

CITY COUNCIL PROCEEDINGS

October 9, 2002

The Mayor and 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 October 3, 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, Gary Smith, Bill Schatz, and Nick Hein, City Administrator Andrew Brannen, City Attorney Jim Egr, Electric Supervisor Tim Kovar, Street Superintendent Jim McDonald, Water/Sewer Supervisor Gene Divis, Police Chief Steve Sunday, city employees Bob Palik and Jim Sylvester, Cliff Stockmyer of Northwestern Mutual, Roger Helgoth of Jacobson Helgoth Consultants, Kelly Danielson representing the David City Golf Club, Deb Dinkelman representing the Tennis Court Committee, and City Clerk/Treasurer Joan E. Kovar.

The minutes of the September 11th meeting of the Mayor and City Council were approved upon a motion by Council member Smith and seconded by Council member Kroesing. 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 or communications to be read. Council member Hein noted comments on City Clerk Kovar's department head report concerning the operation of the swimming pool. Mayor Smith stated that this would be discussed in executive session.

Mayor Smith asked for consideration of claims. Council member Kirby 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.

City Administrator Brannen reported that he drafted a letter to the Corps of Engineers on the Aquatic Restoration Project (NW Flood Control Project), putting a hold on the project but noting that the City may want to move forward with the project in the future.

City Attorney Egr stated that once again there is a tractor, two trailers with hay bales, and a baler sitting on the Joe Smith property, 595 C Street, located on the E ½ of Lots 1 and 4, S ½ of the W ½ of Lot 4, Block 40, Original Town of David City. Egr stated that he feels that Joe Smith is in contempt and asked the Council if he should pursue this matter. Council member Lukassen stated that if the Council didn't pursue this matter, everything the City has done thus far to get the property cleaned up was null. Council members Kroesing and Hein voiced agreement. Mayor Smith advised Attorney Jim Egr to proceed with this matter.

Police Chief Sunday stated that the October 3rd issue of the Banner Press reported that the Butler County Sheriff's office is currently joining forces with Attorney General Don Stenberg and Governor Mike Johanns in unveiling the Nebraska AMBER Plan. Police Chief Sunday also took

part in this training. The AMBER Plan stands for America's Missing: Broadcasting Emergency Response which is a voluntary program between participating law enforcement and broadcasters to notify the public of a child's abduction through special on-air alerts.

Police Chief Sunday also reported the small windows for the police station have been ordered and should arrive in approximately 4 weeks. Sunday is getting cost estimates for the picture window.

Council member Schatz reported that the Housing Study Committee (Bill Schatz, Ted Lukassen, Jim Masek, Keith Marvin, Steve Mowers, Mary Havlovic, Tony Novak, and Don Hilger) has taken a look at the functions of the Board of Zoning Adjustment, Planning Commission, and the building inspector. The committee has met twice and will meet again on October 21 at 7:00 p.m. at the City Office. Schatz will visit with the City Administrator of Aurora, as Aurora enforces zoning regulations and leaves the building regulations to the state for enforcement.

The Search Committee (Virginia Rerucha, Connie Perry, Jack Tarr, Gary Smith, Gary Kroesing, Mark Kirby, Joan Kovar, Tim Kovar, Jim McDonald, and Mayor Smith as an attendee) has reviewed the City Administrator job description, placed an ad in the Nebraska Municipal Review, and placed an ad on the Internet at www.govtjobs.com. The deadline for applications is November 29. All of the applications will be opened after that date. An informational packet will be mailed to potential candidates. The next meeting is scheduled for Monday, October 21, 2002 at 6:00 p.m..

The sales tax informational meeting and the street paving project it will support was held on October 3, at 7:00 p.m. at the Hruska Memorial Library. In attendance were Jim McDonald, Council members Hein, Schatz, and Lukassen, Mayor Smith, a representative of Olsson Associates, and two citizens. The sales tax brochure for street improvements was discussed. The next informational meeting is scheduled for October 29 at 7:30 p.m. at the Library.

City Administrator Andrew Brannen's last day will be October 25. Mayor Smith encouraged everyone to attend the Chamber Ambassadors Harvest Festival after hours party on Wednesday, October 23, from 5 - 7 p.m. at Winfields, 467 D Street, which will provide an opportunity to say farewell to City Administrator Brannen. Mayor Smith said "Thank You" to City Administrator Brannen for everything he has done; "We wouldn't be where we are today if it wasn't for you." Brannen responded that it was a pleasure on his part - "We took a few chances - I've enjoyed everyday of the 3+ past years".

Mayor Smith scheduled a Committee of the Whole meeting for Monday, October 28, at 5:30 p.m., at the City Office.

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

Council member Schatz made a motion that based on Police Chief Steve Sunday's recommendation, and Jim Sylvester's years of service, that Jim Sylvester be appointed as Police Sergeant effective October 9, 2002. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Police Chief Sunday formally pinned the Sergeants badge on Jim Sylvester. Those in

attendance applauded and congratulated Sergeant Jim Sylvester.

The following police car bids were received and opened on October 9, 2002:

- | | | |
|----|--|-------------|
| 1. | Kobza Motors, David City, NE
2003 Dodge Intrepid police vehicle | \$19,400.00 |
| 2. | Ernst Auto Center, Columbus
2003 Chevrolet Impala police vehicle | \$19,618.00 |
| 3. | Trowbridge Motors, David City
2003 Crown Vic police vehicle | \$20,759.57 |
| 4. | Extreme Ford, Overland Park, Kansas
2003 Crown Vic police vehicle | \$20,988.00 |

Council member Smith said that the low bid is from a David City business so go with it. Council member Kroesing agreed. Council member Schatz also agreed stating that when it needs servicing it will be local. Council member Hein stated that he hated being a guinea pig - this is the first production year for the Dodge Intrepid for a "police package" vehicle.

Council member Smith made a motion to approve the bid of Kobza Motors for a 2003 Dodge Intrepid police vehicle in the amount of \$19,400.00. Council member Schatz seconded the motion. Police Chief Sunday advised the Council that Dodge does not offer a lease purchasing option, so the City will need to find its own financing. Sunday checked with a local bank that quoted a municipal car loan rate of 4%-5%. The lease purchasing details will need to be discussed and determined at a later date. Voting YEA: Council members Kroesing, Kirby, Lukassen, Schatz, and Smith. Voting NAY: Council member Hein. The motion carried.

Cliff Stockmyer of Northwestern Mutual explained changes in the proposed governmental deferred compensation plan and trust as follows:

1. Compensation defined within the meaning of Section 415(c)(3) of the IRS Code. We currently adhere to this section.
2. Elective Contributions section expanded to provide more clarity concerning rules applying to any salary reduction election.
3. Elective contributions of sick, vacation and back pay section added.
4. Rollover contributions to the plan (subject to approval of the Committee) will be permitted.
5. Participant deferral limit raised to \$11,000 of earned income (\$12,000 for Participants who are over 50 years of age).
6. Any excess deferrals will have to be refunded to the participant.
7. Employee normal retirement date set at 70 ½. This date can be set earlier or later (if still employed) by written election of the participant.
8. Upon termination of employment the participant may elect to transfer to another 457 plan, 401a plan, 401k plan, 403b plan, profit-sharing plan or to an Individual Retirement Account (IRA).

Council member Smith introduced Resolution No. 25 - 2002 and moved for its passage and

adoption. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Smith, Schatz, Lukassen, Hein, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 25 - 2002 was passed and adopted as follows:

RESOLUTION NO. 25 - 2002

A resolution of the City of David City, Nebraska hereafter referred to as "Employer".

WHEREAS, the Employer is served by employees who provide valuable services; and,

WHEREAS, the Employer has established a Governmental Deferred Compensation Plan for its employees to serve the vital interests of the Employer and to enable it to provide reasonable retirement security for its employees, by providing enhanced future financial security; and,

WHEREAS, the Employer desires to provide the flexibility of a Governmental Deferred Compensation Plan to assist in the promotion of its vital personnel system; and,

WHEREAS, the Employer believes the establishment of a Governmental Deferred Compensation Plan will promote the retention of competent and valuable employees; and,

WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001, permits expanded flexibility to Plan Participants for voluntary deferrals, and, for the transfer of rollover monies into and out of the Plan upon employment to or termination of employment with the Employer; and,

WHEREAS, it is to the Mutual Benefit of the Employer and its employees to have a Governmental Deferred Compensation Plan:

NOW, THEREFORE, BE IT RESOLVED that the Employer hereby adopts the Governmental Deferred Compensation Plan, attached hereto;

BE IT FURTHER RESOLVED that the Employer hereby appoints the City Administrator and the City Treasurer to serve as the committee and be responsible for administration of the plan;

Passed and approved this 9th day of October, 2002.

Mayor Stephen Smith

City Clerk Joan E. Kovar

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

Council member Kirby made a motion to appoint Roger Comte, Dr. Victor Thoendel, Kent Longenecker, and Bill Steager to each serve a 2 year term (Oct 2002 - Sept 2004) on the Tree Board. Council member Smith seconded the motion. Council member Lukassen suggested staggering terms rather than all of the tree board members terms expiring at the same time. Mayor Smith stated he will be meeting with the tree board members to discuss if a tree board is still needed, so advised the Council not to worry about the terms at this time. All of the council members were present, all voted YEA, and the motion carried.

The tennis court committee is still trying to raise funds for the tennis court project and now that the tennis court project is nearly completed the contractor and the engineer will need to be paid. The committee talked to a local bank about a loan, but needs an entity to co-sign. The committee asked if the city would be willing to co-sign. City Attorney Jim Egr suggested that the tennis court committee borrow from the city rather than from a bank. City Clerk Kovar preferred the money was borrowed from a bank. Kovar explained that the city has had several major expenditures - The Hruska Memorial Public Library on which the City co-signed for the loan, and the swimming pool which the pool committee is still trying to receive grants and donations for. Kovar felt that the City should recoup some of this money before loaning money out. Discussion followed. City Administrator Brannen stated that there will be an approximate savings of \$2,500 on the tennis court project because the city crew will do some of the work that the contractor had planned to do such as seeding and putting up the basketball goals, and less than ½ of the fence had to be reset instead of the entire fence. Council member Kirby made a motion to authorize lending up to \$12,500 out of the Contingency Fund to the tennis court committee for the tennis court project, 5% interest, with a 3 year term on the principal and interest. This will be reviewed annually. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to advance to agenda item #13 - Consideration of the David City Golf Course request to defer the principal payments of their economic development revolving loan fund. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

The following correspondence was reviewed:

To: Andrew Brannen
From: Kelly Danielson
Date: 9/16/2002
Re: Loan Payment

The David City Golf Board is seeking your assistance. As you know the Board installed a new irrigation system on the golf course during the spring and summer of 2001. The course has never looked better and addition of the island tee box has been a big hit. The problem, however, is the 2002 revenues are below what we anticipated to make the payment on the new system. Memberships, greens fees and cart rentals are down when compared to 2000 and 2001 numbers. We have talked to other courses and many are having similar problems. This can probably be linked to economic woes and/or hot and dry summer, but regardless, we are in a tough situation. We regretfully request to postpone the principal payment on our loan thru the city.

As you know we have spent significant dollars to improve our course and clubhouse. But as a board, we do not feel like we have spent money needlessly and excessively. We completed nearly all of these projects well below estimates due to volunteer time and efforts as well as contributions from individuals and businesses.

The board will be increasing membership dues, cart storage fees, green fees and cart rentals to insure that we do not have this problem again. We will also be looking into additional revenue sources (i.e. keno funds, donations, etc.). If you have any questions please give me a call at 402-641-8239.

Community Redevelopment Authority
 September 23, 2002

The Community Redevelopment Authority meeting was called to order at 12:05 p.m. in the city office meeting room. The following members were present: Connie Perry and Neil Kuhlman. Absent from the meeting were Larry Novak, Kent Kettler, and Gary Kroesing. Also present for the agenda items were Andrew Brannen, Steve Smith, and Kelly Danielson.

The only item on the agenda was consideration of allowing the David City Golf Board to postpone its 2002 principal payment on its loan through the City's CDBG Revolving Loan Fund. The principal payment of \$2,200 would be postponed until 2011.

Kelly Danielson, a member of the Golf Board, provided the following information during a brief presentation:

- the Board will be raising additional revenue through higher membership rates, cart rental fees and green fees. Two proposals will be considered by the membership during the semi-annual meeting this winter;
- the Board will be exploring the possibility of starting a Keno operation at Par IV;
- the Board will be exploring the possibility of starting a Junior Program at the course this summer, and
- the Board has been able to meet its obligations on its debt payments to other lenders.

After some further discussion Neil Kuhlman made a motion to recommend to the council that the David City Golf Board's 2002 principal payment on its loan through the City's CDBG Revolving Loan Fund be postponed until 2011.

Connie seconded Neil's motion. Kent Kettler and Larry Novak had contacted Andrew Brannen prior to the meeting to discuss the Golf Board's request and both had indicated that they would support postponing the principal payment until 2011. Therefore, four members voted "aye" allowing the motion to pass for consideration by the City Council at their regularly scheduled meeting on October 8*, 2002. (* Note: their minutes should have said October 9, 2002).

Neil made a motion to adjourn the meeting. Connie seconded the motion. All members present voted "aye".

The next meeting of the CRA will be scheduled as needed.

 To: Andrew Brannen
 From: Larry Novak, CDBG Committee
 Date: 9/17/2002
 Re: Golf Club request

I will be absent for the meeting.

As noted in the original funding these funds are to be revolving. Without principal payments it cannot revolve. I will say, however that the Club continues to make a great recreational addition to the park complex. As noted in their letter, much of the original cost is covered by volunteer labor, etc. As the property is actually leased to the City and subleased to the Club. This quasi public facility could be on the direct tax roles if not operated as it is today. I have no problem with a one time extension on the principal amount for the Club.

Larry Novak.....

Current:

Payment Date	Payment	Principal	Interest	Principal Balance
10/26/01	\$3,080.00	\$2,200.00	\$880.00	\$19,800.00 (Payment made 10-26-01)
10/26/02	\$2,992.00	\$2,200.00	\$792.00	\$17,600.00
10/26/03	\$2,904.00	\$2,200.00	\$704.00	\$15,400.00
10/26/04	\$2,816.00	\$2,200.00	\$616.00	\$13,200.00
10/26/05	\$2,728.00	\$2,200.00	\$528.00	\$11,000.00

10/26/06	\$2,640.00	\$2,200.00	\$440.00	\$ 8,800.00
10/26/07	\$2,552.00	\$2,200.00	\$352.00	\$ 6,600.00
10/26/08	\$2,464.00	\$2,200.00	\$264.00	\$ 4,400.00
10/26/09	\$2,376.00	\$2,200.00	\$176.00	\$ 2,200.00
10/26/10	\$2,288.00	\$2,200.00	\$ 88.00	\$ -0-

Proposed:

Payment Date	Payment	Principal	Interest	Principal Balance Due (without interest)
10/26/01	\$3,080.00	\$2,200.00	\$880.00	\$19,800.00 (Payment made 10-26-01)
10/26/02	\$ 792.00	\$.00	\$792.00	\$19,800.00
10/26/03	\$2,904.00	\$2,200.00	\$704.00	\$17,600.00
10/26/04	\$2,816.00	\$2,200.00	\$616.00	\$15,400.00
10/26/05	\$2,728.00	\$2,200.00	\$528.00	\$13,200.00
10/26/06	\$2,640.00	\$2,200.00	\$440.00	\$11,000.00
10/26/07	\$2,552.00	\$2,200.00	\$352.00	\$ 8,800.00
10/26/08	\$2,464.00	\$2,200.00	\$264.00	\$ 6,600.00
10/26/09	\$2,376.00	\$2,200.00	\$176.00	\$ 4,400.00
10/26/10	\$2,288.00	\$2,200.00	\$ 88.00	\$ 2,200.00
10/26/11	\$2,200.00	\$2,200.00	\$.00	\$ -0-

Council member Schatz made a motion to approve the request of the David City Golf Course to defer the principal payment on their economic development revolving loan fund, clarifying that this is a one time extension on the principal amount. The principal payment of \$2,200 would be postponed until 2011. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Smith made a motion to advance to agenda item #14 - Consideration of authorizing Jacobson/Helgoth consultants to begin preparing plans and specifications for a new well and water tower. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Roger Helgoth of Jacobson Helgoth Consultants presented engineering proposals for review by the Council. Council member Hein questioned, with the concept of a rural water district, if a 500,000 gallon water tower will be large enough. Hein stated that he doesn't want to say in a few years that we should have designed it bigger. Roger Helgoth stated that they would consider this in their recommendations and proposals. Helgoth presented Amendment No. 2 to the Professional Services Agreement for the Water System Improvements:

Jacobson Helgoth
 CONSULTANTS

Amendment No. 2

Amendment No. 2 to the February 14, 2001 Agreement for professional engineering services related to water system improvements.

This Amendment No. 2 is offered to the City of David City, Nebraska (City) to provide the City with professional engineering services for the design of a new water tower and municipal well. The basis of design is established in the Water System Report for the City dated August 2001.

Roger Helgoth shall serve as Project Manager, Jeff Forney as Project Engineer, Norm Hogg, P.G. as Project Hydrogeologist and George Bryan, P.E. as the Civil Engineer.

Gary Proskovec, P.E. of HWS Consulting Group Inc., will provide geotechnical investigations and reports and foundation design recommendations.

SCOPE OF SERVICES FOR AMENDMENT NO. 2

Task 1 - Design Phase Services

JHC will prepare preliminary design drawings, specifications and contract documents for the proposed water system improvements. Water system improvements shall include the design of a new municipal water supply well, a new elevated water storage tank, and connecting water mains to the existing water system. JHC will submit each set of contract documents to the Nebraska Department of Health and Human Services (HHS) for review and approval.

Deliverables for Task 1

- Drawings and Specifications for a new Municipal Water Supply Well submittal to the HHS.
- Drawings and Specifications for a new 500,000-gallon Elevated Water Storage Tank submittal to the HHS. Documents will include design alternatives.

JHC will incorporate HHS comment responses in the final documents.

Task 2 - Bidding Phase Services

JHC will provide bidding phase services for each project that will include bid document administration, reviewing bids opened and recommending award of contract to the City.

Legal surveys of the potential sites are not included in this Amendment. The City will pay for filing fees for the HHS.

Schedule

Task 1 will be initiated in October 2002 and completed based upon a mutually agreeable time frame for each set of deliverables.

COMPENSATION FOR AMENDMENT NO. 2

Services for Tasks 1 and 2 are \$48,500. Billing for Amendment No. 2 will be a lump sum fee in accordance with the agreement.

BASIS OF PAYMENT

Payments for service shall be made at following intervals. 25%, 50%, 75% and 90% with following 10% due upon incorporation of HHS comments or 60 days after submittal to HHS.

GENERAL PROVISIONS

All provisions of the February 14, 2001 Agreement not in conflict with this Amendment shall remain in full force and effect.

Respectfully submitted,

JACOBSON HELGOTH CONSULTANTS, INC.
Roger M. Helgoth
Roger M. Helgoth, P.E.

RMH/cmc
Attachment

The foregoing Amendment is hereby accepted:

CITY OF DAVID CITY

WITNESS

By: _____

By:

Name: Stephen Smith

Name: Joan E. Kovar

Title: Mayor

Title: City Clerk

Date: October 10, 2002

Date: October 15, 2002

Attachment No. 1 to Amendment No. 2

Attachment No. 1 provides a breakdown of the professional engineering fees for services related to the water system improvements.

Project I - 500,000-gallon Elevated Storage Tank

<u>Item</u>	<u>Fee</u>	
.		Design for tower and connecting water mains, \$31,250
including design alternatives		
.		Geotechnical and foundation design and report \$3,500
.		HHS submittal and incorporation of HHS comments \$1,500
.		Bidding Phase Services and Recommendation of Award <u>\$1,500</u>
	Subtotal	\$37,750

Project II - New Municipal Well

<u>Item</u>	<u>Fee</u>	
.		Design services for well and connecting water mains, \$7,750
including hydro geological		
.		HHS submittal and incorporation of HHS comments \$1,500
.		Bidding Phase Services and Recommendation of Award <u>\$1,500</u>
	Subtotal	\$10,750
	TOTAL	<u>\$48,500</u>

Council member Kroesing made a motion to authorize Jacobson Helgoth Consultants to begin preparing plans and specifications for a new well and water tower and approving Attachment No. 1 to Amendment No. 2. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith declared a ten minute recess at 8:25 p.m. The meeting resumed at 8:35 p.m..

Council member Hein made a motion to advance to agenda item #15 - Consideration of authorizing the purchase of a used tree spade. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Street Supervisor Jim McDonald reported that several trees at the Airport need to be moved or they will be too large to move. The City used to rent a tree spade from Barcel Mills, transplant trees from the Airport to a property that wanted trees, and charge the individual for the tree spade rental. Barcel Mills no longer has a tree spade. Vermeer has a used 1988 tree spade for sale. McDonald stated that if the City would buy a tree spade it would probably pay for itself over a few years. Council member Kirby suggested using Airport funds to purchase the tree spade. Discussion followed. Council member Schatz made a motion to authorize Street Superintendent Jim McDonald to negotiate purchasing a tree spade not to exceed \$15,500. If purchased, the purchase will come out of the Airport fund, and any revenue realized from the tree spade will be given to the Airport fund. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Schatz introduced Ordinance No. 925. Council member Lukassen made a motion to pass Ordinance No. 925 on the 1st reading. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 925 was passed on 1st reading as follows:

ORDINANCE NO. 925

AN ORDINANCE TO PROVIDE FOR PROTECTION OF THE CITY OF DAVID CITY WELLHEAD PROTECTION AREA PURSUANT TO SECTION 17-536 AND SECTION 46-1501 OF THE REVISED STATUTES OF NEBRASKA BY ESTABLISHING LIMITATIONS UPON THE LOCATION OF POTENTIAL SOURCES OF POLLUTION OR INJURY TO THE MUNICIPAL WATER SUPPLY AND GROUND WATER; TO ESTABLISH RULES AND REGULATIONS DEFINING AND ENFORCING SUCH LIMITATIONS; TO PROVIDE FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, Section 17-536 of the Revised Statutes of Nebraska provides that the jurisdiction of the City to prevent pollution or injury to the source of its water supply shall extend 15 miles beyond its corporate limits;

WHEREAS, pursuant to the Nebraska Wellhead Protection Area Act, Sections 46-1501 to 46-1509 of the Revised Statutes of Nebraska, the Mayor and City Council hereby adopt a Wellhead Protection Plan and Area which has been approved by the Nebraska Department of Environmental Quality;

WHEREAS, the David City Wellhead Protection Area includes the entire area within the jurisdictional zoning map for the City of David City;

WHEREAS, it is necessary to place limitations upon the location of potential sources of pollution or injury to the municipal water supply and ground water within the Wellhead Protection Area and to prescribe rules and regulations with respect to such limitations and the enforcement thereof;

WHEREAS, the County of Butler has not adopted zoning regulations at the time of the enactment of this ordinance, this ordinance shall be precedent;

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

Section 1. The findings set forth above are hereby made a part of this ordinance as fully as if set out at length herein.

Section 2. Words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. Definitions set forth in the City of David City General Plan shall be applied in the event of any ambiguity or uncertainty in the interpretation of the rules and regulations established by this ordinance.

Section 3. For purposes of this ordinance, livestock confinement shall be restricted to a maximum density of animal production of one animal unit per 8 acres as defined by Title 130 of the regulations of the Nebraska Department of Environmental Quality and where allowed by zoning regulations in the General Plan and ordinance of the City of David City.

Section 4. It shall be unlawful for any person, other than the City of David City, to place, install, construct or replace any of the following structures or conduct any of the following activities or any activity which shall be designated by the Planning Commission as a potential threat to the water supply within the Wellhead Protection Area, except as may be provided herein, to wit:

Activity

- Non-potable water well
- Sewage lagoon - not allowed
- Absorption or disposal field for waste - not allowed
- Cesspool - not allowed
- Dump - not allowed
- Livestock confinement facilities - restricted by Section 3
- Pit toilet
- Sanitary landfill - not allowed
- Chemical or petroleum product storage
- Septic tank
- Sewage treatment plant - not allowed
- Sewage wet well - not allowed
- Sanitary sewer connection
- Sanitary sewer manhole
- Sanitary sewer line

Section 5. The placing, installing, construction or replacing of any allowed structure or activity as set forth in Section 4 of this ordinance, hereafter termed "wellhead structure or activity", within the Wellhead Protection Area, shall not be permitted after the effective date of this ordinance unless a permit approved by the Planning Commission has been obtained. The owner of any wellhead structure or activity shall have the burden of establishing the existence and use of said wellhead structure or activity at the time of the effective date of this ordinance.

Section 6. No permit shall be issued by the Planning Commission within the following setback distances from any City of David City municipal water well:

Activity

Minimum Distance from Water Supply

Non-potable water well	1,000 ft.
Sewage lagoon	not allowed
Absorption or disposal or leach field for waste	not allowed
Cesspool	not allowed
Sanitary landfill	not allowed
Livestock confinement	10,000 ft.
Pit toilet	1,000 ft.
Chemical or petroleum storage	5,000 ft.
Septic tank	1,000 ft.
Lawn and garden compost	500 ft.
Fertilizer and pesticide storage	2,500 ft.
Septic tank exceeding 1,000 GPD	5,000 ft.
Sewage treatment plant	not allowed
Sewage wet well	not allowed
Sanitary sewer connection	100 ft.
Sanitary sewer manhole	100 ft.
Sanitary sewer line	50 ft.

Any activity described in Section 6 located within the defined setback distance shall be considered prima facie a hazard to the quality of the municipal water supply.

Section 7. Any wellhead structure or activity not prohibited by Section 4 and Section 6 shall be allowed, subject to a determination of the Planning Commission that such activity does not constitute a hazard or threat to the quality of the municipal water supply or ground water and upon issuance of a permit.

Section 8. The Planning Commission of the City of David City shall be responsible for implementation and enforcement of the rules and regulations established by this ordinance and shall consider all applications filed pursuant hereto. All applications shall be approved or rejected by roll call vote. The Zoning Enforcement Officer shall be charged with administration of the rules and regulations.

Section 9. Prior to placing, installing, constructing, expanding or replacing any wellhead structure or activity, the owner of the real estate upon which the structure or activity is proposed shall file with the Planning Commission an application for a wellhead activity permit. Said application shall be on a form furnished by the City of David City and shall include supporting information indicating why approval would not adversely impact the municipal water supply and ground water. The application shall be submitted to the Planning Commission for review. Prior to acting upon the application, the Planning Commission may seek an engineering report, recommendations of the Natural Resources District, the Nebraska Department of Environmental Quality or any other party or agency in evaluating the impact of the proposed structure or activity on the municipal water supply. A permit shall be issued only after the Planning Commission determines that the structure or activity is unlikely to contaminate or pollute the municipal water supply and ground water.

Section 10. Wellhead structures or activities in existence and use in the Wellhead Protection Area as of the effective date of this ordinance shall continue to be permitted unless such continued existence or use, in the opinion of the Planning Commission, presents a hazard to the municipal water supply or ground water. If the Planning Commission determines that an existing wellhead structure or activity presents a hazard, the Planning Commission shall

authorize the Zoning Enforcement Officer to notify the owner of the structure or activity to cease and desist said structure or activity. If the owner of the structure or activity desires to continue operation of said structure or activity, the owner may make application for a permit pursuant to this ordinance. If the owner does not cease and desist pursuant to this ordinance, the Zoning Enforcement Officer may proceed pursuant to Section 11 of this ordinance against said owner of the structure or activity.

Section 11. Any person found violating any provision of this ordinance shall be subjected to a fine not to exceed \$500. The continuation of a violation of this ordinance shall be deemed an additional offense for every 24 hours of such continued violation. In addition, the City of David City may obtain injunctive relief and sue for damages and remediation and pursue other remedy available under laws of the State of Nebraska or other authority having jurisdiction over such matters.

Section 12. Should any section, paragraph, sentence or word of this ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the Mayor and City Council of the City of David City that it would have passed all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 13. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 14. This ordinance shall take effect and be in full force from and after its passage and publication according to law.

PASSED AND ADOPTED this _____ day of _____, 2002

1st reading only
Mayor Stephen Smith

Attest:

1st reading only
City Clerk Joan E. Kovar

Council member Hein made a motion to go into executive session to discuss a personnel issue and a personal issue. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council, Mayor Smith, City Administrator Brannen, City Attorney Jim Egr, and City Clerk Kovar went into executive session at 9:21 p.m..

Council member Kirby made a motion to come out of executive session. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council came out of executive session at 10:15 p.m..

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

adjourned at 10:16 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
October 9, 2002

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 October 9, 2002; 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