

**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 **14th day of May, 2014**, in the meeting room of the City Office, 557 N 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 6th day of May, 2014.

AGENDA AS FOLLOWS:

- | | |
|--|--|
| 1. Roll Call; | <hr/> Mayor Alan Zavodny |
| 2. Pledge of Allegiance; | |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; | <hr/> Council President Gary L. Kroesing |
| 4. Minutes of the April 9 th , and April 23 rd , 2014, meetings of the Mayor and City Council; | |
| 5. Consideration of Claims; | <hr/> Council member Michael E. Rogers |
| 6. Committee and Officer Reports; | |
| 7. Presentation to Library Director Kay Schmid for 25 years of service; | |
| 8. Re-consideration of making Dove Drive in the Nine Stories Subdivision Preliminary Plat a private drive as requested by Steve Maguire; | <hr/> Council member Ruddy L. Svoboda |
| 9. Consideration of entering into an exclusive Contingent Development Agreement with Bluestem Energy Solutions using wind as a fuel source; | <hr/> Council member William Scribner |
| 10. Consideration of appointments to the Library Board; | <hr/> Council member Gary D. Smith |
| 11. Consideration of appointments to the Housing Authority Board; | |
| 12. Consideration of the request by Bank of the Valley to divide their lot, 205.19' x 219.32' described as Part of Lot 5, Block 2, and part of Outlot A to Schmid's Addition, into two lots 205.20 x 150 and 205.19 x 69.32; | <hr/> Council member John P. Vandenberg |
| | <hr/> City Clerk Joan E. Kovar |

13. Consideration of the request by Scott Steager to combine his lot, 103 x 286.46 described as the S 103' of Lot 6, Block 2, Schmid's Addition to David City, with his recently purchased property, 205.19 x 69.32 described as Tract 1-A, Part of Lot 5, Block 2, and part of Outlot A to Schmid's Addition to the City of David City, except the south 150.00 feet thereof;
14. Consideration of Resolution No. 6 – 2014 approving The Butler County Parade Committee's request for the parade to cross Highway 15 on "L" Street on July 20, 2014, in accordance with LB589;
15. Consideration of authorizing the Park Board to allocate \$12,500 to the Ball Association for field conditioner from Odeys;
16. Consideration of Resolution No. 7 – 2014 to be known as the David City, Nebraska Personnel Manual;
17. Discussion with Chad Podolak concerning the power purchase agreement with Nebraska Public Power District;
18. Discussion with Phil Lorenzen of D.A. Davidson concerning financing;
19. Consideration of going into Executive Session to discuss 1) a legal matter, and 2) a personnel matter;
20. Adjournment

CITY COUNCIL PROCEEDINGS

May 14, 2014

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. 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 May 8th, 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, Ruddy Svoboda, Gary Smith, and John Vandenberg. Council member Bill Scribner was absent.

Also present were City Administrator Abbie Cornett, City Attorney Jim Egr, City Clerk Joan Kovar, Park/Auditorium Supervisor Bill Buntgen, Carolyn Yates, Janis Cameron, Adam Herink, Vice President of Bluestem Energy Solutions, David C. Levy Attorney with Baird Holm, Philip Lorenzen of D.A. Davidson, Al Hottovy and Dawn of Leo A. Daly, Chad Podolak of Nebraska Public Power District, Monica Heller, Steve & Julie Maguire, Scott Steager, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

Council President Gary Kroesing informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the April 9th and April 23rd, 2014 meetings of the Mayor and City Council were approved upon a motion by Council member Rogers and seconded by Council member Vandenberg. Voting AYE: Council members Smith, Kroesing, Vandenberg, Svoboda, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

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

Council President Kroesing called for Committee and Officer Reports.

Al Hottovy of Leo A. Daly stated: "I just wanted to bring you up to date on where we're at and how the day went. (They had the meeting room at the Library reserved today to provide information and receive input concerning the Downtown Redevelopment.) We've had staff here in David City almost every week talking to owners, doing some measurements. All the fronts of the buildings, the streets in front of the buildings have been taken pictures of already and we're starting the assessments on those buildings to give them guidelines as to what would happen if they wanted to redevelop the area. I've got some handouts if you want to see them. We have also been working on your plats, your map, it's all in there at this time, automated. This is what we could produce for you. Dawn went through pictures to show people what could be done just to give them an idea of what's been done elsewhere, not to say that that's what you have to do. We had a very good meeting, we had 35 people show up; of that, 32 of them were probably the business owners right around the square who had some great input on it. From here we are going to start doing the layouts on some of the ideas we have been given today, so next time you see us we are going to be coming in with some ideas and asking you guys for advice and input at a Committee of the Whole meeting. We're also going to be sending you a questionnaire that we would like to put in with the utility bill. Our mailing address is in there and trying to get more response. That's where we're at, things are moving well, and I think we're getting some good positive responses. I can't tell you if the bricks are going, if the center parking is going, just like the election I think we're split right down the middle on that, I don't yet."

