

CITY COUNCIL PROCEEDINGS

February 11, 2009

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 February 5th, 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 Dana Trowbridge, Council members Gary Smith, Bill Yindrick, Nick Hein, Mike Rogers, Gary Kroesing, and Bill Scribner, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk-Treasurer Joan Kovar.

Also present were: Police Chief Stephen Sunday, Street Superintendent Jim McDonald, Attorney Tim Wollmer, Mrs. Carol Brehm, Janis Cameron, Carolyn Yates, Dr. Jack Kaufmann, Fred & Joan Vandenberg, Jodi Prochaska CPA Scow, Rief, Kruse & Schumacher, P.C., Bill Schatz, Dan & Jan Sypal, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

Mayor Trowbridge informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and Resolution No. 2-2008 establishing rules and procedures for public participation at city council meetings.

The minutes of the January 14th meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Smith. Voting AYE: Council members Rogers, Scribner, Kroesing, Yindrick, Smith, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets. Mayor Trowbridge informed the public that Citizens' Concerns cannot be acted upon or addressed as that would be a violation of Nebraska Revised Statutes #84-1411.

There were no petitions or communications. Council member Kroesing stated a citizen asked him why the dog licensing was changed from May 1 - April 30th to Jan 1 - December 31st. He was informed that Police Chief Sunday requested this change. Police Chief Sunday has not scheduled a licensing day at the veterinary clinic as it has been too cold.

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

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. Everyone was reminded of the Chocolate Festival to

be held on February 14th at the Library. Council member Kroesing made a motion to accept the Committee and Officer Reports as presented. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Rogers, Smith, Hein, Yindrick and Kroesing. Voting NAY: None. The motion carried.

Ordinance No 1098, setting the monthly water rates, was introduced and passed on first reading on January 14, 2009. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Yindrick seconded the motion. Voting AYE: Council members Rogers, Smith, Scribner, Kroesing, Yindrick, and Hein. Voting NAY: None. The motion carried.

Council member Hein made a motion to pass and adopt Ordinance No. 1098 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Yindrick, Kroesing, Rogers, Smith, and Hein. Voting NAY: None. The motion carried and Ordinance No. 1098 was passed on third and final reading as follows:

ORDINANCE NO. 1098

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

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

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

Section 1. That the following monthly rates and customer charges shall become effective **February 1, 2009**. (Water used in February, billed in March, and due April 1 - 10th)

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

Customer charge of \$18.70 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$23.40 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$23.40 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$46.75 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$140.15 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$196.19 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$196.19 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.38 per 1,000 gallons Over 10,000

Section 3. That the following monthly rates and customer charges shall become effective January 1, 2010. (Water used in January, which will be billed in February and payable March 1 - 10th)

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

Customer charge of \$19.10 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$23.95 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$23.95 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$47.90 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$143.65 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$201.10 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$201.10 per month (no water usage included)
and \$2.35 per 1,000 gallons for First 10,000
and \$2.67 per 1,000 gallons Over 10,000

Section 4. That the following monthly rates and customer charges shall become effective January 1, 2011. (Water used in January, which will be billed in February and payable March 1 - 10th)

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

Customer charge of \$19.60 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$24.65 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$24.65 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$49.15 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$147.25 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$206.00 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$206.00 per month (no water usage included)
and \$2.50 per 1,000 gallons for First 10,000
and \$2.95 per 1,000 gallons Over 10,000

Section 5. The monthly rates to be charged for water usage and customer charges will be reviewed by the City Council on as needed basis;

Section 6. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 7. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 11th day of February, 2009.

(ATTEST)

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Ordinance No. 1100, setting the monthly sewer rates, was introduced and passed on first reading on January 14, 2009. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Scribner, Kroesing, Yindrick, Rogers, and Hein. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1100 on the third and final reading. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Rogers, Smith, Hein, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1100 was passed on third and final reading as follows:

ORDINANCE NO. 1100

AN ORDINANCE SETTING THE MONTHLY RATES TO BE CHARGED FOR SEWER USAGE; CUSTOMER CHARGES; EFFECTIVE DATES AND RATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-213 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

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

Section 1. For residential customers, the monthly sewer rate fee shall be based on the average quantity of water used in the months of December, January, and February preceding April of the current year. Customers who move within the City shall pay the same Sewer Use Fee at their new location as they paid for at their former location until which time the sewer rate fees are recalculated. For new residential customers in the City, an appropriate Sewer Use Fee will be determined by the Water/Sewer Supervisor.

