

## CITY COUNCIL PROCEEDINGS

**April 11, 2001**

The Mayor and City Council of the City of David City, Nebraska met in open public session at 7:00 p.m. on April 11, 2001 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 April 5, 2001 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, Ted Lukassen, Gary Kroesing, Bill Schatz, Gary Smith, and Nick Hein, City Administrator Andrew Brannen, City Attorney Jim Egr, Police Chief Stephen Sunday, Electric Supervisor Tim Kovar, and City Clerk Joan E. Kovar.

Also present were: First Vice-President Phil Lorenzen of Kirkpatrick Pettis, and Pat Lostroh.

The minutes of the March 14 and March 27 meetings of the Mayor and City Council were approved upon a motion by Council member Kirby and seconded by Council member Hein. 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. The City received a "Thank You" letter from the management and employees of Butler Public Power District thanking the electric crew for the help they provided during the maintenance work on the Prague 34.5 kV tie line on March 14.

Council member Kirby asked if Alltel was responsible for repairing areas that they had dug up. City Clerk Kovar stated they are supposed to fill out a work permit form and then they are responsible for repairing the area to the pre-dug condition. City Administrator Andrew Brannen will draft a letter to notify Alltel, Peoples, and Time Warner of this.

Mayor Smith notified the Council that a level 3 State Sex Offender has been in the David City area. The police can't do anything except make sure that he is in compliance with the registration laws. Police Chief Sunday will try to keep track of him.

The old landfill north of town is open during the month of April for tree branches and limbs only. Fred Vandenberg has farm machinery there and there is also an iron pile. The Council is concerned that citizens will start adding to the iron pile. Mayor Smith will write a letter to Fred Vandenberg and tell him he must have his farm equipment removed within a set number of days. City Administrator Brannen will talk to Street Supervisor Jim McDonald about removing the scrap iron.

Mayor Smith asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims. Council member Kroesing 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.

City Attorney Jim Egr reported that a pre-trial conference is scheduled for May 1, 2001, concerning the Joe Smith and Randy Janak properties.

Police Chief Sunday reported that he sent a letter to Randy Janak, 1070 N 8<sup>th</sup> Street, informing him that if the property at 1070 N 8<sup>th</sup> Street wasn't cleaned up by 8:00 a.m. on April 9<sup>th</sup>, the Street Department would be sent to clean it up. The letter should have been sent return receipt requested as Randy claims he didn't receive notification. Because of this the deadline was extended a few days. Chief Sunday also reported that since the park lakes are being drained, it is a temptation for kids to wander into the lake to see what they can retrieve. Chief Sunday stated that if anyone saw kids getting into the lakes to give the police department a call.

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

Phil Lorenzen of Kirkpatrick Pettis presented a swimming pool financing update and discussed a \$1,200,000 project series 2001 bond issue and lease purchase agreement. Phil presented a summary of the potential sales tax receipts over a 10 year collection period and preliminary calculations of maximum borrowing capacity. Discussion followed. The Council will need time to review all of the information presented.

Council member Hein made a motion to advance ahead to agenda item #11 - Consideration of an ordinance amending Section 6-333 of the municipal code to regulate unlicensed or inoperable vehicles within the municipality. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Smith introduced Ordinance No. 903. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Much discussion followed. The Council agreed to strike - whether operable or inoperable - from the original draft as follows: No person in charge or control of any property within the Municipality, other than Municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any unlicensed, ~~whether operable or inoperable~~, partially dismantled, wrecked.....etc.

Council member Kroesing made a motion to pass and adopt Ordinance No. 903 on the third and final reading. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 903 was passed and adopted as follows:

AN ORDINANCE TO AMEND SECTION 6-333 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, AS PREVIOUSLY PROVIDED FOR BY THE ORDINANCE TO REGULATE UNLICENSED OR INOPERABLE VEHICLES WITHIN THE MUNICIPALITY.

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

Section 1. That Chapter 6, Article 3, Section 6-333 of the Municipal Code of David City, Nebraska shall read as follows:

§6-333. MISDEMEANORS; UNLICENSED OR INOPERABLE VEHICLES.

No person in charge or control of any property within the Municipality, other than Municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any unlicensed, partially dismantled, wrecked, junked, inoperable or discarded vehicle to remain on property longer than seven (7) days; sixty (60) days for businesses; provided this section shall not apply to a vehicle in an enclosed building; a vehicle legally in transit; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Municipality. Licensed car dealers are exempt from licensing new or used vehicles being held for resale. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor.

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

Section 3. This ordinance shall take effect and be in full force from and after it's passage, approval, and publication in The Banner Press as required by law.

Passed and approved this 11<sup>th</sup> day of April, 2001.

Mayor

(SEAL)

City Clerk

Council member Kirby made a motion to advance ahead to agenda item #12 - Consideration of an ordinance amending Section 8-104 of the municipal code to regulate obstructions on municipal property. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein introduced Ordinance No. 904. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 904 on the third and final reading. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 904 was passed and adopted as follows:

**ORDINANCE NO. 904**

AN ORDINANCE TO AMEND SECTION 8-104 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, AS PREVIOUSLY PROVIDED FOR BY THE ORDINANCE TO REGULATE OBSTRUCTIONS ON MUNICIPAL PROPERTY.

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

Section 1. That Chapter 8, Article 1, Section 8-104 of the Municipal Code of David City, Nebraska shall read as follows:

§8-104. MUNICIPAL PROPERTY: OBSTRUCTIONS.

Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this article. Said trees, shrubs and their roots may be removed upon which the tree or shrub is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, building structures, debris, plowed snow or otherwise, any of the streets, municipal property, alleys or sidewalks.

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

Section 3. This ordinance shall take effect and be in full force from and after it's passage, approval, and publication in The Banner Press as required by law.

Passed and approved this 11<sup>th</sup> day of April, 2001.

Mayor

(SEAL)

City Clerk

Consideration of the City continuing as sub-grantee for the Victim Assistance Program. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Pat Lostroh was present to request that the City continue as sub-grantee for the Victim Assistance Program. Pat explained the Victim Assistance Program and the Genesis House which provides long term shelter, education, self-help programs, friendship, and other resources during a time of transition for victims. Council member Schatz made a motion that the City continue as sub-grantee for the Victim Assistance Program Grant Application to 2001-2002. Council member Hein 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 8:45 p.m.. Meeting reconvened at 8:55 p.m..

The Council reviewed a revised lakes restoration plan pushing back the north shoreline of the east lake. Mark Wagner of Jacobson Helgoth Consultants estimated that would retain 2/10 of an acre surface area of the lake. Park Supervisor Bill Buntgen and Street Supervisor Jim McDonald will need to move trees from this area. It may be possible to obtain a grant from the State Arboretum for a new flower garden. Council member Hein made a motion to proceed with the removal of an additional 3,500 yds. on the north shore of the east lake for an estimated cost of \$15,000. 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 table consideration of the Planning Commission's recommendation concerning the establishment of home based businesses in High Density Residential. 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 table consideration of an ordinance establishing home based businesses in High Density Residential. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

An application for a fireworks permit was received from Karen Ludvik, 2604 North 161 Avenue, Omaha, NE 68116 to sell permissible fireworks at retail at 1510 4<sup>th</sup> Street in David City. Council member Hein made a motion to approve the application of Karen Ludvik d.b.a. 1/2 Price Fireworks for a fireworks permit. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby made a motion to authorize Mayor Smith to sign a Fair Housing Month Proclamation. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

**PROCLAMATION  
FOR**

## FAIR HOUSING MONTH

WHEREAS, April 2001 marks another milestone in the history of civil rights in this country by acknowledging the 33<sup>rd</sup> anniversary of the passage of Title VIII of the Civil Rights Act of 1968, better known as the Fair Housing Act, which enunciated a national policy of non-discrimination in the sale, rental or financing of housing based on race, color, religion, sex, national origin, familial status or disability; and

WHEREAS, Shelter is a basic human need and, when shelter is denied, the quality of human life is greatly diminished, making it essential that American and the State of Nebraska be rededicated to the policy that housing in Nebraska and throughout the United States be made available to all persons on the basis of equality and fairness; and

WHEREAS, In the thirty-plus years since the passage of the Fair Housing Act, judicial and administrative enforcement, as well as public and private efforts to comply voluntarily with the law, have reduced barriers in American society to obtaining the housing of one's choice; and

WHEREAS, The State of Nebraska recognizes, acknowledges and values the efforts of those who seek justice through the public and private enforcement of Nebraska's fair housing laws. Nebraska especially recognizes the employees and Commissioners of the State of Nebraska's Equal Opportunity Commission and the Commission's partnerships with the United States Department of Housing and Urban Development, the City of Omaha Human Relations Department, the City of Lincoln Civil Rights Commission, and the Family Housing Advisory Service's Fair Housing Center of Nebraska for their pursuit of "Housing for All Through Justice for All."

WHEREAS, Mike Johanns, Governor of the State of Nebraska, did PROCLAIM the month of April 2001 as **FAIR HOUSING MONTH** in Nebraska, and urges all citizens to take due note of the observance by continuing to address discrimination in our communities.

NOW THEREFORE, the Mayor and City Council of the City of David City, Nebraska, hereby acknowledges the month of April 2001 as Fair Housing Month in Nebraska.

IN WITNESS WHEREOF, the Mayor and City Clerk of the City of David City have signed this proclamation on this Eleventh day of April, in the year of our Lord Two Thousand One.

MAYOR

ATTEST:

CITY CLERK

As Health Insurance and Liability Insurance bids are due on April 18, 2001, Council member Hein made a motion to schedule a special council meeting for Tuesday, April 24, 2001 at 5:30 p.m.. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith scheduled a Committee of the Whole meeting for Tuesday, April 24, 2001, immediately following the special council meeting scheduled for 5:30 p.m. in the meeting room of the City Office.

Council member Hein made a motion to go into executive session to discuss a personnel matter. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The City Council, Mayor Smith, City Administrator Andrew Brannen, City Attorney Jim Egr, and City Clerk Joan Kovar went into executive session at 9:18 p.m..

Council member Kirby made a motion to come out of executive session. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council came out of executive session at 9:38 p.m..

Council member Schatz made a motion to compensate City Administrator Andrew Brannen for his work related to the swimming pool fund raising project, as City Administrator Brannen had requested, in the amount of \$500.00 per month for the next 6 months, which is to be paid out of the Contingency Fund. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

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 9:45 p.m..

Mayor

City Clerk



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CERTIFICATION OF MINUTES  
April 11, 2001

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of April 11, 2001; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar