

CITY COUNCIL PROCEEDINGS

August 9, 2006

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on August 3rd, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Gary Kroesing, Bill Schatz, Nick Hein, Mark Kirby, and Ted Lukassen, City Administrator Joe Johnson, City Attorney Jim Egr, Police Chief Stephen Sunday, Water/Sewer Supervisor Jim Kruse, Waste Water Operator Scott Boyd, Electric Department employee Pat Hoeft, Bill Scribner, Mike Behrns, Skip Trowbridge, Fred Vandenberg, First Vice President Philip Lorenzen of D.A. Davidson & Co., Banner Press Editor Larry Peirce, and Deputy City Clerk Tami Comte.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the July 12th, 2006 meeting of the Mayor and City Council were approved upon a motion by Council member Kroesing and seconded by Council member Lukassen. Voting YEA: Council members Hein, Schatz, Kroesing, Kirby, Smith, and Lukassen. 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, communications, or citizens concerns.

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

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

Council member Kroesing asked City Administrator Johnson if he could review the plans for the proposed pier at the park.

Discussion followed regarding the fish dying in the middle park lake. Water/Sewer Supervisor Jim Kruse sent a sample of the water in to Midwest Laboratories to be tested. They conducted a Livestock Testing Report. They found nothing conclusive. Kruse was instructed to give Park/Auditorium Supervisor Bill Buntgen a copy of the report. The council members asked City Administrator Joe Johnson if he would follow up on this problem.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, August 28, 2006 at 6:00 p.m. after the continuation of the recessed City Council meeting.

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

Council member Hein made a motion to advance to agenda item #19 – Consideration of the Nebraska DEQ Source Water Protection Grant Funding concerning a recycled (effluent) water program. Council member Kirby seconded the motion. Voting YEA: Council members Kroesing, Schatz, Hein, Lukassen, Kirby and Smith. Voting NAY: None. The motion carried.

Mayor Smith informed the Council that the City received the grant for \$72,000 for the funding of the entire effluent water project. Mike Behrns, representing the David City Ball Association, was present to discuss the project. Behrns stated that the Ball Association has some concerns because they have had to hand water the infield; they will not be able to do that with the effluent water and would have to re-pipe all the infield lines. They are concerned about the costs associated with the project. Mayor Smith asked Behrns if he would be willing to meet with City Administrator Johnson to discuss the Ball Associations concerns and then discuss the matter further at the Committee of the Whole meeting.

Council member Schatz was vehement in his views that the Council's action in June was short sighted. He felt that they should have waited to see if the grant for the effluent water was approved before allowing the Soccer Association to put in their well.

Council member Hein made a motion to table consideration of the Nebraska DEQ Source Water Protection Grant Funding concerning a recycled (effluent) water program until the September 13, 2006 meeting. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, Lukassen, Kirby and Smith. Voting NAY: None. The motion carried.

Council member Hein introduced Resolution No. 20- 2006 and moved for its passage and adoption. Council member Kroesing seconded the motion. Mayor Smith asked the Council how many properties the City can afford to clean up. The Council decided that they can't afford to not clean them up. Chief Sunday told the Council that Cemper's property may not cost as much if he will sign the necessary paper work so they can burn it down. A suggestion was made to set up a line item for properties in the budget. Voting YEA: Council members Kirby, Lukassen, Hein, Schatz, Kroesing, and Smith. Voting NAY: None. The motion carried and Resolution No. 20- 2006 was passed and adopted as follows:

RESOLUTION NO. 20-2006

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

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

WHEREAS, the David City Board of Health at a public meeting held on February 1, 2006, declared the property located at 912 N. 10th Street, David City, Butler County, Nebraska, to be in violation of Municipal Code Section No. 4-401 (8), and a public nuisance.

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

WHEREAS, the City of David City, held a public hearing at a regularly scheduled City Council meeting on July 12th, 2006, regarding the property located at 912 N. 10th Street, David City, Butler County, Nebraska.

WHEREAS, the City of David City, having followed the rules and procedures as set out in code #4-402, and having held a public hearing on July 12, 2006, does hereby declare on this the 9th day of August, 2006, that said property, owned by Richard E. Cemper, at 912 N. 10th Street, to be a public nuisance.

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

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

THEREFORE, BE IT RESOLVED THAT, the City of David City has declared the property located at 912 N. 10th Street, David City, Butler County, Nebraska, to be a public nuisance, and further more directs that the Municipality begin cleaning up said property on, or after, August 9, 2006 unless a notice of appeal is made with the District Court of Butler County, Nebraska.

