

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING
OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **10th day of April, 2013**, in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 5th day of April, 2013.

AGENDA AS FOLLOWS:

1. Roll Call;
2. Pledge of Allegiance;
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;
4. Minutes of the March 13th, 2013 meeting of the Mayor and City Council;
5. Consideration of Claims;
6. Committee and Officer Reports;
7. Consideration of the \$250.24 credit given to Brad & Deb Lensch for a street light refund;
8. Public Hearing to consider amending the future land use map to change David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial);
9. Consideration of Ordinance No. 1187 amending the future land use map to change David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial);
10. Public Hearing to consider amending the Official Zoning Map by rezoning the property located at David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial);

Mayor Alan Zavodny

Council President Gary L. Kroesing

Council member Michael E. Rogers

Council member Ruddy L. Svoboda

Council member William Scribner

Council member Gary D. Smith

Council member John P. Vandenberg

City Clerk Joan E. Kovar

11. Consideration of Ordinance No. 1188 amending the Official Zoning Map by rezoning the property located at David City Outlot 5, (less the North 1.08 acres) from MDR (Medium Density Residential) to I (Industrial);
12. Public Hearing to consider changing Zoning Ordinance #1060:
 - a. Article 2; Section 2.02 Definitions by adding Cover Crop;
 - b. Section 2.02 Definitions by Eliminating the Numbering of the definitions;
 - c. Section 5.07.03 R-1 Single-Family Residential – Conditional Uses to add #6. Cover Crops;
 - d. Section 5.08.03 R-2 Two Family Residential – Conditional Uses to add #8. Cover Crops;
 - e. Section 5.12.03 Downtown Commercial –Conditional Uses to add #22. Commercial Fuel Pumps;
13. Consideration of Ordinance No. 1189 amending Zoning Ordinance #1060 by changing
 - a. Article 2; Section 2.02 Definitions by adding Cover Crop;
 - b. Section 2.02 Definitions by Eliminating the Numbering of the definitions;
 - c. Section 5.07.03 Single-Family Residential – Conditional Uses to add #6. Cover Crops;
 - d. Section 5.08.03 R-2 Two Family Residential – Conditional Uses to add #8. Cover Crops;
 - e. Section 5.12.03 Downtown Commercial –Conditional Uses to add #22. Commercial Fuel Pumps;
14. Consideration of Resolution #6 – 2013, as per the request by Frontier Cooperative Company, to subdivide their property located at David City Lot 10 and the No. 48' of Lots 11, & 12, Block 32, Original Town of David City into two Tracts; Tract 1: that includes the gas pumps, underground tanks, etc. and Tract II: which is the building;
15. Consideration of the \$40,000 budgeted from City Sales Tax to the Parks & Recreation;
16. Consideration of Ordinance No. 1190 setting the maximum for dogs, cats, or a combination of dogs and cats at three (3) within the city limits of David City;
17. Consideration of the recommendation by the Planning Commission, that the City hire Dave Ziska, Olsson Associates, to determine why there is so much salt in the effluent water being used on the golf course;
18. Consideration of a memo of understanding between the City of David City and the David City Golf Club concerning a well on the golf course which is City property;
19. Consideration of Resolution No. 7 - 2013 designating agents of the City to determine whether a special designated liquor permit be approved or denied;
20. Consideration of Resolution No. 9 – 2013 appointing Pat Hoeft as the Representative, and Joan Kovar as the Alternate Representative of the City to the Members' Council of the Nebraska Municipal Power Pool;
21. Consideration of approving the Christmas street light decoration project;
22. Consideration of Resolution No. 8 – 2013 adopting and approving the execution of an Agency Agreement with the Department of Aeronautics of the State of Nebraska for Project No. C01 to be submitted by the Department to the Federal Aviation Administration to obtain Federal Assistance for the Development of the Airport;

23. Consideration of providing information to Randy Hellbusch of the Nebraska Rural Water Association who will provide a free rate study for the water and sewer departments;
24. Consideration of authorizing a 5 – 10 minute parking stall in front of Shop E-Z;
25. Consideration of posting signs that Nebraska Street is not a truck route;
26. Adjournment;

CITY COUNCIL PROCEEDINGS

April 10, 2013

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 4th, 2013 and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Bill Scribner, John Vandenberg, Ruddy Svoboda, Gary Smith, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim City Clerk Tami Comte. Council members Gary Kroesing and Mike Rogers were absent.

Also present were: Jim Vandenberg, Janis Cameron, Carolyn Yates, Steve Maguire, Randy Robesen and Jeff Ingalls of Frontier Cooperative Inc., Mike Behrns, Jason Lavicky, Mark Sloup, Bryon Hartman, Randy Svoboda, Steve Rerucha, Milt Bemis, Deb Dinkelman, Michelle Teubner, Jan & Dan Sypal, Nick Sypal and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the March 13, 2013 meeting of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member Smith. Voting AYE: Council members Svoboda, Scribner, Smith, and Vandenberg. Voting NAY: None. The motion carried. Council members Kroesing and Rogers were absent.

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

Mayor Zavodny called for Committee and Officers Reports.

Carolyn Yates commented that the Water Department crew did a great job on the water break by their business.

Mayor Zavodny reported that they had a preliminary meeting with Matt Rief of Olsson Associates. Mayor Zavodny stated that Matt Rief would like an invitation to a City Council meeting and Mayor Zavodny stated that it would be a good idea to invite someone from Olsson Associates management to also attend the Council meeting.

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

Council member Smith made a motion to advance to agenda item #14 Consideration of Resolution No. 6-2013, as per the request by Frontier Cooperative Company, to subdivide their property located at David City Lot 10 and the No. 48' of Lots 11 & 12, Block 32, Original Town of David City into two Tracts; Tract I: that includes the gas pumps, underground tanks, etc. and Tract II: which is the building. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, and Vandenberg. Voting NAY: None. The motion carried. Council members Kroesing and Rogers were absent.

Randy Robeson and Jeff Ingalls, representing Frontier Cooperative Co. were present to request the subdivision of lots at 405 D Street. Randy & Barb Svoboda own the convenience store and Frontier Cooperative Co. owns the fuel pumps. They stated that there will be a common egress between the two businesses.

