

## CITY COUNCIL PROCEEDINGS

**August 8, 2001**

The Mayor and City Council of the City of David City, Nebraska met in open public session at 7:00 p.m. on August 8, 2001 in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on August 2, 2001 and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notices to the Public, Mayor and Council members conveyed the availability of the Agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Mark Kirby, Ted Lukassen, Gary Kroesing, Bill Schatz, Gary Smith, and Nick Hein, City Administrator Andrew Brannen, City Attorney Jim Egr, Police Chief Stephen Sunday, Electric Supervisor Tim Kovar, Park/Auditorium Supervisor Bill Buntgen, and City Clerk Joan E. Kovar.

Also present were: Gary Niemann and Mark Holoubek.

The minutes of the July 18<sup>th</sup> and July 31<sup>st</sup> meetings of the Mayor and City Council were approved upon a motion by Council member Kroesing and seconded by Council member Lukassen. All of the Council members were present, all voted YEA and the motion carried.

Stephen Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions.

The City received a "Thank You" from Tim & Joan Kovar for approving a 3% Cost of Living and increasing the deferred compensation match to 5.5% at their July 18 council meeting.

At the May 9, 2001, council meeting, Tony Weiland, who resides at 150 West E Street, stated that "E" Street between 1st and Oak Street is a dangerous street. E Street is a dead end at Oak Street, however some people drive through the Grubaugh Auction Lot traveling at high rates of speed. Weiland is concerned about the safety of the children in this area. The Council had agreed with Dick Grubaugh that the city crew would install a gate on the east side of the Grubaugh Auction Lot, located at the dead end of West E Street through West Addition, Outlot 2, between Oak Street and County Rd. "M", providing that Dick Grubaugh and/or Dennis Romshek furnish the gate and material. At the July 31, Committee of the Whole meeting, Police Chief Sunday stated Dick Grubaugh asked if the City could provide a steel cable with reflective material to place across the road, instead of Grubaugh furnishing a gate. The Council agreed. Mark Holoubek stated that he is opposed to this drive being closed and he talked to Dick Grubaugh and Dennis Romshek and they will allow him to use their access road. Holoubek made reference to a "descriptive easement" that if the drive has been used for 10 years they can't close it now even if they wanted to. Holoubek questioned if safety is a concern, when a teenager was killed on 5<sup>th</sup> Street, why didn't the City close 5<sup>th</sup> Street. The Council informed Holoubek that this instance deals with a private drive, not a public street. Holoubek will discuss this issue with Dick Grubaugh and then Grubaugh is to clarify this with a city official.

Mayor Smith asked for consideration of claims. Council member Smith made a motion to

authorize the payment of claims. Council member Kroesing seconded the motion. All of the council members were present, all voted YEA, and the motion carried.

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

Police Chief Sunday presented the minutes of the July 19, 2001, Board of Health meeting. Mayor Smith made a correction to the minutes in which a motion, second, and the vote was taken prior to closing the public hearing. Mayor Smith stated that he, as Chairperson, closed the public hearing prior to accepting a motion. Police Chief Sunday will correct this in the minutes.

The grain elevators owned and operated by Frontier Coop located between B and D Streets along the Burlington Northern Santa Fe Railroad tracks, were discussed at the Board of Health meeting. The neighbors expressed concerns regarding fallout of grain material whenever the Coop processes grain. Police Chief Sunday is to prepare a check list of problems in this area to be reviewed at the next council meeting.

Police Chief Sunday questioned if the Council could formally accept the recommendation of the Board of Health. City Attorney Jim Egr said yes. Therefore, Council member Kroesing made a motion to accept the recommendations of the Board of Health that the following three properties are in violation of the City's health code: 1) the Roy Remmers property at 317 N. 7<sup>th</sup> Street; 2) the Bill & Priscilla Fiala property at 191 S. 8<sup>th</sup> Street, and 3) the Curtis Brahmsteadt property at 988 E Street. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

City Clerk Joan Kovar stated that a representative from the Nebraska Municipal Power Pool is scheduled to be here, one day, the week of August 20 to install a new utility billing program and provide on-site training. Kovar asked if the office could close for 4 hours while they provide the on-site training. The Council approved but would like a notice placed in the Banner Press to inform the public.

