

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING
OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **10th day of August, 2016**, in the meeting room of the City Office, 557 North 4th Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 1st day of August, 2016.

AGENDA AS FOLLOWS:

1. Roll Call;
2. Pledge of Allegiance;
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;
4. Minutes of the July 13, 2016 meeting of the Mayor and City Council;
5. Consideration of Claims;
6. Committee and Officer Reports;
7. Eric Johnson, Vice President of Kirkham Michael, to give an update concerning the Airport projects (6-place T-Hangars, etc.);
8. Consideration of the Downtown Renovation Project;
9. Consideration of the request from the Butler County Half Century Bicycle Ride to use the upper level of the City Auditorium for a couple of hours, at no charge, on Saturday, September 24, 2016;
10. Consideration of an IT Maintenance Contract;
11. Consideration of an agreement with Butler County, Nebraska to provide Law Enforcement Services;
12. Consideration of Ordinance No. 1248 amending Article 4. Nuisances Section 4-401B Subsection (C) that addresses moving nuisances to another location;
13. Consideration of Ordinance No. 1249 amending Article 6, Section 6-431 of the Municipal Code concerning inoperable vehicles, licensed or unlicensed, insured or uninsured;
14. Consideration of Ordinance No. 1250 to amend the following Sections of the Municipal Code Article 4: Section 4-402 (C), Section 4-402 (D); Section 4-402 (E); Section 4-402 (F); Section 4-402 (G); and Section 4-402 (H) dealing with nuisance abatement, notifications, etc.
15. Consideration of the proposed budgets for fiscal year Oct 1, 2016 – Sept. 30, 2017;

16. Consideration of the proposal by Kruse, Schumacher, Smejkal, & Brockhaus, P.C. to perform the audits of the financial statements of the City for a cost of \$11,625/year (out of pocket not to exceed \$150) for the years ended September 30, 2016, 2017, and 2108;
17. Adjournment

CITY COUNCIL PROCEEDINGS

August 10, 2016

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 North 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on August 4th, 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 President Gary Kroesing, Council members Tom Kobus, Kevin Hotovy, Mike Rogers, and John Vandenberg, City Attorney Jim Egr, and City Clerk Joan Kovar. Council member Gary Smith was absent.

Also present for the meeting were: Eric Johnson, Vice President of Kirkham Michael, Jim Vandenberg, Skip Trowbridge, David McPhillips, Pat Meysenburg, Linda Vandenberg, Paul Perske, Banner Press Editor Larry Peirce, Sewer Supervisor Kevin Betzen, and Electric Plant Supervisor Eric Betzen.

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 and asked those present to please silence their cell phones.

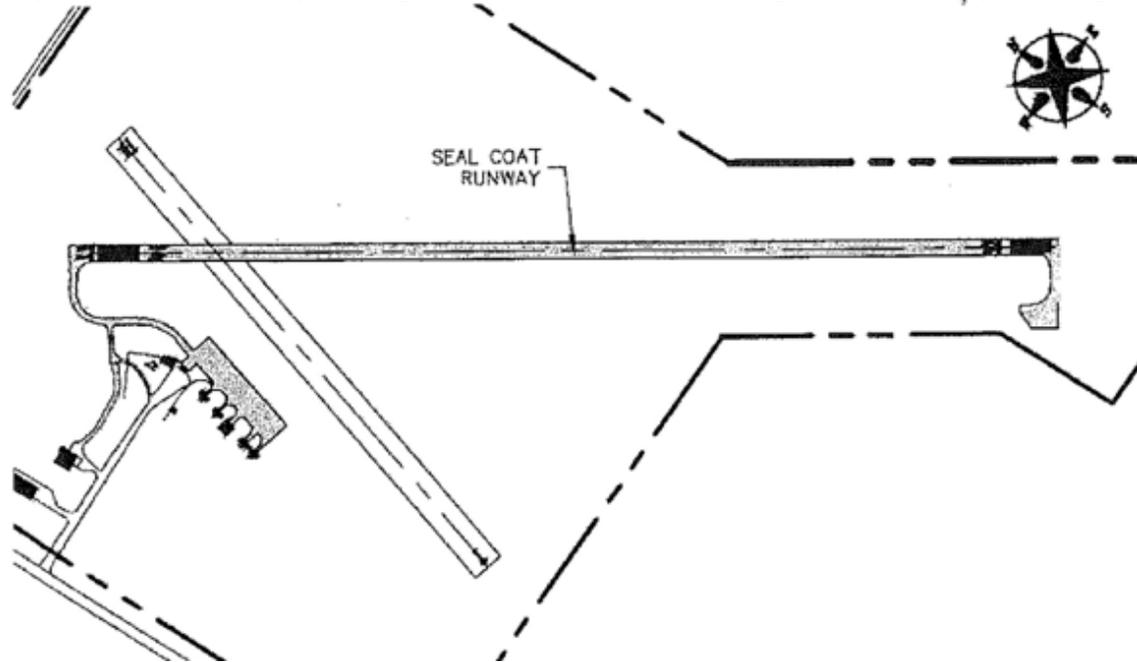
The minutes of the July 13th, 2016 meeting of the Mayor and City Council were approved upon a motion by Council member Rogers and seconded by Council member Kobus. Voting AYE: Council members Hotovy, Kroesing, Vandenberg, Kobus, and Rogers. Voting NAY: None. Council member Smith was absent. The motion carried.

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

Mayor Zavodny asked for any comments or questions concerning the Committee and Officer Reports. Council member Kroesing stated he has heard comments from the public that they hope we have all of our water main holes dug and filled in by winter. Sewer Supervisor/Water employee Kevin Betzen stated that Obrist & Company Inc., who is doing the water project, is actually ahead of schedule right now. Obrist has a "substantial completion date" of November 15, 2016 and a "complete and ready for final payment date" of December 15,

2016; hopefully the weather will cooperate. Council member Kroesing made a motion to accept the committee and officers reports as presented. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Hotovy, Kobus, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried.

Eric Johnson, Vice-President of Kirkham Michael stated: "I have some fairly good news that Joan and I received. When we looked at our Capital Improvement Program in January, we have a runway rehabilitation project scheduled and we received word from the FAA yesterday that they want to fund that project next year. That will involve fixing the cracks in the asphalt runway, apron, and taxiway, adding a seal coat, and then putting on new runway markings."



Project Scope: Seal Coat Runway, Taxiway, and Apron
Estimated Cost: \$346,000

FAA has requested a draft agreement of the engineering services by the end of August so Eric will proceed with that. FAA will provide 90% of the project cost; not to exceed \$300,000.00.

Eric Johnson distributed the most recent Construction Progress and Inspection Report which they have to submit to FAA weekly, with pictures of the progress on the 6-Place T-Hangar, Ramps, and Taxilanes.

Eric stated: "Everything seems to be going very well on the project. They've used 38 working days of their 65 and they are about 50% complete on the project. They are starting on the erection of the building. They did have one little glitch in some of their vertical columns that go around the t-portion of the stalls; they were 6" too long because the manufacturer did not read the plans correctly, because we had to put a 6" lip around each one of the T-hangars, for the fire marshal's code, in case there would be a spill inside the hangar and it's contained within each individual T-Hangar. It wasn't a real big deal, they reordered them and have the correct ones coming to move the project forward. We are really happy with the project; looks like we'll finish on time, everything is on schedule and on budget.



U.S. Department
 of Transportation
**Federal Aviation
 Administration**

Construction Progress and Inspection Report

Airport Grant Program

Period Ending
8/06/16

Project Number
3-31-0025-010

Airport Name

David City Municipal Airport; David City, NE

Project Description

Construct 6-Place T-Hangar, Ramps and Taxilanes

Contractor's Name

TCW Construction, Inc.

