

CITY COUNCIL PROCEEDINGS

May 9, 2012

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 May 3rd, 2012 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, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim City Clerk Tami Comte.

Also present were: Police Chief Anthony McPhillips, Electric Plant Supervisor Eric Betzen, Water/Sewer Supervisor Gary Janicek, Joy Fountain, Carol Brehm, J. Robert Palik, Carolyn Yates, Ann Sabata, Eugene Divis, Keith Marvin, Dan Robinson, Bill Buntgen, Dale Cooper, Wendell Miska, David Streeter 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 April 11, 2012 meeting of the Mayor and City Council were approved upon a motion by Council member Rogers and seconded by Council member Vandenberg. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Kroesing and Smith. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Rogers questioned why the wheel alignment for the police cruiser was taken out of David City. 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, Scribner, Rogers, Smith and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny called for Committee and Officers Reports. Mayor Zavodny stated that all of the departments have been very busy. Mayor Zavodny stated that he received a letter from the Nebraska Dept. of Environmental Quality in reference to a cross connection problem at Arps Ready Mix. Water/Sewer Supervisor Janicek explained what happened and stated that the back flow preventer was installed before the plant was operational. Mayor Zavodny also stated that the City received a worker's compensation dividend check for \$3,697 because of a low loss ratio.

Mayor Zavodny stated that he will be appointing a committee to start working with the County on the police merger issue.

Mayor Zavodny received a phone call from Larry Pape from the Nebraska Game and Parks. They will be holding a public hearing in June on what the Game & Parks is planning with the park lakes and why this is the best thing to do.

Council member Kroesing made a motion to authorize Mayor Zavodny to execute the Interlocal Agreement Amendment No. 2 for the purpose of increasing the engineering budget for the David City Northwest Drainage Project. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Scribner, Rogers, Smith and Kroesing. Voting NAY: None. The motion carried.

INTERLOCAL AGREEMENT
AMENDMENT NO. 2

THIS AMENDMENT NO. 2 of the November 12, 2008 INTERLOCAL AGREEMENT, between the Upper Big Blue Natural Resources District (UBBNRD), Lower Platte North Natural Resources District (LPNNRD), and David City, Nebraska (CITY), Political Subdivisions of the State of Nebraska, hereafter referred to as PARTICIPANTS, organized and existing by virtue of Neb. Rev. Statutes, is entered into between the PARTICIPANTS for the purpose of amending certain terms and conditions of the INTERLOCAL AGREEMENT;

WITNESSETH:

- I. WHEREAS design of the David City Northwest Drainage Improvement Project is revised to include: (1) re-aligned waterway and storm sewer to accommodate landowners between stations 42+00 and 54+90, and (2) revised design and geotechnical engineering for the culvert crossing at the BNSF Railroad; and
- II. WHEREAS additional engineering design and construction inspection is required for the design revisions; and
- III. WHEREAS the cost for additional engineering design and construction inspection is estimated to be \$20,500; and
- IV. WHEREAS the UBBNRD will provide the additional engineering design and construction inspection in accordance with the INTERLOCAL AGREEMENT;

NOW THEREFOR:

The PARTICIPANTS agree to amend the Interlocal Agreement as follows:

- I. Article III, Section 3.03 shall be deleted and replaced with the following:
 - A. Section 3.03 The UBBNRD will be responsible for twenty five percent of engineering costs, not to exceed \$29,875.
- II. Article IV, Section 4.01 shall be deleted and replaced with the following:
 - A. Section 4.01 The LPNNRD will reimburse the UBBNRD for twenty five percent of engineering costs, not to exceed \$29,875 and shall pay such costs within 30 days of the receipt of the itemized statement referred to in Section 3.02 above.
- III. Article V, Section 5.03 shall be deleted and replaced with the following:
 - A. Section 5.03 The CITY will reimburse the UBBNRD for fifty percent of engineering costs, not to exceed \$59,750, and shall pay such costs within 30 days of the receipt of the itemized statement referred to in Section 3.02 above. The CITY further agrees that if construction of the PROJECT is not completed within three years from the completion of construction drawings, the CITY shall reimburse both the UBBNRD and LPNNRD for their respective shares of actual engineering cost.

