

CITY COUNCIL PROCEEDINGS

May 4, 2020

The Mayor and City Council of the City of David City, Nebraska met in open public session in the lower level of the David City Municipal Auditorium, 699 Kansas Street, David City, Nebraska. Mayor Zavodny declared this an Emergency Council Meeting so advance notice by publication was not possible. In lieu of publishing, the notice was posted at eight locations in David City. 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 Agenda 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, Dana Trowbridge, Kevin Hotovy and Bruce Meysenburg, City Administrator Clayton Keller, City Attorney James Egr, and Deputy City Clerk Tami Comte.

Also present for the meeting were: Jean & Megan Hicks, Mary Ann & Frank Long, Jill Mefford, John Svec, Denise Bruner, Physician's Assistant Jim Witter, Yvonne Wendt, Diane Bohaty, Rachelle & Craig Svoboda and Sheriff Tom Dion.

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.

Mayor Zavodny declared that the City Council was meeting because of a public health emergency.

Mayor Zavodny stated that the next item on the agenda was the discussion concerning the COVID-19 Coronavirus. Mayor Zavodny said, "We're going to have a wide-open discussion on the coronavirus and where we find ourselves right now. I'll get us started and then we'll talk about it a little bit more. This changes hour by hour. There are two camps. One camp, who are scared to death and under the table and not going out at all, and there is the other camp who are saying that this is way over blown and we should just go wide open and back to normal. If you're going to get it, you're going to get it. We recognize that there are two very distinct camps. There are also people who are in the middle who are taking some precautions especially if they have the comorbidity issues or any of the health issues that make this worse, should they contract this disease. If you've been watching the news today, Nebraska is not trending great, and also the White House and the models have upped the number of deaths through August from 70,000 to 100,000 and now it's up to 135,000. Those are projections and it depends on if we keep doing what we're doing. There is some recommendation that social distancing is going to need to continue, at least, throughout the summer. So, that's something that we should be preparing for. If you look at a one percent death rate, we're roughly 3,000 people and if half of them get it, are we willing to risk losing fifteen people and can we do anything to stop it? That's the challenge that we have in front of us. What risks are we willing to take and what is governments role in setting policy to take care of this. So, that is my opening and we're going to discuss things and what direction we need to go. I apologize for having to

bring you here but you have to make the decisions. That's why you're here as the governing entity, to make these decisions."

Council member Kobus asked if they were talking about salons or what's the main thing here.

Mayor Zavodny said, "We need to make decisions on a wide variety of things. I've been getting calls from mothers who are unhappy that their children can't access the playground equipment and I had a call about why small groups can't access the ballfields if they have under ten people. The swimming pool is going to be a big discussion. All of those things are coming forward and we need to decide on the City controlled things, i.e., the library, the ballfield, the swimming pool. You guys need to decide what action you want to take on those. That was a good question."

Council member Trowbridge said, "I think that any discussion that we have has to be medically and science based discussed. I'm not ready to discuss things from an "I want" or "I wish" or "wouldn't it be nice" basis, because those play when we're dealing with dollars and we're dealing with lives and we're dealing with health and we're dealing with people and that's considerably different than dealing with tax dollars. We have to take a much more serious approach to what we do because not everybody has the wisdom to understand that this particular virus is transmitted human to human and I think that Jim Witter will back up that statement. You don't pick it up from drinking water; we don't know whether it's airborne or not at this point in time. There are so many things that we don't know and we are seventeen miles from a community whose rate of infection is skyrocketing today. We're twenty-five miles from another community in Platte County whose infection rate is skyrocketing today and we're busy talking about relaxing restrictions which, to me, seems like a terrible idea. If we're trying to keep the medical community from trying to be overwhelmed is one outlook on this. It doesn't appear, at this point in time, that that is going to happen. That doesn't help the families that are impacted by this awful virus. If we can turn down the rate of infection by staying away from each other and by using our head and doing wise things, then I suggest that's the route that we take."

Mayor Zavodny said, "A couple of things that came up with Four Corners Health Dept. We have an Ordinance in place that followed the directed health measure that took us to the date that the governor originally set. Seward County had an emergency meeting on Thursday night because the governor changed the date. The date went from May 7th to May 4th. So, we weren't in alignment. What we talked about in our Four Corners Health calls, that we are having a couple times a week, is that the communities in the Four Corners need to be aligned a little bit because what happens is that if all courthouses aren't closed, then people are going across the lines of counties to access other courthouses and that's what we don't want. That's one consideration. We've been pretty consistent with Seward. Our Ordinance is pretty similar to theirs and we had it drafted with that kind of language. That's what got us to where we are. We need to decide what to do with that Ordinance, whether we leave it or change it."

Council member Kobus said, "I guess that I have a different approach to all of this than Skip does. Basically, we don't know anything about this virus. Who knows if it's going to last two more years and are we going to just sit back and wait? Some people can't wait. Some people have to go to work and start their businesses. I understand that some of the older people can stay back and some of the ones that financially can stay back and if some people

want to stay back on their own, then that's fine. But, again, you're talking about people's liberties and letting them go back to work and what they are supposed to do, as far as churches. I kind of take a different perspective than that. I, myself, have had to work ever since it started, eight hours a day. Anyone that wanted to take off wouldn't get paid and so, basically, all of our crew had to keep working. I have a daughter in Omaha that owns a salon. She's been in business for seventeen years and if she'd have had to wait another month, she'd have been under. Finally, they gave her the word to go and they are taking precautions. She bought masks for her employees and her clients and hand sanitizer. They can only do certain things, which I agree with. Basically, this will probably save her. How can we wait? What are we going to do – hide under the table until this is over? I don't think that we can do that. I'm not saying we need to go hog wild but we just take it as it comes. Once you start up there's going to be flare ups. I know the flare ups are around the packing plants and some chicken houses. They're just going to have to deal with that. They can't even find workers to go in the packing plants anymore. This can't go on. That's my opinion."

Council member Bruce Meysenburg said, "I agree with Tom. What do you put the date at? They say that until May 31st you can't do this but then June 1st it's ok to do everything. Where are you going to stop at and where are you going to start at? I think that we have responsible enough salon owners in this community that they will see that what they do is right and take an approach and keep everything the way that it should be and they are pretty much tied to some of those rules anyway. They have to disinfect at regular times and so I have a tendency to agree with Tom, at this point in time."

Council member Trowbridge said, "And from what medical basis do we hear those comments?"

Council member Pat Meysenburg said, "What medical advice are you supposed to follow? The doctors can't agree."

Council member Hotovy said, "Where this discussion is going is to enable responsible business owners, that are governed by a State department, to do their business as they intend to do. That's all that this discussion is centered around."

Council member Bruce Meysenburg said, "I still believe in social distancing."

Jill Mefford, owner of Image's Salon, stated that they have rules that are mandated by the State that they have to follow. They have masks that they will be using. She spoke about the procedures that they have to follow.

Four Corners Health Department Executive Director Laura McDougall, who attended the meeting via Zoom, stated that the next National Guard testing day would be in Shelby, Nebraska this Friday, May 8th. They will be doing around 300 tests.

Mayor Zavodny asked Physician's Assistant Jim Witter if he would like to share his thoughts.

Physician's Assistant Jim Witter said, "You talk about the two camps and I'm somewhere in the middle. We are getting more cases. We're also doing more testing. So, anytime you do more testing, you're going to have more cases. Of course, we are in a very unique situation

with this virus, in that, we are looking at it with a fine-tooth comb. You know, every day we get a new update. It's a very dynamic and very fluid situation. I think there's lots of different opinions on how this disease needs to be treated, where it's coming from and how it's spread. To me, the biggest thing that we can do is to wear masks. You've got maybe a quarter to a third of the people wearing masks. Some people are very concerned about it and by the time that you realize that you have it, it's usually water under the bridge. We don't know that we're sick and maybe we aren't sick. So, to me the masks and the social distancing and washing your hands makes the most difference. Is it going to be 100%? The answer is no, but, if you do that, I think that you can slow things down pretty well. People that aren't comfortable or have comorbid conditions, need to stay home. But, for the majority of people, who are in good health, I think will be ok. What we're seeing now is the majority of people have a little bit of illness but nothing as bad as others. There are a couple of cases that have been really bad but for the most part it's just a fever, a headache, a sore throat, all of those things. I think that if we do some of the precautionary things, I think that we can go out and do some normal things. It just needs to be very cautious. I don't think that we need to crawl under a table and not go out at all. I think that if we take some precautions that we can live our lives like we are somewhat accustomed to. Is there going to be some illnesses? Yes, there are. Are there going to be some deaths? Possibly. But, that's true for anything. We have deaths from influenza. This Covid seems to be very contagious and for some people it's very lethal, especially if you're old or have underlying health issues. I think that the statistic is that 55-60% of the deaths are nursing home patients or are in that population. I wear a mask because of my contact with the virus, to protect you guys. But, I think that if everyone wears masks, use some social distancing, wash their hands, I think that it would be a much better situation."

Council member Trowbridge made a motion to table Ordinance No. 1351 indefinitely. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Hotovy, Bruce Meysenburg, Pat Meysenburg, Vandenberg and Kobus. Voting NAY: None. The motion carried.

Council member Hotovy introduced Ordinance No. 1352 to repeal Ordinance No. 1343 which adopted directed health measures. Mayor Zavodny read Ordinance No. 1352 by title. Council member Hotovy 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 Kobus, Vandenberg, Hotovy, Bruce Meysenburg, Pat Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1352 on the 3rd and final reading. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Hotovy, Trowbridge, Kobus, Pat Meysenburg, Bruce Meysenburg, and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1352 was adopted as follows:

ORDINANCE NO. 1352

AN ORDINANCE TO REPEAL ORDINANCE NO. 1343; TO ADOPT DIRECTED HEALTH MEASURES; TO HELP PREVENT, LIMIT, OR SLOW THE SPREAD OF THE NOVEL CORONAVIRUS (COVID-19) AMONG THE CITIZENS OF THE CITY OF DAVID CITY; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND, TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

Section 1. On March 17, 2020, the Mayor of the City of David City and the Chair of the Butler County Board of Commissioners/Supervisors cosigned a Butler County Disaster Declaration related to the Novel Coronavirus (COVID-19) as an infectious disease within the State of Nebraska.

Section 2. Pursuant to Neb. Rev. Stat. 17-112 the Mayor may recommend measures thru ordinance(s) for the improvement of the health and general prosperity of the City.

Section 3. The City Council has authority under Section 1-401 of the David City Municipal Code to adopt ordinance(s) as may be necessary and proper for maintaining the peace, good government, and welfare of the city and its trade, commerce, and manufactories and to enforce all ordinances by inflicting fines or penalties for the breach thereof.

Section 4. The City Council has determined it is in the best interest for the City to adopt the following Directed Health Measures and finds it necessary in order to effectively prevent, limit, or slow the spread of the Novel Coronavirus (COVID-19) among the citizens of the City of David City.

Section 5. The following Directed Health Measures are hereby ordered for the City of David City on April 10, 2020 at 8:00 a.m. and continuing until May 4, 2020 at 11:59 PM unless renewed, extended or terminated by subsequent order, and all persons are ordered to comply:

1. Gatherings are hereby prohibited.

Gatherings are defined as any event or convening that brings together more than ten (10) patrons, customers, or other invitees, excluding staff, in a single room or single space at the same time, including but not limited to, a school, daycare facility (including in-home facilities), gymnasium, fitness center, auditorium, stadium, arena, large event conference room, meeting hall, theater, library, or any other confined indoor or confined outdoor space.

Gatherings includes but is not limited to weddings, funerals, parades, fairs, festivals, and concerts; or any event or convening with ten (10) or fewer patrons, customers, or other invitees where a minimum distance of six (6) feet between all individuals cannot be maintained in the venue. This includes, but is not limited to, tattoo parlors, massage parlors, barber shops and beauty/nail salons, except the retail portion of these businesses may continue to operate in the sale of their related hair and beauty products.

If a venue is subdivided into multiple spaces separated by either physical walls or sufficient airspace each subdivided area may contain up to ten (10) patrons, customers or other invitees, excluding staff.

2. This Ordinance shall not apply to courts of law, meetings or sessions of the Nebraska Legislature, or operations of any other political subdivision; medical providers or facilities, pharmacies; public utilities, essential federal, state, county, and

city operations, continuity of business operations; logistics/distribution centers; congregate living settings; group homes and residential drug and/or mental health treatment facilities; shelters; public transportation; airport travel; necessary shopping at fuel stations, grocery stores, retail stores, or malls; tanning salons; election offices; polling places on an election day; or to dwelling units housing more than ten (10) related people. However, all excepted settings shall, to the extent possible, observe physical distancing practices by providing for the maintaining of at least six (6) feet of separation between individuals and all other applicable local, states, and federal guidelines for disease prevention and disinfection of surfaces.

Failure to comply with this Ordinance will result in legal action for enforcement by civil and/or criminal remedies.

Any person who violates this Ordinance shall be deemed guilty of a violation. The penalty for such violation shall be an amount not to exceed \$500 for any one offense, recoverable with costs, and in default of said payment the offender shall stand committed to the County Jail until such fine and costs are paid. Each period of 24 hours during or on which a violation occurs or continues shall be deemed a separate offense.

