

## CITY COUNCIL PROCEEDINGS

March 11, 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 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on March 5<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the 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 Tom Kobus, Dana Trowbridge, Kevin Hotovy, Bruce Meysenburg, John Vandenberg, and Pat Meysenburg, City Administrator Clayton Keller, City Attorney James Egr, and City Clerk Joan Kovar.

Also present for the meeting were: David Ziska/ Senior Engineer of Olsson, Senior Civil Engineer Don Heine of Thompson, Dreessen, & Dorner, Inc. of Omaha, Ben & Holly Harris, Superintendent Chad Denker of David City Public Schools, Mrs. Marianne Long & son Frank, Sheriff Tom Dion, Planning Commission Members Janis Cameron & Keith Marvin, Street Supervisor Chris Kroesing, and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

Council President Kevin Hotovy informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and asked those present to please silence their cell phones.

The minutes of the February 26, 2020 meeting of the Mayor and City Council were approved upon a motion by Council member Trowbridge and seconded by Council member Pat Meysenburg. Voting AYE: Council members Bruce Meysenburg, Hotovy, Kobus, Vandenberg, Pat Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to approve Pay Estimate #17 to Eriksen Construction Co., in the amount of \$69,552.61 for the Wastewater Treatment Plant Project. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Pat Meysenburg, Bruce Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

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

Council President Hotovy asked for any comments or questions concerning the Committee and Officer Reports.

There being none, 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 Vandenberg, Pat Meysenburg, Bruce Meysenburg, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Senior Civil Engineer Don Heine, of Thompson, Dreessen, & Dorner, Inc. of Omaha, stated: "This is for a replat of the area for the David Place Addition. Currently that's platted into several different lots so the replat cleans it up all into one lot for the future addition they are doing. These easements, that we are asking to be released, are easements that were never utilized."

Council member Trowbridge introduced Ordinance No. 1334 releasing/vacating utility easements between 10<sup>th</sup> & 11<sup>th</sup> and Nebraska & Iowa Streets, for a David Place addition. Council President Kevin Hotovy read Ordinance No. 1334 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 Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Trowbridge, Kobus, Pat Meysenburg, and Bruce Meysenburg. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to pass Ordinance No. 1334 on the 3<sup>rd</sup> and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Pat Meysenburg. Voting NAY: None. The motion carried and Ordinance No. 1334 was passed on 3<sup>rd</sup> and final reading as follows:

#### **ORDINANCE NO. 1334**

AN ORDINANCE RELEASING/VACATING UTILITIES EASEMENTS;  
PROVIDING FOR AN EFFECTIVE DATE THEREOF; AND PROVIDING FOR  
PUBLICATION IN PAMPHLET FORM.

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

SECTION 1: The Mayor and City Council of the City of David City, Nebraska would like to release/vacate the easements for utilities that were recorded in the Butler County Clerk's Office as follows:

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

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

All that part of 11<sup>th</sup> 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 5<sup>th</sup> Addition, Iowa Street and Block 1 of Miles 6<sup>th</sup> Addition to David City, 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.

15' utility easement shown on the plat of High Addition, an addition to the City of David City, Nebraska, as surveyed, platted and recorded in Butler County, Nebraska.

SECTION 2: The Mayor and City Council received a request by David Neef, of Thompson, Dreessen, & Dorner, Inc., a Nebraska Corporation, (a/k/a TD2 Engineering &

Surveying) who is replatting the property at 260 So. 10<sup>th</sup> Street (commonly known as David Place) to facilitate a new building addition, and is requesting that the aforementioned easements be released.

SECTION 3: The utility departments of the City of David City have acknowledged the above-mentioned request and have no objections to the request.

SECTION 4: The Mayor and City Council have found and determined that it is in the best interests of the City and is expedient for the public good to release/vacate said easements for utilities.

SECTION 5: The City of David City hereby releases/vacates the easements for utilities that were recorded in the Butler County Clerk's Office as follows:

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

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

All that part of 11<sup>th</sup> 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 5<sup>th</sup> Addition, Iowa Street and Block 1 of Miles 6<sup>th</sup> Addition to David City, Nebraska.

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15' utility easement shown on the plat of High Addition, an addition to the City of David City, Nebraska, as surveyed, platted and recorded in Butler County, Nebraska.

SECTION 6: Any and all Ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this Ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 7: This Ordinance shall be published in pamphlet form and shall be in full force and effect following its passage, approval, and publication as provided by law and City Ordinance.