EXECUTION

In accordance with Article VII of the Interlocal Agreement, this Amendment No. 2 to the Interlocal Agreement will become effective and incorporated into the Interlocal Agreement when executed by all PARTICIPANTS. Each executed copy of this Amendment shall be considered as an original, with the understanding that all PARTICIPANTS shall be bound to the same extent and purpose as if all such PARTICIPANTS had simultaneously joined in the execution of a single master copy.

IN WITNESS WHEREOF, all PARTICIPANTS voting aye have caused this Amendment No. 2 to the Interlocal Agreement to be executed by their duly authorized officer, as of the date and year shown below.

UPPER BIG BLUE NATURAL RESOURCES DISTRICT

_____ Dated _____, 2012
Chairperson

LOWER PLATTE NORTH RESOURCES DISTRICT

_____ Dated _____, 2012
Chairperson

CITY OF DAVID CITY

_____ Dated _____, 2012
Mayor

Mayor Zavodny declared the public hearing to review and consider two (2) applications requesting CDBG revolving loan funds open at 7:18 p.m.

Interim Administrator Joan Kovar stated that the Economic Development committee reviewed both of the applications. Samuel Stara purchased the Hein building north of David

City and will be opening a business there and Mary Lou Null is purchasing 315 S. 4th Street and will be renovating the building and opening Gene's Hub Caps & Antiques at that location. She will not receive the money until the building purchase is finalized.

Mayor Zavondy declared the public hearing closed at 7:22 p.m.

Council member Scribner made a motion to approve the request of Samuel J. Stara for a loan of forty thousand dollars (\$40,000) through the David City Economic Development reuse fund to aid in the purchase of equipment. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Kroesing, Svoboda, Rogers and Vandenberg. Voting NAY: None. The motion carried.

Council member Scribner made a motion to approve the request of Mary Lou Null d.b.a. Gene's Hubcaps & Antiques for a loan of twenty thousand dollars (\$20,000) through the David City Economic Development reuse fund to purchase and renovate the building located at 315 So. 4th Street. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, Kroesing, Svoboda, Rogers and Vandenberg. Voting NAY: None. The motion carried.

Mayor Zavodny declared the public hearing to consider amending Section 5.12 C-2 Downtown Commercial District in the General Plan by adding Section 5.12.08 Design Standards open at 7:24 p.m.

Keith Marvin, Vice-chairman of the David City Planning Commission, stated that the Planning Commission is concerned about maintaining the character of the downtown businesses. If a building is torn down or burns down and a building is erected in its place they want it to be similar in characteristics as the rest of the downtown businesses.

Mayor Zavodny declared the public hearing closed at 7:27 p.m.

Council member Smith introduced Ordinance No. 1172.

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

Council member Kroesing made a motion to pass Ordinance No. 1172 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Rogers, Svoboda and Vandenberg. Voting NAY: Council member Scribner. The motion carried and Ordinance No. 1172 was passed on third and final reading as follows:

ORDINANCE NO. 1172

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 5: ZONING DISTRICTS, SECTION 5.12 C-2 DOWNTOWN COMMERCIAL DISTRICT, BY ADDING 5.12.08 DESIGN STANDARDS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID

CITY, BUTLER COUNTY, NEBRASKA, THAT SECTION 5.12 C-2 DOWNTOWN COMMERCIAL DISTRICT OF ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 5: ZONING DISTRICTS

Section 5.12 C-2 Downtown Commercial District

5.12.01 Intent: The Downtown Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community. In addition, this district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

5.12.02 Permitted Uses.

The following principal uses are permitted in the C-2 District:

1. Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment.
2. Child care center.
3. Dance studio, not including uses defined in Adult Establishment.
4. Meeting hall, not including uses defined in Adult Establishment.
5. Museum, art gallery.
6. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
 - a. Apparel shop.
 - b. Appliance store.
 - c. Antique store.
 - d. Automobile parts and supply store.
 - e. Bakery shop (retail).
 - f. Barber and Beauty shop.
 - g. Bicycle shop.
 - h. Book store, not including uses defined in Adult Establishment.
 - i. Brew-on premises store.
 - j. Camera store.
 - k. Clothing services, including dry cleaning, Laundromats, etc.
 - l. Communication services, including newspaper, radio, television, and photocopying.
 - m. Computer store.
 - n. Confectionery.
 - o. Dairy products sales.
 - p. Drug store.
 - q. Dry cleaning and laundry pickup.
 - r. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
 - s. Floral shop.
 - t. Mortuary.
 - u. Food Sales (Limited).
 - v. Food Sales (General).
 - w. Furniture store or showroom.
 - x. Gift and curio shop.
 - y. Gunsmith.

- z. Hardware store.
 - aa. Hobby, craft, toy store.
 - bb. Jewelry store.
 - cc. Liquor store.
 - dd. Locksmith.
 - ee. Meat market, retail.
 - ff. Music retail store.
 - gg. Music studio.
 - hh. Newsstands, not including uses defined in Adult Establishment.
 - ii. Paint store.
 - jj. Pet shop.
 - kk. Photographer.
 - ll. Picture framing shop.
 - mm. Reservation center.
 - nn. Restaurants, cafes and fast food establishment.
 - oo. Second hand stores.
 - pp. Shoe store.
 - qq. Sporting goods.
 - rr. Stamp and coin stores.
 - ss. Tailors and dressmakers.
 - tt. Tanning salon.
 - uu. Travel agencies.
 - vv. Video store, not including uses defined in Adult Establishment.
- 7. Social club and fraternal organizations, not including uses defined in Adult Establishment.
 - 8. Telephone exchange.
 - 9. Telephone answering service.
 - 10. Theater, indoor, not including uses defined in Adult Establishment.
 - 11. Public overhead and underground local distribution utilities.
 - 12. Publicly owned and operated facilities.
 - 13. Human health care services, but excluding hospitals.
 - 14. Indoor commercial recreational facilities.
 - 15. Tavern and cocktail lounge, not including uses defined in Adult Establishment.

5.12.03 Conditional Uses.

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the C-2 District as recommended and approved by the Planning Commission:

- 1. Variety store, not including uses defined in Adult Establishment
- 2. Amusement arcades.
- 3. Bowling center.
- 4. Brew Pubs.
- 5. Micro breweries when in conjunction with a restaurant.
- 6. Coffee Kiosks.
- 7. Automated Teller Machines when not within the interior of a primary use.
- 8. Business or trade school.
- 9. Garden supply and retail garden center.
- 10. Commercial greenhouse.
- 11. Mail order services.
- 12. Pinball or video games business.
- 13. Convenience store with limited fuel sales.

14. Residences in conjunction with the principal use when located above the ground floor.
15. Churches, temples, seminaries, and convents including residences for teachers and pastors.
16. Retail building material sales; provided that the following minimum standards are present:
 - a. All lumber shall be enclosed with the primary structure.
 - b. All year round landscaping materials shall be enclosed within the primary structure.
17. Hotels and motels.
18. Sales, rental, and display of automobiles, trucks, campers, recreational vehicles, mobile homes, boats and farm implements, provided that all servicing and maintenance shall be conducted within an enclosed building.
19. Car wash.
20. Tire store and minor automobile repair service.
21. Service station with minor automobile repair services.

5.12.04 Permitted Temporary Uses

Temporary Uses require a permit from the City of David City and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four temporary uses per calendar year. Such uses shall not last more than two weeks per use, except as provided for hereafter.

1. Temporary greenhouses.
2. Temporary structures as needed for sidewalk and other outdoor sales events.
3. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.
4. Temporary structure for festivals or commercial events.

5.12.05 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Article 6.
3. Signs allowed in Article 7.
4. Landscaping as required by Section 8.09.
5. Fireworks stands, provided the criteria are met as established by the city through separate ordinances.
6. Radio and television satellite signal receiving antennas, provided such receiving units are situated in the rear yard or on the roof.

5.12.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	-	-	-	1	1	60'	100%
Permitted Conditional Uses	-	-	-	1	1	60'	100%

1. No limitations, provided the minimum side or rear yard abutting a residential district shall be ten feet.

5.12.07 Use Limitations:

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 8.09.04.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.12.08 Design Standards

1. Architectural Form and Materials:

The following are established guidelines for building development including envelop design and material selection. These guidelines and requirements are intended to maintain the historical image for Downtown David City. Layouts and creativity with the intended materials is encouraged, as well as the mixing of materials in a harmonious manner.

