

CITY COUNCIL PROCEEDINGS

March 14, 2007

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 March 8th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council members Gary Smith, Rick Holland, Bill Schatz, Bill Scribner, Nick Hein, and Ted Lukassen, City Administrator Joe Johnson, City Attorney Jim Egr, Electric Supervisor Tim Kovar, Water/Sewer Supervisor Jim Kruse, Police Chief Stephen Sunday, Park/Auditorium Supervisor Bill Buntgen, Jodi Prochaska of Scow, Rief, Kruse, & Schumacher, P.C., Mike Behrns, Don Naiberk, Jim & Jo Witter, Louise Niemann of the B.C. Extension Office, Greg Sabata, Steve Barlean, Jack Klosterman, Bob Hilger, Jim Heins, Bea Alexander, Ed Foral, Willow Holoubek, Banner-Press Editor Larry Peirce, and City Clerk-Treasurer Joan Kovar.

The meeting opened with the Pledge of Allegiance.

Mayor Trowbridge informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the February 14th, 2007 meeting of the Mayor and City Council were approved upon a motion by Council member Smith and seconded by Council member Holland. Voting AYE: Council members Schatz, Scribner, Lukassen, Hein, Holland, and Smith. Voting NAY: None. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets. There were none.

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

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

It was noted that in Library Director Kay Schmid's report it stated "*received a letter from the Nebraska Library Commission stating that due to the Library's standing of "Excellent Accreditation", the Library would be awarded \$800.00 in the form of additional state aid.*" A council member stated that Kay would like to add this to her budget for the purchase of wireless internet capability in the Library. The council decided to wait and see if she exceeds her budget and if it is actually necessary to amend the budget.

Park/Auditorium Supervisor Bill Buntgen reported that complaints have been received concerning the condition of the Auditorium parking lots. The park personnel dragged the parking lots. It was noted that the condition of the parking lots will improve as they dry out. Buntgen also reported that the park lake will be drained when the handicapped fishing pier project commences.

A letter was received from Deb Dinkelman, Tennis Court Committee Member, which stated there are major cracks and holes in the surface, and areas where the surface of the tennis court is deteriorating away. The Tennis Court Committee asked if they had any legal grounds to pursue this with the engineer who should have overseen the project. City Attorney Egr stated that the statutes of limitation has past. Communication will be drafted to the Tennis Court Committee to see if they consider the tennis court to be hazardous.

Mayor Trowbridge scheduled a Committee of the Whole Meeting for Monday, March 26, 2007, at 6:00 p.m. in the meeting room of the City Office, 557 4th Street, David City, Nebraska.

Jodi Prochaska, of Scow, Rief, Kruse, & Schumacher, P.C., presented the City's Financial Statements for the year ended September 30, 2006. Council member Hein made a motion to accept the City's Financial Statements as presented. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Schatz, Lukassen, Holland, Smith, and Hein. Voting NAY: None. The motion carried.

Louise Niemann, Butler County Extension Office, reported that in the past the city has joined forces with the extension office to organize a household hazardous waste collection. The last time, City Administrator Andrew Brannen and Street Superintendent Jim McDonald helped and the City paid ½ of the grant writer's expense on the scrap tire collection. This year \$200.00 was budgeted for the grant writer of the Household Hazardous Waste Grant. Household hazardous waste includes paint, fluorescent light bulbs, etc. Interested parties suggested that Electronic Waste also be included, which includes used computers, televisions, microwaves, etc. Louise had visited with City Administrator Joe Johnson and Street Superintendent Jim McDonald who stated the city and county could once again work together. When the bill for the grant writer was received the bill was \$400 since electronic waste was added and the need to acquire additional information. Louise asked if the City would like to partner with the county to help pay for the grant writers expense. Louise requested the City contribute \$100 towards the grant writer's expense. Council member Schatz stated that he felt the \$100 should come from the recycling funds. City Clerk Kovar explained that the recycling funds do not go through the city but are in a separate Butler County Recycling Account that Street Superintendent McDonald manages. City Administrator Joe Johnson stated that he and City Clerk Kovar could watch their budget closely and the \$100 could be taken out of their budget.

Council member Schatz made a motion to ask Street Superintendent Jim McDonald to pay \$100 out of the Butler County Recycling Funds towards the grant writers expense as requested by Louise Niemann of the Butler County Extension Office, and if he refuses, to pay the \$100 out of the General Fund. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Smith, Hein, Lukassen, Holland, and Schatz. Voting NAY: None. The motion carried. *[Note: On Friday, March 16th, City Clerk Kovar asked Street Supt. Jim McDonald and he said "Yes", he will pay this out of the Recycling Funds.]*

Margaret Kitt, 1321 35½ Rd., stated concerns regarding the City hauling snow from town and dumping it on the ballfields located on "H" Street, west of the Burlington/Santa Fe Railroad. Margaret lives south of "H" street, across from the ballfields. She stated that all of the water from Silver Heights and north Highway 15 flows west and south towards her house, and then the water continues to flow to the south. Margaret stated that she has seen water standing in the ditches before, and questioned what is going to happen when all the snow, that has been brought to that location, melts. Margaret said the ballfields is not an appropriate location; when the snow melts it should not be in a location where it will drain into a residential district. Margaret stated that it is OK now, but what if we receive a lot more snow next year; she doesn't want the City to haul all of the snow to the ball fields. Margaret suggested hauling the snow to an alternate spot – perhaps the Airport or the old city landfill north of town - rather than to the ballfields. Mayor Trowbridge stated the city will give consideration as to where the snow will be dumped in the future, and suggested that Margaret talk to the County about cleaning out the ditches and culverts in her surrounding area.

