

## CITY COUNCIL PROCEEDINGS

April 22, 2020

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the lower level of the David City Auditorium at 699 Kansas Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 16<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection on the City's website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting. The meeting was held at the City Auditorium due to the COVID-19 pandemic so as to incorporate social distancing strategies. [It is recommended that individuals be kept at least 6 feet apart.]

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

Also present for the meeting were: Gary Meister, Sheriff Tom Dion, Superintendent of David City Public Schools Chad Denker, Park/Auditorium Supervisor Bill Buntgen, Building Inspector Ray Sueper and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" and asked those present to silence their cell phones.

The minutes of the April 8<sup>th</sup>, 2020 meeting of the Mayor and City Council were approved upon a motion by Council member Kobus and seconded by Council member Pat Meysenburg. Voting AYE: Council members Kobus, Pat Meysenburg, Bruce Meysenburg, and Mayor Zavodny. Voting NAY: None. The motion carried. Council members Trowbridge and Hotovy were absent.

Council member Pat Meysenburg made a motion to reappoint Marlene Hein as a Housing Authority Board of Commissioner for a 5-year term (May 2020 – May 2025). Council member Kobus seconded the motion. Voting AYE: Council members Pat Meysenburg, Kobus, Bruce Meysenburg, Vandenberg, and Mayor Zavodny. Voting NAY: None. The motion carried. Council members Trowbridge and Hotovy were absent.

At 7:03 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 West 95' of Lots 16, 17, and 18, Block 19, Original Town; (NE corner of 3<sup>rd</sup> & "E" St.) Mayor Zavodny asked if anyone had any comments concerning this rezoning.

Building Inspector Ray Sueper said, "The only thing that you may want to consider is your parking requirements for a warehouse in an Industrial zone. It involves unloading space for a semi and that type of thing."

Deputy City Clerk Comte said, "The Planning Commission did not think that was an issue."

Building Inspector Ray Sueper said, "You also have the parking in the middle of the street there, that is accessible for off hours for that loading zone, but technically I'm not supposed to count that as the loading zone should be on site"

Mayor Zavodny said, "But, for the purposes of rezoning, can we address that in the permit process?"

Building Inspector Ray Sueper said, "Yes."

Hearing no other comments, Mayor Zavodny closed the Public Hearing at 7:05 p.m.

Council member Vandenberg introduced Ordinance No. 1344 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 West 95' of Lots 16, 17, and 18, Block 19, Original Town; (NE corner of 3<sup>rd</sup> & "E" St.) Mayor Zavodny read Ordinance No. 1344 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Bruce Meysenburg, Pat Meysenburg, and Mayor Zavodny. Voting NAY: None. The motion carried. Council members Hotovy and Trowbridge were absent.

Council member Vandenberg made a motion to pass Ordinance No. 1344 on the 3<sup>rd</sup> and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Bruce Meysenburg, Pat Meysenburg, Kobus and Mayor Zavodny. Voting NAY: None. The motion carried and Ordinance No. 1344 was passed on 3<sup>rd</sup> and final reading as follows:

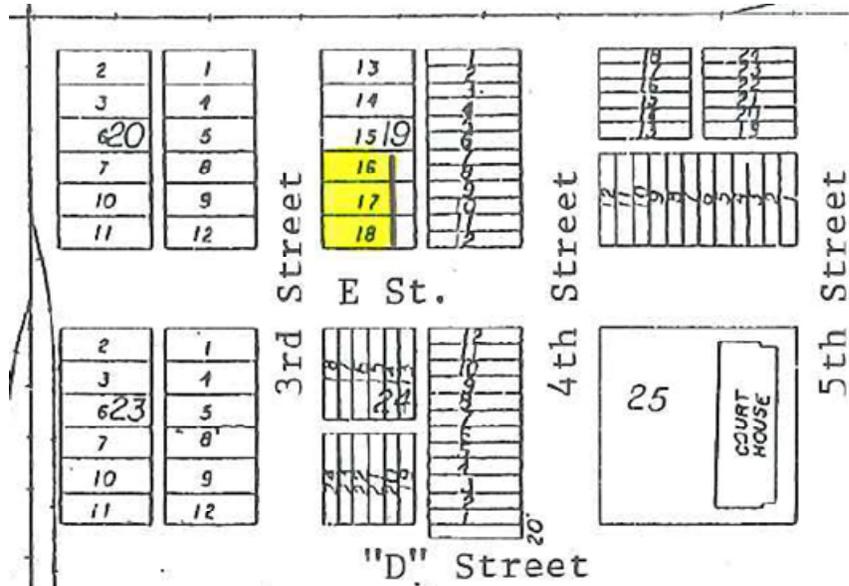
#### **ORDINANCE NO. 1344**

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE ZONING CLASSIFICATION FROM MDR – MEDIUM DENSITY RESIDENTIAL TO I – INDUSTRIAL, FOR THE FOLLOWING REAL ESTATE: WEST 95' OF LOTS 16, 17, AND 18, BLOCK 19, ORIGINAL TOWN; 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 West 95' of Lots 16, 17, and 18, Block 19, Original Town;



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 22<sup>nd</sup> day of April, 2020.

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Mayor Alan Zavodny

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Deputy City Clerk Tami Comte

At 7:08 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-1 Light Industrial for the real estate legally described as the West 95' of Lots 16, 17, and 18, Block 19, Original Town. (NE corner of 3<sup>rd</sup> & "E" St.) Mayor Zavodny asked if anyone had any comments concerning this rezoning. Hearing none, Mayor Zavodny closed the Public Hearing at 7:09 p.m.

Council member Vandenberg introduced Ordinance No. 1345 amending the Official Zoning Map by changing the zoning classification from R-2 Two Family Residential to I-1 Light Industrial for the real estate legally described as the West 95' of Lots 16, 17, and 18, Block 19, Original Town; (NE corner of 3<sup>rd</sup> & "E" St.) Mayor Zavodny read Ordinance No. 1345 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Vandenberg, Bruce Meysenburg, Kobus, and Mayor Zavodny. Voting NAY: None. The motion carried. Council members Trowbridge and Hotovy were absent.

Council member Vandenberg made a motion to pass Ordinance No. 1345 on the 3<sup>rd</sup> and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Bruce Meysenburg, Pat Meysenburg, Kobus and Mayor Zavodny. Voting NAY: None. Council members Trowbridge and Hotovy were absent. The motion carried and Ordinance No. 1345 was passed on 3<sup>rd</sup> and final reading as follows:

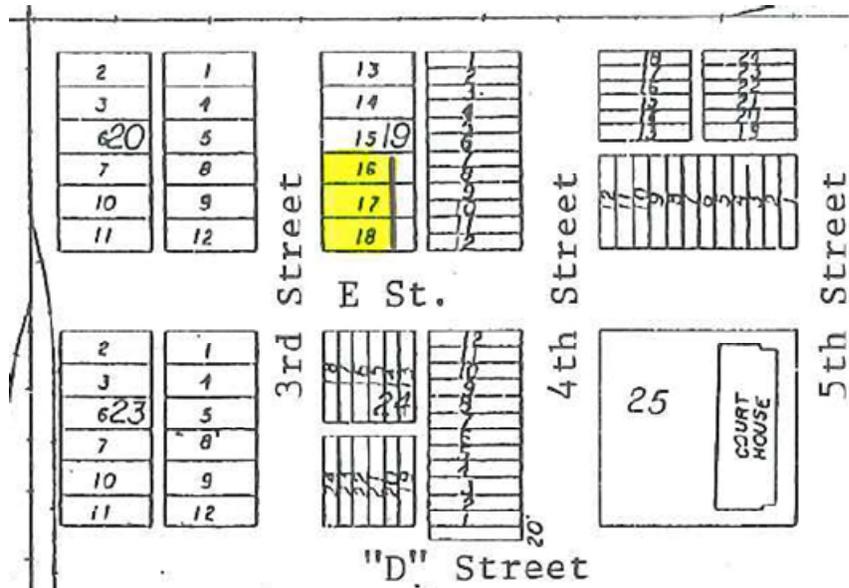
**ORDINANCE NO. 1345**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION FROM R-2 TWO FAMILY RESIDENTIAL TO I-1 LIGHT INDUSTRIAL, FOR THE FOLLOWING REAL ESTATE: WEST 95' OF LOTS 16, 17, AND 18, BLOCK 19, ORIGINAL TOWN; 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-1 Light Industrial for the West 95' of Lots 16, 17, and 18, Block 19, Original Town;



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 22<sup>nd</sup> day of April, 2020.

