

CITY COUNCIL PROCEEDINGS

February 12, 2020

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 February 6th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agendas which are a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agendas, which were kept continuously current in the office of the City Clerk and were available for public inspection during regular office hours. No new items were added to the agendas during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Kevin Hotovy, Bruce Meysenburg, Pat Meysenburg, John Vandenberg, Dana Trowbridge, and Tom Kobus, City Administrator Clayton Keller, City Attorney James Egr, and City Clerk Joan Kovar.

Also present for the meeting were: Senior Civil Engineer Don Heine of Thompson, Dreessen, & Dorner, Inc. of Omaha, Chris Kozisek, Nicole Gasper, Scout Masters Mark Polacek and Steve Reiter and several Boy Scouts, Mrs. Marianne Long & son Frank, Dan & Jan Sypal / Stop-Inn, Randy Svoboda / RB's Corner Stop, Nathan Styskal, Jason Lavicky, Scott Steager, Bob Kobza, Gary Meister, Sheriff Tom Dion, Building Inspector Ray Sueper, Interim Water Supervisor Aaron Gustin, and Park/Auditorium Supervisor Bill Buntgen.

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 January 22, 2020 meeting of the Mayor and City Council were approved upon a motion by Council member Kobus and seconded by Council member Hotovy. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Vandenberg, Trowbridge, Hotovy, and Kobus. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to approve Pay Estimate #16 to Eriksen Construction Co., in the amount of \$184,852.76 for the Wastewater Treatment Plant Project. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Hotovy, Kobus, Bruce Meysenburg, Vandenberg, Pat Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

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

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

Building Inspector Ray Sueper stated: "I wanted to update the Council on the status of the Kathryn Treat situation. We have court tomorrow at 11:15 a.m. with Baird Holm LLP and the

Court will be appointing appraisers and requesting entry to the property at 715 4th Street at that time. It is my understanding, with the correspondence I have had with Lindsay Lundholm of Baird Holm LLP, that they (the Treats) are not in town, so everything is expected to go smoothly.”

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

At 7:03 p.m. Mayor Zavodny opened the Public Hearing to consider the application of Family Dollar Inc. dba Family Dollar 27320, 1654 N 4th Street, David City, Butler County, Nebraska, for a Class B Liquor License (Beer, off sale only). Mayor Zavodny asked if anyone wished to speak on this item during the Public Hearing.

Marianne Long stated: “I think we have enough; we have other businesses selling liquor. I don’t think they should be allowed to sell liquor here, because we have other businesses selling it, and they (Family Dollar) are cramped, and you walk in there and you can hardly get through their aisles and stuff. Why would they want to sell beer, when we have others stores here doing it?”

Mayor Zavodny asked: “What would be your reason for denying it though?”

Marianne Long stated: “I don’t think it’s necessary for them to do it when they’ve already run out a few of our other businesses that were selling things.”

Council member Trowbridge stated: “I was going to ask, if this is an opinion or if this is a documented study?”

Mayor Zavodny stated: “The role of government should not be picking winners and losers. If they meet the requirements it’s pretty hard....you know if Southern XV decided to come back into town and open a liquor store, would we be arguing against it for that? We do have good businesses and they are doing good stuff. I know we had issues when Casey’s was thinking about coming, and then other businesses say “don’t let another business come into town because they might pay more and they’re going to take my employees”. Those arguments really start to get muddled down sometimes, and so I think what we have to do is look at: do they meet the requirements and is it a reasonable thing, and on what grounds would we deny an application from the standpoint of what government does? Then the competition...the free market decides where people will go. Anyone else wishing to comment?”

Council member Pat Meysenburg asked the General Manager of Family Dollar: “How do you plan on doing security at the Family Dollar Store for this?”

The General Manager of Family Dollar stated: “Well, I have to ask my District Manager for more payroll hours so we can run the store with at least a minimum of two people at all times. Right now there are times when we have to run it with one person, and that’s due to the payroll budget, and I don’t think that would be possible if we were selling alcohol.”

Mayor Zavodny stated: “Now did this decision come from a corporate or a regional office?”

The General Manager of Family Dollar stated: "Yes. I wasn't aware that they were going to send the State Fire Marshall into the building. He was in there on January 23rd, I was on my way out of town and I got a phone call from my assistant saying the State Fire Marshall was there to approve our building for the liquor license, and when I called my District Manager he even said he hadn't heard anything about it and he was going to check into it and let me know, and then he quit and now I don't have a District Manager."

City Administrator Clayton Keller stated: "If the Council looks at the the agenda packet, its got the documents that include basically the directive from Corporate to all States, all Family Dollar Stores to start doing this. This is a company wide effort; just for your information."

Council member Trowbridge stated: "What have we heard? The hearing notice suggests that all persons desiring to give evidence will be here this evening at 7:00 o'clock and I haven't heard much this evening."

Mayor Zavodny stated: "I think we need to be really careful here. I think there needs to be a compelling reason for us not to issue it, otherwise, I think we open ourselves up to trying to defend and explain why we wouldn't have granted that."

Mayor Zavodny asked if anyone else wished to make any further comment on the Public Hearing at this time. Hearing none, Mayor Zavodny closed the Public Hearing at 7:12 p.m.

Council member Trowbridge stated: "We've complied with Statute; we've held a hearing. Compelling evidence, either way, was not brought forward. I would move that we vote nolo. We don't approve, we don't disapprove. We send it back to the Liquor Commission and they can do what they want to."

