

CITY COUNCIL PROCEEDINGS

July 14, 2004

The City Council of the City of David City, Nebraska met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on July 8, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notices to the Public, Mayor and Council members conveyed the availability of the Agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary L. Kroesing, Ted Lukassen, Mark Kirby, Gary Smith, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Police Chief Stephen Sunday, Street Superintendent Jim McDonald, Power Plant Supervisor John Kabourek and employee Eric Betzen, Water/Sewer Supervisor Jim Kruse and daughter Kelsey, Waste Water Operator Alan Scott Boyd, Park/Auditorium Supervisor Bill Buntgen, Aquatic Center employees Rachelle Birkel and Mary Ann Mattingly, citizens Keith Stara, Betty Stara, Dorothy Bohaty, Dr. Kaufmann, Jerome Polacek, Mike Behrns, Neil Kuhlman, Bob Bierbower, Margaret Richards, Jerry Kosch, Doug Matulka, Tim Prothman, Tom Hamling, Andy Gratz, Scott Hoeft, Richard and Virginia Rerucha, Duane and Jeanne Zegers, Mike Zegers, Jackie Horan, Brian Behrns, Mike Novotny of Marquis Body Shop, Mary Sohl, Harlan Lyons, A.J. Hein, Michael Burwell, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar.

The meeting opened with the Pledge of Allegiance.

The minutes of the June 9th, 2004 meeting 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, Lukassen, Hein, 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.

Council member Kirby thanked the Chamber and all those who helped with the July Jam on July 10th, especially the firemen for their assistance with the fireworks display.

Mary Ann Mattingly, Aquatic Center Assistant Manager, stated that she wanted clarification concerning the employment status of her child, Anna Mattingly, and Assistant Manager Jill Stara's child, Brody Stara. Anna and Brody were hired in April and then within a week were notified that they were not eligible. When Anna and Brody's time sheets were turned in the end of June, they were not paid. Mayor Smith explained that Anna and Brody will be paid, but he wanted to get this situation clarified. Mayor Smith stated that the employee manual states: "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." Mayor Smith stated that he thought everyone understood that Anna and Brody would not be employed because of the nepotism rule. City Clerk Kovar explained that Anna and Brody were not paid because the

City Office did not have the required paperwork for them - W4's, Social Security numbers, I-9's, etc.. As the discussion dealt with personnel, Mayor Smith stated that this would be discussed further in executive session.

Council member Kroesing asked if something could be done with the railroad track on West "A" Street and if the City is fogging for mosquitos. Street Superintendent McDonald stated that the Burlington Northern Santa Fe Railroad was contacted to repair the tracks but due to a derailment they have not gotten here yet. The street department has done some mosquito fogging, and McDonald has ordered more chemicals for additional fogging.

Council member Kroesing also questioned why the water was discolored. Water/Sewer Supervisor Jim Kruse explained that some problems have been encountered with the lime feed system. The level sensors and new rotoflow valve have a few bugs that need to be worked out. The level sensors have been adjusted to keep the lime feeding. The programming for PLC has been changed to help run the lime aeration blower to keep the lime flowing to the roto-flow valve. The lime feed system seems to work normally for about a week then quits feeding lime. The lime feed system problems may be causing problems with the water quality and color.

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

Council member Kirby made a motion to advance to agenda item #7 - 7:30 p.m. Public Hearing to consider amending the Land Use Plan and consideration of an ordinance to amend the Land Use Plan by changing the Zoning Classification of real estate from Mobile Home Residential to Highway Commercial. Council member Hein seconded the motion. Voting YEA: Council members Smith, Lukassen, Schatz, Kroesing, Hein, and Kirby. Voting NAY: None. The motion carried.

Mayor Smith declared the Public Hearing open at 7:30 p.m. to consider amending the land use plan map by changing the zoning classification of real estate from Mobile Home Residential to Highway Commercial.

Planning Commission member Jackie Horan, stated that she was not in favor of the proposed location for a Highway Commercial area. A commercial area directly across from Aquinas High School will cause traffic problems. If a Dollar General Store locates there, as has been discussed, small children will be walking or riding bikes to get there causing a traffic hazard. She stated that we also need "development with a conscious"; people have tunnel vision and all they see is the dollar at the end of the tunnel; we need to think of the aesthetics of the area.

Council member Smith stated that first we should resolve current problems. What is actually allowed in Highway Commercial, and what's not? What do we need to do to resolve the problem of letting a business operate that is already in business (making reference to Marquis Body Shop).

Council member Schatz stated the General Plan stipulates what businesses are allowed in Highway Commercial. There are very limited Highway Commercial zoned areas in David City. This might resolve some stress in the downtown area.

Mike Novotny, d.b.a. Marquis Body Shop, stated that the Council has to look at the plus side; a new business will increase the tax base. Dollar General is getting very negative thoughts from the public. "Businesses want to come to David City and you close the doors on them; that is sad, very sad" Novotny said.

There being no further comments, Mayor Smith declared the Public Hearing closed at 7:45 p.m..

Council member Schatz introduced Ordinance No. 974. Mayor Smith noted that the ordinance should be corrected to read 23 acres more or less instead of 128.80 acres more or less. Council member Kroesing made a motion to pass Ordinance No. 974, as amended, on the first reading only. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Smith, and Kroesing. Voting NAY: Council members Schatz, Hein, and Lukassen. Mayor Smith broke the tie and voted "NO" stating that reading the ordinance on three separate readings wasn't going to change anything. The motion failed.

Council member Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Smith, Lukassen, Kirby, Schatz, and Hein. Voting NAY: Kroesing. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 974 on the third and final reading with it amended to read 23 acres more or less. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Hein, Lukassen, and Schatz. Voting NAY: Council members Kroesing, and Kirby. The motion carried and Ordinance No. 974 was passed and adopted as follows:

ORDINANCE NO. 974

AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MOBILE HOME RESIDENTIAL (MHR) TO HIGHWAY COMMERCIAL (HC), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

- a. To amend the following property from Mobile Home Residential to Highway Commercial:

part of the SW 1/4 of Section 30, Township 15,
Range 3 East, containing 23 acres more or less

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

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

Passed and adopted this 14th day of July, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Lukassen made a motion to advance to agenda item #8 - 7:45 p.m. Public Hearing to consider re-zoning property located in part of the SW 1/4 of Section 30, Township 15, Range 3 East, containing ~~128.80~~ 23 acres more or less, from Mobile Home Residential to Highway Commercial, as requested by Duane and Jeannette Zegers, and consideration of an ordinance to amend the official zoning map by changing the zoning classification of the above mentioned property. Council member Schatz seconded the motion. Voting YEA: Council members Smith, Kroesing, Hein, Kirby, Lukassen, and Schatz. Voting NAY: None. The motion carried.

Mayor Smith declared the Public Hearing open at 7:50 p.m. to consider re-zoning property located in part of the SW 1/4 of Section 30, Township 15, Range 3 East, containing 23 acres more or less, from Mobile Home Residential to Highway Commercial as requested by Duane and Jeannette Zegers and amending the official zoning map by changing the zoning classification of the above mentioned property. Once again, Mayor Smith stated that they are considering approximately 23 acres more or less, and not 128.80 as listed. There being no comments, Mayor Smith declared the Public Hearing closed at 7:51 p.m..

Council member Schatz introduced Ordinance No. 975 and 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 YEA: Council members Hein, Kirby, Schatz, and Lukassen. Voting NAY: Council members Kroesing and Smith. The motion failed as 3/4 vote of the council (5) is required to suspend the statutory rule.

Council member Schatz made a motion to pass and adopt Ordinance No. 975 on the first reading. Council member Hein seconded the motion. Voting YEA: Council members Smith, Kroesing, Lukassen, Hein, and Schatz. Voting NAY: Council member Kirby. The motion carried and Ordinance No. 975 was passed on first reading only as follows:

ORDINANCE NO. 975

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MOBILE HOME RESIDENTIAL (MHR) TO HIGHWAY COMMERCIAL (HC), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH, DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL

FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as follows:

- a. To amend the following property from Mobile Home Residential to Highway Commercial:

part of the SW 1/4 of Section 30, Township 15,
Range 3 East, containing 23 acres more or less

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

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

Passed and adopted this 14th day of July, 2004.

