

## CITY COUNCIL PROCEEDINGS

February 8, 2006

The City Council of the City of David City, Nebraska met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on February 2, 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 Stephen Smith, Council members Gary Smith, Gary Kroesing, Bill Schatz, Ted Lukassen, and Mark Kirby, City Attorney Jim Egr, Police Chief Stephen Sunday, Electric Supervisor Tim Kovar, Electric Plant Supervisor John Kabourek, Water/Sewer Supervisor Jim Kruse, Street Superintendent Jim McDonald, Park/Auditorium Supervisor Bill Buntgen, Jerry Kosch, Jodi Prochaska of Scow, Rief, Kruse, & Schumacher, Eric Petersen, Jim Vandenberg, a representative of Olsson Associates, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar. Council member Hein was absent.

The meeting opened with the Pledge of Allegiance.

The minutes of the January 11<sup>th</sup> and 23<sup>rd</sup>, 2006 meetings of the Mayor and City Council were approved upon a motion by Council member Lukassen and seconded by Council member Kroesing. Voting YEA: Council members Kirby, Smith, Schatz, Kroesing, and Lukassen. Voting NAY: None. Council member Hein was absent. The motion carried.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions, communications, or citizens' concerns.

Mayor Smith asked for consideration of claims. Council member Kirby made a motion to authorize the payment of claims. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Lukassen, Schatz, Smith, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kroesing made a motion to advance to agenda item #12 – Consideration of an ordinance adding Section 418: Flexible Space (FS) District to the General Plan. Council member Lukassen seconded the motion. Voting AYE: Smith, Kirby, Schatz, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Schatz introduced Ordinance No. 1016 adding section 418: Flexible Space (FS) District to the General Plan. Council member Schatz made a motion to suspend the statutory rule that an ordinance be read on three separate days. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kroesing, Kirby, Smith, and Schatz. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1016. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kroesing,

Kirby, Smith, and Schatz. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 1016 was passed and adopted as follows:

**ORDINANCE NO. 1016**

**AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING ORDINANCE NO. 616, BY ADDING THE FOLLOWING: SECTION 418: FLEXIBLE SPACE (FS) DISTRICT; REPEALING CONFLICTING ORDINANCES AND SECTIONS; 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. That Ordinance No. 616 be amended by adding the following to the General Plan:

**SECTION 418 (FS) FLEXIBLE SPACE DISTRICT**

**418.1 INTENT**

This district is established to provide space for a range of commercial, office, light industrial, and production facilities. The Flexible Space District is also intended to provide support uses, including complimentary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and policies of the community.

**418.2 PERMITTED PRINCIPAL USES AND STRUCTURES**

The following shall be permitted:

1. Retail use
  - a. Examples of possible retail uses include: gas stations, general retail, restaurants, catering, shops, malls, nightclubs, lodges, motels, hotels, commercial recreational activities
2. Office buildings
  - a. Examples of possible office building uses include: medical, professional, and service
3. Production, manufacturing, assembly, processing, or transportation of goods and materials, **except:**
  - a. The refining, distillation, or manufacture of:
    - i. Acids or alcohols;
    - ii. Chemicals;
    - iii. Petroleum products;
    - iv. Cement, lime, gypsum, or plaster of paris;
    - v. Fertilizer;
  - b. The operation of:
    - i. Blast furnaces, coke ovens, smelting or ore reduction works;
    - ii. Boiler works;
    - iii. Forges;
    - iv. Rolling mills;
    - v. Yeast plants;
  - c. Production, manufacture, processing, or transportation of toxic, radioactive, flammable, or explosive materials;
  - d. Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coals, or wood;
  - e. Dumping or reduction of garbage, offal, or dead animals;
  - f. Mining, quarrying, stone willing, or rock crushing;
  - g. Extraction of sand, gravel, or soil;
4. Community colleges, colleges, or other post-secondary education facilities;

5. Private schools;
6. Nonprofit religious, educational and philanthropic institutions;
7. Farming and the sale of farm produce.