1. Contract Time
65 Working Days

No. Days Charged to Date **38**

Last Working Day Charged (Date) **8/05/16**

2. Brief Weather Summary this Period, including Approximate Rainfall and Periods of Below Freezing Temperature
(On earthwork jobs, include soil conditions.)

8/01 Overcast; Temp: 71-82, Wind: 10mph (ESE), Soil: dry; 8/02: Clear/overnight T-Storms (1"+ Rain); Temp: 66-86, Wind: 6mph (ENE), Soil: wet; 8/03: Scattered Clouds, Temp: 66-87; Wind: 5mph (SE), Soil: wet; 8/04: Clear, Temp: 66-86; Wind: 8mph (NW) w/ gusts, Soil: dry; 8/05 Clear, Temp: 60-77, Wind: 4mph (N), Soil: dry

3. Rough Estimate of Percent Completion to Date of Construction Phases *(Include items such as clearing, grading, drainage, base, surface, lighting, etc.)*

Overall project completion – 40%

Removals – 100% Embankment – 100% Drainage structures – 100% Subgrade – 90% Base Course – 65% Concrete-65% Silt Fence – 100% Silt Sock – 0% Seeding – 0% T-Hangar – 20%

4. Work Completed or In Progress this Period

Completed pouring the building floor slab and began erecting the building.

5a. Summary of Laboratory and Field Testing this Period *(Note failing tests and any retests. Summarize out-of-tolerance.)*

Concrete testing for the building floor was within spec.

5b. Material *(Identify material subject to pay reduction.)*

None

6. Description of Anticipated Work by Contractor for Next Period

Continue building work.

7. Problem Areas/Other Comments *(Include revisions to plans and specifications approved or denied, delays, difficulties, etc. and actions taken.)*

Discovered that the inside wall post were manufactured to the wrong lengths. Contractor contacted the manufacturer and new post will be manufactured and provided for the project.

SPONSOR'S INSPECTOR OR REPRESENTATIVE

Date

8/08/16

Typed or Printed Name and Title

Eric Johnson, Project Manager

Signature

Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS



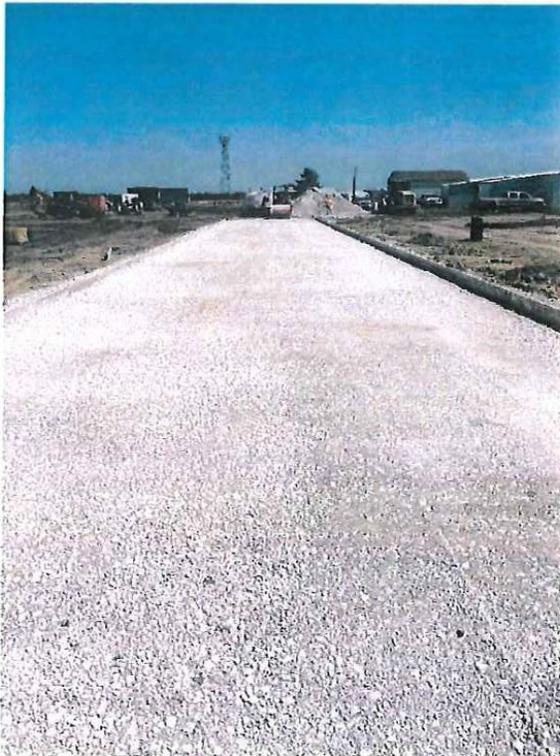
Placing Embankment and working subgrade.



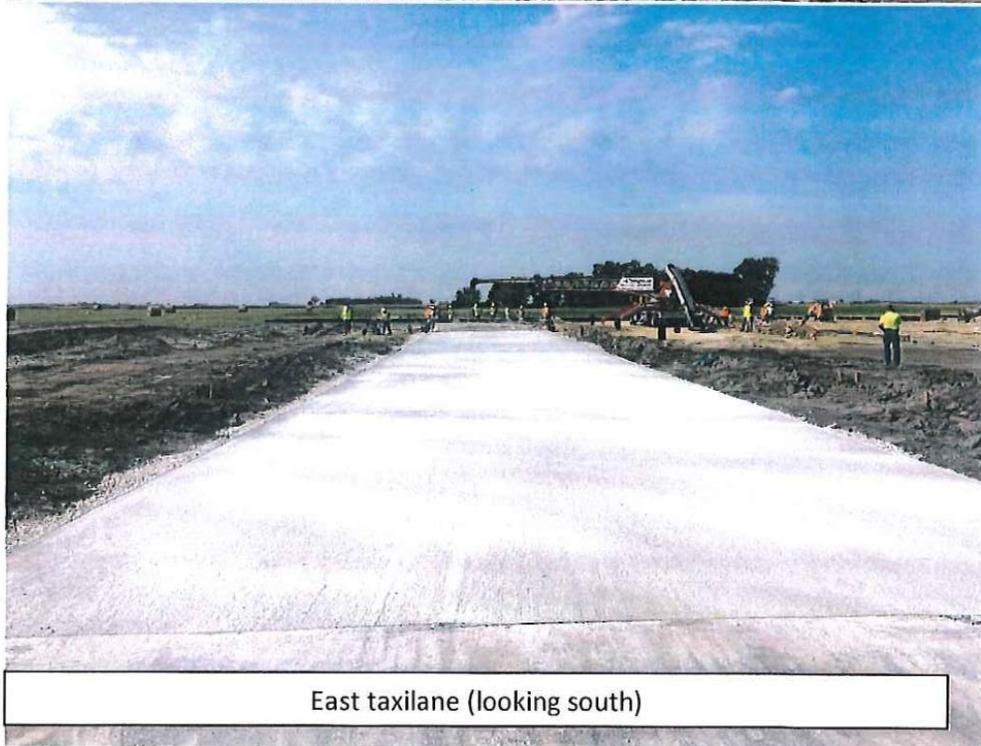
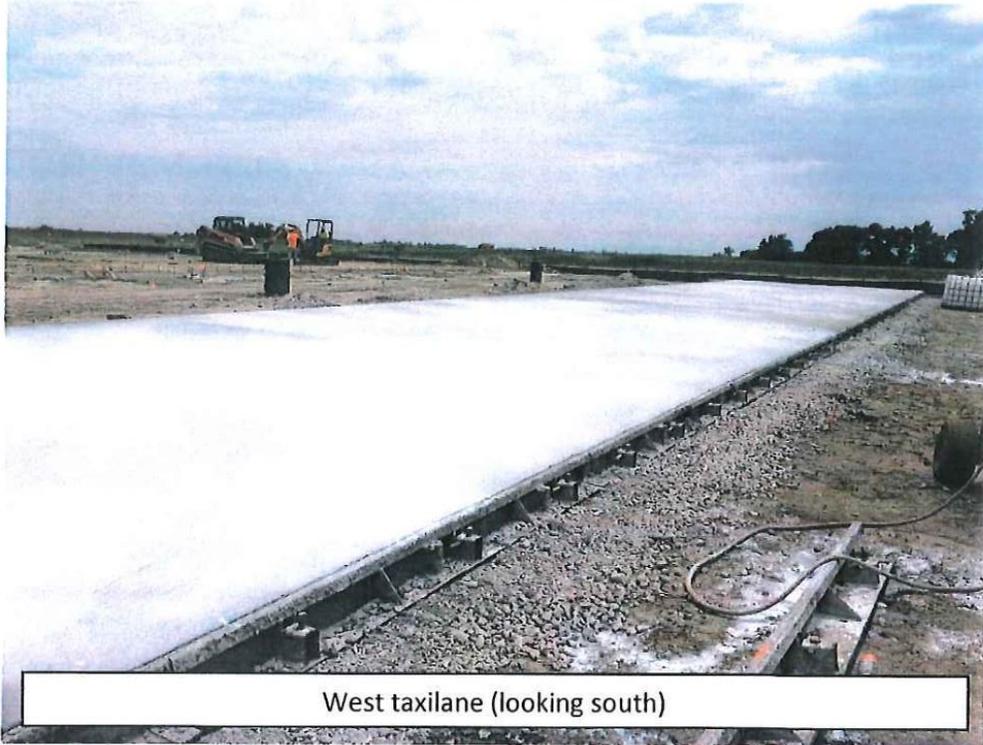
Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS



Placing and compacting base course



Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS



Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS



West Taxilane (looking south)



East Taxilane (looking north)

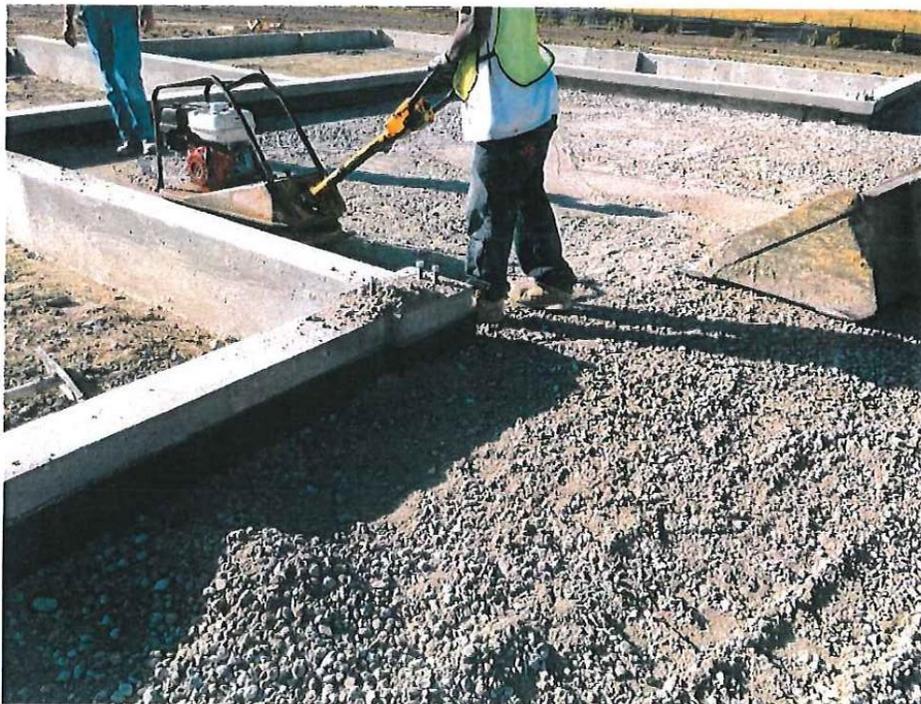


North-South Taxilane (looking west)

Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS



Pouring exterior wall grade beam caps



Placing Base for floor slabs

Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS



East and North-South taxilanes (looking south)

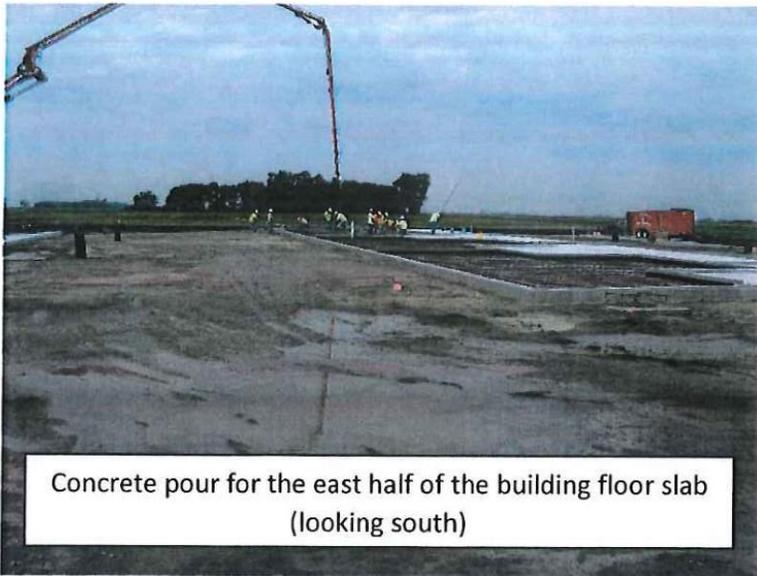


East taxilane (looking north)

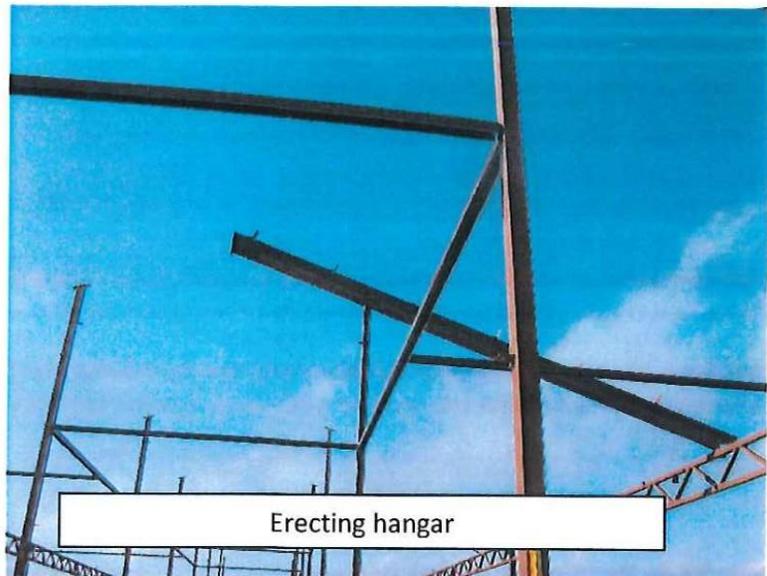


Reinforcing for floor slab

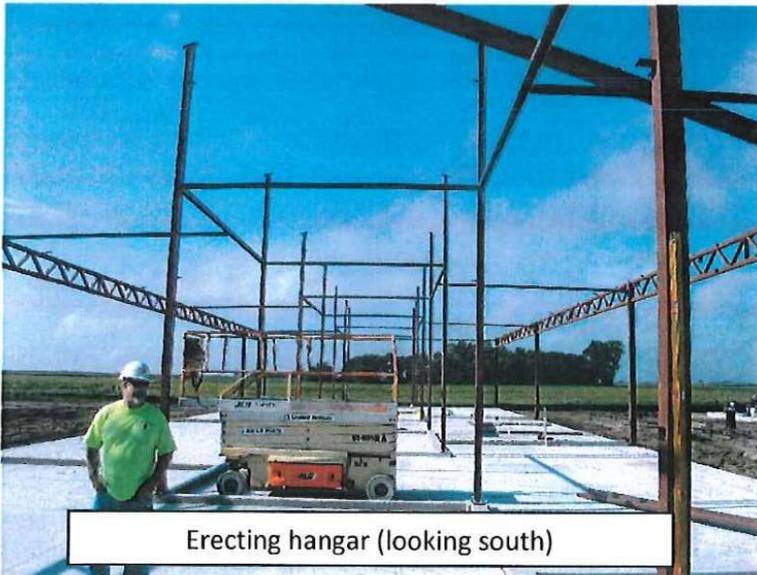
Construct 6-Place T-Hangar, Ramps, and Taxilanes
David City Municipal Airport; David City, Nebraska
AIP No. 3-31-0025-010
PROGRESS PHOTOS (8/03/2016)



