keeping it affordable for kids certainly, but by their entry fees and that kind of thing basically almost take it out of the City budget part; it would almost be self-sustaining if that makes sense."

Discussion followed.

Bryon Hartman stated: "In order to have tournaments, etc., it is literally the time to get it lined up. There's not one person on the soccer organization that wouldn't have a tournament in July, August, whenever it would be, if there was somebody there to line it up; call people outside of town, get the information out. It's that time frame within the day, the normal business day, that you need that one person to be able to do that and organize it."

Mayor Zavodny stated: "From an economic development standpoint there is something to be said. I know when they have some of those ball tournaments, the number of cars there, people are going out to eat, buying gas, etc.; that's good for our sales tax. I think I see some merit here but I think we need to figure out what is the scope we are talking about."

Kelcie Keeling stated: "If we want to attract young families to David City, and this is Chad Denkers (DCPS Superintendent) exact words, "if the City and Council wants to draw people to move here, we need to focus on these additional things: housing, daycare – but I feel this is getting better, and youth activities"; and if we want to draw young families in, we need to change our focus."

Mayor Zavodny stated: "I guess to me, we are at the beginning of where we start to craft our budget and get that put together, I think for the person part we could certainly talk about that and figure that out, but I guess some steps that need to occur is just a budget from you of how many flags do you think you need, or supplies; what do those cost? How much would kids have to pay to participate in these programs? Just give us an idea. If we could get the hospital on board and some private businesses, the schools, this has a lot of potential. Do some work on saying we need 40 flags at \$10/piece or whatever it's going to be. Are you willing to more clearly define the scope of what sports you are talking about, what tournaments you can have, fund raisers, and then get us a budget amount for what we would need for equipment for the sports that you decide to bring to us? Ok, if you can put that together and when we start our budget we can see."

The following correspondence was received:

May 3, 2019

Please accept the email as a resignation from my duties as a alternative on the Planning Commission.  
Thank you for this opportunity to work with all of you.

Sincerely  
Chris Palensky

Council member Trowbridge made a motion to accept the resignation of Chris Palensky as an Alternate on the Planning Commission. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Meysenburg, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

The need to replace the aging water meters at Lakeside Estates was discussed. Interim Water Supervisor Aaron Gustin provided the following bid:

5/8" x 3/4" T-10 Pro Coder Potted Pit Gallon meter with 25' pigtail  
39 meters @ \$135.48/each = \$5,283.72

Council member Kobus stated: "I can tell you right now I'm against it; there is no need to, it's foolish to spend the money."

Council member Trowbridge stated: "That makes two."

Interim Water Supervisor Aaron Gustin stated: "I see it two ways; I see it as we have continuing costs of maintenance and manpower, not just in our department but in the Office with Lori doing the billing, to help take the burden off of a private business as I see it, but that's my opinion. We have our main 2" meter that we read for Lakeside Estates and then all of the subsequent 39 other meters are subtracted off of the amount of the main meter."

Council member Kobus stated: "You have nothing to do with the service lines, right?"

Interim Water Supervisor Aaron Gustin stated: "Well, that's where this lovely gray area is; who owns what?"

Council member Kobus stated: "The City never did anything with the water lines there, it's privately run, that whole operation. They have to fix the individual meters themselves and the leaks."

Council member Trowbridge stated: "I am going to represent the ratepayer tonight because I'm tired of it."

Mayor Zavodny stated: "We are talking about very shallow, not appropriate for their usage, small little pipes feeding a big business area; it's not done right."

Interim Water Supervisor Aaron Gustin stated: "It's not, and I would tell you there's a lot of man hours that go into just maintaining and servicing those meters."

Mayor Zavodny stated: "Part of me says, as far as the City goes, we run our service to the edge of that property and then that needs to be redone. I know we are losing a whole bunch

of services but we are enabling them to not be responsible. So, we run our City service up to the property, and now it's yours, and you need to have a reliable service that we feel works."

Council member Trowbridge stated: "We should never have put the meters in in the first place, not with the infrastructure that feeds them. The number I heard this morning is 75,000 gallons a month are not accounted for. The owner gets billed for the difference (the water shown on the main meter less the individual meters). That's why the owner is squeaking. Meters read low as they get old; they don't read high, they read low."

Discussion followed.

Interim Water Supervisor Aaron Gustin stated: "He basically took the monitoring of water usage off of the business, and put it on us, and we've been paying in terms of manpower and maintenance for years since it was done and I don't feel it should be that way."

City Attorney Jim Egr stated: "I think it's incumbent upon you to tell them, from this day forward, the City has concluded that there is a master meter there, that's where the City's responsibility ends. That's private property there and that's your responsibility."