#### **418.3 PERMITTED ACCESSORY USES AND STRUCTURES**

The following shall be permitted:

1. Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use including lodging facilities for owners, guests, or caretakers.

#### **418.4 SPECIAL EXCEPTIONS**

After the provisions of this Ordinance relating to exceptions have been fulfilled, the Commission may, in accordance with Article 9 of this Ordinance, permit the following uses as special exceptions in the Flexible Space Zoning District (FS).

1. Warehouse and distribution
2. Hardware equipment and supply
3. Storage facilities
  - a. Examples of Flexible Space storage facilities special exceptions include but are not limited to: recreational vehicles, automobiles, boats;
4. Sales facilities
  - a. Examples of Flexible Space sale facilities special exceptions include but are not limited to: automobile, truck, camper, agriculture implements.
5. Truck stop facilities with complete truck services
6. Trucking terminals
7. Veterinary clinic and kennels
8. Recreation Vehicle (RV) park and campground

#### **418.5 PROHIBITED USES AND STRUCTURES**

All other uses and structures which are not permitted or not permissible as exceptions shall be prohibited from this zoning district.

#### **418.6 PERFORMANCE STANDARDS**

1. Fire Hazard: No manufacturing operation shall involve the use of highly flammable gasses, acid, liquids, or other materials which possess inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels, and welding gasses when handled in accordance with other City regulations.
2. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement

may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat, frequency, or shrillness.

3. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course or the ground of liquid waste of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
4. Air Contaminants: Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one (1) four (4) minute

period in each one-half (1/2) hour. Light colored contaminants of such an opacity as to obscure an observer's view to a degree to or greater than the aforesaid shall not be permitted.

Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths (.2) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit, except for a period of four (4) minutes in any one-half (1/2) hour, at which time it may equal, but not exceed six-tenths (.6) grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.

Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this Section there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons, or to the public or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general or to cause or have a natural tendency to cause injury or damage to business vegetation or property.

5. Odor: The emissions of odor that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor, it shall be deemed that strong odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
6. Gasses: The gasses sulfur dioxide, hydrogen, sulfide and carbon monoxide shall not exceed five (5) parts per million. Measurements shall be taken at the property line of the particular establishment involved.
7. Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (3/1,000) of an inch measured at the property line. The use of heavy hammers shall not be permitted.
8. Glare and Heat: All glare, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the property line. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.
9. Landscaping / Screening: Landscaping, visual screening and buffers shall be provided for non-single family uses for the following purposes: to remove, reduce, lesson, or absorb the impact between one use or zone and another; to break up and reduce the impact of large parking areas; provide interest and lessen the monotony of the streetscape; to obscure the view of outdoor storage, rubbish areas, dumpsters, parking and loading areas; and to provide

protection from soil erosion.

Landscape Plan Requirements: A landscape plan is required for all new developments proposed within the Flexible Space Zoning District. The purpose of a landscape plan is to provide adequate buffering and shielding from adjacent uses. All landscape plans are required to be reviewed by the City. A detailed description of Landscape Buffer or Landscaping is provided in detailed description of Landscape Buffer or Landscaping is provided in Section 303.56 of the David City Zoning Regulations. A detailed description of a Landscape Screen is provided in Section 303.57 of the David City Zoning Regulations. The requirements of a Landscape Plan include:

- North point and scale (a scale of not less than one (1) inch equals thirty (30) feet is desirable.)
- Topographic information and spot elevations sufficient to adequately identify and properly specify landscaping for slope stabilization.
- The location, size, and notation of site elements such as buildings, walks, parking areas, and aboveground and underground utilities.
- The location, type, and size of existing plant material to be retained.
- The location, type, size and quantity of all proposed plant material and related nonliving, structural and decorative features. Common and botanical names shall be provided for all proposed plan material. Size at time of planting shall be specified according to American Association of Nurserymen Standards.
- The location of all trees twelve (12) inch caliper or larger, measured at one (1) foot above ground level, to be provided whether the tree is to be retained or is proposed for removal.
- Location of all watering sources.