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 Mayor Alan Zavodny

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 Deputy City Clerk Tami Comte

At 7:11 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 HDR – High Density Residential for the real estate legally described as Lot 1 and the North 10’ of Lot 4, all in Block 8, Litty’s 1<sup>st</sup> Addition; (SW corner of 5<sup>th</sup> & “I”);

Mayor Zavodny asked if anyone had any comments concerning this rezoning. Hearing none, Mayor Zavodny closed the Public Hearing at 7:12 p.m.

Council member Vandenberg introduced Ordinance No. 1346 amending the Land Use Plan Map by changing the zoning classification from MDR – Medium Density Residential to

HDR – High Density Residential for the real estate legally described as Lot 1 and the North 10' of Lot 4, all in Block 8, Litty's 1<sup>st</sup> Addition; (SW corner of 5<sup>th</sup> & "I") Mayor Zavodny read Ordinance No. 1346 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Bruce Meysenburg, Pat Meysenburg, and Mayor Zavodny. Voting NAY: None. The motion carried. Council members Trowbridge and Hotovy were absent.

Council member Vandenberg made a motion to pass Ordinance No. 1346 on the 3<sup>rd</sup> and final reading. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Bruce Meysenburg, Pat Meysenburg, Kobus and Mayor Zavodny. Voting NAY: None. Council members Hotovy and Trowbridge were absent. The motion carried and Ordinance No. 1346 was passed on 3<sup>rd</sup> and final reading as follows:

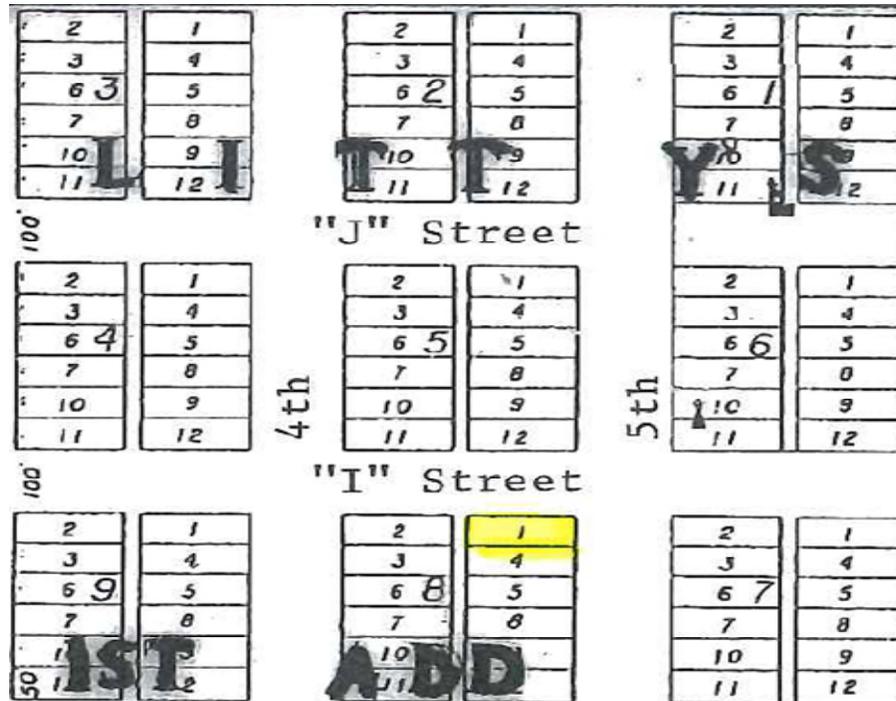
**ORDINANCE NO. 1346**

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE ZONING CLASSIFICATION FROM MDR – MEDIUM DENSITY RESIDENTIAL TO HDR – HIGH DENSITY RESIDENTIAL, FOR THE REAL ESTATE LEGALLY DESCRIBED AS LOT 1 AND THE NORTH 10' OF LOT 4, BLOCK 8, LITTY'S 1<sup>ST</sup> ADDITION; 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 HDR – High Density Residential for Lot 1 and the North 10' of Lot 4, all in Block 8, Litty's 1<sup>st</sup> Addition;



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 22<sup>nd</sup> day of April, 2020.

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Mayor Alan Zavodny

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Deputy City Clerk Tami Comte

Council member Trowbridge arrived at 7:14 p.m.

At 7:14 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 R-3 Multi Family Residential for the real estate legally described as Lot 1 and the North 10' of Lot 4, all in Block 8, Litty's 1<sup>st</sup> Addition; (SW corner of 5<sup>th</sup> & "I") Mayor Zavodny asked if anyone had any comments concerning this rezoning. Hearing none, Mayor Zavodny closed the Public Hearing at 7:14 p.m.

Council member Vandenberg introduced Ordinance No. 1347 amending the Official Zoning Map by changing the zoning classification from R-2 Two Family Residential to R-3 Multi Family Residential for the real estate legally described as Lot 1 and the North 10' of Lot 4, all in Block 8, Litty's 1<sup>st</sup> Addition; (SW corner of 5<sup>th</sup> & "I") Mayor Zavodny read Ordinance No. 1347 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Kobus, Pat Meysenburg, Vandenberg, and Trowbridge. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Council member Vandenberg made a motion to pass Ordinance No. 1347 on the 3<sup>rd</sup> and final reading. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Vandenberg, Trowbridge and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1347 was passed on 3<sup>rd</sup> and final reading as follows:

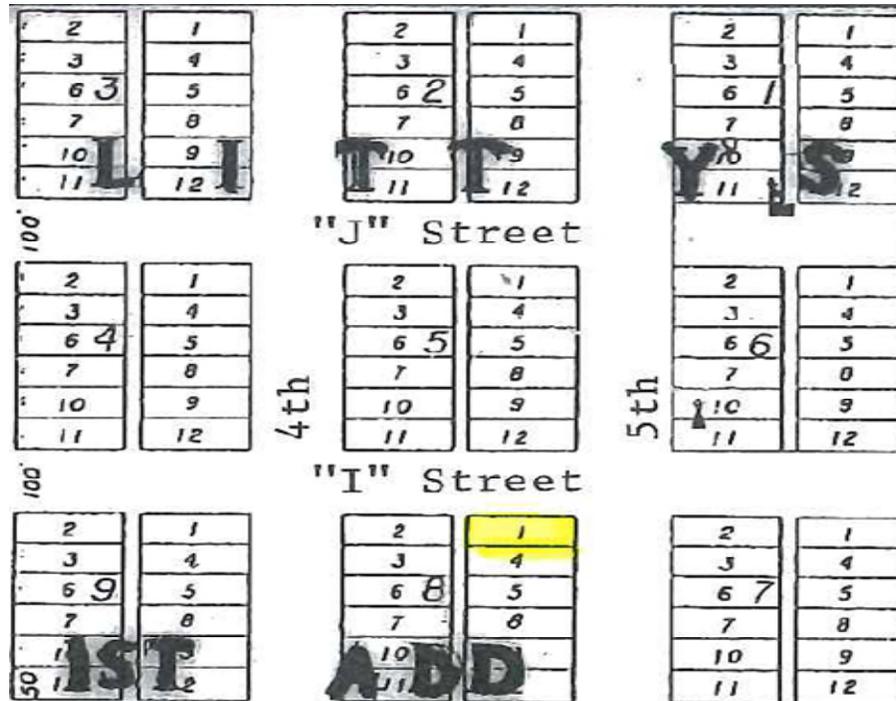
**ORDINANCE NO. 1347**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION FROM R-2 TWO FAMILY RESIDENTIAL TO R-3 MULTI FAMILY RESIDENTIAL FOR THE REAL ESTATE LEGALLY DESCRIBED AS LOT 1 AND THE NORTH 10' OF LOT 4, BLOCK 8, LITTY'S 1<sup>ST</sup> ADDITION; 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 R-3 Multi-Family Residential for Lot 1 and the North 10' of Lot 4, all in Block 8, Litty's 1<sup>st</sup> Addition;



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 22<sup>nd</sup> day of April, 2020.