Council member Rogers made a motion to accept the committee and officers reports as presented. Council member Svoboda seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Smith, Svoboda, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

As Library Director Kay Schmid was not present at the time, Council member Smith made a motion to move ahead to agenda item #8 – Re-consideration of making Dove Drive in the Nine Stories Subdivision Preliminary Plat a Private Drive as requested by Steve Maguire, and then return to agenda item #7 when Kay arrived. Council member Svoboda seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Svoboda, Smith, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

Mayor Zavodny arrived at 7:20 p.m.

Steve Maguire stated: "At the last City Council meeting and at the previous Committee of the Whole, when I presented I asked that my plat be viewed both with a concrete street, because that's how I was told at a Planning Commission it had to come to this body, and also as a private drive. This group looked at it and approved it in with a concrete street; did not even discuss the private drive concept. This project with a concrete street is not happening; financially it's just not feasible, so I'll either find a way to do it as a private drive, homeowners association. Jackie DeWispelare has assured me she can draft it that the folks that belong and buy lots and value private drive are responsible for maintaining. I am responsible for building. Once I sell the property, the homeowners become responsible for maintaining, keeping it, plowing it. It is their street, belongs to the homeowners association. It is a private citizen building on private property on what will remain private property. If a future generation of homeowners out there decides to request the City to pave it, which may happen, the City has to deal with that when it comes, but they do not have to do it. I'm giving an option here where this can be developed, where the City has no financial responsibility. In the short term or the long term for that road, I do bear 100% of the financial responsibility in building it. I do bear 100% of the financial responsibility if that hinders my ability to sell, those are factors that I would like to deal with. At this point I'd like the City Council, if you have any questions to fire away, but this plat as presented with a concrete street will not happen. It's financially a disastrous deal."

Mayor Zavodny stated: "So what you're really asking of us this evening is an up or down vote?" Steve Maguire stated: "Yes."

Mayor Zavodny stated: "It's a simple request of us, the way I understand it, so are there any other questions of Mr. Maguire?"

Council member Rogers stated: "You know, with all the other housing developments around David City, we required that it be paved, so I'm going to make a motion that we require that this, Dove Drive in the Nine Stories Subdivision Preliminary Plat, be paved, otherwise "No". Council member Kroesing seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Smith, Svoboda, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

Steve Maguire then continued with additional questions for the council concerning drafting the layout of his proposed Nine Stories Subdivision plat a different way, Olsson Associates recommendations, flag lots, questioning if the Council would ever require him to pave Oak Street.....

City Clerk Kovar stated: "Can we give answers because I didn't have this on the agenda. I'm sorry, I knew of one request, that's what I put on here, so I'm not putting this discussion in my minutes because I didn't have it, I'm sorry."

Mayor Zavodny stated: "What I would recommend us doing, is between this meeting and the Committee of the Whole, you schedule time at Olsson's and clarify some of the things. If you would provide us with everything you want us to discuss with them.....

Steve Maguire stated: "I e-mailed 27 things to Abbie back on May 5th when I asked her to put all three items on the agenda."

City Administrator Abbie Cornett stated: "And I referred those 27 items to Matt Rief (Olsson Associates) and you two were supposed to get together to discuss what was feasible and wasn't."

Steve Maguire stated: "And we did. He recommended me back to this group to get its direction."

Mayor Zavodny stated: "I understand you are upset. We need to get Matt Rief to sit down, explain to us what the concerns are so I can understand them tremendously, because apparently when you two met it didn't exactly go that way. It's a recommendation to this group. What this group will do with it; but I want to understand exactly what he's asking of us and why, because I think that's an important part to avoid the same thing we've had before. We will move forward with that if it's ok with everybody given what the agenda is. I'd be happy to meet with Olsson's and see if we can figure something out."

The next agenda item was consideration of entering into an exclusive contingent development agreement with Bluestem Energy Solutions. Adam Herink of Bluestem Energy Solutions stated: "Tonight we're here asking if Alan can execute the first step of the process so we can begin to investigate the details and come back in a few months with a long term offer."