#### **418.7 MINIMUM LOT AREA**

The minimum lot area shall be seven thousand five hundred (7,500) square feet.

#### **418.8 MINIMUM LOT WIDTH AND FRONTAGE**

The minimum lot width shall be one hundred (100) feet.

The minimum lot frontage shall be seventy-five (75) feet.

#### **418.9 MINIMUM YARD REQUIREMENTS**

1. Front Yard: There shall be a minimum front yard of not less than a depth of one hundred (100) feet from a street classified on the City's Major Street Plan as an arterial, fifty (50) feet from a street classified as a collector, or twenty-five (25) feet from a street classified as a local street or place. The minimum required front yard may contain off-street parking and outdoor display of merchandise provided, however, that a landscape buffer, as defined in Section 303.56 of this Ordinance, at least fifteen (15) feet in depth shall be provided at the front property line. When a lot frontage abuts a street that is classified as a collector, local street, or frontage road, a landscape buffer, as defined in Section 303.56 of this Ordinance, at least ten (10) feet in depth, shall be provided at the front property line. For developed areas, as defined in Section 303.30, the required front yard shall be the average of the existing front yards for all commercial, retail, and industrial buildings, provided that in no event shall the front yard be less than a depth of twenty-five (25) feet. A landscape buffer at least ten (10) feet in depth shall be required.

2. Side Yard: Ten (10) feet where the lot line abuts other business or industrial district lot lines.
3. Rear Yard: Ten (10) feet where the lot lines abut other business or industrial district lot lines.
4. Transitional Yard: In any instance where a side or rear lot line abuts a residential district, the minimum yard shall be fifty (50) feet. In addition, a landscape screen, as defined in Section 303.57 of this Ordinance, shall be provided. Such landscape screen shall be located no closer than ten (10) feet to any residential structure.

**418.10 MAXIMUM LOT COVERAGE**

The maximum lot coverage shall not exceed seventy (70) percent of the total lot area.

**418.11 MAXIMUM HEIGHT**

The maximum building height shall be forty (40) feet, provided, however, additional height shall be permitted to the maximum extent of sixty (60) feet when additional front, side and rear yards of one (1) foot per each five (5) feet in height over forty (40) feet is provided. (See Sections 503 and 612).

**418.12 PARKING**

The minimum number of vehicle spaces is one (1) per one thousand (1,000) square feet of gross floor area. The maximum number of vehicle spaces is four (4) per one thousand (1,000) square feet of gross floor area.

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

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and approved this 8<sup>th</sup> day of February, 2006.

ATTEST:

\_\_\_\_\_  
Mayor Stephen Smith

\_\_\_\_\_  
City Clerk Joan E. Kovar

Mayor Smith called for Committee and Officers= Reports in addition to those written reports contained in the Agenda packet.

Dead or hazardous trees on city parkways were discussed. Street Superintendent Jim McDonald is to provide a list of dead or hazardous trees to the City Office staff so that notices can be mailed to the property owners.

The Sherry Benson property located at 915 No. 11<sup>th</sup> Street was discussed. Police Chief Sunday has had the gas line disconnected. Street Superintendent Jim McDonald is to provide

estimates at the next Committee of the Whole meeting regarding costs to demolish all of the buildings and clean up the property.

Police Chief Sunday questioned when stock cars can be brought into town. The Council stated that if cars are actively being used for racing they are allowed in town.

Mayor Smith stated that the deadline for submitting applications for the City Administrator/ or City Administrator/City Clerk position is February 23, 2006 at 3:00 p.m. Copies of the applications will be distributed to the Council members at the next Committee of the Whole meeting and then the screening process will begin at the March 8<sup>th</sup> council meeting.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, February 27, 2006 at 6:00 p.m. in the City Office meeting room.

Council member Kroesing made a motion to accept the Committee and Officers= Reports as presented. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Lukassen, Schatz, Kirby, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Mayor Smith declared the Public Hearing open at 7:30 p.m. to consider entering into a joint entity project consisting of remodeling, renovation, and improvements to the City Auditorium and to provide for the issuance of bonds to pay the costs of said project. Mayor Smith reported that under the provisions of Legislative Bill 217 as adopted by the Ninety-Ninth Legislature, First Session and codified as Sections 13-808 through 13-2531 revised Statutes of Nebraska, also known as the Public Facilities Construction and Finance Act, the City is authorized to enter into agreement with one or more other qualified public agencies to cooperate in joint projects which may be serviced by property taxes for the acquisition, construction, financing, operation and ownership of public buildings and related improvements. Smith stated that the Public Hearing is a requirement that the public be afforded an opportunity to comment. Jim Vandenberg stated that he felt it was a very worthwhile project. There being no further comments, Mayor Smith closed the Public Hearing at 7:39 p.m.

Jodi Prochaska of Scow, Rief, Kruse & Schumacher presented the General Audit for fiscal year ended September 30, 2005. Jodi stated that the auditors' report expresses an unqualified opinion on the financial statements of the City. There were no reportable conditions disclosed during the audit of the financial statements and there were no instances of noncompliance.

Council member Smith made a motion to accept the General Audit as presented. Council member Lukassen seconded the motion. Voting YEA: Council members Kroesing, Schatz, Kirby, Lukassen, and Smith. Voting NAY: None. Council member Hein was absent. The motion carried.

Don Moravec presented the Keno Audit for fiscal year ended September 30, 2005. Don stated that the lottery operator and sponsor are in compliance with applicable provisions of the Nebraska County and City Lottery Act and with the terms and conditions of the Lottery Operator contract. During the performance of 19 agreed upon procedures, no findings were noted.

Council member Kroesing made a motion to accept the Keno Audit as presented. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kroesing made a motion to advance to agenda item #13 - consideration of the heating and air-conditioning bids received for the city auditorium. Council member Kirby seconded the motion. Voting YEA: Council emmbers Smith, Schatz, Lukassen, Kirby, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Park/Auditorium Supervisor Bill Buntgen presented the following bids received for replacing the heating and air-conditioning in the lower level of the City Auditorium:

*Osborn Sales and Service  
Doug Osborn, owner  
486 5<sup>th</sup> Street  
David City, NE*

*HVAC Proposal*

*Furnish and install:*

- 5 – 5 ton Lennox hi-efficiency heat pumps 13.00+ S.E.E.R.*
- 5 – 5 ton Lennox hi-efficiency blower coils*
- 5 – 10 KW backup heat strips*
- 5 – Digital heat pump thermostats*
- 5 – Line sets*

*Bid includes taking out old system, installing new systems with a new plenum, blowers installed lying down, with high head space. High performance registers, low voltage wiring and labor*

*HVAC bid.....\$17,950.00*

*Samek Electric bid to disconnect old heating system and rewiring new systems, with 3-phase breakers, labor and materials.....\$2,000.00*

*Dubas Refrigeration Inc.*

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*Jim Dubas  
4017 Howard Blvd.  
Columbus, NE 68601*

*5 each – Heil deluxe high efficiency heatpump systems 5 ton, 13 seer with 5 ton blowers, 10kw heat, digital heatpump thermostats. All high voltage wiring, and electrical supplies to install equipment to Nebraska electrical code. Hang units from ceiling with short insulated plentiums to direct air toward the center of room. Heil 13 seer heat pump Mo.#N2H360GHA Heil 5 town blower with 10 kw heat Mo.#FSM2X6000A*

*\$21,443.00*

*All high voltage wiring to be done by licensed electrician. Sales tax not included in price.*

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*Landmark Construction  
Lonnie L. Davis  
345 11<sup>th</sup> Street  
David City, NE*

*I propose to furnish all materials and perform all labor necessary to complete the following:*

- Install:*
- 5 – 13.00 SEER 5 ton heat pumps- 3 Phase 230V sound rating 82db OR below*
  - 5 – 5 ton horizontal blower units with 10KW back-up with filter, racks*
  - 5 – High Performance Registers*
  - 5 – Heat Pump Digital Thermostats*

*All of the work is to be completed in a substantial and workmanlike manner for the sum of \$24,675 Dollars (\$24,675).*

*Payment to be made each 30 days as the work progresses to the value of 10 percent (10%) of all work completed. The*



*entire amount of the contract is to be paid within 30 days after completion.*

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*Total Comfort Inc.  
Steve  
3617 Howard Blvd.  
Columbus, NE 68601*

*Note: This proposal is for 13 Seer Heat Pumps not 12 Seer being quoted by some others*

*The following is included:*

- i. 5 Ton 13 Seer Heat Pumps 230 Volt – 3 phase*
- (5) Steel louvered hail guards for security & longevity of outdoor units*
- (5) 5 Ton Horizontal Air Handling Units 230 Volt – 1 phase*
- (5) 15KW 3 phase heat strips 230 Volt – 3 phase (10KW not currently available in 3 phase)*
- (5) Heat/Cool Thermostats w/locking covers*
- (5) Return Air Grills*
- (5) Supply Air Grills*

*All necessary sheet metal work to attach Grills to Air Handling Units and direct conditioned air into the center of the auditorium, refrigeration piping, and control wiring.*

*Start up and check out of system*

***Not included:***      *Electrical hook-up labor or materials*  
*Finish carpentry, labor or materials for walls & ceiling restoration after removal of old units*

*\$22,042.00 sales tax not included*

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City Attorney Jim Egr stated that the bidding procedure was OK.

Council member Kirby made a motion to accept the bid as submitted by Doug Osborn d.b.a. Osborn Sales and Service in the amount of \$19,950.00 for replacing the heating and air-conditioning in the lower level of the city auditorium. Council member Smith seconded the motion. The council asked that Park/Auditorium Supervisor Buntgen give warranty information at the next Committee of the Whole meeting. Voting YEA: Council members Lukassen, Schatz, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried.

Mayor Smith opened the Public Hearing at 8:01 p.m. to consider the adoption of a One Year and Six Year Street Improvement Program.

Street Superintendent Jim McDonald stated that he preferred to stick with concrete rather than asphalt. Council member Schatz suggested bidding asphalt versus concrete and then the Council will decide. McDonald presented the following:

#### **Six – Year Plan**

1. 8<sup>th</sup> Street from D to E
2. 8<sup>th</sup> Street from J to K
3. 10<sup>th</sup> Street from E to Railroad Tracks
4. B Street from 7<sup>th</sup> to 8<sup>th</sup>  
1<sup>st</sup> Street from D to E  
L Street from 10<sup>th</sup> to 11<sup>th</sup>

M Street from 9<sup>th</sup> to 10<sup>th</sup>  
Nebraska Street from 4<sup>th</sup> to 5<sup>th</sup>  
M Street from 5<sup>th</sup> to 6<sup>th</sup>  
M Street from 8<sup>th</sup> to 9<sup>th</sup>  
Oak Street from C to D  
9<sup>th</sup> Street from E to Railroad  
I Street from 7<sup>th</sup> to 9<sup>th</sup>  
G Street from 7<sup>th</sup> to 8<sup>th</sup>  
L Street from 8<sup>th</sup> to 9<sup>th</sup>  
5<sup>th</sup> Street from Kansas to Park Drive  
L Street from 10<sup>th</sup> to 11<sup>th</sup>  
L Street from 11<sup>th</sup> 250' east  
D Street from 3<sup>rd</sup> to Railroad Tracks  
K Street from 7<sup>th</sup> to 8<sup>th</sup> Street  
M Street from 4<sup>th</sup> to 5<sup>th</sup> Street  
10<sup>th</sup> Street from J to K  
8<sup>th</sup> Street from G to H  
9<sup>th</sup> Street from G to H  
9<sup>th</sup> Street from B to C  
M Street from 6<sup>th</sup> to 7<sup>th</sup>  
I Street from 4<sup>th</sup> to 5<sup>th</sup>  
B Street from 6<sup>th</sup> to 7<sup>th</sup>  
H Street from 3<sup>rd</sup> to Railroad Tracks

D Street in front of Henningsen Foods, 325 No. 3<sup>rd</sup> Street, was discussed. This area is in bad shape as the brick street is sinking. Street Superintendent Jim McDonald stated that normally there is concrete beneath the brick, so perhaps the brick could be removed, and the ground/sand/gravel above the concrete be re-compacted and the brick replaced. McDonald didn't know if it would be more economical to replace the brick with concrete. McDonald stated that there is always a drainage issue along 4<sup>th</sup> Street in front of the U.S. Post Office, 411 N 4<sup>th</sup>, and perhaps the storm sewer should be updated in conjunction with this project. Jim McDonald was advised to discuss this matter with Olsson Associates.

There being no further discussion, Mayor Smith closed the Public Hearing at 8:21 p.m.

Council member Kroesing introduced Resolution No. 2 - 2006 and moved for its passage and adoption. Council member Lukassen seconded the motion. Voting YEA: Council members Kirby, Schatz, Smith, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried and Resolution No. 2 - 2006 was passed and adopted as follows:

**RESOLUTION NO. 2 – 2006**

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on February 8, 2006, 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 8<sup>th</sup> day of February, 2006.

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Mayor Stephen Smith

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City Clerk Joan E. Kovar

Mayor Smith declared a ten minute recess at 8:22 p.m. The meeting resumed at 8:32 p.m.

Water/Sewer Supervisor Jim Kruse presented bids received for painting updates at the water treatment plant and discussion followed.

Council member Kirby made a motion to accept the bid of Christianson Construction Company LLC in the amount of \$25,430 and \$5,300.00 for painting updates at the water treatment plant. Council member Schatz seconded the motion. Voting YEA: Council members Smith, Lukassen, Kroesing, Schatz, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried.

Christianson Company Co. LLC  
P.O. Box L  
Pender, NE 68047

Mongan Painting Co., Inc.  
Epoxy Coated Walls

1. Mask surfaces not to be coated, vent to hall door.
2. Sandblast walls to remove existing coating.
3. Remove sand to general contractor supplied dumpster.
4. Apply two (2) coats of ~~Sherwin-Williams~~ Tnemec epoxy at 4-5 mils per coat for a total of 8-10 mils

Bid: **\$9,328.00**

Filter Area

1. Mask areas to protect from dust and debris.
2. Mask surfaces not to be coated.
3. Vent dust to outside of building.
4. Sandblast from bottom of filter to ceiling, SSPC-7 brushblast to remove peeling and blistered paint.
5. Remove sand to general contractor supplied dumpster.
6. Apply two (2) coats of ~~Sherwin-Williams~~ Tnemec epoxy at 4-5 mils per coat for a total of 8-10 DFT.

Bid: **\$12,785.00**

Christiansen Construction: P & OH **\$ 3,317.00**

**\$25,430.00**

Add: **\$5,292.00** to patch entire wall surface

Council member Kroesing made a motion to accept the findings of the Board of Health that the Richard E. Cemper property located at 912 N. 10<sup>th</sup> Street, David City, NE, is in a state of disrepair and is in violation of City Code 4-401(8). Council member Kirby seconded the motion. Voting YEA: Council emmbers Schatz, Smith, Lukassen, Kirby, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Schatz made a motion to set a Public Hearing date for June 14, 2006 to consider the Richard E. Cemper property located at 912 N. 10<sup>th</sup> Street, David City, Nebraska, as Cemper will be out of the Department of Corrections by that date. Council member Kirby seconded the motion. Voting YEA: Council emmbers Kroesing, Smith, Lukassen, Kirby, and Schatz. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Schatz made a motion to accept the findings of the Board of Health that the Terry and Lori Colburn property located at 1255 N. 9<sup>th</sup> Street, David City, Nebraska, is a menace to the public health and safety as it is in violation of City Code 4-401(8). Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kroesing, Kirby, Smith, and Schatz. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Schatz made a motion to set a Public Hearing date for March 8, 2006 to consider the Terry and Lori Colburn property located at 1255 N 9<sup>th</sup> Street, David City, Nebraska. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Kirby, Lukassen, Smith, and Schatz. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kirby made a motion to accept the resignation of Christina Aldrich and Gary Kroesing from the Economic Development Reuse Committee. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, Kroesing, Lukassen, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Schatz made a motion to appoint Jack Eberly to serve on the Economic Development Reuse Committee. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Kirby, Kroesing, Schatz, and Lukassen. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kirby made a motion to appoint Gary Smith to serve as the Council representative on the Economic Development Reuse Committee. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Schatz, Smith, Kroesing, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kroesing introduced Resolution No. 3 - 2006 and moved for its passage and adoption. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried and Resolution No. 3 - 2006 was passed and adopted as follows:

**RESOLUTION NO. 3 - 2006**

WHEREAS, Dan and Jan Sypal, have sold Tract "A" to Henry and Janice Kobza, legally described as: a tract of land located in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the southeast corner of said SW $\frac{1}{4}$ , and assuming the south line of said SW $\frac{1}{4}$  to have a bearing of N 90°00'00" W; thence N 90°00'00"

W, 379.51 feet, on the south line of said SW $\frac{1}{4}$ ; thence N 3°49'16" E, 150.05 feet, to the point of beginning; thence N 89°57'00" W, 71.41 feet; thence N 0°18'02" W, 43.08 feet; thence S 89°57'00" E, 74.50 feet; thence S 3°49'16" W, 43.18 feet, to the point of beginning, containing 0.07 acres, more or less, and

WHEREAS, Dan and Jan Sypal have filed a request to combine two tracts of land as described below, to form one Lot

1. Parcel ID #120008141 legally described as David City Lot 1, containing approximately .80 Acres, Sypal's Subdivision to David City, and

2. A tract of land located in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the southeast corner of said SW $\frac{1}{4}$ , and assuming the south line of said SW $\frac{1}{4}$  to have a bearing of N 90°00'00" W; thence N 90°00'00" W, 379.51 feet, on the south line of said SW $\frac{1}{4}$ ; thence N 3°49'16" E, 33.07 feet, to the Point of Beginning; thence continuing N 3°49'16" E, 116.98 feet; thence N 89°57'00" W, 71.41 feet; thence S 0°18'02" E, 117.14 feet, to a point 33 feet north of the south line of said SW $\frac{1}{4}$ ; thence S 90°00'00" E, 62.96 feet, to the Point of Beginning, containing 0.18 acres, more or less.

WHEREAS, there were no objections expressed concerning combining the two parcels described above to form one lot.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Dan and Jan Sypal, to combine the two tracts of land listed above to form one lot, is hereby approved.

Dated this 8<sup>th</sup> day of February, 2006.

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Mayor Stephen Smith

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City Clerk Joan E. Kovar

Council member Lukassen introduced Resolution No. 4 - 2006 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Kroesing, and Lukassen. Voting NAY: None. Council member Hein was absent. The motion carried and Resolution No. 4 - 2006 was passed and adopted as follows:

**RESOLUTION NO. 4 - 2006**

WHEREAS, Henry and Janice Kobza, have filed a request to combine Lot One (1) in 1993 Replat of Lots 1 - 5, Block 3, Schmids Addition to David City, Nebraska, and a tract of land referred to as Tract @A@ legally described as a tract of land located in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the southeast corner of said SW $\frac{1}{4}$ , and assuming the south line of said SW $\frac{1}{4}$  to have a bearing of N 90°00'00" W; thence N 90°00'00" W, 379.51 feet, on the south line of said SW $\frac{1}{4}$ ; thence N 3°49'16" E, 150.05 feet, to the point of beginning; thence N 89°57'00" W, 71.41 feet; thence N 0°18'02" W,

43.08 feet; thence S 89°57'00" E, 74.50 feet; thence S 3°49'16" W, 43.18 feet, to the point of beginning, containing 0.07 acres, more or less, to form one lot.

WHEREAS, there were no objections expressed concerning combining Lot One and Tract "A" described above to form one lot

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Henry and Janice Kobza, to combine to combine Lot One (1) in 1993 Replat of Lots 1 - 5, Block 3, Schmids Addition to David City, Nebraska, and a tract of land referred to as Tract @A@ legally described as a tract of land located in the SE¼ of the SW¼ of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the southeast corner of said SW¼, and assuming the south line of said SW¼ to have a bearing of N 90°00'00" W; thence N 90°00'00" W, 379.51 feet, on the south line of said SW¼; thence N 3°49'16" E, 150.05 feet, to the point of beginning; thence N 89°57'00" W, 71.41 feet; thence N 0°18'02" W, 43.08 feet; thence S 89°57'00" E, 74.50 feet; thence S 3°49'16" W, 43.18 feet, to the point of beginning, containing 0.07 acres, more or less, to form one lot, is hereby approved.

Dated this 8<sup>th</sup> day of February, 2006.

\_\_\_\_\_  
Mayor Stephen Smith

\_\_\_\_\_  
City Clerk Joan E. Kovar

Council member Kirby made a motion to accept the resignation of Roger Kotil as the zoning administrator. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Lukassen, Kroesing, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried.

An ordinance granted additional pay to the city clerk during the absence of a city administrator was discussed. Council member Schatz expressed concerns about the ordinance because the ordinance stated it was to establish the merger of duties of the office of city administrator with that of the city clerk, and the fact that it did not list an expiration date. City Attorney Egr stated that he drafted the ordinance and had not listed an expiration date as that is unknown at this time. Discussion followed. Schatz stated that the city clerk is paid hourly and she gets compensated for overtime hours. No motion was made to consider the ordinance.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO ESTABLISH THE MERGER OF DUTIES OF THE OFFICE OF CITY ADMINISTRATOR WITH THAT OF THE CITY CLERK, TO PROVIDE ADDITIONAL PAY FOR THE CITY CLERK DURING THE MERGER OF CITY ADMINISTRATOR WITH THE CITY CLERK; PROVIDE AN EFFECTIVE DATE; AND 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. As the City of David City, Nebraska is currently void of a City Administrator, the Mayor and City Council do hereby merge the duties of the City Administrator with those of the City Clerk.

SECTION 2. The Mayor and City Council do hereby establish and fix the additional pay for the City Clerk with the merged City Administrator duties to be \$750.00 extra per month over and above the City Clerk's established salary commencing \_\_\_\_\_, 2006.

SECTION 3. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provision, is hereby repealed.

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect beginning on \_\_\_\_\_.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

FAILED FOR LACK OF MOTION

Mayor Stephen Smith

FAILED FOR LACK OF MOTION

City Clerk Joan E. Kovar

Council member Kroesing made a motion to appoint Judy Vanis to fill the unexpired term of Doug Behrns to May, 2006 and then to serve a full 5 year term June 2006 – May 2011, on the Housing Authority Board of Commissioners. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kirby, Lukassen, Smith, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried and Mayor Smith declared the meeting adjourned at 9:43 p.m..

\_\_\_\_\_  
Mayor Stephen Smith

\_\_\_\_\_  
City Clerk Joan E. Kovar