City Administrator Brannen reported the following:

- the water study is 99% completed
- Sam Scheidegger of Columbus, Nebraska will present the final report on the electric study at the September Committee of the Whole meeting
- the city picnic is scheduled for 6:00 p.m. on September 22, at Electric Plant Supervisor John Kabourek's house at 1355 D Street;

The Council questioned Water/Sewer Supervisor Gene Divis' report that stated "Due to having a 2" generator or register installed into a 1" meter by a previous employee, the city has to refund .715 of total use of water and sewer for 21 months or \$13,397.63 water and \$9,903.69 sewer to Timpote Manufacturing." The Council questioned 1) how could a 2" generator fit into a 1" meter? 2) why did it take 21 months to discover the error? 3) how was the error discovered? and 4) how did we arrive at a refund of .715 of total use of water and sewer? City Clerk Kovar stated that they were told the meter was being replaced because Timpote was using more water than the meter was recording. So when the new meter showed more usage, they didn't question it. Kovar stated that she thought Divis discovered the error. This will be discussed further at a later date.

Council member Hein made a motion to schedule a special council meeting at 6:00 p.m. on August 21 and a special council meeting at 6:00 p.m. on August 22, to discuss the budgets.

Council member Kroesing seconded the meeting. All of the Council members were present, all voted YEA, and the motion carried.

The Council felt since they were having two special council meetings in August, a Committee of the Whole meeting would not be necessary.

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

Council member Kirby made a motion to advance ahead to agenda item #11 - 7:30 p.m. Public Hearing to amend the land use plan map and the official zoning map as requested by Gary Niemann and consideration of an ordinance. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith declared the Public Hearing open at 7:33 p.m. to consider amending the land use plan map and the official zoning map as requested by Gary Niemann. Gary Niemann stated that his daughter wants to build a new home on his property just north of his home. This property is currently zoned Industrial and dwellings are not permitted. Gary's home is grand-fathered. There were no objections expressed and Mayor Smith declared the Public Hearing closed at 7:38 p.m..

City Attorney Jim Egr stated that separate Ordinances would be required to amend the land use plan map and the official zoning map.

Council member Hein introduced Ordinance No. 912. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby 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. 912 on the third and final reading. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 912 was passed and adopted as follows:

**ORDINANCE NO. 912**

AN ORDINANCE TO AMEND THE LAND USE PLAN MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM INDUSTRIAL (I) TO LOW DENSITY RESIDENTIAL (LDR).

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

Section 1. That the land use plan map and the Official Zoning Map be amended as requested by Gary Niemann as follows:

- a. To amend the following property from Industrial to Low Density Residential:
  - Beginning at a point on the south line of said North half (N $\frac{1}{2}$ ) Northeast quarter (NE $\frac{1}{4}$ ) Southwest quarter (SW  $\frac{1}{4}$ ), Section 18, T15N, R3E, said point being 341.60 feet west of the SE corner, thereof assuming the east

line of said N½, NE¼, SW¼, to have a bearing of N 0°00'00" E, thence N 0°08'20" E, and parallel with the west right-of-way line of State Highway 15, 656.34 feet, thence N 90°00'00" E and parallel with the south line of said North half (N½) Northeast quarter (NE¼) Southwest quarter (SW¼) 397.00 feet; thence S 0°08'20" E, and parallel with said west right-of-way line, 400.34 feet; thence S 90°00'00" W, and on the south line of said N½ NE¼ SW¼, 397.00 feet; thence S 0°08'20" E, and parallel with said west right-of-way line, 256 feet to the point of beginning.

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 8th day of August, 2001.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein introduced Ordinance No. 913. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby 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. 913 on the third and final reading. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 913 was passed and adopted as follows:

**ORDINANCE NO. 913**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM INDUSTRIAL (I) TO LOW DENSITY RESIDENTIAL (LDR).

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

Section 1. That the land use plan map and the Official Zoning Map be amended as requested by Gary Niemann as follows:

- a. To amend the following property from Industrial to Low Density Residential:
- Beginning at a point on the south line of said North half (N $\frac{1}{2}$ ) Northeast quarter (NE $\frac{1}{4}$ ) Southwest quarter (SW  $\frac{1}{4}$ ), Section 18, T15N, R3E, said point being 341.60 feet west of the SE corner, thereof assuming the east line of said N $\frac{1}{2}$ , NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , to have a bearing of N 0°00'00" E, thence N 0°08'20" E, and parallel with the west right-of-way line of State Highway 15, 656.34 feet, thence N 90°00'00" E and parallel with the south line of said North half (N $\frac{1}{2}$ ) Northeast quarter (NE $\frac{1}{4}$ ) Southwest quarter (SW $\frac{1}{4}$ ) 397.00 feet; thence S 0°08'20" E, and parallel with said west right-of-way line, 400.34 feet; thence S 90°00'00" W, and on the south line of said N $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , 397.00 feet; thence S 0°08'20" E, and parallel with said west right-of-way line, 256 feet to the point of beginning.

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 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 8th day of August, 2001.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby introduced Ordinance No. 914. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 914 on the third and final reading. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 914 was passed and adopted as follows:

**ORDINANCE NO. 914**

AN ORDINANCE INCORPORATING A 3% COST OF LIVING INCREASE; SETTING THE

SALARIES AND PAY SCALES FOR THE APPOINTED OFFICERS AND EMPLOYEES OF THE CITY OF DAVID CITY, NEBRASKA; TO REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; TO PROVIDE 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 salaries for the following positions for the appointed officers and 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	\$6.30	6.57	6.71	6.83	6.91	6.99	7.10	7.22	7.35	7.48	7.62	7.75	7.88	8.04	8.23	8.40	8.57	8.76	8.93	9.09	9.28	9.46
Building Inspector	\$10.30/hr																					
Bartenders	Begin @ \$6.00/hr - experienced up to \$6.18																					
Recycling workers -	Begin @ \$6.00/hr - experienced up to \$6.30																					
Summer Time Help -	\$6.00/hr																					

**Full-Time Workers**

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	13	14	15	16	17	18	19	20
<b>Office Staff</b>																						
Clerical I	8.37	8.49	8.60	8.72	8.84	8.95	9.06	9.18	9.30	9.41	9.53	9.64	9.76	9.88	9.99	10.10	10.22	10.34	10.45	10.57	10.68	10.79
Police Clerical	7.80	8.11	8.26	8.40	8.46	8.51	8.57	8.65	8.74	8.83	8.91	8.99	9.08	9.14	9.20	9.26	9.31	9.36	9.41	9.47	9.53	9.59
Acct Clerk I	8.43	8.57	8.72	8.87	9.01	9.16	9.31	9.46	9.60	9.75	9.90	10.04	10.19	10.34	10.49	10.64	10.77	10.90	11.02	11.15	11.30	11.43
Acct Clerk II Effective 9/26/01 +.50 CMC	10.16 10.66	10.42 10.92	10.57 11.07	10.72 11.22	10.83 11.33	10.92 11.42	11.02 11.52	11.18 11.68	11.34 11.84	11.48 11.98	11.64 12.14	11.82 12.32	12.00 12.50	12.10 12.60	12.22 12.72	12.33 12.83	12.45 12.95	12.57 13.07	12.69 13.19	12.81 13.31	12.95 13.45	13.07 13.57
<b>Utility Staff</b>																						
Power Plant Operator I	8.87	9.01	9.22	9.41	9.60	9.80	9.98	10.17	10.36	10.56	10.75	10.96	11.15	11.35	11.54	11.73	11.94	12.13	12.33	12.54	12.73	12.94
Power Plant Operator II	10.49	10.98	11.48	11.65	11.81	11.98	12.23	12.48	12.73	12.98	13.23	13.47	13.65	13.80	13.98	14.14	14.31	14.47	14.65	14.81	14.89	14.98
Power Plant Operator III	13.85	14.01	14.15	14.33	14.45	14.60	14.74	14.88	15.04	15.18	15.34	15.50	15.66	15.81	15.97	16.13	16.28	16.44	16.60	16.76	16.91	17.08
Apprentice Lineman	10.38	10.67	10.83	10.97	11.06	11.15	11.26	11.41	11.56	11.70	11.86	12.00	12.14	12.24	12.33	12.44	12.54	12.63	12.72	12.81	12.92	13.01
Line worker II	12.40	12.68	12.83	13.01	13.11	13.21	13.32	13.48	13.64	13.80	13.98	14.14	14.31	14.43	14.56	14.69	14.79	14.89	15.02	15.14	15.26	15.39
Line worker I	14.43	14.76	14.90	15.07	15.18	15.30	15.42	15.60	15.79	15.95	16.13	16.29	16.47	16.60	16.73	16.86	16.98	17.12	17.25	17.37	17.48	17.61
Line Foreman	15.23	15.68	15.89	16.12	16.26	16.41	16.56	16.78	17.00	17.22	17.44	17.66	17.88	18.01	18.17	18.31	18.46	18.60	18.76	18.89	19.02	19.18
Water/Sewer Operator I	8.87	9.12	9.27	9.41	9.51	9.60	9.69	9.85	10.00	10.15	10.31	10.46	10.62	10.72	10.84	10.95	11.05	11.17	11.28	11.40	11.52	11.63
WA/SE Op 1 w Grade VI	9.39	9.64	9.80	9.94	10.03	10.12	10.22	10.37	10.53	10.67	10.84	10.99	11.14	11.25	11.36	11.47	11.58	11.69	11.80	11.93	12.04	12.15
WA/SE Operator II	10.78	10.94	11.09	11.25	11.41	11.57	11.72	11.89	12.04	12.20	12.37	12.54	12.70	12.86	13.04	13.20	13.37	13.54	13.71	13.87	14.05	14.21

