

**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 **13<sup>th</sup> day of February, 2013**, in the meeting room of the City Office, 557 N 4<sup>th</sup> 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 1st day of February, 2013.

**AGENDA AS FOLLOWS:**

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| 1. Roll Call;  | <hr/> Mayor Alan Zavodny                 |
| 2. Pledge of Allegiance;   |  |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;   | <hr/> Council President Gary L. Kroesing |
| 4. Minutes of the January 9 <sup>th</sup> , 2013 meeting of the Mayor and City Council;  |  |
| 5. Consideration of Claims;  | <hr/> Council member Michael E. Rogers   |
| 6. Committee and Officer Reports;  |  |
| <del>7. Consideration of turning off the aeration system in the park lakes;</del>  | <hr/> Council member Ruddy L. Svoboda    |
| 8. Discussion/presentation by Andrew Ross of NMPP concerning the recent electric rate increases;   |  |
| 9. 7:30 p.m. Public Hearing: City Council sitting as the Board of Equalization to consider the levy of special assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2, and 2012-3; | <hr/> Council member William Scribner    |
| 10. Consideration of Resolution No. 1 - 2013 setting the street assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2, and 2012-3;  | <hr/> Council member Gary D. Smith       |
| 11. 7:45 p.m. Public Hearing to consider the adoption of the One- and Six- Year Street Improvement Plan for the City;  | <hr/> Council member John P. Vandenberg  |
|  | <hr/> City Clerk Joan E. Kovar           |

12. Consideration of Resolution No. 2 – 2013 accepting the One- and Six- Year Street Improvement Plans;
13. Presentation of the audit for the fiscal year ended September 30, 2012, as prepared by Kruse, Schumacher, Smejkal, & Brockhaus PC;
14. Discussion concerning the water quality in the City
15. Consideration of David City RICE Compliance – Amendment #1 – to provide a Scope of Service and “not to exceed” professional fees; the original Scope of Service contract intentionally omitted equipment installation oversight and RICE NESHAP certification testing for the engines;
16. Consideration of the proposal in the amount of \$3,798.00 submitted by Midco Diving & Marine Services, Inc. to inspect and clean the water tower and ground storage tank at the Water Treatment Plant;
17. Discussion and consideration of the condition of the existing Christmas decorations that are owned by the Chamber of Commerce and are in need of possible refurbishing or replacement of such;
18. Consideration of the application by Ka-Boomer’s Enterprise, Inc. to sell permissible fireworks at 1510 4<sup>th</sup> Street, David City, Nebraska;
19. Discussion and consideration of opening the City Auditorium for walkers;
20. Consideration of Resolution No. 3 – 2013 setting the charges for the use of City equipment, labor, vehicles, equipment rentals, etc;
21. Consideration of Resolution No. 4 – 2013 setting the consumer charges for Utility labor, vehicles, equipment rentals, etc.
22. Consideration of Ordinance No. 1185 changing the annual permits for ATV’s to be valid from January 1 to December 31, rather than from the date of issuance, and placing the permit on the rear of the vehicle instead of the front. If the owner currently has a permit, the application fee would be pro-rated for the first transitional year;
23. Consideration of Ordinance No. 1186 changing the annual permits for UTV’s to be valid from January 1 to December 31, rather than from the date of issuance. If the owner currently has a permit, the application fee would be pro-rated for the first transitional year;
24. Consideration of a proclamation showing support for proclaiming March as Problem Gambling Awareness Month;
25. Adjournment.

CITY COUNCIL PROCEEDINGS

February 13, 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 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on February 7<sup>th</sup>, 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 Gary Kroesing, John Vandenberg, Mike Rogers, Ruddy Svoboda, Gary Smith, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim City Clerk Tami Comte. Council member Bill Scribner arrived at 7:03 p.m.

Also present were: Electric Plant Supervisor Eric Betzen, WA/SE Supervisor Gary Janicek, WA/SE employee Kevin Betzen, Street Foreman Rodney Rech, Eugene Divis, Christopher Palensky, Sandy Hoefft, Dana Trowbridge, Philip Lorensen, representing D.E. Davidson, Matt Rief from Olsson Associates, Jan & Dan Sypal, Chris Wegner from Rose Motel, Don Svoboda, Vicki & Keith Byrkit, Hank & Bonnie Kobza, Laura Kobza, John Rerucha, Russ Heller, Andrew Ross from NMPP Energy, Larry McPhillips, Jodi Prochaska representing Scow, Rief, Kruse and Schumacher, CPA's, P.C., Joy Fountain, Janis Cameron, Carolyn Yates, 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 January 9, 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, Rogers, Smith, Vandenberg, and Kroesing. Voting NAY: None. The motion carried. Council member Scribner was 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, Rogers Vandenberg, Smith and Kroesing. Voting NAY: None. The motion carried. Council member Scribner was absent.

Mayor Zavodny called for Committee and Officers Reports.

Council member Scribner arrived at 7:03 p.m.

Council member Kroesing stated that he wanted to thank Street Foreman Rodney Rech for bringing his award to him from the Concrete Paving Conference.

Mayor Zavodny stated that he appreciated having a report in the packet from the Sheriff's department.