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Mayor Alan Zavodny

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Deputy City Clerk Tami Comte

Superintendent of David City Public Schools Chad Denker said, “Just a reminder that I came to you a month or two ago asking you to put concrete barriers up on the crosswalk between the Elementary School and the High School. I’ve got 300 high school kids that cross that street every day for lunch plus full-time preschool kids that cross that as well so we’d like to put up some concrete barriers there at the cross walk. We wouldn’t do anything else to the street other than the barriers and we’d put up “Not a Through Street” signs coming from both the east and the west. We know that it’s a fairly busy street but we just feel like with over 300 kids using it 180 days out of the school year that at least it’s worth the consideration of the Council.”

Mayor Zavodny said, "I'm going to tell you what's happened in the time that we've been considering this and the development from today, even. I had a citizen come to me and say what if they put in speed bumps or something like that because they think that one of the biggest problems is the speed of the traffic that goes through there, and obviously we can't have law enforcement 24-7. The thing that was most compelling to me, were the people who live on the east end of town because it's a straight shot and it is inconvenient. I certainly understand that concern. Pat Hoefft sent me an email and he said, "You know, that's one of our main power feeds cutting that way through town, and we drive it through storms and stuff and use that street a lot to monitor that whole stretch and to get in there to work on it would be a little bit of a burden." So, that argument made some sense to me. So, whatever you vote, I'm not going to be mad at whichever way it goes, but I'm going to be a hard no at this point. I didn't mind the speed bump idea because I think that it is smart to slow the traffic down, at least, and, I think, at some point, we may have a different consideration down the road. That would be my only argument against considering doing this. Make your counter arguments at this point."

Councilmember Bruce Meysenburg said, "I did have two constituents that called me and voiced their opinion against it. I originally thought that it was a fairly decent proposal but, looking back on it, we were talking about shutting down a street and when my wife went to school there, they were crossing that street and I don't think that anyone has gotten killed. I understand the safety issue and maybe for that time during lunch you could put out crossing guards. Have you tried that before?"

Superintendent Denker said, "We just don't have the manpower to do that. We have two administrators that are overseeing three hundred high school kids at that time, and we have one of them in the elementary supervising lunch there, and then the kids who don't go to lunch over there stay in the commons area at the high school so the other administrator is parked there. So, I just don't have the manpower for an hour and a half over that lunch hour to have crossing guards there."

Council member Bruce Meysenburg said, "Could it be that you could find a retired person or a couple of them?"

Superintendent Denker said, "What I will tell you is that my para's and classified staff that are crossing guards before and after school, there are people that don't listen to them now. They drive right through. If it's not an administrator out there, they don't listen to a para. I understand all of the concerns in the community and if you guys vote it down, I can go back to my constituents and say that I brought it up to the Council and they voted it down. I did my piece. The speed bump idea we had never considered because I didn't know that would even be feasible. If you're running a snow plow down that street...."

Council member Pat Meysenburg said, "I don't think that a speed bump would do any good. The one down at the park doesn't do any good."

Council member Kobus said, "I think that a kid's life is worth more than whoever wants to travel that road. It's just during the school year. During the summer it would be open, right?"

Superintendent Denker said, "We were going to put those concrete barriers like you see on the highway or the interstate."

Council member Pat Meysenburg said, "I think it would be more of a hassle to take them down and put them back up and it would be confusing."

Gary Meister said, "We poured two concrete speed bumps south of Aquinas' new gym, with the same concern, and anybody that wants to check them out, they'll tear the bottom of your car out if you go over about five miles per hour. The snow plows go right over them. They are permanent. They were going to put these plastic things in that were removable and I said the first time that you hit them with a snow plow there will be nothing left. They plow that and they just go right over and right down."

Mayor Zavodny said, "The last thing that was brought to me today, and I'll be honest, I hadn't even considered it, was slowing down the response of first responders. It would take one of the main routes that gets used to that end of town. I don't know how big of an issue that is. I didn't have any fire department people call me. This person who purportedly talked to fire department people and they had that concern. Again, that concern was not brought directly to me by that community."

Council member Trowbridge said, "I hear a lot of concerns but I don't hear a lot of options coming from those folks. They generally don't have anything. They just don't like change."

Council member Pat Meysenburg said, "It's for the safety of the kids. It's well worth it to close it."

Council member Kobus introduced Resolution 12-2020, allowing David City Public Schools to install barriers and pertinent signage on "E" Street, between David City High School and David City Elementary School, and moved for its passage and approval. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge and Kobus. Voting NAY: Council members Vandenberg and Bruce Meysenburg. Council member Hotovy was absent. The motion failed. (A Resolution needs a majority of those elected to pass – which is four.) Resolution 12-2020 failed.

City Administrator Clayton Keller stated that Henningsen Foods gave the easements to the City a long, long time ago for the water and sewer lines. Those water lines have been moved to the other side of the street and the sewer line was abandoned a couple of years ago and Henningsen's took those over anyway. So, this is the City just giving those easements back to Henningsen's.

Council member Vandenberg introduced Ordinance No. 1348 releasing/vacating utility easements. Mayor Zavodny read Ordinance No. 1348 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Vandenberg, Bruce Meysenburg, Pat Meysenburg, and Trowbridge. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Council member Vandenberg made a motion to pass Ordinance No. 1348 on the 3<sup>rd</sup> and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Trowbridge, Bruce Meysenburg, Pat Meysenburg, and Kobus. Voting

NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1348 was passed on 3<sup>rd</sup> and final reading as follows:

**ORDINANCE NO. 1348**

AN ORDINANCE RELEASING/VACATING UTILITIES EASEMENT; 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 in the Butler County Clerk's Office as follows:

Sewer and water line easement as per dotted line on Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth located on the north line of Lot Thirteen (13), Block Thirty-Three (33), Original Town of David City, Butler County, Nebraska; South side of vacated "D" Street and 3<sup>rd</sup> Street; the North line of Lot One (1), Block Thirty-Four (34), Original Town of David City, Butler County, Nebraska and around the corner of said Lot One (1), Block Thirty-Four (34) in Exhibit "A".

SECTION 2: The Mayor and City Council received a request by Frank Anonia of Henningsen Foods, Inc. Mr. Anonia is requesting that the aforementioned easement be released.

SECTION 3: The utility departments of the City of David City have acknowledged the above-mentioned request and have no objection 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 easement for utilities.

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

Sewer and water line easement as per dotted line on Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth located on the north line of Lot Thirteen (13), Block Thirty-Three (33), Original Town of David City, Butler County, Nebraska; South side of vacated "D" Street and 3<sup>rd</sup> Street; the North line of Lot One (1), Block Thirty-Four (34), Original Town of David City, Butler County, Nebraska and around the corner of said Lot One (1), Block Thirty-Four (34) in Exhibit "A".