1st reading only
Mayor Stephen Smith

1st reading only
City Clerk Joan E. Kovar

Council member Hein made a motion to advance to agenda item #9 - 8:00 p.m. Public Hearing to consider amending the Land Use Plan to allow motor vehicle body shops in Highway Commercial zoned areas, and consideration of an ordinance to amend the Land Use Plan by allowing motor vehicle body shops in Highway Commercial zoned areas. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Kroesing, Lukassen, Schatz, Hein, and Kirby. Voting NAY: None. The motion carried.

Mayor Smith declared the Public Hearing open at 8:00 p.m. to consider amending the Land Use Plan to allow motor vehicle body shops in Highway Commercial zoned areas, and to consider an ordinance to amend the Land Use Plan by allowing motor vehicle body shops in Highway Commercial zoned areas.

Virginia Rerucha wanted to verify that motor vehicle body shops were not a permitted use in Highway Commercial zoned areas but were allowed in Industrial zoned areas according to the General Plan. Mayor Smith stated that was correct. Virginia then asked how the council makes changes to the General Plan. Mayor Smith stated by amending the Land Use Plan and the General Plan. Council member Schatz explained that if the General Plan is amended to allow motor vehicle body shops as a special exception in Highway Commercial zoned areas, then each special exception request is reviewed individually. The Planning Commission may grant

special exceptions to property owners for the use of their property as authorized by the City Council. The granting of the special exception shall only allow property owners to put their property to a special use if it is among those uses specially identified in the Zoning Ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit is authorized. The exceptions shall take effect upon the issuance of a Conditional Use permit. The power to grant conditional uses or exceptions is the exclusive authority of the Planning Commission.

Virginia Rerucha stated that appearance is very important to a community and when the General Plan was adopted in 1984 that was apparently realized so motor vehicle body shops were not included in Highway Commercial. Jerry Kosch stated: "appearances are nice, but people need money to eat. What will Mike Novotny do if you deny his business as a motor vehicle body shop in Highway Commercial? His business provides a service and supports the tax base". Doug Matulka, an owner of Benes Service, stated that various organizations are always coming to "businesses" for donations - fireworks, proms, etc. - the community needs more businesses. Margaret Richards stated that this building in the past has been a gas station and car shop and questioned why there is a problem now. Mike Novotny stated that he had been in business for eighteen months, (Marquis Body Shop - 495 S 5th), and now all of a sudden there is a problem because his business is not allowed in Highway Commercial. Mike stated that it is not just his business that is zoned improperly. "I have a strong, strong business and I would hate to have to leave David City, but I am getting fed up and I need space" Mike said. Council member Hein stated that trends have changed since 1984 and now most businesses are moving to highway frontages.

There being no further comments, Mayor Smith declared the Public Hearing closed at 8:15 p.m..

Council member Schatz introduced Ordinance No. 976. Council member Kroesing 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 YEA: Council members Smith, Hein, Kirby, Schatz, Kroesing, and Lukassen. Voting NAY: None. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 976 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Smith, Lukassen, Hein, Kroesing, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 976 was passed and adopted as follows:

ORDINANCE NO. 976

AN ORDINANCE TO AMEND THE LAND USE PLAN BY ALLOWING MOTOR VEHICLE BODY SHOPS IN HIGHWAY COMMERCIAL (HC) ZONED AREAS, REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

a. To allow Motor Vehicle Body Shops in Highway Commercial Zoned Areas.

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

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

Passed and adopted this 14th day of July, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Mayor Smith declared the Public Hearing open at 8:17 p.m. to consider the request of Mike Novotny d.b.a. Marquis Body Shop to amend the General Plan to allow motor vehicle body shops in Highway Commercial zoned areas, and to consider an ordinance to amend Section 414.4 of the General Plan by adding motor vehicle body shops as a Special Exception in Highway Commercial Zoned Areas.

Tim Prothman asked "if the property was zoned incorrectly for the Marquis Body Shop, why was Mike Novotny ever allowed to have this business?" Mayor Smith explained that it was overlooked until the property next door asked for re-zoning; then it was noticed.

There being no further comments, Mayor Smith declared the Public Hearing closed at 8:21 p.m..

Council member Schatz introduced Ordinance No. 977. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Smith, Kirby, Lukassen, Schatz, Kroesing, and Hein. Voting NAY: None. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 977 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Smith, Lukassen, Hein, Kroesing, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 977 was passed and adopted as follows:

ORDINANCE NO. 977

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING ORDINANCE NO. 616, SECTION 414 - HIGHWAY COMMERCIAL DISTRICT TO INCLUDE

“MOTOR VEHICLE BODY SHOPS” IN SECTION 414.4 - **SPECIAL EXCEPTIONS**, TO REPEAL ALL ORDINANCES IN CONFLICT WITH THIS PROVISION, DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Ordinance No. 616, Highway Commercial District - Section 414.4 Special Exceptions - be amended by the addition of the following:

9. Motor Vehicle Body Shops;

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

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

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

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

Mayor Smith noted that Mike Novotny will now need to go before the Planning Commission to ask for a Special Exception.

Council member Kirby made a motion to advance to agenda item #19 - Consideration of Ordinance No. 971 relating to Municipal Property/Subdivisions, providing for curb and gutter, street construction assessments, etc.. Council member Hein seconded the motion. Voting YEA: Council members Smith, Kroesing, Lukassen, Schatz, Hein, and Kirby. Voting NAY: None. The motion carried.

Council member Hein made a motion to pass Ordinance No. 971 on the third and final reading. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Kroesing, Lukassen, Schatz, Kirby, and Hein. Voting NAY: None. The motion carried and Ordinance No. 971 was passed on third and final reading as follows:

ORDINANCE NO. 971

AN ORDINANCE RELATING TO MUNICIPAL PROPERTY; PROVIDING FOR STREET CONSTRUCTION ASSESSMENTS, CURB AND GUTTER; REPEALING CONFLICTING ORDINANCES AND SECTIONS; 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 8 - Public Ways and Property, Article 3 - Streets, Section 8-316 of the Municipal Code of David City, Nebraska, is adopted to read as follows:

§8-316 STREETS; CONSTRUCTION ASSESSMENT; ALL NEW SUBDIVISIONS & HOUSING DEVELOPMENTS LOCATED WITHIN THE CITY'S CORPORATE LIMITS AND WITHIN THE CITY'S ZONING JURISDICTION.

- (A) To defray the costs and expenses of street improvements, as may be authorized by law, the Governing Body shall have the power and authority to require that all developers petitioning the municipality for street construction shall pay the following expenses:
- Street Construction: The developer(s) is responsible for eighty percent (80%) of all costs associated with the development of new streets within, leading to, or connecting the subdivision(s).
 - Curb and Gutter: The developer(s) is responsible for eighty percent (80%) of all costs associated with the installation of new curb; curb and gutter.
 - Intersections: The developer(s) is responsible for eighty percent (80%) of all costs associated with installation of intersections within the subdivision or housing development.
 - Engineering Fees: The developer(s) is responsible for eighty percent (80%) of all costs associated with the services provided by the selected engineer.
- (B) Before final plat approval is granted by the Governing Body, the developer(s) shall have completed and paid, their full share of the project costs.
- (C) The arrangement, character, extent, width, grade, and location of all streets within all subdivisions and housing developments shall conform to the standards of the Comprehensive Plan of current adoption and Zoning Ordinances of the City. All required improvements and installations shall be constructed or installed to conform to the provisions of this Ordinance and the standard specifications of the City.
- (D) All developers wishing to locate new subdivisions, or who have existing subdivisions and housing developments, located within the city limits and within the city's zoning jurisdiction are required to obtain and use an engineer that is selected by the municipality through a competitive bidding process.

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

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

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

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kroesing made a motion to advance to agenda item #20 - Consideration of Ordinance No. 973 amending Chapter 5 of the Municipal Code Book of the City of David City, Nebraska. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Schatz, Kirby, Hein, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Lukassen made a motion to pass Ordinance No. 973 on the second reading only. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Hein, Kirby, Schatz, Lukassen, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 973 was passed on second reading as follows:

ORDINANCE NO.

