

## CITY COUNCIL PROCEEDINGS

March 25, 2020

Mayor Zavodny opened the Council Meeting at 7:00 p.m. in the meeting room of the City Office, 557 North 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 March 19<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. Mayor Zavodny announced that due to the COVID-19 pandemic, the meeting was immediately being recessed and moved to the basement of the City Auditorium, 699 Kansas Street, so as to incorporate social distancing strategies. [It is recommended that individuals be kept at least 6 feet apart.] The City Council of the City of David City, Nebraska, met in open public session in the basement of the City Auditorium and Mayor Zavodny re-convened the Council Meeting at 7:07 p.m. 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.

Mayor Zavodny stated: "We will reconvene at 7:07 p.m. Thank you everyone for practicing the social distancing and for your part in continuity of government here during these unprecedented times. Obviously, your safety is a large concern of ours so we will continue to try to be as careful as we can as we proceed."

Present for the meeting were: Mayor Alan Zavodny, Council members Tom Kobus, Dana Trowbridge (Trowbridge joined by teleconference), Pat Meysenburg, Kevin Hotovy, John Vandenberg, and Bruce Meysenburg, City Administrator Clayton Keller, City Attorney James Egr, and City Clerk Joan Kovar.

Also present for the meeting were: Kory Kuhlman, Sheriff Tom Dion, Mrs. Marianne Long & son Frank, Park/Auditorium Supervisor Bill Buntgen, Electric Supervisor Pat Hoeft, and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" and asked those present to silence their cell phones.

The minutes of the March 11<sup>th</sup>, 2020 meeting of the Mayor and City Council were approved upon a motion by Council member Hotovy and seconded by Council member Vandenberg. Voting AYE: Council members Kobus, Pat Meysenburg, Vandenberg, Bruce Meysenburg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

The next agenda item was consideration of purchasing the ball fields from the Ball Association. City Administrator Keller stated: "I visited with Kory Kuhlman on this matter, and the agreement that we had Mr. Egr put together for us, would assume the debt for the baseball fields in return of ownership of the property."

City Attorney Egr stated: "I do have an Exhibit "A" to attach to it, that I was able to obtain from Greg Aschoff of Nebraska Title, a legal description of the property."

Council member Hotovy made a motion to proceed with the Assumption of Debt Agreement concerning the ball fields and Council member Kobus seconded the motion. Voting AYE: Council members Pat Meysenburg, Trowbridge, Hotovy, Vandenberg, Bruce Meysenburg, and Kobus. Voting NAY: None. The motion carried.

### **ASSUMPTION OF DEBT AGREEMENT**

THIS ASSUMPTION OF DEBT AGREEMENT, hereinafter referenced as "Agreement", is made and entered into by and between the DAVID CITY BALL ASSOCIATION, INC., a Nebraska Nonprofit Corporation, hereinafter referenced as "Debtor", and the CITY OF DAVID CITY, NEBRASKA, a Nebraska Municipal Corporation, hereinafter referenced as "Assumer".

#### **WITNESSETH**

IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. **TRANSFER AND ASSUMPTION**; Debtor agrees to transfer and convey to Assumer and Assumer agrees to assume and agrees to accept from Debtor on the terms, conditions and covenants herein contained the debt of the Debtor to BANK OF THE VALLEY, David City, Nebraska Branch in the sum of ONE HUNDRED AND NINE THOUSAND FIVE HUNDRED FIFTY-SIX DOLLARS AND THIRTY-ONE CENTS (\$109,556.31).

2. **COLLATERAL AND SECURITY FOR DEBT**: The collateral and security for the above referenced debt is hereby described as and categorized as follows:

REAL ESTATE: The real estate described in Exhibit "A" attached hereto and incorporated herein by referenced as if fully set forth. The Real Estate is referenced herein as the "Ball Fields Complex".

3. **TITLE INSURANCE**: Within a reasonable time after the execution of this Agreement, the Debtor shall deliver to the Assumer for purpose of examination a Title Insurance Binder extended to a current date reflecting marketability of title. The cost of the Owner's Title Insurance Policy shall be paid by the Assumer. Debtor shall, within a reasonable time thereafter, place title in a marketable condition, subject to patent reservations, easements of record, or use, and public roads, with reasonable dispatch, with the parties cooperating to complete the curative title work and approval thereof at the earliest possible date, should any be necessary. Title Standards approved by the Nebraska State Bar Association to the date of the Title Policy shall serve as a guide to the marketability of Title. The debt assumed herein will be excepted in putting title in marketable condition.