In addition to any penalty sought or obtained under this Ordinance or other applicable law, the City may institute injunctive or other appropriate civil proceedings necessary to obtain compliance or to abate any nuisance resulting from violations in this Ordinance.

Section 6. Emergency Declaration; Proclamation; Publication; When Operative. Due to the potential impending danger of COVID-19 and pursuant to Neb. Rev. Stat. 17-613, the Mayor hereby proclaims that this Ordinance requires immediate operation upon posting of this Ordinance in at least three of the most public places in the city. This Ordinance shall be in full force and effective from and after its passage, approval, and publication as provided by law and City Ordinance.

PASSED AND APPROVED this 4th day of May, 2020.

MAYOR ALAN ZAVODNY

ATTEST:

TAMI COMTE, DEPUTY CITY CLERK

(SEAL)

Mayor Zavodny stated that the next agenda item is what to do with our swimming pool for the season. Mayor Zavodny said, "I'll lay a little foundation here. We met with Yvonne and

John to ask them what comfort level they had with this. The governor is saying that we can open on July 15th at the earliest, also, it would be with the ten person rule and practicing social distancing. The issue that we have is that you can't just say that we're going to open and then flip a switch. There's a couple weeks of prep to get it up and running. LARM says that we shouldn't open at all. Risk management is, of course, going to say that. You're not going to have any liability if you don't open. The pool itself seems safe, but there is still the risk of touching the ladders if you're going to go off of the diving board and those kinds of things. So, I think that keeping it closed to the public until July 15th is the right thing to do but then what do you do. They actually came up with a creative solution. Here's the problem. We hired people to work for us and we can't have a concession stand, that's a given, but they said, we have to go get other jobs and we won't be able to open because we'll have no staff and it's going to be a short season. Even if July 15th gets relaxed and we get to have a season, because come early August, our whole work force starts to go to college or they start their sports practices. So, those are the challenges that we have. But what they talked about is, which I thought was some outside of the box thinking, was what if they were able to give lessons. We could keep it under ten people and they are scheduled. Can we keep it perfectly social distanced? No. Especially with very young swimmers. It didn't seem like a terrible compromise, in that, people that we committed to hire, as far as our lifeguards, if they're willing to do that, then they could earn an income for an abbreviated season and we would still have them available to us. That was the thought and we wanted to bring it to you to see what you thought of it. Before we start in, John, do you have anything that you'd like to say?"

Swimming Pool Manager John Svec said, "We've always had staffing problems even when we haven't had a virus like this. Now, with the uncertainty and the questions, that's the main thing that I'm concerned about, but, whatever decision is made, I will work to get the staff that we need. I couldn't look at a nineteen-year old college student right now and say, "Please wait around for us to hire you" on whatever date and so they will all go out and try to find other employment. That's the main concern that I have. I'm not concerned with the facility or anything like that and whatever decision is made that's what concern I have is having the legal staffing."

Council member Trowbridge said, "Didn't we have staffing problems all of last season when we had no virus?"

Swimming Pool Manager John Svec said, "Yes. That's what I said, we have staffing problems when we don't have a virus."

Council member Trowbridge said, "John, do you have a feeling that you would have any staff if they could be hired on July 15th and work for three weeks?"

Swimming Pool Manager John Svec said, "I would say that it would be very limited."

Council member Trowbridge said, "To the point that you probably couldn't open at some point?"

Swimming Pool Manager John Svec said, "Well, you'd probably only be able to open up to a number commensurate with the number of guards that you have there. If you only have two lifeguards on duty then that's the number of people you allow."

Council member Trowbridge said, "Can you say with any certainty that you could open up with a full staff on July 15th and run for three weeks?"

Swimming Pool Manager John Svec said, "No, I couldn't say that."

Mayor Zavodny said, "I think I agree with where you're going. I see no way that that happens."

Council member Trowbridge said, "I'm not trying to be negative, I'm trying to be real."

Mayor Zavodny said, "I've been mayor for ten years now and we've had staffing problems almost every year. It's just tough."

Swimming Pool Assistant Manager Yvonne Wendt said, "We did have staff ready to go last year and then because the farmers are willing to pay more than what we are at the pool, especially our boys are going to the field because they are making quite a bit more than what they can make at the pool. Then they have to pay for their suits and their certifications and they don't need to be certified to work with a farmer and they're going to make probably five dollars more an hour so, I can't blame them."