DATED, this 9th day of August, 2006.

Mayor Stephen Smith

Deputy City Clerk Tami L. Comte

Council member Kirby made a motion to table agenda items 9 and 10 concerning the final plat of "Hildy Estates 1st Addition" until 6 p.m. August 28, 2006. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Lukassen, Kirby, Hein, Smith and Kroesing. Voting NAY: None. The motion carried.

Mayor Smith declared a break at 8:05 p.m... The meeting resumed at 8:18 p.m.

Council member Hein made a motion at 8:18 p.m. to recess in order to hold an Organizational Meeting of the David City Community Building Agency. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Hein, Kroesing, Smith, Kirby and Schatz. Voting NAY: None. The motion carried.

Council member Hein made a motion at 8:42 p.m. to reconvene. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Hein, Kroesing, Smith, Kirby and Schatz. Voting NAY: None. The motion carried.

The Council was handed a packet of information by Philip Lorenzen of D.A. Davidson and discussion of the David City Community Building Agency progress and status followed.

Council member Kroesing made a motion to authorize Mayor Smith to execute the Management Agreement between the David City Community Building Agency, the City and the Butler County School District No. 56 concerning renovations to the City Auditorium. Council member Smith seconded the motion. Voting YEA: Council members Hein, Smith, Kroesing, Lukassen, Kirby and Schatz. Voting NAY: None. The motion carried.

Council member Hein introduced Ordinance No. 1030. 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. Voting YEA: Council members Schatz, Hein, Lukassen, Kirby, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1030 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Kroesing, Smith, and Lukassen. Voting NAY: None. The motion carried and Ordinance No. 1030 was passed and adopted as follows:

ORDINANCE NO. 1030

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION PUBLIC FACILITIES CONSTRUCTION AND FINANCE ACT BONDS OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF THIRTY-SIX THOUSAND DOLLARS (\$36,000) FOR THE PURPOSE OF PROVIDING FUNDS TO PAY A PORTION OF THE COSTS OF FINANCE, REMODEL, RENOVATON AND OPERATION OF THE MUNICIPAL AUDITORIUM OWNED BY THE CITY, TO BE IMPROVED AND OPERATED BY THE DAVID CITY COMMUNITY BUILDING AGENCY; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES FOR THE PAYMENT OF SAID BONDS; PROVIDING FOR AND AUTHORIZING THE DELIVERY OF THE BONDS TO THE DAVID CITY COMMUNITY BUILDING AGENCY AS SECURITY FOR SAID AGENCY'S ISSUANCE OF ITS BONDS; APPROVING THE TERMS OF A MANAGEMENT AGREEMENT BETWEEN THE CITY AND SAID AGENCY; AUTHORIZING THE EXECUTION AND DELIVERY OF SAID MANAGEMENT AGREEMENT AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

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

Section 1. The Mayor and City Council hereby find and determine: that the City owns a Municipal Auditorium (the "Facility") which due to age, obsolescence and need for repair requires that the City expend funds to finance the remodeling and renovation of such Facility for the use of residents of the City and the surrounding community (the "Project"); that the Project is to be operated by the City for the benefit of both the City and Butler County School District 0056 (aka David City Public Schools) (the "District"); that the City and the District have agreed to the joint financing and operation of the Project in accordance with the terms of an agreement entitled "Interlocal Cooperation Act Agreement Creating the David City Community Building Agency" under which agreement the City and the District have created the David City Community Building Agency (the "Agency") and the City and the District will each provide for the payment of a portion of the Project costs by providing for payment of a share of the debt service on bonds to be issued by the Agency; that the District has agreed to provide a financial contribution of at least 25% of the debt service on bonds to be issued by the Agency; that the City has no other funds on hand for payment of the City's portion of the Project costs; and that funds are required by the City to pay a portion of the costs with respect to said improvements in an amount not less than \$36,000, and that it is necessary and advisable for the City to provide financing for Project costs by the issuance of its bonds and it is necessary and advisable to borrow the sum of \$36,000; that under the provisions of Sections 72-2301 to 72-2308, R.S.Supp. 2005 (the "Act"), the City has the authority to issue its negotiable bonds to the Agency and the Agency expects to issue its bonds for the purposes of financing the costs of the Project (the "Agency Bonds") which Agency Bonds shall be payable from contributions to be made toward payment of debt service by the City and by the District, with the City's bonds to be issued and delivered to the Agency as security for and to provide the necessary revenues to pay interest on and principal of the Agency Bonds; that the City has held a public hearing on the issuance of bonds as provided in this ordinance with notice of such hearing having been given by publication in a newspaper of general circulation in the City not less than 10 days prior to the hearing; that notice of intention to issue bonds as provided in this ordinance has been given by publication at least twice (three weeks apart) after the adoption of a measure by the Mayor and Council setting forth information as required by the Act; that no remonstrance has been filed against the issuance of bonds by the City as set forth in such notice and as provided for in this ordinance; that under the Act, the City now has the authority to issue its Public Facilities Finance and Construction Act Bond; in the principal amount and as provided herein; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of General Obligation Public Facilities Construction and Finance Act Bonds in the amount of \$36,000 pursuant to Section 72-2304 of the Act do exist and have been done as required by law.

Section 2. To provide funds to pay a portion of the costs of the improvements in the manner and as specified in Section 1 hereof, there shall be and there are hereby ordered issued the General Obligation Public Facilities Construction and Finance Act Bonds of the City of David City, Nebraska, in the principal amount of Thirty-Six Thousand Dollars (\$36,000) in the form of a single registered bond (the "Bond") with said Bond bearing interest at the rate per annum and with principal payment to become due on December 1 of each year as follows:

<u>Maturing December 1</u>	<u>Amount</u>	<u>Interest Rate</u>
2010	\$36,000	4.50%

provided, that the Bond is subject to mandatory sinking fund redemption payments as follows:

\$36,000 Principal Amount Maturing December 1, 2010

\$6,000 To Be Called December 1, 2007

\$10,000 To Be Called December 1, 2008

\$10,000 To Be Called December 1, 2009

\$10,000 Payable December 1, 2010

The Bond shall be issued in fully registered form in the denomination of \$36,000. The date of original issue for the Bond shall be September 1, 2006. Interest on the Bond shall be payable commencing June 1, 2007 and thereafter semi-annually on June 1 and December 1 of each year (each an "Interest Payment Date"), and the Bond shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the Agency as the registered owner of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 4 hereof. The Bond shall be numbered R-1. Payments of interest due on the Bond prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of the

Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof.

Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with unpaid accrued interest thereon, shall be made by said Paying Agent and Registrar to the registered owner upon presentation and surrender of the Bond to said Paying Agent and Registrar for notation of partial payment or cancellation upon payment in full. The City and said Paying Agent and Registrar may treat the registered owner of the Bond as the absolute owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of the Bond in accordance with the terms of this ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bond or claims for interest to the extent of the sum or sums so paid.

Section 3. The Treasurer of the City of David City, Nebraska, is hereby designated to serve as Paying Agent and Registrar for the Bond. The City Treasurer, as Paying Agent and Registrar, shall keep and maintain for the City books for the registration of the Bond at said Treasurer's office. The name and registered address of the Agency as registered owner of the Bond shall at all times be recorded in such books. The Bond is being issued pursuant to the Act and in order to enable the Agency to pay principal of and interest on the Agency Bonds and may not be transferred except by operation of law.

Section 4. In the event that payments of interest due on the Bond on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owner as of the Record Date for such Interest Payment Date and shall be payable to the registered owner of the Bond as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. In addition to the mandatory sinking fund redemption set out herein, the Bond shall be subject to redemption, in whole or in part, prior to maturity at any time on or after December 1, 2007, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption, provided that Agency Bonds are also being called for redemption at the same time in the same respective aggregate amount. Any partial optional redemption of the Bond shall be noted on the Bond. Notice of any optional redemption of the Bond shall be given at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Bond at said owner's registered address, provided that the Agency as registered owner may waive any such requirement for notice. Such notice shall designate the Bond to be redeemed by maturity or otherwise, the date of original issue, series and the date fixed for redemption and shall state that such Bond is to be presented for prepayment and notation thereof at the office of said Paying Agent and Registrar. In case of any partial optional prepayment, such notice shall specify the portion of the principal amount of the Bond to be redeemed. No notice shall be required for any mandatory sinking fund redemption. No defect in the mailing of notice for the Bond shall affect the sufficiency of the proceedings of the City designating the Bond as called for redemption. The City shall have the right to further direct notice of redemption in case any defective notice has been given.

Section 6. If the date for payment of the principal of or interest on the Bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in David City, Nebraska are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 7. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER

GENERAL OBLIGATION PUBLIC FACILITIES CONSTRUCTION AND FINANCE ACT BOND
OF THE
CITY OF DAVID CITY, NEBRASKA

No. R-1 \$36,000

Interest Rate

4.50%

Date of Maturity

December 1, 2010

Date of
Original Issue

September 1, 2006

Registered Owner: David City Community Building Agency

Principal Amount: Thirty-Six Thousand Dollars

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable on June 1, 2007, and semiannually thereafter on June 1 and December 1 of each year (each of said dates an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal hereof, together with unpaid accrued interest due at maturity or upon earlier redemption, is payable upon presentation and surrender of this bond at the office of the Treasurer of the City of David City, as the Paying Agent and Registrar, in David City, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's registered address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purposes become available.

This bond is one of an issue of fully registered bonds of the total principal amount of Thirty-Six Thousand Dollars (\$36,000), of even date and like tenor except as to date of maturity, rate of interest and denomination which were issued by the City for the purpose providing funds for paying a portion of the costs of the finance, remodel, renovation and operation of the David City Municipal Auditorium as said Auditorium is to be improved by and under the authority of the David City Community Building Agency, all in strict compliance with Sections 72-2301 to 72-2308, R.S. Supp. 2005 and other applicable laws. The issuance of this bond has been authorized by proceedings duly had and an ordinance legally adopted by the Mayor and City Council of said City (the "Ordinance").

This bond is subject to mandatory sinking fund redemption payments required to be made as follows:

\$36,000 Principal Amount Maturing December 1, 2010

\$6,000 To Be Called December 1, 2007
\$10,000 To Be Called December 1, 2008
\$10,000 To Be Called December 1, 2009
\$10,000 Payable December 1, 2010

In addition to the foregoing mandatory sinking fund redemptions, this Bond is also subject to redemption at the option of the City, in whole or in part, at any time on or after December 1, 2007, at par plus interest accrued on the principal amount redeemed to the date fixed for redemption, subject to the limitations set forth in the Ordinance. Notice of redemption shall be given by mail to the registered owner of this Bond in the manner specified in the Ordinance.

This bond is not transferable by the registered owner except by operation of law.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

For the prompt payment of the principal and interest on this bond and the other bonds of the same issue, the City of David City, Nebraska, hereby covenants and agrees that it shall levy ad valorem taxes upon all the taxable property in the City of David City, Nebraska at such rate or rates as will provide funds sufficient to make payment of the principal of and interest on this bond as the same fall due.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law.

This bond shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

IN WITNESS WHEREOF, the Mayor and City Council of the City of David City, Nebraska, have caused this bond to be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be impressed or imprinted hereon, all as of the date of original issue specified above.

THE CITY OF DAVID CITY, NEBRASKA

(facsimile signature)
Mayor

ATTEST:

(facsimile signature)
City Clerk
(SEAL)

Certificate of Authentication

This bond is the bond authorized by Ordinance of the Mayor and City Council of the City of David City, Nebraska, described in the foregoing bond.

TREASURER OF THE CITY OF DAVID CITY
DAVID CITY, NEBRASKA

as Paying Agent and Registrar

NOTATION OF OPTIONAL PARTIAL PREPAYMENTS:

Section 8. The Bond shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The Bond shall be issued in fully registered form only. In case any officer whose signature or facsimile thereof shall appear on the Bond shall cease to be such officer before the delivery of such Bond such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Bond. The Bond shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Bond shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Bond, it shall be delivered to the City Treasurer, who is authorized to deliver it to the David City Community Building Agency, David City, Nebraska, the initial and only permitted registered owner thereof, to be held by said registered owner as security for and in consideration for the issuance by the Agency of the Agency Bonds for the purposes as set out in Section 1 of this ordinance.

Section 9. The City Clerk is directed to make and certify a transcript or transcripts of the proceedings of the Mayor and City Council precedent to the issuance of the Bonds, one of which transcripts shall be delivered to the Agency.

Section 10. For the prompt payment of the Bond, both principal and interest as the same fall due, the City hereby agrees that it shall levy and collect ad valorem taxes upon all the taxable property in the City, in addition to all other taxes, sufficient to pay the principal of and interest on the Bond as the same fall due (including mandatory sinking fund redemptions).

Section 11. The City hereby covenants to the registered owner of the Bond and the purchasers and holders of the Agency Bonds that it will make no use of the proceeds of said Bond, including monies held in any sinking fund for the Bond, which would cause the Bond or the Agency Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Bond and the Agency Bonds. The City hereby designates the Bond and the Agency Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code, and covenants and warrants that it does not reasonably expect to issue bonds or other obligations, including any bonds or other obligations issued by the Agency, aggregating in principal amount more than \$5,000,000 during calendar 2006.