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 22<sup>nd</sup> day of April, 2020.

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MAYOR ALAN ZAVODNY

ATTEST:

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TAMI COMTE, DEPUTY CITY CLERK

(SEAL)

Mayor Zavodny stated that the next item on the agenda was the consideration of the environmental review of the David City Housing Authority as completed by Southeast Nebraska Economic Development District.

Mayor Zavodny said, "As I read through this, I believe that we have no expense in this."

Deputy Clerk Comte said, "City Clerk Kovar got an email from Renee at the Housing Authority that said to just send her the invoice and they would pay it directly."

Council member Bruce Meysenburg made a motion to approve the Environmental Review of the David City Housing Authority as completed by Southeast Nebraska Development District (SEND), and authorize Mayor Zavodny to sign, the Agreement by and between the City of David City and Southeast Nebraska Development District, and the Memorandum of Understanding. Council member Pat Meysenburg seconded the motion. Voting AYE: Councilmembers Bruce Meysenburg, Trowbridge, Kobus, Pat Meysenburg and Vandenberg. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Mayor Zavodny stated that the next item on the agenda was consideration of a service agreement with Crexendo for telephones.

City Administrator Clayton Keller said, "So, this is a US Cellular related company and they came to us to talk about our telephones and this agreement is basically making our telephones cloud based, or internet based, and so it would increase our capacity to do phone calls not just inside our offices, but, I could take a phone call wherever I am. There's an app on the phone through the web or you can do it on your computer. It just makes it really nice and it's cheaper than what we're currently paying."

Mayor Zavodny said, "What do we know about them? I've never heard of them before in my life."

City Administrator Clayton Keller said, "Essentially, it's US Cellular. This is the first time that I've heard of them either. We have to use their equipment because it is cloud based as well as their software."

Mayor Zavodny said, "If something goes wrong then what?"

City Administrator Clayton Keller said, "They have full customer support. So, they gave us two options, if we decide to go with them. A purchase option where we buy the equipment and a lease option where we lease it until we own it and I recommend purchasing it upfront. It'll be cheaper in the long run and it will only take three months for us to start seeing our savings."

Mayor Zavodny said, "Anybody have any questions of Clayton on this item?"

Council member Trowbridge said, "I've been told in the past that some of our phone bills are rather high and I've been told that it deals with the SCADA communication. It was necessary to maintain SCADA communication. This system does that?"

City Administrator Clayton Keller said, "So, this will do the phones and the fax system right now. We are looking into the SCADA systems. Currently, we're going to stay with Windstream for the SCADA systems and the credit card machine we're also going to keep on a hard line. We're looking into options for SCADA to see if we can do the cloud-based thing because it would be cheaper. It's a possibility to do it with Crexendo. We just haven't figured that out yet."

Mayor Zavodny said, "Is there any reason that this has to happen tonight?"

City Administrator Clayton Keller said, "Not necessarily. They do have a "pandemic" promotion going on right now where you pay your first month and your next four months are free."

Mayor Zavodny said, "We'll still have a pandemic two weeks from now."

City Administrator Clayton Keller said, "We just need to act on this before May 31<sup>st</sup>."

Mayor Zavodny said, "I would entertain a motion to table this item."

Council member Bruce Meysenburg made a motion to table a service agreement with Crexendo. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Kobus, Trowbridge and Vandenberg. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Mayor Zavodny stated that the next item on the agenda was discussion concerning the water treatment plant and processes.

Interim Water Supervisor Aaron Gustin said, "Does anyone have any questions about what's happening in the community and the distribution system? I've had the opportunity to give multiple tours of the water treatment plant. I did my best to be extremely technical and sound as smart as I could, but, is there any questions as to what is happening currently?"

Council member Kobus said, "I think it's a big step forward."

Council member Pat Meysenburg said, "It's a big improvement from when I was there the last time."

Mayor Zavodny said, "I think what we need to discuss, though, as a Council, and so the public can hear it is, and I think if I were to summarize it, I would describe it as the growing pains of making this transition and the chemistry part of it. That's always been an issue in these water mains of ours, sediment build up and manganese that we've been fighting forever. Some of those distribution mains are older than anybody in here. I think we need to understand that. I understand that we need to change out valves over the summer so that we can get the directional flushing and that's part of our problem, too. In all the meetings that we've sat through in years past, we know how crucial that is. Any idea on a timeline when maybe we won't be getting these calls?"

Interim Water Dept. Supervisor Aaron Gustin said, "A timeline in regard to the brown water calls, I was told by Al from Hawkins, we should see a clear up within 30 to 60 days maximum. I told him that, at that point, we are planning to do two full rounds of flushing just to expedite that process. He believed that we would see a clear up sooner because we did add those phosphates. We started dosing those last week."

Mayor Zavodny said, "What I would add to that is that this is, again, the roundabout way that people go about things, people have not been coming to me directly, but concerns that it's messing up our equipment or it's going to provide problems for Henningsen's and the Villa's equipment is getting messed up. I'm sure you're getting that stuff and you've had those kinds of calls too."

Interim Water Dept. Supervisor Aaron Gustin said, "Oh, yes."

Mayor Zavodny said, "I know the school, in the past, has certainly struggled with having to clean out and redo some things because of the brown water."

Interim Water Dept. Supervisor Aaron Gustin said, "There's an issue because of the hardness of the water has increased with this new chemistry. We are no longer softening the water. We are stabilizing it with one of the additives that we are dosing right now. Lime did add a softening factor along with stabilizing the chemistry in the distribution system. I found that, as you go from one zone to the next, that the stabilization of the lime is inadequate. It's definitely inconsistent and lime just causes problems. In this transition, the whole community will be affected from every residence to business locations. It's up to the Council to decide how."

Council member Kobus said, "We need to educate people, somehow."

Mayor Zavodny said, "I think, long term, this is a much better direction to go. I think that one issue that has been long out there, is that part of the reason that Henningsen's likes being here is that they can count on the water that they get and so many of their things are in such a delicate balance. Are we messing them up with this? I know that they don't want the expense of putting in their own softening system on the front end of the water coming in. Have we had conversation with them about how this would affect their business?"

Interim Water Dept. Supervisor Aaron Gustin said, "The two concerns worked and some investigation in terms of how legitimate these concerns were, but, their boilers, and the scaling in their boilers and the softening. Those were the two items that with big industrial boilers – I know absolutely nothing about those. I know that there's very few lime softening treatment plants but there's quite a few production plants that do business in other communities where soft water is not produced. I'm going to assume that they have the ability to make the improvements. I do not know the cost. I don't know if they would have to change their structure and those types of things. I talk with Frank on a weekly basis. He wants to meet on Friday morning. I'm more than happy to meet with them. We're meeting with a representative from Midwest Labs on Friday, so we can discuss it at that point."

Council member Bruce Meysenburg said, "What is the hardness of the water now? Do you have any idea?"

Interim Water Dept. Supervisor Aaron Gustin said, "The last lab test said that it was .345 ppm so depending on which scale that you use, there's multiples, but we stick with the German scale and it increased. We used to run about .200 ppm so it's a significant increase in hardness."

Council member Tom Kobus said, "You can have the softest water in the world and your water heaters still going to have scales. I don't know about boilers but it can't be much different."

Mayor Zavodny said, "Are there any other businesses that I'm not thinking of that part of the issue is that we do have the softened water."

Interim Water Dept. Supervisor Aaron Gustin said, "I have not heard from any other business. I know that the hospital does stuff with the water onsite. It goes through such a process there that even trying to pull a chlorine residual after their secondary treatment is almost impossible, so, I have not heard about any issues with their system. The majority of complaints and concerns that I've heard are residential."