Council member Trowbridge made a motion to make "no recommendation" (to approve or deny) on the application of Family Dollar Inc. d.b.a. Family Dollar 27320, 1654 N 4th Street, for a Class B Liquor License (Beer, off sale only). Council member Hotovy seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Pat Meysenburg, Bruce Meysenburg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Senior Civil Engineer Don Heine, of Thompson, Dreessen, & Dorner, Inc. of Omaha, stated: "I am here representing Vetter Health Services. We are here to ask you to consider vacating various miscellaneous utility easements on the property currently occupied by David Place. These easements were put in place when the property was originally platted. It had multiple properties in that platting, and has since been re-platted for a single plat for the David Place facility. These easements will conflict with the proposed additions for the David Place facility that they are looking at. There have never been any utilities in these easements. The purpose in the past was to serve the lots when it was platted into various smaller properties; now it's one large property for David Place. We are only requesting the release of the easements running North/South on the easterly side of the building. There are four recorded documents that were attached to our request for vacating. Three of them were utility easements, the other was a covenant that existed on the property."

City Clerk Kovar stated: "I am only showing three easements, so if there are four, I missed one." City Clerk Kovar stated that she had the following:

Lease & Contract Book 10, Page 80, dated March 23, 1977

All that part of the following described property to-wit:

All that part of 11th Street and intersection (now vacated) and all that part of the NE¼ 30-15-3 Butler County, Nebraska, which lies immediately east of Block 14 in Miles 5th Addition, Iowa Street and Block 1 of Miles 6th Addition to David City, Nebraska.

Book 87, Page 903, dated July 28, 1987 in Film book #87-903

The West Twenty Feet (W 20') of the North Twenty Feet (N 20') of Lot One (1), High Addition, an addition to the City of David City, Nebraska, as surveyed, platted and recorded in Butler County, Nebraska.

Book 87, Page 904, dated July 28, 1987 in Film book #87-904

The West Twenty Feet (W 20') of Lot One (1), High Addition, an addition to the City of David City, Nebraska, as surveyed, platted and recorded in Butler County, Nebraska.

Discussion followed in which City Attorney James Egr stated that he had prepared the proposed Ordinance off of the information he received from City Clerk Kovar, so the ordinance will have to be amended to include the 4th easement that was apparently missed.

Therefore, Council member Hotovy made a motion to table consideration of an ordinance releasing easements between 10th & 11th Streets, and Nebraska & Iowa Streets, as requested by TD2, Thompson, Dreessen, & Dorner, Inc., Engineering & Surveying, on behalf of David Place, 260 So. 10th Street, to the February 26th Council meeting, so that all four of the requested easements can be addressed. Council member Trowbridge seconded the motion. Voting AYE: Council members Pat Meysenburg, Kobus, Vandenberg, Bruce Meysenburg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

As the next agenda item was a 7:30 p.m. Public Hearing, and it was not yet 7:30 p.m., Council member Hotovy made a motion to advance over Agenda Items #12 and #13 until after 7:30 p.m. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Trowbridge, Pat Meysenburg, Kobus, Bruce Meysenburg, and Hotovy. Voting NAY: None. The motion carried.

At 7:23 p.m. Mayor Zavodny opened the Public Hearing to consider amending the Land Use Plan Map by changing the zoning classification from MDR – Medium Density Residential to I – Industrial for the real estate legally described as the South ½ of Lot 3, Block 5, Garlow's Addition to David City. Mayor Zavodny asked if anyone wished to comment during the Public Hearing.

Scott Steager stated: "I have a purchase agreement for this. This is located behind the old flower shop along Iowa Street on the way to the State Yards. This is the property that was owned by Don & Mary Lou Hilger. They burned the house down about three years ago so it's been vacant that long; it's zoned Residential. I would eventually like it zoned I-2 so that I can build storage units there. It's not a very desirable lot, its got a pretty good slope to it but I think I can make it work even with the setbacks that are proposed and everything."

Mayor Zavodny asked Scott if he had talked to any of the neighbors about what he was intending, should he get it, and Scott stated: "No, not really".

Aaron Gustin stated: "I live right across the street, literally right across the street, and I have no issue with that. We actually discussed that we hoped someone would do something

with it because it becomes overgrown. Mr. Steagers storage units look nice and presentable, I don't think it would be an issue. It would be nice to see something done with it."

Mayor Zavodny asked if anyone else wished to make any further comment on the Public Hearing at this time. Hearing none, Mayor Zavodny closed the Public Hearing at 7:27 p.m.

Council member Hotovy introduced Ordinance No. 1335 amending the Land Use Plan Map by changing the zoning classification from MDR – Medium Density Residential to I – Industrial for the real estate legally described as the South ½ of Lot 3, Block 5, Garlow's Addition to David City. Mayor Zavodny read Ordinance No. 1335 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Bruce Meysenburg, Vandenberg, Pat Meysenburg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1335 on the 3rd and final reading. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Vandenberg, Kobus, Hotovy, and Bruce Meysenburg. Voting NAY: None. The motion carried and Ordinance No. 1335 was passed on 3rd and final reading as follows:

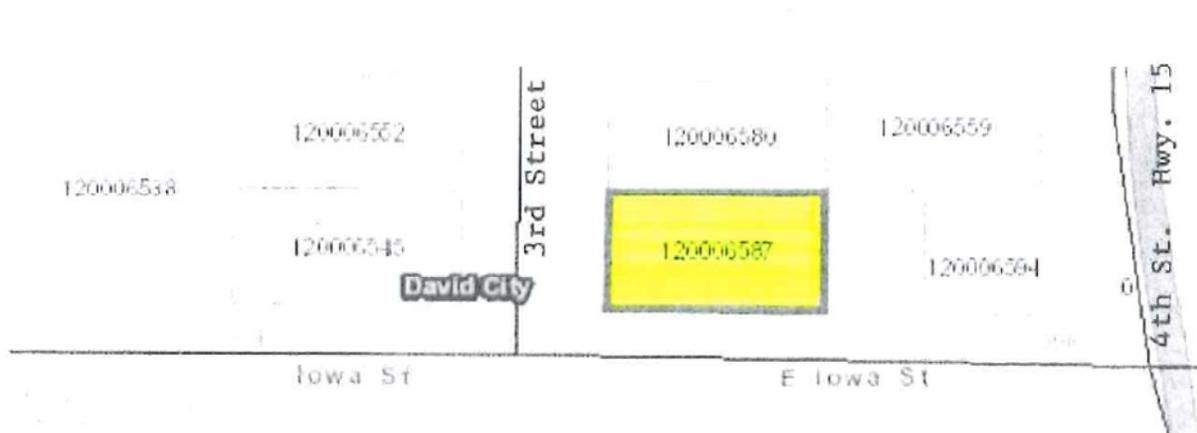
ORDINANCE NO. 1335

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE ZONING CLASSIFICATION FROM MDR – MEDIUM DENSITY RESIDENTIAL TO I – INDUSTRIAL, FOR THE REAL ESTATE LEGALLY DESCRIBED AS THE SOUTH ½ OF LOT 3, BLOCK 5, GARLOW'S ADDITION TO DAVID CITY; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