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

Andrew Ross of NMPP was present to address concerns about the recent electric rate increase. He stated that there have been significant increases from NPPD that the City has absorbed without passing those increases on to their retail customers. Andrew Ross said, "Those increases have been compounded and have now looked like without any rate adjustments that the electric reserves would have been depleted in fiscal year 2015. To that end, it was the recommendation to increase the rates and the rates were established at a level to keep, basically start to catch up with, the wholesale rates from NPPD. The main focus that I want to get through here is that it is my responsibility to present information and facts, whether they are popular or not. There are a lot of things in the electric industry right now that are outside of local control. I touched upon a few of them last time I was here. Some of the main drivers are the global commodity demand for electricity. We are finding tremendous pressures as the price of steel, aluminum, coal, oil and all these things that are going up. We're battling for coal with China. If you think about that, that's crazy if you think that we get our coal from the Powder River basin in Wyoming and we're battling China for them. They are buying so much and they are building so many coal plants at a time that we are, as a federal government, heavily regulating fossil fuels. So, that's one of the principal drivers. It also extends into the transmission system. There is an enormous amount of transmission across this state, unfortunately, and fortunately, depending on your perspective, we cover a large land mass with a smaller population. So, that hits the department of roads in kind of the same manner. Lots of roads that need to be built over many, many miles and a small tax base to pay for it. The same type of principal applies in the electric market. We have miles and miles of transmission line and that transmission line is more expensive than you might think. One Fifteen KV, which you want to think about the arteries, the highway system of our electricity, that's about a million dollars per mile. And so, you start translating that and you have that system which was built basically, on the heels of our road system, in the 60's and that system is now aging and now we have to rebuild that system. You know, in Nebraska, we get extreme weather too, and the storm of, I think, 2007, wiped out about half of NPPD's transmission system. There are other great pressures. WAPA, which is the federal hydropower had extreme drought conditions in the late 2000's. In the late 2000's, the market had exploded. Since then it has tanked. I'll get into that in a minute. WAPA has these federal hydro allocations that it owes each town and there wasn't enough water to meet those obligations. So, they had to go out into the market and purchase that part power. Unfortunately, timing wise, that power was very expensive. The process known as hydraulic fracking has come around, which has absolutely cratered the natural gas portion. That has good ramifications and bad ramifications. The good ramifications are we're now an exporter of natural gas. We have an enormous abundance of natural gas that we did not have. In fact, they are burning it off, in cases, because it's getting in the way of their oil. It's so cheap now that they burn it off and get down to the oil. From the production standpoint, natural gas, which was one of the most expensive resources to produce, when those gas plants ran, that was terrible for NPPD. When the load was big enough, they had to run those, natural gas was \$12.00. It was not a good thing. Now, it's the complete opposite. Now, it's base load. They are running those plants all the time. Unfortunately, what that's done is, on the natural gas side, is absolutely crater the market. How does that affect David City? How does that affect my individual electric bill? N.P.P.D., your supplier, counts on more capacity than they do load. So, they count on selling that excess power to the market. When

the market is good, your supplier, is essentially making money on their units and then passing that savings down to their customers. Now, with the market completely cratered, the gas is now under \$3.00, so it hasn't just halved, it's reduced by 75% - over 75%. So, as we shift and look at fuel sources and things like that, that might have some positive benefits, but right now it's kind of tough for coal producing states, along with the federal regulations that are being passed on. Right now, the Gerald Gentleman Station, which is the largest generating plant in Nebraska, consists of two coal-fired generating units. It is located in Sutherland, Nebraska, which is just west of North Platte, if you know where that's at, produces half of the states' load and if mercury controls and other environmental controls come in, as they might be expected to, those would cost NPPD over a billion dollars. It would actually produce less electricity. So, there are enormous pressures on electricity. In the 90's and 2000's, prices remained stagnant for the most part. They didn't change much. I think there was some thought process. I think we kind of lulled some customers into thinking that was just the way it was going to be forever. I'm not doing my job if I'm not delivering the facts, even if it's bad news and the news is that we live in one of the cheapest electricity places in the entire world. Period. One of the four cheapest in the United States, the only places that are cheaper than the Powder River basin pole, are pockets of the Pacific northwest where they have hydropower like crazy - parts of Washington and Oregon, where they have lots of water. So, I know that's high level stuff, but, it impacts your electricity prices a heck of a lot more than I do, or your city council or the mayor or anybody else does. These are things that are outside of control. What we do have control of is our consumptive use, of what we actually use, but the trade pressures on this part of the country are tremendous. They are everywhere. Most places outside of the Midwest are already paying two and a half times on the coast of what it is in Nebraska. That's not just pressure on ourselves, but its pressure on irrigation, its pressure on industry. A lot of industry, like Kawasaki in Lincoln, and some other big job producers, come here because we have an educated work force and we have cheap electricity which is one of their biggest input costs. So, this is a really big deal and should warrant this kind of attention, whether it's positive or negative, I'm here to take it and to talk about it. But, ultimately, the main thing to come out of this is education and what we need to do is start looking at electricity as a commodity, as an input cost, like gasoline. I'm old enough to remember 89 cent gas and filling up my tank and things like that. We have just kind of had to adjust, in a very short period of time, to those price changes that's coming onto electricity and onto the heels of that, water and wastewater are under tremendous pressures as well. Both of those are very capital intensive industries that require large amounts of natural resources. When I first got into the industry I tried to make it a sugar coat and spin it somehow to make it positive but that's not doing anybody any good. The bottom line is that electricity prices are going up, no matter where you live, it just so happens that we live in one of the cheapest places, in the world, so that the percentages seem large. We are starting to catch up to other parts of the country. They're socializing transmission systems across the entire country. Nebraska is part of SPP (Southwest Power Pool). What that basically means is when you socialize transmission costs, when you socialize over areas, and you're the cheapest, essentially, what you're doing is averaging. You're trying to make everybody average, kind of pay the same kind of transmission costs. When you are currently the cheapest, and the entire country is socializing a major cost, what direction are you sucked towards. So, that the doom and gloom, if you will. That's just the facts of the pressure on the electric industry, specifically to David City. These are the reasons that I bring this up, because David City doesn't have control over how much water is in South Dakota. They don't have control over how much steel is being purchased in China. Traditionally, when you drill for oil, you drill vertically and you have to create a lot of wells to try to hit your pockets of oil. Now, they have the ability to drill down and then bore horizontally, setting off charges, which release enormous amounts of natural gas from the shale rock. So, these things that are happening, federal regulations, and things that are out of our control, are things that are impacting our state, our region, and our local communities. I did a little research, just so guys don't think that I'm too crazy. I see that in 2009 there was a

