

## CITY COUNCIL PROCEEDINGS

April 14, 2004

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 April 8, 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 Gary L. Kroesing, Mark Kirby, Gary Smith, Ted Lukassen, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Police Chief Stephen Sunday, Electric Supervisor Tim Kovar, Lineman Tim Kozisek, Water/Sewer Supervisor Jim Kruse, WA/SE employees Gary Janicek and Gary Hascall, Electric Plant Supervisor John Kabourek, Power Plant Operator Bob Palik, Park/Auditorium Supervisor Bill Buntgen, Street Superintendent Jim McDonald, Mrs. Hart, Dustin Smith, Mrs. Dorothy Bohaty, Robert Masek, Bill Kozisek, Mike Jones of Jones Insurance, Pam Siroky of Agency One Insurance, Ed Sieck, Ruddy L. Svoboda, Mary White, Kory Kuhlman representing the Golf Board, Roger Helgoth and Jeff Forney of Jacobson Helgoth Consultants, Fred & Joan Vandenberg, Banner-Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar.

The meeting opened with the Pledge of Allegiance.

The minutes of the March 10<sup>th</sup>, 2004 meeting of the Mayor and City Council were approved upon a motion by Council member Smith and seconded by Council member Kirby. Voting YEA: Council members Hein, Schatz, Kirby, Lukassen, Smith, and Kroesing. Voting NAY: None. The motion carried.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions. Mayor Smith read the following correspondence:

*Congregational Christian Church  
696 5<sup>th</sup> Street  
David City, Nebraska 68632*

*Administrative Council of David City*

*March 21, 2004*

*Re: Skate Board Park ...*

*Dear Administrator and Council Members:*

*We members of the Congregational Christian Church are very concerned about the proposed construction of a Skate Park on Fifth Street.*

*The noise level and other possible disruptive activities so close to our worship center just cannot occur during church services. Nor during musical programs, funerals, weddings, etc. Plus, we assume that, depending on the exact location of Skate Park near the Youth Center, those who live near it would also object.*

*We are requesting that in the list of rules that would probably be displayed there; no Sunday*

*morning skating be mandatory. Banning of its use during our other church activities would, some how, also have to be addressed.*

*Others have also stated concerns and opinions, and asked questions about this issue. Are there enough skateboarders to make this a feasible project? Or, is this just a fad, and after construction and use of it for a while, will it "die", like the Youth Center?*

*Some people are asking why Skate Park wouldn't be placed in the City Park, where they think it belongs, if it does become an actuality. Strict rules and regulations will be essential. Who is going to monitor, patrol, police it? We've heard about one boy who was stopped by police while skating home down the middle of Fourth Street. Will the rules at Skate Park also be ignored? Who's going to pick up trash? Is the City prepared for the possible liabilities?*

*We believe that a great deal of serious, contemplative thinking must be done before final decisions are made about this project!*

*Sincerely,  
Chairman of the Board, Gene Zeilinger*

Mrs. Dorothy Bohaty, who lives at 1050 8<sup>th</sup> Street, was present to express concerns regarding the Barb Vogl property located at 1070 8<sup>th</sup> Street, which is just north of Mrs. Bohaty's. Mrs. Bohaty stated that the yard is cluttered with unlicensed cars, bicycles, old doors, tires, etc. and it is a general mess. Mrs. Bohaty's son, Robert Masek, stated that the yard is not in compliance with City Code and questioned why something couldn't be done. City Attorney Jim Egr stated that Randy Janak, who lives with Barb Vogl, has been in court several times regarding his property between "C" and "D" Streets just west of the Burlington Northern/Sante Fe Railroad. Randy had stated that they plan move to Erickson, Nebraska in May. Mrs. Bohaty stated that she is tired of living next door to such a mess and wants something done now. City Attorney Egr and Mayor Smith both stated that the City has to follow State Statute which states the City has to give due process. Police Chief Sunday will add the Barb Vogl property to the Board of Health agenda and the Board will address this property at their May 5<sup>th</sup> meeting.

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.

Council member Hein made a motion to advance to agenda item #17 - Consideration of a resolution allowing 15 minute parking spaces on the east side of the Butler County Court House. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA and the motion carried.

County Supervisor Bill Kozisek was present and stated that they currently have one handicapped parking stall, but would like 3 - 15 minute parking stalls for their customers who want to run in quickly and pay their taxes.

Council member Kirby introduced Resolution No. 11 - 2004 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Smith, Lukassen, Schatz, Kroesing, Hein, and Kirby. Voting NAY: None. The motion carried and Resolution No. 11 - 2004 was passed and adopted as follows:

**RESOLUTION NO. 11 - 2004**

WHEREAS, the Butler County Supervisors have requested fifteen (15) minute parking stalls in front (east side) of the Butler County Court House located at 451 No. 5<sup>th</sup> Street, and,

WHEREAS, fifteen (15) minute parking stalls would be beneficial in front of the Butler County Court House for customers who want to quickly drop off payments, etc., and

WHEREAS, the City of David City, Nebraska, desires to aid local businesses in providing for consumer needs,

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

Section 1. That fifteen (15) minute time restrictions, between the hours of 8:00 a.m. and 5:00 p.m., be placed on three parking stalls in front (east side) of the Butler County Court House, 451 No. 5<sup>th</sup> Street, David City, Nebraska.

Section 2. That this resolution shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 14th day of April, 2004.

Mayor

City Clerk

Council member Hein made a motion to advance to agenda item #15 - Discussion by Barb Hart on the Ground Water Festival that is being sponsored by David City and both local schools (elementary and high schools). Council member Smith seconded the motion. All of the Council members were present, all voted YEA and the motion carried.

Barb Hart reported that the ground water festival will be held on May 14<sup>th</sup> at the City Auditorium. The festival is being funded by the Source Water Protection Grant from the Department of Environmental Quality that the City received last year to construct the fencing around the water wells. The event will focus on ground water protection and conservation. Barb stated that the festival is being organized by five high school students: Matt Gruntorad, Chris Hein, and Dustin Smith, juniors at Aquinas High School; and Sarah Beringer, and Sarah Schroeder, seniors at David City High School. Dustin Smith was present and reported that the festival will address water conservation. They will show 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> grade students how to preserve water. They will demonstrate how much water is wasted in a day by a leaking facet, and have incorporated other fun activities into the day to help motivate the students.

Council member Hein made a motion to advance to agenda item #13 - 7:30 p.m. Public Hearing: City Council sitting as a Board of Equalization, and assessments regarding costs in Street Improvement District No. 2003-1 (Kozi 2<sup>nd</sup> Addition and 8<sup>th</sup> Street between Nebraska and

Iowa). Council member Kirby seconded the motion. All of the Council members were present, all voted YEA and the motion carried.

Mayor Smith opened the Public Hearing at 7:32 p.m.. City Clerk Joan Kovar reported that State Statute #17-524 states "notice of the meeting shall be published in some newspaper published or of general circulation in said city at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed". City Clerk Kovar stated that the notice was published in the Banner Press on March 11<sup>th</sup> and March 18, and she also mailed letters to all persons owning property to be assessed. There being no further discussion, Mayor Smith declared the Public Hearing closed at 7:36 p.m..

Council member Kirby made a motion to advance to agenda item #14 - Consideration of a resolution setting the street assessments in Street Improvement District No. 2003-1. Council member Hein seconded the motion. All of the Council members were present, all voted YEA and the motion carried.

Council member Kroesing introduced Resolution No. 12-2004 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Smith, Kroesing, and Hein. Voting NAY: None. The motion carried and Resolution No. 12 - 2004 was passed and adopted as follows:

**RESOLUTION NO. 12 - 2004**

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

Section 1. The Mayor and City Council have heretofore designated the time and place for considering and levying assessments upon the property specially benefitted by the improvements in Street Improvement District No. 2003-1; that in lieu of publishing notice of the time of holding such meeting and the purpose for which it is to be held at least four weeks before the same, did personally serve such notice upon persons owning or occupying property to be assessed; the Mayor and members of the City Council have each personally inspected said improvements and real estate on and adjacent thereto; the Mayor and Council have, at this session, heard all persons who desire to be heard in reference to the valuation of each lot to be assessed and the special benefits or damages thereto and have considered the advice of the engineers in charge of the construction and improvements.