4. DEED: Debtor agrees to convey the Real Estate by a Corporation Warranty Deed to the Assumer free and clear of all liens and encumbrances, except easements, covenants, and restrictions of record and EXCEPT the debt assumed herein.
5. TAXES AND ASSESSMENTS: Debtor is permissively EXEMPT from real estate taxes and assessments and as a result there are NO real estate taxes and assessments for 2019 and prior years and there will be NO PRORATION of the 2020 real estate taxes.
6. RISK OF LOSS: Risk of loss or damage to the Ball Fields Complex will remain with the Debtor until the date of Closing and will pass to the Assumer at the time of Closing.
7. CLOSING: The Closing will take place at Nebraska Title Company located at 402 N. 5<sup>th</sup> Street, David City, Nebraska 68632 on or before, \_\_\_\_\_, 2020.
8. POSSESSION: Assumer shall be granted full rights of possession as of date of Closing.
9. TIME OF ESSENCE: The parties agree that time is an essential element of this Agreement.
10. EXECUTION OF ASSUMPTION PAPERS: Assumer agrees to execute all necessary papers with the Bank of the Valley, David City, Nebraska Branch to assume the said debt of the Debtor with the said Bank referenced in this Agreement and upon assumption of the same will hold the Debtor harmless for the same.
11. MISCELLANEOUS: (A) It is expressly understood and agreed by and between the parties that Assumer has personally inspected the Ball Fields Complex before entering into this Agreement and enters into this Agreement based solely upon such inspections and not upon any representations of Debtor and assumes the debt of the Debtor and the Ball Fields Complex and takes the Ball fields Complex in "AS IS" condition. Further, it is agreed there are no understandings, agreements, or representations, express or implied, not specified herein and this Agreement contains the entire agreement between the parties.  
  
(B) Fees for preparation of this Agreement, Corporation Warranty Deed, Real Estate Transfer Statement, Bill of Sale, Closing Statement, Errors and Omissions Letter and Closing shall be paid by the Assumer. The cost of recording the Corporation Warranty Deed shall be paid by the Assumer. There will be NO Nebraska Documentary Stamps because this transaction is EXEMPT from Documentary Stamps.  
  
(C) The Debtor specifically makes no environmental warranties as to condition for environmental purposes to the Buyer.

(D) This Agreement supersedes all previous Agreements and constitutes a complete nullification of any prior agreements. This is to be the sole and controlling document for this real estate transaction.

(E) This Agreement shall not be assigned, either in whole or in part, whether voluntarily or involuntarily, without the written consent of the Debtor.

(F) The entities originally signing this Agreement acknowledge that they may have potentially differing interests in connection with this Agreement and its future operation and effect. The parties understand that they each have potentially differing interests and that either party may employ separate and independent counsel of their choice to review this Agreement before executing this Agreement.

(G) Assumer, in order to determine the boundary lines of the Real Estate and/or location of improvements on the Real Estate that comprises the Ball Fields Complex, may have said Real Estate surveyed at Assumer's sole cost and expense. The Real Estate is sold pursuant to the legal description heretofore set forth.

(H) The Debtor and Assumer have and/or will pass the necessary Resolutions authorizing the execution of this Agreement and necessary documents by their respective representatives for the authority necessary to consummate the transactions contemplated in this Agreement.

12. ANTI-TERRORISM EXECUTIVE ORDER 13224; Debtor and Assumer hereby warrant that Debtor and Assumer are not listed on the anti-terrorism watch list; are not entities that either party or attorneys involved herewith are prohibited from doing business with under anti-terrorism laws; will not violate anti-terrorism laws; and will not do business with any person and/or entity that may violate anti-terrorism laws all pursuant to Anti-Terrorism Executive Order 13224.

13. BINDING EFFECT: This Agreement shall benefit and bind the parties, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands.

DEBTOR:  
DAVID CITY BALL ASSOCIATION,  
INC., A NEBRASKA NONPROFIT  
CORPORATION

ASSUMER:  
CITY OF DAVID CITY, NEBRASKA  
A NEBRASKA MUNICIPAL CORPORATION

by \_\_\_\_\_  
President Date

by \_\_\_\_\_  
ALAN ZAVODNY, Mayor Date

by \_\_\_\_\_  
Secretary Date

Attest: \_\_\_\_\_  
JOAN E. KOVAR, City Clerk

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF BUTLER    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, \_\_\_\_\_,  
President and \_\_\_\_\_, Secretary, on behalf of the DAVID CITY BALL  
ASSOCIATION, INC., A NEBRASKA NONPROFIT CORPORATION, personally appeared  
before me, whose identities were proved on the basis of Satisfactory evidence to be the persons  
whose names are subscribed on this Assumption of Debt Agreement, and acknowledged that  
they executed it.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF BUTLER    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, ALAN ZAVODNY, Mayor  
and JOAN E. KOVAR, City Clerk, on behalf of the CITY OF DAVID CITY, NEBRASKA, A  
NEBRASKA MUNICIPAL CORPORATION, personally appeared before me, whose identities  
was proved on the basis of Satisfactory evidence to be the persons whose names are subscribed  
on this Assumption of Debt Agreement, and acknowledged that they executed it.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

Council member Hotovy introduced Ordinance No. 1340 setting the bulk water rate water charges sold at fill stations. Mayor Zavodny read Ordinance No. 1340 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Kobus, Vandenberg, Bruce Meysenburg, Pat Meysenburg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1340 on the 3<sup>rd</sup> and final reading. Council member Bruce Meysenburg seconded the motion. Voting AYE: Council members Kobus, Pat Meysenburg, Vandenberg, Trowbridge, Hotovy, and Bruce Meysenburg. Voting NAY: None. The motion carried and Ordinance No. 1340 was passed on 3<sup>rd</sup> and final reading as follows:

### **ORDINANCE NO. 1340**

AN ORDINANCE SETTING THE RATES TO BE CHARGED FOR WATER SOLD FROM FILL STATIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, Section 7-211 of the Municipal Code provides that all water consumers shall be liable for the water rate provided by ordinance.

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

Section 1. The following rates shall be charged for water sold from fill stations:

All customers shall be required to make a deposit in the amount of Two Hundred Sixty-Five Dollars (\$265.00) with the City, before receiving any water, to secure payment. The deposit will be refunded after two (2) years if the account is current.

Customer shall pay the City a monthly administrative fee of

One Hundred Forty-Six Dollars and Fourteen Cents (\$146.14) during each month that it receives water.

In addition to the administrative fee, the Customer shall pay the City the sum of:

Three Dollars and Forty-One Cents (\$3.41) per 1,000 gallons of water for the first 10,000 gallons, and

Three Dollars and Eighty-Seven Cents (\$3.87) per 1,000 gallons over 10,000 gallons.

Section 2. That any other ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 3. This ordinance 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 25<sup>th</sup> day of March, 2020.

Mayor Alan Zavodny

City Clerk Joan Kovar

The next agenda item was consideration of purchasing a Bobcat Compact Track Loader, and attachments, for the Water/Sewer Departments estimated at \$52,838.97.



### Product Quotation

Quotation Number: 26094D027325  
 Date: 2020-03-06 13:51:29

Ship to	Bobcat Dealer	Bill To
City of David City Water Dept. Attn: Aaron Gustin 1220 E ST David City, NE 68632 Phone: (402) 809-3975	Central Nebraska Bobcat, Grand Island, NE 3809 WESTGATE ROAD GRAND ISLAND NE 68903-4927 Phone: (308) 384-9222 Fax: (308) 384-1491  Contact: Rick Kraft Phone: (308) 384-9222 Fax: (308) 384-1491 Cellular: (308) 390-9010 E Mail: rick@cnebobcat.com	City of David City Water Dept. Attn: Aaron Gustin 1220 E ST David City, NE 68632 Phone: (402) 809-3975

Description	Part No	Qty	Price Ea.	Total
<b>T595 T4 Bobcat Compact Track Loader</b>	M0249	1	\$56,625.00	\$56,625.00
P29 Performance Package	M0249-P06-P29	1	\$5,210.00	\$5,210.00
Power Bob-Tach	Hydraulic Bucket Positioning			
7-Pin Attachment Control Kit	Automatic Ride Control			
2-Speed	Reversing Fan			
C37 Comfort Package	M0249-P07-C37	1	\$6,435.00	\$6,435.00
Enclosed Cab with AC/Heat	Deluxe Instrument Panel with Keyless Start			
Sound Reduction	Radio			
Cab Accessories Package	Heated Cloth Air Ride Suspension Seat			
Selectable Joystick Controls (SJC)	M0249-R01-C04	1	\$795.00	\$795.00
Telematics US	M0249-R51-C02	1	\$0.00	\$0.00
68" Heavy Duty Bucket	7272679	1	\$1,035.00	\$1,035.00
--- Bolt-On Cutting Edge, 68"	6718006	1	\$211.00	\$211.00
<b>Total of Items Quoted</b>				<b>\$70,311.00</b>
Dealer P.D.I.				<b>\$250.00</b>
Freight Charges				<b>\$0.00</b>
Dealer Assembly Charges				<b>\$57.50</b>
Discount Muni Discount				<b>(\$23,834.00)</b>
<b>Quote Total - US dollars</b>				<b>\$46,784.50</b>

Notes: *Annual rollover of 21% per hour  
 Plus any fuel INCREASES*

All prices subject to change without prior notice or obligation. This price quote supersedes all preceding price quotes.



**Product Quotation**

Quotation Number: 26094D027324  
 Date: 2020-03-06 13:39:49

Ship to	Bobcat Dealer	Bill To
City of David City Water Dept. Attn: Aaron Gustin 1220 E ST David City, NE 68632 Phone: (402) 809-3975	Central Nebraska Bobcat,Grand Island,NE 3809 WESTGATE ROAD GRAND ISLAND NE 68803-4927 Phone: (308) 384-9222 Fax: (308) 384-1491  Contact: Rick Kraft Phone: (308) 384-9222 Fax: (308) 384-1491 Cellular: (308) 390-9010 E Mail: rick@cnebobcat.com	City of David City Water Dept. Attn: Aaron Gustin 1220 E ST David City, NE 68632 Phone: (402) 809-3975

Description	Part No	Qty	Price Ea.	Total
4K Heavy Duty Pallet Fork Frame	7294305	1	\$401.00	\$401.00
-- 48" 4K Heavy Duty Pallet Fork Teeth	6540182	1	\$299.00	\$299.00
<b>Total of Items Quoted</b>				<b>\$700.00</b>
Dealer P.D.I.				<b>\$0.00</b>
Freight Charges				<b>\$72.00</b>
Dealer Assembly Charges				<b>\$28.75</b>
Discount Muni Discount				<b>(\$168.00)</b>
<b>Quote Total - US dollars</b>				<b>\$632.75</b>



**Product Quotation**

Quotation Number: 26094D027341  
 Date: 2020-03-24 09:10:57

Ship to	Bobcat Dealer	Bill To
City of David City Water Dept. Attn: Aaron Gustin 1220 E ST David City, NE 68632 Phone: (402) 809-3975	Central Nebraska Bobcat,Grand Island,NE 3809 WESTGATE ROAD GRAND ISLAND NE 68803-4927 Phone: (308) 384-9222 Fax: (308) 384-1491  Contact: Rick Kraft Phone: (308) 384-9222 Fax: (308) 384-1491 Cellular: (308) 390-9010 E Mail: rick@cnebobcat.com	City of David City Water Dept. Attn: Aaron Gustin 1220 E ST David City, NE 68632 Phone: (402) 809-3975

Description	Part No	Qty	Price Ea.	Total
72" Brushcat (Std Flow)	7218087	1	\$6,722.00	\$6,722.00
<b>Total of Items Quoted</b>				<b>\$6,722.00</b>
Dealer P.D.I.				<b>\$50.00</b>
Freight Charges				<b>\$263.00</b>
Dealer Assembly Charges				<b>\$0.00</b>
Discount Muni Discount				<b>(\$1,613.28)</b>
<b>Quote Total - US dollars</b>				<b>\$5,421.72</b>

Interim Water Supervisor Aaron Gustin stated: “There is a 3 – 5 year lease to own option, and after we do own that equipment we can get into a roll-over plan like the Street Department has, at the rate of \$14 per equipment hour.”

Discussion followed.

Council member Hotovy stated: “I would suggest the 3–year lease as you get into the roll over sooner, where that last 2 years to go to the 5-year, granted it would spread the payment out more, but that last 2 years you could end up with a bunch of repairs. You might be better off paying the money up front, and get into that roll over, because \$14/hour, that’s pretty good in my opinion. So I would think the faster we could get into that \$14/hour roll over, probably the better off you are going to be for time versus maintenance costs, especially for it being tracks, because as those tracks get older there’s going to be wear items and what not, so to me, get in the roll over; the sooner the better, just to cut down on maintenance costs.”

Council member Kobus made a motion to approve the purchase of a Bobcat Compact Track Loader, with a 3-year lease roll over, and the attachments including a pallet fork frame and teeth, and a Brushcat for the water/sewer departments. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Bruce Meysenburg, Trowbridge, Hotovy, Kobus, and Pat Meysenburg. Voting NAY: None. The motion carried.

The Covid-19 pandemic was discussed.

City Administrator Keller stated: “In your packet I gave you some of the conversations between city administrators from all across Nebraska. This is a hot topic everywhere so one of them sent out a list of questions and those are the questions you see before you. It addresses pools, public parks, outdoor basketball courts, baseball fields, etc., just general gatherings of people, and Chamber events and festivals, and other outdoor events that aren’t Chamber sponsored. So generally, most cities are taking the “let’s hold everything off for one month and see what happens”, they haven’t made any decisions about summer-time activities. Nobody has pushed back the pool season yet but they’re all still getting their lifeguards in place, and their pool staff in place, just in case the pool season gets to happen on time. So, no-one’s made any drastic measures, taken any drastic measures right now, but everybody’s waiting to see what’s going to happen. So, that’s where everybody else is.”

Mayor Zavodny stated: “Ok, I’ll update on a couple of things. We, early on, did do the emergency declaration, which we were in with the County, the Fire Districts, and the Public Schools of Butler County. That is to get registered with NEMA (Nebraska Emergency Management Agency) and to work with FEMA (Federal), that if we incur any expenses for Personal Protection Equipment, anything else related to this pandemic, we are eligible then to have that money recouped for the expenditures we may see. We did that similar to how we did it with the floods previously, so we’re involved in that. Also, utility bills have been a big thing, there’s been some encouragement to not do any shut offs during this time. I just really made the decision, instead of last Friday, which would have been shut off day, we extended it to the end of the month; just suspended doing any disconnects. So, that’s the only step we have taken. Now, some other cities have waived any late fees, or anything else to the end of May, I think Seward may have done that, some of them through April. That will take Council action and that’s not on the agenda for tonight, but as far as I’m concerned, we need to make that decision as a Council, so I want you thinking about that on how you want to handle our utility bills. Some people have been put out of

work. I don't think the economic impact has been as big here certainly as it is in some of those States where there's mandatory, basically shut down of everything. Also, I'll tell you this, in having those meetings with Four Corners Health Department, we are probably still a week or two away from actually starting to see.... there has been no laboratory confirmed cases in our Butler County area. That doesn't mean it's not here, it just means there's not been the test and a positive lab result. We are probably a little behind, you know New York's been the hot spot right now, Louisiana's having trouble, California certainly. We're probably 2 or 3 weeks from it peaking and spiking here potentially. So, the difficult thing is discipline. The other thing that's going on, is I've been getting calls from people tattling on people in gatherings of more than ten, people not following the directives as they've been laid out, and I can't emphasize enough. It is so important for us to discipline and to maintain the social distancing, to treat everyone as if they do have the virus, to protect yourself and certainly those around you. We have a lot of people in this community that have underlying conditions, and our vulnerable population, that we can't be too careful. We just have to be really smart, and I think it's been a case where some people are waking up to the fact that they thought young people would not be affected and that's proven to not be true now. So, those kinds of things are all things we are learning. We have another meeting Friday, conference call, where they go County by County with reports, so we'll keep you posted. I know 2 or 3 days into it, people were already going stir-crazy; it's going to be hard. I thought Butler Public Power did a pretty good thing about staggering their shifts to try to make sure not everybody would come down at once. We would be considered essential functions; we have to figure out how we operate. We have a small staff, so one or two goes down, the impact is significantly different for us than someone with 400 employees and a couple go down, so we have to figure out how we are going to maintain our operations. So, be thinking about those things and how we are going to do it. One thing I would say from the Hospital standpoint, they will reach capacity quickly because the strain on the healthcare people is a real one, especially if someone does start getting sick, so the capacities for ventilators and those kinds of things will be a challenge here. We are also trying to manage the amount of masks and those items here the best we can, but we just can't get them. Those are some challenges we are sharing with the Country as a whole. We will probably be discussing this for the next several meetings so decide how you want to proceed and those types of things."

City Administrator Keller stated: "I put together a new pay scale for the full-time employees. I didn't do the part-time employees and I didn't do the salaried employees which is myself and Joan. I couldn't tell when the City last used the pay survey that they get each year, and the last time the City did update the pay scale was September, 2017, and it was raised 1½% for everybody and I assume that was just a Cost of Living Adjustment. I asked all the other administrators across the State how often they updated their pay scales according to a survey and they said 3 years was the average, so this is an updated pay plan."

Council member Hotovy introduced Ordinance No. 1341 adopting a new pay scale. Mayor Zavodny read Ordinance No. 1341 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Vandenburg, Bruce Meysenburg, Kobus, Trowbridge, Hotovy, and Pat Meysenburg. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1341 on the 3<sup>rd</sup> and final reading. Council member Pat Meysenburg seconded the motion.

Mayor Zavodny stated: "Ok, we have a motion and second so here's where we can discuss this. Clayton and I have had some discussions on this. The total amount of money that it really increases our obligation is a pretty nominal amount, it's around \$5,000, so that's not the biggest thing in front of us. I think the more important discussion is, you know, we have to stay competitive and we have to be able to pay people so we can recruit and retain employees. It costs a lot of money to keep having turn-overs, those kinds of things, and that's something that's really hard to put a dollar amount on but it does add up. I keep thinking by just adding John (Kobus) how that's helped us in not having to contract with external, because he can do so much of the work because that's what he did, and we just gave him the benefit of being an employee. The thing you are going to hear on this, and there is going to be some backlash, you know I hear from time to time, and some of the sources you have to weigh them, "with what they get paid they should be doing...", when you are in a public position you get that type of criticism all the time. You can argue until you are blue in the face whether it's warranted or not, most the time it's not, and almost anyone who complains about that doesn't understand the work that has to get done, or what they're doing to earn that wage. You know there is skill involved to running the equipment, to make things work, to problem solve, to put a budget together, all the different things that go into these jobs, so I applaud Clayton for tackling this big thing."

Discussion followed.

Roll call on the passage of Ordinance No. 1341: Voting AYE: Council members Bruce Meysenburg, Kobus, Trowbridge, Vandenberg, Pat Meysenburg, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1341 was passed on 3<sup>rd</sup> and final reading as follows:

#### **ORDINANCE NO. 1341**

AN ORDINANCE ADOPTING A NEW PAY SCALE / SALARY 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 attached for the attached positions for the appointed officers and employees of the City of David City, Nebraska.

SECTION 2. Any Cost-of-Living Adjustments (COLA) shall be given as approved by the City Council.

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 on March 24, 2020 following its passage, approval, and publication as provided by law and city ordinance.



Maintenance Worker I	\$15.33	\$15.73	\$16.14	\$16.54	\$16.95	\$17.35	\$17.76	\$18.16	\$18.57	\$18.97	\$19.38	\$19.78	\$20.19	\$20.59
Maintenance Worker II	\$16.32	\$16.69	\$17.06	\$17.45	\$17.84	\$18.24	\$18.65	\$19.07	\$19.50	\$19.94	\$20.39	\$20.85	\$21.31	\$21.79
Street Foreman	\$17.31	\$17.71	\$18.11	\$18.51	\$18.90	\$19.30	\$19.70	\$20.10	\$20.50	\$20.90	\$21.29	\$21.69	\$22.09	\$22.49
Street Supervisor	\$22.74	\$23.28	\$23.82	\$24.36	\$24.91	\$25.45	\$25.99	\$26.53	\$27.07	\$27.61	\$28.16	\$28.70	\$29.24	\$29.78
Parks	Probation	1	2	3	4	5	6	7	8	9	10	11	12	13
Park Laborer	\$11.52	\$11.82	\$12.13	\$12.43	\$12.74	\$13.04	\$13.34	\$13.65	\$13.95	\$14.25	\$14.56	\$14.86	\$15.17	\$15.47
Parks & Auditorium Supervisor	\$21.04	\$21.44	\$21.84	\$22.24	\$22.65	\$23.05	\$23.45	\$23.85	\$24.25	\$24.65	\$25.06	\$25.46	\$25.86	\$26.26
Recreation	Probation	1	2	3	4	5	6	7	8	9	10	11	12	13
Recreation Coordinator	\$19.12	\$19.54	\$19.97	\$20.39	\$20.82	\$21.24	\$21.66	\$22.09	\$22.51	\$22.93	\$23.36	\$23.78	\$24.21	\$24.63
Recreation Director	\$21.86	\$22.26	\$22.66	\$23.06	\$23.46	\$23.86	\$24.26	\$24.66	\$25.06	\$25.46	\$25.86	\$26.26	\$26.66	\$27.06
Part-Time	Probation	1	2	3	4	5	6	7	8	9	10	11	12	13
Part-Time Workers	\$9.99	\$10.21	\$10.43	\$40.68	\$10.90	\$11.15	\$11.42	\$11.65	\$11.94	\$12.20	\$12.48	\$12.76	\$13.03	\$13.34
Summer Help	\$9.00	\$9.20	\$9.41	\$9.62	(No probationary period; no more than 4 steps)									
Recycling Workers	\$9.00	(No probationary period; no more than 1 Step)												
Pool	1	2	3	4	5	6	7	8	9	10	(No more than 10 Steps)			
Concession/Games/Cleaning	\$8.16	\$8.27	\$8.38	\$8.50	\$8.62	\$8.72	\$8.84	\$8.96	\$9.06	\$9.18				
Swimming Lesson Aid	\$8.16	\$8.27	\$8.38	\$8.50	\$8.62	\$8.72	\$8.84	\$8.96	\$9.06	\$9.18				
Aerobics Instructor	\$10.31	\$10.41	\$10.52	\$10.65	\$10.76	\$10.86	\$10.98	\$11.09	\$11.20	\$11.32				
Lifeguard	\$8.71	\$8.83	\$8.94	\$9.04	\$9.17	\$9.29	\$9.39	\$9.49	\$9.62	\$9.73				
WSI Lifeguard	\$9.50	\$9.79	\$10.07	\$10.36	\$10.65	\$10.91	\$11.20	\$11.49	\$11.76	\$12.06				
Head Lifeguard	\$11.09	\$11.36	\$11.64	\$11.94	\$12.21	\$12.50	\$12.78	\$13.05	\$13.35	\$13.61				
Assistant Manager	\$12.04	\$12.28	\$12.58	\$12.86	\$13.14	\$13.44	\$13.74	\$14.05	\$14.36	\$14.70				
Manager	\$12.50	\$12.78	\$13.05	\$13.36	\$13.65	\$13.97	\$14.30	\$14.61	\$14.93	\$15.28				

City Attorney Egr stated: "Clayton and myself met with Mark Kirby and Legal Counsel Jim Papik of Butler Public Power District, and we had an informal conference which the Power Review Board encouraged us that we do. The four of us met and we took a look at what the Butler Public Power had to substantiate their reason for an increase on the wheeling rate and what they had for an analysis that was done. They had a choice of doing one year or five years to do this. Part of what they were talking about was doing it all in one year and they decided to do it in three years. They got an analysis that was done by an independent contractor. Of course, you can always hire an independent contractor to give you anything you want, and so forth, right now we don't really have anybody; that one report that was done for the City really never addressed a wheeling rate. My biggest concern of going into the Power Review Board hearing, and it will probably be continued because there isn't enough I.T. stuff to go around to have a hearing because it will probably not be a physical hearing, it will be a video conference hearing. My biggest concerns are two things: 1) The Power Review Board, under Statute, can make a recommendation, but that recommendation is just a recommendation if they find that there is something to counteract what Butler Public Power did, and they've got a darn good argument about "well we could have done it in one year but we did it in three instead". We tried to talk them into four, but they would not go to four, they had a good argument when they said "well we compromised and instead of going with one, we went with three"; 2) The Power Review Board has no muscle behind it, all they can do is recommend, but they can't force anything; and 3) my biggest concern is, the Power Review Board could find that there was no basis for us going into this thing, because we really don't have anything to counteract their study, unless we say we want a continuance and we pay for our own study, and the Power Review Board could come back and say: "our coming before them was frivolous", and we could end up paying their legal costs. It is the recommendation of Clayton and myself, we're just two people, you and the Council have to make that decision, we may not be in the best position to be successful with the Power Review Board, and even if we were successful and they said "well maybe you should stretch to four years", it's not the best position. If you do an analysis of what this cost the rate payer, it ends up being over a three-year period about \$48.00, not per year but total increase. That's our thoughts."

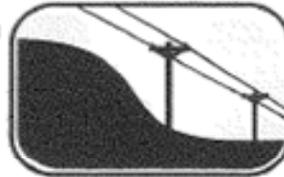
Council member Trowbridge stated: "The first comment I would have Alan, is "They don't have a leg to stand on, and they know it". They do this to us and they are un-shameful in their actions. I don't agree with the \$48.00 over three years, because a 70% raise on a \$120,000 a year project is way more than forty-eight bucks for each of our 1100 rate payers, but we are probably going to lose this one. I hope we all remember what Butler Public Power District did to us and I hope they remember what the Butler Public Power District told us eight years ago would happen, and they lied, they lied like hell and they ought to be ashamed of themselves. I'm sorry to say that, but they did it, I didn't."

Mayor Zavodny stated: "Well it becomes a strategy decision at this point, and I would also, and I think you kind of referred to it, the letter we had in hand saying this wouldn't happen, and that upsets me, and I will just state one more time for the record, one of the biggest things that this bothers me on is, I understand them trying to pay for their infrastructure expenses, but it doesn't help us retain an employee, and we've lost employees to them because we're not as competitive wage wise, it doesn't help us buy a single piece of equipment, it doesn't help us move forward really; it just incurs additional expense. The only thing we can do is increase the rates to our rate payers, if we decide we wanted to buy a piece of equipment that we didn't have the budget for. So that's the part of this, that our rate payers are going to suffer and there's nothing we can do about it, and that's the part that troubles me the most. I agree, I don't think

it's worth taking the risk to try to fight this at this point. Down the line, we are going to have to have bigger discussions and decisions, you know, "what are our other options as far as PPD's out there to purchase from."

# BUTLER

PUBLIC POWER DISTRICT



April 24, 2009

Honorable Dana Trowbridge, Mayor  
City of David City  
PO Box 191  
David City, NE 68632

Re: Banner-Press article, April 16, 2009

Dear Mr. Trowbridge:

I read with interest that David City is looking at power supply and delivery alternatives. Hopefully, cost effectiveness will be a key factor in your decision. We feel that Butler PPD provides a reliable power delivery service for David City at a low cost. We will be interested to see the results of your study regarding the City's possible purchase of a high voltage transmission system, and hope you will share it with us. My 'back of the envelope' calculation shows it will cost upwards of \$200,000 per mile for line construction and \$700,000 for the purchase of each transformer/breaker. Therefore, five miles of line and two transformers/breakers will have an initial cost of \$2.4 million. This figure does not include engineering, easements, other required substation equipment, and substation construction. In addition there will be annual, on-going costs for debt service, facility operation and maintenance and insurance fees. Then add the costs for training and continued education for a certified switchman.

With Butler PPD's delivery service, David City pays a monthly charge which includes Butler PPD's operation and maintenance of all lines and substation equipment, as well as future replacements. It is an all-inclusive, stable rate without risk of high-dollar capital improvement costs hitting the City. The City does not pay new transformer costs unless the City requests significant requirement increases. An often overlooked advantage of the Butler PPD wheeling charge is that it is a network rate. That is, it includes any facilities that can be used for wheeling to the City from multiple directions. For example, should the line east of town be out of service, you may be served from another location. If you have only one line serving the City, your exposure to outages increases and reliability suffers.

To base a financial decision on a forty year payback one must make many assumptions. With technology advancing at its present rate I feel confident that we will be using new expertise in twenty years, which will incorporate better and lower cost options. As we have done in the area of load management, Butler PPD will be at the forefront of applying new techniques and knowledge, and David City will benefit from them through the use of our delivery system.

A projected annual growth rate of 2% was noted in the article. However, the average annual kW growth for the City from 02-08 was 0.6%. If the City generates from methane future growth would likely be negative. Also, annual wheeling rate increases will most likely be less than 1%. In fact, with significant additional load, total costs could be spread over more billing units, thereby lowering wheeling costs. I hope you'll consider all of the above information before burdening the City's residents with costs that are currently being shared by all, and subsequently, to the benefit of all.

Sincerely,

A handwritten signature in black ink that reads "Gary S. Westphal P.E." The signature is written in a cursive style.

Gary S. Westphal P. E.  
General Manager

cc: City Council Members, Joe Johnson and Larry Peirce

1331 - 4th Street • PO Box 349 • David City, NE 68632  
Phone: 402/367-3081 • 800-230-0569 • Fax: 402/367-6114

Council member Hotovy stated: "What truly bothers me the most is that they can say that they really looked at it. Whatever; this was thrown in our lap with no part from us at all. This was a complete strong arm move and you want to say "build a good relationship"? I went to their meeting; didn't try to convince them not to do it, all I did was went to their meeting and said "Can we have some more time?", and was told "No". That to me, is not building a good working relationship. We had no time to figure anything out. It was "This is what it's going to be, you're going to pay it, and that's the way it is.", and all I asked for in that meeting was more time and they had nothing of it, and I think it shows poor leadership from their part, not looking to build a good relationship, but they hold the cards so they are going to be the bully of this deal and unfortunately that's probably the way it is, and that's all I've got to say about it."

Discussion followed. It was noted that there cannot be a negative motion. Tabling indefinitely was also discussed.

City Attorney Egr stated: "We filed a complaint with the Power Review Board, I would think we can file a motion to say we have decided to cease pursuant of the present complaint; that's not a negative motion. Discussion followed.

Council member Hotovy made a motion to cease pursuant of the present Power Review Board complaint. Council member Kobus seconded the motion. Voting AYE: Council members Pat Meysenburg, Vandenberg, Bruce Meysenburg, Trowbridge, Hotovy, and Kobus. Voting NAY: None. The motion carried.

Interim Water Supervisor Aaron Gustin stated: "We have been receiving quite a few calls concerning complaints regarding brown water. There is an automated valve that flips on every 25 minutes, and it opens for two minutes, and it allows for retention time in the clarifier; that failed last Wednesday. It is now fixed. That did not allow the suspended solids to settle and that is why we are getting the brown water calls. I want to clean the lines; a 55 gal. drum will last about 2 months."

**CHEMICALS:**

150# cyl. Chlorine	\$ .78 lb.	<i>\$340 per barrel</i>
55 gal. drum Clearitas	\$1.80 lb.	Feed rate @ 2 ppm= \$.03 per 1000 gal. water produced
Phosphate	*Need to run Watsim to determine which phosphate to use	

**EQUIPMENT:**

Hydro Omni Valve OV-110	\$2,875.00	Includes start up and operator training
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Council member Bruce Meysenburg made a motion to approve the purchase of a Hydro Omni Valve and chemicals including Clearitas, Chlorine, etc., to clean the distribution system. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Kobus, Vandenberg, Hotovy, Trowbridge, Bruce Meysenburg, and Pat Meysenburg. Voting NAY: None. The motion carried.

Mayor Zavodny stated: "I hold in my hand a check for \$90,000 to go to the Clerk of the Butler County Court, which by doing so, is the amount the appraisers appraised the property at 715 4<sup>th</sup> Street. We have "an" amount of time to do this, not a great amount of time. By signing this check, if you approve it, we will have paid the damages that they were assessed and the City would then take control of the property and be ready for the next steps whatever we decide those to be."

[On February 13, 2020, three court appointed appraisers appraised the property at 715 4<sup>th</sup> Street, legally described as Lots 7, 8, 9, and 10, in Block 5, Original Town of David City and set the appraised value at \$90,000. On March 23, 2020 the City was advised by Baird Holm LLP that Kathleen Treat did not timely appeal the assessment of damages. The City must deposit the \$90,000 with the Court within 60 days of the date of 2/21/2020. Upon deposit of the \$90,000 into the Court, the Court will enter the condemnation award and it will be filed with the Register of Deeds, giving title to David City.]

Council member Trowbridge stated: "May I have the pleasure of making this motion? I have dealt with these people for eleven years."

Mayor Zavodny stated: "I think that is only appropriate."

Council member Trowbridge made a motion to authorize a check in the amount of \$90,000 to the Clerk of the Butler County Court for the appraised value of the property at 715 4<sup>th</sup> Street, legally described as Lots 7, 8,9, and 10, in Block 5, Original Town of David City. Council member Hotovy seconded the motion. Voting AYE: Council members Bruce Meysenburg, Pat Meysenburg, Kobus, Vandenberg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Mayor Zavodny stated: "Well congratulations! As soon as we execute this and get it to the County Court, we will be able to take some positive steps for our Community regarding this property."

There being no further business to come before the Council, Council member Kobus made a motion to adjourn. Council member Pat Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Hotovy, Kobus, Vandenberg, Pat Meysenburg, and Bruce Meysenburg. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:07 p.m.

Mayor Zavodny stated: "Thank You everyone and continue staying safe. I am getting COVID-19 updates as we are meeting, so we're not out of the woods yet. Be careful out there."



CERTIFICATION OF MINUTES  
March 25, 2020

I, Joan Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of March 25<sup>th</sup>, 2020; 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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Joan Kovar, City Clerk