

CITY COUNCIL PROCEEDINGS

April 13, 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 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 7th, 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, Mike Rogers, Bill Scribner, John Vandenberg, Ruddy Svoboda, and Gary Smith, City Attorney Jim Egr, Interim City Administrator Joan Kovar and Interim Clerk-Treasurer Tami Comte.

Also present were: Police Chief Anthony McPhillips, Lieutenant Mike Hutchinson, Electric Plant Supervisor Eric Betzen, Street Superintendent Jim McDonald, Larry McPhillips, Jeff Thompson of Timpfe, Inc., Kevin Prior of Olsson Associates, Phil Lorenzen of D.A. Davidson, Butler County Economic Development Director Keith Marvin, Carol Brehm, Mike Draper, Janis Cameron, Carolyn Yates, Sue Vidlak, B.J. Ponec, Greg Ashoff, Hank Kobza, and Banner Press Editor Larry Peirce.

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 March 9, 2011 meeting 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 Svoboda, Smith, Vandenberg, and Kroesing and Rogers. Voting NAY: None. The motion carried. Council member Scribner was absent.

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

Mayor Zavodny called for Committee and Officer Reports. Council member Vandenberg made a motion to approve the committee and officer reports as presented. Council member Svoboda seconded the motion. Voting AYE: Council members Vandenberg, Smith, Svoboda, Rogers and Kroesing. Voting NAY: None. The motion carried. Council member Scribner was absent.

Council member Kroesing made a motion to advance to agenda item #15 and Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Kroesing and Rogers. Voting NAY: None. The motion carried. Council member Scribner was absent.

Council member Kroesing made a motion to approve the application of Ka-Boomer's Enterprises, Inc. to sell permissible fireworks at retail at 1510 4th Street (Dan & Jan Sypal's property). Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Svoboda, Smith, Rogers and Vandenberg. Voting NAY: None. The motion carried. Council member Scribner was absent.

Council member Kroesing made a motion to advance to agenda item #16 and Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Rogers, Smith and Svoboda. Voting NAY: None. The motion carried. Council member Scribner was absent.

Council member Kroesing introduced Resolution No. 13-2011 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting YEA: Council members Kroesing, Rogers, Svoboda, Vandenberg and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 13-2011 was passed and adopted as follows:

RESOLUTION NO. 13 – 2011

WHEREAS, Chapter 3, Article 5, Section 3-502 of the Municipal Code of the City of David City, Nebraska, allows a reasonable admission charge for the use by any person of the Municipal Swimming Pool.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the following admission fees are hereby established as follows:

<u>Daily</u>		<u>Season</u>	
Adult (18 & up)	\$4.50	Family	\$130.00
Child (6-17)	\$2.50	Couple	\$90.00
Toddler (5 & under)	Free*	Individual	\$70.00

* Free with paying adult.

Dated this 13th day of April, 2011.

Mayor Alan Zavodny

Interim City Clerk Tami L. Comte

Council member Kroesing made a motion to advance to agenda item #17 and Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Rogers, Smith and Svoboda. Voting NAY: None. The motion carried. Council member Scribner was absent.

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

Electric Plant Supervisor Eric Betzen stated that this is basically the first step in the process of placing converters on the engines at the power plant.

Mayor Zavodny stated that there has been some confusion as to the cost of this project if we were to have to put converters on all seven engines. Electric Plant Supervisor Betzen stated that his best guestimate is \$119,000 for all three Cat engines and \$51,000 for the other engines for a total of \$170,000 which does not include installation, crankcase ventilation or monitoring equipment. In order to get a firm estimate we are going to have to get the testing done to find out what they are emitting.

Council member Smith asked if the big engines possibly don't need converters. Electric Plant Supervisor Eric Betzen stated that it was a possibility and they will find out after this test. He stated that it has to do with exhaust temps and what they are emitting.

Mayor Zavodny asked Betzen if we had to have one of the engines, at a minimum, for backup at the water treatment plant. Betzen stated that was correct.

Mayor Zavodny stated that we need the other engines as backup for NPPD and if we didn't have them it would be loss of revenue of \$24,640 per month.

Electric Plant Supervisor Eric Betzen stated that the Cat engines will be paid off in 2016 and the current contract with NPPD goes until 2022 so there are six years that there won't be a payment to make.

Council member Smith asked what the cost was to have the testing done. Electric Plant Supervisor Eric Betzen stated that the cost of the testing would be from \$3,000 - \$5,000 depending on how much work the power plant employees do. They have already completed some of the work.

Council member Kroesing stated that we better get on the schedule to get the testing completed because there are going to be a lot of communities that need to have this done.

Electric Plant Supervisor Eric Betzen stated that with manufacturers and contractors putting them on that we need to be on the list. We only have two years to have this completed.

Carol Brehm stated that this is inevitable and Betzen is right, the faster that we move on this that we get in line before everybody else because the people who can do these are limited and the equipment is limited also. Every day that goes by that you are in non-compliance there is a fine of \$297,500 per day.

Council member Kroesing made a motion to authorize up to \$5,999 for the stack testing on the engines to determine what kind of converters are needed. Council member

Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Vandenberg made a motion to advance to agenda item #20 and Council member Svoboda seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Rex Rehmer was present to request a contribution towards the fireworks for the fair. He stated they would be partnering with the Chamber of Commerce and the Butler County Fair. He stated that the City very graciously donated \$2,500 last year and it was very much appreciated.

Interim City Administrator Joan Kovar stated that the contribution would come out of Keno Funds, however, it was budgeted in the General Fund and it is her understanding that it cannot come out of the General Fund and City Attorney Egr concurred. She also stated that it was \$2,500 that was authorized in the budget.

Rex Rehmer stated that the fireworks show will be July 20th and so the money would not be needed until sometime in July.

Council member Smith made a motion to contribute \$2,500 toward the fireworks for the Butler County Fair out of the Keno Fund. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Smith made a motion to advance to agenda item #12 and Council member Svoboda seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Interim City Administrator Joan Kovar stated that Sunshine Court would like to put up a garage and in order to do that they need an environmental assessment, but they are governed by HUD regulations and those regulations advise that the environmental review has to be done by an independent third party and the City is the one who hires the firm to do the environmental study. She contacted Olsson Associates and they told her that they thought that Northeast Nebraska Economic Development District would be cheaper. So, she called them and talked to Lowell Schroeder and he said that they would do it for us and that is why we have this agreement to sign for them to do this study. They are going to charge \$50 per hour not to exceed \$1,500. When the environmental study is done then Sunshine Court will apply for a zoning permit before they can erect the building and at that time they will reimburse the City for this fee along with their permit charge.

Council member Smith asked if they did this the last time they built a garage.

Interim City Administrator Kovar stated that she did not remember ever having to do this before.

Mayor Zavodny asked how expensive a garage they were planning to put up.

Interim City Administrator Kovar stated that she wouldn't know that until they got their zoning permit.

Council member Kroesing made a motion to authorize an agreement with Northeast Nebraska Economic Development District to conduct an environmental review for Sunshine Court. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

**NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT
AGREEMENT FOR SERVICES**

- A. **Parties.** This Agreement is between David City/Sunshine Court and the Northeast Nebraska Economic Development District, (NENEDD).
- B. **Purpose:** The purpose of this Agreement is to conduct an environmental review.
- C. **Terms and Conditions:**
- C1. **Scope of Work.**
- C1a. Federally funded projects are subject to the provisions of NEPA [24 USC 432-14347] and the HUD regulations implementing NEPA [24 CFR Part 58]. Recipients of federal funds are required to complete an environmental review prior to receiving environmental clearance from Housing and Urban Development. The type of project a recipient is completing will determine the level of environmental review and the necessary documents that will be required.
- Completion of the Environmental Review Process for HUD Funding which includes :
- C1b. The Environmental Review Process consists of the following steps:
- Project aggregation – Develop a project description aggregating all project activities;
 - Identifying Environmental Review responsibilities;
 - Determination of Level of Review
 - Establishing an Environmental Review Record that includes all narratives, checklists, agency contacts and responses, maps and photographs for all activities;
 - Publish/post all required public notices
 - Completion of Request for Release of Funds/Certification Form and Affidavit of Publication
 - Obtain and address all comments received
 - Obtain Environmental Clearance from HUD
- C1c. In-depth studies requested by agencies/organizations which are determined to be beyond the expertise of NENEDD staff, shall become the responsibility of David City/Sunshine Court to procure and contract for those services.
- C2. **Compensation.** David City/Sunshine Court agrees to compensate NENEDD \$50 per hour, plus mileage, not to exceed \$1,500 in order to complete the Scope of Work. Reimbursement under this contract shall be based on billings, supported by appropriate documentation of costs actually incurred.
- C3. **Office space, equipment and supplies.** NENEDD will supply its own office space, equipment and supplies.
- C4. **Amendments and Termination.** This Agreement may be amended by mutual written agreement of the parties. This Agreement may be terminated with 30 days notice by either of the parties.
- D. **Timeframe.** The initial date of this Agreement shall be the date both parties sign and complete execution of the contract. The termination date of this Agreement shall be when the Scope of Services is complete. This Agreement may be extended upon mutual agreement of the parties.
- E. **Independent Contractor.** The parties intend that NENEDD will not be considered an employee of the David City/Sunshine Court, but will act as an independent contractor.

The following parties agree to the terms of this Agreement.

DAVID CITY, NEBRASKA

BY: _____
TITLE: Mayor
DATE: _____

NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT

BY: _____
TITLE: Executive Director
DATE: _____

Mayor Zavodny stated that in accordance with published notice, it was now time to conduct a hearing concerning objections to the creation of Street Improvement District No. 2011-1. The Mayor declared the hearing open at 7:31 p.m. and asked the Interim City Clerk if any written objections had been filed. The Interim City Clerk stated that no written objections were filed objecting to the creation of Street Improvement District No. 2011-1.

Mayor Zavodny then asked if there were persons present who wished to be heard concerning the proposed Street Improvement Districts. Several persons in attendance asked questions about the project, its design, its use of brick and lighting as used on D Street. The City and its Engineers, Olsson Associates advised that the intent was to continue the theme as constructed with the D Street Improvements, but that based on costs, availability of materials and other factors it was always possible that some changes may become necessary, but not expected. The question was also raised as to the cost of the most decorative and more complex construction elements at the intersections, with the response that the intersections were a city obligation and should not materially affect abutting properties subject to assessment although there would be expected to be some cost assessed associated with brick borders and other aesthetic treatments, which costs had been included in the Engineers' original cost projections.

There being no other persons wishing to be heard, the Mayor declared the public hearing closed at 7:44 p.m.

Council member Kroesing then introduced Resolution #12-2011 and moved for its passage and adoption. The motion was seconded by Council member Smith. Voting AYE: Council members Kroesing, Smith, Vandenberg, Rogers, Scribner and Svoboda. Voting NAY: None. The following Resolution was passed and adopted as follows:

RESOLUTION NO. 12-2011

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

1. The Mayor and City Council heretofore adopted Ordinance No. creating Street Improvement District No. 2011-1, which ordinance was published as provided by law on March 17, 2011.
2. Notice of Creation of said Street Improvement District No. 2011-1 was given as provided by law by publication on March 24, 2011, March 31, 2011 and April 7, 2011 and notice was mailed to all non-resident owners as provided by law.
3. That objections were filed objecting to creation of Street Improvement District No. 2011-1 as follows: No written objections were filed in the office of the City Clerk.
4. No written objections having been filed within 20 days of the first publication of the notice of creation of the District, said Street Improvement District No. 2011-1 is validly created and the Mayor and

Council shall proceed with the construction of improvements in said District.

Passed this 13th day of April 2011.

ATTEST:

Mayor

Interim City Clerk

Mayor Zavodny stated that there was a meeting with the property owners along Industrial Drive from West "O" Street north to "S" street and that it was a productive meeting.

Hank Kobza stated that without the Northwest Drainage Project he is not in favor of the Industrial Drive project.

Mayor Zavodny stated that he felt they were at a point that it is an "all or nothing" situation. If we don't do the drainage then the street becomes more problematic. He stated that we have to do it all in conjunction. We really have to commit to Northwest Drainage, the street and make sure that we take care of that neighborhood to the south. We have issues with "O" Street. He stated that he's been asking people why we should do Northwest Drainage. He wants a compelling reason why they should do Northwest Drainage because it's very expensive, but in talking to all the people in that area, they feel that it's something that we need. The encouraging thing is that we have a business that provides a great product and they are expanding and they are going to add more parking so less water is going to soak in.

The question of there being a survey was raised. Interim City Administrator Kovar stated that she talked to Matt Rief and he told her that in order to do the drainage study, you need to first create the Street Improvement District.

Kevin Prior with Olsson Associates stated that the drainage along "O" Street is the bigger issue. There is quite a bit of capacity under the railroad tracks. It is a matter of how effectively it is used. You just have to get the water there. He also stated that the neighborhood south of "O" Street needs to be part of the "O" Street project.

Mayor Zavodny stated that these projects all have to work in conjunction to be effective.

Council member Kroesing introduced Ordinance No. 1143. 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 Scribner, Svoboda, Rogers, Smith, Vandenberg and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1143 on the third and final reading. Council member Kroesing seconded the motion. Voting AYE: Council members Svoboda, Scribner, Rogers, Vandenberg, Smith, and Kroesing. Voting

NAY: None. The motion carried and Ordinance No. 1143 was passed and adopted as follows:

ORDINANCE NO. 1143

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, CREATING A STREET IMPROVEMENT DISTRICT WITHIN THE CITY OF DAVID CITY TO BE KNOWN AS STREET IMPROVEMENT DISTRICT NO. 2011-2; DEFINING THE BOUNDARIES OF SAID DISTRICT AND THE PROPERTY CONTAINED THEREIN; AND, PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS THEREIN CONSISTING OF GRADING AND CONSTRUCTION OF CURB AND GUTTER, CONCRETE PAVING, AND STORM SEWER IMPROVEMENTS TOGETHER WITH SUCH OTHER APPURTENANCES AS MAY BE INCIDENTAL THERETO.

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

Section 1. The Mayor and City Council of the City of David City, Butler County, Nebraska, hereby find and determine that it is in the best interests of the City that Industrial Drive from West O Street north to S Street, in the City of David City, including the intersections at O Street and S Street, be improved as hereinafter described; and that it is in the best interests of the City of David City to create a street improvement district for the construction of the said improvements.