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

- a. To amend the following property from MDR – Medium Density Residential to I – Industrial for the South ½ of Lot 3, Block 5, Garlow's Addition to David City.



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 12th day of February, 2020.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

At 7:29 p.m. Mayor Zavodny opened the Public Hearing to consider amending the Official Zoning Map by changing the zoning classification from R-2 Two-Family Residential to I-2 Heavy Industrial for the real estate legally described as the South ½ of Lot 3, Block 5, Garlow's Addition to David City. Mayor Zavodny asked if anyone wished to comment during the Public Hearing.

Scott Steager once again spoke about his wish to rezone this property so that he could install storage units.

Mayor Zavodny asked if anyone else wished to make any comment on the Public Hearing at this time. Hearing none, Mayor Zavodny closed the Public Hearing at 7:31 p.m.

Council member Hotovy introduced Ordinance No. 1336 amending the Official Zoning Map by changing the zoning classification from R-2 Two-Family Residential to I-2 Heavy Industrial for the real estate legally described as the South ½ of Lot 3, Block 5, Garlow's Addition to David City. Mayor Zavodny read Ordinance No. 1336 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Trowbridge seconded the motion. Voting AYE: Council members Pat Meysenburg, Vandenberg, Kobus, Bruce Meysenburg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1336 on the 3rd and final reading. Council member Trowbridge seconded the motion. Voting AYE: Council members Bruce Meysenburg, Kobus, Vandenberg, Pat Meysenburg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1336 was passed on 3rd and final reading as follows:

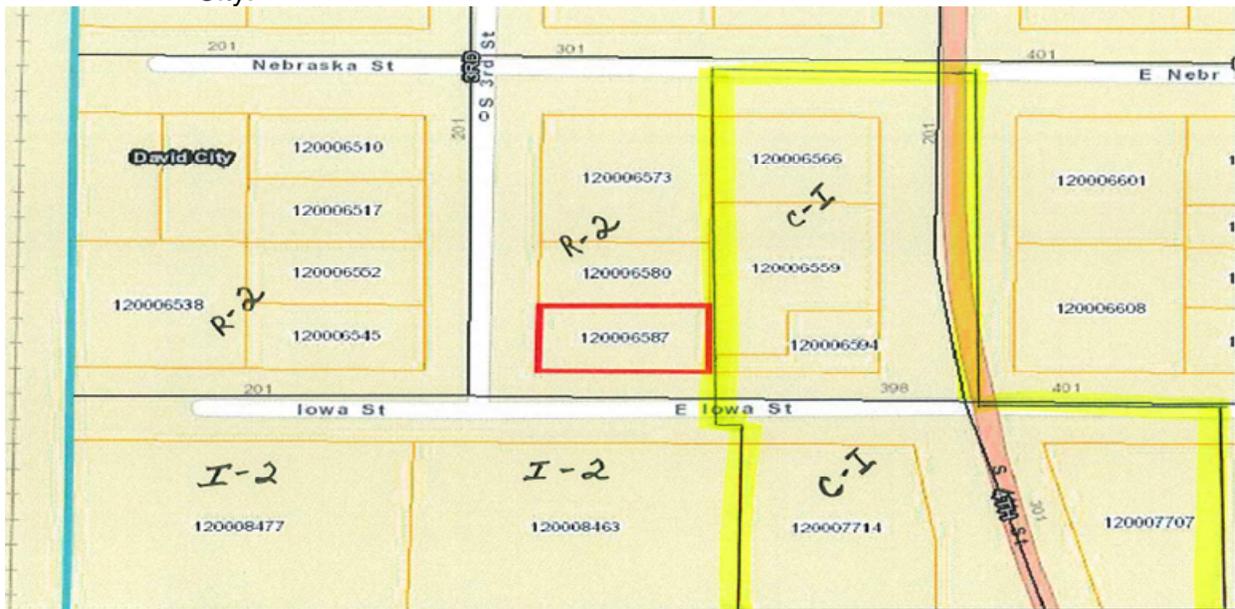
ORDINANCE NO. 1336

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION FROM R-2 TWO-FAMILY RESIDENTIAL TO I-2 HEAVY INDUSTRIAL, FOR THE REAL ESTATE LEGALLY DESCRIBED AS THE SOUTH ½ OF LOT 3, BLOCK 5, GARLOW'S ADDITION TO DAVID CITY; REPEALING ANY ORDINANCES IN CONFLICT HERewith; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as follows:

- a. To amend the following property from R-2 Two-Family Residential to I-2 Heavy Industrial for the South ½ of Lot 3, Block 5, Garlow's Addition to David City.



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 repealed.

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 12th day of February, 2020.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

At this time, Mayor Zavodny declared the Public Hearing open at 7:33 p.m. to consider the adoption of the One-Year and Six-Year Street Improvement Program for the City of David City.

City Clerk Kovar stated that she had been advised by Street Supervisor Chris Kroesing that he had visited with Dave Ziska of Olsson, and due to several changes in the proposed street improvement program, they wished to table this to the March 11th Council meeting.

Mayor Zavodny declared the Public Hearing closed at 7:33 p.m.

Council member Hotovy made a motion to table consideration of Agenda Items #12 and #13 - the Public Hearing to consider the adoption of the One-Year and Six-Year Street Improvement Program, and Consideration of Resolution No. 10 - 2020, accepting the One Year and Six-Year Street Improvement Plans - to the March 11, 2020, Council Meeting. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Trowbridge, Kobus, Pat Meysenburg, Bruce Meysenburg, and Hotovy. Voting NAY: None. The motion carried.

At 7:34 p.m. Mayor Zavodny opened the Public Hearing to consider amending Zoning Ordinance No. 1060, Article 8: Supplemental Regulations, by amending Section 8.07 Self Storage Units, 8.07.01: Minimum lot size of the Self Storage facility shall be 10,000 square feet; it was two acres. Mayor Zavodny asked if anyone wished to comment during the Public hearing.

Scott Steager stated: "I don't know that if you'd take all the storage units in David City, I don't know if they would encompass the 2 acre property. I thought this was addressed quite a few years ago, but apparently it wasn't; it was brought to my attention again when I started looking at the property down south here again. It went before the Planning Commission and they passed it. I drive around all kinds of different towns and I kind of watch and see. You see in the big cities, you see big complexes of storage units. In the little cities and villages you see small complexes on small lots, so I guess I think that's kind of where I am going with that is, there's not a 2 acre lot in town for sale that you could put more storage units on."

Council member Trowbridge asked: "What restrictions do we now have on storage units scattered throughout the community, other than 10,000 square feet? Which there aren't many lots in town that are smaller than that. There aren't many for sale, but that's not to say that something couldn't change. Do we have any protections that we don't end up with a town full of storage units in residential areas?"

Mayor Zavodny stated: "That's a fair question, I think that would have to be certainly addressed to the Zoning, you know, to not allow Zoning to allow that to happen. I think that's probably the only protection and it's a thin line."

Council member Trowbridge stated: "Because I can remember when the two acres was picked, there was discussion of, let's try and move storage units to the perimeter of the community, not have them in the center of it. That's why we have two acres in the book today."

Mayor Zavodny asked if anyone else from the Public wished to make any further comment on the Public Hearing at this time. Hearing none, Mayor Zavodny closed the Public Hearing at 7:37 p.m.

Council member Hotovy introduced Ordinance No. 1337, amending Zoning Ordinance No. 1060, Article 8: Supplemental Regulations, by amending Section 8.07 Self Storage Units, 8.07.01: Maximum lot size of the Self Storage Facility shall be 10,000 square feet. Mayor Zavodny read Ordinance No. 1337 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Trowbridge seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Vandenberg, Kobus, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1337 on the 3rd and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Kobus, Bruce Meysenburg, Trowbridge, Vandenberg, Pat Meysenburg, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1337 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1337

AN ORDINANCE, TO AMEND ZONING ORDINANCE NO. 1060, BY AMENDING: ARTICLE 8: SUPPLEMENTAL REGULATIONS, BY AMENDING SECTION 8.07 SELF STORAGE UNITS, 8.07.01; REPEALING ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; PROVIDING AN EFFECTIVE DATE THEREOF; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

ARTICLE 8: SUPPLEMENTAL REGULATIONS

SECTION 8.07 Self Storage Units / Convenience Storage Units

- 8.07.01 Minimum lot size of the Self Storage facility shall be 10,000 square feet.**
- 8.07.02 Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- 8.07.03 All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock or other approved rock other than gravel. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
- 8.07.04 All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
- 8.07.05 No storage may open into the front yards.
- 8.07.06 Facilities must maintain landscape buffer yards of 50 feet adjacent to any public Right-of-Way and 20 feet adjacent to other property lines, unless greater setbacks are requiring, a total of 35% of all buffers shall be landscaped.
- 8.07.07 Height limitations shall require a maximum height of 20 feet for any structure in the facility.
- 8.07.08 The perimeter of each facility shall be fully enclosed by fencing or screen walls. Perimeter fencing shall be provided at a minimum of six feet and maximum of eight feet in height, of material approved by the Zoning Administrator. Fencing shall be constructed behind required buffer yards.

This Ordinance shall be in full force and effect from and after passage, approval and

publication or posting as required by law.

PASSED AND APPROVED THIS 12th day of February, 2020.

Mayor Alan Zavodny

City Clerk Joan Kovar

Council member Hotovy introduced Ordinance No. 1338 confirming the sale of property legally described as the West 95' of Lots 16, 17, and 18, Block 19, Original Town of David City, Butler County, Nebraska, to Vandenberg Electric & Communications L.L.C., for the purchase price of \$28,000.00, plus closing costs. Mayor Zavodny read Ordinance No. 1338 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Kobus, Vandenberg, Bruce Meysenburg, and Hotovy. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1338 on the 3rd and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Vandenberg, Bruce Meysenburg, Kobus, Hotovy, and Pat Meysenburg. Voting NAY: None. The motion carried and Ordinance No. 1338 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1338

AN ORDINANCE TO CONFIRM THE SALE OF PROPERTY LEGALLY DESCRIBED AS THE WEST 95' OF LOTS 16, 17, AND 18, BLOCK 19, ORIGINAL TOWN OF DAVID CITY, BUTLER COUNTY, NEBRASKA TO VANDENBERG ELECTRIC & COMMUNICATIONS, L.L.C., A NEBRASKA LIMITED LIABILITY COMPANY, FOR THE PURCHASE PRICE OF TWENTY-EIGHT THOUSAND DOLLARS AND NO CENTS (\$28,000.00) PLUS CLOSING COSTS; TO REPEAL ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

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

SECTION 1: The appropriate Resolution #27-2019 was passed by the City Council directing sale for the following described real estate, to-wit:

The West 95' of Lots 16, 17, and 18, Block 19, Original Town of David City, Butler County, Nebraska,

hereinafter referred to as "Premises".

SECTION 2: The appropriate publication of notice of the proposed sale has been completed.

SECTION 3: The appropriate passage of the thirty (30) day right-of-remonstrance period has passed.

SECTION 4: The City Council did accept the bid of VANDENBERG ELECTRIC AND COMMUNICATIONS, L.L.C., a Nebraska Limited Liability Company, for the purchase price of TWENTY-EIGHT THOUSAND DOLLARS AND NO CENTS (\$28,000.00) PLUS CLOSING COSTS, at the City Council Meeting held December 11, 2019, with appropriate public notice.

SECTION 5: Sale of the Premises is hereby confirmed, by the Mayor and City Council, to VANDENBERG ELECTRIC AND COMMUNICATIONS, L.L.C., a Nebraska Limited Liability Company, for the purchase price of TWENTY-EIGHT THOUSAND DOLLARS AND NO CENTS (\$28,000.00) PLUS CLOSING COSTS.

SECTION 6: The terms of the sale are contained in a Purchase Agreement attached hereto, marked Exhibit "A", and incorporated herein by reference as if fully set forth.

SECTION 7: That any other Ordinances or parts of Ordinances passed and approved prior to the passage, approval, and publication of this Ordinance and in conflict with its provisions, are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law and City Ordinance.

PASSED AND APPROVED this 12th day of February, 2020.

MAYOR ALAN ZAVODNY

JOAN E. KOVAR, CITY CLERK

(SEAL)

TO: EGR, BIRKEL & WOLLMER, P.C.
PO BOX 46
DAVID CITY NE 68632

MUNICIPAL CORPORATION WARRANTY DEED

THE CITY OF DAVID CITY, NEBRASKA, A NEBRASKA MUNICIPAL CORPORATION,
GRANTOR,
whether one or more, in consideration of ONE DOLLAR AND OTHER VALUABLE
CONSIDERATION (\$1.00 & OVC), receipt of which is hereby acknowledged, conveys to

VANDENBERG ELECTRIC AND COMMUNICATIONS, L.L.C., A Nebraska Limited Liability Company, **GRANTEE**, the following described real estate (as defined in Neb. Rev. Stat. §76-201) in Butler County, Nebraska:

The West 95' of Lots 16, 17, and 18, Block 19, Original Town of David City, Butler County, Nebraska.

Grantor covenants (jointly and severally, if more than one) with Grantees that Grantor:

- (1) is lawfully seized of such real estate and that it is free from encumbrances;
- (2) has legal power and lawful authority to convey the same;
- (3) warrants and will defend the title to the real estate against the lawful claims of all persons.

Executed: February 12th, 2020.

THE CITY OF DAVID CITY, NEBRASKA
A MUNICIPAL CORPORATION,

By: _____
ALAN ZAVODNY, Mayor

Attested by: _____
JOAN E. KOVAR, City Clerk

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

On this 12th day of February, 2020, ALAN ZAVODNY, Mayor, and JOAN E. KOVAR, City Clerk of the City of David City, Nebraska, a Municipal Corporation, by and for the said City.

Notary Public

City Clerk Kovar stated that two (2) bids were received concerning the sale of the property legally described as the South twenty-five feet (S 25') of Lot One (1) and the North fifty feet (N 50') of Lot Four (4), Block Two (2), Miles Fourth (4th) Addition to David City, Butler County, Nebraska. (west side of 1st Street between "D" and "E" Streets). City Clerk Kovar publicly opened the bids and read the results as follows:

Chris Kozisek, 107 West E Street, David City, NE.....\$8,000.00
(the lot adjoins me on the north side and would be a valuable addition to my property.)

Nathan Styskal, 147 No. 6th Street, David City, NE.....\$8,500.00

Mayor Zavodny stated: "So a \$500.00 difference. When we advertised this, did we have any stipulations of an explanation of how it would be used?"

City Clerk Kovar stated: "The ad read: *"The City of David City, Nebraska, desires to sell said property, as is, for a residential living unit, to the bidder that is deemed by the City Council of the City of David City, Nebraska as the most favorable. The City of David City, Nebraska reserves the right to reject any and all bids. The City set a minimum price of seven thousand five hundred dollars (\$7,500.00) for all sealed bids."*

Mayor Zavodny stated that he would like to hear from the bidders as to what they intend to do with the property.

Chris Kozisek stated: "I was going to use it as an extension to my yard. The way my house sits there isn't a whole lot of room between the back side of my house, I mean it's according to statutes but there's not a whole lot of room there. At some point, I wouldn't mind trying to add on to my house as well, going south into my backyard."

Nathan Styskal stated: "I would simply like to build a house. Those are my intentions."

Mayor Zavodny asked: "Do you have any kind of a time frame?"

Nathan Styskal stated: "If I purchased it, I would like to see it within a year; starting next spring or next summer."

Mayor Zavodny stated: "So, you would be building a residential structure. So, we have heard from both of the bidders; any other questions? How do you wish to proceed?"

Council member Trowbridge made a motion to accept the bid that meets the standards we asked for, that being a residential living unit, [so the high bid of Nathan Styskal for \$8,500.00] for the sale of the property legally described as the South twenty-five feet (S 25') of Lot One (1) and the North fifty feet (N 50') of Lot Four (4), Block Two (2), Miles Fourth (4th) Addition to David City, Butler County, Nebraska, contingent upon the notice of the proposed sale. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Hotovy, Bruce Meysenburg, Kobus, Vandenberg, Pat Meysenburg, and Trowbridge. Voting NAY: None. The motion carried. [Note: A notice of the proposed sale of real estate must be published once a week for three consecutive weeks in a legal newspaper of general circulation, and there is a period of remonstrance, meaning if the public doesn't want the property sold or they don't like the terms, then there has to be a petition for remonstrance, equal in number to 30% of the electors of such City voting in the last general election, and it has to be filed within 30 days after the third publication notice. If there is a remonstrance, the property cannot be sold for a year after that. If there is not a remonstrance, the City can go ahead and sell the property. City Clerk Kovar will publish the notice for three weeks and if there is no remonstrance then the bid could be accepted by an ordinance at the April 8th, 2020 Council Meeting.]

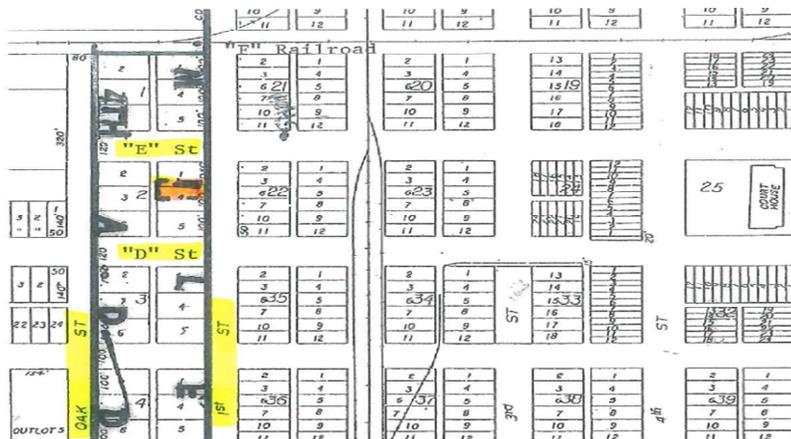
Council member Hotovy introduced Resolution No. 11 - 2020 and moved for its passage and adoption. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Vandenberg, Hotovy, Trowbridge, Kobus, and Bruce Meysenburg. Voting NAY: None. The motion carried and Resolution No. 11 - 2020 was passed and approved as follows:

RESOLUTION NO. 11 – 2020

A RESOLUTION OF THE MAYOR AND CITY COUNCIL FOR THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AUTHORIZING THE MAYOR TO SIGN A PURCHASE AGREEMENT FOR THE SALE OF REAL ESTATE OWNED BY THE CITY OF DAVID CITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING RESOLUTIONS; TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, the City of David City, Butler County, Nebraska owns the following-described real estate:

South twenty-five feet (S 25') of Lot One (1) and the North fifty feet (N 50') of Lot Four (4), Block Two (2), Miles Fourth (4th) Addition to David City, Nebraska, and



WHEREAS, the City of David City, Butler County, Nebraska desires to sell the above-described real estate.

NOW, THEREFORE, BE IT RESOLVED:

1. Bids were opened on February 12, 2020 for the above-described parcel of real estate. The best bidder was Nathan Styskal with a bid of \$8,500.00. The above-described parcel of real estate owned by the City of David City, Butler County, Nebraska shall be sold to Nathan Styskal for \$8,500.00.
2. Following passage of this Resolution, publishing the terms of such sale once each week for three consecutive weeks in a legal newspaper in or of general circulation in such city, and passing of the 30-days after the third publication of the notice (right-of-remonstrance period), the property shall then be sold by the passage of an ordinance (April 8, 2020) stating the name of the purchaser and terms of the sale.
3. The Purchase Agreement for Sale of Real Estate is hereby approved, ratified, and accepted, and the Mayor is hereby authorized, directed, and empowered to execute the same upon receipt of the executed Purchase Agreement by the buyer.

Passed and approved this 12th day of February, 2020.

Mayor Alan Zavodny

City Clerk Joan Kovar

Mayor Zavodny stated: "The next agenda item is consideration of the purchase of a Skid Steer Brush Grapple for the Street Department. Who's going to make the pitch for that?"

Council member Trowbridge stated: "I will. Do you remember the fellows that drove the red trucks from Omaha, that I think three of us helped them learn how to lay bricks in streets? They had a nice set-up for their Bobcat and it was a bucket that had openings that were not quite the size of a brick, so bricks wouldn't fall through, and they would scoop up dirt and bricks and then they would shake it, and all the dirt and garbage would fall through and bricks were left, and I ran into one of those on the internet the other evening from a local vender, that was a great price, and that's what I believe we need to start getting rid of bricks out at the old landfill site, the burn pile out here, because we can't expect our people to go out there with a fully lined bucket and start pulling bricks out. It just would save thousands of dollars of time. It's \$1,200 I think."

Discussion followed. It was noted that Andrew Buresh had it advertised for sale for \$1,150.00.

Council member Trowbridge made a motion to approve spending up to \$1,200.00 for the purchase of a Skid Steer Brush Grapple for the Street Department and Council member Hotovy seconded the motion. Voting AYE: Council members Bruce Meysenburg, Kobus, Vandenberg, Pat Meysenburg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Interim Water Supervisor Aaron Gustin stated: "I was asked at the last meeting to compile a list." He distributed the following:

Maintenance Cost Proposal Summary:

E-cell sludge dredging:	Waiting on Doernemann reply.	\$110,000
Comminutor Purchase:	Quote received. This quote entails the purchase of said comminutor, installation and the installation of new auger screen.	\$62,280
Actuators:	Lowest Priority but still a Priority . Hard quote from Mellen Inc. on 1 type each type requires 2 actuators (2 basins) 3 types of actuators on each basin. (example basin 2 decant actuator)	(\$48,872) (\$31,248) (\$13,624)
Decanter Installation:	With help from city. Includes crane rental and 2 days assistance from Aqua-aerobics.	\$6,092
Waste Pumps:	Basin Waste Pump Replacement.	\$12,682
SBR Clean Out:	Johnson Svc's. (Sewer Lining Project)	\$24,300
<u>Summary Total:</u>	May possibly be funded out of the contingency reserve from USDA for Lagoon.	(\$264,226) (\$246,602) (\$228,978)

Interim Water Supervisor Aaron Gustin stated: "#1 – we are waiting on Doernemann's reply for the sludge removal of E-cell. I am also going to bring you to the bottom of the page – all of these costs may be possibly funded out of the contingency reserve from the USDA for the Lagoon project. There is a \$250,000 - \$300,000 contingency fund for that project that will be included in the note, if that's my correct understanding, and the USDA, early last week, opened the door for us to possibly include all of these items.

Mayor Zavodny wanted to make sure that the City had properly requested bids for these items with these kinds of numbers.

City Administrator Clayton Keller stated: "I made sure that Aaron and Craig went out and got two to three bids on each item".

Interim Water Supervisor Gustin stated: "The actuators, those are relatively easy to install, Vandenberg Electric can hook those up."

Mayor Zavodny stated: "How are we determining who is going to do the work? Let's not expend funds without going through a bidding process; for equipment and labor both."

City Administrator Keller stated: "With the equipment, what we've done is we went out and we got two to three bids on each item of equipment, but with the labor, we need to go out and get bids on the labor to do the jobs."

Discussion followed.

Mayor Zavodny asked what our plan was for addressing the road to the Wastewater Treatment Plant.

Interim Water Supervisor Gustin stated: "We have to put a lot of dirt in there. John (Kobus) thought \$30,000 - \$35,000 tops to do it, and I provided the perfect example as to why; a week and a half ago I slid backwards down that and came very, very, close to not standing here today."

Mayor Zavodny stated: "As soon as the weather would allow for that, I think that's a sooner than later project we need to tackle. So, if we could get a firm number on that and consider that with these other items for the next meeting that would make me pretty happy. Who could build us a road that would work?"

Aaron Gustin stated: "Well John (Kobus) can build us a road if he has the materials."

Council member Kobus stated: "City would have to haul the dirt, there's plenty of it down there."

Mayor Zavodny stated: "Put together what we need to put into it, we have the expertise on hand, sounds like problem solved."

Aaron Gustin stated: "We would need to raise some of the new valves up about 4' and that's easy to do..."

Mayor Zavodny stated: "Get us what you need to get that built and bring it to us next time."

City Clerk Kovar mailed a letter on January 22, 2020, to Gary Meister stating that his proposed project, on the property he purchased from the City legally described as: Lot 1 and the North 10' of Lot 4, Block 8, Litty's 1st Addition, (Southwest corner of 5th & "I" Street) should have been started by December 27, 2019. The terms of the sale were that the successful bidder must start the project within 180 days and must complete the construction of the residential building within 365 days. His bid was accepted by Ordinance No. 1318 on June 26, 2019 and he paid the balance on July 1, 2019.

Gary Meister responded with the following letter:

Joan,

We surveyed the property and removed 3 trees that would have been a danger to the new structure. I believe one of the trees was over 100 years old and falling apart. It needed to be removed prior to starting construction, so we have spent money on the project and felt we had started the project at that time. We hoped to start construction last fall. Due to delays on other projects the construction crew was also delayed. Due to our concern about damage to interior concrete floors from heaving during winter construction due to frost, we decided rather than risk damage to the long-term quality of the building we would push back the start to early spring. So, I am asking for a 3-month extension to the completion date. I assure you we will be digging footings as soon as possible in the spring. I regret not keeping you informed of the delays. Feel free to contact me with any concerns.

Gary Meister

Gary Meister stated: "I apologize for not getting to you sooner, but your letter got my attention."

Council member Hotovy made a motion to approve the request of Gary Meister and grant a 3-month extension to the completion date of his building project on Lot 1 and the North 10' of Lot 4, Block 8, Litty's 1st Addition. (Southwest corner of 5th & "I" Street). Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Vandenberg, Trowbridge, Hotovy, Kobus, and Bruce Meysenburg. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to appoint Nicole Gasper as an Alternate Member on the Planning Commission for a three-year term. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Bruce Meysenburg, Pat Meysenburg, Vandenberg, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Council member Kobus made a motion to authorize Mayor Zavodny to sign a Proclamation declaring March, Problem Gambling Awareness Month. Council member Trowbridge seconded the motion. Voting AYE: Council members Pat Meysenburg, Vandenberg, Kobus, Hotovy, Trowbridge, and Bruce Meysenburg. Voting NAY: None. The motion carried.

MARCH PROBLEM GAMBLING AWARENESS MONTH

- WHEREAS, there are individuals and families in our community adversely affected by problem gambling; and
- WHEREAS, compulsive gambling is often hidden from family members, social services and mental health professionals; and
- WHEREAS, compulsive gambling often occurs in combination with other disorders such as chemical dependency and depression; and
- WHEREAS, it is important to raise awareness of the warning signs of compulsive gamblers and connect them with professional help.

NOW, THEREFORE, I, Alan Zavodny, Mayor of David City, Nebraska, do hereby proclaim March 2020, as “**Problem Gambling Awareness Month**” and urge citizens to learn more about the consequences of problem gambling and help available through the Nebraska Gamblers Assistance Program.

Date: 2/12/2020

Signed: 
Mayor Alan Zavodny


City Clerk Joan Kovar



Mayor Zavodny stated: “Ray, you have been extremely patient with us, not only tonight but out for several months on this, and I am going to ask you to continue that because I am going to recommend that we table this, and....you don’t like surprises either. Well, the good news is, especially when we have Court tomorrow, we have to keep you around, and we’ll have a discussion moving forward too, so....”

Council member Trowbridge made a motion to table consideration of the Building Inspector position and Council member Hotovy seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Vandenberg, Kobus, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Mayor Zavodny stated the next agenda item was Consideration of purchasing the Ball Field from the Ball Association.

Jason Lavicky stated: "I had some really good meetings with Clayton and Bill Buntgen. We have the dollar amount that we talked about. Bruce was able to get us a price on what that Gator would be. I had a question on the use of the fields going forward, as being designated as the Ball Fields and if that would ever change; that the purpose of the fields would always be the fields."

City Administrator Keller stated: "Yes, the conversation we had was, he wanted to make sure that we didn't buy the fields and then let some developer come and buy them off of us, and so that we would make sure that they stayed as the Baseball Fields."

Jason stated: "I didn't mean it out of disrespect, but it was a concern that I had, that the purpose of the fields would be the fields."

City Administrator Keller stated: "I thought it was an appropriate concern, so I think we can work that into the purchase agreement that they have the right..."

Mayor Zavodny stated: "of first refusal. To buy the fields back to keep them as ballfields. Say some business wants to come in because it has direct access to the railroad right there, and we as a City go...Oh, we have the place, you put your access to the railroad...."

Jason stated: "Dollar signs."

City Attorney Egr stated: "Maybe you could put language in the agreement, if you want to make sure that we still have ball fields and a ball program, that the Ball Association has first chance to buy it, but if they can't buy it, the proceeds would be used to reestablish ballfields elsewhere."

City Administrator Keller stated: "So the price on the debt is \$109,556.31."

Discussion followed.

Mayor Zavodny stated: "I think this is something we should figure out how to do, but how do we pay for it?"

City Administrator Keller stated: "We have the \$60,000.00 in the Parks budget right now from Sales Tax for recreation."

Mayor Zavodny asked: "Are we absolutely positive, that that would be a qualifying thing to do, to commit sales tax money as part of that third leg of the stool, once Downtown is taken care of? But then we have to figure out how to facilitate it till that is available. Any ideas?"

City Attorney Egr stated: "I think it would."

Council member Trowbridge stated: "Moving forward without this project, we are going to keep coughing \$20,000 a year into the ball association and get nothing back for it other than a program. If you don't, you will have a room full of people when that day comes."

Jason Lavicky stated: "Skip, I wouldn't say nothing, I would hope that you would say..."

Council member Trowbridge stated: "You would have entertainment value, and educational value, and play value for the kids that were in the program for five years, but you have nothing concrete."

Mayor Zavodny stated: "He is talking about, do we have a tangible thing for the money we've spent?"

Jason Lavicky stated: "Other than the sales tax that gets generated from the program and people coming to town making purchases. For a suggestion on how to pay it, Municipalities can borrow the money, why not assume the debt or take out a new debt, new loan, against the ballfields and roll it on a 10 or 15 year and make an annual payment?"

Mayor Zavodny stated: "That's an option; I'm looking at to have the money in place. You know, Downtown is going to take a while to get enough generated to pay that off. We've paid off the first leg that was Northwest Drainage, that project is complete at roughly \$2,000,000 which is more than it was supposed to be, so that leg of the stool has been accomplished. Downtown, we are still not done with because we haven't even had our "punch list" walk through. To me, I think we need to prioritize."

Much discussion followed.

Council member Trowbridge stated: "Let's think about taking \$109,000 from one of our reserve accounts, and structuring \$20,000 a year to go back in to repay it, from sales tax. That way we won't spend any more money than we were going to spend annually, anyway. We can put together an agreement that satisfies everybody as to what happens when WalMart pulls their check book out, which isn't going to happen."

Mayor Zavodny stated: "Structuring it that way makes a lot of sense."

Jason Lavicky stated: "You would take the money out of the reserves and pay off the debt and then we would have a closing agent do a real estate transfer to the City, and then when that debt is paid off, you would have the ownership."

Discussion followed in which it was stated that if we borrowed the money from a reserve account, then we would basically be paying ourselves back from Sales Tax revenues. It was noted that if "for example" we borrow the money from Electric Reserves, then we need to "make sure" that the Electric Reserves is re-paid in full from Sales Tax. We could put this in a promissory note or a resolution.

Council member Hotovy stated: "We've got a line as to what we're going to want, how we're going to pay for it, how we can structure that, how we can structure a purchase agreement, so now you just need to put it all together and bring it back to us."

Mayor Zavodny stated: "Let's table agenda item #29 and get the written agreement put together so we can ratify it."

Council member Hotovy made a motion to table consideration of purchasing the ball field from the Ball Association to the February 26th Council meeting. Council member Trowbridge seconded the motion. Voting AYE: Council members Vandenberg, Pat Meysenburg, Bruce Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Council member Bruce Meysenburg stated that he was able to get a quote from his son for the government pricing on a 2019 John Deere Gator for \$7,445.55; they dropped \$2,700 off the price. The Council all agreed the price is half of what they expected: "Good job, Bruce!"

Mayor Zavodny stated: "Ok, here is where we are going to fight a little. To me, it makes a lot of sense to have it for the Park Department to get in between... you know when tree branches are down it's hard to get around that. So the question is, how do we utilize it? I want it, I need it, there is going to be some overlap of when it gets utilized. If we would do something like this, how would we allocate its usage? I don't think we can dedicate it strictly for the ball fields."

Council member Bruce Meysenburg stated: "You're not going to be able to use it during ball season, or very little probably."

Council member Hotovy stated: "That's the thing, they end up having ball games on Tuesday night and they get out there to work the fields and the Gators down at the Auditorium, what are you going to do? (Someone said "so get it".) After hours? Are we going to give the ball people the key to go get it at the Auditorium?"

Jason Lavicky stated that the fields are normally getting prepped during the day by the person they hire part-time to do so.

When questioned where the Gator would be stored, all agreed it should be inside a shed or something. Jason Lavicky stated that they have a garage by the ball fields where it could be stored.

City Administrator Keller stated: "I figured we could use the recreation sales tax to pay for it."

Council member Trowbridge made a motion to approve the purchase of the 2019 John Deere Gator for \$7,445.55 and Council member Hotovy seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Vandenberg, Kobus, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

There being no further business to come before the Council, Council member Hotovy made a motion to adjourn. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Pat Meysenburg, Bruce Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:34 p.m.



CERTIFICATION OF MINUTES
February 12, 2020

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 February 12, 2020; 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