Council member Scribner introduced Resolution No. 6-2013 and moved for its passage and adoption. Council member Svoboda seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, and Vandenberg. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Resolution No. 6-2013 was passed and approved as follows:

RESOLUTION NO. 6 - 2013

WHEREAS, Frontier Cooperative Inc., has filed an application to subdivide his property, and,

WHEREAS, the City Council is authorized to approve further subdivisions of, and combinations of, existing platted lots, whenever all required improvements have been installed, no new dedication of public rights-of-way or easements are involved and such subdivisions comply with the Comprehensive Plan, the Major Street Plan and all applicable zoning regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Frontier Cooperative Inc., to subdivide their property is hereby approved as follows:

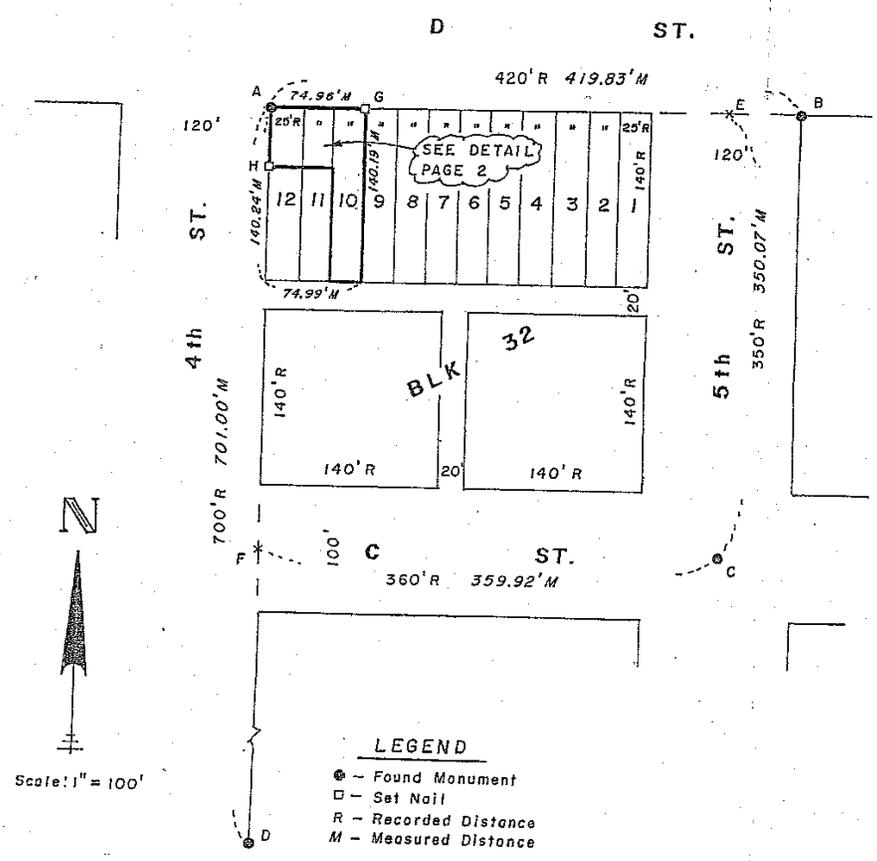
Lot 10 and the North 48' of Lots 11 & 12, Block 32, Original Town of David City
Into two (2) Tracts as follows:

Tract I: Part of the north 48 feet of Lots 11 and 12, Block 32, Original Town of David City, Butler County, Nebraska, described as follows:

Beginning at the northwest corner of said Block 32; thence N 90°00'00" E on an assumed bearing on the north line of said Block 32, 49.00 feet; thence S 0°00'00" E, 17.25 feet; thence S 89°27'50" W, 19.23 feet; thence S 45°11'20" W, 21.50 feet; thence S 0°00'00" E, 15.42 feet; thence S 90°00'00" W, 14.27 feet, to a point on the west line of said Block 32; thence N 0°18'15" E, 48.00 feet, to the Point of Beginning.

Tract II: Part of Lots 10, 11, and 12, Block 32, Original Town of David City, Butler County, Nebraska, described as follows:

Beginning at the northeast corner of said Lot 10, and assuming the north line of said Block 32 to have a bearing of N 90°00'00" E; thence southerly, 140.19 feet, to the southeast corner of said Lot 10; thence westerly, 25.00 feet, to the southwest corner of said Lot 10; thence northerly, on the west line of said Lot 10, 92.20 feet; thence S 90°00'00" W, 35.71 feet; thence N 0°00'00" E, 15.42 feet; thence N 45°11'20" E, 21.50 feet; thence N 89°27'50" E, 19.23 feet; thence N 0°00'00" W, 17.25 feet, to a point on the north line of said Block 32; thence N 90°00'00" E, 25.96 feet, to the Point of Beginning



FIELD NOTES

This survey was prepared at the request of Randy Svoboda, David City, Nebraska. Reference; Field Bk. 9 p.32-33. Previous surveys were conducted in Block 32 by Flowers, Siedschlag, and myself. Most of the previously recorded monuments in and around Block 32 have been destroyed by construction of improvements.

