

## CITY COUNCIL PROCEEDINGS

February 9, 2011

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on February 3<sup>rd</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 during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Gary Kroesing, Bill Scribner, Mike Rogers, John Vandenberg, Ruddy Svoboda, and Gary Smith, City Attorney Jim Egr, and City Clerk-Treasurer Joan Kovar.

Also present were: Police Chief Anthony McPhillips, Park/Auditorium Supervisor Scott Bales, Sewer Employee Joe Stilwell, Don Moravec of Moravec & Associates, CPA, Phil Lorenzen of D.A. Davidson, Jeff Scott of Weathercraft Co. of Lincoln, Janis Cameron, Carolyn Ytes, Joy Fountain, Greg Aschoff, Nick Hein, Russell Heller, Jeff Ditzler, Banner Press Editor Larry Peirce, and Council member Svoboda's nephew Pat McIntyre of Oceanside, California.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the December 8<sup>th</sup>, 2010 and the January 12<sup>th</sup>, 2011 meetings of the Mayor and City Council were approved upon a motion by Council member Kroesing and seconded by Council member Rogers. Voting AYE: Council members Scribner, Vandenberg, Svoboda, Smith, Rogers, and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Kroesing made a motion to authorize the payment of claims and Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Smith, Vandenberg, and Kroesing. Voting NAY: None. The motion carried.

Mayor Trowbridge called for Committee and Officer Reports.

Council member Smith made a motion to approve the Committee and Officer Reports as presented. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg, Smith, Kroesing, and Rogers. Voting NAY: None. The motion carried.

Park/Auditorium Supervisor Scott Bales received the following bids for the roof repair at the City Auditorium:

AK-SAR-BEN Roofing

2622 North 16 Street

Omaha, NE 68110-2152

Proposal One:

- Tear off all existing roofing down to the roof deck.
- Tear out all perimeter wall flashings.

- If during the tear off process it is discovered that the bottom layer of existing roofing is solidly applied directly to the roof deck, we may not be able to scrape it off. In this case, this portion of the existing roofing will be left intact.
- Haul away all project related trash and debris.
- Mechanically fasten one ply each of 5" EPS roof insulation and ½" HP board roof insulation to the roof deck.
- Completed roofing project to have an R-Value of 20.85.
- Install a 60 mil EPDM Fully Adhered Roof System
- Flash any and all curbs, vent pipes and walls.
- Upon completion furnish a roof manufacturer's 15 year warranty.

PRICE: \$47,524.00

Proposal Two – Fire Rated Roof:

- Install ¼" Dens Deck gypsum board onto wood deck.
- Install 3.50" Polyiso (R-21)
- Adhere 60 mil EPDM to Polyiso

PRICE: \$54,217.00

Proposal Three:

- Remove existing concrete cap.
- Install 2x6 nailer on top of walls.
- Wrap roof membrane over wood.
- Install new 24 gauge pre-finished metal.

PRICE: \$4,200.00

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MIDWEST ROOFING, INC.                      2827 North 20 Street                      Lincoln, NE 68521

Membrane Roof System:

Furnish materials and labor to replace the existing ballasted roof covering on the main roof of the building with a new membrane system.

Area of Work

- The extent of roof replacement work is on the main roof level of the building. Work on the raised roof area on the south area of the building will be limited to the sealing of the existing roofing where it overlaps any new roof flashing materials installed with the reroofing of the main roof area. No work is included at the front entry canopies.

Preparation

- The existing gravel ballast roof surfacing will be removed and set aside for reuse with the Ballasted EPDM Roof System or disposed of as directed with the Fully Adhered EPDM Roof System.
- The existing metal wall termination flashing, roofing membrane, membrane roof flashings will be removed and disposed of.
- No more roofing will be removed than can be made water tight each day.

Roof Installation

- The exposed underlying roof insulation will be inspected. If any of the insulation is found to be wet, damaged or otherwise deteriorated it will be removed and replaced with new matching material before the new roofing membrane is installed. *Since the extent of repair or replacement of the existing roof installation, if any, is unknown, the work will be done on a unit basis of \$2.00 per square foot.*

Roofing membrane and flashing work

Sheet Metal Flashings

Ballasted EPDM Roof System

Fully Adhered EPDM

Mechanically Attached White TPO

Additional Work

Warranty

Ballasted Roof Membrane Re placement System

60 Mil EPDM w/10 Year Warranty                      \$30,660.00

Fully Adhered EPDM Roof System

60 Mil EPDM with 15 Year System Warranty                      \$44,055.00

Mechanically Attached White TPO Roof System

60 Mil White TPO With 15 Year Warranty                      \$44,275.00

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**WEATHERCRAFT CO. OF LINCOLN    5410 NW 44<sup>th</sup> Street    Lincoln, NE 68524**

A new Firestone 60 Mil fully adhered rubberguard membrane roof system. The roof area included in this proposal is approximately 10,000 square feet.

We will remove the river stone from the roof and dump it at a location chosen by owner. The existing EPDM will be removed and disposed of. The existing expanded polystyrene insulation will remain in place.

Over the existing insulation, we will install a layer of ½ inch Firestone Isogard insulation. The insulation will be attached to the roof deck with Firestone approved fasteners at the rate of one fastener for every two square feet.

We will then install a new Firestone 60 Mil EPDM roof system according to the current manufacturer's specifications and details. The new roof membrane will be fully adhered to the roof insulation with Firestone bonding adhesive.

Reinforced perimeter strip will be installed at all vertical walls and curbs according to the manufacturer's details. All vents, stacks, and drains/scuppers will be flashed according to the manufacturer's details.

The roof perimeter will receive new termination metal, flashed into the new roof system according to the manufacturer's current published details. The metal will be anchored and caulked to provide a water tight system.

Upon completion, a Firestone representative will inspect the roof to insure that the roof has been applied in strict accordance with the manufacturer's specifications. A fifteen (15) year manufacturer's water tight warranty is included in this proposal. A sample of this warranty will be furnished upon request.

To increase warranty period to twenty (20) years, ADD \$585.00 to the estimate below.

We propose to furnish material and labor – complete in accordance with above specifications, for the sum of: \$42,841.00

Park/Auditorium Supervisor Scott Bales recommended accepting the bid of Weathercraft. Discussion followed. Council member Smith made a motion to accept the bid of Weathercraft and Council member Kroesing seconded the motion. Council member Svoboda suggested adding the \$585.00 for the extra five year warranty. Council member Smith amended his original motion to accept the bid of Weathercraft Co. of Lincoln in the amount of \$42,841.00 plus \$585.00 to increase the warranty period to twenty (20) years for a total of \$43,426.00. Council member Kroesing agreed to the amendment and seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Svoboda, Scribner, Kroesing, and Smith. Voting NAY: None. The motion carried.

Council member Scribner introduced Ordinance No. 1134. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Svoboda, Rogers, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1134 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Scribner, Vandenberg, Rogers, Smith, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1134 was passed and adopted as follows:

**ORDINANCE NO. 1134**

AN ORDINANCE RELATING TO ELECTRIC SERVICE RATES AND MINIMUM CHARGES, TO PROVIDE A NEW SCHEDULE OF ELECTRIC RATES BY INCORPORATING A 9% INCREASE TO THE SERVICE RATES, NOT MINIMUMS, TO REPEAL ALL PARTS OF THE CODE, RESOLUTIONS AND ORDINANCES IN CONFLICT HERewith; TO PROVIDE WHEN THE ORDINANCE SHALL TAKE EFFECT; AND TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. NEW SCHEDULE: Relating to electric service and minimum charges, to provide a schedule of electric rates, minimum charges, and customer service charges, to distinguish residential rates, commercial rates, industrial rates, off-peak industrial rates, and irrigation rates; to set availability rating; to provide and establish the following tariff of rates to consumers of electric service from the electric distribution system of the City of David City, Nebraska.

**RESIDENTIAL SERVICE**

*Available*

To residential customers in the established service area of David City.

*Applicable*

To single-family residences and individually metered apartments for all domestic purposes when all service is supplied through a single meter. It is not applicable to residences where a commercial enterprise is conducted.

*Character of Service*

A.C. 60 Hertz, Single-Phase 120 volt, 2 wire or 120/240 volts, 3 wire.

***Rate***

**Customer Service Charge - \$7.85 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.0976</b>	<b>\$0.0962 per kilowatt-hour for the first 500 kilowatt-hours used per month</b>
<b>\$0.0876</b>	<b>\$0.0664 per kilowatt-hour for the next 500 kilowatt-hours used</b>
<b>\$0.0775</b>	<b>\$0.0438 per kilowatt-hour for all additional use.</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**Customer Service Charge**

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**RESIDENTIAL SUMMER CONTROLS**

*Applicable*

To residential consumers who have allowed the Utility Department to install, and operate, such devices as would be required to cycle central air conditioning units during periods of peak electrical demand and imposed upon the electrical system. Window air conditioning units, on a separate electric circuit can be included in this rate.