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WA/SE Op I I w Gr VI	11.30	11.45	11.61	11.76	11.93	12.08	12.24	12.40	12.56	12.71	12.89	13.05	13.21	13.38	13.55	13.72	13.88	14.06	14.22	14.39	14.56	14.73	
WA/SE Op III w Gr VI	12.96	13.26	13.40	13.54	13.64	13.74	13.84	14.02	14.18	14.27	14.46	14.64	14.81	14.91	15.03	15.14	15.24	15.35	15.45	15.57	15.69	15.81	
Waste Water Plant Operator	12.22	12.50	12.64	12.78	12.89	12.98	13.08	13.24	13.40	13.54	13.69	13.85	14.03	14.13	14.24	14.36	14.46	14.56	14.67	14.78	14.89	15.02	
<b>City Maintenance Staff</b>																							
Laborer I	6.48	6.66	6.76	6.84	6.89	6.95	7.01	7.11	7.20	7.28	7.37	7.46	7.55	7.60	7.67	7.74	7.79	7.85	7.91	7.96	8.01	8.06	
Laborer II	8.76	9.03	9.17	9.32	9.41	9.51	9.60	9.74	9.89	10.02	10.17	10.31	10.45	10.55	10.64	10.73	10.84	10.93	11.02	11.11	11.21	11.31	
Maintenance Worker I	8.98	9.22	9.33	9.45	9.53	9.61	9.69	9.83	9.95	10.07	10.21	10.35	10.49	10.58	10.67	10.77	10.87	10.96	11.05	11.14	11.25	11.36	
Maintenance Worker II	9.46	9.70	9.85	9.98	10.06	10.15	10.25	10.39	10.55	10.68	10.83	10.97	11.12	11.23	11.34	11.45	11.56	11.66	11.76	11.88	11.99	12.10	
Street Foreman	11.98	12.30	12.46	12.63	12.73	12.83	12.96	13.11	13.28	13.44	13.61	13.76	13.94	14.04	14.14	14.26	14.36	14.47	14.58	14.69	14.80	14.91	
Years in Position:	A 0	B 6m	C 1	D 2	E 3	F 4	G 5	H 6	I 7	J 8	K 9	L 10	M 11	N 12	O 13	P 14	Q 15	R 16	S 17	T 18	U 19	V 20	
<b>Police Staff</b>																							
Police Officer	11.00	11.24	11.38	11.51	11.60	11.69	11.78	11.92	12.04	12.18	12.33	12.48	12.64	12.73	13.86	12.95	13.05	13.15	13.26	13.34	13.44	13.53	
Sergeant	13.07	13.36	13.52	13.68	13.81	13.97	14.11	14.19	14.29	14.46	14.63	14.79	14.96	15.08	15.19	15.32	15.43	15.56	15.69	15.80	15.91	16.05	
<b>Department Supervisors</b>																							
Park & Aud Supt.	10.79	11.11	11.27	11.43	11.55	11.66	11.78	11.96	12.13	12.31	12.49	12.64	12.85	12.99	13.12	13.26	13.38	13.52	13.66	13.79	13.94	14.07	
City Clerk/Treas CMC MMC	14.98	15.18	15.29	15.39	15.45	15.53	15.60	15.71	15.81	15.91	16.03	16.13	16.23	16.29	16.37	16.44	16.50	16.58	16.66	16.74	16.82	16.90	
Power Plant Supervisor	14.84	15.29	15.51	15.73	15.87	16.03	16.17	16.39	16.61	16.83	17.05	17.26	17.48	17.62	17.77	17.91	18.05	18.20	18.34	18.48	18.62	18.78	
Licensed Street Supt.	15.55	15.83	15.97	16.12	16.21	16.30	16.40	16.53	16.69	16.82	16.96	17.11	17.25	17.35	17.44	17.53	17.63	17.73	17.82	17.91	18.01	18.13	
WA/SE Supervisor w Gr VI	14.86	15.19	15.37	15.56	15.67	15.78	15.89	16.07	16.25	16.44	16.63	16.80	16.97	17.11	17.23	17.36	17.48	17.62	17.76	17.88	18.01	18.16	
Police Chief	14.77	15.33	15.60	15.88	16.07	16.25	16.44	16.72	17.00	17.27	17.55	17.83	18.11	18.29	18.48	18.67	18.85	19.03	19.23	19.42	19.60	19.80	
Electric Supervisor	17.51	18.07	18.34	18.62	18.81	18.99	19.19	19.47	19.75	20.01	20.30	20.57	20.86	21.03	21.22	21.41	21.59	21.77	21.97	22.15	22.33	22.51	
City Administrator	\$46,350.00/yr.																						

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, 2001 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 8<sup>th</sup> day of August, 2001.

Mayor Stephen Smith

City Clerk Joan E. Kovar

City Administrator Brannen stated that the following bids were received for signs to advertise the park improvements:

Jamie Sylvester / Slick Graphix was as follows:

- 2 - 4' x 6' signs of Omega Lustre Board.....\$800.
  - 2 - 4' x 6' signs Alumalite.....\$900.
- Jim Angell:
- 2 - 4' x 8' signs of aluminum sheets .....\$385.

Jim Angell's sign would be made of aluminum sheets, not Alumalite, which is the cost difference. The aluminum sheets should work just as well. Council member Lukassen made a motion to accept the bid of \$385.00 from Jim Angell for 2 - 4' x 8' signs to advertise the park improvements. Council member Kirby seconded the motion. All of the council members were present, all voted YEA, and the motion carried.

The City received two landscape proposals for the embankment north of the west lake in the City Park. On July 18, Jim Kluck, owner of Dublin Nursery & Landscaping, said his fee would not exceed \$450 and would include a design of the area, plant recommendations, and suggestions on maintenance. On July 31, Brian Pecka of Big Muddy Workshop estimated the cost to be 10% of the construction costs which he estimated at \$100,000.00, so approximately \$10,000. The Council decided that Pecka was not clear on what the City was requesting, so the Council asked him to submit a new proposal for landscaping the embankment only. A new proposal was received for \$3,455.00 which included base map preparation, site visit, preliminary planting plan, cost opinion, review meeting, construction documents, mileage, and drafting/computer supplies and copies. The proposal stated that if requested by the City, the Big Muddy Workshop would present the final planting plan to the City Council as an "Additional Service" for a lump sum fee of \$400.00 including expenses.

The Council felt that the Big Muddy Workshop proposal was still high and they would like to see a proposal somewhere between the two proposals received. Council member Smith stated that perhaps Finkes Landscaping in Lincoln, Nebraska could submit a proposal. Finkes Landscaping said they could not view the site or submit a proposal until August 24. Discussion followed. Council member Schatz made a motion to authorize City Administrator Andrew Brannen to administratively make a selection of a firm to prepare a landscape proposal for the City park embankment north of the west lake based on the most effective and cost efficient, and then contact the City Council of his decision. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

At the July 18, Council meeting the Council approved renting an 8" pump for the draw down of the lake and using the City's pump in conjunction to maintain the draw down. Roger Frahm of Frahm Construction now proposes that he would use his pump, rent a larger pump, and do everything for \$2,000. If Frahm uses the city's smaller pump we would need someone to monitor the pumps for a 24-hour period as the smaller pumps run out of fuel quickly. With the new proposal Frahm would not use the city's pump at all. Council member Smith made a motion to authorize Roger Frahm to rent a larger pump and do the work himself for the draw down of the lake. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

The following proposed ordinance, establishing class and rates to be charged for natural gas service including a Fixed-Price Gas Cost Option, was discussed. There is no guarantee of a savings. Council member Hein stated that by passing this ordinance we may send the wrong signal to people and that may not be a good thing. Council member Schatz agreed with Hein stating that it's like a casino house - they never lose. The citizens may be better off paying the actual rate and waiting until next year to decide on a fair set price. Council member Hein made a motion to table consideration of an ordinance establishing classes and rates to be charged for

natural gas service. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

**ORDINANCE NO.**

AN ORDINANCE OF DAVID CITY, NEBRASKA, ESTABLISHING CLASSES AND RATES TO BE CHARGED FOR NATURAL GAS SERVICE WITHIN DAVID CITY, NEBRASKA; REPEALING RATE ORDINANCE NO. 885; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That Natural Gas Rate Ordinance No. 885, and any amendments thereto, of David City, Nebraska, be amended to read as follows:

Section 1. Rate Schedule, Monthly Charge; Heat Value, Basis Of; Adjustment; Penalty for Delinquency; Adjustment for Cost of Purchased Gas and Taxes; Grantee, its successors or assigns, shall file and make effective initially a schedule of rates for gas service and shall furnish gas at the schedule of rates hereafter set forth or at such other reasonable rates as may be hereafter established from time to time under the Nebraska Municipal Natural Gas Regulation Act, Neb. Rev. Stat. §§ 19-4601, *et seq.* (1943).

(1) Firm Gas Service Rates

Availability - These rates are available only to domestic and commercial customers whose maximum requirements for natural gas are less than one hundred thousand (100,000) cubic feet per day. Grantee shall not be required to serve any customer at the following rates whose requirements amount to one hundred thousand (100,000) cubic feet or more per day. Grantee may negotiate price and other contract terms with customers whose natural gas requirements exceed fifty thousand (50,000) cubic feet per day.

Residential Customers Amount

Monthly Customer Charge \$8.25 and  
Rate per Therm \$.1153170

Commercial Customers

Monthly Customer Charge \$13.25 and  
Rate per Therm \$.1567016

The foregoing rates apply only when bills are paid on or before twenty (20) days after the monthly billing date. When not so paid, a one percent (1%) per month late fee will apply on the unpaid amount.

The above and foregoing rate shall be understood to be based upon natural gas of the British Thermal Unit (BTU) heating value of 1,000 BTU's per cubic foot of gas. If

in any monthly period the average heating value of gas sold and delivered to the customers shall vary from 1,000 BTU's, then the volumes of gas billed to the customers during that month shall be multiplied by the factor of average heating value in BTU's ÷ 1,000 to adjust for the variance.

Turn-On and Reconnect Fee

In addition to the other rates set forth in this Ordinance, Grantee may charge a \$26.00 fee to initiate service ("turn-on fee") for each customer account and a \$30.00 fee ("reconnect fee") to reconnect service that has been discontinued or terminated for non-payment.

(2) Natural Gas Supply Cost Options:

In addition to the Firm Gas Service Rates set forth in Sub-Section (1) of this Ordinance, a separate charge per Therm may be made for the monthly cost of natural gas purchased and delivered by Grantee under the pricing option selected by customers of Grantee under properly filed natural gas supply-cost-adjustment rate schedules pursuant to Neb. Rev. Stat. §19-4609(1):

(a) Purchased Gas Cost Adjustment Option:

The Purchased Gas Cost Adjustment shall be computed monthly pursuant to the natural gas supply-cost-adjustment rate schedule filed by the Grantee (or any predecessor of Grantee) pursuant to Neb. Rev. Stat. §19-4609(1).

Any supply cost, refund, capacity release sharing credits, including interest thereon, if any, received by the Company from its supplier or interstate transporter in respect of increased rates paid by Grantee subject to refund and applicable to natural gas purchased on a firm supply basis for resale to customers properly enrolled in the Purchase Gas Cost Adjustment Option in Rate Area Three shall be refunded to its gas customers in the form of credit on such customers' bills, or in cash, to the extent that such increased rates paid by the Company were passed on to such firm gas customers. However, customers of Grantee who elect delivery of gas under the Purchased Gas Cost Adjustment Option are not entitled to any refunds, nor shall any additional charges be imposed from any other natural gas supply cost option;

or

(b) Fixed-Price Gas Cost Option:

The Fixed-Price Gas Cost Option shall be as set forth on the "Fixed-Price Gas Cost" supply-cost-adjustment rate schedule filed by the Grantee pursuant to Neb. Rev. Stat. §19-4609(1). This Natural Gas Supply Cost Option is available to any

firm "Residential" customer of Grantee subject to the rules, terms, and conditions of Grantee. Customers will pay a fixed-price for each therm of natural gas delivered by Grantee to the customer.

Customers properly enrolled under the Fixed-Price Gas Cost Option will not pay any additional charges for any changes in the cost of natural gas from suppliers, interstate transporters, other rate schedules of Grantee, or others during the term of the Fixed-Price Gas Cost supply cost rate schedule. In addition, customers of Grantee enrolled in the Fixed-Price Gas Cost option are not entitled to any refund for supply cost, interstate capacity, capacity release sharing credits, other rate schedules of Grantee, or any other refunds or credits related to the cost of purchased for delivery under the Fixed-Price Gas Cost Option. The Fixed-Price Gas Cost Option may be terminated or modified by Grantee, at its option, at the conclusion of the term of the rate schedule on file with the Municipality.

(3) Adjustment for Taxes

If, after the effective date of this ordinance, the business of Grantee in this Rate Area Three Municipality shall be subjected to any taxes measured by its gross revenues from the operation of such business or the volume of such business or constituting a fee for carrying on such business, or in the event that (a) the rate of any such tax or (b) the amount of any such fee shall be increased after the effective date of this ordinance, the gas distribution company shall be entitled to increase its charges under the aforesaid rates so as to offset such imposition or impositions or such increase.

(4) General Rate Adjustment

The above provided for cost of purchased gas and tax adjustments are apart from and shall not in any manner limit or abridge either Grantee's right to request or the Mayor and City Council's authority to grant general rate adjustments increasing or decreasing such rates.

