

CITY COUNCIL PROCEEDINGS

December 14, 2011

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 December 8th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

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

Also present were: Police Chief Anthony McPhillips, Electric Plant Supervisor Eric Betzen, Electric Supervisor Pat Hoeft, Water/Wastewater Supervisor Gary Janicek, Power Plant employee Dan Robinson, Ken Fairchild representing Olsson Associates, Janis Cameron, Carolyn Yates, Joy Fountain, Connie Colter, Martin Krafka 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 November 9, 2011 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, Vandenberg, Kroesing, Scribner, Rogers and Smith. Voting NAY: None. The motion carried.

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

Mayor Zavodny called for Committee and Officer Reports.

Interim City Administrator Joan Kovar stated that after interviewing seven candidates that the City Office has hired Lori Matchett to fill their vacancy. Mayor Zavodny stated that the street department handled snow removal very well. The Boy Scouts and Eagle Scouts are painting the posts in the park for their project. The police department held their open house on December 9th. The Power Plant had an engine that needed repairs, but it was found early enough that it was able to be repaired. Mayor Zavodny stated that the City did receive a letter from the Department of Environmental Quality for non-compliance. Mayor Zavodny said, "It was an administrative thing – we did not send in our monitoring report that we are required to which sets off quite the chain of events. To their credit, Scott came in and told me right away and Gary has talked to me about it. The DEQ called me and said that City's usually get very upset when they find out that they can be fined up to \$10,000 per day and they said not to freak out

when you see that, but it's pretty hard not to. The other thing that DEQ suggested that we do it to use Midwest Consulting and, I think we DEQ asks you to do something that you should do it and stay in their good graces.

Council member Scribner asked Interim Administrator Kovar if the computers had been fixed.

Interim Administrator Kovar reported that Tony Kresha from Connecting Point installed a new file server and since he did that the computers are still running and have not been shutting down. He also got the scanning function to work on the computers in the office.

Mayor Zavodny stated that he went through the budget numbers again and we are right at revenues and expenditures lining up but that's counting sales tax and everything. He stated that we need to continue what we are doing. We've got to increase revenues where we can and we have to look at the expense side and watch that. It was unfortunate that a snow storm landed on a weekend but that is overtime that is unavoidable. We just have to stay on it and be diligent every day.

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

Ken Fairchild, representing Olsson Associates, was present to discuss the RICE NESHAP project. Fairchild stated that a year ago in March the EPA mandated the need to reduce emissions by 70%. This requires installation of catalytic converters. The date for mandatory compliance is May of 2013, however, they will probably not be able to be installed by then and the City will most likely need to apply for an extension. The EPA has not set the criteria for an extension at this time. Ken Fairchild also stated that there were 7 other communities that David City could partner with to get a group discount on the catalytic converters. The City needs to apply for credit with the supplier as soon as possible.

Council member Kroesing made a motion to enter into an agreement for professional services with Olsson Associates concerning the RICE NESHAP Compliance Project. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Vandenberg, Rogers, Smith and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing introduced Ordinance No. 1165.

Council member Kroesing stated that he asked to have a 1% cost of living adjustment for the employees placed on the agenda. He stated that the savings from the City Administrator vacancy alone is \$38,948 plus the savings from attrition in the wastewater plant and the city office. The 1% cost of living adjustment will cost \$10,599 and the step raises will cost about \$13,578 for a grand total of \$24,169. We have that covered just with the administrator's vacancy.

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

Council member Scribner made a motion to pass Ordinance No. 1165 on 1st reading only. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, and Rogers. Voting NAY: Council member Vandenberg. Council member Svoboda abstained from voting. The motion carried and Ordinance No. 1165 was passed on first reading only as follows:

ORDINANCE NO. 1165

AN ORDINANCE ADOPTING A ONE PERCENT (1%) COST OF LIVING ADJUSTMENT (COLA) FOR FULL-TIME AND PERMANENT PART-TIME EMPLOYEES; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales and salaries for the following positions for the appointed officers and employees of the City of David City, Nebraska:

Full-Time Staff (Hourly Rate of Pay)

	Probationary	6 mo.	1	2	3	4	5	6	7	8	9	10	11	12	13
Office Staff															
Clerical I	9.60	9.81	10.03	10.26	10.48	10.73	10.97	11.21	11.46	11.73	11.99	12.25	12.53	12.82	13.10
Acct Clerk I	11.70	11.96	12.23	12.50	12.79	13.07	13.36	13.67	13.98	14.29	14.61	14.94	15.27	15.61	15.97
Acct Clerk II	13.64	13.94	14.25	14.57	14.91	15.24	15.58	15.94	16.29	16.65	17.03	17.41	17.81	18.21	18.61
(incl .50/hr CMC)															
STEP															
	Probationary	6 mo.	1	2	3	4	5	6	7	8	9	10	11	12	13
Utility Staff															
Power Plant Op I	12.04	12.31	12.58	12.87	13.16	13.45	13.76	14.07	14.38	14.71	15.04	15.38	15.73	16.08	16.44
Power Plant Op II	15.10	15.44	15.79	16.14	16.50	16.88	17.26	17.64	18.04	18.44	18.87	19.29	19.73	20.16	20.61
Power Plant Op III	15.52	15.88	16.23	16.59	16.97	17.35	17.75	18.14	18.54	18.97	19.39	19.83	20.27	20.74	21.20
Apprentice Lineman	13.33	13.62	13.94	14.25	14.56	14.90	15.23	15.57	15.93	16.28	16.64	17.03	17.40	17.80	18.20
Line worker II	17.50	17.89	18.29	18.71	19.13	19.55	20.00	20.44	20.91	21.38	21.86	22.35	22.86	23.37	23.90
Line worker I	18.40	18.82	19.24	19.67	20.12	20.56	21.03	21.50	21.99	22.48	22.99	23.50	24.04	24.57	25.13
Line Foreman	19.83	20.27	20.73	21.19	21.66	22.16	22.65	23.16	23.68	24.22	24.77	25.32	25.89	26.47	27.07
Water/Sewer Op I	11.45	11.72	11.98	12.24	12.52	12.80	13.09	13.38	13.69	13.99	14.31	14.62	14.96	15.29	15.63
WA/SE Op I w Gr VI	12.13	12.40	12.68	12.97	13.26	13.55	13.86	14.17	14.49	14.82	15.15	15.49	15.84	16.20	16.56
WA/SE Operator II	13.83	14.13	14.45	14.78	15.11	15.45	15.80	16.15	16.51	16.89	17.27	17.65	18.05	18.46	18.88
WA/SE Op II w Gr VI	14.48	14.82	15.15	15.48	15.84	16.19	16.55	16.93	17.31	17.70	18.10	18.50	18.92	19.34	19.79
WA/SE Op III w Gr VI	16.55	16.93	17.31	17.70	18.10	18.50	18.92	19.34	19.78	20.22	20.67	21.15	21.62	22.11	22.60
Waste Water Plt Op	15.62	15.98	16.33	16.70	17.08	17.46	17.86	18.25	18.66	19.09	19.51	19.96	20.40	20.87	21.33

STEP	Probation	6 mo	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>City Maint. Staff</u>															
Laborer I	9.60	9.81	10.03	10.26	10.48	10.73	10.97	11.21	11.46	11.73	11.99	12.25	12.53	12.82	13.10
Laborer II	11.32	11.57	11.84	12.10	12.37	12.66	12.94	13.23	13.52	13.84	14.14	14.46	14.79	15.12	15.46
Maint Worker I	11.89	12.15	12.43	12.71	13.00	13.29	13.58	13.89	14.20	14.52	14.85	15.18	15.52	15.88	16.23
Maint Worker II	12.47	12.76	13.04	13.33	13.64	13.94	14.25	14.57	14.91	15.24	15.58	15.93	16.29	16.65	17.03
Street Foreman	15.33	15.68	16.03	16.39	16.76	17.14	17.52	17.92	18.32	18.74	19.15	19.58	20.03	20.47	20.94
<u>Police Staff</u>															
Police Officer	13.96	14.28	14.60	14.93	15.27	15.61	15.97	16.32	16.69	17.07	17.45	17.85	18.24	18.65	19.07
<u>Department Supervisors</u>															
Park & Aud Supt.	15.27	15.61	15.96	16.32	16.69	17.07	17.45	17.84	18.24	18.65	19.07	19.50	19.94	20.39	20.85
Licensed Street Supt.	18.89	19.31	19.75	20.19	20.64	21.11	21.58	22.07	22.56	23.08	23.59	24.13	24.66	25.22	25.79
Water Super w/Gr VI	18.60	19.02	19.45	19.89	20.33	20.80	21.26	21.74	22.23	22.73	23.24	23.77	24.30	24.85	25.40
Wastewater Super w/Gr VI	18.60	19.02	19.45	19.89	20.33	20.80	21.26	21.74	22.23	22.73	23.24	23.77	24.30	24.85	25.40
Power Plant Supervisor	19.47	19.91	20.35	20.82	21.28	21.76	22.25	22.75	23.26	23.79	24.32	24.87	25.42	26.00	26.58
Electric Supervisor	22.20	22.70	23.21	23.74	24.27	24.82	25.37	25.95	26.52	27.12	27.73	28.36	29.00	29.64	30.31

