

## CITY COUNCIL PROCEEDINGS

January 15, 2001

The Mayor and City Council of the City of David City, Nebraska met in open public session at 5:30 p.m. on January 15, 2001 in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Mayor declared this an emergency meeting to consider easement agreements relating to the Park Lakes Project. The Mayor notified The Banner Press since there was not sufficient time for a meeting notice.

Present for the meeting were: Mayor Stephen Smith, Council members Mark Kirby, Ted Lukassen, Gary Kroesing, Gary Smith, and Nick Hein, City Administrator Andrew Brannen, Attorney Jim Birkel, and City Clerk Joan E. Kovar. Council member Bill Schatz was absent.

Also present were: Mark Otte and Chuck Krysl.

Castle Construction will install a drainage pipe on the South side of the lakes which includes 2,500 lineal feet of 24" HDPE pipe, one 36" diameter highway crossing, 50 vertical feet of manhole and three inlet structures. Castle Construction is ready to begin work, however, easements must be obtained for the homes on the west side of Hwy 15 on the south side of the private lake.

Two homeowners, Mark Otte and Chuck Krysl, were present to discuss an easement. Mark Otte stated that if he ever sold his property, he would like to say that having the easement through his property was not all negative, but that it had a positive outcome. Mark would like the city to asphalt their private road and provide snow removal. Asphaltting the road with 5" of asphalt, providing long term maintenance, and snow removal was discussed. Street Superintendent Jim McDonald had estimated that the private road is about 200' and would cost approximately \$4,500.00 to asphalt. Attorney Birkel stated that long term maintenance of the private road was not advisable. Since this road has very little traffic, Mark Otte stated that he would be satisfied with the new asphalt road and snow removal. The City would not provide maintenance on the road unless the road was damaged by the City at some time.

As property owner Mildred Wright was not present, the easement agreement could not be finalized. Therefore, Council member Hein made a motion to recess until Tuesday, January 16, 2001, at 5:30 p.m.. Council member Lukassen seconded the motion. Voting YEA: Council members Lukassen, Kirby, Kroesing, Smith, and Hein. Voting NAY: None. Council member Schatz was absent. The motion carried and the meeting was recessed at 6:25 p.m..

January 16, 2001

Mayor Smith called the meeting of the City Council of David City, Nebraska to order at 5:30 p.m. on January 16, 2001 in the Council Room of the City Office, 557 4<sup>th</sup> Street, David City, Nebraska, to continue the meeting of January 15, 2001 which had been in recess.

Council member Hein made a motion to officially come back in session. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Mark Kirby, Nick Hein, Bill Schatz, Ted Lukassen, and Gary Kroesing, City Administrator Andrew Brannen, Attorney Jim Birkel, Street Superintendent Jim McDonald, and City Clerk Joan E. Kovar. Also present were: Bob Wright and Chuck Krysl.

Bob Wright stated that he would be agreeable to an underground utility easement with above ground repairs in consideration of a one time road surfacing of the existing private road and snow removal for the duration of the easement. Wright questioned if he would be allowed to build the corner of a house on the easement. The Council stated "No" because if repairs were needed the City would need access to the easement area. Bob expressed concerns then since he may want to build on his lot. After discussion it was decided that the easement area can be moved further to the north in this area. Bob Wright will meet with the engineers to discuss this. Bob also questioned if this would be a public road. Attorney Jim Birkel stated that it is not a dedicated road and so it remains a private road. Council member Schatz expressed the following concerns:

1. If the City asphalts a private road, what's to stop a developer on future developments or new additions from saying that he will give the City a utility easement if the City will asphalt his private road? What about Zavodny, Dubs, and Carlson, who all have utility easements on their properties, and the City didn't pave their private drives or provide snow removal?
2. The City won't provide maintenance on the private road, but isn't snow removal a maintenance? City services should not be a negotiable item. This is using tax money to provide extended services.

Council member Kroesing stated that this was a different issue than Zavodny, Dubs, and Carlson, who granted an easement to the City so that the City could provide them (Zavodny, Dubs, and Carlson) with City services: electricity, water, and sewer, and the easement doesn't cut across the middle of their properties. Council member Kirby agreed and stated that now the City is requesting an easement, not to provide services, but to insert a drainage pipe through the middle of private property so that the City can continue with the Park Lakes Project. Discussion followed.

Council member Kroesing introduced Resolution No. 4 - 2001 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Smith, Lukassen, Kroesing, and Hein. Voting NAY: Council member Schatz. The motion carried and Resolution No. 4 - 2001 was passed and adopted as follows:

**RESOLUTION NO. 4 - 2001**

WHEREAS, the City of David City needs to install a drainage pipe on the South side of the lakes for a Park Lakes Project, and

WHEREAS, the drainage pipe must be installed on private property on the west side of Hwy 15 on the South side of the private lake, and

WHEREAS, easements must be obtained for the homes on the west side of Hwy 15 on the south side of the private lake. (See easements which have been filed at the County Clerk's Office: Mark E. Otte and Starlyn R. Otte, Book 01 Page 148; and Mildred B. Wright, Book 01 Page 134, and Charles Krysl, Book 01 Page 164. This Resolution was filed at the County Clerk's Office under Miscellaneous).

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that in consideration of an underground utility easement on the west side of Hwy 15 on the South side of the private lake that the City agrees to the following:

1. The City will surface one-time the existing private road with five inches (5") of asphalt not to exceed the total length of the existing private road which is 238 feet in length, (the total length being the length of the road over the land of the Grantor and the adjacent owners) by not more than 14 feet in width.
2. The City will provide snow plowing on said 238' private road for the duration of the easement. No other maintenance is included.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby instructed to file a copy of this Resolution with the County Clerk of Butler County, Nebraska.

Dated this 16th day of January, 2001.

Mayor

City Clerk

There being no further business to come before the Council, Council member Kirby made a motion to adjourn. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Mayor Smith declared the meeting adjourned at 6:10 p.m..

Mayor

City Clerk



CERTIFICATION OF MINUTES  
January 15, 2001

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 January 15, 2001; 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