

CITY COUNCIL PROCEEDINGS

April 13, 2005

The City Council of the City of David City, Nebraska met in an 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 7, 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 Stephen Smith, Council members Gary Kroesing, Ted Lukassen, Mark Kirby, Gary Smith, Nick Hein, and Bill Schatz, Youth Council members Audra Duren, Nolan Moravec, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Electric Supervisor Tim Kovar, Police Chief Stephen Sunday, Water/Sewer Supervisor Jim Kruse, Street Superintendent Jim McDonald, Zoning Administrator Roger Kotil, Mark & Willow Holoubek, Dan & Jan Sypal, Erik & Diane Peterson, Larry J. Sabata, Dale Cooper, Bob Litjen, Gina Barlean, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar.

The meeting opened with the Pledge of Allegiance.

Mayor Smith called for a motion to approve the minutes of the March 13, 2005 meeting of the Mayor and City Council. Council member Kirby stated he received comments that the minutes were too accurate and precise, especially pages nine and 10, that was word for word. They preferred that the minutes not be as thorough. After discussion it was decided to leave the minute's stand as written. Therefore, the minutes were approved upon a motion by Council member Kirby and seconded by Council member Hein. Voting AYE: Council members Kroesing, Schatz, Lukassen, Smith, Hein, and Kirby. Voting NAY: None. The motion carried.

Council member Hein made a motion to appoint Nolan Moravec and Audra Duren as youth council members. Council member Schatz seconded the motion. All of the Council members were present, all voted AYE, and the motion carried. City Attorney Egr swore them in and they were seated.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions. A letter from Gayle Henry inquiring if the City has a noise ordinance was acknowledged. Bob Litjen asked about the policy on street improvement projects and this was discussed.

Council member Hein reported that a gentleman was fishing at the park lakes and stated he was very pleased with the condition of the City Park and park lakes and the City should be commended.

Mayor Smith asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims. Council member Kroesing seconded the motion. All of the Council members were present, all voted AYE and the motion carried.

Mayor Smith called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet.

Police Chief Sunday reported the following:

- May 4, 2005, 5:30 p.m., Board of Health meeting
- May 7, 2005, 1:00 - 4:00 p.m. Open House at the police department
- Sunday will be on vacation Thursday, April 14th & Friday, April 15th

City Attorney Egr reported that Randy Janak's court date is May 3, 2005 at 9:30 a.m..

Mayor Smith scheduled a Committee of the Whole meeting for Monday, April 25, 2005 at 6:00 p.m. in the City Office meeting room.

Council member Kroesing made a motion to accept the Committee and Officers' Reports as presented. Council member Smith seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Hein made a motion to advance to agenda item #18 - Consideration of the American Legion regarding the plane at the Airport. Council member Kroesing seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Bob Litjen and Dale Cooper stated that the American Legion has had the plane located at the City airport on loan from the Air Force museum for about 20 years. Now, proof of insurance is required. The American Legion is asking if the City would take responsibility for the plane and provide insurance. This will be discussed further at the Committee of the Whole meeting.

Mark Holoubek stated that before he discussed an easement in Dove West Addition he wanted to discuss culverts. Holoubek purchased a 48" culvert, but when he notified the City that he was ready for it to be installed, he was advised by Street Superintendent McDonald that a 54" culvert was needed. Discussion followed. Council member Hein made a motion to table consideration of an easement for the drainage ditch in Dove West Addition. Council member Kroesing seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Larry Sabata stated he would like to amend Phase 2 of Sabata's Addition to David City. Instead of Phase 2 consisting of fifteen lots #6 thru #20, Larry would like Phase 2 to be amended to only include the five lots along 11th Street just north of his 1st Addition. Discussion followed. City Attorney Egr advised that the City could approve Ordinance #995 on the 2nd reading, amending Phase 2 to consist of only five lots along 11th Street, provided that an updated plat with the current legal description is provided. Therefore, Council member Smith made a motion to approve Ordinance No. 995 on 2nd reading only, as amended at this meeting that Phase 2 includes only five lots along 11th Street, just north of his 1st Addition, contingent upon the necessary plat and legal description being provided and with the understanding the utility services will be extended to the plat line only. Council member Kirby seconded the motion. Voting AYE: Council members Schatz, Lukassen, Kirby, and Smith. Voting NAY: Council members Kroesing and Hein. The motion carried and Ordinance No. 995 was approved on second reading as follows:

