

CITY COUNCIL PROCEEDINGS

September 13, 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 September 7th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Mark Kirby, Gary Kroesing, Bill Schatz, Nick Hein, and Ted Lukassen, City Administrator Joe Johnson, City Attorney Jim Egr, Police Chief Stephen Sunday, Water/Sewer Supervisor Jim Kruse, Electric Department employee Pat Hoeft, Bill Scribner, Skip Trowbridge, George Cunningham, Mike Sousek of Lower Platte North NRD, John Klosterman, Fred Vandenberg, Bill Steager, David City High School (Scouts) football coach Cortney Couch, Aquinas High School football coach Ron Mimick, Dave Smith, Curtis Burgess, Wayne Arnold, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan Kovar.

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 August 9th, 2006 meeting of the Mayor and City Council were approved upon a motion by Council member Smith and seconded by Council member Lukassen. Voting YEA: Council members Hein, Schatz, Kroesing, Kirby, Lukassen, and Smith. Voting NAY: None. The motion carried.

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

Curtis Burgess and Dave Smith individually expressed concerns regarding a large water charge on their utility bills. Following discussion it was decided that City Administrator Joe Johnson and Water/Sewer Supervisor Jim Kruse will meet to discuss the water discrepancy and then they will advise/explain the results to Burgess and Smith.

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. Council member Hein would like an explanation as to why the police cellular bill is so high this month. Voting YEA: Council members Lukassen, Hein, Kirby, Schatz, Kroesing, and Smith. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to advance to agenda item #11 – 7:15 p.m. Budget Hearing, Budget Summary, and Special Hearing to set the final tax request. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Kirby, Smith, and Kroesing. Voting NAY: None. The motion carried.

Mayor Smith declared the Budget Hearing, Budget Summary, and Special Hearing to set the final tax request open at 7:20 p.m.. Mayor Smith stated that City Administrator Joe Johnson

did an admirable job especially considering the short amount of time he had. Joe conducted several meetings with the Finance Committee consisting of himself, Council members Smith, Schatz, and Hein, Mayor Smith, and City Clerk Kovar. Mayor Smith opened the floor for questions, comments, or concerns concerning the proposed budget and final tax request. Water/Sewer Supervisor Jim Kruse asked if the purchase of the first mile of the Bruno water line was in the proposed budget for 2006-2007. Joe stated "no" it was not in the proposed budget. Council member Kirby noted that the proposed budget included \$200,000 for the first phase of a trail system. Kirby stated he is not against the project but questioned, with a new mayor and two new council members coming on board in December, if they should hold off on the trail system until the following year. Council member Schatz stated that the trail is an intricate part of Hildy's 1st Addition and felt that it would be prudent to go ahead and budget for it contingent upon the Transportation Enhancement Program. The trail would be an enhancement to the community. Council member Hein agreed saying that he didn't feel the City should let this slip by. Council member Lukassen stated that the only complaint he hears is that the current trail isn't long enough. The \$200,000 for the first phase of a trail system remained in the budget. There being no other comments, questions, or concerns, Mayor Smith closed the Budget Hearing at 7:35 p.m..

Council member Kirby made a motion to advance to agenda item #12 – Consideration of a resolution approving an additional one percent (1%) increase in restricted funds authority. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Lukassen, Smith, Kroesing, Hein, and Kirby. Voting NAY: None. The motion carried.

Council member Hein introduced Resolution No. 21 - 2006 and moved for its passage and adoption. Council member Schatz seconded the motion. Voting YEA: Council members Smith, Kroesing, Lukassen, Kirby, Schatz, and Hein. Voting NAY: None. The motion carried and Resolution No. 21 – 2006 was passed and adopted as follows:

RESOLUTION NO. 21 – 2006

A RESOLUTION OF THE CITY OF DAVID CITY TO APPROVE AN ADDITIONAL ONE PERCENT (1%) INCREASE IN RESTRICTED FUNDS.

WHEREAS, Nebraska Revised Statute 13-519.02 provides that a governmental unit may exceed its restricted funds limit for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

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

1. That an additional one percent (1%) increase in restricted funds for the 2006-2007 budget is approved.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kroesing made a motion to advance to agenda item #13 – Consideration of a resolution setting the property tax request. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Smith, Hein, Kirby, Lukassen, and Kroesing. Voting NAY: None. The motion carried.

