

**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 **8th day of November, 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 1st day of November, 2017.

AGENDA AS FOLLOWS:

1. Roll Call;
2. Pledge of Allegiance; _____
Mayor Alan Zavodny
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; _____
Council President Gary D. Smith
4. Minutes of the October 11th, 2017 meeting of the Mayor and City Council;
5. Consideration of Progress Estimate #5 for Constructors, Inc. in the amount of \$436,558.80; _____
Council member Thomas J. Kobus
6. Consideration of Claims;
7. Committee and Officer Reports; Certificate of Appreciation to Cheryl Hein for 25 years of service; _____
Council member Dana E. Trowbridge
8. Consideration of Resolution #36 – 2017 authorizing the Mayor and City Administrator of the City of David City to execute documents required to receive United States Department of Agriculture Rural Development Financial Assistance; _____
Council member Kevin N. Hotovy
9. Discussion with County Attorney Julie Reiter, and consideration of, the filing of liens, etc., at the Butler County Court House; _____
Council member Patrick J. Meysenburg
10. Discussion and Consideration of the David City Ball Association's Balance Sheet; _____
Council member John P. Vandenberg
11. Consideration of the proposals to provide KENO as previously presented by Nebraska Cooperative Government (NCG), Community Lottery Systems, Inc., d/b/a/ Lotto Nebraska; (Wm. D. Kurtenbach / Paul Schumacher, and Advanced Gaming Technology, John Hasset, Bellevue, NE; _____
City Clerk Joan E. Kovar

12. Public hearing to consider amending the Future Land Use Plan Map by changing the zoning classification from MDR – Medium Density Residential, LDR – Low Density Residential and I - Industrial to FS – Flex Space for the following real estate:
The point of beginning (POB) is the southeast corner of a tract described as 29 15 3 PT NE ¼ NW ¼ 6 Acres; thence, heading westerly along the south property line of said lot and continuing to the intersection with a tract referred to as 29 15 3 PT NW ¼ 28.91 Acres; thence, southerly to the northern southeast corner of said tract; thence, westerly from said point running parallel to the northern property line until intersecting with the creek; thence, southwestly along the centerline of said creek and connecting to the lot referred to as Multi-purpose land in East Park Meadows Final Plat; thence, westerly along north property line of said lot in East Park Meadows Addition and continuing to the intersection with the southeast corner of a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 3.5 Acres ANNEX; thence, northerly along the east property line of said lot and a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 6 Acres Annex to the intersection with the centerline of “A” Street; thence, easterly along said centerline to a point intersecting with the east property line of the initial tract referred to as 29 15 3 PT NW ¼ 6 Acres; thence, southerly to the POB.
13. Consideration of Ordinance No. 1274 amending the Future Land Use Map by changing the zoning classification of real estate described above from MDR – Medium Density Residential, LDR – Low Density Residential, and I - Industrial, to FS – Flex Space;
14. Public hearing to consider amending the Official Zoning Map by changing the zoning classification from I-1 Light Industrial, R-1 Single Family Residential and R-2 Two-Family Residential to FS – Flex Space Mixed Use District for the following real estate:
The point of beginning (POB) is the southeast corner of a tract described as 29 15 3 PT NE ¼ NW ¼ 6 Acres; thence, heading westerly along the south property line of said lot and continuing to the intersection with a tract referred to as 29 15 3 PT NW ¼ 28.91 Acres; thence, southerly to the northern southeast corner of said tract; thence, westerly from said point running parallel to the northern property line until intersecting with the creek; thence, southwestly along the centerline of said creek and connecting to the lot referred to as Multi-purpose land in East Park Meadows Final Plat; thence, westerly along north property line of said lot in East Park Meadows Addition and continuing to the intersection with the southeast corner of a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 3.5 Acres ANNEX; thence, northerly along the east property line of said lot and a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 6 Acres Annex to the intersection with the centerline of “A” Street; thence, easterly along said centerline to a point intersecting with the east property line of the initial tract referred to as 29 15 3 PT NW ¼ 6 Acres; thence, southerly to the POB.
15. Consideration of Ordinance No. 1275 amending the Official Zoning Map by changing the zoning classification of real estate described above from I - 1 Light Industrial, R-1 Single Family Residential and R-2 Two-Family Residential, to FS – Flex Space Mixed Use District;
16. Public Hearing to consider the Final Plat of Zegers 1st Addition located in the East ½ of the Southwest ¼ of Section 30, T15N, R3E of the 6th P.M., Butler County, Nebraska, legally described as follows: Commencing at the northeast corner of said Southwest ¼, and assuming the east line of said Southwest ¼ to have a bearing of N 00°59'17"W; thence N 89°40'57" W, 75.71 feet on the North line of said Southwest ¼, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska highway No. 15; thence S 00°55'30" E, 1334.83 feet on said westerly Highway Right-of-Way line; thence S 09°25'22" E, 202.41 feet on said westerly Highway Right-of-Way line; thence S 01°04'43" E, 12.86

- feet on said westerly Highway Right-of-Way line; thence S 89°23'46" W, 296.24 feet; thence S 00°15'37" W, 213.37 feet; thence S 89°48'29" W, 245.44 feet to a point on the easterly Right-of-Way line of the Burlington Northern Railroad; thence northerly 1804 feet, more or less on said easterly Railroad Right-of Way line to a point on the North line of said Southwest ¼; thence N 89°45'02" E on said North line, 836.59 feet to the Point of Beginning.
17. Consideration of Ordinance No. 1279 accepting and approving the final plat designated as "Zegers 1st Addition" located in the East ½ of the Southwest ¼ of Section 30, T15N, R3E of the 6th P.M., Butler County, Nebraska, legally described above;
 18. Consideration of an agreement between David City High School and the City concerning the two-stall garage moved from 8th Street between "D" and "E" to the City Auditorium;
 19. Consideration of the updated United Health Care Insurance Quote;
 20. Consideration of authorizing the purchase of survey equipment for the water department consisting of a Sokkia GCX3 Rover & Panasonic Toughpad from Transit Works, and a Toughbook laptop;
 21. Consideration of Ordinance No. 1280 updating Chapter 9 of the City of David City, Nebraska, Municipal Code Book concerning Zoning / Building Regulations;
 22. Consideration of Resolution No. 37 – 2017 setting the charges for Zoning Application Fees;
 23. Consideration of an updated pipeline lease agreement with Timberline Energy concerning a pipeline to deliver landfill gas methane from Butler County Landfill to Henningsen Foods;
 24. Consideration of Letter Agreement Amendment #1 with Olsson Associates, Inc., concerning slip-lining, point repairs, manhole, sanitary sewer main and service repairs; repair, sludge removal, and restoration of Cells A and C of the City's wastewater treatment facilities; and construction of a secondary access road to the wastewater facility;
 25. Consideration of the bids received to replace fencing where the old pool house sat by the City Auditorium;
 26. Consideration of appointing Denny Graham of Olsson Associates as the Street Superintendent for the upcoming fiscal year, January 1, 2018 to December 31, 2018;
 27. Consideration of the request by the David City Golf Club, Inc., for further discussion, and/or an official YES/NO vote for any monetary donation to their Club House Building Project;
 28. Consideration of rescheduling the Committee of the Whole meeting from Wednesday, November 22nd to Wednesday November 29th
 29. Adjournment;

CITY COUNCIL PROCEEDINGS

November 8, 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 October 26th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items

were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

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

Also present for the meeting were: Jason Lavicky, Kory Kuhlman, Don Prochaska, Virginia Rerucha, Jason Campbell, Kevin & Betsy Stara, Matt, Chelsie, & Carson Croghan, Dawn Bohuslavky, Brian Hartman, Jessica Miller, Steve Rerucha, Becky Junck, and several others in support of the David City Ball Programs, John Zwingman of Advanced Consulting Engineering Services, Planning Commission members Janis Cameron & Keith Marvin, Past Chamber President Luke Beerbohm, Daryl Gladowski, Superintendent Chad Denker of David City Public Schools, Branden Rech, Building Inspector Ray Sueper, Banner Press Editor Larry Peirce, Power Plant Supervisor Eric Betzen, Park/Auditorium Supervisor Bill Buntgen, and Sewer Supervisor Travis Hays.

The meeting opened with the Pledge of Allegiance.

Mayor Alan Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and asked those present to please silence their cell phones.

The minutes of the October 11th, 2017 meeting of the Mayor and City Council were approved upon a motion by Council member Trowbridge and seconded by Council member Smith. Voting AYE: Council members Kobus, Meysenburg, Hotovy, Smith, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Kobus made a motion to approve the progress estimate #5 for Constructors, Inc. in the amount of \$436,558.80. Council member Smith seconded the motion. Voting AYE: Council members Hotovy, Smith, Meysenburg, Trowbridge, 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 Hotovy, Meysenburg, Trowbridge, Kobus, and Smith. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Mayor Zavodny stated that the recognition for Cheryl Hein was postponed until the December 13th meeting as requested by Library Director Kay Schmid, and asked for any comments or questions concerning the Committee and Officer Reports.

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

Council member Trowbridge introduced Resolution No. 36 – 2017 authorizing the Mayor and City Administrator of the City of David City to execute documents to receive United States Department of Agriculture Rural Development Financial Assistance. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Smith, Meysenburg, Kobus, and

Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Resolution No. 36 - 2017 was passed and adopted as follows:

RESOLUTION NO. 36 – 2017

AUTHORIZING THE MAYOR AND THE CITY ADMINISTRATOR OF THE CITY OF DAVID CITY, DAVID CITY, NEBRASKA, TO EXECUTE DOCUMENTS REQUIRED TO RECEIVE UNITED STATES DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT FINANCIAL ASSISTANCE.

The following motion was introduced and adopted this 8th day of November, 2017, by the City Council of the City of David City, David City, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY:

The City Council of the City of David City, David City, Nebraska, resolves that the Mayor and City Administrator are authorized and directed to execute any and all documents and security instruments or other memoranda between the City Council of the City of David City, David City, Nebraska, and the USDA Rural Development so as to effect the Sewer Project application(s) for assistance.