973

AN ORDINANCE AMENDING CHAPTER 5: TRAFFIC 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. Chapter 5: Traffic Regulations of the David City Municipal Code Book be amended to read as follows:

Chapter 5
TRAFFIC REGULATIONS

Article 1. Definitions

§5-101 **DEFINITIONS.** The words and phrases used in this Chapter, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Chapter 60, Article 6 of the Revised Statutes of Nebraska, 1943, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning.

(Ref. 60-606 through 60-676 RS Neb.)

BUSINESS DISTRICT. The term "business district" shall mean the territory included within a boundary line running East from the point of intersection of the medial lines of Third Street and C Street to the point of intersection of the medial lines of Sixth Street and C Street, then North to the Union Pacific boundary limits, then West to the medial line of Third Street, then South to the point of beginning.

(Amended by Ord. No. 851, 4/8/98)

Article 2. Municipal Traffic Regulations

- §5-201** **TRUCK ROUTES.** The Governing Body may, by resolution, designate certain streets in the Municipality that trucks shall travel upon, and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise, and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through, or about the Municipality. The Governing Body shall cause notices to be posted, or shall erect signs indicating the streets so designated as truck routes. *(Ref. 39-6, 189 RS Neb.)*
- §5-202** **ONE-WAY TRAFFIC.** The Governing Body may, by resolution, provide for one-way travel in any street, or alley located in the Municipality and shall provide for appropriate signs and markings when said streets have been so designated by resolution. *(Ref. 39-697 RS Neb.)*
- §5-203** **TRAFFIC LANE; DESIGNATION.** The Governing Body may, by resolution, mark lanes for traffic on street pavements at such places as it may deem advisable. *(Ref. 39-697 RS Neb.)*
- §5-204** **TURNING; "U" TURNS.** No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. U-turns shall be prohibited on Fourth Street from the north city limits to the south city limits and on "D" Street from Third Street to Fifth Street. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation, or where a sign is posted indicating that U-turns are prohibited. *(Ref. 39-651, 39-697 RS Neb.) Amended by Ord. No. 741, 3/13/91)*
- §5-205** **TURNING; GENERALLY.** Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right hand side of the highway and must turn the corner as near the right hand curb as possible to keep between the curb to the right and the center of the intersection of the two (2) streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway, and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this Section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another. *(Ref. 39-650 RS Neb.)*
- §5-206** **RIGHT-OF-WAY; GENERALLY.** When two (2) vehicles approach, or enter an intersection at approximately the same time, the driver of the vehicle on the left shall

yield the right-of-way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a Municipal Policeman stationed at the intersection. The driver of a vehicle intending to turn to the left within an intersection, or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. The driver of a vehicle on any street shall yield the right-of-way to a pedestrian crossing such street within any clearly marked crosswalk, or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right-of-way to vehicles upon the street. The driver of a vehicle entering a Municipal street from a private road, or drive shall yield the right-of-way to all vehicles approaching on such streets. The driver of a vehicle upon a street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the drivers thereof make proper use of visual or audible signals. (Ref. 39-635 thru 39-643 RS Neb.)

§5-207 **RIGHT-OF-WAY; OVERTAKING VEHICLES.** The driver of a vehicle about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle. (Ref. 39-622 RS Neb.)

§5-208 **RIGHT-OF-WAY; SLOW MOVING VEHICLES.** Vehicles moving slowly shall keep as close as possible to the curb on the right, allowing more swiftly moving vehicles free passage to their left. Vehicles in motion shall be kept between the curb at the right and the center of the street. (Ref. 39-622, 39-697 RS Neb.)

§5-209 **RIGHT-OF-WAY; EMERGENCY VEHICLES.** Upon the approach of any authorized emergency vehicle, every vehicle within one (1) block of the route of such emergency vehicle shall immediately stop, except at the time they are on or crossing a street intersection, in which event, such vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right hand curb as possible and remain there until such authorized emergency vehicle or vehicles have passed; Provided, said vehicles are operated on official business and the drivers thereof make use of proper visual or audible signals. (Ref. 39-640 RS Neb.)

§5-210 **POSITION OF VEHICLE ON HIGHWAY; GENERALLY.** Upon all highways of sufficient width, one-way streets excepted, the driver of a vehicle shall drive the same on the right half of the roadway. In passing or meeting other vehicles, drivers shall give each other at least one half (1/2) of the main traveled portion of the roadway. (Ref. 39-620 RS Neb.)

§5-211 **POSITION OF VEHICLE ON HIGHWAY; PASSING.** A vehicle shall not be driven to the left of the center line of the highway in overtaking or passing another vehicle proceeding in the same direction, unless such left side is clearly visible and free from oncoming traffic for a sufficient distance to permit such overtaking and passing to be made in safety. (Ref. 39-625 RS Neb.)

§5-212 **POSITION OF VEHICLE ON HIGHWAY; SLOW VEHICLES.** Vehicles moving slowly shall keep as close as possible to the curb on the right, allowing more swiftly moving

vehicles free passage on the left. (Ref. 39-622, 39-697 RS Neb.)

§5-213 **BACKING.** Before backing, ample warning shall be given and while backing, unceasing vigilance must be exercised not to injure those behind. The driver of a parked vehicle about to back shall give moving vehicles the right-of-way.

§5-214 **STOPS; CROSSING SIDEWALKS.** All vehicles before crossing a sidewalk, emerging from a garage, alley, filling station, or other place within the "business district," shall come to a complete stop, and after giving sufficient warning shall proceed slowly and with extreme caution while crossing such sidewalk, or leaving such garage, alley, filling station, or other place. The term "slowly" shall be construed to mean such rate of speed as is reasonable and proper under the circumstances and the condition of the street and traffic thereon.

§5-215 **CROSSWALKS.** The Governing Body may, by resolution, establish and maintain, by appropriate devices, markers, or lines upon the street, crosswalks, at intersections where there is particular danger to pedestrians crossing the street, and at such other places as they may deem necessary. (Ref. 39-697 RS Neb.)

§5-216 **SIGNS; SIGNALS.** The Governing Body may, by resolution, provide for the placing of stop signs, or other signs, signals, standards, or mechanical devices in any street or alley under the Municipality's jurisdiction for the purpose of regulating, or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulations, or prohibition. (Ref. 39-609 thru 39-611, 39-967 RS Neb.)

§5-217 **STOP SIGNS.** Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible. (Ref. 39-609 thru 39-611, 39-697 RS Neb.)

Article 3. Prohibitions and Enforcement

§5-301 **LITTERING.** (Repealed by Ord. No. 735, 10/10/90)

§5-302 **GLASS; POINTED OBJECTS.** No person shall throw, cast, lay, or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of, or containing, glass, and in case of an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass, or the person responsible for such breakage, shall at once remove, or cause the same to be removed, from the street. (Ref. 39-638 RS Neb.)

§5-303 **SIGNS; DEFACING OR INTERFERING WITH.** It shall be unlawful for any person to willfully deface, injure, remove, obstruct or interfere with any official traffic sign or signal. (Ref. 39-619 RS Neb.)

§5-304 **SIGNS; UNAUTHORIZED DISPLAY.** It shall be unlawful for any person to maintain or display upon, or in view of any street, any unofficial sign, signal, or device which purports to be, is an imitation of, or resembles an official traffic sign or signal which attempts to direct the movement of traffic, or which hides from view, or interferes with the effectiveness of any official sign or signal. Every such prohibited sign, signal, or device is hereby declared to be a public nuisance, and any police officer is hereby empowered to remove the same, or cause it to be removed, without notice. *(Ref. 39-618 RS Neb.)*

§5-305 **UNNECESSARY NOISE FROM A MOTOR VEHICLE.** It shall be unlawful for any person to operate any vehicle, as defined by ordinance, upon any highway, street, alley, public way, or within the corporate limits of the Municipality, in such a manner as to cause unnecessary noise, spinning or squealing of tires, loss of traction, skidding, sliding, swaying or abrupt turns, and, it shall be unlawful for any person at any time to use a horn on such a vehicle otherwise than as a necessary warning, or to make any unnecessary or unreasonably loud or harsh sound by means of a horn on such a vehicle. *(Amended by Ord. No. 643, 9/11/85)*

§5-306 **SPEED LIMITS.** No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than twenty-five (25) miles per hour within the residential district, and twenty (20) miles per hour within the business district, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted. *(Ref. 39-662, 39-663 RS Neb.)*

§5-307 **SPEED; ELECTRONIC DETECTOR.** The speed of any motor vehicle within the Municipality may be determined by the use of radio microwaves or other electronic device. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court, or legal proceedings, where the speed of the motor vehicle is at issue.

The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his badge of authority; Provided, that such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves, or other electronic device or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle had been recorded, and must include a description of the vehicle and the recorded speed. *(Ref. 39-664 RS Neb.)*

§5-308 **DRUNKEN DRIVING.** It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

- a. While under the influence of alcoholic liquor or of any drug;
- b. When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or
- c. When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine. Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs.

Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a Class V misdemeanor.

Upon the conviction of any person for the violation of this section, there shall be assessed as part of the court costs, the fee charged by any physician or any agency administering the test or tests and the analysis thereof. (*Ref. 60-6,196 to 60-6,197.08 RS Neb.*)

§5-309 **RECKLESS DRIVING**. Any person who drives a motor vehicle in such a manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving, and as such shall be punished as provided by statute. (*Ref. 39-669.01, 39-669.02, 39-669.26 RS Neb.*)

§5-310 **NEGLIGENT DRIVING**. Any person who operates a motor vehicle in such a manner as to indicate a want of ordinary care and caution that a person of ordinary prudence would use under like circumstances shall be deemed guilty of negligent driving. (*Ref. 9-669.26 RS Neb.*)

§5-311 **BACKING**. It shall be unlawful for any person to back a motor vehicle on the municipal streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where such unloading is permitted; Provided, a vehicle shall be backed only when such movement can be made in safety and in no case shall the distance of the backing exceed one and one-half (1½) lengths of the vehicle. (*Ref. 39-675, 39-697 RS Neb.*)

§5-312 **UNNECESSARY STOPPING**. It shall be unlawful for any person to stop any vehicle on any public street or alley, other than in permitted parking areas, except when such a stop is necessary for emergency situations, to comply with traffic control devices and regulations, or to yield the right-of-way to pedestrians or to other vehicles. (*Ref. 39-672, 39-697 RS Neb.*)

§5-313 **VEHICLE; MUFFLER**. Every motor vehicle operated within this Municipality shall be provided with a muffler in good working order to prevent excessive or unusual noise or smoke. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; Provided, the provisions of this section shall not apply to authorized emergency vehicles. (*Ref. 39-6, 137 RS Neb.*)

- §5-314 POLICE; REFUSAL TO OBEY.** It shall be unlawful for any person to refuse, or fail to comply with, any lawful order, signal, or direction of a police officer. (*Ref. 39-697 RS Neb.*)
- §5-315 DRIVING IN SIDEWALK SPACE.** It is hereby declared unlawful for any person or persons in the corporate limits of this City to drive an automobile or other motor vehicle on any sidewalk, crosswalk, or sidewalk area except upon a permanent or duly authorized temporary driveway in the corporate limits of said City. (*Ord. No. 501, 6/25/75*)
- §5-316 ENGINE BRAKING.** (1) A person commits the offense of engine braking if the person is operating a motor vehicle on a street or highway and uses an unmuffled engine brake.
(2) The offense described in this section, engine braking, is a traffic infraction with a minimum fine of \$25.00 and a maximum fine of \$100.00.
(3) A person is not in violation of this section if the person uses an unmuffled engine brake in an emergency situation to avoid imminent danger to a person or to property. (*Ord. #874 12/8/99*)

Article 4. Traffic Citations and Disposition

- §5-401 TRAFFIC CITATIONS; FORM AND RECORDS.** The Municipal Police shall obtain from the County Judge, traffic citations containing notices to appear. The County Judge may require and retain a receipt for every book so issued. The Municipal Police shall return all copies of every traffic citation which has been spoiled, or upon which any entry has been made, and not issued to an alleged violator.
- §5-402 TRAFFIC CITATIONS; DISPOSITION AND RECORDS.** The Municipal Police upon issuing a traffic citation to an alleged violator of any provision of this Chapter shall deposit a copy of the traffic citation with the Municipal Attorney, unless the citation is just a warning.
It shall be unlawful for the Municipal Police to dispose of a traffic citation, or copies thereof, or of the record of the issuance of the same in a manner other than as required herein.
- §5-403 TRAFFIC CITATION; ILLEGAL CANCELLATION.** Any person who cancels, or solicits the cancellation of any traffic citation in any manner other than as provided herein, shall be guilty of a misdemeanor.

Article 5. Bicycles

- §5-501 BICYCLE; REGISTRATION.** Anyone wishing to operate a bicycle within the corporate limits shall make an application to the Municipal Police before operating within the Municipality. A registration number shall then be issued by the Municipal Police. Said registration number shall then be attached to the bicycle in a substantial manner. The removal of such number, except by the proper authorities, shall be unlawful.
- §5-502 BICYCLE; PARKING.** All bicycles shall be parked in bicycle stands when left unattended in the Business District. Where stands are unavailable parking shall be allowed on the sidewalks as close to the curb as possible. Under no circumstances shall parking be

allowed where said parking will obstruct a doorway or entrance into a business establishment.

Article 6. Minibikes, Snowmobiles, and All-Terrain Vehicles

§5-601 MINIBIKES; UNLAWFUL OPERATION. It shall be unlawful for any minibike or similar two, three, or four-wheeled miniature vehicle whose visibility, power, and equipment are inadequate for mixing with normal vehicular traffic upon the streets and highways to be operated on any such street or highway. For purposes of this Article, "minibike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen (14") inches or an engine rated capacity of less than forty-five (45) cubic centimeters displacement or a seat height of less than twenty-five (25") inches from the ground or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. *(Ref. 60-2101.01, 60-2107 RS Neb.)*

§5-602 SNOWMOBILES; UNLAWFUL ACTS. It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by him, to be operated:

1. Within the Municipality unless weather conditions are such that it provides the only practicable method of safe vehicular travel, or said snowmobile is engaged in responding to an emergency.
2. At a rate of speed greater than reasonable or proper under the surrounding circumstances.
3. In a careless, reckless or negligent manner so as to endanger person or property.
4. Without a lighted headlight and tail light when such would be required by conditions.
5. In any tree nursery or planting in a manner which damages or destroys growing stock.
6. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.

(Ref. 60-2013, 60-2015 RS Neb.)

§5-603 MINIBIKES; ON PUBLIC LANDS. Minibikes may be operated upon public lands owned by the Municipality; Provided, oral permission is first received from the Park Superintendent. Failure to gain said permission shall be a violation of this Article and shall be enforced by the Municipal Police.

§5-604 SNOWMOBILES; PUBLIC LANDS. Snowmobiles shall be prohibited from operation on the public lands owned by the Municipality, except where said snowmobile is responding to an emergency. *(Ref. 60-2016 RS Neb.)*

§5-605 SNOWMOBILES; ENFORCEMENT; PENALTY. Any peace officer, including a conservation officer, may enforce the provisions relating to snowmobiles. Any person convicted of violating any rule or regulation dealing with snowmobiles shall be punished by a fine of not more than one hundred (\$100.00) dollars or imprisonment not to exceed ninety (90) days. *(Ref. 60-2021 RS Neb.)*

[Editor's Note: Sections 5-606 thru 5-614 were adopted in their entirety by Ordinance No. 681, passed August 26, 1987]

§5-606 ALL-TERRAIN VEHICLES; DEFINED. As used in this Article, unless the context otherwise requires, all-terrain vehicle shall mean any motorized off-highway vehicle which (1) is

fifty (50") inches or less in width, (2) has a dry weight of six hundred (600) pounds or less, (3) travels on three (3) or more low pressure tires, (4) is designed for operator use only with no passengers, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control.

All-terrain vehicles which have been modified to include additional equipment not required by Sections 5-608 and 5-609 of this Article shall not be registered under Chapter 60, Article 3. (*Ref. 60-2801 RS Neb.*)

§5-607 ALL-TERRAIN VEHICLES; OPERATION. Except as provided in Sections A through C of this Section, an all-terrain vehicle shall not be operated on any public street, road, or highway of this State. The crossing of any Interstate or limited-access highway shall not be permitted.

- A. The crossing of a public street, road, or highway shall be permitted only if:
1. The crossing is made at an angle of approximately ninety (90°) degrees to the direction of the street, road, or highway and at a place where no obstruction prevents a quick and safe crossing.
 2. The vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the street, road or highway.
 3. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
 4. In crossing a divided street, road, or highway, the crossing is made only at an intersection of such street, road, or highway with another public street, road, or highway; and
 5. Both the headlight and taillight of the vehicle are on when the crossing is made.
- B. All-terrain vehicles may be operated on a public street, road, or highway when such operation occurs only between the hours of sunrise and sunset and such operation is incidental to the vehicle's use for agricultural purposes. Any person operating an all-terrain vehicle on a public street, road, or highway shall have a valid motor vehicle operator's license or a special permit as provided in Section 60-407 (5) RS Neb. and shall not operate such vehicle at a speed in excess of thirty (30) miles per hour. When operated on a public street, road, or highway, the headlight and taillight shall be turned on. The all-terrain vehicle shall be equipped with a bicycle safety flag which extends not less than five (5') feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area not less than thirty (30) square inches and be day-glow in color.
- C. All-terrain vehicles may be operated on public streets, roads, and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state. (*Ref. 60-2802 RS Neb.*)

§5-608 ALL-TERRAIN VEHICLES; HEADLIGHTS. Every all-terrain vehicle shall display a lighted headlight and taillight during the period of time from one half (½) hour after sunset to one half (½) hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions. (*Ref. 60-2803 RS Neb.*)

§5-609 ALL-TERRAIN VEHICLES; EQUIPMENT, REQUIREMENT. Every all-terrain vehicle shall be equipped with:

1. A brake system maintained in good operating condition;

2. An adequate muffler system in good working condition; and
3. A United States Forest Service qualified spark arrester.
(*Ref. 60-2804 RS Neb.*)

§5-610 ALL-TERRAIN VEHICLES; PROHIBITIONS. No person shall:

1. Equip the exhaust system of an all-terrain vehicle with a cutout, bypass, or similar device;
2. Operate an all-terrain vehicle with an exhaust system so modified; or
3. Operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events.

Ref. 60-2805 RS Neb.)

§5-611 ALL-TERRAIN VEHICLES; COMPETITION. All-terrain vehicles participating in competitive events may be exempted from Sections 5-607 to 5-610 of this Article at the discretion of the Director of Motor Vehicles. (*Ref. 60-2806 RS Neb.*)

§5-612 ALL-TERRAIN VEHICLES; ACCIDENT REPORT. If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner as provided in Section 60-505. (*Ref. 60-2807 RS Neb.*)

§5-613 ALL-TERRAIN VEHICLES; PENALTY. Any violation of Sections 5-607 to 5-612 of this Article which is also a violation under Chapter 39 or apter 60 of RS Neb. May be punished under the penalty provisions of such Chapter. (*Ref. 60-2808 RS Neb.*)

§5-614 ALL-TERRAIN VEHICLES; ENFORCEMENT. Any peace officer of the State or of any political subdivision, including conservation officers of the Game and Parks Commission shall be charged with the enforcement of the provisions of Section 5-607 to 5-612 of this Article.

Article 7. Parking

§5-701 PARKING; GENERALLY. No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within twelve (12") inches of the curb or edge of the roadway, except where the Governing Body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. (*Reg. 39-673, 39-697 RS Neb.*)

§5-702 PARKING; DESIGNATION. The Governing Body may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or edge of roadway or at an angle so as to have the right front wheel at the curb or edge of roadway. (*Ref. 39-673, 39-697 RS Neb.*)

§5-703 PARKING; AREAS. The Governing Body may, by resolution, set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle

shall be prohibited, or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof, longer than a period of time necessary to load and unload freight or passengers. (*Ref. 39-697 RS Neb.*)

§5-704 PARKING; FIRE HYDRANTS AND STATIONS. No vehicle shall be parked within fifteen (15') feet in either direction of any fire hydrant nor within twenty (20') feet of the driveway entrance to any fire station. The curb space within such area of fifteen (15') feet in either direction of such fire hydrant shall be painted red to indicate such prohibition. (*Ref. 39-672 RS Neb.*)

§5-705 PARKING; OBSTRUCTING TRAFFIC. No person shall, except in case of an accident or emergency, stop any vehicle, in any location where such stopping will obstruct any street, intersection, alley, or entrance to an alley or public or private drive. (*Ref. 39-697 RS Neb.*) (*Amended by Ord. No. 725, 8/8/90*)

§5-706 PARKING; TIME LIMIT. The Governing Body may, by resolution, entirely prohibit, or fix a time limit for, the parking and stopping of vehicles on any street, streets, or district designated by such resolution, and the parking, or stopping, of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this Article. (*Ref. 39-697 RS Neb.*)

§5-707 PARKING; SNOW REMOVAL AND MAINTENANCE. The Municipal Police may order any street or alley, or portion thereof vacated for weather emergencies or street maintenance. Notice during the hours of seven (7:00) o'clock a.m. to six (6:00) o'clock p.m. shall be given by personally notifying the owner or operator of a vehicle parked on such street or alley, or by posting appropriate signs along such streets or alleys. In those areas in the central business district which are posted by permanent signs as snow removal areas all parking on such streets or alleys between the hours of eleven (11:00) o'clock p.m. to seven (7:00) o'clock a.m. shall be prohibited when there is two (2") or more inches of snowfall until the accumulated snowfall has been removed. Any person parking a vehicle in violation of this section shall be subject to the penalties provided in this Chapter and such vehicle may be removed and stored under the supervision of the Municipal Police in a suitable location without further notice to the owner or operator of such vehicle. (*Amended by Ord. No. 577, 12/23/81*)

§5-708 PARKING; EMERGENCY VEHICLES. The provisions of this Article regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles, as defined in this Article, while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. (*Ref. 39-608 RS Neb.*)

§5-709 PARKING; BUREAU OF VIOLATIONS. There is hereby created the Bureau of Violations within the powers and duties of the office of the Municipal Clerk. A copy of each citation issued for non-moving traffic violations shall be deposited with the Municipal Clerk, whose duty it shall be to collect all fines and to maintain appropriate and accurate records of all such fines paid to her. Fines shall be payable at the office of the Clerk. Such fines shall be in the amount of one (\$1.00) dollar for each violation if paid within five (5) days from the date of issuance. Should any such fine not be paid within the five (5) day period, the Clerk shall ask the Municipal Attorney to file a

complaint in the appropriate court. The fine for any such violation after five (5) days or after judgement is entered against the violator shall be five (\$5.00) dollars plus costs. All money collected by the Municipal Clerk under this section shall be transferred to the school district in which the Municipality lies. (Ref. 18-1729 RS Neb.)

§5-710 PARKING; TICKETS. All tickets issued for violations of non-moving traffic regulations contained in this Chapter shall, in addition to information normally stated on such tickets, carry the following information:

- A. The amount of the fine if paid within five (5) days;
- B. The amount of the fine if not paid within five (5) days;
- C. The location where payment may be made; and
- D. The fact that a complaint will be filed after five (5) days if the fine is not paid in that time.

(Ref. 29-423 RS Neb.)

§5-711 SUMMONS; DESTRUCTION. It shall be unlawful for any person to tear up, or destroy, a parking tag placed upon any vehicle by the Municipal Police, or to disregard the summons contained on such tag, and fail to appear in court as directed by said tag. (Ref. 39-697 RS Neb.)

§5-712 PARKING; REMOVAL OF ILLEGALLY PARKED VEHICLES. Whenever any Police Officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this Article, such individual may remove or have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle, to a position off the roadway of such street or alley or from such street or alley.

The owner or other person lawfully entitled to the possession of such vehicle may be charged with the reasonable cost for such removal and storage, payable before such vehicle is released. Any such towing or storage fee shall become a security interest in the vehicle prior to all other claims. This fee shall be in addition to any other fees or penalties owed the Municipality for such vehicle. (Ref. 39-671, 39-697 RS Neb.) (Ord. No. 619, 12/26/84)

Article 8. Penal Provision

§5-801 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

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

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, _____.

(Seal)

Passed on 2nd reading 7-14-04
Mayor Stephen Smith

Passed on 2nd reading 7-14-04
City Clerk Joan E. Kovar

Council member Kirby made a motion to advance to agenda item #11 - 8:30 p.m. Public Hearing to consider amending the Land Use Plan to re-zone the following described property from Agriculture to Low Density Residential: 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, 41.00 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 No. 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 feet, more or less, 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 2.39 acres, more or less, and consideration of an ordinance to amend the land use plan. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Schatz, Hein, Smith, Kirby, and Kroesing. Voting NAY: None. The motion carried.

Mayor Smith declared the Public Hearing open at 8:32 p.m. to consider amending the Land Use Plan to re-zone the following described property from Agriculture to Low Density Residential: 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, 41.00 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 No. 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 feet, more or less, 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 2.39 acres, more or less, and consideration of an ordinance to amend the land use plan.

It was noted that Mike Burwell would like to build a new home on approximately 2.3 acres on the west side of Hwy 15 between Jess Neujahr's home, 3653 MN Rd, and Ed Hein's home, 3661 MN Rd.. There being no further comments, Mayor Smith declared the Public Hearing closed at 8:35 p.m..

Council member Lukassen introduced Ordinance No. 978. 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. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby made a motion to pass and adopt Ordinance No. 978 on the third and final reading. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 978 was passed and adopted as follows:

ORDINANCE NO. 978

AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING

CLASSIFICATION OF REAL ESTATE DESCRIBED FROM AGRICULTURE (AG) TO LOW DENSITY RESIDENTIAL (LDR), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

- a. Re-zone the following described property from Agriculture to Low Density Residential: 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, 41.00 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 No. 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 feet, more or less, 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 2.39 acres, more or less.

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

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

Passed and adopted this 14th day of July, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby made a motion to advance to agenda item #21 - Consideration of changes/additions to the employees' manual. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Lukassen, Schatz, Hein, Kirby, and Smith. Voting

NAY: None. The motion carried.

Council member Kroesing made a motion to make the following additions/changes to the employees' manual. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The following additions/changes in bold print were made:

CHAPTER VII - GRIEVANCE AND DISCIPLINE

5. Disciplinary Actions: Disciplinary action shall be taken only by Department Heads, the acting Department Head, or the City Administrator. Discipline is restricted to the following actions:
- a) Face-to-face oral admonishment and warning, made in such terms that the employee clearly understands it to be a warning;
 - b) A written memorandum addressed to the employee;
 - c) Leave without pay;
 - d) Dismissal;
 - e) **Demotion to a lower or suitable pay scale.**

Assignments to undesirable tasks, shifts, hours of work, or any measures other than the foregoing may be used for disciplinary purposes provided that the assignment is consistent with the offense and that a written record is made of the action taken.

CHAPTER VIII SUNDRY MATTERS:

4. Employee Evaluations/Performance Reviews: All employees including appointed officials shall be subject to annual performance reviews to be performed by their immediate supervisor. The mayor and city council will perform the city administrator's performance review with input from the department heads.

Council member Kirby made a motion to advance to agenda item #12 - 8:45 p.m. Public Hearing to consider the request of R. J. Hein to re-zone the following described property from Agriculture to Low Density Residential: 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, 41.00 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 No. 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 feet, more or less, 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 2.39 acres, more or less, and consideration of an ordinance to amend the official zoning map. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Lukassen, Schatz, Hein, Kirby, and Kroesing. Voting NAY: None. The motion carried.

Mayor Smith declared the Public Hearing open at 8:45 p.m. to consider the request of R. J. Hein to re-zone the following described property from Agriculture to Low Density Residential: 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, 41.00 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 No. 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 feet, more or less, 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 2.39 acres, more or less, and consideration of an ordinance to amend the official zoning map. There being no comments, Mayor Smith declared the Public Hearing closed at 8:46 p.m..

Council member Kirby introduced Ordinance No. 979. 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. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 979 on the third and final reading. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 979 was passed and adopted as follows:

ORDINANCE NO. 979

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM AGRICULTURE (AG) TO LOW DENSITY RESIDENTIAL (LDR), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as requested by R. J. Hein as follows:

- a. To amend the following property from Agriculture to Low Density Residential:

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, 41.00 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 No. 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 feet, more or less, 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 2.39 acres, more or less.

Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with 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 adopted this 14th day of July, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Mayor Smith declared a ten minute recess at 8:50 p.m. The meeting resumed at 9:00 p.m..

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

City Administrator Jeff Fiegenschuh reported the following:

- budget hearings have been set as follows:
 - Monday, August 16th:
Library, Police, Park & Auditorium, Street, and City Office
 - Tuesday, August 17th:
Family Aquatic Center, Electric Department, Electric Plant,
Water and Sewer Departments
- Thanked the council members who attended the ground breaking ceremony for the water tower and especially thanked Council President Gary Kroesing for his help.

Mary Ann Mattingly reported that the numbers are up at the Aquatic Center since the weather is cooperating. They did a tie-dye class for T-shirts, etc., which was successful. The water pressure switch on the slide needs to be repaired.

Water/Sewer Supervisor Jim Kruse introduced new waste water treatment plant operator Alan Scott Boyd.

Street Superintendent Jim McDonald reported that they had approximately 75 pilots for the ultra light gathering at the airport. McDonald also reported that the street sweeper has been giving them problems. Council member Hein suggested checking to see if street sweeping could be contracted for.

City Attorney Egr stated that Randy Janak is in contempt of court concerning his property and the hearing will be Tuesday, August 3, at 9:30 a.m.. Egr also reported that he has the deed to the Curtis Brahmsteadt property and this should be discussed at the next Committee of the Whole meeting.

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

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

Council member Lukassen made a motion to advance to agenda item #17 - Consideration of a resolution establishing no parking sections on both sides of "H" Street between the entrance and exit driveways to the baseball fields. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Kirby, Schatz, Hein, Lukassen, and Kroesing. Voting NAY: None. The motion carried.

Resolution No. 16-2001 was passed on 6/13/01 authorizing no parking signs be placed along the south side of "H" Street, thirty feet (30') on both sides of Mrs. Margaret Kitt's driveway, 1321 - 35½ Rd., with no parking allowed between the signs. Margaret is now requesting that there be no parking sections on both sides of "H" Street between the entrance and exit driveways to the baseball fields, stating there is a safety issue. She also stated that cars are parking in front of the fire hydrant.

Mike Behrns, representing the baseball complex, stated that if cars are parking in front of the fire hydrant, they should get a ticket. Other than that, Mike questioned: "What is the problem? You talk like this is happening every night." Mike said that if there is a problem it only happens five times a year between 7 - 9:00 p.m. , so it amounts to 10 hours out of the entire year. Mike said that if Margaret is worried about the safety of children, what about everyone crossing Kansas Street to get to the football field/track, or crossing the winding road of 8th Street to get to the Aquatic Center.

Council member Kroesing and Smith said that they agreed with Behrns that the Council would be opening a can of worms. There is a lot more traffic and congestion by the soccer fields on 10th and 11th Streets between "A" Street and Kansas. Smith stated that he drove past the baseball complex one busy evening and reported that you can't get two cars through at the same time but he had no problem.

Mayor Smith asked three separate times for a motion to consider a resolution establishing no parking sections on both sides of "H" Street, between the entrance and exit driveways to the baseball fields. This died for lack of a motion.

At the June 9th council meeting, Police Chief Sunday had reported that a representative from the Burlington Northern Santa Fe Railroad stated that they are not utilizing their property located west of the police station and they would allow the City to use the property as their own as long as the City mow and maintain the property. Chief Sunday asked if the Council would be comfortable with this concept. Council member Lukassen made a motion to authorize Police Chief Sunday and City Attorney Egr to negotiate a lease proposal for the Burlington Northern Santa Fe Railroad property. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

City Administrator Fiegenschuh reported that J. L. Schmit would not be making a presentation this evening. Therefore, Council member Kirby made a motion to table the presentation by J. L. Schmit of the NE Lied Main Street Program on downtown development. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

City Administrator Fiegenschuh reported that the Lower Platte North NRD board voted in favor of supporting the proposed recycled water project and will contribute \$9,600 to the project costs, which means that 83% of the project costs will be paid by grants and intergovernmental

cooperation. Therefore, Council member Schatz made a motion to accept a NDEQ grant to fund a recycled water project. Council member Lukassen seconded the motion. Voting YEA: Council members Hein, Lukassen, and Schatz. Voting NAY: Council members Kroesing, Smith, and Kirby. Mayor Smith broke the tie and voted YES. The motion carried.

The Council discussed supporting the Nebraska Great Plain RC&D's application for a technical assistance and training grant. The Council questioned the resolution where it stated: "THEREFORE, BE IT RESOLVED THAT the Mayor and City Council for the City of David City, Nebraska, do hereby give their support to the Technical Assistance and Training Grant, and agree to contribute \$1.00 per person based on population to show their interest in this project." The Council did not approve of agreeing to contribute \$1.00 per person based on population to show their interest in this project. City Administrator Fiegenschuh stated the Council could support the application without making a contribution. Therefore, Council member Kirby introduced Resolution No. 18-2004, as amended, and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Lukassen, Kroesing, Hein, and Kirby. Voting NAY: None. The motion carried and Resolution No. 18 - 2004 was passed and adopted as follows:

RESOLUTION NO. 18 - 2004

WHEREAS, the City of David City would like to offer support for the application of the Technical Assistance and Training Grant to fund a study of water problems in Butler County, Nebraska, as well as communities adjacent to Butler County, Nebraska, and

WHEREAS, the Grant is up for nationwide competition, and if received will identify the best course of action to address nitrates, arsenic, uranium, and iron, as well as other water quality and quantity concerns.

THEREFORE, BE IT RESOLVED THAT the Mayor and City Council for the City of David City, Nebraska, do hereby give their support to the Technical Assistance and Training Grant.

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

Mayor Stephen Smith

City Clerk Joan E. Kovar

City Administrator Fiegenschuh presented the following list of capital improvement projects for 2004/05:

City of David City
FY 04-09 Capital Improvement Program

<u>Department</u>	<u>Project/ Equipment</u>	<u>Estimated Costs FY 04/05</u>	<u>Funding Recommendations</u>
City Office	Comprehensive Plan	\$13,000.**	Yes

Police Dept.	New Carpet	\$12,000.*	NO
	Police Car	\$21,000.	Yes
Park	Fence for Athletic Field	\$18,000.*\$	Yes
Auditorium	New Curtains	\$4,500.#	Yes
	New Windows	\$71,000.#	Yes
	New Doors	\$2,000.#	Yes
	New Heating and Cooling system	\$15,000.#	Yes
	Landscaping	\$1,500.#	Yes
Street	Street Improvements	\$300,000.***	Yes
	Pickup 4x4, One-Ton	\$10,000.	Yes
	Dump Truck with Plow		NO
	Road Grader		NO
	Street Sweeper	\$40,000.	NO
Power Plant	SCADA System	\$81,000.	Yes
Water/Sewer	New Truck with Sewer Jet	\$60,000.&	Yes
Electric Dept.	Fire Proof Cabinets in Office	\$10,000.	Yes

*Part or all to be paid with keno funds
 \$Partial funding from Public and Aquinas
 #Half to be paid by grant from NDED
 ** paid for two years
 *** only if city receives CDBG
 &Financed over three years

Council member Smith made a motion to approve the Capital Improvement Projects list for fiscal year 2004/05 as presented. Council member Kirby seconded the motion. Street Superintendent Jim McDonald will check on prices for a street sweeper. Mayor Smith stated that the final capital improvement projects list will be adopted with the budget by ordinance. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby made a motion to advance to agenda item #23 - Consideration of an ordinance setting the pay scales (making adjustments to particular pay scales based upon the salary survey and incorporating a 3% COL authorized at the 6-09-04 council meeting.) Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby introduced Ordinance No. 980. 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 YEA: Council members Lukassen, Schatz, Hein, Kirby, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 980 on the third and final reading. Council member Smith seconded the motion. City Clerk Kovar verified that the 3% Cost of Living was for full-time employees only and the Council agreed. Voting YEA: Council members Hein, Lukassen, Schatz, Kirby, Kroesing, and Smith. Voting NAY: None. The

motion carried and Ordinance No. 980 was passed and adopted as follows:

ORDINANCE NO. 980

AN ORDINANCE INCORPORATING A 3% COST OF LIVING INCREASE AND ADJUSTING THE PAY SCALES FOR SEVEN POSITIONS AS PER THE SALARY SURVEY; SETTING THE PAY AND PAY SCALES FOR THE EMPLOYEES OF THE CITY OF DAVID CITY, NEBRASKA; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales and pay rates for the following positions for the employees of the City of David City, Nebraska:

SECTION 2. The wages for the Library Director and Librarians are set by the Library Board and therefore are not included.

Part-Time Workers

Years in Position	0	6m	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Part-time workers	\$6.43	6.70	6.84	6.97	7.05	7.13	7.24	7.36	7.50	7.63	7.77	7.91	8.04	8.20	8.39	8.57	8.74	8.94	9.11	9.27	9.47	9.65
Building Inspector	\$15.00/hr. - \$38.00/hr. depending on experience																					
Bartenders	Begin @ \$6.00/hr - experienced up to \$6.30																					
Recycling workers -	Begin @ \$6.00/hr - experienced up to \$6.43																					
Summer Time Help -	\$6.12/hr (not including swimming pool employees who are covered by a separate ordinance)																					

Full-Time Workers

<u>Years in Position:</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	<u>I</u>	<u>J</u>	<u>K</u>	<u>L</u>	<u>M</u>	<u>N</u>	<u>O</u>	<u>P</u>	<u>Q</u>	<u>R</u>	<u>S</u>	<u>T</u>	<u>U</u>	<u>V</u>
	<u>0</u>	<u>6m</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20</u>
OFFICE STAFF:																						
Clerical I	9.17	9.30	9.41	9.54	9.66	9.79	9.90	10.02	10.15	10.27	10.39	10.51	10.63	10.75	10.88	10.99	11.11	11.24	11.36	11.48	11.60	11.71
Police Clerical (incl. 15¢ Scale Adj.)	8.72	9.05	9.21	9.36	9.42	9.48	9.54	9.62	9.71	9.81	9.90	9.98	10.07	10.14	10.20	10.26	10.31	10.36	10.42	10.49	10.55	10.61
Acct Clerk I	9.24	9.38	9.54	9.69	9.85	10.00	10.16	10.32	10.46	10.62	10.78	10.93	11.08	11.24	11.40	11.56	11.69	11.83	11.96	12.09	12.25	12.39
Acct Clerk II (incl. 30¢ Scale Adj.) (+.50 with CMC)	11.36 11.88	11.64 12.15	11.79 12.31	11.95 12.46	12.06 12.58	12.16 12.68	12.27 12.77	12.43 12.95	12.60 13.11	12.75 13.27	12.95 13.45	13.10 13.65	13.30 13.83	13.40 13.93	13.52 14.06	13.64 14.17	13.77 14.31	13.89 14.43	14.02 14.55	14.14 14.69	14.30 14.83	14.42 14.97
UTILITY STAFF:																						
Power Plant Operator I	9.69	9.85	10.06	10.27	10.46	10.67	10.87	11.06	11.26	11.47	11.67	11.90	12.09	12.30	12.50	12.70	12.93	13.12	13.33	13.55	13.75	13.98
Power Plant Operator II	11.71	12.23	12.79	12.94	13.10	13.28	13.54	13.80	14.07	14.33	14.60	14.84	15.04	15.19	15.38	15.55	15.73	15.89	16.09	16.25	16.34	16.43
Power Plant Operator III	14.92	15.10	15.24	15.43	15.56	15.72	15.86	16.01	16.18	16.33	16.49	16.67	16.83	16.98	17.16	17.32	17.48	17.65	17.82	17.98	18.15	18.32
Apprentice Lineman	11.28	11.59	11.75	11.91	12.00	12.09	12.21	12.37	12.52	12.67	12.83	12.99	13.13	13.24	13.33	13.45	13.55	13.65	13.74	13.83	13.96	14.05
Line worker II	13.41	13.70	13.85	14.05	14.15	14.26	14.37	14.54	14.71	14.87	15.07	15.23	15.41	15.54	15.68	15.81	15.91	16.03	16.16	16.28	16.41	16.55

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Line worker I (incl. 33¢ Scale Adj.)	15.88	16.22	16.38	16.55	16.67	16.79	16.92	17.11	17.30	17.48	17.66	17.83	18.03	18.16	18.29	18.43	18.56	18.70	18.84	18.96	19.09	19.22
Line Foreman (incl. 38¢ Scale Adj.)	16.77	17.35	17.47	17.71	17.85	18.01	18.17	18.40	18.63	18.86	19.10	19.32	19.55	19.69	19.86	20.00	20.17	20.31	20.48	20.62	20.75	20.92
Water/Sewer Operator I	9.69	9.96	10.11	10.27	10.37	10.46	10.56	10.72	10.89	11.04	11.21	11.37	11.54	11.64	11.76	11.89	11.99	12.11	12.23	12.36	12.48	12.60
WA/SE Op 1 w Grade VI	10.25	10.51	10.67	10.83	10.92	11.01	11.11	11.27	11.44	11.59	11.76	11.93	12.08	12.20	12.31	12.43	12.55	12.66	12.77	12.92	13.03	13.14
WA/SE Operator II	11.70	11.88	12.03	12.20	12.37	12.54	12.69	12.88	13.03	13.19	13.37	13.55	13.72	13.88	14.08	14.24	14.42	14.61	14.78	14.95	15.14	15.31
WA/SE Op II w Gr VI	12.25	12.41	12.58	12.73	12.92	13.07	13.24	13.41	13.58	13.73	13.93	14.09	14.26	14.43	14.62	14.79	14.96	15.15	15.32	15.50	15.68	15.85
Years in Position:	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
	0	6m	1	2	3	4	5	6	7	8	9	10	11						.12	.1314	15	16
																						17
																						18
																						19
																						20
WA/SE Op III w Gr VI	14.00	14.31	14.46	14.61	14.71	14.81	14.91	15.11	15.27	15.37	15.57	15.76	15.93	16.05	16.17	16.28	16.39	16.50	16.61	16.74	16.86	16.98
Waste Water Plant Operator	13.21	13.51	13.66	13.80	13.93	14.02	14.12	14.29	14.46	14.61	14.76	14.92	15.12	15.22	15.34	15.46	15.57	15.68	15.79	15.90	16.03	16.16

CITY MAINTENANCE STAFF:

Laborer I	7.19	7.37	7.418	7.56	7.62	7.68	7.75	7.85	7.94	8.02	8.12	8.22	8.31	8.36	8.44	8.51	8.56	8.62	8.69	8.74	8.80	8.85
Laborer II	9.58	9.87	10.01	10.17	10.27	10.37	10.46	10.61	10.76	10.91	11.06	11.21	11.36	11.46	11.56	11.65	11.76	11.87	11.96	12.05	12.15	12.26
Maintenance Worker I	9.82	10.06	10.18	10.31	10.39	10.48	10.56	10.70	10.84	10.96	11.10	11.25	11.40	11.49	11.59	11.69	11.79	11.90	11.99	12.08	12.20	12.31
Maintenance Worker II	10.32	10.57	10.72	10.87	10.95	11.04	11.14	11.30	11.46	11.60	11.75	11.91	12.06	12.17	12.29	12.41	12.52	12.63	12.73	12.85	12.98	13.09
Street Foreman	12.97	13.30	13.47	13.65	13.75	13.85	14.00	14.15	14.33	14.50	14.68	14.83	15.03	15.13	15.23	15.36	15.46	15.58	15.70	15.81	15.92	16.05

POLICE STAFF:

Police Officer	11.94	12.18	12.33	12.47	12.57	12.66	12.75	12.91	13.03	13.17	13.33	13.49	13.66	13.75	13.88	13.99	14.09	14.19	14.31	14.39	14.50	14.60
Sergeant	14.28	14.58	14.75	14.91	15.06	15.22	15.37	15.45	15.56	15.74	15.91	16.09	16.26	16.39	16.50	16.64	16.76	16.89	17.03	17.15	17.26	17.41

DEPARTMENT SUPERVISORS:

Park & Aud Supt. (Incl. Scale Adj. 76¢)	12.91	13.25	13.41	13.58	13.71	13.82	13.95	14.13	14.32	14.50	14.69	14.85	15.07	15.21	15.36	15.50	15.63	15.78	15.92	16.06	16.21	16.36
City Clerk/Treas CMC MMC (Incl. Scale Adj. 20¢)	16.63	16.85	16.96	17.07	17.13	17.21	17.29	17.41	17.51	17.61	17.74	17.85	17.95	18.01	18.10	18.17	18.23	18.31	18.41	18.49	18.57	18.65
Power Plant Supervisor (Incl. Scale Adj. 50¢)	16.48	16.95	17.19	17.42	17.56	17.74	17.88	18.12	18.34	18.57	18.81	19.02	19.26	19.41	19.56	19.71	19.86	20.01	20.16	20.31	20.46	20.62
Licensed Street Supt.	16.72	17.01	17.16	17.31	17.41	17.50	17.61	17.75	17.91	18.05	18.20	18.35	18.50	18.60	18.70	18.80	18.90	19.00	19.10	19.20	19.30	19.43
WA/SE Supervisor w Gr VI	15.99	16.34	16.52	16.73	16.84	16.95	17.08	17.26	17.45	17.65	17.85	18.03	18.21	18.35	18.48	18.61	18.75	18.89	19.03	19.16	19.30	19.46
Police Chief	15.89	16.48	16.77	17.06	17.26	17.45	17.65	17.94	18.24	18.52	18.82	19.11	19.41	19.59	19.80	19.99	20.18	20.37	20.58	20.79	20.97	21.18
Electric Supervisor	18.78	19.36	19.64	19.94	20.14	20.33	20.54	20.84	21.13	21.40	21.70	21.99	22.29	22.47	22.67	22.88	23.06	23.25	23.46	23.65	23.83	24.03

SECTION 3. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect on September 26, 2004 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 14th day of July, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby made a motion to advance to agenda item #24 - Consideration of going into executive session. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to go into executive session to discuss personnel issues: Mary Ann Mattinglys' concerns regarding swimming pool employment, and City Administrator Jeff Fiegenschuh's salary. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Mayor and City Council went into executive session at 10:19 p.m. accompanied by City Administrator Fiegenschuh, Attorney Egr, Aquatic Center Assistant Manager Mary Ann Mattingly, and City Clerk Kovar. Mattingly was excused at 10:30 p.m. and Kovar at 10:40 p.m..

Council member Hein made a motion to come out of executive session. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Mayor and Council came out of executive session at 10:52 p.m..

Council member Kroesing introduced Ordinance No. 981. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Kroesing, Smith, Lukassen, Hein, and Kirby. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 981 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Hein, Smith, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 981 was passed and adopted as follows:

ORDINANCE NO. 981

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO

SET THE PAY FOR THE CITY ADMINISTRATOR, REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDE AN EFFECTIVE DATE; AND PROVIDE 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. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the salary for City Administrator Jeff Fiegenschuh at \$45,000.00 per year, plus 2% of any grants obtained after the passage of this ordinance.

SECTION 2. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.

SECTION 3. This ordinance shall be published in pamphlet form and shall be in full force and effect beginning on September 26, 2004.

PASSED AND APPROVED this 14th day of July, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

There was a discussion concerning Larry Plasek selling his business at 345 No. 4th Street and whether the business would be allowed in Highway Commercial. City Attorney Egr stated there should not be a problem as Larry Plasek had an existing business and this will be a continuation of that same business. There is an unbroken chain and the business will be grand-fathered.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Mayor Smith declared the meeting adjourned at 11:10 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
July 14, 2004

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of July 14, 2004; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar

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 Lukassen seconded the motion. Voting YEA: Council members Kirby, Kroesing, Schatz, Smith, Lukassen, and Hein. Voting NAY: None. The motion carried.