

**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 **12th day of July, 2017**, 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 6th day of July, 2017.

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 June 14 th , 2017 meeting of the Mayor and City Council; | |
| 5. Consideration of Claims; | <hr/> Council member Thomas J. Kobus |
| 6. Committee and Officer Reports; | |
| 7. Update by Eric Johnson, Vice President of Kirkham Michael, concerning the new T-Hangar at the David City Airport and final completion of the punch list; | <hr/> Council member Dana E. Trowbridge |
| 8. Consideration of a T-Hangar Lease for the new t-hangars at the David City Airport; | <hr/> Council member Kevin N. Hotovy |
| 9. Consideration of Resolution No. 25 - 2017 setting the rental rates for the new Airport hangar units and storage areas, and increasing mowing charges charged by the Street Department; | <hr/> Council member Patrick J. Meysenburg |
| 10. 7:15 p.m. Public Hearing to consider a redevelopment plan amendment, pursuant to the Nebraska Community Development Law, for the Matt Thomas real estate described as Lots 1 - 12 in Block A, and Lots 1 – 12 in Block B, of the Larry J. Sabata 3 rd Addition; | <hr/> Council member John P. Vandenberg

<hr/> City Clerk Joan E. Kovar |

11. Consideration of calling a temporary recess as the City Council and calling to order as the David City Community Development Agency;

**COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF DAVID CITY, NEBRASKA
Agenda for Meeting Held
July 12, 2017
During the regular Council Meeting
that began at 7:00 p.m.
on July 12, 2017**

- a. Call to Order
- b. Roll Call
- c. Open Meetings Act Recitations, Identification of Current Copy of Open Meetings Act Posted in the Meeting Room.
- d. Consideration of Resolution No. 27-2017 CDA, approving an amended redevelopment plan for the Dana Point Housing Project.
- e. Consideration of Resolution No. 28-2017 CDA approving a redevelopment contract and the issuance of a redevelopment bond for Dana Point Housing Project 2017;
- f. Adjourn – as the David City Community Development Agency.

Come back in session as the City Council and note time.

12. Consideration of Ordinance No. 1263 to annex property legally described as: 30 15 3 PT E1/25W1/4 24.6 AC – GDC Properties LLC (property located on the west side of Hwy. 15 across from Aquinas High School, 3420 MN Rd; (3rd & Final)
13. Consideration of Resolution No. 21 – 2017 de-blighting certain areas within the corporate limits of David City;
14. Consideration of Ordinance No. 1266 amending Zoning Ordinance No. 1060 by amending Article 2: Definitions, to add the definitions of Storage Container, Storage Trailer and Construction Dumpster and to amend Article 8: Supplemental Regulations, to add Section 8.14 Permanent Cargo Containers and to add Section 8.15 Temporary Cargo Containers and Dumpsters; (Passed on 1st reading 6/14/17)
15. Consideration of Ordinance No. 1267 amending Zoning Ordinance No. 1060 by amending Section 5.13 I-1 Light Industrial, Section 5.14 I-2 Heavy Industrial, and Section 5.15 FS Flex Space to modify the side and rear yard setbacks;
16. Consideration of Ordinance No. 1268 amending Zoning Ordinance No. 1060 by amending Article 8: Supplemental regulations to add Section 8.03.02 Fences on a corner lot, and renumbering subsequent sections;
17. Consideration of authorizing the purchase a new vehicle for the Sheriff's Department estimated at \$20,466 (\$25,466 less \$5,000 trade-in);
18. Consideration of the request by Rex Rehmer for funds to do the fireworks display at the Butler County Fair;
19. Consideration of the concern expressed by Darrell Allen, 138 North 5th Street, concerning the detour route;
20. Update by Mike Bennett of Henningsen Foods;

21. Consideration of the Contractor's Progress Estimate – Constructors, Inc. in the amount of \$836,358.76;
22. Consideration of closing the Power Plant;
23. Consideration of the hiring of a qualified Building Inspector;
24. Consideration of taking bids for the demolition of the old pool house located on the City Auditorium lower level parking area;
25. Consideration of Ordinance No. 1269 designating a sub-committee to make decisions concerning nuisance properties and determining when and if the property is in compliance with City Codes.
 - a. Consideration of the property located at 278 South 7th Street that was declared a nuisance at the June 14, 2017 council meeting; (Tim Graybill)
 - b. Consideration of the property located at 909 North 9th Street that was declared a nuisance at the June 14, 2017 council meeting; (Jeff Palik)
 - c. Consideration of the property located at 226 North 3rd Street that was declared a nuisance at the June 14, 2017 council meeting; (Chuck Oborny owner, renters Deena Shockley & Chris Lute);
 - d. Consideration of the property located at 240 North 3rd Street that was declared a nuisance at the June 14, 2017 council meeting; (Adam Root, Owner)
26. Consideration of Change Order 004, in the amount of \$33,196.50, reconstructing the water main at 4th & "A" Street in accordance with NDOR and DHHS standards to include a 6" PVC pipe Class 235 in replacement of the existing 4" cast iron water main; 18" PVC casing shall be used within the NDOR right-of-way;
27. Consideration of the property located at 281 South 8th Street that has been reported to the City; (Jean Halbert – utilities are disconnected.)
28. Consideration of the request by Charter Communications / Spectrum to allow itinerant sales after 6:00 p.m.;
29. Consideration of Ordinance No. 1270 amending the Itinerant Sales; Hours of Solicitation;
30. Consideration of appointing someone to oversee the water line installation at Sabata's 3rd Addition;
31. Adjournment;

CITY COUNCIL PROCEEDINGS

July 12, 2017

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 meeting by publication of notice in The Banner Press on July 6th, 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 President Gary Smith, and Council members Thomas Kobus, Kevin Hotovy, Dana Trowbridge, and Patrick Meysenburg, Attorney Tim Wollmer, and City Clerk Joan Kovar. Council member John Vandenberg was absent.

Also present for the meeting were: Eric Johnson of Kirkham Michael, Chad Podolak of Nebraska Public Power District, Attorney Mike Bacon, Mike Behrendt of Henningsen Foods, Planning Commission Members Keith Marvin, Jim Vandenberg, and Janis Cameron, Jeff Hilger, Ray Sueper, Rex Rehmer, Banner Press Editor Larry Peirce, Electric Supervisor Pat Hoeft, Power Plant Supervisor Eric Betzen, Sewer Supervisor Travis Hays, and WA/SE Employee C.J. Novak.

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.

The minutes of the June 14th, 2017 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 Meysenburg, Hotovy, Trowbridge, Smith, and Kobus. Voting NAY: None. Council member Vandenberg was absent. 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 Meysenburg, Trowbridge, Hotovy, Kobus, and Smith. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

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

Council member Trowbridge expressed concern over the following letter received from Plant Manager Bernie Helgoth of Fargo Assembly:

FARGO ASSEMBLY OF PA, INC.