If the Mayor or the City Administrator should change because of an election or other reasons during the processing of the USDA Rural Development application(s), City Council of the City of David City, David City, Nebraska will not need to amend this resolution so the Mayor and the City Administrator can sign any form(s) and security instrument(s) to finalize the USDA Rural Development financial assistance.

Mayor Alan Zavodny

Interim City Administrator Joan Kovar

Mayor Zavodny informed the Council that County Attorney Julie Reiter called today to say that she had another commitment that she forgot about and would not be able to attend the Council Meeting this evening. Therefore, Council member Hotovy made a motion to table discussion with County Attorney Julie Reiter concerning liens, etc. 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.

Several representatives, adults, and youth, were present for the discussion of the David City Ball Association's balance sheet and finances.

Jason Lavicky stated: "I would say the last two years, with the assistance of the City, have gone very well in my opinion. The Balance Sheet and Profit & Loss were supplied to the Mayor and Council roughly about a week ago, right before the meeting of the whole. This year we had roughly 240 kids participate in the ball program. There were 191 or 196 games at those ballfields this summer. 37 different communities came to David City to spend money here and came to the ballgames at those fields. I would tell you, that it is my belief, that without the assistance of the City the program would fail to exist."

It was noted that right now the City was able to assist the Ball Association because of the sales tax revenues. The sales tax was designated for projects referred to as the 3-legged stool: downtown improvements, northwest drainage, and recreation and enrichment of family life. This will "sunset" on October 1, 2020. Lately \$20,000 has been budgeted for recreation.

Mayor Zavodny stated: "Has there been any discussion amongst your group as how you make that work when that resource isn't there, or if the Council would go a different direction of saying "you know we're not going to put money towards the Ball Association anymore?"

Jason Lavicky stated: "We've worked with a grant writer, we've done some different things that way. There's not been any long-term solution towards the financing. It is our goal, year in and year out, to offer a product for all of the kids in David City and beyond David City, and offer a program that is affordable for everyone to play. We do not turn anyone away. We did have some kids and some teams that did not have hats that got sponsors that paid that. We had some kids that didn't have cleats or baseball shoes that parents stepped up and donated, so we're dealing with a large scale of social economic type families. We are trying to be everything to everyone out there. Usually the needs of the kids (gloves, etc.) are handled through private donations from a parent, a coach, a volunteer, or someone."

Mayor Zavodny asked about the actual cost of the property and the payments on the fields.

Jason Lavicky stated: "The fields were set up several years back and there's semi-annual payments on those fields of \$6,500. I do not have the cost of the fields when they were developed but the complex debt is still about \$124,000. We have made progress on bringing that debt down. I don't know the terms of the debt but that is something I could supply to the Council."

Council member Kobus asked: "Do you have any other ways of generating revenue such as flag football or something like that?"

Jason Lavicky stated: "There's been consideration of that. We have a population base here that looks at a model that Wahoo has, that's been very successful as far as flag football. I think there's a lot that Parks & Recreation could do that would generate more dollars but that's probably a discussion for another day. We have not gone that route, as far as flag football, but that is something that could be looked at. The facility is definitely good enough, either the football field or the soccer fields; the soccer fields are probably a better fit."

Council member Trowbridge asked: "Do you have any fund-raising ability? You didn't raise any funds last year."

Jason Lavicky stated: "That's a great debate and a question. We did not get to have a burger bash due to scheduling, this past year, which hurt us. We did not get to have the early

bird softball tournament because of weather as well, which is about a \$5,000 benefit to us. I've had conversations with people throughout the community and there's a little bit of attitude towards this, that "aren't our tax monies going towards the program? I get the attitude from some people saying "fund raising, but aren't we paying for it already? Does that make sense what I'm saying?"

Council member Trowbridge stated: "To a degree. I got kind of the same response from the golf course a few days after a fire. When I said, "if you open your soul and your hearts to the community and ask them for help, it will shock you how they will respond", and the answer from one of their board members was, "they won't give us a thing", and \$300,000 later that building is being finished, and that's what the community gave, but they don't give if you don't ask."

Jason Lavicky stated: "There have been people that have donated, it's not that there's not been any donated; there has been donations. There has not been a formal campaign, we haven't knocked on doors, we haven't made pamphlets, we haven't done any of that, to answer your question about fund raising."

Kory Kuhlman stated: "I am going to say something regarding fund raising. For the score boards at the fields, I personally went around and did fund raising for all of those, and during that time it was difficult to get fund raising for the score boards at the field. Luckily, we had some individual businesses that stepped up and did that and their names are on those boards, but even when we went to the businesses that were smaller in the community, it was very difficult to get fund raising for a lot of reasons but kind of what Jason said, they felt that was already being taken care of. I think we probably raised, just for the score boards, about \$30,000 - \$35,000 which replaced all the score boards on all of the fields, that was about 5 years ago."

Jessica Miller stated: "For softball, the girls did a fundraiser for our equipment so that enabled us to get helmets, a bat, pitchers equipment, and softballs to play with."

Council member Trowbridge stated: "But that doesn't show up in this balance sheet."

Jessica stated: "No, because that was for an individual team so we could have equipment to play with."

Mayor Zavodny stated: "We have to keep having the discussion to figure out "what is the long-term way of keeping this sustainable and what part does the City have in that, what part does the Ball Association have in it, and is it part of a bigger picture like doing something with soccer, do we expand our recreation?" Those will have to be discussions if that's the right way to go. We have that convoy going to Wahoo six Saturdays in the fall, flag football players, and little volleyball players. They have that recreation center, they have swimming, they offer CPR, a lot of things. Now maybe we don't go to that extreme, obviously we don't have that kind of a facility to do some of the program they have, but is there a cost benefit to hiring someone to do that and figuring out how you fund that kind of position and coordinate those types of things, even something as simple as the Y basketball league in Columbus. We have an auditorium here, utilizing it would be a great thing. At one time, one of the banks was interested in providing a scoreboard in the Auditorium and having their name on it and there was another business interested at that time, I haven't pursued that for 4 or 5 years now. I think we just want to have the discussion of long term; we want you to be successful. I think Council member Smith said it a while back, we really need you to be successful because it does help the

restaurants, the people that sell gas, and vendors in town. We want it to be healthy and in looking at the numbers we had some questions on it.”

Much discussion followed. Mayor Zavodny thanked everyone for coming and participating in the discussion.

8:53 AM

10/23/17

Accrual Basis

DAVID CITY BALL ASSOCIATION
Balance Sheet
 As of September 30, 2017

	Sep 30, 17	Sep 30, 16	\$ Change
ASSETS			
Current Assets			
Checking/Savings			
BANK OF THE VALLEY	8,549.97	6,704.11	1,845.86
Total Checking/Savings	8,549.97	6,704.11	1,845.86
Accounts Receivable			
Receivables	2,520.00	0.00	2,520.00
Total Accounts Receivable	2,520.00	0.00	2,520.00
Total Current Assets	11,069.97	6,704.11	4,365.86
Fixed Assets			
BALLFIELD			
BATTING CAGE	2,423.84	2,423.84	0.00
BLEACHERS	17,345.96	17,345.96	0.00
DUGOUTS	5,998.23	5,998.23	0.00
BALLFIELD - Other	153,718.58	153,718.58	0.00
Total BALLFIELD	179,486.61	179,486.61	0.00
CONCESSION STAND			
HOTDOG STEAMER/CONDIMENT CENTER	600.26	600.26	0.00
CONCESSION STAND - Other	31,648.86	31,648.86	0.00
Total CONCESSION STAND	32,249.12	32,249.12	0.00
FIELD SPRINKLER	20,673.85	20,673.85	0.00
LAND	29,192.38	29,192.38	0.00
EQUIPMENT	86,816.85	81,740.88	5,075.97
ACCUMULATED DEPRECIATION	-274,174.00	-270,677.00	-3,497.00
Total Fixed Assets	74,244.81	72,665.84	1,578.97
TOTAL ASSETS	85,314.78	79,369.95	5,944.83
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Other Current Liabilities			
DEFERRED INCOME- GRANT PROCEE...	10,000.00	0.00	10,000.00
ACCRUED INTEREST	593.26	663.67	-70.41
BANK OF THE VALLEY LOAN #21616	124,110.54	133,551.01	-9,440.47
Payroll Liabilities			
FICA/FIT PAYABLE	693.48	694.60	-1.12
STATE WITHHOLDING	103.52	133.52	-30.00
Total Payroll Liabilities	797.00	828.12	-31.12
Total Other Current Liabilities	135,500.80	135,042.80	458.00
Total Current Liabilities	135,500.80	135,042.80	458.00
Total Liabilities	135,500.80	135,042.80	458.00
Equity			
Retained Earnings	-67,814.62	-52,759.24	-15,055.38
Net Income	17,628.60	-2,913.61	20,542.21
Total Equity	-50,186.02	-55,672.85	5,486.83
TOTAL LIABILITIES & EQUITY	85,314.78	79,369.95	5,944.83

9/18/14 Complex Debt was
 \$ 153,674.42

Council member Trowbridge made a motion to sign an agreement with Nebraska Cooperative Government (NCG), Community Lottery Systems, Inc. d/b/a/ Lotto Nebraska, Wm. D. Kurtenbach / Paul Schumacher. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Trowbridge, Hotovy, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Mayor Zavodny opened the Public Hearing at 7:48 p.m. to consider amending the Future Land Use Plan Map by changing the zoning classification from MDR- Medium Density Residential, LDR- Low Density Residential, and I- Industrial, to FS- Flex Space for the following real estate: The point of beginning (POB) is the southeast corner of a tract described as 29 15 3 PT NE ¼ NW ¼ 6 Acres; thence, heading westerly along the south property line of said lot and continuing to the intersection with a tract referred to as 29 15 3 PT NW ¼ 28.91 Acres; thence, southerly to the northern southeast corner of said tract; thence, westerly from said point running parallel to the northern property line until intersecting with the creek; thence, southwesterly along the centerline of said creek and connecting to the lot referred to as Multi-purpose land in East Park Meadows Final Plat; thence, westerly along north property line of said lot in East Park Meadows Addition and continuing to the intersection with the southeast corner of a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 3.5 Acres ANNEX; thence, northerly along the east property line of said lot and a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 6 Acres Annex to the intersection with the centerline of "A" Street; thence, easterly along said centerline to a point intersecting with the east property line of the initial tract referred to as 29 15 3 PT NW ¼ 6 Acres; thence, southerly to the POB.

Out-going Chamber President Luke Beerbohm stated: "We are requesting the rezoning of approximately 6 acres of currently used farm ground just a little outside of the City limits, east on "A" Street, on the south side of "A" Street. We have a purchase agreement to sell that. This wasn't actively listed to be sold, it came up to us mid-year 2017 so as a Board we weighed the pros and cons and decided we weren't making a ton of money off of these 6 acres. We take in about \$1,000 of income, half of that goes back out in taxes or more, so when this came up we decided it would be a good opportunity to sell that for a decent price."

Daryl Gladowski stated: "I would like to put up a shop. I'm an owner/operator, I have my own truck. There are a couple of individuals in town that park on the street and park in residential areas. It would be more or less like a parking facility, put a shop up there where they could plug in their trucks and stuff like that. Nothing huge on the scale, that's basically it."

There being no comments, Mayor Zavodny closed the Public Hearing at 7:54 p.m.

Council member Trowbridge introduced Ordinance No. 1274. Mayor Zavodny read Ordinance No. 1274 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 Meysenburg seconded the motion. Voting AYE: Council members Kobus, Hotovy, Smith, Meysenburg, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Trowbridge made a motion to pass and adopt Ordinance No. 1274 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Meysenburg, Kobus, Hotovy, Smith, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Ordinance No. 1274 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1274

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED BELOW FROM MDR – MEDIUM DENSITY RESIDENTIAL, LDR – LOW DENSITY RESIDENTIAL, AND I – INDUSTRIAL, TO FS – FLEX SPACE; REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE

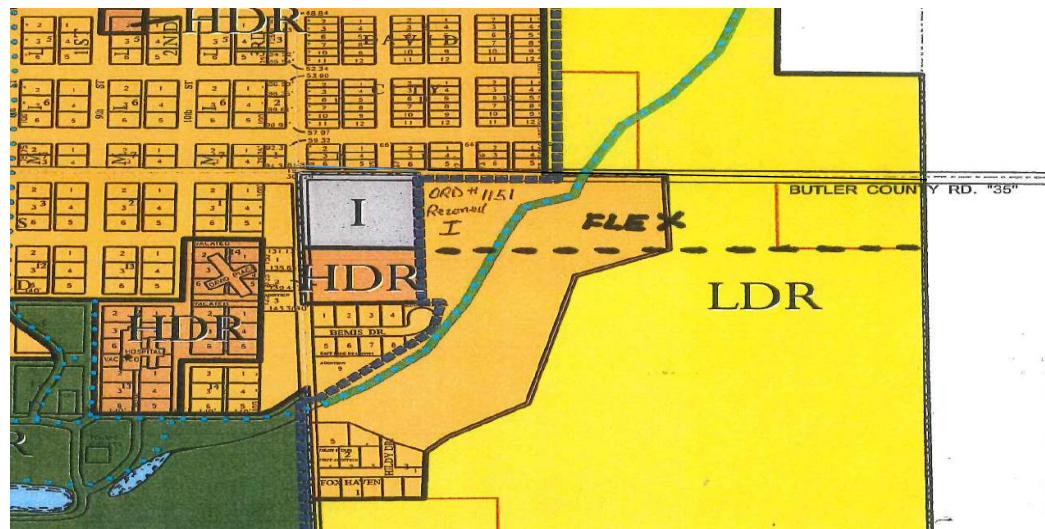
TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Land Use Plan be amended as follows:

- a. To amend the following properties from MDR – Medium Density Residential, LDR – Low Density Residential, and I – Industrial, to FS – Flex Space, for the following real estate:

The point of beginning (POB) is the southeast corner of a tract described as 29 15 3 PT NE ¼ NW ¼ (6 Acres); thence, heading westerly along the south property line of said lot and continuing to the intersection with a tract referred to as 29 15 3 PT NW ¼ (28.91 Acres); thence, southerly to the northern southeast corner of said tract; thence, westerly from said point running parallel to the northern property line until intersecting with the creek; thence, southwesterly along the centerline of said creek and connecting to the lot referred to as Multi-purpose land in East Park Meadows Final Plat; thence, westerly along north property line of said lot in East Park Meadows Addition and continuing to the intersection with the southeast corner of a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 3.5 Acres ANNEX; thence, northerly along the east property line of said lot and a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 6 Acres Annex to the intersection with the centerline of "A" Street; thence, easterly along said centerline to a point intersecting with the east property line of the initial tract referred to as 29 15 3 PT NW ¼ (6 Acres); thence, southerly to the POB.



Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted this 8th day of November, 2017.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 7:56 p.m. to consider amending the Official Zoning Map by changing the zoning classification from I-1 Light Industrial, R-1 Single Family Residential, and R-2 Two-Family Residential, to FS- Flex Space for the following real estate: The point of beginning (POB) is the southeast corner of a tract described as 29 15 3 PT NE ¼ NW ¼ 6 Acres; thence, heading westerly along the south property line of said lot and continuing to the intersection with a tract referred to as 29 15 3 PT NW ¼ 28.91 Acres; thence, southerly to the northern southeast corner of said tract; thence, westerly from said point running parallel to the northern property line until intersecting with the creek; thence, southwestly along the centerline of said creek and connecting to the lot referred to as Multi-purpose land in East Park Meadows Final Plat; thence, westerly along north property line of said lot in East Park Meadows Addition and continuing to the intersection with the southeast corner of a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 3.5 Acres ANNEX; thence, northerly along the east property line of said lot and a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 6 Acres Annex to the intersection with the centerline of "A" Street; thence, easterly along said centerline to a point intersecting with the east property line of the initial tract referred to as 29 15 3 PT NW ¼ 6 Acres; thence, southerly to the POB.

There being no comments, Mayor Zavodny closed the Public Hearing at 7:56 p.m.

Council member Trowbridge introduced Ordinance No. 1275. Mayor Zavodny read Ordinance No. 1275 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, Kobus, Smith, Hotovy, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1275 on the third and final reading. 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 and Ordinance No. 1275 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1275

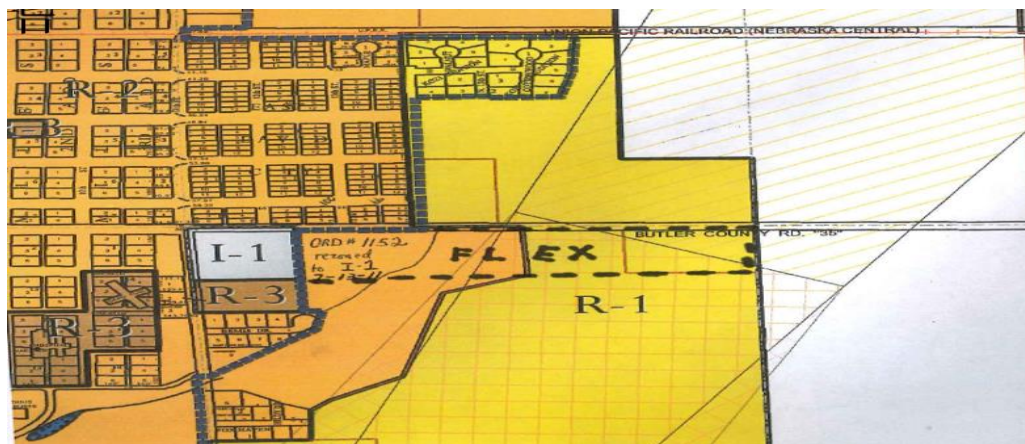
AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED BELOW FROM I-1 LIGHT INDUSTRIAL, R-1 SINGLE FAMILY RESIDENTIAL, AND R-2 TWO FAMILY RESIDENTIAL, TO FS – FLEX SPACE; REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE 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 Official Zoning Map be amended as follows:

- a. To amend the following properties from I-1 Light Industrial, R-1 Single Family Residential, and R-2 Two Family Residential, to FS – Flex Space, for the following real estate:

The point of beginning (POB) is the southeast corner of a tract described as 29 15 3 PT NE ¼ NW ¼ (6 Acres); thence, heading westerly along the south property line of said lot and continuing to the intersection with a tract referred to as 29 15 3 PT NW ¼ (28.91 Acres); thence, southerly to the northern southeast corner of said tract; thence, westerly from said point running parallel to the northern property line until intersecting with the creek; thence, southwesterly along the centerline of said creek and connecting to the lot referred to as Multi-purpose land in East Park Meadows Final Plat; thence, westerly along north property line of said lot in East Park Meadows Addition and continuing to the intersection with the southeast corner of a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 3.5 Acres ANNEX; thence, northerly along the east property line of said lot and a lot referred to as David City 29 15 3 PT NW ¼ NW ¼ 6 Acres Annex to the intersection with the centerline of "A" Street; thence, easterly along said centerline to a point intersecting with the east property line of the initial tract referred to as 29 15 3 PT NW ¼ (6 Acres); thence, southerly to the POB.



Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted this 8th day of November, 2017.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 7:58 p.m. to consider to consider the Final Plat of Zegers 1st Addition located in the East ½ of the Southwest ¼ of Section 30, T15N, R3E of the 6th PM., Butler County, Nebraska, legally described as follows: Commencing at the northeast corner of said Southwest ¼, and assuming the east line of said Southwest ¼ to have a bearing of N 00°59'17"W; thence N 89°40'57" W, 75.71 feet on the North line of said Southwest ¼, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska highway No. 15; thence S 00°55'30" E, 1334.83 feet on said westerly Highway Right-of-Way line; thence S 09°25'22" E, 202.41 feet on said westerly Highway Right-of-Way line; thence S 01°04'43" E, 12.86 feet on said westerly Highway Right-of-Way line; thence S 89°23'46" W, 296.24 feet; thence S 00°15'37" W, 213.37 feet; thence S 89°48'29" W, 245.44 feet to a point on the easterly Right-of-Way line of the Burlington Northern Railroad; thence northerly 1804 feet, more or less on said easterly Railroad Right-of Way line to a point on the North line of said Southwest ¼; thence N 89°45'02" E on said North line, 836.59 feet to the Point of Beginning.

Council member Trowbridge stated: "Alan, as we read the verbiage in the 122-page planning and zoning document that guides the City in development, I don't think we're ready. Where do we come up with costs?"

John Zwingman of Advanced Consulting Engineering Services stated: "I have costs."

Council member Trowbridge stated: "Ok, good. Have we seen them yet?"

John Zwingman of Advanced Consulting Engineering Services stated: "No, but I did bring a copy of the estimated costs for the Public Hearing."

Council member Trowbridge stated: "Ok good, that brings us a lot closer to meeting the standards than we were, so with that, I will retract."

Mayor Zavodny stated: "Well, we do have the Final Plat Review Checklist that we need to go through as an exercise, so let's go through it."

CITY COUNCIL FINAL PLAT REVIEW CHECKLIST
David City, Nebraska

Subdivision Name: Zegers 1st Addition

Name of Applicant: Cory Vandenberg and
John L. Obrist, Jr.

The following checklist is to be used to guide the deliberations of the City Council when considering action of a final plat:

General Considerations:

- Final plat is consistent with the preliminary plat previously approved by the City Council.
- Final plat is consistent with the Major Street Plan of the City with regard to extension(s) of arterial and collector streets.
- Final plat provides for proper extensions of existing streets and extensions of proposed streets to allow access to abutting properties and, if applicable, provides for required frontage roads along arterial streets.
- Final plat provides for pedestrian circulation through proper sidewalk locations as required by Ordinance.
- Final plat provides for proper surface water drainage into, through and out of the proposed subdivision and required drainage report indicates that no down stream drainage impacts will result from development of the proposed subdivision.
- Final plat provides for proper location of water, sewer, electrical, gas, cable and other utilities and easements.
- Final plat complies with restrictions for development in any areas subject to flooding.

Special Considerations:

- Recommendations of the David City Planning Commission regarding the final plat have been received and reviewed.
- If proposed subdivision is platted as an addition to the City of David City, annexation ordinance has been prepared and ready for City Council action.
- Final plat phasing is consistent with phasing of development previously agreed to by the City Council (if City is assisting in financing of subdivision improvements).
- All subdivision improvement plans and specifications have been reviewed by proper City Departments and are acceptable.
If City is to participate in financing construction of subdivision improvements, an assessment district and any other method of financial participation by the City has / will be created and agreement with the subdivider regarding financing of improvements has been executed.

John Zwingman of Advanced Consulting Engineering Services stated: "There is a plan for a possible future street. If you look at this we have the entrance here as what we call "Scout Lane". We also have a planned future street here and a possible future street (about 480' north of "Scout Lane") coming back over to the Highway, so we'll have two exits coming out of it but we can't get that permit until the plats done, so it's kind of like a chicken and egg exercise. Sidewalks in Commercial properties kind of depend on where the buildings are going and what kinds of buildings you have there. The right-of-way width is adequate for sidewalks to be installed if you so choose in the commercial areas. The surface water drainage was sized for a 50 year storm event and it meets all of your requirements. Easements are put in, we went through the water, sewer extensions with Travis (Hays, water/sewer superintendent), so pretty comfortable with the plans. I do need to get Health & Human Services approval yet. Once we get them approved by the City we will turn the plans in to them and if there are any changes those will be gone through with Travis before they are implemented."

Water/Sewer Supervisor Travis Hays stated: "I did mention, when they put it in it's just going to be basically a dead-end line, to have some sort of time provision whether it's developed or not, to loop it in."

Zwingman stated: "To loop the section."

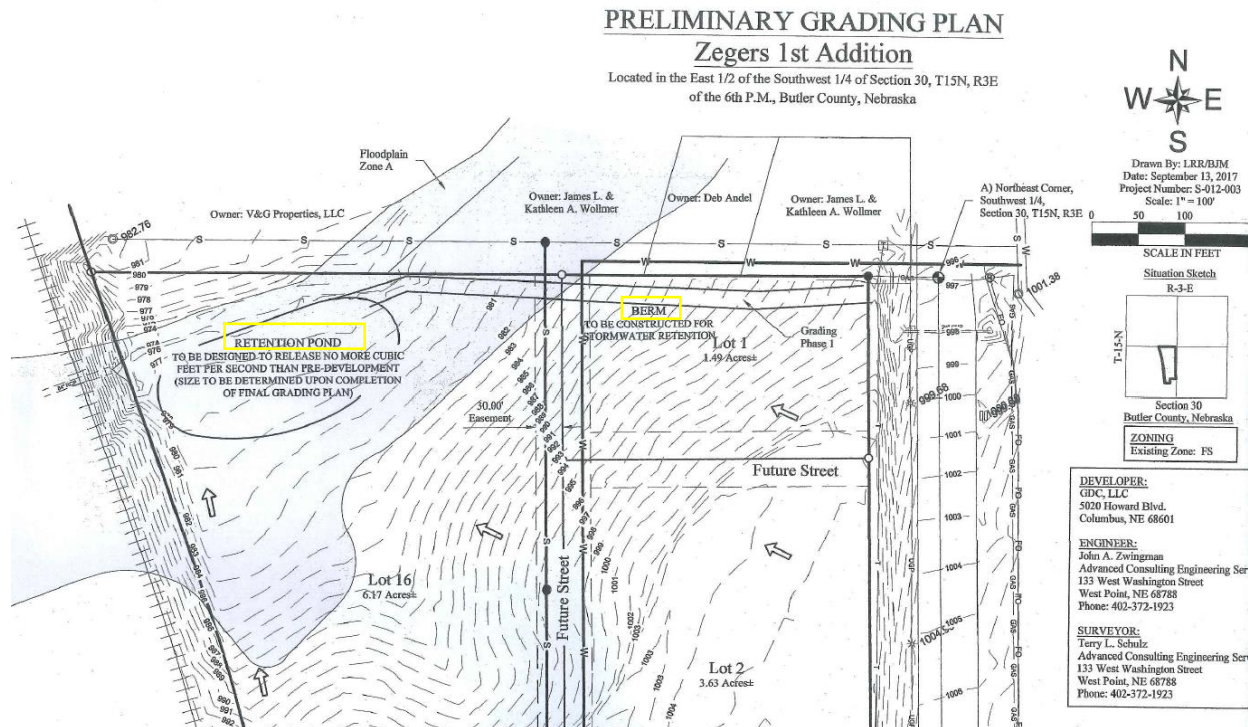
Mayor Zavodny stated: "I can say from experience, we would really prefer to have that happen. That has been problematic for us."

Zwingman stated: "Yep, yep."

Mayor Zavodny continued on with the checklist. Zwingman stated: "What is actually being platted isn't subject to flooding, the area that would be in flood right-of-way is where our retention pond is."

Planning Commission member Keith Marvin stated: "When the Planning Commission met Monday to finalize this, the biggest thing pending was the 50 year event and making sure that was taken care of and the basin down at the bottom and the dike (berm) at the top were sized properly in order not to create a problem for the neighbors, and I think the 50 year event created another foot on the dike."

Zwingman stated: "Actually it didn't even create a foot, we just added a foot because somebody asked for it."



Mayor Zavodny continued with the review checklist. The property was already annexed by Ordinance No. 1263 on 7/12/17. The City will be the conduit for Tax Increment Financing. "All subdivision improvement plans and specifications have been reviewed by proper City Departments and are acceptable". "We don't have all of our departments represented but Ray (Sueper - Building/Zoning Inspector) is nodding "yes" so I trust Ray, so Ok."

There being no future review questions, Mayor Zavodny asked if anyone had anything else they wished to comment on during the Public Hearing. There being none, Mayor Zavodny closed the Public Hearing at 8:09 p.m.

Council member Trowbridge introduced Ordinance No. 1279. Mayor Zavodny read Ordinance No. 1279 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, Hotovy, Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1279 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Trowbridge, Kobus, and Smith. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Ordinance No. 1279 was passed on 3rd and final reading as follows:

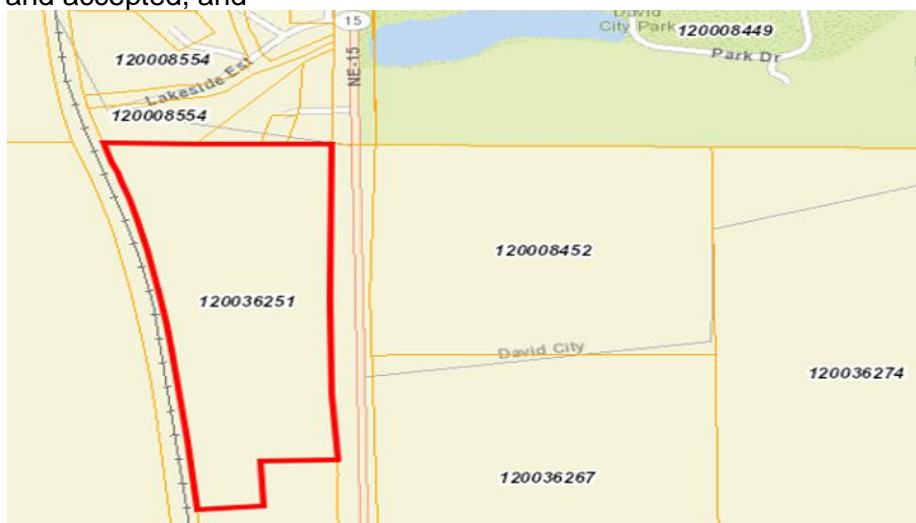
ORDINANCE NO. 1279

AN ORDINANCE ACCEPTING AND APPROVING THE FINAL PLAT DESIGNATED AS “ZEGERS 1ST ADDITION” LOCATED IN THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 30, T15N, R3E OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA; REPEALING CONFLICTING ORDINANCES AND SECTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, John Obrist and Cory Vandenberg, d.b.a. GDC Properties LLC, owners of a tract of land located in the East ½ of the Southwest ¼ of Section 30, T15N, R3E of the 6th P.M., Butler County, Nebraska, legally described as follows:

Commencing at the northeast corner of said Southwest ¼, and assuming the east line of said Southwest ¼ to have a bearing of N 00°59'17"W; thence N 89°40'57" W, 75.71 feet on the North line of said Southwest ¼, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska highway No. 15; thence S 00°55'30" E, 1334.83 feet on said westerly Highway Right-of-Way line; thence S 09°25'22" E, 202.41 feet on said westerly Highway Right-of-Way line; thence S 01°04'43" E, 12.86 feet on said westerly Highway Right-of-Way line; thence S 89°23'46" W, 296.24 feet; thence S 00°15'37" W, 213.37 feet; thence S 89°48'29" W, 245.44 feet to a point on the easterly Right-of-Way line of the Burlington Northern Railroad; thence northerly 1804 feet, more or less on said easterly Railroad Right-of Way line to a point on the North line of said Southwest ¼; thence N 89°45'02" E on said North line, 836.59 feet to the Point of Beginning

has filed said Plat with the City of David City, Nebraska, and has requested that said Plat be approved and accepted, and



Final Plat
Zegers 1st Addition
 Located in the East 1/2 of the Southwest 1/4 of Section 30, T15N, R3E
 of the 6th P.M., Butler County, Nebraska



Drawn By: LRR/BJM
 Date: September 13, 2017
 Project Number: S-012-003
 Scale: 1" = 100'



Section 30
 Butler County, Nebraska
ZONING
 Existing Zone: FS
Easements:
 5' Side Utility Easements
 10' Rear Utility Easement
Setbacks:
 Refer to Section 5.15.06, Page 86 of
 the Zoning Ordinance, David
 City, Ordinance No. 1060

DEVELOPER:
 GDC, LLC
 8200 Howard Blvd.
 Columbus, NE 68601
ENGINEER:
 John A. Zwiggman
 Advanced Consulting Engineering Services
 133 West Washington Street
 West Point, NE 68788
 Phone: 402-372-1923
SURVEYOR:
 Terry L. Schulz
 Advanced Consulting Engineering Services
 133 West Washington Street
 West Point, NE 68788
 Phone: 402-372-1923

FIELD NOTES
 A) Northeast corner of the Southwest 1/4, Section 30, T15N, R3E:
 Found Brass Cap at concrete surface of Hwy #15.
 50.44' NE to West Face of chain link Fence Post.
 55.42' East to West Face of Right-of-Way Marker.
 75.71' West to 5" x 8" I.B. with Cap LS-383.
 48.51' NW to Southeast corner of Tele-Pole.
 Corner falls 9.14' West of centerline joint.
 B) Southeast corner of the Southwest 1/4, Section 30, T15N, R3E:
 Found Brass Cap at concrete surface of Hwy #15.
 72.27' NE to French Mark in North-End C.M.P.
 60.33' ENE to Dbl-Head Nail and Disk in Stop Sign.
 93.34' WNW to Dbl-Head Nail and Disk in P.P.
 Corner falls on centerline joint.

This survey was prepared at the request of Cory Vandenberg, David City, Nebraska.
OWNERS CERTIFICATION
 We, the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the plat.
 This subdivision shall be known and designated as _____, an addition to the City of David City, Nebraska.
 All streets and alleys shown and not heretofore dedicated are hereby dedicated to the public unless specifically noted hereon. Any other public lands shown hereon and not heretofore dedicated are hereby reserved for public use.
 Clear title to the land contained in this plat is guaranteed. Any encumbrances or special assessments are explained as follows:
 There are strips of land shown on this plat and marked encroachments, reserved for the use of public utilities or other entities so indicated and such easements are subject to the paramount right of the utility or other public utilities to install, repair, replace and maintain its installations.
 Witness our hands on this _____ day of _____, 2017.

Cory Vandenberg
 John L. Oberst, Jr.
 STATE OF NEBRASKA
 COUNTY OF BUTLER
 Before me, the undersigned Notary Public, in and for the County and State, personally appeared and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed for the purposes therein expressed. Witness my hand and Notarial Seal this _____ day of _____, 2017.

Notary Public
PLANNING COMMISSION CERTIFICATION
 The foregoing plat was reviewed at public hearing by the Planning Commission of David City, Nebraska on this _____ day of _____, 2017. This plat is void unless recorded before the _____ day of _____, 2017.
 Planning Commission Chairman
ACCEPTANCE CERTIFICATE
 The foregoing plat and dedications are approved and accepted by the Mayor and City Council of the City of David City, Nebraska on this _____ day of _____, 2017.

Mayor _____ Attest: City Clerk _____
REGISTRAR OF DEEDS CERTIFICATION
 This instrument was filed for record on _____ at _____ o'clock _____ M., and duly recorded and entered for taxation in Vol. _____ of Book _____ Page _____ A recording fee of \$ _____ was paid. Dated this _____ day of _____, 2017.

Butler County Registrar of Deeds
LEGAL DESCRIPTION
 A tract of land located in the East 1/2 of the Southwest 1/4 of Section 30, T15N, R3E of the 6th P.M., Butler County, Nebraska, described as follows:
 Commencing at the Northeast corner of the Southwest 1/4 of Section 30, T15N, R3E of the 6th P.M., Butler County, Nebraska, and assuming the East line of said Southwest 1/4 to have a bearing of N 01°08'18" W; thence N 89°40'57" W on the North line of said Southwest 1/4, 75.71 feet to the Point of Beginning, said point being on the West Right-of-Way line of Nebraska Highway No. 15; thence S 09°59'17" E, on said West Right-of-Way line, 1334.83 feet; thence S 09°25'22" E, on said Right-of-Way line, 202.41 feet; thence S 89°55'06" E on said Right-of-Way line, 5.00 feet; thence S 01°26'05" E on said Right-of-Way line, 12.90 feet; thence S 89°24'54" W, 301.32 feet; thence S 09°15'37" W, 213.37 feet; thence S 89°48'29" W, 245.44 feet to a point on the East Right-of-Way line of the Burlington Northern Railroad; thence N 06°47'26" W on said East Railroad Right-of-Way line, 778.07 feet; thence N 06°58'21" W on said East Railroad Right-of-Way line, 182.66 feet to a point of curvature; thence northwesterly on said East Railroad Right-of-Way line on a 2548.03 foot radius curve to the left 582.41 feet, of which said curve has a chord bearing of N 12°51'39" W, 582.13 feet; thence N 20°02'31" W on said East Railroad Right-of-Way line, 339.41 feet to a point on the North line of said Southwest 1/4; thence N 89°45'02" E on said North line, 836.59 feet to the Point of Beginning, containing 24.29 acres more or less.

SURVEYORS CERTIFICATE
 I, Terry L. Schulz, a Registered Land Surveyor of the State of Nebraska, do hereby certify that the survey described above was made by me on May 16, 2017, and that all dimensions are in feet and are correct to the best of my knowledge and belief.
 Terry L. Schulz
 State of Nebraska, R.L.S. 4850
 Date: 9-27-2017



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

Section 1. That the Final Plat for Zegers 1st Addition, described above and located on the west side of Highway 15, is hereby accepted and approved and said owners are hereby given the right to plat said Addition to the City of David City, Nebraska.

Section 2. The owners, John Obrist and Cory Vandenberg, shall record the final plat with the Office of the County Assessor and County Clerk of Butler County, Nebraska, pay all recording fees and provide (1) copy of such recorded final plat to the City.

Section 3. This Ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage and approval as provided by law and city ordinance.

PASSED AND APPROVED this 8th day of November, 2017.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Zwingman stated: "Travis and all your staff has been good to work with on this. Travis and his little G.I.S. thing, it's so helpful."

City Attorney Egr stated: In regards to the agreement between David City High School and the City concerning the two-stall garage moved from 8th Street between "D" and "E" to the City Auditorium, Chad (Denker – D.C.H.S.) and I are in agreement on everything that's in there, go ahead and sign it."

Council member Hotovy made a motion to authorize Mayor Zavodny to sign an agreement between David City High School and the City concerning the two-stall garage moved from 8th Street between "D" and "E" to the City Auditorium. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Smith, Kobus, and Hotovy. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

**MEMO OF UNDERSTANDING AND
BILL OF SALE**

This Memo of Understanding and Bill of Sale, hereinafter referenced as "Memo", is made by and between DAVID CITY PUBLIC SCHOOLS DISTRICT 56, a duly organized Nebraska Public School District, hereinafter referenced as "District 56", and the CITY OF DAVID CITY, NEBRASKA, a Nebraska Municipal Corporation, hereinafter referenced as "City".

WHEREAS, District 56 owns a 24' x 28' wood frame vinyl siding garage with two (2) overhead doors with openers as per Exhibit "A", and "A2" attached hereto and incorporated herein by reference, hereinafter referenced as "Garage"; and,

WHEREAS, the Garage as of the date of this Memo is located at the football field of the City's Memorial Field; and,

WHEREAS, the City owns and maintains the aforesaid Memorial Field and its improvements; and,

WHEREAS, District 56 desires that the Garage be transferred to the City in return for the City maintaining the same, the City accepting all responsibility, insurance costs, and liability for the same, and the City allowing District 56 and Aquinas High School of David City, Nebraska to store their football and track equipment in the Garage; and;


WHEREAS, the City is agreeable to the above transfer and conditions stated aforesaid.

NOW, THEREFORE, in consideration of the terms and conditions stated herein, which the parties hereto agree to be valuable consideration, the parties agree as follows:

- (1) District 56 hereby sells, transfers, and conveys the Garage to the City free and clear of all encumbrances to be the property of the City.
- (2) The City accepts the Garage transfer from District 56 and in consideration of such transfer herein will maintain the Garage, will accept the responsibility for the Garage, will keep the Garage insured as needed, will accept all liability for the Garage, and will allow District 56 and Aquinas High School of David City, Nebraska to store their football and track equipment in the Garage rent free as consideration for such transfer.
- (3) This Memo will be binding on the heirs, successors, assigns, and personal representatives of District 56 and the City.