ORDINANCE NO. 995

AN ORDINANCE ACCEPTING AND APPROVING THE FINAL PLAT DESIGNATED AS

“PHASE 2 OF SABATA’S ADDITION”; REPEALING CONFLICTING ORDINANCES AND SECTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, Larry J. Sabata, owner of a tract of land legally described as:

A tract of land located in the N ½ of the NE ¼ of Section 20, T15N, R3E of the 6th P.M. in Butler County, Nebraska, described as follows:

Beginning at the northwest corner of the N ½ of the NW ¼ of Section 20, T15N, R3E of the 6th P.M. in Butler County, Nebraska, and assuming the north line of said N ½ of the NW ¼ to have a bearing of N 90_00’00” E; thence N 90_00’00” E and on said north line, 152.97 feet; thence S 00_57’20” E, 551.05 feet to the northeast corner of Lot 1, Block A, Larry J. Sabata 1st Addition; thence S 89_58’32” W and on the north line of said Lot 1, 152.94 feet, to the west line of the N ½ of the NW ¼ of said Section 20; thence N 00_57’31” W and on said west line, 551.10 feet, to the point of beginning, containing 1.94 acres, more or less. (consisting of five lots along the east side of 11th Street south of “O” Street)

Comment [COMMENT1]:

has filed said Plat with the City of David City, Nebraska, and has requested that said Plat be approved and accepted, and

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

Section 1. That the Final Plat for Phase 2 of Sabata’s Addition, as amended, consisting of five lots along 11th Street, just north of Sabata’s 1st Addition to David City, is hereby accepted and approved and said owner is hereby given the right to plat said Addition to the City of David City, Nebraska.

Section 2. The Subdivider, Larry J. Sabata, shall record the final plat with the Office of the County Assessor and County Clerk of Butler County, Nebraska, pay all recording fees and provide (1) copy of such recorded final plat to the City.

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

PASSED AND APPROVED this _____ day of _____, 2005.

Amended and Passed on 2nd reading only 4/13/05
Mayor Stephen Smith

Amended and Passed on 2nd reading only 4/13/05
City Clerk Joan E. Kovar

Mayor Smith declared a ten minute recess at 8:52 p.m.. The meeting resumed at 9:02 p.m..

Mayor Smith continued the Public Hearing from the March 9, 2005 council meeting to consider annexing Phase 2 of Sabata’s Addition to David City, as amended at this meeting to include only five lots along 11th Street, just north of Sabata’s 1st Addition. Mayor Smith declared the Public Hearing closed at 9:04 p.m..

Council member Schatz introduced Ordinance No. 996. Council member Schatz made a motion to pass Ordinance No. 996 on the first reading only. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Hein, Kroesing, Kirby, Lukassen, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 996 was passed on 1st reading only as follows:

ORDINANCE NO. 996

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF PHASE 2 OF SABATA'S ADDITION CONSISTING OF FIVE LOTS ALONG 11TH STREET JUST NORTH OF SABATA'S 1ST ADDITION, LEGALLY DESCRIBED BELOW, REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council of the City of David City, Nebraska, favors the annexation of the following described real property and the extension of the city limits to include said property, as follows:

A tract of land located in the N ½ of the NE ¼ of Section 20, T15N, R3E of the 6th P.M. in Butler County, Nebraska, described as follows:

Beginning at the northwest corner of the N ½ of the NW ¼ of Section 20, T15N, R3E of the 6th P.M. in Butler County, Nebraska, and assuming the north line of said N ½ of the NW ¼ to have a bearing of N 90_00'00" E; thence N 90_00'00" E and on said north line, 152.97 feet; thence S 00_57'20" E, 551.05 feet to the northeast corner of Lot 1, Block A, Larry J. Sabata 1st Addition; thence S 89_58'32" W and on the north line of said Lot 1, 152.94 feet, to the west line of the N ½ of the NW ¼ of said Section 20; thence N 00_57'31" W and on said west line, 551.10 feet, to the point of beginning, containing 1.94 acres, more or less. (consisting of five lots along the east side of 11th Street south of "O" Street)

Comment [COMMENT2]:

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

Section 1. That the boundaries of the City of David City, Nebraska, be amended and changed in order to include the above described property.

Section 2. That this Ordinance be filed with the Office of the County Assessor and County Clerk of Butler County, Nebraska, and that the City Clerk be directed to amend the plat filed in her office to show the inclusion of the real estate listed above and that the boundary of David City as amended by this Ordinance be certified and placed on record in the office of the City Clerk of David City, Nebraska.

Section 3. That any Ordinance, setting or establishing boundaries of the City of David City, Nebraska, which is in conflict with this Ordinance be and the same is hereby repealed.

Section 4. 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 _____ day of _____, 2005.

ATTEST: Passed on 1st reading only 4/13/05
Mayor Stephen Smith

Passed on 1st reading only 4/13/05
City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 997. Council member Schatz 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 Hein, Smith, Kirby, Kroesing, Lukassen, and Schatz. Voting NAY: None. The motion carried.

Council member Kirby made a motion to pass and adopt Ordinance No. 997 on the third and final reading. Council member Schatz seconded the motion. Voting AYE: Council members Hein, Lukassen, Smith, Kroesing, Schatz, and Kirby. Voting NAY: None. The motion carried and Ordinance No. 997 was passed and adopted as follows:

ORDINANCE NO. 997

AN ORDINANCE RELATING TO ELECTRIC SERVICE RATES AND MINIMUM CHARGES, TO PROVIDE A NEW SCHEDULE OF ELECTRIC RATES, BY INCORPORATING RESOLUTION NO. 5 - 2005 THAT PASSED A 3% OCCUPATION FEE ON ELECTRIC RATES; 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 provide a schedule of electric rates, minimum charges, and customer service charges, to distinguish residential rates, commercial rates, industrial rates, off-peak industrial rates, and irrigation rates; to set availability rating; to provide and establish the following tariff of rates to consumers of electric service from the electric distribution system of the City of David City, Nebraska.

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
\$0.0788	\$0.0776 per kilowatt-hour for the first 500 kilowatt-hours used per month
\$0.0707	\$0.0535 per kilowatt-hour for the next 500 kilowatt-hours used
\$0.0625	\$0.0353 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
\$0.0788	\$0.0776 per kilowatt-hour for the first 500 kilowatt-hours used per month
\$0.0652	\$0.0535 per kilowatt-hour for the next 500 kilowatt-hours used
\$0.0597	\$0.0353 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
\$0.0879	\$0.0862 per kilowatt-hour for the first 1000 kilowatt-hours used per month
\$0.0686	\$0.0604 per kilowatt-hour for the next 1000 kilowatt-hours used
\$0.0686	\$0.0485 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
\$0.0879	\$0.0862 per kilowatt-hour for the first 1000 kilowatt-hours used per month
\$0.0686	\$0.0604 per kilowatt-hour for the next 1000 kilowatt-hours used
\$0.0686	\$0.0485 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.

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.

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	\$15.97 per kilowatt of maximum billing demand
Winter	\$12.46 per kilowatt of maximum billing demand

Energy Charge

Summer	\$0.0329 per kilowatt-hour used
Winter	\$0.0270 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	\$15.97 per kilowatt of maximum billing demand
Winter	\$ 8.14 per kilowatt of maximum billing demand

Energy Charge	
Summer	\$0.0329 per kilowatt-hour used
Winter	\$0.0270 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 5.91¢ 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 3.72¢ 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 \$1.63 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 all rates included in this Ordinance shall be effective as of **August 1, 2005**.

PASSED AND ADOPTED this 13th day of April, 2005

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby introduced Ordinance No. 998. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Schatz, Kirby, Hein, and Smith. Voting NAY: Council member Kroesing. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 998 on the third and final reading. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Kirby, Smith, Lukassen, and Schatz. Voting NAY: Council member Kroesing. The motion carried and Ordinance No. 998 was passed and adopted as follows:

ORDINANCE NO. 998

AN ORDINANCE SETTING THE MONTHLY RATES TO BE CHARGED FOR **WATER USAGE; CUSTOMER CHARGES; EFFECTIVE DATES AND RATES; INCORPORATING A 3% OCCUPATION FEE**, REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-101 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

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

Section 1. That the following monthly rates and customer charges shall become effective August 1, 2005. (Water used in August, billed in September, and due October 1 - 10th)

For 5/8" by 3/4" meters:

Customer charge of \$11.59 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$17.41 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$17.41 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$28.94 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$86.93 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$115.88 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$115.88 per month (no water usage included)
and \$1.96 per 1,000 gallons for First 10,000
and \$2.01 per 1,000 gallons Over 10,000

Section 3. That the following monthly rates and customer charges shall become effective June 1, 2006. (Water used in June, which will be billed in July and payable August 1 - 10th)

For 5/8" by 3/4" meters:

Customer charge of \$17.41 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000

and \$2.16 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$21.73 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000
and \$2.16 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$21.73 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000
and \$2.16 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$43.47 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000
and \$2.16 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$130.35 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000
and \$2.16 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$173.81 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000
and \$2.16 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$173.81 per month (no water usage included)
and \$2.06 per 1,000 gallons for First 10,000
and \$2.16 per 1,000 gallons Over 10,000

Section 4. The monthly rates to be charged for water usage and customer charges will be reviewed by the City Council on a three year basis;

Section 5. 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 6. 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 13th day of April, 2005.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Schatz made a motion to pass and adopt Resolution No. 6 - 2005. Council member Kirby seconded the motion. Voting AYE: Council members Lukassen, Hein, Smith, Kirby, and Schatz. Voting NAY: Council member Kroesing. The motion carried and Resolution No. 6 - 2005 was passed and adopted as follows:

RESOLUTION NO. 6 - 2005

WHEREAS, Resolution No. 5 - 2005 was passed and adopted on March 9, 2005 that passes a 3% occupation fee on all utilities (electric, water, and sewer), and

WHEREAS, Chapter 3, Article 2, Section 3-212 of the Municipal Code of the City of David City, Nebraska, provides that customers of the Municipal Sewer Department shall be charged rates set by resolution for the use of the sewer system.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that for the Sewer Use Fee, which is an amount calculated as described hereafter, be increased by three percent (3%):

For residential customers, the monthly sewer rate fee shall be based on the average quantity of water used in the months of December, January, and February preceding April of the current year. Customers who move within the City shall pay the same Sewer Use Fee at their new location as they paid for at their former location until which time the sewer rate fees are recalculated. For new residential customers in the City, an appropriate Sewer Use Fee will be determined by the Water/Sewer Supervisor.

For commercial customers, who use water in a commercial business, industrial, or other non-residential way, a monthly Sewer Use Fee will be calculated monthly based on the current months water usage. Commercial customers who do not want to pay a sewer use fee for water used for watering lawns or shrubs will be responsible, at their own cost, to hire a licensed plumber to install a separate water meter to separately meter such water usage.

The following monthly Sewer Rates and customer charges shall become effective August 1, 2005, billed in September, and due October 1 - 10th.

**Customer charge of \$4.94 per month
First 100,000 gallons of water @ \$2.19 per 1,000 gallons**

That the following monthly sewer rates and customer charges shall become effective March 1, 2006, billed in April, and due May 1 - 10th.

**Customer charge of \$5.15 per month
First 100,000 gallons of water @ \$2.30 per 1,000 gallons**

BE IT FURTHER RESOLVED , that all resolutions and ordinances or parts thereof, in conflict with the provisions of this resolution, are hereby repealed.

Dated this 13th day of April, 2005.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein made a motion to table consideration of an ordinance amending Ordinance No. 964 setting reconnect fees for reinstalling water meters. Council member Schatz seconded the motion. This will be discussed further at the Committee of the Whole meeting. Voting YEA: Council members Lukassen, Smith, Kirby, Kroesing, Schatz, and Hein. Voting NAY: None. The motion carried.

ORDINANCE NO.

AN ORDINANCE SETTING A RECONNECT FEE FOR REINSTALLING WATER METERS; SETTING AN EFFECTIVE DATE; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, IT IS BOTH COSTLY AND TIME CONSUMING FOR UTILITY PERSONNEL TO DISCONNECT AND RECONNECT WATER METERS, AND

WHEREAS, SECTION 3-101 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET THE RATES TO BE CHARGED FOR SERVICES RENDERED BY ORDINANCE.

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

Section 1. The City will reinstall sprinkler meters without a reconnect fee as this is done to prevent the meter from freezing and breaking. The sprinkler meter is installed in the spring and removed in the fall.

Section 2. The following reconnect fees will be charged for reinstalling residential water meters as follows:

During regular business hours for the water department which are:
7:30 a.m. - 4:00 p.m. from Labor Day to Memorial Day and
7:00 a.m. - 3:30 p.m. from Memorial Day to Labor Day..... \$50.00

After regular business hours for the water department: \$100.00

Section 3. 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 4. 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 ____th day of _____, 2005.

 Tabled
Mayor Stephen Smith

 Tabled
City Clerk Joan E. Kovar

Council member Schatz made a motion to pass Ordinance No. 989 amending Chapter 7: Fire Regulations of the David City Municipal Code Book on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Hein, Kirby, Kroesing, Smith, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 989 was approved as follows:

ORDINANCE NO. 989

AN ORDINANCE AMENDING CHAPTER 7: FIRE REGULATIONS OF THE DAVID CITY MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. Chapter 7: Fire Regulations of the David City Municipal Code Book be amended to read as follows:

Chapter 7
FIRE REGULATIONS

Article 1. Fire Prevention

§7-101 FIRE PREVENTION; ADOPTION OF UNIFORM FIRE CODE. There is hereby adopted by the City of David City, Nebraska, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain Code and Standards known as the Uniform Fire Code Standards which Code makes reference to the National Fire Code, published by Western Fire Chiefs' Association and the International Conference of Building Officials, being the current editions thereof and the whole thereof, except such portions as are hereinafter deleted, modified or amended by this Chapter, of said Code and Standards.

One (1) copy is on file with the City Clerk of the City of David City, Nebraska. These Codes are hereby adopted and incorporated as fully as if set out at length, herein, and from the date on which this Chapter shall take effect, the provisions of these Codes shall be controlling within the limits of the City of David City, Nebraska. (Ref. 18-132, 19-902, 19-92.)

§7-102 FIRE PREVENTION; DEFINITIONS.

- a. The word "jurisdiction" used in the Uniform Fire Code, means the zoning jurisdiction of the City of David City.
- b. The term "Municipal official" means all elected and appointed officials of the City of David City.

§7-103 FIRE PREVENTION; OFFICERS RESPONSIBLE FOR CODE ENFORCEMENT.

- a. Inspection under the Uniform Fire Code shall be accomplished principally by the Zoning Administrator, the Fire Chief, Police Chief, and the Police Officers.
- b. For special or unusual situations the Zoning Administrator or the Fire Chief may recommend to the City of David City the employment of special technical inspectors to improve the enforcement of these codes.

§7-104 FIRE PREVENTION; FIRE LIMITS DEFINED. The following described territory in the Municipality shall be and constitute the fire limits:

The corporate limits of the City of David City, Nebraska
as they exist from time to time

§7-104.01 FIRE PREVENTION; STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS PROHIBITED. The storage of flammable or combustible liquids in outside aboveground tanks of any size is prohibited within the Residential, Public, Semi-Public and Park areas. (Ref. 17-137 RS Neb.)

§7-104.02 FIRE PREVENTION; STORAGE OF LIQUEFIED PETROLEUM RESTRICTED. In the zones where storage of liquefied petroleum is permitted, the provision of the Uniform Fire Code shall govern. Liquefied petroleum may be stored in areas that are zoned Industrial and Downtown Commercial. (Ref 17-137 RS Neb.)

§7-104.03 FIRE PREVENTION; STORAGE OF EXPLOSIVES AND BLASTING AGENTS PROHIBITED. No areas are zoned to permit the storage of explosives and blasting agents except as regulated in Section 77.106(b) of the Uniform Fire Code. (Ref. 17-137 RS Neb.)

§7-105 FIRE PREVENTION; PERMIT FOR HAZARDOUS MATERIALS. Hazardous materials may be stored within the Commercial and Industrial zones referred to in Section 7-104 provided that all such materials are identified as to kind, amount, location and other data concerning said materials in "Application to Store Hazardous Material" made annually on August 1, or on the date when such materials are initially placed in the City, to the Fire Chief and the Zoning Administrator, which application must be made by the person in control of such materials. "Application to Store Hazardous Materials" shall be made in duplicate to the Fire

Chief and Zoning Administrator on forms supplied by the City and kept on file in the Fire Department. (Ref. 17-137 RS Neb.)

§7-106 FIRE PREVENTION; BURNING REGULATIONS WITHIN FIRE LIMITS. Within the prescribed fire limits, burning is allowed in incinerators that conform to the standards hereinafter set forth. An approved City permit must be issued for the incinerator prior to its use.

Barrels, steel cans, masonry boxes, whether covered or not, are not classified as incinerators. Boilers and wood burning stoves may be used as outside commercial incinerators only if they substantially meet the requirements hereinafter set forth specifically including the requirements of spark arresters and foundations. Incinerators to be used inside buildings shall conform to the standards as specified in the Codes adopted in Section 7-101.

Outside commercial incinerators for use in the fire limits shall, as a minimum, be constructed of steel plate not less than three-sixteenths (3/16) inches in thickness. The base or burning area of the incinerator may not exceed sixteen (16) square feet in area. All joints and seams of the incinerator must be welded together, except for access doors. There will be no more than two (2) access doors for each incinerator. The base walls or burning area of the incinerator must have at least six (6), but not more than ten (10) ventilation holes in each wall of the incinerator base. The holes shall not be greater than one (1") inch in diameter. The base or burning area of the incinerator must be covered with a chimney with an opening not to exceed one (1) square foot in diameter. Chimneys shall be connected to the incinerator base or burning area as noted above. The terminating point of the chimney shall extend above the incinerator base or burning area the same distance as the height of the incinerator base or burning area. The chimney must terminate in a steel, or substantially constructed, spark arrester having mesh openings of not more than one half (1/2") inch in diameter or one-quarter (1/4") inch mesh. Spark arresters must cover the entire chimney opening. Incinerators may have a hole, not to exceed nine (9) square inches, in the bottom of the incinerator base.

Outside commercial incinerators must meet the location standards of Section 7-107.02. Inside incinerators shall be approved by an independent testing or rating agency and must conform to the Codes adopted in Section 7-101. All incinerators must meet the standards of the Department of Environmental Quality. (Ref. 17-549, 17-556.)

§7-107 FIRE PREVENTION; BURNING AND FIRES PROHIBITED; EXCEPTION AND REGULATIONS. All open burning and open fires in the City are prohibited, except; in barbecues, outdoor fireplaces or with written permission of the Fire Chief for a particular event. Approved containers may be used for burning of materials that do not give off toxic gases or fumes, offensive or foul odors, or dirty or oily smoke. Permitted materials to be burned include paper without ink, cardboard, wood, etc. Prohibited materials include feathers, meat, tires, oil or other noxious material including household garbage and newspapers. David City Residents must pay a yearly \$20 application fee and file a yearly burn barrel permit with the City Office. All open burning containers must first be inspected and approved by the David City Fire Chief before they can be used. A first offense will result in a written warning from the police department. A second offense will result in a year long suspension of the burn permit. A third offense will result in a permanent revocation of the burn permit. (Ref. 17-549, 17-556.)