OUR COMPANY GOALS
1 QUALITY
2 DELIVERY
3 FAIR PRICE
4 GOLDEN RULE

Wire Harnesses, Electrical Components & Systems Design

Mayor, City Administrator, and City Council Members:

Fargo Assembly has experienced one of the worst treatments by the City of David City in regards to a storm that happened the night of June 13, 2017. A power pole was snapped off at the ground west of our property. I was notified by Pat Hoeft on Thursday, June 15th that repairs were going to need to be done because this was a main line and would cause a lot of issues if the lines would snap. He did say at that time he was going to have to kill our power to fix it when it came down to it. I told him that we are very busy and working 24 hours a day 6 days a week. But I did say if we needed to, we could shut down on a Saturday for them to repair it. Pat told me that him and his staff like their Saturdays off. I don't feel that is something a department head should tell someone, especially when we have been working mandatory 6 days a week since before Christmas. He did say that he would stay in touch. I told him we would not be working Saturday July 1st or Monday July 3rd and he said he had too many people off Monday the 3rd for the holiday.

On Friday, June 23rd Pat came in late in the day, around 3:00 PM, and told my HR person, Sarah Holloway, that he was going to be shutting our power off on Thursday, 6/29 at 8:00 AM and it could be off as long as 4 hours. Sarah asked if there was any way they could do it on a Saturday and Pat's response again was "my guys like their Saturdays off". Again, not what I feel a department head should tell a customer. So with that, Sarah said she would let me know. I thought about it all weekend and called Joan Kovar, the acting City Administrator, and she told me that they talked about it and that was the only time that would work. I told her that we weren't working Saturday, 7/1 and Monday, 7/3 and I said "what am I to do with 100 people for 4 hours?". She said she understood but it would not do any good for her to put pressure on them because they are on an equal level and the department heads really don't listen to her anyway. She suggested I call the Mayor. I called Mayor Alan Zavonday and told him the whole story and he said he would look into it and get back to me. I did not hear anything back on Monday, 6/26.

So I tried calling him again on Tuesday, 6/27 once in the morning and then once a little later and no response. So I called Joan Kovar again and she did not know when he would be in and asked if I called him and I said yes and no response. She said that happens to her also and it does not surprise her. She did say she knows the Mayor did email the department head and that he came back to the Mayor that it was a serious situation that needed to be done immediately and this was the only time he could get help. Again, I expressed my concern about who is going to pay my expenses of having 100 people not working, missing productivity, and shipments and having upset customers? The response was "it is a very serious situation and if they don't get it fixed and the pole goes down and the line breaks it could really be bad, especially if we get more storms". I said "if it was that serious, we lost 2 complete weekends: 6/17 & 6/18 and 6/24 & 6/25". Again, she said it was the only time the department head could get help.

Later that day, after I had left work, the Mayor called back finally and told Sarah there was nothing he could do, that is the only time Pat could get help. I have to think, David City is so big the only way the Mayor and City Supervisors can talk is through email, that is a little scary and even for the Mayor to tell me the department Supervisors really don't listen or take his words seriously.

On Wednesday, 6/28 I tried calling the Mayor again and all I got was voicemail. So I called Joan again and said, "Seriously, you are going to put 100 people out of work?" and she said there was nothing she could do. I expressed my corporate office was not happy and the new ownership of Fargo Assembly was not happy and that they were insistent I get a purchase Order number to charge the City for the labor of 100 employees for Thursday morning and for time and a half we would have to pay for those 100 people to work Saturday to make up our lost time and shipments not made. Thursday is one of our biggest shipping days. All Joan could do is chuckle and say "that is not going to happen" as she had done when I brought this up before. The Mayor also had told me that was not going to happen.

The Mayor finally called me Wednesday at 9:30 AM and asked if I got the message that there was nothing he could do and that with the storm that happened Tuesday night they were really worried the pole could come down all the way. I told him again, that if it was that important why something was not done 2 weeks ago on Saturday. Plus, I asked why the pole wasn't shored up better to prevent it from falling. There has been a post 1 block north on 11th Street that has had another support pole by it for almost 2 years now, that was damaged in a snow storm.

I was so tired of hearing that the only time the City could get help was Thursday, 6/29 in the morning that I contacted Butler Public Power and got a response within minutes of my phone call. They told me that

194 South 11th Street • David City, NE 68632

Phone 402-367-6081

Fax 402-367-4570

FARGO ASSEMBLY OF PA, INC.

OUR COMPANY GOALS

- 1 QUALITY
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- 3 FAIR PRICE
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Wire Harnesses, Electrical Components & Systems Design

they were made aware that I was going to be closed Saturday, 7/1 and Monday, 7/3 by the City Supervisor but after Pat had talked to Witter Family Medicine, Thursday, 6/29 would be better for them and that is when it was going to be done. I told them my whole story and that they were never asked by the Supervisor to do it in the last 2 weeks, I said if it was this serious why it had to wait and all he could say was they were never asked except for Thursday, 6/29. I personally think shutting down a manufacturing facility and putting 100 people out of work for 4 hours was a lot more serious than shutting down a Doctor's office that employs around 6 people. Plus, if they would have done it on a Sunday no one would have been shut down. The Mayor said he authorized all the overtime and that did not make a difference. I also know that through the government there is assistance given to utilize when there is storm damage. I also contacted NPPD in Columbus, Nebraska and they said it was not acceptable either for the time we were being told to shut down.

In summary, my corporate office is very concerned about the loyalty of the City to a business that has been in town since 1981 and employs around 180 people and runs 24 hours a day. With all of that being said, we were bought by a new company in February 2017 and they are concerned about support and assistance moving forward and if a Department Head over the Electrical Department is not willing to be flexible maybe David City is not a place to have a facility where the City does not care about one of the largest employers in David City. We are all aware that KV Vet Supply closed and eliminated a lot of jobs and that a lot of people working there are now commuting to other towns for work. That takes away from the City. It would be very sad if the poor handling of one situation could end up closing another business in a town that is losing business and really not having anything of large volume coming to town.

To top everything off, when they did show up Thursday, 6/29 to fix the problem, not one person came to us working in the facility to see if we were ready for them to start the process. The only notification we received was lights out. I know if that is how I treated all of my customers I would not be employed. It is bad enough that I am under scrutiny from the corporate office of why and how I let this happen and did I do all I could of done.

Growing up in Butler County my entire life and living in David City for 15 years, this whole experience has been very unsettling and makes me very concerned where the City is headed. I have been a Plant Manager in this town for over 32 years between Timpte and Fargo Assembly and throughout those years the support of the previous Mayors and City Administrators used to be a positive one - when they both would talk with me about situations like this and how they could improve; when there was electrical issues, they all knew we ran 24 hours a day and they would have their department heads keep us informed of how soon power would be restored and if not about how long we would be without power.

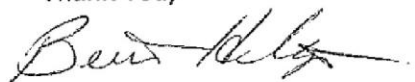
Now the City Officials don't even know we run 24 hours a day and employ that many people. We might not be as glamorous as some of the other facilities in town, but we are a very silent big contributor to David City that right now really wonders why we are here? For me, dealing with my corporate office and new owners, I feel very embarrassed to say that I have grown up here my whole life and the way this whole situation was handled is embarrassing.

I was going to include an invoice like I was told to do. But after all the chuckles I received when I brought it up, I decided not to do it and take the heat from my supervisors knowing nothing would be done from the City anyway. The concerning part is the shipments not being made and product not being built. It is very hard to tell my customers that I am sorry we missed your shipment, but my City officials would not fix the problem on overtime 2 weeks ago when it happened.