Council member Trowbridge made a motion that effective May 19, 2019, the City is going to provide service to the master water meter at Lakeside Estates and that's the end of our responsibility. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Kobus, Smith, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

Mayor Zavodny stated: "The next agenda item is consideration of the condition of "O" Street and possibly using an overlay of asphalt millings. "O" Street is getting worse by the day, we have chunks coming up, I am getting more and more complaints."

Council member Kobus stated: "Ok, here's the deal. I kind of took it upon myself to do a little bit of research on that and I guess the City has some chips somewhere and they are going to try, when it gets hot, to do a patch and see how it pans out. I called recycling whatever, out of Valley, and they said they have a lot yet. It's \$14/ton, but we'd have to have someone to haul it, because the Street Departments truck is down so they can't haul it. This company also hauls it but I didn't ask how much that would be. You would have to stock pile the asphalt millings so when they want to do it, they can do a block or whatever they can get done in a week, but they need the stockpile there so once they get started, they can keep going."

Discussion followed.

Mayor Zavodny stated: "What does this all cost as opposed to, do we start to look at all the property owners and what kind of an assessment can me make, because I don't want to spend a ton of money on a temporary fix."

Council member Kobus stated: "You have to rototill that all up, and then pack it with a compactor, and if it's still not good, do it again."

Street Foreman Mat Asche stated: "When we were working with Patch Masters, you have different layers, like a clay layer, and we'd actually have to dig out the soft spots and then put rock in, pack it..."

Mayor Zavodny asked: "How long would it last and how much is it going to cost?"



Council member Kobus stated: "You are going to have to go 5 or 6 inches to make this work."

Mayor Zavodny asked: "But is this a ten-year solution or what? I think you will be hard pressed to find a crew to touch this for a couple years anyway, with highways and bridges being fixed throughout the State. The question is, what do we do today, and then start working toward developing a street district or something."

Much discussion followed.

Mayor Zavodny stated: "Let's do this, if you're okay with it, let's do a request for proposals for the engineering of "O" Street. We are going to need that anyway."

Council member Trowbridge stated: "I would like to see a block of what Council member Kobus is proposing done, somewhere up there."

Mayor Zavodny stated: "In the scheme of things, that's not a terrible solution to try it anyway, to buy us some time. Let's examine that option, see how much we would need, what it will cost, get us a firmer number; it's worth trying that at least. Mat, can you get that put together, our one block experiment of what that's going to run? Give us some options, give us a price."

Mayor Zavodny reported that he had been visiting with Clint Schukei about an engagement letter to hire him to address our nuisance issues. Unfortunately, Clint Schukei responded: "*I regret that I will not be able to provide the engagement letter to you as we discussed. I was offered, and accepted, employment today that will preclude my being able to assist David City with the matter that we discussed. This opportunity for me has been in discussion for many months and has moved surprisingly fast since you and I visited.*" Mayor Zavodny stated that Council member Trowbridge volunteered to work on finding another attorney to address our nuisance issues.

Mayor Zavodny stated that at this time the Council could not act on the demolition bids received concerning the property at 715 4<sup>th</sup> Street in David City, as they first want an attorney who deals with nuisances, to make sure we have followed the correct steps.

Council member Vandenberg introduced Ordinance No. 1317 setting the time for removal of weeds or nuisance at five (5) days. Mayor Zavodny read Ordinance No. 1317 by title. Council member Kobus made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Trowbridge, and Meysenburg. Voting NAY: None. Council member Hotovy was absent. The motion carried.

Council member Vandenberg made a motion to pass and adopt Ordinance No. 1317 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Smith, Kobus, and Vandenberg. Voting NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1317 was passed on 3<sup>rd</sup> and final reading as follows:

### **ORDINANCE NO. 1317**

### **AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, SETTING THE**

**TIME FOR REMOVAL OF WEEDS OR A NUISANCE AT FIVE DAYS; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

**SECTION 1.** Section 3-404(A)(2) of the Revised Municipal Code be and hereby is amended to read as follows:

Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground fails to comply with the order to mow or abate and remove the weeds or nuisance, the city shall again photograph the weeds or nuisance to document that abatement has not occurred.

**SECTION 2.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3.** This ordinance shall take effect and be in full force on after its passage, approval, and publication as required by law.

Passed and approved this 22<sup>nd</sup> day of May, 2019.

CITY OF DAVID CITY, NEBRASKA

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Mayor Alan Zavodny

ATTEST:

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City Clerk Joan Kovar

There being no further business to come before the Council, Council member Vandenberg made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Vandenberg, Kobus, and Smith. Voting NAY: None. Council member Hotovy was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:18 p.m.



CERTIFICATION OF MINUTES  
May 22<sup>nd</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 May 22<sup>nd</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