Section 2. There is hereby created within the City of David City, Nebraska, a street improvement district to be known and designated as Street Improvement District No. 2011-2, the outer boundaries of which shall contain the following property:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 2 OF GREEN ACRES ADDITION TO THE CITY OF DAVID CITY, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF THE EAST RIGHT-OF-WAY (R.O.W.) LINE OF 3RD STREET AND THE SOUTH R.O.W. LINE OF O STREET; THENCE WEST ALONG SAID SOUTH R.O.W. LINE TO THE POINT OF INTERSECTION OF SAID SOUTH R.O.W. LINE AND THE WEST R.O.W. LINE OF 2ND STREET; THENCE NORTHWESTERLY TO THE SOUTHWEST CORNER OF LOT 2 BLOCK 1 OF SCHMIDS ADDITION TO THE CITY OF DAVID CITY; THENCE NORTH TO THE POINT OF INTERSECTION OF THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 2 AND THE NORTH LINE OF VACATED S STREET; THENCE EAST ALONG SAID NORTH LINE TO THE POINT OF INTERSECTION OF SAID NORTH LINE, THE WEST R.O.W. LINE OF INDUSTRIAL DRIVE AND THE NORTH R.O.W. LINE OF S STREET; THENCE EAST ALONG SAID NORTH R.O.W. LINE TO THE POINT OF INTERSECTION OF SAID NORTH R.O.W. LINE AND THE NORTHERLY EXTENSION OF THE EAST LINE OF LOT 8, BLOCK 2 OF SCHMIDS ADDITION TO THE CITY OF DAVID CITY; THENCE SOUTH ALONG SAID NORTHERLY EXTENSION AND THE EAST LINE OF LOTS 6, 7 AND 8 OF SAID SCHMIDS ADDITION TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE SOUTH TO THE NORTHEAST CORNER OF LOT 6 OF 1993 REPLAT OF LOTS 1-5 BLOCK 3 SCHMIDS ADDITION TO THE CITY OF DAVID CITY; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 6 TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE

WEST ALONG THE SOUTH LINE OF SAID LOT 6 TO THE NORTHEAST CORNER OF LOT 5 OF SAID 1993 REPLAT OF LOTS 1-5 BLOCK 3 SCHMIDS ADDITION; THENCE SOUTH ALONG THE EAST LINE OF LOTS 3, 4, AND 5 OF SAID 1993 REPLAT OF LOTS 1-5 BLOCK 3 SCHMIDS ADDITION, THE EAST LINE LOT 4 OF SYPALS SUBDIVISION IN THE CITY OF DAVID CITY AND THE EAST LINE OF AN UNPLATTED TRACT BEING PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER (SE1/4, SW1/4) OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 3 WEST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, TO THE SOUTHEAST CORNER OF SAID UNPLATTED TRACT, SAID POINT BEING ON THE NORTH R.O.W. LINE OF O STREET; THENCE SOUTH TO THE POINT OF INTERSECTION OF THE EAST R.O.W. LINE OF 3RD STREET AND THE SOUTH R.O.W. LINE OF O STREET; THENCE WEST ALONG SAID SOUTH R.O.W. LINE TO THE POINT OF BEGINNING.

Within Street Improvement District No. 2011-2, Industrial Drive from West O Street north to S Street, in the City of David City, including the intersections at O Street and S Street, shall be and is hereby ordered improved by construction of improvements therein consisting of grading, construction of curb and gutter, concrete paving, and storm drainage, together with other necessary appurtenant improvements.

Section 3. All of said improvements shall be constructed to the established grades as fixed by ordinances of the City of David City, and shall be constructed in accordance with plans and specifications to be prepared by the City's Engineers and approved by the Mayor and City Council. Said improvements shall be made at public cost, but special assessments shall be levied to reimburse the City for the cost of the improvements as provided by law.

Section 4. Notice of the creation of said Street Improvement District No. 2011-2 shall be published in the Banner Press, a legal newspaper of general circulation within the City of David City, for three weeks after the publication of this Ordinance.

Section 5. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the other provisions of this Ordinance.

Section 6. This Ordinance shall be published and take effect as provided by law.

PASSED AND APPROVED this _____ day of _____ 2011.

Mayor

ATTEST:

Interim City Clerk

(SEAL)

Publish _____, 2011

CITY OF DAVID CITY, NEBRASKA
NOTICE OF CREATION OF STREET IMPROVEMENT
DISTRICT NO. 2011-2

Notice is hereby given that at a meeting of the Mayor and City Council of the City of David City, Butler County, Nebraska, held April 13, 2011, at 7:30p.m. there was passed, approved and adopted Ordinance No. 1143 creating and establishing Street Improvement District No. 2011-2.

The outer boundaries of said Street Improvement District No. 2011-2 shall contain the following property:

Unplatted Tract containing 0.64 of an acre located in the SE1/4, SW ¼, Section 18, Township 15 North, Range 3 West of the 6th P.M., David City, Nebraska.

Lot 1, of 1993 replat of lots 1, 2, 3, 4 and 5, Block 3, Schmid's Addition to the City of David City, Nebraska and part of Lot 4 of Sypals Subdivision in the City of David City, Nebraska.

Part of Lot 4, Sypal's Subdivision in the City of David City, Nebraska.

Lots 3, 4, 5 and 6, of 1993 replat of lots 1, 2, 3, 5 and 5, Block 3, Schmid's Addition to the City of David City, Nebraska.

Lot 5 and Outlot A of 1993 replat of Lots 1, 2, 3, 4 and 5, Block 3, Schmid's Addition to the City of David City, Nebraska.

The south 103 feet of Lot 6, Block 2, Schmid's Addition to the City of David City, Nebraska.

The north 22.6 feet of Lot 6, and all of Lots 7 and 8, Block 2, Schmid's Addition to the City of David City, Nebraska.

Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Block 1, Schmid's Addition to the City of David City, Nebraska and vacated S Street in the City of David City, Nebraska.

Part of Lot 2 (0.63 of an acre), Block 1, Schmid's Addition to the City of David City, Nebraska.

Part of Lot 2 (0.37 of an acre), Block 1, Schmid's Addition to the City of David City, Nebraska.

Within Street Improvement District No. 2011-2, Industrial Drive from West O Street north to S Street, including the intersections at O Street and S Street, in the City of David City shall be and is hereby ordered improved by construction of improvements therein consisting of grading, construction of curb and gutter, concrete paving, and storm drainage, together with other necessary appurtenant improvements.

Said improvements are to be made in accordance with plans and specifications prepared by the City's Engineers and approved by the Mayor and City Council. Said

improvements shall be made at public cost, but special assessments shall be levied to reimburse the City for the cost of the improvements as provided by law.

If the owners of record title representing more than fifty percent (50%) of the front footage of the property directly abutting or adjoining the street to be improved within said Street Improvement District No. 2011-2 file with the City Clerk written objections to the creation of said District and the construction of the improvements therein, within twenty (20) days after the first publication of this notice, said work shall not be done in said District and the Ordinance creating the District shall be repealed. If sufficient objections are not filed against said District No. 2011-2 in the time and manner aforesaid, the Mayor and City Council shall forthwith proceed to construct said improvements in the District and shall contract therefor. A hearing will be held on June 8, 2011 at 7:15 p.m. at the City Hall relative to any written objections filed against the said proposed Street Improvement District.

CITY OF DAVID CITY, NEBRASKA

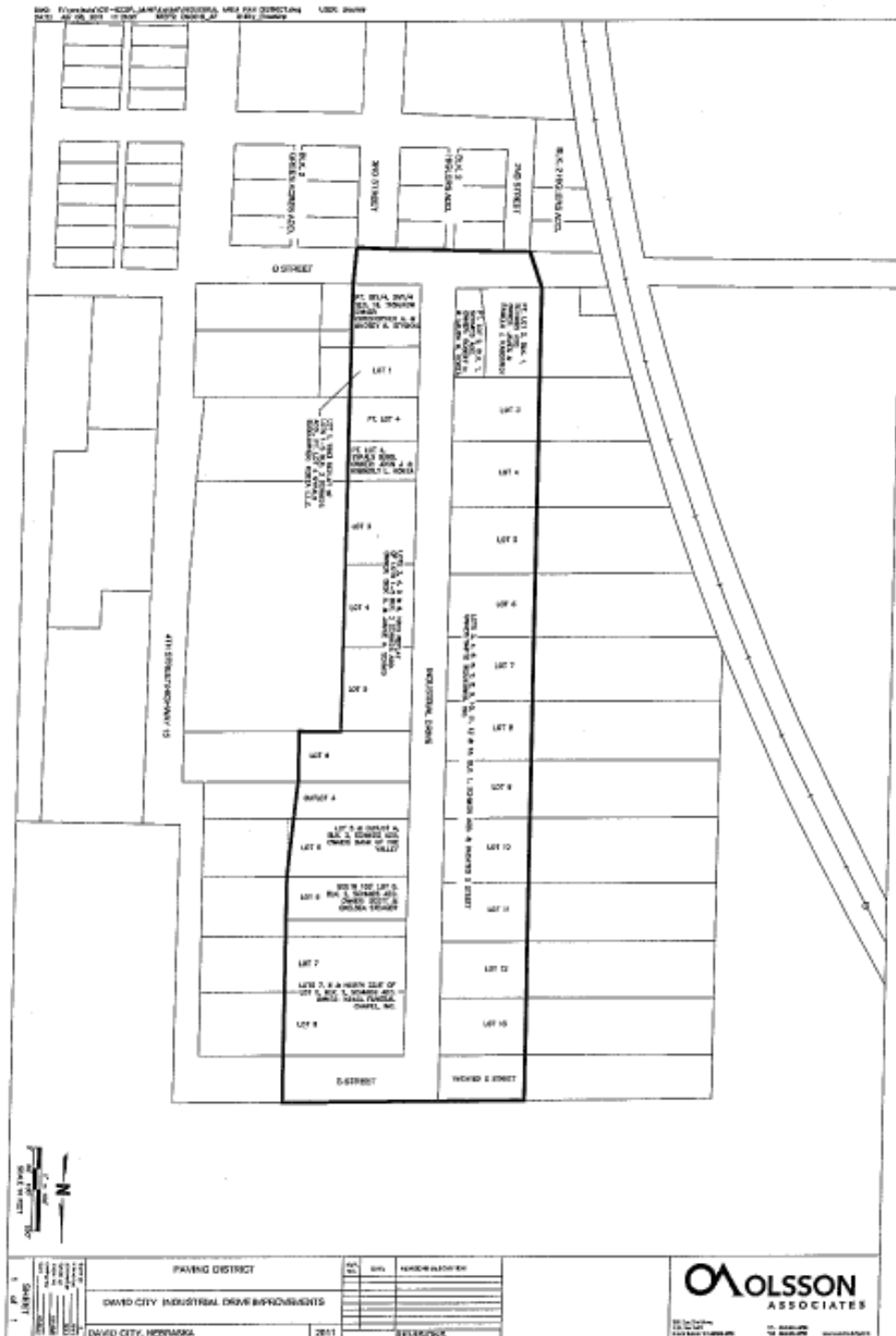
[SEAL]

Interim City Clerk

Publish three times: May 19, 2011

May 26, 2011

June 2, 2011



Financial advisor Philip Lorenzen, of D.A. Davidson & Co., stated that after conferring with the engineer, Matt Rief, their opinion was that Street Improvement District 2011-3 should be extended west to include the BNRR tracks to deal with the drainage. It should include the east right-of-way of the Burlington Northern tracks.

Council member Kroesing suggested that it would make more sense to go as far as the fairgrounds intersection (County Road M).

Kevin Prior, of Olsson Associates stated that there are already culverts under the railroad tracks. He said that we would want to maximize the use of those structures. Right now the district ends at the east right-of-way line. So, technically, in the district, if you want to do something at the railroad, we would really need to include those costs in the project.

Mayor Zavodny stated that injecting the railroad into this slows the project down considerably.

Kevin Prior, of Olsson Associates stated that the permitting process is a little cumbersome but it can be done. We do follow their regulations and requirements to get the permit and it requires some insurance requirements and those types of things but we do it on a regular basis. So, it's not an impossible task to get additional capacity underneath the railroad.

Mayor Zavodny stated that they would need to talk to Jay Bitner, with the Upper Big Blue NRD, to see if there would be any changes with Northwest Drainage.

Street Superintendent Jim McDonald stated that he had that discussion with Jay Bitner at one time. They discussed taking the water that comes off of Siffrings field and taking it north, and that will relieve all of the water at the "O" Street intersection. He also stated that if you are going to put in curb and gutter that you need to figure out what to do in the south ditch line but the north is sufficient. As far as the south side, if you are going to curb and gutter it then you will need to put in drop-in inlets and run them to the north or you will need to culvert the south side all the way with the same size that goes under the railroad tracks. He stated that they would need to start that at the highway. There's a culvert that comes under the highway on Supancheck's side that runs across there. If you do "O" Street then you will have to tile that ditch, fill in the ditch, put in curb and gutter and drop-in inlets to drain the surface.

Mayor Zavodny asked Street Superintendent McDonald if he was confident that the design would have the capacity, from when you've talked to Jay, to handle that water.

Street Superintendent Jim McDonald stated that they had talked about that before. They are relieving that corner now with everything that used to come off of that field to come south to that intersection. He thinks that they will see a big improvement.

Mayor Zavodny asked if there was enough right-of-way to straighten "O" Street out there.

Street Superintendent McDonald stated that he talked to the State and he talked to the water department about moving a fire hydrant. He has a call into the telephone company about moving the pedestals but they haven't called back yet. So, he's been working on it. They have to get a permit from the State to work on their right-of-way and he hasn't heard from them yet either.

Mayor Zavodny asked what they would do at Svoboda's on "O" Street.

Street Superintendent McDonald stated that their driveway would have to be extended.

Financial advisor Philip Lorenzen, of D.A. Davidson & Co., stated that he had an alternate thought that he wanted to introduce. He and Matt Rief, from Olsson Associates, discussed briefly. Highway 15 is a state highway and "O" Street is actually a county road that continues and extends to the west. There is an existing statute that allows a finding to make a determination that that street is a "thoroughfare". That is under §17-512. The mayor and council can declare that it is a "thoroughfare" and make that finding and on that basis that streamlines the process of creation. Instead of four weeks of publication, you have three weeks of publication. That would allow you to move more quickly on that element. The reason that he raised that issue is that drainage is a problem in the whole area and if you extend "O" Street further to the west, it would seem that if you make a determination that "O" Street is a "thoroughfare" that you have a lot more power to extend that street further west. It would seem that drainage is more important than improvement of the roadway. It would appear that there is a strong argument to create that district as a "thoroughfare" improvement and you could defer action on this ordinance until your June meeting. It appears that we could get the necessary publications for the ordinance and the notice and have that hearing concurrently with the district that you created on the 8th day of June. That might be something that is of valuable consideration.

City Attorney Egr stated that there is very good justification that it meets the requirements for a "thoroughfare."

Financial advisor Philip Lorenzen, of D.A. Davidson & Co. suggested that they table the ordinance to the next agenda and then kill the ordinance and introduce a new ordinance that would create a "thoroughfare."

Council member Scribner made a motion to table Ordinance No. 1144 Creating Street Improvement District No. 2011-3. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Vandenberg, Kroesing, Rogers and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to authorize an engineering agreement with Olsson Associates relative to the Street Improvement District (Industrial Drive). Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Rogers, Scribner, Smith, Svoboda and Vandenberg. Voting NAY: None. The motion carried.

LETTER AGREEMENT FOR
PROFESSIONAL SERVICES

April 8, 2011

Joan Kovar
Interim City Administrator
City of David City
P.O. Box 191
557 4th Street
David City, NE 68632

Re: **AGREEMENT FOR PROFESSIONAL SERVICES**
Industrial Drive "Project"
David City, NE

Dear Mrs. Joan Kovar:

It is our understanding that David City, Nebraska ("Client") requests Olsson Associates ("Olsson") to perform the following services pursuant to the terms of this Letter Agreement for Professional Services, any signed Master Agreement, Olsson's General Provisions and any exhibits attached thereto (hereinafter "the Agreement") for the Project.

1. Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions (and any exhibits attached thereto), which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, any Master Agreement and/or the General Provisions regarding the services to be performed by Olsson, the requirements of this Letter Agreement shall take precedence.
2. Olsson shall provide Client all Basic Services for the Project as more specifically described in Exhibit A hereto. Should Client request work not described and included in the above Description of Basic Services, such as Additional Services, Olsson shall invoice Client for such services on the basis of Salary Costs times a factor of 2.5 for services rendered by our principals and employees engaged directly on the Project plus Reimbursable Expenses, unless otherwise agreed to by both parties. Olsson shall not commence work on Additional Services without Client's prior approval in writing.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

SCHEDULE FOR OLSSON'S SERVICES

3. Unless otherwise agreed, Olsson would expect to begin performing its services under the Agreement promptly upon your signing.

Anticipated Start Date: April 25, 2011 . Anticipated Completion Date: July 15, 2011

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date and any milestone dates are approximate only, and Olsson reserves the right to readjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

COMPENSATION

4. Client shall pay to Olsson for the performance of the Basic Services the actual time of personnel performing such Services on the basis of Salary Costs times a factor of 2.5 for services rendered by our principals and employees engaged directly on the Project plus Reimbursable Expenses, unless otherwise agreed to by both parties. Reimbursable expenses will be invoiced in accordance with the Schedule contained in the General Provisions attached to this Letter Agreement. Olsson's Basic Services will be provided on a time and expense basis not to exceed **Thirty-Nine Thousand Eight Hundred Dollars (\$39,800)**.

Olsson shall submit invoices on a monthly basis, are due upon presentation and shall be considered past due if not paid within 30 calendar days of the due date. Olsson's reimbursable expenses for this Project are included in the fixed fee set forth in Paragraph 4 above.

TERMS AND CONDITIONS OF SERVICE

5. We have discussed with you the risks, rewards and benefits of the Project and our fees for services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.
6. If this proposal satisfactorily sets forth your understanding of our agreement, please sign in the space provided below (indicating Client's designated Project representative if different from the party signing). Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.
7. By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement.

OLSSON ASSOCIATES

By _____
Kevin Prior, PE

By _____
Matthew Rief, PE

If you accept the preceding proposal and the Agreement,
please sign:

CITY OF DAVID CITY "Client"

By _____

Title _____

Dated: _____

If different from above,

Client's Designated Project Representative

**EXHIBIT "A" to GENERAL PROVISIONS ATTACHED TO
LETTER AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN CLIENT AND Olsson, DATED APRIL 8, 2011**

DESCRIPTION OF BASIC PROFESSIONAL SERVICES AND RELATED MATTERS

This is an exhibit attached to and made a part of the General Provisions attached to the Proposed Letter Agreement for Professional Services dated April 8, 2011, between the City of David City, Nebraska (Client) and Olsson Associates (Olsson) providing for professional services. The Basic Services of Olsson are as indicated below.

GENERAL

Olsson shall perform for Client professional services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as Client's professional representative for the Project, providing professional consultation and advice and furnishing customary services incidental thereto.

SCOPE OF SERVICES

Engineering design services required to reconstruct Industrial Drive from 'O' Street to 'S' Street and associated storm sewer improvements.

I. Site Survey

- a. Horizontal and Vertical Control
- b. Property Corners
- c. Utilities
- d. Topographic Surveys
- e. Download Survey

II. Engineering Design Services

- a. Establish horizontal alignments
- b. Design vertical alignments
- c. Drainage Design
- d. Erosion Control Design
- e. Complete Construction Plans including the following:
 - Cross sections.
 - Plan and profile sheets
 - Geometrics, joints and grades
 - Construction and removal sheets
 - Typical Sections and Details
- f. NPDES Permit
- g. Utility Coordination
- h. Quantities and Cost Estimate
- i. Submit plans to City for review
- j. City review meeting
- k. Property owners meetings (2)
- l. Specifications
- m. Finalize plans for Bidding
- n. Compile Bid Package
- o. Project Management and QA/QC
- p. Council Meetings (2)

II. Bid Phase Services

- a. Advertise for bids based upon approved plans and construction documents and authorization by the City.
- b. Be available to prospective bidders to answer questions and interpret construction documents.
- c. Open bids and evaluate proposals.
- d. Award and execute construction contract(s).

III. Assumptions

Construction Phase Services will be amended to this contract after award of the project to include construction staking, observation, testing, and administration.

Any major utility relocation design will be considered additional services.

All Right of Way Services shall be considered "Additional Services". These services shall include assisting the Client's attorney by supplying engineering data and attending hearings required in the preparation of necessary easements, right-of-ways, condemnation proceedings, ordinances and resolutions. Legal surveys required to obtain the necessary easements will also be considered under "Additional Services".

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Mayor Alan Zavodny declared the public hearing open at 8:25 p.m. to consider deleting Section 4.25 Swimming Pools in the General Plan.

Interim City Administrator Joan Kovar stated that the Planning Commission met on this issue and they decided that we should take swimming pools out of the General Plan because they said if one happens to slip through that there could be a liability issue on the City so it would be best if we just take that section out.

Council member Kroesing stated that he had strong feelings against this. They have had swimming pools pop up on the parkway in the west part of town already and if people hadn't stopped to notify them that they needed safety measures to put around that, any kid could have fallen in that pool and drown. He stated that as long as there is a chance that we could prevent some tragedy that we should do it.

Planning Commission member Keith Marvin stated that when the Planning Commission looked at it they discussed the fact that this will not stop the need for permanent pools to have a fence around them. He stated that it was brought before them by the zoning administrator because of issues of enforcement and the Planning Commission discussed it and decided to move it forward to the council to make a decision on it.

Carol Brehm asked what the advantage was to deleting this section.

City Attorney Jim Egr stated that once the City takes on the responsibility of saying that they are going to regulate these pools then the City has to regulate the pools. We fail to regulate the pools, according to what we have as an existing ordinance, then if something happens it gives the City an exposure. He said that is why we went away from a building inspector. Because if something happened and it was approved by the building inspector, then it opens up some doors.

Interim City Administrator Kovar stated that you can't expect the zoning administrator to see everything.

Police Chief Anthony McPhillips stated that they drive around town all the time and they drive through the alleys and on the streets and if they see an above ground pool that is above 24" they will tell Roger about it. They will be the enforcer.

Mayor Zavodny declared the public hearing closed at 8:35 p.m.

Council member Scribner introduced Ordinance No. 1145. Council member Smith made a motion to pass Ordinance No. 1145 on 1st reading only. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Vandenberg, Scribner and Rogers. Voting NAY: Council members Kroesing and Svoboda. The motion carried and Ordinance No. 1145 was passed on 1st reading only as follows:

ORDINANCE NO. 1145

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 4: GENERAL PROVISIONS BY DELETING SECTION 4.25 SWIMMING POOLS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT ARTICLE 4: GENERAL PROVISIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 4: GENERAL PROVISIONS

Section 4.01 Planning Commission Recommendations. Pursuant to Neb. Rev. Stat. §19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the city.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the City Council shall not hold its public hearings or take action until it has received the final report of the Commission.

Section 4.02 District Regulations, Restrictions, Boundary Creation. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the city at least one time ten days prior to such hearing.

Section 4.03 Jurisdiction. The provisions of this ordinance shall apply within the corporate limits of the City of David City, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one mile, as established on the map entitled "The Official Zoning Map of the City of David City, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

Section 4.05 Zoning Affects Every Building and Use. No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

Section 4.06 Lot.

4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.

4.06.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if approved by the zoning administrator. The minimum setback for such buildings shall be ten feet measured from the nearest point of said buildings.

1. Institutional buildings
2. Public or semi-public buildings
3. Multiple-family dwellings
4. Commercial or industrial buildings
5. Home for the aged
6. Agricultural buildings

Section 4.07 Reductions in Lot Area Prohibited. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.08 Obstructions to Vision at Street Intersections Prohibited. On a corner lot, within the area formed by the center line of streets at a distance of 60 feet from their intersections, there shall be no obstruction to vision between a height of 2 ½ feet and a height of eight feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or other arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. The city administrator has right to increase this distance based upon subdivision design and speed limits along major or other arterials. See "Sight Triangle" as defined in Article 2 of this ordinance.

Section 4.09 Yard Requirements.

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The zoning administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1) more than 30 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this ordinance, and 2) a minority of such structures have observed or conformed to an average setback line.
- 4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.09.05 Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District, which is adjacent to any residential use, or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening; except in the Downtown Commercial District. Included in the increased yard, a solid or semi-solid fence or wall at least six feet, but not more than eight feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Commercial and/or Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

Section 4.10 Through Lots.

- 4.10.01 Through Lots shall follow the following criteria:
1. Where a Through Lot abuts a major thoroughfare, such as Highway 15, etc., and access is made from the other frontage street and access along said thoroughfare is restricted, fences and screening devices shall meet all fence and screening requirements and shall be treated as if they were in a rear yard. The Rear Yard setback for primary and accessory buildings shall follow the prescribed setback within the zoning district.
 2. Where a Through Lot is part of a triple frontage lot and abuts a major thoroughfare, the Rear Yard shall meet the standards of number 1 above, while the other two frontages shall be treated as a Corner Lot with a Front Yard setback and a Street Side Yard setback.
 3. Where a Through Lot occurs, other than along a major thoroughfare, the following shall apply:
 - a. Where all principal structures in the development face the same frontage, then the Rear Yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical Corner Lot.
 - b. Where principal structures face different directions along both frontages, the setback for fences and screening to the rear of said structures shall be the same as any prescribed Front Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical

Corner Lot. All accessory buildings in this condition, shall comply with the minimum Front Yard setbacks rather than the reduced setback allowed for accessory buildings.

Section 4.11 Drainage. No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent with data indicating that such changes will not be a detriment to the neighboring lands.

Section 4.12 Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in the required yards:

- 4.12.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting 24 inches or less into the yard; recreational equipment and clothes lines; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than 18 inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards..
- 4.12.02 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted.
- 4.12.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.12.04 *Double Frontage Lots:* The required front yard shall be provided on each street, unless otherwise provided.
- 4.12.05 *Building Groupings:* For the purpose of the side yard regulation, a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

Section 4.13 Projections from Buildings

- 4.13.01 Cornices, eaves, canopies, belt courses, sills, ornamental features, and other similar architectural features may project not more than two feet into any required yard or into any required open space, provided that such required yard or open space meets the current minimum yard standards.
- 4.13.02 As a part of single and two family residences, open uncovered porches or decks no higher than 18 inches above grade of the lot on the side of the structure where such porch or deck is located may be permitted in any required yard for accessibility purposes to principle structure with a required zoning permit.
- 4.13.03 As a part of single and two-family residences, uncovered porches, decks, or ramps needed for medical reasons no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than 30 inches above grade of the lot on the side of the structure where such porch, deck or ramp is located, may be allowed and extend:
1. Three feet into any side yard that otherwise meets minimum side yard requirements provided that the other side yard also meets such minimum side yard requirements and remains free of encroaching structures of any kind; and that said new encroachment meets all separation requirements between structures as determined in the City's Regulations, except gated fences providing access to the rear yard.
 2. Eight feet into a front yard provided that the front yard otherwise meets minimum front yard requirements and provided further 1) that in no event may

such porch or deck cover more than 96 square feet of the required front yard or extend beyond the side walls of the building structure, and 2) front decks or porches shall not be higher than 30 inches above ground and no higher than the first floor, except that on homes with front entryways at first floor level but driveway cuts and garage floors at basement level, there may be constructed a veranda-type uncovered deck or porch extending from the front deck or porch over the garage door or doors, which extended area shall be at the same elevation and shall have bracing as required by the zoning administrator, and 3) Covered porches, built of materials of the same or similar nature as the roof of the principal structure may be allowed with eaves not to exceed 12 inches.

3. Safety railings shall be installed as per the City's Regulations and as approved by the zoning administrator.
4. One-half of the distance into the required rear yard, but in no event closer than 15 feet to any property line.

4.13.04 Provided further, that no railing or other shall be placed around such deck or porch in a rear yard or side yard and no such barrier which interferes appreciably more than 25 percent with the passage of light or air shall be constructed within the required front yard or within five feet of any side yard or 15 feet of any rear yard lot line. Any such deck or porch when located on a lot at the intersection of two streets or a street and an alley, shall comply with the provisions designed to ensure proper sight distances as set forth in this ordinance for fences and hedges. Any side yard on a corner lot may be considered as a front yard for purposes of determining permitted encroachments as provided herein.

Section 4.14 Accessory Buildings and Uses.

- 4.14.01 No accessory building shall be constructed upon a lot for more than six months prior to beginning construction of the principal building. No accessory building shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.14.02 No detached accessory building or structure shall exceed the maximum permitted height of accessory structures in the proper zoning district.
- 4.14.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.14.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet.
- 4.14.05 The maximum height of any use shall be decreased to 35 feet when located within 100 feet of any residential district.
- 4.14.06 Detached garages and outbuildings in R-1, R-2, R-3 and RM Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed and finished of materials customarily used in residential construction, similar color as the principle structure, and the following:
1. Be constructed of materials that are in good repair,
 2. The sidewalls of said building shall not exceed 10 feet in height,
 3. Garages shall have an overhang of at least six inches,
 4. Garages shall have a maximum width of 36 feet.
- 4.12.07. Regulation of accessory uses shall be as follows:

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street, nor be located between the principle structure and the street in a R-1, R-2, R-3 or R-M District.
2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.
3. Storage of any boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard; except that a boat, boat trailer, camp trailer may be placed on rock or concrete surfacing in a side yard or rear yard.

Section 4.15 Permitted Modifications of Height Regulations.

4.15.01 The height limitations of this ordinance shall not apply to the following, provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district:

feet tall	Belfries	Public Monuments
	Chimneys	Ornamental Towers and Spires
	Church Spires	Radio/Television Towers less than 125
	Conveyors	Commercial Elevator Penthouses
	Cooling Towers	Silos
	Elevator Bulkheads	Smoke Stacks
	Fire Towers	Stage Towers or Scenery Lots
	Water Towers and Standpipes	Tanks
	Flag Poles	Air-Pollution Prevention Devices

4.15.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 4.16 Occupancy of Basements and Cellars. No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, and any required emergency egress provisions as required per State and life-safety codes.

Section 4.17 Non-Conforming, General Intent. It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this these regulations.

Section 4.18 Nonconforming Lots of Record. In any district, notwithstanding limitations imposed by other provision of this ordinance, a primary structure and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a

time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Zoning Adjustment.

Section 4.19 Nonconforming Structures.

- 4.19.01 ***Authority to Continue:*** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 4.19.02 ***Enlargement, Repair, Alterations:*** Any such structure described in Section 4.19.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. All enlargements shall meet all existing required setbacks unless provided elsewhere in this ordinance.
- 4.19.03 ***Damage or Destruction:*** In the event that any structure described in Section 4.19.01 is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.18, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 4.19.04 ***Moving:*** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless a zoning permit is granted and the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 4.20 Nonconforming Uses.

- 4.20.01 ***Nonconforming Uses of Land:*** Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
 2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
 3. If any such nonconforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 4.20.02 ***Nonconforming Uses of Structures:*** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or

amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Planning Commission and City Council, after each has completed a Public Hearing as per State Statute, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission and/or City Council may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 4.21 Repairs and Maintenance.

- 4.21.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 4.21.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 4.22 Uses under Conditional Use Permit to be Nonconforming Uses Upon Transfer. Any use for which a conditional use permit is issued as provided in this ordinance shall be deemed a nonconforming use upon transfer of property unless current owner has applied and is granted such conditional use permit.

Section 4.23 Drive-in Facilities. Any use permitted in an zoning district which intends to conduct a portion or all of its business with persons desiring to remain in their automobiles, or which allows products to be consumed on the premises outside the principal building, and which is not subject to the conditional use reviewed in the provisions in Article 6 or is not a

part of a Clustered/Mixed Use District, must submit a site plan to be reviewed and approved by the City. In reviewing and approving the site plan for such a use, the City must be satisfied that the traffic circulation on and adjacent to the site conforms to the following criteria:

- 4.23.01 Traffic circulation shall be arranged so that internal pedestrian and vehicular movements are compatible and traffic hazards are minimal.
- 4.23.02 Traffic circulation, ingress and egress shall be arranged so as to avoid hazardous or adverse effects on adjacent sites and streets.

Section 4.24 Recreational Vehicles, Trailers, or Equipment. All vehicles, trailers, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere within this Ordinance. Such vehicles, trailers, or equipment shall not be parked or maintained in the required front yard.

Section 4.25 Prohibited Uses. All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this ordinance is amended to include a given use.

Section 4.26 Fees. The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be part of the Master Fee Schedule adopted and published by the City Council by separate ordinance.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS 13TH day of April, 2011.

Passed on 1st reading only
Mayor Alan Zavodny

Passed on 1st reading only
Interim City Clerk Tami Comte

NOTE:
THE PLANNING COMMISSION ASKED THAT THIS BE DELETED:

Swimming Pools. Private or public swimming pools with a depth of 24 inches or more are permitted provided provisions of an accessory structure and the following are met:

- 4.25.01 The pool area shall be enclosed by a substantial fence or other protective barrier which shall be adequate to prevent persons, children or animals from danger or harm, and shall be equipped with a self-closing, self-latching lock gate. Such

protective barrier may be chain link or ornamental fence, solid fence or wall, or other solid structure including buildings and shall be not less than five feet in height.

4.25.02 No pool shall be erected or constructed until adequate drainage measures are evident, adequate distance from overhead electric wires is allowed for, and a zoning permit is obtained therefore.

Interim City Administrator Joan Kovar stated that we have five old fire sirens that do not work and should probably be removed. The company that can remove them is planning to be in town at the end of the month.

Mayor Zavodny stated that he thinks that we have a problem if we have them up and they don't work and our citizens have a false sense of security, in that they can be warned of an impending emergency. We are just going to remove the ones that don't work. He stated that he has discussed this with Electric Supervisor Pat Hoeft and he can't get parts for them anymore. The new sirens actually have enough coverage to cover the entire town. They are talking about putting a new siren on top of the fire station that will cover the whole town.

Interim City Administrator Kovar stated that the fire department is waiting for a grant to get the new siren.

Police Chief Anthony McPhillips stated that Emergency Management Director Rick Schneider told him just today, that they had applied for that grant.

Council member Smith made a motion to authorize the removal of five old fire sirens. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Rogers, Kroesing, Vandenberg, Svoboda and Scribner. Voting NAY: None. The motion carried.

Street Superintendent Jim McDonald stated that the Dept. of Aeronautics works as a partner with the City to receive money from the FAA and then disperse it to the City.

Interim City Administrator Joan Kovar stated that this agreement says that we received a grant for the T-hangar.

Street Superintendent Jim McDonald stated that this was the next project down the road and we haven't even decided if we want to do it for sure.

Council member Scribner made a motion to adopt Resolution No. 14-2011 and approve the execution of an agency agreement with the Department of Aeronautics of the State of Nebraska for Project No. BO3 to be submitted by the Department to the Federal Aviation Administration to obtain federal assistance for the development of the airport. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Vandenberg, Rogers, Svoboda and Kroesing. Voting NAY: None. The motion carried and Resolution No. 14-2011 was passed and adopted as follows:

RESOLUTION NO. 14-2011

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. BO3 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 City Council of the City 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. BO3 for the purpose of obtaining Federal assistance in the development of the Airport and that such agreement shall be set forth herinbelow.
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".

Upon calling for a vote on the resolution, six voted yea, and zero voted nay, and the resolution therefore was declared passed and approved on April 13, 2011.

ATTEST: _____
Interim City Clerk

Mayor

AGENCY AGREEMENT

Project No. BO3

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 air 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, the Federal Aviation Administration and their

authorized representatives in the offices of the Department at all reasonable time.

- 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 8th day of April, 2011.

(SEAL)

Director

Executed by the Airport Sponsor this 13th day of April, 2011.

Interim City Clerk

Mayor

Council member Scribner made a motion to authorize an agreement with Michael Bacon/Bacon & Vinton, LLC. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Svoboda, Kroesing, Vandenberg and Rogers. Voting NAY: None. The motion carried.



416 10th Street
P.O. Box 208
Gothenburg, NE 69138

Phone: (308) 537-7161
Fax: (308) 537-7162
www.bacon-vinton.com

Alan Zavodny
Mayor
City Hall
David City, NE 68632

Mayor and Council:

This office will prepare documents as follows: (1) redevelopment contract and plan; (2) resolutions of the Community Redevelopment Authority to provide 30 day notice of intent to enter into contract; referring contract and plan to planning commission; recommending contract and plan to city council; (3) prepare form of notice and letter to taxing entities regarding hearings; (4) prepare bond resolutions and bond closing documents; (5) prepare notice to divide taxes and deliver to assessor and treasurer; (6) prepare resolution of council approving contract and plan to capture additional area tax increment to pay for city costs of paving; (7) appear at city council hearing on plan approval.

Fees for services: \$17,000.00. For services beyond those stated above, a fee of \$200 per hour will be charged.

Yours truly,


Michael L. Bacon

Approved by City this 13th day of ^{April}~~March~~, 2011


Mayor

Michael L. Bacon, P.C., L.L.O.

mbacon@bacon-vinton.com

Steven P. Vinton, P.C., L.L.O.

svinton@bacon-vinton.com

Elizabeth A. Z. Jorgenson, P.C., L.L.O.*

ljorgenson@bacon-vinton.com

*also licensed in the State of Kansas

Mayor Alan Zavodny stated that he asked Joan to put moving forward on selling the Southern XV property and asbestos mitigation on the agenda because he does not see putting the police in that building.

Interim City Administrator Joan Kovar stated that she tried to contact the Fire Marshal so he can look at the southwest corner of the courthouse and tell us what we would need to do to it so that the police can occupy it. She is not having any luck getting him to return her phone calls.

Mayor Zavodny stated that our options for the location of the police office are: 1) the city office building and 2) the courthouse. If the courthouse does not work out then we may have to look at other options. The courthouse is probably our top option at this point, given what we know now. Southern XV is off the table because we would have to build a brand new building and that is just not an option right now.

Police Chief McPhillips stated that at this time the courthouse is the most viable option. He does not think that we need to set a time limit or push the county. They are working pretty hard on this. They have taken several steps. They have made arrangements for the consolidation of two offices and to move their janitor into a new office. They are doing some of the plumbing work and they are fixing the doors. He's had some meetings with the County Board members and they really are working hard on getting the police department over there. There are several benefits to having both law enforcement agencies located in that particular location. The mayor and the city and the county are all working very well together. There have been more positive discussions that have come out of this effort than you would realize. Chief McPhillips also stated that if things fall through with the county and they don't move to the courthouse that we should just remodel the city office. Nobody would ever find them at the auditorium. That just isn't an option. They need to be located closer to main street.

Street Superintendent Jim McDonald stated that there was a point count done on the asbestos on the Southern XV building. The caulk around the windows is low so we don't have to do anything with that, however the caulking and the tile have to be removed. The bolts on the roof have to be removed. He said the estimate was around \$2,500.

Mayor Zavodny stated that he thinks that we should advertise the Southern XV building located at 315 So. 4th Street with the building or with the building cleared and then we need to factor in the cost of doing that in our minimum for what the City's basis in that property is. He believes that we can track our costs in it. If we want to do this a month from now and actually have firm numbers that you feel comfortable putting on it as far as with the building or without then we could put it on the market. We can take bids based on those.

Council member Kroesing stated that we want all of our expenses back out of it. We want all of Jim's expenses when they were working down there including cutting down trees and knocking down garages and hauling that away.

Council member Scribner made a motion to table Agenda Item #22 Consideration of moving forward on selling the Southern XV property and asbestos mitigation to the May 11, 2011 Council meeting. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Kroesing, Rogers, Vandenberg, Smith and Svoboda. Voting NAY: None. The motion carried.

Interim City Administrator Kovar stated that it was time to rebid the City's property and liability insurance. The last time we did this was three years ago and we took a three year bid and that is what we are requesting again. What she would suggest is to recess the meeting and pick another night when everyone can meet and then we would have the insurance agents who bid it come and present their proposals because we don't have to take low bid. You can ask the agents to explain their bids and ask any questions that you want and that's how we determine who we should go with. The current insurance expires May 1, 2011.

Council member Smith suggested recessing until the committee of the whole meeting on April 27, 2011.

Interim City Administrator Kovar opened the sealed bids for the City's liability and property insurance and they were as follows:

Jones Insurance Agency.....	\$138,165.00
Agency One Insurance	\$121,794.00

Council member Scribner made a motion to advance to agenda item #24 and Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Svoboda, Rogers, Smith and Kroesing. Voting NAY: None. The motion carried.

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

Mayor Zavodny stated, "Now at 9:14 p.m. we are going into executive session to discuss property foreclosures and a personnel matter." Mayor Zavodny, all of the Council members, City Attorney Egr, Interim City Administrator Kovar and Interim City Clerk Comte went into executive session at 9:14 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 9:54 p.m.

Council member Kroesing made a motion to recess to April 27, 2011 at 6:00 p.m. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Vandenberg and Rogers. Voting NAY: Council member Svoboda. The motion carried and Mayor Zavodny declared the meeting recessed at 9:55 p.m.

April 27, 2011

Mayor Zavodny called the meeting of the City Council of David City, Nebraska to order at 6:00 p.m. on Wednesday, April 27, 2011 in the Council Room of the City Office, 557 N 4th Street, David City, Nebraska, to continue the meeting of April 13, 2011 which had been in recess.

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

Also present were: Electric Supervisor Pat Hoefft, Water Supervisor Gary Janicek, Sewer Supervisor Scott Boyd, Power Plant Supervisor Eric Betzen, Park/Auditorium Supervisor Scott Bales, Street Superintendent Jim McDonald, Police Chief Anthony McPhillips, Mike Jones of Jones Insurance Agency, Pam Siroky of Agency One Insurance, and Banner Press Editor Larry Peirce.

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

Council member Kroesing made a motion to come back into session from the April 13, 2011 meeting which had been in recess. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Svoboda, Vandenberg and Rogers. Voting NAY: None. The motion carried.

Pam Siroky, representing Agency One Insurance and Mike Jones, representing Jones Insurance Agency presented a summary of their insurance proposals.

It was decided that the major difference between the two proposals was the boiler coverage and equipment for the power plant.

Agent:	Mike Jones Jones insurance Agency P.O. Box 229 David City, NE 68632 402-367-3674 402-367-3167	Pam Siroky Agency One Ins., Inc. 594 N. 4 th St. David City, NE 68632 402-367-3177 402-367-3653
Insurance Carrier Information:	Oak River Ins. Co. A++ Redwood Fire & Casualty (WC)	EMC Insurance Co. A-
	ACE (Airport Liability) A+	Hartford Steam Boiler A++
	Cincinnati (B & M) A++	AIG Ins. Co. A+

Coverage:

Property	\$54,309	\$60,897
Inland Marine	\$2,505	\$3,481
General Liability	\$9,528	\$5,423
Automobile	\$7,809	\$9,059
Umbrella	\$7,976	\$6,885
Workers' Compensation	\$36,368	\$32,635
Bond & Crime	\$127	\$333
E&O, EPLI, Law Enforcement	\$3,938	\$1,081
Sub Total:	\$122,560	\$119,794
Airport Liability	<u>\$1,985</u>	<u>\$2,000</u>
Sub Total (Inc, Airport)	\$124,545	\$121,794
Boiler & Machinery	<u>\$13,620</u>	<u>\$25,000</u>
Sub Total (Inc B & M)	\$138,165	\$146,794
Raise Umbrella Limit	<u>\$500</u>	<u>\$707</u>
Grand Total	\$138,665	\$147,501

Council member Scribner made a motion to award a three year contract for property and casualty insurance to Jones Insurance Agency, including the Boiler and Machinery coverage totaling \$138,165 and to add \$500 for a total of \$138,665 to increase the umbrella to \$5,000,000. Council member Svoboda seconded the motion. Voting AYE: Council members Scribner, Smith, Kroesing, Vandenberg and Svoboda. Voting NAY: Council member Rogers. The motion carried.

There being no further business to come before the Council, Council member Scribner made a motion to adjourn. Council member Smith 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 6:44 p.m.

Mayor Alan Zavodny

Interim City Clerk Tami L. Comte



CERTIFICATION OF MINUTES
April 13, 2011

I, Tami L. Comte duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of April 13, 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.

Tami L. Comte, Interim City Clerk