Section 12. The City's obligations under this Ordinance with respect to the Bond shall be fully discharged and satisfied as to the Bond and such Bond shall no longer be deemed to be outstanding hereunder if such Bond has been purchased by the City and canceled or when the

payment of principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof, (b) shall have been provided for by depositing with a national or state bank having trust powers, or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) of or obligation the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payments; provided, however, that with respect to the Bond if it is to be paid prior to maturity, the City shall have duly called the Bond for redemption and given notice of such redemption as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with such bank or trust company in excess of the amount required to pay principal of and interest on the Bond for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 13. In order to provide for the operation of the Project as a joint project under the Act for the benefit of the City and the District, the Agency has authorized the execution and delivery of a Management Agreement (the "Management Agreement") providing for the operation of the Project by the City as its manager and the form of the Management Agreement as presented is hereby approved. The Mayor is hereby authorized to execute and deliver the Management Agreement in substantially the form presented but with such changes as such officer shall deem appropriate for and on behalf of the City.

Section 14. This Ordinance shall be published in pamphlet form and shall be in force and take effect from and after its adoption as provided by law.

ADOPTED this 9th day of August 2006.

Mayor

ATTEST:

Deputy City Clerk

(SEAL)

Council member Hein made a motion to send Colburn's a bill for the expenses incurred in the clean-up of the 1255 No. 9th Street property and in the event that the bills are not paid within 60 days to file a lien against the property. Council member Kroesing seconded the motion. Voting YEA: Council members Kroesing, Smith, Hein, Lukassen, Kirby and Schatz. Voting NAY: None. The motion carried.

Water/Sewer Supervisor Jim Kruse presented the bids received for the restoration of well #8. He told the council that he had received two bids. The bid from Layne-Western was

\$46,165.62 and the bid from Sargent Drilling was \$31,906.00. The difference in the bids was \$14,259.62. Council member Hein made a motion to accept the bid of Sargent Drilling to restore well #8. Council member Kirby seconded the motion. Voting YEA: Council members Kirby, Lukassen, Smith, Kroesing, Hein and Schatz. Voting NAY: None. The motion carried.

Council member Kirby introduced Ordinance No. 1031. Council member Hein stated that he had a parent call him and said that their child had broken into his piggy bank to buy fireworks. He felt that shortening the days that fireworks were for sale would help this issue. Council member Kirby stated that he felt that was a parental issue and not an issue for the council to address. Council member Smith made a motion to pass Ordinance No. 1031 on 1st reading only. Council Member Kirby seconded the motion. Voting YEA: Council members Kroesing, Smith, Lukassen, Schatz and Kirby. Voting NAY: Council member Hein. The motion carried and Ordinance No. 1031 was passed on 1st reading only as follows:

ORDINANCE NO. 1031

AN ORDINANCE OF THE CITY OF DAVID CITY TO AMEND FIREWORKS REGULATIONS BY AMENDING THE CITY OF DAVID CITY MUNICIPAL CODE; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AS FOLLOWS:

Section 1. Section 10-413 of the Municipal Code of David City, Nebraska is amended to read as follows:

§10-413.01 FIREWORKS; DEFINITION. The term "fireworks" shall mean and include any composition or device manufactured or used for the purpose of producing a visible or audible effect by combustion or detonation but does not include model rocket, toy pistol caps, emergency signal flares, snakes or glow worms, party poppers, champagne bottles, wire sparklers under 24 inches in length.

§10-413.02 FIREWORKS; SALE. Permissible fireworks may be sold at retail or offered for sale at retail within the City of David City, only between 8:00 a.m. on June 24th and 12:00 p.m. on July 4th of each calendar year.

§10-413.03 FIREWORKS; USE, HOURS RESTRICTED.

1. It shall be unlawful to discharge, explode or use permissible fireworks before 8:00 a.m. and after 10 p.m.
2. It shall be unlawful to discharge, explode or use permissible fireworks from an automobile or other moving vehicles or objects.
3. Exceptions
 - (a) Permissible fireworks may be lawfully discharged, exploded or used between the hours of 8:00 a.m. on July 4th and 1:00 a.m. on July 5th.
 - (b) Permissible fireworks may be lawfully discharged, exploded or used between the hours of 11:00 p.m. on December 31st and 1:00

a.m. on January 1st.

- §10-413.04 FIREWORKS; VENDOR, APPLICATION FOR PERMIT.
1. Application for a permit required under this Section shall be made in the office of the City Clerk by June 5th of each year in which the permit, if issued, would be valid. The City Clerk will provide such application form.
 2. At the regular City Council Meeting in June, the City Council will hold hearings on the applications for permits. The City Clerk will, at the time of accepting the application for a permit, give notice of the date and time of the hearing. Applicants are expected to appear at the hearing either in person or by representative.
 3. At the time of an application, an applicant shall furnish to the City the name, address, and phone number of the fireworks stand manager. The person designated as manager must be at least 21 years of age. It shall be incumbent upon the applicant to keep this list current so that names of the employees having management responsibilities will always be on file in the office of the City Clerk.
 4. Each applicant shall provide a plat plan showing location of the stand, address, setback from right-of-way, distance to nearest building or structure, and occupancy of the nearest building.
 5. Any permit issued may be revoked at any by the City Council upon proper notice and hearing, if one is requested by the permit holder.
- §10-413.05 FIREWORKS; FEES. Each permit application shall be accompanied by a nonrefundable application fee. Application fees are set by City Council resolution.
- §10-413.06 FIREWORKS; ENFORCEMENT OF PROVISIONS. The Chief of Police or designee is charged with the duty of enforcing all the provisions, terms and regulations of this Article.
- §10-413.07 FIREWORKS; PENALTY. Any person violating the provisions of this article shall, upon conviction thereof, be fined not less than \$50 nor more than \$1000 for each and every offense.

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

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.

Dated this ___ day of _____, 2006.

Passed on 1st Reading only
Mayor Stephen Smith

Passed on 1st Reading only
Deputy City Clerk Tami L. Comte

City Administrator Joe Johnson reported to the council that Aquinas High School requested that they be allowed to construct an observation tower at the David City Football Field. The council members felt that this issue had been voted on in the past and had been denied. They asked City Administrator Johnson to check on additional insurance coverage if the City did not own the tower. Council member Kirby stated that he may be more inclined to look at it if both schools wanted the tower. Council member Kroesing made a motion to approve the request of Aquinas High School to construct an observation tower at the David City Football Field. The motion died for lack of a second.

Council member Kroesing made a motion to approve a resolution allowing the Butler County/David City Ethanol Advisory Committee use of the David City Auditorium free of charge to hold an ethanol information town hall meeting. Council member Schatz stated that they have been denying all requests for free use of the city auditorium. Council member Smith stated that there are a lot of worthwhile organizations that have been denied in the past and they need to be consistent. Therefore, the motion died for lack of a second.

Council member Schatz made a motion to approve the application of the Knights of Columbus for a Bingo Permit at 517 4th Street. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Kroesing, Lukassen, Schatz, Smith, and Hein. Voting NAY: None. The motion carried.

Council member Hein made a motion to appoint Joe Roberts to the David City Housing Authority Board of Commissioners to fill the unexpired term of Harold McElravy. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, Lukassen, Kroesing, Kirby, and Hein. Voting NAY: None. The motion carried.

Council member Lukassen made a motion to grant a non-exclusive franchise to Dale Johnson d.b.a. Country Side Service to maintain, own, and operate a garbage or refuse hauling service in David City. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Kirby, Hein, Schatz, Kroesing, and Lukassen. Voting NAY: None. The motion carried.

Council member Kirby made a motion to recess the meeting until August 28, 2006 at 6 p.m. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Schatz, Kirby, Lukassen, Smith, and Hein. Voting NAY: None. The motion carried and the meeting was recessed at 9:36 p.m.

Mayor Stephen Smith

Deputy City Clerk Tami L. Comte

August 28, 2006

Mayor Smith called the meeting of the City Council of David City, Nebraska to order at 6:00 p.m. on Monday, August 28, 2006 in the Council Room of the City Office, 557 4th Street, David City, Nebraska, to continue the meeting of August 9th, 2006 which had been in recess.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Gary L. Kroesing, Mark Kirby, Ted Lukassen, and Bill Schatz, City Administrator Joe Johnson, City Attorney Jim Egr, Electric Supervisor Tim Kovar, Water/Sewer Supervisor Jim Kruse, Park/Auditorium Supervisor Bill Buntgen, Dean & Pat Hilderbrand, Bryan & Ryan Hilderbrand, Attorney Krista Kester, Richard Snyder of Snyder Engineering, Richard Ronkar, Wendy Isham, Shelly Streeter, Jerry Kosch, Dorothy Bohaty, George Cunningham, Ron Mimick, Skip Trowbridge, Cory Kuhlman, Mike Behrns, and City Clerk-Treasurer Joan E. Kovar. Council member Nick Hein was absent.