Section 2. The Mayor and City Council further find and determine that the costs of street improvements in Street Improvement District No. 2003 - 1 are as follows:

30" Curb and Gutter Paving .....	6,655.00
Engineering/Professional Services/Gilmore .....	<u>3,059.84</u>
<b>8<sup>th</sup> Street between Nebraska and Iowa .....</b>	<b><u>\$9,714.84</u></b>
30" Curb and Gutter Paving .....	12,045.00
Construct Concrete Header & Riprap .....	1,333.60
Remove Concrete Header .....	115.00
Engineering/Professional Services/Gilmore .....	<u>3,699.35</u>
<b>Kozi 2<sup>nd</sup> Addition: .....</b>	<b><u>\$17,192.95</u></b>
<b>Cottonwood Street and the</b>	

**extension of East "E" Street**

**Street Improvement District No. 2003-1 ..... \$26,907.79**

The Mayor and Council further find and determine that no lot or parcel of land in said district has been damaged by the construction of said improvements, and that the amount of benefits specially accruing to each lot and parcel of land in said district by reason of the construction of said improvements at least equals the amount to be assessed against each lot or parcel of the land to pay the cost of said improvements.

Section 3. That the Council has concluded that an 80/20 split with the property owners share at 80% of total costs, which would include all aspects of the project, and the City's cost at 20% of the total costs is a reasonable amount to assess the property owners.

Section 4. There is hereby levied and assessed upon the several lots and parcels of land in said district, special assessments to pay the cost of constructing said improvement in the amount in dollars and cents set out as follows which are made a part hereto:

**STREET IMPROVEMENT DISTRICT NO. 2003 - 1**

**8<sup>th</sup> Street between Nebraska and Iowa \$9,714.84 x 80% = \$7,771.87**

PARCEL DESCRIPTION ASSESSMENT	OWNER	AMOUNT
Lot 1, Block 11, Miles 5 <sup>th</sup> Addition to the City of David City, Butler County, Nebraska; 100'	Michael & Darcia Husmann.....	\$1,295.31
No. 1/2 of Lot 4, Block 11, Miles 5 <sup>th</sup> Addition to the City of David City, Butler County, Nebraska; 50'	Michael & Darcia Husmann.....	\$647.66
So. 75' of Lot 5, Block 11, Miles 5 <sup>th</sup> Addition to the City of David City, Butler County, Nebraska; 75'	Doris Jean Halbert .....	\$971.48
So. 1/2 of Lot 4 and No. 25' of Lot 5, Block 11, Miles 5 <sup>th</sup> Addition to the City of David City, Butler County, NE; 75' Gene D. Hejhal		\$971.49
Lot 2, Block 12, Miles 5 <sup>th</sup> Addition to the City of David City, Butler County, Nebraska; 100'	Louise Sanders .....	\$1,295.31
Lot 3, Block 12, Miles 5 <sup>th</sup> Addition to the City of David City, Butler County, Nebraska; 100'	Henry E. & Adeline T. Jakub.....	\$1,295.31
Lot 6, Block 12, Miles 5 <sup>th</sup> Addition		

to the City of David City, Butler County, Nebraska; 100'	Orin E. & Ruby M. Barlean .....	<u>\$1,295.31</u>
	<b>8<sup>th</sup> Street between Nebraska and Iowa .....</b>	<b>\$7,771.87</b>

\* \* \* \* \*

**Kozi 2<sup>nd</sup> Addition:  
 Cottonwood Street and the  
 extension of East "E" Street     \$17,192.95 x 80% = \$13,754.36**

Lot 1, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 183.81'	(LaVerne & Norma Jean Kozisek) Kozisek & Sons Incorporated .....	\$2,308.85
Lot 2, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 91.56'	Kozisek & Sons Incorporated .....	\$1,150.09
Lot 3, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 79.03'	Darrel Kahler .....	\$992.70
Lot 4, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 112.44'	Kozisek & Sons Incorporated .....	\$1,412.36
Lot 5, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 110.50'	Kozisek & Sons Incorporated .....	\$1,388.00
Lot 6, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 110.50'	Kozisek & Sons Incorporated .....	\$1,388.00
Lot 7, Block 1, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 110.50'	Kozisek & Sons Incorporated .....	\$1,388.00
Lot 1, Block 2, Kozi 2 <sup>nd</sup> Addition to the City of David City, Butler County, Nebraska; 110.81'	Kozisek & Sons Incorporated .....	\$1,391.89

A tract of land located in the Southwest Quarter  
 (SW ¼) of Section 20, Township Fifteen (15)  
 North, Range Three (3) East of the 6<sup>th</sup> P.M.,  
 Butler County, Nebraska; described as follows:  
 Beginning at the northeast corner of Lot 1, Block 3,  
 Kozi Addition to the City of David City; thence easterly,  
 50.00 feet, on the easterly extension of the North line  
 of said Lot 1; thence southerly, 135.31 feet, parallel

with the east line of said Lot 1, to a point on the easterly extension of the south line of said Lot 1; thence westerly, 50.00 feet, on the easterly extension of the south line of said Lot 1, to the southeast corner of said Lot 1; thence northerly, 135.31 feet, to the point of beginning, containing 0.155 acre, more or less.

185.85' Steve Wendt .....\$2,334.47

**Cottonwood Street and the extension of East "E" Street:.....\$13,754.36**

That the assessment upon each lot and parcel of land is not in excess of benefit thereto specially accruing from the construction of said improvements, and the special assessments have been apportioned among the several lots and parcels of land subject to assessments in proportion to the special benefits accruing to said lots and parcels of and respectively from such improvements.

Section 5. Said special assessments shall be a lien on the property on which they are levied from the date of passage of this resolution and shall be certified by the City Clerk-Treasurer, to the County Treasurer of this City for collection; the City Clerk-Treasurer shall also at the time provided by law, cause such assessments or the portion thereof then remaining unpaid, to be certified to the County Clerk of the county for entry upon the property tax list; the first said assessments shall be payable to the City Clerk-Treasurer; all ensuing assessments shall be payable to the County Treasurer.

Section 6. Said special assessments above provided for shall become due in sixty (60) days after the statement date of the assessment and may be paid within that time without interest, but if not paid, to bear interest thereafter at the rate of eight per cent (8%) per annum for the improvements in the said district until delinquent; such assessments shall become delinquent in ten equal annual installments with the first falling due 60 days from the statement date and subsequent installments falling due in each year thereafter on the 30<sup>th</sup> day of January until paid in full. Delinquent installments shall bear interest at the rate of fourteen per cent (14%) per annum until paid and shall be collected in the usual manner for the collection of taxes.

BE IT FURTHER RESOLVED that a certified copy of said assessment schedule be filed by the City Clerk-Treasurer with the County Clerk of Butler County, Nebraska, as provided by law.

Passed and adopted this 14<sup>th</sup> day of April, 2004.

Mayor Stephen Smith

City Clerk-Treasurer Joan E. Kovar

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

None of the department heads had anything further to add to their written reports. Council member Kirby asked Park/Auditorium Supervisor Bill Buntgen if all of the paid park benches were up. Buntgen responded "no" and so Kirby instructed Buntgen to let him know when they are. Street Superintendent McDonald was asked how the recycling was going. McDonald responded that they are getting a lot of leaves and tree limbs, but unfortunately are also getting

plastic bags, tin cans, etc. There are a lot of people using the site and just a few who put garbage in. They are keeping the old landfill locked to regulate this.