With all that being said, we lost labor and time of over \$10,000 because the City would not do overtime for the handful of people needed to fix the problem. The City could have maybe received help from the government in storm damage.

Thank you for reading this to everyone on the City Council. I would hope we could at least get some kind of acknowledgement this was read and the Mayor, City Administrator and Council Members are aware how this was handled. I know we will never see any compensation, but would like some kind of acknowledgement.

Thank You,



Bernie Helgoth
Plant Manager
Fargo Assembly

Discussion followed concerning the grievance letter. Electric Supervisor Pat Hoeft gave his side of the story stating that the bad weather with high winds had caused havoc in other parts of town also. If the pole had gone down completely in an upcoming wind storm, the damage would have been far worse and Fargo Assembly would have been without power for a longer period of time. Timpfe Manufacturing had been totally without power as well as other areas of town because of the wind damage.

Timpfe Mfg.



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

Eric Johnson, Vice President- Kirkham Michael, presented an update on the new T-Hangar at the David City Airport:

PROJECT STATUS REPORT

Project Name: David City Airport Hangar project punch list items

Client: City of David City, NE

KM Project No.: 1501220

FAA AIP No: 3-31-0025-010

Date: July 12, 2017

1) **Update:**

- **Contractor will complete the week of 7/17/17 punch list items (including State and Federal Agencies) necessary to start storing aircraft are as follows: Should take approximately 3 days. Please note have been coordinating w/Sod**
 - General clean up inside and outside.
 - Install egress signs in accordance with section 7.10. NFPA 101, 42.2.10 & 4.6.12.1
 - Install Aircraft floor grounding units NFPA 409-8.7.1
 - Confirm Fire Extinguisher types for t-units end bays are acceptable

- **As an FYI full punch list (Anticipate completion August 2017)**
 - Install Four (4) down spouts.
 - The lock on the southeast walk door for the storage unit is not working
 - General clean up inside and outside.
 - Fix erosion and seeded areas per specifications T901
 - Thoroughly clean culverts and inlet structures at all six locations. Provide additional erosion control material at inlets as required to avoid inclusion of slit.
 - Repair concrete at NW bollard.
 - Confirm pavement edge drop off all locations. 1 ½"

- Remove access dirt along edges as required.
- Remove any concrete forms that remain along the project.
- Repair crack in concrete at NW garage door per specification.
- Install egress signs in accordance with section 7.10. NFPA 101, 42.2.10 & 4.6.12.1
- Install Aircraft floor grounding units NFPA 409-8.7.1
- Confirm Fire Extinguisher types for t-units

- To date: we have penalized the Contractor the maximum amount allowable by the contract for any delays. \$10,800 if they are not complete next week (7/17/17) with the minimal items for the units ready for aircraft, we will work with the City's legal counsel for further action within the contract

2) Other Actions Needed to Start Occupying Aircraft:

- Set lease amount for units
- Set lease amount for storage bays
- Legal Council approve sample lease

A new lease agreement for the new T-Hangars was discussed. Council member Hotovy made a motion to table consideration of a new T-Hangar Lease until the August Council Meeting. Council member Trowbridge seconded the motion. Voting AYE: Council members, Meysenburg, Smith, Hotovy, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Trowbridge introduced Resolution No. 25 – 2017 setting the rental rates for the new Airport hangar units and storage areas, and increasing mowing charges charged by the Street Department. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Meysenburg, Smith, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Resolution No. 25 - 2017 was passed and adopted as follows:

RESOLUTION NO. 25 - 2017

WHEREAS, the Mayor and City Council of the City of David City, Nebraska, have in the inventory of the City various pieces of equipment, and

WHEREAS, City Staff have occasion to use this equipment to carry out nuisance abatement, grant related activities, and other activities of an unusual manner, and

WHEREAS, the City does assume certain expenses related to abatement of nuisances, maintenance of the public right of ways, and other situations, and

WHEREAS, the consumer charges for labor, vehicles, equipment rentals, etc., for the City of David City/David City Utilities, have not been increased for some time, and,

WHEREAS, the City has determined a need to increase the consumer charges for the Airport, and Street Departments.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following list of charges for the use of City equipment and other City expenses, when said use shall be billed to another party, are hereby adopted. Equipment charges do not include the cost of the operator, mileage, and maintenance, which are additional separate charges.

The following rates will be in effect:

Street Department - Charges

Labor:

Labor	\$33.50 / hour
Labor / Overtime	\$50.00 / hour

Vehicles:

Pickup Trucks	\$20.00 / hour
Pickup Trucks with Snow Plow.....	\$25.00 / hour
Pickup Trucks with Salt Spreader.....	\$25.00 / hour
Pickup Trucks with Snow Plow and Salt Spreader	\$30.00 / hour
Pickup Trucks with Mosquito Mister	\$75.00 / hour
(Plus chemical costs)	
Dump Trucks Single Axle.....	\$35.00 / hour
Dump Trucks Single Axle with Snow Plow	\$40.00 / hour
Dump Trucks Twin Axle	\$50.00 / hour
Dump Trucks Twin Axle with Snow Plow.....	\$55.00 / hour
All other vehicles.....	\$1.00 / per mile

Equipment:

John Deere Loader	\$100.00 / hour
John Deere Loader with Snow Blower	\$150.00 / hour
John Deere Motor Grader	\$75.00 / hour
Johnson Street Sweeper.....	\$150.00 / hour
Bobcat	\$35.00 / hour
Bobcat with Jack Hammer	\$50.00 / hour
Bobcat with Stump Grinder.....	\$85.00 / hour
Concrete Saw	\$50.00 / hour
(Plus Blade Cost)	
Sand Compaction Plate	\$30.00 / day
Air Compressor	\$35.00 / hour
Riding Mowers (all) (not including labor).....	\$80.00 / hour
3010 JD Tractor & Batwing Mower.....	\$120.00 / hour
Salt Spreader	\$10.00 / hour
Paint Sprayer	\$50.00 / hour
(Plus per use fee of \$20.00 will be added to the rental)	
Tree Spade.....	\$50.00 / hour

Supplies

Gravel (delivered)	\$10.00 / yard
Gravel (picked up).....	\$8.00 / yard
Sand (delivered).....	\$5.00 / yard
Sand (picked up).....	\$3.00 / yard
Dirt (delivered)	\$6.00 / yard
Dirt (picked up).....	\$5.00 / yard
Dirt Junk.....	\$4.00 / yard
Recycled Re-rock.....	\$20.00 / yard
Cold Patch	\$100.00 / yard
Asphalt Millings	\$6.00 / yard
Downtown Street Brick.....	\$1.00 / each
Lettering for Street Name Signs	\$0.50 / each
Two inch post caps	\$6.65 / each

Twenty-four Inch Street Sign Blanks\$12.00 / each

Culverts:

Culvert prices change so rapidly that an exact price cannot be set on a yearly basis. Please contact the Street Department for pricing. The City of David City will charge a \$5.00 administrative fee for each culvert ordered through the Street Department.

