

CITY COUNCIL PROCEEDINGS

November 14, 2007

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 November 8th, 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 Dana Trowbridge, Council members Bill Scribner, Nick Hein, Ted Lukassen, and Bill Schatz, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk-Treasurer Joan Kovar. Council member Gary Smith was absent and a vacancy exists for Council member 1st Ward.

Also present were: Electric Supervisor Tim Kovar, WA/SE Supervisor Jim Kruse, Bob Palik, Jerry Kosch, Pam Kabourek, Jeff Hilger, Mike Rogers, Mike & Joan Jones, Attorney Robert Bierbower, Dave Scribner, Byron Forney, Jim Vandenberg, Laurie Kastl, David City Middle School Principal Tom Jahde and students Neil Samek, Megan Hoeft, and Jered Kirby, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

There is a vacancy for a council member of the first ward. Mayor Dana Trowbridge stated that State Statute states "*The Mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled.*" Mayor Trowbridge stated that he has been out of town. There are several applicants, and now several more applicants, that he needs to review. Therefore, at this time, Mayor Trowbridge submitted the name of his wife, Jane Trowbridge, to fill the unexpired term of Rick Holland as 1st Ward Council member.

Council member Hein made a motion to accept the Mayor's recommendation to appoint Jane Trowbridge as the 1st Ward council member. Council member Schatz seconded the motion. Voting AYE: None. Voting NAY: Council members Lukassen, Scribner, Schatz, and Hein. Council member Smith was absent. The motion failed. Mayor Trowbridge shall, at the next regular meeting, submit the name of another qualified registered voter to fill the vacancy for council member - 1st Ward.

The minutes of the October 10th, 2007 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Lukassen. Voting AYE: Council members Schatz, Scribner, Lukassen, and Hein. Voting NAY: None. Council member Smith was absent. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets. There were none.

A claim of Michael and Joan Jones to repair a storm sewer located on their property at 222 N 5th Street was discussed. Attorney Robert Bierbower addressed the issue on behalf of the Jones'. While doing work on their property, Kobus Excavating hit a storm sewer. The storm sewer was excavated on both sides, the seams were tarred, the storm sewer was wrapped with plastic, the ground compacted, and the storm sewer surrounded by flow-able fill concrete. City Administrator Joe Johnson feels that this is a private storm sewer as it is not located in a normal easement area. City Attorney Egr stated that there were no records of an easement on any of the neighboring properties. Council member Schatz stated that this storm sewer could have been put in by a property owner or a developer. Jones' went forward and made the repairs even though the City did not concede ownership; they did so at their own risk. Council member Schatz made a motion to approve the claim of Michael and Joan Jones in the amount of \$5,739.28 for repairs on a storm sewer located on the claimants property. Council member Hein seconded the motion. Voting AYE: None. Voting NAY: Council members Scribner, Lukassen, Hein, and Schatz. Council member Smith was absent. The motion failed.

Mayor Trowbridge asked for consideration of claims. Council member Lukassen made a motion to authorize the payment of claims. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Schatz, Hein, and Lukassen. Voting NAY: None. Council member Smith was absent. The motion carried.

Mayor Trowbridge scheduled a Committee of the Whole meeting for Monday, November 26th, at 6:00 p.m. in the City Office meeting room.

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. There were no additional reports. Council member Schatz would like to receive a monthly or quarterly report from Neil Kuhlman in regards to the ball program.

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

Ordinance No. 1059 to amend the Future Land Use Map was passed on 1st reading on 10/10/07. Council member Schatz made a motion to pass and adopt Ordinance No. 1059 on the second reading. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1059 was passed on 2nd reading only as follows:

ORDINANCE NO. 1059

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA; TO PROVIDE FOR THE EFFECTIVE DATE HEREOF; AND TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. Approval of Amendment and Update to Future Land Use Map. The City Council held a Public Hearing on September 12, 2007 and reviewed the Future Land Use Map. On October 10, 2007, the David City Planning Commission conducted a hearing on the matter of amending the future land use map and reported to the City Council that it recommended approval of the land use changes.

On October 10, 2007, the City Council found and determined that the Future Land Use Map is advisable and in the best interests of the City. The City Council further found and determined that public hearings were duly held and notices were duly given. The City Council hereby approves said proposed changes and updates to the Future Land Use Map as set forth in Section 2 of this Ordinance.

The amended version of the Future Land Use Map of the City of David City is hereby adopted and shall be signed by the Mayor, attested to by the City Clerk and shall bear the seal of the City and shall show the date of the adoption of this Ordinance.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS _____ DAY OF _____, 2007.