Council member Kirby introduced Resolution No. 22 - 2006 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Lukassen, Schatz, Hein, Kroesing, and Kirby. Voting NAY: None. The motion carried and Resolution No. 22 – 2006 was passed and adopted as follows:

RESOLUTION NO. 22 - 2006

RESOLUTION OF THE CITY OF DAVID CITY SETTING THE PROPERTY TAX REQUEST.

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purpose of the levy set by the County Board of Equalization unless the Governing Body of the City of David City passes by a majority vote, resolution of ordinance setting the tax request at a different amount; and,

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and,

WHEREAS, it is in the best interest of the City of David City that the property tax request for the current year be a different amount than the property tax request for the prior year.

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

1. The 2006-2007 property tax request be set at \$489,408.
2. A copy of this resolution be certified and forwarded to the County Clerk prior to September 20, 2006.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

(SEAL)

Council member Kroesing made a motion to advance to agenda item #14 – Consideration of a resolution to carry forward the un-used budget authority from 2005-2006. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Lukassen, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing introduced Resolution No. 23 - 2006 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Schatz, Hein, Kirby, Smith, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 23 – 2006 was passed and adopted as follows:

RESOLUTION NO. 23 - 2006

A RESOLUTION OF THE CITY OF DAVID CITY TO CARRY FORWARD UNUSED BUDGET AUTHORITY.

WHEREAS, Nebraska Revised Statute 13-521 provides that a governmental unit may choose not to increase its total of restricted funds by the full amount by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority.

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

1. That the unused budget authority of \$613,356.23 from the 2005-2006 budget shall be carried forward to the 2006-2007 budget of the City of David City, Nebraska.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

(SEAL)

Council member Kirby made a motion to advance to agenda item #15 – Consideration of an ordinance adopting the annual appropriation bill. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Hein, Smith, Kroesing, Lukassen, and Kirby. Voting NAY: None. The motion carried.

Council member Kirby introduced Ordinance No. 1033, the annual appropriation bill. Council member Kroesing made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1033 on the third and final reading. Council member Kirby seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, Smith, Kirby, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1033 was passed and adopted as follows:

ORDINANCE NO. 1033
THE ANNUAL APPROPRIATION BILL

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, ADOPTING THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; 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.

WHEREAS, Nebraska Revised Statute 17-706 provides that a city council of the second class shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill", in which corporate authorities may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of city.

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

SECTION 1. That after complying with all procedures required by law, the budget presented and set forth in the budget statement is hereby approved as the Annual Appropriation Bill for the fiscal year beginning October 1, 2006, through September 30, 2007. All sums of money contained in the budget statement are hereby appropriate for the necessary expenses and liabilities of the City of David City, Nebraska. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capital, Lincoln, Nebraska, and to the County Clerk of Butler County, Nebraska, for use by the levying authority.

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.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

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

City Clerk Kovar reported that Swimming Pool Manager Jill Stara brought in candy, ice-cream, and chips that did not sell during the swimming pool season. The expiration date on the chips has already past so the company won't take them back for credit. Tami Comte took the majority of the ice-cream and sold it at a booster club event at David City High School. She paid "cost" for what she was able to sell. City Administrator Joe Johnson bought the ice-cream that did not sell. Joe suggesting taking the left over potato chips to the senior center and the Council agreed. One full box of taffy was given to the Library. The leftover candy was offered to those in attendance.

City Administrator Joe Johnson reported that the fish kill in the City Park Lakes was unidentified. The Game and Parks thinks that someone must have dumped something in the lake that killed the fish. The next time that Park Supervisor Bill Buntgen observes dead fish he is to immediately take a water sample and mail it in for testing.

City Administrator Joe Johnson commended Police Chief Stephen Sunday for riding a bicycle instead of always cruising around in a police vehicle thus saving gasoline. Johnson also commended Zoning Administrator Roger Kotil for being on top of the zoning regulations and doing such a great job.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, September 25, 2006 at 6:00 p.m. in the meeting room of the City Office, 557 4th Street, David City, Nebraska.

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

Ordinance No. 1031 concerning fireworks regulations was passed on 1st reading only on August 9, 2006. The council discussed concerns and questions regarding the proposed ordinance. Changes were made to the proposed ordinance and the Council also asked for clarification concerning §10-414.05 #6 that states "the person designated as manager must be at least 21 years of age". Therefore, Council member Hein made a motion to table consideration of Ordinance No. 1031 until the October 11, 2006 council meeting. Council member Schatz seconded the motion. Voting AYE: Council members Smith, Lukassen, Kirby, Schatz, and Hein. Voting NAY: Council member Kroesing. The motion carried.