Council member Schatz made a motion to pass Ordinance No. 1041 on the second reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Holland, Hein, Scribner, Smith, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1041 was passed on second reading only as follows:

ORDINANCE NO. 1041

AN ORDINANCE OF THE CITY OF DAVID CITY TO CREATE AN AIRPORT ADVISORY BOARD TO MAKE RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL MEMBERS CONCERNING OPERATION OF THE DAVID CITY MUNICIPAL AIRPORT; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

WHEREAS, the David City Municipal Airport is presently being operated/managed by the Airport Manager, with very limited oversight, and;

WHEREAS, the Mayor and City Council desires to create a board to advise the City on Airport related activities, THEREFORE:

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AS FOLLOWS:

SECTION 1. There is hereby established an Airport Advisory Board, hereinafter ("Board") for the City of David City, Nebraska whose members shall be appointed by the Mayor with the advice and consent of the City Council

SECTION 2. The purpose of the Board shall be to advise the City on Airport related activities.

SECTION 3. Membership of this Board shall be comprised of five (5) members. The required five (5) members shall consist of two (2) pilots, one (1) City Council Member, one (1) Planning Commission Member and the Airport Manager. Members of the Board shall be appointed to serve a three (3) year term.

SECTION 4. All five (5) members shall serve without pay.

SECTION 5. Any vacancies on said Board shall be filled by the Mayor's appointment with the advice and consent of the City Council.

SECTION 6. The Airport Manager shall call the meetings for the Board on a regular basis, not less than one (1) every two (2) months on a schedule to be established and published by the Airport Manager as required by Nebraska Open Meetings Act. The Airport Manager shall set the agenda for Board meetings. The Airport Manager may call a special meeting of the Board whenever, in his opinion, the business of the Board may require it. Notice of special meetings shall be made in conformance with the Nebraska Open Meetings Act.

SECTION 7. A majority of the members of the Board shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance shall be named and shall adjourn to a later time.

SECTION 8. All meetings of the Board shall be open to the public.

SECTION 9. Minutes of all regular and special meetings shall be recorded by the Airport Manager and maintained in the office of the City Clerk. The minutes shall reflect the date, time and place of the meetings; members recorded as either present or absent; a general description of all matters proposed, discussed or decided; and a record of any votes taken. Minutes of all meetings shall be taken. Approval of minutes shall be considered at the next regular meeting of the Board. Copies of approved minutes shall be provided to the City Council, Mayor and the City Administrator.

SECTION 10. The Board shall function in an advisory capacity only and shall have no authority to adopt, amend, modify, alter or rescind any rule, regulation or ordinance for the management, governance or use of the David City Municipal Airport. The Board shall make recommendations regarding aeronautical operations and maintenance, involving technical aviation and safety matters, to the Airport Manager.

SECTION 11. The Board shall have no financial and budgetary authority. The Board shall prepare an annual budget for submission to the City Council.

SECTION 12. Duties of the Board shall include, but not limited to, the following:

The Board shall study the actual operation of the airport with the view of improving existing standards, or establishing new standards, and the possibility of incorporating the new standards in this Airport Advisory Board ordinance. It shall study existing and future leases or drafts of leases entered into between the City and private parties regarding the operation of the airport or portions thereof or any facilities thereon. It shall study the relationship of the airport manager to the City and its citizens with the view towards the maximum protection of the public health, welfare, and safety as well as the establishment of a line of communication and the maintenance of good public relations; and

The Board shall study economic feasibility of various land uses of adjacent property and, in particular, the use of said land for industrial, recreational, or airport expansion.

The Board shall attempt to find informal resolution of grievances with a view related to operations and maintenance and, if necessary, make recommendations to the City Council for the resolution of grievance.

SECTION 13. That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 14. This ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 14th day of March, 2007.

Passed on 2nd Reading 3/14/07

Mayor Dana Trowbridge

Passed on 2nd Rdg. 3/14/07

City Clerk Joan E. Kovar

Mayor Trowbridge declared the Public Hearing open at 7:44 p.m. to consider amending the General Plan - High Density Residential District - Section 411.4: Special Exceptions, by adding "Clinic(s)". On March 9, 2007, the Planning Commission voted to approve Clinic(s) as an addition to #6 to read Hospitals; Clinic(s).

City Administrator Joe Johnson stated that he recommended adding "clinic(s)" to High Density Residential, but adding it as a separate item #11 rather than combining it with #6 – Hospitals.

It was noted that when Jim & Jo Witter actually apply for a clinic as a special exception, if the request is allowed, the Planning Commission may elect to state that the clinic will not include "an apothecary".

Butler County Health Care Center CEO, Don Naiberk, stated that the County has approved leasing the property to Jim & Jo Witter and a drainage study is currently being conducted by Johnson, Erickson, O'Brien Engineering (JEO). Council member Bill Schatz stated that the city had questioned the feasibility of extending Iowa Street between 10th & 11th Street. Don Naiberk stated that the County had verbally agreed to that. The proposed clinic would be located south of the proposed road extension.

There being no further comments, Mayor Trowbridge declared the Public Hearing closed at 7:54 p.m.

Council member Schatz introduced Ordinance No. 1042. Council member Hein made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Holland, Scribner, Schatz, Smith, and Hein. Voting NAY: None. The motion carried.