recommended rate increase from Olsson Associates of around 11.3% that wasn't taken. And so, a few years removed now, we haven't taken that and the NPPD wholesale costs have increased and those margins continue to evaporate. So, it's good to have a rate consultant. It's good to have somebody taking a look at some of these things from the outside and locally so that you can keep up with rate increases instead of having these kind of rate spikes, these shocks. It should be based more on earning a net return on your system and it's a utility basis of accounting versus cash basis of accounting. That's one of the primary drivers to move forward on this should be more keeping up with wholesale costs. Only 70% of your costs are from wholesale power. You have distribution costs, you have "a & g" costs, etc. but, you should then, be passing on through somewhat close to 70% or 75% of the wholesale costs that you get and that's the very simplified way. At least that keeps you up with your margins that can operate your utility. Because, eventually what happens if you're not financially solvent, as a utility, is that you are prime for someone to come in and take over your system. They just take over your distribution system and then they operate it. So, it's not meant to scare you, it's just the facts, it's what's happening. I know, primarily, some of the issues were on the electric heat customers. There are large residential electric heat customers in David City. This winter, raising it when we did, probably was a bit of a rate shock. Part of that was, the excess block of residential, was being grossly undercharged. Before, it was, 4.77 cents per kilowatt hour. That's cheaper than what electricity is being produced right now. So, that was a block that did need some attention because the first part of the study was the financial plan – how much of an increase did we need to keep our cash reserve targets, to make sure that we can run our business – because it is a business. It's a utility – it has costs and it has revenues. Once that level was set, it is how do we collect that increase now. That was one of the blocks that was not recovering the cost to serve that customer. Olsson Associates, in 2011, recommended on that block, a 77% rate increase. Two years ago, in February, they recommended taking that block to 7.75 cents. The new rates raised that to 7 cents. So, essentially, it's much closer in line to what it costs to serve that. It costs about 5 to 6 cents right now for that block. What you'll find on the other side of that is the increases on the summer months were grossly less than in that winter block. There's a global average, but there are winter months and there are summer months. Now, NPPD has seasonal rates. There's not as big of a discrepancy between the two as it was on the retail side. So, most of the increase was put on the winter months, especially on that block. So, if you are an electric heat residential user that uses a large amount of electricity, then, yes, that was one of the customers that was hit a little heavier in the winter months, but, then in the summer months, you'll see more in the 4 – 6% range on the same low side. So, that's the tee up and again I appreciate the opportunity to talk to you guys. I'd be happy to answer any questions at this time."

Dana Trowbridge said, "Andrew, from a pure production and distribution case, I have no arguments with what you told us today, but David City is not an example of a pure production and distribution case. We fund \$400,000 back into the general fund on an annual basis and charge it to the electric utility. I believe that we are paying for a City Administrator who hasn't been here for a couple of years. We own this building, and pay all of the costs attributed to it. Probably 15% of our electric expense including purchases goes somewhere other than pure electric generation and distribution costs. So, David City is a bit different. When I first read the article in the Banner Press, relative to your meeting with the council, I said to myself, maybe he doesn't understand how we do it here, but when I read that you were suggesting that we take \$400,000 from our reserves, for a rate stabilization program, I then knew that there may be some complicity because I think what we're doing is protecting our ability to bond \$500,000 because we can't match the 1.25 earnings to bonding rate that is in our current bond language. Is that fairly accurate?"

Andrew Ross said, "Well, what I can speak of is that there is three principal drivers and you spoke of one of them, to signal a rate increase, and one of the first ones is not only your wholesale supplier but other suppliers. That is the trigger, is the debt service coverage on any debt? Like I said, on a capital intensive industry, as a town you might have a new substation or a voltage upgrade that may cost a million dollars and it may cost more than that. Your wholesale supplier, like I just told you, could invest a billion dollars into something that doesn't even produce more electricity for them. It just meets code, it basically meets the requirements. So, that driver is something that you need to have a rate increase. By the covenants of your bond, you have to cover that ratio on your net incomes. Most times that's a good practice anyway."

Dana Trowbridge said, "Generally, wouldn't it be better to deal with your expenditures before you get to that point."

Andrew Ross responded by saying, "Well, I think the main thing, and like I said, this is the first time coming in here, usually, as we go along we continue to isolate down, to get more down to cost of service. Primarily, right now, the key driver was, we've got to catch up to wholesale costs, especially, on the heels, if they have to spend this billion dollars. That's another 15% on the wholesale side.

Dana Trowbridge said, "Isn't their announced rate increase for the coming year 3.8%?"

Andrew Ross said, "Yes, 3.8%, and that has an asterisk so that does not include any environmental future legislation. It doesn't include one dime of the 2.5 billion dollars that they are going out for in transmission and production debt. They will be coming around to sign new contracts and so they can use that as collateral for the future bonds on those projects."

Dana Trowbridge said, "I think that's fairly standard for something of that nature."

Andrew Ross said, "The \$400,000, I don't necessarily know exactly where that number comes from. I have transfers, and, you're right, there are inherent costs, if there's street lighting that's not being charged for that should still be metered. These are things that we would get into as we go along with the study. This isn't a one time and done deal. Part of our study is that you come in and do a financial plan and you start getting rates where they need to be and then you start dissecting. You start allocating exactly how much of the electric utility funds are going to the general fund. One thing that I will say is, I do 65 studies over five states in five different utilities and David City is not different in that regard. The electric utility in almost every town that I do becomes somewhat of the cash sustainer for that town. Whether it's right or not, that is the reality that it is. Staff is usually covered sometimes by that and the buildings are sometimes owned by the utility. Everything that you spoke of is very common."

Dana Trowbridge stated that doesn't make it right.

Andrew Ross said, "This is a very tough political issue, but you try to separate and have the general fund recover and pay for what it has. The problem is the pressure on the property tax, one of the principal revenues for the general fund, is usually under a lot of pressure and therefore, it usually finds its way into the electric utility. But it's my job to start to separate that away."

Dana Trowbridge said, "That's what drove us to this somewhere around 12 to 14 years ago when the levy lid came. We were at 120 mils and the levy was 50. So, you go looking for a golden goose and we found it."

Andrew Ross said, "I can't speak to that."

Dana Trowbridge said, "No, I know you can't. But, the point that I'm making is that we have a retirement community. We have a community that has some substance but doesn't have fantastic amounts of broad wealth and we have a lot of people that live on a social security check. \$17.05 per month doesn't seem like a lot to you, or if the average \$34.00 a month doesn't seem like a like to you but for a \$900 social security recipient it's a helluva lot of money and that's what we're going to be taking from them by December of 2013 versus February of 2011."

Andrew Ross said, "The main thing is, first off, it is a lot to me. I've got bills and I've got kids. Money is still money to me. Ultimately, these are national topics. This is not just David City. Personally, I'm a civil engineer by design. I'm a bit concerned about the civil infrastructures that built this country. We became a world power because we built roads that we could ship goods across the entire country. We became a national power by building the most sophisticated electric grid in the entire world. The issue now is other people are now doing that, China and Indonesia, they are building up their systems like gangbusters and they don't have the environmental controls. So, we are battling a world market right now and rebuilding our system and just like you spoke of, those costs are inherent on every single thing that you do. They are at your house and they are at your business. I remember, I was commuting from Lincoln to Columbus when gas did its run up to \$4.00 and I heard people say that it's so expensive to drive to the store. It's more expensive for my toothpaste because gasoline is inherent in every single product that we buy. It's an input cost. Electricity is the same way. Water is the same. We have become so accustomed to water being free. We don't really think of water too much. There might be some large industrial systems that think about water but on the residential side we don't think about water too much. We take it for granted. We walk 10' to the nearest potable water source and there is tremendous pressure on that as well. There are DEQ mandates going out sending millions of dollars to build new water plants and wastewater plants in towns smaller than this one where you have to spread that out over 500 meters. So, there's no other way to cut the pie. The infrastructure costs of this country are rising dramatically and those on fixed incomes is a big deal. I will not devalue that and I'm concerned about that moving forward because these people need to heat their homes and they need to do these types of things. Unfortunately, those pressures are not going away in at least the short to mid-term. I can't speak for outside of five years. I am concerned about that and I think that the main thing is to focus on what's inside of our control. I think that the main things that are inside our control are some of the things that you mentioned and moving forward we should look at some of those things. But, ultimately, on the consumptive side too. I did see some bills that were in the 6 - 8,000 kilowatt hours per month range. I don't personally have electric heat but I know, mostly, the average in the cold, cold, months are 2,500. So, I did notice some very large consumption. It's hard to say, throw on a sweater, and do that kind of stuff. That is something, as we go forward, in this country, we're going to have to pay a lot more attention to how much electricity and water we use. We used to be "go big and get flat screens." If you look at, let's say, the Hummer was five years ago and the Hummer graduated to the Prius. We're going to have to do that in our homes. We're going to have to do that and start thinking about these input costs because in Nebraska we are the last to feel it. Like I said, you're paying on an average maybe 9 or 10 cents per kilowatt hour. You go to other places like Texas or the east coast or the west coast or you go anywhere outside of the Midwest and Pacific Northwest and they are paying 50 to 100 to 150% more than that now.

Janis Cameron asked, "Why, on the residential electric in David City, why do those that use more pay less per kilowatt hour than those that conserve? Is that normal too and why?"



Andrew Ross said, "It's an incremental increase. That is normal. The cost of service should have a declining block and it seems weird. Wait a minute, as you use more, you should pay more and, traditionally, the only reason that you do that is to send price signals to make people use less. Studies have shown that it's taken three times the price point to actually get people to change their behavior. Just like gasoline, a lot of us were worried about it but it takes a lot to get people to change their life style on the gas side. It's the same thing with electricity. But, what happens is that you have these capital costs that you have to pay no matter what. So, you have the iron in the ground, the power plants, all the steel for the transmission system, this whole thing built out. That's the reason that you have a customer charge because even if you don't use one kilowatt hour, you have a meter at your house, you have the ability to serve and so you have a lot of these inherent costs. As you move down the list, as you use more electricity, the cost becomes less and less, you've got that global covering your fixed costs and your marginal cost then become less expensive. It's a load factor issue. It gets a little mathematical but, ultimately, from an economic perspective, it's a marginal expense. The marginal expense as you use more kilowatt hours, actually goes down as you move outside of the fixed costs that you have to pay no matter what. So, if you use one kilowatt hour, that's going to be an expensive kilowatt hour because you've got to pay for the power plant, the transmission system, etc. Now, it's got a curve on the other end as well. As a country, we use plants in a hierarchy system. The lowest cost to the highest cost and that's kind of changing right now, like I told you on natural gas. It was nuclear, hydro, coal, then some natural gas peakers, then some diesel generators on the way up. Now, natural gas is starting to fall into being price competitive with coal, etc. But then, what I'm saying is, if you use too much electricity then what happens is you start to burn up and get into those more expensive units. Diesel, for example, twenty years ago that might have been a very economical resource and forty years ago it definitely was. Now, not at all. So, you have to serve that load. I don't know any other industries, when you see incentive programs and such, and if you think about that from a business model, it's kind of backwards. The electric utility is paying somebody to use less of their product. I don't know any other industry that does that, other than maybe water. But their reason is, there is an obligation to serve. You can't turn people away. On a hot day, you can't put up a sign that says – Out of Electrons. It's got to be there. People depend on it. So, what happens is, if you start stretching your system either on the transmission side or the generation side, then you either have to go build a new power plant or upgrade the voltage of your town, or upgrade the voltage of your transmission system, which are enormously expensive things. So, if you can convince your load to actually use less or use it at different times, then it actually offsets that future expense and you don't have to build that plant or you don't have to do those more expensive items and actually it saves everybody money. So, that's the main thing and I know it's an uphill battle trying to get kind of education through, but it is really a focus on consumption over rate. Globally, that rate is kind of outside of David City's control. The consumption that you use is not, and that is one of the things as we move to more efficient things such as insulating, caulking windows, these types of things will become more and more valuable. They weren't valuable before because there wasn't a big cost. Electricity and water and these things weren't a big cost. But, if water is four times, five times, ten times more expensive in five to ten years, then you are going to pay attention to your showers and to your kids brushing their teeth and those types of things and that's where we're getting with electricity. That's why I'm not a very popular person."

Dana Trowbridge said, "I think that you've sent a wonderful message this evening and I hope the Council and the Mayor have been listening closely. There are a lot of things coming and we've got to take this \$400,000 boondoggle and we've got to squeeze it down as small as we can absolutely get it because that's what's going to affect the little old ladies in a cold dark house."

Andrew Ross said, "I appreciate that message and I think the main thing is education. It's going to have to be everybody working together getting out those messages and going through that little old lady's house and determining where there's losses, where there's dramatic dollars just going out, literally, the window or the door and teaching them what's going on in the industry, and what's going on in these costs, is going to be big. On the business side too, business owners have these costs as well. For the most part, I bet you they run pretty tight budgets and pretty good businesses and that's one cost that every single one of them pays. Every single one. So, that gets passed down in much more ways than just the little old lady across the street. It is a worldwide total economy shift."