Mayor Zavodny said, "Any other questions or concerns? That is your update. That was helpful to help us understand that it might be 30 to 60 days from the brown water totally clearing up."

Council member Trowbridge said, "As time moves forward, could we prioritize the valves that need to be replaced to more efficiently flush the system and maybe put a timeline as to when they might be replaced?"

Interim Water Dept. Supervisor Aaron Gustin said, "I had a discussion with Clayton today in regards to this. We have hundreds of valves in this town and I cannot tell you, nor find record of, when the last time was that they were exercised. They're supposed to be exercised at a minimum of two times per year. Just like the other departments had come together to clean the clarifier back in the day, I was wondering if it might be possible to get a crew from each department and give them a zone of the town and everybody goes out and exercises valves. This will allow us to diagnose which valves are difficult to turn, potentially, and then we can investigate further. I have thirteen on a list that need to be replaced and the only reason that I know that is from our attempts at directional flushing for that plan and that's probably one-fourth

of those valves that are in David City. Those are the only ones that I can promise you have been exercised since I've been here."

Mayor Zavodny said, "Does anyone have a problem with administratively directing that to happen? That will have to go through you (Clayton) because I'm not putting him out there on an island by himself to ask other departments to help him do it. That would just cause grief, but I think from a Council, that has to happen, and, at a minimum, over the summer, as fast as we can, to get those twelve or thirteen changed out so that we can directional flush. If we can't do that then we're just wasting our time. That does need to be prioritized before our fall flushing, I'd like to see that fixed."

Mayor Zavodny stated that the next item on the agenda was consideration of a quote from Musco concerning the football field lighting.

City Administrator Clayton Keller said, "When I first started working here, Chad Denker and I met, and we discussed the football field lights. We realized that the poles are really old and to make a long story short, they probably aren't going to last much longer, especially if we get really high winds. Lights keep burning out every year. If you've been to a football game, you've seen that happen. So, we approached the company Musco. They are the best in the business. They gave us a quote for replacing the lights of \$212,000. So, with a partnership from both schools, David City Public and Aquinas, we can make this happen."

Mayor Zavodny said, "Four poles, is that all?"

Council member Kobus said, "I think it's bad timing right now for that expenditure of money. That's just my opinion."

Mayor Zavodny said, "From my perspective, there's never a good time to spend that kind of money. In looking at this, the system that we have isn't great. These are LED?"

City Administrator Clayton Keller said, "Yes, these are LED."

Mayor Zavodny said, "That is a big improvement."

City Administrator Clayton Keller said, "We have wooden poles now. The new ones are steel. They would have a concrete foundation and they place the poles on top of that three to six feet up so the steel pole does not touch the ground. It doesn't get weathered as much and they last a lot longer. With these lights there is a twenty-five year warranty that they are just as bright on the last day of the twenty-five years as they are on the first day that they turn them on. They moved these poles from the baseball field twenty years ago."

Council member Kobus said, "Well, that's a different story then."

Mayor Alan Zavodny said, "I don't know what kind of leases we have with the schools, but them committing to this amount of money and this clearly falls under our sales tax for recreation. Once we get downtown paid for, I'm pretty comfortable with where we are financially. If we decided to do this, I think financing it is a terrible idea. Why don't we borrow it from ourselves with cash that we have on hand, and then use sales tax to replace it from the general fund?"

Council member Kobus said, "Will Aquinas do this for sure?"

City Administrator Clayton Keller said, "Yes, they will. Both schools have given us their go-ahead on this. The payment from David City Public Schools will come in before the project begins. Aquinas will take about five years to pay us back. We've worked out a payment. I'm comfortable saying that they can make the payments because I've worked it out with them how to do that."

Council member Bruce Meysenburg made a motion to accept the quote from Musco in the amount of \$212,000 to replace the lighting at the football field. Council member Kobus seconded the motion. Voting AYE: Council members Bruce Meysenburg, Vandenberg, Trowbridge, Kobus and Pat Meysenburg. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Superintendent Chad Denker said, "The school district appreciates your partnership on this project, so thank you very much."

City Administrator Clayton Keller said, "We couldn't have done it without the schools' participation, so thank you also."

Date: April 7, 2020  
To: Clayton Keller  
City Administrator

Project: David City Football  
David City, NE  
Ref: 204328

*Quotation Price — Materials Delivered to Job Site and Installation*

*Football w/ Track — 360' x 160'*

.....  
\$ 212,000

*Sales tax and bonding of the equipment are not included.  
Pricing furnished is effective for 60 days unless otherwise noted and is considered confidential.*

*Light-Structure System" with Total Light Control — TLC for LED® technology*

Guaranteed Lighting Performance

- Guaranteed light levels of 30fc and uniformity of 2:1
- BallTracker" technology — targeted light, optimizing visibility of the ball in play with no glare in the players typical line-of-sight

System Description [Light-Structure System]

- (4) Pre-cast concrete bases with integrated lightning grounding
- (4) Galvanized steel poles
- Factory wired and tested remote electrical component enclosures
- Pole length, factory assembled wire harnesses
- Factory wired poletop luminaire assemblies
- Factory aimed and assembled luminaires, including BallTrackerim luminaires
- UL Listed assemblies

Control Systems and Services

- Control-Link® control and monitoring system to provide remote on/off and dimming (high/medium/low) control and performance monitoring with 24/7 customer support

Operation and Warranty Services

- Reduction of energy and maintenance costs by 40% to 85% over typical 1500W metal halide equipment
- Product assurance and warranty program that covers materials and onsite labor, eliminating 100% of your maintenance costs for 25 years
- Support from Musco's Lighting Services Team — over 170 Team members dedicated to operating and maintaining your lighting system — plus a network of 1800+ contractors

*Payment Terms*

Musco's Credit Department will provide payment terms.

*Delivery Timing*

6 - 8 weeks for delivery of materials to the job site from the time of order, submittal approval, and confirmation of order details including voltage, phase, and pole locations.

Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior to production. Changes to pole locations after the product is sent to production could result in additional charges.

*Notes*

Quote is based on:

- Shipment of entire project together to obe location.
- 480 Volt, 3 Phase electrical system requirement and to be confirmed prior to production
- Structural code and wind speed = 2015 IBC, 115 mi/h, Exposure C, Importance Factor 1.
- Owner is responsible for getting electrical power to the site, coordination with the utility, and any power company fees.
- Standard soil conditions — rock, bottomless, wet or unsuitable soil may require additional engineering, special installation methods and additional cost.
- Confirmation of pole locations prior to production.
- (1) GFCI on each pole
- Security Fixture on home side poles
- Separate contracts required for materials and installation

Thank you for considering Musco for your lighting needs. Please contact me with any questions or if you need additional details.

Brad Thompson  
Musco Sales Representative  
Musco Sports Lighting, LLC  
Phone: 641-660-9554  
[E-mail: brad.thompson@musco.com](mailto:brad.thompson@musco.com)

**MUSCO.**

## ENSLEY ELECTRICAL SERVICES

P.O. Box 5822  
Grand Island, NE 68802  
308-382-8432

April 5, 2020

RE: David City High School Football Sports Lighting  
David City, NE

### Scope of Work:

- Remove existing sports lighting fixtures and poles
- Install (4) Musco Sports Lighting Poles and associated fixtures
- Directional Bore new conduit and wiring to each pole.
- Install Musco Sports Lighting Contactor and install circuits from existing panel located on east side of building.
- Included in pricing: Materials, labor, and equipment for the above scope of work.

### Not Included:

Bonding  
Utility Fees

Respectfully Submitted

Ensley Electrical Services

Greg Hanna

City Administrator Clayton Keller stated that the City would pay ½ of the cost of replacing the lights at the football field for a total cost of \$106,000. David City Public Schools and Aquinas Catholic Schools would pay the other half with each paying \$53,000. David City Public will pay their share up front with Aquinas Catholic making payments over the next five years.