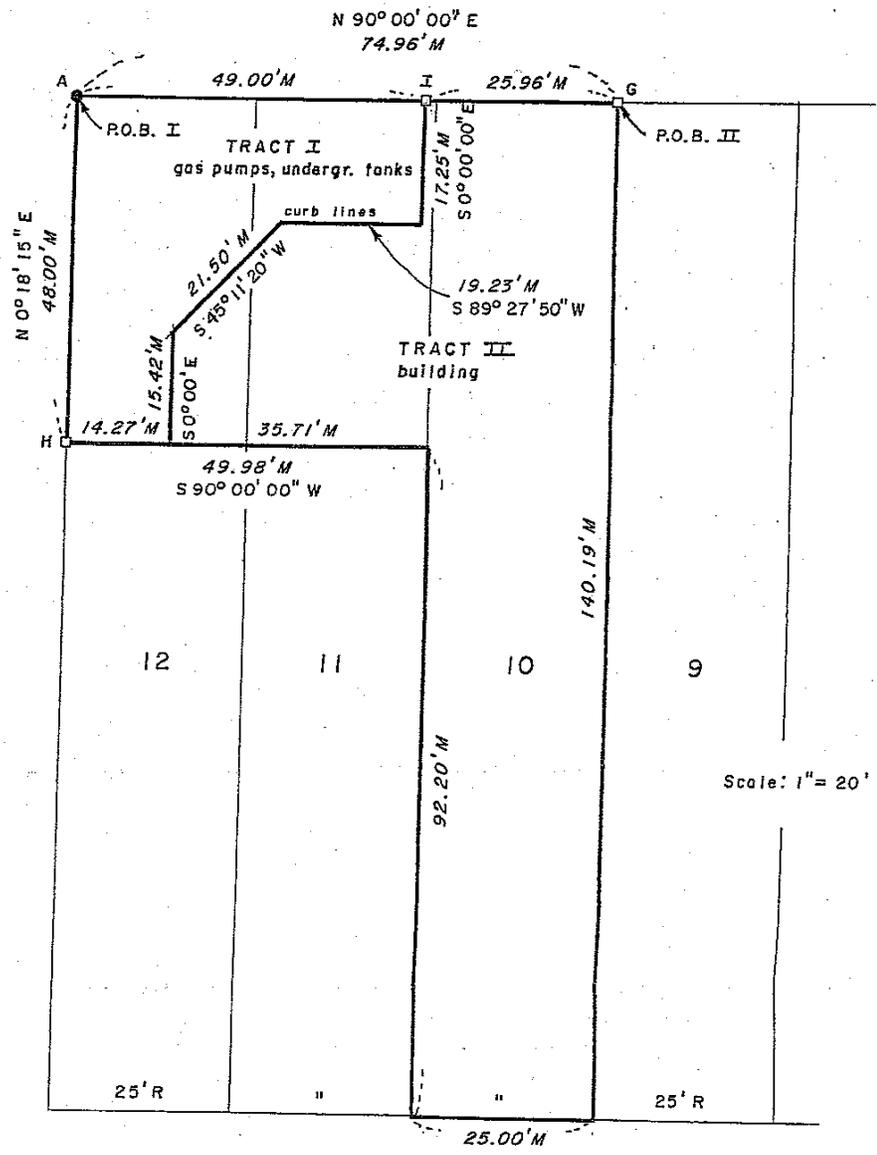
At A, found nail hole in concrete slab, as recorded by Flowers. I drove a new nail into the hole. At B, found 5/8" iron bar in concrete curb. At C, found iron bolt at surface of brick paving. At D, the SW corner of Block 39, found 5/8" iron bar as recorded by Flowers. Set temporary point E on line A-B. Set temporary point F on line A-D. Set G on line A-B. G is in tar joint at north edge of brick building, 0.12' west of vertical seam in said building. Set H on line A-D, 48.00' south of A. H is 0.50' north and 1.33' east of NW corner of building.

SURVEYORS CERTIFICATE

I, Richard L. Ronkar, a Registered Land Surveyor of the State of Nebraska, certify that this survey was completed by me on March 27, 2013; and that the survey is true and complete as shown, to the best of my knowledge; that all monuments set, together with those found, are of the character and occupy the positions shown thereon, and are sufficient to enable the survey to be retraced.

Richard L. Ronkar
 Richard L. Ronkar
 Nebraska L.S. No. 383





TRACT I DESCRIPTION

Part of the north 48 feet of Lots 11 and 12, Block 32, Original Town of David City, Butler County, Nebraska, described as follows:
 Beginning at the northwest corner of said Block 32; thence N 90°00'00" E on an assumed bearing on the north line of said Block 32, 49.00 feet; thence S 0°00'00" E, 17.25 feet; thence S 89°27'50" W, 19.23 feet; thence S 45°11'20" W, 21.50 feet; thence S 0°00'00" E, 15.42 feet; thence S 90°00'00" W, 14.27 feet, to a point on the west line of said Block 32; thence N 0°18'15" E, 48.00 feet, to the Point Of Beginning

TRACT II DESCRIPTION

Part of Lots 10, 11, and 12, Block 32, Original Town of David City, Butler County, Nebraska, described as follows:
 Beginning at the northeast corner of said Lot 10, and assuming the north line of said Block 32 to have a bearing of N 90°00'00" E; thence southerly, 140.19 feet, to the southeast corner of said Lot 10; thence westerly, 25.00 feet, to the southwest corner of said Lot 10; thence northerly, on the west line of said Lot 10, 92.20 feet; thence S 90°00'00" W, 35.71 feet; thence N 0°00'00" E, 15.42 feet; thence N 45°11'20" E, 21.50 feet; thence N 89°27'50" E, 19.23 feet; thence N 0°00'00" W, 17.25 feet, to a point on the north line of said Block 32; thence N 90°00'00" E, 25.96 feet, to the Point Of Beginning

Dated this 10th day of April, 2013.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Scribner made a motion to advance to agenda item #24 Consideration of authorizing a 5 – 10 minute parking stall in front of Shop E-Z. Council member Smith seconded the motion. . Voting AYE: Council members Svoboda, Scribner, Smith, and Vandenberg. Voting NAY: None. The motion carried. Council members Kroesing and Rogers were absent.

Randy Robeson representing Frontier Cooperative Inc. asked for five signs that would state short-term convenience store parking. He stated that they are trying to get away from people parking along the highway which would help with safety concerns.

Mayor Zavodny stated that he appreciated the fact that there is a business going in there, however, he is not a fan of 10 minute parking stalls. Mayor Zavodny stated that he is not in favor of this because what keeps every business from asking for the same thing.

Council member Scribner stated that he didn't see the harm in having just one 10 minute parking stall because there were others that had them in town.

Interim City Administrator Joan Kovar stated that the only ones that currently have 10 minute parking spaces were governmental offices; the City Office, the Library and the Courthouse. She stated that there used to be one in front of Rehmer Auto Parts when the call center was located on 4th & D Street, but when the call center closed Street Foreman Rodney Rech removed the 10 minute parking sign.

Council member Scribner made a motion to table indefinitely authorizing a 5 – 10 minute parking stall in front of Shop EZ. Council member Svoboda seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, and Vandenberg. Voting NAY: None. The motion carried. Council members Kroesing and Rogers were absent.

Mayor Zavodny stated that Council member Kroesing asked to have the consideration of the \$250.24 credit given to Brad & Deb Lensch for a street light refund placed on the agenda for reconsideration.

Council member Scribner stated that he still felt that they had no control over it.

City Attorney Jim Egr stated that it may have been the homeowner's responsibility because the street light was put in before the addition was annexed.

Council member Scribner made a motion to approve an electric cost adjustment for Brad and Debra Lensch's street light in the amount of \$250.23 as a credit to their account. Council

member Svoboda seconded the motion. Voting AYE: Council members Svoboda and Smith. Voting NAY: Council member Vandenberg. Council member Scribner abstained from voting. The motion failed. Council members Kroesing and Rogers were absent.

City Attorney Jim Egr stated that it could be on next month's agenda.

Council member Svoboda said, "Well, let's keep trying."

Mayor Zavodny declared the public hearings open at 7:25 p.m. to consider amending the future land use map to change David City Outlot 5 (less the north 1.08 acres) from MDR (Medium Density Residential) to I (Industrial) and the public hearing to consider amending the official zoning map by rezoning the property located at David City Outlot 5, (less the north 1.08 acres) from R-2 (Two-Family Residential) to I-2 (Heavy Industrial).

Dan Sypal and Nick Sypal presented their plans to build a building to house Nick's tree business. That requires the rezoning of a parcel of land on A Street that is adjacent to a Heavy Industrial zoned area.

Mayor Zavodny stated that he had a call from one of the neighbors that did not have any concerns about the proposed rezoning.

Mayor Zavodny declared the public hearings closed at 7:30 p.m.

Council member Scribner introduced Ordinance No. 1187.

Council member Smith made a motion to pass Ordinance No. 1187 on 1st reading only. Council member Scribner seconded the motion. Voting AYE: Council members Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Ordinance No. 1187 was passed on 1st reading only as follows:

ORDINANCE NO. 1187

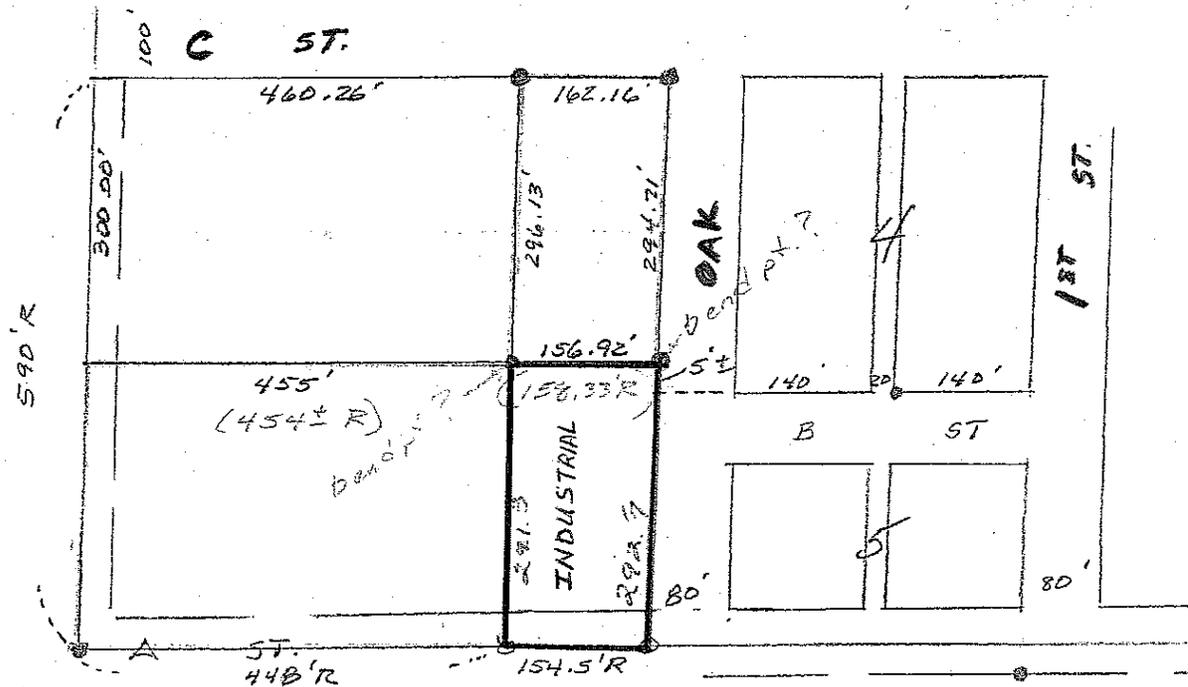
AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MDR (MEDIUM DENSITY RESIDENTIAL) TO I (INDUSTRIAL), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

- a. To amend the following property from MDR (Medium Density Residential) to I (Industrial):

Outlot Five (5), less the north 1.08 acres, located on part of the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Nineteen (19), Township Fifteen (15) North, Range Three (3), East of the 6th P.M., Butler County, David City, NE



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

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

Passed and adopted this 10th day of April, 2013.

Passed on 1st reading only
 Mayor Alan Zavodny

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

Council member Scribner introduced Ordinance No. 1188.

Council member Scribner made a motion to pass Ordinance No. 1188 on 1st reading only. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Smith and Svoboda. Voting NAY: None. Council members Rogers and Kroesing were absent. The motion carried and Ordinance No. 1188 was passed on 1st reading only as follows:

ORDINANCE NO. 1188

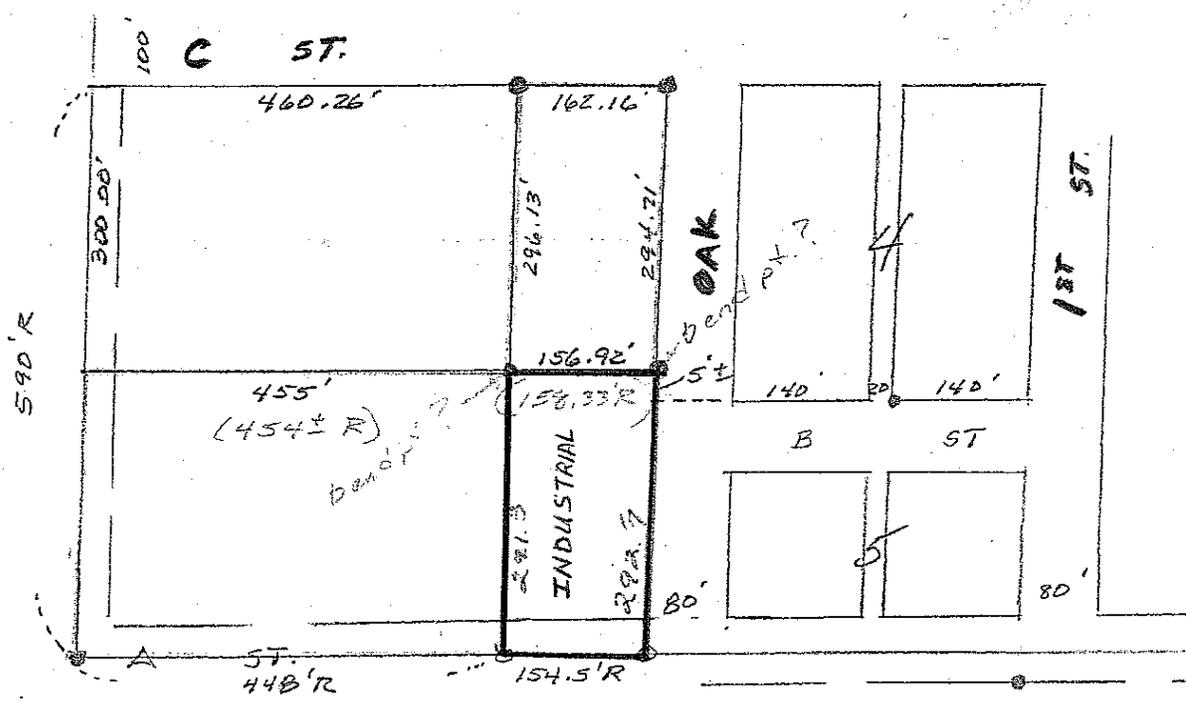
AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM R2 (TWO FAMILY RESIDENTIAL) TO I-2 (HEAVY INDUSTRIAL), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as follows:

- a. To amend the following property from R2 (Two Family Residential) to I-2 (Heavy Industrial):

Outlot Five (5), less the north 1.08 acres, located on part of the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Nineteen (19), Township Fifteen (15) North, Range Three (3), East of the 6th P.M., Butler County, David City, Nebraska



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

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

Passed and adopted this 10th day of April, 2013.

Passed on 1st reading only
Mayor Alan Zavodny

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

Mayor Zavodny declared the public hearing open at 7:33 p.m. to consider changing Zoning Ordinance No. 1060:

- a. Article 2; Section 2.02 Definitions by adding Cover Crop;
- b. Section 2.02 Definitions by Eliminating the Numbering of the definitions;
- f. Section 5.07.03 Single-Family Residential – Conditional Uses to add #6. Cover Crops;
- g. Section 5.08.03 R-2 Two-Family Residential – Conditional Uses to add #8. Cover Crops;
- h. Section 5.12.03 Downtown Commercial –Conditional Uses to add #22. Commercial Fuel Pumps.

Mayor Zavodny asked if this was considered by the Planning Commission at their last meeting.

Interim City Clerk Tami Comte stated that the Planning Commission voted to recommend the changes to the City Council.

Steve Maguire stated that he has been working with the Planning Commission on making these changes and this is the program that they suggested that he follow. He stated that it's a plan that works adequately with what he wants to accomplish.

Mayor Zavodny stated that he felt it was a good compromise for the City's best interest as well.

Mayor Zavodny declared the public hearing closed at 7:35 p.m.

Council member Scribner introduced Ordinance No. 1189.

Council member Scribner made a motion to pass Ordinance No. 1189 on 1st reading only. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner,

Vandenberg, Svoboda and Smith. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Ordinance No. 1189 was passed on 1st reading only as follows:

ORDINANCE NO. 1189

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING THE FOLLOWING SECTIONS:

- a. Article 2; Section 2.02 Definitions by adding Cover Crop;
- b. Section 2.02 Definitions by Eliminating the Numbering of the definitions;
- c. Section 5.07.03 Single-Family Residential – Conditional Uses to add #6. Cover Crops;
- d. Section 5.08.03 R-2 Two Family Residential – Conditional Uses to add #8. Cover Crops;
- e. Section 5.12.03 Downtown Commercial –Conditional Uses to add #22. Commercial Fuel Pumps;

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.

Park/Auditorium Superintendent Scott Bales stated that at the last meeting of the Park & Recreation committee that the committee discussed donating \$10,000 to the Ball Association and \$10,000 to the Soccer Association and then allocate \$13,366 to purchase new tables for the park. That would leave roughly \$7,000 for the fence around the basketball court.

City Attorney Jim Egr stated that the City can't "donate" money to anyone. He stated that they can pay invoices for a project.

Jason Lavicky and Mark Sloup presented a plan to reconstruct the infield of all four fields for the Ball Association.

Bryon Hartman presented a plan to construct a concession stand and restrooms for the Soccer Association.

The Ball Association and the Soccer Association will submit their invoices to the City for payment.

Council member Scribner made a motion to approve \$33,366 in projects as requested by the park and recreation committee. Council member Svoboda seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg and Smith. Voting NAY: None. The motion carried. Council members Kroesing and Rogers were absent.

Interim City Administrator Joan Kovar stated that the Sheriff's department approached her about an Ordinance that would set the maximum amount of cats and dogs within the city

limits of David City. She called the City Clerk at Mitchell, Nebraska and they gave her a copy of their Ordinance.

City Attorney Jim Egr stated that anyone who currently has more than three cats or dogs would be grandfathered until one of those dogs or cats dies and they cannot replace that animal.

Michelle Teubner expressed her concerns about the house across the alley and the number of dogs that reside on the property.

Council member Scribner introduced Ordinance No. 1190.

Council member Scribner made a motion to pass Ordinance No. 1190 on 1st reading only. Council member Svoboda seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg and Smith. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Ordinance No. 1190 was passed on 1st reading only as follows:

ORDINANCE NO. 1190

AN ORDINANCE LIMITING THE NUMBER OF DOGS AND CATS THAT CAN BE MAINTAINED ON PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF DAVID CITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: 6-116 of the City Code of the City of David City, Nebraska, is hereby established to provide as follows:

Dogs and Cats; Limitation on Numbers within City Limits.

It shall be unlawful for the owner or occupant of any residence or premises within the City Limits of the City of David City, to own, keep, or harbor more than three (3) dogs and/or cats who are over the age of six (6) months.

Nothing in this provision shall alter or modify the provisions of the City Code concerning kennels within the City Limits of the City of David City, Nebraska. To the extent that the owner/occupant of a premises within the zoning jurisdiction of the City of David city, complies with zoning restrictions concerning a kennel, that ordinance shall remain in full force and effect.

SECTION 2: This ordinance shall be effective from and after its passage, approval, and publication according to law.

SECTION 3: All ordinances in conflict with this ordinance are hereby repealed.

PASS AND APPROVED this _____ day of _____, 2013.

ATTEST:

Passed on 1st reading only
Mayor Alan Zavodny

Passed on 1st reading only
Interim City Clerk Tami Comte

Mayor Zavodny stated that the next agenda item was consideration of the recommendation by the Planning Commission that the City hire Dave Ziska, from Olsson Associates, to determine why there is so much salt in the effluent water being used on the golf course.

Mayor Zavodny stated that it was his understanding that we have checked with Beatrice who also uses effluent water to see why we have this problem. Mayor Zavodny asked if we had any idea how much it would cost to hire Dave Ziska. He stated that he would like more information before action was taken on this. Mayor Zavodny asked what the Planning Commission's ideas were on this.

Jim Vandenberg stated that they wanted to know what was causing the problem and someone had mentioned that Beatrice was getting along alright and that other towns are using it.

Mayor Zavodny stated that they want some scientific proof.

Jim Vandenberg said, "Initially, I thought they were going to have somebody here to go over some of this stuff and there were some tests that were done early on and it showed that it had too much salt and it's a cumulative thing that happens in the soil. The first few years, it's probably not that the water has gotten worse. I think that the accumulation in the soil gets the soil too tight and destroys organic matter and you don't have the air in the soil and the roots can't penetrate and you get runoff."

Mayor Zavodny said, "And to my understanding it seemed that would be true because your tests show that the water is actually better now than when we started."

Water/Sewer Supervisor Gary Janicek said, "We have the initial tests that were taken by MDS Harris in 2004 when this project was proposed and then in 2005 the tests that were taken at the end of the season. We are required when we initially start up the system to take the initial tests and send them to the State. We turn it on and take a sample but they can keep pumping, no matter what the tests show."

Mayor Zavodny said, "I think that the golf club seemed to acknowledge that they realize that they are going to have close to \$5,000 in treatments that they have to do at least annually."

Water/Sewer Supervisor Gary Janicek said, "We talked to the two board members that are on the grounds committee and they expressed to us that if this would have been caught three to five years ago that it wouldn't cost \$5,000 now to take care of it. It's a deal where you need to keep after it."

Mayor Zavodny said, "It's a 'pay me now or pay me later'".

Water/Sewer Supervisor Gary Janicek said, "Sodium chloride, from what I understand from the guy from Beatrice, is inherent to that type of water."

Mayor Zavodny said, "Here is what I would like to do. We did get a request earlier today to table agenda item #18. I would like to see us table items #17 and #18. We can get some more information. Is that the request that you received?"

Interim City Administrator Joan Kovar said, "Yes they would like to get more information."

Council member Scribner made a motion to table consideration of the recommendation by the Planning Commission, that the City hire Dave Ziska, Olsson Associates, to determine why there is so much salt in the effluent water being used on the golf course. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Vandenberg and Svoboda. Voting NAY: None. The motion carried. Council members Rogers and Kroesing were absent.

Council member Scribner made a motion to table consideration of a memo of understanding between the City of David City and the David City Golf Club concerning a well on the golf course which is city property. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Vandenberg and Svoboda. Voting NAY: None. The motion carried. Council members Rogers and Kroesing were absent.

Council member Vandenberg introduced Resolution No. 7-2013 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Vandenberg and Svoboda. Voting NAY: None. Council members Rogers and Kroesing were absent. The motion carried and Resolution No. 7-2013 was passed and adopted as follows:

RESOLUTION NO. 7-2013

WHEREAS, Ordinance No. 767 provides that a City may establish criteria for approving or denying a special designated liquor permit.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the City of David City, Nebraska hereby establishes and adopts the criteria, as established by the Nebraska Liquor Commission, for approving or denying special designated liquor permits as follows:

- (1) The Nebraska Liquor Commission may issue a special designated permit for consumption of alcoholic liquor at a designated location to a holder of a current liquor license (Class A, B, C, D, or K), a municipal religious nonprofit corporation, which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes under conditions specified in this section.
- (2) No licensee, organization, or corporation enumerated in this section may be provided

a special designated permit under this section for more than six calendar days in any one calendar year. Only one permit shall be required for any application for two or more consecutive days.

And,

WHEREAS, in order to expedite the processing of the Special Designated Liquor Permit Application, Ordinance No. 767 provides for the appointment of an Agent to determine whether a special designated liquor permit application is to be approved or denied following the criteria established above. (Ref. 53-124.11 RS Neb.)

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following persons be designated as Agents of the City of David City, Nebraska to determine whether a special designated liquor permit application be approved or denied:

1. City Administrator/Interim, or in his/her absence;
2. City Clerk/Interim, or in his/her absence, and in the absence of the City Administrator;
3. Deputy City Clerk, or
4. Mayor

Passed and adopted this 10 day of April, 2013.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Vandenberg introduced Resolution No. 9-2013 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg and Smith. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Resolution No. 9-2013 was passed and adopted as follows:

RESOLUTION NO. 9 - 2013

WHEREAS, the City of David City is a member of the Nebraska Municipal Power Pool, and,

WHEREAS, the City appoints a representative and alternate representative to represent the City at meetings.

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

1. Such City be and hereby is a member of the Nebraska Municipal Power Pool.

2. The City Council of the City of David City, State of Nebraska, does hereby appoint Pat Hoeft as the Representative of the City of David City, State of Nebraska, to the Members' Council of the Nebraska Municipal Power Pool.
3. The City Council of the City of David City, State of Nebraska, does hereby appoint Joan Kovar as the Alternate Representative of the City of David City, State of Nebraska, to the Members' Council of the Nebraska Municipal Power Pool.

PASSED AND APPROVED this 10th day of April, 2013.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Mayor Zavodny opened the discussion concerning the Christmas Street Light Decoration Project by thanking Chairman Janis Cameron and her committee for all the work that they have done on this project.

Janis Cameron stated that the committee had asked for Christmas decoration samples from a company and they sent them out. She indicated that they were in the Council chambers on the west wall for display. She stated that the committee couldn't decide which one they liked better and that is why they sent them two. She stated that they have been very impressed with them. They are really sturdy. They both have LED lighting. They are warrantied for six seasons. Electric Supervisor Pat Hoeft and his crew have done an exact count. To hang them from Region V to Amigos would require 36 decorations. The committee members voted unanimously to go with both decorations and to alternate them on every other pole. She stated that these decorations are made in the U.S.A. The company that they have been working with is Temple Display, Ltd. They gave her the names of thirteen Nebraska communities that they have done business with and she contacted three of those communities. She contacted Ainsworth, Crete and Fullerton and they all have made purchases from Temple starting in about 2005 and they all expressed their satisfaction and there have been no problems at all. She stated that some people have expressed an interest in purchasing the old decorations. Technically, the Chamber of Commerce owns the old decorations. It is on the Chamber board's agenda to start disposing of them.

Janis Cameron stated that she is not going to ask for any money at this time. She stated that when she started this project that she didn't think that she was up to fundraising, but she has discussed it with Pat Hoeft and her committee and they have decided that there would be some fun things to do. She stated that when the old decorations were refurbished in 1998 that people donated to them. They are going to try the fundraising.

Mayor Zavodny stated that he thinks that they can be successful with that.

Janis Cameron stated that they wanted to know how much they would save by going with LED lighting. So, Pat Hoeft and his crew have a machine that they can plug in the old decoration to and keep it running for an hour and see how much electricity it uses and he can

do the same thing with these. He did that and found that the old decorations were on approximately 45 days per year and that one decoration would use \$30.00 of electricity. The new bell, using the same meter, for 45 days would use a total of \$1.02 in electricity. He checked it twice because he didn't believe it. The new wreath in 45 days would use \$.83. So, if you take that times 36 decorations and it would save approximately \$1,080 per year in electricity.

There was discussion about the size of the new bells versus the old decorations.

Janis Cameron stated that the new bells are only about 4" bigger than the old decorations. She stated that the brackets come with them and they are galvanized steel. They are very well constructed.

Janis Cameron stated that before they can take donations that it has to be approved as a City project. She stated that these decorations will be owned by the City.

City Attorney Jim Egr stated that he didn't see a problem with that. He suggested that perhaps you could approve subject to fundraising.

Janis Cameron stated that she is not finished negotiating with this company. She is hoping for an additional 10% off but she is not promising anything.

Mayor Zavodny stated that if you look at that energy savings over a period of time, you are almost paying for the project in that aspect.

Bryan Hartman asked how much the decorations cost.

Janis Cameron said that the wreaths are \$364.50 and the bells are \$263.25. The bottom line is that 36 decorations would cost \$11,799.50 including freight.

Janis Cameron stated that these new decorations would only be along the highway. The downtown area would be an entirely different project when the downtown redevelopment project begins.

Mayor Zavodny stated that he thinks that people will get behind this.

Banner Press Editor Larry Peirce asked if that was a tax deductible donation.

City Attorney Jim Egr stated that if you make the check payable to the City of David City that the City of David City is automatically a charity under 501C3 as a public entity.

Jim Vandenberg stated that to follow up on Jim Egr's statement – the City then has to issue the donor, if's over \$250, a receipt that states that they received nothing in return. He stated that is getting very big with the IRS.

Council member Scribner made a motion to designate the Christmas Street Light Decoration Project as a project of the City of David City. Council member Svoboda seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Svoboda and Smith. Voting NAY: None. The motion carried. Council members Kroesing and Rogers were absent.

Council member Smith introduced Resolution No. 8-2013 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Svoboda, Vandenberg and Smith. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Resolution No. 8-2013 was passed and adopted as follows:

Resolution No. 8 - 2013

EXTRACT FROM THE MINUTES OF AN OFFICIAL MEETING OF THE CITY COUNCIL OF DAVID CITY, NEBRASKA, SPONSOR OF DAVID CITY MUNICIPAL AIRPORT, HELD ON April 10, 2013.

The following resolution was introduced by Gary Smith, read in full, seconded by John Vandenberg and considered:

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. C01 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT:

Be it resolved by the Mayor and members of the City Council of David City, Nebraska, that:

1. The City of David City, NE shall enter into an Agency Agreement with the Department of Aeronautics for Project No. C01 for the purpose of obtaining Federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.
2. The Mayor of the City of David City, NE is hereby authorized and directed to execute said Agency Agreement on behalf of the City of David City, NE, and the City Clerk is hereby authorized to attest said execution.
3. The said agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

Upon calling for a vote on the resolution, 4 voted yea, and 0 voted nay, and the resolution therefore was declared passed and approved on April 10, 2 were absent, 2013.

ATTEST:

Joan Kovar
Clerk

David Zavadny
Mayor



AGENCY AGREEMENT

Project No. C01

This is an agreement between the City of David City, Nebraska, hereinafter referred to as the "Airport Sponsor" and the Nebraska Department of Aeronautics, hereinafter referred to as the "Department," made and entered into in accordance with, and for the purpose of, complying with the laws of the State of Nebraska.

The Airport Sponsor desires to develop the David City Municipal Airport and to use federal airport aid funds available for that purpose. Therefore, the Airport Sponsor hereby designates the Department as its agent in accordance with Sections 3-124 and 3-239, Neb. Rev. Stat. (Reissue 2007), and the Department hereby accepts such designation and agrees to act as the agent of the Airport Sponsor.

It is mutually understood and agreed between the parties that the Airport Sponsor has submitted to the Department its proposed project for the development of said airport, and that such project has been approved by the Department, in accordance with Section 3-239, Neb. Rev. Stat. (Reissue 2007).

The Airport Sponsor hereby warrants, undertakes and agrees that if the Federal Aviation Administration makes a grant offer, and the Airport Sponsor executes a Grant Agreement, it will develop and manage said airport in the manner set forth in the Grant Agreement and abide by the conditions, rules and regulations of the Federal Aviation Administration.

The terms and conditions of this Agency Agreement and the respective duties, undertakings and agreements of the parties with respect to this Agency Agreement and with respect to the project of airport development, are as follows:

A. The Department shall accept, receive, receipt for, and disburse all funds granted by the United States for airport aid in accordance with federal laws, rules and regulations and in accordance with Sections 3-101 to 3-154 and 3-239, Neb. Rev. Stat. (Reissue 2007), as the agent of the Airport Sponsor.

B. Upon receipt of such federal funds, the Department shall deposit them in the State Treasury, according to law, and shall cause disbursement to be made therefrom as follows:

FIRST: If the Department advances funds to the Airport Sponsor as the equivalent of the United States' share of allowable project cost, the Department shall reimburse itself for any such advancement out of such federal funds thereafter received.

SECOND: The Department shall cause the balance of such federal funds due the Airport Sponsor to be paid promptly to the Airport Sponsor.

C. The Department shall maintain accurate records of all the funds received and expended by it in connection with the project. These records shall be open to inspection by the Airport Sponsor,

the Federal Aviation Administration and their authorized representatives in the offices of the Department at all reasonable times.

- D. The Airport Sponsor reserves the right, power and authority to execute the Application for Federal Assistance, the federal Grant Agreement, all construction and engineering contracts, all agreements related to the purchase of land and all amendments to these items. Aside from the matters so reserved, the Department shall, as agent for the Airport Sponsor, process, execute and submit to the Federal Aviation Administration all papers, forms and documents required by that agency for the approval, carrying out and completion of the project.
- E. The Airport Sponsor agrees to reimburse the Department for its administrative costs of furnishing all services performed by it as agent of the Airport Sponsor, including, but not limited to, the services set forth in the attached Exhibit A, "Administrative Services". Departmental administrative costs charged to the project are considered allowable costs for federal and state participation. These costs will be charged according to the "Schedule of Fees and Charges" shown in the attached Exhibit B, which schedule shall be subject to change upon notification in writing by the Department to the Airport Sponsor.

As used herein, the following words, terms and phrases shall have the meanings herein given:

"Application for Federal Assistance" means the document prepared as the formal application submitted to the Federal Aviation Administration for a grant of federal funds.

"Develop" means to plan, construct or improve the airport as defined in the Application for Federal Assistance.

"Project" means a plan of action for the accomplishment of specific airport developments.

"Grant Agreement" means the contract between the United States of America and the Airport Sponsor in which the Federal Aviation Administration, on behalf of the United States, agrees to pay a portion of the allowable costs of the project.

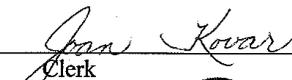
Executed by the Nebraska Department of Aeronautics this 4th day of March, 2013.

(SEAL)



Director

Executed by the Airport Sponsor this 10th day of April, 2013.



Clerk





Mayor

**EXHIBIT A
AGENCY AGREEMENT
ADMINISTRATIVE SERVICES**

1. Conduct airport site inspections.
2. Review and secure federal approval of Airport Layout Plans (ALP).
3. Prepare and process CIP Data Sheets and related documents used to request an allocation of federal funds, if requested by the Sponsor.
4. Assist in the preparation and processing of Environmental Impact Statements and other environmental studies.
5. Review and process land acquisition documents, title opinions, sponsor certifications and audit reports.
6. Prepare an independent cost analysis of consultant costs, if requested by the Sponsor.
7. Prepare a Disadvantaged Business Enterprise (DBE) Program, if requested by the Sponsor and represent the Sponsor in the DBE Unified Certification Program.
8. Review, process, and secure federal approval of all contracts and agreements, change orders and amendments to these agreements.
9. Attend pre-design conferences and conduct design (plan-in-hand) inspections.
10. Review and process the plans, specifications, special provisions and contract documents.
Provide U.S. Labor Department wage rate determinations.
11. Attend prebid and preconstruction conferences.
12. Prepare and secure execution of Applications for Federal Assistance and associated documents.
Prepare and process program changes.
13. Process Grant Agreements and amendments.
14. Review periodic pay estimates and forward federal funds to the Airport Sponsor.
15. Prepare applications, requests, transfers or letters of credit for Grant Agreement payments.
16. Conduct or participate in periodic and final inspections.
17. Prepare and/or process other federal documents not otherwise specifically covered above.

**EXHIBIT B
AGENCY AGREEMENT
SCHEDULE OF FEES AND CHARGES**

- A. Salary Costs. Charges will be the monthly rate worked times an overhead/benefits factor for the following positions:

Engineer VI	Engineering Associate (all)*
Engineer V	Engineering Aide (all)*
Engineer IV	Accountant (all)
Engineer III	Accounting Clerk*
Engineer II*	Attorney (all)
Engineer I*	Drafter (all)*

The overhead/benefits factor will be determined annually based on an audit performed in accordance with OMB Circular A87, "Cost Principles for State, Local and Indian Tribal Governments".

* Employees in these positions receive time and one half for time worked over 40 hours per week.

- B. Living Costs and Outside Expenses. Actual.

Charges will be actual expenses and shall include meals, lodging, telephone calls, etc. normally paid by Department.

- C. Materials, Supplies, & Rental Equipment. Actual.

Charges will be actual costs and shall be charged in accordance with invoices, billings, contracts or agreements.

- D. Transportation. Actual.

Charges will be those established by Department policy for all users for operating a state automobile or using a state aircraft.

Interim City Administrator Joan Kovar stated that Water/Sewer Supervisor Gary Janicek contacted Randy Hellbusch of the Nebraska Rural Water Association who will provide a water and sewer rate study, free of charge, for the City. She stated that Tami and Lori have information ready to provide to him if that is what the Council decides.

Council member Smith made a motion to approve providing information to Randy Hellbusch of the Nebraska Rural Water Association who will provide a free rate study for the water and sewer departments. Council member Scribner seconded the motion. Voting AYE: Council members Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried. Council members Rogers and Kroesing were absent.

Council member Svoboda stated that he has had several complaints about the MRI truck using Nebraska Street as a route to the hospital. He thinks that they should use "A" Street and that "A" Street should be designated as a truck route. He stated that Nebraska Street is asphalt and "A" Street is concrete.

Mayor Zavodny stated that before we do anything that we should talk to Hospital Administrator Don Naiberk.

Council member Scribner made a motion to table posting signs that Nebraska Street is not a truck route. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried. Council members Rogers and Kroesing were absent.

There being no further business to come before the Council, Council member Smith made a motion to adjourn. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Svoboda, Scribner and Smith. Voting NAY: None. Council members Kroesing and Rogers were absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:39 p.m.



CERTIFICATION OF MINUTES
April 10, 2013

I, Tami L. Comte, duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of April 10, 2013; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Tami L. Comte, Interim City Clerk