Council member Scribner made a motion to pass and adopt Ordinance No. 1042 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Holland, Smith, and Scribner. Voting NAY: None. The motion carried.

Council member Schatz made a motion to amend the motion of Council member Scribner by adding "Clinic(s)" as a separate item #11, rather than adding it to #6. Hospitals. Council member Scribner seconded the motion. Voting AYE: Council members Smtih, Hein, Lukassen, Holland, Scribner, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1042 was passed and adopted as follows:

ORDINANCE NO. 1042

AN ORDINANCE AMENDING THE GENERAL PLAN - HIGH DENSITY RESIDENTIAL DISTRICT BY ADDING "CLINIC(S) TO SECTION 411.4, SPECIAL EXCEPTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Section 411.4 SPECIAL EXCEPTIONS in the High Density Residential District of the David City General Plan be amended to read as follows:

411.4 SPECIAL EXCEPTIONS: (See Article 9 – Section 901)

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 conditional uses as exceptions in the (HDR) Higher Density Residential District:

1. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools; junior high schools; high schools and colleges; churches; nursery schools; private non-profit schools and colleges; parsonages, and other religious institutions; public parks; and public playgrounds.
2. Public and private charitable institutions.
3. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities.
4. Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks.
5. Convalescent, nursing and rest homes.
6. Hospitals;
7. Boarding houses.

8. Funeral Homes or Mortuaries. (Ordinance No. 657 - 7/23/86)
9. Garden Centers / Greenhouses (Ordinance No. 900 - 1/10/01)
10. Townhouse Dwellings (Ordinance #937 - 9/10/03)
 - a. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure
 - b. Each unit shall be serviced by separate utilities
 - c. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit
 - d. No more than six units shall be connected in this district
11. **Clinic(s)**

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 and city ordinance.

Passed and approved this 14th day of March, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

A concerned citizen made the City aware of the fact that in November, 2006, Mark Holoubek submitted an application to the Department of Environmental Quality for a 2,400 head swine finishing livestock operation named Bacon Ridge Estates Livestock Operation. Contained within this application was a Land Application Agreement form for property located at SW¼, NW¼, Section 24, Township 15N, Range 2E, Butler County, 160 acres, that stated: "the Landowner does hereby agree to make the above land available for the application of manure from the above referenced livestock facility for a period of 10 years." The previously-mentioned property is abutting the city limits of David City to the west and is within the City's ETJ (extra-territorial jurisdiction). It was suggested that the Council consider adding language to the City's Municipal Code Book and the Wellhead Protection Ordinance to prohibit "livestock waste application" to land within the City's Extra Territorial Jurisdiction.

Council member Lukassen introduced an Ordinance amending the General Plan Article 4. Nuisances: §4-401 by adding #13. *Any Livestock waste (treated or untreated) that discharges or emits any odor, pollutants, pathogens or is conducive to vectors into any air, water, or land, which reduces by means of a non-trespassor invasion, another's rights and interests in the private use and enjoyment of such air, water, or land.* Much discussion followed.

Several farmers were in attendance including Jack Klosterman, Jim Heins, Greg Sabata, Steve Barlean, and Bob Hilger. Jack Klosterman stated that the State is getting less livestock and less agriculture friendly and asked the Council if they wanted to be considered livestock, farmer, or agriculture friendly or not. Council member Schatz stated that it is the City's intent to protect our interests. This would be complaint driven. It is the obligation of City government to protect citizens and their lifestyle. Klosterman stated that using manure saves costs, and he gave his personal guarantee that they do the best job they can to keep odors down. Klosterman stated that the City can get complaints regarding the sewer lagoon also. Greg Sabata stated that he buys manure from Klosterman's. They stated that the City should not prohibit all manure procedures and questioned how the council would decide if it is offensive. It was noted that more information is needed concerning manure. If it is composted (dried out) there is not much odor. Even liquid manure, if applied properly, does not have an odor. It is important that everyone be informed and educated concerning the use of manure and proper manure procedures. There are several procedures to consider; is it liquid or compost; is the liquid manure spread or is it knifed in; if it is knifed in it should not be a nuisance. Jim Heins stated that a meeting is scheduled at the Knights of Columbus Hall on March 26, 2007, in which an instructor, Rick Koelsh, from the University of Nebraska Lincoln will be talking about fertilizer, manure, etc., and it should be a very informative meeting. Mayor Trowbridge stated that the City is trying to be pro-active. The communication between the city and rural citizens is appreciated and Mayor Trowbridge agreed that it is a good idea to receive additional information and education from a UNL educator.

Council member Hein made a motion to table consideration of an ordinance amending the General Plan Article 4. Nuisances: §4-401 by adding #13. *Any Livestock waste (treated or untreated) that discharges or emits any odor, pollutants, pathogens or is conducive to vectors into any air, water, or land, which reduces by means of a non-trespassor invasion, another's rights and interests in the private use and enjoyment of such air, water, or land.* Council member Holland seconded the motion. Voting YEA: Council members Schatz, Lukassen, Smith, Scribner, Holland, and Hein. Voting NAY: None. The motion carried.