Mayor Zavodny said, "Does it close the gap if they're able to give private lessons?"

Swimming Pool Assistant Manager Yvonne Wendt said, "There aren't a lot of boys that give private lessons. You're kind of on your own if you want to give lessons."

Mayor Zavodny said, "Laura, do you want to chime in on our pool dilemma?"

Four Corners Health Dept. Executive Director Laura McDougall said, "I hate that there is just an awful lot of uncertainty when it comes to the swimming pool. We know that the ten-person rule is in effect until the end of May and so we know for sure that the pool can't open. We don't know for sure what's going to happen in June."

Mayor Zavodny said, "That would address opening to the public, which I would have to argue that I'm against at this point, because you're not going to be able to social distance kids. All the lifeguards would be doing is saying "stay apart". I didn't mind the private lesson idea with scheduling and limiting the number. The social distancing isn't great on that piece either and you're not going to be able to have a lifeguard and a kid wearing a mask and try to teach swimming lessons. That's an issue. Is this whole debate moot, or is it something that may be an outside of the box solution? The Council may decide not to open it, period. That's an option. The one thing that I would say, from an equipment standpoint, it's not great to have it sit idle for a whole season and not operate. When you don't run things, things go crappy. I'm thinking about farm equipment. We've run into it in the City, where we haven't exercised our hydrants and they don't work. That's a risk."

Council member Hotovy said, "But, when you look at the date, it's July 15th, how much do you have left?"

Mayor Zavodny said, "We're not going to have any revenue from season passes this year, that's gone. Are we looking at a three-week season? Part of it will depend on if we're

going to have a sports season. In August you have the kids getting ready for football, the girls for volleyball, cross country and all those things. They start fairly soon into August.”

Council member Trowbridge asked Four Corners Health Department Executive Director Laura McDougall, “Given that our trend isn’t going away and we probably haven’t hit our peak yet, is there any reason to believe that things are going to get better come June, and what would your best recommendation be on our pool?”

Four Corners Health Dept. Executive Director Laura McDougall said, “I can tell you what I think is going to happen with the disease transmission. I think that we’re going to see it going up. I think we’re going to have a time when it’s probably worse. I think that we could have it settle back down this summer and then I think that we’ll have another wave. That’s what I think.”

Mayor Zavodny said, “The wave, are we thinking September or October, like they’ve been talking nationally?”

Four Corners Health Dept. Executive Director Laura McDougall said, “I think it will be when it starts to get cold and winter comes. I don’t know that things will close down the same way that this has. I think that we are going to have to learn how to live with this virus for some time. I don’t know that the pool would be a good decision, financially, to open it this summer because I have my doubts that the person limit is going to be lifted. I think that we’re going to be looking at social distancing into June and I agree that when things do open up, that everyone’s going to be excited to be together. I think schools are going to have high hopes that they’re going to be able to do the more organized sports. I think that we’re going to be living with this virus for a while and it will probably come in waves.”

Mayor Zavodny said, “So, you’ve heard the arguments for and against. I think that I just need to say that those of you who have been on this a while know that the swimming pool will never make money. It’s a quality of life thing for the City. This is a really unique thing. If you take away the concessions, take away the family passes, basically, we’d be operating at a very big loss.”

Council member Trowbridge said, “We’ve already had that the human side of it isn’t going to work. We lose \$50,000 to \$65,000 every year, in a normal year, on the pool. That’s just the way that it is. It is a positive life style for the children and young people of David City. No two ways about it. But, it isn’t going to work this year.”

Mayor Zavodny said, “So, our decision is, are we going to commit to them that we’ll have swimming lessons and have a shortened season, or are we just going to scrap the year?”

Council member Trowbridge said, “Mr. Egr, if we move to not have a swimming pool season this year, and three weeks from today the virus magically disappears like we’ve been told, can we revisit the issue?”

City Attorney Egr said, “Sure, you can repeal that.”

Council member Trowbridge made a motion to keep the swimming pool closed for the 2020 season due to COVID-19 and staffing. Council member Bruce Meysenburg seconded the

motion. Voting AYE: Council members Hotovy, Trowbridge, Kobus, Pat Meysenburg, Vandenberg and Bruce Meysenburg. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to adjourn. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Trowbridge, Bruce Meysenburg, Kobus, and Pat Meysenburg. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 7:05 p.m.



CERTIFICATION OF MINUTES
May 4, 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 May 4th, 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.

Tami Comte, Deputy City Clerk