Attorney David Levy of Baird Holm stated: "What Bluestem has asked at this point is for an agreement where David City would authorize Bluestem for the term of the agreement to investigate the feasibility of developing a wind energy facility to serve part of the City's electric needs. There is no financial obligation to the City under that agreement unless the City changes its mind and backs out of the agreement during the term of the agreement. In that case the City would be responsible only for Bluestem's out of pocket costs. So this is not a power purchase agreement, it's not the 20 or 25 year obligation that comes with a power purchase agreement. This is simply like an option or an exclusive negotiation agreement where the City is committing to Bluestem that you will work them during this time period. If they can't bring you a deal that's acceptable, there's no cost to the City. If the City changes its mind during the term of the agreement, that's the only case where there would be a cost to the City. They're spending money in anticipation of bringing a deal to you. They're taking that risk and so that's the reason they're asking, and really all they're asking from the City, is its commitment to continue to work with them during the term of this agreement."

Council member Rogers asked: "Would you object to waiting until the Committee of the Whole meeting to get an answer?"

Council member Kroesing stated: "It says you aren't asking any more than what you've got invested, possibly, plus an additional amount equal to fifty percent (50%) of the Purchaser Termination Payment (the "Early Termination Payment"). So in other words, we change our mind before you get the study done, and we say we don't want it. You can claim your expenses up to that point plus an amount equal to 50% the way I interpret it. Nowhere in this contract does it say this is a feasibility study. Like you going out in the country here and looking for an area where this might fit in with all of our other power suppliers coming into town. We have power suppliers coming in from the west, from the east, we have underground methane lines over here, and we've got underground water lines. I thought you were going to go out and do a feasibility study. This doesn't come to me as a feasibility study. This looks like once we sign this, we are in agreement with you that you can go ahead and do whatever you need to do to get this whole thing up and flying. Is that correct?"

Adam Herink of Bluestem Energy Solutions stated: "No, our goal is to get to a power purchase agreement. If you want to call this a feasibility study I'm fine putting that language in here."

Attorney David Levy of Baird Holm stated: "I will read paragraph 2, and it's a fair point that it may not use the word "feasibility" but it says: *During the Development Period, at its sole cost and expense, Developer shall diligently undertake all necessary actions to investigate and facilitate the potential development of the Project in a manner intended to lead to Developer offering to sell the energy the Project produces to Purchaser.* So, that is the feasibility language. That is the purpose of this agreement, to authorize them to go out and do that work."

Mayor Zavodny stated: "What you're really asking us to do is start a clock on up to three years of you working to develop this; locating a site, seeing if you can get this purchased. A memorandum of understanding with some land owner, that type of thing. Let's say we go through all this, because this is where I get maybe a little worried, you do all that, I don't want to be in breach of contract if you come up with a power purchase rate that we say, "well, that doesn't help us any"."

Attorney David Levy of Baird Holm stated: "Let's say you sign this agreement, they go out and do work and spend \$10,000 in good faith on this agreement. Some other wind developer comes along and says "we've got a better wind turbine for you" and you say "you know what, we agree, we like these guys better, we want out of this agreement". The City would be responsible for 1½ times their costs, if you just simply said "You know what, we change our mind, we want to work with somebody else." And that's the trade-off. They are taking risks. They are spending money in anticipation of a power purchase agreement. And again, if you get to that power purchase agreement none of this upfront cost ever comes to the City. We can amend this agreement and send it back with an absolute cap on your liability of \$25,000. Now again, that liability only arises if the City breaches this agreement; as long as you hang around for the three years, and continue working with them. If they can't bring you a reasonable power purchase agreement price, the agreement ends. You're not in breach, you're not liable for any of their out of pocket costs. If you do decide after a year that you'd rather work with somebody else and you're willing to pay their out of pocket costs x 1½, they give you all the work they've done. You get the wind resource analysis, the lease form, the distribution study, the environmental work, the bird studies, whatever they may have done, you get that."

City Attorney Egr stated: Paragraph 4 states: *If Developer and Purchaser have negotiated in good faith but are unable to agree on and execute a power purchase agreement prior to the end of the Development Period, Purchaser shall reimburse Developer for Developer's out-of-pocket expenditures on the Project during the Development Period (the "Purchaser Termination Payment").* So, if we don't get an agreement we're still stuck paying \$25,000?"

Attorney David Levy of Baird Holm stated: "If you negotiated in good faith and you essentially decline. If they bring you a beyond market power purchase agreement, again, that's the \$1,000 megawatt example, that's not negotiating in good faith, and I assume you would be saying "well you didn't negotiate in good faith and the three years ran out, and...."