- A. New structures/buildings shall have a minimum of 75% of all exposed (facing a public street) facades finished in masonry (brick, split face concrete masonry units (CMU) and/or stone) materials less all door and window openings.
- B. All additional sides, exposed, shall have a minimum of 30% less all door and window openings, covered in masonry materials. The remaining materials shall be compatible with the building, district, and design of the building. In some cases the following secondary materials may be acceptable:
 - a. Exterior Insulation Finishing System (EIFS)
 - b. Metal building structure
 - c. Standing seam metal products
 - d. Wood
 - e. Glass and/or glass block
- C. Materials shall be of durable quality.
- D. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- E. Buildings shall have good scale and be in harmonious conformance with neighboring development.
- F. Existing buildings/structures shall follow whenever possible the "Guidelines for Applying the Secretary of the Interior's Standards for Historic Preservation".
- G. Color schemes for new buildings shall be earth tones. Earth tone colors include browns, greens, terra cotta reds, and others. Pastel and neon colors shall not be used.
- H. Colors shall be harmonious and shall use only compatible accents
- I. Color schemes for existing structures/buildings shall be similar to colors used during the construction period of the original building.
- J. Exterior lighting shall be designed to be compatible with the design of the building and surrounding buildings. Exterior lighting shall be provided for safety and accent purposes only and shall not become the focus of the structure/building or the downtown area.
- K. Privately established murals may be permitted on the side of any building provided it is approved as part of an overall sign and evidence that the mural is necessary to convey a specific message.

2. Landscape and Site Treatment:

- A. On-site parking in redeveloped portions of the area shall be provided in a screened area in the rear of the building. The on-site parking area shall be provided with lighting for traffic circulation and security of the parking area.
- B. On-street parking may be provided if it has been designated along the specific street.
- C. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- D. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
- E. Plant material shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
- F. The use of walls, fencing, planting, or combinations thereof shall be used to screen service yards and other places that tend to be unsightly. Screening shall be equally effective in winter and summer.
- G. Exterior lighting, when used, shall enhance the building design and the adjoining building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.

3. Signs:

- A. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
- B. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
- C. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
- D. Signs may include the use of murals in the conveyance of a message.
- E. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
- F. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
- G. Identification signs of prototype design and corporation logos shall conform to the criteria for all other signs.
- H. All signage shall comply with the Sign Regulations found in the Article 6.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS 9th day of May, 2012.

Mayor Alan Zavodny

Interim City Clerk Tami Comte

Council member Kroesing introduced Resolution No. 9 - 2012 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 9 - 2012 was passed and approved as follows:

RESOLUTION NO. 9 - 2012

WHEREAS, Scott & Sandy Hoeft, 211 N. 6th Street, have filed an application to combine their two 50' lots located at Original Town of David City, Block 40, Lots 9 & 12, to form one lot 100' x 140',

WHEREAS, there were no objections expressed concerning the request of Scott & Sandy Hoeft.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Scott & Sandy Hoeft to combine their two (2) lots located at Original Town of David City, Block 40, Lots 9 & 12, to form one (1) lot 100' x 140', is hereby approved.

Dated this 9th day of May, 2012.

Mayor Alan Zavodny

Interim City Clerk Tami L. Comte

Council member Vandenberg made a motion to authorize Mayor Zavodny to execute Contract No. 12-UGPR-616 between the City of David City and Western Area Power Administration that affirms the resource commitment Western made through the 2021 Power Marketing Initiative (2021PMI). Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Smith, Kroesing, Rogers, Svoboda and Scribner. Voting NAY: None. The motion carried.

Contract No. 12-UGPR-616
City of David City,
Nebraska

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION

Pick-Sloan Missouri Basin Program--Eastern Division

CONTRACT TO RESERVE FIRM ELECTRIC SERVICE
CONTRACT RATES OF DELIVERY WITH ASSOCIATED ENERGY
FOR THE CITY OF DAVID CITY, NEBRASKA

Contract No. 12-UGPR-616
City of David City,
Nebraska

UNITED STATES
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WESTERN AREA POWER ADMINISTRATION

Pick-Sloan Missouri Basin Program--Eastern Division

CONTRACT TO RESERVE FIRM ELECTRIC SERVICE
CONTRACT RATES OF DELIVERY WITH ASSOCIATED ENERGY
FOR THE CITY OF DAVID CITY, NEBRASKA

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Contract No. 12-UGPR-616
City of David City,
Nebraska

UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION

Pick-Sloan Missouri Basin Program--Eastern Division

CONTRACT TO RESERVE FIRM ELECTRIC SERVICE
CONTRACT RATES OF DELIVERY WITH ASSOCIATED ENERGY
FOR THE CITY OF DAVID CITY, NEBRASKA

1. PREAMBLE: This Contract is made this ___ day of _____, 20___, pursuant to the Acts of Congress approved June 17, 1902 (32 Stat. 388), December 22, 1944 (58 Stat. 887), August 4, 1977 (91 Stat. 565), and Acts amendatory or supplementary to the foregoing Acts between the UNITED STATES OF AMERICA, acting by and through the Administrator, Western Area Power Administration, Department of Energy, hereinafter called Western, represented by the officer executing this Contract, a duly appointed successor, or a duly authorized representative, hereinafter called the Contracting Officer, and the CITY OF DAVID CITY, NEBRASKA, a municipal corporation, duly organized under and by virtue of the laws of the State of Nebraska, hereinafter called David City, its successors and assigns, each sometimes hereinafter individually called Party, and both sometimes hereinafter collectively called the Parties.

2. EXPLANATORY RECITALS:

2.1 Western published the Pick-Sloan Missouri Basin Program--Eastern Division (P-SMBP--ED), 2021 Power Marketing Initiative (2021 PMI) in the Federal Register

Contract No. 12-UGPR-616
City of David City,
Nebraska

(76 FR 71015) on November 16, 2011, to provide the basis for marketing the long-term firm hydroelectric resources of the P-SMBP--ED beyond December 31, 2020, when Western's existing Firm Electric Service contracts expire.

2.2 The 2021 PMI supports extending the existing Contract Rates of Delivery (CROD) with associated energy to existing long-term firm power customers reduced by up to 1 percent for each new resource pool in 2021, 2031, and 2041.

2.3 David City is an existing firm power customer recognized under the 2021 PMI. As an existing firm power customer, David City has certain resource planning responsibilities. Western supports those resource planning activities by reserving David City's existing CROD under this Contract.

2.4 The purpose of this Contract is to affirm the commitment Western made through the 2021 PMI. Therefore, the Parties choose to enter into this Contract to reserve David City's existing CROD, until the Parties enter into a new long-term Firm Electric Service Contract for a term of January 1, 2021, through December 31, 2050.

2.5 The Parties understand the CROD reserved in this Contract may be adjusted in accordance with David City's existing Firm Electric Service Contract and the 2021 PMI.

2.6 The Parties recognize this Contract only reserves the CROD with associated energy and does not include terms and conditions for delivery. Those details will be included in the new Firm Electric Service Contract.

3. AGREEMENT: The Parties agree to the terms and conditions set forth herein.

Contract No. 12-UGPR-616
City of David City,
Nebraska

4. TERM AND TERMINATION OF CONTRACT:

4.1 This Contract shall become effective on the date specified above, and shall remain in effect through midnight on December 31, 2050, subject to the provisions of Subsections 4.2 and 4.3 below;

4.2 This Contract shall automatically terminate if the Parties fail to enter into a new Firm Electric Service Contract before January 1, 2021, unless otherwise agreed to in writing by the Parties prior to January 1, 2021.

4.3 Provided further, this Contract shall automatically terminate upon the Parties entering into a new Firm Electric Service Contract before January 1, 2021, with a contract term of January 1, 2021, through December 31, 2050.

5. CONTRACT RATES OF DELIVERY TO BE RESERVED: In accordance with the 2021 PMI, Western reserves David City's existing CROD with associated energy as identified in David City's existing Firm Electric Service Contract. This existing CROD with associated energy is subject to reductions, withdrawals, restrictions, limits, penalties, termination, and any other applicable adjustments under David City's existing Firm Electric Service Contract and the 2021 PMI, and subject to any approved assignments. Such CROD with associated energy will be set forth in a new Firm Electric Service Contract offered by Western, with a contract term of January 1, 2021, through December 31, 2050.

Contract No. 12-UGPR-616
City of David City,
Nebraska

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed the day
and year first above written.

WESTERN AREA POWER ADMINISTRATION

By _____
Title Power Marketing Manager
Address P.O. Box 35800
Billings, MT 59107-5800

(SEAL)



Attest:

By Jean Kovar
Title City Clerk

CITY OF DAVID CITY, NEBRASKA

By De Zwodney
Title Mayor
Address P.O. Box 191
David City, NE 68632-0191

Council member Scribner stated that for the next agenda item that he would be representing Scrib's House Moving.