City Administrator Jeff Fiegenschuh reported the following:

- Butler County Youth Council will have a meeting from 11:00 a.m. to 12:00 p.m., on April 20<sup>th</sup> at Winfields;
- Jeff will be attending a Grantsmanship seminar on May 3<sup>rd</sup> - May 7<sup>th</sup> in Lincoln, Nebraska. He will be driving back and forth so will be available in the evenings;
- The Housing Committee will meet on April 22<sup>nd</sup> at 6:00 p.m.;
- Jeff recently met with John Klosterman concerning economic development in David City. Since the meeting a new committee is being established within the Chamber to deal specifically with economic and community development issues. A new group was also formed consisting of business leaders that will meet on a monthly basis to discuss ideas and economic development proposals.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, April 26, 2004, at 6:00 p.m. in the City Office meeting room.

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

Roger Helgoth of Jacobson Helgoth Consultants reported that bids were opened at 2:00 p.m. on April 13, 2004 for two projects: the Municipal Water Well No. 11, and the Elevated Water Reservoir. The bids were as follows:

Municipal Water Well No. 11

	<u>Layne Western</u>	<u>Sargent Drilling</u>
Drill One Test Hole	\$5,000.00	\$2,250.00
Drilling, Development and Pump Installation	\$143,454.00	\$131,111.00
Well House for Well No. 11	<u>\$88,215.00</u>	<u>\$63,850.00</u>
TOTAL BID:	\$236,669.00	<b>\$197,211.00</b>
Supplemental Bid Items:		
<b>Delete</b> Fencing and Gates	\$5,300.00	<b>\$4,010.00</b>
Bid Security	Bid Bond - 5% Merchants Bonding	Bid Bond - 5% Travelers Casualty & Surety Co.
Major Equipment List:		
Vertical Turbine Pumps	Layne Christiansen	Goulds
Subcontractors:		
Well House Construction	Darrell Starks	Samek Masonry
Others over \$10,000	Middleton Electric	Andrews Electric

Council member Schatz made a motion to award a contract to Sargent Drilling in the amount of \$193,201.00 for municipal water well No. 11 contingent upon approval of the final bid specifications by EDA and DEQ. (the bid provides for a \$4,010 deduct to eliminate fencing and gates which will be performed by the City of David City, under a separate grant; \$197,211.00 - 4,010.00 = 193,201.00.) Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Kroesing, Hein, Kirby, Schatz, and Lukassen. Voting NAY: none. The motion carried.

Elevated Water Reservoir

	<u>Maguire Iron</u>	<u>Caldwell Tanks</u>	<u>CB&amp;I Construction</u>
1A. 500,000 Gallon Single Pedestal Spheroid	\$832,760.00	\$893,300.00	\$762,000.00
1B. 500,000 Gallon Fluted Column	No bid	\$926,300.00	\$845,000.00
1C. <b>750,000 Gallon Single Pedestal Spheroid</b>	\$1,110,000.00	\$1,161,300.00	<b>\$967,000.00</b>
1D. 750,000 Gallon Fluted Column	No bid	\$1,101,800.00	\$1,054,000.00
Supplemental Bid Items:			
2. Hydrodynamic Reservoir Mixing System	\$27,500.00	\$38,000.00	SPS- \$26,000/FC-\$31,000
3. <b>Deduct 12" Ductile Iron Pipe</b>	\$35/ft \$36,300.00	\$35/ft \$38,500.00	\$45/ft <b>\$49,500.00</b>
4. Change 12" DIP to C900 PVC Deduct \$8/ft	\$8,800.00	Ded \$2/ft \$2,200.00	Ded \$7/ft \$7,700.00
5. <b>Deduct Site Fencing</b>	\$4,500.00	\$7,000.00	<b>\$6,000.00</b>
6. Change Fluted Column Steel Condensate	No bid	Add \$5,000.00	Ded 500-\$3,600/750-\$5,800.
Bid Security	Bid Bond - \$50,000 Great American	Bid Bond - \$50,000 Great American	Bid Bond - \$50,000 St. Paul Fire & Marine
Subcontractors:			
Elevated Water Storage Reservoir	Maguire	Caldwell	CB&I
Painting	Neumann Co.	Neumann Co.	Neumann Co.
Others over \$50,000	Webb Construction	Webb Construction	Central Foundations

Council member Schatz made a motion to award a contract to CB&I Construction in the amount of \$911,500.00 for the 750,000-gallon, single pedestal spheroid tank, contingent upon approval by EDA and DEQ. (Accepting Supplemental Bid Item No. 3 in the amount of \$967,000.00: delete 12" DIP, in the amount of \$49,500.00, and Bid Item No. 5: delete Site Fencing, in the amount of \$6,000.00). Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kroesing, Hein, Kirby, Smith, and Schatz. Voting NAY: none. The motion carried.

City Administrator Fiegenschuh reported that the employees met with several representatives to discuss various health insurance plans. The employees then selected the top three.

Health Insurance Options

<u>Company</u>	<u>Coverages</u>	<u>Current Monthly Premium</u>	<u>Renewal Monthly Premium</u>	<u>%Change</u>	<u>Current</u>	<u>(Costs) Savings</u>
United Health Care	Medical	\$16,500 (Plan BN-F/RX J2)	\$20,299.59 (Plan BN-F/RX J2)	22.60%	\$148,500	\$0
United Health Care	Medical		\$18,815.94 (Plan BN-G/RX J2)	14%	\$169,345	(\$20,845)
United Health Care	Medical		\$17,257.45 (Plan BN-H/RX J2)	4.50%	\$155,313	( \$6,813)
United Health Care	Medical		\$16,657.79 (Plan BN-I/RX J2)	.009%	\$149,920	( \$1,420)
United Health Care	Medical		\$14,437.18 (Plan BN-K/RX J2)	-14.20%	\$129,934	\$18,566
<b>Starmark</b>	<b>Medical</b>		<b>\$11,466.96 PPO Adv</b>	<b>- 43%</b>	<b>\$103,202.64</b>	<b>\$45,297</b>
<b>Starmark</b>	<b>Medical</b>		<b>\$ 6,343.92 MSA 80/60</b>	<b>-160%</b>	<b>\$ 57,087*</b>	<b>\$43,413**</b>
New England Financial	Medical		\$11,475.00 Option 2.c	-43.7%	\$103,275	\$45,225

\*Add an additional \$47,000 - \$55,000 for MSA contributions  
 \*\*Savings includes 75% contributions to Health Savings Account by city

The employees have suggested Starmark as presented by Mike Jones of Jones Insurance Company:

**STARMARK (DUAL COVERAGE)**  
 2004 Insurance Summary

<u>Plan</u>	<u>Option 1</u>	<u>Option 4</u>
Plan Type	PPO Advantage	H S A
Individual Deduct	\$500	\$2,000

Family Deduct	\$1,500	\$4,000
In-Network Coinsurance	80	80
Out-Network Coinsurance	60	60
Doctor's visit co-pay	\$20	Applied to Deductible
Individual out of pocket	\$1,500	\$2,000
Family out of pocket	\$3,750	\$4,000
Wellness	Yes	applied to deduct
Life Insurance	\$15,000	\$15,000
PPO	Midlands Choice	Midlands Choice
Drug Benefit	\$10 Generic	deductible then 80%
	\$25 Preferred	deductible then 80%
	\$40-40% non preferred	deductible then 80%
Maximum Benefit	\$5,000,000	\$5,000,000
Monthly Premium	\$11,446.96	\$6,343.92
<b>Employee</b>	<b>\$278.42</b>	<b>\$152.01</b>
<b>Employee/Spouse</b>	<b>\$556.84</b>	<b>\$304.02</b>
<b>Employee/Children</b>	<b>\$475.68</b>	<b>\$261.11</b>
<b>Full Family</b>	<b>\$754.10</b>	<b>\$413.12</b>

This is the dual coverage plan. The dual coverage allows individual employees to choose either the HSA/MSA high deductible or the standard \$500 deductible PPO. They don't have to select one plan for the entire employee group. The health insurance coverage runs from June 1<sup>st</sup> through May 31<sup>st</sup>. The HSA runs from January 1 through December 31<sup>st</sup>. The HSA has a high deductible and is consumer driven. The proposed savings includes setting up the employees HSA accounts.

Council member Schatz made a motion to accept the bid from Mike Jones of Jones Insurance Agency for the Starmark dual option proposal. For those employees selecting the HSA, the City will contribute 100% of the deductible (\$2,000 for individual or \$4,000 for family) for the first 7 months (June thru December); then 75% of the deductible for the next year January 2005 (\$1,500 for individual or \$3,000 for family). Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The employees will meet with Mike Jones, select their preferred plan from the dual coverage plan with Starmark, and complete the necessary paperwork with a June 1, 2004 effective date.

The following proposals were received for the City's General Liability/Property Insurance:

**Michael Jones / Jones Insurance Agency**

<u>Type of Insurance</u>	<u>Name of Company</u>	<u>Premiums</u>
Property Coverage	Oak River Ins. Co.	\$42,321.
Crime Coverage	Oak River Ins. Co.	95.
Liability Coverage	Oak River Ins. Co.	6,698.
Inland Marine	Oak River Ins. Co.	1,841.
Automobile	Oak River Ins. Co.	10,375.
Mechanical Equipment	Cincinnati	5,908.
Workers Compensation	Redwood Fire & Casualty	28,417.

Umbrella	Oak River Ins. Co.	7,928.
E & O	Oak River Ins. Co.	2,305.
Airport Liability	Ace Property & Casualty	<u>4,100.</u>
	Annual Premium:	\$109,988.

**Pam Siroky / Agency One Insurance**

<u>Type of Insurance</u>	<u>Name of Company</u>	<u>Premiums</u>
Property Coverage	EMC Insurance Companies	\$33,075.
Crime Coverage	EMC Insurance Companies	532.
Liability Coverage	EMC Insurance Companies	5,265.
Inland Marine	EMC Insurance Companies	3,367
Automobile	EMC Insurance Companies	9,837.
Mechanical Equipment	EMC Insurance Companies	1,001.
Workers Compensation	EMC Insurance Companies	29,610.
Umbrella	EMC Insurance Companies	7,875.
E & O	EMC Insurance Companies	1,991.
Airport Liability	National Union Fire Ins. Co.	<u>1,707.</u>
	Annual Premium:	\$93,259.

Mike Jones stated that he was surprised that the bid specifications did not include equipment/mechanical break-down coverage for the power plant. Discussion followed. Pam Siroky stated that in previous years, City Administrator Andrew Brannen felt that it was too costly to purchase additional equipment break down coverage. Discussion followed. It was decided that Power Plant Supervisor John Kabourek, City Administrator Jeff Fiegenschuh, Pam Siroky of Agency One Insurance, and Mike Jones of Jones Insurance Company will all get together and write specs for the equipment/mechanical break-down coverage for the power plant. Jeff and John will also research other power plants for coverage options.

Therefore, Council member Kroesing made a motion to table consideration of accepting a bid proposal for the City's General Liability/Property Insurance. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith suggested that the Council schedule a special council meeting for April 26<sup>th</sup> at 6:00 p.m. to consider the proposals for the City's General Liability/Property Insurance. Council member Lukassen suggested the Council "recess" instead of paying for a special council meeting. Mayor Smith asked City Clerk Kovar if the council could recess since the item was tabled. City Clerk Kovar replied "yes" and City Attorney Egr agreed.

City Administrator Jeff Fiegenschuh distributed the following letters/articles:

April 14, 2004

RE: Land Application of Treated Wastewater - Proposed David City Golf Course Project

Dear Mr. Fiegenschuh,

Per our conversation regarding the proposed David City Golf Course project I am enclosing a preliminary draft of the proposed National Pollutant Discharge Elimination System (NPDES) permit language pertaining to land application of treated wastewater of an unrestricted public access site (i.e. the David City Golf Course). It is NDEQ's position that

the beneficial reuse of treated effluent is encouraged. The regulations, conditions and prohibitions contained in the proposed NPDES permit language similar to that language used in the David City Park Lakes, Lake & Watershed Management Plan document. While that language is specific to the management of the lakes, the language contained in the NPDES permit will be specific to the treated wastewater used for land application. The proposed NPDES permit will contain language for 3 options: 1) direct discharge to Keysor Creek, 2) land application to the cropland adjacent to the David City Wastewater Treatment Facility (WWTF) and 3) land application to an unrestricted public access site.

If you have any questions please do not hesitate to contact me at the following:

Katherine Kerner, Program Specialist  
NPDES Permits Unit  
P.O. Box 98922  
Lincoln, NE 68509                      Telephone (402)471-2936                      Fax (402)471-2909

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#### Water Conservation on Golf Courses

By: James T. Snow, National Director USGA, Green Section

Among the most important issues facing the future of the game of golf is that of water use. In many parts of the country, golf courses require large amounts of water to irrigate the landscape on which the game is played. Often, golf courses are highly visible features in communities and are targets for criticism during periods of drought when homeowners and others are restricted in their use of potable water.

Alternative Water Sources: During periods of drought and water use restrictions, it is not hard to understand why many communities are concerned about golf course use of potable water supplies, either from municipal sources or from on-site wells. In response, many golf courses have developed alternative irrigation water supplies that do not depend on potable sources. These include:

- Storage ponds to collect storm runoff water that might otherwise be lost and wasted.
- Use of tertiary treated effluent from municipal sewage treatment facilities. This recycled water provides moisture and nutrients to the golf course while helping the municipality avoid discharging the effluent water into nearby rivers. The turf does an excellent job of filtering the water of nutrients and breaking down various chemical and biological contaminants in the water. Use of recycled water on golf courses is mandatory in some locales in the Southwest, and it is estimated that more than 100 courses nationwide currently use this source of water

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#### The Denver Post

Wanted water won't be wasted - New recycling plant will pump to sprinklers throughout the city

By: Joey Bunch, Denver Post Environment Writer

Denver will save enough water to supply 35,000 households by tapping the toilet to irrigate parks, schoolyards, power plants and the zoo with a new \$75 million wastewater recycling plant.

Denver will join dozens of cities from South Florida to Southern California, including 12 in Colorado, that are chemically cleaning wastewater to stretch their supply for drinking and washing.

State regulators say the waste is safe for human contact and cleaner than most beaches and rivers.

Absolutely, it's a national trend....because there is no more easily accessible water...More than 1,500 U.S. utilities offer recycled water, delivering 1.7 billion gallons a day, mostly for irrigation.....

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Roger Helgoth and Jeff Forney of Jacobson Helgoth Consultants presented their feasibility study regarding whether David City could pipe recycled water to the golf course. Helgoth stated that it would be feasible for David City to reuse effluent from the David City Wastewater Treatment Facility (WWTF) as a potential source of irrigation water for the David City Golf Course. Helgoth presented maps showing the basic design, pipe route, highway crossing, etc.. They estimate a savings of 7.2 million gallons of water per year.

Council member Smith questioned if there would be an odor as he has been told by someone that it has a terrible odor. Helgoth stated that it will be treated affluent, and if applied in early morning, 2-3:00 a.m., by the time the sun comes out there should be no odor at all if managed properly. Water/Sewer Supervisor Jim Kruse stated there are two different lagoon cells. The affluent used by farmers for irrigation is not quality effluent. Council member Kroesing expressed concerns about this effluent water draining off the golf course into the city

park lakes. Helgoth stated that only about 1" of quality effluent will be applied to the course per week in 3 or 4 applications. It was questioned who would manage this. Helgoth stated that there would need to be training - spell out the effluent rules; and have a timing device for the sprinklers.

Council member Kirby stated that there are several rules that have to be followed:

- The total hydraulic application rate is based on weekly local crop uptake values
- The total hydraulic application rate shall not exceed 2 inches per acre per week
- Treated wastewater used for land application must comply with all numeric and narrative limits. There are conditions and requirements.
- Surface runoff of effluent is prohibited
- Effluent can only be used within a certain distance of a residence which causes problems with Jim Redler's home and Joe Robert's home.

Kory Kuhlman, of the Golf Course, stated that approximately 25% of the course could not use effluent for watering.

Council member Schatz made a motion to accept the feasibility study as prepared by Jacobson Helgoth to reuse effluent from the David City Wastewater Treatment Facility (WWTF) as a potential source of irrigation water for the David City Golf Course, and to proceed with the project. Council member Lukassen seconded the motion. Voting YEA: Council members Hein, Lukassen, and Schatz. Voting NAY: Council members Smith, Kirby, and Kroesing. The vote resulted in a tie. Mayor Smith broke the tie and voted No. Mayor Smith stated that he can see that recycled water is in the future, but now there are too many questions. The motion failed.

The Council discussed allowing the golf course to drill a well. City Administrator Fiegenschuh stated that would be irresponsible....."when we just raised rates for the residents of David City and then allow free unlimited water to the golf course". Council member Kirby stated that if the city allowed the Golf Course to drill a well, the Golf Course would then deed the well over to the city. Some of the council members felt that if the Golf Board had \$30,000-\$40,000 to spend on a well, the Golf Board should be able to pay their loan payments. (The City has been postponing the principal payments the golf course owes on the City's CDBG Revolving Loan since the David City Golf Board said they didn't have the money to pay it.)

Council member Schatz stated: "this started due to mis-management; the Council asked to see their income statements; they admitted they had a course manager who over-watered; groundwater is a known commodity; with rate increases especially this would not be fair to the rate payers."

Council member Kirby stated the following:

- 1) The golf course is already in a hardship. Other golf courses have their own wells.
- 2) There are currently irrigation wells within a quarter of a mile outside of town, so what difference would this one make?
- 3) I always thought that I would be off the Council before the golf board decided they can't afford to operate the golf course, and the golf course is dropped in the City's lap.....I might not be.
- 4) Do we want to run the golf course? If we continue this way, and not allow the golf board to drill a well - believe me in two years the city will be running the golf course.

Council member Schatz questioned why the golf board couldn't operate on a set budget like the city departments do.

Council member Kirby made a motion to allow the golf course to drill a well which will be under the control of the city and maintained by the city. Council member Kroesing seconded the motion. Council member Schatz offered an amendment to the motion to wait 18 months before implementing this to see how the new management does and look at the status of the water usage. Council member Lukassen seconded the motion. Voting YEA: Council members Lukassen and Schatz. Voting NAY: Council members Smith, Hein, Kirby, and Kroesing. The amendment to the motion failed. Voting YEA to the original motion: Council members Smith, Kirby, and Kroesing. Voting NAY to the original motion: Council members Hein, Lukassen, and Schatz. The voted resulted in a tie. Mayor Smith broke the tie and voted No. The motion failed. Mayor Smith stated that the Council will review this again in October and determine if the Golf Course Board is still having financial troubles.

Mayor Smith declared a ten minute recess at 9:30 p.m. The meeting resumed at 9:40 p.m.

The City received the following three bid proposals for the proposed street project:

OLSSON ASSOCIATES: We propose a lump sum fee of \$29,900 to include the following engineering services:

- Kick-off meeting
- Field Verify Previous Information
- Complete the Field Survey
- Preliminary Road Design
- Progress Meeting
- Complete Final Plans, Specifications, and Contract Documents
- Present Plans to City Council
- Advertise and Receive Bid Proposals

We propose construction engineering services be billed on an hourly basis. Olsson Associates can provide construction engineering services for staking, observation, and contract administration. City staff has expressed they would prefer to handle the majority of the construction observation duties. We can assist the City in these duties. After the design is complete, we could define a scope based on the availability of City staff and sharing construction engineering duties. This contract could have a maximum fee not to exceed, which will be negotiated at the contract award for construction.

Olsson Associates could assist in the administrative services for the CDBG funds if the City requests. If awarded, we could negotiate a fee to provide these services during the design and construction phase services.

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GILMORE & ASSOCIATES INC: Our proposed fee includes all tasks stated in the Scope of Services associated with:

- Design Services
- Bid Services
- Construction Services, and

➤ Post-Construction Services

Our proposed fee shall be a lump sum of \$42,500. A breakdown of the proposed project costs is noted in the following tables.

Location	Work Description	Estimated Cost
Trailer Park	6" Asphalt w/Proposed Curb	\$ 92,000.
Ohio St. - 5 <sup>th</sup> to 7th	6" Asphalt w/Proposed Curb	\$ 48,000.
3 <sup>rd</sup> St. - A to Iowa	6" Asphalt w/Proposed Curb	\$ 63,000.
6 <sup>th</sup> - Kansas to Nebr.	6" Asphalt w/Proposed Curb	\$ 60,000.
Iowa St. - 2 <sup>nd</sup> to Hwy 15	6" Asphalt w/Proposed Curb	\$ 46,000.
6 <sup>th</sup> - Nebraska to C	6" Asphalt w/Existing Curb	\$ 36,000.
6 <sup>th</sup> & Nebr Intersection	6" Concrete	\$ 15,000.
Nebraska - 5 <sup>th</sup> to 6 <sup>th</sup>	6" Asphalt w/Existing Curb	<u>\$ 12,000.</u>
	Total:	\$ 372,000.

Summary		
Subtotal Construction Cost	\$	372,000.
10% Contingencies		\$ 37,000.
Total Construction Cost		\$ 409,000.
Engineering (Lump Sum)		\$ 31,500.
Project Observation (Hourly not-to-exceed)		\$ 11,000.

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JEO CONSULTING GROUP, INC.:

Basic Services

Preliminary Design		\$ 24,000.
Final Design		\$ 9,000.
Bidding/Negotiation		\$ 3,000.
Construction Phase		\$ 6,000.
Post Construction		<u>\$ 1,400.</u>
Total Basic Services Lump Sum Fee	\$	43,400.

Project Observation Services

Resident Project Representative (120 Hours)		<u>\$ 6,600.00</u>
(billed at an hourly rate for only those hours worked)		
Total Estimated Fee:		\$ 6,600.00

Services not included, but can be negotiated:

- Construction staking
- Attendance at meetings during construction
- Preparation of easements
- Preparation of assessments
- Geotechnical investigation and materials testing

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To: Mayor and City Council

Mayor and members of the City Council, Jim McDonald and I have met to determine who we recommend that you choose as the Architect and Engineer for the proposed street project. After reading through the three proposals, we have decided to recommend that you accept Olsson Associates' bid proposal contingent upon approval of the Community Development Block Grant.

*We based this decision on three factors. First, Olsson Associates is familiar with our streets in David City and was the chosen engineer on the 2002 and 1999 proposed street projects. Second, they provide an array of other services such as grant administration and oversight. Finally, they provided the city with the lowest bid.*

*Again, this recommendation is contingent upon approval of CDBG funds. If we receive first round approval in late April we will submit our final application. By having an engineer selected we will score higher in the final evaluation.*

*If you have any questions please contact Jim or myself!*

*Sincerely,  
Jeff Fiegenschuh, Jim McDonald*

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Council member Hein made a motion to award the street project contract to Olsson Associates, contingent upon approval of CDBG funds. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Lukassen, Kroesing, and Hein. Voting NAY: None. The motion carried.

City Attorney Egr reported that the Brahmsteadt property located at 988 E Street was previously owned by Dennis & Jeanette Babbs who sold this on a land contract to Curtis Brahmsteadt. City Attorney Jim Egr had correspondence with several firms as follows:

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Citicorp Trust Bank  
PO Box 660237  
Dallas, TX 75266-0237

This letter is in response to your February 24, 2004 letter regarding the property described as East 80' of Lot 5, Block 3, Miles 2<sup>nd</sup> Addition to David City, Butler County, Nebraska. You requested that we assign the property to David City, NE because it has been declared a nuisance and has asbestos problems. After discussing your request with our legal counsel and reviewing our Avco database, it has been determined that we have no interest in the Babb property. This mortgage was not included in our purchase of Avco. As the successor in interest to Avco, we relinquish any and all interest in this property.

Very truly yours,  
Xenobia R. Brown

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Fundco, Inc., Plaintiff  
Curtis Brahmsteadt, Defendant

MOTION TO DISMISS FIRST CAUSE OF ACTION

COMES NOW, the Plaintiff, by and through its attorney, and hereby moves to dismiss the tax certificate subject to the First Cause of Action against Curtis Brahmsteadt; Kimberly Brahmsteadt; Firstier Bank, N.A., n/k/a US Bank, Trustee and Beneficiary; AVCO Financial Services International, Inc., n/k/a CitiFinancial; Herbert Broekemeier, Tax Certificate No. 99-93, as the Plaintiff no longer has an interest in this property.

WHEREFORE Plaintiff requests appropriate order including that the parties to the First Cause of Action be dismissed, and no additional costs are taxed to those defendants.

FUNDSCO, INC., Plaintiff  
Jamie D. Reiter, #22267  
Oglesby Law Offices, P.C.

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Fundco, Inc., Plaintiff  
Curtis Brahmsteadt, Defendant

RELEASE OF LIS PENDENS FIRST CAUSE OF ACTION

COMES NOW, the undersigned as the Attorney for Fundco, Inc., the Plaintiff in the above-entitled action and hereby

releases its Lis Pendens filed against the following described property, to wit:

East 80 feet of Lot 5, Block 3, Miles Second Addition to David City, Butler County, Nebraska

The same of which was filed for record on April 10, 2002 in Film book 02-699, at the Butler County Register of Deeds, Nebraska.

FUNDCO, INC., Plaintiff  
Jamie D. Reiter, #22267  
Oglesby Law Offices, P.C.  
650 "J" Street, Suite 400  
Lincoln, NE 68508

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Express Funding Corporation  
PO Box 1140  
Scottsbluff, NE 69363-1140

I did receive your letter dated March 17, 2004. At this time I will allow the City of David City to go and clean the property and remove the asbestos. Once that is done, the lot could be sold. Once it is sold, I would suggest that Express Funding Corporation be paid and the lien released. Whatever the lot sells for, the amount that is over what is owed to Express Funding Corporation will go to the City of David City.

I hope that you will find this acceptable. Please feel free to write or call if you have any further questions or concerns.

Sincerely,  
Terry Jessen, President

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Council member Schatz made a motion to table consideration of the Brahmsteadt property. Council member Kirby seconded the motion. All of the council members were present, all voted YEA, and the motion carried.

Council member Lukassen introduced Resolution No. 13 -2004 and moved for its passage and adoption. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 13 - 2004 was passed and adopted as follows:

**RESOLUTION NO. 13 - 2004**

WHEREAS, Milt Bemis requested an easement change on the lots in the East Park Meadows Addition reducing the easements on each side of the lots from 10 feet to 7.5 feet, and

WHEREAS, letters were received from Electric Supervisor Tim Kovar and Water/Sewer Supervisor Jim Kruse stating that they had no problem with the utility easements being reduced to 7.5' on the sides of each lot, since the rear utility easements will remain at 10', and

WHEREAS, a Public Hearing was held at the February 21, 2004, Planning Commission meeting to discuss the request of Milt Bemis to reduce the utility easements on each side of the lots in East Park Meadows Addition from 10 feet to 7.5 feet, and

WHEREAS, there were no objections expressed to the request, the Planning

Commission voted to recommend to the City Council that Milt Bemis' request to reduce the side utility easements of each lot in East Park Meadows Addition from 10 feet to 7.5 feet, be approved

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the request of Milt Bemis be and is hereby approved to reduce the side utility easements of each lot in East Park Meadows Addition from 10 feet to 7.5 feet, with the rear utility easement of each lot remaining at 10 feet.

Dated this 14th day of April, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Ordinance No. 970 was discussed. Council member Schatz stated that at the March 10<sup>th</sup> meeting he expressed some concerns regarding §4-202: DISEASE; MEDICAL ATTENTION REQUIRED - that states "It shall be unlawful for the parent, guardian, or other person responsible for any child to fail or neglect to secure proper medical treatment for the said child when he/she is afflicted with a contagious or infectious disease." Schatz stated that after further research he withdraws his concerns. Council member Smith stated that he also expressed some concerns at the March 10<sup>th</sup> meeting regarding Article 4 - Nuisances, §4-401: NUISANCE; SPECIFICALLY DEFINED, but after further consideration he is ok with this.

The need for a bond for garbage collectors and the hours of collection was discussed. After much discussion it was decided not to require a bond and to omit §4-603 which deals with the hours of collection.

Council member Schatz made a motion to pass Ordinance No. 970 on the second reading only. Council member Smith seconded the motion. Voting YEA: Council members Hein, Lukassen, Kroesing, Kirby, Schatz, and Smith. Voting NAY: None. The motion carried and Ordinance No. 970 was passed on the second reading as follows:

**ORDINANCE NO.**

**970**

**AN ORDINANCE AMENDING CHAPTER 4: HEALTH AND SANITATION OF THE DAVID CITY MUNICIPAL CODE BOOK; 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. Chapter 4: Health and Sanitation of the David City Municipal Code Book be amended to read as follows:

**Chapter 4**  
**HEALTH AND SANITATION**  
**Article 1. General Provisions**

- §4-101** **HEALTH; REGULATIONS.** For purpose of promoting the health and safety of the residents of the Municipality, the Board of Health shall, from time to time, adopt such rules and regulations relative thereto and shall make such inspections, prescribe such penalties, and make such reports as may be necessary toward that purpose. *(Ref. 17-121 RS Neb.)*
- §4-102** **HEALTH; ENFORCEMENT OFFICIAL.** The Municipal Police Chief, as the Quarantine Officer, shall be the chief health officer of the Municipality. It shall be his duty to notify the Governing Body and the Board of Health of health nuisances and of every case of contagious, infectious, or malignant disease.
- §4-103** **HEALTH; STATE RULES.** The "Rules and Regulations Relating to Public Health," Department of Health of the State of Nebraska are hereby incorporated by reference when the same are applicable to the Municipality, in their present form and as they may hereafter be amended. Three (3) copies of the said pamphlet are filed at the office of the Municipal Clerk and shall be available for public inspection at any reasonable time. *(Ref. 18-132 RS Neb.)*

**Article 2. Contagious Disease**

- §4-201** **DISEASE; SPREADING CONTAGION.** It shall be unlawful for any person to spread disease willfully or negligently, or to cause the spread of the same.
- §4-202** **DISEASE; MEDICAL ATTENTION REQUIRED.** It shall be unlawful for the parent, guardian, or other person responsible for any child to fail or neglect to secure proper medical treatment for the said child when he/she is afflicted with a contagious or infectious disease.

**Article 3. Garbage Disposal**

- §4-301** **GARBAGE; DEFINED.** The term "garbage" as used herein shall be defined to mean kitchen refuse, decayed waste, dead animals, or anything that may decompose and become offensive to the public health.
- §4-302** **RUBBISH; DEFINED.** The terms "rubbish" or "trash" as used herein shall be defined as discarded machinery, chips, pieces of wood, sticks, dead trees, branches, bottles, broken glass, crockery, tin cans, boxes, papers, rags, or any other litter or debris that is not an immediate hazard to the health of the residents of the Municipality.

**§4-303** **WASTE; DEFINED.** The term "waste" as herein defined shall mean cinders, ashes, plaster, brick, stone, sawdust, or sand.