DISTRICT 56:


STEPHANIE SUMMERS Date 11/13/17
Board President

Attest by: 
CHAD DENKER Date 11-13-17
Superintendent

CITY:


ALAN ZAVODNY, Mayor Date

Attest by: 
JOAN KOVAR, City Clerk Date 11/8/17

City Clerk Kovar stated: "It is time to renew the United Healthcare insurance policy for city employees. Ryan Ruth of First State is still researching this so we probably need to table this at this time. He is checking with Blue Cross Blue Shield also, and he had the employees come in on Tuesday, as he had computers set up here so that they could enter all of their insurance information, as he is trying to get different quotes and see if there are different ways to write the policy to get a better bid for us."

Mayor Zavodny stated: "Yes, a 28% increase gets your attention."

Council member Trowbridge made a motion to table consideration of the updated United Healthcare Insurance quotes. Council member Kobus seconded the motion. Mayor Zavodny stated: "We have to have this done by December, so we have to act on it at the December meeting. We did have some discussions, I did come to the employee meeting, and I think we have to look at the whole package and say: "ok, what's the right way to structure it". Part of the problem we have is that we are such a small "sample size" we don't get the benefit of a bigger pool, that kind of thing, so there are some challenges. We have 15 people. I also requested that he provide what our actual experience of usage was versus our premium. I am going to warn you right now, I don't think we're done, it might be 28% this year and I've seen no indication that insurance is going to slow down. We are going to consistently be up against this, because of our small size, of huge increases because the potential risk is high with such a small premium base." Voting AYE to the motion to table: Council member Smith, Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

The purchase of survey equipment for the water department consisting of a Sokkie GCX3 Rover & Panasonic Tough Pad from Transit Works, and a Tough Book Laptop was discussed. Water/Sewer Supervisor Travis Hays stated: "This is basically the survey equipment that I budgeted for and a laptop. This is basically everything we need to run a full survey of everything in town, take G.P.S. coordinate shots of all of our utilities and make a map as accurate as can be and get exact coordinates for all of the new services going in so in the future we know where all of our utilities are at so we don't make any mistakes and hit them."

Mayor Zavodny stated: "So this is the hardware that you need to make that work. Just for my own edification as this point, the email we got this week, we could have avoided that had we had had this and known where that shut off was maybe and not have had to have the change order?"

Travis stated: "Yes."

Council member Trowbridge stated: "How would we have found it when we didn't know where it was yesterday? How would we have found it two weeks before? You have to first initially find it."

Mayor Zavodny stated: "Agreed, I am saying this should help us in the future."

Council member Trowbridge stated: "Does this tie in with the \$12,000 we are paying some outfit out of Lincoln to keep track of this information?"

Travis stated: "You are talking the map? The initial build on the map is already done, so that was the \$12,000. So now it's basically a \$4,500 a year subscription to where they do all of the maintenance on the map. We send them the data and they put it in our web based map."

The map that they built initially comes from the data that I currently have, so all of this stuff that I have in there right now, it's close, it's much closer than our previous maps, but it's not G.P.S. accurate."

Mayor Zavodny stated: "Those unknown things, we are going to have an amount of them. You're only as good as the information you can input and what you know about, so you didn't know about this. I think that's part of the frustration people have had in the past, of "we couldn't shut down junction boxes", and that kind of thing, and we need to exercise them more, and I think that's why we're interested in having an accurate mapping of the system, especially with all of the work that is happening now, so that's really important; from my standpoint that is."

Travis stated: "We will be able to use this equipment to have an exact location of any utilities so that we know where they are to go dig them up. If we have zero record and they're buried, we will probably find those by accident when something breaks. The latest projects are in there as good as we can, but we don't currently have G.P.S. coordinates. The projects that were done by Olsson's, they have been providing me with their survey G.P.S. coordinates of the final inspections, but that's another thing where once the final projects are done, we won't have to pay Olsson's \$80.00/hr. to go do the final surveys, we could do that ourselves. With the G.I.S. mapping there is an area for notes and anytime we find a valve or shutoff that isn't working we can add it to the note saying "this doesn't work" or "this doesn't work well" and put a condition in there so down the road I can take that data and make a spreadsheet so we have the specifics valves that need to be replaced. I want to start a valve replacement program where we replace a set number of valves per year."

Council member Trowbridge stated: "Do we ever put new water lines in or new valves without Olsson's being on site? Generally, not. Therefore, what I am saying is that \$80.00/hr., we've got 400 hours of Olsson's time until we get to this place and then this stuff is antiquated and we need new stuff. That's what's going to happen, Travis, with technology. Why don't we let them be responsible for it, they're here anyway? I would rather have you do the things that you are unable to do now, because of time constraints, so you have to work on overtime. I would rather have you do those things, and not do these shots, let's take them to Olsson's. I just believe it is a better use of rate payers funds, to let Olsson's do the shots and provide the G.P.S. coordinates."

Much discussion followed.

Council member Hotovy made a motion to authorize the purchase of survey equipment for the water department consisting of a Sokkie GCX3 Rover & Panasonic Toughpad from Transit Works, and a Toughbook Laptop. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Kobus, and Smith. Voting NAY: Council members Meysenburg and Trowbridge. Council member Vandenberg was absent. Mayor Zavodny voted AYE and the motion carried.

17-110. Mayor; general duties and powers.

The mayor shall preside at all meetings of the city council of a city of the second class. The mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the city council on any pending matter, legislation, or transaction, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council. He or she shall have superintendence and control of all the officers and affairs of the city and shall take care that the ordinances of the city and all laws governing cities of the second class are complied with.

Council member Trowbridge introduced Ordinance No. 1280 updating Chapter 9 of the David City Municipal Code Book concerning Zoning / Building Regulations. Mayor Zavodny read Ordinance No. 1280 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 Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Hotovy, Meysenburg, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Trowbridge made a motion to pass and adopt Ordinance No. 1280 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Ordinance No. 1280 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1280

AN ORDINANCE REPLACING CHAPTER 9, OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK WITH THE FOLLOWING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. Chapter 9 of the David City Municipal Code Book is hereby amended to read as follows:

Chapter 9

ZONING / BUILDING REGULATIONS

Article 1. Zoning / Building Administrator

§9-101 ZONING / BUILDING ADMINISTRATOR; POWER AND AUTHORITY. The Zoning / Building Administrator will work closely with and report to the City Council and the City Clerk. He/she will receive and review applications for zoning permits; interpret and enforce the General Plan and Zoning Ordinances; approve or deny zoning permit applications in compliance with ordinances and the General Plan; issue zoning permits and certificates of zoning inspections. Conduct inspections of property in conjunction with zoning permit applications and for compliance with ordinances and the General Plan. Conduct inspections of property resulting from complaints. Conduct follow up inspections of property for compliance, during the building process and upon completion, prior to issuance of a certificate of zoning compliance. Maintain records, subject to public inspection, of all zoning permit applications, complaints, investigations, inspections and any related activities. He/she may be required to attend all Planning Commission and Board of Zoning Adjustment Meetings, and be required to attend city council meetings as directed by the council. The Zoning / Building Administrator will submit a monthly city department report to the city council listing permits issued or denied, applications to the Planning Commission or Board of Adjustment and related activities.

Article 2. Zoning / Moving Permits

§9-201 ZONING / MOVING PERMITS; LIMITATION. If the work described in any Zoning / Moving Permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning / Building Administrator; and written notice thereof shall be given to the persons affected.

If the work described in any Zoning / Moving Permit has not been substantially completed within two (2) years of the issuance thereof, said Permit shall expire and be cancelled by the Zoning / Building Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled Permit shall not proceed unless, and until, a new Zoning Permit has been obtained.

§9-202 ZONING PERMITS. Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a zoning / building permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the current zoning, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. Payment of the permit fee set by resolution of the Governing Body is due at the time the application is filed. The application, plans, and specifications so filed with the Municipal Clerk shall be checked and examined by the Zoning / Building Administrator. If the application, plans, and specifications are found to be in conformity with the requirements of this Chapter and all other ordinances applicable thereto, the Zoning / Building Administrator shall authorize the Municipal Clerk to issue the said applicant a permit. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. *(Ref. 17-130 thru 17-132, 17-550, 17-1001 RS Neb.)*

§9-203 BUILDING MOVING; REGULATIONS. It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without a written permit to do so. Application may be made to the Municipal Clerk, and or the Zoning / Building Administrator and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Zoning / Building Administrator for approval of the proposed route over which the building is to be moved. Upon approval of each municipal department head listed on the building moving permit, and upon approval of the Zoning / Building Administrator, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check, or cash in the amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. All buildings wider than ten feet (10'), or longer than twenty feet (20'), or, when in a position to move, higher than fifteen feet (15'), or of any other size which shall require displacement of

any City property, shall require a building moving permit and a building moving fee in the amount set by motion of the Governing Body. All other buildings or structures shall require only a building moving permit. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles, wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as necessary. (Ref. 60-6,288 to 60-6,294, 60-6,296)

§9-204 BUILDING MOVING; DEPOSIT. At such time as the building moving has been completed, each municipal department head listed on the building moving permit shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from each municipal department head listed on the building moving permit, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by motion of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

§9-205 DEMOLITION PERMIT. Any person desiring to commence or proceed to demolish any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a demolition permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the current zoning, the nature of the use or occupancy, the principal dimensions, height, the names of the owner, and any other information as may be requested thereon. Payment of the permit fee set by resolution of the Governing Body is due at the time the application is filed. The application, plans, and specifications so filed with the Municipal Clerk shall be checked, examined, and approved or denied by the Zoning / Building Administrator.

Article 3. Building Code

§9-301 BUILDING CODE; ADOPTED BY REFERENCE. To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Building Code, 2012, and printed in book or pamphlet form is hereby incorporated by reference in

addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the International Building Code is on file at the office of the Zoning / Building Administrator and is available for public inspection at the city office during their regular business hours.

The provisions of the International Building Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

§9-302 INTERNATIONAL RESIDENTIAL CODE; ADOPTED BY REFERENCE. To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Residential Code, 2012, printed in book or pamphlet form is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the International Residential Code is on file at the office of the Zoning / Building Administrator and is available for public inspection at the City Office during their regular business hours.

The provisions of the International Residential Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

§9-303 INTERNATIONAL PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE. To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Property Maintenance Code, 2015, printed in book or pamphlet form is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

The following amendments shall be incorporated into the 2015 International Property Maintenance Code:

2015 International Property Maintenance Code:

- A. Should a conflict arise between two or more areas within this Code, or between City Ordinance and this Code, the more restrictive regulation shall apply.

Property Maintenance Code: David City Amendments:

Section 112.4 Failure to Comply. Any person who shall continue to work without a required permit or after being served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$200.00 or more than \$500.

Section 201.3 Terms defined in other code: Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, National Fire Codes, Uniform Plumbing Code, or the National Electric Code, such terms shall have the meanings ascribed to them as stated in those codes, as adopted by the City of David City, Nebraska.

Section 202 – GENERAL DEFINITIONS:

BLIGHT OR BLIGHTED: Any unsightly condition including the accumulation of debris, litter, rubbish or rubble; fences characterized by holes, breaks, rot, crumbling, crackling, peeling, rusting or incorrect installation; landscaping that is dead, landscaping that is characterized by uncontrolled growth or lack of maintenance, or is damaged and any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.

COMMERCIAL STORAGE PREMISES: Any use of a building or premise(s) to store an accumulation of personally or commercially owned items, and which may be vacant from residential occupancy.

DEBRIS: Any substance of little or no apparent economic value including, but not limited to, deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, automobile parts, abandoned, broken or neglected equipment, or the scattered remains of such items.

DETERIORATION: To weaken, disintegrate, corrode, rust or decay and lose effectiveness. The lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, peeling, rusting, or any other evidence of physical decay or neglect or excessive use or lack of maintenance over a substantial or widespread area as opposed to a limited or concentrated area.

EXTERMINATION: The control or elimination of insects, vermin, or other pests by eliminating their harborage places.

GARBAGE: The animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

JURISDICTION: The City of David City, Nebraska.

LITTER: Decaying or non-decaying solid and semi-solid wastes including, but not limited to, both combustible and non-combustible wastes, such as paper, trash, cardboard, waste material, cans, yard clippings, wood, glass, bedding, debris, scrap paving material, discarded appliances, discarded furniture, dry vegetation, weeds, dead trees and branches, overgrown vegetation and trees which may become a fire hazard, piles of earth mixed with any of the above foreign objects, including inoperable vehicles.

Section 302.4 Weeds: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches. All noxious weeds and worthless vegetation shall be prohibited.

Upon failure of the owner or agent to cut and destroy weeds, or remove and properly dispose of any accumulation of yard waste, after service of a Notice of Violation, they shall be subject to prosecution in accordance with Municipal Ordinance.

If compliance is not affected within 7 days of service of the Notice of Violation, any duly authorized employee of the Jurisdiction, or contractor hired by the Jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

Section 304.2 Protective Treatment: All exterior surfaces, including but not limited to, roofs, walls, doors, door and window frames, cornices, porches, trim, balconies, decks, driveways, walkways, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or by other protective covering or treatment. Peeling, flaking and chipped paint on more than 25% of any wall or face shall be eliminated and surfaces repainted or recovered. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit future rust or corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Section 304.14 Insect Screens: During the period from March 1st to October 31st, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved, tightly fitting screens of not less than 16 mesh per inch, and screen doors, when present, and used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans are employed, in commercial or industrial applications only.

Section 304.20 Maintenance of Buildings and Premises: All buildings, or portions thereof, shall be adequately maintained so as to be free of deterioration that endangers or is likely to endanger the life, limb, health, property, or welfare of the public or occupants thereof. All exposed exterior surfaces, windows and doors of buildings, structures and premises upon which they are located shall be adequately maintained so as to not present a deteriorated or blighted appearance.

Inadequate maintenance of buildings shall include but not be limited to the following:

- 1) Any building or portion thereof which is determined to be an unsafe building by the local Fire Authority.
- 2) Buildings which for a period of six months or more are boarded up, left in a partial state of destruction, or left in a state of partial reconstruction or remodel.
- 3) Broken or missing windows constituting hazardous conditions.
- 4) Buildings in which the painted exterior surfaces or walls have begun to dry rot, mold, warp, or become infested with vectors or vermin.
- 5) Buildings which have substantial and noticeable conditions of blight or deterioration.
- 6) Buildings which have cracked, chipped, flaking, peeling, or missing paint over 25% or more of any wall or face of the building.
- 7) Buildings which have upholstered or other furniture or appliance which is designed or manufactured primarily for indoor use, with no original outdoor weatherproofing qualities including, but not limited to, upholstered chairs, couches, or bedding used or left on unenclosed exterior porches, balconies, or in an exposed open area, including, but not limited to, decks, patios, roofs, yards, driveways, or walkways.

Inadequate maintenance of the premises shall include, but not be limited to the following:

- 1) Any accumulation of debris, litter, rubbish, rubble, solid waste, yard waste, tires, and similar materials or conditions.
- 2) Any portion of an un-mowed lawn in excess of 8 inches in height.
- 3) Dead or dying trees, topped trees, stumps, or limbs or other natural growth which by reason of rotting or deteriorating condition or storm damage constitute a diseased, deteriorated, or blighted appearance.
- 4) Any accumulation of unused construction and mechanical supplies or parts stored outside of a building.
- 5) Any wheeled vehicle left outdoors in a partial state of disrepair for more than thirty days.
- 6) Sources harboring infestation of vermin or vectors.
- 7) Any accumulation of non-ornamental items in any yard or premises.
 - a. Exceptions:
 - i. Permanently attached playground equipment in safe condition.
 - ii. Outdoor cooking equipment in good working order.
 - iii. Furniture originally designed for outdoor use and placement, with inherent weather-proofing qualities.
- 8) Any vehicle or trailer parked within, or blocking the public Right of Way.
- 9) Premises which have substantial and noticeable conditions of blight, abandonment, or disrepair.

Identifying any premises as available for sale or rent, shall not relieve the current property owner of the responsibility to bring the premises into compliance with any City Code or Ordinance, within the time limit set by the Zoning Administrator.

Section 305.3 Interior Surfaces: All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood or other defective surface conditions shall be corrected. Surface mold mildew shall be considered a sanitation issue and shall fall under the occupant's responsibility for maintaining a sanitary and clean interior environment for purposes of this Code.

Exception: When mold, mildew or dry rot is the direct result of a structural defect or Code violation, as determined by the Code Official, the responsibility shall lie with the property owner to correct the violations within the time limit set by the Code Official.

Section 502.5 Public Toilet Facilities: Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the Uniform Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided at all times during occupancy of the premises.

Section 602.2 Residential Occupancies: Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees Fahrenheit in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section.

Section 602.3 Heat Supply: Every owner and operator of any building, who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, shall maintain and make available a permanent system of heat to the occupants thereof from a period starting September 15th to May 15th. Said system must be capable of

maintaining a temperature of not less than 65 degrees Fahrenheit in all habitable rooms, bathrooms and toilet rooms.

Section 602.4 Occupiable Work Spaces: Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to May 15th. The system must be capable of maintaining a minimum temperature of 65 degrees Fahrenheit during the period the spaces are occupied.

Section 702.1 General: A safe, continuous and unobstructed path of travel shall be provided and maintained from any point in a building or structure to the public way. Means of egress shall comply with Life Safety Codes as set forth in NFPA, as adopted by the State of Nebraska.

Appendix A: Standards for Continuously Vacant Residential Premises:

- 1) The exterior surfaces of all structures on the premises must be maintained within the constraints of this Code.
- 2) Any sources of infestation or rot shall be required to be removed immediately.
- 3) The yard, trees, and shrubbery shall be maintained within the constraints of this Code.
- 4) Installing or maintaining a legal residential privacy fence shall not be construed as permission to store any illegal material outdoors on the premises.
- 5) Items placed on, or within the premises shall not contribute to a deteriorated or blighted appearance of the property.
- 6) Any unsafe or insanitary condition shall be brought into compliance within 10 days' notice from the Zoning Administrator.
- 7) **Within any Residential District – the conversion of a Single-Family Residence, or premises, into a Commercial Storage Premise(s), whether occupied or not, shall not be allowed.**

One (1) copy of the International Property Maintenance Code is on file at the office of the Zoning / Building Administrator and is available for public inspection at the City Office during their regular business hours.

The provisions of the International Property Maintenance Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

§9-304 HISTORIC BUILDINGS. The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or city as historic buildings or structures when such buildings or structures are judged by a code official to be safe and not dangerous to the public health, safety and welfare.

§9-305 DECLARATION OF NUISANCE. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of the Property Maintenance Code and such conflict with or violation of the provisions of the Property Maintenance Code is hereby declared to be a nuisance.

§9-306 ABATEMENT OF NUISANCE. The imposition of the penalties prescribed in the Property Maintenance Code shall not preclude the city from instituting appropriate actions to abate such conflict with or violation of the provisions of the Property Maintenance Code as prescribed in §4-402.

Article 4. Plumbing Code

§9-401 **PLUMBING CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection, and uses of materials in the installation of plumbing and heating shall be as found in the International Plumbing Code 2006; in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the International Plumbing Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the International Plumbing Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

Article 5. Electrical Code

§9-501 **ELECTRICAL CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances shall be as found in the National Electrical Code 2014, as recommended and published by the National Fire Protection Association, printed in book or pamphlet form, in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the State of Nebraska. All prior ordinances in conflict herewith shall be and are hereby repealed.

