

CITY COUNCIL PROCEEDINGS

April 11, 2007

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 5th, 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 Dana Trowbridge, Council members Gary Smith, Rick Holland, Bill Schatz, Bill Scribner, Nick Hein, and Ted Lukassen, City Administrator Joe Johnson, City Attorney Jim Egr, Electric Supervisor Tim Kovar, Police Chief Stephen Sunday, Street Superintendent Jim McDonald, Joe & Dorothy Bohaty, Cathy Brown, Mary Ann Mattingly, Ed Sieck, BCD Executive Director Willow Holoubek, Community Economic Development Coordinator Leo Ahmann for Northeast Nebraska Economic Development District, Rural Fire Department members Doug Matulka, Mike Novotny, Bruce Meysenburg, Ken Smith, Kevin Hotovy, Jerry Oborny, Matt Hilger, Bob Hilger, Chad Meysenburg, Dave Schmit, and Joe Birkel, Banner-Press Editor Larry Peirce, and City Clerk-Treasurer Joan Kovar.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the March 14th, 2007 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Smith. Voting AYE: Council members Schatz, Scribner, Lukassen, Holland, Smith, and Hein. Voting NAY: None. The motion carried.

Council member Smith made a motion to advance agenda item #11 – Consideration of "D" Street between 5th and 6th Street specifically in front of the fire station located at 552 "D" Street – immediately after agenda item #7 – Committee and Officer Reports. Council member Lukassen seconded the motion. Voting AYE: Council members Holland, Hein, Schatz, Scribner, Lukassen, and Smith. Voting NAY: None. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets. Mrs. Dorothy Bohaty stated that she is tired of living next door to an unsightly mess and a health hazard. She was referring to the Vogl/Janak property at 1070 No. 8th Street. Mrs. Bohaty said that she realizes that "due process of the law" must be followed but that it has been going on for approximately ten (10) years. Police Chief Sunday stated that even he gets frustrated with the process of waiting so long, scheduling meetings, and then not having a quorum of the Board of Health. Mrs. Bohaty was advised that she should stay in attendance for

agenda item #13 – Consideration of adopting nuisance laws that prevents and abates litter within the City limits and the ETJ of David City.

Mayor Trowbridge asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims. Council member Holland seconded the motion. Council members Hein and Holland questioned the swimming pool's share of the Aquila bill in the amount of \$681.33. They feel that this bill is excessive and want this checked out. Voting YEA to approve the claims as presented: Council members Hein, Schatz, Scribner, Lukassen, Holland, and Smith. Voting NAY: None. The motion carried.

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. Mayor Trowbridge asked the department heads to submit their reports on the Friday preceding the Council meeting, so that the reports can all be properly placed in their agenda packets.

Police Chief Sunday reported that there will be a Board of Health meeting on April 18, 2007, at 6:00 p.m. in the City Office.

Council member Hein made a motion to accept the Committee and Officers' Reports as presented. Council member Smith seconded the motion. Voting YEA: Council members Holland, Lukassen, Schatz, Scribner, Smith, and Hein. Voting NAY: None. The motion carried.

After discussion, it was determined that there was no need to schedule a Committee of the Whole Meeting in April.

Mike Novotny of the Rural Fire Department presented the following bid from Struebing Concrete & Construction. The bids include: tear out and replace, haul away, labor, and concrete with Fiber and rebar:

1 st .	16'x95'x8"	1,520 sq. ft. @ \$4.00 =	\$6,080.00
2 nd	21'x37'x8"	777 sq. ft. @ \$4.00 =	\$3,108.00
3 rd	13'x25'x8"	325 sq. ft. @ \$4.00 =	\$1,300.00

Mike explained:

Bid #1: of the 16', 11' would cover the brick street and the additional 5' would be the approach that goes to the fire department. They would smooth out the high spots and fill in the low spots, making sure that the water still flows.

Bid #2: is for the approach to the fire department

Bid #3: is the sidewalk by the fire department; which should be done at the same time as well.