Council member Bruce Meysenburg made a motion to use reserve funds (repaying with sales tax funds) to pay the \$106,000 to Musco for replacing the lighting at the football field. Council member Kobus seconded the motion. Voting AYE: Council members Bruce Meysenburg, Trowbridge, Pat Meysenburg, Vandenberg and Kobus. Voting NAY: None. Council member Hotovy was absent.

Council member Bruce Meysenburg introduced Ordinance No. 1349 to reconvey certain property located in David City, Nebraska, to Henningsen Foods, Inc. as a result of the full satisfaction and payment of the David City Industrial and Development Revenue Bonds – Henningsen Foods, Inc. Project, Series 1998. Mayor Zavodny read Ordinance No. 1349 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Trowbridge seconded the motion. Voting AYE: Council members Vandenberg, Trowbridge, Kobus, Bruce Meysenburg, and Pat Meysenburg. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Council member Vandenberg made a motion to pass Ordinance No. 1349 on the 3<sup>rd</sup> and final reading. Council member Trowbridge seconded the motion. Voting AYE: Council members Trowbridge, Bruce Meysenburg, Vandenberg, Pat Meysenburg, and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1349 was passed on 3<sup>rd</sup> and final reading as follows:

#### ORDINANCE NO. 1349

AN ORDINANCE TO RECONVEY CERTAIN PROPERTY LOCATED IN DAVID CITY, NEBRASKA TO HENNINGSEN FOODS, INC. AS A RESULT OF THE FULL SATISFACTION AND PAYMENT OF THE DAVID CITY INDUSTRIAL AND DEVELOPMENT REVENUE BONDS-HENNINGSEN FOODS, INC., PROJECT- SERIES 1998 (THE "1998 BOND"); PROVIDING FOR AN EFFECTIVE DATE THEREOF; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; AND REPEAL OF ORDINANCES IN CONFLICT THEREOF.

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 reconvey the following described real estate-to-wit:

The real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth.

to Henningsen Foods, Inc., a New York Corporation because Henningsen Foods, Inc., has made full satisfaction and payment of the David City Industrial and Development Revenue (IDR) Bonds- Henningsen Foods, Inc., Project- Series 1998 (The "1998 Bonds").

SECTION 2: Section 17-503 of the Revised Statutes of Nebraska, as Amended, provides for the procedure for the conveyances of real estate by a Second Class City but this is a reconveyance by a Second Class City pursuant to the terms and conditions of the said Industrial and Development Revenue Bonds and said Statutory Section would be inapplicable.

SECTION 3: 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 reconvey the real estate described in Exhibit "A" above referenced back to Henningsen Foods, Inc., because of the full satisfaction and payment of the above referenced Series "1998 Bonds".

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SECTION 4: The City of David City, Nebraska hereby reconveys the real estate described in Exhibit "A" attached hereto and incorporated herein by reference to Henningsen Foods, Inc., a New York Corporation.

SECTION 5: The Mayor of the City of David City, Nebraska is hereby authorized to execute the necessary Warranty Deed as such Officer of the City on behalf of the City of David City, Nebraska to effectuate the said reconveyance.

SECTION 6: Any and all Ordinances, or section 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 22<sup>nd</sup> day of April, 2020.

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MAYOR ALAN ZAVODNY

ATTEST:

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TAMI COMTE, DEPUTY CITY CLERK

(SEAL)

EXHIBIT "A"

All of Lots One (1), Four (4), Five (5), Eight (8), Nine (9) and Twelve (12), Block Thirty-Four (34), Original Town of David City, Butler County, Nebraska, along with the West Half (W 1/2) of vacated 3<sup>rd</sup> Street adjacent thereto, and along with that portion of the vacated South Fifteen feet (S 15') of "D" Street adjacent to Lot One (1) and adjacent to the West Half (W 1/2) of vacated 3<sup>rd</sup> Street on the North.

Lots Thirteen (13) and Fourteen (14) and the North Half (N 1/2) of Lot Fifteen (15), Block Thirty-Three (33), Original Town of David City, Nebraska, ALONG WITH the East Half (E 1/2) of vacated 3<sup>rd</sup> Street abutting the West line thereof AND ALSO the vacated South 15.00 feet of "D" Street abutting the North line of said Lot Thirteen (13) and the East Half (E 1/2) of vacated 3<sup>rd</sup> Street.

Lots Nine (9) and Twelve (12), and the South Twenty-Five feet (S 25') of Lot Eight (8), Block Twenty-Three (23), Original Town of David City, Butler County, Nebraska.

Council member Vandenberg introduced Ordinance No. 1350, an ordinance to terminate the lease, with amendments and supplemental leases with Henningsen Foods, Inc., because of full performance and full payments of all amounts by them related to their 1998 IDR Bonds. Mayor Zavodny read Ordinance No. 1350 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance to be read on three separate days. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Bruce Meysenburg, Pat Meysenburg, and Trowbridge. Voting NAY: None. The motion carried. Council member Hotovy was absent.

Council member Vandenberg made a motion to pass Ordinance No. 1350 on the 3<sup>rd</sup> and final reading. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Pat Meysenburg, Kobus, Bruce Meysenburg, and Vandenberg. Voting NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1350 was passed on 3<sup>rd</sup> and final reading as follows:

#### ORDINANCE NO. 1350

AN ORDINANCE TO TERMINATE A LEASE AGREEMENT BETWEEN THE CITY OF DAVID CITY, NEBRASKA WITH HENNINGSEN FOODS, INC., WITH AMENDMENTS AND SUPPLEMENTAL LEASES THERETO AS A RESULT OF FULL PERFORMANCE AND FULL PAYMENTS OF ALL AMOUNTS DUE BY THEM RELATED TO THEIR INDUSTRIAL DEVELOPMENT BONDS PROJECT SERIES 1998 (THE "1998 BONDS"); PROVIDING FOR AN EFFECTIVE DATE THEREOF; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; AND REPEAL OF ORDINANCES IN CONFLICT THEREOF.

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 terminate a Lease Agreement wherein the City of David City, Nebraska ("Lessor") under the Lease Agreement described herein below under which Henningsen Foods, Inc., is the Lessee ("Lessee") as follows:

Lessor and Lessee entered into a certain Lease Agreement dated as of August 15, 1979 with respect to which a Notice of Lease Agreement was recorded on September 7, 1979 in Book 79, Page 188 of the records in the office of the Register of Deeds of Butler County, Nebraska; as amended by Amendment to Lease dated April 9, 1980, as recorded on May 23, 1980 in Book 80, Page 556 of the records in the office of the Register of Deeds of Butler County, Nebraska; as supplemented by a Supplement to Lease Agreement dated June 15, 1983, a Notice of which was recorded on June 17, 1983 in Book 83, Page 747 of the records in the office of the Register of Deed of Butler County, Nebraska; as supplemented by a Second Supplement to Lease Agreement dated September

15, 1990, a Notice of which was recorded on September 28, 1990 in Book 90, Page 1065 of the records in the office of the Register of Deeds of Butler County, Nebraska; as supplemented by a Third Supplement to Lease Agreement dated December 15, 1991, a Notice of which was recorded on December 30, 1991 in Book 91, Page 1678 of the records in the office of the Register of Deeds of Butler County, Nebraska; and as supplemented by a Fourth Supplement to Lease Agreement dated December 1, 1998, a Notice of which was recorded on January 21, 1999 in Book 99, Page 134 of the records in the office of the Register of Deeds of Butler County, Nebraska (the Lease Agreement as amended and supplemented as described above is referred to herein as the "Lease Agreement"), which Lease Agreement relates to the real estate described on Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2: The Mayor and City Council have found and determined that Henningsen Foods, Inc. (Lessee) has fully performed all of the terms and conditions of the Lease Agreement and full payment of all amounts due under the Lease Agreement and full and complete performance of the terms and conditions of said Lease Agreement have been made by the Lessee and in consideration of such payments and performance, the City fully and completely releases the Lessee from all liability and obligations with respect to the Lease Agreement.