(5) Interruptible Gas Service Rate

Availability - This rate is available only on a contract basis to commercial or industrial customers whose use of natural gas is subject to interruption and periods of curtailment for reasons including but not limited to protecting the service of Grantee's firm gas users.

Rate - The rate of interruptible gas service shall be such rate as may be mutually agreed upon between the customer and that gas service company.

(6) Environmental Costs

Grantee may defer expenses reasonably incurred after December 1, 1999, as a result of monitoring, testing, clean-up, and the cost of reasonable efforts made by Grantee to recover remediation costs (hereinafter referred to generally as "manufactured

gas plant” costs), if any, at the five manufactured gas plant sites allocated to Rate Area Three. No carrying costs will be calculated on any such balance of deferred manufactured gas plant costs. At the time of its next general rate case, Grantee may request recovery of any deferred manufactured gas plant costs and, if recovery is sought, must demonstrate in its rate application or sixty (60) days prior to the deadline for filing the Municipal Report that the manufactured gas plant costs were prudently incurred and reasonable, and that Grantee made reasonable efforts to recover remediation costs from potentially responsible third parties (which may include, but are not limited to, Grantee’s predecessors in interest).

In any future rate application, Grantee will reduce any deferred manufactured gas plant costs by the proportional amount of manufactured gas plant costs previously recovered (*i.e.*, \$62,846 per year from December 1, 1999) from Rate Area Three as a credit to the deferred expenses allocated to Rate Area Three. Issues as to whether the deferred remediation costs were prudently incurred and reasonable; and whether the length of the amortization period for “past” manufactured gas plant costs requested by Grantee for recovering any such deferred remediation expenses is reasonable will be determined in the next rate case following the incurrence of such deferred manufactured gas plant costs.

Seventy-five percent (75%) of any funds (or the value of any other benefits) recovered from third parties by or on behalf of Grantee which are attributable to the remediation of any or all of the five manufactured gas plant sites allocated to Rate Area Three shall be credited to the deferred account. Grantee may keep twenty-five (25%) of any funds (or the value of other benefits) recovered from third parties.

(7) General Terms and Conditions

The General Terms and Conditions and associated Rate Schedule Tariff Sheets applicable to the natural gas service subject to the Municipal Natural Gas Regulation Act and provided for under this ordinance will be kept on file with the Municipal Clerk. The General Terms and Conditions and associated Rate Schedule Tariff Sheets may be changed from time to time by Grantee unless contrary provision is made by an ordinance adopted in the course of a future rate proceeding.

(8) Findings of Fact and Conclusions of Law

The Findings of Fact and Conclusions of Law, which were made a part of the official record at an Area Rate Hearing, are hereby adopted.

SECTION 2. Ordinance No. 885 of David City, Nebraska, and all other ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
(Tabled)

Mayor Stephen Smith

ATTEST:

\_\_\_\_\_  
(Tabled)  
City Clerk Joan E. Kovar

The Council discussed a resolution authorizing the City to sell part of Block 24, Original Town of David City, Butler County, Nebraska described as Lot 11, except the north 5.8 feet thereof; all of Lot 10; and Lot 9 except the south 4.7 feet thereof. The City had advertised for sealed bids, but no bids were received. City Administrator Brannen asked if we should proceed with a Public Auction. Council member Kroesing stated the empty lot isn't hurting the City any. The City could plant grass, water it, and see if there is more interest in the property at a later date. Council member Schatz agreed, "At the very least sow grass this fall, maybe put up a bench or two." Council member Hein made a motion to table consideration of a resolution authorizing the City to sell part of Block 24, Original Town of David City, Butler County, Nebraska, described as Lot 11, except the north 5.8 feet thereof; all of Lot 10; and Lot 9 except the south 4.7 feet thereof, until the September council meeting. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

#### **RESOLUTION NO.**

WHEREAS, Nebraska State Statute 17-503 allows any city of the second class to convey any real and personal property owned by it providing the passage of a resolution directing the sale at public auction or by sealed bid of such real and personal property and the manner and terms thereof; and,

WHEREAS, the City of David City, Nebraska, is the owner of the property located on 4<sup>th</sup> Street between "D" and "E" Streets as follows:

Part of Block 24, Original Town of David City, Butler County, Nebraska described as follows:

Lot 11, except the north 5.8 feet thereof; all of Lot 10; and Lot 9, except the south 4.7 feet thereof.

WHEREAS, the City of David City, Nebraska, desires to sell said property to the highest bidder.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF

THE CITY OF DAVID CITY, NEBRASKA, that the City of David City be allowed to conduct a sale of real property and that notice be given that said property is for sale and that a public auction will be scheduled for the sale of the property. Terms of the sale will include a 10% down-payment with the balance payable within 90 days. The City and buyer will split the cost of the title insurance 50/50.

