

CITY COUNCIL PROCEEDINGS

May 10, 2006

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on May 4th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Gary Kroesing, Nick Hein, Bill Schatz, Ted Lukassen, and Mark Kirby, City Attorney Jim Egr, Police Chief Stephen Sunday, Electric Supervisor Tim Kovar, Electric Plant Supervisor John Kabourek, Water/Sewer Supervisor Jim Kruse, Fred Vandenberg, Community Economic Development Coordinator Leo Ahmann of the Northeast Nebraska Economic Development District, Joe & Tara Johnson, Randy & Wendy Isham, Shelly Streeter, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar.

The meeting opened with the Pledge of Allegiance.

The minutes of the April 12th, April 26th, and May 2nd, 2006 meetings of the Mayor and City Council were approved upon a motion by Council member Kirby and seconded by Council member Smith. Voting YEA: Council members Schatz, Hein, Lukassen, Kroesing, Smith, and Kirby. 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 or communications. A citizens concern was acknowledged regarding the Walter Goesch property where there is wood that is not neatly piled and tree limbs that have not been split into logs. Police Chief Sunday will bring this before the Board of Health on May 25th. Mary Ann Svoboda, 1484 N 4th Street, called to submit a concern that there is a beaver in the ditch at 4th & "O" Street that chewed a limb off of one of her trees. A city park tree has also been chewed off. Police Chief Sunday will contact the Game & Parks Commission regarding this. Council member Kroesing stated there is a property in town that is housing seven (7) dogs. It was questioned if there was a limit as to the number of dogs a property owner may have. In researching this it was determined that there is not a maximum number of dogs allowed at one residence. Police Chief Sunday will, however, mail the property owners a notice concerning the dogs being a menace, disturbing the peace, etc..

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

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

Skate Park committee members Shelly Streeter and Randy & Wendy Isham, were present to discuss the proposed skate park. The proposed location is in the City Park on the west side of the Football Field and track. They plan to use the bottom 2/3 of this area. Mayor Smith stated that they will need to file a zoning permit and get approval before any work is started. Mayor Smith stated that he is personally in favor of it. The Skate Park committee will provide a video for watching at the May 22, 2006 Committee of the Whole meeting.

In Police Chief Sunday's report he stated that it was his opinion that the City needs to change the enforcement regarding the issue of grass clippings from a criminal misdemeanor to an administrative fine/fee. The burden of proof is less than a criminal case. First of all, the City would have to prove in a civil case that the act took place. In a misdemeanor case the City has to prove beyond reasonable doubt that a specific person intentionally, or recklessly allowed the grass clipping to go into the street. In order to write a misdemeanor citation the police officers have to personally witness the act, or the responsible party has to confess to doing the act. In a civil matter, all we have to do is see the grass in the street, photograph the grass, and then send the responsible property owner a bill for a "Storm Sewer Cleanup Fine/Fee". With a misdemeanor criminal case the city doesn't collect the fine money - the school district receives it. If you have an administrative fine/fee, the City collects the money and it goes into the general fund. The City does the enforcement in a much simpler, easier process and gets to keep the revenue. Sunday is for the enforcement of the grass clipping issue, but he has trouble seeing grass clippings in the street rising to the level of issuing a criminal misdemeanor citation to a teenager who is doing nothing more than their weekly chore of mowing a lawn.

The time spent by the police department capturing dogs and cats for repeat offenders was also discussed. It was noted that perhaps the Council should consider an ordinance to set a minimum fine. Police Chief Sunday will visit with City Attorney Egr concerning these matters and they will be discussed further at the next Committee of the Whole meeting.

Council member Hein stated that he and Council member Schatz noticed the good job the water/sewer department did on the east side of 4th Street between "I" and "J" Streets, however, they also noticed that there was no shoring. Water/Sewer Supervisor Jim Kruse stated that the City did own shoring but didn't feel that it was needed. Council member Hein stated that they should have had shoring of some type; we need to provide a safe working environment for the workers.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, May 22, 2006 at 6:00 p.m.

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

Council member Kirby made a motion to appoint Joseph Johnson as the new city administrator at a salary of \$45,000/yr which will be reviewed in 6 months. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Lukassen, Hein, Schatz, Smith, and Kirby. Voting NAY: None. The motion carried. Joseph Johnson recited the oath of office and City Attorney Egr swore him in as the new city administrator. Johnson will officially begin on May 26, 2006.

Leo Ahmann, Community Economic Development Coordinator of the Northeast Nebraska Economic Development District introduced himself. He is replacing Louis Pofahl who is now working for Congressman Fortenberry.

Mayor Smith declared a ten minute recess at 8:00 p.m. The meeting resumed at 8:10 p.m.

The City is in the process of annexing property located north of "S" Street along Highway 15. Some of the residents have expressed concerns regarding the speed limit on north Highway 15 and in this specific area. A proposed new business on the east side of Hwy 15 will also add to the congestion in this area. Council member Kroesing made a motion to authorize Mayor Smith and/or Police Chief Sunday to make a formal request of the State of Nebraska to perform a traffic survey of north Highway 15. Council member Kirby seconded the motion. Voting AYE: Council members Smith, Schatz, Hein, Lukassen, Kirby, and Kroesing. Voting NAY: None. The motion carried.

Council member Schatz made a motion to pass Ordinance No. 1017 on the second reading only. Council member Kirby seconded the motion. Voting AYE: Council members Hein, Kroesing, Lukassen, Smith, Kirby, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1017 was passed on second reading only as follows:

ORDINANCE NO. 1017

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF PROPERTIES ALL LOCATED NORTH OF "S" STREET ALONG THE WEST SIDE OF HIGHWAY 15, LEGALLY DESCRIBED BELOW, AND ALL OF THE CONTIGUOUS OR ABUTTING ROAD AS REQUIRED, REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council of David City, Nebraska, favors the annexation of the following described real property and the extension of the city limits to include said property, as follows:

1. A tract of land in the North One-Half of the Northeast Quarter of the Southwest Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) Section Eighteen, Township Fifteen North, Range Three East of the Sixth Principal Meridian, (Sec 18, T15N, R3E, 6th P.M.) Butler County, Nebraska; more particularly described as follows: Commencing at a point on the south line of said North One-Half of Northeast Quarter, Southwest Quarter, said point being 42.6 feet west of the Southeast Corner thereof; thence northerly on the westerly line of State Highway No. 15 right-of-way a distance of 256.0 feet; thence westerly deflection angle 90°23'50" left a distance of 299.0 feet; thence southerly deflection angle 89°36'10" left a distance of 256.0 feet, to a point on the south line of said North One-Half; thence easterly in said south line a distance of 299.0 feet to the place of beginning, containing 1.75 Acres, and, all that parcel conveyed to the State of Nebraska, for Highway purposes, lying east of, and adjacent to, the above described tract of land. (Currently owned by the County of Butler – Region V building,)

2. A tract of land located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the northeast corner of

said SW $\frac{1}{4}$; thence westerly, 41.0 feet, on the north line of said SW $\frac{1}{4}$, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence southerly, 145.00 feet, on said westerly Highway right-of-way line, to the Point of Beginning; thence continuing southerly, 256 feet, more or less, on said westerly Highway right-of-way line, to a point 256.0 feet north of the south line of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said SW $\frac{1}{4}$; thence westerly, 173.0 feet, parallel with the south line of the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said SW $\frac{1}{4}$; thence northerly, 256.0 feet, more or less, parallel with the east line of said SW $\frac{1}{4}$, to a point 145.00 feet south of the north line of said SW $\frac{1}{4}$; thence easterly, 173 feet, more or less, parallel with the north line of said SW $\frac{1}{4}$, to the Point of Beginning, and all that parcel conveyed to the State of Nebraska, for Highway purposes, lying east of, and adjacent to, the above described tract of land. (Currently owned by Gary and Louise Niemann)

3. A tract of land located in the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M., in Butler County, Nebraska, described as follows: Commencing at the northeast corner of the SW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M. in Butler County, Nebraska, and assuming the north line of the SW $\frac{1}{4}$ of said section to have a bearing of N 90°00'00" W; thence N 90°00'00" W and on the north line of the SW $\frac{1}{4}$ of said section, 41.0 feet, to a point on the west right-of-way line of Nebraska Highway #15; thence N 90°00'00" W and on the north line of the SW $\frac{1}{4}$ of said section, 200.00 feet; thence S 00°15'52" W, 145.00 feet; thence S 90°00'00" E and parallel with the north line of the SW $\frac{1}{4}$ of said section, 200.00 feet, to a point on the west right-of-way line of Highway #15; thence N 00°15'52" E and on the west right-of-way line of Highway #15, 145.00 feet, to the point of beginning, containing 0.67 acre, more or less, and all that parcel conveyed to the State of Nebraska, for Highway purposes, lying east of, and adjacent to, the above described tract of land. (Currently owned by Jesse and Leslie Neujahr - 3653 MN Rd.)

4. A tract of land located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 18, T15N, R3E of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the SE corner of said NW $\frac{1}{4}$; thence westerly, 41.0 feet, on the south line of said NW $\frac{1}{4}$, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska Highway #15; thence northerly, 321.00 feet, on said westerly Highway right-of-way line; thence westerly 325.00 feet, at a right angle to the last described line; thence southerly, 321.57 feet, parallel with said westerly Highway right-of-way line, to a point on the south line of said NW $\frac{1}{4}$; thence easterly, 325.00 feet, on the south line of said NW $\frac{1}{4}$; to the Point of Beginning, containing 2.40 acres, more or less, and all that parcel conveyed to the State of Nebraska, for Highway purposes, lying east of, and adjacent to, the above described tract of land. (Currently owned by Michael and Sandra Burwell - 3657 MN Rd.)

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

Section 1. That the boundaries of the City of David City, Nebraska, be amended and changed in order to include the above described property.

Section 2. That this Ordinance be filed with the Office of the County Assessor and County Clerk of Butler County, Nebraska, and that the City Clerk be directed to amend the plat filed in her office to show the inclusion of the real estate listed above and that the boundary of David City as amended by this Ordinance be certified and placed on record in the office of the City Clerk of David City, Nebraska.

Section 3. That any Ordinance, setting or establishing boundaries of the City of David City, Nebraska, which is in conflict with this Ordinance be and the same is hereby repealed.

Section 4. 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 the _____ day of _____, 2006.

2nd reading only – 5-10-06

Mayor Stephen Smith

2nd reading only – 5-10-06

City Clerk Joan E. Kovar

The following bids were received for the sale of city property located on the west side of 4th Street between “D” and “E” Streets (old theater lots) described as Part of Block 24, Original Town of David City, Butler County, Nebraska, legally described as: Lot 11, except the north 5.8 feet thereof; All of Lot 10; and Lot 9, except the south 4.7 feet thereof.

Vic Palik, 390 1st Street, David City, NE \$4,051.00

Council member Schatz made a motion to accept the bid of Vic Palik in the amount of Four Thousand Fifty-One dollars (\$4,051.00) for Lot 11, except the north 5.8 feet thereof; All of Lot 10; and Lot 9, except the south 4.7 feet thereof, all in Block 24, Original Town of David City, Butler County, Nebraska. Council member Smith seconded the motion. (Resolution No. 11-2006 was passed on April 12, 2006 directing the sale by sealed bids. Notice of the sale will be published once each week for three consecutive weeks. If within thirty (30) days after the third publication a remonstrance is **not** filed by the registered voters of the City, the property will be sold and confirmed by the passage of an ordinance stating the name of the purchaser and terms of the sale.) Voting AYE: Council members Kirby, Lukassen, Kroesing, Smith, and Schatz. Voting NAY: None. Council member Hein abstained. The motion carried.

Council member Hein introduced Resolution No. 13 - 2006 and moved for its passage and adoption. Council member Smith seconded the motion. The Council decided that the city crew can clean up this property themselves rather than advertising for bids to clean it up. A lien will then be filed against the property. Voting YEA: Council members Schatz, Kirby, Lukassen, Kroesing, Smith, and Hein. Voting NAY: None. The motion carried and Resolution No. 13 - 2006 was passed and adopted as follows:

RESOLUTION NO. 13 - 2006

WHEREAS, the City of David City has authority by Municipal Code Section No. 4-401 to establish definitions of what constitutes a public nuisance. Specifically, the maintaining, using, placing, depositing, leaving, or permitting any of the specific acts, omissions, places, conditions, and things as set out in the twelve sections of said municipal code.

WHEREAS, the City of David City, as established in code #4-402, has the authority to abate all nuisances as defined in code #4-401.

WHEREAS, the David City Board of Health at a public meeting held on February 1, 2006, declared the property located at 1255 N. 9th Street, David City, Butler County, Nebraska, to be in violation of Municipal Code Section No. 4-401 (8), and a public nuisance.

WHEREAS, at the February 8, 2006 City Council meeting, the Governing Body affirmed the findings of the Board of Health, and further ordered that notice be given to the owner, occupant, lessee, or mortgagee of said property, of the violations.

WHEREAS, the David City Board of Health, at a public meeting held on February 27, 2006, determined that the property located at 1255 N. 9th Street is still in non-compliance of City Code 4-401(8).

WHEREAS, the City of David City, held a public hearing at a regularly scheduled City Council meeting on March 8, 2006, regarding the property located at 1255 N. 9th Street, David City, Butler County, Nebraska.

WHEREAS, the City of David City, having followed the rules and procedures as set out in code #4-402, and having held a public hearing on March 8, 2006, does hereby declare said property, owned by Terry and Lori Colburn, to be a public nuisance.

WHEREAS, the Governing Body (City Council) having declared said property to be a public nuisance, by this Resolution, orders and directs the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once. The owner, occupant, lessee, or mortgagee may appeal such decision to the District Court of Butler County, Nebraska.

WHEREAS, the City of David City, by this Resolution, shall proceed to abate the nuisance if the owner, occupant, lessee or mortgagee fails to remedy said public nuisance at once. Upon the completion of the work by the Municipality, a statement of the costs of such work shall be transmitted to the Governing Body (City Council), which is authorized to bill the property owner, occupant, lessee or mortgagee.

THEREFORE, BE IT RESOLVED THAT, the City of David City has declared the property located at 1255 N. 9th Street, David City, Butler County, Nebraska, to be a public nuisance, and further more directs that the Municipality begin cleaning up said property on, or after, May 10, 2006, unless a notice of appeal is made with the District Court of Butler County, Nebraska.

DATED, this 10th day of May, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

The CDBG Housing Committee reviewed the application of Daniel Brecka and determined that he meets the income guidelines and is recommending approval of the application. Therefore, Council member Hein made a motion to allocate \$3,000 in CDBG Reuse Funds to Daniel Brecka for a house loan. Council member Lukassen seconded the motion. City Attorney Egr questioned if the committee is going to secure this loan with a Deed of Trust, Promissory Note, or the like. Egr wants this reviewed. Voting YEA: Council members Kirby, Smith, Schatz, Kroesing, Lukassen, and Hein. Voting NAY: None. The motion carried.

Council member Smith made a motion to approve the request of Library Director Kay Schmid to be on the City's Health Insurance with the premium paid out of the Contingency Fund for the remainder of this budget year. Councilmember Kroesing seconded the motion. Open enrollment is June 1st so this is the only time during the year that Kay can join the group health insurance. All of the Council members were present, all voted AYE, and the motion carried.

Council member Lukassen introduced Ordinance No. 1020. At the April 24th committee of the whole meeting, the council had discussed providing a 20% reduction in the water usage rate scales for the April water usage only, due to the quality/dicoloration of the water. City Clerk Kovar typed the proposed ordinance and provided the following information:

The proposed ordinance allows a 20% reduction in the water usage rate.

The customer charges are the same as requested.

Usage rates were changed as follows:

1.96/1,000	to	1.57/1,000
2.01/1,000	to	1.61/1,000

Basically the savings would be:

5,000 gallons = \$1.95 savings

10,000 gallons = \$3.90 savings

15,000 gallons = \$5.90 savings

The Council decided that this was not much of a savings for the consumers and decided to amend the ordinance to provide a 50% reduction in the water usage rate scales. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Hein, Kirby, Lukassen, Smith, and Kroesing. Voting NAY: None. Council member Schatz abstained. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1020 on the third and final reading. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Hein, Kirby, Lukassen, and Kroesing. Voting NAY: None. Council member Schatz abstained. The motion carried and Ordinance No. 1020 was passed and adopted as follows:

ORDINANCE NO. 1020

AN ORDINANCE PROVIDING FOR ONE MONTH ONLY, A **50% REDUCTION ON THE WATER USAGE CHARGES**, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

WHEREAS, ORDINANCE NO. 998 PASSED AND ADOPTED APRIL 13, 2005, SETS THE CUSTOMER CHARGES AND WATER USAGE RATES TO BE CHARGED, AND

WHEREAS, THE WATER HAS NOT BEEN OF DESIRED QUALITY DUE TO THE FACT THAT MAINTENANCE AND REPAIRS WERE BEING DONE TO THE CLARIFIER AT THE WATER TREATMENT PLANT, AND

WHEREAS, THE COUNCIL DESIRES TO GIVE A 50% REDUCTION ON THE WATER USAGE CHARGES ONLY, NOT INCLUDING CUSTOMER CHARGES, FOR THE WATER USED DURING THE MONTH OF APRIL ONLY.

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

Section 1. That the following charges shall **only be used for water used in April, 2006**, billed in May, 2006, and due June 1 - 10th, 2006. **After this one month billing the rates in effect previously will automatically be reinstated.**

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

Customer charge of \$11.59 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$17.41 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$17.41 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

For 1 2@ meters:

Customer charge of \$28.94 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$86.93 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$115.88 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$115.88 per month (no water usage included)
and \$0.98 per 1,000 gallons for First 10,000
and \$1.005 per 1,000 gallons Over 10,000

Section 2. 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 10th day of May, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

City Clerk Kovar stated that she presented Chapter 1 of the Municipal Code Book in the council packets but did not have time, due to taking vacation, to type an ordinance in reference to adopting the amended Chapter 1. City Attorney Egr suggested several changes to Chapter 1 of the Municipal Code Book based on State Statute changes and amendments. Therefore, Council member Hein made a motion to table consideration of an ordinance amending Chapter 1 of the David City Municipal Code Book. Council member Kroesing seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Mayor Smith declared the Public Hearing open at 8:55 p.m to consider the definition of residential metal roofing. Council member Kroesing stated that this definition only touches the very tip of the iceberg; it takes a professional to install a metal roof. Discussion followed. There being no further comments, Mayor Smith declared the Public Hearing closed at 9:03 p.m..

Council member Hein made a motion to refer this definition - concerning residential metal roofing - back to the Planning Commission for further clarification and review. Council member Kroesing seconded the motion. All of the council members were present, all voted AYE, and the motion carried.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLE 3, SECTION 303 - DEFINITIONS, OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF DAVID CITY, NEBRASKA, TO ADD DEFINITIONS FOR RESIDENTIAL METAL ROOFING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Article 3, Section 303 - Definitions - of the Comprehensive Zoning Regulations of David City, Nebraska shall be amended by the addition of the following:

303.88A ROOFING; RESIDENTIAL METAL

Definition of Metal Roofs:

Residential Metal Roofing shall mean: A factory finished pre-formed standing seam roof panel that meets the following:

1. Corrosion resistant
2. Installed per manufacturers specifications, including gutters, downspouts, and ice dams
3. This may include copper as a primary material, provided, the applicant and installer can demonstrate that the reflectivity will not create a safety concern to the motoring and/or pedestrian public. Copper may be used without demonstration as a flashing and/or gutter installation. However, in no case shall this definition include the following:
 1. Flat sheets of metal
 2. Unprotected metal panels
 3. Galvanized Products

The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, rock or metal roofing as defined herein.

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 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 _____, _____.

(referred back to the Planning Commission)
Mayor Stephen Smith

(referred back to the Planning Commission)
City Clerk Joan E. Kovar

Council member Hein made a motion to approve the application of Donna J. Jansen, d.b.a. Phantom of Nebraska, to sell Permissible Fireworks for the 2006 season at 546 4th Street. Council member Smith seconded the motion. All of the council members were present, all voted AYE, and the motion carried.

Council member Hein made a motion to approve the application of Scott T. Samek to sell Permissible Fireworks for the 2006 season at 375 Nebraska Street. Council member Kroesing seconded the motion. All of the council members were present, all voted AYE, and the motion carried.

Council member Kirby made a motion to go into executive session to discuss three (3) separate personnel issues concerning:

1. A city employee
2. Conditions concerning a city employee's status change in health insurance;
2. A city employee grievance;

Council member Smith seconded the motion. All of the council members were present, all voted AYE, and the motion carried.

Mayor Smith stated the Council was going into executive session to discuss three (3) separate personnel issues as defined above. The Mayor, Council members, City Attorney, and City Administrator Joe Johnson went into executive session at 9:10 p.m.

Council member Smith made a motion to come out of executive session. Council member Kroesing seconded the motion. All of the Council members were present, all voted AYE, and the motion carried. The council came out of executive session at 9:50 p.m.

Council member Schatz made a motion to advertise that an agenda item will be added to the city council agenda for consideration on May 22, 2006 to consider a resolution to direct the sale of the property for Lot 11, except the north 5.8 feet thereof; All of Lot 10; and Lot 9, except the south 4.7 feet thereof, all in Block 24, Original Town of David City, Butler County, Nebraska. Council member Kirby seconded the motion. Voting AYE: Council members Hein, Lukassen, Kroesing, Smith, Kirby, and Schatz. Voting NAY: None. The motion carried. *(The next day City Clerk Kovar called City Attorney Egr and stated she was confused as Resolution No. 11-2006 was passed on April 12, 2006 directing the sale by sealed bids. City Attorney researched this and said she was correct and that is all that is needed at this time. Notice of the sale will be published once each week for three consecutive weeks. If within thirty (30) days after the third publication a remonstrance is **not** filed by the registered voters of the City, the property will be sold and confirmed by the passage of an ordinance stating the name of the purchaser and terms of the sale.)*

Council member Schatz made a motion to advertise that an agenda item will be added to the city council agenda for consideration on May 22, 2006 to consider a resolution to lease the property located at Lot 11, except the north 5.8 feet thereof; All of Lot 10; and Lot 9, except the south 4.7 feet thereof, all in Block 24, Original Town of David City, Butler County, Nebraska, pending the sale. Council member Kirby seconded the motion. Voting AYE: Council members Lukassen, Kroesing, Smith, Hein, Kirby, and Schatz. The motion carried.

As there are additional resolutions to be considered, Council member Schatz made a motion to recess until 6:00 p.m. on May 22, 2006. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The meeting was recessed at 9:55 p.m..

May 22, 2006

Mayor Smith called the meeting of the City Council of David City, Nebraska to order at 6:00 p.m. on May 22, 2006 in the Council Room of the City Office, 557 4th Street, David City, Nebraska, to continue the meeting of May 10, 2006 which had been in recess.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Nick Hein, Bill Schatz, Ted Lukassen, and Gary Kroesing, City Administrator Joseph Johnson, Dr. Jack Kaufmann, and City Clerk Joan E. Kovar. Council member Mark Kirby was absent.

Council member Hein made a motion to officially come back in session. Council member Kroesing seconded the motion. Voting AYE: Council members Lukassen, Schatz, Smith, Kroesing, and Hein. Voting NAY: None. Council member Kirby was absent. The motion carried.

Mayor Smith informed the public that the Open Meetings Act is attached to the blackboard on the west wall of the City Office Council Room.

Council member Kroesing made a motion to pass Resolution No. 14 - 2006 to lease the property located at Lot 11, except the north 5.8 feet thereof; All of Lot 10; and Lot 9, except the south 4.7 feet thereof, all in Block 24, Original Town of David City, Butler County, Nebraska, pending the sale. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Hein, Schatz, Smith, and Kroesing. Voting NAY: None. Council member Kirby was absent. The motion carried and Resolution No. 14 - 2006 was passed and adopted as follows:

RESOLUTION NO. 14 – 2006

WHEREAS, Resolution No. 11-2006 was passed on April 12, 2006 directing the sale of the property located at Lot 11, except the north 5.8 feet thereof; All of Lot 10; and Lot 9, except the south 4.7 feet thereof, all in Block 24, Original Town of David City, Butler County, Nebraska, by sealed bids; and,

WHEREAS, only one bid was submitted for the purchase of the old theater property; and,

WHEREAS, the City must publish notice of the sale once each week for three consecutive weeks, and if within thirty (30) days after the third publication a remonstrance is **not** filed by the registered voters of the City, the property will be sold and confirmed by the passage of an ordinance stating the name of the purchaser and terms of the sale; and

WHEREAS, interest has been shown in leasing the property listed above, pending the sale of the property.

NOW, THEREFORE, BE IT RESOLVED that the City of David City will lease the above property to Vic Palik for \$ 1.00, pending the sale of the property.

Passed and approved this 22nd day of May, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Schatz, Hein, Lukassen, and Kroesing. Voting NAY: None. Council member Kirby was absent. The motion carried and Mayor Smith declared the meeting adjourned at 6:05 p.m.

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES

May 10, 2006

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 May 10, 2006, 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, City Clerk