*Rate*

**Customer Service Charge - \$7.85 per month**

<b>Summer</b>	<b>Winter</b>
<b>\$0.0976</b>	<b>\$0.0962</b> per kilowatt-hour for the first 500 kilowatt-hours used per month
<b>\$0.0808</b>	<b>\$0.0664</b> per kilowatt-hour for the next 500 kilowatt-hours used
<b>\$0.0739</b>	<b>\$0.0438</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

*Minimum Bill*

**Customer Service Charge**

*Seasonal Billing Periods*

- Summer - Summer period is for the meter readings obtained during the four month period of June through September.
- Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

*Terms of Payment*

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

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**COMMERCIAL SERVICE**

*Available*

To any non residential consumer in the established service area of David City.

*Applicable*

To any non-residential consumer for lighting, heating and power purposes where the customer's billing demand does not exceed 35 Kw or 10,000 Kwh for three consecutive months.

*Character of Service*

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

***Single Phase Rate***

**Customer Service Charge - \$7.85 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1088</b>	<b>\$0.1067</b> per kilowatt-hour for the first 1000 kilowatt-hours used per month
<b>\$0.0848</b>	<b>\$0.0748</b> per kilowatt-hour for the next 1000 kilowatt-hours used
<b>\$0.0848</b>	<b>\$0.0601</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**Customer Service Charge, or \$2.02 per month per horsepower for the first 10 horsepower and \$1.16 per horsepower of connected load thereafter, or whichever is the largest.**

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***Three Phase Rate***

**Customer Service Charge - \$15.70 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1088</b>	<b>\$0.1067</b> per kilowatt-hour for the first 1000 kilowatt-hours used per month
<b>\$0.0848</b>	<b>\$0.0748</b> per kilowatt-hour for the next 1000 kilowatt-hours used
<b>\$0.0848</b>	<b>\$0.0601</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**Customer Service Charge or \$2.02 per month per horsepower for the first 10 horsepower and \$1.16 per horsepower of connected load thereafter, or whichever is the largest.**

***Seasonal Billing Periods***

Summer - Summer period is for the meter readings obtained during the four month period of June through September.

Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

***Terms of Payment***

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

***Power Factor Adjustment***

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

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## **INDUSTRIAL SERVICE**

### *Available*

To any non residential consumer in the established service area of David City.

### *Applicable*

To any consumer whose monthly consumption equals or exceeds 10,000 Kwh or whose monthly peak demand equals or exceeds 35 Kw for three consecutive months.

### *Character of Service*

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

### *Rate*

#### **Demand Charge**

<b>Summer</b>	<b>\$18.31 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$15.15 per kilowatt of maximum billing demand</b>

#### **Energy Charge**

<b>Summer</b>	<b>\$0.0441 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0338 per kilowatt-hour used</b>

**Subject to Application of Production Cost Adjustment (PCA)**

### *Minimum Bill*

**The minimum bill shall be \$304.19 per month, or the billing demand charge, whichever is greater.**

### *Determination of Billing Demand*

The maximum demand for any billing period shall be the larger of: The highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period; or fifty four percent (54%) of the highest kilowatt demand registered on the meter during the preceding months of June, July, August, or September.

### *Seasonal Billing Periods*

Summer - Summer period is for the meter readings obtained during the four month period of June through September.

Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

### *Terms of Payment*

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

*Power Factor Adjustment*

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

*Fluctuating Loads*

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all nonbetterment costs for corrective equipment to eliminate the interference.

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**OFF-PEAK INDUSTRIAL SERVICE**

*Available*

To any non residential consumer in the established service area of David City.

*Applicable*

To any consumer whose monthly consumption equals or exceeds 10,000 Kwh or whose monthly peak demand equals or exceeds 35 Kw for three consecutive months and whose peak demand during the winter season exceeds the peak demand experienced during the preceding summer season.

*Character of Service*

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

*Rate*

**Demand Charge**

<b>Summer</b>	<b>\$18.31 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$ 9.90 per kilowatt of maximum billing demand</b>

**Energy Charge**

<b>Summer</b>	<b>\$0.0441 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0338 per kilowatt-hour used</b>

**Subject to Application of Production Cost Adjustment (PCA)**

*Minimum Bill*

The minimum bill per month shall be \$277.10 during the winter months, or the billing demand charge, whichever is greater.

The minimum bill per month shall be \$304.19 during the summer months, or whichever is the greater between the billing demand or the summer/winter minimum.



*Determination of Billing Demand*

The maximum demand for any billing period shall be the larger of: The highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period; or fifty four percent (54%) of the highest kilowatt demand registered on the meter during the preceding months of June, July, August, or September.

*Seasonal Billing Periods*

Summer - Summer period is for the meter readings obtained during the four month period of June through September.

Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

*Terms of Payment*

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

*Power Factor Adjustment*

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

*Fluctuating Loads*

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all non-betterment costs for corrective equipment to eliminate the interference.

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**IRRIGATION SERVICE**

*Available*

To irrigation customers in the established service area of David City.

*Applicable*

Applicable: **Off-Peak:** During the irrigation season, the utility may interrupt pump service during the peak hours. The peak hours shall be between 10:30 a.m. and 9:30 p.m. (Central Daylight Savings Time), Monday thru Saturday, excluding holidays. The City, at their sole discretion may change the period of interruptible hours.

***Rate: On-peak irrigation (Firm)***

**\$43.02 per Horsepower connected per year. Energy consumed shall be billed at the rate of 7.96¢ per kilowatt hour per month, payable as used.**

***Rate: Off-peak irrigation (Non-Firm)***

**\$18.39 per Horsepower connected per year. Energy consumed shall be billed at the rate of 5.00¢ per kilowatt hour per month, payable as used.**

***Minimum Bill***

**The minimum bill shall be the Horse Power Charge**

*Determination of Connected Load*

The connected load in horsepower shall be taken from the name plates of the motors or from an actual measurement of horsepower input to the motor, or motors, operating under maximum load conditions. The City reserves the right at any time to check the customer's load for recalculation of the connected load.

*Terms of Payment*

The total horsepower charge shall be billed on approximately April 25<sup>th</sup> of each year and total amount payable upon receipt. It shall become due the first day of May each year and become delinquent at 5:00 p.m. on the 10<sup>th</sup> day of May. A ten percent (10%) penalty is imposed on all delinquent bills.

Bills for the kwh usage are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent at 5:00 p.m. on the 10<sup>th</sup> day of each month. A ten percent (10%) penalty is imposed on all delinquent bills.

*Power Factor Adjustment*

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% whether leading or lagging at all times. Power factor adjustments will be made in the horsepower billing, when the power factor, as determined by test, at the time of the maximum use is less than 90%. The measured maximum horsepower will be multiplied by 90 percent and divided by the customer's power factor expressed in percent.

***FLUCTUATING LOADS***

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, will be charged \$1.78 per month per KVA of such nameplate rating of such equipment or other equipment for energy used, and such charges will be in addition to the bill determined by the kilowatt hours recorded by the meter and billed at scheduled rates. It will be added to the minimum bill for services in the event the energy for other services does not equal the amount of a minimum bill for such other services.

Section 2. **RATE MODIFICATION**: Whereas the rates offered to the customer by the City is based upon the current rate being paid by the City to its wholesale supplier, the City shall reserve the right, during the term of the rates, to adjust said rates to the consumer by an amount not to exceed two (2) mills per kilowatt hour greater than the adjustment to the City by its wholesale supplier.

Section 4. That all rates in Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5. This ordinance shall be published in pamphlet form and all rates included in this Ordinance shall be effective as of January 1, 2011. (So the usage for January will be billed on these rates).

PASSED AND ADOPTED this 9<sup>th</sup> day of February, 2011

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Mayor Alan Zavodny

ATTEST:

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City Clerk Joan E. Kovar

Mayor Zavodny stated that agenda item #9 – Consideration of the proposal by Olsson Associates to conduct an electric rate study – will be skipped as we have not received the proposal at this time.

Title 316, Chapter 35, Section 616 of the Nebraska Administrative Code requires a city to perform on an annual basis, coinciding with the fiscal year of the city, compliance procedures of its keno lottery prescribed by the Nebraska Department of Revenue. Don Moravec, of Moravec and Associates, stated that the Nebraska Charitable Gaming Division has a set of ten compliance procedures that are to be checked on an annual basis. Don stated that during the performance of the 10 agreed-upon procedures, no findings were noted, and he said that is what we want to hear from him. The Keno proceeds were down but it was noted that is due to the fact that we currently only have one Keno operator currently in David City.