Mike Novotny stated that without removing the bricks they don't know what the surface is like underneath the existing street. The rural fire board members looked at the street while it was raining. There is approximately a 2' wide path that flows west to east clearly on the brick street. The water has a good flow. A gentler slope is needed from the fire department to the street. The dip in the street is damaging the fire

departments rigs and equipment. The ambulance mud flaps have been torn off and the bumpers scratch; this could cause suspension problems. When the 3,000 gallon tanker units are driven over the dip the firemen hear them popping; luckily there has been no complete failure. The ladder truck has very minimal clearance. Some of their other equipment is getting high centered and they can't move. Preventative measures need to be taken before serious damage occurs. Mike asked if the city and the rural fire board could meet to see if they can work together. The problem needs to be addressed now, with the best decision; see what the grant can offer towards a solution.

Mayor Trowbridge stated that these bids are more workable than what they had seen in the past and they can probably come to a resolution. Mayor Trowbridge stated that he realizes the rural board members don't want to wait another five years.

Council member Schatz made a motion to table consideration of repairs to "D" Street, in front of the fire station located at 552 "D" Street, until we know the results of the application to the Department of Economic Development for a Community Development Block Grant request/study. Council member Smith seconded the motion. Community Economic Development Coordinator Leo Ahmann for Northeast Nebraska Economic Development District, stated that the application is for a study and not actually for grant money for construction. Voting AYE: Council members Scribner, Hein, Lukassen, Holland, Smith, and Schatz. Voting NAY: None. The motion carried.

Mayor Trowbridge declared the Public Hearing open at 7:40 p.m. to consider an application to the Department of Economic Development for a Community Development Block Grant. Community Economic Development Coordinator Leo Ahmann for Northeast Nebraska Economic Development District stated that the City is requesting 20,100.00 in grant funds (\$18,700 + \$1,400.00 general administration costs) for installation of a storm sewer system, and improvements to the sewer system, water system, electric system, street improvements, and infrastructure located within the downtown area of David City. Improvements are being sought to improve the economic environment within the downtown area of David City. The City will match \$6,300.00 of the total \$26,400 that is being requested.

There being no further comments, Mayor Trowbridge declared the Public Hearing closed at 7:49 p.m.

Council member Schatz made a motion to authorize Mayor Trowbridge to execute all appropriate documents concerning the CDBG grant application request. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Holland, Scribner, Hein, and Schatz. Voting NAY: None. The motion carried.

Mary Ann Mattingly addressed the council and asked them to amend Chapter 8, Section 5, "Employment of Relatives" which states: *"Two or more of the same immediate family shall not be employed to supervise each other or to do work under the same immediate supervisor. They may, however, be employed in different units of the same department or in different departments. The employment of family members under these circumstances is welcome. (This rule does not apply to cases of the employment of relatives existing on the effective date of these rules)."*

Mary Ann is requesting that a stipulation be made as follows: *“An exception to this rule may be made in considering the employment regarding temporary or seasonal employees.”* Mary Ann feels that the swimming pool is a unique situation due to the limited number of qualified employees. She had heard that none of the previous managers were returning so she stated that the City won't be able to hire anyone with managerial experience.

Council member Schatz stated that he realizes the swimming pool employees are temporary/part-time positions, but questioned if the council should amend the employee policy to allow nepotism. Schatz didn't want to see a hasty decision.

Council member Scribner stated that he knows Mary Ann, and he's not worried about Mary Ann showing favoritism. However, if we allow it for one manager, we will have to allow it to the next manager also. This is a city policy; if it gets approved in this instance it opens the door to everyone.

City Attorney Egr stated that Section 49-1499.04 of the Nebraska Revised Statutes states: *“Political Subdivision; employment of family member; when; exception.*

- (1) An official or employee of a political subdivision may employ or recommend or supervise the employment of an immediate family member if
 - (a) he or she does not abuse his or her official position as described in section 49-1499.05,*
 - (b) he or she make a full disclosure on the record to the governing body of the political subdivision and a written disclosure to the person in charge of keeping records for the governing body, and*
 - (c) the governing body of the political subdivision approves the employment or supervisor position.**
- (2) No official or employee shall employ an immediate family member
 - (a) without first having made a reasonable solicitation and consideration of applications for such employment,*
 - (b) who is not qualified for and able to perform the duties of the position,*
 - (c) for any unreasonably high salary, or*
 - (d) who is not required to perform the duties of the position.”**

Council members Smith and Lukassen are on the swimming pool committee and they stated that in the past we have had three applications for pool managers and we hired a manager and two assistants.

