

CITY COUNCIL PROCEEDING

February 12, 2003

The Mayor and 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 6, 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 notices 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 Mark Kirby, Gary Kroesing, Gary Smith, Ted Lukassen, Bill Schatz, and Nick Hein, Attorney Jim Birkel, Street Foreman Rodney Rech, Electric Supervisor Tim Kovar, Park/Auditorium Supervisor Bill Buntgen, Police Chief Stephen Sunday, and City Clerk-Treasurer Joan E. Kovar. Also present were Russ Hilger, Max Birkel, and Banner Press Editor Larry Peirce.

The minutes of the January 8th and January 28, 2003 meetings of the Mayor and City Council were approved upon a motion by Council member Kroesing and seconded by Council member Lukassen. All of the Council members were present, all voted YEA and the motion carried.

Stephen Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions.

Russ Hilger reported that Mayor Dennis Baumert of Scribner, Nebraska stated that the City of Scribner increased their drug fines to a \$500 minimum and that took care of the drug problems in Scribner. Currently the David City code states that "any person deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. Russ asked if this could be increased to a \$500.00 minimum. Attorney Jim Birkel stated he commends Russ, and all people who try to solve the drug problem, but didn't know that this would work. Any amount of Cocaine, meth, is considered a felony and is prosecuted under State Statutes. The city could create an ordinance for less than an ounce of marijuana, or other very minor offense, in which the ordinance may work. However, the city needs to realize that if the offense is in violation of a city ordinance, the City would have the expense of prosecuting. Mayor Smith will call and discuss this further with Mayor Baumert.

Mrs. Saalfeld, who owns Paradise Floral, rented the Chamber of Commerce sign and placed it on the north west corner of 4th and "A" Streets advertising her business located at 3481 M Rd. Several complaints were received concerning the sign, including Keith Moore, owner of Moore's Garden Center. City code Section 628 -Signs- states "a permit for any signs along a Federal-Aid Primary Highway or other location which is subject to the sign control rules and regulations of the Nebraska Department of Roads shall not be issued until:

A. Such sign is in compliance with all requirements of this Ordinance. In the event the requirements of this Ordinance are more restrictive than the requirements of the Nebraska Department of Roads the same shall apply.

B. A written Permit of said sign is granted by the Nebraska Department of Roads.

When Police Chief Sunday contacted Mrs. Saalfeld she stated that she had acquired a verbal approval from Bob Schmidt of the Department of Roads. Mrs. Saalfeld rented the sign for four days to advertise flowers, etc., available for Valentine's Day. The sign was temporarily moved further back onto private property owned by Don and Sandy Hilger, 386 A Street. It was noted

that the sign sits on highway right-of-way in a Residential District when the Butler County Fair is advertised. After much discussion, the Council instructed Police Chief Sunday to give Mrs. Saalfeld 48 hours in which to remove the sign.

Mayor Smith asked for consideration of claims. Council member Lukassen made a motion to authorize the payment of claims. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

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

Police Chief Stephen Sunday reported that the police department has been contacting individuals concerning unlicensed vehicles and asking for their compliance. Sunday stated that the people are not listening and citations could be issued. Sunday asked for the Council's input. The Council advised Police Chief Sunday that if individuals have been contacted and the individuals have chosen to ignore the warning, issue citations.

Police Chief Sunday also reported that the new replacement windows are scheduled to be installed at the police station on Monday at 1:00 p.m. by Lance Napier of Superior Glass.

Police Chief Sunday reported that a February 4 informational meeting was held at Aquinas High School concerning drugs. Sheriff Mark Hecker told the audience that he would welcome any public effort to help acquire a "drug" dog for his force. The police department and sheriff's department have discussed joining forces to share the cost for housing a specially trained dog. A committee is forming to acquire the estimated \$10,000 to purchase and train a "drug" dog. The yearly upkeep is estimated at \$3,000 for veterinary services, training, etc., which the City and County could split. The city cost would thus be \$1,500. Council member Schatz expressed concerns regarding liability issues, 5th amendment issues, and cases of the dogs being inappropriately used. This will be discussed further at a later date.