§7-107.01 FIRE PREVENTION; DESIGN OF CONTAINERS FOR AREAS OTHER THAN THE FIRE LIMITS. For areas other than the fire limits, steel containers, as hereinafter defined, shall be used. Steel containers for burning in areas other than the fire limits are defined as follows: A steel container used for burning must have a volume of at least thirty (30) gallons and not more than sixty (60) gallons. The container must be held above the ground at least 4" to 6" by steel, concrete or masonry material in a stable, plumb manner. It must have six (6) but not more than ten (10) holes in the walls, the diameter of which shall be not more than one (1") inch, all located in the lowest ten (10%) per cent of the sidewalls. There must be a woven or punched metal cover over the top of the container with openings not more than one half (½") inch by one half (½") inch. The cover must be larger in area than the top of the container and must be secured to the container by chains, hinges, or an other suitable device. The cover must be visible for inspection to ensure compliance with these provisions. (Ref. 17-549, 17-556.),

§7-107.02 FIRE PREVENTION; LOCATION OF CONTAINERS. Containers used for burning must be placed on the property where the user resides and may not be located in a public alley, street, or right-of-way. Containers shall be placed on a steel, concrete, or masonry support four (4") inches to six (6") inches high in a plumb manner and on a site where all vegetation and/or combustible material is removed in all directions for a distance of four feet (4') measured from the edge of the container; at least ten feet (10') from any building, garage or shed; at least six feet (6') distance from any utility pole, ground-level transformer or telephone pedestal; a distance of twenty feet (20') measured at the closest point, away from any overhead utility wires or cables; a distance of at least twenty feet (20') from the branches of any tree; and in general; in a manner so as to provide protection to other properties. (Ref. 17-549, 17-55.)

§7-107.03 FIRE PREVENTION; HOURS PERMITTED. Burning is permitted from seven o'clock (7:00) a.m. to six o'clock (6:00) p.m. from Monday through and including Saturday. No burning is permitted on Sunday. (Ref. 17-556, 81-520.01 RS Neb.)

Article 2. Fires

§7-201 FIRES; AUTHORITY OF FIRE CHIEF. When there is a fire, the Fire Chief or the designated Firemen in charge, shall have the authority to do all things that are, in his judgment, necessary to protect life and property in the area adjacent to the fire. (Ref. 17-147 RS Neb.)

§7-201 FIRES; ASSISTANCE. It shall be unlawful for any person to refuse, after receiving a command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Ref. 28-908 RS Neb.)

§7-203 FIRES; SPECTATORS. (1) A person commits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties, he willfully:

- (d) Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or
- (e) Disobeys the lawful orders given by any fireman while performing his duties; or
- (f) Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or
- (g) Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

- (2) As used in this section, fireman shall mean any person who is an officer, employee, or member of a fire department or fire-protection or firefighting agency of the Federal Government, the State of Nebraska, the City of David City, County of Butler County, rural fire district, or other public or municipal corporation or political subdivision of the state, whether such person is a volunteer, partly paid, or fully paid, while he is actually engaged in firefighting, fire supervision, fire suppression, fire prevention, or fire investigation.
- (3) Interference with a fireman on official duty is a Class I misdemeanor. (Ref. 28-908 RS Neb.)

§7-204 FIRES; TRAFFIC. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach, or park closer than five hundred feet (500') to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. (Ref. 39-753 RS Neb.)

§7-205 FIRES; PEDESTRIANS. It shall be unlawful for any pedestrian to enter upon or remain in any street or roadway within a distance of three hundred feet (300') from a fire when fire fighting vehicles are approaching or are present at the scene of a fire.

§7-206 FIRES; FALSE ALARMS. It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Ref. 28-907 RS Neb.)

§7-207 FIRES; DROP CEILINGS; REMOVAL OF TIN CEILING COVERINGS; UNLAWFUL INSTALLATION. It shall be unlawful to install a drop ceiling in a room or rooms of a commercial building within the City limits with a tin and/or metal ceiling covering without:

1. First removing such tin and/or metal ceiling covering before installation of the drop ceiling; or
2. Installing a fire sprinkler system. All sprinkler systems installed, from this date, shall comply with the State Fire Marshal codes.
 - a. Having a static flow test to determine the water pressure;
 - b. Determining the minimum number of heads required, with each head covering the square footage specified in the 1990 Factory Mutual System pocket guide to automatic sprinklers;
 - c. Installing a back-flow device;
 - d. Placing the sprinkler heads below the suspended ceiling;
 - e. Sprinkler heads shall also be installed in basements when the building is being remodeled by at least fifty percent (50%) of its assessed value;
 - f. Having a pre-approved plan.

Article 3. Penal Provision

§7-301 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,

April 13, 2005

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 13, 2005; 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