One (1) copy of the Electrical Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the Electrical Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

Article 6. Lighting and Thermal Efficiency Standards

§9-601 **LIGHTING AND THERMAL EFFICIENCY STANDARDS; NEED.**

1. This article shall be known as the Minimum Lighting and Thermal Efficiency Standards for Buildings.
2. The City of David City, Nebraska finds that there is a present and continuing need to provide for the development and implementation of minimum lighting and thermal efficiency standards for buildings to insure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote the conservation of our dwindling energy resources, and to provide for the public health, safety, and welfare.

§9-602 **TERMS; DEFINED.** As used in this Article, unless the context otherwise requires, the following definitions shall apply:

PRIME CONTRACTOR shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. Prime Contractor shall also mean a property owner who performs the work of a Prime Contractor.

ARCHITECT or ENGINEER shall mean any person registered pursuant to section 81-847, Reissue Revised Statutes of Nebraska, 1943.

BUILDING shall mean any structure which utilizes or will utilize a heating system, cooling system, or domestic hot water system, including new buildings, renovated buildings, and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one (1) watt per square foot.

RESIDENTIAL BUILDING shall mean a building three (3) stories or less that is used primarily as one (1) or more dwelling units.

RENOVATION shall mean alterations on an existing building which will cost more than fifty (50%) percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

ADDITION shall mean any construction added to an existing building which will increase the floor area of that building by five (5%) percent or more.

FLOOR AREA shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure which is heated or cooled.

STANDARD shall mean The Model Energy Code, 1983 Edition, of the Council of American Building Officials.

TRADITIONAL ENERGY SOURCES shall mean electricity, petroleum based fuels, uranium, coal, and all nonrenewable forms of energy.

§9-603 **STANDARD; APPLICABILITY.** The Standard shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after the effective date of this Section. *(Amended by Ord. No. 602, 9/14/83)*

§9-604 **EXEMPTIONS.** The following shall be exempt from this act:

1. Any building which has a peak design rate of energy usage for all purposes of less than one (1) watt, or three and four-tenths (3.4) British Thermal Units per hour, per square foot of floor area.
2. Any building which is neither heated nor cooled.

3. Any building or portion thereof which is owned by the United States of America.
4. Any mobile home as defined by section 71-4603, Reissue Revised Statutes of Nebraska, 1943.
5. Any manufactured housing unit as defined by subsection (1) of section 71-1557, Reissue Revised Statutes of Nebraska, 1943.
6. Any building (I) listed on the National Register of Historic Places, (ii) determined to be eligible for the National Register of Historic Places by the State Historic Preservation Officer, or (iii) designated as an individual landmark or heritage preservation site by a Municipality or located within a designated landmark or heritage preservation district.
7. Any building to be renovated that is located within an area that has been designated blighted by a Municipality.
8. All residential buildings shall be exempt from lighting efficiency standards.

§9-605 FEES. The fees, charges, and expenses for Zoning Permits and Certificates of Zoning Compliance shall be as established by the City Council; such fees, charges, and expenses to be set by Resolution.

The schedule of fees shall be posted in the office of the City Clerk and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

§9-606 WHEN ARCHITECT OR ENGINEER IS RETAINED. If an architect or engineer is retained, the architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the standard. The Prime Contractor shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

§9-607 VIOLATION; PENALTY; ENFORCEMENT. Any person violating any provision of this Article shall be subject to a maximum fine of five hundred (\$500.00) dollars. In addition, the City of David City may by an action in the District Court enforce the provisions of this Article through equity and injunctive processes.

§9-608 VALIDITY. If any Section in this Article or any part of any Section shall be declared invalid or unconstitutional such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Article 7. Penal Provision

§9-701 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be liable to a fine of not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

Section 2. 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 3. 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 8th day of November, 2017.

Mayor Alan Zavodny

City Clerk Joan Kovar

Joe Pirozzoli, Director Asset Management, Timberline Energy, notified City Clerk Kovar that the updated pipeline lease agreement would not be ready until the December council meeting, and stated he was sorry for any inconvenience. Therefore, Council member Hotovy made a motion to table consideration of an updated pipeline lease agreement with Timberline Energy. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Smith, Kobus, and Hotovy. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to table consideration of Letter Agreement Amendment #1 with Olsson Associates, Inc., concerning slip-lining, point repairs, manhole, sanitary sewer main, and service repairs; repair, sludge removal, and restoration of Cells A and C of the City's Wastewater Treatment Facilities; and construction of a secondary access road to the wastewater facility. 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.

Park/Auditorium Supervisor Bill Buntgen stated that approximately a 6' high, 72' chain link fence is needed by the City Auditorium since the recently demolished pool house was much larger than the garage that was just moved there.

Council member Kobus stated: "That's something the City could do. The City can dig the holes they have the auger on the Bobcat. Then you just have the material costs. If we want to save money we have to start somewhere."

Mayor Zavodny stated: "Given the agenda item like it is, don't we need to just let that fail from a procedural standpoint?"

City Attorney Egr stated: "Yes"

Mayor Zavodny stated: "So we need to do one of two things. We either make a motion and let it die for lack of a second, or we move and second and vote no to accept the bid." *[As you are not supposed to have a negative motion.]*

Council member Trowbridge made a motion to reject all bids. Council member Kobus seconded. Voting AYE: Council members Smith, Meysenburg, Trowbridge, and Kobus. Voting NAY: Council member Hotovy. Council member Vandenberg was absent. The motion carried.

Council member Meysenburg made a motion to approve the appointment of Denny Graham, or alternate, of Olsson Associates as the Street Superintendent for the upcoming fiscal year, January 1, 2018 to December 31, 2018. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Smith, Trowbridge, Kobus, and Meysenburg. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Branden Rech stated: "The David Club Golf Club is asking for City assistance to help with funding of the new building project. BD Construction gave us a detailed timeline and we're still on track for possibly mid-December if everything comes in terms of flooring, paint, etc. Funding wise we asked for local help, local contractors, local members that are donating their time and service, so we are waiting on a couple invoices there, so we are still asking for the City's help but we're not quite organized enough to get a specific number in place that we would like to be able to present saying we are this close to goal, this close to completion. You want to support everybody, and I get that, but at the same time we are just asking for a one-time assistance and a one-time monetary donation to the project, and we can say the City was here, the City backed us, this is a City project, this is a City building, this is a place where the City can generate income through KENO now, thank you for voting that in. One of those things where I think it can be an asset to the Community and can move past being looked at as kind of a liability with the fire, the debt, and things like that. We are ready to take things into the green and kind of keep things rolling and show that we can be successful. We've put in the work, we've put in the effort to raise funds, and I'm just trying to do my job to ask for help when we need it, and we still need help. I wish I could say we were at our goal, we were overfunded, but we're not. I'd be willing to present again at the next Committee of the Whole meeting with a further update and maybe some specific info on where we are at fundraising, how close we are to our goal, how close we are to completion, because if we could complete this without any debt, any liability, I think that would just be huge for the golf course to get us off on the right track and get us moving forward."

Discussion followed.

Mayor Zavodny stated: "We did look into this, and had counsel look at it, and I think it is our opinion now, that legally I don't think we are able to donate towards it. Am I accurate in my quick summary of it?"

City Attorney Egr stated: "Yes. Our problem is we are dealing with tax dollars on there. You might say "well what's the difference between the Ball Association?", but the money that we deal with the Ball Association, as a tax entity with tax dollars, we can purchase "things". So, what the City has done with the Ball Association is, we buy uniforms, we buy balls and bats, we buy batting cages, those kinds of things. We have to be able to show there is a public good, but we also have a private entity renting in there. A public good is, you've got to have restrooms. The restroom in the north cart shed is okay for the guys, for the gals it's not, and I'm not trying to be discriminatory but they are in bad shape. The City could, if they had the finances, because it's in the public good to have decent restrooms available for the public good, could donate a restroom, as an example, we could donate toilets. We could do things like that. We cannot give the money per say, but we could do something that's acquainted with the public good. The general public can come to that building, no matter who is the tenant in there, because there is no other place for the golfers to go that will be decent facilities, to take care of natural things."

Branden Rech asked about security systems and signage. City Attorney Egr stated: "Probably not because that's more for the benefit of the tenant, however the handicapped accessible ramps can also probably be classified as a public good. It all comes down to "public good".

Council member Trowbridge asked: "Can you get us a receipt for restrooms?"

Branden Rech stated: "Yes, we can break that down specifically."

City Attorney Egr stated: "Yes, just because it's there doesn't mean we can't buy it."

Branden Rech stated: "One thing that we didn't add, but might still, is a water fountain. We took it out for space savings. Is that something that we should put back in if the City is interested in something like that?"

City Attorney Egr stated: "I think that's a public good. We can't give money but we can give something for public good."

Mayor Zavodny stated: "Ok, so you're talking about we can't pay necessarily for the construction, we are paying for a toilet."

City Attorney Egr stated: "Yes, the toilet, the sink, the tile.

Mayor Zavodny stated: "I never imagined this conversation going this way."

Branden Rech asked: "Would it be beneficial to submit that break down to you ahead of time Joan?"

City Clerk Kovar stated: "My question is, where is the money coming from? It might be "public good" but I don't know where we're going to get the money."

Mayor Zavodny stated: "That is where I was going with this. We didn't budget for this so are you committing sales tax to it, are you committing KENO that we do not have. At this juncture I guess that is where I was going too, how are we paying for it? We don't even know what you are asking for yet, so bring it, and that be might something we need to consider because maybe that comes off the \$20,000 budgeted for recreation. That's a decision for the people sitting around this table."

Council member Trowbridge made a motion to table consideration of the request by the David City Golf Club, Inc. for financial help on their Club House Building Project. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Hotovy, Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

Council member Kobus made a motion to reschedule the Committee of the Whole Meeting from Wednesday - November 22nd, to Wednesday – November 29th. Council member Trowbridge seconded the motion. Voting AYE: Council members Smith, Hotovy, Meysenburg, Trowbridge, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried.

There being no further business to come before the Council, Council member Kobus made a motion to adjourn. Council member Smith seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Smith, and Kobus. Voting NAY: None. Council member Vandenberg was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:23 p.m.



CERTIFICATION OF MINUTES
November 8, 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 November 8th, 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