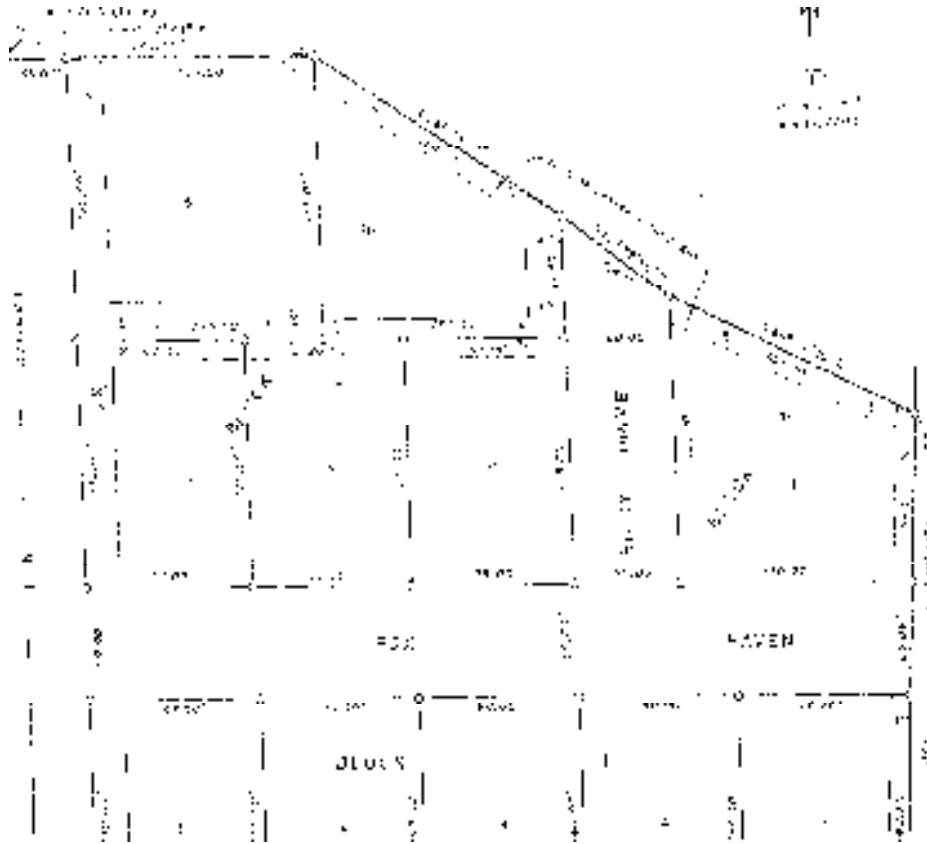
Mayor Smith informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

Council member Kirby made a motion to come back into session from the August 9, 2006, meeting which had been in recess. Council member Kroesing seconded the motion. Voting AYE: Council members Smith, Schatz, Kroesing, and Kirby. Voting NAY: None. Council members Hein and Lukassen were absent.

Mayor Smith opened the Public Hearing at 6:02 p.m. to consider the final plat of "Hildy Estates 1st Addition" as submitted by Ryan & Bryan Hilderbrand d.b.a. Hildy Construction legally described as: a tract of land located in the SW¹/₄ of the NW¹/₄ of Section 29 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at a Point on the west line of said NW¹/₄, said Point being 201.86 feet south of the southwest corner of East Park Meadows Addition to David City, and assuming the west line of said NW¹/₄ to have a bearing of N 0° 00' 00" W; thence S 88° 46' 34" E, 173.00 feet; thence S 56° 34' 10" E, 164.12 feet; thence S 52° 39' 20" E, 75.47 feet; thence S 64° 03' 10" E, 151.00 feet; thence S 3° 03' 20" W, 294.92 feet; thence N 88° 46' 34" W, 490.11 feet, to a point on the west line of said NW¹/₄; thence N 0° 00' 00" W, 490.00 feet, to the Point of Beginning, containing 4.84 acres, more or less. (Property located east of 11th Street north of the St. Mary's Cemetery.

Council member Lukassen arrived at 6:03 p.m..

Richard Snyder of Snyder Engineering stated that Bryan & Ryan Hilderbrand are ready to proceed with the first eleven (11) lots of their addition as follows:



Richard Snyder stated that the Department of Environmental Quality has not submitted approval of the Final plats. DEQ suggested changes to the addition and so the changes were noted and re-submitted but they have not gotten a response back. The following letter from the State of Nebraska was distributed to the Council members:

Nebraska Health and Human Services System

August 24, 2006

*Ms. Joan Kovar, Clerk
City of David City
P.O. Box 191
David City, NE 68632-0191*

Re: PWS – David City, NE – W-100-2006 – Plans and Specifications – Hildy Estates First Addition – Water Main Improvements (SE #025-047)

Dear Ms. Kovar:

Documents describing the above-referenced project have been reviewed and are hereby approved with respect to features of sanitary significance. This approval is subject to any stipulations checked below. Written approval must be obtained from this Department before proceeding with any major changes from the project documents as approved.

