

## CITY COUNCIL PROCEEDINGS

August 10, 2011

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 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 August 4<sup>th</sup>, 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, Bill Scribner, John Vandenberg, Ruddy Svoboda, and City Attorney James Egr, Interim City Administrator Joan Kovar and Interim Clerk-Treasurer Tami Comte. Council member Gary Smith arrived at 8:00 p.m. Council member Mike Rogers was absent.

Also present were: Police Chief Anthony McPhillips, Park/Auditorium Supervisor Scott Bales, Water/Wastewater Supervisor Gary Janicek, Jim Condon and Craig Reinsch from Olsson Associates, Janis Cameron, Carolyn Yates, Joy Fountain, Jim Witter, Deb Dinkelman, Tom Reisdorff, Dr. Russell Heller, Water/Wasterwater employee Scott Steager, Rick Schneider 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 July 13, 2011 meeting of the Mayor and City Council were approved upon a motion by Council member Scribner and seconded by Council member Vandenberg. Voting AYE: Council members Svoboda, Vandenberg, Scribner, Kroesing. Voting NAY: None. The motion carried. Council members Smith and Rogers were absent.

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

Mayor Zavodny called for Committee and Officer Reports. Mayor Zavodny asked Water/Wastewater Supervisor Gary Janicek how things were going since he has been doing double duty. Janicek stated that they have been working very hard to try to get the wastewater plant back up and running. There were two sludge pumps that have been down. They have one repaired and the other one will be finished tomorrow. They are up to date on their sampling and the testing has all come back and everything is good.

Mayor Zavodny noted that Chief McPhillips reported that Randy Janak sold the cars that he had on his lot, however, there are still 14 cars that need to be removed. Chief McPhillips was instructed to tell Janak that he has until Sunday morning to move the cars.

Chief McPhillips stated that the County has been working on the space for the police department and trying to get it ready to be painted. Chief McPhillips was asked to have the invoices for his furniture purchases to the City Office as soon as possible so that the checks can be cut before the end of the fiscal year.

Airport concerns were discussed. Council member Kroesing made a motion to approve the committee and officer reports as presented. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Svoboda, Scribner and Kroesing. Voting NAY: None. The motion carried. Council members Smith and Rogers were absent.

Council member Scribner made a motion to approve the bingo permit for the Knights of Columbus Council No. 1717, at 517 4<sup>th</sup> Street. Council member Kroesing seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Scribner and Kroesing. Voting NAY: None. The motion carried. Council members Smith and Rogers were absent.

Chief McPhillips introduced John Sumsion and asked the Mayor and Council to appoint him as a new police officer for David City. Council member Scribner made a motion to appoint John Sumsion as a police officer for David City, Nebraska. Council member Svoboda seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Scribner and Kroesing. Voting NAY: None. The motion carried. Council members Smith and Rogers were absent.

Chief McPhillips stated that the City currently has four defibrillators. They were placed at the Senior Center, David City High School gymnasium, the Fire Dept. and the Police Dept. Chief McPhillips was contacted by Cardiac Science who makes the defibrillators and they told him that there was an upgrade that was needed for them. He stated that it took him a while but he got them all rounded up and he got the upgrade software to put into them but he couldn't do the upgrade because the batteries were dead. Each battery is approximately \$300.00 to replace. Chief McPhillips stated that the defibrillators were purchased through a grant that was received before he was Chief.

After some discussion, it was decided to have Chief McPhillips contact the entities where the defibrillators had been located and ask if they still wanted them and the City would transfer ownership to each entity and they would then be responsible for maintenance and upkeep.

It was decided to ask Aquinas High School if they had a defibrillator and if they don't, to transfer the one from the Police Dept. to them, if they want it.

City Attorney Egr stated that the County reviewed the lease agreement, however they wanted the County Attorney to review it. He stated that it looks like they will approve it on Monday, August 15<sup>th</sup> at the County Board meeting. Council member Scribner made a motion to authorize Mayor Zavodny to execute a lease agreement with Butler County for space located in the Butler County Courthouse for a five (5) year term with a monthly rent of \$750 for the location of the City Police Department subject to approval by the County Board of Supervisors. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Kroesing and Vandenberg. Voting NAY: Council member Svoboda. City Attorney Jim Egr stated that the motion carried. Council members Rogers and Smith were absent.

Council member Kroesing stated that he asked Interim Administrator Joan Kovar and Sheriff Mark Hecker to find information from other towns in the state about ATV's and between

the two of them they touched base with 39 towns that have passed an ATV Ordinance. Out of 20 towns that have a penalty clause, this one is the heaviest.

Council member Scribner stated that he would like to see the Ordinance amended to include no passengers on the ATV's.

There was a question of the city having liability if someone was injured on an ATV. City Attorney Egr stated that no extra coverage was needed. The City has no exposure.

Council member Kroesing made a motion to pass Ordinance No. 1148 on third and final reading. Council member Svoboda seconded the motion. Voting AYE: Council members Kroesing and Svoboda. Voting NAY: Council members Scribner and Vandenberg. Mayor Zavodny voted NAY. The motion failed. Council members Rogers and Smith were absent.

### **ORDINANCE NO. 1148**

AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of all-terrain vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that all-terrain vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (A) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.

- (B) A non-refundable **application fee of \$50.00** shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (C) The permit is valid only one (1) year from the date of its issuance.
- (D) Operators of all-terrain vehicles must **be at least 21 years of age** and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (E) All-terrain vehicles may be operated only between the hours of sunrise and sunset.
- (F) Operators shall have liability insurance coverage for the all-terrain vehicles effective while operating the same within the corporate limits of the City.
- (G) Operators shall not operate an all-terrain vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (H) A person operating an all-terrain vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (I) When a person is operating an all-terrain vehicle the headlight and taillight of said vehicle should be on.
- (J) When a person is operating an all-terrain vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (K) **When operating an all-terrain vehicle, the operator must follow and obey all rules of the road.**
- (L) An all-terrain vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
  - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

- (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
- (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
- (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

**SECTION 4: PENALTY**

Any person violating the terms of this ordinance shall be guilty of an offense, fined in a sum of not more than \$500.00, and shall have the registration revoked as to the vehicle involved in said offense as follows:

- a. For the 1<sup>st</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2<sup>nd</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3<sup>rd</sup> offense, use of said vehicle shall be permanently prohibited within the City of David City.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Failed on third & final reading  
Mayor Alan Zavodny

ATTEST:  
(Seal)

Failed on third and final reading  
Interim City Clerk Tami Comte

Council member Scribner made a motion to table Ordinance No. 1149 indefinitely. The motion died for lack of a second.

Council member Svoboda made a motion to pass Ordinance No. 1149 on third and final reading. The motion died for lack of a second.

### **ORDINANCE NO. 1149**

AN ORDINANCE AUTHORIZING THE OPERATION OF UTILITY TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

**SECTION 1:** Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of utility-type vehicles.

**SECTION 2:** It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that utility-type vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

**SECTION 3:** It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (M) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.
- (N) A non-refundable **application fee of \$50.00** shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (O) Operators of utility-type vehicles must **be at least 21 years of age** and have a valid Class "O" operator's license or a farm permit as provided in Section 60-

4,126 of the Revised Statutes of Nebraska, Reissue 2010.

- (P) Utility-type vehicles may be operated only between the hours of sunrise and sunset.
- (Q) Operators shall follow and obey all rules of the road.**
- (R) Operators shall have liability insurance coverage for the utility-type vehicles effective while operating the same within the corporate limits of the City.
- (S) Operators shall not operate a utility-type vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (T) A person operating a utility-type vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (U) When a person is operating a utility-type vehicle the headlight and taillight of said vehicle should be on.
- (V) When a person is operating a utility-type vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (W) A utility-type vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
  - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
  - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
  - (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
  - (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

#### **SECTION 4: PENALTY**

Any person violating the terms of this ordinance shall be guilty of an offense, fined in a sum of not more than \$500.00, and shall have the registration revoked as to the vehicle involved in said offense as follows:

- a. For the 1<sup>st</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2<sup>nd</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3<sup>rd</sup> offense, use of said vehicle shall be permanently prohibited within the City of David City.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASS AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

Died for lack of a second  
Mayor Alan Zavodny

Died for lack of a second  
Interim City Clerk Tami Comte

Council member Scribner introduced Ordinance No. 1153.

Council member Scribner made a motion to pass Ordinance No. 1153 on first reading only. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Scribner, Kroesing and Vandenberg. Voting NAY: None. Council members Smith and Rogers were absent. The motion carried and Ordinance No. 1153 was passed on first reading only as follows:

**ORDINANCE NO. 1153**

**AN ORDINANCE AMENDING CHAPTER 8; ARTICLE 5 TREES; OF THE DAVID CITY MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

SECTION 1: Chapter 8; Article 5 – Trees; is hereby amended to read as follows:

**Article 5. Trees**

**§8-501 TREES; DEFINITIONS.**

STREET TREES. "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on street right-of-way, commonly called parquets, lying between property lines on either side of all streets, avenues, and ways within the City, and the street driving surface.

PARK TREES. "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.

COMMUNITY FORESTER. "Community Forester" shall be the City employee responsible for the funding and application of Tree City U.S.A.

**§8-502 TREES; STREET TREE SPECIES NOT TO BE PLANTED.**

Austrees	Elm Trees	Shrubbery of all types
Black Locust	Fruit Trees	Siberian Elm
Black Walnut	Poplars	Silver Maples
Conifers	Seedless Cottonwoods	Tree of Heaven
Cottonwood		

**§8-503 TREES; PUBLIC TREE CARE.**

(1) The City shall have the right to plant, maintain, and remove trees and shrubs on all public areas to ensure public safety and to preserve the continuity and aesthetic beauty of such public grounds.

(2) The City Tree Board may remove or order removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, underground utilities, and other public improvements, or is infected with an injurious fungus, insect or other pest.

(3) The City Tree Board shall also have cause to order removed any tree or part thereof which is deemed hazardous to private property or the general public.

(4) Planting trees on adjacent property is not affected by this Article except to the extent of provisions of section 8-506 and Attachment A.

(5) The adjacent or abutting property owners shall have the responsibility to perform appropriate tree care on their street trees.

**§8-504 TREES; CLEARANCE OVER STREETS AND WALKWAYS.**

(1) Clearance over streets and walkways shall be the responsibility of the adjacent or abutting property owner. A clearance of eight feet (8') will be maintained over the

walkways and clearance of fourteen feet (14') will be maintained over streets and alleys.

(2) Property owners are responsible for the trees on their own property.

(3) It shall be the responsibility of the Utility Department to prune any trees in close proximity to utility lines.

**§8-505 TREES; DISTANCES FOR PLANTING.**

(1) Street trees may be planted in the parqu岸 where there is more than eight feet (8') between the edge of the sidewalk and the curb of the street. Trees planted in the parqu岸 shall be equidistant from the sidewalk and the curb. Street or private property trees shall not be planted any closer than five feet (5') from a sidewalk.

(2) No tree shall be planted closer than thirty-five feet (35') from the street corner, measured from the point of the nearest intersection of curbs or curb lines

(3) Large trees are those that reach mature heights exceeding forty feet (40'). Medium trees have a mature height of twenty-five feet (25') to forty feet (40'), and small (ornamental) trees have a mature height of less than twenty-five feet (25').

(4) Large or medium street trees shall not be planted closer than thirty-five feet (35') from another tree.

(5) Small (ornamental) trees shall not be planted closer than twenty-five feet (25') from another tree.

(6) No tree shall be planted closer than ten feet (10') from a fire hydrant or utility pole.

**§8-506 TREES; TREE TOPPING AND TRIMMING.**

It shall be unlawful to top any tree. Topping is defined as the severe cutting back of limbs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions will be pruned using other acceptable pruning techniques, such as drop crotch pruning or directional pruning.

**§8-507 TREES; TREE REMOVAL PERMIT.**

(1) It shall be unlawful for any person, property owner, homeowner or any firm engaged in the business or occupation, for hire or other valuable consideration, to prune, treat or remove any street or any park trees within the City without first applying for and procuring a permit. There shall be no permit fee. The permit is obtained at the City Office during regular business hours.

- (2) The property owner will be required to submit two (2) written estimates with the tree removal application. The City will normally cost share on the removal;
- (3) After the bids / estimates have been reviewed, the City Street Superintendent will notify the bid winner (tree removal estimate);
- (4) If a tree is a hazard or a public safety concern, and the tree needs to be removed quickly, the requirement of two (2) estimates can be skipped with the approval of the Mayor or Council President;
- (5) Trees must be cut down within 30 days of the issuance of the permit;
- (6) The City Office must be notified one (1) day prior to the actual tree removal;
- (7) During the cutting of anything within ten feet (10') of any street, the police department must be contacted and traffic caution cones must be placed on the street(s);
- (8) A safety letter is to be written by the City Attorney notifying residents of a hazardous tree and the time line in which to remove the tree and cost share with the City;
- (9) If the City removes, or has removed, a dead or hazardous tree the cost is to be assessed against the property;
- (10) Work performed by any public service company or City employee in the pursuit of the public service endeavors shall be exempt from this requirement.

**§8-508 TREES; STUMP REMOVAL.**

After any street or park tree is removed, the stump shall be removed at least four inches (4") below the surface of the ground and the remaining hole shall be filled with suitable soil. **The City will provide the tree stump removal if the home owner removes the tree following the approval of the tree removal application.**

**§8-509 TREES; BUSINESS LICENSE.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the City of David City, Nebraska without first filing for and paying a \$25.00 annual license fee based on a calendar year, due January 1. Individual homeowners and property owners pruning, treating or removing street in compliance with Article 8 shall be exempt from licensing, however shall be required to apply for a permit and comply with all requirements required in §8-507 and §8-510 prior to commencing any work.

**§8-510 TREES; INSURANCE REQUIREMENTS.**

(1) It shall be unlawful for any person or firm to engage in the business or occupation or pruning, treating or removing street or park trees within the City of David City, Nebraska without filing evidence of bond or insurance in the minimum amounts of five hundred thousand dollars (\$500,000.00) for bodily injury and five hundred thousand dollars (\$500,000.00) property damage, which shall be on file with the City Clerk.

(2) It shall be unlawful for individual homeowners and property owners to prune, treat or remove street trees within the City of David City, Nebraska without filing evidence of home owners insurance.

(3) Exempt from this requirement are: a) Any pruning and removals under the diameter of four inches (4") at the last cut, and b) any public employees doing such work in the pursuit of their public service endeavor.

**§8-511 TREES; PENALTY.**

(1) It shall be unlawful for any person to prevent the appointed representative from entering on to property for purposes of carrying out his or her duties, hereunder, or to interfere with the appointed representatives in the lawful performance of his or her duties under the provisions of this Article.

(2) Any persons violating any provision shall be subject to a fine not to exceed one hundred dollars (\$100.00). (Ordinance No. 1079 6-11-08)

SECTION 2. All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 10<sup>th</sup> day of August, 2011.

Passed on 1<sup>st</sup> reading only  
Mayor Alan Zavodny

Passed on 1<sup>st</sup> reading only  
Interim City Clerk Tami Comte

Council member Smith arrived at 8:00 p.m.

Jim Condon, with Olsson Associates, was present to discuss the wastewater project. He stated that they have been talking to the state and they received some information that because of the type of project that there are a couple of opportunities that may happen but we won't know for sure until they put something in writing. They are willing to finance whatever we end up doing there. We do know that they are looking at dropping the interest rate. It is currently 2.25% + 1% administrative fee for a total of 3.25% and they are looking at dropping that back to 2% + 1% administrative fee for a total of 3%. They are also looking at some loan forgiveness of potentially up to \$250,000.

Mayor Zavodny stated that we are moving forward with some variables, is that correct.

Jim Condon stated that was correct. Jim Condon said that they still need to have a meeting to get tied down exactly between the pump station and the work with Henningsen's.

Mayor Zavodny stated that the City contribution was still a fairly significant amount.

Jim Condon stated that the City's share was roughly 35% and Henningsen's share is approximately 65%.

Council member Kroesing asked Jim Condon what portion would be the City's share of the \$2,700,000.

Jim Condon stated that it would depend. If we don't do the pump station, and we still need to have a meeting with Henningsen's about that, that's an \$820,000 part of that 2.7 million. If we do everything the City's share would be \$874,000 and that would be financed through the SRF loan. That's assuming that we got the pump station and we got the FEMA grant for 75% of the pump station and that does not count the information that we got today about the loan forgiveness.

Mayor Zavodny asked what happens if we don't do the project.

Jim Condon stated that if the City does not do the project then the wastewater plant continues to have problems with Henningsen's load and how it comes into the plant. The pump station is going to continue to flood and you get high water so, you're going to have expenses that you're going to have expenses that will be incurred because of those things and some of the stuff like putting variable speed drives on the blowers is really an energy savings measure so those things pay themselves back in a matter of three or four years. So, getting some money and getting it cheaply, and then getting it paid back is benefit. Henningsen's does get some rather major benefit because they do get the equalization of their flow and, because we cover the lagoon and we're capturing the methane gas they have potential to maybe get some carbon credits. Jim Condon stated that he didn't know that a decision had to be made tonight because they probably should meet with Henningsen's and find out where we end up being.

Mayor Zavodny stated that he would like some of these questions answered a little more definitively.

Council member Scribner made a motion to table consideration of Resolution No. 18-2011 concerning the wastewater project. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Scribner, Kroesing Vandenberg and Smith. Voting NAY: None. The motion carried. Council member Rogers was absent.

RESOLUTION

WHEREAS, the (City/Village of \_\_\_\_\_), Nebraska recognizes that a properly functioning sewer system is necessary to the health and welfare of the citizens of the (City/Village); and

WHEREAS, the (Mayor and City Council/Chairman and Village Board of Trustees) have determined that portions of the [City/Village] sewer system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the [City/Village] sewer system may be obtained by loan from the Nebraska Department of Environmental Quality, subject to certain requirements and obligations;

NOW, THEREFORE, BE IT RESOLVED by the (Mayor and City Council/Chairman and Village Board of Trustees) of the (City/Village of \_\_\_\_\_), Nebraska that they should execute the contract for loan between the Nebraska Department of Environmental Quality and the (City/Village of \_\_\_\_\_), Nebraska designated as Project No. C317\_\_\_\_, incorporated by reference into this Resolution as if fully set forth; and

BE IT FURTHER RESOLVED, \_\_\_\_\_, (Mayor or Chairperson), is hereby directed to execute the contract and all other documents necessary to facilitate the loan between the Nebraska Department of Environmental Quality and the (City/Village of \_\_\_\_\_), Nebraska for the purpose of repairing and improving the (City/Village) sewer system; and

BE IT FURTHER RESOLVED THAT \_\_\_\_\_, Clerk, be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
(Mayor/Chairperson)

IN WITNESS WHEREOF, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Clerk of the (City/Village of \_\_\_\_\_), Nebraska

Council member Scribner made a motion to authorize Mayor Zavodny to sign a letter of support to the United States Department of Agriculture Rural Development for the grant and loan application submitted by Bone Creek Museum of Agrarian Art. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Smith, Kroesing and Svoboda. Voting NAY: None. The motion carried. Council member Rogers was absent.



P.O. Box 191  
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David City, NE 68632

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August 10, 2011

United State Department of Agriculture  
Rural Development  
8000 South 15<sup>th</sup> Street  
Suite E  
Lincoln, NE 68512

To Whom It May Concern:

I am writing on behalf of the City of David City to support the grant and loan application submitted by Bone Creek Museum of Agrarian Art.

There is a great need in David City to see this project move forward. The museum over the past three years has been a great asset to the community; over this period of time they have attracted visitors from all 50 states and several foreign countries to David City. They have become a major cornerstone in our city and county's economic development activities.

The City is in the long process of renovating our downtown business area. As a current and future member of this area, Bone Creek will become a major anchor in that project. We are excited to see this vision for a larger, newer facility become a reality.

We are hopeful that USDA will play a major role in the Bone Creek project by granting the museum the requested grant and loan. The project will likely become a reality with or without the funds BUT the funding sources will help the dream to be realized much sooner.

I would like to thank you for reviewing this grant/loan application and I am very hopeful that the USDA-Rural Development will see fit to award this money to this worthwhile community facility.

Sincerely Yours

A handwritten signature in black ink, appearing to read "Alan Zavodny".

Alan Zavodny, Mayor  
City of David City



Jim Witter, Deb Dinkelman and Scott Bales were present representing the Park and Recreation Committee. Jim Witter said, "I'm speaking on behalf of the Park and Recreation

Committee that was formed last year. With the advent of the 1 ½% sales tax, we would like the council to approve a recommendation of spending some of the sales tax money. I think to date we have collected about \$250,000. The committee, Scott Bales, Deb Dinkelman, Milt Bemis, Denny Kirby, Gary Kroesing and Jim Witter, have met several times and they would like to make some recommendations that include the completion of the basketball court, tennis court resurfacing, 10 – 8’ metal picnic tables, rubber mulch for the main playground area and speed bumps for the park. We have \$15,000 for mulch but the cost is actually \$30,000. We will be getting a grant from DEQ for 50% of the mulch. The total of those projects is \$40,000.”

Mayor Zavodny said, “This is a difficult thing to manage, in that while our sales tax has been trending higher than it has in the past, we’ve also expended some of that money with working on Northwest Drainage. We are on the brink of that project really hitting hard. We are very close to having the pieces in place to put that to bed and see if the council wants to move forward with that project. It’s early in the sales tax life, so to speak. What I’m glad is that you’ve looked at what the park needs are, which was the third item that the tax payers approved or the third leg. It was Northwest Drainage, Downtown Redevelopment and the Park. We have a lot of unknowns with what Northwest Drainage is going to come in at and the infrastructure downtown is an important thing. I’m probably somewhere a little south of the number that you are proposing. I think that we need to prioritize and figure out what that number is going to be. If you were to pick your most important project, what do you think that is?”

Jim Witter said, “They are ALL important.”

Mayor Zavodny said, “What I don’t want to have happen is to spend money on the front end when we know that we’re going to need it shortly on some of our bigger number projects.”

Jim Witter said, “First of all, I want to remind you that the public did approve this 1 ½% sales tax and I think a lot of it was because of the park and rec things, to be honest with you. It was kind of the “feel good” portion of that vote. If everything was all even, then it would be close to \$140,000 that we would get. So, \$40,000 is just a small portion, or a smaller percentage. So, we aren’t asking for all of it, we are asking for some of it to show the public that we are very sincere about their vote.”

Mayor Zavodny said, “You make a very good argument. I’d feel better if we were a little further down the road and we knew what some of our obligations were going to be. It’s early in the process and, obviously, we have other people here who have opinions on it.”

Council member Kroesing said, “There is a benefit to the mulch. It’s needed for a safety factor in the park because pretty soon you’re going to have kids falling on bare ground and you’re going to have them banged up. They are coming out with something saying that this mulch is going to be mandatory under playground equipment and if we have a chance to get half of it paid for. I think we want to take advantage of something like that. There are a couple of things down there that are started and are unfinished. They are here early because of the fact that the big projects have not had the push that they could have had by now and after they get going good, there’s no sense even coming in the door.”

Jim Witter stated that the Optimist Club has put a lot of time and effort into raising money for the basketball court and what they are asking for is only a part of the cost.

The need for speed bumps in the park was questioned. Chief McPhillips stated that they are needed in the summer when the swimming pool is open. The speed bumps would be removed for the winter. They would screw into the roadway.

Council member Svoboda stated that the restrooms in the park are not in good shape and asked the committee if they had any plans for those.

Jim Witter stated that if you add a couple thousand dollars that they would add the restrooms to the list.

Council member Smith made a motion to approve the Park and Recreation Committee's request for up to \$40,000 of the city sales tax revenue to be used for designated projects. Council member Kroesing seconded the motion. Voting AYE: Council members Smith, Kroesing, Vandenberg, Scribner and Svoboda. Voting NAY: None. The motion carried. Council member Rogers was absent. Following is a list of the purchases that were recommended by the Park and Recreation Committee:

### Purchases from sales tax revenue for Park & Recreation

Basketball court (2 hoops, 2 posts, 2 chain nets, 2 backboard pads, 2 post pads) .....	\$ 9,500
Tennis court resurfacing.....	\$ 8,000
10-8' metal picnic tables with plastic coating on top and powder coated legs.....	\$ 6,000
Rubber mulch for main playground area made from recycled Nebraska tires.....	\$15,000*
12-6' removable speed bumps to place in various places in the park .....	\$ 1,500
Total.....	\$40,000
*Nebraska Department of Environmental Quality (DEQ) Grant for rubber mulch.....	50%

Butler County Emergency Manager Rick Schneider was present to discuss narrowbanding due on all frequencies by Dec. 31, 2012. Schneider stated that he received two quotes for the repeater. One from Shaffer Communications that includes the license and coax for \$3,509.95 and one from Platte Valley Communications which does not include the license and coax for \$3,381.30. If you subtract the license and the coax then Shaffer Communications is the best quote.

Scott Steager stated that the street departments radios will need to be updated and a new base station will be needed in the front office. Instead of putting a radio in each vehicle, he would recommend that each employee be given a portable radio.

There was discussion about where the repeater would be located. Suggestions included the old water tower, the tower at the courthouse, a pole at the City office, or possibly the Coop elevator.

Rick Schneider stated that the sooner we give the company the go ahead to start the better off we will be since they are three or four months out at this point. The closer that they get to December of 2012, the worse it will get.

Council member Kroesing made a motion for the City to work with Shaffer Communications to comply with the FCC requirements concerning narrowbanding due on all frequencies by December 31, 2012. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Svoboda, Smith and Scribner. Voting NAY: None. The motion carried. Council member Rogers was absent.

Mayor Zavodny began the discussion concerning the 2011-2012 budget by stating that they received the Stack testing estimates for bringing the Power Plant into compliance and it will cost \$419,932 plus sales tax.

Council member Kroesing stated that it's something that we need to do. We have to be in compliance.

Mayor Zavodny stated that one thing that he has noticed about the city departments is that some of them need to be better about sharing their toys.

Interim City Administrator Joan Kovar stated that she has received the budget sheets from all of the department heads and now needs the council to prioritize capital expenditures. The budget needs to be submitted to the State Auditor's office by Sept. 20, 2011. She stated that she contacted Kruse, Schumacher, Smejkal & Brockhaus, P.C. for help with putting the budget together. They told her that they need three weeks to compile the budget.

Mayor Zavodny asked City Attorney Egr if there was a conflict with having the same firm that does our audit help with the budget.

City Attorney Egr stated that he did not see a conflict with having Kruse, Schumacher, Smejkal & Brockhaus, P.C. help with the budget and then have them do the audit.

Mayor Zavodny stated that he felt that we should try to work with someone local first and asked if Mike Moravec or Kuhlman's did political subdivision budgets.

Banner Press Editor Larry Peirce stated that he knew that Kuhlman's did the budget for some of the townships.

Council member Scribner made a motion to authorize Mayor Zavodny and Interim Administrator Kovar to contact someone to prepare the budget. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Svoboda, Smith and Kroesing. Voting NAY: None. The motion carried. Council member Rogers was absent.

Council member Kroesing made a motion to adjourn. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Svoboda, Smith and Scribner. Voting NAY: None. The motion carried and the meeting was adjourned at 9:00 p.m. Council member Rogers was absent.



CERTIFICATION OF MINUTES  
August 10, 2011

I, Tami L. Comte, duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of August 10, 2011; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Tami L. Comte, Interim City Clerk