**PASSED AND APPROVED** this 11<sup>th</sup> day of March, 2020.

ATTEST:

\_\_\_\_\_  
MAYOR ALAN ZAVODNY

\_\_\_\_\_  
CITY CLERK JOAN E. KOVAR

Council member Kobus made a motion to approve a Water Purchase Agreement with TransCanada Keystone Pipeline, LP allowing them to purchase water in bulk from the City. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Vandenberg, Hotovy, Bruce Meysenburg, and Kobus. Voting NAY: None. The motion carried.

## **WATER PURCHASE AGREEMENT**

This Agreement is made and entered into on this 11<sup>th</sup> day of March, 2020 ("Date"), between TransCanada Keystone Pipeline, LP ("Company"), with a mailing address of 700 Louisiana Street, Suite 700, Houston, TX 77002, and the City of David City, Nebraska, an incorporated municipality, with a mailing address of PO Box 191, David City, NE 68632 ("City").

### **WHEREAS:**

- A. City owns and operates a municipal water system;
- B. Company is a duly organized pipeline company that is constructing the Keystone XL pipeline and needs to acquire water for use in its construction, including but not limited to, for use in dust control, dust abatement, horizontal directional drilling, and hydrostatic testing of sections of the Keystone XL pipeline;
- C. City has the capacity to provide water in sufficient quantities to meet Company's needs, so long the sale of water is not a detriment to City's needs, and Company wishes to purchase water from City for its needs.

**NOW THEREFORE**, in consideration of the sum stated herein, the receipt and sufficiency of which is hereby acknowledged by City, and of the mutual covenants and terms and conditions contained herein, the parties therefore agree as follows:

### **1. PURPOSE**

Under this Agreement, City will sell water to Company on the conditions stated herein. Company agrees to pay for the cost of the water at the rates indicated herein and to maintain its water systems in good condition to accept delivery of the water supply.

### **2. SUPPLY OF WATER**

City shall furnish potable water to Company, and Company may fill its trucks and tanks with water from City's pump station in an amount not to exceed 40,000 gallons per day, with a maximum daily average over the course of a month not to exceed 40,000 gallons per day. City will collect monthly meter readings of the water received by Company. If the meter reading equipment fails during any period, City shall determine the amount of water used in that period by the use of an historical average of Company's use, unless City and Company agree to use a different meter reading amount.

### **3. METERING EQUIPMENT**

City will install a meter and required devices of standard type for properly measuring the quantity of water received by Company.

### **4. FILL TIMES & POINT OF RECEIPT (POR)**

There are no restrictions on the fill times or dates for Company to receive City water. The City's water system is available to Company twenty-four hours per day and seven days a week. POR for City's well location is Water Treatment overhead sell near the power plant by N 11th St. GPS Coordinates: 41.254717, -97.119327.

5. **PAYMENT FOR WATER**

Company shall pay City a monthly administrative fee of One Hundred Forty-Six Dollars and Fourteen Cents (\$146.14) during each month that it receives water. In addition to the administrative fee, Company shall pay City the sum of Three Dollars and Forty-One Cents (\$3.41) per 1,000 gallons of water for the first 10,000 gallons, and Three Dollars and Eighty-Seven Cents (\$3.87) per 1,000 gallons over 10,000 gallons, to fill the Company's trucks and tanks. Company shall also deposit the sum of Two Hundred Sixty-Five Dollars (\$265.00) ("Deposit") with City before receiving any water to secure payment during the term of this Agreement. The Deposit shall be returned to Company at the end of the Agreement, except for the deduction of any unpaid statements as set forth below in Section 6.

6. **TIME OF PAYMENT**

City shall provide Company a statement showing all amounts due and the volume of water pumped and received by Company each month. Company shall pay all amounts due within 45 days of the date of the statement. If Company fails to pay the amounts due within that time frame, this Agreement will be terminated, and City can deduct those outstanding amounts from the Deposit.

7. **INTERRUPTION OF SERVICE**

Company's use of City's water is subject to and governed by City's other provisions of ordinances and resolutions for receiving water. City shall have the right to interrupt water service to Company during times of capacity shortage, regardless of the cause of the shortage. For the avoidance of doubt, preference will always be given to municipal water needs over Company's water needs during times of capacity shortage.

8. **INTERRUPTION OF SERVICE DURING REPAIRS**

City has the right to temporarily interrupt or reduce the amount of water available to Company for the purpose of maintaining, repairing, replacing, investigating, or inspecting any of the City's water works, so long as City gives Company reasonable notice of such interruption or reduction. In such event, City shall not be responsible for any damage or inconvenience arising from such interruption or reduction in water service.

9. **PERMITTING**

City will be responsible for obtaining any permitting, and providing any documentation needed thereunder, required under state or local rules and regulations that is necessary to allow for the sale and transfer of municipal water to Company for use as specified in this Agreement.

10. **TERM**

This Agreement shall remain in effect for a period of two (2) years ("Term") after the date that Company first receives water from City. Company and City shall have the right to terminate this agreement before the expiration of the Term by providing written notice, via U.S. certified mail at the addresses listed above, of its intent to terminate this Agreement at least three (3) months prior to the termination of water services under this Agreement.

11. **INDEMNITY**

Each party shall indemnify and hold the other party and its elected officials, officers, agents and employees, harmless from liability for any damage or claims stemming from the indemnifying party's activities and obligations specified herein, except as to claims that are the direct or proximate result of the reckless conduct or intentional actions of the party to be indemnified.

12. **SEVERABILITY**

If any provision of this Agreement is invalid under any applicable statute or is declared invalid by a court of competent jurisdiction, then it shall be deemed to be severed from this Agreement provided, however, that the remainder of this Agreement shall continue in full force and effect.

13. **FACSIMILE AND COUNTERPART**

This Agreement may be executed and delivered (including by facsimile or other electronic transmission) by the different parties hereto in separate counterparts, each of which will, when executed, be deemed an original and all of which taken together will constitute one and the same Agreement.

14. **ENTIRE AGREEMENT**

This Agreement represents the entire agreement of the parties and can only be modified by a written agreement of the parties.

The parties are executing this Agreement as of the Effective Date.

TRANSCANADA KEYSTONE PIPELINE, LP  
by its agent TC Oil Pipeline Operations Inc.

Signed: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Signed: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[CITY]

Signed: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

Mayor Alan Zavodny arrived at 7:10 p.m., so Council President Hotovy turned the meeting over to him.

As it was not yet 7:15 p.m., which was the designated time for the Public Hearing, Council member Hotovy made a motion to advance to Agenda Item #14 – Consideration of the David City Public Schools' request that a fire hydrant be installed on the corner of 8<sup>th</sup> & "D" Streets. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Bruce Meysenburg, Pat Meysenburg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Superintendent Chad Denker of David City Public Schools stated: "As we started doing our excavating, we realized that the closest fire hydrant is actually, from the 1916 building, over a block away. We thought while we are doing all this work, now would be the time to have that conversation about a fire hydrant. There is a fire hydrant just west of the Methodist Church, and there is a fire hydrant across the street to the east of our bus lot. So, the 1916 building starts on fire, the fire departments going to be hauling hose about a block and one-half to get to that 1916 building, so our thought was, now would be the opportune time to put one on the southeast corner of 8<sup>th</sup> and "D" Street. I talked to Fire Chief Matt Hilger, who said the fire department would love to have one there as they've had the same concern as we did, and this would expedite things and make it a lot more efficient. We are willing to cost share it, or even pay the bulk of that expense. We have no idea what it would cost. When we were going to put in on the north side of "D" it was about a \$5,000 project; I'm not sure if we put it on the south side what additional expense we would have. We don't necessarily need an answer tonight, we just started this new addition project, but we thought while we have a plumber there it just makes sense that if we are going to do this, we'd like to do it now. I'd be more than willing to come back in a month with an exact price for you, so we could talk about it in more detail, but if the City says "we don't want it, we don't want to maintain it", then it's a mute point."

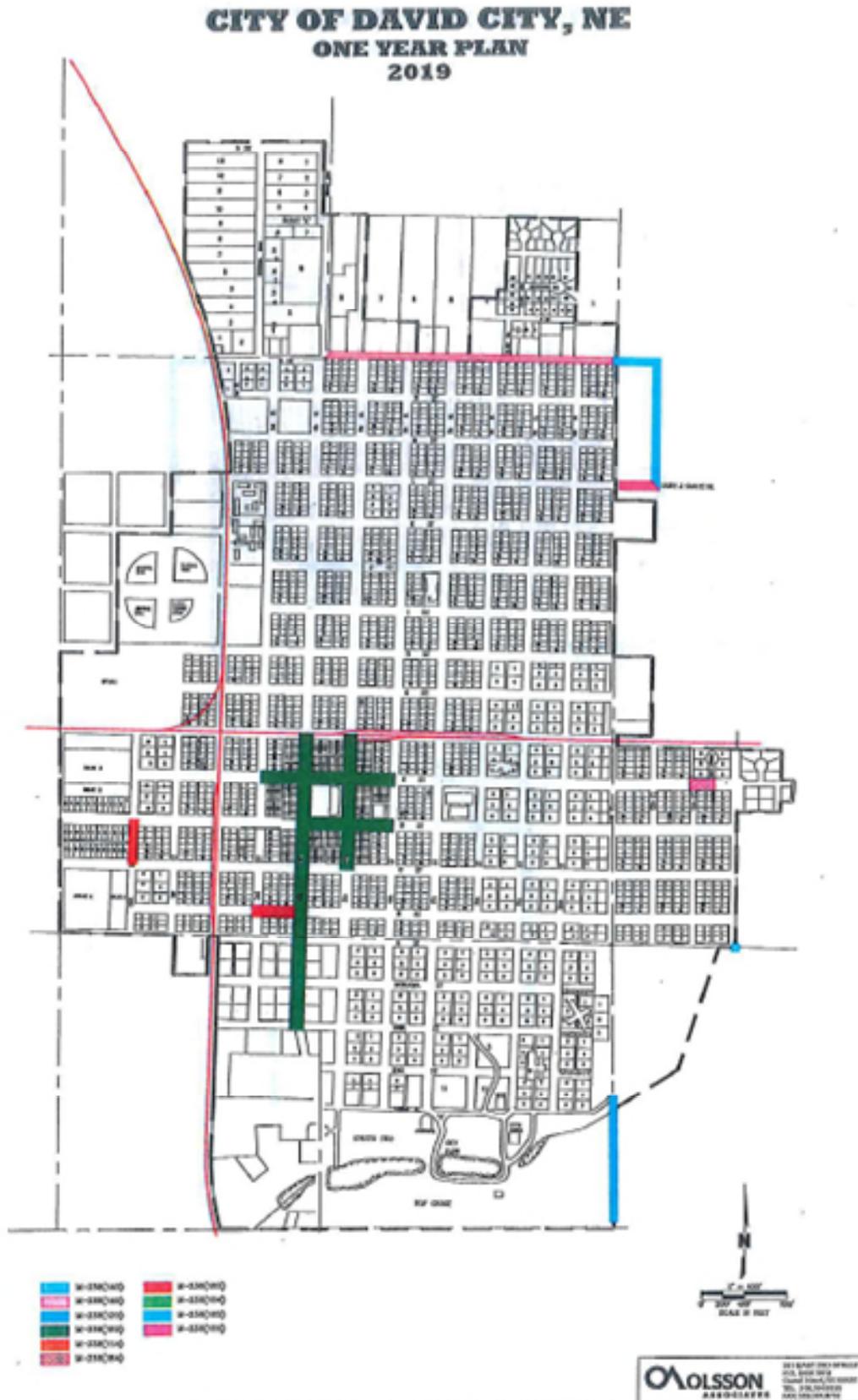
Mayor Zavodny stated that this did seem like a good time to take care of fire safety, but that he thought they would like to see some numbers concerning costs. Discussion followed. Superintendent Denker stated that they are very willing to work with the City and that he would bring back some final numbers next month.

At 7:17 p.m. Mayor Zavodny opened the Public Hearing to consider the adoption of a One-Year and Six-Year Street Improvement Program for the City of David City, Nebraska. Mayor Zavodny asked if anyone wished to comment during the Public Hearing.

Council member Bruce Meysenburg stated: "What's the priority on "O" Street? That's been kind of one of my pet peeves."

David Ziska of Olsson stated: "In accordance with the Nebraska Board of Public Roads Classifications and Standards, each community in the State is required to have a Public 1 + 6 year hearing to give the community and its residents the opportunity to come to a meeting such as this and comment on the streets. Talking to Chris, (Street Supervisor Kroesing) these were some of the priorities at least some of the areas of concern. There is a one year plan and there is a six year plan. This is a planning exercise which is required by the State as part of the allocation that you receive for your streets and roads every year. We do have "O" Street on there, as well as several other streets. We also put together some rough cost estimates for some of these streets for budgeting purposes. The City receives approximately \$330,000 in an allocation from the State every year, only for streets and roads; that can be repairs, equipment, personnel, anything that has to do only with your roads and streets. The community is not

obligated to do these projects but they do want the public to have the opportunity to review what you are considering and make comments.”