Dana Trowbridge said, "Is LES a very low cost producer and distributor? Lincoln Electric is about 31% less than we are."

Andrew Ross said, "LES has some advantages and they also ran into some fortunate scenarios. I know, last year, they had an outage that was just at a perfect time because a couple years removed they had their 9% increase. The other thing about Lincoln – Lincoln's doing pretty good right now as far as their coffers and things like that and so, like you mentioned, there's not as much cross between the two."

Dana Trowbridge said, "I think there's a definite separation there."

Andrew Ross said, "It is one retail customer, they own some generation, and it's an entirely different animal than David City is. David City has their power supplier and essentially it's run through the distribution system and David City isn't involved too much on the power supply side."

Chris Wegner, from Rose Motel, asked Andrew Ross what percentage were the increases for the residential and business customers.

Andrew Ross said, "The global increase was 13.9%. So, 13.9% was the overall increase. At equal load, David City will collect 13.9% more in revenue. That's the financial plan side of it. How much more revenue does David City need to operate its electric utility?"

Dana Trowbridge said, "So that's around another \$400,000 because we bill out 3 million a year at 14% is \$420,000."

Andrew Ross said, "The key driver again is over the last ten years the wholesale costs have gone up 79% and retail costs have gone up about 40%, globally, on all customers over that time period in David City and the 79% is for all of NPPD's wholesale customers and other power suppliers have seen the same increases."

It was noted that the new "smart meters" also minimize David City's losses because they pick up everything that is plugged in where the old meters did not.

Andrew Ross made note that David City's reserves should be 1 – 3% for storm contingency.

The mayor and council thanked Andrew Ross for coming out and making his presentation.

The Mayor declared that in accordance with published notice; it was now time to conduct a hearing relative to the levy of special assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3. The Mayor then declared the public hearing open at 7:48 p.m. The Mayor asked the City Clerk if any written objections had been filed. The City Clerk reported that the following written objections had been filed:

Street Improvement District No. 2011-2

Christopher & Lindsey Palensky filed a protest asking for a reduction from \$25/running ft to \$15/running ft.

Street Improvement District No. 2011-3

Mark & Tina Kirby filed a written protest

Street Improvement District No. 2011-4

None filed

Street Improvement District No. 2011-6

None filed

Street Improvement District No. 2011-8

None filed

Street Improvement District No. 2011-9

None filed

Street Improvement District No. 2012-1

None filed

Street Improvement District No. 2012-2

None filed

Street Improvement District No. 2012-3

None filed

The Mayor then asked if there were any persons who wished to be heard concerning the proposed assessments in the District relative to the construction of the said proposed levy of special assessments. The following appeared:

Street Improvement District No. 2011-2

Janet & Daniel Sypal  
Hank & Bonnie Kobza

Street Improvement District No. 2011-3

Street Improvement District No. 2011-4

Street Improvement District No. 2011-6

Street Improvement District No. 2011-8

Street Improvement District No. 2011-9

Street Improvement District No. 2012-1

Street Improvement District No. 2012-2

Street Improvement District No. 2012-3

Hank Kobza stated that they had all of the cement come within 15 – 20' of their door. He stated that Arps Red-E-Mix washed out their trucks on their property. He also stated that he was promised rock which he never received.

Matt Rief, of Olsson Associates, promised Mr. Kobza that he would take care of his issues.

Jan Sypal stated that after the meeting, she and Dan, met with Matt Rief and he informed them that there would not be an assessment on "O" Street.

Matt Rief stated that he told Jan and Dan that there would not be an assessment on the east side of "O" Street. He stated that he did not tell anyone that there wouldn't be an assessment on the west side of "O" Street.

Keith Byrkit stated that his sidewalk is cracked and that there should be a guarantee on it.

Matt Rief stated that he would check on that.

City Attorney Jim Egr stated that the council can reduce Palensky's assessment on Industrial Drive because they are a residence and the rest of assessments are to businesses.

There being no other persons wishing to be heard concerning the improvements and the proposed levy of special assessments within Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3, the Mayor declared the hearing closed.

After having fully considered the objections and the adjustment and equalizing of assessments relative to said District, Council member Scribner moved that the special

assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3, be adjusted as follows:

Adjust Palensky's assessment from \$25 per running foot to \$15 per running foot on Industrial Drive which is in Street Imp. District No. 2011-2.

The motion was seconded by Council member Rogers. Voting AYE: Council members Svoboda, Scribner, Rogers, Smith, Vandenberg, and Kroesing. Voting NAY: None. The Mayor thereupon declared the motion carried.

Council member Smith made a motion to approve the remaining assessments as originally presented. Council member Kroesing seconded the motion. Voting AYE: Council members Scribner, Kroesing, Smith, Rogers, Vandenberg, and Svoboda. Voting NAY: None. The Mayor thereupon declared the motion carried.

Councilmember Kroesing then moved that the special assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3 which were the subject of the forgoing hearing, be payable in ten installments and that the interest rate for the improvements in be set at a rate of 4.75%. Motion seconded by Council member Smith. Voting AYE: Council members Kroesing, Smith, Scribner, Svoboda, Vandenberg and Rogers. Voting NAY: None. The Mayor thereupon declared the motion carried.

Council member Smith then moved the passage and adoption of the following resolution, which was presented by the City Clerk. Motion seconded by Council member Scribner. Voting AYE: Council members Smith, Scribner, Rogers, Kroesing, Svoboda and Vandenberg. The motion carried and Resolution No. 1-2013 was passed and adopted as follows:

#### RESOLUTION NO. 1-2013

RESOLUTION MAKING ASSESSMENTS IN Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3 IN THE CITY OF DAVID CITY, NEBRASKA.

WHEREAS, Notice has been published as provided by law concerning the levy of special assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3 in the Banner-Press, newspaper on January 10, 2013, January 17, 2013, January 24, 2013, January 31, 2013 and February 7, 2013, and a copy of said Notice has been mailed to all resident and non-resident owners of property in said Districts as provided by law, and

WHEREAS, a hearing has been conducted as provided by law relative to the levy of special assessments in said Districts proposed to be levied against said lots and parcels of ground on account of the construction of the improvements hereinbefore described;

NOW BE IT RESOLVED, that the special assessments are adjusted as follows:

To adjust Christopher Palensky's assessment from \$25/running foot to \$15/running foot in Street Improvement District No. 2011-2 on Industrial Drive.

BE IT FURTHER RESOLVED, that the said assessments against said lots, parts of lots and parcels of land are hereby declared to be in proportion to the special benefits conferred upon

said property by said improvements and not in excess of such benefits or of the cost of the improvements;

BE IT FURTHER RESOLVED, that all special assessments above provided for shall become due in fifty (50) days after the date of the passage of this resolution and may be paid within that time without interest, but if not so paid, special assessments in Street Improvement District Nos. 2011-2, 2011-3, 2011-4, 2011-5, 2011-6, 2011-8, 2011-9, 2012-1, 2012-2 and 2012-3 shall bear interest thereafter at the rate of 4.75 per centum (4.75%) per annum from the date of this resolution until delinquent. Such assessments shall become delinquent as follows: One tenth of the total amount shall become delinquent fifty days after such levy; one tenth in one year; one tenth in two years; one tenth in three years; one tenth in four years; one tenth in five years; one tenth in six years; one tenth in seven years; one tenth in eight years and one tenth in nine years.

Delinquent installments shall bear interest at the rate provided by law until paid and shall be collected in the usual manner for the collection of taxes. Installments may be prepaid at anytime at the option of the property owner as provided by law.

AND BE IT FURTHER RESOLVED, that a certified copy of said assessment schedules be filed by the City Clerk/Treasurer with the County Treasurer and the County Clerk of Butler County, Nebraska as provided by law for entry on the proper tax rolls.

PASSED this 13<sup>th</sup> day of February 2013

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Mayor Alan Zavodny

ATTEST:

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Interim City Clerk Tami Comte

[SEAL]

Mayor Zavodny declared the Public Hearing open at 8:32 p.m. to consider the One and Six Year Street Improvement Program for the City.

Matt Rief, of Olsson Associates and Street Foreman Rodney Rech were in attendance to present the One and Six Year Street Plan for the City.

Matt Rief explained that the one year plan included the downtown area which they have as a \$4 million project. The six year plan includes replacing the bridge on 11<sup>th</sup> Street by Hildy's Addition.

Street Foreman Rodney Rech stated that they may have to do a drainage study on the creek. It depends on the cost as to what they would do. They may just put in a new culvert and widen the bridge to the west.

Council member Scribner asked about the "A" Street bridge and if something was going to be done about that.

Street Foreman Rodney Rech stated that the "A" Street bridge is on the six year plan. Half of that bridge belongs to Butler County and the other half belongs to the City.

Mayor Zavodny declared the public hearing closed at 8:38 p.m.

Council member Kroesing introduced Resolution No. 2 - 2013 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 2 - 2013 was passed and approved as follows:

**RESOLUTION NO. 2 - 2013**

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on February 13, 2013, in accordance with the requirements of the Board of Public Roads Classifications and Standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the One Year and Six Year Street Improvement Plans for Streets, as presented at the public hearing, are unanimously accepted and the City Clerk is hereby instructed to forward a certified copy of this resolution to the Board of Public Roads Classification and Standards of the State of Nebraska.

PASSED AND APPROVED this 13<sup>th</sup> day of February, 2013.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Jodi Prochaska of Kruse, Schumacher, Smejkal, & Brockhaus, PC presented the City/Utility Financial Statements for the year ended September 30, 2012.

Council member Rogers made a motion to accept the City/Utility Financial Statements for the year ended September 30, 2012 as presented. Council member Vandenberg seconded the motion. Voting AYE: Council members Rogers, Svoboda, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried.

Former water plant supervisor Eugene Divis was in attendance to discuss the water quality in the City. Divis stated that in 1978 Sid Magdanz was the City Administrator and they determined that there was too much chloride in the water. The Council at that time decided to build a water treatment plant. Now, thirty years later, there is too much chloride in the water again. Divis stated that the Kirkham, Michael study was, in his opinion, a huge waste of money. He stated that they did not test the water that is coming out of the plant. He also stated that they don't need a chemist, they need a lab tech.

Water/Sewer Supervisor Gary Janicek responded by saying that the water plant was designed to only partially soften the water and that it cuts over half of the hardness. He stated that when Kirkham, Michael was doing the study they asked the engineers lots of questions. Janicek stated that they are doing what the study indicated that they should do. They increased the chlorine to try to do breakpoint chlorination. The increase in chlorine really knocked stuff loose in the mains. He stated that they did a rigorous flushing of the mains in the fall of 2012. Since that time there have been very few complaints about the water quality.

Council member Kroesing stated that he had brown ice cubes until he put in his own water treatment system.

Council member Smith stated since they had the new water line installed that they have had perfectly clear water.

Water/Sewer employee Kevin Betzen stated that David City needs new water mains. The old mains are just full of junk.

Council member Scribner asked how much testing they are doing on the water.

Water/Sewer Supervisor Gary Janicek stated that they take water samples and send them to Midwest Labs who is a certified state lab for testing. He also stated that the City needs main replacement. He stated that 48% were the old 4" mains that are close to 100 years old.

Council member Scribner made a motion to accept David City Rice Compliance – Amendment #1 – to provide a scope of service not to exceed \$18,000 in professional fees. Council member Vandenberg seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Rogers, Svoboda and Smith. Voting NAY: Council member Kroesing. The motion carried. A copy of the agreement is attached following the City Council Proceedings.

Water/Sewer Supervisor Gary Janicek reported that he received a proposal in the amount of \$3,798.00 from Midco Diving & Marine Service, Inc. to inspect and clean the water tower and ground storage tank at the water treatment plant. He is expecting to receive two more proposals and then he will bring it back to the Council for a decision. Midco Diving & Marine Service, Inc. told Janicek that the black parts on the water tower could be caused by condensation and with dust and high winds it turns to mildew. They are suggesting that they could possibly clean the water tower. Janicek stated that estimates to paint the water tower could range from \$200,000 to \$300,000.

Council member Gary Smith brought some Christmas decorations to display from a friend of his that used to sell them. They are a very reasonable price. He was not certain how many he has, but the City can purchase all that he has. He stated that he knows the he doesn't have enough to cover the town from one end to the other. Council member Smith stated that they need brackets in order to hang them on the poles. The City can purchase brackets for approximately \$119 or they can make their own brackets.

Mayor Zavodny stated that he thought a committee of interested people should be formed to discuss the replacement or possible refurbishing of the Christmas decorations.

Mayor Zavodny asked Janis Cameron if she would chair the Christmas Decoration committee and asked council member Smith to serve on the committee. Mayor Zavodny also stated that Electric Supervisor Pat Hoeft should serve on the committee.



Council member Smith made a motion to approve the application by Ka-Boomer's Enterprise, Inc. to sell permissible fireworks at 1510 4<sup>th</sup> Street, David City, NE. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Rogers, Vandenberg, Scribner, Svoboda and Kroesing. Voting NAY: None. The motion carried.

Interim City Administrator Joan Kovar stated that she has received several complaints that the City Auditorium has not been open for walkers. She stated that Auditorium Supervisor Scott Bales was gone to pick up liquor one day and that one day he was home with a sick child. Kovar stated that she instructed him to lock the doors when he was not there.

Council member Svoboda asked if he locked the doors when he came to the office to get his mail or when he came uptown to get a part.

Interim City Administrator Joan Kovar stated that she didn't know what he did in those instances but she thought that he probably didn't lock it during those times.

City Attorney James Egr stated that he felt that it was too much exposure for the City. There are only three or four companies left that insure municipalities.

Council member Svoboda asked about the consequences of someone getting hurt on the track – how that was any different?

City Attorney James Egr stated that those are two different things. It's indoor versus outdoor. The track is out in the open.

Council member Kroesing made a motion to close the auditorium for walkers/basketball players, unless rented, effective immediately. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Vandenberg, Smith, and Scribner. Voting NAY: Council member Svoboda. The motion carried.

Council member Scribner introduced Resolution No. 3 - 2013 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 3 - 2013 was passed and approved as follows:

**RESOLUTION NO. 3 – 2013**

WHEREAS, the Mayor and City Council of the City of David City, Nebraska, have in the inventory of the City various pieces of equipment, and

WHEREAS, City Staff have occasion to use this equipment to carry out nuisance abatement, grant related activities, and other activities of an unusual manner, and

WHEREAS, the City does assume certain expenses related to abatement of nuisances, maintenance of the public right of ways, and other situations, and

WHEREAS, the consumer charges for labor, vehicles, equipment rentals, etc., for the City of David City/David City Utilities, have not been increased for some time, and,

WHEREAS, the City has determined a need to increase the consumer charges for the Street, Airport, and other City Departments for equipment, labor, truck rentals, etc.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following list of charges for the use of City equipment and other City expenses, when said use shall be billed to another party, are hereby adopted. Equipment charges do not include the cost of the operator, mileage, and maintenance, which are additional separate charges.

The following rates will be in effect:

**Street Department - Charges**

**Labor:**

Labor .....	\$33.50 / hour
Labor / Overtime .....	\$50.00 / hour

**Vehicles:**

Pickup Trucks .....	\$20.00 / hour
Pickup Trucks with Snow Plow.....	\$25.00 / hour
Pickup Trucks with Salt Spreader.....	\$30.00 / hour
Pickup Trucks with Snow Plow and Salt Spreader .....	\$30.00 / hour
Pickup Trucks with Mosquito Mister .....	\$75.00 / hour
(Plus chemical costs)	
Dump Trucks Single Axle .....	\$35.00 / hour
Dump Trucks Single Axle with Snow Plow .....	\$40.00 / hour
Dump Trucks Twin Axle .....	\$50.00 / hour
Dump Trucks Twin Axle with Snow Plow.....	\$55.00 / hour
All other vehicles.....	\$1.00 / per mile

**Equipment:**

Caterpillar Loader .....	\$100.00 / hour
Caterpillar Loader with Snow Blower.....	\$150.00 / hour
John Deere Motor Grader .....	\$100.00 / hour
Johnson Street Sweeper.....	\$150.00 / hour
Riding Mowers .....	\$30.00 / hour
Bobcat with Stump grinder .....	\$85.00 / hour
Bobcat .....	\$35.00 / hour
Bobcat with Jack Hammer .....	\$50.00 / hour
Concrete Saw .....	\$50.00 / hour
Sand Compaction Plate .....	\$30.00 / day
Air Compressor .....	\$35.00 / hour
John Deere Tractor 3010 (with Mower or Roller).....	\$50.00 / hour
Paint Sprayer .....	\$50.00 / hour
(Plus per use fee of \$20.00 will be added to the rental)	
Tree Spade .....	\$50.00 / hour
Trailer Flat Bed .....	\$30.00 / day

**Supplies**

Gravel (delivered) .....	\$13.00 / yard
Gravel (picked up).....	\$11.00 / yard
Sand (delivered).....	\$6.50 / yard
Sand (picked up).....	\$4.50 / yard
Dirt (delivered) .....	\$6.00 / yard
Dirt (picked up).....	\$5.00 / yard

Dirt Junk.....	\$4.00 / yard
Recycled Re-rock.....	\$21.00 / yard
Cold Patch .....	\$150.00 / yard
Asphalt Millings.....	\$10.00 / yard
Downtown Street Brick.....	\$1.00 / each
.....	.25cents / each from pile
.....	50cents / each from pallet
• Lettering for Street Name Signs .....	\$0.50 / each
• Two inch post caps .....	\$6.65 / each
• Twenty-four Inch Street Sign Blanks .....	\$12.00 / each
• When street signs, posts, etc., are damaged by a vehicle or an Accident, there will be a charge for the post, sign, supplies, and labor Based on current replacement costs.	

**Culverts:**

Culvert prices change so rapidly that an exact price cannot be set on a yearly basis. Please contact the Street Department for pricing. The City of David City will charge a \$5.00 administrative fee for each culvert ordered through the Street Department.

**David City Municipal Airport:**

T-Hangar.....	\$40.00 / month
Shop Hangar.....	\$65.00 / month

All equipment or vehicle rentals are at a minimum of 1 hour rental. An employee of the City of David City shall accompany the rental, and the labor is a separate charge.

Dated this 13<sup>th</sup> day of February, 2013.

\_\_\_\_\_  
Mayor Alan Zavodny

ATTEST:

\_\_\_\_\_  
Interim City Clerk Tami L. Comte

Council member Kroesing introduced Resolution No. 4 - 2013 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 4 - 2013 was passed and approved as follows:

**RESOLUTION NO. 4 - 2013**

WHEREAS, the Mayor and City Council of the City of David City, Nebraska, have in the inventory of the City various pieces of equipment, and

WHEREAS, City Staff have occasion to use this equipment to carry out nuisance abatement, grant related activities, and other activities of an unusual manner, and

WHEREAS, the City does assume certain expenses related to abatement of nuisances, maintenance of the public right of ways, and other situations, and

WHEREAS, the consumer charges for labor, vehicles, equipment rentals, etc., for the City of David City/David City Utilities have not been increased for some time, and

WHEREAS, the City has determined a need to increase the consumer charges for the David City Utilities trucks, labor, equipment, etc.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following list of charges for the use of City equipment and other City expenses, when said use shall be billed to another party, be hereby adopted. Equipment charges do not include the cost of the operator, mileage, and maintenance, which are additional separate charges.

The following rates will be in effect:

**Electric Department - Charges**

**Labor:**

Labor ..... \$52.00 / hour  
Labor / Overtime ..... \$70.00 / hour

**Vehicles:**

Basket Trucks ..... \$80.00 / hour  
Digger Derrick ..... \$80.00 / hour  
All other vehicles ..... \$1.00 / per mile

**Vermeer Trencher-Plow:**

Plow ..... \$2.75 / foot  
Trench (2 to 5 feet deep) ..... \$3.50 / foot  
(Additional labor charges may be applied to extra digging around lines)  
Chipper ..... \$50.00 / hour

**Moles (Includes air compressor):**

5 ½ inch ..... \$11.00 / foot  
3 inch ..... \$9.00 / foot  
2 inch ..... \$9.00 / foot

**Water and Sewer Department - Charges**

**Labor:**

Labor ..... \$52.00 / hour  
Labor / Overtime ..... \$70.00 / hour

**Vehicles:**

Sewer Jet-Vac Truck..... \$150.00 / hour  
    Outside city limits add mileage ..... \$1.00 / mile  
Dump Truck ..... \$1.00 / mile  
Case Backhoe..... \$60.00 / hour

**Equipment:**

Air Compressor ..... \$40.00 / hour  
Portable Pump ..... \$20.00 / hour  
Portable Generator ..... \$20.00 / hour  
Cut Off Saw ..... \$20.00 / hour  
    (Plus Blades)  
Air Blower ..... \$20.00 / hour  
Trench Jacks..... \$15.00 / hour

**Supplies:**

Lime Sales ..... \$ 7.00 / ton  
    (Plus mileage for dump truck)

All equipment or vehicle rentals are at a minimum of 1 hour rental. An employee of the City of David City shall accompany the rental, and the labor is a separate charge.

Dated this 13<sup>th</sup> day of February, 2013.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Council member Smith introduced Ordinance No. 1185.

Council member Scribner made a motion to pass Ordinance No. 1185 on 1<sup>st</sup> reading only. Council member Smith seconded the motion. Voting AYE: Council members Smith, Scribner, Vandenberg, Rogers and Svoboda. Voting NAY: Council member Kroesing. The motion carried and Ordinance No. 1185 was passed on the 1<sup>st</sup> reading only as follows:

**ORDINANCE NO. 1185**

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 from January 1 to December 31 of the current year. (If the owner currently has a permit, the application fee would be pro-rated for the first transitional year;**
- (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 1<sup>st</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2<sup>nd</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3<sup>rd</sup> 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 \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Passed on 1<sup>st</sup> reading only  
Mayor Alan Zavodny

ATTEST:  
(Seal)

Passed on 1<sup>st</sup> reading only  
Interim City Clerk Tami Comte

Council member Scribner introduced Ordinance No. 1186.

Council member Scribner made a motion to pass Ordinance No. 1186 on 1<sup>st</sup> reading only. Council member Smith seconded the motion. Voting AYE: Council members Scribner, smith, Svoboda, Vandenberg and Rogers. Voting NAY: Council member Kroesing. The motion carried and Ordinance No. 1186 was passed on 1<sup>st</sup> reading only as follows:

**ORDINANCE NO. 1186**

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 a utility-type 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 utility-type 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) The permit is valid from January 1 through December 31 of the current year (If the owner currently has a permit, the application fee would be pro-rated for the first transitional year);**
- (P) 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.
- (Q) Utility-type vehicles may be operated only between the hours of sunrise and sunset.
- (R) Operators shall follow and obey all rules of the road.
- (S) Operators shall have liability insurance coverage for the utility-type vehicles effective while operating the same within the corporate limits of the City.
- (T) 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.
- (U) 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.
- (V) When a person is operating a utility-type vehicle the headlight and taillight of said vehicle should be on.
- (W) 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.
- (X) 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 1<sup>st</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2<sup>nd</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3<sup>rd</sup> 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 \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

Passed on 1<sup>st</sup> reading only  
Mayor Alan Zavodny

Passed on 1<sup>st</sup> reading only  
Interim City Clerk Tami Comte

Council member Rogers made a motion to have the mayor sign a proclamation showing support for proclaiming March as Problem Gambling Awareness Month. Council member Svoboda seconded the motion. Voting AYE: Council members Svoboda, Kroesing, Rogers, Smith, Vandenberg and Scribner. Voting NAY: None. The motion carried and Mayor Zavodny signed the following proclamation:

## **PROBLEM GAMBLING AWARENESS MONTH**

- WHEREAS,** our community is home to individuals and families adversely affected by problem gambling; and
- WHEREAS,** compulsive gambling is often hidden from family members, social services and mental health professionals; and
- WHEREAS,** compulsive gambling often occurs in combination with other disorders such as chemical dependency and depression; and
- WHEREAS,** it is important to raise awareness of the warning signs of compulsive gamblers and connect them with professional help.

**NOW, THEREFORE, I**, Alan Zavodny, Mayor of David City, Nebraska, do hereby proclaim March, 2013, as “**Problem Gambling Awareness Month**” and urge citizens to learn more about the consequences of problem gambling.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_  
Mayor

(Seal)

There being no further business to come before the Council, Council member Rogers made a motion to adjourn. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Svoboda, Scribner and Smith. Voting NAY: None. Council member Rogers was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:50 p.m.



CERTIFICATION OF MINUTES  
February 13, 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 February 13, 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