Power Plant Supervisor John Kabourek stated that, following his heart surgery, he has returned to full-time employment as of February 3, 2003.

Park/Auditorium Supervisor Bill Buntgen reported that some families have commented that they would like to purchase benches for the park. The Council stated that would benefit the park, but instructed Buntgen to select a particular bench that families could purchase so the benches are uniform.

City Clerk Kovar reported that Jean Hansen worked in the City Office from January 27 thru February 11, and was a great help during Barb Hiatt's absence. The Keno and General audits were distributed and Kovar advised the Council that the auditors are scheduled to attend the March 12th council meeting to report on the audits. The audit adjustments were posted, the budget figures entered, and a current financial report was prepared for the Council. Kovar advised the Council that U.S. Bank currently requires the City to maintain a \$200,000 balance to avoid bank charges. The Council advised Kovar to compare bank charges with all of the banks. Kovar asked the Council for an extension on her vacation as she has 81 hours of vacation that was to be used by February 3. The Council granted an extension.

Council member Kirby made reference to Library Director Kay Schmid's report that stated: "Lara Yound will be recognized for her volunteer help at the Library on Thursday, February 13 at Library Legislative Day at the State Capitol in Lincoln. Lara is a sophomore at David City High School, and has been volunteering with children's programming for the past four years. A note from the Council in appreciation of her efforts would be very appropriate." Mayor Smith will send

a notice of appreciation to Lara Yound.

Council member Kirby also made reference to Street Superintendent Jim McDonald's report that stated: Drainage Ditch: cleaned out trees north of city shop. Council member Kirby asked Street Foreman Rodney Rech if the street department also checked the storm sewer drainage by the Nebraska Central Railroad west of 3rd Street. Rech said that he would check on that and make sure it is cleaned out.

Mayor Smith reported on the following:

1. At the last council meeting a Committee of the Whole meeting was scheduled for Monday, February 24, 2003, at 5:30 p.m. in the City Office. Comments on the Wellhead Protection Plan and ordinance will be taken for consideration.
2. A Planning Commission meeting is scheduled for Saturday, February 22, at 9:00 a.m. to consider the preliminary plat of Kozi 2nd Addition;
3. The Butler County Jail and Courthouse renovation and addition plans were received and reviewed by Mayor Smith, Council members Ted Lukassen and Bill Schatz, and Sheriff Mark Hecker;
4. The Search Committee met on Monday, February 10th and decided to re-advertise the city administrator's position. An ad was to be placed in the Lincoln Journal Star and The Omaha World Herald for four days each - Thursday thru Sunday. The cost for the four day ad for the Omaha World Herald was quoted at \$931.07. Following discussion the council decided not to place the ad in the Omaha World Herald due to the cost.

Council member Kroesing made a motion to accept the Committee and Officers' Reports as presented. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby made a motion to pay Eric Betzen \$300 per month for the time period when he was assuming additional duties during the absence of Power Plant Supervisor John Kabourek. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith reported that he discussed the City co-signing a 30 year loan for the David City Ball Association with City Attorney Jim Egr. Egr would like to consider alternative suggestions. Therefore, Council member Kroesing made a motion to table consideration of the City co-signing a loan for the David City Ball Association. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

At 8:10 p.m., Mayor Smith declared the Public Hearing open to consider the adoption of a one-year and six-year street improvement program. Street Superintendent Jim McDonald was absent so Street Foreman Rodney Rech presented the proposed projects for 2003 and the proposed six year plan 2003-2009 and illustrated the streets on a color coded map.

Priority #	Project #	Length Feet	Est. Cost	Location	
	M-238-84	550 feet	\$14,000	Est RR to 1 st St.	*
	M-238-76	400 feet	\$13,000	10 th "D" to "E" St.	*
	M-238-74	450 feet	\$13,700	8 th St. "H" to "I" St.	*

* already paid for in 2002 - to be done in 2003

Summary of One-Year Street Plan

1.	2003	\$30,000	"C" Street	Oak to Co. Rd. M
2.	2003	\$12,500	H Street	5 th to 6 th Street
3.	2003	\$14,000	12 th St.	"B" to "C" Street

Summary of Six-Year Street Plan

Priority No.	Project #	length	unit measure	Est. Cost	Location	
	M-238 69	750 feet	30,000	G St.	7 th to 11 th St.	no curb/gutter
	M-238 61	800 feet	30,000	C St.	Oak to Co. Rd M	no curb/gutter
	M-238 62	300 feet	14,000	E St.	1 st to Oak St.	no curb/gutter
	M-238 63	300 feet	15,000	8 th St.	NE to Iowa	no curb/gutter
	M-238 64	1600 feet	50,000	Trailer Park		no curb/gutter
	M-238 65	1400 feet	51,000	11 th St.	R.R. to Co. Rd.	no curb/gutter
	M-238 66	750 feet	27,000	Ohio St.	5 th to 7 th St.	no curb/gutter
	M-238 67	1850 feet	65,000	Ind. Rd.	"O" to "S" St.	no curb/gutter
	M-238 70	650 feet	25,000	Oak St.	C to D St.	no curb/gutter
	M-238 71	300 feet	14,000	1 st St.	D to E St.	no curb/gutter
	M-238 73	400 feet	13,000	5 th St.	G St. to R.R.	curb/gutter/brk
	M-238 78	1800 feet	50,000	D St.	3 rd to Co. Rd. M	curb/gutter/brk
	M-238-88	400 feet	15,000	9 th St.	E St. to R.R.	curb/gutter
	M-238-89	250 feet	10,000	9 th St.	R.R. to G St.	curb/gutter
	M-238-90	450 feet	17,000	9 th St.	J to K St.	curb/gutter
	M-238-91	400 feet	16,000	8 th St.	I to J St.	curb/gutter
	M-238-92	350 feet	14,000	8 th St.	E to D St.	curb/gutter
	M-238-93	1000 feet	27,000	3 rd St.	A to Iowa	no curb/gutter
	M-238-94			11 th St.	RR to H St.	
	M-238-95				Kozisek Add.	

Council member Schatz suggested prioritizing the street improvement list as usual, but then if it is a street without curb and gutter, circulate a petition for curb and gutter. If the property owners do not want curb and gutter, skip that street and proceed to the next street on the priority list. Normally streets with curb and gutter last longer than streets without curb and gutter. Council member Kroesing stated that sounded like blackmail. Council member Kirby stated that he would like to see petitions circulated and paving districts formed but that he would never force people to put in curb and gutter. Council member Hein stated that all citizens are entitled to a street. Kirby stated that Street Supervisor Jim McDonald prioritized the streets by need, and that is fine. Mayor Smith declared the Public Hearing closed at 8:28 p.m..

Council member Hein introduced Resolution No. 1 - 2003 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Kirby, Hein, Kroesing, and Smith. Voting NAY: Schatz. The motion carried and Resolution No. 1 - 2003 was passed and adopted as follows:

RESOLUTION NO. 1 - 2003

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on February 12, 2003, 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 12th day of February, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein made a motion to accept the recommendation of the Board of Health that the Colburn property located at 1255 N 9th Street is in disrepair and non-compliance of City code. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to appoint Virgil Vrbka to complete the term of Bob Michael on the David City Housing Authority. The term runs until May 2005. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith declared a ten minute recess at 8:32 p.m. The meeting resumed at 8:42 p.m..

Council member Smith made a motion to advance to agenda item #14 - Consideration of going into executive session. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to go into executive session to discuss personnel matters concerning the police department and swimming pool. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council, Mayor Smith, Attorney Birkel, Police Chief Sunday, and City Clerk Joan Kovar went into executive session at 8:49 p.m.. Police Chief Sunday was excused at 9:00 p.m..

Council member Schatz made a motion to come out of executive session. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Mayor and Council came out of executive session at 9:12 p.m..

Ordinance no. 926 was discussed. The Council members had several questions and

concerns dealing with the General Plan as follows:

Article 10 - Section 1004: Application for Building Permit: All applications for Building Permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon.

Article 10 - Section 1005: No non-conforming structure or use shall be maintained, changed or extended until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator;

The wording states "building permit" instead of zoning permit, plans are required in triplicate which is not simplifying the process, and no-one is sure what a Certificate of Zoning Compliance is. Council member Schatz stated that if the council wants to amend the General Plan, they can. However, now, we are not talking about the General Plan but simply the ordinance to amend provisions relating to building/zoning regulations.

Council member Schatz made a motion to pass Ordinance No. 926 on the third and final reading. Council member Smith seconded the motion. All of the Council members were present and all voted YEA. The motion carried and Ordinance No. 926 was passed and adopted as follows:

ORDINANCE NO. 926

AN ORDINANCE TO AMEND PROVISIONS RELATING TO BUILDING/ZONING REGULATIONS, TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

SECTION 1: That Chapter 9, Article 1, Sections 9-101 thru 9-104 inclusive; Chapter 9, Article 2, Section 9-201, 9-202, 9-205 and Chapter 9, Article 6, Section 9-605 thru 9-608 inclusive of the Municipal Code of David City, Nebraska be repealed and be amended to read as follows:

Chapter 9 **BUILDING REGULATIONS**

Article 1. Process

§9-101 ZONING PERMIT APPLICATION: Property owners desiring to do any of the following:

- New home construction
- Foundation laying (for new construction or moving a house)
- New additions
- Rebuilding
- Porches, Decks, Storage Sheds, etc.
- Commercial construction
- Sidewalks, Driveways
- Fences
- Signs
- Satellite dish
- All else falling under Zoning Regulations

are required to complete a zoning permit application.

§9-102 PERMIT APPROVAL: The Zoning Permit Application must be approved by the Zoning Administrator.

Article 2. Zoning Permit

§9-201 ZONING PERMIT: LIMITATION. If the work described in any Zoning Permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator; and written notice thereof shall be given to the person affected.

If the work described in any Zoning Permit has not been substantially completed within two (2) years of the issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator, and written notice thereof shall be given to the person affected, together with notice that further work as described in the cancelled permit shall not proceed unless, and until a new Zoning Permit application has been obtained.

§9-202 PERMIT: Any person desiring to commence or proceed to erect, construct, repair, enlarge, any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a Zoning Permit. The Application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such Application shall set forth the legal description of the land upon which the construction is to take place, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, and contractor and such other information as may be requested thereon. The Application, plans, and specifications so filed with the Municipal Clerk shall be checked by the Zoning Administrator and if they are found to be in conformity with the zoning requirements and all other ordinances applicable thereto, the Zoning Administrator shall authorize the Municipal Clerk to issue the said applicant a permit upon the payment of the permit fee set by resolution of the Governing Body.

SECTION 2. That existing Chapter 9, Article 1, Sections 9-101 thru 9-104 inclusive and Chapter 9, Article 2, Sections 9-201 and 9-202 are hereby repealed.

SECTION 3. Chapter 9, Article 2, Section 9-205 shall be amended to have all reference to "Building Inspector" deleted and substituted therefore the terminology "Zoning Administrator".

SECTION 4. Chapter 9, Article 6, Sections 9-605 thru 9-607 inclusive shall be amended to have all references to "Chief Building Inspector" deleted and substituted therefore the terminology "Zoning Administrator".

SECTION 5. Chapter 9, Article 6, Section 9-605 shall have deleted the reference to "he" and have substituted therefore the terminology "he or she".

SECTION 6. Chapter 9, Article 6, Section 9-608 shall have the words "Building Permits" deleted and have substituted therefore the terminology "Zoning Permits".

SECTION 7. That 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, is hereby repealed.

SECTION 8. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this ____ day of _____, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Smith made a motion to authorize Mayor Smith to advertise for swimming pool personnel. Mayor Smith will run the ads, checking the prices to advertise in The Banner Press and The Columbus Telegram. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Mayor Smith and Council members Smith, Kroesing, and Lukassen will serve on a swimming pool committee.

There being no further business to come before the Council, Council member Kroesing 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 10:03 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
February 12, 2003

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of February 12, 2003; 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