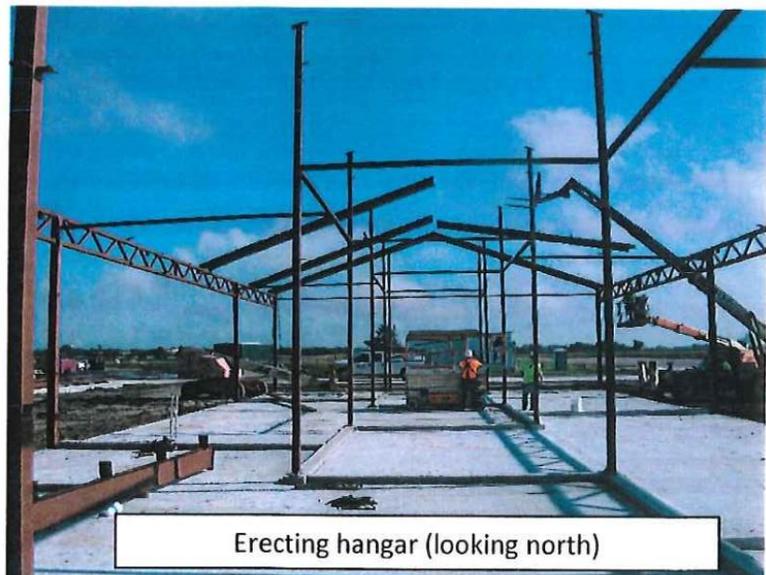
Concrete pour for the east half of the building floor slab
(looking south)



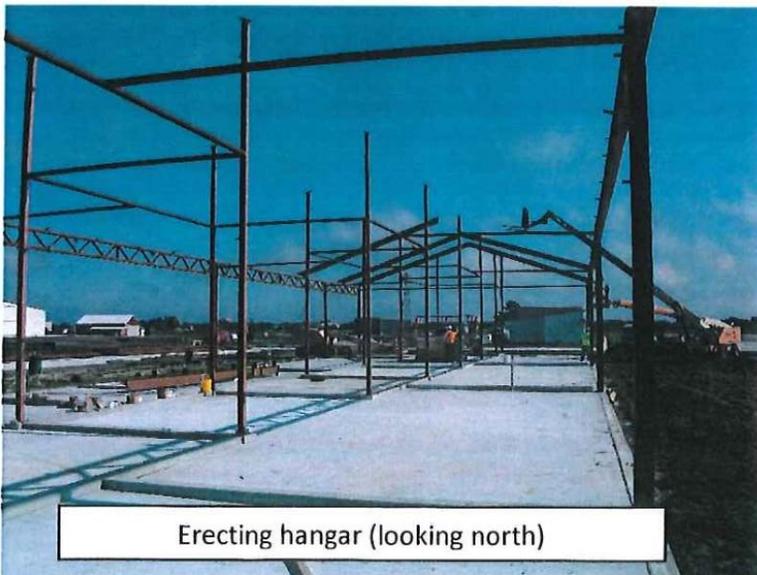
Erecting hangar



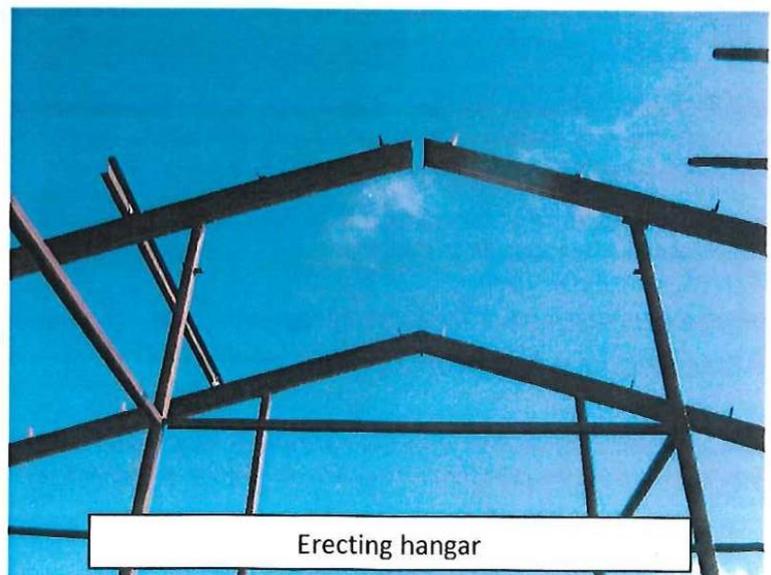
Erecting hangar (looking south)



Erecting hangar (looking north)



Erecting hangar (looking north)



Erecting hangar

The Downtown Renovation Project was discussed and also a detour route for Highway 15 traffic. City Clerk Kovar reported that Al Hottovy of Leo A. Daly met with the Department of Roads but she hasn't received the minutes from that meeting yet. The design decision needs to be made by approximately October or November.

Citizen Skip Trowbridge asked: "Are we going to bring the public into the design phase or are we going to keep them out?"

Mayor Zavodny stated: "Al said he was going to have more meetings but I haven't heard any more about that either."

Citizen David McPhillips stated: "I am very concerned that he installed a deadline for us. He's working for us and we were supposed to have some town hall meetings and nothing is happening."

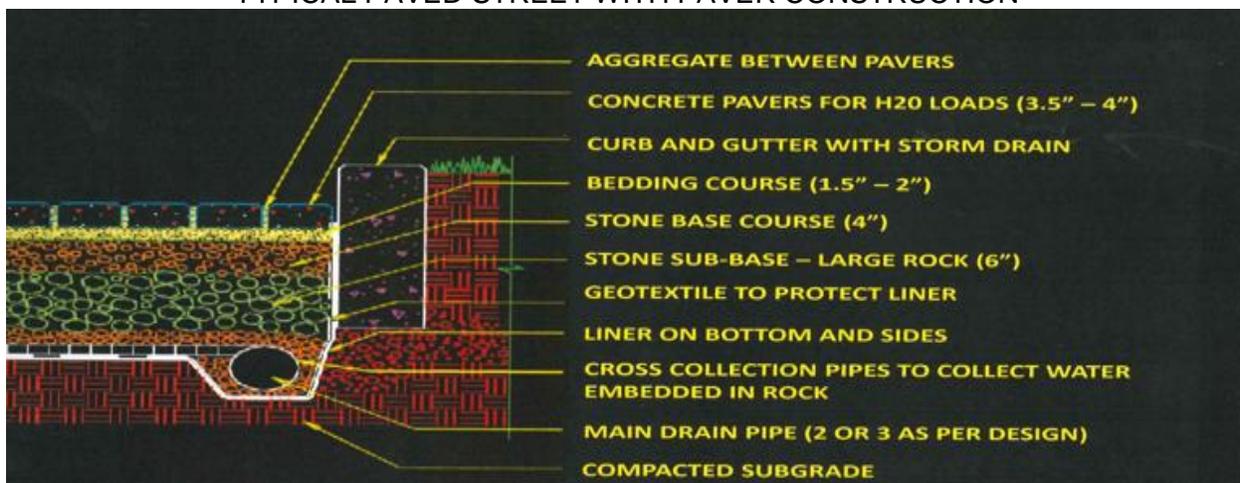
Council member Rogers stated: "I thought we settled this a long time ago."

Mayor Zavodny stated: "Well again I would probably reiterate my "I respectfully disagree", as far as we never did vote on a final downtown design. We agreed to cement in front of the Fire Hall and that kind of thing. I do get the feeling from the discussions we've had that I'm maybe the lone brick considerer in the group and that's okay; I'm comfortable with that position. We're going to have to decide here pretty soon."

Citizen David McPhillips stated: "You did say you were going to check on a vintage brick option and I'm interested in keeping the historic bricks. I was wondering, you were going to provide me some updates and I just wanted to remind everybody that we did pay an engineer money to do a survey of the community and 73% wanted the old bricks kept."