SECTION 3: The City hereby authorizes the Mayor of the City of David City, Nebraska to execute the necessary Termination of Lease Agreement an officer of the City on behalf of the City of David City, Nebraska to effectuate said Termination of Lease Agreement.

SECTION 4: Any and all Ordinances, or section 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 5: 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 22<sup>nd</sup> day of April, 2020.

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MAYOR ALAN ZAVODNY

ATTEST:

\_\_\_\_\_  
TAMI COMTE, DEPUTY CITY CLERK

(SEAL)

Mayor Zavodny asked Sheriff Dion to share what happened over the weekend at the 715 N. 4<sup>th</sup> Street property.

Sheriff Tom Dion said, "We arrested a male subject for breaking and entering. He took a couple of items, but he was caught "red-handed"."

Mayor Zavodny said, "Therein lies one of the problems. That is City-owned property now and someone came in and tried to steal something. Did we recover the items that he tried to steal?"

Sheriff Tom Dion said, "Yes, we did."

Mayor Zavodny said, "We have a couple issues with that, in my mind. We have a liability if someone breaks in and gets hurt or falls through a floor or something else happens. So, that's not great. I think Council member Trowbridge brought it up last time. The quicker that we can move on this, the better off it is for us. Owning property as a City isn't a great thing."

Council member Bruce Meysenburg said, "Does that fall under our liability insurance?"

Mayor Zavodny said, "That's a great question. It's not listed, I'm sure."

City Attorney Egr said, "We should notify LARM. We should insure the house and the contents."

Deputy Clerk Comte said, "I will do that in the morning."

Council member Pat Meysenburg said, "Ray, the Sheriff and I went over there on Friday and went through the house, as much as you could get through it. There's stuff stacked to the ceiling. In one room, we got the door open and you could see that it's plum full. You can't get to the front door. You can't see the kitchen cupboards because the stuff is stacked to the ceiling in there. On Monday, Clayton, Chris Kroesing and I went over there and we cut the padlocks on the containers and we removed a bunch of tools and valuables and they are in an enclosed container at the city shop."

Mayor Zavodny said, "So, to put a value on the contents is going to be difficult."

Council member Pat Meysenburg said, "I talked to a guy that deals with this all the time and he said you'll never put a value on anything that is in the house, but he said that you're going to have to clean the house out before you can even show it. I did some checking and I checked with two people with containers, and to rent the container or have them bring a container over there and have them take it to the landfill and unload it, you're talking right around \$500 per container. I talked to a guy that does this all the time and he did the last house that they had cleaned out and he said that he would bet that there's a minimum of 10-12 containers in this property that we have. The problem is that you've got stuff in there that you could probably salvage and sell but you can't afford to pay somebody to come in there and clean it out because you're not going to get your money back out with the stuff. There are people that will go in and clean it out for the property."

Mayor Zavodny said, "That's why we need to have this discussion. Our ultimate goal here is to get the house sold and put back on the tax rolls for a better value and have that eyesore removed because of the nuisance that it created."

Council member Pat Meysenburg said, "Clayton told me today that he's had two people call him that are interested in the property."

Council member Kobus said, "Can't the city employees haul the stuff out of the house? They have four dump trucks."

Council member Pat Meysenburg said, "I talked to the employees and they said that they really don't want anything to do with touching any of that."

Mayor Zavodny said, "Ok. Help me, because I haven't been in there."

Council member Pat Meysenburg said, "There's guys that will come in and clean it out for the contents."

Council member Trowbridge said, "Salvage type of operations."

Council member Pat Meysenburg said, "I've talked to two of them and they both said they would be interested in it."

Mayor Zavodny said, "Ok. But, I'm wondering, legally, if we are allowed to do that."

City Attorney Jim Egr said, "I think we are. We bought the house and they had all of their notices."

Mayor Zavodny said, "I should have clarified. For the City to dispose of property that belongs to them, it has to be auctioned or a bid process."

City Attorney Egr said, "Yes. That's correct."

Mayor Zavodny said, "So, do we do a bid process for removing it?"

Council member Trowbridge said, "Why don't we do a bid for salvage removal and it may be a bid...."

Council member Pat Meysenburg said, "The two guys that I talked to today said that they'd do it for salvage removal. The City has to pay the cost of getting rid of the junk but they come in and they clean it all out and what you're doing is, they're getting their labor for the stuff that they're getting out of it."

Mayor Zavodny said, "But, they're cherry picking then, they're taking everything of value and then we have the expense of getting rid of the junk anyway. Part of me says, do you consider the whole thing junk and haul it all off and consider that the expense of cleaning it out? I think that this trying to figure out what's worth it and what's not is going to take time and I don't know if it's worth that."

Council member Trowbridge said, "Until we know what the salvage number is to make that house become empty, how much is it going to cost, then we can assess, can we get rid of it ourselves for less money and I'm doubting that we can."

Mayor Zavodny said, "Here's how I think you need to bid that, someone may bid zero and someone may say I'll give you \$100, if they think they can do it and take everything out. It becomes a math problem at this point. What's our best bid?"

Building Inspector Ray Sueper said, "We just did some work on construction and had dumpsters and you're going to probably spend about \$6,000 on dumpsters."

Mayor Zavodny said, "I can factor that in. Let's say that it's \$6,000. \$90,000 is what we paid for the house and we have another \$6,000 in our basis number, so now we have \$96,000 into that at a minimum plus other expenses that we have to factor in. So, knowing that there might be some issues with the basement, when it's all cleaned out, what are we going to be able to get for that thing?"

Council member Trowbridge said, "We had three professional appraisers tell us that we can get \$90,000 and that included both lots. What do we get if we split out the west lot? I think we need to approach it from a piece meal factor and have an inflow of revenue from different sources."

City Attorney Egr said, "Pat, what did you say that those people would do that you talked to?"

Council member Pat Meysenburg said, "They would come in and clean it out for the salvage, but you have to supply them with dumpsters to put the junk in."

Mayor Zavodny said, "I don't see where that benefits us."

Council member Pat Meysenburg said, "Because, if there is anything in there to salvage, if you throw it away, then you have to pay dump fees for that too. They get their labor for cleaning it out from the salvage stuff."

Council member Bruce Meysenburg said, "The two people that were interested in it, is there any interest that they would take the house as is?"

City Administrator Keller said, "Absolutely."

Mayor Zavodny said, "But, how much are they willing to pay for the house, as is?"

Council member Pat Meysenbug said, "You're not going to get anyone to take that house for \$96,000 the way it sits. They're going to open the back door to that house and they're going to say that you're nuts."

Council member Trowbridge said, "I don't think that you can get fair value for the house until it is empty."

Council member Kobus said, "How much does the City have in it total?"

City Administrator Keller said, "Well over \$100,000."

Mayor Zavodny said, "Did you go through the old Wiebe shop?"

Council member Pat Meysenburg said, "Yes. We went through that on Monday and it's probably three-fourths full."

Mayor Zavodny said, "What condition is that structure?"

Council member Pat Meysenburg said, "The structure is in good condition. It's repairable."

Council member Kobus said, "What are you going to do with the second lot?"

Council member Pat Meysenburg said, "We're going to sell it separately, aren't we?"

Mayor Zavodny said, "It's a corner lot."

Council member Pat Meysenburg said, "You'll get a lot more if you sell it separately. Those corner lots are bringing between \$32,000 to \$35,000 now. There's a corner lot that just sold the other day for \$46,000."