David City Municipal Airport:

T-Hangar.....\$40.00 / month
Shop Hangar.....\$65.00 / month
2017 T-Hangar.....\$175.00 / month
Storage Unit.....\$115.00 / month
- (Advertise for bids with a minimum bid of \$115.00 month)

All equipment or vehicle rentals are at a minimum of 1 hour rental. An employee of the City of David City shall accompany the rental, and the labor is a separate charge.

Dated this 12th day of July, 2017.

Mayor Alan Zavodny

Attest:

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 7:26 p.m. to consider a Redevelopment Plan Amendment, pursuant to the Nebraska Community Development Law, for the Matt Thomas real estate described as Lots 1 – 12 in Block A, and Lots 1 – 12 in Block B, of the Larry J. Sabata 3rd Addition, and asked for any comments from the public.

Attorney Mike Bacon was present and stated that the original plan was approved by the Council in 2015. The plan, for a number of reasons, has changed. The plan calls for the construction of approximately 14 homes starting this year, together with the paving of 12th Street and a portion of Larry J. Sabata Drive. Dana Point will be responsible for installation of the infrastructure at no cost to the City. The plan calls for the City to issue a nonrecourse TIF bond to Dana Point in an amount not to exceed \$900,000. Payment of the bond is limited to increased real property taxes on the new homes for no more than 15 years. Neither the City nor its taxpayers will be liable on the bond. Discussion followed.

There being no further comments, Mayor Zavodny closed the Public Hearing at 7:37 p.m.

Attorney Bacon stated that since a resolution was missed on the agenda, the City Council couldn't really take action at this meeting. Therefore, Council member Smith made a motion to table calling to order as the David City Community Development Agency and

considering Resolution No. 27-2017 CDA and 28-2017 CDA, until the Special Council Meeting on July 26, 2017. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Meysenburg, Trowbridge, Smith, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Trowbridge made a motion to pass and adopt Ordinance No. 1263, to annex property legally described as: 30 15 3 PT E1/23W1/4 24.6 AC – GDC Properties LLC (Property located on the west side of Hwy. 15 across from Aquinas High School, 3420 MN Rd, on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kobus, Hotovy, Meysenburg, Smith, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

ORDINANCE NO. 1263

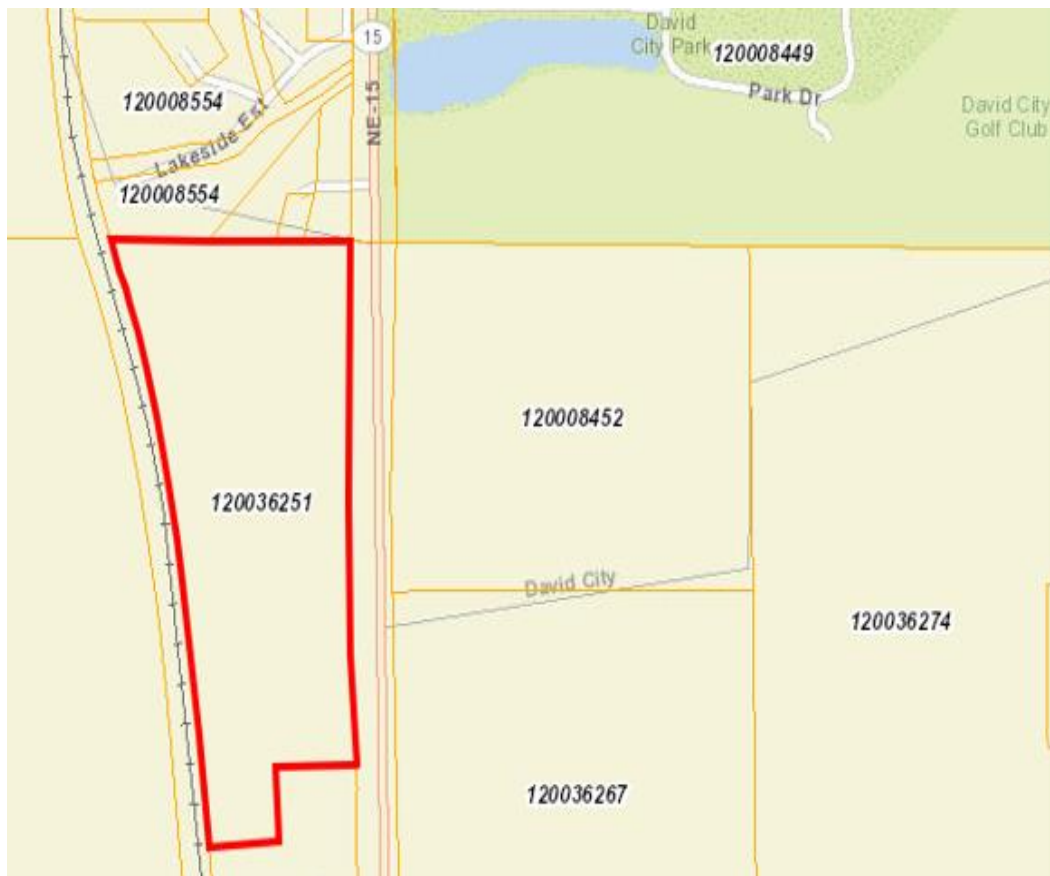
AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A tract of land located in the East Half of the Southwest Quarter (E½ SW¼) of Section Thirty (30), Township Fifteen (15), North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the Northeast corner of said Southwest Quarter (SW¼), and assuming the East line of said Southwest Quarter (SW¼), to have a bearing of S1°08'18"E; thence N89°45'10"W, 75.71 feet, on the North line of said Southwest Quarter (SW¼), to the Point Of Beginning, said Point being on the Westerly right-of-way line of Nebraska Highway No. 15; thence S0°55'30"E, 1,334.83 feet, on said Westerly Highway right-of-way line;; thence N89°45'10"W, 75.71 feet, on the North line of said Southwest Quarter (SW¼), to the Point Of Beginning, said Point being on the Westerly right-of-way line; thence S9°51'02"E, 202.41 feet, on said Westerly Highway right-of-way line; thence N89°04'30"E, 5.00 feet, on said Westerly Highway right-of-way line; thence S1°08'18"E, 12.90 feet, on said Westerly Highway right-of-way line, to the Northeast corner of a parcel of land conveyed in Microfilm Book 03, page 2039; thence S89°20'30"W, 301.32 feet, on the North line of said parcel; thence S0°16'30"W, 213.14 feet, on the North line of said parcel; thence S89°51'20"W, 245.25 feet, to the Northwest corner of said parcel, said Point also being on the Easterly right-of-way line of the Burlington Northern Railroad; thence Northerly, 1,804 feet, more or less, on said Easterly Railroad right-of-way line, to a point on the North line of said Southwest Quarter (SW¼); thence N89°45'10"E, 841.08 feet, to the Point Of Beginning, containing 24.6 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 tract of land located in the in the East Half of the Southwest Quarter (E½ SW¼) of Section Thirty (30), Township Fifteen (15), North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the Northeast corner of said Southwest Quarter (SW¼), and assuming the East line of said Southwest Quarter (SW¼), to have a bearing of S1°08'18"E; thence N89°45'10"W, 75.71 feet, on the North line of said Southwest Quarter (SW¼), to the Point Of

Beginning, said Point being on the Westerly right-of-way line of Nebraska Highway No. 15; thence $S0^{\circ}55'30''E$, 1,334.83 feet, on said Westerly Highway right-of-way line;; thence $N89^{\circ}45'10''W$, 75.71 feet, on the North line of said Southwest Quarter ($SW\frac{1}{4}$), to the Point Of Beginning, said Point being on the Westerly right-of-way line; thence $S9^{\circ}51'02''E$, 202.41 feet, on said Westerly Highway right-of-way line; thence $N89^{\circ}04'30''E$, 5.00 feet, on said Westerly Highway right-of-way line; thence $S1^{\circ}08'18''E$, 12.90 feet, on said Westerly Highway right-of-way line, to the Northeast corner of a parcel of land conveyed in Microfilm Book 03, page 2039; thence $S89^{\circ}20'30''W$, 301.32 feet, on the North line of said parcel; thence $S0^{\circ}16'30''W$, 213.14 feet, on the North line of said parcel; thence $S89^{\circ}51'20''W$, 245.25 feet, to the Northwest corner of said parcel, said Point also being on the Easterly right-of-way line of the Burlington Northern Railroad; thence Northerly, 1,804 feet, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;



- (b) Sheriff, 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 appealed.

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 and APPROVED this 12th day of July, 2017.

Mayor Alan Zavodny

City Clerk Joan Kovar

Council member Trowbridge made a motion to refer Resolution No. 21 – 2017, de-blighting certain areas within the corporate limits of David City, to a review committee to study the clarity and integrity of the Resolution. Council member Meysenburg seconded the motion. Discussion followed in which it was questioned as to why he felt a review committee was necessary. Council member Trowbridge stated that he did not concur with the last sentence that said: “substandard and blighted conditions no longer exist on the properties”. Discussion followed in which the Planning Commission members & Attorney Mike Bacon were asked to contribute to the discussion.

Planning Commission member Keith Marvin presented the following:

David City Blighted and Substandard Areas

Current Corporate Limits = 1,092.85 acres
New Corporate Limits after Vandenberg Annexation = 1,122.85 acres

Current area declared blighted and substandard = 443 acres (40.5% of Current Corporate Limits, **39.5% of New Corporate Limits**)

Nebraska Statute limits a City of the Second Class to 50% of its Corporate Area

All Proposed Deblighted Areas + Vandenberg Proposal

Proposed blighted and substandard area with ALL deblighting = 303.60 Acres (27.8% of Current Corporate Limits, 27.0% of New Corporate Limits)

Proposed blighted and substandard area with ALL deblighting and proposed Vandenberg area = **303.60 acres + 95.4 acres = 399 acres (35.5%)**

Pinnacle Apartments Deblighted + Vandenberg Proposal

Proposed blighted and substandard area with Pinnacle Apartments only deblighted = 443 acres – 53.4 acres = 389.6 acres (35.6% of Current Corporate Limits, 34.7% of New Corporate Limits)

Proposed blighted and substandard area with only Pinnacle Apartments deblighted and proposed Vandenberg area = **443 acres – 53.4 acres + 95.4 acres = 485 acres (43.2%)**

No Deblighting + Vandenberg Proposal

Blighted and substandard area, no deblighting, and proposed Vandenberg area = **443 acres + 95.4 acres = 538.4 acres (47.9%)**

The Planning Commission members explained blighting and the fact that the sentence could be removed or re-worded in the resolution. Therefore, Council member Trowbridge withdrew his motion and Meysenburg withdrew his second.

Council member Hotovy made a motion to amend the last paragraph of the resolution to read: "NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the properties described above are no longer designated as blighted and substandard, and to pass and approve Resolution No. 21 - 2017. Council member Smith seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Hotovy, Kobus, and Smith. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Resolution No. 21 -2017 was passed and approved as follows:

RESOLUTION NO. 21 - 2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, DEBLIGHTING CERTAIN AREAS WITHIN THE CORPORATE LIMITS OF DAVID CITY LEGALLY DESCRIBED BELOW.

WHEREAS, it is desirable and in the public interest that the City of David City, Nebraska, a municipal corporation and City of second class, undertake and carry out urban redevelopment

projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, Chapter 18, Article 21, Nebraska Reissue Revised Statute, for purposes of the Community Development Law, defines blighted areas, and

WHEREAS, Chapter 58, 58-209.01 states that a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and

WHEREAS, evidence demonstrates that there may be other areas that constitute a substandard and blighted area as defined in said Community Development Law, which area is in need of redevelopment, and

WHEREAS, the Planning Commission has determined that David City has already declared 40% of the City as blighted and at this time recommends that the following described real estate now be declared de-blighted:

Southeast Area

Beginning at the intersection of the centerlines of 11th Street and E Street in David City, Nebraska, thence eastward along the centerline of E Street to the centerline of 12th Street, thence southward along the centerline of 12th Street to a point that is equidistant between the centerlines of D and E Streets, thence *eastward* from this point to a point on the centerline of the platted alley between 13th and 14th Streets which is equidistant between the centerlines of D and E Streets, thence northward along the centerline of said platted alley to the centerline of E Street, thence eastward along the centerline of E Street to the west line of the 14th Street right-of-way, thence southward along said west right-of-way line to the centerline of A Street, which is also the corporate limit line of the City, thence westward along the centerline of A Street to the point where the corporate limit line turns southward, thence southward and westward along the corporate limit line to the centerline of 11th Street, thence southward along the centerline of 11th Street to the south line of the platted Ohio Street right-of-way, thence westward along said south line of the platted Ohio Street right-of-way to the centerline of 10th Street, thence northward along the centerline of 10th Street to the centerline of Iowa Street, thence eastward along an extension of the centerline of Iowa Street to the rear lot line of the platted lots which front on the west side of I lth Street, thence northward along said rear lot line to the rear lot line of the platted lots which front on the south side of A Street between 10th and 11th Street, thence westward along said rear lot line to the centerline of 10th Street, thence northward along the centerline of 10th Street to the centerline of A Street, thence eastward along the centerline of A Street to the centerline of 11th Street, thence northward along the centerline of 11th Street to the centerline of E Street, which is the point of the beginning.

West Central Area (Near 11th Street)

The point of beginning is the intersection of 7th Street and "F" Street (Nebraska Central Railroad line); thence easterly along the centerline of the railroad right-of-way to the extended east property line of a property described as David City 20 15 3 PT N1/2 SW ¼ (PID 120008407); thence northerly along said line to the northeast corner of a property described as David City 20 15 3 PT N1/2 SW ¼ (PID 120008393); thence, westerly to the centerline of 11th Street; thence, northerly along said centerline to the intersection with the centerline of "J" Street; thence, westerly along said centerline of "J" Street to the intersection of "J" Street and 9th Street; thence, southerly along said centerline of 9th Street to the intersection of 9th Street and "G" Street; thence westerly along said centerline of "G" Street to the intersection of "G" Street and 7th Street; thence, southerly to the point of beginning.

Northwest Area (Near 3rd Street)

The point of beginning is the intersection of 3rd Street and "G" Street; thence northerly along the centerline of 3rd Street to the extended north property line of a property described as David City 19 15

3 PT SE1/4 NW ¼ (75' x 200') Ettings Place Add; thence, westerly along said north property line to the centerline of the BNSF Railroad right-of-way; thence, southerly along said centerline to the intersection with the centerline of "G" Street; thence, easterly along said centerline f "G" Street to the point of beginning.

Southwest Area (Near 1st Street)

The point of beginning is the intersection of 1st Street and the centerline of "F" Street (Nebraska Central Railroad); thence, southerly along said centerline of 1st Street to the intersection with the centerline of "A" Street; thence, westerly along said centerline of "A" Street to the centerline of County Road "M"; thence, northerly along said centerline of County Road M to the intersection with the centerline of "C" Street; thence, easterly along said centerline of "C" Street to the intersection with the centerline of Oak Street; thence, northerly along said centerline of Oak Street to the intersection with the extended south property line of a parcel described as David City PT OL 3 In PT W1/2 SW1/4 AC West ADD; thence, westerly along said property line to the intersection with the centerline of County Road M; thence, northerly along said centerline of County Road M to the intersection with "F" Street (Nebraska Central Railroad Right-of-Way; thence; easterly to the point of beginning.

WHEREAS, this City Council has held a public hearing to consider the de-blighting of the above property and there were no objections expressed;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the properties described above are no longer designated as blighted and substandard.

Passed and approved this 12th day of July, 2017.

BY _____
Alan Zavodny, Mayor

ATTEST:

Joan E. Kovar, City Clerk

Ordinance No. 1266 was passed on first reading on June 14, 2017. Council member Smith made a motion to pass and adopt Ordinance No. 1266 on the second reading only. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Meysenburg, Trowbridge, Smith, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Ordinance No. 1266 was passed on 2nd reading only as follows:

ORDINANCE NO. 1266

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 2: DEFINITIONS TO ADD THE DEFINITIONS OF STORAGE CONTAINER, STORAGE TRAILER AND CONSTRUCTION DUMPSTER AND TO AMEND ARTICLE 8:

SUPPLEMENTAL REGULATIONS TO ADD SECTION 8.14 PERMANENT CARGO CONTAINERS AND TO ADD SECTION 8.15 TEMPORARY CARGO CONTAINERS AND DUMPSTERS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 2: DEFINITIONS

Storage Container shall mean a standardized, reusable shipping vessel used in the transportation of freight and capable of being mounted and moved on a chassis or bogie for movement by truck trailer or loaded on a ship.

Storage Trailer shall mean a standardized, reusable semi-trailer used in the transportation of freight used for storage on-site and has the chassis and wheels intact.

Construction Dumpster shall mean a moveable, reusable container that is transported to a site on a specially designed truck to collect construction waste on site. Said dumpster is anticipated to be picked up and emptied as needed.

ARTICLE 8: SUPPLEMENTAL REGULATIONS

Section 8.14 Permanent Cargo Containers

Permanent Cargo Containers shall only be allowed in the FS, I-1 and I-2 Districts and shall follow the minimum standards:

1. No Cargo Container shall be allowed unless a Conditional Use Permit has been issued by the City.
2. Lots shall be larger than one acre.
3. No more than one cargo container may be used.
4. The cargo containers must be located within an outdoor storage area that is properly screened according to the regulations herein.
5. No cargo container may be located within 15 feet of any property line.
6. All signage on the cargo container shall be removed and the cargo container shall be painted an earth tone color, including greens, tans, terra cottas. Color is subject to approval as part of the Condition Use Permit.
7. Cargo containers shall be anchored to a concrete slab and the ground, and must be maintained such that they are safe, structurally sound, stable, and in good repair. Any cargo container that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
8. No cargo containers shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Cargo containers are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.

Section 8.15 Temporary Cargo Containers and Dumpsters

Temporary Cargo Containers and Dumpsters shall be allowed and shall follow the minimum standards:

1. One temporary cargo container/dumpster is allowed per dwelling unit for up to three weeks; provided, that:

- a. The temporary cargo container/dumpster may only be used for purposes of storage in conjunction with moving or relocating residents' household belongings.
 - b. Each dwelling unit is entitled to no more than two temporary cargo containers/dumpsters per year (any 12-month consecutive period).
 - c. The temporary cargo container/dumpster must be located on a hard surface.
 - d. The temporary cargo container/dumpster may not be located on any public or private street. Additionally, the temporary cargo container/dumpster may not be placed in any sight triangle or in any location that would interfere with traffic safety.
 - e. A resident may apply for a permit for an extension to allow a cargo container/dumpster to remain for an additional two weeks. There shall be no fee for the permit.
2. Cargo containers/dumpster may be used as temporary construction site storage for nonresidential construction projects and for residential construction, subject to the following:
- a. No cargo containers/dumpster shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Cargo containers/dumpsters are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.
 - b. Cargo containers/dumpsters must be located on a platted lot that has an active building permit.
 - c. Cargo containers/dumpsters on lots shall not remain on the lot longer than 12 months, even if a building permit is still active.
 - d. Items stored in cargo containers must be used on the same platted lot where the cargo containers are located.
 - (1) The cargo containers shall not be used to store items for use on other construction sites.
 - (2) Dumpsters shall be used strictly for waste materials generated on the project site.
 - (3) Dumpsters shall be emptied occasionally and shall not be allowed to extend above the upper edge of the container.
 - e. Cargo containers/dumpsters shall be located at least 10 feet from all property lines.
 - f. At the time of placement, cargo containers/dumpsters shall not be located within 100 feet of any occupied dwelling unit.
 - g. Cargo containers/dumpsters shall be kept safe, structurally sound, stable, and in good repair. Any cargo container/dumpster that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
 - h. The property surrounding the cargo containers/dumpsters (within 10 feet) shall be maintained and kept free of weeds.
 - i. The maximum number of cargo containers/dumpster allowed for temporary construction site storage per lot per year (any 12-month consecutive period) shall be as follows:
 - (1) A maximum of one cargo container.
 - (2) A maximum of one dumpster shall be allowed to be in place at any given time.
 - j. No cargo container/dumpster shall be allowed for temporary construction site storage until a temporary permit has been obtained.
 - (1) There shall not be any additional fees to obtain such permit for this use.
 - (2) The permit application shall include a site plan or plot plan showing where the container will be located on the site.
 - (3) Permitted cargo containers/dumpster shall not be relocated on the site without updating the permit.
 - (4) Dumpster shall be allowed to be switched out when full without updating the permit.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS _____ day of _____, 2017.

Passed on second reading only
Mayor Alan Zavodny

Passed on second reading only
City Clerk Joan Kovar

Ordinance No. 1267 amending Zoning Ordinance No. 1060 by amending Section 5.13 I-1 Light Industrial, Section 5.14 I-2 Heavy Industrial, and Section 5.15 FS Flex Space to modify the side and rear yard setbacks, was discussed. The Council questioned why the Planning Commission was recommending this. Planning Commission member Keith Marvin explained that there may be an instance in which someone is considering buying a 50' residential lot and wants it re-zoned to Light Industrial, Heavy Industrial, or Flex Space. A 50' lot won't give them much room if they have to follow the current setbacks. Council member Meysenburg questioned if a residential lot should actually be re-zoned to Industrial or Flex and questioned if the general public would want Industrial or Flex zoning next to their residential residence.

Council member Hotovy made a motion to table consideration of Ordinance No. 1267 amending Zoning Ordinance No. 1060 by amending Section 5.13 I-1 Light Industrial, Section 5.14 I-2 Heavy Industrial, and Section 5.15 FS Flex Space to modify the side and rear yard setbacks. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Smith, Kobus, Trowbridge, and Hotovy. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

ORDINANCE NO. 1267

AN ORDINANCE, TO AMEND ZONING ORDINANCE NO. 1060, BY AMENDING SECTION 5.13 I-1 LIGHT INDUSTRIAL, SECTION 5.14 I-2 HEAVY INDUSTRIAL AND SECTION 5.15 FS FLEX SPACE TO MODIFY THE SIDE AND REAR YARD SETBACKS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTION OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 5 ZONING DISTRICTS

SECTION 5.13 I-1 LIGHT INDUSTRIAL DISTRICT

5.13.05 Height and Lot Requirements:

2. The side and rear yard shall be ten feet. However, when the use is adjacent to a residential district and engages in manufacturing of products, auto salvage, flammable and/or explosive materials, processing of raw materials, and/or creates considerable noise or odors, the setback along the district boundary shall be increased to 50 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

SECTION 5.14 I-2 HEAVY INDUSTRIAL DISTRICT

5.14.05 Height and Lot Requirements:

2. The side and rear yard shall be ten feet. However, when the use is adjacent to a residential district and engages in manufacturing of products, auto salvage, flammable and/or explosive materials, processing of raw materials, and/or creates considerable noise or odors, the setback along the district boundary shall be increased to 50 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

SECTION 5.15 FS FLEXIBLE SPACE MIXED USE DISTRICT

Section 5.15.06 Height and Lot Requirements

2. The side and rear yard shall be ten feet. However, when the use is adjacent to a residential district and engages in manufacturing of products, auto salvage, flammable and/or explosive materials, processing of raw materials, and/or creates considerable noise or odors, the setback along the district boundary shall be increased to 50 feet. In addition, a landscape screen as defined in this ordinance, shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS _____ day of _____, 2017.

Tabled 7/12/17
Mayor Alan Zavodny

Tabled 7/12/17
City Clerk Joan Kovar

Council member Hotovy introduced Ordinance No. 1268 amending Zoning Ordinance No. 1060 by amending Article 8: Supplemental Regulations to add Section 8.03.02 Fences on a corner lot, and renumbering subsequent sections.

Council member Trowbridge 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, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1268 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Hotovy, Smith, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Ordinance No. 1268 was passed on third and final reading as follows:

ORDINANCE NO. 1268

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 8: SUPPLEMENTAL REGULATIONS TO ADD SECTION 8.03.02 FENCES ON A CORNER LOT AND RENUMBERING SUBSEQUENT SECTIONS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID

CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 8: SUPPLEMENTAL REGULATIONS

Section 8.03 Fences

8.03.02 Fences on a Corner Lot

1. Fences along the Street Side Yard of a lot may be constructed along the property line.
2. Fences along the Street Side Yard of a lot may construct a fence to a maximum of 72 inches above grade.
3. Fences along a Street Side Yard shall not be constructed more than four feet past the rear of the primary structure.
4. Fences constructed in the Street Side Yard shall not interfere with any required sight triangle.
5. Fences constructed in the Street Side Yard shall be constructed with the good side of the fence facing the public way.
6. Fences constructed in the Front yard of a corner lot shall be required to meet all normal regulations.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS 12th day of July, 2017.

Mayor Alan Zavodny

City Clerk Joan Kovar

Council member Trowbridge made a motion to authorize the purchase of a new vehicle for the Sheriff's Department estimated at \$20,466 (\$25,466 less \$5,000 trade-in). Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Smith, Hotovy, Trowbridge, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Rex Rehmer was present to request funds to go towards the fireworks display at the Butler County Fair.

City Clerk Kovar presented the following recap of the Keno Account:

Current Keno Account Balance:	\$54,842.46
Money designated for Park Restroom/Shower facility:	-\$45,000.00
Due Zeilinger Keno from future revenues:	- 6,438.31
Tax revenue due the State:	- 225.40
Library budget:	- 2,000.00
Moravec's for audit expense not posted yet:	<u>- 1,845.00</u>
	-666.25

Council member Trowbridge made a motion to approve the request by Rex Rehmer for funds to go towards the purchase of fireworks for the fireworks display at the Butler County Fair. Council member Smith seconded the motion. Voting AYE: Council members Kobus and

Trowbridge. Voting NAY: Council members Meysenburg, Hotovy, and Smith. Council member Vandenberg was absent. The motion failed.

Darrell Allen was not present for the meeting but had submitted a request for an agenda item to express concerns of safety and premature wear on 5th Street due to the traffic taking the easiest path on 5th Street as opposed to the detour route on 6th Street with a 4-way stop sign at each intersection. There are stop signs on 5th & C, 5th & A, and 5th & Iowa. It was noted that the City couldn't really change the detour route and the public would find the easiest route no matter what the City did.

Mike Behrendt of Henningsen Foods was present to inform the Council that Henningsen Foods is doing further research on the anaerobic lagoons. Mike stated he wasn't saying they didn't want to partner on the project, but if they are looking at a three million dollar project, Henningsen's wanted to see more proposals other than just the one from Olsson's. They are getting two additional proposals to see if the BOD treatment could be done on site. If Henningsen's would decide to build a basin in town to correct the PH issues, Mike stated that there will be "No Smell"; they won't invest in something that won't work. They don't want to incur unnecessary expenses. Mike stated that within the next 30 days Henningsen's will have a meeting with DEQ and the City and are currently working with DEQ to get the compliance deadline extended.

The Contractor's Progress Estimate No. 1 was reviewed. The Council members felt that someone from Leo A. Daly should have been present to review the estimate for Constructors, Inc., in the amount of \$836,358.76 and perhaps give a review of the project to date. Therefore, Council member Smith made a motion to table consideration of the Contractor's Progress estimate and Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Trowbridge, Meysenburg, Smith, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Consideration of closing the Power Plant was discussed. Mayor Zavodny stated that he questioned this when Power Plant Supervisor Eric Betzen was on sick leave due to back surgery and we basically had no one capable of running the power plant.

Power Plant Supervisor Eric Betzen stated that it will probably take current employee Tom Dion, who started in March of 2016, another 3 years before he could actually start the engines and run the power plant. Eric stated that at one time he had 4 people cross training. Gary Janicek, Kevin Betzen, and Justin Jones were all learning the system but they no longer work for the City. It takes time to learn how to properly run the engines.

Chad Podolak of NPPD stated that they will allow the City to generate to provide once a month training if that would help with the situation.

Council member Trowbridge stated that he did some calculations and the power plant loses money every month.

Discussion followed.

The City Council reviewed the following two building inspector proposals from Ray Sueper:

I recommend that we discuss the specific needs David City is anticipating as well as my personal recommendations to assist the city with implementing and updating necessary ordinances and codes, enforcing building compliance and property maintenance. I respectfully request a fee of \$75.00 per hour for our respective services. In addition, I would add \$.67 per mile for mileage to and from David City. I would further recommend that you would consider the following three proposals and welcome our discussion during the meeting.

Option 1 - \$7340/month / half days (mileage included)
Option 2 - \$5068 /month / two full days per week
Option 3 - \$2668 /month / one full day per week
One year contract with optional renewal

Following discussion, Council member Trowbridge made a motion to propose a new option in the amount of \$3,900 /month, alternating one full day per week, then two full days per week, then one full day per week, then two full days per week, etc. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Hotovy, Kobus, Meysenburg, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried. Ray Sueper will coordinate a starting date with the City following the execution of the revised proposal.

Council member Hotovy made a motion to advertise for bids for the demolition of the old pool house located on the City Auditorium lower level parking area. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Smith, Hotovy, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

A proposed ordinance to create a subcommittee appointed by the Mayor to determine compliance with the City Codes concerning nuisance abatement was discussed. The Council members did not particularly like the proposed wording that stated: "There shall be a subcommittee consisting of three (3) City Council Members who shall be appointed by the Mayor **for each property in a round-robin order** who decide when a piece of property brought before the City Council is in compliance with City Codes".

Attorney Tim Wollmer stated that could be deleted if the Council so wished.

Council member Kobus introduced Ordinance No. 1269 designating a sub-committee to make decisions concerning nuisance properties and determining when and if the property is in compliance with City Codes. Mayor Zavodny read Ordinance No. 1269 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 Meysenburg, Hotovy, Smith, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Hotovy made a motion to pass and adopt Ordinance No. 1269 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Smith, Kobus, and Hotovy. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Ordinance No. 1269 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1269

AN ORDINANCE TO AMEND SECTION 4-402 OF THE MUNICIPAL CODE; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF, AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1: That Chapter 4, Article 4, Section 4-402 of the Municipal Code of David City, Nebraska shall have added to it as follows:

- (A) There shall be a subcommittee consisting of three (3) City Council Members, who shall be appointed by the Mayor, who decide when a piece of property brought before the City Council is in compliance with City Codes.
- (B) The said subcommittee shall determine compliance with the City Codes of the first fifteen (15) days that the property owner is given to abate the nuisance. Should the subcommittee determine the abatement is not satisfactory, the City would continue with the Notice procedure for the property owner appearing before the City Council as provided in the aforementioned Section 4-402.
- (C) Should the City Council give the property owner an extension to abate the nuisance, the said subcommittee shall meet to consider if the abatement has been satisfactorily completed and make its recommendation to the City Council. The City Council as a whole shall decide on how to act on the said subcommittee's recommendation under Section 4-402 of the City Code.

SECTION 2: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this 12th day of July, 2017.

MAYOR ALAN ZAVODNY
OF THE CITY OF DAVID CITY, NEBRASKA

ATTEST:

CITY CLERK JOAN KOVAR

(SEAL)

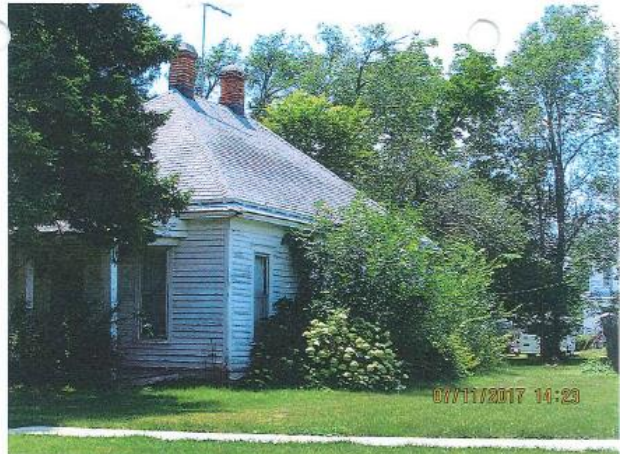
Council member Hotovy made a motion to table consideration of agenda items 25a, b, c, and d; Consideration of the properties located at 278 South 7th Street, 909 North 9th Street, 226 North 3rd Street, and 240 North 3rd Street, until the August 9th Council meeting to allow time for the subcommittee referenced above to be appointed. Council member Trowbridge seconded

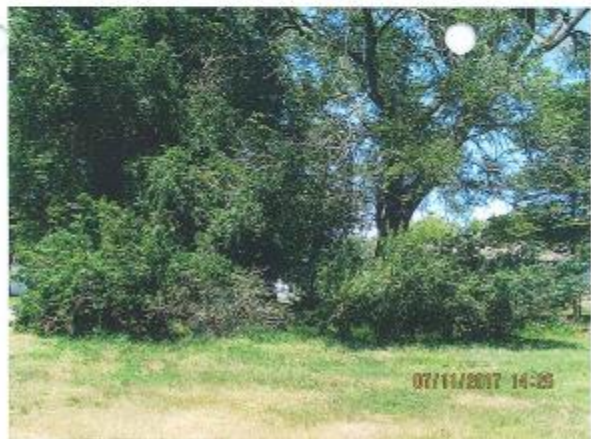
the motion. Voting AYE: Council members Meysenburg, Smith, Kobus, Hotovy, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Jonathan McCarville, Civil Engineer of Leo A. Daly, was not present but had submitted Change Order 004 for Constructors, Inc. in the amount of \$33,196.50 for water main reconstruction at the 4th & "A" Street intersection. The water main needed to be replaced due to utility conflicts, replacement of the old cast iron pipe, and the water crossing will now be updated to meet NDOR standards. Discussion followed.

Council member Kobus made a motion to table consideration of Change Order 004, referenced above, until the July 26th special council meeting. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Smith, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Hotovy made a motion to declare the property at 281 South 8th Street in violation of City Codes and they have 15 days to address the issues. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Kobus, Smith, Trowbridge, and Hotovy. Voting NAY: None. Council member Vandenberg was absent. The motion carried.





Council member Hotovy made a motion to approve the request by Charter Communications / Spectrum to allow itinerant sales after 6:00 p.m. Mayor Zavodny asked three separate times for a second to the motion. There being none, the motion died for lack of a second.

As the motion to allow itinerant sales after 6:00 p.m. failed, Mayor Zavodny stated that Agenda Item # 29 – Consideration of Ordinance No. 1270 amending the Itinerant Sales; Hours of Solicitation was no longer pertinent. The agenda item was invalid.

The new water line extension for the Dana Point Development in the Larry J. Sabata 3rd Addition was discussed. It was noted that the developer is responsible for the installation of the infrastructure (electric, water, sewer, and storm sewers) however, then the infrastructure is turned over to the City. The Council members questioned who was overseeing this project to make sure the infrastructure was being installed properly.

Council member Trowbridge made a motion to authorize Mayor Zavodny to negotiate with Olsson Associates, Mike Davis, to oversee the infrastructure installation, at a cost not to exceed \$30,000, for the Dana Point Development in the Larry J. Sabata 3rd Addition. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Smith, Hotovy, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

There being no further business to come before the Council, Council member Council member Hotovy made a motion to adjourn. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Kobus, Smith, Trowbridge, and Hotovy. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 10:15 p.m.



CERTIFICATION OF MINUTES
July 12, 2017

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 July 12th, 2017; 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