Section 2. For commercial customers, who use water in a commercial business, industrial, or other non-residential way, a monthly Sewer Use Fee will be calculated

monthly based on the current month's water usage. Commercial customers who do not want to pay a sewer use fee for water used for watering lawns or shrubs will be responsible, at their own cost, to hire a licensed plumber to install a separate water meter to separately meter such water usage.

Section 3. The following monthly Sewer Rates and customer charges shall become effective **March 1, 2009**, billed in April, and due May 1 - 10th.

**Customer charge of \$5.65 per month
Plus \$2.43 per 1,000 gallons of water used**

Section 4. That the following monthly sewer rates and customer charges shall become effective **March 1, 2010**, billed in April, and due May 1 - 10th.

**Customer charge of \$6.50 per month
Plus \$2.56 per 1,000 gallons of water used**

Section 5. That the following monthly sewer rates and customer charges shall become effective **March 1, 2011**, billed in April, and due May 1 - 10th.

**Customer charge of \$7.15 per month
Plus @ \$2.70 per 1,000 gallons of water used**

Section 6. The monthly rates to be charged for sewer usage and customer charges will be reviewed by the City Council on an as needed basis;

Section 7. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 8. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 11th day of February, 2009.

Mayor Dana Trowbridge

(ATTEST)

City Clerk Joan E. Kovar

Council member Hein made a motion to advance to agenda item #21 - Consideration of accepting the audit for year ended September 30, 2008, as prepared by Scow, Rief, Kruse, & Schumacher. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Rogers, Kroesing, Smith, Yindrick, and Hein. Voting NAY: None. The motion carried.

The Mayor and Council members had received the Financial Statements for the year ended September 30, 2008, in their agenda packets. Jodi Prochaska of Scow, Rief, Kruse, & Schumacher reviewed the financial statements. The Electric, Water, and Sewer Accounts (proprietary funds) must be on an accrual basis of accounting; the rest of the audit is on a cash basis.

Jodi proceeded to explain the pages of the financial statements and explained the report on Internal Control over Financial Reporting in which they identified four certain deficiencies in internal control over financial reporting that they consider to be significant deficiencies or material weaknesses. The council needs to be aware of these deficiencies.

Jodi concluded by saying that she appreciated the opportunity to discuss this with the Mayor and Council and it shows that they take an interest by their willingness to have Jodi speak.

Council member Hein made a motion to accept the audit as prepared by Scow, Rief, Kruse, & Schumacher. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Kroesing, Rogers, Yindrick, Smith, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge declared the Public Hearing open at 7:30 p.m. with the City Council sitting as the Board of Equalization to assess the costs of the curb and gutter for lots or parcels of land abutting "L" Street between 10th and 11th Street. Police Chief Sunday who resides on "L" Street between 10th & 11th Streets said that it is a very nice street. Street Superintendent Jim McDonald stated that everything came out well. As there were no additional comments to be made by the public, Mayor Trowbridge declared the Public Hearing closed at 7:31 p.m.

Council member Smith made a motion to advance to agenda item #23 - Consideration of Resolution No. 2 - 2009 approving the assessments for "L" Street between 10th & 11th Streets. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Rogers, Kroesing, Yindrick, Hein, and Smith. Voting NAY: None. The motion carried.

Council member Hein made a motion to pass and adopt Resolution No. 2 - 2009 approving the assessments for "L" Street between 10th & 11th Streets. Council member Rogers seconded the motion. Voting AYE: Council members Yindrick, Scribner, Kroesing, Smith, Rogers, and Hein. Voting NAY: None. The motion carried and Resolution No. 2 - 2009 was passed and approved as follows.

RESOLUTION NO. 2 - 2009

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

Section 1. The Mayor and City Council have heretofore designated the time and place for considering and levying assessments upon the property specially benefited by the curb and gutter on "L" Street between 10th and 11th Street; that the notice of the time of holding such meeting and the purpose for which it is to be held was published at least four weeks before the same, on January 15, 2009, and notice was also mailed to persons owning or occupying property to be assessed; the Mayor and members of the City Council have each personally inspected said improvements and real estate on and adjacent thereto; the Mayor and Council have, at this session, heard all persons who desire to be heard in reference to the valuation of each lot to be assessed and the special benefits or damages thereto and have considered the advice of the engineers in charge of the construction and improvements.