Council member Lukassen made a motion to amend Chapter 8, Section 5, “Employment of Relatives” in the personnel manual to stipulate that an employee may supervise the employment of an immediate family member only when it relates to a seasonal employee. Council member Smith seconded the motion. Voting AYE: Council members Smith and Lukassen. Voting NAY: Council members Scribner, Schatz, and Hein. Council member Holland abstained. The motion failed.

Ed Sieck, a citizen, was present to discuss the condition of the tennis courts in the City Park. Ed stated that the engineer was paid \$10,000 for the tennis court and then they decided to omit the overlay. It was stated that the tennis court is an asphalt surface with paint over the top. The problem is that the asphalt is breaking loose. Ed,

as a solution, suggested milling the top surface off and re-doing it. Ed stated that previous City Administrator Andrew Brannen said that he would get a seven (7) year warranty on the tennis court surface. Did the city get a seven year warranty? No-one knew for sure. Council member Hein suggested looking into this further and checking our options. This will be discussed at a Committee of the Whole meeting.

The City Council discussed adopting nuisance laws that prevents and abates litter within the City limits and extraterritorial jurisdiction (ETJ) of David City; provides a clear definition thereof; and provides authority to the proper city officers to cause such litter to be removed at the expense of the owner or the owner's duly authorized agent. Currently, litter, garbage, rubbish, waste, and/or trash are the responsibilities of the David City Board of Health. To abate litter, garbage, rubbish, waste, and/or trash, it must endure a Board of Health procedure. Nebraska Revised Statutes Sections 17-123, 17-123.01, 17-563 and 18-1720 allow all cities the power and authority by ordinance to "define, regulate, suppress and prevent nuisances, and to declare what shall constitute a nuisance, and to abate and remove the same." It was recommended that litter be controlled by means of the David City Police Department and the City Administrator and removed from the Board of Health's responsibilities.

Nebraska Revised Statutes Section 17-563 states: *(1) Each city of the second class and village by ordinance may require lots or pieces of ground within the city to be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon. It may require the owner or occupant of any lot or piece of ground within the city to keep the lot or piece of ground and the adjoining streets and alleys free of any growth of twelve inches or more in height of weeds, grasses, or worthless vegetation, and it may prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground with the city. (2) Any city of the second class may by ordinance declare it to be a nuisance to permit or maintain any growth of twelve inches or more in height of weeds, grasses, or worthless vegetation or to litter or cause litter to be deposited or remain thereon except in proper receptacles. (3) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating such ordinance, be guilty of a Class V misdemeanor. (4) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. Within five days after receipt of such notice or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (b) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys. (5) For purposes of this section: (a) Litter includes, but is not limited to: (i) trash, rubbish, refuse, garbage, paper, rags, and ashes; (ii) wood, plaster, cement, brick, or stone building rubble; (iii) grass, leaves, and worthless vegetation; (iv) offal and dead animals; and (v) any machine or machines, vehicle or vehicles, or parts of a machine or*

vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended function, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk.....

City Attorney Egr stated that the Police Chief and City Administrator will take a lot of flak (criticism) as will the council.

Council member Schatz made a motion that City Attorney Egr revise Chapter 4-§4-402 Nuisances; Abatement Procedure of the Municipal Code Book so that it is more consistent with the Nebraska Revised Statutes. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Smith, Hein, Lukassen, Holland, and Schatz. Voting NAY: None. The motion carried. Council member Schatz stated that the Board of Health will still need to make reports to the City Council.

Mayor Trowbridge declared a recess at 9:10 p.m. The meeting resumed at 9:23 p.m.

Council member Hein made a motion to pass Ordinance No. 1041 on the third and final reading. Council member Scribner seconded the motion. Voting AYE: Council members Lukassen, Holland, Smith, Schatz, Scribner, and Hein. Voting NAY: None. The motion carried and Ordinance No. 1041 was passed on third and final reading as follows:

ORDINANCE NO. 1041

AN ORDINANCE OF THE CITY OF DAVID CITY TO CREATE AN AIRPORT ADVISORY BOARD TO MAKE RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL MEMBERS CONCERNING OPERATION OF THE DAVID CITY MUNICIPAL AIRPORT; 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.

WHEREAS, the David City Municipal Airport is presently being operated/managed by the Airport Manager, with very limited oversight, and;

WHEREAS, the Mayor and City Council desires to create a board to advise the City on Airport related activities, **THEREFORE**:

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AS FOLLOWS:

SECTION 1. There is hereby established an Airport Advisory Board, hereinafter ("Board") for the City of David City, Nebraska whose members shall be appointed by the Mayor with the advice and consent of the City Council

SECTION 2. The purpose of the Board shall be to advise the City on Airport related activities.

SECTION 3. Membership of this Board shall be comprised of five (5) members. The required five (5) members shall consist of two (2) pilots, one (1) City Council Member, one (1) Planning Commission Member and the Airport Manager. Members of the Board shall be appointed to serve a three (3) year term.

SECTION 4. All five (5) members shall serve without pay.

SECTION 5. Any vacancies on said Board shall be filled by the Mayor's appointment with the advice and consent of the City Council.

SECTION 6. The Airport Manager shall call the meetings for the Board on a regular basis, not less than one (1) every two (2) months on a schedule to be established and published by the Airport Manager as required by Nebraska Open Meetings Act. The Airport Manager shall set the agenda for Board meetings. The Airport Manager may call a special meeting of the Board whenever, in his opinion, the business of the Board may require it. Notice of special meetings shall be made in conformance with the Nebraska Open Meetings Act.

SECTION 7. A majority of the members of the Board shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance shall be named and shall adjourn to a later time.

SECTION 8. All meetings of the Board shall be open to the public.

SECTION 9. Minutes of all regular and special meetings shall be recorded by the Airport Manager and maintained in the office of the City Clerk. The minutes shall reflect the date, time and place of the meetings; members recorded as either present or absent; a general description of all matters proposed, discussed or decided; and a record of any votes taken. Minutes of all meetings shall be taken. Approval of minutes shall be considered at the next regular meeting of the Board. Copies of approved minutes shall be provided to the City Council, Mayor and the City Administrator.

SECTION 10. The Board shall function in an advisory capacity only and shall have no authority to adopt, amend, modify, alter or rescind any rule, regulation or ordinance for the management, governance or use of the David City Municipal Airport. The Board shall make recommendations regarding aeronautical operations and maintenance, involving technical aviation and safety matters, to the Airport Manager.

SECTION 11. The Board shall have no financial and budgetary authority. The Board shall prepare an annual budget for submission to the City Council.

SECTION 12. Duties of the Board shall include, but not limited to, the following:

The Board shall study the actual operation of the airport with the view of improving existing standards, or establishing new standards, and the possibility of incorporating the new standards in this Airport Advisory Board ordinance. It shall study existing and future leases or drafts of leases entered into between the City and private parties regarding the operation of the airport or portions thereof or any facilities thereon. It shall study the relationship of the airport manager to the City and its citizens with the

view towards the maximum protection of the public health, welfare, and safety as well as the establishment of a line of communication and the maintenance of good public relations; and

The Board shall study economic feasibility of various land uses of adjacent property and, in particular, the use of said land for industrial, recreational, or airport expansion.

The Board shall attempt to find informal resolution of grievances with a view related to operations and maintenance and, if necessary, make recommendations to the City Council for the resolution of grievance.

SECTION 13. 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 14. 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 11th day of April, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz made a motion to refer approving the execution of an Agency Agreement with the Department of Aeronautics of the State of Nebraska, for Project No. R02 (Seal Coat Runway) to be submitted by the Department to the Federal Aviation Administration to obtain Federal Assistance for the development of the Airport, to the Airport Advisory Board. Council member Scribner seconded the motion. Voting YEA: Council members Lukassen, Smith, Holland, Hein, Scribner, and Schatz. Voting NAY: None. The motion carried.

Council member Hein introduced Resolution No. 4 - 2007 and moved for its passage and adoption as amended. Council member Holland seconded the motion. Voting YEA: Council members Scribner, Lukassen, Smith, Schatz, Holland, and Hein. Voting NAY: None. The motion carried and Resolution No. 4 - 2007 was passed and adopted as follows:

RESOLUTION NO. 4 – 2007

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

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

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

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

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

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

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

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

1. The maximum length of stay is 30 concurrent days in a 60 day period and maximum of 60 days per calendar year. The RV Park is for temporary residence only and not intended for permanent residents.
2. Visitors must vacate the RV Park by removing all RV's, camping vehicles, trailers, passenger vehicles, and personal property before Noon or be subjected to an additional days fee.
3. Fees must be paid in advance. Payment for services not rendered will be reimbursed. No specific spaces can be reserved.
4. No more than two (2) additional vehicles per space
5. Waste, water, sewage or effluent from sinks, portable toilets or other plumbing fixtures must be deposited at the dump station only, and may not be deposited directly on any pavement, dirt or vegetation.
6. Pets may not to be left unattended outdoors at any time.
7. Pets must be contained or restrained on a leash of less than 6 feet at all times.
8. Droppings and accidental waste material from pets must be picked up immediately and removed to trash dumpster. Limit two (2) pets per site.
9. Quiet hours are from 10:00 p.m. to 6:00 a.m. daily. (Generators may be operated only between the hours of 8:00 a.m. and 8:00 p.m.) Please ensure that

- speakers, radios, televisions, etc. or other machinery do not emit sound beyond your space.
10. One tent or camping unit per site.
 11. No vehicle repairs, maintenance activities, fluid changes, washing/rinsing of vehicles/RV's are permitted in Park. Vehicles leaking oil, gas, or other liquids or matter must be removed from the campsite and grounds immediately.
 12. Rope, wire, or string may not be attached to any trees, vegetation, poles or City property at any time.
 13. No defacing or cutting of trees and shrubs.
 14. All property must be in the confines of the parking space. Parking on access road prohibited.
 15. No open fires in the Park.
 16. Trash receptacles are provided throughout the RV Park.
 17. Pay phone is located on the north side of the RV Park
 18. Payment drop box is located on the south side of the RV Park.
 19. Restrooms are located in the City Park, to the south of the RV Park
 20. All federal, state, and local laws must be obeyed at all times.
 21. All signs, posted notices and directions of the RV Park manager must be obeyed. Non-compliance may result in immediate loss of parking privileges.
 22. RV Park management reserves the right to determine if a parking space is deemed unsightly or a nuisance
 23. The City of David City and the RV Park management assume no responsibility or liability for the safety and security of campers/visitors and their personal property. The City of David City and RV Park management is not responsible for loss or damage of your personal property caused by fire, theft, accident, or vandalism

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

Responsible law enforcement agency: David City Police Department

PASSED AND APPROVED this 11th day of April, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 1044. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Holland, Scribner, Schatz, Lukassen, and Hein. Voting NAY: None. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1044 as amended on the third and final reading. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Smith, Holland, Scribner, Lukassen, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1044 was passed and adopted as follows:

ORDINANCE NO. 1044

AN ORDINANCE RELATING TO ELECTRIC SERVICE RATES AND MINIMUM CHARGES, TO PROVIDE A NEW SCHEDULE OF ELECTRIC RATES BY INCORPORATING A 4% PRODUCTION COST ADJUSTMENT TO ALL PER KILOWATT-HOUR ELECTRIC RATES FOR TWELVE (12) MONTHS, OR TO COINCIDE WITH NPPD'S PCA RATE; TO REPEAL ALL PARTS OF THE CODE, RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE WHEN THE ORDINANCE SHALL TAKE EFFECT; AND TO PROVIDE 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. NEW SCHEDULE: Relating to electric service and minimum charges, to incorporate a 4% Production Cost Adjustment to all per kilowatt-hour electric rates, for twelve (12) months, or to coincide with NPPD's PCA rate, due to the 4% increase to the City by Nebraska Public Power District due to the ice storm damage they endured.