Bill Scribner stated that he had a bill from Woolsey Electric in the amount of \$531.50 to repair a wire that was ripped out of Helen Jochim's house at 220 12th Street. He stated that his concern is that the trailer was 13'6" high and why the City would have a wire hanging that low that it could get ripped out. Scribner stated that he felt that it was a liability to the City to have something that low.

Council member Kroesing stated that he spoke with Electric Supervisor Pat Hoeft and asked him what his procedure was when building service lines. Hoeft told him that the first thing they do after they build a service line into a place is to measure it. Council member Kroesing wondered, after three generations of equipment moving in that area, how they managed to miss it until now.

Discussion followed.

Mayor Zavodny stated that the City does have a responsibility to make sure that our wires are not at a dangerous height. The problem that we have here is that it's word versus word. We have no way of knowing.

Council member Rogers made a motion to approve the claim submitted by David Scribner concerning expenses incurred due to an incident in which his trailer ripped down an electric service line to Helen Jochim's house at 220 12th Street in David City. Council member Vandenberg seconded the motion. Voting AYE: Council member Svoboda. Voting NAY: Council members Smith, Rogers, Kroesing and Vandenberg. Council member Scribner abstained from voting. The motion failed.

At 7:40 p.m. Council member Scribner left the meeting for a brief time. He returned at 7:43 p.m.

Banner Press Editor Larry Peirce was present representing the Butler County Area Foundation Advisory Committee to ask if the City would provide the electricity for the proposed digital display sign that would be located on the highway by the Butler County Courthouse. Peirce stated that there are requirements through the State of Nebraska, Dept. of Roads that they will be required to follow. The Butler County Chamber of Commerce will maintain the sign. The sign will have the sponsors names on it.

The Council members questioned what the actual cost to the City would be. It was decided to have Electric Supervisor Pat Hoeft determine what the actual cost would be before a decision could be reached.

Council member Kroesing made a motion to table consideration of the request by the Butler County Area Foundation Advisory Committee asking if the City can provide the electricity to the proposed digital display sign to the June 13, 2012 City Council meeting. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Smith, Svoboda and Scribner. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to table the request by Steve Reiter for a lease for the Boy Scouts of America, Troop 268, to use the building located at 660 No. 5th Street to the June 13, 2012 City Council meeting. Council member Rogers seconded the motion.

Voting AYE: Council members Kroesing, Rogers, Scribner, Vandenberg, Svoboda and Smith.
Voting NAY: None. The motion carried.

Council member Scribner referenced Nebraska State Statute 80-206 which states:

80-206. POW/MIA flag; display; when; conditions.

- (1) Upon the request of any veteran's organization, any other group, or any person, a POW/MIA flag may be displayed on or near the State Capitol, the Governor's Mansion, or any courthouse, city or village hall, schoolhouse, or other public administrative building in this state. Such flag shall be displayed in accordance with accepted flag protocol.
- (2) The organization, group, or person making such request shall purchase and maintain the POW/MIA flag.
- (3) For purposes of this section, a POW/MIA flag shall mean a flag recognized and accepted by internationally recognized veterans organizations as memorializing prisoners of war and persons declared missing in action as a result of military service.

Council member Scribner stated that the VFW and the American Legion will provide three flags which would be flown at the City Office, the City Auditorium and the Power Plant.

Council member Smith made a motion to grant the request by the VFW and the American Legion that a P.O.W. flag be flown on all City owned flag poles which are currently located at the City Office, City Auditorium and the Power Plant. Council member Kroesing seconded the motion. Voting AYE: Council members Smith, Kroesing, Vandenberg, Svoboda and Rogers. Voting NAY: None. Council member Scribner abstained from voting. The motion carried.

Mayor Zavodny stated that Lesa Kjeldgaard representing Nebraska Financial Administrators would not be presenting health insurance quotes for the City employee's health insurance.

Interim Administrator Joan Kovar stated that John McQuaid representing Champ contacted her and told her that unfortunately, based on the underwriter's review of the applications submitted the CHAMP program is uncompetitive with your Blue Cross Blue Shield 2012 renewal rates so he would not be presenting this evening.

Dan Duren, representing Benefit Management, was present to discuss renewal options for the City employee's health insurance. He discussed many different options and stated that the 7.99% increase was fairly low. 2% of the increase is due to the Healthcare reform.

Council member Kroesing made a motion to renew the City employee's health coverage with Blue Cross Blue Shield Blue Pride #11. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Vandenberg, Svoboda, Scribner and Rogers. Voting NAY: None. The motion carried.

Council member Scribner introduced Resolution No. 10 - 2012 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. 10 - 2012 was passed and approved as follows:

RESOLUTION NO. 10 – 2012

WHEREAS, Dale E. & Lucy E. Cooper have filed an application to combine their three 50' lots located at Will Thorpe & Perkins 1st Addition, Block 12, Lots 1, 4, & 5 to form one 150' x 140' lot,

WHEREAS, there were no objections expressed concerning the request of Dale E. & Lucy E. Cooper.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Dale E. & Lucy E. Cooper to combine their three (3) lots located at Will Thorpe & Perkins 1st Addition, Block 12, Lots 1, 4, & 5 to form one (1) 150' x 140" lot, is hereby approved.

Dated this 9th day of May, 2012.

Mayor Alan Zavodny

Interim City Clerk Tami L. Comte

Mayor Zavodny appointed Wendell Miska as a police officer for the City of David City.

Mayor Zavodny stated that we are not at a point yet where we are ready to designate our three areas at the airport. We will be working on that. Mayor Zavodny stated that one thing that he would like to do is at least approve the minimum insurance coverage. It is just a protection for the City. Mayor Zavodny stated that he will be putting together a full consideration for you on some airport minimal standards that will help us as we move forward with that operation. Mayor Zavodny stated that they did meet with representatives from the State and they told us some of the many rules that they have with the airport.

Council member Kroesing made a motion to adopt the Airport Minimum Standards including minimum insurance requirements. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Rogers, Smith, Vandenberg and Svoboda. Voting NAY: None. The motion carried. The David City Municipal Airport Minimum Standards follows:

David City Municipal Airport Minimum Standards

Insurance Coverage Requirements

ALL OPERATORS

General Liability Coverage - \$1M per occurrence – bodily injury and property damage liability.

ADDITIONAL COVERAGE REQUIREMENTS

Fixed-Base Operators

**Airframe and/or Power Plant Repair Other Specialized Aircraft Maintenance Services
Aircraft Fuels and Dispensing Service**

- a. Hangar Keeper's Liability - \$100,000/occurrence
\$100,000/aircraft
- b. Products & Completed Operations - \$1M/occurrence bodily injury and property damage
\$100,000/person bodily injury

Aircraft Sales

- Products and Completed Operations - \$1M/occurrence bodily injury and property damage
\$100,000/person bodily injury

Aerial Ag Sprayers

- a. Comprehensive Chemical Coverage \$300,000/occurrence;
\$100,000/person bodily injury
\$100,000/property damage
- b. Also require a "Crops being treated & adjacent field" endorsement

Aircraft Rental

**Flight Instruction (only if service is offered in Instructor's Airplane)
Air Taxi or Charter Service
Specialized Commercial Flight Services**

- Aircraft Liability Coverage \$1M / occurrence bodily injury and property damage
\$100,000/ passenger

Mayor Zavodny asked the Council members how they would like to proceed as far as the next steps in restarting the search for a City Administrator.

Council member Smith stated that in the past there were nine people on the committee which included three Council members, three City employees and three citizens.

Discussion followed about how to proceed.

Mayor Zavodny stated that he would begin recruiting for the committee to search for a City Administrator.

Mayor Zavodny presented "Certificates of Appreciation" to Eric Betzen for 15 years of service with the City and to J. Robert Palik, upon his retirement, for 28 years of service to the City.

Council member Vandenberg made a motion to go into executive session to discuss 1) Holoubek condemnation appeal strategy and matters related to the appeal and 2) personnel matters. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Scribner, Svoboda, Rogers, and Smith. Voting NAY: None. The motion carried.

Mayor Zavodny stated, "Now at 8:27 p.m. we are going into executive session to discuss 1) Holoubek condemnation appeal strategy and matters related to the appeal and 2) personnel matters." Mayor Zavodny, all of the Council members, City Attorney Egr, Interim City Administrator Kovar, and Interim City Clerk Comte went into executive session at 8:27 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 9:04 p.m.

There being no further business to come before the Council, Council member Vandenberg made a motion to adjourn. Council member Kroesing seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Svoboda, Scribner, and Smith. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:04 p.m.



CERTIFICATION OF MINUTES
May 9, 2012

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 May 9, 2012; 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