Mayor Zavodny stated: "We did talk to him about that, you must not have been at that meeting, but we did talk about that at some length. The availability of the vintage bricks he didn't seem real confident about and then the wear. I think the big public drawback currently, and I don't want to speak for you, is that subgrade. There isn't a great deal of confidence in that piece, but I still feel it's something we look at."

TYPICAL PAVED STREET WITH PAVER CONSTRUCTION



David McPhillips stated: "D.A. Davidson's projected revenue on the sales tax showed that there would be enough to take up all of our bricks, concrete, and then put the bricks back."

Mayor Zavodny stated: "There would be enough money, now, to do that. I still think you have an issue with you would probably to have to supplement it with some more bricks because a lot of those won't come out intact. I would like to get a lot more participation from the public. For as important as this project is, I think it's important to get people to attend the meetings, sharing their visions for it." Discussion followed.

Coordinator Angie Peirce sent in the following: *The Butler County Half Century Bicycle Ride is scheduled to take place on September 24, 2016. The proceeds of this ride will benefit local non-profit groups: Blue Valley Community Action (B.C. Emergency Services Fund). This helps people in need to cover emergency costs, including utility bills. B.C. TeamMates, a mentoring program in all three county schools. The program had 31 mentors in action last year and is looking for more. Butler believes in Youth and Community, a coalition that involves all three schools and parents and many students. Each of these groups also relies on the generosity of the public to help meet their goals and cover their costs of operation. All of our ride proceeds go to the non-profit groups. We have received sponsorships from local business and the hospital. Some funds have come from the tourism fund because we hope to bring more than 100 people to town for the ride. Our ride committee wants to use the upper level of the auditorium for a couple of hours during registration and ride sponsor displays at no charge. We will clean up the area following the use of the building.*

Mayor Zavodny stated: "I know there are going to be some fine people that will argue with me today and I know this is very worthwhile, but in the past we have had a lot of people come in and say "we are the scouts, (we are the Heart Association, we are the Cancer Society, we are the Food Drive), or something and we'd like to use the Auditorium for free and we've always maintained the stand that we just can't open up that can of worms. For two hours at \$20/hr. we are talking \$40. Is there some way to get any sponsorship for this?"

Council member Kroesing stated that he felt we already opened the can of worms when we allowed the BRAN rider's to use the Auditorium for free on June 10th. It was noted that that was an all day and night event that was supposed to bring a lot of income to the City.

Council member Rogers volunteered to pay the \$40.00 Auditorium rental for the Butler County Half Century Bicycle Ride scheduled for September 24, 2016 and Larry Peirce graciously accepted.

The following proposals for an IT Maintenance Contract were discussed:

Extreme Technology L.L.C.
Micky Rutenbeck
Wayne, Nebraska:

Contract for all labor \$700/month. Software, Supplies, and Mileage will be billed accordingly.

Connecting Point
Tony Kresha
Columbus, NE:

Connecting Point rates are \$90/hour for my services (\$80/hour for Chad or Ron) We do charge our hourly rate for one way travel if the support is needed onsite, and will make every effort to offer 24 hour onsite response for critical (system down) service. I am in the David City area at least once a week, and if the service is not urgent and can wait, shared or reduced travel time cost will save the City some on the repair. We also offer remote support to the desktop with no travel time, if the problem is of that nature.

The Library is the largest user. City Clerk Kovar stated that Librarian Kay Schmid stated that if the City was going to approve an IT Maintenance Contract with a \$700/month cost, she would need to increase her budget. In the past the Library has just paid for maintenance on an "as needed" basis.

Council member Hotovy stated: "On Page 1, that \$700/month is "no matter what". On Page 2, that is \$90/hour as needed, there is no minimum each month? (No) So that would be about 7.77 hours per month. Couldn't there be months when we don't need that \$700 total? How many hours a month are we needing IT support? Do we know?"

Mayor Zavodny stated: "I know we had the one virus thing because of a Fed X e-mail spam, but as far as computer work I guess we would have no idea how much that is."

City Clerk Kovar stated: "I don't think normally we have a lot of computer problems."

Council member Hotovy stated: "So if that's the case, if we have someone that's willing to work it, a \$90/hour charge with no contract that's signed and no minimum requirement per month, why should we sign a contract for \$700/month if somebody's willing to do it on a per incident basis? The 2nd one also said that there is a travel cost but if it's not an urgent call and we can wait until they're in the area with others that they would be willing to split the mileage charge. I like the fact that there's no set amount every month whether you use it or not."

Council member Rogers made a motion to hire Tony Kresha, Connecting Point, on an "as needed" basis with no contract. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Hotovy, Kobus, and Rogers. Voting NAY: None. Council member Smith was absent. The motion carried.

Mayor Zavodny stated that the next agenda item was consideration of an agreement with Butler County, Nebraska to provide law enforcement services. "We have looked at the specifics of this in the months leading up to this, we need to make a decision by September 1st to give notice per the old contract, so we need to either act this month or do something different."

Council member Kroesing stated: "I've got a couple of questions here. Joan and I only got to go to one meeting when this whole thing started with the County Board and the Sheriff's Department. (Kroesing, Kovar, & the Mayor were on the committee at the time.) It was my understanding that for the \$23,000 a month, or whatever it was at that time, that we were going to get 3 deputies to cover David City. When I read into this it says "*such services being*

contingent upon the availability of manpower and the nature of the Sheriff's duties on other parts of the County". I understand that you have 10 deputies, I would like to think that we could have at least one representative in the City all the time for that \$23,000/month instead of having everybody gone."

Council member Rogers stated: "The best case scenario is, and I'm not speaking for Mr. Siebken, is that when the new officer comes on duty he spends two hours in David City, and the next office comes on, he spends two hours, unless there is an emergency in the County that they're needed."

Mayor Zavodny stated: "I think that's very close to what he described to us. It is a big decision. If we don't do it, he's not going to have the funds available to have the three extra deputies and then we're going to get the law enforcement we get with the staff he has down to probably seven which will probably be less and I doubt we'll get any ordinances taken care of out of that. You know our police department when it was beginning to go away was approaching \$450,000/yr. and it would be a lot higher than that currently. In fairness I should bring up an issue that's been up by other people who say *"they've got to provide coverage, it's in statute, David City's under that"*, but you are giving up some things that you currently would have covered which are the ordinances and that kind of things, and that's what you need to weigh."

Council member Kroesing stated: "But they aren't going to enforce the ordinances unless they actually come across an infringement while they are there. They aren't going to go after these ordinances as such. *(It is understood that the Sheriff will enforce City Law Enforcement Ordinances or violations thereof that occur in his presence, however, there shall be no duty imposed to seek out such violations. Prosecution of City Ordinances shall be the sole responsibility of the City.)*

Mayor Zavodny stated: "I think that's what I heard as well." Discussion followed.

Council member Hotovy made a motion to authorize Mayor Zavodny to approve the agreement with Butler County, Nebraska to provide law enforcement services as per the agreement. Council member Rogers seconded the motion. Voting AYE: Council members Kobus, Kroesing*, Vandenberg, Rogers, and Hotovy. Voting NAY: None. Council member Smith was absent. The motion carried.

*When voting Council member Kroesing stated: "Yes, as long as the stipulations are adhered to, and I'd like to see Joan and I sit in on that too. We started out as a Committee, I'd like to see us sit in as a committee." Gary stated that he wants Sheriff Siebken to clarify the contract.

Mayor Zavodny stated: "I will talk to him and arrange that."

Citizen Paul Perske had some concerns. "So if he doesn't want to enforce the City ordinances he doesn't have to? The previous contract said the base sum shall be increased based on 3 officers, the new contract simply says the number of deputies employed by the county to fulfill the law enforcement hours. The City shall provide the funding necessary for the purchase of one patrol vehicle; shouldn't there be a set amount or a maximum?"

**AGREEMENT BETWEEN
BUTLER COUNTY, NEBRASKA
AND
THE CITY OF DAVID CITY, NEBRASKA
TO PROVIDE LAW ENFORCEMENT SERVICES**

THIS AGREEMENT is made and entered into this ____ day of November, 2016, by and between the County of Butler, State of Nebraska, hereinafter referred to as the "County" and the City of David City, State of Nebraska, hereinafter referred to as the "City".

WHEREAS, the City desires to contract with the County for Law Enforcement Services within the City's boundaries supported by the manpower and equipment of the Butler County Sheriff's Office; and

WHEREAS, such contracts are authorized by the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, *et.seq.*, and,

WHEREAS, the County is willing to contract with the City to provide such services on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the County and City agree as follows:

1. The County agrees to provide law enforcement services within the corporate limits of the City to the extent and in the manner hereinafter set forth. Said services shall encompass duties and functions of the type coming within the jurisdiction of, and customarily rendered by the Butler County Sheriff, pursuant to the statutes of the State of Nebraska.
2. The Butler County Sheriff shall provide 120 hours per week of law enforcement services in the City. The times of said services shall be determined solely by the Sheriff, such services being contingent upon the availability of manpower and the nature of the Sheriff's duties in other parts of the County.
3. The nature of the services provided hereunder, the standards of performance, the discipline of officers, and other matters incidental to the performance of these services and the control of personnel so employed shall remain with the County. In the event of a dispute between the parties as to the extent or nature of the services to be provided hereunder, the determination made by the Butler County Sheriff shall be final and conclusive as between the parties hereto.

4. Services to be performed hereunder shall include traffic enforcement, security of businesses, and other services in the field of public safety as are provided by the Sheriff in unincorporated areas of the County. Such services shall include the enforcement of State Statutes and Municipal Law Enforcement Ordinances of the City. It is understood that the Sheriff will enforce City Law Enforcement Ordinances or violations thereof that occur in his presence, however, there shall be no duty imposed to seek out such violations. Prosecution of City Ordinances shall be the sole responsibility of the City.
5. For purposes of performing said functions, the County will furnish and supply all necessary labor, supervision, equipment, communication services, office space, furniture and furnishings, office supplies, telephone, light, water, and other utilities and supplies necessary to maintain the level of service to be rendered hereunder.
6. The City specifically agrees to furnish at its own expense a current City Ordinance book for use by the deputy during each tour of duty. The City shall be responsible for all animal impound fees associated with the enforcement of animal City Ordinances. The City shall be responsible for all towing and impoundment fees for all vehicles towed within City Limits. It is further agreed that if special supplies, including stationary, notices, forms, and the like, must be issued in the name of the City, the same shall be supplied by the City at its own cost and expense.
7. All persons assigned to duties created by this Agreement shall be members of the Butler County Sheriff's Office, trained by the Sheriff and under the direction and exclusive control of the Butler County Sheriff. Compensation to persons providing services created hereunder and provisions for bonds, fringe benefits, insurance, and workman's compensation shall be the sole responsibility of the County.
8. The City shall, at its own expense, provide liability insurance to indemnify itself in the event it becomes liable for the payment of a judgment based on the acts or omissions of a deputy in the enforcement of a City Ordinance or State Statute, as provided in Neb. Rev. Stat. §13-1802, Reissue 2007. The County, its officers, and employees, shall not be deemed to assume any liability for intentional or negligent acts of the City or any officer or employee thereof. The City, its officers and employees shall not be deemed to assume any liability for intentional or negligent acts of the County or any officer or employee thereof. The County will indemnify and hold the City harmless from any claims for causes of action resulting from the intentional or negligent acts of the County, its officers, or employees in regard to activities undertaken pursuant to this Agreement.
9. The City shall pay to the County as consideration for the Law Enforcement services set forth herein the total sum of two hundred seventy-five

thousand dollars (\$275,000) payable in twelve equal monthly payments of \$22,916.67 due on or before the first business day of each month for forty-eight months commencing on _____ 1, 2016.

The base sum and monthly payments set forth above shall be increased in the second, third and fourth year of this contract by the increase in health insurance premium costs paid by the County associated with the number of deputies employed by the County to fulfill the law enforcement hours provided to the City under this contract. If there is no increase in the health insurance premium costs paid by the County or if the health insurance premium costs paid by the County is reduced, the base sum paid by the City shall stay the same. The County shall notify the City of any increase in the health insurance premium costs within thirty days after the County receives notification from its health insurance provider of such increase.

The monthly payments due to the County hereunder shall be due and payable from the City to the County on the first business day of each month and shall be delinquent ten (10) days thereafter. If payment is not received by the County within sixty (60) days, the County may satisfy such indebtedness from any funds of the City on deposit with the County without giving further notice to the City of the County's intention to do so.

10. The City shall provide the funding necessary for the purchase of one (1) Patrol Vehicle necessary to maintain the level of service to be rendered hereunder and in accordance with the current State Bid Contract at the time of purchase. Such funding will be provided every other year beginning the June, 2017
11. No later than the tenth day of each month, the Sheriff shall submit a report to the City that shows the services performed during the previous month.
12. This Agreement shall become effective _____ 1, 2016, and shall remain in force for four (4) years thereafter.
13. Either party to this Agreement shall have the right to terminate this Agreement upon sixty (60) days written notice of that party's intention to terminate. Notices provided to the County hereunder shall be either hand delivered or sent to the Butler County Sheriff's Department, 451 5th Street, David City, Nebraska and the Butler County Board of Supervisors, c/o Butler County Clerk, 452 5th Street, David City, Nebraska 68632. Notices provided to the City hereunder shall be either hand delivered or sent to the City Clerk, 557 N 4th Street, David City, Nebraska 68632.

The City of David City, State of Nebraska by resolution duly adopted by its City Council has caused this Agreement to be signed by its Mayor and attested by its Clerk. The County of Butler,

State of Nebraska, by resolution its Board of Supervisors, has caused this Agreement to be signed by the Chairman of said Board, all on the date and year first above written.



CITY OF DAVID CITY, NEBRASKA

By: *Alan Zavodny*
Alan Zavodny, Mayor

Date: 8-10-2016

ATTEST:

Joan Kovar
Joan Kovar, David City Clerk

BUTLER COUNTY, NEBRASKA

David W. Mach, Chairman
Butler County Board of Supervisors

ATTEST:

Vicki L. Truksa, County Clerk

Date: _____

**BUTLER COUNTY SHERIFF'S
DEPARTMENT, NEBRASKA**

Marcus A. Siebken, Sheriff

City Attorney Jim Egr stated: "All three of the proposed ordinances are kind of tied in together. Let me tell you what my theory was and you may want to consider passing these on 1st reading only and then passing them next month. The first Ordinance No. 1248, in case you're wondering what does that mean, personal property" shall not include any motor vehicle addressed in Section 6-430 of the Municipal Code of the City of David City, Nebraska, but shall include those motor vehicles addressed in Section 6-431 of the Municipal Code of the City of David City, Nebraska". Section 6-430 is "abandoned" motor vehicles, okay, and there is a State Statute for "abandoned" motor vehicles and the purpose of that State Statute is to take care of vehicles that are sitting on the street, sitting on some vacant lots, whatever the case may be, and people aren't wanting to keep them, and so that you can get a title to them to grab those vehicles and sell them. So, with this section then we're going to say that "inoperable vehicles" even though they're licensed and insured will be considered nuisances. Then, we've had this continuous problem of saying there's a nuisance, and then before we're supposed to have everything done, the nuisance is moved someplace else and we have to start all over. What I'm proposing is that it says, and that's part (C) Moving of Nuisance, A nuisance act, duty, condition, omission, whatever, shall attach to and follow the act, duty, condition, omission and/or things for which notification of abatement has been given pursuant to Section 4-402, namely, it being a nuisance, attaches to that item or items that are nuisances. Not to the property, not to the person but to those items, and then it says "if it's moved to a different location from the initial starting location of the notification of nuisance within the City limits of the City of David City, Nebraska or within its zoning jurisdiction as if the said new location was the initial starting location so that abatement procedures would not need to be reinstated". So, what ends up happening is, once there's a complaint to this body (City Council) and the City Council says "it's a nuisance" the people are given fifteen (15) days to correct the nuisance. If they don't correct the nuisance, or they try to move it to a different lot, that nuisance declaration of those items follow it to that new lot; you're not having to start all over."

Mayor Zavodny asked: "How stringent is the standard to identify that you are absolutely discussing the same item?"

City Attorney Egr stated: "We have pictures". That should be enough for the burden of proof. "Saying it's a nuisance initiates here with the Council. If you say "that's a nuisance" then Joan or Joan's designate, because I didn't want to stick it all on Joan she has three (3) other ladies there in the office, they get that notice and you say they have fifteen (15) days to get it taken care of. On the sixteenth (16th) day it's not taken care of, the next ordinance says "there will be a hearing before this body for this body to go ahead and hire somebody, or have the City employees do it, and they have ten (10) days' notice ahead of time before the meeting. So, what that does, if you have a meeting today, and you declare a particular item or items a nuisance, the letter goes out or is hand delivered to that person to give them fifteen (15) days to take care of it. The sixteenth (16th) day they haven't, you give them a notice that says at the next Council meeting, which is more than ten (10) days, you have to appear or otherwise we are going to go ahead and hire somebody, or have it done ourselves to take it off the property. That's their due process, is that next meeting. So in theory, in thirty (30) days it could be done. But, if the person comes in and they sweet talk you and you give them some more time, that's your decision, it's on you, the Council, because you said you wanted to get rid of that, you wanted to speed up the process, you wanted to streamline the process, so that's what I've done. In theory, it could be done in thirty (30) days."

Planning Commission member Jim Vandenberg asked: "How are you going to notify, certified letters?"

City Attorney Egr stated: "It doesn't say it has to be certified letters in the ordinance, it says regular mail, and if you want to make sure that they get the regular mail, we ask the Sheriff if they would just personally deliver it to them like you do a subpoena. That takes care of item 12. Item 13, we have a problem with people having inoperable vehicles but they go ahead and license them and pay insurance on them, and what Ordinance No. 1249 does, it says, those vehicles if they're licensed and/or insured but they're not working, if we go up to them and say "Look, start that vehicle up", it doesn't start up, it's not operable."

Citizen Skip Trowbridge asked: "What if they can't even get in the door because it's full of trash?"

City Attorney Egr stated: "That's inoperable. It says: "to allow any partially dismantled, wrecked, junked, inoperable or discarded vehicle, be it licensed or unlicensed, insured or uninsured, to remain on property longer than seven (7) days; sixty (60) days for businesses; provided this section shall not apply to a vehicle in an enclosed building; a vehicle legally in transit; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Municipality. Licensed car dealers are exempt for vehicles being held for resale. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor". Then the final Ordinance No. 1250 what that does is this, you give them fifteen (15) days to clean up, if they don't get it cleaned up, immediately on the 16th day you get the notice out that says "you are to appear before the City Council at the next month's meeting. You have to give that notice ten (10) days before you have that hearing but that should be the next council meeting because you have thirty (30) days between your council meetings, and then at that particular point in time they can come in and they say *"I need help, I can't get this done in fifteen (15) days, I need ten (10) more days."* Then it's up to you whether you are going to do that or not. If you don't give them that extra time, then you pass the resolution and go ahead and have it cleaned up. Then you have to decide if your city workers are going to pick this stuff up and clean it up, go there with a front end loader and load it up on a dump truck, or do you hire a contractor to do that? The only way you're going to make this effective is if people see you come to that hearing meeting and they're not given any more time and that property is cleaned up."

Discussion followed.

Council member Kroesing stated: "Who says the property is in violation? (The City Council.) One of us are going to walk on a property and say "this whole property is in violation"?"

City Attorney Egr stated: "No, you aren't walking on anybody's property, what you do is (1) get some pictures taken from the street, (2) he gets the notice to clean it up and he doesn't get it cleaned up so he gets the notice to come to the next council meeting, and the Council can say "that's it" and the City has it cleaned up. It depends upon how fast you want this to move. Until you bring it to that edge and take on these properties and clean them up, people aren't going to take you serious."

Discussion followed.

Council member Rogers introduced Ordinance No. 1248. Mayor Zavodny read Ordinance No. 1248 by title. Council member Rogers made a motion to pass and adopt Ordinance No. 1248 on the first reading only. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Hotovy, Kobus, and Rogers. Voting

NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1248 was passed on 1st reading only as follows:

ORDINANCE NO. 1248

AN ORDINANCE TO AMEND ARTICLE 4. NUISANCES SECTION 4-401B SUBSECTION (16) OF THE MUNICIPAL CODE; TO ADD TO SAID SECTION 4-401 SUBSECTION (C) THAT ADDRESSES MOVING NUISANCES TO ANOTHER LOCATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE, AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. Section 4-401B (16) of the Ordinances of City of David City, Nebraska shall be amended to read as follows:

“(16) The abandoning, on public property, of personal property. For purposes of this subsection, “public property” shall mean any public right of way, street, highway, alley, park, or other state, county, or city owned property. For purposes of this subsection, “abandon” shall mean any personal property left on public property for more than 24 hours, except when the leaving of said personal property on said portion of public property, at that location is legally permitted. For purposes of this subsection, “personal property” shall not include any motor vehicle addressed in Section 6-430 of the Municipal Code of the City of David City, Nebraska, but shall include those motor vehicles addressed in Section 6-431 of the Municipal Code of the City of David City, Nebraska”

SECTION 2. Section 4-401 of the Ordinances of the City of David City, Nebraska shall be amended to have added the following subsection, to-wit:

“(C) Moving of Nuisance. A nuisance act, duty, condition, omission, and/or things for which notification of abatement has been given pursuant to Section 4-402 of the Municipal Code of the City of David City, Nebraska shall attach to and follow the act, duty, condition, omission and/or things for which notification of abatement has been given pursuant to Section 4-402 of the Municipal Code of the City of David City, Nebraska if moved to a different location from the initial starting location of the notification of nuisance within the City limits of the City of David City, Nebraska or within its zoning jurisdiction as if the said new location was the initial starting location so that abatement procedures would not need to be reinstated.”

SECTION 3. If any Section, Subsection, sentence, clause, or phase of this Ordinance, is for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining parts of this Ordinance, since it is the express intent of the Mayor and City Council of the City of David City, Nebraska to enact each Section, Subsection, sentence, clause or phrase separately and the enact the parts of this Ordinance separately.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 5. This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2016.

Passed on 1st reading only
MAYOR ALAN ZAVODNY

ATTEST:

Passed on 1st reading only
CITY CLERK JOAN KOVAR

Council member Kroesing introduced Ordinance No. 1249. Mayor Zavodny read Ordinance No. 1249 by title. Council member Rogers made a motion to pass and adopt Ordinance No. 1249 on the first reading only. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Kroesing, Vandenberg, Kobus, and Rogers. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1249 was passed on 1st reading only as follows:

ORDINANCE NO. 1249

AN ORDINANCE TO AMEND ARTICLE 6 SECTION 6-431 OF THE MUNICIPAL CODE; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE, AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. Article 6 Section 6-431 of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

“Section 6-431; INOPERABLE VEHICLES, LICENSED OR UNLICENSED, INSURED OR UNINSURED. It shall be unlawful for any person in charge or control of any property within the Municipality, other than Municipal property whether as owner, tenant, occupant, lessee or otherwise, to allow any partially dismantled, wrecked, junked, inoperable or discarded vehicle, be it licensed or unlicensed, insured or uninsured, to remain on property longer than seven (7) days; sixty (60) days for businesses; provided this section shall not apply to a vehicle in an enclosed building; a vehicle legally in transit; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Municipality. Licensed car dealers are exempt for vehicles being held for resale. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor.”

SECTION 2. If any Section, Subsection, sentence, clause, or phase of this Ordinance, is for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining parts of this Ordinance, since it is the express intent of the Mayor and City Council of the City of David City, Nebraska to enact each Section, Subsection, sentence, clause or phrase separately and the enact the parts of this Ordinance separately.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4. This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this _____ day of _____, 2016.

Passed on 1st reading only
MAYOR ALAN ZAVODNY

ATTEST:

Passed on 1st reading only
CITY CLERK JOAN KOVAR

(SEAL)

Council member Hotovy introduced Ordinance No. 1250. Mayor Zavodny read Ordinance No. 1250 by title. Council member Hotovy made a motion to pass and adopt Ordinance No. 1250 on the first reading only. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Kroesing, Kobus, and Hotovy. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1250 was passed on 1st reading only as follows:

ORDINANCE NO. 1250

AN ORDINANCE TO AMEND THE FOLLOWING SECTIONS OF THE MUNICIPAL CODE ARTICLE 4: SECTION 4-402 (C); SECTION 4-402 (D); SECTION 4-402 (E); SECTION 4-402 (F); SECTION 4-402 (G); AND SECTION 4-402 (H); TO PROVIDE SEVERABILITY, TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. Section 4-402 (C) of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

"Enforcement. When the City Council of the City of David City, Nebraska declares or finds that any premises within the jurisdiction for nuisances contained in Section 4-403 of this Code may be maintained contrary to one or more of the provisions of Section 4-401 of the Code, the City Clerk or the City Clerk's designate shall mail a Notice to the owner, occupant, lessee, mortgagee, and/or trustee of the premises. The Notice shall state the conditions which constitute the public nuisance and shall order the abatement of the nuisance within the time period set forth in the Notice, and shall be substantially in the following form:

NOTICE OF NUISANCE

- TO: (Owner, Occupant, Lessee, Mortgagee, Trustee)
(Addresses)
- (1) Conditions Which Constitute the Public Nuisance:
(State all applicable conditions from Section 4-401)
- (2) Abatement of the Nuisance Outlined above SHALL be completed on or before:
(State day, date and time)

City Clerk /City Clerk Designate
City of David City, Nebraska

SECTION 2. Section 4-402 (D) of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

"(D) Form of Proper Service of Notice. Service of said Notice shall be by depositing a copy of said Notice in the United States Postal Service enclosed in a sealed envelope and with postage thereon fully prepaid. Said mail shall be registered or certified and addressed to said owner, occupant, lessee, mortgagee, and or Trustee at the last known address of said parties as disclosed by the current tax rolls, and if there is no known address, then in care of the property address. Service is complete at the time of such deposit. "Owner" as used herein shall mean any person in possession and also any person having or claiming to have any legal or equitable interest in said premises and/or the nuisances involved. The failure of any person to receive such Notice shall not affect the validity of the proceedings hereunder."

SECTION 3. Section 4-402 (E) of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

“(E) Effect of Failure to Abate. If the nuisance is not abated within the period given in the Notice, the City Council of the City may determine to proceed to abate the nuisance pursuant to the provision of this Code.”

SECTION 4. Section 4-402 (F) of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

“(F) Procedure to Abate Nuisance. If the owner of the premises and/or the nuisance involved fails within the time period given to the said owner by the City Clerk or the City Clerk’s designate for the abatement of said nuisance, the City Clerk or City Clerk’s designate shall fix a date and time to hear the matter. The written Notice shall include the name and address, including mailing address, of the said owner. The City Clerk or the City Clerk’s designate shall then issue a Notice of the hearing date and time by mailing a copy to the said owner’s address no later ten (10) days prior to the date of the hearing.

At the time fixed in the Notice, the City Council, shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance, including the estimated cost of abatement and other matters which may be pertinent. At the conclusion of the hearing, the City Council shall, by Resolution, declare its findings. If the City Council so concludes, it may declare the condition existing to be a nuisance and direct the City Clerk or the City Clerk’s designate to proceed to abate the nuisance pursuant to the provisions of this Code. Such final determination shall be considered a final order of the City. Said Notice shall be substantially in the following form:

NOTICE OF ADOPTION OF RESOLUTION NO. _____

TO: _____

YOU ARE HEREBY NOTIFIED THAT ON _____, 20 _____, the City of David City, Nebraska, by Resolution No. _____, after notice and hearing as specified in said Resolution, did determine that the following constitute a public nuisance, to-wit:

Upon the following described real estate, to-wit: _____

You are granted _____ days from the date of this Notice to abate said nuisance. Failure to abate said nuisance shall result in said nuisance being abated by the City of David City, Nebraska, and the costs of abatement shall be assessed upon said premises and constitute a lien upon said premises until paid.

Dated: _____

CITY OF DAVID CITY, NEBRASKA

By: _____
City Clerk /City Clerk’s Designate”

SECTION 5. Section 4-402 (G) of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

“(G) Extension of Time. The City Council may grant an extension of time to abate the nuisance if, in the City Council’s opinion, good cause for an extension exists.”

SECTION 6. Section 402 (H) of the Ordinances of the City of David City, Nebraska shall be amended to read as follows:

“(H) Abatement by City. If the person fails to abate the nuisance within the time set forth, the City Clerk or the City Clerk’s Designate may order the abatement of the nuisance.”

SECTION 7. If any Section, Subsection, sentence, clause, or phase of this Ordinance, is for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining parts of this Ordinance, since it is the express intent of the Mayor and City Council of the City of David City, Nebraska to enact each Section, Subsection, sentence, clause or phrase separately and the enact the parts of this Ordinance separately.

SECTION 8. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 9. This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this _____ day of _____, 2016.

Passed on 1st reading only
MAYOR ALAN ZAVODNY

ATTEST:

Passed on 1st reading only
CITY CLERK JOAN KOVAR

(SEAL)

City Clerk Kovar presented some changes to the proposed budget:

- Park #42-2533 - Small Equipment Vehicle Repair:
 - John Deere Mower, increase to \$8,900
- Library #44-2251 - Insurance:
 - Increased by \$300 to \$1,300
- Electric System #25-2272 - Repair & Maintenance of Equipment:
 - Go Daddy & Anti-virus software increase \$14,600 to \$15,600;
- #25-2533 - Cap Imp. Equipment & Vehicles:
 - Dump Truck to share with Street Department \$70,000
- #25-2510 - Cap Imp. Land & Building:
 - New Roof at Maintenance Bldg., etc. \$150,000

The Airport was adjusted to show the Federal Grant money the City will be receiving for the Hangar Project and also starting next year for the runway project.

Council member Kroesing made a motion to accept the proposal by Kruse, Schumacher, Smejkal, & Brockhaus, P.C. to perform the audits of the financial statements of the City for a cost of \$11,625/year (out of pocket not to exceed \$150) for the years ended September 30, 2016, 2017, and 2018. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Hotovy, Kroesing, and Kobus. Voting NAY: None. Council member Smith was absent. The motion carried.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Rogers, Vandenberg, Kobus, and Kroesing. Voting NAY: None. Council member Smith was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:35 p.m.



CERTIFICATION OF MINUTES
August 10, 2016

I, Joan Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of August 10, 2016; 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.

Joan Kovar, City Clerk