RESIDENTIAL SERVICE

Available

To residential customers in the established service area of David City.

Applicable

To single-family residences and individually metered apartments for all domestic purposes when all service is supplied through a single meter. It is not applicable to residences where a commercial enterprise is conducted.

Character of Service

A.C. 60 Hertz, Single-Phase 120 volt, 2 wire or 120/240 volts, 3 wire.

Rate

Customer Service Charge - \$7.62 per month (or partial month)

Summer	Winter	
\$0.0819	\$0.0807	per kilowatt-hour for the first 500 kilowatt-hours used per month
\$0.0735	\$0.0556	per kilowatt-hour for the next 500 kilowatt-hours used
\$0.0650	\$0.0367	per kilowatt-hour for all additional use.
		Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill
Customer Service Charge

RESIDENTIAL SUMMER CONTROLS

Applicable

To residential consumers who have allowed the Utility Department to install, and operate, such devices as would be required to cycle central air conditioning units during periods of peak electrical demand and imposed upon the electrical system. Window air conditioning units, on a separate electric circuit can be included in this rate.

Rate

Customer Service Charge - \$7.62 per month

Summer	Winter	
\$0.0819	\$0.0807	per kilowatt-hour for the first 500 kilowatt-hours used per month
\$0.0678	\$0.0556	per kilowatt-hour for the next 500 kilowatt-hours used
\$0.0620	\$0.0367	per kilowatt-hour for all additional use.

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

Customer Service Charge

Seasonal Billing Periods

- Summer - Summer period is for the meter readings obtained during the four month period of June through September.
- Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

Terms of Payment

Utility bills are mailed on approximately the 25th day of each month and are payable upon receipt. They become due the 1st day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10th day of the month. If the 10th of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

COMMERCIAL SERVICE

Available

To any non residential consumer in the established service area of David City.

Applicable

To any non-residential consumer for lighting, heating and power purposes where the customer's billing demand does not exceed 35 Kw or 10,000 Kwh for three consecutive months.

Character of Service

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

Single Phase Rate

Customer Service Charge - \$7.62 per month (or partial month)

Summer	Winter	
\$0.0914	\$0.0896	per kilowatt-hour for the first 1000 kilowatt-hours used per month
\$0.0713	\$0.0628	per kilowatt-hour for the next 1000 kilowatt-hours used
\$0.0713	\$0.0504	per kilowatt-hour for all additional use.

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

Customer Service Charge, or \$1.80 per month per horsepower for the first 10 horsepower and \$1.03 per horsepower of connected load thereafter, or whichever is the largest.

Three Phase Rate

Customer Service Charge - \$15.24 per month (or partial month)

Summer	Winter	
\$0.0914	\$0.0896	per kilowatt-hour for the first 1000 kilowatt-hours used per month
\$0.0713	\$0.0628	per kilowatt-hour for the next 1000 kilowatt-hours used
\$0.0713	\$0.0504	per kilowatt-hour for all additional use.

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

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Power Factor Adjustment

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

INDUSTRIAL SERVICE

Available

To any non residential consumer in the established service area of David City.

Applicable

To any consumer whose monthly consumption equals or exceeds 10,000 Kwh and whose monthly peak demand equals or exceeds 35 Kw for three consecutive months.

Character of Service

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

Rate

Demand Charge

Summer	\$16.61 per kilowatt of maximum billing demand
Winter	\$12.96 per kilowatt of maximum billing demand

Energy Charge

Summer	\$0.0342 per kilowatt-hour used
Winter	\$0.0280 per kilowatt-hour used

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

The minimum bill shall be \$300.76 per month, or the billing demand charge, whichever is greater.

Determination of Billing Demand

The maximum demand for any billing period shall be the larger of: The highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period; or fifty four percent (54%) of the highest kilowatt demand registered on the meter during the preceding months of June, July, August, or September.

Seasonal Billing Periods

Summer - Summer period is for the meter readings obtained during the four month period of June through September.

Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

Terms of Payment

Utility bills are mailed on approximately the 25th day of each month and are payable upon receipt. They become due the 1st day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10th day of the month. If the 10th of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

Power Factor Adjustment

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

Fluctuating Loads

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all nonbetterment costs for corrective equipment to eliminate the interference.

OFF-PEAK INDUSTRIAL SERVICE

Available

To any non residential consumer in the established service area of David City.

Applicable

To any consumer whose monthly consumption equals or exceeds 10,000 Kwh and whose monthly peak demand equals or exceeds 35 Kw for three consecutive months and whose peak demand during the winter season exceeds the peak demand experienced during the preceding summer season.

Character of Service

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

Rate

Demand Charge

Summer \$16.61 per kilowatt of maximum billing demand
Winter \$ 8.47 per kilowatt of maximum billing demand

Energy Charge

Summer \$0.0342 per kilowatt-hour used
Winter \$0.0280 per kilowatt-hour used
Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

The minimum bill per month shall be \$273.98 during the winter months, or the billing demand charge, whichever is greater.

The minimum bill per month shall be \$300.76 during the summer months, or whichever is the greater between the billing demand or the summer/winter minimum.

Determination of Billing Demand

The maximum demand for any billing period shall be the larger of: The highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period; or fifty four percent (54%) of the highest kilowatt demand registered on the meter during the preceding months of June, July, August, or September.

Seasonal Billing Periods

Summer - Summer period is for the meter readings obtained during the four month period of June through September.

Winter - Winter period is for the meter readings obtained during the eight month period of October through May.

Terms of Payment

Utility bills are mailed on approximately the 25th day of each month and are payable upon receipt. They become due the 1st day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10th day of the month. If the 10th of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

Power Factor Adjustment

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

Fluctuating Loads

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all non-betterment costs for corrective equipment to eliminate the interference.

IRRIGATION SERVICE

Available

To irrigation customers in the established service area of David City.

Applicable

Applicable: Off-Peak: During the irrigation season, the utility may interrupt pump service during the peak hours. The peak hours shall be between 10:30 a.m. and 9:30 p.m. (Central Daylight Savings Time), Monday thru Saturday, excluding holidays. The City, at their sole discretion may change the period of interruptible hours.

Rate: On-peak irrigation (Firm)

\$38.32 per Horsepower connected per year. **Energy consumed shall be billed at the rate of 6.15¢ per kilowatt hour per month, payable as used.**

Rate: Off-peak irrigation (Non-Firm)

\$16.38 per Horsepower connected per year. **Energy consumed shall be billed at the rate of 3.87¢ per kilowatt hour per month, payable as used.**

Minimum Bill

The minimum bill shall be the Horse Power Charge

Determination of Connected Load

The connected load in horsepower shall be taken from the name plates of the motors or from an actual measurement of horsepower input to the motor, or motors, operating under maximum load conditions. The City reserves the right at any time to check the customer's load for recalculation of the connected load.

Terms of Payment

The total horsepower charge shall be billed on approximately April 25th of each year and total amount payable upon receipt. It shall become due the first day of May each year and become delinquent at 5:00 p.m. on the 10th day of May. A ten percent (10%) penalty is imposed on all delinquent bills.

Bills for the kwh usage are mailed on approximately the 25th day of each month and are payable upon receipt. They become due the 1st day of each month and become delinquent at 5:00 p.m. on the 10th day of each month. A ten percent (10%) penalty is imposed on all delinquent bills.

Power Factor Adjustment

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% whether leading or lagging at all times. Power factor adjustments will be made in the horsepower billing, when the power factor, as determined by test, at the time of the maximum use is less than 90%. The measured maximum horsepower will be multiplied by 90 percent and divided by the customer's power factor expressed in percent.

FLUCTUATING LOADS

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, will be charged \$1.70 per month per KVA of such nameplate rating of such equipment or other equipment for energy used, and such charges will be in addition to the bill determined by the kilowatt hours recorded by the meter and billed at scheduled rates. It will be added to the minimum bill for services in the event the energy for other services does not equal the amount of a minimum bill for such other services.

Section 2. **RATE MODIFICATION**: Whereas the rates offered to the customer by the City is based upon the current rate being paid by the City to its wholesale supplier, the City shall reserve the right, during the term of the rates, to adjust said rates to the consumer by an amount not to exceed two (2) mills per kilowatt hour greater than the adjustment to the City by its wholesale supplier.

Section 4. That all rates in Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5. 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 ADOPTED this 11th day of April, 2007

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 1045. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Schatz seconded the motion. Voting AYE: Council members Lukassen, Smith, Scribner, Holland, Schatz, and Hein. Voting NAY: None. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1045 on the third and final reading. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Holland, Scribner, Hein, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1045 was passed and adopted as follows:

ORDINANCE NO. 1045

AN ORDINANCE AMENDING CHAPTER 3; SECTION 3-213, CONCERNING SETTING SEWER RATES BY ORDINANCE, 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. That the following Section of Chapter 3 of the David City Municipal Code Book be amended to read as follows:

§3-213 MUNICIPAL SEWER DEPARTMENT; RATE SETTING.
Customers of the Municipal Sewer Department shall not be charged a flat rate for the use of sewer service. Rates shall be set by ordinance and shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time.

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 repealed.

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 11th day of April, 2007

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 1046. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Schatz seconded the motion. Voting AYE: Council members Lukassen, Holland, Scribner, Smith, Schatz, and Hein. Voting NAY: None. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1046 on the third and final reading. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Holland, Scribner, Smith, Hein, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1046 was passed and adopted as follows:

ORDINANCE NO. 1046

AN ORDINANCE SETTING THE MONTHLY SEWER RATE TO BE CHARGED NEW SEWER CUSTOMERS; SETTING AN EFFECTIVE DATE, REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. For new residential customers in the City, who were not customers during the months of December, January, and February, the following monthly sewer rate shall apply:

Customer charge of \$5.15 per month
Plus an average of 3,000 gallons per month.

Section 2. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is 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 11th day of April, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz made a motion that an ordinance be drafted to adopt "Robert's Rules of Order" as the governing rules for City Council proceedings. Council member Lukassen seconded the motion. Council member Scribner asked if the City would provide a class to teach "Roberts Rules of Order". City Administrator Johnson said that everyone will receive a book and a training session. Voting AYE: Council members Smith, Holland, Lukassen, and Schatz. Voting NAY: Council members Scribner, and Hein. The motion carried.

Council member Schatz made a motion to allow Mayor Trowbridge to appoint Dr. Victor Thoendel and Bill Lawson to each serve on the Board of Health. Appointments are annual. This appointment will run until December 2007 at which time appointments will need to be considered for the upcoming year. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Holland, Scribner, Hein, Smith, and Schatz. Voting NAY: None. The motion carried.

City Administrator Joe Johnson stated that there will be a Swimming Pool Committee meeting on Friday, April 13th, at noon at the City Office. Council members Gary Smith and Ted Lukassen are on the Swimming Pool Committee. A replacement is needed for past council member Gary Kroesing. Council member Rick Holland stated that he will serve on the committee. Since he cannot make it this Friday, Mayor Trowbridge will fill in for him.

Council member Lukassen stated that he would be willing to serve on the Airport Advisory Board.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Smith seconded the motion. Voting AYE: Council members Schatz, Holland, Lukassen, Scribner, Smith, and Hein. Voting NAY: None. The motion carried and Mayor Trowbridge declared the meeting adjourned at 9:55 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES

April 11, 2007

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of April 11, 2007; 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.

Joan E. Kovar, City Clerk