

**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 **28<sup>th</sup> day of August, 2019**, in the meeting room of the City Office, 557 North 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 22<sup>nd</sup> day of August, 2019.

**AGENDA AS FOLLOWS:**

- |   |  |
|---|--|
| 1. Roll Call;   | _____<br>Mayor Alan Zavodny                          |
| 2. Pledge of Allegiance;  |  |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;  | _____<br>Council President Kevin N. Hotovy           |
| 4. Minutes of the August 14 <sup>th</sup> , 2019 meeting of the Mayor and City Council;   |  |
| 5. Discussion/ Presentation by Eric Johnson of Kirkham Michael, concerning the request by Jared Storm for a proposed paved taxiway between Storms Aviation and the T-hangar taxiway, the condition of the gas pumps, available funding, etc.; | _____<br>Council member Thomas J. Kobus              |
| 6. Consideration of requesting State Aid from the Nebraska Department of Aeronautics for a paved taxiway from Storms Aviation to the T-hangar taxiway;  | _____<br>Council member Dana E. Trowbridge           |
| 7. Consideration of the bids received for Property and Casualty Insurance to be effective October 1, 2019;  | _____<br>Council member Patrick J. Meysenburg        |
| 8. Consideration of Ordinance No. 1320, on the 3 <sup>rd</sup> and final reading, relating to electric service rates concerning the 2019 Cost of Service / Rate Design Study- Electric Utility;   | _____<br>Council member John P. Vandenberg           |
| 9. Consideration of Resolution No. 14 – 2019 prohibiting truck traffic on “O” Street from 4 <sup>th</sup> Street east to 11 <sup>th</sup> Street;   | _____<br>3 <sup>rd</sup> Ward Council member vacancy |
| 10. Consideration of temporarily not accepting cardboard at the Recycling Center;   | _____<br>City Clerk Joan E. Kovar                    |

11. Consideration of Ordinance No. 1321 amending Chapter 9 – Building Regulations; Article 4 – Codes Adopted; Sections 9-401 through 9-404;
12. Consideration of appointing a citizen, from the 3<sup>rd</sup> Ward, to fill the vacancy of past Council member Gary Smith;
13. Consideration of accepting the resignation of Kelly Danielson as a Board of Zoning Adjustment member;
14. Consideration of appointing Allen Steinberger as a regular member of the Board of Zoning Adjustment, rather than an alternate;
15. Consideration of the request by David City Elementary PTO to close 5<sup>th</sup> Street from “D” to the Railroad Tracks on Friday, October 25, 2019, for a “Trunk or Treat” activity;
16. Consideration of the request by Kevin & Crystal Hotovy for a basketball hoop;
17. Adjourn.

## **CITY COUNCIL PROCEEDINGS**

August 28, 2019

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the meeting room of the City Office, 557 North 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 August 22<sup>nd</sup>, 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 Thomas Kobus, Dana Trowbridge, and Kevin Hotovy, City Attorney Jim Egr, and City Clerk Joan Kovar. Council members John Vandenberg and Pat Meysenburg were absent. A vacancy exists due to Council member Gary Smith’s passing.

Also present for the meeting were: Eric Johnson of Kirkham Michael, Jared Storm of Storm Aeronautics, Rick Schneider and Brad Sloup of Jones Group Insurance, Pam Siroky of First State Insurance, Clint Simmons of LARM (League Association of Risk Management), Julie Schultz of David City Elementary, Tina Samek representing St. Mary’s School, Planning Commission Member Janis Cameron, Deputy Sheriff Jason Reed, and Street Supervisor Christopher Kroesing.

Mayor Zavodny presented a 9-page letter from Attorney General Jon Bruning, concerning the subject: “Operation Of A Public Board – Number Of Votes Required To Adopt A Measure; Abstention And Recusal Due To A Conflict Of Interest, And Their Effect On The Presence Of A Quorum”. Zavodny stated: “Based on that Attorney General ruling, we can declare a quorum; would that be your interpretation City Attorney Egr? I read that statute too, of what constitutes a quorum, and I think its half of the elected body, unless ours says something different in our Code Book. The Statute would appear to allow it.”

City Clerk Kovar presented the following from the City Code book:

**SECTION 1-306: PLACE, DAY, TIME; QUORUM**

A. The meetings of the City Council shall be held at the council meeting room of the city office building. Regular meetings shall be held on the second Wednesday of each month at the hour of 7:00 p.m.

B. A majority of the council shall constitute a quorum for the transaction of any business but a fewer number may adjourn from time to time and compel the attendance of absent members. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

C. At the hour appointed for the meeting, the city clerk shall proceed to call the roll of members and announce whether a quorum is present. If a quorum is present, the council shall be called to order by the mayor, if present, or if absent, by the president of the council. In the absence of both the mayor and the president of the council, the meetings shall be called to order by the president *pro tempore*.  
(Neb. Rev. Stat. §17-105)

**SECTION 1-202: MAYOR, POWERS AND DUTIES**

B. The mayor shall preside at all meetings of the City Council and may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the City Council (quorum) on any pending matter, legislation, or transaction, and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.

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City Attorney Egr stated: "You have a 6-member council, so your majority with the Mayor counting would be 4, and the Mayor would count so you would have a quorum; that's obvious."

Mayor Zavodny stated: "Ok, I will declare a quorum, please stand for the Pledge of Allegiance."

Mayor Alan Zavodny notified the public of the "Open Meetings Act" posted on the west wall of the meeting room and asked those present to silence their cell phones.

The minutes of the August 14<sup>th</sup>, 2019 meeting of the Mayor and City Council were approved upon a motion by Council member Kobus and seconded by Council member Hotovy. Voting AYE: Council members Trowbridge, Hotovy, Kobus, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

Eric Johnson of Kirkham Michael, and Jared Storm of Storm Aeronautics were present to discuss a proposed taxiway running from Storm Aeronautics southeast to the new T-Hangars.

Joan,

Following is clarification from the FAA about a potential paved taxiway between the taxilanes and the Storm Aeronautics hangar. There was concern that the FAA would not allow a paved connecting taxiway.

The proposed taxiway is NOT eligible to be constructed with federal funds. However, it can be built with local or state funding provided the taxiway is shown on the approved Airport Layout Plan.

The proposed taxiway would be eligible for funding under our State Grant Program. Attached is an application, due by September 15. The Nebraska Aeronautics Commission will allocate state grant funds during their October 11, 2109 meeting.

Please contact us if you have any questions.

**Anna Lannin, P.E.**  
*Planning and Programming  
Aeronautics Division*

Nebraska Department of Transportation

90 / 10 split  
State City



Eric Johnson stated: "This proposed paved taxi-way would follow the same alignment as where years ago that taxi-way was graded and a culvert was put in. This alignment, and this project, has been approved by the State and the FAA; it's in conformance with their requirements. That was one of our important items we wanted to verify because, as we know, the Federal gives us \$150,000/yr. up to a period of 4 years, to a maximum \$600,000 to use for improvements to improve the Airport, so we have to make sure we are kosher with them in all aspects. The way that the program would work, if the Council decides to move forward with this, the State of Nebraska has a grant program available for this project. Again, this is State Aid only, this does not impact any of our Federal assistance. If the City would decide to apply for the grant application, and if the grant was awarded, in talking with the State they looked at this and gave some very preliminary numbers. Looking at the full project, engineering would be part of that project, and so when you add up estimated construction and some estimated engineering costs, you come up with a total of \$95,000. The State grant would pay 90% (\$85,500) and then of course Jared has discussed paying the 10% match (\$9,500) which would basically cover the whole project. The only way the grant program will work is if the City is the sponsor for the grant. So, the City would have to apply for those funds so every element of the project would be reimbursed, but everything has to go through the City. So, the engineering cost, the construction, and everything would have to go through the City; that's the only way that the States grant program works. The Nebraska Department of Aeronautics grant application form for a State Aid Project is due by September 15, 2019, and they will approve/deny these applications at their October 11<sup>th</sup> Commission Meeting. In the meantime, I am sure you would want some type of an agreement with Jared Storm of Storm Aeronautics stating that he would pay the 10% so that there is no expense to the City. You're certainly not under any obligation if you do submit an application with them, and decide that the project just isn't going to fit for us, there's really no harm or penalty in pulling the application if you ever decide to; the State is very flexible with that."

Mayor Zavodny stated: "The number (no cost) that is the City's portion is something we agree on. Who is going to do the grant paperwork? What ends up happening, we agree to this stuff and then we end up spending two days of Joan and Tami's time filling out all the paperwork."

Eric Johnson stated: "Oh no, if you guys decide to do this project, the applications already complete and all you would have to do is sign it, and again you're really under no obligation."

Mayor Zavodny stated: "So really, all we are doing is agreeing to see if we would receive the grant."

Council member Trowbridge stated: "Then we would be under the assumption that if this whole project came in at \$5.00 over whatever we asked for the grant, that one of these two entities are going to pay it."

Mayor Zavodny stated: "Yea, once we get bids and stuff, if it's higher...; our agreement from the beginning is that we get "held harmless", totally."

Eric Johnson stated: "Sure, I understand."

Council member Trowbridge stated: "Other than we are going to have to hold the bag and pay for this and wait to get reimbursed."

Jared Storm stated: "Jim, if you could write something up (that he would be responsible for 10% of total project costs) I could sign it."

Council member Hotovy made a motion to approve the City submitting an application form to the Nebraska Department of Aeronautics to request a State Aid Project (a paved taxiway from Storms Aeronautics to the T-Hangar Taxiway). Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Trowbridge, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

Eric Johnson distributed the following information:

State of Nebraska - Department of Aeronautics 4/15/2019

**Capital Improvement Program**  
 DAVID CITY MUNI  
 DAVID CITY

Year	Description	Total Cost	Federal	State	Local
<b>Phase I</b>					
2020	Install 100LL fuel system	\$325,000	\$292,500	\$0	\$32,500
2022	T-hangar & taxiway	\$850,000	\$600,000	\$0	\$250,000
Phase I Subtotal		\$1,175,000	\$892,500	\$0	\$282,500
<b>Phase II</b>					
2024	Asphalt seal coat	\$290,000	\$261,000	\$0	\$29,000
2026	Auto parking and access road	\$115,000	\$103,500	\$0	\$11,500
2027	Update Airport Layout Plan	\$140,000	\$126,000	\$0	\$14,000
Phase II Subtotal		\$545,000	\$490,500	\$0	\$54,500
<b>Phase III</b>					
2029	Asphalt Rehab.	\$811,980	\$730,762	\$0	\$81,198
2032	Expand Apron	\$148,630	\$133,767	\$0	\$14,863
2035	Construct terminal building	\$450,000	\$405,000	\$0	\$45,000
2037	Shop Hangar (80'x80')	\$600,000	\$540,000	\$0	\$60,000
Phase III Subtotal		\$2,010,610	\$1,809,549	\$0	\$201,061
Total Development Costs		\$3,730,610	\$3,192,549	\$0	\$538,061
<b>Not Funded</b>					
2032	Land for runway 2/20	\$370,000			
2032	Area Navigation Approach Survey (FACS/SACS)	\$40,000			
2032	10-place T-hangar & taxiway	\$500,000			

1. As of July 1, 2019 GA, entitlement David City Municipal Airport

FY 2016	FY 2017	FY 2018	FY 2019	TOTAL
	\$24,010	\$150,000	\$150,000	\$324,010

2. After 10/1/19 GA, entitlement David City Municipal Airport through 10/1/20

Timing is subject to Congressional Approval

FY 2017	FY 2018	FY 2019	FY 2020	TOTAL
-\$24,010	\$150,000	\$150,000	\$150,000	\$450,000

Eric Johnson stated: "Every November and December time frame, the State and FAA requires us to look at a capital improvement program. Again, these are just the budget figures that are within the program. I think it is always important, as we look at projects, to understand what the City has available to them as far as FAA (Federal Aviation Administration) funding. At the bottom, under item number one, you can see as of July 1 there was \$324,010 in our general aviation account, and again that is a 90/10 grant program that the City can choose to do various improvements to the Airport. We are looking at doing a new fuel system, but I understand that has been moved out a year, but I wanted to make sure everybody knew that as we look at these programs there is funding for those as well."

Mayor Zavodny stated: "I think we went into that with eyes wide open; we were aware of that. We made the budget decision to not really put resources towards the Airport for the rest of this budget year. I think that's where we are at."

Eric Johnson stated: "So then, under Item number 2, in Fiscal Year 2017 there was \$24,010 roughly that was left over from FY 2017, within the program, and that's what Joan said you had turned that back to the State to be utilized by other Airports, and that's certainly fine I just wanted to share the information. (August 14, 2019 Council Meeting: Resolution No. 13 – 2019 approving the execution of an agreement to waive receipt of the non-primary entitlement funds apportioned to the David City Municipal Airport in fiscal year 2017, and transferring the funds to another Nebraska Airport). So anyway, by October 1, 2019, there will be \$450,000 available to the City to do various projects at the Airport and that will last again until October 1, 2020, when another \$150,000 goes into the account, and then it goes to its maximum of \$600,000. So, I just wanted to share that as well."

Mayor Zavodny stated: "Alright, I think we understand where we are at on that; thank you Eric. Agenda #7, it's insurance season, how do you wish to proceed on this? I'm going to say from the outset, when we're dealing with things like this, I am slightly uncomfortable with the very skeleton crew today to make any huge decisions that will be in for the next year. We do have time to put it off until the September meeting, with an October 1<sup>st</sup> renewal, but since we have the insurance people here it would seem worth our time to listen to why they put the proposals forward they did. Everybody okay with that process? Any objections? Alright, LARM, before you even start, what is going on?"

Clint Simmons, Independent Agent, League Association of Risk Management stated: "There has been a decision, the Courts decided and Lynn Rex is the Administrator of LARM and Michael Nolan has been placed on administrative leave."

Mayor Zavodny stated: "I have been following this closely through the media, I'm going to say from the outset it's hard for me to have any confidence in this at this point. I mean, we didn't even know, until really recently, who was even running it; I'm not sure you guys knew. I mean, we're sitting here waiting for the Court to decide."

Clint Simmons stated: "I can tell you, with the League involved now again, we've already had numerous conversations, as far as staff goes, I should say. I'll give you an example, the City of Chadron had five proposals on Monday night and when they heard a decision had been made, they voted to move to LARM. Just this week I've had three municipalities call me ready to move and Lynn Rex has given us a list of individual communities that are going to move to LARM pending us getting the proposals out to them and meeting the City Councils. We took this pool, and you guys kind of joined at the beginning, from 60 members and we are now at

160 members and I am anticipating this pool will probably grow to 300 members in the next two to three years.”

Mayor Zavodny stated: “But let me tell you very honestly, yea we were torn at the beginning here, and at this point with our experience, our confidence should be going up when its actually going the other way now.”

Clint Simmons stated: “Hopefully, with the services we are providing, the grants we’ve provided you with, I mean I meet with all the department heads, we adjust all the equipment and auto schedules, the claims have all gotten paid....The insurance part of it has never changed, our financial stability /position is stronger than it’s ever been. Unfortunately, it’s that PR thing.”

Mayor Zavodny stated: “But trying to keep track of who’s in charge has been a hassle, and it’s caused grief, and I always hated that you have to come here and try to explain what LARM is doing because it has been a debacle. That being said, not to skew the Council, but those are facts.”

Clint Simmons stated: “And hopefully, over the course of the five years that you’ve been with us, just looking at an average we’ve saved the taxpayers of your community about \$20,000 a year, so \$100,000.00 in savings. So, hopefully that and the services we’ve provided you, claims have gotten paid, and I feel good moving forward in the position that we are in.”

Mayor Zavodny stated: “Ok, now that we’ve gotten that out of the way, tell us about your proposal.”

Clint Simmons stated: “Our options have not changed, we have a 3-year commitment, a 2-year commitment, and a 1-year commitment:



2019/20  
 Proposal

City of David City

COVERAGE	LIMITS AND APPLICABLE DEDUCTIBLES	ESTIMATED / ANNUAL CONTRIBUTION			
Workers' Compensation	<b>PART ONE</b> Statutory Limits <b>PART TWO</b> \$1,000,000 Bodily Injury by Accident (each accident) \$1,000,000 Bodily Injury by Disease (each employee) \$1,000,000 Bodily Injury by Disease (policy limit)	\$20,212			
General Liability	\$5,000,000 Per Occurrence \$5,000,000 Annual Aggregate \$0 Standard Deductible	\$7,948			
Errors & Omissions Liability	\$5,000,000 Per Occurrence \$5,000,000 Annual Aggregate \$2,500 Deductible	\$3,436			
Law Enforcement Liability	\$1,000,000 Per Occurrence \$1,000,000 Annual Aggregate \$2,500 Deductible	\$560			
Automobile Liability	\$5,000,000 Combined Single Limit \$1,000,000 UM / UIM \$0 Standard Deductible	\$3,366			
Automobile Physical Damage	Scheduled Per Occurrence Varies Comprehensive Deductible Varies Collision Deductible	\$4,401			
Commercial Property	\$28,870,133 Total Insured Values Includes Power Plant and Switch Gears at Stated Value \$5,000 Standard Deductible \$500 Contractors Equipment	\$36,613			
Airport Liability	\$5,000,000 Per Occurrence/Aggregate	\$4,100			
<b>* TOTAL ESTIMATED ANNUAL CONTRIBUTION: LARM</b>		<b>\$79,635</b>			
<b>ESTIMATED CONTRIBUTION CREDIT OPTIONS</b>					
180 Day Notice, 3-Year Commitment	180 Day Notice, 2-Year Commitment	180 Day Notice Only Commitment	90 Day Notice, 3-Year Commitment	90 Day Notice, 2-Year Commitment	90 Day Notice Only Commitment
5%	4%	2%	2%	1%	0%
\$79,635.00	\$80,441.00	\$82,052.00	\$82,052.00	\$82,857.00	\$83,664.00

\* Your Total Estimated Annual Contribution renewal pricing is modeled on the 180 Day Notice, 3-Year Commitment option.

Pam Siroky, First State Insurance, presented the following:

INSURANCE BID PROPOSAL FORM

City of David City  
 David City, Nebraska

The undersigned agent hereby proposes to furnish insurance as per these specifications. Coverage to be provided by the following Company(ies) is indicated. The premiums for the various insurance coverages are as follows:

TYPE OF INSURANCE	NAME OF COMPANY	PREMIUMS
PROPERTY COVERAGE	<u>EMC</u>	\$ <u>56,518</u>
LIABILITY COVERAGE	<u>EMC</u>	\$ <u>10,668</u>
AIRPORT LIABILITY	<u>Global Aerospace</u>	\$ <u>2,126</u>
INLAND MARINE	<u>EMC</u>	\$ <u>5,410</u>
AUTOMOBILE	<u>EMC</u>	\$ <u>10,837</u>
WORKERS COMPANSATION	<u>EMC</u>	\$ <u>21,345</u>
UMBRELLA	<u>EMC</u>	\$ <u>6,672</u>
PUBLIC ENTITY E & O (Prior Acts Coverage)	<u>EMC</u>	\$ <u>1,529</u> <u>Incl.</u>
<u>Crime</u>	<u>EMC</u>	<u>100</u>
TOTAL ANNUAL PREMIUM		\$ <u>115,205</u>

8-22-19 Date  
First State Insurance Name of Agency  
David City Address of Agency  
Pam Siroky  
 (Signature of Licensed Agent)

- The following must be attached
- 1) Proof of Companies A.M. Best's Rating
  - 2) Exception to bid specifications form
  - 3) Exception to General Rules Specification Form
  - 4) Sample Umbrella & Errors & Omission Policies with exclusions

Pam Siroky stated: My packet is in front of you and the annual premium is \$115,205. My glaring difference is always going to be the power plant because EMC quotes more coverage on the power plant. I guess one question I had is, is the power plant still insured for replacement costs or stated value?"

Clint Simmons stated: "Stated amount."

Council member Trowbridge stated: "It changed significantly when it changed; and rightfully so for the ratepayer in David City."

Clint Simmons stated: "Yes, in fact we wrote that 17-18 policy and I think it was mid-term we wrote you a check back for \$26,000 so it did change significantly, and that's the advantage that LARM does have, is we can do that."

Council member Trowbridge asked: "Why does your company tell us what we should insure it for?"

Pam Siroky stated: "Because just basically the research they have done on the cost of power plants and health insurance, things like that. Trust me, I've argued and argued; it's like this black cloud that looms over me. Just a couple things, I guess as a citizen and business owner I think it would be nice if we could have the City's insurance back in David City, whether it was us or Jones Insurance; I guess I will make that plug."

Council member Trowbridge stated: "But Pam, we just had the discussion of your billing us for things we don't want, not you, your company, yet they would like the business. We're not going there; that's too bad."

Pam Siroky stated: "Probably the only other thing I would suggest, and this is my personal opinion, I just think bidding it every year you guys aren't accomplishing much of anything, and maybe you'd consider going back to a three-year lock-in."

Mayor Zavodny stated: "I would like to see us get to more of a three-year thing, and part of the reason I think we've gone a year by year is the instability of LARM; for a while there it was just...we didn't even know who the Board was, and they didn't either until the Court told them. Ok, anything else on yours that would stand out?"

Pam Siroky laughingly stated: "Well, I'm across the street so I would be here the fastest if you needed something; but Thank You."

Rick Schneider of Jones Group Insurance presented the following:

Coverage	CWG/Bitco option 1	CWG/Bitco option 2
Property	\$32,479	\$32,479
Crime	Included	Included
Liability	\$12,245	\$10,549
Auto	\$8,417	\$8,048
Inland Marine	\$5,170	\$5,170
Excess Liability		\$5,389
Workers Compensation	\$27,787	\$27,787
Total	\$87,098	\$89,422
<b>Airport Liability-Starr Aviation</b>	\$3,654	\$3,654
<b>Optional Power Plant:</b>		
Property	\$7,362	\$7,362
Total	\$7,362	\$7,362
<b>Overall Total</b>	<b>\$98,114.00</b>	<b>\$100,438.00</b>

NOTES:  
 Property deductible is \$5,000 for all perils  
 Earthquake coverage included  
 Flood coverage included with CWG options-limit is \$1,000,000 deductible is \$5,000



**JONESGROUP**  
INSURANCE | FINANCIAL SERVICES

8/20/2019

City of David City  
557 North 4th  
David City NE 68632

RE: Insurance Bid Proposals

Dear Joan Kovar, Mayor Alan Zavodny and Members of the City Council of David City:

We at Jones Group are pleased to submit to you a bid proposal for the City of David City's insurance needs. The bid we are submitting is from Continental Western Group, Bitco and Starr Aviation.

As an active, longtime resident of David City, I feel the companies we are presenting will provide excellent coverage for the taxpayers of this wonderful city. All of us at Jones Group look forward to supplying you with excellent service provided by one of David City's locally owned and operated insurance agencies.

As you may notice, this year we are only submitting a proposal from Continental Western Group. The past two years we were also able to offer proposals from Travelers and Berkshire Hathaway. This year those carriers have declined to put forth a proposal for David City. We hope this reduction in options does not fall on deaf ears. Should we be selected to represent your insurance needs, we are more than willing to provide the background and reasoning as to why two major players in public entity insurance have declined to offer you their products. Fortunately, we have a very good carrier option with Continental Western Group. However, in the best interest of long term market availability we strongly encourage you to take a long hard look at the insurance proposals you have in front of you, the process being used to obtain them, and the process being used to make a solid insurance decision you can be confident with for a period of time longer than one year.

If you have any questions or concerns about our proposal, please do not hesitate to contact us and we will be more than happy to assist you.

Thank you for your consideration!

Sincerely,

A handwritten signature in blue ink that reads "Rick Schneider".

Rick Schneider

Rick Schneider of Jones Group Insurance stated: "We did two options for you guys. Option 1 which is \$98,114.00 and what that is, it's higher limits. Option #2 is \$100,438.00 which includes that Five Million Dollar umbrella on it. Both options have 3 really good companies, Continental Western Group, which is an awesome company; they are bidding most of it. Bitco has the Workers Compensation and does a lot of municipalities and they are very good at that, and then Starr Aviation for the Airport Liability. Pam and I are both in insurance and we are both local. Things with LARM "may" be settled, but according to the article it clearly states they are not totally settled."

Rick stated that two companies declined to put forth an effort to put a bid together because it is very time consuming; 40 – 50 hours. The companies basically said: "If the Council isn't going to take it seriously why would we take the time to put together a bid".

Mayor Zavodny stated: "I don't think we should vote on this tonight. We should have more people here and we should finalize this at our September meeting, however, that's going to be up to you guys. To me, this is probably the first time where my confidence is pretty shaken with the LARM situation currently. I've been following what's been in the media and what has been mailed to us, and it's been troubling to follow."

Much discussion followed.

Council member Trowbridge asked: "With a 2-year commitment, what does LARM do? Will we get this same package for the same money for the next two years?"

Clint Simmons stated: "Well, I'm not sure about the competition, but I mean we really can't; you can't guarantee it because your payrolls change, your Workers Comp mod can change, so there are a lot of variables that go into that, there's inflationary factors on property, your equipment changes, so to guarantee you that that dollar amount is going to be the same next year, there is just no way."

Council member Trowbridge asked: "Well, if that's the scenario, then for us to go three years with you would be ludicrous, because you are saying if you guarantee you two more years, and there are no holds barred in year 2 and 3 as to what I do to you, well I'd give that discount all day long."

Mayor Zavodny asked: "What do you have as far as reserves now?"

Clint Simmons stated: "It's roughly around twelve million."

Mayor Zavodny stated: "Ok, my recommendation to you as a Council would be, between now and our September meeting, decide what you want to do as far as going forward with insurance."

Council member Trowbridge stated: "What's going to change in the next two weeks?"

Mayor Zavodny stated: "We will have two more council members present."

Council member Trowbridge stated: "More people who don't know what they're doing. What happens to us with LARM, if we took the two-year bid tonight, and we reneged on it a year from now? Would you bill us the difference?"

Clint Simmons stated: "Well this is actually a Resolution, so it ends up being a contract, so I wouldn't recommend doing that. I mean, if you're at all uneasy, I mean I would do the 2%. You're basically entering into a contract with us with the resolution, and again, the resolution is not on the agenda for tonight so it would be on the next meeting."

Council member Trowbridge made a motion to accept the one-year insurance bid of LARM with the 180-day notice, effective October 1, 2019, in the amount of \$82,052.00. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Kobus, and Trowbridge. Voting NAY: Mayor Zavodny. Council members Meysenburg and Vandenberg were absent. The motion carried.

Council member Trowbridge made a motion to pass Ordinance No. 1320 on the 3<sup>rd</sup> and final reading. Council member Hotovy seconded the motion. Voting AYE: Council members Kobus, Hotovy, Trowbridge, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried and Ordinance No. 1320 was passed on 3<sup>rd</sup> and final reading as follows:

### **ORDINANCE NO. 1320**

AN ORDINANCE RELATING TO ELECTRIC SERVICE RATES AND MINIMUM CHARGES, TO PROVIDE NEW SCHEDULES OF ELECTRIC RATES, TO REPEAL ALL PARTS OF THE CODE, RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE WHEN THE ORDINANCE SHALL TAKE EFFECT; AND TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

**Section 1. NEW SCHEDULES:** Relating to electric service and minimum charges, to provide a schedule of electric rates, minimum charges, and customer service charges, to distinguish residential rates, commercial rates, industrial rates, off-peak industrial rates, and irrigation rates; to set availability rating; to provide and establish the following tariff of rates to consumers of electric service from the electric distribution system of the City of David City, Nebraska.

#### **A. RESIDENTIAL SERVICE**

Availability. To residential customers in the established service area of David City.

Applicability. To single-family residences and individually metered apartments for all domestic purposes when all service is supplied through a single meter. It is not applicable to residences where a commercial enterprise is conducted.

Character of Service A.C. 60 Hertz, Single-Phase 120-volt, 2 wire or 120/240 volts, 3 wire.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

**Customer Service Charge - \$18.00 per month (or partial month)**

<u>Summer</u>	<u>Winter</u>	
\$0.1125	\$0.1100	First 500 kwh, per kwh
\$0.1000	\$0.0900	Next 500 kwh, per kwh
\$0.0950	\$0.0790	Excess, per kwh

Minimum Bill. The minimum bill shall be the sum of the Customer Charge.

**B. RESIDENTIAL SUMMER CONTROLS**

Applicability. To residential consumers who have allowed the Utility Department to install, and operate, such devices as would be required to cycle central air conditioning units during periods of peak electrical demand and imposed upon the electrical system. Window air conditioning units, on a separate electric circuit can be included in this rate.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

**Customer Service Charge - \$18.00 per month (or partial month)**

<u>Summer</u>	<u>Winter</u>	
\$0.1125	\$0.1100	First 500 kwh, per kwh
\$0.0925	\$0.0900	Next 500 kwh, per kwh
\$0.0875	\$0.0790	Excess, per kwh

Minimum Bill. The minimum bill shall be the sum of the Customer Charge.

**C. STREET LIGHT / ALLEY LIGHT RENTALS**

Availability. To residential customers in the established service area of David City.

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

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

**Customer Service Charge - \$6.64 per fixture per month (or partial month)**

**Some customers will share the cost of one fixture.**

**D. COMMERCIAL SERVICE**

Availability. To any non- residential consumer in the established service area of David City.

Applicability. To any non-residential consumer for lighting, heating and power purposes where the customer's billing demand does not exceed 35 Kw or 10,000 Kwh for three (3) consecutive months.

Character of Service. A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Single Phase Rate Effective October 19, 2019**

**Customer Service Charge - \$28.00 per month (or partial month)**

<u>Summer</u>	<u>Winter</u>	
\$0.1200	\$0.1175	First 1,000 kwh, per kwh
\$0.0950	\$0.0925	Next 1,000 kwh, per kwh
\$0.0925	\$0.0800	Excess, per kwh

**Three Phase Rate Effective October 19, 2019**

**Customer Service Charge - \$37.00 per month (or partial month)**

<u>Summer</u>	<u>Winter</u>	
\$0.1200	\$0.1200	First 1,000 kwh, per kwh
\$0.1075	\$0.0975	Next 1,000 kwh, per kwh
\$0.0975	\$0.0800	Excess, per kwh

Minimum Bill. The minimum bill shall be the sum of the Customer Charge of \$2.20 per month per horsepower for the first 10 horsepower and \$1.26 per horsepower of connected load thereafter, whichever is the highest.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test or metering that the power factor at the time of the customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the customer's load at the expense of the customer.

**E. INDUSTRIAL SERVICE**

Availability. To any non-residential consumer in the established service area of David City.

Applicability. To any consumer whose monthly consumption equals or exceeds 10,000 Kwh or whose monthly peak demand equals or exceeds 35 Kw for three consecutive months.

Character of Service. A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

**Customer Service Charge - \$75.00 per month (or partial month)**

**Demand Charge**

<b>Summer</b>	<b>\$24.00 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$18.00 per kilowatt of maximum billing demand</b>

**Energy Charge**

<b>Summer</b>	<b>\$0.0520 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0485 per kilowatt-hour used</b>

Minimum Bill. The minimum bill shall be the customer charge or the billing demand charge, whichever is greater.

Determination of Billing Demand. The maximum demand for any billing period shall be the larger of (1) the highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period or (2) fifty four percent (54%) of the highest kilowatt average demand registered on the meter during the preceding months of May 20<sup>th</sup> thru September 19<sup>th</sup>.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test or metering that the power factor at the time of the customer's peak load is less than 90%, the Utility Department will adjust the monthly billing demand by the ratio of 0.90 divided by the power factor (expressed as a decimal) at the time of the customer's maximum hourly usage.

Fluctuating Loads. Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all non-betterment costs for corrective equipment to eliminate the interference.

**F. OFF-PEAK INDUSTRIAL SERVICE**

Availability. To any non-residential consumer in the established service area of David City.

Applicability. To any consumer whose monthly consumption equals or exceeds 10,000 Kwh or whose monthly peak demand equals or exceeds 35 Kw for (3) three consecutive months and whose peak demand during the winter season exceeds the peak demand experienced during the preceding summer season.

Character of Service. A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

**Customer Service Charge - \$75.00 per month (or partial month)**

**Demand Charge**

<b>Summer</b>	<b>\$23.00 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$13.00 per kilowatt of maximum billing demand</b>

**Energy Charge**

<b>Summer</b>	<b>\$0.0520 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0485 per kilowatt-hour used</b>

Minimum Bill. The minimum bill shall be the customer charge or the billing demand charge, whichever is greater.

Determination of Billing Demand. The maximum demand for any billing period shall be the larger of (1) the highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period or (2) fifty four percent (54%) of the highest kilowatt average demand registered on the meter during the preceding months of June, July, August or September.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test or metering that the power factor at the time of the customer's peak load is less than 90%, the Utility Department will adjust the monthly billing demand by the ratio of 0.90 divided by the power factor (expressed as a decimal) at the time of the customer's maximum hourly usage.

Fluctuating Loads. Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all non-betterment costs for corrective equipment to eliminate the interference.

**G. IRRIGATION SERVICE**

Availability. To irrigation customers in the established service area of David City.

Applicability. **Off-Peak:** During the irrigation season, the utility may interrupt pump service during the peak hours. Peak hours shall be those hours designated as "on-peak" by Nebraska Public Power District and are typically between 8:00 a.m. and 10:00 p.m. Central Daylight Savings Time, Monday through Saturday, excluding holidays and up to four (4) hours on Sunday. The City, at their sole discretion may change the period of interruptible hours.

**Rate Effective October 19, 2019: On-peak irrigation (Firm)**  
**\$58.00 per Horsepower connected per year. Energy consumed shall be billed at the rate of 8.00¢ per kilowatt hour per month, payable as used.**

**Rate Effective October 19, 2019: Off-peak irrigation (Non-Firm)**  
**\$25.00 per Horsepower connected per year. Energy consumed shall be billed at the rate of 6.00¢ per kilowatt hour per month, payable as used.**

Minimum Bill. The minimum bill shall be the Horsepower Charge.

Determination of Connected Load. The connected load in horsepower shall be taken from the name plates of the motors or from an actual measurement of horsepower input to the motor, or motors, operating under maximum load conditions. The City reserves the right at any time to check the customer's load for recalculation of the connected load.

Terms of Payment. The total horsepower charge shall be billed on approximately April 25<sup>th</sup> of each year and total amount payable upon receipt. It shall become due the first day of May each year and become delinquent at 5:00 p.m. on the 10<sup>th</sup> day of May. A ten percent (10%) penalty is imposed on all delinquent bills.

Bills for the kwh usage are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent at 5:00 p.m. on the 10<sup>th</sup> day of each month. A ten percent (10%) penalty is imposed on all delinquent bills.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% whether leading or lagging at all times. Power factor adjustments will be made in the horsepower billing, when the power factor, as determined by test, at the time of the maximum use is less than 90%. The measured maximum horsepower will be multiplied by 90% and divided by the customer's power factor expressed in percent.

Fluctuating Loads. Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, will be charged \$1.78 per month per KVA of such nameplate rating of such equipment or other equipment for energy used, and such charges will be in addition to the bill determined by the kilowatt hours recorded by the meter and billed at scheduled rates. It will be added to the minimum bill for services in the event the energy for other services does not equal the amount of a minimum bill for such other services.

**Section 2. Seasonal Billing Periods.** The *summer* period is for the meter readings obtained during the four-month period of May 19<sup>th</sup> through September 19<sup>th</sup>. The *winter* period is for the meter readings obtained during the eight-month period of September 19<sup>th</sup> through May 19<sup>th</sup>.

**Section 3. Terms of Payment.** Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. Utility bills become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on or before the 10<sup>th</sup> day of the

month. If the 10<sup>th</sup> of the month falls on a weekend, customers will be given until the following regular business day. A 10% penalty is imposed on all delinquent bills.

**Section 4. Production Cost Adjustment (PCA).** Whereas, the rates offered to the customer by the City is based upon the current rate being paid by the City to its wholesale supplier, the City shall reserve the right, during the term of the rates, to adjust said rates to the consumer by an amount not to exceed two (2) mills per kilowatt hour greater than the adjustment to the City by its wholesale supplier.

**Section 5.** Any other ordinance or section passed and approved prior to the passage, approval, and publication or posting of this Ordinance and in conflict with its provisions, are hereby repealed.

**Section 6.** This Ordinance shall be published in pamphlet form and all rates included in this Ordinance shall be effective as of October 19, 2019.

PASSED AND ADOPTED this 28<sup>th</sup> day of August, 2019.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

Council member Hotovy made a motion to pass Resolution No. 14 – 2019 prohibiting truck traffic on “O” Street from 4<sup>th</sup> Street east to 11<sup>th</sup> Street. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Trowbridge, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

#### **RESOLUTION NO. 14 – 2019**

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, PROHIBITING TRUCK TRAFFIC ON “O” STREET FROM 4<sup>TH</sup> STREET EAST TO 11<sup>TH</sup> STREET.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that it shall be unlawful for any person, partnership, firm or corporation to drive trucks, or tractors pulling trailers, on “O” Street from 4<sup>th</sup> Street east to 11<sup>th</sup> Street, unless to pick up or deliver goods, wares, or merchandise; and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through or about the city. Trucks shall be defined as having at least three (3) axles. Said streets shall be posted by the Street Supervisor and this shall constitute notice to the public.

Any person, partnership, firm or corporation violating any of the provisions of this resolution, shall be deemed guilty of a misdemeanor and upon conviction shall be fined pursuant to Chapter 4, Article 7 – Penal Provision, Section 4-701 Violation; Penalty of the David City Municipal Code.

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Passed and approved this 28<sup>th</sup> day of August, 2019.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

Street Supervisor Chris Kroesing stated: “We have nowhere to go with the cardboard. The mills have quit taking cardboard. Firstar Fiber, that it gets shipped to, has quit taking cardboard. They are about 100 – 150 semi loads out before they can get to us. We are almost full at our facility right now and I have no place to go with it. I have been talking with Jeff Heck of Firstar Fiber; he wants to put storage containers all over our lot for storing cardboard and I said, “#1 we don’t have the room for it, and #2 when can you guarantee the prices are going up?”, and he didn’t have an answer. This is one thing they did give me though, from the Nebraska Recycling Council, which does explain why the cutoff on cardboard is happening now; it’s just temporary, it is not permanent.”

**TO: David City City Council**  
**SUBJECT: Cardboard Recycling**

**It has come to our attention that due to decreased revenue for cardboard the City Council will be discussing not accepting cardboard at the Recycling Center at the meeting this evening, August 28, 2019 (item # 10 on the agenda). On behalf of the Nebraska Recycling Council I would like to contribute the following information to your conversation.**

**The primary reasons for depressed prices for recyclables are due to a number of factors, including, but not limited to the following:**

- **There is insufficient capacity within the U.S. to utilize all of the material recovered through recycling in the U.S. As a result, a significant amount of recyclables had been exported to other countries, including China, until recently.**
- **China banned mixed paper and mixed plastics imports in early 2018 and imposed a limit of 0.5% contamination on all imports of recyclables.**
- **New tariffs imposed on China goods to the U.S. has caused China to retaliate with its own tariffs on U.S Goods. This has made the purchase of recycled pulp and resins from countries other than the U.S. more attractive for China.**
- **The strong U.S. dollar has caused countries that have no tariffs to purchase recyclables from other countries.**

- Slow economies in Europe, China, Mexico and other countries have reduced demand for recovered materials.
- Paper mills have reported high inventories of recovered paper on hand which has reduced their demand for material.
- The cost of virgin pulp is low and many U.S. mills are opting to use virgin pulp vs. recycled content pulp.
- Industry wide U.S. cardboard production is down 20% in 2019 from the previous year. One reason for this is that the E-Commerce business is moving towards more flexible packing options.

As all commodities, experts believe that market prices will rebound at some point. This will likely occur when domestic capacity for recovered materials improves. For example, according to the Pulp and Paper Index, six new containerboard recycling paper mills will add 2 million tons of capacity over the next 2 years. The first is expected to open in October in Wisconsin and have a capacity of recycling 250,000 tons per year. This should improve pricing for cardboard in our region.

- There is a cost to disposing of society's waste. You either pay to have it landfill and it is lost forever or you pay to have it recycled and made into new recycled content products. This conserves resources, creates jobs, reduces greenhouse gas emissions and generates some revenue for the community.
- Processing recyclables into new products supports ten or more jobs for every one needed to dispose waste in the landfill. Cutting recycling programs eliminates more than just the collection jobs.
- According to the Institute for Scrap Recycling Industries the recycling industry in Nebraska has contributed over \$600 million in economic impact. The recycling industry is the first link in the manufacturing supply chain and plays a prominent role as a job creator, economic leader and environmental steward. There are an estimated 2,972 full-time jobs supported by the recycling industry in Nebraska. In addition, the scrap recycling industry in the state accounts for nearly \$53 million in federal, state and local taxes. The repercussions of scaling back or discontinuing recycling programs will have a lasting effect on a local economy.
  - Many people think of recycling as a "green", environmental activity but these economic facts and figures illustrate how recycling is a business like any other. Once a recyclable item leaves the house or business, it becomes a commodity. Just like soybeans and wheat, it has a tradeable market value. If the value of wheat drops, no one suggests never buying a loaf of bread again. Why should we do that with recycling? Like many other commodities, recycling is a cyclical industry; markets rise, fall and rise again. The current recycling market conditions have created opportunities for innovation and investment. Companies are seeking to invest in domestic markets for recyclable materials.
- Unlike sewer, road maintenance or other municipal services, recycling collections only function properly with the active participation of the people it serves. Changes to what or how to recycle can lead to long term confusion that results in greater contamination or people making less of an effort. Be careful that program cut-backs in response to near-term markets don't lead to lower participation when prices rebound.
- It is our understanding that the Butler County Landfill has increased their tipping fee to over \$70 per ton. Canceling cardboard recycling does not eliminate your cost and may even increase costs.

The Nebraska Recycling Council stands ready to assist the David City Recycling Center in acquiring a portable loading dock and semi-trailer for storage or other improvements to make its operation more efficient. This is in the form of an equipment grant to purchase the necessary equipment.

Thank you for your time and consideration. Please feel free to contact me at 402-436-2384 ext. 1000 should you have any questions or comments.

Sincerely,



Julie Diegel  
Executive Director  
Nebraska Recycling Council

Street Supervisor Chris Kroesing stated: "I got a phone call from the lady who runs the Shelby Recycling Center, and Osceola, and they wanted to know if they could start bringing their recyclables and cardboard to our facility, they usually take theirs to York, and I said, we do not have room for our own cardboard, yet alone get theirs. I don't want to see our facility close down by any means, but I know one thing for right now, I cannot take any more cardboard, I have no place to go with it. Plastics I can ship out. Tin cans I can ship out. Aluminum cans I can ship out."

Mayor Zavodny stated: "Let me simplify this, we can't take cardboard right now, so our vote simply is we are going to say "no" to cardboard until further notice. My bigger concern moving forward, is that there is still going to be a lot of cardboard that's produced around here, we have a landfill that's going to fill up faster than it was projected to at one point, we've got a whole lot of bad things converging at once. I've said before, when the landfill decision was made, I think what we're going to see, and we've seen some of it, trash ending up in all those ditches within a mile of town, because people don't want to pay the extra money. So, the cardboards going to end up at the landfill?"

Council member Trowbridge stated: "So what do we tell our dear loyal recycling customers who have lived with us through thick and thin? That, sorry, we can't take your cardboard anymore. You can fill your trunk up and go out to the landfill, and thanks to the County Board it's going to cost you \$50 to get rid of it."

Council member Hotovy stated: "Before the next meeting, can you see if you can find any other outlets to go with? But in the meantime, we don't have any room for it."

Mayor Zavodny stated: "Can we put up temporary signs that say "No Cardboard". What people are going to do, is they are going to come when they know we aren't there unless you have a camera to see who is doing it, and you're going to have cardboard staking up, you just are. You will probably need a camera and a gate; signage isn't going to do anything."

Much discussion followed.

Council member Kobus made a motion to temporarily not accept cardboard at the Recycling Center until further notice. Council member Hotovy seconded the motion. Voting AYE: Council member Hotovy. Voting NAY: Council members Trowbridge and Kobus. City Clerk Kovar stated that the motion failed because even if the Mayor would have voted "aye" it would be a tie.

Mayor Zavodny asked: "Any my response would have been yes. So now what are you going to do with the cardboard that comes?"

Council member Trowbridge stated: "Take it to the landfill."

Council member Kobus stated: "Yea."

Street Supervisor Kroesing asked: "And the City pays for that?"

Mayor Zavodny stated: "We don't have a choice."

Council member Trowbridge stated: "We're the ones that are in the recycling business."

Council member Kobus stated: "What? The City shouldn't have to pay for that."

Mayor Zavodny stated: "But that's what we just did; if we're going to take it what else can we do?"

Council member Trowbridge stated: "Maybe you want to re-vote if; you voted the wrong way?"

Council member Kobus stated: "Yea, I think I did."

Mayor Zavodny asked if the Council wanted to reconsider.

Council member Kobus made a motion to reconsider the last motion to temporarily not accept cardboard at the Recycling Center until further notice". Council member Hotovy seconded the motion. Voting AYE: Council members Trowbridge, Kobus, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

Council member Hotovy made a motion to temporarily quit taking cardboard at the recycling center until further notice. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Kobus, and Mayor Zavodny. Voting NAY: Council member Trowbridge. Council members Meysenburg and Vandenberg were absent. The motion carried.

Council member Hotovy made a motion to table consideration of Ordinance No. 1321 amending Chapter 9 – Building Regulations; Article 4 – Codes Adopted; Sections 8-401 thru 9-404. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Trowbridge, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

#### **ORDINANCE NO. 1321**

**AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING CHAPTER 9 – BUILDING REGULATIONS; ARTICLE 4 – CODES ADOPTED; SECTIONS 9-401 THROUGH 9-404; REPEALING CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

**SECTION 1.** Chapter 9 – Building Regulations, Article 4 – Codes Adopted, Sections 9-401, 9-402, 9-403, and 9-404 of the Revised Municipal Code be and hereby are amended to read as follows:

#### **CHAPTER 9 – BUILDING REGULATION**

##### **Article 4 – Codes Adopted**

#### **SECTION 9-401: BUILDING CODE; ADOPTED BY REFERENCE**

A. The 2012 International Building Code (IBC), published by the International Code Council, is hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the International Building Code shall be controlling throughout the city and throughout its zoning jurisdiction. This code shall apply to all remodeling, new construction, and changes of use; of a commercial or industrial nature. The normal necessities of usual maintenance shall be excluded from permitting requirements - (Re-roofing, siding, painting, repairing, or changing fixtures or outlets, for example).

B. The 2012 International Residential Code (IRC), Published by the International Code Council, is hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the International Residential Code shall be controlling throughout the city and throughout its zoning jurisdiction. This code shall apply to all remodeling or new construction; of a one and/or two-family residential nature. The normal necessities of usual maintenance shall be excluded from permitting requirements - (Re-roofing, siding, painting, repairing, or changing of fixtures or outlets, for example).

One copy of each is on file at the office of the Zoning/Building Administrator and is available for public inspection at the city office during their regular business hours.

**SECTION 9-402: PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE; HISTORIC BUILDINGS; NUISANCE**

A. To provide certain minimum standards, provisions and requirements for: the control of existing buildings and structures and other physical things and conditions on premises, which are essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use; and the demolition of such structures, the 2015 edition of the International Property Maintenance Code is hereby incorporated by reference in addition to all amendments, as though printed in full herein insofar as the code does not conflict with the statutes of the state. The provisions of the Property Maintenance Code shall be controlling throughout the city and throughout its zoning jurisdiction.

B. The provisions of the Property Maintenance code shall not be mandatory for structures designated by the state or city as historic buildings or structures when such buildings or structures are judged by a code official to be safe and not dangerous to the public health, safety, and welfare.

C. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of the Property Maintenance Code and such conflict with or violation of the provisions of the code are hereby declared to be a nuisance.

D. The imposition of penalties prescribed by Resolution Number 12-2019 shall not preclude the city from instituting appropriate actions to abate such conflict with or violation of the provisions of the code as prescribed in Section 3-404 of the Municipal Ordinance – Nuisances; Notice procedure; Abatement.

**SECTION 9-403: PLUMBING CODE; ADOPTED BY REFERENCE**

To provide certain minimum standards, provisions and requirements for safe and stable installation, methods of connection and uses of materials in the installation of plumbing and heating, the 2012 edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials (IAPMO), is hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the Plumbing Code shall be controlling throughout the city and throughout its zoning jurisdiction.

**SECTION 9-404: ELECTRICAL CODE; ADOPTED BY REFERENCE**

The 2014 National Electric Code, as adopted by the State of Nebraska, is hereby adopted and incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. The provisions of the electrical code shall be controlling throughout the city and throughout its zoning jurisdiction.

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

**SECTION 3.** This ordinance shall take effect and be in full force on after its passage, approval, and publication as required by law.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF DAVID CITY, NEBRASKA

\_\_\_\_\_  
(Tabled)  
Mayor Alan Zavodny

ATTEST:

\_\_\_\_\_  
(Tabled)  
City Clerk Joan Kovar

Mayor Zavodny stated: "I am going to request that we table item #12. (Approving the appointment to fill the vacancy of past 3<sup>rd</sup> Ward Council member Gary Smith). We have one person that has expressed interest. I'd like to put it off until at least the September meeting, especially given that we have fewer numbers tonight. So, I would entertain a motion to table."

Council member Hotovy made a motion to table consideration of an appointment to fill the vacancy of past 3<sup>rd</sup> Ward Council member Gary Smith. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Hotovy, Trowbridge, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

**From:** Kelly Danielson <Kelly.Danielson@WasteConnections.com>  
**Sent:** Monday, August 19, 2019 9:25 AM  
**To:** 'tcomte@davidcityne.com'  
**Subject:** Resignation from Board of Zoning

Hi Tamí – As you are aware I recently moved out of David City. As a result I will no longer be able to serve on the Board of Zoning Adjustment Committee. Thanks

Mr. Kelly Danielson  
District Manager

Council member Hotovy made a motion to accept the resignation of Kelly Danielson as a Board of Zoning Adjustment member. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Trowbridge, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

Council member Trowbridge made a motion to appoint alternate member Allan Steinberger as a regular member of the Board of Zoning Adjustment. Council member Kobus seconded the motion. Voting AYE: Council members Kobus, Trowbridge, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

### STREET USE PERMIT APPLICATION DAVID CITY, NEBRASKA

Applicant shall complete this form giving all information requested.

Date: 8-27-19

<u>David City Elementary PTO</u> Applicant	<u>826 E St David City</u> Address	<u>641-5781</u> Phone
<u>Julie Schultz</u> Project Director (If different than applicant)	<u>3000 I Rd Rising City</u> Address	<u>867-9715</u> Phone

Kasey  
Kulhman

Date(s) of Event: Friday October 25 2019 Time: 4:30- 7:30 pm

Location of Street use permit: 5<sup>th</sup> Street from D street til railroad tracks

Julie Schultz, representing David City Elementary PTO, and Tina Samek, representing St. Mary's Catholic Schools were present to request that 5<sup>th</sup> Street from "D" to the Railroad Tracks be closed on Friday, October 25, 2019, from 4:30 p.m. to 7:30 p.m. for a "Trunk or Treat" Activity.

Julie Schultz stated: "Tina and I got together in August and we want to do a, two schools, one community event, and this is ultimately what we decided to try to promote, that even though we are two separate schools we are still one community. We thought, for the safety of the kids, we would rather just shut the street down so they can walk up and down the street for this activity. We reached out to the Library because we were afraid that they thought we were going to be stepping on their toes with their event. They still wanted to host their regular Downtown "Trick or Treating" activity, and then we reached out to the Chamber as far as getting the businesses involved. They seem to be receptive. They were a little worried that they have the "dueling pianos" that night, but we're hoping to be done before dueling pianos start to not pull... I think the group that is going to do "trunk or treat" is different from the group that would be attending "dueling pianos."

Tina Samek stated: "Different demographics. Our whole purpose was just like, in the summer the kids all play ball together, there's no, the schools aren't separate and then they have this good camaraderie and then school starts and we're all kind of separate again. So, we just wanted to show from parents down, that it's okay to still be friends with those people, we're still one community, we're a small community, and maybe if we can do a couple events a year with everybody, maybe the community gets better."

Mayor Zavodny stated: "First of all, I agree totally with what you are trying to do. I don't want to be a bad guy here, but the choice of that area, I was just wondering if the Auditorium parking lot or somewhere else; did you consider other locations?"

Julie Schultz stated: "We have, but we don't think they would be big enough for both schools."

Mayor Zavodny stated: "Ultimately, I do support this, I just think about the Pharmacy and older people trying to get their medications and stuff like that. How are you going to shut them off? Are you going to put up barricades? Is the Sheriff's Department involved in this too?"

Julie Schultz stated: "We were getting approval here first, and then we were going to get the Fire Department if they would like to participate. We haven't really talked to the business owners, we wanted approval first; the Chamber said to start here."

Mayor Zavodny stated: "What if we just did "D" to "E" on 5<sup>th</sup>? That would open up the roads to DCPS. One block would be a lot easier to block off than two. If we could modify it to that, I'll support that."

Julie and Tina stated: "That would be fine."

Council member Hotovy made a motion to approve the request by Julie Schultz, representing David City Elementary PTO, and Tina Samek, representing St. Mary's School, to temporarily close 5<sup>th</sup> Street from "D" to "E" Street, on Friday, October 25, 2018, from 4:30 p.m. – 7:30 p.m. for a "Trunk or Treat" Activity. Council member Kobus seconded the motion. Voting

AYE: Council members Trowbridge, Hotovy, Kobus, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

Council member Hotovy stated: "I commend the two schools; great idea; awesome!"

Mayor Zavodny stated: "Agenda item #16 – Consideration of the request by Kevin & Crystal Hotovy for a basketball hoop on City right-of-way, and I believe, Counsel I don't know, it appears to me that he does not have to recuse himself."

City Attorney Egr stated: "No, he does not have to."

Council member Hotovy provided pictures of his property and explained where he would like to place the basketball post on the City right-of-way. Kevin also showed pictures of his neighbors' properties to the north of him, that already have a basketball hoop, and also brick mailboxes, all located west of the sidewalk on City right-of-way. Kevin stated his trees are 17.5' from the road and the basketball hoop he is proposing would be located 20' from 10<sup>th</sup> Street, but it is on the City parkay, so he needed approval to do so.

Council member Trowbridge stated: "This request is not an incumbrance upon neighbors and it is not a further incumbrance upon the City. We are not asked to change our set-backs on a street, we are asked to be able to put up a basketball hoop where it probably should go, because we have said no to some things, but they have had much wider and far ranging effects than this issue does."

Council member Trowbridge made a motion to approve the request of Kevin & Crystal Hotovy, 478 So. 10<sup>th</sup> Street, for a basketball hoop to be placed in front of their home on the City right-of-way, on the east side of 10<sup>th</sup> Street. Council member Kobus seconded the motion. Voting AYE: Council members Kobus, Trowbridge, Hotovy, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried.

Mayor Zavodny stated: "I would like to commend Council member Hotovy for going about this the right way."

There being no further business to come before the Council, Council member Hotovy made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Hotovy, Kobus, and Mayor Zavodny. Voting NAY: None. Council members Meysenburg and Vandenberg were absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:28 p.m.



CERTIFICATION OF MINUTES  
August 28<sup>th</sup>, 2019

I, Joan Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of August 28<sup>th</sup>, 2019; 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.

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Joan Kovar, City Clerk