**§4-304** **GARBAGE, TRASH, AND WASTE.** It shall be unlawful for any person to keep in, on, or about any dwelling, building, or premise, or any other place in the Municipality, decayed vegetable or animal substance, garbage, or refuse matter of any kind that may be injurious to the public health or offensive to the resident of the Municipality unless the same is kept in receptacles not exceeding a thirty (30) gallon capacity and as nearly airtight as may be practical. It shall be unlawful to throw or sweep into the streets, alleys, parks, or other public grounds any dirt, paper, nails, pieces of glass, refuse, waste, or rubbish of any kind. No person may permit garbage, rubbish, waste, or refuse to collect and all persons shall remove the same from their property within twenty-four (24) hours after being notified to do so by the Municipal Police Chief who shall represent the Board of Health. Any person having garbage, rubbish, waste, or refuse that is subject to decay or fermentation within a short period of time shall be required to place the same in a standard garbage can with a tight cover, or a durable plastic container that is securely tied at its opening.

#### **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 disassembling 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 therefrom, 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. All other things specifically designated as nuisances elsewhere in this Code.  
(*Ref. 17-207, 18-1720 RS Neb.*)

**§4-402** **NUISANCES; ABATEMENT PROCEDURE.** It shall be the duty of every owner, occupant, lessee, or mortgage of real estate in the Municipality to keep such real estate free of public nuisances. Upon determination by the Board of Health that said owner, occupant, lessee, or mortgagee has failed to keep such real estate free of public nuisances, the Governing Body shall thereupon cause notice to be served upon the owner occupant, lessee, mortgagee or agent thereof, by publication and by certified mail. Such notice shall describe the condition as found by the Board of Health and state that said condition has been declared a public nuisance, and that the condition must be remedied at once. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the Board of Health within five (5) days after receipt of certified mail or within five (5) days after date of publication whichever is later, the Board of Health shall notify the Governing Body of such noncompliance and the Governing Body shall, upon receipt of such notice, cause a hearing date to be fixed and notice thereof to be served upon the owner, occupant, lessee, or mortgagee, or agent of the real estate. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the Governing Body to show cause why such condition should not be found to be a public nuisance and remedied. A return of service shall be required by the Governing Body. Such notice shall be given not less than five (5) days prior to the time of hearing, provided that whenever the owner, lessee, occupant, or mortgagee of such real estate is a non-resident or cannot be found in the State, then the Municipal Clerk shall publish, in a newspaper of general circulation in the

Municipality, such notice of hearing for two (2) consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing. Upon the date fixed for the hearing and pursuant to notice, the Governing Body shall hear all objections made by interested parties and shall hear evidence submitted by the Board of Health. If after consideration of all of the evidence, the Governing Body shall find that the said condition is a public nuisance, it shall, by resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once; Provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the Governing Body shall be stayed. Should the owner or occupant refuse or neglect to promptly comply with the order of the Governing Body, the Governing Body shall proceed to cause the abatement of the described public nuisance.

Upon completion of the work by the Municipality, a statement of the cost of such work shall be transmitted to the Governing Body, which is authorized to bill the property owner or occupant, or to levy the cost as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments. (*Ref. 17-123.01, 17-207, 18-1720 RS Neb.*) (*Ord. No. 523, 4/28/76*)

- §4-403** **NUISANCES; JURISDICTION.** The Mayor and Chief of Police of the Municipality are directed to enforce this Municipal Code against all nuisances. The jurisdiction of the Mayor, Chief of Police, and court shall extend to, and the territorial application of this Chapter shall include, all territory adjacent to the limits of the Municipality within two (2) miles thereof and all territory within the corporate limits. (*Ref. 18-1720 RS Neb.*)

#### **Article 5. Garbage and Refuse Collection**

- §4-501** **GARBAGE AND REFUSE COLLECTION; AUTHORITY.** The governing body for the city may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate roads, or alleys abutting such lot or land which constitutes a public nuisance. The city may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, or alleys. (*Ref. 16-230, 16-231, 16-246, 16-901, 18-1303 R.S. Neb.*)
- §4-502** **GARBAGE AND REFUSE COLLECTION; NOTICE; REMOVAL.** Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot or land and streets, roads, or alleys. (*Ref. 16-230, 16-231, 16-246, 16-901, 18-1303 R.S. Neb.*)
- §4-503** **GARBAGE AND REFUSE COLLECTION; NUISANCE.** If the Mayor declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the garbage or refuse, or cause it to be removed, from such lot or land within forty-eight hours after notice by personal service or following receipt of a certified letter in accordance with section 4-502 if such garbage or refuse has not been removed. (*Ref 16-230, 16-231,*

16-246, 16-901, 18-1303 R.S. Neb.)

**§4-504** **GARBAGE AND REFUSE COLLECTION; LIEN.** Whenever a city removes any garbage or refuse, or causes it to be removed, from any lot or land pursuant to this article, it shall, after a hearing conducted by the governing board, assess the cost of the removal against such lot or land. (Ref 16-230, 16-231, 16-246, 16-901, 18-1303 R.S. Neb.)

#### **Article 6. Garbage Collectors**

**§4-601** **GARBAGE COLLECTORS; LICENSE.** It shall be unlawful for any persons, corporations or other legal entities to collect, haul or convey wastes, refuse, garbage, rubbish, junk, hazardous waste, or solid waste (as those terms are defined under the laws of the State of Nebraska) for hire within the incorporated area of the City without first having procured a license to do so.

Application for a license to collect, haul or convey wastes, refuse, garbage, rubbish, junk, hazardous waste or solid waste for hire shall be made to the City Clerk upon blanks furnished by the City Clerk. Said application blanks shall set forth the name and residence of the applicant, the business address of the applicant, the ownership of the vehicle or vehicles to be used, the number and kinds of vehicles to be used, with a definite description of each such vehicle and such other information as may be required to satisfactorily identify the applicant and vehicles. The applicant shall pay to the City Clerk the required licensed fee as hereinafter provided. ~~Before any license shall be issued, the applicant shall execute and file with the City Clerk a bond in the sum of one thousand dollars (\$1,000.00) with one (1) or more sufficient sureties thereon to be approved by the City Council, conditioned that said applicant shall indemnify and save harmless the City from any damage or injury due to or on account of the act, neglect, fault or default of such applicant and conditioned further that~~ Such applicant shall comply with all ordinances or regulations of the City and State of Nebraska respecting the collecting, hauling or conveying of wastes, refuse, garbage, rubbish, junk, hazardous waste or solid waste.

It shall be unlawful for any persons, corporations, or other legal entities licensed under this section, or any other persons, to haul or convey any solid waste generated within the corporate limits of the City to any facility or system (as those terms are defined under State law) with which the City, either alone or in combination with other cities, villages or counties, has not contracted for the safe and sanitary disposal of solid waste generated within the City's jurisdiction area.

All persons, corporations, or other legal entities licensed under this section may provide, in addition to services regarding the collection, hauling, and conveying of solid waste, assistance in providing services for curb side pick-up of recyclable materials, yard waste, and discarded appliances.

All persons, corporations, or legal entities licensed under this section shall cooperate with their customers within the City in finding outside sources for the collection, hauling, conveying and disposal of hazardous waste generated within the corporate limits of the City.

**§4-602** **GARBAGE COLLECTORS; LICENSE FEE.** An annual license fee of \$50.00 shall be charged for each licensed hauler within the City. All license fees shall be due and payable on \_\_\_\_\_ 1<sup>st</sup> of each year and shall expire on \_\_\_\_\_.

~~**§4-603** **GARBAGE COLLECTORS; COLLECTION.** *It shall be unlawful for any licensed person to collect, haul or convey refuse and garbage, except during the hours of six o'clock (6:00) a.m. and nine o'clock (9:00) p.m. during the day on Monday through Saturday of the week. The restriction as to hours herein provided shall not apply in and to the area of the Business District. The City Council by resolution may change or alter such time and days of collection. Provided, that in the event of an emergency requiring the removal of refuse or garbage, the Street Commissioner may issue a special permit for such purpose, which permit shall state the period of time during which such hauling may be done and the date of expiration of such special permit.*~~

### Article 7. Penal Provisions

**§4-701** **VIOLATION; PENALTY.** Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

**§4-702** **ABATEMENT OF NUISANCE.** Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgement in the case. (Ref. 18-1720, 18-1722 RS Neb.)

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Section 2. 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 repealed.

Section 3. 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 \_\_\_\_\_, \_\_\_\_\_.

(Seal)

(Passed on 2<sup>nd</sup> reading only 4/14/04)  
Mayor Stephen Smith

(Passed on 2<sup>nd</sup> reading only 4/14/04)  
City Clerk Joan E. Kovar

Council member Smith made a motion to appoint Rachelle Birkel as the Aquatic Center

Manager, Mary Ann Mattingly as an Assistant Manager, and Jill Stara as a part-time Assistant Manager for the Summer of 2004. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby introduced Resolution No. 14-2004 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Kroesing, Smith, and Kirby. Voting NAY: None. The motion carried and Resolution No. 14 - 2004 was passed and adopted as follows:

**RESOLUTION NO. 14 - 2004**

WHEREAS, it is the desire of the City of David City and the State of Nebraska, Department of Roads, that a portion of Highway N-15 in David City be improved, and

WHEREAS, the proposed improvement on N-15 is located just north of East "O" Street and continuing north to junction N-64 and N-15 will consist of overlaying the existing roadway and shoulders, referred to as Project No. STPD-15-2(120), State Control No. 12719, and

WHEREAS, said improvement is located within the designated urban area of David City, Nebraska, and funds administered by the State, hereinafter known as "State Fund," have been made available for the construction.

NOW, THEREFORE, BE IT RESOLVED that the Mayor is hereby authorized to execute said agreement, Project No. STPD-15-2(120), State Control No. 12719, between the City of David City, Nebraska, and the State of Nebraska, Department of Roads.

Passed and approved this 14th day of April, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Lukassen made a motion to recess to 6:00 p.m. on Monday, April 26<sup>th</sup>, 2004 in order to consider the bid proposals for the City's General Liability and Property Insurance. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The meeting was recessed at 10:20 p.m..

April 26, 2004

Mayor Smith called the meeting of the City Council of David City, Nebraska to order at 6:00 p.m. on Monday, April 26, 2004 in the Council Room of the City Office, 557 4<sup>th</sup> Street, David City,

Nebraska, to continue the meeting of April 14<sup>th</sup>, 2004 which had been in recess.

Present for the meeting were: Mayor Stephen Smith, Council members Gary L. Kroesing, Mark Kirby, Gary Smith, Ted Lukassen, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, Electric Supervisor Tim Kovar, Water/Sewer Supervisor Jim Kruse, Street Superintendent Jim McDonald, Mike Jones of Jones Insurance, Pam Siroky of Agency One Insurance, Banner-Press Editor Larry Peirce, Tim Arlt of Nebraska Public Power District, Gene Grubaugh, John Miyoshi and Mike Sousek of Lower Platte North NRD, and City Clerk-Treasurer Joan E. Kovar.

Mayor Smith stated the meeting was recessed in order to receive additional information concerning the bid proposals for the City's General Liability and Property Insurance.

Pam Siroky of Agency One Insurance made the first presentation. She reported that she bid \$7 million on equipment breakdown - with the exception of the power plant - which is what the bid specs had requested. Siroky reported that Mike Jones had previously bid \$1 million on equipment breakdown and then suggested additional equipment breakdown coverage on the power plant. Siroky stated that this is not comparing apples to apples. She stated she did not have a bid for equipment break down coverage for the power plant as the insurance company won't give a bid until they have done an inspection of the power plant. They quoted a minimum price of \$25,000. EMC insurance covers 85 municipalities with power plants and only 7 have the equipment breakdown insurance for the power plants.

**Pam Siroky / Agency One Insurance**

<u>Type of Insurance</u>	<u>Name of Company</u>	<u>Premiums</u>
Property Coverage	EMC Insurance Companies	\$33,075.
Crime Coverage	EMC Insurance Companies	532.
Liability Coverage	EMC Insurance Companies	5,265.
Inland Marine	EMC Insurance Companies	3,367
Automobile	EMC Insurance Companies	9,837.
Mechanical Equipment	EMC Insurance Companies	1,001.
Workers Compensation	EMC Insurance Companies	29,610.
Umbrella	EMC Insurance Companies	7,875.
E & O	EMC Insurance Companies	1,991.
Airport Liability	National Union Fire Ins. Co.	<u>1,707.</u>
	Annual Premium:	\$93,259.

After a question and answer period, Pam Siroky left the meeting and Mike Jones of Jones Insurance made his presentation.

Mike Jones of Jones Insurance distributed a handout concerning the City Property/Casualty Insurance. Some of the information included:

Topic 1: Machinery Breakdown

Boiler & Machinery Coverage is more appropriately termed "mechanical and electrical equipment breakdown" coverage.

Main purpose is to provide coverage for two perils that are excluded on the property form:

1. Artificially generated electric current, including electric arcing, that disturbs electrical devices, appliance or wires.
2. Mechanical breakdown, including rupture or bursting caused by centrifugal force.
  - A. Generating Plant
    1. Engines, generators, attached equipment including computer devices used in the operation of that equipment
    2. Main expenses usually arise out of cost of labor and parts for repair
    3. See Cincinnati sheets: options and notes on expediting expenses
  - B. Other Property Locations
    1. No boilers are used at any locations thus only property to be insured is the "equipment" such as air conditioners, refrigeration units, etc.
      - a. personal computers are not included here since they are specifically insured under the Inland Marine Section
    2. Any equipment described above and computer controls involved need to be insured here.
    3. Current coverage lists a value of \$7,908,065, the total of all building and business personal property. This limit is not appropriate and needs to be amended.

**Michael Jones / Jones Insurance Agency**

<u>Type of Insurance</u>	<u>Name of Company</u>	<u>Premiums</u>
Property Coverage	Oak River Ins. Co.	\$42,321.
Crime Coverage	Oak River Ins. Co.	95.
Liability Coverage	Oak River Ins. Co.	6,698.
Inland Marine	Oak River Ins. Co.	1,841.
Automobile	Oak River Ins. Co.	10,375.
Mechanical Equipment	Cincinnati	5,908.
Workers Compensation	Redwood Fire & Casualty	28,417.
Umbrella	Oak River Ins. Co.	7,928.
E & O	Oak River Ins. Co.	2,305.
Airport Liability	Ace Property & Casualty	<u>4,100.</u>
	Annual Premium:	<u>\$109,988.</u>

Machine & Equipment Insurance Proposal:

Direct Coverage Limit Per Accident.....\$8,000,000	
Annual Premium:	\$12,964.
Direct Coverage Limit Per Accident.....\$15,000,000	
Annual Premium:	\$13,930.

After a question and answer period, Mike Jones left the meeting.

Discussion followed in which the Council discussed the fact that we have never carried the machine and equipment insurance. All of our problems at the power plant have been covered due to natural disaster problems. In the past we budgeted \$200,000 capital improvement for the power plant each year in case of such a problem, rather than spending money on expensive insurance we may or may not need.

Council member Kirby made a motion to accept the bid as presented by Pam Siroky of Agency One Insurance in the amount of \$93,259.00 without an additional rider for the power plant. Council member Kroesing 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 Hein made a motion to adjourn. Council member Lukassen seconded the motion. Voting YEA: Council members Kroesing, Kirby, Schatz, Smith, Hein, and Lukassen. The motion carried and Mayor Smith declared the meeting adjourned at 6:28 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
April 14<sup>th</sup> and April 26<sup>th</sup>, 2004

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 14<sup>th</sup> and April 26<sup>th</sup>, 2004; 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