Notes:
 1) 15 Steps Total
 2) Approximately 2.25% between steps
 3) The salary range from Probationary Salary to Step 13 (maximum) is 37%

Permanent Part-Time Staff (Hourly Rate of Pay)

	Probationary	6 Mo	1	2	3	4	5	6	7	8	9	10	11	12	13
Permanent Part-time workers	8.50	8.70	8.89	9.09	9.29	9.50	9.72	9.94	10.16	10.39	10.63	10.86	11.11	11.35	11.62
Zoning Inspector	16.08	16.44	16.81	17.19	17.57	17.97	18.37	18.79	19.21	19.64	20.08	20.53	21.00	21.47	21.95

Seasonal/Provisional

STEPS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Swimming Lesson Aid															
Concession Games/Cleaning Bartenders	7.25	7.41	7.58	7.75	7.92	8.10	8.29	8.47	8.66	8.86	9.06	9.26	9.47	9.68	9.90
Lifeguard	7.43	7.60	7.77	7.94	8.12	8.30	8.49	8.68	8.88	9.08	9.28	9.49	9.70	9.92	10.15
WSI Lifeguard General Laborer	7.61	7.78	7.96	8.14	8.32	8.51	8.70	8.89	9.09	9.30	9.51	9.72	9.94	10.16	10.39
Water Aerobics Instructor	7.80	7.98	8.15	8.34	8.53	8.72	8.91	9.11	9.32	9.53	9.74	9.96	10.19	10.42	10.65
Head Lifeguard	9.18	9.39	9.60	9.81	10.03	10.26	10.49	10.73	10.97	11.22	11.47	11.73	11.99	12.26	12.54

Asst. Aquatic Center Manager	10.68	10.92	11.17	11.42	11.67	11.94	12.21	12.48	12.76	13.05	13.34	13.64	13.95	14.26	14.58
Aquatic Center Manager	11.10	11.35	11.61	11.87	12.13	12.41	12.69	12.97	13.26	13.56	13.87	14.18	14.50	14.82	15.16

Salaried Staff Pay Plan (Annual Rate of Pay)

Position	Minimum	Mid Point	Maximum
Clerk/Treas.	\$44,117	\$52,179	\$60,240
Police Chief	\$41,197	\$48,725	\$56,253
Lieutenant/ Asst. Chief	\$38,277	\$45,271	\$52,266

Notes:

- 1) Exempt (salaried) Employees are subject to the same 2.25% annual step increase as non-exempt employees as well as any Cost-of-Living Adjustments (COLA) as approved by Council.
- 2) The range spread from Minimum Starting to Maximum salary is 37%

SECTION 3. Any and all ordinances or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect retro active to September 24, 2011 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 14th day of December, 2011.

Passed on 1st reading only
 Mayor Alan Zavodny

Passed on 1st reading only
 Interim City Clerk Tami Comte

Council member Kroesing introduced Ordinance No. 1166 and moved to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Scribner, Vandenberg, Rogers and Smith. Voting NAY: Council member Svoboda. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1166 on third and final reading. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Smith and Scribner. Voting NAY: Council member Svoboda. The motion carried and Ordinance No. 1166 was passed on third and final reading as follows:

ORDINANCE NO. 1166

AN ORDINANCE TO AMEND ORDINANCE NO. 1133 AND/OR ORDINANCE NO. 1165 STATING THAT THE EMPLOYEES OF THE CITY OF DAVID CITY / DAVID CITY UTILITIES, ARE FROZEN IN THEIR CURRENT PAY STEPS FOR THE FISCAL YEAR OCTOBER 1, 2011 TO SEPTEMBER 30, 2012; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby agree and determine that all employees of the City of David City / David City Utilities shall be frozen in their current pay steps, salaries, rate of pay, etc., for fiscal year October 1, 2011 thru September 30, 2012.

SECTION 2. If any employee shall pass any certifications which would normally advance them to a different pay step, or a different pay line, such increase in pay must be authorized by the Mayor and City Council.

SECTION 3. If a department head determined that an employee is eligible for an advancement, such advancement must be first authorized by the Mayor and City Council.

SECTION 4. Any and all ordinances or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 5. This ordinance shall be published in pamphlet form and shall be in full force and effect retro active to September 24, 2011 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 14th day of December, 2011.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Kroesing made a motion to advance to agenda item #24 Consideration of a Land Lease Agreement between the City of David City and Storm Flying Service, LLC, with its principal offices at 390 E. Sloup Drive, Wahoo, NE 68066. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Svoboda, Vandenberg, Rogers and Scribner. Voting NAY: None. The motion carried.

Jared Storm of Storm Flying Service, LLC was present to discuss a possible land lease agreement. Storm would like a long term lease on airport property – west of where the current

hangars are located. He would build a manufacturing facility to construct AgCat agricultural aircraft. The plan and the lease must be approved by the Federal Aviation Administration.

Council member Scribner made a motion to make a commitment to Storm Flying Service, LLC to lease airport land contingent upon the Federal Aviation Administration approval. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Smith, Svoboda, Vandenberg, Rogers and Scribner. Voting NAY: None. The motion carried.

Council member Scribner made a motion to move agenda items #11 & #12 to the end of the meeting. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Kroesing, Vandenberg, Rogers, Smith and Svoboda. Voting NAY: None. The motion carried.

Council member Smith stated that he heard the Columbus passed the ATV Ordinance. Chief McPhillips stated that he was concerned about public safety and these vehicles were not made to be operated on the streets. McPhillips stated that 60% of the accidents this year involved people that were born before 1960.

Council member Smith made a motion to pass Ordinance No. 1156 on third and final reading. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Svoboda, Rogers and Kroesing. Voting NAY: Council members Vandenberg and Scribner. The motion carried and Ordinance No. 1156 was passed and adopted as follows:

ORDINANCE NO. 1156

AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of all-terrain vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that all-terrain vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (A) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been

specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.

- (B) A non-refundable application fee of \$50.00 shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (C) The permit is valid only one (1) year from the date of its issuance.
- (D) Operators of all-terrain vehicles must be at least 21 years of age and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (E) All-terrain vehicles may be operated only between the hours of sunrise and sunset.
- (F) Operators shall have liability insurance coverage for the all-terrain vehicles effective while operating the same within the corporate limits of the City.
- (G) Operators shall not operate an all-terrain vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (H) A person operating an all-terrain vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (I) When a person is operating an all-terrain vehicle the headlight and taillight of said vehicle should be on.
- (J) When a person is operating an all-terrain vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (K) When operating an all-terrain vehicle, the operator must follow and obey all rules of the road.
- (L) An all-terrain vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
 - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

- (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
- (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
- (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

SECTION 4: PENALTY

Any person violating the terms of this ordinance shall be guilty of an offense, fined in a sum of not more than \$500.00, and shall have the registration revoked as to the vehicle involved in said offense as follows:

- a. For the 1st offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2nd offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3rd offense, use of said vehicle shall be permanently prohibited within the City of David City.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this 14th day of December, 2011.

Mayor Alan Zavodny

ATTEST:
(Seal)

Interim City Clerk Tami Comte

Council member Kroesing made a motion to pass Ordinance No. 1157 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Svoboda and Rogers. Voting NAY: Council members Scribner and Vandenberg. The motion carried and Ordinance No. 1157 was passed on third and final reading as follows:

ORDINANCE NO. 1157

AN ORDINANCE AUTHORIZING THE OPERATION OF UTILITY TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of utility-type vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that utility-type vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (M) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.
- (N) A non-refundable application fee of \$50.00 shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (O) Operators of utility-type vehicles must be at least 21 years of age and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (P) Utility-type vehicles may be operated only between the hours of sunrise and sunset.
- (Q) Operators shall follow and obey all rules of the road.

- (R) Operators shall have liability insurance coverage for the utility-type vehicles effective while operating the same within the corporate limits of the City.
- (S) Operators shall not operate a utility-type vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (T) A person operating a utility-type vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (U) When a person is operating a utility-type vehicle the headlight and taillight of said vehicle should be on.
- (V) When a person is operating a utility-type vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (W) A utility-type vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
 - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
 - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
 - (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
 - (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

SECTION 4: PENALTY

Any person violating the terms of this ordinance shall be guilty of an offense, fined in a sum of not more than \$500.00, and shall have the registration revoked as to the vehicle involved in said offense as follows:

- a. For the 1st offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2nd offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3rd offense, use of said vehicle shall be permanently prohibited within the City of David City.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of

this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASS AND APPROVED this 14th day of December, 2011.

ATTEST:

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Scribner introduced Ordinance No. 1162. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Scribner, Smith, Rogers, Vandenberg and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance no. 1162 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Vandenberg, Rogers, Svoboda and Scribner. The motion carried and Ordinance No. 1162 was passed and adopted on third and final reading as follows:

ORDINANCE NO. 1162

**AN ORDINANCE AMENDING CHAPTER 2- COMMISSIONS AND BOARDS;
ARTICLE 1 – SECTION 106 – TREE BOARD; CREATION AND ESTABLISHMENT; 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 2; Article 1 – Section 106 – Tree Board; is hereby amended to read as follows:

§2-106 TREE BOARD; CREATION AND ESTABLISHMENT. There is hereby created and established a City Tree Board for the City of David City, Nebraska, **which shall consist of five (5) members to include 1) the Street Superintendent, 2) the Electric Supervisor, 3) the Park Supervisor, 4) one city council member, and 5) one citizen appointed by the Mayor with the approval of the City Council.**

The term of office of the tree board members shall be two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. Members of the City Tree Board shall serve without compensation. It shall be the responsibility of the City Tree Board to develop and administer a written plan for the maintenance, planting and removal of all street and park trees and shrubs. Such plans, which may be updated or amended as need requires, will be presented to the City Council and upon their acceptance and approval shall constitute the official "Comprehensive City Tree Plan" for the City of David City, Nebraska.

The Tree Board, when requested by the City Council, shall research and make recommendations on any special matter within the scope of its duties. The City Tree Board shall keep a journal of its proceedings. The Tree Board shall hold quarterly meetings as a minimum. **The Tree Board does not make decisions but will make suggestions and recommendations to the City Council.**

SECTION 2. All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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

PASSED AND APPROVED this 14th day of December, 2011.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Scribner introduced Ordinance No. 1163. Council member Rogers made a motion to suspend the statutory rule that requires that an ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Svoboda, Smith and Kroesing. Voting NAY: Council member Scribner. The motion carried.

Council member Rogers made a motion to pass Ordinance No. 1163 on third and final reading. Council member Svoboda seconded the motion. Voting AYE: Council members Rogers, Svoboda, Smith, Vandenberg, Scribner and Kroesing. Council member Kroesing voted AYE under protest. Voting NAY: None. The motion carried and Ordinance No. 1163 was passed and adopted as follows:

ORDINANCE NO. 1163

AN ORDINANCE RELATING TO ELECTRIC SERVICE RATES AND MINIMUM CHARGES, TO PROVIDE A NEW SCHEDULE OF ELECTRIC RATES BY INCORPORATING A 9% INCREASE TO THE SERVICE RATES AND MINIMUMS, 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 - \$8.56 per month (or partial month)

Summer	Winter
\$0.1064	\$0.1049 per kilowatt-hour for the first 500 kilowatt-hours used per month
\$0.0955	\$0.0724 per kilowatt-hour for the next 500 kilowatt-hours used
\$0.0845	\$0.0477 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 - \$8.56 per month (or partial month)

Summer	Winter
---------------	---------------

\$0.1064 **\$0.1049** per kilowatt-hour for the first 500 kilowatt-hours used per month
\$0.0881 **\$0.0724** per kilowatt-hour for the next 500 kilowatt-hours used
\$0.0806 **\$0.0477** 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 May 20th through September 19th.

Winter - Winter period is for the meter readings obtained during the eight month period of September 20th through May 19th.

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.

STREET LIGHT / ALLEY LIGHT RENTALS

Available

To customers in the established service area of David City.

Applicable

To any residence or commercial customer who has an alley light or a **requested** street light that is not individually metered. It is not applicable to residences or businesses where the city has installed a street light for the City's convenience.

Rate

Customer Service Charge - \$5.00 per fixture per month (or partial month)

Some customers will share the cost of one fixture.

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 - \$8.56 per month (or partial month)

Summer	Winter
\$0.1186	\$0.1163 per kilowatt-hour for the first 1000 kilowatt-hours used per month
\$0.0924	\$0.0815 per kilowatt-hour for the next 1000 kilowatt-hours used
\$0.0924	\$0.0655 per kilowatt-hour for all additional use.

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

Customer Service Charge, or \$2.20 per month per horsepower for the first 10 horsepower and \$1.26 per horsepower of connected load thereafter, or whichever is the largest.

Three Phase Rate

Customer Service Charge - \$17.11 per month (or partial month)

Summer	Winter
\$0.1186	\$0.1163 per kilowatt-hour for the first 1000 kilowatt-hours used per month
\$0.0924	\$0.0815 per kilowatt-hour for the next 1000 kilowatt-hours used
\$0.0924	\$0.0655 per kilowatt-hour for all additional use.

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

Customer Service Charge or \$2.20 per month per horsepower for the first 10 horsepower and \$1.26 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 May 20th through September 19th.

Winter - Winter period is for the meter readings obtained during the eight month period of September 20th through May 19th.

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 or 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	\$19.96 per kilowatt of maximum billing demand
Winter	\$16.51 per kilowatt of maximum billing demand

Energy Charge

Summer	\$0.0481 per kilowatt-hour used
Winter	\$0.0368 per kilowatt-hour used

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

The minimum bill shall be \$331.57 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 average demand registered on the meter during the preceding months of May 20th thru September 19th.

Seasonal Billing Periods

Summer - Summer period is for the meter readings obtained during the four month period of May 20th through September 19th

Winter - Winter period is for the meter readings obtained during the eight month period of September 20th through May 19th.

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 or 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	\$19.96 per kilowatt of maximum billing demand
Winter	\$10.79 per kilowatt of maximum billing demand

Energy Charge

Summer	\$0.0481 per kilowatt-hour used
Winter	\$0.0368 per kilowatt-hour used

Subject to Application of Production Cost Adjustment (PCA)

Minimum Bill

The minimum bill per month shall be \$302.04 during the winter months, or the billing demand charge, whichever is greater.

The minimum bill per month shall be \$331.57 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 May 20th through September 19th.

Winter - Winter period is for the meter readings obtained during the eight month period of September 20th through May 19th.

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)

\$46.89 per Horsepower connected per year. Energy consumed shall be billed at the rate of 8.68¢ per kilowatt hour per month, payable as used.

Rate: Off-peak irrigation (Non-Firm)

\$20.05 per Horsepower connected per year. Energy consumed shall be billed at the rate of 5.45¢ 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 \$1.78 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 January 1, 2012. (So the usage from December 20th through January 19th will be billed on these rates).

PASSED AND ADOPTED this 14th day of December, 2011

Mayor Alan Zavodny

ATTEST:

Interim City Clerk Tami Comte

Interim City Administrator Joan Kovar stated that she had not received a down payment for the property located at 315 So. 4th Street. She also stated that she had written a letter to the Hernandez's and she had no response from them.

Council member Kroesing made a motion to put the property located at 315 So. 4th Street back on the market and advertise it as being for sale. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Svoboda, Vandenberg and Rogers. Voting NAY: None. The motion carried.

Council member Smith introduced Ordinance No. 1164 and moved to suspend the statutory rule that requires that an ordinance be read on three separate days. Council member Vandenberg seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Svoboda, Scribner, Smith and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1164 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Vandenberg, Svoboda and Rogers. Voting NAY: None. The motion carried and Ordinance No. 1164 was passed and adopted as follows:

ORDINANCE NO. 1164

AN ORDINANCE SETTING THE MONTHS THAT WILL BE USED TO CALCULATE SEWER RATES; EFFECTIVE DATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-213 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. For residential customers, the monthly sewer rate fee shall be based on the average quantity of water **used during the time period of December 20th thru February 19th, 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.
- Section 2. 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 month's 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.
- Section 3. The following monthly Sewer Rates and customer charges became effective March 1, 2011, billed in April, and due May 1 - 10th.
- Customer charge of \$7.15 per month
Plus @ \$2.70 per 1,000 gallons of water used
- Section 4. The monthly rates to be charged for sewer usage and customer charges will be reviewed by the City Council on an as needed 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 14th day of December, 2011.

Mayor Alan Zavodny

(ATTEST)

Interim City Clerk Tami Comte

Mayor Zavodny stated that in accordance with published notice, it was now time to conduct a hearing concerning objections to the creation of Street Improvement District Nos. 2011-4, 2011-5 and 2011-6. The Mayor declared the hearing open at 8:41 p.m. and asked the City

Clerk if any written objections had been filed. The City Clerk advised that there were no written communications delivered to her office relative to the creation of Street Improvement District Nos. 2011-4, 2011-5 or 2011-6.

Mayor Zavodny then asked if there were persons present who wished to be heard concerning the proposed Street Improvement District Nos. 2011-4, 2011-5 or 2011-6. No persons appeared.

There being no persons wishing to be heard, the Mayor declared the public hearing closed at 8:43 p.m.

Mayor Zavodny stated that in accordance with published notice, it was now time to conduct a hearing concerning objections to the creation of Street Improvement District Nos. 2011-7, 2011-8 and 2011-9. The Mayor declared the hearing open at 8:44 p.m. and asked the City Clerk if any written objections had been filed. The City Clerk advised that there were written communications delivered to her office relative to the creation of Street Improvement District Nos. 2011-7, 2011-8 and 2011-9 as follows:

Street Improvement District No. 2011-7:

Donna Docekal, 1052 10th Street; Hildy Properties, 1020 10th Street; and, Connie Colter, 1083 10th Street.

Street Improvement District No. 2011-8:

Chuck & Trish Oborny, 990 N. 10th Street; and, Connie Closter, POA for Richard Cemper, lot at 10th and I Streets

Street Improvement District No. 2011-9: None filed.

Mayor Zavodny then asked if there were persons present who wished to be heard concerning the proposed Street Improvement District Nos. 2011-7, 2011-8 or 2011-9.

Connie Colter was present to express her objections to the project.

There being no other persons wishing to be heard further relative to the proposed Districts, Mayor Zavodny declared the public hearing closed at 8:53 p.m.

Council member Scribner introduced Resolution No. 28-2011 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Vandenberg, Scribner, Svoboda, Rogers and Kroesing. Voting NAY: None. The motion carried and Resolution No. 28-2011 was passed and adopted as follows:

RESOLUTION NO. 28-211

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska as follows:

1. The Mayor and City Board heretofore adopted on November 9, 2011, Ordinance No. 1158 creating Street Improvement District Nos. 2011-4, 2011-5 and 2011-6 which ordinance was published as provided by law on November 17, 2011.

2. Notice of the filing of petitions and of Creation of Street Improvement District Nos. 2011-4, 2011-5 and 2011-6 was published in the Banner Press newspaper on November 24, 2011, December 1, 2011 and December 8, 2011, as provided by law.
3. That signatures representing more than 60% of the front footage to be improved in Street Improvement Districts No. 2011-4, for the improvement of 10th Street from the north line of N Street south to the center line of M Street in the City of David City, including the intersections at N Street and at M Streets have been presented to the Mayor and City Council.
4. That the petitions for the creation of Street Improvement District No. 2011-4 are sufficient and the Mayor and City Council of the City of David City, Nebraska may proceed with the construction of improvements in said District as provided by law.
5. That signatures representing more than 60% of the front footage to be improved in Street Improvement Districts No. 2011-5, for the improvement of 10th Street from the centerline of M Street south to the center line of L Street in the City of David City, including the intersections at M Street and at L Streets have been presented to the Mayor and City Council.
6. That the petitions for the creation of Street Improvement District No. 2011-5 are sufficient and the Mayor and City Council of the City of David City, Nebraska may proceed with the construction of improvements in said District as provided by law.
7. That signatures representing more than 60% of the front footage to be improved in Street Improvement Districts No. 2011-6, for the improvement of 10th Street from the centerline of L Street south to the south line of K Street in the City of David City, including the intersections at L Street and at K Streets in the City of David City have been presented to the Mayor and City Council.
8. That the petitions for the creation of Street Improvement District No. 2011-6 are sufficient and the Mayor and City Council of the City of David City, Nebraska may proceed with the construction of improvements in said District as provided by law.

Passed this 14th day of December 2011.

ATTEST:

Mayor Alan Zavodny

Interim City Clerk Tami Comte
[SEAL]

Council member Kroesing introduced Resolution No. 29-2011 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Svoboda, Rogers, Smith and Kroesing. Voting NAY: None. The motion carried and Resolution No. 29-2011 was passed and adopted as follows:

RESOLUTION NO. 29-211

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska as follows:

1. The Mayor and City Council heretofore adopted Ordinance No 1159 creating Street Improvement District Nos. 2011-7, 2011-8 and 2011-9 which ordinance was published as provided by law on November 17, 2011.
2. Notice of Creation of said Street Improvement District Nos. 2011-7, 2011-8 and 2011-9 was given as provided by law by publication on November 24, 2011, December 1, 2011 and December 8, 2011 and notice was mailed to all non-resident owners as provided by law.
3. That objections were filed objecting to creation of Street Improvement District No. 2011-7 as follows:

Street Improvement District No. 2011-7

Written objections representing 365 front feet of abutting property were filed within 20 days of the first publication of the notice of creation of the District. That said Street Improvement District No. 2011-7 contains a total of 600 front feet of abutting property and that the written objections representing 365 front feet of abutting property do constitute a majority of the total front footage and the Mayor and Council shall not proceed with the construction of improvements in said District.

There being written objections representing a majority of front footage of property abutting said street filed within 20 days of the first publication of the notice of creation of the District, the Mayor and Council shall not proceed with the construction of improvements in said District. And the sections of Ordinance No. 1159 creating Street Improvement District No. 2011-7 shall be and are hereby ordered to be found as null and void.

4. That objections were filed objecting to creation of Street Improvement District No. 2011-8 as follows:

Street Improvement District No. 2011-8

Written objections representing 225 front feet of abutting property were filed within 20 days of the first publication of the notice of creation of the District. That said Street Improvement District No. 2011-8 contains a total of 600 front feet of abutting property and that the written objections representing

225 front feet of abutting property do not constitute a majority of the total front footage and the Mayor and Council shall proceed with the construction of improvements in said District.

There being written objections representing less than a majority of abutting front footage of property abutting said street filed within 20 days of the first publication of the notice of creation of the District, the Mayor and Council shall proceed with the construction of improvements in said District.

5. That no written objections were filed objecting to creation of Street Improvement District No. 2011-9.

There being no written objections of owners of property abutting said street filed within 20 days of the first publication of the notice of creation of the District, the Mayor and Council shall proceed with the construction of improvements in said District.

Passed this 14th day of December 2011.

ATTEST:

Mayor Alan Zavodny

Interim City Clerk Tami Comte

[SEAL]

Mayor Zavodny recommended the appointment of Paul Perske to serve a 4 year term on the library board. Council member Scribner made a motion to appoint Paul Perske to serve a 4 year term on the library board. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Rogers, Svoboda, Smith and Kroesing. Voting NAY: None. The motion carried.

Police Chief Anthony McPhillips was present to discuss towing of vehicles during a snow event. He stated that the vehicles are now being towed to a secure location at the airport. The towing company maintains control over the vehicles. The City is no longer paying for the towing. Chief McPhillips stated that they started advertising the snow regulations in the Banner Press one month prior to the first snow.

Mayor Zavodny opened the discussion concerning the Northwest Drainage by stating that bids on the project would be opened on Monday, December 19, 2011. Mayor Zavodny stated that there were three properties where the City still needs easements. The first property is McLaughlin's. Mayor Zavodny stated that he will speak to the McLaughlin's to see if he can negotiate an agreement on the old easement.

The second property is the Holoubek property. The engineer redesigned the project several times and they still have not come to an agreement on the easement. Mayor Zavodny stated that the City may need to resort to eminent domain.

The third property is the Sypal property. There was discussion about the possibility of leaving their property out of the project. City Attorney James Egr stated that the City may need to look at the possibility of eminent domain on their property as well.

Council member Vandenberg made a motion to go into executive session to discuss personnel and legal matters. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Svoboda, Rogers, Smith, and Scribner. Voting NAY: None. The motion carried.

Mayor Zavodny stated, "Now at 9:24 p.m. we are going into executive session to discuss personnel and legal issues." Mayor Zavodny, all of the Council members, City Attorney Egr, Interim City Administrator Kovar, Interim City Clerk Comte and Martin Krafka went into executive session at 9:24 p.m.

Council member Mike Rogers left the meeting at 10:35 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 11:14 p.m.

Council member Scribner made a motion to reconsider Ordinance. No. 1166: AN ORDINANCE TO AMEND ORDINANCE NO. 1133 AND/OR ORDINANCE NO. 1165 STATING THAT THE EMPLOYEES OF THE CITY OF DAVID CITY / DAVID CITY UTILITIES, ARE FROZEN IN THEIR CURRENT PAY STEPS FOR THE FISCAL YEAR OCTOBER 1, 2011 TO SEPTEMBER 30, 2012; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Kroesing and Smith. Voting NAY: Council members Vandenberg and Svoboda. The motion failed. Council member Rogers was absent.

There being no further business to come before the Council, Council member Smith made a motion to adjourn. Council member Kroesing seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Scribner, and Smith. Voting NAY: Council member Svoboda. Council member Rogers was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 11:18 p.m.



CERTIFICATION OF MINUTES
December 14, 2011

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 December 14, 2011; 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