

## CITY COUNCIL PROCEEDINGS

February 8, 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 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on February 2, 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: Street Superintendent James McDonald, Electric Plant Supervisor Eric Betzen, Water/Sewer Supervisor Gary Janicek, Park/Auditorium Supervisor Scott Bales, Scott Holtmeyer and Dan Pedersen of Aqua-Chem, Phil Lorenzen of DA Davidson, Jodi Prochaska of Kruse, Schumacher, Smejkal & Brockhaus, PC, Don Moravec of Moravec & Associates, John Svec, Ryan Nelson, 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 January 11, 2012 meeting of the Mayor and City Council were approved upon a motion by Council member Kroesing 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 Rogers made a motion to authorize the payment of claims and Council member Smith 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 it snowed quite a bit last week and it was a very heavy snow and overall, he was happy with how the snow removal went. Mayor Zavodny commended the Street Dept. for helping a stranded postal employee and stated "that is what City employees should be doing." Mayor Zavodny stated that he had a complaint from the fire department about the windrow of snow in front of their doors and asked if, in the future, that windrow could be pushed further south.

Council member Scribner asked Park/Auditorium Supervisor Scott Bales if there was a product that could be sprayed on the moss in the park lakes. Bales stated that he would check into it.

City Attorney James Egr stated that he filed condemnation on the Holoubek property for the Northwest Drainage Project.

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

Scott Holtmeyer and Dan Pedersen were present representing Aqua-Chem. Park/Auditorium Supervisor Scott Bales stated that he would like to change to liquid chlorine instead of the tablets that they currently use. He stated that the managers spend too much time adjusting the settings with the tablets and they never work properly. Scott Holtmeyer stated that they would provide the tanks as long as the City purchases their product. The City would need to purchase two chemical pumps for a total cost of \$600. Holtmeyer stated that the City would save an average of about \$3,000 per year by changing to liquid chlorine. He stated that they provide training for the pool employees at no charge.

John Svec, Assistant Pool Manager, was present and stated that he would like to try something different because the current system does not work and is a constant pain.

Council member Smith made a motion to enter into an agreement with Aqua-Chem, Inc., for the purchase of liquid sodium hypochlorite for the swimming pool. Council member Kroesing seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Vandenberg, Rogers and Svoboda. Voting NAY: None. The motion carried.

Phil Lorenzen of DA Davidson was present concerning creating three street improvement districts. He stated that the three street improvement districts in the Ordinance this evening are Street Imp. Dist. 2012-1 - 10<sup>th</sup> Street from J to K, Street Imp. Dist. 2012-2 - L Street from 10<sup>th</sup> to 9<sup>th</sup>, and Street Imp. Dist. 2012-3 - M Street from 10<sup>th</sup> to 9<sup>th</sup>. The Ordinance sets the date of a hearing for the March 14, 2012 Council meeting. You will also be taking bids at that time for the construction of these Street Improvement Districts. These three districts are put in there as an alternate in case the finding is that the petitions are not sufficient. You have reviewed the petitions, and City Attorney Jim Egr has looked at them. This doesn't have the right of remonstrance. The hearing is just simply a formality under the statute after notice has been given to make sure that you have made the correct findings.

Mayor Zavodny asked if there was a time frame for construction to begin and is it going to depend on who gets the bid.

Phil Lorenzen stated that the actual construction will depend on the bidding climate and when the bidder can proceed with the project.

Street Superintendent Jim McDonald stated that they are scheduled to open bids on February 16, 2012.

Phil Lorenzen stated that the scope of the project is a little bigger with the additional streets so that should enhance your bids in terms of competition. Lorenzen also stated that as we get into that project, contract levy and so forth, that there is money that remains for some of the work that's done. You would supplement that with the issuance of bond anticipation notes to shore that up for the balance of the project and at some point in time, when the project is done, you would look to specially assess curb and gutter and the City will stand for the cost of the paving. There is no point in borrowing the money before we need it.

Phil Lorenzen stated that the reciprocal engine scrubbing devices are mandated by law. He stated that he was pleased that the City had gone ahead and done the refunding of the outstanding electric bonds that were authorized in November and closed in December which saved about \$27,000. Your audit wasn't out yet, but it's out now and you've taken steps to go ahead and raise rates, which was appropriate. They probably should have been raised before and that was not done, but now they

have been raised. As a result, for the fiscal year ended September 30, 2011, you had limited earnings. You only had about \$32,000 of income available for debt service. Debt Service on the outstanding bonds is about \$120,000. If you use your arithmetic, you have about one quarter of the money that you needed mathematically, under the earnings system, to go ahead and make those payments. Lorenzen said, "I'm not worried about that, you have cash, you are going to make those payments and you're not going to fail in that process, so I'm not alarmed by that. What that does do, is the new ordinance authorizing the refunding bonds, like the prior issue, has a typical covenant under revenue financing that you need to be able to demonstrate that a new borrowing, and the debt service on that plus the debt service on the old borrowing, coupled, is still covered 1.25 times. You can't meet that test and yet you are mandated to go ahead and make those improvements. The solution, to me, is this, and it's pretty straight forward and simple. The refunding bonds that were done have a final payment of 2015 so you only have three more years of payments after this year on that issue. We can issue bond anticipation notes with a maximum three year maturity. My view is that you don't need to roll those, probably, into bonds. My view is excess earnings, because of your rate increase, should allow you to retire those notes without having the expense of rolling that into a longer term bond. You have that option, if you need to. It doesn't require a coverage test. It doesn't require a debt service reserve and the interest rates are low, so my recommendation is that you just simply issue bond anticipation notes and you make a down payment on the equipment within 30 to 60 days. It will be 30 days before we can deliver funds, so my recommendation is that you would move forward and adopt an Ordinance and authorize the issuance of bond anticipation notes and do it promptly."

Mayor Zavodny stated that we are a little better off since the swimming pool paid off their debt. He stated that he sees no way around this RICE thing.

Phil Lorenzen stated that it's mandated to be done. The borrowing costs projected are .95%. He stated that his view is that there is quite a bit of merchandise coming to the market right now. Typically, as we come close to spring, the end of February, March and April, we sometimes see a little upward pressure on the market. The economy is still in the tank. Rates are going to stay low but his view is that we are well advised to go ahead and lock in the rate and move forward. The Street Improvement is a simple process. The more complicated thing on the revenue notes is this, how do you fine tune the exact amount of money you need. In talking to Ken Fairchild, he expects the equipment and the installation and so forth to be around \$460,000. We need to capitalize the interest to make the payment and there is about \$5,000 in transaction costs involved, so at a minimum, you should probably size this at \$485,000. My judgment, after talking with Ken, is that you might be well advised to go ahead and borrow the \$500,000 so you have a little cushion in the event that you need some added funds for the project cost, if there is a little over run. You don't know the cost yet. That hasn't been cemented. My view is that you can get by with as little as \$485,000 but I sized it at \$500,000 thinking that it might be good to have a little extra. You can always use that to pay down the notes. The notes will be callable in one year, so if you don't need the money, if the project costs come in less, you can start to pay those down right away. The best part of the transaction is that, with that one year call, you get the earnings up on the system, you simply pay down these notes earlier.

Council member Scribner introduced Ordinance No. 1168.

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

Council member Kroesing made a motion to pass Ordinance No. 1168 on third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Smith,

Kroesing, Svoboda, Scribner, Vandenberg and Rogers. The motion carried and Ordinance No. 1168 was passed and adopted as follows:

ORDINANCE NO. 1168

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, CREATING CERTAIN STREET IMPROVEMENT DISTRICTS WITHIN THE CITY OF DAVID CITY TO BE KNOWN AS STREET IMPROVEMENT DISTRICT NOS. 2012-1, 2012-2 and 2012-3; DEFINING THE BOUNDARIES OF SAID DISTRICTS AND THE PROPERTY CONTAINED THEREIN; AND, PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS THEREIN CONSISTING OF GRADING AND CONSTRUCTION OF CURB AND GUTTER, CONCRETE PAVING, AND STORM SEWER IMPROVEMENTS TOGETHER WITH SUCH OTHER APPURTENANCES AS MAY BE INCIDENTAL THERETO.

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

Section 1. The Mayor and City Council of the City of David City, Butler County, Nebraska, hereby find and determine that a petition has been filed with the City Clerk and presented to the Mayor and City Council petitioning for the creation of a street improvement district for the improvement of 10<sup>th</sup> Street from the south line of K Street south to the south line of J Street in the City of David City, including the intersection at J Street.

As determined by the records in the office of the County Clerk and Register of Deeds of Butler County, Nebraska, there are 600 feet of front footage of property directly abutting on the streets to be improved and the owners of 60% or more of the front footage directly abutting on the streets to be improved have signed said petition. The petition is sufficient in form and is signed by owners of at least 60% of said front footage abutting on the streets proposed to be improved, and that it is in the best interests of the City of David City to create a street improvement district for the construction of the said improvements as requested by said petition.

Section 2. There is hereby created within the City of David City, Nebraska, a street improvement district to be known and designated as Street Improvement District No. 2012-1, the outer boundaries of which shall contain the following property:

BEGINNING AT NORTHWEST CORNER OF LOT 1, BLOCK 14, W.T.&P. 1<sup>ST</sup> ADDITION, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF SOUTH R.O.W. LINE OF J STREET AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF ALLEY R.O.W. BETWEEN 9<sup>TH</sup> STREET AND 10<sup>TH</sup> STREET; THENCE NORTH ALONG SAID EAST R.O.W. LINE TO THE NORTHWEST CORNER OF LOT 1, BLOCK 11, W.T.&P. 1<sup>ST</sup> ADDITION, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF SAID EAST R.O.W. LINE AND THE SOUTH R.O.W. LINE OF K STREET; THENCE EAST ALONG SAID SOUTH R.O.W. LINE TO THE POINT OF INTERSECTION OF SAID SOUTH R.O.W. LINE AND THE WEST LINE OF ALLEY R.O.W. BETWEEN 10<sup>TH</sup> STREET AND 11<sup>TH</sup> STREET, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 2, BLOCK 12, W.T.&P. 1<sup>ST</sup> ADDITION; THENCE SOUTH ALONG SAID WEST R.O.W. LINE TO THE POINT OF INTERSECTION OF THE SOUTHERLY EXTENSION OF SAID WEST R.O.W. LINE AND THE SOUTH R.O.W. LINE OF J STREET, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 2, BLOCK 13, W.T.&P. 1<sup>ST</sup> ADDITION; THENCE WEST ALONG SAID SOUTH R.O.W. LINE OF J STREET TO THE POINT OF BEGINNING.

Within said Street Improvement District No. 2012-1, the following streets shall be improved by construction of improvements therein consisting of grading and construction of curb and gutter, concrete paving and storm sewer improvements together with such other appurtenances as may be incidental thereto.

10<sup>th</sup> Street from the south line of K Street south to the south line of J Street in the City of David City, including the intersection at J Street.

Section 3. The Mayor and City Council of the City of David City, Butler County, Nebraska, hereby find and determine that a petition has been filed with the City Clerk and presented to the Mayor and City Council petitioning for the creation of a street improvement district for the improvement of L Street from the east line of 10<sup>th</sup> Street west to the west line of 9<sup>th</sup> Street in the City of David City, including the intersections at 10<sup>th</sup> Street and at 9<sup>th</sup> Street.

As determined by the records in the office of the County Clerk and Register of Deeds of Butler County, Nebraska, there are 560 feet of front footage of property directly abutting on the streets to be improved and the owners of 60% or more of the front footage directly abutting on the streets to be improved have signed said petition. The petition is sufficient in form and is signed by owners of at least 60% of said front footage abutting on the streets proposed to be improved, and that it is in the best interests of the City of David City to create a street improvement district for the construction of the said improvements as requested by said petition.

Section 4. There is hereby created within the City of David City, Nebraska, a street improvement district to be known and designated as Street Improvement District No. 2012-2, the outer boundaries of which shall contain the following property:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 4, BLOCK 3, W.T.&P. 1<sup>ST</sup> ADDITION, SAID POINT ALSO BEING ON THE WEST R.O.W. LINE OF 9<sup>TH</sup> STREET; THENCE NORTH ALONG SAID WEST R.O.W. LINE TO THE NORTHEAST CORNER OF LOT 9, BLOCK 3, W.T.&P. 2<sup>ND</sup> ADDITION; THENCE EAST TO THE NORTHWEST CORNER OF LOT 10, BLOCK 1, W.T.&P. 2<sup>ND</sup> ADDITION, SAID POINT ALSO BEING ON THE EAST R.O.W. LINE OF 10<sup>TH</sup> STREET; THENCE SOUTH ALONG SAID EAST R.O.W. LINE TO THE SOUTHWEST CORNER OF LOT 3, BLOCK 1, W.T.&P. 1<sup>ST</sup> ADDITION; THENCE WEST TO THE POINT OF BEGINNING.

Within said District the following streets shall be improved by construction of improvements therein consisting of grading and construction of curb and gutter, concrete paving and storm sewer improvements together with such other appurtenances as may be incidental thereto.

L Street from the east line of 10<sup>th</sup> Street west to the west line of 9<sup>th</sup> Street in the City of David City, including the intersections at 10<sup>th</sup> Street and at 9<sup>th</sup> Street.

Section 5. The Mayor and City Council of the City of David City, Butler County, Nebraska, hereby find and determine that a petition has been filed with the City Clerk and presented to the Mayor and City Council petitioning for the creation of a street improvement district for the improvement of M Street from the east line of 10<sup>th</sup> Street west to the west line of 9<sup>th</sup> Street in the City of David City, including the intersections at 10<sup>th</sup> Street and at 9<sup>th</sup> Street.

As determined by the records in the office of the County Clerk and Register of Deeds of Butler County, Nebraska, there are 600 feet of front footage of property directly abutting on the streets to be improved

and the owners of 60% or more of the front footage directly abutting on the streets to be improved have signed said petition. The petition is sufficient in form and is signed by owners of at least 60% of said front footage abutting on the streets proposed to be improved, and that it is in the best interests of the City of David City to create a street improvement district for the construction of the said improvements as requested by said petition.

Section 6. There is hereby created within the City of David City, Nebraska, a street improvement district to be known and designated as Street Improvement District No. 2012-3, the outer boundaries of which shall contain the following property:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 4, BLOCK 3, W.T.&P. 2<sup>ND</sup> ADDITION, SAID POINT ALSO BEING ON THE WEST R.O.W. LINE OF 9<sup>TH</sup> STREET; THENCE NORTH ALONG SAID WEST R.O.W. LINE TO THE NORTHEAST CORNER OF LOT 9, BLOCK 12, LAND & LOT ADDITION; THENCE EAST TO THE NORTHWEST CORNER OF LOT 10, BLOCK 14, LAND & LOT ADDITION, SAID POINT ALSO BEING ON THE EAST R.O.W. LINE OF 10<sup>TH</sup> STREET; THENCE SOUTH ALONG SAID EAST R.O.W. LINE TO THE SOUTHWEST CORNER OF LOT 3, BLOCK 1, W.T.&P. 2<sup>ND</sup> ADDITION; THENCE WEST TO THE POINT OF BEGINNING.

Within said District the following streets shall be improved by construction of improvements therein consisting of grading and construction of curb and gutter, concrete paving and storm sewer improvements together with such other appurtenances as may be incidental thereto.

M Street from the east line of 10<sup>th</sup> Street west to the west line of 9<sup>th</sup> Street in the City of David City, including the intersections at 10<sup>th</sup> Street and at 9<sup>th</sup> Street.

Section 7. All of said improvements shall be constructed to the established grades as fixed by ordinances of the City of David City, and shall be constructed in accordance with plans and specifications to be prepared by the City's Engineers, which plans shall be approved by the Mayor and City Council. The improvements shall be made at public cost, but special assessments shall be levied to reimburse the City for the cost of the improvements as provided by law.

Section 8. Notice of the creation of said Street Improvement District Nos. 2012-1, 2012-2 and 2012-3 shall be published in the Banner Press newspaper, a legal newspaper published and of general circulation within the City of David City, for two weeks after the publication of this Ordinance.

Section 9. 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.

PASSED AND APPROVED this 8<sup>th</sup> day of February 2012.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Interim City Clerk

Council member Vandenberg introduced Ordinance No. 1169.

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

Council member Kroesing made a motion to pass Ordinance No. 1169 on third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Smith, Kroesing, Svoboda, Scribner, Vandenberg and Rogers. The motion carried and Ordinance No. 1169 was passed and adopted as follows:

#### ORDINANCE NO. 1169

AN ORDINANCE AUTHORIZING THE ISSUANCE OF ELECTRIC REVENUE BOND ANTICIPATION NOTES, SERIES 2012, OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE ELECTRIC SYSTEM OWNED AND OPERATED BY THE CITY; PENDING THE ISSUANCE OF PERMANENT ELECTRIC REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE ELECTRIC SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID ELECTRIC SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. The Mayor and Council of the City of David City, Nebraska (the "City"), hereby find and determine as follows:

- (a) that the City owns and operates an electric generation plant and electric distribution system which represents a revenue producing undertaking of the City (said system and any and all additions thereto or improvements thereof hereafter made are herein collectively referred to as the "Electric System"); that it is necessary and advisable for the City to provide funds for certain Electric System improvements for which the estimated cost (including costs related to financing) is not less than \$500,000; that there is presently outstanding the City's Electric Revenue Refunding Bonds, Series 2011, issued in the original principal amount of \$405,000 and presently outstanding in the remaining principal amount of \$405,000 (the "2011 Bonds" or "Outstanding Bonds"), authorized by Ordinance No. 1160 passed and approved on November 9, 2011, (the "2011 Ordinance" or "Prior Ordinance"); that the revenues of the Electric System have been pledged and hypothecated for the payment of principal and interest on the 2011 Bonds; that the 2011 Bonds represent the only indebtedness of the City for which the revenues of the Electric System have been pledged; that under the terms of the 2011 Ordinance, "Additional Bonds" of equal lien and standing with the Outstanding Bonds may be issued upon certain conditions set forth in the Prior Ordinance; and, that pending issuance of Additional Bonds, the City may issue its Electric Revenue Bond Anticipation Notes from time to time as may be necessary to provide interim construction financing, pending issuance of

such Additional Bonds;

- (b) that improvements, enlargements and expansions of the City's Electric System and other improvements to the Electric System are necessary; that to provide for the costs of improving, enlarging and expanding the Electric System and to make other improvements to the Electric System of the City, the City finds it to be in the best interests of the City and necessary to provide funds for the herein described improvements, to issue Electric Revenue Bond Anticipation Notes of the City of David City, Nebraska, pursuant to Section 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, 2007, in the aggregate principal amount of \$500,000;
- (c) that the Outstanding Bonds represent the only indebtedness for which the revenues of the Electric System have been pledged and, under the terms of the Prior Ordinance, the City is permitted to issue additional bond or note indebtedness which is junior in lien to the pledge and lien upon the revenues of the Electric System provided for in the Prior Ordinance for the payment and security of the Outstanding Bonds with principal and interest payable from monies in the "Surplus Account" as established under the terms of the Prior Ordinance;
- (d) that all conditions, acts and things required to exist or to be done precedent to the issuance of Electric Revenue Bond Anticipation Notes, Series 2012, in the principal amount of \$500,000 (the "Notes") for the purposes described in Section 1(a) of this ordinance and to pay costs of note issuance and a portion of the interest to accrue on said notes, do exist and have been done as required by law and there shall be and there are hereby ordered issued Electric Revenue Bond Anticipation Notes, Series 2012, of the City of David City, Nebraska, as provided herein.

Section 2. For the purpose of providing interim financing for a portion of the costs set out in Section 1 hereof pending the issuance of permanent Electric Revenue 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 "Electric Revenue Bond Anticipation Notes, Series 2012" of the aggregate principal amount of Five Hundred Thousand Dollars (\$500,000) (herein referred to as 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 their date of original issue and each of said Notes shall mature and bear interest at the rate of 0.95% per annum payable beginning September 15, 2012 and semiannually thereafter on each March 15 and September 15 until maturity or earlier call for redemption, as follows:

<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity</u>
\$500,000	0.95%	March 15, 2015

provided, 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 and 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 the Treasurer of the City of David City, David City, Nebraska, as Paying Agent and Registrar designated in Section 3 hereof, upon presentation and surrender of the Note or Notes when due or when called for payment prior to maturity. The payment of interest on the 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 fifteenth day immediately preceding the interest payment date. Subject to the provisions of Section 6 of this Ordinance, 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 City Treasurer is hereby designated as the Paying Agent and Registrar for the Notes. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes at the City's administrative offices in David City, Nebraska. 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 at the office of the Paying Agent and Registrar by surrender or 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 such owner's duly authorized agent and thereupon the Paying Agent and Registrar on behalf of the City will register such transfer and will deliver at such office (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 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 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 interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Note, the surrendered Note or Notes shall be canceled 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.

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 called for redemption for a period of 30 days next preceding the date fixed for redemption. If the date for payment of the principal of or interest on the Notes shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the City of David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

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

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF BUTLER

ELECTRIC REVENUE BOND ANTICIPATION NOTE  
OF THE CITY OF DAVID CITY, NEBRASKA  
SERIES 2012

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	Date of	
%	March 15, 2015	<b>Original Issue</b>	<b>CUSIP</b>
		_____, 2012	

Registered Owner: Cede & Co.  
13-2555119

Principal Amount: FIVE HUNDRED THOUSAND DOLLARS (\$500,000)

KNOW ALL PERSONS 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 (but only from the limited sources specified in the authorizing ordinance) 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 at the rate per annum shown above from the date of original issue shown above payable beginning September 15, 2012, and semiannually thereafter on March 15 and September 15, until maturity or earlier call for redemption to the holder or holders of record on the fifteenth day immediately preceding the date on which such payment is due. Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this note and any interest due upon maturity or earlier call for redemption are 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 Five Hundred Thousand Dollars (\$500,000) 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 electric improvements in and for the City's Electric System, including the cost of issuance of said notes and a portion of the interest to accrue on said notes, pending the issuance of permanent Electric Revenue 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 18-1803 through 18-1805, R.R.S. Neb. 2007, and all other applicable laws. This note and the other notes of this issue are junior in lien and pledge to the City's outstanding Electric Revenue Refunding Bonds, Series 2011, presently

outstanding in the principal amount of \$405,000 (the "2011 Bonds") all as set out in the Ordinance authorizing this issue of Series 2012 Notes

The City agrees that the principal and interest of this note shall be payable from the proceeds of the issuance and sale of its Electric Revenue Bonds, payable from the revenues of the Electric System of the City from the "Surplus Account" as established under the terms of the ordinance authorizing the 2011 Bonds, the issuance and sale of further bond anticipation notes of the City or from any other monies of the City lawfully available for such purposes. **The notes of this issue shall not be a debt of the municipality within the meaning of any constitutional or statutory limitation upon the creation of general obligation indebtedness of the municipality and the municipality shall not be liable for the payment thereof out of any money of the municipality other than from the proceeds of the issuance of the City's electric system revenue bonds or notes, or from revenues of the City's Electric System, subject as to such revenues to the prior lien and pledge in favor of the 2011 Bonds.**

The City reserves the right to issue additional electric system revenue bond anticipation notes for the purpose of paying a portion of the costs of the projects financed in part by this issue of notes or of other electric system improvement projects of the City or for the purpose of refunding the notes of this issue at or prior to maturity. Any such notes may be authorized with lien and pledge upon the revenues of the Electric System equal to that provided for the notes of this issue. 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.

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

By \_\_\_\_\_  
Authorized Officer

(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 the City Clerk and shall have 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 (DTC), with one typewritten note certificate per maturity being issued to DTC. In such connection, said officers are authorized to execute and deliver a Letter of Representations in the form required by DTC (which may be in the form of a blanket letter, 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 "Note Participant") or to any person who is an actual purchaser of a Note from a Note 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 Note Participant with respect to any ownership interest in the Notes,

(ii) the delivery to any Note 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 Note 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 Note, 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 Note 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 Note Participants of the availability through the Depository of note certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange note 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 Note is registered in the name of the Depository or any nominee thereof, all payments with respect to such Note and all notices with respect to such Note 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 Note unless and until such partially redeemed Note 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 Note 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 note 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. In case any officer whose signature or facsimile thereof shall appear on any Note shall cease to be such officer before the delivery of such Note (including any note 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 98.90% of the principal amount of the Notes plus accrued interest thereon to date of payment for the Notes. Said initial purchaser 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 and the City's 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 note purchase agreement is executed and delivered by the City with respect to the Notes, this ordinance shall constitute such written agreement for and on behalf of the City.

Section 7. 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 revenue bonds payable from the revenues of the Electric System or other bonds. The City further covenants and agrees to issue and sell the revenue bonds payable from the revenues of its Electric System or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the Notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources. The

City hereby agrees that it will impose rates and charges for the service from and use of its Electric System sufficient to enable the City to issue and sell permanent electric system revenue bonds to pay the Notes herein authorized at or prior to maturity. Subject to the prior lien and pledge in favor of the 2011 Bonds as provided for in the Prior Ordinance, the City hereby pledges the revenues of the Electric System for the payment of the Notes, both principal and interest as the same fall due and the holders of the Notes herein authorized shall have a lien upon the revenues of the City's Electric System, subject in all respects to the rights of the 2011 Bonds as provided for in the Prior Ordinance. The principal of and interest on the Notes may be paid, to the extent not paid from other sources, from revenues of the Electric System in the Surplus Account as established under the Prior Ordinance. The pledge of the revenues of the Electric System provided for in this Ordinance shall not prevent the City from issuing Electric System revenue refunding bonds for purposes of refunding any of the Outstanding Bonds without limitation and any such refunding bonds shall enjoy the same priority of lien over the Notes as the Outstanding Bonds being refunded.

Section 8. The City hereby reserves the right to issue additional 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's Electric System and the City shall have the right to pledge the revenues of the Electric System on an equal and ratable basis with the pledge and lien provided for in this Ordinance for the Notes.

Section 9. The City Clerk shall make and certify a complete transcript of the proceedings had and done by said City precedent to the issuance of said Notes which shall be delivered to the purchaser of the Notes. After being executed by the Mayor and Clerk, said Notes shall be delivered to the City Treasurer who shall be responsible therefor under her official bond. The City Treasurer is authorized and directed to deliver said Notes to the purchaser upon receipt of payment of the purchase price in accordance with the contract of the City with said purchaser.

Section 10. (a) 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 (the "Code"), 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 with the registered owners from time to time of the Notes hereby authorized that it shall comply with all applicable provisions of the Code and any regulations, published rulings and court decisions pursuant thereto, which relate to the exclusion from gross income of interest on the Notes for federal income tax purposes, to the extent necessary to comply with such Code, laws, regulations, published rulings and court decisions or otherwise to preserve such exclusion, including specifically, but without limitation, all arbitrage rebate and information reporting requirements required by the Code.

(b) The City hereby represents and warrants that (i) it reasonably anticipates issuing not more than \$10,000,000 of tax-exempt obligations not including "private activity bonds" as defined in Section 141 of the Code (other than "qualified 501(c)(3) bonds" as defined in Section 145 of the Code) during the 2012 calendar year, (ii) it has not designated more than \$10,000,000 of obligations (including the Notes herein authorized) during the 2012 calendar year to the date of this ordinance as qualified tax-exempt obligations, (iii) the Notes herein authorized are not "private activity bonds" as such term is defined in Section 141(a) of the Code, and (iv) it hereby designates the Notes as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i) of the Code. 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 11. 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 12. 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 13. The Mayor and City Council hereby approve the Preliminary Offering Circular with respect to the Notes and the information therein contained, and the Mayor and City Clerk (or either of them) are authorized to approve and deliver a final Offering Circular for and on behalf of the City. The officers of the City or any one or more of them are hereby authorized to take any and all actions deemed by them necessary in connection with the issuance of the Notes.

Section 14. The City reserves the right to issue refunding notes and provide for the investment of the proceeds thereof for purposes of providing for the payment of principal and interest on the notes in such manner as may be prescribed by law from time to time but specifically including the provisions of Section 10-142, R.R.S. Neb. 2007, or any amendment thereto.

Section 15. The City's obligations under this ordinance shall be fully discharged and satisfied as to the Notes authorized and issued hereunder, and said Notes shall no longer be deemed outstanding hereunder when payment of the principal thereof plus interest thereon to the date of maturity or redemption thereof (a) shall have been made or caused to have been made in accordance with the terms thereof and hereof, or (b) shall have been provided for by depositing in escrow with a national or state bank having trust powers in trust solely for such payment, (i) sufficient monies to make such payment 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 "Government Obligations"), in such amount and with such maturities as to principal and interest as will insure the availability of sufficient monies to make such payment, and thereupon such Notes shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payments, shall no longer be entitled to the benefits of this ordinance; provided that, with respect to any Notes called or to be called for redemption prior to the stated maturity thereof, notice of redemption shall have been duly given or provided for. If monies shall have been deposited in accordance with the terms hereof with the escrow agent in trust for that purpose sufficient to pay the principal of such Notes and all interest due thereon to the due date thereof or to the date fixed for the redemption thereof, all liability of the City for such payment (except from such deposit) shall forthwith cease, determine and be completely discharged, and all such Notes shall no longer be considered outstanding.

Section 16. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Mayor and 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 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 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 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 17 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 18 This Ordinance shall be published in pamphlet form as provided by law and shall take effect upon its publication in pamphlet form as provided by law.

PASSED AND APPROVED this 8<sup>th</sup> day of February 2012.

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Mayor

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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 City, 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 its 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 ordinance(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 made a motion to accept the Keno Lottery Compliance Procedures Report for the Fiscal Year Ended September 30, 2011, as presented by Don Moravec of Moravec and Associates, CPA, P.C. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Svoboda, Smith, Scribner, and Kroesing. Voting NAY: None. The motion carried.

CITY OF DAVID CITY  
KENO LOTTERY  
STATEMENT OF PROCEEDS DISTRIBUTION  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2011

GROSS PROCEEDS		\$240,444.48
PRIZES		
Declared Prizes	\$181,473.36	
Unclaimed Wins	<u>(405.75)</u>	
Net Prizes Paid		<u>181,067.61</u>
NET HOLD		\$59,376.87
ALLOWABLE EXPENSES PAID		
Lottery Operator's Commission		<u>\$33,662.22</u>
NET KENO PROCEEDS		\$25,714.65
EXPENSES PAID BY THE CITY OF DAVID CITY		
Professional Fees/Misc	\$890.00	
State Taxes	<u>3,671.95</u>	
Total Expenses Paid		<u>4,561.95</u>
PROCEEDS AVAILABLE FOR DISTRIBUTION		\$21,152.70
TRANSFERS TO (FROM) OTHER FUNDS		
To the City of David City for Community Betterment	\$9,944.00	
To Prize Reserve Fund	<u>3,598.86</u>	
Total Transfers to Other Funds		<u>13,542.86</u>
NET INCREASE TO KENO ACCOUNT FUND		\$7,609.84
BEGINNING KENO ACCOUNT FUND BALANCE		29,738.45
INTEREST		39.72
PRIOR YEAR PROCEEDS RECEIVED THIS YEAR		3,182.22
CURRENT YEAR PROCEEDS RECEIVED AFTER SEPTEMBER 30, 2011		<u>(685.45)</u>
KENO ACCOUNT FUND BALANCE AT SEPTEMBER 30, 2011		<u><u>\$39,884.78</u></u>

PRIZE RESERVE FUND RECONCILIATION FOR THE REPORTING PERIOD

Beginning Fund Balance	\$2,530.37
Net Transfers to Keno Account	<u>3,598.86</u>
Ending Fund Balance	<u><u>\$6,129.23</u></u>

City of David City  
Keno Lottery  
Statement of Changes in Keno Fund  
For the Fiscal Year Ended September 30, 2011

Beginning Cash 10-01-10		\$32,269.64
Keno Receipts		
City Share	23,208.07	
Unclaimed Wins	397.64	
State Taxes	<u>4,605.70</u>	28,211.41
Interest		39.72
Disbursements		
Community Betterment		9,944.00
State Taxes		3,671.95
Professional Fees/Misc		<u>890.00</u>
Ending Cash 9-30-11		<u><u>\$46,014.82</u></u>
Reconciliation of Keno Fund Bank Activity		
Balance 9-30-11 per Bank		
Union Bank #0905900252	\$3,286.65	
Union Savings #2900847	<u>42,728.17</u>	46,014.82
Less Outstanding Checks		<u>0.00</u>
Balance 9-30-11 per City		<u><u>\$ 46,014.82</u></u>
Reconciliation of Keno Fund City Accounts		
Keno Fund Balance 9-30-11		\$39,884.78
Prize Reserve Fund Balance 9-30-11		6,129.23
Immaterial Difference		0.81
Balance 9-30-11 per City Records		<u><u>\$46,014.82</u></u>

Jodi Prochaska of Kruse, Schumacher, Smejkal, & Brockhaus, PC presented the City/Utility Financial Statements for the year ended September 30, 2011.

Council member Scribner made a motion to accept the City/Utility Financial Statements for the year ended September 30, 2011 as presented. Council member Vandenberg seconded the motion. Voting AYE: Council members Rogers, Svoboda, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny declared the Public Hearing open at 8:14 p.m. to consider the One and Six Year Street Improvement Program for the City.

Street Superintendent Jim McDonald stated: "I believe that Joan sent out maps in your packets. I gave you a Form 8 and a Form 9 of the One and Six Year Street Plan that I will be submitting to the State. This is a report that we are required to do every year by March 1<sup>st</sup> by the State of Nebraska so that we can receive our highway allocation funds. As you see on Form 8, we've already talked about most of the streets that we are going to do. There are five blocks on 10<sup>th</sup> Street, one block on J Street, the other two right now are alternates – the one from 9<sup>th</sup> -10<sup>th</sup> on L Street and 9<sup>th</sup> – 10<sup>th</sup> on M Street. Industrial Drive and "O" Street are also on here, with an engineer's estimate, and I also put the Northwest Drainage Project on here so they will know about that. The bids have already been opened on the Northwest Drainage Project so we know what that's going to be. We won't open bids on Industrial Drive and "O" Street until February 16, 2012. Form 9 is the summary of the Six Year plan. We have to have a public hearing every year to let you know what is going on before we submit this form. After you approve this, we will finish the paper work and get it sent in."

Mayor Zavodny stated: "Have we heard from the State yet on how they are going to handle the intersection at 4<sup>th</sup> and "O" Street?"

Street Superintendent Jim McDonald said, "I have not heard anything from the State yet. We also have a resident that wants to put a driveway in on 4<sup>th</sup> Street. They will have to have a permit for that."

Mayor Zavodny asked McDonald what the rules are on putting in a driveway on the highway.

Street Superintendent Jim McDonald said, "I don't know – it's going to be awfully close to where the intersection is at, so I don't know if the State will let him put a driveway in or not. I really don't see a problem with it, but we just have to wait and see what the State says."

Mayor Zavodny stated that Timpte had called him and they have a board meeting coming up and they were curious on the progress of the Northwest Drainage, Industrial Drive paving, and the street improvements.

Street Superintendent Jim McDonald said, "I know that REA has already started moving poles out there."

Council member Scribner asked about the bridge on "A" Street. He asked McDonald if we can work with the County and start working toward getting that bridge repaired.

Street Superintendent Jim McDonald said, "I talked to Jim Truksa about 5 or 6 years ago about trying to get something done with the bridge. Jim Novacek inspected it and he said that it's ok for now, but it's kind of in the works to get something done with it. One of the items on the agenda is to annex Hilderbrand's addition and there is a bridge there that was built in 1919 and it's very narrow. I'm looking into widening that bridge on the west side. The rest of the bridge looks ok. We are talking

about widening it about 7' on the west side to make it wider so eventually, you will probably want to pave that road up to the cemetery."

Council member Scribner asked if it would be better to build an actual bridge there or do a culvert like they've been doing.

Street Superintendent Jim McDonald said, "There is a concrete box bridge there now and the last time that it was looked at, the construction of the bridge was fine, so all we need to do is tie into the existing bridge, and build 6' or 7' over to widen the road out to get it to the minimum design standard of two 11' lanes."

Mayor Zavodny asked McDonald if they would do all of that by going west.

Street Superintendent Jim McDonald said, "Yes. If you stand to the north and look at the road, you'll see that the east side actually is off the edge of the road a little bit and the west side is actually protruding into the north bound lane. I need to get some structural people to tell me how to tie into the bridge so that it will hold, before we do anything. I talked to the Meister's about doing it and they said that they've done it before, so they should be able to do it."

Mayor Zavodny asked McDonald if there were any flood plain issues.

Street Superintendent Jim McDonald said, "Matt Rief looked at the drainage study over there. I had him look at the drainage study before I decided to use the existing structure. He said if it was adequate then, that it should be adequate now. He doesn't see anything downstream or upstream. I asked Matt Rief to give me that finding in writing. He said you can't raise the road up and you need to keep the opening of the bridge the same size that it is now – you can't change any of that."

Mayor Zavodny stated that he thinks that we should absolutely check with FEMA and Army Corps of Engineers because it's probably a U.S. waterway.

Street Superintendent Jim McDonald said, "I'm going to try to get ahold of somebody from the State of Nebraska that does bridge design and have them come and look at it and give me some information or give me examples of how they would tie into the existing bridge."

There being no questions or comments Mayor Zavodny closed the Public Hearing at 8:21 p.m.

Council member Smith introduced Resolution No. 2 - 2012 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 2 - 2012 was passed and approved as follows:

### **RESOLUTION NO. 2 - 2012**

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on February 8, 2012, in accordance with the requirements of the Board of Public Roads Classifications and Standards.

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

PASSED AND APPROVED this 8<sup>th</sup> day of February, 2012.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Mayor Zavodny declared the Public Hearing open at 8:22 p.m. to consider an application to the Nebraska Department of Economic Development for a Community Development Block Grant. The City is requesting \$300,000 for the Bone Creek Museum of Agrarian Art and the renovation of the main level of the building located at 312 N. 5<sup>th</sup> Street (Ford Building).

City Attorney Jim Egr stated that the City would not be responsible for this. The City is just a pass through for the Grant.

There being no questions or comments Mayor Zavodny closed the Public Hearing at 8:23 p.m.

Council member Scribner made a motion to authorize Mayor Zavodny to sign the application to the Nebraska Department of Economic Development for a Community Development Block Grant and approve the submission of the application. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Smith, Kroesing, Rogers and Svoboda. Voting NAY: None. The motion carried.

Mayor Zavodny stated that paying the employees their HSA payment monthly will save the City about \$9,000 since there are three employees that will be leaving within the next few months, however, we may need to revisit this at some point, because we want our employees to be able to meet their deductible.

Council member Smith introduced Resolution No. 3 - 2012 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Smith, Rogers, Svoboda, Kroesing and Scribner. Voting NAY: None. The motion carried and Resolution No. 3 – 2012 was passed and adopted as follows:

**RESOLUTION NO. 3 - 2012**

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA UPDATING THE DAVID CITY PERSONNEL MANUAL BY AMENDING CHAPTER 4 SECTION 4.01 -MEDICAL AND LIFE INSURANCE - TO STATE THAT THE CITY WILL CONTRIBUTE 75% OF THE DEDUCTIBLE (\$3,000 FOR FAMILY; \$1,500 FOR INDIVIDUALS), WHICH MONEY WILL BE A PRO-RATED PAYMENT THAT WILL BE MADE MONTHLY AS LONG AS THE EMPLOYEE IS ACTUALLY EMPLOYED AND ELIGIBLE, DEPOSITED DIRECTLY INTO THE EMPLOYEES HSA ACCOUNT; 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 the City will contribute 75% of the health insurance deductible (\$3,000 for family; \$1,500 for individuals) which money will be a pro-rated payment that will be made monthly as long as the employee is actually employed and eligible, deposited directly into the employees HSA Account.

PASSED AND APPROVED this 8<sup>th</sup> day of February, 2012.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Council member Smith made a motion to pass Ordinance No. 1165 on the third and final reading. Council member Kroesing seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, and Rogers. Voting NAY: Council member Vandenberg and Svoboda. The motion carried and Ordinance No. 1165 was passed on the third and final reading only as follows:

**ORDINANCE NO. 1165**

AN ORDINANCE ADOPTING A ONE PERCENT (1%) COST OF LIVING ADJUSTMENT (COLA) FOR FULL-TIME AND PERMANENT PART-TIME EMPLOYEES; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

**SECTION 1.** The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales and salaries for the following positions for the appointed officers and employees of the City of David City, Nebraska:

Full-Time Staff (Hourly Rate of Pay)

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	Probationary	6 mo.	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>Office Staff</u>															
Clerical I	9.60	9.81	10.03	10.26	10.48	10.73	10.97	11.21	11.46	11.73	11.99	12.25	12.53	12.82	13.10
Acct Clerk I	11.70	11.96	12.23	12.50	12.79	13.07	13.36	13.67	13.98	14.29	14.61	14.94	15.27	15.61	15.97
Acct Clerk II	13.64	13.94	14.25	14.57	14.91	15.24	15.58	15.94	16.29	16.65	17.03	17.41	17.81	18.21	18.61
(incl .50/hr CMC)															

	Probationary	6 mo.	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>Utility Staff</u>															
Power Plant Op I	12.04	12.31	12.58	12.87	13.16	13.45	13.76	14.07	14.38	14.71	15.04	15.38	15.73	16.08	16.44
Power Plant Op II	15.10	15.44	15.79	16.14	16.50	16.88	17.26	17.64	18.04	18.44	18.87	19.29	19.73	20.16	20.61
Power Plant Op III	15.52	15.88	16.23	16.59	16.97	17.35	17.75	18.14	18.54	18.97	19.39	19.83	20.27	20.74	21.20
Apprentice Lineman	13.33	13.62	13.94	14.25	14.56	14.90	15.23	15.57	15.93	16.28	16.64	17.03	17.40	17.80	18.20
Line worker II	17.50	17.89	18.29	18.71	19.13	19.55	20.00	20.44	20.91	21.38	21.86	22.35	22.86	23.37	23.90
Line worker I	18.40	18.82	19.24	19.67	20.12	20.56	21.03	21.50	21.99	22.48	22.99	23.50	24.04	24.57	25.13
Line Foreman	19.83	20.27	20.73	21.19	21.66	22.16	22.65	23.16	23.68	24.22	24.77	25.32	25.89	26.47	27.07
Water/Sewer Op I	11.45	11.72	11.98	12.24	12.52	12.80	13.09	13.38	13.69	13.99	14.31	14.62	14.96	15.29	15.63
WA/SE Op I w Gr VI	12.13	12.40	12.68	12.97	13.26	13.55	13.86	14.17	14.49	14.82	15.15	15.49	15.84	16.20	16.56
WA/SE Operator II	13.83	14.13	14.45	14.78	15.11	15.45	15.80	16.15	16.51	16.89	17.27	17.65	18.05	18.46	18.88
WA/SE Op I I w Gr VI	14.48	14.82	15.15	15.48	15.84	16.19	16.55	16.93	17.31	17.70	18.10	18.50	18.92	19.34	19.79
WA/SE Op III w Gr VI	16.55	16.93	17.31	17.70	18.10	18.50	18.92	19.34	19.78	20.22	20.67	21.15	21.62	22.11	22.60
Waste Water Plt Op	15.62	15.98	16.33	16.70	17.08	17.46	17.86	18.25	18.66	19.09	19.51	19.96	20.40	20.87	21.33

	Probation	6 mo	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>City Maint. Staff</u>															
Laborer I	9.60	9.81	10.03	10.26	10.48	10.73	10.97	11.21	11.46	11.73	11.99	12.25	12.53	12.82	13.10
Laborer II	11.32	11.57	11.84	12.10	12.37	12.66	12.94	13.23	13.52	13.84	14.14	14.46	14.79	15.12	15.46
Maint Worker I	11.89	12.15	12.43	12.71	13.00	13.29	13.58	13.89	14.20	14.52	14.85	15.18	15.52	15.88	16.23
Maint Worker II	12.47	12.76	13.04	13.33	13.64	13.94	14.25	14.57	14.91	15.24	15.58	15.93	16.29	16.65	17.03
Street Foreman	15.33	15.68	16.03	16.39	16.76	17.14	17.52	17.92	18.32	18.74	19.15	19.58	20.03	20.47	20.94

<u>Police Staff</u>															
Police Officer	13.96	14.28	14.60	14.93	15.27	15.61	15.97	16.32	16.69	17.07	17.45	17.85	18.24	18.65	19.07

	Probationary	6 Mo	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>Department Supervisors</u>															
Park & Aud Supt.	15.27	15.61	15.96	16.32	16.69	17.07	17.45	17.84	18.24	18.65	19.07	19.50	19.94	20.39	20.85
Licensed Street Supt.	18.89	19.31	19.75	20.19	20.64	21.11	21.58	22.07	22.56	23.08	23.59	24.13	24.66	25.22	25.79
Water Super w/Gr VI	18.60	19.02	19.45	19.89	20.33	20.80	21.26	21.74	22.23	22.73	23.24	23.77	24.30	24.85	25.40
Wastewater Super w/Gr VI	18.60	19.02	19.45	19.89	20.33	20.80	21.26	21.74	22.23	22.73	23.24	23.77	24.30	24.85	25.40

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Power Plant Supervisor	19.47	19.91	20.35	20.82	21.28	21.76	22.25	22.75	23.26	23.79	24.32	24.87	25.42	26.00	26.58
Electric Supervisor	22.20	22.70	23.21	23.74	24.27	24.82	25.37	25.95	26.52	27.12	27.73	28.36	29.00	29.64	30.31

Notes:

- 1) 15 Steps Total
- 2) Approximately 2.25% between steps
- 3) The salary range from Probationary Salary to Step 13 (maximum) is 37%

Permanent Part-Time Staff (Hourly Rate of Pay)

	Probationary	6 Mo	1	2	3	4	5	6	7	8	9	10	11	12	13
Permanent Part-time workers	8.50	8.70	8.89	9.09	9.29	9.50	9.72	9.94	10.16	10.39	10.63	10.86	11.11	11.35	11.62
Zoning Inspector	16.08	16.44	16.81	17.19	17.57	17.97	18.37	18.79	19.21	19.64	20.08	20.53	21.00	21.47	21.95
	Seasonal/Provisional														
STEPS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Swimming Lesson Aid Concession Games/Cleaning Bartenders	7.25	7.41	7.58	7.75	7.92	8.10	8.29	8.47	8.66	8.86	9.06	9.26	9.47	9.68	9.90
Lifeguard	7.43	7.60	7.77	7.94	8.12	8.30	8.49	8.68	8.88	9.08	9.28	9.49	9.70	9.92	10.15
WSI Lifeguard General Laborer	7.61	7.78	7.96	8.14	8.32	8.51	8.70	8.89	9.09	9.30	9.51	9.72	9.94	10.16	10.39
Water Aerobics Instructor	7.80	7.98	8.15	8.34	8.53	8.72	8.91	9.11	9.32	9.53	9.74	9.96	10.19	10.42	10.65
Head Lifeguard	9.18	9.39	9.60	9.81	10.03	10.26	10.49	10.73	10.97	11.22	11.47	11.73	11.99	12.26	12.54
Asst. Aquatic Center Manager	10.68	10.92	11.17	11.42	11.67	11.94	12.21	12.48	12.76	13.05	13.34	13.64	13.95	14.26	14.58
Aquatic Center Manager	11.10	11.35	11.61	11.87	12.13	12.41	12.69	12.97	13.26	13.56	13.87	14.18	14.50	14.82	15.16

Salaried Staff Pay Plan (Annual Rate of Pay)

Position	Minimum	Mid Point	Maximum
Clerk/Treas.	\$44,117	\$52,179	\$60,240
Police Chief	\$41,197	\$48,725	\$56,253
Lieutenant/ Asst. Chief	\$38,277	\$45,271	\$52,266

Notes:

- 1) Exempt (salaried) Employees are subject to the same 2.25% annual step increase as non-exempt employees as well as any Cost-of-Living Adjustments (COLA) as approved by Council.
- 2) The range spread from Minimum Starting to Maximum salary is 37%.

**SECTION 3.** 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 4. This ordinance shall be published in pamphlet form and shall be in full force and effect retro active to September 24, 2011 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 8<sup>th</sup> day of February, 2012.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Council member Smith made a motion to pass Ordinance No. 1166 on the second reading only. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Rogers, Kroesing and Smith. Voting NAY: Council members Vandenberg and Svoboda. The motion carried and Ordinance No. 1166 was passed on the 2<sup>nd</sup> reading only as follows:

**ORDINANCE NO. 1166**

AN ORDINANCE STATING THAT THE EMPLOYEES OF THE CITY OF DAVID CITY / DAVID CITY UTILITIES, ARE NOT FROZEN IN THEIR CURRENT PAY STEPS FOR THE FISCAL YEAR OCTOBER 1, 2011 TO SEPTEMBER 30, 2012; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The City Council of David City, Nebraska, passed and adopted Ordinance No. 1166 stating that all employees of the City of David City / David City Utilities shall be frozen in their current pay steps, salaries, rate of pay, etc., for fiscal year October 1, 2011 thru September 30, 2012, and that any advancements to a different pay step, or a different pay line, must be authorized by the Mayor and City Council.

SECTION 3. After further consideration it has been decided that all employees of the City of David City / David City Utilities shall not be frozen in their current pay steps, salaries, rate of pay, etc., for fiscal year October 1, 2011 thru September 30, 2012.

SECTION 4. 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 5. This ordinance shall be published in pamphlet form and shall be in full force and effect retro active to September 24, 2011 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2012.

Passed on 2<sup>nd</sup> reading only on 2-08-12  
Mayor Alan Zavodny

Passed on 2<sup>nd</sup> reading only on 2-08-12  
Interim City Clerk Tami Comte

Council member Scribner introduced Ordinance No. 1170.

Council member Svoboda made a motion to pass Ordinance No. 1170 on the 1<sup>st</sup> reading only with the amendment to use the pay line for the Manager and Assistant Managers from Ordinance No. 1165. Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Scribner, Vandenberg and Smith. Voting NAY: Council members Rogers and Kroesing. The motion carried and Ordinance No. 1170 was passed on the 1<sup>st</sup> reading only as follows:

**ORDINANCE NO. 1170**

AN ORDINANCE AMENDING THE PAY STEPS FOR THE SEASONAL AQUATIC CENTER STAFF OF THE CITY OF DAVID CITY, NEBRASKA; TO REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales for the Seasonal Aquatic Center Staff:

	A	B	C	D	E	F	G	H	I	J
Years in Position	1	2	3	4	5	6	7	8	9	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 \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Passed on 1<sup>st</sup> reading only on 2-08-12  
Mayor Alan Zavodny

Passed on 1<sup>st</sup> reading only on 2-08-12  
Interim City Clerk Tami Comte

Council member Kroesing made a motion to pass Ordinance No. 1167 on 2<sup>nd</sup> reading only. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Smith, Svoboda, Rogers and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1167 was passed on 2<sup>nd</sup> reading only as follows:

**ORDINANCE NO. 1167**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, HILDY ADDITION, A TRACT OF LAND LOCATED in the SW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 29 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska described as follows: Beginning at a Point on the west line of said NW<sup>1</sup>/<sub>4</sub>, said Point being 201.86 feet south of the southwest corner of East Park Meadows Addition to David City, and assuming the west line of said NW <sup>1</sup>/<sub>4</sub> to have a bearing of N 0° 00' 00" W; thence S 88° 46' 34" E, 173.00 feet; thence S 56° 34' 10" E, 164.12 feet; thence S 52° 39' 20" E, 75.47 feet; thence S 64° 03' 10" E, 151.00 feet; thence S 3° 03' 20" W, 294.92 feet; thence N 88° 46' 34" W, 490.11 feet, to a point on the west line of said NW<sup>1</sup>/<sub>4</sub>; thence N 0° 00' 00" W, 490.00 feet, to the Point of Beginning, containing 4.84 acres, more or less; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of land located in the SW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 29 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska described as follows: Beginning at a Point on the west line of said NW<sup>1</sup>/<sub>4</sub>, said Point being 201.86 feet south of the southwest corner of East Park Meadows Addition to David City, and assuming the west line of said NW <sup>1</sup>/<sub>4</sub> to have a bearing of N 0° 00' 00" W; thence S 88° 46' 34" E, 173.00 feet; thence S 56° 34' 10" E, 164.12 feet; thence S 52° 39' 20" E, 75.47 feet; thence S 64° 03' 10" E, 151.00 feet; thence S 3° 03' 20" W, 294.92 feet; thence N 88° 46' 34" W, 490.11 feet, to a point on the west line of said NW<sup>1</sup>/<sub>4</sub>; thence N 0° 00' 00" W, 490.00 feet, to the Point of Beginning, containing 4.84 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City electricity, water, and sewer will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said

City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Section 1 (a) above.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 6: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Passed on 2<sup>nd</sup> reading only 2/08/12  
Mayor Alan Zavodny

Passed on 2<sup>nd</sup> reading only 2/08/12  
Interim City Clerk Tami Comte

Council member Vandenberg introduced Resolution No. 4-2012 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Smith, Kroesing, Rogers, Scribner and Svoboda. Voting NAY: None. The motion carried and Resolution No. 4-2012 was passed and adopted as follows:

**RESOLUTION NO. 4 – 2012**

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, ESTABLISHING REGULATIONS FOR THE CITY OWNED RV PARKING AREA LOCATED AT THE MUNICIPAL PARK.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as "City") is an independent body of government, and

WHEREAS, the City owns and operates an RV Parking Area (hereinafter referred to as "RV Park"), and

WHEREAS, the City does not have any regulations for RV Park, and

WHEREAS, concerns have developed among the citizens of the City, regarding RV park users making the RV Park their residence.

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of David City, Nebraska, that the following regulations be in full force and effect and posted in clear view of the general public at the RV Park:

**CITY OF DAVID CITY, NEBRASKA  
Park Rules and Regulations**

The City of David City has established Rules and Regulations to protect the Municipal RV Park for the enjoyment, convenience, health and safety of guests. The rules should be observed in the spirit of consideration for others. The City of David City and RV Park management reserves the right to deny privileges or access to persons breaking any park rules.

1. Visitors must vacate the RV Park by removing all RV's, camping vehicles, trailers, passenger vehicles, and personal property before Noon or be subjected to an additional days fee.
2. Fees must be paid in advance. Payment for services not rendered will be reimbursed. No specific spaces can be reserved.
3. No more than two (2) additional vehicles per space
4. Waste, water, sewage or effluent from sinks, portable toilets or other plumbing fixtures must be deposited at the dump station only, and may not be deposited directly on any pavement, dirt or vegetation.
5. Pets may not to be left unattended outdoors at any time.
6. Pets must be contained or restrained on a leash of less than 6 feet at all times.
7. Droppings and accidental waste material from pets must be picked up immediately and removed to trash dumpster. Limit two (2) pets per site.
8. Quiet hours are from 10:00 p.m. to 6:00 a.m. daily. (Generators may be operated only between the hours of 8:00 a.m. and 8:00 p.m.) Please ensure that speakers, radios, televisions, etc. or other machinery do not emit sound beyond your space.
9. One tent or camping unit per site.
10. No vehicle repairs, maintenance activities, fluid changes, washing/rinsing of vehicles/RV's are permitted in Park. Vehicles leaking oil, gas, or other liquids or matter must be removed from the campsite and grounds immediately.
11. Rope, wire, or string may not be attached to any trees, vegetation, poles or City property at any time.
12. No defacing or cutting of trees and shrubs.
13. All property must be in the confines of the parking space. Parking on access road prohibited.
14. No open fires in the Park.
15. Trash receptacles are provided throughout the RV Park.
16. Pay phone is located on the north side of the RV Park
17. Payment drop box is located on the south side of the RV Park.
18. Restrooms are located in the City Park, to the south of the RV Park
19. All federal, state, and local laws must be obeyed at all times.
20. All signs, posted notices and directions of the RV Park manager must be obeyed. Non-compliance may result in immediate loss of parking privileges.
21. RV Park management reserves the right to determine if a parking space is deemed unsightly or a nuisance
22. The City of David City and the RV Park management assume no responsibility or liability for the safety and security of campers/visitors and their personal property. The City of David City and RV Park management is not responsible for loss or damage of your personal property caused by fire, theft, accident, or vandalism

Occupants who fail to pay the full amount of space rental when due, or for failure to comply with written rules and regulations of the Park, may be asked to vacate immediately.

Responsible law enforcement agency: David City Police Department

PASSED AND APPROVED this 8<sup>th</sup> day of February, 2012.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Council member Scribner stated that he will be unable to attend the City/County disaster drill meeting scheduled for Wednesday, February 22, 2012 and asked if the Mayor or a Council member could fill in for him. Mayor Zavodny and Council member Svoboda both said that they would try to attend.

Ryan Nelson from Ryan's Roadhouse was present to request closing part of the street in front of his bar on E Street between 4<sup>th</sup> & 5<sup>th</sup> Streets to hold a street dance. Some of the concerns expressed were security, possible vandalism of the adjacent businesses, insurance, and disruption of the Butler County jail. Nelson was told that he would need to address these issues and he would also be responsible for applying for a Street Use Permit and a Special Designated Liquor Permit from the Nebraska Liquor Control Commission. The issue was referred to committee.

Council member Scribner made a motion to table consideration of the request by Ryan Nelson d.b.a. Ryan's Roadhouse for a street dance. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Smith, Rogers, Svoboda and Kroesing. Voting NAY: None. The motion carried.

Council member Scribner made a motion to accept the resignation of Electric Plant employee J. Robert Palik effective April 27, 2012. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Smith, Svoboda, Kroesing and Rogers. Voting NAY: None. The motion carried.

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

Mayor Zavodny stated, "Now at 9:10 p.m. we are going into executive session to discuss personnel issues." Mayor Zavodny, all of the Council members, City Attorney Egr, Interim City Administrator Kovar, and Interim City Clerk Comte went into executive session at 9:10 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 9:52 p.m.

There being no further business to come before the Council, Council member Vandenberg made a motion to adjourn. Council member Kroesing seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Svoboda, Scribner, and Smith. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:52 p.m.



CERTIFICATION OF MINUTES  
February 8, 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 February 8, 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.

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Tami L. Comte, Interim City Clerk