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 10-414 of the Municipal Code of David City, Nebraska is amended to read as follows:

§10-414.01 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 rockets, toy pistol caps, emergency signal flares, snakes or glow worms, party poppers, champagne bottles, or wire sparklers under 24 inches in length.

§10-414.02 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.~~ Permissible fireworks may be sold at retail or offered for sale at retail within the City of David City only between 12:01 a.m. June 25 and ending 11:59 p.m. July 4th of each calendar year.

§10-414.03 FIREWORKS; USE, HOURS RESTRICTED.

- ~~1. It shall be unlawful to discharge, explode or use permissible fireworks within the City of David City after 10:00 p.m. on July 11th and before 8:00 a.m. on June 24th of each calendar year.~~
2. It shall be unlawful to discharge, explode or use permissible fireworks from an automobile or other moving vehicles or objects.
3. It shall be unlawful to discharge, explode or use permissible fireworks before 8:00 a.m. and after 10:00 p.m. with the following 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 8:00 a.m. 11:00 p.m. on December 31st and 1:00 a.m. on January 1st.

§10-414.04 FIREWORKS; PUBLIC DISPLAY, APPLICATION FOR PERMIT, LOCATION.

1. Application for a permit required under this Section shall be made in the office of the City Clerk at least thirty (30) days prior to the public display. The City Council may, upon written application, grant a permit for the public display of fireworks by religious, educational, fraternal or civic organizations, fair associations, amusement parks, or other organizations or group of individuals. After such permit is granted, sales, possession, use and distribution of fireworks for such public display shall be lawful for that purpose only.
2. All applications for permits to operate a public display of fireworks shall be in writing and shall set forth:
 - a. The name of the organization or person sponsoring the display, together with the name, age and qualifications of persons actually in charge of firing the display;
 - b. The date and time the display is to be held;
 - c. The exact location planned for the display;
 - d. The manner and place of storage of fireworks prior to the display
3. The actual point at which the fireworks are to be fired shall be at least two hundred (200) feet from the nearest permanent building, public highway or railroad, and fifty (50) feet from any telephone or electric power pole or line, tree, or other overhead obstruction(s).

§10-414.05 FIREWORKS; **VENDOR**, APPLICATION FOR PERMIT.

4. 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.
5. At the any regular City Council Meeting before June 24th of each year, 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.
6. 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.
7. Each applicant shall provide a plat plan showing the location of the stand, address, setbacks from right-of-way, distance to nearest building or structure, and occupancy of the nearest building.
8. Any permit issued may be revoked at any time by the City Council upon proper notice and hearing, if one is requested by the permit holder.

§10-414.06 FIREWORKS; **FEES**. Each permit application shall be accompanied by a nonrefundable application fee. Application fees are set by resolution and approved by the City Council.

§10-414.07 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.

§10-414.08 FIREWORKS; **PENALTY**. Any person violating the provisions of this article shall, upon conviction thereof, be fined not less than \$50 nor more than \$500 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 appealed.

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

PASSED AND APPROVED this _____ day of _____, 2006.

8/09/06 Passed on 1st Reading only;
9/13/06 Tabled till the Oct 11, 2006 meeting
Mayor Stephen Smith

8/09/06 Passed on 1st Reading only;
9/13/06 Tabled till the October 11, 2006 meeting
City Clerk Joan E. Kovar

Mayor Smith declared a ten minute recess at 8:07 p.m.. The meeting resumed at 8:17 p.m..

At the August 9, 2006 council meeting, 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. City Administrator Joe Johnson presented the following letter:

September 13, 2006

Joseph J. Johnson
City of David City
537 North 4th Street
David City, NE 68632

Re: Source Water Protection Grant

Dear Mr. Johnson,

You recently notified NDEQ of the city's decision to approve the installation of an irrigation well for the purpose of watering the city soccer fields. We have carefully reviewed the implications of this decision on your Source Water Protection project titled "David City Recycled Water Program – Final Phase." The decision to permit the installation of this well negates the purpose of a major task of this project and is in direct contradiction with one of the primary objectives, to "eliminate the need for drilling wells into the local aquifer thereby reducing demand on the city's drinking water supply and reducing the potential for ground contamination." For these reasons, **we have decided to withdraw the entire \$72,000 grant award offered for this project.**

If you have any questions please contact Deana Barger, Source Water Coordinator, at (402) 471-6988 or deana.barger@ndeq.state.ne.us.

Sincerely,

Mike Linder, Director
State of Nebraska
Department of Environmental Quality
P.O. Box 98922
Lincoln, NE 68509-8922

City Administrator Joe Johnson stated that agenda item #9 – Consideration of the Nebraska DEQ Source Water Protection Grant Funding concerning a recycled (effluent) water program - was now a mute point.

Mike Sousek of Lower Platte North NRD was present to discuss the City's option to purchase the 1st mile of the Bruno water line which has been approved by the State. The interlocal agreement states: *"LPNNRD will extend to David City the exclusive right to purchase the "Water Main" assets. The costs of purchase by David City will be the actual cost of the "Water Main" part of the project contemplated in the Agreements and this Amended Agreement, which includes but is not necessarily limited to construction costs, right-of-way acquisition costs, engineering costs, interest, and such documented related costs, LESS the proportionate share of all grants, subsidies, and monies paid on behalf of the project contemplated herein related to the "Water Main" part of the project herein."* Mike presented the following construction costs as provided by Eric Obert, Project Engineer, JEO Consulting Group:

	Quantity	Unit Price	Total Cost	City of David	NRD Cost
C-900 Water Main Pipe	5470 LF	\$12.19	\$66,679.30	\$66,679.30	\$0.00
Connection to David City	1 each	\$3,261.00	\$3,261.00	\$3,261.00	\$0.00
Cased Bore at David City	1 each	\$3,300.00	\$3,300.00	\$3,300.00	\$0.00
Fire Hydrant Assembly	1 each	\$2,121.00	\$2,121.00	\$2,121.00	\$0.00
Customer Connections	180 LF	\$13.00	\$2,340.00	\$2,340.00	\$0.00
David City Meter Pit					
Concrete Structure	1 each	\$8,500.00	\$8,500.00	\$4,250.00	\$4,250.00
Water Meters	1 each	\$3,239.00	\$3,239.00	\$3,239.00	\$0.00
Backflow Prevention	1 each	\$2,550.00	\$2,550.00	\$0.00	\$2,550.00
Misc. Piping and Valves	1 each	\$1,432.00	\$1,432.00	\$1,432.00	\$0.00
Misc. Site Work	1 each	\$1,100.00	\$1,100.00	\$1,100.00	\$0.00
		Total	\$94,522.30	\$87,722.30	\$6,800.00
			75% grant	\$65,791.73	
			Total Cost to City of David City	\$21,930.58	

Council member Schatz made a motion to pay \$21,930.58 to Lower Platte North NRD for the first mile of the Bruno Water line as detailed above. Council member Smith seconded the motion. All of the council members were present, all voted AYE, and the motion carried.

Council member Schatz introduced Resolution No. 24 – 2006, approving a wastewater effluent irrigation agreement between the City of David City and the David City Golf Club, Inc., and moved for its passage and adoption. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 24 - 2006 was passed and adopted as follows:

RESOLUTION NO. 24 - 2006

A RESOLUTION OF THE CITY OF DAVID CITY APPROVING A WASTEWATER EFFLUENT IRRIGATION AGREEMENT BETWEEN THE CITY OF DAVID CITY AND THE DAVID CITY GOLF CLUB, INC.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as “David City”) is an independent body of government, and

WHEREAS, the David City Golf Club, Inc. is requesting the use of wastewater effluent irrigation from David City’s Wastewater Treatment Plant.

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

1. David City does hereby approve the Wastewater Effluent Irrigation Agreement entered between David City and the David City Golf Club, Inc.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Schatz introduced Resolution No. 25 – 2006, approving a wastewater effluent irrigation agreement between the City of David City and Aquinas High School of David City, Nebraska and moved for its passage and adoption. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 25 - 2006 was passed and adopted as follows:

RESOLUTION NO. 25 - 2006

A RESOLUTION OF THE CITY OF DAVID CITY APPROVING A WASTEWATER EFFLUENT IRRIGATION AGREEMENT BETWEEN THE CITY OF DAVID CITY AND AQUINAS HIGH SCHOOL OF DAVID CITY, NEBRASKA.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as “David City”) is an independent body of government, and

WHEREAS, Aquinas High School of David City, Nebraska, is requesting the use of wastewater effluent irrigation from David City’s Wastewater Treatment Plant.

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

1. David City does hereby approve the Wastewater Effluent Irrigation Agreement entered between David City and Aquinas High School of David City, Nebraska.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

(SEAL)

Council member Schatz introduced Resolution No. 26 - 2006 and moved for its passage and adoption. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 26 - 2006 was passed and adopted as follows:

RESOLUTION NO. 26 - 2006

WHEREAS, the Mayor and City Council of David City, Nebraska determined that the property owned by Terry & Lori Colburn at 1255 N. 9th Street, David City, Nebraska and legally described as follows, to-wit:

South ½ of Lot 4, and all of Lot 5, Block 3, Will Thorpe & Perkins 2nd Addition,
David City, Butler County, Nebraska

was in violation of Chapter 4 Article 402 of the Municipal Code of the City of David City, Nebraska; and,

WHEREAS, Terry & Lori Colburn (owners) was provided notice of violation of Chapter 4 Article 402; that the above described real estate would be cleaned up; that the City would begin cleaning up said property on, or after, May 10, 2006, unless a notice of appeal was made with the District Court of Butler County, Nebraska, and that the real estate above described would be assessed as a special assessment for the cost of said clean-up; and,

WHEREAS, all due process requirements of the above referenced City Ordinances of David City, Nebraska were followed; and,

WHEREAS, Terry & Lori Colburn failed to clean-up the above referenced real estate on or before May 10, 2006; and,

WHEREAS, the City of David City, Nebraska did incur \$13,684.70 to clean up the above described real estate.

NOW, THEREFORE, BE IT RESOLVED that a Special Assessment in the sum of THIRTEEN THOUSAND SIX HUNDRED EIGHTY-FOUR DOLLARS AND SEVENTY CENTS (\$13,684.70) be assessed against the above described real estate; that the Special Assessment be and hereby is levied effective September 13, 2006; that Terry & Lori Colburn be given fifty (50) days to pay this Special Assessment without interest; and after said fifty (50) days the Special Assessment remaining unpaid will be delinquent and will bear interest at the rate of FOURTEEN PER CENT (14%) per annum from said date; this Special Assessment will be a lien against the above described real estate until paid; this Special Assessment will be filed with the Butler County Treasurer and will be collected in the manner provided for Special Assessments by law.

Dated: September 13, 2006

ATTEST:

CITY OF DAVID CITY, NEBRASKA

Stephen Smith, Mayor

Joan E. Kovar, City Clerk

(Seal)

Council member Schatz introduced Resolution No. 27 – 2006, to file a lien against the Sherry Benson/Ramirez property located at 915 No. 11th Street, and moved for its passage and adoption. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 27 - 2006 was passed and adopted as follows:

RESOLUTION NO. 27 - 2006

WHEREAS, the Mayor and City Council of David City, Nebraska determined that the property owned by Sherry Benson/Ramirez at 915 N. 11th Street, David City, Nebraska and legally described as follows, to-wit:

South 12' of Lot 9, all of Lot 12, Block 13, Will Thorpe & Perkins 1st Addition,
David City, Butler County, Nebraska

was in violation of Chapter 4 Article 402 of the Municipal Code of the City of David City, Nebraska; and,

WHEREAS, Sherry Benson/Ramirez (owner) was provided notice of violation of Chapter 4 Article 402; that the above described real estate would be cleaned up; that the City would begin cleaning up said property on, or after, September 15th, 2005, unless a notice of appeal was made with the District Court of Butler County, Nebraska, and that the real estate above described would be assessed as a special assessment for the cost of said clean-up; and,

WHEREAS, all due process requirements of the above referenced City Ordinances of David City, Nebraska were followed; and,

WHEREAS, Sherry Benson/Ramirez failed to clean-up the above referenced real estate on or before September 15, 2005; and,

WHEREAS, the City of David City, Nebraska did incur \$8,797.45 to clean up the above described real estate.

NOW, THEREFORE, BE IT RESOLVED that a Special Assessment in the sum of EIGHT THOUSAND SEVEN HUNDRED NINETY-SEVEN DOLLARS AND FORTY-FIVE CENTS (\$8,797.45) be assessed against the above described real estate; that the Special Assessment be and hereby is levied effective September 13, 2006; that Sherry Benson/Ramirez be given fifty (50) days to pay this Special Assessment without interest; and after said fifty (50) days the Special Assessment remaining unpaid will be delinquent and will bear interest at the rate of FOURTEEN PER CENT (14%) per annum from said date; this Special Assessment will be a lien against the above described real estate until paid; this Special Assessment will be filed with the Butler County Treasurer and will be collected in the manner provided for Special Assessments by law.