One set of the submitted documents is being made a part of this Department's records, and the remaining set(s), if any are being returned.

*Sincerely,
Subhash D. Jha, P.E., Program Manager
Engineering Services Program
Environmental Health Services Section*

Department of Health and Human Services
Regulation and Licensure

SDJ:CFC:jem

xc: Richard Snyder, P.E.
Ryan Hilderbrand, Owner
Bob Byrkit, HHS-R&L

XXXX In accordance with Section 007.03 of Title 179 NAC 2, a final inspection of this facility as installed shall be made by this Department prior to placement into service.

XXXX In accordance with Sections 007.02D1 and 007.02D2 of Title 179 NAC 2, documentation of the contract or actual cost of the project shall be provided to this Department for the purpose of determining the final fee amount. Payment of the final fee amount shall be made to this Department.

XXXX In accordance with Section 007.03 of Title 179 NAC 2, documents certifying completion of the project in accordance with the approved plans and specifications or approved change orders shall be submitted to this Department.

City Attorney Egr stated that the City Council could approve the Final Plat contingent upon approval by DEQ.

There being no further comments Mayor Smith declared the Public Hearing closed at 6:10 p.m..

Council member Kroesing introduced Ordinance No. 1032. Council member Smith 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, Kirby, Lukassen, Smith, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1032 on the third and final reading contingent upon review and approval by the Department of Environmental Quality. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Kroesing, and Lukassen. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 1032 was passed and adopted as follows:

ORDINANCE NO. 1032

AN ORDINANCE ACCEPTING AND APPROVING THE FINAL PLAT DESIGNATED AS AHILDY ESTATES 1ST ADITION@; REPEALING CONFLICTING ORDINANCES AND SECTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, Ryan and Bryan Hilderbrand, owners of a tract of land legally described as: a tract of land located in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 29 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at a Point on the west line of said NW $\frac{1}{4}$, said Point being 201.86 feet south of the southwest corner of East Park Meadows Addition to David City, and assuming the west line of said NW $\frac{1}{4}$ to have a bearing of N 0° 00' 00" W; thence S 88° 46' 34" E, 173.00 feet; thence S 56° 34' 10" E, 164.12 feet; thence S 52° 39' 20" E, 75.47 feet; thence S 64° 03' 10" E, 151.00 feet; thence S 3° 03' 20" W, 294.92 feet; thence N 88° 46' 34" W, 490.11 feet, to a point on the west line of said NW $\frac{1}{4}$; thence N 0° 00' 00" W, 490.00 feet, to the Point of Beginning, containing 4.84 acres, more or less. (Property located east of 11th Street north of the St. Mary's Cemetery).

has filed said Plat with the City of David City, Nebraska, and has requested that said Plat be approved and accepted, and

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

- Section 1. That the Final Plat for "Hildy Estates 1st Addition", consisting of eleven lots on the east side of 11th Street, north of St. Mary's Catholic Cemetery, is hereby accepted and approved, and said owners are hereby given the right to plat said Addition to the City of David City, Nebraska.
- Section 2. The Sub-dividers, Ryan and Bryan Hilderbrand, shall record the final plat with the Office of the County Assessor and County Clerk of Butler County, Nebraska, pay all recording fees and provide (1) copy of such recorded final plat to the City.
- Section 3. This Ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND APPROVED this 28th day of August, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

The Public Hearing scheduled for September 13, 2006 for the Budget for fiscal year 2006-2007 was discussed. It was noted that if any changes or corrections are needed there would not be sufficient time to advertise for another meeting since the budget is due September 20, 2006. Therefore, Council member Lukassen made a motion to schedule an alternate hearing date concerning the 2006 – 2007 fiscal years budget on Monday, September 18, 2006. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Kirby, Schatz, Smith, and Lukassen. Voting NAY: None. Council member Hein was absent. The motion carried.

There being no further business to come before the Council, Council member Kirby made a motion to adjourn. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Schatz, Kroesing, Lukassen, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried and Mayor Smith declared the meeting adjourned at 6:22 p.m.

Mayor Stephen Smith

City Clerk Joan E. Kovar