City Attorney Egr stated: "I get a report about twice a year from the Gaming Commission and all gaming in the state is down; Bingo, pickle cards, Keno, it is all down; it's going across the river to Council Bluffs. That's just a fact. They are even down, it's the economy."

Council member Kroesing made a motion to accept the Keno Lottery Compliance Procedures Report for the Fiscal Year Ended September 30, 2010, as prepared by Moravec and Associates, CPA, P.C. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Svoboda, Smith, Scribner, and Kroesing. Voting NAY: None. The motion carried.

CITY OF DAVID CITY  
KENO LOTTERY  
STATEMENT OF PROCEEDS DISTRIBUTION  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2010

GROSS PROCEEDS		\$128,258.39
PRIZES		
Declared Prizes	\$95,513.40	
Unclaimed Wins	(314.12)	
Net Prizes Paid	95,199.28	
NET HOLD		\$33,059.11
ALLOWABLE EXPENSES PAID		
Lottery Operator's Commission		\$18,057.32
NET KENO PROCEEDS		\$15,001.79
EXPENSES PAID BY THE CITY OF DAVID CITY		
Professional Fees/Misc	\$986.62	
State Taxes	2,710.48	
Total Expenses Paid	3,697.10	
PROCEEDS AVAILABLE FOR DISTRIBUTION		\$11,304.69
TRANSFERS TO (FROM) OTHER FUNDS		
To the City of David City for Community Betterment	\$10,415.35	
To Prize Reserve Fund	3,144.40	
Total Transfers to Other Funds	13,559.75	
NET INCREASE TO KENO ACCOUNT FUND		(\$2,255.06)
BEGINNING KENO ACCOUNT FUND BALANCE		34,809.45
INTEREST		33.23
PRIOR YEAR PROCEEDS RECEIVED THIS YEAR		333.05
CURRENT YEAR PROCEEDS RECEIVED AFTER SEPTEMBER 30, 2010		(3,182.22)
KENO ACCOUNT FUND BALANCE AT SEPTEMBER 30, 2010		\$29,738.45

PRIZE RESERVE FUND RECONCILIATION FOR THE REPORTING PERIOD

Beginning Fund Balance	(\$614.03)
Net Transfers to Keno Account	3,144.40
Ending Fund Balance	\$2,530.37

**City of David City**  
**Keno Lottery**  
**Statement of Changes in Keno Fund**  
**For the Fiscal Year Ended September 30, 2010**

Beginning Cash 10-01-09		\$34,196.25
Keno Receipts		
City Share	9,230.67	
Unclaimed Wins	311.62	
State Taxes	<u>2,610.32</u>	12,152.61
Interest		33.23
Disbursements		
Community Betterment		10,415.35
State Taxes		2,710.48
Professional Fees/Misc		<u>986.62</u>
Ending Cash 9-30-10		<u><u>\$32,269.64</u></u>
Reconciliation of Keno Fund Bank Activity		
Balance 9-30-10 per Bank		
Union Bank #0905900252	\$5,607.95	
Union Savings #2900847	<u>31,277.04</u>	36,884.99
Less Outstanding Checks		<u>(4,615.35)</u>
Balance 9-30-10 per City		<u><u>\$ 32,269.64</u></u>
Reconciliation of Keno Fund City Accounts		
Keno Fund Balance 9-30-10		\$29,738.45
Prize Reserve Fund Balance 9-30-10		2,530.37
Immaterial Difference		<u>0.82</u>
Balance 9-30-10 per City Records		<u><u>\$32,269.64</u></u>

Mayor Zavodny stated: "Agenda item #11 – Citizen Committee Report and recommendation for the location of the city police department offices - I am going to turn this over to Ruddy because he has kind of been spear heading this. We put a citizen committee together and Ruddy got them working and they did some leg work for the rest of us which we appreciate."

Council member Svoboda stated that the committee had two locations that could be checked into: 1) renting the southwest corner of the Court House and 2) fixing up the old Southern XV property, located at 315 So. 4<sup>th</sup> Street, that the City currently owns.

Mayor Zavodny asked if anyone had a strong feeling to advocate for locating the police department in the west end of the City Office building. It was noted that parking is an issue at this location and the office space would need to be remodeled.

Mayor Zavodny stated: "We won't know until we sit down with the County Board and say *"How much and give us some financials"*. Southern XV is going to take some money to get it ready to use as a police station. I would be willing to go to the County Board and certainly negotiate with them and bring back a number for you to consider next month."

Council member Rogers made a motion to authorize Mayor Zavodny to go to the County Board to present the request of the City to use the southwest corner of the Court House for the city police department and get information concerning costs. Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Kroesing, Vandenberg, Smith, Scribner, and Rogers. Voting NAY: None. The motion carried.

Mayor Zavodny declared the Public Hearing open at 7:47 p.m. to consider the One and Six Year Street Improvement Program for the City.

Street Superintendent Jim McDonald displayed a Six-Year Plan Map and stated: "I talked to Phil before the meeting because when we did the "D" Street Project and some other residential streets we had borrowed some money to do about 5 or 6 blocks on 10<sup>th</sup> & "M" Street in the north part of town that haven't been completed. We don't know for sure what that dollar amount is at this time but those were the next blocks that we would plan on doing in our One-Year Plan. The One-Year Plan is maintenance only as of now but I do have one petition out for concrete curb and gutter on 10<sup>th</sup> Street from "J" to "K" and I'm waiting for it to come back and I have some other people in this same area that have asked for petitions so we may have more than just one petition. In the past the property owner has paid for the curb and gutter and the city is responsible for the street and intersections. We have some alley work we need to do (in the downtown area). I did some work last fall with Meister Construction on the alley behind Rex Rehmers' (5<sup>th</sup> – 6<sup>th</sup> and "C" – "D"). The alley behind the flower shop and B.J.'s Hardware (4<sup>th</sup> – 5<sup>th</sup> and "E" – Railroad) is in really bad shape and needs something done to it so we are probably going to do some work on it this summer."

Mayor Zavodny stated: "If we are going to do Downtown Redevelopment our allies become the front streets for those businesses while they are torn up. We need to start getting ready for that."

Street Superintendent McDonald explained his Highway Allocation as follows:

Highway Allocation this year is \$150,000  
For the first \$75,000 there is no match  
For the next \$75,000 match \$1 for every \$2.00 we receive

50% - based on total population  
30% - Motor Vehicle Fees  
20% - Lane miles of Streets. David City has 30 miles or 60 Lane Miles  
\$4,000 incentive payment for having a Class A City Street Superintendent  
\$6,264 Street Maintenance Agreement where we do maintenance and patching on the highway.

There being no questions or comments Mayor Zavodny closed the Public Hearing at 8:02 p.m.

Council member Kroesing introduced Resolution No. 3 - 2011 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 3 - 2011 was passed and approved as follows:

**RESOLUTION NO. 3 - 2011**

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on February 9, 2011, in accordance with the requirements of the Board of Public Roads Classifications and Standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the One Year and Six Year Street Improvement Plans for Streets, as presented at the public hearing, are unanimously accepted and the City Clerk is hereby instructed to forward a certified copy of this resolution to the Board of Public Roads Classification and Standards of the State of Nebraska.

PASSED AND APPROVED this 9<sup>th</sup> day of February, 2011.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar

Phil Lorenzen, Vice President of D.A. Davidson & Co. presented the following power point presentation.

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**STORM WATER SEWER  
IMPROVEMENT DISTRICT NO.  
2010-1, DAVID CITY, NEBRASKA**

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**Northwest Drainage Project -- CONSTRUCTION & PERMANENT  
FINANCING OUTLINE AND TIME LINE**

*Philip A. Lorenzen*





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## Where Does the Money Come From?

- Current Year Operating Budget
- NW TIF Area Annual Revenues (15-years)
- One & one-half cent Sales Tax (10-years)
- Accumulated Savings—sinking funds
- Grant Funds
- Borrowed Funds

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--Bond Issue Financing—long-term

--Bond Anticipation Notes-short term construction

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## Specific Steps to Creation of Storm Water Sewer District 2010-1 (NW Drainage Project)

- Plan Approval (November 2010 approved) **Re-approve February 2011.**
  - Propose adoption of "Resolution of Necessity" Feb 2011
  - Publish Resolution of Necessity two times, Banner Press
  - Conduct Hearing, March 2011
  - Upon hearing, March 2011, Resolution of Necessity is put on final passage as proposed or as amended
  - After adopting Resolution of Necessity, City may advertise for bids and award construction contracts,
  - Bond Anticipation Notes then issued to pay construction costs
  - On completion of Project construction, City accepts work of contractor and issues permanent Bond Financing
-

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## Source of Construction Financing

- Issuance of Bond Anticipation Notes

- Best Choice

- more economical—lower initial interest cost
    - ease of payment to contractors
    - some reinvestment income
    - may capitalize construction interest

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## Bond Anticipation Notes

- Maturity—generally not more than 3 years
- Interest Rates one might expect are low
- Capitalization of construction interest
- Redemption options—early note payment
- Transactional costs (Estimated Cost should not be more than 1.25%)
  - Publication and document preparation
  - Structuring, underwriting & marketing the notes
  - Legal counsel expenses and Bond Counsel costs

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## Structuring the Bond Issue Issued as “General Obligation Bonds”

- **Maturity Schedule—**not to exceed 20-years
  - **Payment Period--Consider Annual Payment Requirements –** Sales tax available for only 10-years
  - **Interest Rates Generally Higher for Longer-term bonds.**
  - **Prepayment or Call Redemption Features**
  - **Refunding Opportunities**
-

## CITY OF DAVID CITY, NEBRASKA

### *Summary of Estimated Project Cost --Northwest Drainage Project*

Estimated Construction Cost (Per Jay Bitner Estimate	\$1,743,786
Right of Way and Easement and related costs and fees	70,000
Est Cost for Butler Pub Pwr moving Poles, lines & misc costs	89,415
Engineering payable by City to NRD	49,500
Subtotal	\$1,952,701
Contingency, testing and related costs	100,000
Legal, Bond Anticipation Note Issuance & Misc. Costs	50,000
Revised Cost Illustration	\$2,102,701

## CITY OF DAVID CITY, NEBRASKA

### *Source of Payment of Project Cost --Northwest Drainage Project*

Issuance of Bond Anticipation Notes (Estimated 2% annual Interest Cost) \$ 2,100,000

Other Funding Sources:            TIF Bond Income, Est. \$12,000 annually  
    Sales Tax Revenue Est \$360,000 annually

Steps to Note and Bond issuance:            Consider issuance of Notes for 3 year term  
    Est interest cost 2% per annum  
    \$2,100,000 @ 2% equals \$42,000

Apply TIF income & Sales Tax to pay Interest  
 and make annual principal payments of est.  
 amount of \$200,000.

In three years convert Notes into Bonds -- 7 year  
 maturity at assumed 4% Borrowing Cost  
 \$2,100,000 less \$600,000 equals \$1,500,000 Bonds

\$1,500,000 Bond issue at assumed 4% rate would  
 result in annual bond payments of approx \$250,000

Projected Annual Sales Taxes	\$ 360,000
Est Bond Payment	\$ (250,000)
NW TIF revenues used	15,000
	235,000

Annual Residual Sales Tax Revenues	\$ 125,000.00
Collection Period of 10 years	X 10
Sales Tax available for other projects	\$ 1,250,000

***It may be safely assumed that sales tax revenues will increase over the 10 year collection period allowing more funds for other projects***

Phil Lorenzen stated: "Tonight will include the plan approval. You did approve the plan previously on November 2010, I'd like to see you re-approve that tonight because the cost appears to be a little less than it was previously. The Resolution of Necessity, once it is proposed tonight it will be published two times in the Banner Press; you would conduct a hearing on March 9, 2011, your next regular meeting date. Upon the hearing being held on March 9, 2011, you would then consider the final adoption of the Resolution of Necessity either as proposed or as it may be amended during the course of the next couple of weeks. After adopting the Resolution of Necessity, the City may advertise for bids and award the construction contracts. I would recommend that Bond Anticipation Notes then be issued to pay construction costs and on the completion of the project construction the City would accept the work of the contractor and issue long term permanent Bond Financing. Alan and I talked to some length about this and our view is with rates very low, yet short term, we are probably better off to leave those notes out for about three years. I am anticipating that could be done for an interest cost of about 1.75 – 2%. So rather than pay a higher price term long term, I'd be inclined to go ahead and leave those notes out for a little longer period of time and use a lower rate of interest, take our chances on where the market goes; just keep an eye on that. The next item is the issuance of Bond Anticipation Notes; it is the best choice. You can do internal borrowing but you don't have a lot of money to do with that that's kind of an unfair way to approach projects. What I would look to do is to have an early redemption option on the notes, if we like the longer term market pay off the notes and move it into permanent financing. But I don't want to have you not have a window of opportunity so I would suggest a one year call which gives you a two year window of opportunity to find a market you like and roll over to permanent financing. You are not mandated to do that but it gives you an option. Transactional costs should not be more than 1.25%. The long term bonds are issued as "General Obligation Bonds". The annual payment requirements are that primarily of the sales tax which is only available for a 10-year period of time, so the final maturity on the bonds should be about 10-years. Interest rates are generally higher for longer term bonds. I've made calculations based on an assumed 4% rate of interest on average. That's a bit high but I wanted to hedge that a little bit because there is some continued feeling that rates will continue to move up a bit. We would also provide a call redemption feature on the bonds so if rates do drift down we can go ahead and refinance them. Previously the estimated Project Cost was \$2.2 million. Joan, Jim Egr, Jay Bitner of NRD, Alan Zavodny, and I collectively came up with \$2,102,701. So about \$100,000 less than we had talked before. How are you going to pay for it? The current year operating budgets are strapped so don't anticipate we'll find any money in the operating budget for this project. Some time ago you created the Tax Increment Financing area so that will cast off annual revenues for the next fifteen years. It looks as if it is \$10 - \$15,000 a year and I would expect as that value increases it will cast off more revenue. The other financing is the one & one-half cent sales tax that began October 1, 2010 for a ten year period of time. Accumulated Savings and Grant Funds are hard to find. The borrowed forms will take two forms; initially a long-term Bond Issue Financing but the interim construction costs I would recommend you fund with Bond Anticipation Notes on a short term basis. This would be my expectation. Issuance of Bond Anticipation Notes; I would recommend you issue whatever the contract cost is and I would wait until you have the contract in hand before you issue the notes. Again, on the high side I said a 2% annual interest cost but it could be less than that. The funding sources you have: the TIF Bond Income is about \$12,000 annually. You issued bonds on the Tax Increment Financing District. The bonds are held by the City and those TIF revenues come in and they accumulate to pay down the principal amount of the bonds; they weren't sold they are held by the City as a means to capture those taxes. The sales tax revenue is about \$30,000 a month, that's \$360,000 a year, and as the economy improves we would expect that to get better. The steps of the note and bond issuance would be to consider issuance of Notes for a 3 year term. If the interest (2%) cost on those for a 3 year term for \$2.1 million would be about \$42,000 a year for interest. Then I would be inclined during that initial 3 year period to apply the TIF income and the sales tax to make annual principal payments of about \$200,000; pay that down. After 3 years then

you could roll the balance of the notes into a 7 year bond, assume 4% borrowing costs. \$2.1 million less \$600,000 would leave you a balance of \$1.5 million to fund in the longer term financing. \$1.5 million at assumed 4% interest rate for 7 years would take about \$250,000 a year. The projected annual sales tax of \$360,000, the bond payment of \$250,000 I applied \$15,000 of TIF Revenue leaving \$235,000 as the net to come from the sales tax, that leaves you, if you will, with \$125,000 a year for other projects; 10 years should be about \$1,250,000.00 (a million and a quarter) left over to supplement the other projects.”

Mayor Zavodny stated: “My big thing as we’ve gone through this is “prove the numbers to me”, and we’ve done this probably as best as we could. Some of the things that may jump out at you is, if this is number one priority, there’s not a lot left for downtown over that ten year period, so we are going to have to figure something else out for that because we are significantly short. This is thirty years in the planning and there are still people who don’t believe this is going to happen. I just want to make sure this is really clear, we still have groundwater problems so, this is not the silver bullet to solve every water problem in David City, so understand that going in. It’s an important project; probably needs to be done; people will still probably get water in their basements. Let’s be clear on that. So we are going to spend \$2.1 million and not get rid of every bit of water in people’s basements.”

City Attorney Egr stated: “If the City doesn’t go ahead with this project now, we are going to owe NRD \$49,500 and we will have nothing. So, if you talk about blowing away money, you will blow away \$49,500 and not have a project. That’s significant.”

Mayor Zavodny stated: “The other thing, I think we have an obligation to, is that this community passed a sales tax expecting this being a project that happens. We have a responsibility to do what we can to try to deliver on that and to carry out the faith that they put in that for this to happen. I go into this with some trepidation. The question before us is, “Are we willing to and ready to at this point in time to finally pull the trigger on this thing that’s been sitting there for thirty years?”

City Attorney Egr recommended that in accordance with the agenda and the updated details of the project and its total cost estimate, that the City re-approve the updated completed plans, specifications and estimate of total cost of Storm Water Sewer District No. 2010-1 (NW Drainage Project).

Council member Kroesing made a motion to pass and approve Resolution No. 4 - 2011 approving the final cost estimate of the Northwest Drainage Project Improvements (Storm Water Sewer District No. 2010 – 1). Council member Smith seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Scribner, Svoboda, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 4 - 2011 was passed and approved as follows:



**RESOLUTION NO. 4 - 2011**

RESOLUTION APPROVING THE UPDATED PLANS, SPECIFICATIONS AND ESTIMATE OF COST FOR CERTAIN STORM WATER SEWER IMPROVEMENTS PREPARED BY THE ENGINEERS OF THE UPPER BIG BLUE NATURAL RESOURCES DISTRICT, AS ENGINEERS FOR THE CITY FOR CERTAIN STORM WATER SEWER IMPROVEMENTS.

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska:

That the preliminary plans, specifications and estimate of cost of \$2,100,000.00 filed by the Engineers of the Upper Big Blue Natural Resources District, as Engineers for the City for the construction of certain storm water sewer improvements as filed in the office of the City Clerk on the 1<sup>st</sup> day of October, 2010, for the construction of storm water sewer improvements consisting of City of David City Storm Water Sewer District No. 2010-1 (NW Drainage Project) be and the same are hereby approved and all prior actions relative thereto be and hereby are ratified approved and confirmed.

PASSED this 9<sup>th</sup> day of February, 2011.

CITY OF DAVID CITY, NEBRASKA

By: \_\_\_\_\_  
Mayor Alan Zavodny

ATTEST:

\_\_\_\_\_  
City Clerk Joan E. Kovar

[SEAL]

The City Clerk then presented a proposed Resolution of Necessity for the creation of City of David City storm sewer improvements consisting of Storm Water Sewer District No. 2010-1 (NW Drainage Project) for the construction of certain storm water drainage improvements. Council Member Kroesing introduced Resolution No. 5 - 2011, a Resolution of Necessity for construction of storm water sewer improvements and moved for its adoption. Motion seconded by Council Member Rogers. The City's legal counsel Jim Egr and the City's fiscal agent Phil Lorenzen advised the Mayor and Council that a final vote on the proposed resolution is to be deferred until a public hearing was held on the matter and that it would be necessary to publish the proposed Resolution of Necessity and Notice of Hearing on said proposed resolution in *The Banner Press*, a legal newspaper published in and of general circulation in the City, by two weekly publications after the last of which publications a hearing would be held and following such hearing the Resolution of Necessity could then be considered for final passage by vote of the City Council.

**RESOLUTION NO. 5 - 2011**

RESOLUTION OF NECESSITY

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AS FOLLOWS:

1. The Mayor and Council hereby find and determine that it is necessary and advisable to construct additions and improvements to the City's Storm Water Sewer System consisting of the following:

The proposed improvements include re-grading, shaping, and realignment of existing waterways and road ditches, replacement of culverts at driveways and street intersections, construction of new diversions and vegetated earth waterways, and construction of new storm sewer conduits with appurtenant inlet structures. The downstream point of beginning for the proposed work is at the inlet to a 48" culvert that passes beneath the Union Pacific Railroad and is located along the Union Pacific Railroad north right-of-way and approximately 275' east of the centerline of Butler County Road 'M'. From this point of beginning, reshape and re-grade approximately 6,400 linear feet of existing waterway and road ditch along County Road 'M' east right-of-way, including installation of six (6) 6' x 4' box culverts and one (1) 5' x 4' box culvert. At the intersection of County Road 'M' and Burlington Northern and Santa Fe Railroad, proceed eastward with construction of approximately 1,500 linear feet of new vegetated earth waterway, two (2) 58 1/2" x 36" culverts under the BNSF Railroad, tributary drainage channels, and 600 linear feet of 66" storm sewer. At the northeast corner of Timpfe Industries, Inc. property, proceed southward to East 'S' Street with construction of approximately 740 linear feet of 60" storm sewer. Continue eastward along the East 'S' Street right-of-way with construction of approximately 525 linear feet of 54" storm sewer, including boring and jacking beneath Nebraska State Highway 15, to a point approximately 100 feet east of the State Highway right-of-way. Continue construction southward from that point, and parallel to the State Highway 15 east right-of-way, with approximately 560 feet of 54" storm sewer. At that point continue eastward approximately 225 linear feet with construction of 42" storm sewer, and then southward with approximately 680 linear feet of 42" storm sewer. From this location continue southward to the 'O' Street north right-of-way, and end of storm water system improvements, with construction of approximately 670 linear feet of vegetated waterway. These improvements will also include construction of appurtenant structures, rock rip-rap, and several small tributary drainage channels that convey local drainage into the primary storm water conveyance facilities.

2. The outer boundaries of the said Storm Water Sewer District, referred to as Storm Water Sewer District No. 2010-1 (NW Drainage Project) shall include property located within the City of David City, Nebraska, more fully described as follows:

The outer boundaries of Storm Water Sewer District No. 2010-1 (NW Drainage Project) shall be the Corporate Limits of the City of David City, Butler County, Nebraska and the property contained therein consists of all of the lots, tracts and parcels of real property contained within the said Corporate Limits of the City of David City, Nebraska.

3. The size, kind and location and terminal points of storm water sewer pipe, surface drainage structures and storm water surface drainage ways and other related improvements proposed to be constructed as a part of said additions and improvements are described as follows:

The proposed improvements include re-grading, shaping, and realignment of existing waterways and road ditches, replacement of culverts at driveways and street intersections, construction of

new diversions and vegetated earth waterways, and construction of new storm sewer conduits with appurtenant inlet structures. The downstream point of beginning for the proposed work is at the inlet to a 48" culvert that passes beneath the Union Pacific Railroad and is located along the Union Pacific Railroad north right-of-way and approximately 275' east of the centerline of Butler County Road 'M'. From this point of beginning, reshape and re-grade approximately 6,400 linear feet of existing waterway and road ditch along County Road 'M' east right-of-way, including installation of six (6) 6' x 4' box culverts and one (1) 5' x 4' box culvert. At the intersection of County Road 'M' and Burlington Northern and Santa Fe Railroad, proceed eastward with construction of approximately 1,500 linear feet of new vegetated earth waterway, two (2) 58 1/2" x 36" culverts under the BNSF Railroad, tributary drainage channels, and 600 linear feet of 66" storm sewer. At the northeast corner of Timpte Industries, Inc. property, proceed southward to East 'S' Street with construction of approximately 740 linear feet of 60" storm sewer. Continue eastward along the East 'S' Street right-of-way with construction of approximately 525 linear feet of 54" storm sewer, including boring and jacking beneath Nebraska State Highway 15, to a point approximately 100 feet east of the State Highway right-of-way. Continue construction southward from that point, and parallel to the State Highway 15 east right-of-way, with approximately 560 feet of 54" storm sewer. At that point continue eastward approximately 225 linear feet with construction of 42" storm sewer, and then southward with approximately 680 linear feet of 42" storm sewer. From this location continue southward to the 'O' Street north right-of-way, and end of storm water system improvements, with construction of approximately 670 linear feet of vegetated waterway. These improvements will also include construction of appurtenant structures, rock rip-rap, and several small tributary drainage channels that convey local drainage into the primary storm water conveyance facilities.

The type of sewers and related improvements consist of storm water sewer improvements. Box culverts referred to in the plans and specifications shall be constructed of reinforced concrete formed and cast in place or pre-formed construction or other suitable materials and installed in the locations as set out in the plans and specifications. Storm sewer pipe, storm sewer mains and storm sewer lines shall be of the size, locations and terminal points or length of such storm sewers all as set out in the plans and specifications and shall be of cast concrete construction with such appurtenances as are required and such joints and gasket materials as are set out in the plans and specifications. Inlets and certain other storm sewers and pipes may be constructed of corrugated metal or other suitable materials all as set out in the Engineers plans and specifications. Vitrified clay pipe is hereby determined not to be a suitable material for those parts of the storm water sewer improvements which consist of pipe construction.

4. Reference is hereby made to the plans and specifications for said additions and improvements which have been prepared by Robert J. Bitner, P.E., District Engineer for the Upper Big Blue Natural Resources District, acting as Project Engineer for the City, and which, together with said Engineer's estimate of total cost for said additions and improvements have been filed with the City Clerk prior to the proposing of this Resolution.

