

CITY COUNCIL PROCEEDINGS

April 11, 2012

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 5th, 2012 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, John Vandenberg, Ruddy Svoboda, Bill Scribner, Mike Rogers, Gary Smith, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim City Clerk Tami Comte.

Also present were: Police Chief Anthony McPhillips, Electric Plant Supervisor Eric Betzen, Water/Sewer Supervisor Gary Janicek, Phil Lorenzen of DA Davidson, Joy Fountain, Greg Aschoff, Jim Redler, Carol Brehm, Renee Williams, Jim Witter, Steve Reiter, Rose McPhillips, Mary Ann Null, Byron Forney, Mark and Beverly Brandhorst, Jessica Miller, J. Robert Palik, Jan Sypal, Dee Pohl, Rex Rehmer, Janis Cameron, Carolyn Yates, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the March 14, 2012 meeting of the Mayor and City Council were approved upon a motion by Council member Scribner and seconded by Council member Vandenberg. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Kroesing and Smith. Voting NAY: None. The motion carried.

Mayor Zavodny 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, Scribner, Rogers, Smith and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny called for Committee and Officers Reports. Mayor Zavodny stated that the Council would not be addressing the airport lease at this meeting. Mayor Zavodny also stated that he signed papers for Northwest Drainage with a start date of April 30th.

Council member Kroesing stated that he liked Chief McPhillips recommendation on mowing to begin the process before the grass gets to 8" tall. Council member Kroesing also stated that we really need to push forward with the nuisance properties.

It was noted that Street Superintendent Jim McDonald and his employees held a toxic waste and electronic items clean-up day the previous Saturday and they collected a lot of items. The Council members would like to see this type of clean-up held regularly.

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

Mayor Zavodny stated that he had a meeting with Renee Williams, Executive Director of the Housing Authority (Sunshine Court) concerning snow removal. Williams provided documentation that the streets in and around the Sunshine Court are, in fact, dedicated city streets. Street Superintendent McDonald had expressed to Mayor Zavodny that the street department is somewhat limited in the equipment that they can use in the circle drives at the Sunshine Court. They had made one pass through but they did not get back there as quickly as the tenants would have liked. The Housing Authority maintenance man was on vacation during the snow storm which also contributed to the problem.

Council member Kroesing stated that it looks to him like we have a binding contract and that we will have to pay the invoice.

Renee Williams stated that they came to an agreement in regard to future snow storms. In the case of another large snow fall, the street department agreed that they will clean out the streets at the Sunshine Court before they remove the piles of snow from the downtown area.

Council member Kroesing made a motion to pay the invoice to the Housing Authority (Sunshine Court) in the amount of \$211.78. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Rogers, Scribner, Kroesing, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Phil Lorenzen of D.A. Davidson & Company was present concerning the issuance of Bond Anticipation Notes for the Northwest Drainage Project. Lorenzen had originally used a figure of \$2,170,000 for the project costs for Northwest Drainage. Lorenzen stated that he had a fresh set of numbers that he wanted to share in his recommendation. The interest rates had recently spiked up a little bit and now have come back down and now he feels that they will stay fairly flat. The contract award was made sometime ago, as the Mayor indicated, and the notice to proceed has been delivered and the contract will start rapidly. In talking to Jay Bitner, project engineer, he thinks that the City will have some contractual obligations for payment as soon as May or June. It takes 30 days to deliver the funds and since it is April, Lorenzen stated that his recommendation is, given today's low interest rates, that they would be well advised to go ahead and lock in the financing. His recommendation is to shrink the size of the issue from \$2,170,000 to \$1,630,000. There is no sense borrowing money that you don't need. You have some sales tax receipts that have come in that can be applied, and you have prepaid some expenses. When we first looked at this issue, we estimated that sales tax receipts were going to be somewhere in the range of \$380,000 per year and that estimation has been stepped up somewhat dramatically.

Council member Smith introduced Ordinance No. 1171.

Council member Kroesing made a motion to suspend the statutory rule that requires that an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Smith, Kroesing, Vandenberg, Scribner, Rogers and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1171 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Smith, Rogers, Svoboda and Scribner. Voting NAY: None. The motion carried and Ordinance No. 1171 was passed and adopted as follows:

ORDINANCE NO. 1171

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2012, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION SIX HUNDRED THIRTY THOUSAND DOLLARS (\$1,630,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STORM WATER SEWER DISTRICT NO. 2010-1, PENDING THE ISSUANCE OF GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION STORM WATER SEWER BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND, ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

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

Section 1. The Mayor and City Council hereby find and determine that by Resolution of the City heretofore adopted, Storm Water Sewer District No. 2010-1 (NW Drainage Project) of the City of David City, has heretofore been duly created; that the City's Special Engineers have prepared estimates for the cost of construction of storm water sewer improvements in the aforesaid Districts and the City has taken bids for the improvements in the amount of \$1,891,889, which construction contract together with engineering, testing and incidental costs, interest to accrue during construction, underwriting, and issuance and miscellaneous costs are estimated by the City to collectively total not less than \$2,170,000; that the construction of said improvements shall commence in accordance with the contract approved by and executed by the City, that the aforesaid improvements are expected to be completed by March 31, 2013; that it is necessary for the City to have funds available to meet its ongoing payment obligations under the terms of contract for the cost of the improvements to be constructed relative to the aforesaid District and to provide a portion of the interim financing therefor, it is necessary and advisable that the City now issue its notes in the principal amount of \$1,630,000 pending the issuance of this City's General Obligation Bonds pursuant to Sections 17-913 through 17-925, Reissue Revised Statutes of Nebraska, 2007, and other applicable Sections; that the City has authority under Section 10-137, Reissue Revised Statutes of Nebraska, 2007 to issue bond anticipation notes for the purpose of providing interim financing for the construction of said improvements; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2012, in the amount of \$1,630,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 2. For the purpose of providing interim financing for the costs set out in Section 1 pending the issuance of General Obligation Storm Water Sewer Bonds by the City of David City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as "Bond Anticipation Notes, Series 2012" of the aggregate

principal amount of One Million Six Hundred Thirty Thousand Dollars (\$1,630,000) (herein referred to as the "Series 2012 Notes", the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof, said Notes shall be dated as of date of original delivery and each of said Notes shall bear interest at the rate of 1.10% per annum payable on the fifteenth day of March and September in each year, commencing September 15, 2012, with the principal of said Notes to become due and payable as follows:

<u>Principal Amount</u>	<u>Maturity</u>
\$1,630,000	September 15, 2014

provided, that the Notes shall bear interest at such lower rate per annum as shall be determined in a written designation (the "Designation") signed by the Mayor of the City and also signed by the City Treasurer (the "Authorized Officers") on behalf of the City and which may be agreed to by D.A. Davidson & Co. (the "Underwriter"), which Designation may also determine or modify the principal amount for each maturity of the Notes all within the following limitations:

- (a) the aggregate principal amount of the Notes shall not exceed \$1,630,000 but may be reduced in principal amount;*
- (b) the longest maturity of the Notes may not be later than September 15, 2014;*

Provided further, however, the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after March 15, 2013, upon not less than thirty days written notice, at par plus accrued interest to the date fixed for redemption. Such notice of call for redemption shall be sufficient if it has been sent to a registered holder of said note or notes by first class mail addressed to the registered address of said registered holder. If less than all of the notes are called and redeemed, such notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding note is called for redemption, in such case upon the surrender of such note called for payment, there shall be issued to the registered owner of said note, without charge therefor, a registered note or notes for the unpaid principal balance in any of the authorized denominations authorized by this ordinance.

The principal of said notes and any interest due on said notes upon maturity or earlier call for redemption shall be payable at the office of City Treasurer, David City, Nebraska, as Paying Agent and Registrar, upon presentation and surrender of the note or notes when due or when called for payment prior to maturity. The payment of interest on said notes, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owners by mailing payment to the address of such registered owner or owners thereof as such address shall appear on the note register maintained by said Paying Agent and Registrar. The record date for each interest payment date (the "Record Date") shall be the 15th day immediately preceding the interest payment date. Payments of interest shall be mailed to the registered owner of each note as of the Record Date for each interest payment date.

Section 3. The Treasurer of the City of David City, Nebraska, is hereby designated as Paying Agent and Registrar for the Bond Anticipation Notes herein ordered issued and is hereby

authorized to make payments of interest and principal from funds available for such purposes as provided herein as the same fall due. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes. The names and registered addresses of the registered owner or owners of the Notes shall at all times be recorded in such books. Any Note may be transferred pursuant to its provisions by said Paying Agent and Registrar by surrender of such Note for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by his duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will deliver (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new note or notes of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the notes by this ordinance, one note may be transferred for several such notes of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such notes may be transferred for one or several such notes, respectively of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a note, the surrendered note shall be cancelled and destroyed. All notes issued upon transfer of the notes so surrendered shall be valid obligations of the City evidencing the same obligations as the notes surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the notes upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any note during any period from any Record Date until its immediately following interest payment date or to transfer any note called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. Said Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and Clerk and shall have the City's seal imprinted or impressed on each Note. Said Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any Note during the period from any Record Date to the next following interest payment date transfer any Note called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 5. Said notes shall be substantially in the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER
CITY OF DAVID CITY, NEBRASKA
BOND ANTICIPATION NOTE
Series 2012

No. _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	September 15, 2014	_____, 2012	

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon from the date of original issue shown above to maturity or earlier redemption, at the rate per annum shown above, payable semiannually on March 15 and September 15 of each year, commencing September 15, 2012. The principal of this note and any interest due upon maturity or earlier call for redemption is payable at the office of the Treasurer of the City of David City, as Paying Agent and Registrar, in David City, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity. The payment of interest hereon, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owner by mailing payment to the address of such registered owner hereof as such address shall appear on the note register maintained by said Paying Agent and Registrar.

This note is redeemable at the option of the City prior to maturity anytime on or after March 15, 2013 at par and accrued interest to date fixed for redemption. Notice of call of any note for redemption prior to maturity shall be sufficient if given in writing and mailed by first class mail, postage prepaid, to the registered owner at the address shown on the note register not less than thirty days prior to the date fixed for redemption.

This note is one of an issue of notes numbered from 1 upwards in order of issuance, of the total principal amount of One Million Six Hundred Thirty Thousand Dollars (\$1,630,000) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of David City for the purpose of providing interim financing to pay a portion of the cost of storm water sewer improvements in Storm Water Sewer District No. 2010-1, including the cost of issuance of said notes and a portion of the interest to accrue on said notes, pending the issuance of permanent general obligation bonds. The issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City in strict compliance with Sections 10-137, and 17-913 through 17-925, Reissue Revised Statutes of Nebraska, 2007, and all other applicable laws.

The City agrees that the principal and interest of this note shall be payable from the proceeds of the issuance and sale of its general obligation bonds, the issuance and sale of its bond anticipation notes, or from other monies of the City lawfully available for such purposes.

The City reserves the right to issue additional Bond Anticipation Notes for the purpose of paying the balance of the costs of the projects financed in part by this issue of notes or of other improvement projects of the City, for the purpose of refunding the notes of this issue at or prior to maturity and for the purpose of paying for additional improvements for the City. The ordinance under which these notes are issued constitutes an irrevocable contract between the City and the holders of all of said notes and said contract cannot be changed or altered without the written consent of the holders of seventy-five percent (75%) in principal amount of the notes of this series then outstanding.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS NOTE MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY NOTE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this note did exist, did happen and were done and performed in regular and due form and time as provided by law.

IN WITNESS WHEREOF the Mayor and Council of the City of David City, Nebraska, have caused this note to be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be impressed or imprinted hereon, all as of the date of original issue specified above.

CITY OF DAVID CITY, NEBRASKA

Mayor

ATTEST:

Interim City Clerk

(SEAL)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes of the issue designated therein and issued under the provisions of the ordinance authorizing said issue.

TREASURER OF THE CITY OF DAVID
CITY, NEBRASKA
Paying Agent and Registrar

Authorized Signature

(Form of Assignment)

For value received _____
_____ hereby sells, assigns and transfers unto
_____ the within
mentioned note and hereby irrevocably constitutes and appoints
_____, attorney, to transfer the same on the
books of registration in the office of the within-in mentioned Paying Agent and Registrar with full
power of substitution in the premises.

Dated: _____

Registered Owner(s)

Witness: _____

Note: The signature of this assignment must correspond with the name as written on the face of the within-mentioned note in every particular, without alteration, enlargement or any change whatsoever.

Section 6. Each of the Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk and shall have impressed or imprinted thereon the City's seal. The Notes shall be issued initially as "book-entry-only" Notes using the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of representations (the "Letter of Representations") in the form required by the Depository (including any blanket letter previously executed and delivered), for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Notes. Upon the issuance of the Notes as "book-entry-only" Notes, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Notes as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Bond from a Bond Participant while the Notes are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Notes,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Notes, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Notes. The Paying Agent and Registrar shall make payments with respect to the Notes only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Notes to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Notes requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Notes or (ii) to make available Notes registered in whatever name or names the Beneficial Owners transferring or exchanging such Notes shall designate.

(c) If the City determines that it is desirable that certificates representing the Notes be delivered to the Bond Participants and/or Beneficial Owners of the

Notes and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the Notes as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Notes may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Notes may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section.

(f) In the event of any partial redemption of a Bond unless and until such partially redeemed Bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Bond as is then outstanding and all of the Notes issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed bond certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Notes upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of said City. In case any officer whose signature or facsimile thereof shall appear on any Bond shall cease to be such officer before the delivery of such Bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Notes shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Notes, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co. (the "Underwriter"), as the initial purchaser thereof, upon receipt of 99.00% of the principal amount of the Notes plus accrued interest thereon to date of payment of the Notes. The City Treasurer is authorized to deliver the Notes to the Underwriter upon receipt of such purchase price plus accrued interest to date of payment. The Underwriter shall have the right to direct the registration of the Notes and

the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Underwriter and its agents, representatives and counsel (including bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Notes, including without limitation, authorizing the release of the Notes by the Depository at closing. If no separate written agreement for the sale of the Notes is executed and delivered by and between the City and the Underwriter, this Ordinance shall constitute the agreement for the sale of the Notes. The City Clerk shall make and certify a transcript of the proceedings of the Mayor and Council with respect to the Notes which shall be delivered to said purchaser.

Section 7. All accrued interest (if any) received from the sale of the Notes shall be applied to pay interest falling due on the Notes on September 15, 2012. Issuance expenses may be paid from the proceeds of the Notes and the Underwriter is hereby authorized to make direct payment of such expenses on behalf of the City. The proceeds of the Notes after deduction of Issuance Expenses shall be deposited into a 2012 Storm Water Sewer Project Fund for payment of costs associated with construction of the improvements as set out in Section 1, hereof.

Section 8. The City hereby covenants with the purchasers and holders of the Notes herein authorized that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payment of principal and interest on said Notes, which would cause said Notes to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended, and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue. The City hereby covenants and agrees to take all actions necessary under the Internal Revenue Code of 1986, as amended, to maintain the tax exempt status (as to taxpayers generally) of interest payable on the Notes. The City hereby designates the Notes as its "qualified tax-exempt obligations" under Section 265 (b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that it does not reasonably anticipate issuance of tax-exempt notes or other tax-exempt obligations aggregating in principal amount more than \$10,000,000 during calendar 2012, taking into consideration statutory exceptions relating to refunding issues. The City agrees to take all further actions, if any, necessary to qualify the Notes herein authorized as such "qualified tax-exempt obligations," as and to the extent permitted by law.

Section 9. The City's obligations under this Ordinance with respect to any or all of the Notes herein authorized shall be fully discharged and satisfied as to any or all of such Notes and any such Bond shall no longer be deemed to be outstanding hereunder if such Bond has been purchased by the City and canceled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made in accordance with the terms thereof or (b) shall have been provided for by depositing with the Paying Agent and Registrar, or with a national or state bank having trust powers or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will insure the availability of sufficient money to make such payment; provided, however, that with respect to any Bond to be paid prior to maturity, the City shall have duly called such Bond for redemption and given notice thereof or made irrevocable provisions for the giving of such notice. Any money so deposited with the Paying Agent and Registrar or such bank or trust company may be invested or reinvested in U.S. Government

Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of the Paying Agent and Registrar or such bank or trust company in excess of the amount required to pay principal of and interest on the Notes for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 10. The Mayor and City Council do hereby approve the Preliminary Official Statement with respect to the Notes and the information therein contained, and the Mayor, the City Clerk, or either of them is authorized to approve and deem final the Preliminary Official Statement when prepared in final form and to approve and deliver a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered to the Underwriter in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 11. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Mayor and the City Council hereby authorize and direct all of the officers, employees and agents of the City to carry out, or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any one of them, shall consider necessary, advisable, desirable, or appropriate in connection with this ordinance, and the issuance, sale and delivery of the Notes, including, without limitation and whenever appropriate, the execution and delivery thereof and of all other related documents, instruments, certifications and opinions; and delegates, authorizes and directs the Mayor the right, power and authority to exercise his or her own independent judgment and absolute discretion in determining and finalizing the terms, provisions, form and contents of each of the foregoing. The execution and delivery by the Mayor or by any such other officer, officers, agent or agents of the City of any such documents, instruments, certifications and opinions, or the doing by him or her of any act in connection with any of the matters which are the subject of this ordinance shall constitute conclusive evidence of both the City's and his or her approval of all changes, modifications, amendments, revisions and alterations made therein, and shall conclusively establish his or her absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the action so taken.

Section 12. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its General Obligation Strom Water Sewer Bonds or other bonds. The City further covenants and agrees to issue and sell its General Obligation Strom Water Sewer Bonds or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the bond anticipation notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources.

Section 13. The City hereby reserves the right to issue additional bond anticipation notes for the purpose of paying the balance of the cost of the projects of the City set out in Section 1 hereof, for the purpose of refunding the Notes herein ordered issued at or prior to maturity and for the purpose of paying for additional improvements for the City.

Section 14. In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the City, being the only "obligated person" with respect to the Notes, agrees that it will provide the following continuing disclosure

information to the Municipal Securities Rulemaking Board (the "MSRB") in an electronic format as prescribed by the MSRB:

(a) not later than 9 months after the end of each fiscal year of the City (the "Delivery Date"), financial information or operating data for the City of the type accompanying the audited financial statements of the City entitled "Management's Discussion and Analysis" ("Annual Financial Information");

(b) when and if available, audited financial statements for the City; audited financial information shall be prepared on the basis of generally accepted accounting principles; and

(c) in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Notes:

(1) principal and interest payment delinquencies;

(2) non-payment related defaults, if material;

(3) unscheduled draws on debt service reserves reflecting financial difficulties;

(4) unscheduled draws on credit enhancements reflecting financial difficulties;

(5) substitution of credit or liquidity providers, or their failure to perform;

(6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Notes, or other material events affecting the tax status of the Notes;

(7) modifications to rights of the holders of the Notes, if material;

(8) bond calls, if material, and tender offers;

(9) defeasances;

(10) release, substitution, or sale of property securing repayment of the Notes, if material;

(11) rating changes;

(12) bankruptcy, insolvency, receivership or similar events of the City (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed

jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

(13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

The City has not undertaken to provide notice of the occurrence of any other event, except the events listed above.

(d) in a timely manner, notice of any failure on the part of the City to provide Annual Financial Information not later than the Delivery Date.

The City agrees that all documents provided to the MSRB under the terms of this continuing disclosure undertaking shall be in such electronic format and accompanied by such identifying information as shall be prescribed by the MSRB. The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information or the accounting methods in accordance with which such information is presented, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City agrees that such covenants are for the benefit of the registered owners of the Notes (including Beneficial Owners) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under the Resolution. The continuing disclosure obligations of the City, as described above, shall cease when none of the Notes remain outstanding.

Section 15. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Mayor and the City Council hereby authorize and direct all of the officers, employees and agents of the City to carry out, or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any one of them, shall consider necessary, advisable, desirable, or appropriate in connection with this ordinance, and the issuance, sale and delivery of the Notes, including, without limitation and whenever appropriate, the execution and delivery thereof and of all other related documents, instruments, certifications and opinions; and delegates, authorizes and directs the Mayor the right, power and authority to exercise his or her own independent judgment and absolute discretion in determining and finalizing the terms, provisions, form and contents of each of the foregoing. The execution and delivery by the Mayor or by any such other officer, officers, agent or agents of the City of any such documents, instruments, certifications and opinions, or the doing by him or her of any act in connection with any of the matters which are the subject of this ordinance shall constitute

conclusive evidence of both the City's and his or her approval of all changes, modifications, amendments, revisions and alterations made therein, and shall conclusively establish his or her absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the action so taken.

Section 16. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 17. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of said conflict hereby repealed.

Section 18. In order to promote compliance with certain federal tax and securities laws relating to the Notes herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Post-Issuance Compliance Policy and Procedures") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 19. This Ordinance shall be published in pamphlet form as provided by law. This Ordinance shall take effect immediately upon its publication in pamphlet form.

PASSED AND ADOPTED this 11th day of April 2012.

CITY OF DAVID CITY, NEBRASKA

Mayor

ATTEST:

Interim City Clerk

(SEAL)

EXHIBIT "A"
POLICY AND PROCEDURES

[SEE ATTACHED]

**Policy and Procedures
Federal Tax Law and Disclosure Requirements for
Tax-exempt Bonds and/or Build America Bonds**

ISSUER NAME: City of David, Nebraska

COMPLIANCE OFFICER (BY TITLE): City Treasurer

POLICY

It is the policy of the Issuer identified above (the "Issuer") to comply with all Federal tax requirements and securities law continuing disclosure obligations for its obligations issued as tax-exempt bonds or as direct pay build America bonds to ensure, as applicable (a) that interest on its tax-exempt bonds remains exempt from Federal income tax, (b) that the direct payments associated with any bonds issued as "build America bonds" are received by the Issuer in a timely manner and (c) compliance with any continuing disclosure obligations of the Issuer with respect to its outstanding bonds.

PROCEDURES

Compliance Officer. Review of compliance with Federal tax requirements and securities law continuing disclosure obligations as generally outlined below shall be conducted by the Compliance Officer identified above (the "Compliance Officer"). To the extent more than one person has been delegated specific responsibilities, the Compliance Officer shall be responsible for ensuring coordination of all compliance review efforts.

Training. The Compliance Officer shall evaluate and review educational resources regarding post-issuance compliance with Federal tax and securities laws, including periodic review of resources published for issuers of tax-exempt obligations by the Internal Revenue Service (either on its website at <http://www.irs.gov/taxexemptbond>, or elsewhere) and the Municipal Securities Rulemaking Board (either on its Electronic Municipal Market Access website ["EMMA"] at <http://www.emma.msrb.org>, or elsewhere).

Compliance Review. A compliance review shall be conducted at least annually by or at the direction of the Compliance Officer. The review shall occur at the time the Issuer's annual audit takes place, unless the Compliance Officer otherwise specifically determines a different time period or frequency of review would be more appropriate.

Scope of Review.

Document Review. At the compliance review, the following documents (the "Bond Documents") shall be reviewed for general compliance with covenants and agreements and applicable regulations with respect to each outstanding bond issue:

- (a) the resolution(s) and/or ordinance(s), as applicable, adopted by the governing body of the Issuer authorizing the issuance of its outstanding bonds, together with any documents setting the final rates and terms of such bonds (the "Authorizing Proceedings"),
- (b) the tax documentation associated with each bond issue, which may include some or all of the following (the "Tax Documents"):

- (i) covenants, certifications and expectations regarding Federal tax requirements which are described in the Authorizing Proceedings;
 - (ii) Form 8038 series filed with the Internal Revenue Service;
 - (iii) tax certificates, tax compliance agreements, tax regulatory agreement or similar documents;
 - (iv) covenants, agreements, instructions or memoranda with respect to rebate or private use;
 - (v) any reports from rebate analysts received as a result of prior compliance review or evaluation efforts; and
 - (vi) any and all other agreements, certificates and documents contained in the transcript associated with the Authorizing Proceedings relating to federal tax matters.
- (c) the Issuer's continuing disclosure obligations, if any, contained in the Authorizing Proceedings or in a separate agreement (the "Continuing Disclosure Obligations"), and
- (d) any communications or other materials received by the Issuer or its counsel, from bond counsel, the underwriter or placement agent or its counsel, the IRS, or any other material correspondence relating to the tax-exempt status of the Issuer's bonds or relating to the Issuer's Continuing Disclosure Obligations.

Use and Timely Expenditure of Bond Proceeds. Expenditure of bond proceeds shall be reviewed by the Compliance Officer to ensure (a) such proceeds are spent for the purpose stated in the Authorizing Proceedings and as described in the Tax Documents and (b) that the proceeds, together with investment earnings on such proceeds, are spent within the timeframes described in the Tax Documents, and (c) that any mandatory redemptions from excess bond proceeds are timely made if required under the Authorizing Proceedings and Tax Documents.

Arbitrage Yield Restrictions and Rebate Matters. The Tax Documents shall be reviewed by the Compliance Officer to ensure compliance with any applicable yield restriction requirements under Section 148(a) of the Internal Revenue Code (the "Code") and timely calculation and payment of any rebate and the filing of any associated returns pursuant to Section 148(f) of the Code. A qualified rebate analyst shall be engaged as appropriate or as may be required under the Tax Documents.

Use of Bond Financed Property. Expectations and covenants contained in the Bond Documents regarding private use shall be reviewed by the Compliance Officer to ensure compliance. Bond-financed properties shall be clearly identified (by mapping or other reasonable means). Prior to execution, the Compliance Officer (and bond counsel, if deemed appropriate by the Compliance Officer) shall review (a) all proposed leases, contracts related to operation or management of bond-financed property, sponsored research agreements, take-or-pay contracts or other agreements or arrangements or proposed uses which have the potential to give any entity any special legal entitlement to the bond-financed property, (b) all proposed agreements which would result in disposal of any bond-financed property, and (c) all proposed uses of bond-financed property which were not anticipated at the time the bonds were issued. Such actions could be prohibited by the Authorizing Proceedings, the Tax Documents or Federal tax law.

Continuing Disclosure. Compliance with the Continuing Disclosure Obligations with respect to each bond issue shall be evaluated (a) to ensure timely compliance with any annual disclosure requirement, and (b) to ensure that any material events have been properly disclosed as required by the Continuing Disclosure Obligation.

Record Keeping. If not otherwise specified in the Bond Documents, all records related to each bond issue shall be kept for the life of the indebtedness associated with such bond issue (including all tax-exempt refundings) plus six (6) years.

Incorporation of Tax Documents. The requirements, agreements and procedures set forth in the Tax Documents, now or hereafter in existence, are hereby incorporated into these procedures by this reference and are adopted as procedures of the Issuer with respect to the series of bonds to which such Tax Documents relate.

Consultation Regarding Questions or Concerns. Any questions or concerns which arise as a result of any review by the Compliance Officer shall be raised by the Compliance Officer with the Issuer's counsel or with bond counsel to determine whether non-compliance exists and what measures should be taken with respect to any non-compliance.

VCAP and Remedial Actions. The Issuer is aware of (a) the Voluntary Closing Agreement Program (known as "VCAP") operated by the Internal Revenue Service which allows issuers under certain circumstances to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal tax requirements and (b) the remedial actions available to issuers of certain bonds under Section 1.141-12 of the Income Tax Regulations for private use of bond financed property which was not expected at the time the bonds were issued.

Council member Scribner introduced Resolution No.7 - 2012 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 7 - 2012 was passed and approved as follows:

RESOLUTION NO. 7 - 2012

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA AMENDING THE DAVID CITY PERSONNEL MANUAL BY AMENDING CHAPTER 5 SECTION 5.09 – ON CALL TIME – THAT ALLOWS FOR A RESPONSE WITHIN ONE HOUR (1 HR.) FOR THE POWER PLANT EMPLOYEES ONLY; REPEALING ALL POLICIES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of David City, Nebraska maintains a Personnel Manual to provide clear policies and administration of policies as related to employees and employment conditions; and

WHEREAS, the Personnel Manual is amended from time to time to promote a positive working environment for all employees, to provide for meaningful benefits and to provide clear expectations for employees of the City of David City, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the Personnel Manual is hereby updated to state that On Call Time allows for a response time from a half-hour to one hour for the Power Plant employees only.

PASSED AND APPROVED this 11th day of April, 2012.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Rogers made a motion to table Resolution No. 8-2012 authorizing charging for water used for a scheduled house burn. Council member Kroesing seconded the motion. Voting AYE: Council members Rogers, Kroesing, Smith, Svoboda, Scribner and Vandenberg. Voting NAY: None.

RESOLUTION NO. 8 - 2012

WHEREAS, some property owners have an unsightly, abandoned, or partially destroyed building that they would like to destroy, and

WHEREAS, it is sometimes cheaper to have the building burned down by the David City Volunteer Fire Department rather than having to tear the building down, and

Years in Position	A 1	B 2	C 3	D 4	E 5	F 6	G 7	H 8	I 9	J 10
Manager	11.10	11.35	11.61	11.87	12.13	12.41	12.69	12.97	13.26	13.56
Asst. Manager	10.68	10.92	11.17	11.42	11.67	11.94	12.21	12.48	12.76	13.05
Head Lifeguard	9.85	10.10	10.35	10.60	10.85	11.10	11.35	11.60	11.85	12.10
WSI Lifeguard	8.45	8.70	8.95	9.20	9.45	9.70	9.95	10.20	10.45	10.70
Lifeguard	7.74	7.84	7.94	8.04	8.14	8.24	8.34	8.44	8.54	8.64
Sw Lesson Aid	7.25	7.35	7.45	7.55	7.65	7.75	7.85	7.95	8.05	8.15
Aerobics Instructor	9.15	9.25	9.35	9.45	9.55	9.65	9.75	9.85	9.95	10.05
Concession	7.25	7.35	7.45	7.55	7.65	7.75	7.85	7.95	8.05	8.15
Games/Cleaning	7.25	7.35	7.45	7.55	7.65	7.75	7.85	7.95	8.05	8.15

SECTION 2. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 3. This ordinance shall be published in pamphlet form and shall be in full force and effect on March 1, 2012 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 11th day of April, 2012.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Swimming Pool Manager Yvonne Pence was present to discuss the purchase of swimming suits for the lifeguards for the 2012 season. Pence stated that she is planning to hire thirteen guards this season.

Council member Scribner asked if the City could just add \$55 to their paycheck so they could purchase their own suits.

It was determined that if Yvonne Pence purchases the suits, through the City, that there would not be sales tax on the suits. Thirteen lifeguards times \$55 per suit comes to a total of \$715.

Council member Scribner made a motion to have the City purchase one (1) one-piece swimming suit for each lifeguard, manager and asst. manager, not to exceed a total of \$715. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Rogers, Vandenberg, Kroesing, Svoboda and Smith. Voting NAY: None. The motion carried.

Steve Reiter was present to request a lease for the Boy Scout Troop 268 and the Girl Scouts to use the building located at 660 N. 5th Street. Reiter indicated that he had a lease agreement drawn up by an attorney.

Mayor Zavodny stated that he had some concerns about not setting a term for the lease. Mayor Zavodny stated that he also had some concerns about the property being promptly repaired by the Lessor if the property was damaged.

Interim Administrator Kovar was instructed to check into the insurance on the building to see if there was replacement value insurance and what the value of the building was.

The council members discussed adding a 30 year term to the lease.

Reiter will have the lease re-written after these concerns are addressed.

Rex Rehmer was present to request funds towards the fireworks display at the Butler County Fair.

Interim City Administrator Joan Kovar explained that the Keno fund is struggling. The last few months the City has received nothing in revenue. She stated that there is \$1,500 budgeted from the Keno Fund for fireworks.

Council member Scribner made a motion to contribute \$1,500 from the Keno fund toward the fireworks display at the Butler County Fair. Council member Svoboda seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg, Smith, Rogers and Kroesing. Voting NAY: None. The motion carried.

Council member Scribner made a motion to re-establish the Board of Health and to appoint Board of Health members Mayor Zavodny, Council President Gary Kroesing, Dr. Russ Heller, and Rick Schneider. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Rogers, Vandenberg, Svoboda, Kroesing and Smith. Voting NAY: None. The motion carried.

Interim City Administrator Joan Kovar opened the bid for the property located at 315 S. 4th Street (Southern XV) and read it publicly. The bid was in the amount of \$30,000. She stated that she would publish the notice for three weeks and if there is no remonstrance that it could be accepted at the June Council meeting.

Council member Kroesing made a motion to proceed with the bid received for \$30,000. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Svoboda, Scribner, Smith and Vandenberg. Voting NAY: None. The motion carried.

Council member Vandenberg made a motion to approve Change Order #1 that includes: 6" water main construction along 10th Street, 12" water main extension along "O" Street, paving "M" Street from 9th to 10th Street, and additional storm sewer work to accommodate existing underground primary conduit along "O" Street. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Smith, Kroesing, Scribner, Rogers and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to approve the appointment of Terry Pachunka to the Housing Authority Board of Commissioners to fill the unexpired term of retiring Kate Martin, and then to serve a full 5 year term beginning in June, 2012. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Rogers, Svoboda, Vandenberg and Smith. Voting NAY: None. The motion carried.

The next agenda item was consideration of merging the police department with the County Sheriff's department.

Council member Kroesing stated that his intention is to meet with the County Board on Monday, June 16, 2012 to discuss merging the police department with the Butler County Sheriff's department.

Mayor Zavodny asked Council member Kroesing if the intention was to have the two entities (City police department and County Sheriff's Office) merged into one department.

Council member Rogers stated that the City Council and the County Board will talk and then the County Board will go to Sheriff Hecker to discuss the options. Council member Rogers stated that what we want to know is how much it is going to cost to merge the departments.

Council member Scribner stated that on February 9, 2010, it was voted on by the public and it was stated "Shall the City of David City own and operate its own police department?" 674 people said "yes" and 350 said "no." Council member Scribner said, "To top that off, if we get rid of this police department and go with the County and they start raising the rates on us, it will cost us more than what it would cost to get a couple of police cars and continue doing what we're doing, than it would to reestablish our police department and that would probably cost us a couple of million. He stated that was his opinion on that and he thinks that the police department does a fine job and he thinks that the public wants them. Council member Scribner also stated that he thinks this is the wrong way to go and that it is too soon after a public vote to try to go this way."

Mayor Zavodny said, "One thing that is really helpful, at this time, and to have this discussion is, and I don't want to speak for the Chief, but I think that he has made a good decision to stay out of this fray. This is a Council decision. He has been very clear in stating that he understands that. But, with this cloud hanging over us of some uncertainty – we just need to decide. There's got to be a commitment, because right now we are down to a three person department and it's going to be impossible to hire if they don't know if we are going to have a police department or not. It's important to let the Chief have a chance to do his job. The other side of that is that we have struggled, right now, and maybe it's a salary thing or maybe it's getting candidates, but he has done everything he can do to try to hire someone and it's really rough out there. There are a lot of openings , and we are not a destination area.

Council member Rogers stated that it's nothing against the Chief. We can't afford it.

Mayor Zavodny said, "The Chief has been very gracious throughout this, knowing that this is out there."

Carolyn Yates asked why this subject was brought up now.

Council member Rogers said, "Right now we pay the County \$75,000 for dispatch fees. We would stop paying the County \$75,000. That's roughly \$6,000 per month. We pay them \$9,000 a year for rent. This police budget was presented and the difference between that and what Sheriff Hecker said that he could do it for was \$100,000. We are talking about a lot of money. We need two more cars."

Council member Kroesing stated that the Chief has one new vehicle and Council member Smith stated at the Committee of the Whole meeting that the other two vehicles were not worth repairing. The reason that this issue was approached was budgetary.

Mayor Zavodny said, "The City spent \$74,729 on dispatching in the last budget year. The Council was not aware of this but one thing that I had on my radar to do was to go in front of the County Board and see about that number. They have been very good about listening to justification of a position. Our interlocal agreement and the override funds us about \$54,000 so we are paying more than we are actually funded to pay for dispatching. So, I think that we have a reasonable chance of going to the board and getting that number lowered."

Chief McPhillips said, "I just wanted to clarify that I have never come to this Council asking for two new vehicles. The Ford is not in question. The Ford has been repaired. The Mayor is aware of those repairs. It is in excellent condition and it is allowed to leave town. The repairs that were quoted by Mr. Smith on the Dodge are still in question. I took it out to Northside to get tires and a front end alignment and got that assessment. Other mechanics have said that all that it needs are tires and a front end alignment so that is in question. The amount of \$5,000 is way out of line for whatever repairs it needs. So, we are not talking about buying two new cars and we don't have cars that can't leave town."

Carol Brehm asked what exactly does it mean that we would "merge" the departments. Who would have authority where and what control would the City have, if any, for law enforcement or is that totally up to the County?

Council member Rogers stated that would be up to the Council and the Supervisors.

Mayor Zavodny stated that would need to be outlined in the agreement with the County.

Council member Kroesing stated that you can't make an agreement with a Sheriff who may not be in office at the end of November so you make your agreement with the County Board of Supervisors. They are the ones that are going to provide that we do have coverage. Their word is what we are going to go on.

Mayor Zavodny said, "So you are looking at an agreement between the County Board and this City Council."

Council member Rogers said, "Yes."

Council member Scribner said, "There's no such thing as a free meal in this town. So, they're going to take \$70,000 away from their budget and take on more responsibility and be fine with that?"

Council member Rogers said, "Yes."

Council member Scribner said, "Boy, I just don't see that happening."

Council member Kroesing said, "That's what happens when you live in a town that is the county seat versus a town that isn't."

Greg Aschoff said, "My concern is that this Council had the opportunity in 2010 to make a decision to either keep the police department or merge it and I believe that most of the talks at that time were also budgetary discussions. At that time the Council did not make a decision to go either way but did, in fact, send it to a vote of the people and the people voted to keep the police department. Now, I understand that things change. My feeling is that the Council is elected by the people of David City to represent the people of David City and make decisions in

the best interest of the City and in the best interest of the citizenry of David City. In 2010, I just don't think that that was done. One way or another, I think that it should have been the Council's decision and that wasn't done. Now, we've kept the police department because that's what the people decided that's what they wanted to do. We hired a new Chief and he has uprooted and moved from where he was and bought a house in David City and become part of the community. I just think that decision should have been made a few years ago, one way or another, and to bring it up so soon after the citizen vote, as Mr. Scribner said, that kind of makes me mad. I think it should have been decided a few years ago and it wasn't, so now we need to live with it. We're kind of tinkering with other people's lives now. I'm a pretty easy going guy but this one's got me pretty fired up. I'm not weighing in one way or the other whether it's best to merge them or it's best to keep them. I'm not making any discussion points either way. I just think that if the Council is elected by the people to represent us then they should make those decisions, however popular or unpopular they may be."

Mayor Zavodny stated that he agreed with Mr. Aschoff on that point.

Chief McPhillips asked Interim City Administrator Joan Kovar to tell the public and the Council what the police department budgets were in 2008, 2009, 2010, 2011 and what the current budget is.

Interim City Administrator Kovar stated that the police department budget in 2007-2008 was \$378,194, in 2008-2009 it was \$421,421, in 2009-2010 it was \$412,984, in 2010-2011 it was \$395,767 and the current budget 2011-2012 is \$339,700.

Chief McPhillips stated that we're talking that the police are costing more and more but is that what the figures are showing.

There were several citizens that spoke in favor of keeping the police department.

James Redler stated that he was upset that this was brought up without a lot of publicity and that it was put on the agenda at the last minute. (The agenda item was added at least 24 hours prior to the meeting and the agendas were delivered Tuesday, April 10, 2012 at about 4:30 p.m.)

Mayor Zavodny stated that he felt that it was good to have the public debate. Mayor Zavodny said, "I don't want to minimize this but I think that we are at the very beginning of a process. I think as we continue to move forward that we need to evaluate from top to bottom. I'm not going to limit it to the police department in this comment. We need to look at ALL of our operations and see what we are doing. I think it is worthwhile having you all here. I thank you for coming and I think that it's important to have this discussion and as we move through the timeline of this process, I think that we need to continue to have involvement. Mr. Aschoff said something very important. The people that are sitting around this table answer to you. They are elected to represent you. Your opinions on this matter should be shared with them and they will listen to you. I've seen that, as a council, where they will listen. So, as we move through the process, talk to your elected officials and have your voice be heard and I'm sure that they would be willing to listen to what you have to say."

Council member Svoboda said, "This is an ongoing thing with the police. We've been lucky enough to have Chief McPhillips come in and we stuck him in a trailer. I tried to get them in a place where they'd have their own building. Nobody wanted that. This whole thing is not whether the police are doing their job or not. This is more or less coming from somebody on the Council. It's internal right here - it's their own personal thing. It's not anything that they are not

doing. They are not going to save money. If you replace three policemen with three deputies you can see how much money the deputies make and just for having a couple of cars and whatever. It's personal and it's coming from here. Before, we had Mr. Trowbridge to blame, but now it's coming from right in these two tables right here. I hope that people can get after them and what their feelings are."

Jan Sypal asked how this was brought up and why this was brought up. Was it strictly budgetary?

Council member Kroesing stated that it was brought up due to budget constraints. He stated that the last time this was brought up it was proven that we could save a couple hundred thousand dollars. We don't know that for a fact right now. We want to find out. But, we can't do that unless we get permission to go out and do that.

Jan Sypal asked what triggered this. She stated that something had to trigger this.

Mayor Zavodny said, "I think that where we are at, overall, as a City is to look at everything and where we sit. As we're looking at what we know we need to do to commit to the department – we went through that at the Committee of the Whole – and looking forward into budgetary things. There are a lot of pieces to it. The Chief hasn't come and asked for a whole lot of things. Chief has hardly asked for anything. We know that we need another officer. We're working at three now and that is unacceptable. It's been a struggle. He's worked hard at it, but right now we have no idea if we would save this money or not. The way I understand it, to look at it, that's a process. It's a reasonable thing to do. If the motivation is budgetary, then the numbers will be the numbers. We'll look at those and see what they are."

Jan Sypal said, "So, basically, you're just going to the Board of Supervisors just to get an idea on the budget."

Council member Kroesing said, "The Sheriff isn't even going to talk to us if we don't have a majority vote of these people. The last time this whole thing took place there were two people that wanted that, if you remember correctly, Mike and myself. Now, he wants to know if there is a majority following him to ask the right questions. Can he come up with a figure that's able to satisfy us? If he can't then we aren't doing this. If he can really save us some serious money then, yes, we'll have to look at it. We have to show him that we are interested. We can't just walk over to the County Board and say can you draw up some figures for us how can you help us out as a city."

Mayor Zavodny said, "Looking at the financial piece, I'm going to be interested in what that looks like. I've already made it pretty clear to this Council that I will not be their fourth vote. If it goes three to three then I won't do it. You know where I stand going into it. If they get to four then it's a different issue. But, it will be their decisions and based on all the facts that they gather to make an informed decision. So, again, I think the process will be important as we go through this."

Dr. Russ Heller said, "I would have to agree with Mr. Aschoff here and his thoughts regarding the process and what not here. I realize that budgetary is a big factor of it and I understand that ideally we should have another officer on the force. The difficulty of hiring – would you feel that it's due to benefits or do we just not have the applicants?"

Mayor Zavodny said, "It's hard to pinpoint. The factors that we can say that we know are that a lot of agencies are looking right now. Probably, we can offer some things that don't

match salaries but quality of life things, so it really depends on the right candidate and what they are looking for. Now, the other thing that is probably pretty important is that we had committed to say that we want a certified officer. There are a finite number of those and finite that are looking. The other thing is that you want to be really careful that you don't get somebody else's problem. We are naive in thinking that all of a sudden, all of those issues, are going to go away when they come to work for our fine city. So, we've been pretty picky about that. It's hard to pinpoint a factor. I think he's done a very good job of trying to screen them and get us candidates that would have a chance. We've had a couple that I certainly felt very comfortable with – at least two of them. One of them took a job right before we could offer him a job and the other one – we were just too far apart on what we were willing to pay on our salary schedule versus what he was willing to come to work for us for.”

Dr. Heller said, “Well, I realize that I don't know how long all of this has been going on and I don't want the Council to rush through this, but I think that we need to try to determine as quickly as possible, either yes or no, because I know that there have been members of this police department that have been here and left and I'm guessing that the word is out there somewhere that the existence of this police department is iffy. If I were a candidate, I don't know if I'd look real seriously.”

Mayor Zavodny said, “It's tough to have the cloud of uncertainty and I think the best thing we can do is to have it resolved, one way or the other. I think that's important. I think that what we are doing right now to the Chief is extremely unfair and I want to be clear that he has not complained.”

Council member Kroesing made a motion to merge the police department with the Butler County Sheriff's department and to proceed with negotiations with the Butler County Board of Supervisors beginning immediately. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith and Vandenberg. Voting NAY: Council members Svoboda and Scribner. The motion carried.

Council member Vandenberg made a motion to adjourn. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Rogers, Kroesing, and Smith. Voting NAY: Council member Svoboda. The motion carried and Mayor Zavodny declared the meeting was adjourned at 9:11 p.m.



CERTIFICATION OF MINUTES
April 11, 2012

I, Tami L. Comte, duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of April 11, 2012; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Tami L. Comte, Interim City Clerk