Section 2. The Mayor and City Council further find and determine that Street Superintendent Jim McDonald quoted a price of \$5.00 per running foot for the costs of street improvements on "L" Street between 10th and 11th Street.

The Mayor and Council further find and determine that no lot or parcel of land along "L" Street between 10th & 11th Streets has been damaged by the construction of said improvements, and that the amount of benefits specially accruing to each lot and parcel of land by reason of the construction of said improvements at least equals the amount to be assessed against each lot or parcel of the land to pay the cost of said improvements.

Section 3. There is hereby levied and assessed upon the several lots and parcels of land along "L" Street between 10th & 11th Streets, special assessments to pay the cost of constructing the curb and gutter in the amount in dollars and cents set out as follows which are made a part hereto:

L Street between 10th and 11th Streets

PARCEL DESCRIPTION ASSESSMENT	OWNER	AMOUNT
Lot 11 and the So. ½ of Lot 10, Block 1, Will Thorpe & Perkins 2nd Addition to the City of David City, Butler County, Nebraska; 75' x 140'	Stephen M & Patricia J. Sunday.....	\$700.00
Lots 8, 9 & 12, Block 1, Will Thorpe and Perkins 2 nd Addition to the City of David City, Butler County, Nebraska; 150' x 140'	Jim E. & Connie A. Novacek	\$700.00
Lot 2 and the No. ½ of Lot 3, Block 1, Will Thorpe & Perkins 1 st Addition to the City of David City, Butler County, Nebraska; 75' x 140'	Kenneth M. & Jody E. Pelan	\$700.00
Lots 1 and 4, Block 1, Will Thorpe & Perkins 1 st Addition to the City of David City, Butler County, NE; 100' x 140'	Rosalyn Hermsen	\$700.00

L Street between 10th and 11th Streets: \$2,800.00

* * * * *

Section 4. That the assessment upon each lot and parcel of land is not in excess of benefit thereto specially accruing from the construction of said improvements, and the special assessments have been apportioned among the several lots and parcels of land subject to assessments in proportion to the special benefits accruing to said lots and parcels of and respectively from such improvements.

Section 5. Said special assessments shall be a lien on the property on which they are levied from the date of passage of this resolution and shall be certified by the City Clerk-

Treasurer, to the County Treasurer of this City for collection; the City Clerk-Treasurer shall also at the time provided by law, cause such assessments or the portion thereof then remaining unpaid, to be certified to the County Clerk of the county for entry upon the property tax list; the first said assessments shall be payable to the City Clerk-Treasurer; all ensuing assessments shall be payable to the County Treasurer.

Section 6. Said special assessments above provided for shall become due in sixty (60) days after the statement date of the assessment and may be paid within that time without interest, but if not paid, to bear interest thereafter at the rate of eight per cent (8%) per annum for the improvements along "L" Street between 10th & 11th Streets until delinquent; such assessments shall become delinquent in ten equal annual installments with the first falling due 60 days from the statement date and subsequent installments falling due in each year thereafter on the 30th day of January until paid in full. Delinquent installments shall bear interest at the rate of fourteen per cent (14%) per annum until paid and shall be collected in the usual manner for the collection of taxes.

BE IT FURTHER RESOLVED that a certified copy of said assessment schedule be filed by the City Clerk-Treasurer with the County Clerk of Butler County, Nebraska, as provided by law.

Passed and adopted this 11th day of February, 2009.

Mayor Dana Trowbridge

City Clerk-Treasurer Joan E. Kovar

Council member Yindrick made a motion to advance to agenda item #13 - Consideration of Resolution No. 1 - 2009 setting the fee for each fireworks vendor application. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Rogers, Kroesing, Smith, Hein, and Yindrick. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Resolution No. 1 - 2009, setting the fee for each fireworks vendor application. Council member Yindrick seconded the motion. Voting AYE: Council members Kroesing, Scribner, Rogers, Hein, Yindrick, and Smith. Voting NAY: None. The motion carried and Resolution No. 1 - 2009 was passed and adopted as follows:

RESOLUTION NO. 1 - 2009

WHEREAS, Chapter 10, Article 4, §10-414 of the Municipal Code of the City of David City, Nebraska, provides for Fireworks Vendor Regulations.

WHEREAS, Chapter 10, Article 4, §10-419 of the Municipal Code of the City of David City, Nebraska, provides for the Fireworks Vendor Application.

WHEREAS, Chapter 10, Article 4, §10-420 of the Municipal Code of the City of David City, Nebraska, provides for the Fireworks Application Fee.

WHEREAS, Fireworks Vendor Application Fees are collected to offset the City of David City, Nebraska's cost to allow for the use of fireworks, permitting of fireworks vendors, and enforcement of fireworks within the City of David City, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following fireworks vendor application fees and dedication of fireworks vendor application fees are hereby approved and adopted:

1. That the sum of one hundred dollars (\$100.00) be deemed an appropriate and reasonable fee for each firework vendor application from the passage of this resolution.

Passed and approved this 11th day of February, 2009.

Dana Trowbridge, Mayor

Joan E. Kovar, City Clerk

Council member Smith made a motion to advance to agenda item #15 - Consideration of purchasing a Savin 8045ESPF Printer/Copier from Office Net, Inc., in the amount of \$6,985.00. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Rogers, Kroesing, Yindrick, Hein, and Smith. Voting NAY: None. The motion carried.

Council member Smith made a motion to approve the bid for a Savin 8045ESPF Printer/Copier from Office Net, Inc., in the amount of \$6,985.00. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Kroesing, Yindrick, Hein, Rogers, and Smith. Voting NAY: None. The motion carried.

Council member Smith made a motion to advance to agenda item #19 - Consideration of hiring the Benefits Concepts Group as a consultant to assist with the bidding and selection of a health insurance provider for a fee of \$4,300. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Rogers, Kroesing, Yindrick, Hein, and Smith. Voting NAY: None. The motion carried.

Council member Smith made a motion to approve hiring The Benefits Concepts Group as a consultant to assist with the bidding and selection of a health insurance provider for a fee of \$4,300. Council member Hein seconded the motion. Council member Rogers stated that guidance is needed on this so that the best product is found for the employees. We are looking for the one that works the best. Voting AYE: Council members Rogers, Kroesing, Yindrick, Scribner, Hein, and Smith. Voting NAY: None. The motion carried.

Mayor Trowbridge declared the Public Hearing open at 7:40 p.m. to consider the adoption of the One and Six Year Street Improvement Program for the City. Street Superintendent Jim McDonald stated that last year they completed everything except "M" Street between 4th and 5th Streets due to a lack of funds, and the "A" Street Bridge which was supposed to be a joint project with the County. Street Superintendent McDonald stated that the one-year plan was the "D" Street Improvement Plan estimated at \$750,000.00. Sanitary Sewer is estimated at \$150,000 and \$160,000 for concrete curb and gutter, sidewalks, and lighting... The six-year street plan would include "O" Street between 4th - 11th and also 4th to the Burlington Northern Railroad. "O" Street would include a curb and gutter project also. Also 11th Street between "O" to "H" Street, and "H" to "A" Street; "A" to "B" on County Road "M"; and the Northwest drainage estimated at \$850,000. McDonald went on to explain the Highway Allocation, Maintenance Agreement #27, and the Incentive Payment the City receives for road and street purposes only.

Mayor Trowbridge declared the Public Hearing closed at 7:48 p.m.

Council member Smith made a motion to advance to agenda item #22 - Consideration of Resolution No. 3 - 2009 accepting the One Year and Six Year Street Improvement Plans. Council member Rogers seconded the motion. Voting AYE: Council members Scribner, Kroesing, Yindrick, Hein, Rogers, and Smith. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Resolution No. 3 - 2009 accepting the One Year and Six Year Street Improvement Plans. Council member Hein seconded the motion. Voting AYE: Council members Rogers, Yindrick, Hein, Scribner, Hein, and Smith. Voting NAY: None. The motion carried.

RESOLUTION NO. 3 - 2009

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on February 11, 2009, 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 11th day of February, 2009.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Ordinance No. 1101, amending Chapter 8, Article 3, of the Municipal Code Book, providing for rules and requirements for the sale of goods and services on the public right of way, was introduced and passed on first reading on January 14, 2009. Council member Smith made a motion to pass Ordinance No. 1101 on the second reading with amendments. Council member Rogers seconded the motion. Voting AYE: Council members Hein, Yindrick, and Smith. Voting NAY: Council members Scribner, Kroesing, and Rogers. The vote resulted in a tie which Mayor Trowbridge broke by voting AYE. The motion carried and Ordinance No. 1101 was passed on second reading with amendments as follows:

ORDINANCE NO. 1101

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3 OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK PROVIDING FOR RULES AND REGULATIONS FOR THE SALE OF GOODS AND/OR SERVICES ON THE PUBLIC RIGHT-OF-WAY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. Chapter 8, Article 3 of the David City Municipal Code Book be amended to add the following section:

§8-318 STREETS; SALE OF GOODS AND/OR SERVICES WITHIN THE RIGHT-OF-WAY

- (A) Within a commercial, industrial or flex space zoned area, as determined by the Official Zoning Map of the City, it shall be unlawful for any individual or groups of individuals to engage in the sale of automobiles, or to park any vehicle displaying a "For Sale" sign, or other evidence of the vehicle's availability for sale, on any public right-of-way, unless such vehicle is legally parked upon a public right-of-way immediately adjoining or abutting the owner's place of residence, owner's place of employment (during working hours) and/or while the owner is conducting commerce.
- (B) Within a commercial, industrial or flex spaced zoned area, as determined by the Official Zoning Map of the City, it shall be unlawful for any individual or groups of individuals to display items for retail sale or wholesale sales upon any street, alley, sidewalk or parkway.
- (C) Within a commercial, industrial or flex space zoned area, as determined by the Official Zoning Map of the City, any person or business entity regularly engaged in retail sale and/or wholesale sales may locate goods immediately adjoining or abutting the business property upon any street, alley, sidewalk or parkway for the purpose of displaying it for sale.
- (D) Within a residential zoned area, as determined by the Official Zoning Map of the City, it shall be unlawful for any individual or groups of individuals to display items for retail sale or wholesale sales upon any street, alley, sidewalk, parkway or right-of-way. The only exception to this section is for the sale of vehicles on the portion of driveway or defined parking area immediately abutting a street, alley, sidewalk or parkway and that all vehicle(s) being sold in such manner shall have the property owner's name on the title and shall not be located on or above a street, alley, curb, gutter, parkway and/or sidewalk.
- (E) A posted warning shall be given for any violation of this section when first observed.
- (F) A fine of \$50.00 shall be given for any violation of this section lasting longer than twelve (12) hours and/or when prior posted warning has been issued for the same violation and/or a similar violation.
- (G) If the violation continues past the first twenty-four (24) hours, the item(s) in violation shall be removed at the owner's expense. The owner or other person lawfully entitled to the possession of such item(s) shall be charged with the reasonable cost for such removal and storage, payable before such item(s) are released. This fee shall be in addition to any other fees or penalties owed the Municipality for such item(s).

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

SECTION 3. This ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this _____ day of _____, 2009.

Passed on 2nd reading only 2/11/09
Mayor Dana Trowbridge

ATTEST

Passed on 2nd reading only 2/11/09
City Clerk Joan E. Kovar

Council member Hein made a motion to set March 11th at 7:30 p.m. for the Community Development Agency to convene to consider passing a resolution authorizing the issuance of tax increment revenue bonds; providing for the terms and provisions of said bonds; pledging revenues of the Community Development Agency Pursuant to the Community Development Law; authorizing the sale of said bonds; providing for a grant; providing for such resolution to take effect; and approve the notice to divide tax for Community Redevelopment Project and file such with the Butler County Assessor. Council member Smith seconded the motion. Voting AYE; Council members Yindrick, Scribner, Kroesing, Rogers, Smith, and Hein. Voting NAY: None. The motion carried.

The council discussed hiring Dr. Bill Podraza to conduct Mayor and Council Training Sessions and setting the dates for such training. After discussion the Council decided to schedule training for Monday, March 9th, at 5:00 p.m. City Administrator Johnson stated that lunch will be provided and they will probably be finished and out the door by 7:00 p.m.

Council member Scribner made a motion to approve Resolution No. 4 - 2009 establishing Standing Committees of the City of David City for a 6 month trial period. Council member Rogers seconded the motion. Voting AYE: Council members Yindrick, Kroesing, Smith, Hein, Rogers, and Scribner. Voting NAY: None. The motion carried and Resolution No. 4 - 2009 was passed and approved as follows:

RESOLUTION NO. 4 - 2009

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA TO ESTABLISH STANDING COMMITTEES OF THE CITY.

WHEREAS, it is desirable and in the public interest that the City of David City, Nebraska, a municipal corporation and City of the Second Class, create a standing committee resolution to

reflect the councils ongoing local responsibilities, including but not limited to policies, finance, public safety, culture, recreation, public works and utilities; and

WHEREAS, it is in the public interest for the Mayor, City Council, Departments and Administrator to work cooperatively for the benefit of all David City residents to efficiently resolve public issues; and

WHEREAS, standing committees increase access for interest groups, administrative officials, citizens, and others wanting to get involved in the legislative process; and

WHEREAS, standing committees provide a platform for elected officials and appointed officials to collaborate and build consensus regarding policy and legislation.

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

Section 1. That there is hereby established five (5) standing committees of the City Council. Each standing committee shall consist of the Mayor, City Council President, one additional City Council Member, City Administrator and Department Head. The standing committees are as follows:

1. Public Safety
2. Public Works
3. Utilities
4. Culture and Recreation
5. Finance and Administration

Section 2. That all standing committee's members shall be appointed or reappointed every two years at the regular organizational meeting of the City Council.

Section 2. That the function of the standing committees is to assist the City Council in the creation of public policies and to assist the Administrator and Department Heads in formulating recommendations of policies to the full City Council.

Section 4. Minutes of all standing committee meetings shall be provided to the full City Council.

Section 5. That standing committees shall not hold hearings, adopt policy, have a quorum of the City Council in attendance, or take formal action on behalf of the full City Council.

PASSED AND APPROVED this 11th day of February, 2009.

Mayor Dana Trowbridge

ATTEST:

City Clerk Joan E. Kovar

Council member Hein made a motion to authorize Mayor Trowbridge to execute and file all appropriate documentation with Butler Public Power District and the Nebraska Power Review Board to extend the electric retail service area of David City into recently annexed areas. Council member Smith seconded the motion. Voting AYE: Council member Scribner, Yindrick, Kroesing, Rogers, Smith, and Hein. Voting NAY: None. The motion carried.

Council member Hein made a motion to go into executive session to have conversations regarding pending litigation and strategy planning for 911 communication services, following approximately a five minute recess. Council member Scribner seconded the motion. Voting AYE: Council members Rogers, Kroesing, Yindrick, Smith, Scribner, and Hein. Voting NAY: None. The motion carried.

Citizen Bill Schatz addressed the Council stating: "I believe someone has a conflict of interest." Council member Mike Rogers stated: "If you are referring to me, I don't dispatch for the County. I am paid by the County but I work for the jail." Rogers stated that he had visited with someone from the League of Nebraska Municipalities Office and they stated that as long as he didn't draw money from the 911 communication services it is not a conflict. City Attorney Egr disagreed stating that this would put Rogers in a tight situation as Mark Hecker is still Rogers' employer. City Attorney Egr stated that for example if the Council went into executive session to talk about something concerning Butler Public Power District, Council member Kroesing would not be allowed to sit in on it. Council member Kroesing stated that he already had asked about that and Butler Public Power District's Attorney Jim Papik is researching it. City Attorney Egr said that both he and Papik are attorneys. Papik is not a higher source just because he's Butler Public Power District's Attorney, and stated that the NPECA doesn't have any authority here. City Attorney Egr stated that the appearance would be that there is a conflict. City Attorney Egr stated that if you would ask five attorneys you would probably get five answers. This would have to go to District or Supreme Court.

Council member Rogers stated that he wanted it on the record that he objected to being asked to leave; but he would excuse himself prior to the strategy planning for 911 communication services.

Mayor Trowbridge stated that the City Council was going into executive session to have conversations regarding pending litigation and strategic planning for 911 communication services.

The City Council, Mayor Trowbridge, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk Joan Kovar went into executive session at 8:30 p.m.

At 8:45 p.m. Council member Mike Rogers excused himself from the executive session prior to the strategic planning for 911 communications services and Police Chief Sunday joined the executive session.

Council member Scribner made a motion to come out of executive session at 8:57 p.m. Council member Yindrick seconded the motion. Voting AYE: Council members Smith, Kroesing, Hein, Yindrick, and Scribner. Voting NAY: None. Council member Rogers was absent. The motion carried.

There being no further business to come before the Council, Council member Scribner made a motion to adjourn. Council member Hein seconded the motion. Voting AYE: Council members Kroesing, Smith, Yindrick, Hein, and Scribner. Voting NAY: None. Council member Rogers was absent. The motion carried and Mayor Trowbridge declared the meeting adjourned at 8:58 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
February 11, 2009

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of February 11, 2009; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar, City Clerk