CITY OF DAVID CITY

Passed on 2nd reading only 11/14/07
Mayor Dana Trowbridge

Passed on 2nd reading only 11/14/07
City Clerk Joan E. Kovar

Ordinance No. 1060 to adopt a new updated Zoning Ordinance and Official Zoning Map was passed on 1st reading 10/10/07. Council member Schatz made a motion to pass and adopt Ordinance No. 1060 on the second reading only. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1060 was passed on 2nd reading only as follows:

ORDINANCE NO. 1060

AN ORDINANCE TO ADOPT A NEW UPDATED ZONING ORDINANCE AND OFFICIAL ZONING MAP OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF IN PAMPHLET FORM.

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

Section 1. Approval of Zoning Ordinance and Official Zoning Map.

The City Council held a public hearing on said proposed updates and adoption of a new Zoning Ordinance and Official Zoning Map on September 12, 2007, and found and determined that said proposed changes in documents are advisable and in the best interests of the City. Since there were additional proposed updates, the updates were given to the Planning Commission for review.

On October 10, 2007, the David City Planning Commission met at 6:00 p.m. and conducted a public hearing on the matter of updating and adopting a new Zoning Ordinance and Official Zoning Map to reflect changes caused by corrected property lines, land uses, and recent annexations as provided for in Section 405 of the David City Zoning Ordinance and reported to the City Council that it recommended approval of the new Zoning Ordinance and Official Zoning Map.

On October 10, 2007, the City Council found and determined that said proposed changes in documents dated October 2007 are advisable and in the best interest of the City. The City Council further found and determined that public hearings were duly held and notices were duly given. The City Council hereby approves said new updated Zoning Ordinance and Official Zoning Map.

Section 2. Adoption of a new Official Zoning Map. Pursuant to Section 405 of the David City Zoning Ordinance, the Official Zoning Map of the City of David City is hereby amended and updated to reflect changes caused by corrected property lines, land uses, recent annexations, and the new Zoning Ordinance.

The amended version of the Official Zoning Map of the City of David City is hereby adopted and shall be signed by the Mayor, attested to by the City Clerk and shall bear the seal of the City under the following words:

"This is to certify that this is the Official Zoning Map referred to in Section 2 of Ordinance No. 1060 of the City of David City, Nebraska"

and shall show the date of the adoption of this Ordinance.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS _____ day of _____, 2007.

CITY OF DAVID CITY

Passed on 2nd reading only 11/14/07
Mayor Dana Trowbridge

Passed on 2nd reading only 11/14/07
City Clerk

Mayor Trowbridge stated that the City Council was now sitting as a "Board of Equalization" for the purpose of hearing objections to and for equalizing assessments proposed in Street Improvement District No. 1-2007 for "L" Street between 8th & 9th; Street Improvement District No. 2-2007 for 1st Street between "D" and "E" Streets; and Street Improvement District No. 3-2007 for "G" Street between 7th & 8th Street. Mayor Trowbridge opened the Public Hearing at 7:51 p.m. Jim Kruse asked when the actual assessment would be due. City Clerk Kovar stated that statements will be mailed and the property owners will have until January 14, 2008, to pay without interest. There being no further discussion, Mayor Trowbridge declared the Public Hearing closed at 7:53 p.m..

Council member Schatz introduced Resolution No. 15 - 2007 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried and Resolution No. 15 - 2007 was passed and adopted as follows:

RESOLUTION NO. 15 - 2007

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

Section 1. The Mayor and City Council have heretofore designated the time and place for considering and levying assessments upon the property specially benefited by the improvements in Street Improvement District Nos. 1 - 2007, 2 - 2007, and 3 - 2007; that the notice of the time of holding such meeting and the purpose for which it is to be held was published on October 25, 2007, and also personally served such notice upon persons owning or occupying property to be assessed; the Mayor and members of the City Council have each personally inspected said improvements and real estate on and adjacent thereto; the Mayor and Council have, at this session, heard all persons who desire to be heard in reference to the valuation of each lot to be assessed and the special benefits or damages thereto and have considered the advice of the engineers in charge of the construction and improvements.

Section 2. The Mayor and City Council further find and determine that Street Superintendent Jim McDonald quoted a price of \$5.00 per running foot for the costs of street improvements in Street Improvement Districts No. 1 - 2007, 2 - 2007, and 3 - 2007.

The Mayor and Council further find and determine that no lot or parcel of land in said district has been damaged by the construction of said improvements, and that the amount of benefits specially accruing to each lot and parcel of land in said district by reason of the construction of said improvements at least equals the amount to be assessed against each lot or parcel of the land to pay the cost of said improvements.

Section 3. There is hereby levied and assessed upon the several lots and parcels of land in said districts, special assessments to pay the cost of constructing said improvements in the amount in dollars and cents set out as follows which are made a part hereto:

STREET IMPROVEMENT DISTRICT NO. 1 - 2007

L Street between North 8th and North 9th Streets

PARCEL DESCRIPTION ASSESSMENT	OWNER	AMOUNT
Lot 2 and the North ½ of Lot 3, Block 3, Will Thorpe and Perkins 1st Addition to the City of David City, Butler County, Nebraska; 75' x 140'	James D. Kruse	\$700.00
Lots 1 & 4, Block 3, Will Thorpe and Perkins 1 st Addition to the City of David City, Butler County, Nebraska; 100' x 140'	Betty L. Hecker	700.00
Lot 11 and the South ½ of Lot 10, Block 3, Will Thorpe & Perkins 2nd Addition to the City of David City, Butler County, Nebraska; 75' x 140'	John L. & Dorothy A. Irons	\$700.00
Lot 12 and the So. ½ of Lot 9, Block 3, Will Thorpe & Perkins 2 nd Addition to the City of David City, Butler County, NE; 75' x 140'	Eugene E. Andel	\$700.00
L Street between North 8th and 9th Streets:		\$2,800.00

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STREET IMPROVEMENT DISTRICT NO. 2 - 2007

1st Street between "D" Street and "E" Streets

So. 25' of Lot 1 and No. 50' of Lot 4, Block 2, Miles 4 th Addition to the City of David City, Butler County, Nebraska; 75' x 140'	Walter W. Goesch	\$375.00
East 87.5' of Lot 5 and the East 87.5' of the South ½ of Lot 4, Block 2, Miles 4 th Addition to the City of David City, Butler County, Nebraska; 87' x 150'	Michael D. Sanley, etal c/o William Sanley	\$750.00
Lot 11, Block 22, Original Town, City of David City, Butler County, Nebraska; 140' x 50'	Kenneth & Donna Rumery Shelly Leigh	\$250.00
Lots 6, 7, & 10, Block 22, Original Town, City of David City, Butler County, Nebraska; 150' x 140'	Thomas J. & Deborah A. Kobus	\$750.00

Lots 2 & 3, Block 22, Original Town, City of David City, Butler County, Nebraska; 100' x 140'	Brian & Crystal Small	\$500.00
N 75' of Lot 1, Block 2 Miles 4 th Addition to David City, Butler County, Nebraska 140' x 75'	Donna R. Allen.....	\$375.00
1st Street between "D" and "E" Streets:.....		\$3,000.00

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STREET IMPROVEMENT DISTRICT NO. 3 - 2007
"G" Street between No. 7th and No. 8th Streets

PARCEL DESCRIPTION ASSESSMENT	OWNER	AMOUNT
Lots 9 and S 15' of Lot 8, Block 1, Original Town of David City, Butler County, Nebraska; 65' x 140'	Ramona Youngberg	\$700.00
East ½ of Lots 1 & 4, Block 14, Original Town of David City, Butler County, Nebraska; 70' x 100'	Tammie Lynn McCombs	\$350.00
West ½ of Lots 1 & 4, Block 14, Original Town of David City, Butler County, NE 70' x 100'	McLaughlin Family Trust Mary McLaughlin.....	\$350.00
Lot 2 & N ½ of Lot 3, Block 14, Original Town of David City, Butler County, NE 75' x 140'	Robert & Carol Unger.....	\$700.00
Lot 10 and S 40' of Lot 7, Block 1, Original Town of David City, Butler County, Nebraska 90' x 140'	Mary Lou Struebing.....	\$700.00

G Street between No. 7th and No. 8th Streets: \$2,800.00

* * * * *

That the assessment upon each lot and parcel of land is not in excess of benefit thereto specially accruing from the construction of said improvements, and the special assessments

have been apportioned among the several lots and parcels of land subject to assessments in proportion to the special benefits accruing to said lots and parcels of and respectively from such improvements.

Section 5. Said special assessments shall be a lien on the property on which they are levied from the date of passage of this resolution and shall be certified by the City Clerk-Treasurer, to the County Treasurer of this City for collection; the City Clerk-Treasurer shall also at the time provided by law, cause such assessments or the portion thereof then remaining unpaid, to be certified to the County Clerk of the county for entry upon the property tax list; the first said assessments shall be payable to the City Clerk-Treasurer; all ensuing assessments shall be payable to the County Treasurer.

Section 6. Said special assessments above provided for shall become due in sixty (60) days after the statement date of the assessment and may be paid within that time without interest, but if not paid, to bear interest thereafter at the rate of seven per cent (7%) per annum for the improvements in the said district until delinquent; such assessments shall become delinquent in ten equal annual installments with the first falling due 60 days from the statement date and subsequent installments falling due in each year thereafter on the 30th day of January until paid in full. Delinquent installments shall bear interest at the rate of fourteen per cent (14%) per annum until paid and shall be collected in the usual manner for the collection of taxes.

BE IT FURTHER RESOLVED that a certified copy of said assessment schedule be filed by the City Clerk-Treasurer with the County Clerk of Butler County, Nebraska, as provided by law.

Passed and adopted this 14th day of November, 2007.

Mayor Dana Trowbridge

City Clerk-Treasurer Joan E. Kovar

Council member Schatz introduced Ordinance No. 1063. Council member Hein made a motion to pass and adopt Ordinance No. 1063 on the first reading only. Council member Lukassen seconded the motion.

Council member Schatz made a motion to amend Ordinance No. 1063 by deleting "leaves" from §8-317 STREETS; CLEANLINESS AND SANITATION OF PUBLIC STREETS and setting the billing amount at \$25.00 as follows: *It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body any rubbish, debris, grass, grass clippings, ~~leaves~~, or waste. It is hereby the duty of the Municipal Police Department to investigate and document such violations of this code, and made a report of such violations to the City Office. Upon receipt of such violation notice, the City Clerk's Office shall send a billing to the responsible party in the amount of **\$25.00**.* Council member Hein seconded the motion. Voting AYE: Council members Lukassen,

Hein, and Schatz. Voting NAY: Council member Scribner. Council member Smith was absent. City Attorney Egr advised that since there is currently a vacancy on the City Council that 3 was a majority vote. The motion carried.

Voting on the original motion to pass Ordinance No. 1063 on the first reading only:
Voting AYE: Council members Lukassen, Hein, and Schatz. Voting NAY: Council member Scribner. Council member Smith was absent. City Attorney Egr advised that since there is currently a vacancy on the City Council that 3 was a majority vote. The motion carried and Ordinance No. 1063 was passed on 1st reading only as follows:

ORDINANCE NO. 1063

AN ORDINANCE AMENDING CHAPTER 8, SECTION 3 OF THE OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. Section 3, of Chapter 8 of the David City Municipal Code Book be amended to read as follows:

Article 3.

§8-301 STREETS; NAMES AND NUMBERS. The Governing Body may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Governing Body may require. It shall be the duty of the Municipal official in charge of streets, upon the erection of any new building or buildings to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

§8-302 STREETS; CROSSINGS. The Governing Body may order and cause to be constructed, under the supervision of the Municipal official in charge of streets, such street, avenue, and alley crossings as the Governing Body shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, said Municipal Clerk shall refer such application to the chief street official who shall investigate and make his recommendation to the Governing Body. Action by the Governing Body on such application, whether the application is approved or rejected, shall be considered final.

§8-303 STREETS; WIDENING OR OPENING. The Governing Body shall have the power to open or widen any street, alley, or lane within the limits of the Municipality; to create, open, and improve any new street, alley, or lane; Provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (*Ref. 17-558, 17-559, 76-704 thru 76-724 RS Neb.*)

§8-304 STREETS; EXCAVATION. It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the chief Municipal street official authorizing such excavations.

§8-305 **STREETS; DRIVING STAKES.** It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Municipal Street official.

§8-306 **STREETS; MIXING CONCRETE.** It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

§8-307 **STREETS; HARMFUL LIQUIDS.** It shall be unlawful for any person to place or permit to leak in the gutter of any street, waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets.

§8-308 **STREETS; EAVE AND GUTTER SPOUTS.** It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the Municipality where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

§8-309 **STREETS; HEAVY EQUIPMENT.** It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb; Provided, where heavy vehicles, structures, and machines move along paved or unpaved street the Municipal Police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this Section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between October 1, and April 15; Provided, that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid. (Ref. 60-6,250 RS Neb.)