BE IT FURTHER RESOLVED that after the passage of this resolution directing the sale, notice of the sale of real property and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in David City.

Dated this 8th day of August, 2001.

\_\_\_\_\_  
(Tabled)  
Mayor Stephen Smith

\_\_\_\_\_  
(Tabled)  
City Clerk Joan E. Kovar

In East Park Meadows Subdivision the sidewalk was placed directly next to the curb. The Post Office is upset because there is nowhere to place the mail box. Street snow removal will probably go directly on the sidewalk. Chapter 8, Article 2 - Sidewalks, §8-205.02 Sidewalks; width and distance from lot line, states: "All sidewalks in the residential districts shall be four feet (4') in width. Sidewalks shall be located at a distance of twelve inches (12") outside the lot line, unless otherwise authorized by the Board of Zoning Adjustment, or when otherwise regulated by the covenants of a subdivision. Whenever possible, they shall correspond in width to sidewalks already built to which they are adjacent or adjoin."

Council member Hein stated "My problem is subdivision covenants overriding our ordinance". The Planning Commission recommends omitting - "unless authorized by the Board of Zoning Adjustment, or when otherwise regulated by the covenants of a subdivision" - and inserting: "unless otherwise authorized by the City Council, but only in instances where park, railroads, or extreme topographical conditions, but not including the use of said property, make sidewalk installation non-essential or unnecessary. The Council stated that the Board of Zoning still has the authority to request variances, so why delete this? The Council questioned if they should add the additional wording as this section refers to the placement or location of the sidewalk.

City Attorney Jim Egr suggested leaving the wording as is. Egr stated that this is a problem between the property owner and the post office, and the City should stay out of it. Egr stated that any changes now will not affect the East Park Meadows Subdivision as this is after the fact.

The Council still felt that subdivision covenants should not supersede City ordinances. Council member Schatz suggested scheduling a Public Hearing to consider this. Discussion followed. Council member Kroesing made a motion to table consideration of an ordinance amending Chapter 8, Article 2 - Sidewalks, §8-205.02 Sidewalks; width and distance from lot line. Council member Hein seconded the motion. A joint meeting with the Planning Commission and the City Council may be scheduled to discuss this further. All of the council members were present, all voted YEA, and the motion carried.

#### **ORDINANCE NO.**

AN ORDINANCE TO AMEND SECTION 8-205.02 OF THE MUNICIPAL CODE OF THE

CITY OF DAVID CITY, AS PREVIOUSLY PROVIDED FOR BY THE ORDINANCE FOR SIDEWALKS; WIDTH AND DISTANCE FROM LOT LINE.

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

Section 1. That Chapter 8, Article 2, Section 8-205.02 of the Municipal Code of David City, Nebraska shall read as follows:

§8-205.02 SIDEWALKS; WIDTH AND DISTANCE FROM LOT LINE.

All sidewalks in the residential districts shall be four feet (4') in width. Sidewalks shall be located at a distance of twelve inches (12") outside the lot line, unless otherwise authorized by ~~the Board of Zoning Adjustment, or when otherwise regulated by the covenants of a subdivision.~~ **by the City Council, but only in instances where park, railroads, or extreme topographical conditions, but not including the use of said property, make sidewalk installation non-essential or unnecessary.** Whenever possible, they shall correspond in width to sidewalks already built to which they are adjacent or adjoin. Whenever possible, they shall correspond in width to sidewalks already built to which they are adjacent or adjoin.

Sidewalks in the commercial districts shall be of width as established by the Street Superintendent.

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

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

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2001.

(Tabled)  
Mayor Stephen Smith

(SEAL)

(Tabled)  
City Clerk Joan Kovar

Mayor Smith declared a ten minute recess at 8:33 p.m. The meeting resumed at 8:43 p.m.

City Attorney Egr stated he is still in negotiations concerning the Randy Janak property located at Lots 1, 4, 5, 8, 9, & 12, Block 22, Original Town of David City. Egr said Randy's attorney indicated that Randy was going to give the City the deed to his property, stipulating that it be used for a green belt, park, or other city purpose, but this has not happened. Egr stated that if he does not have the deed in hand, he will see Randy in court at 9:30 a.m. on August 14<sup>th</sup>.

The status hearing on the Joe Smith property located on the E 1/2 of Lots 1 and 4, S 1/2 of the W 1/2 of Lot 4, Block 40, Original Town of David City, will also be held on August 14.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Mayor Smith declared the meeting adjourned at 9:06 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
August 8, 2001

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of August 8, 2001; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar