

CITY COUNCIL PROCEEDINGS

June 13, 2007

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on June 7th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council members Gary Smith, Rick Holland, Bill Schatz, Nick Hein, and Ted Lukassen, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk-Treasurer Joan Kovar. Council member Bill Scribner was absent.

Also present were: Police Chief Stephen Sunday, Electric Supervisor Tim Kovar, Marge Grubaugh, Dorothy Buntgen, Darlene McClure, Roy & Geraldine DeVall, George Mastera, Thomas Margrave, Fire Chief Matt Hilger, Shane Hiatt, Kevin Hotovy, Scott Steager, Nick & Linda Vandenberg, Jenny Sylvester, Scott Hlavac, Daniel Ken Smith, Bob Hilger, Scott Hoefft, Larry & Melvane Vanis, Milo Vanis, Jeff Hilger, Anthony Kobus, Rick Schmidt, Jim Redler, Jade Schmidt, Joe Birkel, Doug Matulka, Michael Novotny, James Jansto, Sheriff Mark Hecker, Dr. Jack Kaufmann, Jerry Kosch, Margaret Richards, Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the May 9th, 2007 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Holland. Voting AYE: Council members Schatz, Lukassen, Smith, Holland, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

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

City Administrator Joe Johnson stated that Jim Brown, Butler County Ethanol, LLC, was unable to be present to report on the progress of the Ethanol Plant in Butler County.

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

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

Mayor Trowbridge scheduled a Committee of the Whole meeting for Monday, June 25th, at 6:00 p.m. in the City Office meeting room.

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

At the May 9th council meeting, Resolution No. 5-2007 was passed which stated "The City of David City, Nebraska, does hereby prohibit the use of the emergency notification sirens from 8:00 p.m. to 8:00 a.m. daily, with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies." Council member Smith stated that he placed discussion of the city owned emergency sirens on the agenda for discussion. Smith stated that he felt that all of the council members should be present for the discussion, and since Council member Scribner was absent, Council member Smith made a motion to table consideration of the City owned emergency sirens. Council member Schatz raised an objection stating that a quorum is present and he didn't think it would make any difference to warrant tabling consideration of the City owned emergency sirens. Schatz stated that the resolution was adopted by a unanimous vote and there has not been a sufficient amount of time to give it a chance to work. Voting on the objection: Voting AYE: Council members Holland, Hein, Lukassen, and Schatz. Voting NAY: Council member Smith. Council member Scribner was absent. The objection passed, so discussion concerning the city owned emergency sirens was not tabled.

Council member Smith asked if the issues of the sirens could be discussed to see if the issues could be negotiated or if they could reach a compromise. Council member Schatz stated that a motion wasn't needed to discuss the issues.

Mayor Trowbridge stated that the sirens could be discussed but he didn't want to plow old ground. Much discussion followed.

Fire Chief Matt Hilger stated that he felt the fire department was left to the side in this discussion. Hilger said that some people had the misconception that Hilger brought this up for discussion in the first place. Hilger said that he was requested to attend the Committee of the Whole meeting on April 23, 2007, so he did. City Administrator Joe Johnson said that this was a correct statement. Hilger stated that he has been gentlemanly, attended the meeting by himself, and discussed the issue with the Council. He stated that he hasn't been treated with the same respect; there is not a genuine concern for the fire department's concerns. After the Committee of the Whole meeting, Matt thought that there would be further discussions and meetings with the fire department to consider hours of operation. Instead, the City Council passed Resolution No. 5-2007 on May 9, 2007 setting the hours of operation without discussing it with the fire department or anyone else. Hilger stated that they depend on the sirens 24 hours a day; activating the sirens notifies the volunteers and lets the public know that the fire department volunteers are coming which is a safety issue. Hilger didn't feel that the fire department was allowed to discuss this; they are more than willing to accommodate the citizens' concerns. If they need man-power they need the authority to activate the sirens. One or two people can make a difference when responding to a call. Matt Hilger stated that the fire department thinks the City Council should consider their recommendation on only restricting the

use of the sirens from 10:00 p.m. to 7:00 a.m. and allowing the Fire Chief or Designee the authority to activate the sirens when needed. Hilger stated that discussion is a two way street and that hasn't happened; he is sure a mutual agreement could be reached.

Jim Redler wrote a Letter to the Editor entitled "Tell council to reconsider sirens". Redler stated that everyone thought it was a wonderfully written letter and they agreed the council should reconsider this. He questioned Council member Schatz as to how he came up with the figure that 70% of people are opposed to the sirens.

Council member Smith made a motion to amend the original resolution to prohibit the use of the emergency notification sirens from 10:00 p.m. to 7:00 a.m. daily, with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies, and authorizing the Fire Chief or Designee to activate the sirens as needed. Council member Holland seconded the motion.

Council member Schatz raised an objection to the motion. Council member Schatz stated that Resolution No. 5-2007, which prohibits the use of the emergency notification sirens from 8:00 p.m. to 8:00 a.m. daily with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies, was passed by a unanimous vote; and there has not been sufficient time to give it a chance. (No second is needed) Voting AYE: Council members Lukassen, Hein, and Schatz. Voting NAY: Council members Smith and Holland. Council member Scribner was absent. The objection passed.

Council member Lukassen made a motion to amend Resolution No. 5-2007 by prohibiting the use of the emergency notification sirens from 8:00 p.m., which Lukassen stated seems reasonable for the evening, to 7:00 a.m. (instead of 8:00 a.m.), with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies, but allowing the Fire Chief or Designee the discretion to activate the sirens if needed. Council member Hein seconded the motion.

Council member Schatz moved to postpone indefinitely, discussion concerning the City owned emergency sirens. The motion died for lack of a second.

Council member Schatz made a motion to divide the question, in other words divide the motion individually to consider the times and also the discretion to activate the sirens. The motion died for lack of a second.

Council member Schatz raised an objection to the motion due to the fact that the passage of Resolution No. 5-2007 was a unanimous vote and there has not been a considerable amount of time to test it. Voting AYE: Council member Schatz. Voting NAY: Council members Smith, Holland, Hein, and Lukassen. Council member Scribner was absent. The objection failed.

Council member Schatz made a motion to amend the motion on the table by prohibiting the use of the emergency notification sirens from 8:00 p.m. to 7:00 a.m., and requiring the Fire Chief or Designee to call the Mayor for authorization before activating the sirens during these hours if needed, with the exception of the onset of severe weather. The motion died for lack of a second.

Roll call for motion on the table by Council member Lukassen and seconded by Council member Hein to amend Resolution No. 5-2007 by prohibiting the use of the emergency notification sirens from 8:00 p.m. to 7:00 a.m., with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies, but allowing the Fire Chief or Designee the discretion to activate the sirens if needed. Voting AYE: Council members Smith, Holland, Schatz, Hein, and Lukassen. Voting NAY: None. Council member Scribner was absent. The motion carried.

Resolution No. 5-2007 was amended to read as follows:

RESOLUTION NO. 5 - 2007

A RESOLUTION OF THE CITY OF DAVID CITY TO LIMIT THE HOURS OF USE FOR THE EMERGENCY NOTIFICATION SIRENS FROM 7:00 A.M. TO 8:00 P.M. DAILY, EXCEPT FOR THE USE OF THE EMERGENCY NOTIFICATION SIRENS DURING THE ONSET OF SEVERE WEATHER OR WEATHER RELATED EMERGENCIES, BUT ALLOWING THE FIRE CHIEF OR DESIGNEE THE DISCRETION TO ACTIVATE THE SIRENS IF NEEDED.

WHEREAS, the City of David City, Nebraska is an independent body of government, and

WHEREAS, the City of David City owns and maintains all emergency notification sirens located in David City, and

WHEREAS, the use of the emergency notification sirens have become a burden on citizens of David City during night or dark hours, and

WHEREAS, the David City Fire Department and other emergency response organizations have appropriate methods of notifying emergency response individuals through the use of technologies that are less intrusive than the use of the emergency notification sirens.

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

1. The City of David City, Nebraska, does hereby prohibit the use of the emergency notification sirens from 8:00 p.m. to 7:00 a.m. daily, with the exception for the use of the emergency notification sirens during the onset of severe weather or weather related emergencies, but allowing the Fire Chief or Designee the discretion to activate the sirens if needed.

PASSED AND APPROVED this 13th day of June, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Mayor Trowbridge declared the Public Hearing open at 8:23 p.m. concerning the application of Jeffrey and Bobbi Schmid d.b.a. Northside Inc. for a Class C Liquor License. No one in attendance and any comments other than wishing them well. There being no further discussion, Mayor Trowbridge declared the Public Hearing closed at 8:25 p.m..

Council member Schatz made a motion to approve the application of Jeffrey & Bobbi Schmid d.b.a. Northside Inc. for a Class C Liquor License. Council member Hein seconded the motion. Voting YEA: Council members Holland, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Smith abstained. Council member Scribner was absent. The motion carried.

At the May 9, 2007 council meeting, the Council introduced and passed on 1st reading only, Ordinance No. 1048 that would disallow residential burning in burn barrels and other containers. Thomas Margrave stated that he is opposed to the passage of this ordinance as he burns all of his twigs. Darlene McClure stated that disallowing residential burning in burn barrels may cause a financial burden on some citizens on a limited income. Fire Chief Matt Hilger stated the he is apprehensive about putting a stamp of approval on burn barrels. Hilger stated that he has concerns regarding liability issues. Even when making the burn barrel inspection he sees things in barrels that cannot and should not be burned. He just inspects the barrel; it is up to the City to regulate what is actually being burned. Hilger stated that the citizens in attendance at the meeting are probably burning the correct items and doing it cautiously, but what about the others who burn. Hilger stated that a while back the fire department spent about an hour at St. Joseph's Villa, due to a report of the smell of smoke and fire concerns. The fire department finally determined that someone down the block was burning trash and the smoke went into the Villa through an air-vent.

Council member Schatz made a motion to pass and adopt Ordinance No. 1048 on the second reading only. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Holland, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1048 was passed on 2nd reading only as follows:

ORDINANCE NO. 1048

AN ORDINANCE AMENDING CHAPTER 7; "FIRE REGULATIONS" 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. That Chapter 7 of the David City Municipal Code Book be amended to read as follows:

**Chapter 7
FIRE REGULATIONS**

Article 1. Fire Prevention

§7-101 FIRE PREVENTION; ADOPTION OF UNIFORM FIRE CODE. There is hereby adopted by the City of David City, Nebraska, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain Code and Standards known as the Uniform Fire Code Standards which Code makes reference to the National Fire Code, published by Western Fire Chiefs' Association and the International Conference of Building Officials, being the current editions thereof and the whole thereof, except such portions as are hereinafter deleted, modified or amended by this Chapter, of said Code and Standards. One (1) copy is on file with the City Clerk of the City of David City, Nebraska. These Codes are hereby adopted and incorporated as fully as if set out at length, herein, and from the date on which this Chapter shall take effect, the provisions of these Codes shall be controlling within the limits of the City of David City, Nebraska. (Ref. 18-132, 19-902, 19-92.)

§7-102 FIRE PREVENTION; DEFINITIONS.

- a. The word "jurisdiction" used in the Uniform Fire Code, means the zoning jurisdiction of the City of David City.
- b. The term "Municipal official" means all elected and appointed officials of the City of David City.

§7-103 FIRE PREVENTION; OFFICERS RESPONSIBLE FOR CODE ENFORCEMENT.

- a. Inspection under the Uniform Fire Code shall be accomplished principally by the Zoning Administrator, the Fire Chief, Police Chief, and the Police Officers.
- b. For special or unusual situations the Zoning Administrator or the Fire Chief may recommend to the City of David City the employment of special technical inspectors to improve the enforcement of these codes.

§7-104 FIRE PREVENTION; FIRE LIMITS DEFINED. The following described territory in the Municipality shall be and constitute the fire limits:
The corporate limits of the City of David City, Nebraska as they exist from time to time

§7-104.01 FIRE PREVENTION; STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS PROHIBITED. The storage of flammable or combustible liquids in outside aboveground tanks of any size is prohibited within the Residential, Public, Semi-Public and Park areas. (Ref. 17-137 RS Neb.)

§7-104.02 FIRE PREVENTION; STORAGE OF LIQUEFIED PETROLEUM RESTRICTED. In the zones where storage of liquefied petroleum is permitted, the provision of the Uniform Fire Code shall govern. Liquefied petroleum may be stored in areas that are zoned Industrial and Downtown Commercial. (Ref 17-137 RS Neb.)

§7-104.03 FIRE PREVENTION; STORAGE OF EXPLOSIVES AND BLASTING AGENTS PROHIBITED. No areas are zoned to permit the storage of explosives and blasting agents except as regulated in Section 77.106(b) of the Uniform Fire Code. (Ref. 17-137 RS Neb.)

§7-105 FIRE PREVENTION; PERMIT FOR HAZARDOUS MATERIALS. Hazardous materials may be stored within the Commercial and Industrial zones referred to in Section 7-104 provided that all such materials are identified as to kind, amount, location and other data concerning said materials in "Application to Store Hazardous Material" made annually on August 1, or on the date when such materials are initially placed in the City, to the Fire Chief and the Zoning Administrator, which application must be made by the person in control of such materials. "Application to Store Hazardous Materials" shall be made in duplicate to the Fire Chief and Zoning Administrator on forms supplied by the City and kept on file in the Fire Department. (Ref. 17-137 RS Neb.)

§7-106 FIRE PREVENTION; BURNING REGULATIONS WITHIN FIRE LIMITS. Burning is prohibited within the prescribed fire limits. Boilers and wood burning stoves may be used as outside commercial incinerators only if they substantially meet the requirements hereinafter set forth specifically including the requirements of spark arresters and foundations. Incinerators to be used inside buildings shall conform to the standards as specified in the Codes adopted in Section 7-101.

Outside commercial incinerators for use in the fire limits shall, as a minimum, be constructed of steel plate not less than three-sixteenths (3/16) inches in thickness. The base or burning area of the incinerator may not exceed sixteen (16) square feet in area. All joints and seams of the incinerator must be welded together, except for access doors. There will be no more than two (2) access doors for each incinerator. The base walls or burning area of the incinerator must have at least six (6), but not more than ten (10) ventilation holes in each wall of the incinerator base. The holes shall not be greater than one (1") inch in diameter. The base or burning area of the incinerator must be covered with a chimney with an opening not to exceed one (1) square foot in diameter. Chimneys shall be connected to the incinerator base or burning area as noted above. The terminating point of the chimney shall extend above the incinerator base or burning area the same distance as the height of the incinerator base or burning area. The chimney must terminate in a steel, or substantially constructed, spark arrester having mesh openings of not more than one half (1/2") inch in diameter or one-quarter (1/4") inch mesh. Spark arresters must cover the entire chimney opening. Incinerators may have a hole, not to exceed nine (9) square inches, in the bottom of the incinerator base.

Outside commercial incinerators must meet the location standards of Section 7-107.02. Inside incinerators shall be approved by an independent testing or rating agency and must conform to the Codes adopted in Section 7-101. All incinerators must meet the standards of the Department of Environmental Quality. (Ref. 17-549, 17-556.)

§7-107 FIRE PREVENTION; BURNING AND FIRES PROHIBITED; EXCEPTION AND REGULATIONS. All open burning and open fires in the City are prohibited.

Article 2. Fires

§7-201 FIRES; AUTHORITY OF FIRE CHIEF. When there is a fire, the Fire Chief or the designated Firemen in charge, shall have the authority to do all things that are, in his judgment, necessary to protect life and property in the area adjacent to the fire. (Ref. 17-147 RS Neb.)

§7-201 FIRES; ASSISTANCE. It shall be unlawful for any person to refuse, after receiving a command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Ref. 28-908 RS Neb.)

§7-203 FIRES; SPECTATORS.

(1) A person commits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties, he willfully:

- (a) Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or
- (b) Disobeys the lawful orders given by any fireman while performing his duties; or
- (c) Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or
- (d) Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(2) As used in this section, fireman shall mean any person who is an officer, employee, or member of a fire department or fire-protection or firefighting agency of the Federal Government, the State of Nebraska, the City of David City, County of Butler County, rural fire district, or other public or municipal corporation or political subdivision of the state, whether such person is a volunteer, partly paid, or fully paid, while he is actually engaged in firefighting, fire supervision, fire suppression, fire prevention, or fire investigation.

(3) Interference with a fireman on official duty is a Class I misdemeanor. (Ref. 28-908 RS Neb.)

§7-204 FIRES; TRAFFIC. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach, or park closer than five hundred feet (500') to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. (Ref. 39-753 RS Neb.)

§7-205 FIRES; PEDESTRIANS. It shall be unlawful for any pedestrian to enter upon or remain in any street or roadway within a distance of three hundred feet (300') from a fire when fire fighting vehicles are approaching or are present at the scene of a fire.

§7-206 **FIRES; FALSE ALARMS.** It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Ref. 28-907 RS Neb.)

§7-207 **FIRES; DROP CEILINGS; REMOVAL OF TIN CEILING COVERINGS; UNLAWFUL INSTALLATION.** It shall be unlawful to install a drop ceiling in a room or rooms of a commercial building within the City limits with a tin and/or metal ceiling covering without:

1. First removing such tin and/or metal ceiling covering before installation of the drop ceiling; or
2. Installing a fire sprinkler system. All sprinkler systems installed, from this date, shall comply with the State Fire Marshal codes.
 - a. Having a static flow test to determine the water pressure;
 - b. Determining the minimum number of heads required, with each head covering the square footage specified in the 1990 Factory Mutual System pocket guide to automatic sprinklers;
 - c. Installing a back-flow device;
 - d. Placing the sprinkler heads below the suspended ceiling;
 - e. Sprinkler heads shall also be installed in basements when the building is being remodeled by at least fifty percent (50%) of its assessed value;
 - f. Having a pre-approved plan.

Article 3. Penal Provision

§7-301 **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 dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

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

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

PASSED AND APPROVED this _____ day of _____, 2007.

Passed on 2nd reading only 6/13/07
Mayor Dana Trowbridge

Passed on 2nd reading only 6/13/07
City Clerk Joan E. Kovar

Council member Schatz asked Fire Chief Matt Hilger to provide an analysis/ recommendation concerning burn barrels before the July 11, 2007, council meeting.

Council member Schatz moved for a recess. Council member Holland seconded. All of the council members present voted AYE. Mayor Trowbridge declared a ten minute recess at 8:40 p.m.. The meeting resumed at 8:50 p.m..

Council member Hein made a motion to amend Chapter VIII, Section 5: "Employment of Relatives" of the Employees' Manual to read:

5. Employment of Relatives: Two or more of the same immediate family shall not be employed to supervise each other or to do work under the same immediate supervisor. They may, however, be employed in different units of the same department or in different departments. The employment of family members under these circumstances is welcome.

Exception: Swimming pool personnel, only, may do work under the same immediate supervisor. (Council Action 6/13/07).

Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Schatz, Holland, Lukassen, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to accept the findings of the Board of Health, concerning the property located at 210 So. 8th Street, David City, NE, owned by Louise Smaders, that the property is in violation of City Code 4-401. Council member Smith seconded the motion. Voting AYE: Council members Hein, Lukassen, Holland, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to accept the findings of the Board of Health, concerning the property located at 241 So. 4th Street, David City, NE, owned by Dale & Leslie Milne, that the house is in violation of Section 8 of City Code 4-401. Council member Holland seconded the motion. Voting AYE: Council members Hein, Lukassen, Smith, Holland, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Ordinance No. 1049. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Holland, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Hein made a motion to pass and adopt Ordinance No. 1049 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Schatz, Holland, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1049 was passed and adopted as follows:

ORDINANCE NO. 1049

AN ORDINANCE TO PROVIDE FOR LITTER; DEFINITION OF LITTER;

REMOVAL; NOTICE; ACTION BY THE CITY; TO REPEAL ORDINANCES IN CONFLICT HEREWITH; PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

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

Section 1: The City hereby prohibits and controls the throwing, depositing, or accumulation of litter on any lot or piece of real estate within the City and within the City's Zoning jurisdiction. Ref: Section 17- t 23.01 of the Revised Statutes of Nebraska as Amended.

Section 2: The word "litter" shall mean all waste material susceptible of being dropped, deposited, discarded, or otherwise disposed of by any person upon any property. "Litter" includes, but is not limited to: (a) Trash, rubbish, refuse, garbage, paper, rags, and ashes; (b) wood, plaster, cement, brick, or stone building rubble; (c) grass, leaves, and worthless vegetation; (d) offal and dead animals; and (e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk. Not included are wastes of primary processes of farming or manufacturing. Waste material shall be included and shall mean any material appearing in a place or in a context not associated with that material's function or origin. Ref. Section 17-123.01, Section 28-523, and Section 17-563(5)(a) all in the Revised Statutes of Nebraska as Amended.

Section 3: The City shall require the removal of litter so as to abate any nuisance occasioned thereby. Such removal Notice to abate the litter nuisance shall be given by the City through the City Police Department. The Notice shall give the owner of the real estate five (5) days after notice by publication and notice by certified mail to remove the litter so as to abate the nuisance occasioned thereby. Ref. Section 17-123.01 of the Revised Statutes of Nebraska as Amended.

Section 4: If the owner fails to remove such litter, after five (5) days' notice by publication and by certified mail, the City, through its proper officers, shall remove the litter or cause the litter to be removed, and shall assess the cost thereof against the property so benefited as provided by Ordinance. Ref. Section 17-123.01 of the Revised Statutes of Nebraska as Amended.

Section 5: That any other Ordinances or part of Ordinance passed and approved prior to The passage, approval, and publication of this Ordinance and in conflict with its provisions, is hereby repealed.

Section 6: This Ordinance shall take effect and be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 13th day of June, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 1050. Council member Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Holland seconded the motion. Voting AYE: Council members Smith, Lukassen, Hein, Holland, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1050 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Holland, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1050 was passed and adopted as follows:

ORDINANCE NO. 1050

AN ORDINANCE TO AMEND SECTION 4-401 AND TO AMEND SECTION 4-402, OF THE MUNICIPAL CODE; TO REPEAL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM, AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

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

Section .1: That Chapter 4, Article 4, Section 4-401 of the Municipal Code of David City, Nebraska shall read as follows:

§ 4-401 NUISANCE DEFINITION, GENERAL AND SPECIFIC.

- (A) General Definition. A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
- (1) Injures or endangers the comfort, repose, health, or safety of others;
 - (2) Is offensive to the senses;
 - (3) Unlawfully interferes with, obstructs, tends to obstruct, or renders

dangerous for passage any stream, public park, parkway, square, street, or highway in the city;

- (4) In any way renders other persons insecure in life or the use of property; or
 - (5) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (B) Specific Definition. 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, houseyards, 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 city;
 - (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 that nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the health officer of the city, 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) Litter, 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; litter shall include, but not be limited to, the following:
 - a. Trash, rubbish, refuse, garbage, paper, rags, and ashes;
 - b. Wood, plaster, cement, brick, or stone building rubble;

- c. Grass, leaves, and worthless vegetation;
 - d. Any machine or machines, vehicle or vehicles, or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk;
- (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 building, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof;
 - (9) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons;
 - (10) Stagnant water permitted or maintained on any lot or piece of ground;
 - (11) Stockyards, 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 the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom;
 - (12) Storage, accumulation, keeping, placing, or allowing to remain of trash, garage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any motor vehicles, tractors, trailers, machinery, and equipment;
 - (13) The storage, keeping or abandonment of parts, including scrap metals, from machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the city zoning regulations.
 - (14) The permitting of emission of smoke from any source that is polluted. The standards for air pollution established or adopted by the State of Nebraska shall be presumptive evidence as to when the air is deemed to be polluted under this section.

- (15) The obstruction or impeding without legal authority any river or collection of water or to corrupt and render unwholesome or impure any watercourse, stream, or other water within the corporate limits of the city. The standards For water quality established or adopted by the State of Nebraska shall be presumptive evidence as to when the water is deemed to be polluted under this section.
- (16) The abandoning, on public property, of personal property. For purposes of this subsection, "public property" shall mean any public right of way, street, highway, alley, park, or other state, county, or city owned property. For purposes of this subsection, "abandon" shall mean any personal property left on public property for more than 24 hours, except when the leaving of said personal property on said portion of public property, at that location, is legally permitted. For purposes of this subsection, "personal property" shall not include any motor vehicle for which a registration, from the State of Nebraska, is required to operate said motor vehicle on those portions of public property which constitute a street, highway, or alley.
- (17) All other things specifically designated as nuisances elsewhere in this code.

Section 2: That Chapter 4, Article 4, Section 4-402 of the Municipal Code of David City, Nebraska shall read as follows:

§ 4-402 NUISANCES; ABATEMENT PROCEDURE.

- (A) Duty. It shall be the duty of every owner, occupant, lessee, trustee and/or mortgagee of real estate in the city to keep such real estate free of public nuisances. All, or any part of said premises found, as provided herein, to constitute a public nuisance shall be abated by rehabilitation, demolition, or repair pursuant to procedures set forth herein.
- (B) Nonexclusive Procedure. The procedure set forth in this subchapter for abatement of a nuisance is nonexclusive and is in addition to the procedure for abatement of litter.
- (C) Enforcement. When the Board of Health of the City of David City, Nebraska declares or finds that any premises within the jurisdiction for nuisances contained in Section 4-403 of this Code may be maintained contrary to one or more of the provisions of Section 4-401 of the Code, EXCEPT subsection (16) thereof, the City Administrator of the City shall mail a Notice to the owner, occupant, lessee, mortgagee, and/or trustee of the premises. The Notice shall state the conditions which constitute the public nuisance and shall order the abatement of the nuisance within the time period set forth in the Notice, and shall be substantially in the following form:

NOTICE OF NUISANCE

TO: (Owner, Occupant, Lessee, Mortgagee, Trustee)
Addresses)

(1) Conditions Which Constitute the Public Nuisance:
(State all applicable conditions from Section 4-401)

(2) Abatement of the Nuisance Outlined Above SHALL be Completed on or Before: (State day, date, and time)

City Administrator
City of David City, Nebraska

- (D) Form of Proper Service of Notice. Service of said Notice shall be by depositing a copy of said Notice in the United States Postal Service enclosed in a sealed envelope and with postage thereon fully prepaid. Said mail shall be registered or certified and addressed to said owner, occupant, lessee, mortgagee, and/or Trustee at the last known address of said parties as disclosed by the current tax rolls, and if there is no known address, then in care of the property address. Service is complete at the time of such deposit. "Owner" as used herein shall mean any person in possession and also any person having or claiming to have any legal or equitable interest in said premises. The failure of any person to receive such Notice shall not affect the validity of the proceedings hereunder.
- (E) Affect of Failure to Abate. If the nuisance is not abated within the period given in the Notice, the City Administrator of the City may determine to proceed to abate the nuisance pursuant to the provisions of this Code.
- (F) Hearing. If the owner, as defined aforesaid, of the premises upon which the City Administrator of the City has determined that there exists a nuisance, shall, within the time period given to the owner by the City Administrator of the City for the abatement of said nuisance, file a written notice with the City Clerk for a hearing before the City Council concerning such determination, the City Clerk shall fix a date and time to hear the matter. The written Notice shall include the name and address, including mailing address, of the owner. The City Clerk shall then issue a Notice of the hearing date and time by mailing a copy to the petitioner's address no later ten (10) days prior to the date of the hearing.

At the time fixed in the Notice, the City Council, shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance, including the estimated cost of abatement and other matters which may be pertinent. At the conclusion of the hearing, the City Council shall, by resolution, declare its findings. If the City Council so concludes, it may declare the condition existing to be a nuisance and direct the City Administrator to proceed to abate the nuisance pursuant to the provisions of this Code. Such final determination shall be considered a final order of the City. Said Notice shall

be substantially in the following form:

NOTICE OF ADOPTION OF RESOLUTION NO. _____

TO: _____

YOU ARE HEREBY NOTIFIED THAT ON _____, 20____, the City of David City, Nebraska, by Resolution No. _____, after notice and hearing as specified in said Resolution, did determine that the following constitute a public nuisance, to-wit:

Upon the following described real estate, to-wit: _____

You are granted _____ days from the date of this Notice to abate said nuisance. Failure to abate said nuisance shall result in said nuisance being abated by the City of David City, Nebraska, and the cost of abatement shall be assessed upon said premises and constitute a lien upon said premises until paid.

Dated: _____

CITY OF DAVID CITY, NEBRASKA

By: _____
City Clerk

- (G) Extension of Time. The City Administrator may grant an extension of time to abate the nuisance if, in the City Administrator's opinion, good cause for an extension exists.
- (H) Abatement by City. If the person fails to abate the nuisance within the time set forth, the City Administrator may order the abatement of the nuisance.
- (I) Record of Expenses. The City Clerk shall keep an itemized account of the expenses involved in abating the nuisance. The City Clerk shall post conspicuously on the property and shall also mail to the owner of the property a statement showing the expenses of the abatement, together with a Notice of the time and place when the statement will be submitted to the City Council for approval and confirmation and at which time the City Council may consider the objections and protests to the cost of the work. Said notice shall be substantially in the following form:

NOTICE OF HEARING ON EXPENSE
OF ABATEMENT OF NUISANCE

TO: _____

Pursuant to Section 4-402(I) of the Municipal Code of the City of David City, Nebraska, you are hereby notified that the following is a statement showing the expense incurred by the City of David City in abating a nuisance upon the following described real estate, to wit:

Said expenses are as follows:

You are further notified that said Statement of Expenses shall be submitted to the City Council for consideration on the ____ day of _____, 20____, at _____ o'clock _____M., David City, Nebraska, at which time you may appear to object or protest the expenses incurred in the abatement of said nuisance.

CITY OF DAVID CITY, NEBRASKA

By: _____
City Clerk

- (J) Hearing on Statement of Expenses. At the time fixed for hearing on the statement of expense, the City Council shall consider the statement and protest or objections raised by the persons liable to be assessed for the costs of the abatement. The City Council may revise, correct, or modify the statement as it considers just and thereafter shall confirm the statement by motion or resolution. The decision of the City Council on all protests and objections which may be made shall be final and conclusive. The procedure governing the hearing shall be provided by Section 4-402(F).
- (K) Expenses as a Special Assessment Against the Property- If the property owner does not pay the expense of abating the nuisance within five (5) days after the City Council confirms the cost of abatement, the costs shall become a special assessment against the real estate upon which the nuisance was abated. The assessment shall continue until it is paid, together with interest applicable statutes of the State of Nebraska.
- (L) Notice of Special Assessment. The City shall file in the offices of the County Clerk and County Treasurer of Butler County, Nebraska a certificate substantially in the following form:

NOTICE OF SPECIAL ASSESSMENT

Under the authority of the David City Municipal Code, the City did on _____, 20____, abate a nuisance upon the real estate hereinafter described and then on _____, 20____, did assess the cost of the abatement upon the real estate. The City of David City claims a special assessment on the real estate for the expense of doing the work in the amount of \$_____. This amount is a special assessment against the real estate until it is paid, with interest as set by the applicable statutes of the State of Nebraska, until discharged of record. The real estate referred to above, and upon which the special assessment is claimed is that certain parcel of land situated within the jurisdiction of the City of David City, County of Butler, State of Nebraska and more particularly

described as follows:

DATED: _____

CITY OF DAVID CITY, NEBRASKA

By: _____
City Clerk

- (M) Alternatives. Nothing in the foregoing sections shall be deemed to prevent the City Administrator from directing the City Attorney to commence a civil and/or criminal proceeding to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceedings set forth herein.
- (N) Procedure in Case of Emergency. When the conditions which constitute the nuisance pose an immediate threat to the public peace, health, or safety, the City Administrator may order the nuisance abated immediately.
- (O) Expenses Collected by Civil Action. If the property owner does not pay the expense of abating the nuisance within five (5) days after the City Council confirms the cost of abatement, the City may collect the costs associated with said abatement from the property owner and enforce the collection by civil action of any court of competent jurisdiction.

Section 3: That any other Ordinances or part of Ordinance passed and approved prior to the passage, approval, and publication of this Ordinance and in conflict with its provisions, is hereby repealed.

Section 4: This Ordinance shall take effect and be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 13TH day of June, 2007.

ATTEST:

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

City Administrator Joe Johnson presented the following list of city owned items that may be sold at City Auction on July 7, 2007, by Kobza Auction. Council member Schatz made a motion to approve the list of items as presented, but authorized, with the discretion of the Mayor and /or City Administrator, items can be added or removed up to the date of the auction. Council member Smith seconded the motion. Voting AYE: Council members Hein, Lukassen, Holland, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

DEPT	ITEM DESCRIPTION	NUMBER	REQUIRED PRICE
Park & Aud	Wood Step Ladders		
Park & Aud	Athletic Field Caulk Box		
Park & Aud	3 Feet Chain link Fencing		
Park & Aud	5 Feet Chain link fencing		
Park & Aud	6 feet chain link fencing		
Park & Aud	Old baseball field lights		
Park & Aud	1989 Dodge Pick-up Truck		
Park & Aud	Glass Doors		
Park & Aud	Display racks - New		
Street	1979 Chevy Truck Red Single Axle Dump (79 Snow Plow)		\$2,500.00
Street	1992 Ford Crown Vic		\$200.00
Street	Water Tank	2	
Street	Crack tar pot		
Street	Assorted used culverts		
Street	Older Leaf Vacuum		
Street	8.2 Detroit Diesel Engine - Street Sweeper		
Street	Trailers	2	
Street	Floor Jacks	2	
Street	Used Tires		
Street	Gas Pumps City Shop	2	
Street	Snow Blower - 4 cylinder Wisconsin engine		
Street	427 Block Heads (dropped valve)		
Street	53 Ford oil dist		
Street	3000 gallon oil tanks - MC tanks heatable	2	
Street	Fuel Pumps	3	
Street	Old Copier, Misc., Used Computer		
Street	1981 Chevy Suburban 4x4		\$1,000.00
Street	Used Assorted Seats		
Street	Chlorine Feeder		
Street	Diving boards	2	\$37.50
Police	1988 Black Chevrolet Celebrity 4Dr. Sedan		\$37.50
Police	1989 Gray Mazda B2200 Short Bed Pickup		\$37.50
Police	1992 Blue Subaru Loyal 4WD Station Wagon		\$37.50
Police	1984 Blue Chevrolet G20 Van		\$37.50
Police	1990 Blue Pontiac Grand Prix LE 4Dr. Sedan		\$37.50
Police	1983 Blue Chevrolet K10 Blazer		\$37.50
Police	1989 White Pontiac Grand Am LE 2Dr. Coupe		\$37.50

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Police	1986 Blue Chevrolet Cavalier RS 2Dr. Coupe		\$37.50
Police	1990 Blue Lincoln Continental Signature 4Dr. Sedan		\$37.50
Police	1992 Maroon Mercury Marquis Grand LS 4Dr. Sedan		\$37.50
Police	1988 Silver Chevrolet Beretta 4Dr. Coupe		\$37.50
Police	1987 Red Buick Skylark Limited 4Dr. Sedan		\$37.50
Police	1982 Volkswagen Siroccos Deluxe 2Dr. Coupe		\$37.50
Police	1995 Purple Dodge Intrepid ES 4Dr. Sedan		\$37.50
Police	1999 White Ford Crown Vic 4Dr. Sedan		\$500.00
Police	1970 Cheetah Camper 12' bumper pull		\$37.50
Police	2 Cattle tanks Galvanized		\$37.50
Police	Miscellaneous bicycles of different sizes and models		
Police	20' BLUE JET anhydrous applicator		
Police	Northern Wisconsin Manufacturing 4 Section Spike Tooth Harrow		
Police	Hay Rack Trailer on running gears	2	
Police	13' JD 3pt. Field Cultivator w/ harrow		
Police	IH 4 row cultivator 5 shank		
Police	Farm Hand Running gear w/ Grain Master Hoist		
Police	Running Gear w/ Midwest Hoist		
Police	Gehl 95 Grinder Mixer		
Police	Hesston 30 Stack Mover		
Police	Case 22x36 Steel Wheeled Threshing Machine		
Police	New Holland 351 Grinder Mixer		
Police	Adapter Trailer (Homemade) Semi Trailer to Drawbar		
Police	Homemade 5x7 utility trailer		
Police	JD Spike tooth Harrow (1 Section)		
Police	Hog Feeder Approx 7' tall		
Police	Fuel Barrel Approx 6' long x 4 diameter w/ stand		
Police	Set of Duals (COOP Brand) 18.4-38		
Police	Set of Duals (COOP BRAND) 18.4-34		
Police	Set of IH Duals (bolt on, spokes) 13.6-28		
Police	Wooden Bolt Bin		
Water & SE	Wacker Packer Model BS60Y 132 LBS		
Water & SE	1967 Chevrolet 1 1/2 Ton Truck		\$500.00
Water & SE	1980 Ford 1/2 Ton Pickup Truck		\$200.00
Water & SE	1984 Ford 1/2 Ton Pickup Truck		\$350.00
Water & SE	Packer roller attachment for JD Backhoe		
Water & SE	Onan 5CW Generator		
Water & SE	200' of 1" sewer jet hose		
Water & SE	8' pickup box topper (White)		
Water & SE	2 centrifuges		
Water & SE	Subsite Locator & Cable Hound Locator		
Water & SE	Lennox Furnace Model# CB30M-51-1P		
Water & SE	Lennox Heat Pump/AC Model#HP21-413-4Y		
Water & SE	Drafting Table 34"W x 49"L x37"T		
Water & SE	Table 34"W x 60"L x 30.5"T		

Water & SE	Corner Table		
Electric	1994 Dodge 3/4 Ton Pickup Box White		
Electric	2 ton hoist Al-Lite		\$500.00
Electric	Jaegen Air Compressor 4 cyl Gas Engine		\$100.00
Electric	Coast to Coast Push Mower		
Electric	G&S Push Mower		
Electric	Lawn Boy Edger		
Electric	Gas Cans	3	
Electric	Firestone Tires Model#22575R16	2	
Electric	Goodyear Tires Model#22575R16	2	
City Hall	Dell Windows 2000 Sever (No hard drives)		
City Hall	Hewlett Packard Office Jet Pro 1150C Printer		
City Hall	At & T Office Phone		
City Hall	Brown Leather Office Chair		
City Hall	Meeting room cloth Chairs	6	
City Hall	Wood Chairs	2	
City Hall	Cloth Chairs	2	

Council member Schatz made a motion to allow City Clerk Joan Kovar to sign or endorse Department of Aeronautics documents on behalf of the City. Council member Smith seconded the motion. Voting AYE: Council members Hein, Lukassen, Holland, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Ordinance No. 1051. It was noted that since the property owner has requested the annexation, and this is correcting a previous annexation, the City Council can avoid the three separate readings for annexation. Normally, for annexation, you cannot waive the three readings. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Holland, Schatz, Lukassen, and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1051 on the third and final reading. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Holland, Schatz, Lukassen, and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1051 was passed and adopted as follows:

ORDINANCE NO. 1051

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW¼) OF SECTION TWENTY-NINE (29), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, LYING SOUTH OF AND ADJACENT TO, LOT 9 OF EAST PARK MEADOWS ADDITION TO DAVID CITY,

REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, Dean and Patricia Hilderbrand, husband and wife, have requested that the following property be annexed to the City as follows:

A tract of land located in the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW¼) of Section Twenty-Nine (29), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska, lying south of and adjacent to, Lot 9 of East Park Meadows Addition to David City, and described as follows:

Beginning at the southeast (SE) corner of said Lot 9, and assuming the southerly line of said Lot 9 to have a bearing of N51°05'45" E; thence S 0°02'30" W, 36.80 feet; thence S 55 °36'37" W, 120.86 feet; thence N 0°01'20" W, 24.54 feet, to a point on the southerly line of said Lot 9; thence N 51 °05'45" E, 128.12 feet, to the point of beginning, containing 0.07 acres, more or less.

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 this 13th day of June, 2007.

Mayor Dana Trowbridge

City Clerk Joan Kovar

Council member Hein made a motion to pass and adopt Resolution No. 6 - 2007 as presented. Council member Smith seconded the motion. Voting AYE: Council members Schatz, Lukassen, Holland, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 6 - 2007 was passed and adopted as follows:

RESOLUTION NO. 6 - 2007

WHEREAS, Dean S. and Patricia J. Hilderbrand, have filed a request to combine property located in the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼), (Tract D) Section 29, Township Fifteen (15), Range Three (3) East, Butler County, Nebraska, containing approximately .07 acres, and a tract of land located in the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW¼) of Section Twenty-Nine (29), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska, and property legally described as PT of Lot 9 & All of Lot 7, East Park Meadows Addition, David City, Butler County, Nebraska, to form one lot, and

WHEREAS, all three properties are annexed into the City and there were no objections expressed

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Dean S. and Patricia J. Hilderbrand, to combine the property located in the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼), (Tract D) Section 29, Township Fifteen (15), Range Three (3) East, Butler County, Nebraska, containing approximately .07 acres, and a tract of land located in the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW¼) of Section Twenty-Nine (29), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska, and property legally described as PT of Lot 9 & All of Lot 7, East Park Meadows Addition, David City, Butler County, Nebraska, to form one lot, is hereby approved.

Dated this 13th day of June, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Hein made a motion to approve the request of Scott T. Samek to sell permissible fireworks at Amigo's parking lot located at 209 So. 4th Street, David City, Nebraska. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Schatz, Holland, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Hein made a motion to approve the request of Brad Thomas d.b.a. Hometown Fireworks Inc., to sell permissible fireworks at 1652 N 4th Street, on property owned by Jeff & Bobbi Schmid - Northside Inc., David City, Nebraska. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Schatz, Holland, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Hein made a motion to approve the request of Marv Kohler Enterprises, Inc., contingent upon receipt of the State License Number, to sell permissible fireworks at Slick Graphix's parking lot located at 1831 N. 4th Street, David City, Nebraska. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Schatz, Holland, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Hein made a motion to designate 1st National Bank of Omaha - David City Branch; U.S. Bank - David City Branch; Union Bank - David City Branch; and Bank of the Valley - David City Branch; as the Depository Banks for the City of David City/David City Utilities. Council member Smith seconded the motion. Voting YEA: Council members Holland, Schatz, Lukassen, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Hein made a motion to table consideration of updating the existing future land use map to be consistent with the proposed zoning map. Council member Smith seconded the motion. City Administrator Johnson stated that JEO is requesting \$3,500 and he will pursue the costs of updating with Olsson Associates. Voting AYE: Council members Schatz, Lukassen, Holland, Smith, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

City Administrator Joe Johnson stated that the employee was not present to discuss a grievance regarding disciplinary actions taken by his/her supervisor. A response letter was given to Mayor Trowbridge for review. It was noted that the employee must follow the employee's manual which states "He may appeal in writing to the City Administrator. If the employee is still not satisfied, a meeting will be scheduled with the employee, department head, City Administrator, Mayor, and the City Council." City Administrator Joe Johnson will visit with the employee.

There being no further business to come before the Council, Council member Holland made a motion to adjourn. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Schatz, Hein, and Holland. Voting NAY: None. Council member Scribner was absent. The motion carried and Mayor Trowbridge declared the meeting adjourned at 9:55 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES

June 13, 2007

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 June 13, 2007; 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