City Attorney Egr stated: "See, I want the City to know that even if there is a good faith..... and for whatever circumstances, let's say wind energy collapses within the three years,

ok, then under this agreement, even if there's a good faith negotiation, we're still on the hook for the out-of-pocket expenses. That's my problem. Wind energy is a big thing right now and no disrespect to anybody, but my concern is that there is good faith negotiations at a darn good price but for whatever reason the City determines that wind energy has fallen apart and so what ends up happening is there is no power purchase agreement, then we're on the hook for #4 to pay back the out-of-pocket expenses."

Adam Herink of Bluestem Energy Solutions stated: "And I respect that, and in all honesty, I can't imagine a scenario where I'd come and I'd say the industry has fallen."

City Attorney Egr stated: "My only concern is, I want the Council to know that. If I don't tell them that, they'll come back and say "Jim, you screwed up, we're going to sue you because we didn't know we were going to get stuck."

Attorney David Levy of Baird Holm stated: "It's a fair reading of that. The idea there again was if they bring you a fair market rate power purchase agreement and the City declines to enter into a PPA for whatever reason, they've fulfilled their obligation under the agreement. Again, if the City did end up paying for those expenses, and that's just the expenses that's not the 1½ times for a breach, that's just if you can't do it, they get paid back for their work up to some cap we might agree on, and the City gets all of that work, so it's not a penalty per se, the City gets something for it. But they've done all that work, and again it's the situation where they've negotiated in good faith and the City has declined."

Mayor Zavodny stated: "I don't want to be put in the position of having to go to court to determine what a good faith negotiation is. Let's say you come back with the exact same we are paying now. We haven't gained anything from doing this and that's part of the reason we are looking at this so we could have a savings on a portion of the power we use. So if you come back with the exact same we are paying from any other source, that's a more real scenario as opposed to you come out way higher, you're probably not going to be successful there."

Adam Herink of Bluestem Energy Solutions stated: "All I can say is, we've been doing this for a while, I know your rates, I know your wind resource. There's savings there. I wouldn't be up here again if I didn't think this."

Mayor Zavodny stated: "A cap of \$25,000 causing me a lot less concern. Can we write in "equal to or less than" what we would be paying currently to another provider? We're going to buy the power somewhere, so you have to at least match that. What I don't want you to do is be ten cents higher and we're locked in having to buy from you and then you charge us. That gives you the incentive that you have to be at least "equal to" if not "below" what we pay."

Adam Herink of Bluestem Energy Solutions asked: "Can we say that Bluestem has every reason to believe that we will provide a project that will provide savings?"

Attorney David Levy of Baird Holm stated: "Or something. If you cannot provide savings within the first five years of the power purchase agreement (PPA), or something. The wind PPA, the price is firm for the entire term of the PPA. It does escalate a little bit because of inflation but we know the cost of the fuel. So the wind PPA may be at or even a little bit above what you're paying in the first year, but shortly thereafter it provides that hedge, it provides, on that part of the power, it provides that cap, that lid."

Mayor Zavodny stated: "We are trying to protect ourselves. I don't mind your suggestion on five years, then its performance based and you know that you've got to somehow average out over the five years to be lower than what we would be buying it from another provider. That seems like a reasonable compromise."

Citizen Steve Maguire stated: "Just a couple comments. First off, they have to bring back a deal that's better than you have, but by locking yourself into taking that, somebody else might be better than them and you've already kind of committed to doing business with them. I think you are kind of limiting your opportunities. #2, this is a multi-million dollar project. I would like to think the people who are developing it can fund \$25,000 to make it happen, and #3, you're giving an outside development firm a guarantee that you're going to do business with them or pay if you decide not to do anything at a later date. You're going to pay for them. I would have loved that guarantee on the money that I have spent to date."

Attorney David Levy of Baird Holm stated: "I would say with all due respect I think that's a little bit of a mischaracterization of what's on the table here. They are funding the development expenses. All they're asking the City to do is to commit to them to keep working with them for the term of this agreement so they're not out here spending money without a partner for the term of the agreement."

Council member Mike Rogers stated: "We want to do things to benefit the community the right way. That's why I was asking for a couple of weeks to be able to study this and give you an answer."

Mayor Zavodny asked: "Are there any concerns we have with our current agreements with Nebraska Public Power District and Western Area Power Administration?"

Chad Podolak of Nebraska Public Power District stated: "Your current agreement with Nebraska Public Power District allows you to buy 2 megawatts from a renewable source."

Council member Rogers made a motion to table consideration of entering into an exclusive contingent development agreement with Bluestem Energy Solutions using wind as a fuel source until the special council meeting to be scheduled for Wednesday, May 28th at 6:30 p.m... Council member Kroesing seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, Kroesing, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

Mayor Zavodny presented Library Director Kay Schmid with a Certificate of Appreciation for 25 years of service.

Council member Kroesing made a motion to advance to Agenda Items 17 - Discussion with Chad Podolak concerning the power purchase agreement with Nebraska Public Power District, and 18 – Discussion with Phil Lorenzen of D.A. Davidson concerning financing. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Smith, Kroesing, Vandenberg, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

Chad Podolak, Account Manager of Nebraska Public Power District, presented an information guide and a wholesale power contract overview. Chad stated: "NPPD has about 50

Municipal Wholesale Customers like David City, about 80 Professional Retail Operations Agreement Towns, and about 25 Rural Public Power Districts like Butler Public Power. We are very unique as a utility in having more than 40% of our generation coming from Carbon free resources. About 10% of our power generation comes from renewable resources and wind energy is an important part of NPPD's diverse generation mix. NPPD can purchase available power from 17 municipal systems throughout the state. Right now we are taking a look at the capacity purchase contracts. If we are going to come to you to ask you to extend the wholesale power contract we also want to be able to come to you and tell you what we can offer for the capacity purchase contract. My intent here today is just to get you to start thinking about what's important to you from a wholesale power contract. Probably in about a year we may have something that I'll be able to bring you that has what is different from the current contract, what's the same, but I just wanted to bring you up to speed as to where we're at on this. We are very aggressive in investment in our facilities to the tune of over 100 million a year because we have a long term focus on reliability and performance of our assets. 85% of your wholesale bill from us is generation. We are serious about having diverse generation so we have different levers to pull when the wind is blowing and when it isn't. We invest heavily in our facilities for the long term performance, and value, that those resources hope to provide. We will be bringing two agreements to you; one for the wholesale power agreement and one to extend your capacity purchase agreement."

Mayor Zavodny stated: "We've appreciated our relationship with NPPD and certainly they have been stable. We would like it if you could keep your rate increases down. It is getting harder and harder with those fixed costs, and you have to have power. We have a lot of people, especially in our community, with fixed incomes and they have no more revenue to make up for increases. So we need to keep that under control." Mayor Zavodny thanked Chad for the informative presentation.

Phil Lorenzen of D.A. Davidson stated: "On the electric system you responsibly raised the rates some time ago. We refunded outstanding electric revenue bonds in 2011. Your debt service on those run about \$102,000 a year for 2012, 2013, 2014, and 2015 and the average borrowing rate on that refunding issue, average coupon is 92 hundredths of 1%. You are done paying for those in November 2015, then when your earnings history wasn't quite as puffy as I would have liked to have seen it, you did the RICE improvements at the Power Plant. We issued at that time, we didn't have an ability to market bonds because you failed to meet the coverage test for the issuance of the additional bonds, but you issued ½ million dollars (\$500,000.00) in bonded notes with a maximum term of maturity of March 2015 with an interest rate of 95 hundredths of 1% (0.950000). Both remarkable. My point would be the last payment on that refund bond is in 2015 (November). The payment on \$500,000 on the RICE bonds/notes is March of 2015 so we don't need to do anything for now but before we get to March 2015, I'm guessing we probably want to either use earnings on hand to pay that off, or we want to go ahead and add two or three years to that payment period. My point would be you're spending about \$100,000 a year for debt service and that goes away so that should impact your cash flow as positive. So that's in 2015, we have some time to go on that, but time has a way of going by quickly. There are three items I would like to touch on tonight. #1- We have outstanding Highway Allocation Bonds that were issued in 2009, they come up for an option the end of this year in September. The average interest rate on those is about 3% – 3½%. We can trim that probably in half, and I'm going to guess that could save \$30,000 - \$40,000. That should be looked at this fall, to go ahead and do that refinancing. The other two items are #1 – The Northwest Drainage and you issued \$1,630,000 in bond anticipation notes on that project and that interest rate on that piece of debt is 0.550000. We did a three year term

on that and that is due September 15, 2014. Joan gave me the update on financials and you've got a million six. You can pay that down with cash any time. It would appear that you may have to borrow only about a half million dollars (\$500,000.00). You will have paid nearly 2/3 of that cost with cash from the collection of sales tax. You may need to borrow a bit and we probably should target that for June. The last item is you have outstanding \$750,000 in bond anticipation notes, at an interest rate of 0.550000 and those are due in August 2014 and that's on the street work and Industrial Drive and so forth. The calculations that Joan has made looks like we may have a shortfall of about \$600,000.00 net of the special assessments. So there are three items, and I'd like to tie them all together and I'd like to maybe attack them as soon as next month to get that out of the way. Interest rates have stayed low all year, they've actually drifted lower, so we should be able to borrow and do these projects for an interest rate of about 2½%. The Highway Allocation aren't callable until September but I can refund them in advance so as long as we are less than 90 days ahead of that I'd be inclined to go ahead and refund that, do it all at the same time, and capture the rate. You are phenomenal in terms of your low interest rates. I have no community I've done as well in capturing low interest rates as I have you, and most of your debt is short term."

Mayor Zavodny presented Monica Heller for an appointment to the Library Board of Trustees. Council member Smith made a motion to appoint Monica Heller to a four year term on the Hruska Memorial Public Library Board of Trustees. Council member Svoboda seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Svoboda, Smith, and Kroesing. Voting NAY: None. Council member Scribner was absent. The motion carried. Monica's term will be for April 2014 to April 2018.

Council member Rogers made a motion to re-appoint Larry McPhillips to the Housing Authority Board. This will be a 5 year term from May 2014 to May 2019. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Kroesing, Svoboda, and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Rogers introduced Resolution No. 8 - 2014 to approve the request by Bank of the Valley to divide their lot, 205.19' x 219.32' described as part of Lot 5, Block 2, and part of Outlot A to Schmid's Addition, into two lots: 205.20 x 150, and 205.19 x 69.32, and moved for its passage and adoption. Council member Svoboda seconded the motion.

Steve Maguire asked if he could get a copy of their drainage report and plat.

City Clerk Kovar stated that they don't require a drainage report for a lot split. *(This lot is an established building lot in Schmid's Addition/Subdivision that was surveyed by Roger Severin of Olsson Associates.)*

Voting AYE: Council members Vandenberg, Kroesing, Smith, Svoboda, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 8 - 2014 was passed and approved as follows:

RESOLUTION NO. 8 - 2014

WHEREAS, Bank of the Valley, as the owner of Part of Lot 5, Block 2, and Part of Outlot A to Schmid's Addition, to the City of David City, Butler County, Nebraska, 205.19' x 219.32', has submitted a request to divide their property into two lots: 205.20 x 150 and 205.19' x 69.32' as described below:

WHEREAS, there were no objections expressed concerning the request of the Bank of the Valley;

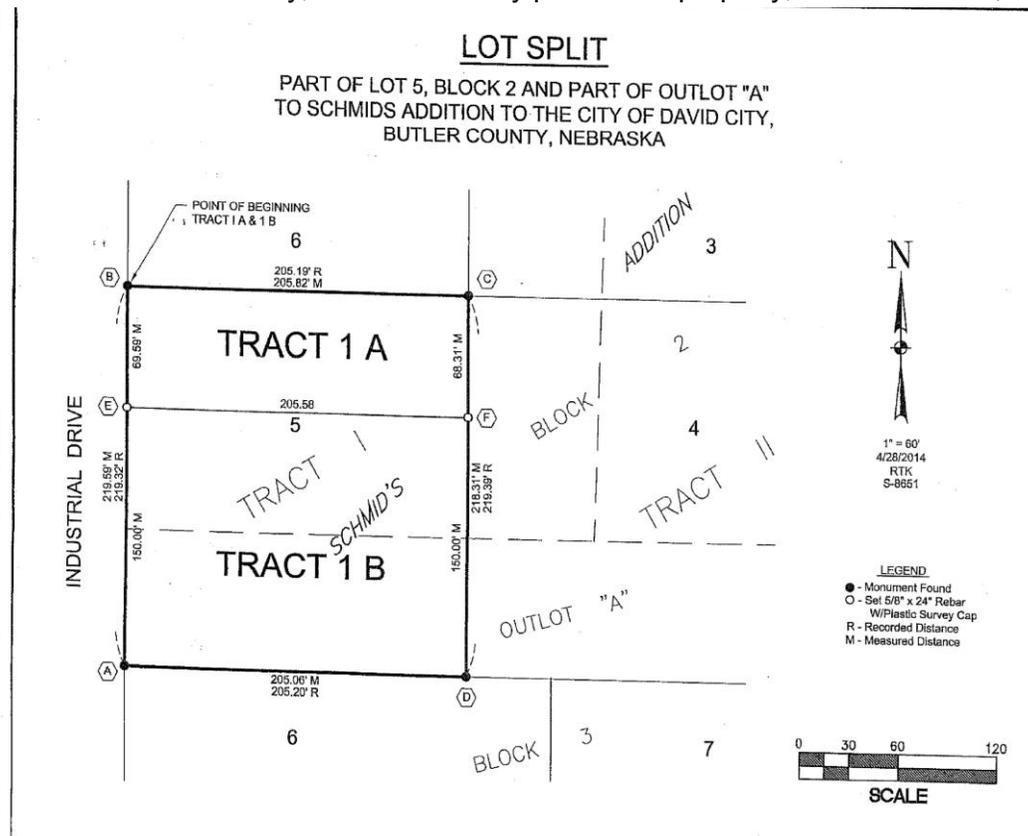
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of the Bank of the Valley to divide Part of Lot 5, Block 2, and Part of Outlot A to Schmid's Addition, to the City of David City, Butler County, Nebraska, into two lots: 205.20 x 150; and 205.19' x 69.32'; is hereby approved.