ORDINANCE NO. _

AN ORDINANCE AMENDING CHAPTER 4, OF THE DAVID CITY MUNICIPAL CODE BOOK, ENTITLED: HEALTH & SANITATION: ARTICLE 4. NUISANCES, BY AMENDING #13 TO READ: ANY LIVESTOCK WASTE (TREATED OR UNTREATED) THAT DISCHARGES OR EMITS ANY ODOR, POLLUTANTS, PATHOGENS, OR IS CONDUCTIVE TO VECTORS INTO ANY AIR, WATER, OR LAND WHICH REDUCES, BY MEANS OF A NON-TRESPASSORY INVASION, ANOTHER'S RIGHTS AND INTERESTS IN THE PRIVATE USE AND ENJOYMENT OF SUCH AIR, WATER, OR LAND; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the following Section of Chapter 4 of the David City Municipal Code Book be amended to read as follows:

Article 4. Nuisances

§4-401 **NUISANCE; SPECIFICALLY DEFINED.** The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

1. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.
2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
3. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.
4. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality.
5. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; Provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the Municipality, nor the dumping of non-putrefying waste in a place and manner approved by the health officer.
6. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.
7. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.
8. Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.
9. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.
10. Stagnant water permitted or maintained on any lot or piece of ground.
11. All articles, including tires that may retain water and aide in mosquito breeding, which could prove to be a hazard for the West Nile Virus.
12. Stock yards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined, or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate there from, to the annoyance of inhabitants of the Municipality, or are maintained and kept in such a manner as to be injurious to the public health.
13. **ANY LIVESTOCK WASTE (TREATED OR UNTREATED) THAT DISCHARGES OR EMITS ANY ODOR, POLLUTANTS, PATHOGENS, OR IS CONDUCIVE TO VECTORS INTO ANY AIR, WATER, OR LAND WHICH REDUCES, BY MEANS OF A NON-TRESPASSORY INVASION, ANOTHER'S RIGHTS AND INTERESTS IN THE PRIVATE USE AND ENJOYMENT OF SUCH AIR, WATER, OR LAND;**
14. All other things specifically designated as nuisances elsewhere in this Code.
(Ref. 17-207, 18-1720 RS Neb.)

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

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

PASSED AND APPROVED this 14th day of March, 2007.

Tabled
City Clerk Joan E. Kovar

Tabled
Mayor Dana Trowbridge

Council member Holland made a motion to table consideration of an ordinance making additions to the wellhead protection area by adding the following to sections 4 and 6: *Land Application of sludge, sediment, and/or manure produced by livestock in confinement facilities – not allowed.* Council member Scribner seconded the motion. Voting AYE: Council members Smith, Schatz, Hein, Lukassen, Scribner, and Holland. Voting NAY: None. The motion carried.

ORDINANCE NO.

AN ORDINANCE TO PROVIDE FOR PROTECTION OF THE CITY OF DAVID CITY WELLHEAD PROTECTION AREA PURSUANT TO SECTION 17-536 AND SECTION 46-1501 ET. SEQ. OF THE REVISED STATUTES OF NEBRASKA BY ESTABLISHING LIMITATIONS UPON THE LOCATION OF POTENTIAL SOURCES OF POLLUTION OR INJURY TO THE MUNICIPAL WATER SUPPLY AND GROUND WATER; TO ESTABLISH RULES AND REGULATIONS DEFINING AND ENFORCING SUCH LIMITATIONS; TO PROVIDE FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, Section 17-536 of the Revised Statutes of Nebraska provides that the jurisdiction of the City to prevent pollution or injury to the source of its water supply shall extend 15 miles beyond its corporate limits;

WHEREAS, Section 46-1503 of the Nebraska Wellhead Protection Area Act in the Revised Statutes of Nebraska provides that the City may designate a wellhead protection area and adopt controls pursuant to said Act for the protection of the public water supply system;

WHEREAS, pursuant to the Nebraska Wellhead Protection Area Act, Sections 46-1501 et. seq. of the Revised Statutes of Nebraska, the Mayor and City Council have adopted a Wellhead Protection Plan and Area;

WHEREAS, it is necessary to place limitations upon the location of potential sources of pollution or injury to the municipal water supply and ground water within the Wellhead Protection Area and to prescribe rules and regulations with respect to such limitations and the enforcement thereof;

WHEREAS, the County of Butler has not adopted zoning regulations at the time of the enactment of this ordinance, this ordinance shall be precedent;

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

Section 1. The City of David City hereby declares the David City Wellhead Protection area to include the entire area within the one mile jurisdictional zoning map for the City of David City.

Section 2. The City of David City adopts the Wellhead Protection Area which has been approved by the Nebraska Department of Environmental Quality; the same is attached hereto and incorporated herein by reference as if fully set forth.

Section 3. Words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. Definitions set forth in the City of David City General Plan shall be applied in the event of any ambiguity or uncertainty in the interpretation of the rules and regulations established by this ordinance.

Section 4. It shall be unlawful for any person, other than the City of David City, to place, install, construct or replace any of the following structures or conduct any of the following activities or any activity which shall be designated by the Planning Commission as a potential threat to the water supply within the Wellhead Protection Area, except as may be provided by permit herein, to wit:

Activity or structure

- Non-potable water well
- Sewage lagoon - not allowed
- Absorption or disposal field for waste - not allowed
- Land application of sludge, sediment and/or manure produced by livestock in confinement facilities. – Not allowed**
- Cesspool - not allowed
- Dump - not allowed
- Livestock confinement facilities - restricted by Sections 6 & 7
- Pit toilet
- Sanitary landfill - not allowed
- Chemical or petroleum product storage
- Septic Tank and septic drain field
- Sewage treatment plant - not allowed
- Sewage wet well - not allowed
- Sanitary sewer connection

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Sanitary sewer manhole
Sanitary sewer line

Section 5. The placing, installing, construction or replacing of any allowed structure or activity as set forth in Section 4 of this ordinance, hereafter termed a wellhead structure or activity, within the Wellhead Protection Area, shall not be permitted after the effective date of this ordinance unless a permit approved by the Planning Commission has been obtained. The owner of any wellhead structure or activity shall have the burden of establishing the existence and use of said wellhead structure or activity at the time of the effective date of this ordinance.

Section 6. No permit shall be issued by the Planning Commission within the following setback distances from any City of David City municipal water well:

<u>Activity or structure</u>	<u>Minimum Distance from Water Supply</u>
Non-potable water well	1,000 ft.
Sewage lagoon	not allowed
Absorption or disposal field for waste	not allowed
Land application of sludge, sediment and/or manure produced by livestock in confinement facilities.	not allowed
Cesspool	not allowed
Sanitary landfill	not allowed
Livestock confinement	5,000 ft.
Pit toilet	500 ft.
Chemical or petroleum storage	500 ft.
Septic tank and septic drain field	500 ft.
Commercial Lawn and garden compost	500 ft.
Fertilizer and pesticide storage	500 ft.
Septic tank exceeding 1,000 G.P.D.	5,000 ft.
Sewage treatment plant	not allowed
Sewage wet well	not allowed
Sanitary sewer connection	100 ft.
Sanitary sewer manhole	100 ft.
Sanitary sewer line	50 ft.

Any activity described in Section 6 located within the defined setback distance shall be considered prima facie a hazard to the quality of the municipal water supply.

Section 7. For purposes of this ordinance, a livestock confinement operation, as defined by Title 130 of the regulations of the Nebraska Department of Environmental Quality, shall be restricted to a maximum of 300 animal units and shall comply with zoning regulations and ordinances of the City of David City. Livestock confinement operations less than 300 animal units are exempt from the Nebraska Department of Environmental Quality permit process for a livestock waste control facility pursuant to Title 130, Chapter 2. In the event conditions at the livestock facility at any time indicate there is a high potential for waste discharge which may threaten the municipal water supply or groundwater, as determined by the Nebraska Department of Environmental Quality, the Planning Commission permit for the operation shall be subject to revocation, unless the owner of the operation can provide evidence to the Planning Commission that the threat has been eliminated.

Section 8. Any wellhead structure or activity not prohibited by Section 4 and Section 6 shall be allowed, subject to a determination of the Planning Commission that such activity does not constitute a hazard or threat to the quality of the municipal water supply or ground water and upon issuance of a permit.

Section 9. The Planning Commission of the City of David City shall be responsible for implementation and enforcement of the rules and regulations established by this ordinance and shall consider all applications filed pursuant hereto. All applications shall be approved or rejected by roll call vote. The Zoning Administrator shall be charged with administration of the rules and regulations.

Section 10. Prior to placing, installing, constructing, expanding or replacing any wellhead structure or activity, the owner of the real estate upon which the structure or activity is proposed shall file with the Planning Commission an application for a wellhead activity permit. Said application shall be on a form furnished by the City of David City and shall include supporting information indicating why approval would not adversely impact the municipal water supply and ground water. The application shall be submitted to the Planning Commission for review. Prior to acting upon the application, the Planning Commission may seek an engineering report, recommendations of the Natural Resources District, the Nebraska Department of Environmental Quality or any other party or agency in evaluating the impact of the proposed structure or activity on the municipal water supply. A permit shall be issued only after the Planning Commission determines that the structure or activity is unlikely to contaminate or pollute the municipal water supply and ground water. Replacement or repair of existing properly registered agricultural irrigation wells, when done in an expedited or emergency status process by the Natural Resources District, shall be exempt from the Planning Commission permit process and must meet all requirements of the Natural Resources District and the setback distance requirements of Section 6.

The Nebraska Ultralight organization have utilized the David City Municipal Airport as the location for their annual Nebraska Ultralight Gathering (ANUG) for the past seven (7) years. David Nissen, of the Nebraska Ultralight organization asked if they could have their event there again this year, in light of the current status of the Nebraska Recreational Liability Act. The ANUG has provided a boost to the David City economy during the three day event. The City has also received a request from a group of individuals that would like to use the City Airport in August to fly jet petroleum power-driven remote control airplanes that have a wingspan of 5 to 8 feet. [League of NE Municipalities 2007 Midwinter Conference: The Supreme Court decided *Bronsen vs. Dawes County* and held that a county, city, or other governmental body is not an "owner of land" as that term is used in the Nebraska Recreation Liability Act; it significantly changed the legal framework in which decisions about parks, trails, and other public recreational activities are made. The RLA grants owners of land partial immunity from liability for injuries or damages to people who are engaged in recreation on the land without charge. The RLA says by inviting people onto the land for recreation, an owner does not thereby "(1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons." The Supreme Court's decision has increased municipal liability exposure to a large degree.]

Council member Hein made a motion to continue to allow the use of city owned land for recreational activities. Council member Scribner seconded the motion. Voting AYE: Council members Smith, Schatz, Lukassen, Holland, Scribner, and Hein. Voting NAY: None. The motion carried.

A few city/utility customers have requested that credit card payments be received as payment for services. Currently the City does not accept credit card payments. City Administrator Joe Johnson stated that if a customer were to use a Visa or MasterCard the cost is about \$1.85 per \$100.00 transaction. The transaction cost can be addressed in three (3) ways: 1) the City pays the transaction cost, 2) the customer pays the transaction cost, or 3) a percent cost can be built into all utility rates.

Council member Scribner made a motion to authorize the use of credit cards by customers paying for services with the transaction fee passed on to the customer(s). Council member Hein seconded the motion. Voting AYE: Council members Smith, Schatz, Lukassen, Holland, Hein, and Scribner. Voting NAY: None. The motion carried.

Council member Holland introduced Ordinance No. 1043 and made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Scribner seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Smith, Scribner, and Holland. Voting NAY: None. The motion carried.

Council member Scribner made a motion to pass and adopt Ordinance No. 1043 on the third and final reading. Council member Holland seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Smith, Holland, and Scribner. Voting NAY: None. The motion carried and Ordinance No. 1043 was passed and adopted as follows:

ORDINANCE NO. 1043

AN ORDINANCE OF THE CITY OF DAVID CITY TO CREATE A PARK AND RECREATION ADVISORY BOARD TO MAKE RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL MEMBERS CONCERNING OPERATION OF THE DAVID CITY MUNICIPAL PARK AND RECREATIONAL FACILITIES; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

WHEREAS, the David City Park and Recreational facilities are presently being operated/managed by the Parks Superintendent, and;

WHEREAS, the Mayor and City Council desires to create a board to advise the City and Park Superintendent on park and recreational related activities.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AS FOLLOWS:

SECTION 1. There is hereby created a Park and Recreation Advisory Board, hereinafter ("Board") for the City of David City, Nebraska, hereinafter ("City"), whose members shall be appointed by the Mayor with the advice and consent of the City Council

SECTION 2. The purpose of the Board shall be to advise the City and Park Superintendent on Park and Recreational related activities.

SECTION 3. Membership of this Board shall be comprised of five (5) members [the Park Superintendent and four David City residents]. The required five (5) members shall be residents of the City and have an interest in park and recreational activities. The Park Superintendent shall serve as a consent member of the Board. The first two (2) appointed members of the Board shall be appointed to serve a one (1) year term. The remaining two (2) appointed members of the Board shall be appointed to serve a three (3) year term.

SECTION 4. All five (5) members shall serve without pay.

SECTION 5. Any vacancies on said Board shall be filled by the Mayor's appointment with the advice and consent of the City Council.

SECTION 6. The Park Superintendent shall call the meetings for the Board on a regular basis, not less than one (1) every two (2) months on a schedule to be established and published by the Park Superintendent as required by the Nebraska Open Meetings Act. The Park Superintendent, with input from Board Members, shall set the agenda for Board meetings. The Park Superintendent may call a special meeting of the Board whenever, in his/her opinion, the business of the Board may require it. Notice of special meetings shall be made in conformance with the Nebraska Open Meetings Act.

SECTION 7. A majority of the members of the Board shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance shall be named and shall adjourn to a later time.

SECTION 8. Members of the Board, at the first meeting of the year, shall elect one of its own members as chairman of the Board and elect one member as a vice-chairman of the Board.

SECTION 9. All meetings of the Board shall be open to the public.

SECTION 10. Minutes of all regular and special meetings shall be recorded by the Park Superintendent and maintained in the office of the City Clerk. The minutes shall reflect the date;

time and place of the meeting; members recorded as either present or absent; a general description of all matters proposed, discussed or decided; and a record of any votes taken. Minutes of all meetings shall be taken. Approval of minutes shall be considered at the next regular meeting of the Board. Copies of approved minutes shall be provided to the City Council, Mayor, and the City Administrator.

SECTION 11. Board shall function as an advisory body to the Mayor and City Council and shall have no authority to adopt, amend, modify, alter or rescind any rule, regulation or ordinance for the management, governance, or use of the David City Municipal Park and Recreational facilities.

SECTION 12. Duties of the Board shall include making recommendations on all park related concerns and issues for the purpose of planning, promoting, and maintaining a diverse park system for residents of all ages.

SECTION 13. Functions of the Board include holding neighborhood meetings, receiving resident input, conducting surveys, addressing funding strategies, evaluating and recommending capitol improvements for new and existing park facilities, reviewing Residential, Commercial, and Industrial developments for park dedication, and conducting public meetings and workshops for citizen involvement in the park planning process.

SECTION 14. The Board shall have no financial and budgetary authority. The Board shall prepare an annual budget for submission to the City Council.

SECTION 15. That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 16. This ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 14th day of March, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

A couple of city council members approached City Administrator Johnson to establish regulations that restrict the use of the RV parking area in the City Park. Johnson presented the following resolution. As there were several changes made to the resolution, Council member Hein made a motion to table consideration of the resolution establishing regulations for the trailer park located in the City Park until the April 11, 2007, council meeting. Council member Schatz seconded the motion. Voting YEA: Council members Scribner, Lukassen, Smith, Holland, Schatz, and Hein. Voting NAY: None. The motion carried.

RESOLUTION NO.

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, ESTABLISHING REGULATIONS FOR THE CITY OWNED RV PARKING AREA LOCATED AT THE MUNICIPAL PARK.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as "City") is an independent body of government, and

WHEREAS, the City owns and operates an RV Parking Area (hereinafter referred to as "RV Park"), and

WHEREAS, the City does not have any regulations for RV Park, and

WHEREAS, concerns have developed among the citizens of the City, regarding RV park users making the RV Park their residence.

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of David City, Nebraska, that the following regulations be in full force and effect and posted in clear view of the general public at the RV Park:

**CITY OF DAVID CITY, NEBRASKA
Park Rules and Regulations**

The City of David City has established Rules and Regulations to protect the Municipal RV Park for the enjoyment, convenience, health and safety of guests. The rules should be observed in the spirit of consideration for others. The City of David City and RV Park management reserves the right to deny privileges or access to persons breaking any park rules.

1. The maximum length of stay is 21 concurrent days in a 60 day period and maximum of 60 days per calendar year. The RV Park is for temporary residence only and not intended for permanent residents.
2. Visitors must vacate the RV Park by removing all RV's, camping vehicles, trailers, passenger vehicles, and personal property before Noon or be subjected to an additional days fee.
3. Fees must be paid in advance. **Payment for services not rendered will be reimbursed.** No specific spaces can be reserved.
- ~~4. Vehicles must be self-contained and carry the RV Industries approval registry number and manufacturer's date.~~
- ~~5. RV's, camping vehicles and trailers must remain on wheels at all times.~~
- ~~6. RV's, camping vehicles and trailers must be parked lengthways from north to south or south to north. No sideways parking.~~
7. No more than two (2) additional vehicles per space
8. Waste, water, sewage or effluent from sinks, portable toilets or other plumbing fixtures must be deposited at the dump station only, and may not be deposited directly on any pavement, dirt or vegetation.
9. Pets may not to be left unattended outdoors at any time.
10. Pets must be contained or restrained on a leash of less than 6 feet at all times.
11. Droppings and accidental waste material from pets must be picked up immediately and removed to trash dumpster. Limit two (2) pets per site.
- ~~12. A maximum of four (4) persons allowed per RV/camping site.~~
13. Quiet hours are from 10:00 p.m. to 6:00 a.m. daily. (Generators may be operated only between the hours of 8:00 a.m. and 8:00 p.m.) Please ensure that speakers, radios, televisions, etc. or other machinery do not emit sound beyond your space.
14. One tent or camping unit per site.
15. No vehicle repairs, maintenance activities, fluid changes, washing/rinsing of vehicles/RV's are permitted in Park. Vehicles leaking oil, gas, or other liquids or matter must be removed from the campsite and grounds immediately.
16. Rope, wire, or string may not be attached to any trees, vegetation, poles or City property at any time.
17. No defacing or cutting of trees and shrubs.
18. All property must be in the confines of the parking space. Parking on access road prohibited.
19. No open fires in the Park.
- ~~20. Youths under 18 years of age must be accompanied by a parent or guardian.~~
21. Trash receptacles are provided throughout the RV Park.
22. No excessive alcoholic drinking allowed.
23. Pay phone is located on the north side of the RV Park
24. Payment drop box is located on the south side of the RV Park.
- ~~25. The City of David City Municipal Family Aquatic Center may be utilized as a shower facility during normal operating hours of the Aquatic Center.~~
26. Restrooms are located in the City Park, to the south of the RV Park
27. All federal, state, and local laws must be obeyed at all times.
28. All signs, posted notices and directions of the RV Park manager must be obeyed. Non-compliance may result in immediate loss of parking privileges.
29. RV Park management reserves the right to determine if a parking space is deemed unsightly or a nuisance

in future rate adjustments. Our normal practice in the past has been to implement base rate changes early in the year, typically January 1 or February 1.

In summary, the major points of the PCA proposal are as follows:

- Utilize the \$22 million available in the Rate Stabilization Account to partially offset the estimated \$40 million increase in energy costs.
- Institute a PCA charge to collect only the remaining \$18 million "estimated" energy deficit over a 12-month period beginning April 1, 2007 (i.e., included on your wholesale power bill for April use that you will receive in May). This would require the establishment of a PCA Factor of approximately \$0.00 15/kwh, which equates to an overall average 4.0% wholesale rate increase. Individual wholesale customer increases will vary, depending on usage characteristics.
- At the end of the 12-month period, flow any over/under collection of costs via the PCA charge into the Rate Stabilization Account.
- In addition, NPPD will consider delaying the next GFPS base rate increase to April 1, 2008 to coincide with the PCA charge ending.

This proposal will be reviewed and discussed with the NPPD Board of Directors at the March Board Meeting, with a final decision on the adoption of a PCA Factor expected to be made at the April Board Meeting. These meetings are open to the public, and you may attend and provide comments if you wish. You can also submit written comments if you would like for the NPPD Board to consider.

We know that a PCA charge, if adopted, represents a rate increase for you and your retail customers. While no one likes to increase rates, we hope that you understand that the late December ice storm and its resulting impact on our ability to get low cost power delivered from Gerald Gentleman Station is the reason for having to consider implementing such a charge. If you have any questions concerning this PCA proposal, Please contact your Account Manager or me at (402)563-5459.

Sincerely,
Traci L. Bender
Vice President and Chief Financial Officer

City Clerk Kovar stated that she thought all that was needed was a motion to add the 4% production cost adjustment as the electric rate Ordinance No. 997 states: *Rate Modification: 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.* City Attorney Egr said that was incorrect and an ordinance is required. Therefore, Council member Hein made a motion to table consideration of incorporating a 4% Production Cost Adjustment to all electric rates, due to the 4% increase to the City by Nebraska Public Power District due to ice storm damage, so that an ordinance can be drafted. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Smith, Schatz, Lukassen, Holland, and Hein. Voting NAY: None. The motion carried.

The Council discussed the proposed resolution adding a minimum sewer charge for new customers who were not residing in David City during December, January, and February. In the past the sewer rates have always been set by resolution. Council member Schatz stated that the sewer rates should be set by ordinance. City Attorney Egr asked for time to research State Statutes. Therefore, Council member Hein made a motion to table consideration of adding a minimum sewer charge for new customers who were not residing in David City during December, January, and February. Council member Smith seconded the motion. Voting AYE: Council members Holland, Lukassen, Scribner, Schatz, Smith, and Hein. Voting NAY: None. The motion carried.

RESOLUTION NO.

WHEREAS, Chapter 3, Article 2, Section 3-213 of the Municipal Code of the City of David City, Nebraska, provides that customers of the Municipal Sewer Department shall be charged rates set by resolution for the use of the sewer system.

WHEREAS, the current rates are sufficient however a rate is needed to set a minimum sewer charge for new customers that move into David City and are not customers during the months of December, January, and February.

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NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that a minimum sewer charge be approved for new customers that move into David City and are not customers during the months of December, January, and February.

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

For commercial customers, who use water in a commercial business, industrial, or other non-residential way, a monthly Sewer Use Fee will be calculated monthly based on the current months water usage. Commercial customers who do not want to pay a sewer use fee for water used for watering lawns or shrubs will be responsible, at their own cost, to hire a licensed plumber to install a separate water meter to separately meter such water usage.

The following monthly Sewer Rates and customer charges became effective March 1, 2007, billed in April, and due May 1 - 10th.

Customer charge of \$5.15 per month
First 100,000 gallons of water @ \$2.30 per 1,000 gallons

**For new residential customers in the City, who were not customers during the months of December, January, and February, the following monthly sewer rate shall apply:
Customer charge of \$5.15 per month
Plus an average of 3,000 gallons per month.**

BE IT FURTHER RESOLVED, that all resolutions and ordinances or parts thereof, in conflict with the provisions of this resolution, are hereby repealed.

Dated this 14th day of March, 2007.

Tabled
Mayor Dana Trowbridge

Tabled
City Clerk Joan E. Kovar

Council member Schatz made a motion to amend §3-213 Municipal Sewer Department; Rate Setting. *Customers of the Municipal Sewer Department shall not be charged a flat rate for the use of sewer service. Rates shall be set by ~~resolution~~ ordinance and shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time.* Council member Hein seconded the motion. Voting YEA: Council members Scribner, Lukassen, Holland, Smith, Hein, and Schatz. Voting NAY: None. The motion carried. The City Code Book is adopted by Ordinance No. 1040 which codified the general ordinances of the Municipality. An ordinance must be modified by an ordinance so an ordinance will be on the next agenda for consideration.

Council member Hein made a motion to table consideration of an ordinance increasing the water rates by 5% and adding a \$1.00 per month R&D surcharge to the customer charge, as he would like this discussed and explained at the next Committee of the Whole meeting scheduled for March 26, 2007. Council member Scribner seconded the motion. Voting YEA: Council members Schatz, Lukassen, Smith, Holland, Scribner, and Hein. Voting NAY: None. The motion carried.

ORDINANCE

AN ORDINANCE SETTING THE MONTHLY RATES TO BE CHARGED FOR **WATER USAGE**; CUSTOMER CHARGES; EFFECTIVE DATES AND RATES; **INCORPORATING APPROXIMATELY A 5% INCREASE ON THE CUSTOMER CHARGES AND USAGE, AND ADDING A \$1.00 PER MONTH R&D SURCHARGE TO THE CUSTOMER CHARGES**, REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

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

Section 1. That the following monthly rates and customer charges shall become effective June 1, 2007. (Water used in June, billed in July and payable August 1 - 10th)

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

Customer charge of \$19.28 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 3/4" meters and/or 1" meters:

Customer charge of \$23.82 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 1 2@ meters:

Customer charge of \$46.64 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$137.87 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 3" meters and/or 4" meters:

Customer charge of \$183.50 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

Section 2. That the following monthly rates and customer charges shall become effective June 1, 2008. (Water used in June, billed in July and payable August 1 - 10th). This is a 5% increase of the base customer charges. (The base customer charge is the customer charge less the \$1 R&D Surcharge)

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

Customer charge of \$20.19 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 3/4" meters and/or 1" meters:

Customer charge of \$24.96 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 1 2@ meters:

Customer charge of \$48.92 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$144.71 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

For 3" meters and/or 4" meters:

Customer charge of \$192.63 per month (no water usage included)
and \$2.16 per 1,000 gallons for First 10,000
and \$2.27 per 1,000 gallons Over 10,000

Section 3. The monthly rates to be charged for water usage and customer charges will be reviewed by the City Council on a three year basis;

Section 4. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

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Section 5. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this _____ day of _____, 2007.

(Tabled)
Mayor Dana Trowbridge

(Tabled)
City Clerk Joan E. Kovar

Council member Schatz stated that he was withdrawing his request to install a flag pole on the City's right-of-way. Schatz stated that he was trying to make a point that a citizen would not get the same treatment as a business. Schatz stated, however, if he was allowed to put a flag pole on the City's right-of-way, then the general public may think that he was given special treatment because he was a council member. Schatz stated that he still maintains that the general public or a private citizen probably won't get the same treatment as a big bank. Schatz stated that the council should not have allowed a structure on the city's right-of-way.

There being no further business to come before the Council, Council member Scribner made a motion to adjourn. Council member Hein seconded the motion. Voting AYE: Council members Schatz, Holland, Lukassen, Smith, Hein, and Scribner. Voting NAY: None. The motion carried and Mayor Trowbridge declared the meeting adjourned at 10:28 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