Mayor Zavodny said, "Can we use City employees, from a couple of different departments, a couple of days to clean up the outside so the grounds look better? I don't expect them to go in the house and do stuff at this point."

Council member Pat Meysenburg said, "The extra lot has two dead trees on it. One of them is up in the power lines."

Mayor Zavodny said, "Can't our guys go and take care of all of the stuff on the grounds? They can haul it off and clean it up. I think we should do that and then we need to figure out what to do with the inside and if we want to do bids for the contents. But, we have to be careful so they don't take any ornate woodwork or anything. Just the personal items and nothing that's part of the structure. If we're going to agree, let's advertise for bids."

Council member Pat Meysenburg said, "I can take these two guys over there and see what they think."

Mayor Zavodny said, "I got a call from the guy that's interested in the house and I told him that if he sees the Sheriff to tell him that he has permission to walk around the outside of the house. He can't go inside but he can look around. People who are interested in it need to have the opportunity to look at it. We can't even show them our property."

Council member Pat Meysenburg said, "No! Not the way it is right now."

Mayor Zavodny said, "We'll have to advertise for bids to clean it out. What's the deal with the basement and the foundation?"

Building Inspector Ray Sueper said, "It's useable as is. It's got a dirt floor with brick placed in several spots. There's a giant boiler. It's a monster boiler system in the basement that takes up a good portion of the room down there."

Mayor Zavodny said, "Is it wrapped in asbestos?"

Council member Pat Meysenburg said, "I don't think so. I don't think it was."

Mayor Zavodny said, "Do you think the foundation is sound?"

Building Inspector Ray Sueper said, "I think it's useable. It may need some grade work around the outside."

Mayor Zavodny said, "Is there roof damage, water damage?"

Building Inspector Ray Sueper said, "Yeah. I think from when the contractors were there six months ago, the drywall skin on the ceiling had collapsed, about half of a room's worth and it was stained. I think it was popcorn ceiling."

Council member Trowbridge said, "Alan, we need to remember that in the last two years, we've had two bids, sight unseen, at \$150,000."

Mayor Zavodny said, "I know. How do you want to proceed?"

Council member Trowbridge said, "Why don't we do what Pat suggested and search for salvage people as long as they understand that it's the property inside the house only. We're not salvaging the woodwork."

Council member Pat Meysenburg said, "Right. I did get two people call me about the pickup. They want to know if we're going to sell the pickup. They offered us \$500 salvage price for it."

Mayor Zavodny said, "So, let's have our City crews clean up the outside and take care of those trees. Secondly, let's advertise for bids for the personal property and what I would want to stipulate is, if Pat and Skip are willing to, go through with people and tell them what goes and what stays. Do you know what I mean?"

Council member Pat Meysenburg said, "I'll be in charge."

Mayor Zavodny said, "Let's advertise for bids to salvage. The bid is whoever comes up with the highest bid to do that for us. For example, I want \$100 for the rights to take everything out of there. Some people may say zero."

Council member Trowbridge said, "Knowing full well that it could be negative."

Mayor Zavodny said, "That means cleaning it out."

Building Inspector Ray Sueper said, "They need to supply us with an insurance certificate for being on the property."

Mayor Zavodny said, "Let's authorize our City crews to clean up the grounds and what do you want to do for a timeframe? So, we advertise for a couple of rotations of the Banner and have a completion date of what? How long is it going to take to go through all of that stuff?"

Council member Pat Meysenburg said, "It's going to take a good month."

Council member Trowbridge said, "We need a picture of that old house so we have people beyond this area be able to see it."

Mayor Zavodny said, "With advertising and everything, do you want to give them until June 30<sup>th</sup> to get it cleaned out? By the time we advertise and accept a bid, it will be almost the end of May. So, in the bid let's say that all contents must be out of the house and outbuildings, as designated by Pat and Skip, by June 30<sup>th</sup>."

Council member Kobus said, "I can see if I can get a better rate at the landfill for dumping fees."

Mayor Zavodny said, "See what you can do. We're going to need that. Make sure that the people bidding know that they're going to have the expense of dumping it. That's their expense. They are bidding on the whole thing so they need to figure out what is valuable and what is not. We could set the mower and the pickup aside and have bids for those separately."

Council member Kobus made a motion to have the City crews clean up the outside of the property at 715 N. 4<sup>th</sup> Street, and to take bids for the removal of the contents of the house and outbuildings, at no expense to the City, to be completed by June 30<sup>th</sup>, and to have Council members Pat Meysenburg and Dana Trowbridge be in charge of the cleanup of the property. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Kobus, Pat Meysenburg, Bruce Meysenburg, Trowbridge and Vandenberg. Voting NAY: None. Council member Hotovy was absent.

Mayor Zavodny gave an update on the guidelines regarding the COVID-19 pandemic.

Mayor Zavodny said, "You may or may not have seen that the "Relay for Life" was cancelled. I've heard rumors that the governor would like our swimming pool to not be open until July 15<sup>th</sup>. I think that the Four Corners Health Department believes that will be the date. I'm going to go on record right now as saying if that is the case that we ought to very seriously consider not even operating this year. How would we staff it? If we make the call now, we allow those people an opportunity to find jobs elsewhere. Nebraska is on the list to lessen the restrictions around June 8<sup>th</sup>. I catch heck on this, two to three times per week, over the fact that we closed the ball fields. I understand that people have differing points of view on this. I think that with the community that we have that we need to error on the side of caution. If it gets here and starts to move through our population, I think that we're naïve to think that we don't have a very vulnerable population, both age-wise and the conditions that exist. So, you may not get it, but wait until it ravages through one of our nursing homes. You could see 50% mortality rate and that's not acceptable. So, the ball field will remain closed until further notice. I'm also recommending that we keep our library closed until further notice. May 6<sup>th</sup> is when our directed health measures expire for salons, but I have every reason to believe that they will continue. I think that we need to do what the State decides to do because we do not have a meeting between now and then. As of May 4<sup>th</sup>, hospitals can resume elective surgeries to help their

revenues. That's a hospital thing and we don't have any say about that. Some communities are trying to wipe down their park equipment. I don't feel strongly about that. We'll see what the Governor comes out with prior to May 6<sup>th</sup> as far as when our directed health measure expires."

City Administrator Keller said, "I got a phone call today from a salon owner who was wondering what was going to happen after May 6<sup>th</sup> since we don't have a City Council meeting until May 13<sup>th</sup>. So, is May 6<sup>th</sup> the day that those businesses can open up or do they open up the next day?"

Mayor Zavodny said, "The order is through May 6<sup>th</sup>, so May 7<sup>th</sup> is the day that they can open up. I will tell you right now from all of the conversations that we've had, that this is a murky legal area. We just don't have good enforcement. There isn't any teeth in it, as far as enforcement. Until the State would pass something that you can fine people, there's not much that you can do. I'd say that our community, for the most part, people have been pretty good. The good news is that because we haven't seen a ton of cases, the hospital is, somewhat, relying on being able to transport patients to Lincoln and the Lincoln hospitals are assuring us that they have the bed capacity so if someone here would have COVID-19 symptoms and start having shortness of breath, we know that the Lincoln hospitals, at this point, will take them. I can't say it enough. You've got to hold on. Use some social distancing and stay the course. Every day that we keep the infection rate down, we're a day closer to a vaccine. I think that our position needs continue to be the safety of the community first."

There being no further business to come before the Council, Council member Kobus made a motion to adjourn. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Trowbridge, Bruce Meysenburg, Kobus, and Pat Meysenburg. Voting NAY: None. Council member Hotovy was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:36 p.m.



CERTIFICATION OF MINUTES  
April 22, 2020

I, Tami Comte, duly qualified and acting Deputy City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of April 22<sup>nd</sup>, 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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Tami Comte, Deputy City Clerk