Dated: September 13, 2006

ATTEST:

CITY OF DAVID CITY, NEBRASKA

Stephen Smith, Mayor

Joan E. Kovar, City Clerk

(Seal)

Council member Schatz introduced Resolution No. 28 - 2006 and moved for its passage and adoption. Council member Smith seconded the motion. The schools agreed that the tower would be funded by the schools and the schools will be responsible for insurance on the tower. Voting AYE: Council members Kroesing, Lukassen, Hein, Smith, and Schatz. Voting NAY: Council member Kirby. The motion carried and Resolution No. 28 - 2006 was passed and adopted as follows:

RESOLUTION NO. 28 - 2006

A RESOLUTION OF THE CITY OF DAVID CITY APPROVING THE CONSTRUCTION OF AN OBSERVATION TOWER AT THE DAVID CITY PUBLIC FOOTBALL FIELD.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as "David City") is an independent body of government, and

WHEREAS, Aquinas High School and David City Public High School are requesting David City allow the construction of an observation tower at the David City Public Football Field.

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

1. David City does hereby approve the construction of an observation tower at the David City Public Football Field.

PASSED AND APPROVED this 13th day of September, 2006.

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

(SEAL)

City Administrator Joe Johnson provided the following background concerning an Economic Development Inter-local Agreement:

A resolution has been prepared with the intention that the City of David City will enter into an Economic Development Inter-local Agreement with Butler County and the subsidiaries of the Butler County Development Alliance, David City Area Chamber of Commerce, and HomeTown Competitiveness.

In February, 2006, community representatives of: Butler County, City of David City, Butler County Development Alliance, David City Area Chamber of Commerce, HomeTown Competitiveness, Nebraska Community Foundation, Center for Rural Entrepreneurship, Center for Rural Affairs, and Heartland Center for Leadership Development, begin "exploring the possible use of the Nebraska Interlocal Cooperation Act to create a more comprehensive, effective and accountable organizational structure for community economic development in this Community (community noted above).

In July, a draft Economic Development Inter-local Agreement was presented to the City of David City and Butler County officials to gain the approval of their respective elected boards. Since July, Joe Johnson, City Administrator of David City, has worked diligently with all parties to exclude the city's taxing authority from this inter-local agreement. It was mentioned in the initial work sessions of this proposed Economic Development Inter-local Agreement that LB-840 (funds generated by a city sales tax to promote economic development within city limits) funds would be used to fund this inter-local agreement. It has been the stance of this City Administrator that the city's taxing authority is a power granted to the city by the state for funding activities within the city limits, not outside. The when, how, and why, questions about the city's taxing authority is left to the judgment of the elected board, not an inter-local agreement.

In August a "draft" Economic Development Inter-local Agreement, without referencing of the city's taxing authority, was presented to this City Administrator. This City Administrator then presented this draft to the Governing Board of David City at the Committee of a Whole Meeting on August 28, 2006 for open dialogue.

The fiscal impact to the City of David City would be \$15,000 per year for the life of the inter-local agreement (three (3) years).

Council member Lukassen introduced Resolution No. 29 - 2006 and moved for its passage and adoption. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 29 - 2006 was passed and adopted as follows:

RESOLUTION NO. 29 - 2006

A RESOLUTION OF THE CITY OF DAVID CITY, AUTHORIZING AN ECONOMIC DEVELOPMENT INTER-LOCAL AGREEMENT WITH BUTLER COUNTY AND THE SUBSIDIARIES OF THE BUTLER COUNTY DEVELOPMENT ALLIANCE, DAVID CITY AREA CHAMBER OF COMMERCE, AND HOMETOWN COMPETITIVENESS.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as "City") is an independent body of government, and

WHEREAS, the County of Butler County, Nebraska (hereinafter referred to as "County") is an independent body of government, and

WHEREAS, the City and County will enter into a relationship to create a comprehensive, effective and accountable community economic development program for individuals and communities within Butler County and David City.

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of David City, Nebraska, that:

1. Authorizes the execution of this Economic Development Inter-local Agreement pursuant to the provisions of the Nebraska Interlocal Cooperation Act.

PASSED AND APPROVED this 13th day of September 2006.

Mayor Stephen Smith

City Clerk Joan E. Kovar