Mayor Zavodny stated: "One of the things that we may want to touch on quickly, and then we will get to "O" Street, is, in the past I know it has been somewhat frustrating for Chris because we have streets that at certain points aren't even passable because all the asphalt is gone and it's a mud hole, and maybe people are taking trucks on it, those kinds of things have happened in the past, but just giving Chris some direction, are we going to try to limp by with some of those? Some of those are shorter expanses too, maybe a block here and there; to maintain them the best we can. What direction would we like to give Chris on those types of things?"

City Administrator Keller stated: "Chris and I took a tour of town yesterday and looked at some of the streets and one of my thoughts is, if we stretch our budget this year we can take care of a lot of the, not the highest priority, but the high priority issues and that allows us to save more money for next year to knock out the highest priority. If we do "O" Street this year, we can't do any other street this year, and so my thoughts are if we focus on a lot of the other streets this year, then we can knock out "O" Street next year and have a little bit left over to continue maintenance of all the other streets."

Mayor Zavodny stated: "Well then, maybe I am under a misunderstanding. Do you have a cost estimate for "O" Street? I thought that was pretty cost prohibitive to us if we're going to curb and gutter it, for that long of an expanse, and thick concrete with the type of truck traffic that it receives. What is the "O" Street expense? I don't see how we could do that; I think that's going to take a sales tax or something...."

Council member Trowbridge stated: "I thought it was 1.8 million at one point in time."

David Ziska stated: "4<sup>th</sup> to 12<sup>th</sup> Street, 27' wide, 8" concrete, curb & gutter, storm sewer; estimated at 1.2 million.

Mayor Zavodny stated: "I remember a much higher number than that; my confidence in that number isn't super high right now. For the purposes this evening, I agree with Council member Trowbridge, let's revisit the "O" Street numbers. Take care of the ones that you can, we're probably not addressing the highest priority which would be our preference, but if you don't have the money, it doesn't do any good to talk about it at this point."

Discussion followed.

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 7:31 p.m.

Council member Hotovy introduced Resolution No. 10 - 2020 and moved for its passage and adoption. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Kobus, Vandenberg, Hotovy, Trowbridge, and Bruce Meysenburg. Voting NAY: None. The motion carried and Resolution No. 10 - 2020 was passed and approved as follows:

**RESOLUTION NO. 10 - 2020**

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on March 11<sup>th</sup>, 2020, in accordance with the requirements of the Board of Public Roads Classifications and Standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the One Year and Six Year Street Improvement Plans for Streets, as presented at the public hearing, are unanimously accepted.

PASSED AND APPROVED this 11<sup>th</sup> day of March, 2020.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar

The request of Ben & Holly Harris, 372 West C Street, to have 2 female pygmy non-breeding goats in their yard as pets was discussed.

City Administrator Keller stated: "After we received a phone call, I started looking at the City codes and we do have a provision for a livestock permit which allows a number of animals in the city limits. A lot of people thought we did not have something like this, but we do have something like this, and it does allow goats. What's needed is that the applicants make application to the City Council, if they approve it, the applicants are given a permit upon receipt of \$10.00, and I set \$10.00 because that's we charge chickens and those can be considered a farm animal, goats would be considered a farm animal, I figured that's a fair price. So, I've given the Council a memo, explaining my thoughts, and also an article written by the American Planning Association a few years back that explains that micro-livestock farming in cities is not a big deal, in fact, it's helpful for animals and a lot of people would tell you "they're noisy, well they stink", well if you read the article they're not any more noisy, not any more stinky than a dog or cat, and if you guys are going to use that as an excuse to not allow the permit, you need to take a look at not allowing dogs and cats."

Council member Trowbridge stated: "My cats' poop in a box; let's talk about that. Do goats poop in a box and it gets cleaned up twice a day?"

City Administrator Keller stated: "No, but if the owners would like, they can sell the manure from the goats. According to the article it can be very valuable for farmers."

Mayor Zavodny stated: "With our chickens we are very careful to say non-crowing, so no roosters or crowing chickens. I have no idea what a pygmy goat sounds like; what a sound it makes or how loud it is, can you help us with that?"

City Administrator Keller stated: "I got a call from some folks that have two pygmy goats right now. They were not aware that a permit was needed, but they called me willing to comply, willing to work with the City, saying "let us know what we need to do to get a permit".

Council member Trowbridge stated: "Have we inspected the property? The goats have been there a while from what I understand."

City Administrator Keller stated: "I went by yesterday to check it out, I was told by the lady that 200 square feet is recommended for proper care of the goats, and their backyard is appropriate. It is fenced in, so I would assume the goats would stay in the fence and be properly taken care of. The Council can require that they make sure the goats stay within the fence and that the goats aren't a nuisance to the neighborhood."

Mayor Zavodny asked: "As far as the permit goes, would the 200 square foot requirement be written into it?"

City Administrator Keller stated: "Our City Code doesn't specify that, but we can write that into the permit."

Mayor Zavodny stated: "So, it seems to me, it is an allowable thing to have, based on our code, so the next step is the permitting process? Is that where we are at; them applying for the permit? I think we are okay, because they have to go through the permitting process. Before we would grant the permit, we can make sure all of our concerns and questions are answered. So, we in agreement that if he can start the permitting process, we'll consider it down the road? We good; everybody okay with that? Alright. Thank you for coming in this evening and helping us understand what you are asking."

Superintendent Chad Denker, David City Public Schools stated: "Let me start out by saying, I am not expecting an answer tonight because we understand this is a big decision. We are requesting to install concrete barriers at the crosswalks on "E" Street between the High School weight room, or the commons area, and the Elementary. There is just a lot of traffic on "E" Street, we've got 300 kids that go over there to eat every day, that is our only cafeteria, in the elementary. If you sit there on "E" Street any given day, you will see 12 – 15 cars go through those stop signs. A couple years ago we did put some red flashing lights there hoping that would draw extra attention to it, and I actually think people speed up when they see that instead of slowing down. What's made it worse is we've now added all day pre-school and so we now also have 4-year old's, or even 3-year old's, also crossing that street for lunch every day. So, we have about 320 kids a day crossing and it's just not very safe at times, and so what we're requesting is to close that down. We know there are going to be some negative comments on this, we are very aware of that, we are very in tune with the community; we know that's a main thoroughfare east and west through town. What I would tell you, is that if you tell me no, I can at least go to my constituents and say "We asked, we were denied". What we're simply asking: "would you at least take some time to consider it?", and at least consider the proposal knowing that there may be some push back from the community. We are just hoping that if you grant this, that you would give us enough time so that this summer, we could put the concrete barriers in place and have it up and running for next school year. So, we wanted to start the conversation now, and not just spring it on you two weeks before school would start."

Council member Hotovy asked: “How far out is your guys’ crystal ball? Are you wanting to eventually go to basically a closed campus; is that your plan?”

Superintendent Denker stated: “If that street wasn’t there, yes, that would afford us some latitude to do some different things down the road. For example, I would love to move the pre-school building, that modular building, closer to the elementary.”

Council member Hotovy questioned if they actually just wanted the concrete barriers by the crosswalk, or by the intersections; the traffic flow is also a problem that needs to get figured out. Much discussion followed.

Superintendent Denker stated: “You won’t see another building addition for at least 8 – 10 years as it will take 7 years to pay off this new addition. In the meantime, if we set these concrete barriers right here (by the pedestrian crosswalk) it allows us to maintain the traffic flow between the two parking lots that we have right now, and so people that would park on the west side of the elementary could still come into that lot, the only difference is when they go through that loop they would have to head back west, they wouldn’t be able to turn left out of that lot because there would be concrete barriers right there, so they’d have to go west. The people that come through the circle drive in front of the building on the south side of the elementary would still come the same way they do now, but when they get to the end of that circle drive they have to take a left and head back east, and so it actually, we think, helps with some potential traffic flow. It would literally be just like it is pictured and then we would put signs on 9<sup>th</sup> Street and 7<sup>th</sup> Street saying “Not a through Street”; we’d put two signs on each end.”



Discussion followed.

Street Supervisor Kroesing stated: "I am all about the safety, 100%, but instead of closing down and barricading a road for all the time, what about temporary barricades during school, like during lunch time and stuff. We have light duty barricades that you could put across the road that are 8' long."

Council member Kobus stated: "They'd probably run those over."

Interim Water Supervisor Gustin stated: "We have an 10" water main, I know you are talking down the road, but if you wanted to set a building right on that street, there's a 10" water main that runs right there, converts to an 8"; it's one of the main feeds to the entire downtown area. There would be mandatory access to that and everything else for that."

Superintendent Denker stated: "It wouldn't have to be exactly on the street. We are very aware of that."

Street Supervisor Kroesing asked: "So, if the Council would allow you to put up concrete barricades on "E" Street because the kids are crossing, are you going to concrete barricade "D" because the kindergarten and preschool students have to cross that too?"

Superintendent Denker stated: "Not right now. The other issue is, for whatever reason, on "D" Street we just don't get near the traffic as we do on "E"."

Mayor Zavodny stated: "You will if you close "E" Street."

Superintendent Denker stated: "The other nice thing with the preschool, it's 15 or 20 kids and we do have two adults there, and so yes that's an issue, but the bigger issue is with the 300 high school kids when we don't have the manpower to be out there for 1½ hours monitoring "D" Street."

Much discussion followed.

Council member Trowbridge stated: "Why don't you just put the barricades in early and be done with it. We can investigate this for 14 more weeks and not come up with any better ideas than have been presented this evening; there aren't any. It's a public safety issue, and as we sit here as a group and we now know that this is a potential problem, and it is, I'd like to get it fixed sooner than later."

Council member Hotovy made a motion to table consideration of installing barriers across "E" Street for the David City Public Schools to the March 25<sup>th</sup> Council meeting, so that a resolution can be drafted. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Pat Meysenburg, Bruce Meysenburg, Hotovy, Vandenberg, and Kobus. Voting NAY: None. The motion carried.

At 8:04 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/Convenience Storage Units, by deleting "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 required, a total of 35% of all buffers shall be landscaped; and 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". Mayor Zavodny asked if anyone wished to comment during the Public hearing.

Planning Commission member Keith Marvin stated: "This is just a housekeeping thing that was brought to our attention. Everything that's in here are items that we have never enforced, and if you look at the regulations on the buffers, if you look at the buffer requirements within the Industrial District there's already a buffer requirement as part of that district, so we are just including another buffer on top of that buffer. None of the other storage units have fencing around them, you can walk right up to them. You look at Samek's storage units (3<sup>rd</sup> & "H") and the doors open right up to 3<sup>rd</sup> Street."

Mayor Zavodny stated: "We have way more of these kinds of instances than we should, in a City of our size, in that some people are required to follow this set of rules, some people are required to follow this set of rules, and it's not fair and that's just kind of how it goes. So to me, fixing these incrementally, as we try to do, is a better way to go than to have offenders that are out there because they are in violation. So, if we can live with this, it seems to be a good approach."

Council member Trowbridge stated: "It is to a point, and the point is that we don't want a community full of storage units on a one lot basis; that there's house, house, storage unit, house. I don't believe that that's what the community wants, and I don't believe that's what a community that looks good looks like, and by taking all of this out, that's what we allow, but we need to be flexible in these particular cases. This particular one is a lot that would probably never sell for anything if it wasn't a storage unit or a commercial something. Nobody would want to build a house on this particular lot. But, if I've got a nice row of houses and there's one old shack in the middle of it that I could buy really cheap and either burn down or knock down and put a storage unit in, it'd be wonderful, but I don't know how you keep me from doing that."

Planning Commission member Keith Marvin stated: "These are still Conditional Use Permits that would be reviewed on a case by case basis."

Council member Trowbridge stated: "Then I'm comfortable with that because I don't want a town full of every 4<sup>th</sup> or 5<sup>th</sup> building is a storage unit."

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 8:10 p.m.

Council member Hotovy introduced Ordinance No. 1339, amending Zoning Ordinance No. 1060, Article 8: Supplemental Regulations, by amending Section 8.07 Self Storage Units/Convenience Storage Units, by deleting Sections 8.07.05, 8.07.06, and 8.07.08 as described above. Mayor Zavodny read Ordinance No. 1339 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 Vandenberg, Bruce Meysenburg, Kobus, Hotovy, Trowbridge, and Pat Meysenburg. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1339 on the 3<sup>rd</sup> and final reading. Council member Trowbridge seconded the motion. Voting AYE: Council members Pat Meysenburg, Kobus, Vandenberg, Hotovy, Bruce Meysenburg, and Trowbridge. Voting NAY: None. The motion carried and Ordinance No. 1339 was passed on 3<sup>rd</sup> and final reading as follows:

**ORDINANCE NO. 1339**

AN ORDINANCE, TO AMEND ZONING ORDINANCE NO. 1060, BY AMENDING: ARTICLE 8: SUPPLEMENTAL REGULATIONS, BY AMENDING SECTION 8.07 SELF STORAGE UNITS / CONVENIENCE STORAGE UNITS, BY DELETING 8.07.05, 8.07.06, AND 8.07.08; 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 11<sup>th</sup> day of March, 2020.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

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

City Administrator Keller stated that he keeps trying to get in touch with Jason Lavicky but he has been swamped with work. Discussion followed.

Council member Hotovy made a motion to table consideration of purchasing the ball field complex from the Ball Association with the understanding that we need to get this done at the next meeting. Council member Trowbridge seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Hotovy, Bruce Meysenburg, Kobus, and Vandenberg. Voting NAY: None. The motion carried.

Street Supervisor Chris Kroesing stated: "I budgeted for purchasing an asphalt planer attachment in my budget and so now I am just asking for approval."



**Product Quotation**

Quotation Number: 26094D027328  
 Date: 2020-03-09 15:04:20

Ship to	Bobcat Dealer	Bill To
CITY OF DAVID CITY Attn: Chris Kroesing 174 E ST DAVID CITY, NE 68632 Phone: (402) 367-3109 Fax: (402) 367-3126	Central Nebraska Bobcat, Grand Island, NE 3809 WESTGATE ROAD GRAND ISLAND NE 68803-4927 Phone: (308) 384-9222 Fax: (308) 384-1491  Contact: Rick Kraft Phone: (308) 384-9222 Fax: (308) 384-1491 Cellular: (308) 390-9010 E Mail: rick@cnebobcat.com	CITY OF DAVID CITY Attn: Chris Kroesing 174 E ST DAVID CITY, NE 68632 Phone: (402) 367-3109 Fax: (402) 367-3126

Description	Part No	Qty	Price Ea.	Total
18" Planer, High Flow	M7018	1	\$13,891.00	\$13,891.00
--- Drum 18 Fastcut	M7018-301-C10	1	\$3,295.00	\$3,295.00
<b>Total of Items Quoted</b>				<b>\$17,186.00</b>
Dealer P.D.L.				<b>\$100.00</b>
Freight Charges				<b>\$319.00</b>
Dealer Assembly Charges				<b>\$0.00</b>
Discount Muni Discount				<b>(\$4,124.64)</b>
<b>Quote Total - US dollars</b>				<b>\$13,480.36</b>

Mayor Zavodny stated: "This is the process we've asked them to do."

Council member Hotovy made a motion to approve the purchase of an asphalt planer attachment for the skid loader in the amount of \$13,480.36. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Pat Meysenburg, Vandenberg, Bruce Meysenburg, Hotovy, and Kobus. Voting NAY: None. The motion carried.

Interim Water Supervisor Aaron Gustin stated that to work on water main replacements, they would have to borrow the Bobcat from the Street Department, and coordinate its use between the departments. Aaron stated it would simplify things if the Water and Sewer Departments could purchase their own Bobcat Compact Track Loader. With a track loader they don't have to worry about blowing a tire. It was stated that they have a red Massey Ferguson

that they never use, and it was noted that this should be sold at the Kobza auction. Chris Kroesing suggested that if they buy a Bobcat they should purchase it on a lease purchase agreement; you buy the first machine and then you pay so much each year to trade up to a new one. Discussion followed.

Council member Trowbridge stated: "Why don't you guys put together some more ideas as to "here's exactly what we would like to do, and here's how it will work on a cash flow basis". Let's look at the options available on this piece and follow up from there."

Mayor Zavodny asked: "Can you do that for us by the next meeting?"

Interim Water Supervisor Gustin stated: "Yes".

The next agenda item was consideration of going into executive session. City Attorney Egr stated that he wanted to add an item for consideration, that being a legal issue. The Council members questioned if that was allowed since it was not on the agenda, but City Attorney Egr stated that it was allowed for executive session.

Therefore, Council member Hotovy made a motion to go into executive session to discuss 1) the building inspector position, 2) collective bargaining, and 3) a legal issue. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Hotovy, Trowbridge, Kobus, Vandenberg, and Pat Meysenburg. Voting NAY: None. The motion carried.

Mayor Zavodny stated, "Now at 8:24 p.m. we are going into executive session to discuss personnel; the building inspector position, and collective bargaining/ legal issues." Mayor Zavodny, all of the Council members, City Administrator Keller, City Attorney Egr, and City Clerk Kovar went into executive session at 8:24 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 9:02 p.m.

There being no further business to come before the Council, Council member Pat Meysenburg made a motion to adjourn. Council member Hotovy seconded the motion. Voting AYE: Council members Trowbridge, Bruce Meysenburg, Kobus, Hotovy, Vandenberg, and Pat Meysenburg. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:03 p.m.



CERTIFICATION OF MINUTES  
March 11, 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 March 11, 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.

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Joan Kovar, City Clerk