5. The Engineer's estimate of total cost for the proposed Storm Water Sewer System improvements for said Storm Water Sewer District No. 2010-1 (NW Drainage) is as follows:

TOTAL ESTIMATED PROJECT COST	\$2,100,000
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6. Said improvements shall be made at public cost. It is hereby found and determined that the improvements are general public improvements of benefit to all residents of

the City and no special assessments shall be levied to reimburse the City for the cost of said improvements. Said storm water sewer additions and improvements shall be financed by the issuance of the City's General Obligation Sewer Bonds issued pursuant to Section 17-925, R.R.S. Neb. 2007, provided however the City may apply other available funds for project costs and payment of bonds issued relative to the project, including sales tax revenues collected from the levy of a one and one-half percent sales and use tax for a ten-year period ending October 1, 2010, which sales and use tax was approved by voters at a special election held in conjunction with the statewide primary election on May 11, 2010.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

Deferred to March 9<sup>th</sup>, 2011  
Mayor Alan Zavodny

Deferred to March 9<sup>th</sup>, 2011  
City Clerk Joan E. Kovar

[SEAL]

Council member Kroesing then moved the passage of Resolution No. 6 - 2011 setting a date for a hearing on the matter of the proposal of a resolution on necessity. Council Member Smith seconded the motion. Voting AYE: Council members Svoboda, Scribner, Rogers, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 6 – 2011 was passed and adopted as follows:

**RESOLUTION NO. 6 - 2011**

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

1. That the Resolution of Necessity creating Storm Water Sewer District No. 2010-1 (NW Drainage Project) of the City of David City be and it is hereby proposed.

2. 7:30 o'clock p.m. on the 9<sup>th</sup> day of March, 2011, at the David City, Nebraska, City Hall is hereby set as the time and place for the Mayor and Council to conduct a hearing on the adoption of said resolution and any objections to its passage, at which owners of real property located in said district may appear and make objections to such improvement, and the City Clerk is hereby instructed to publish notice of such hearing as required by law.

PASSED AND APPROVED this 9th day of February, 2011.

\_\_\_\_\_  
Mayor Alan Zavodny

\_\_\_\_\_  
City Clerk Joan E. Kovar  
SEAL]

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**NOTICE OF HEARING ON RESOLUTION OF NECESSITY**

Public notice is hereby given that the Mayor and Council of the City of David City will meet at 7:30 o'clock p.m. on the 9<sup>th</sup> day of March, 2011, at the City Hall of the City of David City, in the City of David City, Nebraska, for the purpose of conducting a hearing on the resolution of necessity creating Storm Water Sewer District No. 2010-1 (NW Drainage Project) of said City. At such hearing all interested persons may appear and be heard. After such hearing the resolution may be passed as proposed or amended and passed as amended. The following is the text of said resolution:

**RESOLUTION NO. 5 - 2011**

RESOLUTION OF NECESSITY

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AS FOLLOWS:

1. The Mayor and Council hereby find and determine that it is necessary and advisable to construct additions and improvements to the City's Storm Water Sewer System consisting of the following:

The proposed improvements include re-grading, shaping, and realignment of existing waterways and road ditches, replacement of culverts at driveways and street intersections, construction of new diversions and vegetated earth waterways, and construction of new storm sewer conduits with appurtenant inlet structures. The downstream point of beginning for the proposed work is at the inlet to a 48" culvert that passes beneath the Union Pacific Railroad and is located along the Union Pacific Railroad north right-of-way and approximately 275' east of the centerline of Butler County Road 'M'. From this point of beginning, reshape and re-grade approximately 6,400 linear feet of existing waterway and road ditch along County Road 'M' east right-of-way, including installation of six (6) 6' x 4' box culverts and one (1) 5' x 4' box culvert. At the intersection of County Road 'M' and Burlington Northern and Santa Fe Railroad, proceed eastward with construction of approximately 1,500 linear feet of new vegetated earth waterway, two (2) 58 1/2" x 36" culverts under the BNSF Railroad, tributary drainage channels, and 600 linear feet of 66" storm sewer. At the northeast corner of Timpte Industries, Inc. property, proceed southward to East 'S' Street with construction of approximately 740 linear feet of 60" storm sewer. Continue eastward along the East 'S' Street right-of-way with construction of approximately 525 linear feet of 54" storm sewer, including boring and jacking beneath Nebraska State Highway 15, to a point approximately 100 feet east of the State Highway right-of-way. Continue construction southward from that point, and parallel to the State Highway 15 east right-of-way, with approximately 560 feet of 54" storm sewer. At that point continue eastward approximately 225 linear feet with construction of 42" storm sewer, and then southward with approximately 680 linear feet of 42" storm sewer. From this location continue southward to the 'O' Street north right-of-way, and end of storm water system improvements, with construction of approximately 670 linear feet of vegetated waterway. These improvements will also include construction of appurtenant structures, rock rip-rap, and several small tributary drainage channels that convey local drainage into the primary storm water conveyance facilities.

2. The outer boundaries of the said Storm Water Sewer District, referred to as Storm Water Sewer District No. 2010-1 (NW Drainage Project) shall include property located within the City of David City, Nebraska, more fully described as follows:

The outer boundaries of Storm Water Sewer District No. 2010-1 (NW Drainage Project) shall be the Corporate Limits of the City of David City, Butler County, Nebraska and the property contained therein consists of all of the lots, tracts and parcels of real property contained within the said Corporate Limits of the City of David City, Nebraska.

3. The size, kind and location and terminal points of storm water sewer pipe, surface drainage structures and storm water surface drainage ways and other related improvements proposed to be constructed as a part of said additions and improvements are described as follows:

The proposed improvements include re-grading, shaping, and realignment of existing waterways and road ditches, replacement of culverts at driveways and street intersections, construction of new diversions and vegetated earth waterways, and construction of new storm sewer conduits with appurtenant inlet structures. The downstream point of beginning for the proposed work is at the inlet to a 48" culvert that passes beneath the Union Pacific Railroad and is located along the Union Pacific Railroad north right-of-way and approximately 275' east of the centerline of Butler County Road 'M'. From this point of beginning, reshape and re-grade approximately 6,400 linear feet of existing waterway and road ditch along County Road 'M' east right-of-way, including installation of six (6) 6' x 4' box culverts and one (1) 5' x 4' box culvert. At the intersection of County Road 'M' and Burlington Northern and Santa Fe Railroad, proceed eastward with construction of approximately 1,500 linear feet of new vegetated earth waterway, two (2) 58 1/2" x 36" culverts under the BNSF Railroad, tributary drainage channels, and 600 linear feet of 66" storm sewer. At the northeast corner of Timpfe Industries, Inc. property, proceed southward to East 'S' Street with construction of approximately 740 linear feet of 60" storm sewer. Continue eastward along the East 'S' Street right-of-way with construction of approximately 525 linear feet of 54" storm sewer, including boring and jacking beneath Nebraska State Highway 15, to a point approximately 100 feet east of the State Highway right-of-way. Continue construction southward from that point, and parallel to the State Highway 15 east right-of-way, with approximately 560 feet of 54" storm sewer. At that point continue eastward approximately 225 linear feet with construction of 42" storm sewer, and then southward with approximately 680 linear feet of 42" storm sewer. From this location continue southward to the 'O' Street north right-of-way, and end of storm water system improvements, with construction of approximately 670 linear feet of vegetated waterway. These improvements will also include construction of appurtenant structures, rock rip-rap, and several small tributary drainage channels that convey local drainage into the primary storm water conveyance facilities.

The type of sewers and related improvements consist of storm water sewer improvements. Box culverts referred to in the plans and specifications shall be constructed of reinforced concrete formed and cast in place or pre-formed construction or other suitable materials and installed in the locations as set out in the plans and specifications. Storm sewer pipe, storm sewer mains and storm sewer lines shall be of the size, locations and terminal points or length of such storm sewers all as set out in the plans and specifications and shall be of cast concrete construction with such appurtenances as are required and such joints and gasket materials as are set out in the plans and specifications. Inlets and certain other storm sewers and pipes may be constructed of corrugated metal or other suitable materials all as set out in the Engineers plans and specifications. Vitrified clay pipe is hereby determined not to be a suitable material for those parts of the storm water sewer improvements which consist of pipe construction.

4. Reference is hereby made to the plans and specifications for said additions and improvements which have been prepared by Robert J. Bitner, P.E., District Engineer for the Upper Big Blue Natural Resources District, acting as Project Engineer for the City, and which, together with said Engineer's estimate of total cost for said additions

and improvements have been filed with the City Clerk prior to the proposing of this Resolution.

5. The Engineer's estimate of total cost for the proposed Storm Water Sewer System improvements for said Storm Water Sewer District No. 2010-1 (NW Drainage) is as follows:

TOTAL ESTIMATED PROJECT COST            \$2,100,000

6. Said improvements shall be made at public cost. It is hereby found and determined that the improvements are general public improvements of benefit to all residents of the City and no special assessments shall be levied to reimburse the City for the cost of said improvements. Said storm water sewer additions and improvements shall be financed by the issuance of the City's General Obligation Sewer Bonds issued pursuant to Section 17-925, R.R.S. Neb. 2007, provided however the City may apply other available funds for project costs and payment of bonds issued relative to the project, including sales tax revenues collected from the levy of a one and one-half percent sales and use tax for a ten-year period ending October 1, 2010, which sales and use tax was approved by voters at a special election held in conjunction with the statewide primary election on May 11, 2010.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk  
[SEAL]

***Publish two times: February 24, 2011 and March 3, 2011***

***Note to Publisher: Publish Resolution of Necessity with no signatures -- blank signature lines***

City Clerk Kovar questioned the 10 days prior for the public hearing. City Attorney Egr and Phil Lorenzen both agreed that the last publication has to be not more than two weeks but not less than 5 days.

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At the January 12<sup>th</sup> council meeting, Resolution No. 2 – 2011 adopting and approving the execution of an agency agreement with the Department of Aeronautics of the State of Nebraska for Project No. 3-31-0025-09 (E01) to be submitted by the Department to the Federal Aviation Administration to obtain Federal assistance for the development of the Airport.

Street Superintendent Jim McDonald stated that the City's cost is 5% and the Department of Aeronautics provides 95% of the funding. Jim estimated our 5% at approximately \$9,000. This is for a loader with a blower on the front end of it and an attachment for a plow. The stipulation is that it can't be used anywhere except for at the Airport.

Council member Kroesing made reference to Wastewater Supervisor Alan Scott Boyd's department head report which stated: *Compact Utility Trailer – This is to replace the 1994 John Deere 1145 Mower. Department Head would like to place the purchase of the utility tractor on hold until next year. Department Head will be discussing the option of the possibility of a larger unit with the street department/airport department head. This would possibly benefit the wastewater facility, (mowing, snow removal, and general property maintenance) also the street and airport departments. (mowing and snow clean-up after the ½ mile of road is opened at wastewater facility.)* Kroesing asked McDonald if he was aware of that. McDonald stated: "No, I don't know anything about it; I just know he said he was going to back off and try to get a bigger tractor."

Mayor Zavodny stated: "That raises an interesting and good question. I'm a big advocate of you all sharing your toys. I don't think every department needs a piece of equipment because we can't figure out how to share them amongst ourselves. Are we communicating and really understanding what everybody's needs are and making decisions on what our best options are?"

Council member Scribner introduced Resolution No. 2 – 2011 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Svoboda, Vandenberg, and Scribner. Voting NAY: Council members Kroesing, and Rogers. The motion carried and Resolution No. 2 – 2011 was passed and approved as follows:

#### **RESOLUTION NO. 2 – 2011**

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. 3-31-0025-09 (E01) TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT:

Be it resolved by the Mayor and members of the City Council of David City, Nebraska, that:

1. The City of David City, NE shall enter into an Agency Agreement with the Department of Aeronautics for Project No. 3-31-0025-09 (E01) for the purpose of obtaining Federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.
2. The Mayor of the City of David City, NE is hereby authorized and directed to execute said Agency Agreement on behalf of the City of David City, NE, and the City Clerk is hereby authorized to attest said execution.
3. The said agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

Passed and approved this 9<sup>th</sup> day of February, 2011.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar



EXHIBIT "0"

## AGENCY AGREEMENT

### Project No. 3-31-0025-09 (E01)

This is an agreement between the City of David City, Nebraska, hereinafter referred to as the "Airport Sponsor" and the Nebraska Department of Aeronautics, hereinafter referred to as the "Department," made and entered into in accordance with, and for the purpose of, complying with the laws of the State of Nebraska.

The Airport Sponsor desires to develop the David City Municipal Airport and to use federal airport aid funds available for that purpose. Therefore, the Airport Sponsor hereby designates the Department as its agent in accordance with Sections 3-124 and 3-239, Neb. Rev. Stat. (Reissue 2007), and the Department hereby accepts such designation and agrees to act as the agent of the Airport Sponsor.

It is mutually understood and agreed between the parties that the Airport Sponsor has submitted to the Department its proposed project for the development of said airport, and that such project has been approved by the Department, in accordance with Section 3-239, Neb. Rev. Stat. (Reissue 2007).

The Airport Sponsor hereby warrants, undertakes and agrees that if the Federal Aviation Administration makes a grant offer, and the Airport Sponsor executes a Grant Agreement, it will develop and manage said airport in the manner set forth in the Grant Agreement and abide by the conditions, rules and regulations of the Federal Aviation Administration.

The terms and conditions of this Agency Agreement and the respective duties, undertakings and agreements of the parties with respect to this Agency Agreement and with respect to the project of airport development, are as follows:

- A. The Department shall accept, receive, receipt for, and disburse all funds granted by the United States for airport aid in accordance with federal laws, rules and regulations and in accordance with Sections 3-101 to 3-154 and 3-239, Neb. Rev. Stat. (Reissue 2007), as the agent of the Airport Sponsor.
- B. Upon receipt of such federal funds, the Department shall deposit them in the State Treasury, according to law, and shall cause disbursement to be made therefrom as follows:

FIRST: If the Department advances funds to the Airport Sponsor as the equivalent of the United States' share of allowable project cost, the Department shall reimburse itself for any such advancement out of such federal funds thereafter received.

SECOND: The Department shall cause the balance of such federal funds due the Airport Sponsor to be paid promptly to the Airport Sponsor.

- C. The Department shall maintain accurate records of all the funds received and expended by it in connection with the project. These records shall be open to inspection by the Airport Sponsor,

EXHIBIT "O"

the Federal Aviation Administration and their authorized representatives in the offices of the Department at all reasonable times.

- D. The Airport Sponsor reserves the right, power and authority to execute the Application for Federal Assistance, the federal Grant Agreement, all construction and engineering contracts, all agreements related to the purchase of land and all amendments to these items. Aside from the matters so reserved, the Department shall, as agent for the Airport Sponsor, process, execute and submit to the Federal Aviation Administration all papers, forms and documents required by that agency for the approval, carrying out and completion of the project.
- E. The Airport Sponsor agrees to reimburse the Department for its administrative costs of furnishing all services performed by it as agent of the Airport Sponsor, including, but not limited to, the services set forth in the attached Exhibit A, "Administrative Services". Departmental administrative costs charged to the project are considered allowable costs for federal and state participation. These costs will be charged according to the "Schedule of Fees and Charges" shown in the attached Exhibit B, which schedule shall be subject to change upon notification in writing by the Department to the Airport Sponsor.

As used herein, the following words, terms and phrases shall have the meanings herein given:

"Application for Federal Assistance" means the document prepared as the formal application submitted to the Federal Aviation Administration for a grant of federal funds.

"Develop" means to plan, construct or improve the airport as defined in the Application for Federal Assistance.

"Project" means a plan of action for the accomplishment of specific airport developments.

"Grant Agreement" means the contract between the United States of America and the Airport Sponsor in which the Federal Aviation Administration, on behalf of the United States, agrees to pay a portion of the allowable costs of the project.

Executed by the Nebraska Department of Aeronautics this 17<sup>th</sup> day of December, 2010.

(SEAL)

Executed by the Airport Sponsor this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Director

\_\_\_\_\_  
Mayor

Street Superintendent Jim McDonald visited with Deputy State Fire Marshal Scott Petersen about the tank removal on the City's property located at 315 So. 4<sup>th</sup> Street (Southern XV). Petersen has extended the deadline to April 30, 2011. Jim also checked with Stanley Petroleum Maint Inc., Norfolk, Nebraska, who quoted approximately \$1,200.00 to oversee and complete paperwork for the tank removal on the City's property located at 315 So. 4<sup>th</sup> Street (Southern XV).

As no one had signed any agreements with Coranco or notified them of any action, Council member Scribner rescinded his previous motion of January 12<sup>th</sup> to accept the bid of Coranco Great Plains Inc. in the amount of \$4,204.00. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Smith, Kroesing, Vandenberg, Rogers, and Scribner. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to accept a bid of up to \$1,300 from Stanley Petroleum Maint Inc, Norfolk, Nebraska, to oversee and complete the necessary paperwork for the tank removal on the City's property located at 315 So. 4<sup>th</sup> Street (Southern XV). Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Rogers, Smith, Scribner, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing introduced Resolution No. 7 - 2011 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Vandenberg, Smith, Svoboda, Scribner, Rogers, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 7 - 2011 was passed and approved as follows:

#### **RESOLUTION NO. 7 – 2011**

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA TO ESTABLISH COMMITTEE OF THE WHOLE MEETINGS OF THE CITY.

WHEREAS, it is desirable and in the public interest that the City of David City, Nebraska, a municipal corporation and City of the Second Class, create a Committee of the Whole resolution to reflect the City Council's ongoing local responsibilities, including but not limited to policies, finance, public safety, culture, recreation, public works and utilities; and

WHEREAS, it is in the public interest for the Mayor, City Council, Departments and Administrator to work cooperatively for the benefit of all David City residents to resolve public issues through efficient and effective communication; and

WHEREAS, the Committee of the Whole meetings provide a platform for elected officials and appointed officials to collaborate and discuss policies and legislation.

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

Section 1. That there is hereby established a Committee of the Whole meeting for the purpose of meeting to discuss issues and items. The meeting will be for discussion only and no formal action will be taken at the Committee of the Whole meeting. Present for the meetings will be the Mayor, Council members, City Administrator, City Clerk, and Department Heads (*on an as needed basis*).

Section 2. The Committee of the Whole meeting will be scheduled on the 4<sup>th</sup> Wednesday of the every month at 6:00 p.m. in the City Council Chambers, 557 N 4<sup>th</sup> Street, David City, NE

PASSED AND APPROVED this 9<sup>th</sup> day of February, 2011.

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Mayor Alan Zavodny

ATTEST:

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City Clerk Joan E. Kovar

Council member Kroesing introduced Resolution No. 8 - 2011 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Rogers, Smith, Scribner, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 8 - 2011 was passed and approved as follows:

**RESOLUTION NO. 8 - 2011**

**A RESOLUTION OF THE CITY OF DAVID CITY TO AMEND RESOLUTION NO. 5 - 2007 BY RELEASING THE SPECIFIED HOURS OF USE RESTRICTION FOR THE EMERGENCY NOTIFICATION SIRENS.**

WHEREAS, the City of David City, Nebraska is an independent body of government, and

WHEREAS, the City of David City owns and maintains all emergency notification sirens located in David City, and

WHEREAS, Resolution No. 5-2007 prohibited the use of the emergency notification sirens from 8:00 p.m. to 7:00 a.m. daily, with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies, but allowing the Fire Chief or Designee the discretion to activate the sirens if needed, and

WHEREAS, the David City Police Department does not have the fire department pagers and therefore the police department does not know every time the fire department gets dispatched to either an ambulance or a fire call, and

WHEREAS, citizens have stated that the sirens are an alert system for the general public that enables the public to be watchful for fireman responding to a call.

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

1. The City of David City, Nebraska, does withdraw any restrictions placed on the use of the emergency notification sirens. The sirens may be activated as needed.

PASSED AND APPROVED this 9<sup>th</sup> day of February, 2011.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar

Mayor Zavodny declared the Public Hearings open at 8:54 p.m. to consider the following three items:

- 1) Consideration of amending the General Plan Section 4.25 Swimming Pools, private or public swimming pools, changing the depth from 36 inches down to 24 inches to be allowed provided the provisions of an accessory structure and other provisions are met.
- 2) Consideration of amending the Land Use Plan Map to change the zoning on property legally described as Lots 10 – 12, Block 31, Original Town of David City, also known as 312 5<sup>th</sup> Street, from Industrial to Commercial; and
- 3) Consideration of amending the Official Zoning Map to change the zoning on property legally described as Lots 10 – 12, Block 31, Original Town of David City, also known as 312 5<sup>th</sup> Street, from LI (Light Industrial) to C-2 (Downtown Commercial).

City Clerk Kovar explained that the Planning Commission actually wants Section 4.25 Swimming Pools deleted from the General Plan. This cannot be acted on at this time because the Public Hearing notice was incorrect. City Clerk Kovar also explained that it was the Planning Commission that requested the zoning changes. The Bone Creek Art Museum plans to move into the building at 312 5<sup>th</sup> Street and the Commercial Zoning would be more appropriate.

There being no further comments, Mayor Zavodny closed the Public Hearing at 9:00 p.m.

Council member Scribner introduced Ordinance No. 1135. Council member Kroesing made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Svoboda, Rogers, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1135 on the third and final reading. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Svoboda, Scribner, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1135 was passed and adopted as follows:

**ORDINANCE NO. 1135**

AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM I (INDUSTRIAL) TO C (COMMERCIAL), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

- a. To amend the following property from I (Industrial) to C (Commercial):

Lots 10 – 12, Block 31, Original Town of David City  
(also known as 312 5<sup>th</sup> Street)

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 9<sup>th</sup> day of February, 2011.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar

Council member Scribner introduced Ordinance No. 1136. Council member Smith made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Kroesing seconded the motion. Voting AYE: Council members Vandenberg, Svoboda, Scribner, Rogers, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1136 on the third and final reading. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg, Rogers, Kroesing, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1136 was passed and adopted as follows:

**ORDINANCE NO. 1136**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM LI (LIGHT INDUSTRIAL) TO C-2 (DOWNTOWN COMMERCIAL), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

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

- a. To amend the following property from LI (Light Industrial) to C-2 (Downtown Commercial):

Lots 10 – 12, Block 31, Original Town of David City  
(also known as 312 5<sup>th</sup> Street)

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 9<sup>th</sup> day of February, 2011.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar

The City acquired the 77 Dodge Pickup on July 21, 1994 from the U.S. Government - US Army Tank – Automotive Command, Warren, Michigan. City Clerk Kovar visited with previous Police Chief Stephen Sunday who stated that the restriction was that the City had to utilize the vehicle for five (5) years or it had to be relinquished back to the U.S. Government. The City has had the vehicle for 17 years. It is ours.

City Attorney Egr stated: “The Statute says if it has a value of under, I’ll say \$5,000, you don’t have to take sealed bids or sell it at auction. I would suggest that you make a motion to sell it and get sealed bids and put an ad in the paper and see what happens.”

Council member Kroesing made a motion to sell the 77 Dodge Pickup by putting an ad in the paper and requesting sealed bids. Council member Scribner seconded the motion. Voting AYE: Council members Smith, Vandenberg, Svoboda, Rogers, Scribner, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing introduced Resolution No. 9 - 2011 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Rogers, Svoboda, Scribner, Smith, Vandenberg, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 9 - 2011 was passed and approved as follows:

## **RESOLUTION NO. 9 - 2011**

### **RESOLUTION OF SUPPORT**

WHEREAS, local municipal government, county government, and regional economic development entities must provide leadership and coordination for economic development efforts; and

WHEREAS, economic development needs can best be solved through a cooperative effort between local, county, regional and state economic development organizations and entities; and

WHEREAS, there is a need to recognize and promote our community's organizational readiness, infrastructure investment, ability to respond to business needs, and

WHEREAS, the Nebraska Department of Economic Development's Leadership Community Certification has been reviewed and found to be a program promoting our community's economic development preparedness;

THEREFORE, the City Council of David City, Nebraska, do herewith pledge their full support, endorsement, and cooperation for participation in the Nebraska Department of Economic Development's Leadership Community Certification by the City of David City, Nebraska.

Approved this 9<sup>th</sup> day of February, 2011

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar



Council member Kroesing questioned if the discussion concerning the City Administrator position should be deferred to the Committee of the Whole meeting to start the process.

Council member Smith stated: "Last time we formed a committee consisting of three council members, three employees, and three from the general public. It is going to take three months so there is no point wasting another month to get started."

It was noted it is too expensive to advertise in the Omaha World Herald. The League of Nebraska Municipalities will advertise for free and so will other publications.

Mayor Zavodny stated: "The one thing I think we probably should just be on the record of having discussed is: "Are we sure we want to go this direction?" There have been people who have asked me, "Do you need one?" And I think we need to say "Yes, we do". Day to day stuff I don't know how you get it done without one."

Council member Smith stated: "Well that question has come up every time. I get the same thing every time you talk to somebody they say "What do you need one for?" That's because those people don't know what they do. If somebody would set in here and see what they do, there wouldn't be a question."

Mayor Zavodny suggested talking about the City Administrator position more in depth at the Committee of the Whole meeting, but stated that there was no harm in advertising for the position and starting to collect information. City Clerk Kovar was instructed to advertise the position. The job description was discussed and it was noted that this could also be reviewed and tweaked at the Committee of the Whole meeting.

Council member Rogers made a motion to go into executive session to discuss a personnel matter. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Svoboda, Kroesing, Scribner, Rogers, and Vandenberg. Voting NAY: None. The motion carried.

Mayor Zavodny stated, "Now at 9:21 p.m. we are going into executive session to discuss a personnel matter." Mayor Zavodny, all of the Council members, City Attorney Egr, and City Clerk Kovar went into executive session at 9:21 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 10:08 p.m.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Vandenberg seconded the motion. Voting AYE: Council members Rogers, Scribner, Svoboda, Smith, Vandenberg, and Kroesing. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 10:09 p.m.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
February 9, 2011

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of February 9, 2011; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Joan E. Kovar, City Clerk