Passed and adopted this 14th day of May, 2014.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Council member Rogers introduced Resolution No. 9 – 2014, to approve the request by Scott Steager to combine his Lot, 103 x 286.46 described as the S 103' of Lot 6, Block 2, Schmid's Addition to David City, with his recently purchased property, 205.19 x 69.32, described



as Tract 1-A, part of Lot 3, Block 2, and part of Outlot A to Schmid's Addition to the City of David City, except the South 150.00 feet thereof, and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Kroesing, Vandenberg, Smith, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 9 - 2014 was passed and approved as follows:

RESOLUTION NO. 9 - 2014

WHEREAS, Scott Steager has submitted a request to combine his property, 103 x 286.46 described as the S 103' of Lot 6, Block 2, Schmid's Addition to David City, with his recently purchased property, 205.19 x 69.32, described as Tract 1-A, part of Lot 3, Block 2, and part of Outlot A to Schmid's Addition to the City of David City, except the South 150.00 feet thereof, to form one lot as shown below:

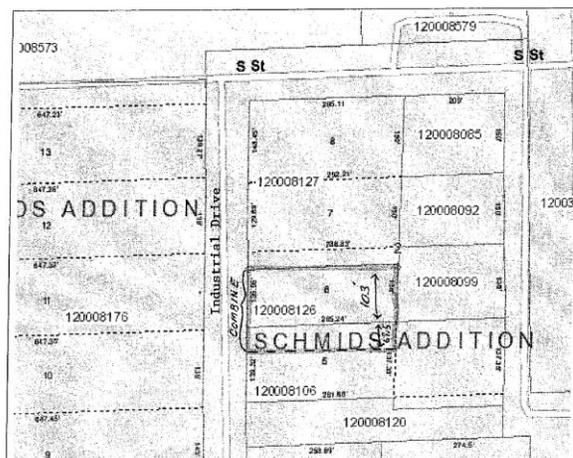
WHEREAS, there were no objections expressed concerning the request of Scott Steager;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Scott Steager to combine his property, 103 x 286.46 described as the S 103' of Lot 6, Block 2, Schmid's Addition to David City, with his recently purchased property, 205.19 x 69.32, described as Tract 1-A, part of Lot 3, Block 2, and part of Outlot A to Schmid's Addition to the City of David City, except the South 150.00 feet thereof, to form one lot, is hereby approved.

Passed and adopted this 14th day of May, 2014.

Mayor Alan Zavodny

City Clerk Joan E. Kovar



The request by the Butler County Parade Committee to cross Highway 15 for the July 20, 2014 parade was discussed. City Administrator Abbie Cornett stated that there will be an additional \$50 fee for a "special event" insurance coverage, but the Parade Committee stated that they would pay this additional charge.

Council member Kroesing introduced Resolution No. 6 - 2014 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Kroesing, Smith, and Svoboda. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 6 - 2014 was passed and approved as follows:

RESOLUTION NO. 6 - 2014

WHEREAS, the Butler County Fair's Annual parade is scheduled for July 20, 2014, and

WHEREAS, the Butler County Parade Committee has requested that Highway 15 at the intersection of "L" Street and Highway 15 be closed from 3:30 p.m. to 7:00 p.m. so the parade can cross Highway 15, and

WHEREAS, the Mayor and Council acknowledge Revised Statutes Chapter 39-1359, Rights-of way; inviolate for state and Department of Roads purposes; temporary use for special events; conditions; notice; Political Subdivisions Tort Claims Act; applicable, which states:

- (1) The rights-of way acquired by the department shall be held inviolate for state highway and departmental purposes and no physical or functional encroachments, structures, or uses shall be permitted within such right-of-way limits, except by written consent of the department or as otherwise provided in subsections (2) and (3) of this section.
- (2) A temporary use of the state highway system, other than a freeway, by a city including full and partial lane closures, shall be allowed for special events, as designated by a city, under the following conditions:
 - (a) The roadway is located within the official corporate limits or zoning jurisdiction of the city;
 - (b) A city making use of the state highway system for a special event shall have the legal duty to protect the highway property from any damage that may occur arising out of the special event and the state shall not have any such duty during the time the city is in control of the property as specified in the notice provided pursuant to subsection (3) of this section, and
 - (c) Any existing statutory or common law duty of the state to protect the public from damage, injury, or death shall become the duty of the city making use of the state highway system for the special event, and the state shall not have such statutory or common law duty during the time the city is in control of the property as specified in the notice provided pursuant to subsection (3) of this section, and
 - (d) The city using the state highway system for a special event shall formally, by official governing body action, acknowledge that it accepts the duties set out in this subsection and, if a claim is made against the state, shall indemnify, defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event.

- (3) If a city has met the requirements of subsection (2) of this section for holding a special event and has provided thirty days' advance written notice of the special event to the department, the city may proceed with its temporary use of the state highway system. The notice shall specify the date and time the city will assume control of the state highway property and relinquish control of such state highway property to the state.
- (4) The Political Subdivisions Tort Claims Act shall apply to any claim arising during the time specified in a notice provided by a political subdivision pursuant to subsection (3) of this section.

WHEREAS, the City of David City wishes to support this annual event, and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City Clerk is hereby authorized to forward this resolution to the State of Nebraska Department of Roads for the closing of Highway 15 and "L" Street from 3:30 p.m. to 7:00 p.m. for the parade to be held on July 20, 2014 in David City, Nebraska.

Passed and adopted this 14th day of May, 2014.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mayor Zavodny stated: "I made a conscious decision that instead of having the Ball Program as a line item in the General Budget that we would address it through the sales tax and again budget the \$40,000 but understanding that if we do that, \$20,000 off the top of that \$40,000 is going to go to the Ball Association for their \$7,500 that we traditionally funded for operations and this field cover. I guess, what I'm wondering is, what the Council thinks? I know that there's a belief that the Park Department should be getting more money but if we continue with the \$40,000 /yr. that's \$400,000. If there's adjustments we can make later, because we went way over on the Northwest Drainage, we've got Downtown. That's why I've been very conservative in appropriating for them, but I will remain open minded if you believe we should take a different approach with how we are funding the recreation part of our three legged stool. What I keep hearing is they want to do some other stuff and obviously we're taking \$20,000 off the top of their \$40,000 allocation, then they don't have a lot left. Best we're going to get is outhouses for our bathrooms at this rate. Maybe someday. How do you feel about the overall approach to this? Do you want to adjust that amount, and if you do, what would that be?"

Carolyn Yates stated: "I just was remembering when we had the public meetings about the sales tax that there was significant concern among the recreation people that the City would use that sales tax money to replace what the City was already paying and that's probably why they're upset because they would probably feel that the \$7,500 is a regular city expense, plus the other expenses, for the ball park."

City Administrator Cornett stated: "Some of the people from the ball association have met with a few council members in regards to the idea of the City taking over the ball fields, becoming the owner of them, and doing a long term lease back with the City where they'd still run the ball program. The City would take over the debt, and frankly the payment on the debt would be about what we're giving them now. So there are positives and negatives. We would come out with a developed ball field that the City would own, but the financial stability of the ball association is something that you need to look at."

Council member Rogers made a motion to authorize the Park Board to allocate \$12,276.00 (up to \$12,500) to the Ball Association for field conditioner from Odeys Inc. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Kroesing, Vandenberg, Smith, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

As the Council members didn't have sufficient time to review the personnel manual, Council member Rogers made a motion to table consideration of Resolution No. 7 – 2014 to be known as the David City, Nebraska, Personnel Manual to the special council meeting scheduled for 6:30 p.m. Wednesday, May 28, 2014. Council member Kroesing seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Smith, Kroesing, and Rogers. Voting NAY: None. Council member Scribner was absent. The motion carried.

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

Mayor Zavodny stated, "At 8:50 p.m. we are going into executive session to discuss a legal matter and some personnel matters." City Administrator Cornett and City Clerk Kovar were excused. Mayor Zavodny, all of the Council members present, and City Attorney Egr went into executive session at 8:50 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 9:53 p.m.

There being no further business to come before the Council, Council member Rogers made a motion to adjourn. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Kroesing, Smith, and Svoboda. Voting NAY: None. Council member Scribner was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:54 p.m.



CERTIFICATION OF MINUTES
May 14, 2014

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of May 14, 2014; 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 E. Kovar, City Clerk