

CITY COUNCIL PROCEEDINGS

August 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 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on August 2nd, 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, Mike Rogers, Bill Scribner, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim City Clerk Tami Comte. Council member Gary Smith was absent.

Also present were: Police Chief Anthony McPhillips, Park/Auditorium Supervisor Scott Bales, Hilary Christian representing Agency One Insurance and Kyle Daily representing Legal Benefits, Inc., Joy Fountain, Amanda Stutzman, Carol Brehm, Janis Cameron, Carolyn Yates, Rose McPhillips, Lillian and Ken Karenka, Bill Buntgen, Bill Dubs, Bryon Forney, Jim Redler 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 11, 2012 and the July 18, 2012 meetings 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, Vandenberg, Kroesing and Scribner. Voting NAY: None. The motion carried. Council member Smith was absent.

Mayor Zavodny called for Committee and Officers Reports.

Mayor Zavodny stated that the Sewer Lagoons are drying up. He also stated that the water department had a large water main break on 5th Street on Sunday afternoon.

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

Council member Kroesing made a motion to approve Payment No. 4 to Gehring Construction & Ready Mix Co., Inc. for Project No. 011-0758 for Street Improvements. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Scribner, Rogers, and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.



CERTIFICATE OF PAYMENT NO. 4

201 East 2nd Street, Grand Island, Nebraska 68801

Date of Issuance: August 8, 2012

Project: Industrial Drive and 'O' Street Improvements, Municipal Street Improvements, David City, Nebraska, 2012 Project No. 011-0758

Contractor: Gehring Construction & Ready Mix Co., Inc., 5424 West Meadow Drive, Columbus, NE 68601

DETAILED ESTIMATE		
Description	Unit Prices	Extension
See Attached		

PLEASE REMIT PAYMENT TO: Gehring Construction & Ready Mix Co., Inc.

Value of Work Completed and materials stored: \$1,250,399.60

Original Contract Cost: \$1,104,946.05

Approved Change Orders:

No. 1 \$ 153,466.70

No. _____

No. _____

No. _____

No. _____

Total Contract Cost: \$1,258,412.75

Value of completed work and materials stored.	\$1,250,399.60
Less retained percentage (5 %)	\$62,519.98
Net amount due including this estimate	\$1,187,879.62

Less: Estimates previously approved:

No. 1 \$101,027.52	No. 7 _____	No. 13 _____
No. 2 \$465,934.14	No. 8 _____	No. 14 _____
No. 3 \$280,595.61	No. 9 _____	No. 15 _____
No. 4 _____	No. 10 _____	No. 16 _____
No. 5 _____	No. 11 _____	
No. 6 _____	No. 12 _____	

Total Previous Estimates \$847,557.27

NET AMOUNT DUE THIS ESTIMATE \$340,322.35

The undersigned hereby certifies that the work done and materials delivered have been checked as to quantity and conformance with the plans and specifications and the Contractor, in accordance with the contract, is entitled to payment as indicated above.

OLSSON ASSOCIATES

By:

Date: 8-2-12

cc: Owner, Contractor, File

City Council Proceedings

August 8, 2012

Page #3

Council member Kroesing made a motion to approve Construction Progress Application No. 3 for the Northwest Drainage Project and payment to Van Kirk Brothers Contracting. Council member Rogers seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Svoboda, Kroesing, and Scribner. Voting NAY: None. The motion carried Council member Smith was absent.

APPLIC. ON FOR PAYMENT

PROJECT: David City NW Drainage Improvement Project

Page 1 of 4

ENGINEER: Upper Big Blue Natural Resources District

TO: (OWNER) City of David City

557 4th Street

David City, NE 68632

ENGINEER'S PROJECT NO.

CONTRACTOR: Van Kirk Bros. Contracting

CONTRACT FOR: Storm Sewer Installation

APPLICATION DATE: 07/31/12 APPLICATION NO.: 3

FOR WORK ACCOMPLISHED THROUGH THE DATE OF: July 31, 2012

CHANGE ORDER SUMMARY:

Application is made for payment, as shown below in connection with the Contract.

The present status of the account is as follows:

ORIGINAL CONTRACT PRICE..... \$ 1,891,889.00
 Net Change by Change Orders
 & Written Amendments..... \$ 14,750.65
 CURRENT CONTRACT PRICE..... \$ 1,906,639.65
 TOTAL COMPLETED & STORED TO DATE..... \$ 753,755.65
 LESS RETAINAGE: 10% 75,375.56
 TOTAL COMPLETED & STORED TO DATE
 LESS RETAINAGE..... \$ 678,380.08
 LESS PREVIOUS APPLICATION FOR
 PAYMENTS..... \$ 585,092.17
 AMOUNT DUE THIS APPLICATION..... \$ 93,287.91

CO #	DATE	ADDITIONS	DEDUCTIONS
1	Mar-12		
2	Mar-12	\$ 39,500.00	\$ (39,495.35)
3	10-Apr	\$ 14,746.00	
TOTAL		\$ 54,246.00	\$ (39,495.35)
NET CHANGE		\$	14,750.65

The undersigned CONTRACTOR certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract referred to above have been applied to discharge CONTRACTOR'S legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered ___1___ through ___1___, inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective.

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

CONTRACTOR: Van Kirk Bros. Contracting

By: Melissa Shanderman Date: 8/1/12

Engineer: Upper Big Blue WRD

BY: [Signature] 3 Aug. 2012

OWNER: City of David City

BY: _____

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

City Attorney Egr stated that the way the agreement is worded with Zeilinger Keno that the City needs to give 60 day notice if we want to terminate the agreement.

Mayor Zavodny stated that we need to decide by October 31, 2012 if we want to keep Keno or terminate it.

Council member Scribner made a motion to approve the agreement between the City and Zeilinger Keno, Inc., which sets the division of operation proceeds at 7% of the gross to the City. Council member Kroesing seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Kroesing, Rogers and Svoboda. Voting NAY: None. The motion carried. Council member Smith was absent.

Council member Scribner made a motion to approve Don Haldeman, d.b.a. Don's Bar, 440 N. 5th Street, as a lottery sales outlet location for Keno. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Rogers, Svoboda and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.

Council member Kroesing introduced Ordinance No. 1178 and made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers and Vandenberg. Voting NAY: Council members Svoboda and Scribner. The motion failed. Council member Smith was absent.

Council member Kroesing made a motion to pass Ordinance No. 1178 on 1st reading only. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Vandenberg and Scribner. Voting NAY: Council member Svoboda. Council member Smith was absent. The motion carried and Ordinance No. 1178 was passed on 1st reading only as follows:

ORDINANCE NO. 1178

AN ORDINANCE TO AMEND CHAPTER 4, HEALTH AND SANITATION, SECTION 4-701, PENAL PROVISIONS, OF THE MUNICIPAL CODE; TO REPEAL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM, AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

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

Section .1: That Chapter 4, Article 4, Section 4-701 of the Municipal Code of David City, Nebraska shall read as follows:

~~§ 4-701 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction~~

~~thereof, shall be fined not more than one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.~~

§ 4-701 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be fined three hundred (\$300.00) dollars per day for being in non-compliance.

Section 2: That any other Ordinances or part of Ordinance passed and approved prior to the passage, approval, and publication of this Ordinance and in conflict with its provisions, is hereby repealed.

Section 3: This Ordinance shall take effect and be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2012.

ATTEST:

Passed on 1st reading only
Mayor Alan Zavodny

Passed on 1st reading only
Interim City Clerk Tami Comte

Council member Kroesing made a motion to appoint John Hughes to act as building inspector for David City on an "as needed" basis. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Scribner, and Svoboda. Voting NAY: None. The motion carried. Council member Smith was absent.

Kyle Daily, representing Legal Benefits, Inc. was present to discuss Identity Theft Protection. The program would be totally voluntary for City employees. He stated that the cost would be \$12.95/month for a family.

Mayor Zavodny asked how many employees they would need to implement the program.

Mr. Daily stated that they would need 5 people to get the \$12.95 rate.

Council member Scribner made a motion to allow Kyle Daily, with Legal Benefits, Inc. to provide identity theft options to the City employees. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Rogers, Vandenberg, Svoboda and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.

Mayor Zavodny stated that Aquinas High School wants to give the City a 30' x 60' pole barn and the City would need to pay to have it moved. Park/Auditorium Supervisor Scott Bales would like to demolish the old bathhouse that is located in the south parking lot of the City Auditorium and move in the pole barn.

Park/Auditorium Supervisor Scott Bales received a letter from the Nebraska State Historical Society that stated that the removal of the bathhouse is not enough of a loss to the district to warrant their removing the park from the National Register.

Council member Rogers stated that he thought that pole buildings were not allowed in the City.

Mayor Zavodny stated that Zoning Administrator Kotil checked with Planning Commission member Keith Marvin and he said that the City is exempt from those rules.

Park/Auditorium Supervisor Bales stated that he would like to have a cement floor and electricity in the pole building.

Council member Svoboda stated that perhaps the City could sell the bathhouse and the purchaser could move it off the lot.

Carol Brehm stated that perhaps the Council should get an estimate of the total costs so they would have an accurate cost before they make a decision.

Mayor Zavodny stated that Aquinas needs the pole building off of the lot by October 1, 2012.

Council member Kroesing made a motion to table demolishing the old bathhouse located in the south parking lot of the City Auditorium and then moving in a 30' x 60' pole barn from Aquinas High School until the September Council meeting. Council member Vandenberg seconded the motion. Voting AYE: Kroesing, Svoboda, and Vandenberg. Voting NAY: None. Council members Scribner and Rogers abstained. Council member Smith was absent. City Attorney James Egr stated that the motion carried.

Council member Scribner introduced Ordinance No. 1179.

Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Svoboda and Vandenberg. Voting NAY: Council member Scribner. The motion failed. Council member Smith was absent.

Council member Kroesing made a motion to pass Ordinance No. 1179 on 1st reading only. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Vandenberg and Scribner. Voting NAY: Council member Svoboda. Council member Smith was absent. The motion carried and Ordinance No. 1179 was passed on 1st reading only as follows:

ORDINANCE NO. 1179

AN ORDINANCE TO AMEND ORDINANCE NO. 1040 CODIFYING THE GENERAL ORDINANCES OF THE MUNICIPALITY BY AMENDING CHAPTER 10: BUSINESS REGULATIONS; ARTICLE 1: ALCOHOLIC BEVERAGES §10-117 ALCOHOLIC BEVERAGES;

HOURS OF SALE; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT CHAPTER 10, ARTICLE 1, §10-117 OF THE MUNICIPAL CODE BOOK BE AMENDED AS FOLLOWS:

§10-117 ALCOHOLIC BEVERAGES; HOURS OF SALE.

Section 1. For purposes of this section, "on sale" shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

HOURS OF SALE

~~Alcoholic Liquors (except beer and wine)~~

~~Secular Days~~

~~Off Sale 6:00 A.M. to 1:00 A.M.~~

~~On Sale 6:00 A.M. to 2:00 A.M.~~

~~Sundays~~

~~Off Sale 12:00 Noon to 1:00 A.M.~~

~~On Sale 12:00 Noon to 2:00 A.M.~~

~~Beer and Wine~~

~~Secular Days~~

~~Off Sale 6:00 A.M. to 1:00 A.M.~~

~~On Sale 6:00 A.M. to 2:00 A.M.~~

~~Sundays~~

~~Off Sale 12:00 P.M. (Noon) to 1:00 A.M.~~

~~On Sale 12:00 P.M. (Noon) to 2:00 A.M.~~

Alcoholic Liquors / Beer and Wine

Secular Days and Sundays

Off Sale 6:00 a.m. to 1:00 a.m.

On Sale 6:00 a.m. to 2:00 a.m.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. Nothing in this section shall be construed to prohibit

licensed premises from being open for business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. 53-179 RS Neb.)

Section 2. 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 3. 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 1st reading only
Mayor Alan Zavodny

Passed on 1st reading only
Interim City Clerk Tami L. Comte

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

Mayor Zavodny asked the Council what they saw as the next steps to be taken concerning the water system.

Council member Scribner stated that they need to establish a date to do the flushing.

Mayor Zavodny stated that they talked about having supervised flushing because we haven't done a really thorough flushing for a long time. We also need to up the chlorine level a little and that's really going to knock the rust loose in those pipes. Mayor Zavodny stated that at some point we are going to have to start systematically replacing the old water mains a little bit at a time.

Mayor Zavodny stated that the best first step is in the fall to just do a really thorough supervised flushing and then do a really thorough flushing again in the spring.

Council member Kroesing stated that one of the recommendations was for the break point chlorination.

Mayor Zavodny stated that one of the recommendations was for a full time chemist at the water treatment plant.

Mayor Zavodny stated that he thinks that the first thing would be to do the flushing and then the break point chlorination and then see where we are at that point.

Mayor Zavodny began the discussion concerning the preliminary 2012-2013 budget recommendations by stating that there are some fairly large points of concern with the budget. He stated that he is going to recommend eliminating some positions and shifting other positions. Mayor Zavodny stated that the Electric Department building has some roof issues. It will take \$60,000 for a new roof. We have not replaced some positions, and we are cross training some positions. Mayor Zavodny stated that the City contributes \$30,000 toward the Economic Development Director and he is thinking about cutting that contribution.

Mayor Zavodny stated that his cuts will be severe.

City Attorney James Egr stated that the budget problems didn't happen overnight. This has been building over a long period of time.

Interim City Administrator Joan Kovar reminded the public that before the .45 levy limit was imposed that the City was at over \$1.20/\$100 of valuation for property taxes. The .45 levy limit was imposed in 1998 and we have been living with that since then and then the State cut the City's State Aid.

Mayor Zavodny began the update on the Police Department by stating that the committee had a meeting with the County and that they agreed to eliminate the dispatch expenses and the rent expense. They also asked them to lock in \$250,000 for the 1st year and then \$275,000 for the next three years of the contract. The City would still have to pay for dogs and the County would enforce City Ordinances.

Carol Brehm asked when the County needed an answer.

Mayor Zavodny stated that he thinks the better question is: What budget number do we plug in for the Police Department? He stated that the Police Department can't keep having our Police Department operating in limbo. It causes morale problems with our personnel and it affects whether we buy a new police car or not. We need to decide and not have this cloud over us.

Mayor Zavodny stated that he had a moment where he thought – What would happen if we just dissolve our police department and don't contract with the County? Then the County gets zero and the Sheriff has a statutory responsibility to provide police coverage.

Janis Cameron stated that we are paying for the Sheriff now with our County taxes.

Chief McPhillips stated that the biggest problem that he has with the issue of getting rid of the police department is that there has never been any discussion of negotiating the dispatch contract. He stated that in the dispatch contract the fee is supposed to be negotiated annually. McPhillips asked when was the last time that the City and the County negotiated the dispatch contract.

Carolyn Yates asked what the next step was on the police.

City Attorney Jim Egr stated that the County Attorney has been on vacation and as soon as she returns they will work on the contract.

Mayor Zavodny stated that the next agenda item was consideration of Resolution No. 15-2012 to erect stop signs at the intersection of 3rd and L Street to stop north/south traffic. He stated that his issue with this is that he thought that we needed to do a traffic study and he didn't think that Street Supt. McDonald had an opportunity to do that yet.

Interim Administrator Kovar stated that she asked McDonald to do a study but he left on vacation the next day.

Mayor Zavodny asked City Attorney Jim Egr if he knew if we needed a traffic study.

City Attorney Jim Egr stated that he did not know but he would check into it.

Council member Kroesing made a motion to table Resolution No. 15-2012 to the September Council meeting. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Svoboda, Rogers and Scirbner. Voting NAY: None. Council member Smith was absent. The motion carried and Resolution No. 15-2012 was tabled until the September Council meeting.

RESOLUTION NO. 15 - 2012

WHEREAS, Chapter 5, Section 216 of the David City Municipal Code provides that the Governing Body of said City may by resolution provide for placing of stop signs or other signs and signals in any street or alley within the Municipality's jurisdiction for the purpose of regulating or prohibiting traffic thereon, and,

WHEREAS, the City of David City, Nebraska, has determined that there is a need for the placement of additional "stop" signs.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the following stop signs shall be installed:

INTERSECTION:

3rd & "L" Street

3rd & "L" Street

TO STOP TRAFFIC TRAVELING:

North

South

Dated this 8th day of August, 2012.

Tabled until 9-12-12
Mayor Alan Zavodny

Tabled until 9-12-12
Interim City Clerk Tami L. Comte

Council member Scribner introduced Ordinance No. 1180.

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

Council member Kroesing made a motion to pass Ordinance No. 1180 on third and final reading. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Rogers, Svoboda and Scribner. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1180 was passed and adopted as follows:

ORDINANCE NO. 1180

AN ORDINANCE AMENDING ORDINANCE NO. 1175, RELATING TO THE ISSUANCE OF BOND ANTICIPATION NOTES, SERIES 2012B, OF THE CITY OF DAVID CITY, NEBRASKA, IN THE AMOUNT OF NOT TO EXCEED SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000), TO PROVIDE FOR CORRECT REFERENCE TO STREET IMPROVEMENT DISTRICT NO. 2011-7; DETERMINING THAT THIS ORDINANCE IS A MEASURE NECESSARY TO CARRY OUT THE CONTRACTUAL OBLIGATIONS OF THE CITY AND DECLARING IT EFFECTIVE UPON PUBLICATION; DECLARING AN EMERGENCY AND ORDERING THE ORDINANCE PUBLISHED

BE IT ORDAINED BY THE MAYOR AND 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 has previously adopted Ordinance No. 1175 (the "Original Ordinance"), passed and approved on July 11, 2012, by the Mayor and Council of the City, which ordinance authorizes the issuance of Bond Anticipation Notes, Series 2012B, of the City in the amount of not to exceed \$750,000 (the "Notes"), and such authorization of the issuance of the Notes is hereby ratified and confirmed.

b. That it is necessary to amend the Original Ordinance to correctly reference Street Improvement District No. 2011-7 in place of the second reference to Street Improvement District 2011-9.

Section 2. Section 1 of the Original Ordinance is hereby repealed and replaced in its entirety with the following:

Section 1. The Mayor and City Council hereby find and determine that by Ordinances of the City heretofore adopted, Street Improvement District Nos.

2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-7, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3 of the City of David City, have heretofore been duly created; that the City's Special Engineers prepared estimates for the cost of construction of improvements in the aforesaid Districts and the City has taken bids for the improvements in the amount of \$1,104,99.05, which construction contract together with engineering, testing and incidental costs, interest to accrue during construction, underwriting, and issuance and miscellaneous costs are estimated by

the City to collectively total not less than \$1,325,000; that the construction of said improvements shall commence in accordance with the contract approved by and executed by the City, that the aforesaid improvements are expected to be completed by August 31, 2013; that it is necessary for the City to have funds available to meet its ongoing payment obligations under the terms of contract for the cost of the improvements to be constructed relative to the aforesaid Districts and to provide a portion of the interim financing therefor, it is necessary and advisable that the City now issue its notes in the principal amount of \$750,000 pending the issuance of this City's General Obligation Bonds pursuant to Sections 17-516, 17-520, and, Sections 18-1801 and 18-1802, R.R.S. Neb. 2007, and other applicable Sections; that the City has authority under Section 10-137, Reissue Revised Statutes of Nebraska, 2007 to issue bond anticipation notes for the purpose of providing interim financing for the construction of said improvements; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2012B, in the amount of not to exceed \$750,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 3. This Ordinance is hereby determined to be a measure necessary to carry out the City's contractual obligations relating to the issuance of bonds of the City and shall take effect as provided by law. This Ordinance is hereby determined to be an emergency measure necessary to take effect to allow the City to utilize borrowed funds as intended in Ordinance No. 1175 and shall take effect immediately upon proclamation by the Mayor. This Ordinance shall be published in full with notice of such publication to be given by posting in three public places.

PASSED AND APPROVED this 8th day of August, 2012.

CITY OF DAVID CITY, NEBRASKA

Mayor

ATTEST:

Interim City Clerk

(SEAL)

**PROCLAMATION OF EMERGENCY
AND
EFFECTIVENESS OF ORDINANCE**

The undersigned, Mayor and City Clerk of the City of David City, Nebraska, hereby proclaims, based upon determination by the Mayor and City Council at a meeting held on August 8, 2012, that an emergency exists; that Ordinance No. 1180, passed and approved on said date, shall take effect upon this Proclamation immediately as of the time of first publication in pamphlet form and upon the posting of this Proclamation. The title of such Ordinance No. 1180 is as follows:

AN ORDINANCE AMENDING ORDINANCE NO. 1175, RELATING TO THE ISSUANCE OF BOND ANTICIPATION NOTES, SERIES 2012B, OF THE CITY OF DAVID CITY, NEBRASKA, IN THE AMOUNT OF NOT TO EXCEED SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000), TO PROVIDE FOR CORRECT REFERENCE TO STREET IMPROVEMENT DISTRICT NO. 2011-7; DETERMINING THAT THIS ORDINANCE IS A MEASURE NECESSARY TO CARRY OUT THE CONTRACTUAL OBLIGATIONS OF THE CITY AND DECLARING IT EFFECTIVE UPON PUBLICATION; DECLARING AN EMERGENCY AND ORDERING THE ORDINANCE PUBLISHED

Said Ordinance was published in pamphlet form on August 9, 2012 and has been posted in full in three public of the most public places in the City. Copies of said Ordinance as published in pamphlet form are also available for inspection and distribution at the Office of the City Clerk, in the City of David City, Nebraska.

Mayor

[SEAL]

Interim City Clerk

This proclamation and notice together with the complete ordinance was posted in 3 public places.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Svoboda, and Scribner. Voting NAY: None. Council member Smith was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:25 p.m.



CERTIFICATION OF MINUTES
August 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 August 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.

Tami L. Comte, Interim City Clerk