§8-309.01 **STREETS; HEAVY LOADS, SPECIAL ROUTES.** It shall be unlawful for any person, partnership, firm or corporation to drive with heavier loads on the streets, pavement or public roads within the City of David City, Nebraska, than authorized by

resolution of the City of David City, Nebraska. Said streets and routes shall be posted by the Street Superintendent pursuant to resolution of the Council and this shall constitute notice to the Public. (*Ord. No. 538, 5/10/79*)

§8-310 **STREETS; PIPE LINES AND WIRES.** Poles, wires, gas mains, pipe lines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds of the Municipality. Application for location of the above shall be made to the Governing Body in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines, and other appurtenances at such places and in such manner as shall be designated by the Governing Body. Such poles, wires, gas mains, pipe lines, and other appurtenances, shall be removed or relocated by said companies at their own expense when requested to do so by the Governing Body. Any such relocation shall be ordered by resolution of the Governing Body and the Municipal Clerk shall notify any and all companies affected. Said companies shall, within twenty-four (24) hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The Governing Body shall designate another location as closely as possible where said poles, wires, gas mains, pipe lines, or other appurtenances, may be reset or placed. All poles, wires, gas mains, pipe lines, or other appurtenances, shall be reset, placed, or erected in such a manner that they will not interfere with the water system; sewerage system; poles, wires, and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Whenever possible, all pole lines, wires, gas mains, pipe lines, or appurtenances shall be confined to the alleys of the Municipality. (*Ref. 17-567 RS Neb.*)

§8-311 **STREETS; CONSTRUCTION ASSESSMENT.** To defray the costs and expenses of street improvements, as may be authorized by law, the Governing Body shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from, the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The Governing Body sitting as the Board of Equalization shall review all such improvements in accordance with the procedure provided by law. All special assessments shall be made by the Governing Body at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published, or of general circulation, in the Municipality at least four (4) weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as "special assessments for improvements; and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other Municipal taxes and shall be certified to the County Clerk by the Municipal Clerk forthwith after the date of levy, for collection by the Treasurer of said County unless otherwise

specified. After is shall become delinquent said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-511, 17-524 RS Neb.*)

§8-312 STREETS; AUCTIONS, PARADES, RACES, RALLIES, BLOCK PARTIES AND SUCH OTHER RELATED ACTIVITIES; PERMIT REQUIRED FOR CLOSING. No

person shall close any street or alley in the City for purposes of auction sales, parades, races, rallies, block parties and such other related activities without first obtaining a permit from the City.

A person seeking issuance of a permit shall file an application for such permit with the City, said application to be in writing upon forms provided by the City:

- (1) Every application shall be accompanied by a cash deposit of ten dollars (\$10.00).
- (2) Upon receipt of the application and deposit, said application shall be referred to the City Administrator.
- (3) If the application is not approved, the deposit shall be returned to the applicant. If the application is approved, the applicant shall be required to comply with all rules, regulations and conditions contained in said permit and with all other applicable laws and ordinances. (*Ref. 17-567 RS Neb.*) (*Ord. No. 603, 11/9/83*) (*Amended by Ord. Nos. 639, 5/22/85; 670, 10/22/86*)

§8-313 STREETS; DRIVEWAY APPROACHES. The Street Superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks. The minimum thickness of the driveway approach shall be five (5"). The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Street Superintendent may cause such work to be done and assess the cost upon the property served by such approach. (*Ref. 18-1748 RS Neb.*) (*Ord. No. 622, 12/12/84*)

§8-314 STREETS; VACATING PUBLIC WAYS; DEFINITIONS AND ASCERTAINING DAMAGES.

- A. Special damages shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his/her property, and which result from the Governing Body vacating such street, avenue, alley, lane or similar public ways.
Special damages shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the City or public at

large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the City or public at large.

- B. The Mayor shall appoint three (3) or five (5) or seven (7) disinterested residents of the Municipality to a Special Commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the Governing Body vacating such street, avenue, alley, lane or similar public way. The appointees of the Special Commission shall be approved by the City Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.
- C. In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned Commission shall use the following rule:

The abutting property owner is entitled to recover as compensation the difference between the value of such property immediately before and immediately after the vacating of such street, avenue, alley, lane or similar public way. However, if no difference in value exists the abutting property owner is entitled to no compensation. (*Ref. 17-558, 17-559 RS Neb.*) (*Ord. No. 663, 8/27/86*)

§8-315 STREETS; VACATING PUBLIC WAYS; PROCEDURE.

Whenever the Governing Body decides that it would be in the best interests of the Municipality to vacate a street, avenue, alley, lane or similar public way, the Governing Body shall comply with the following procedure:

- A. Notice. Notice shall be given to all abutting property owners either by First (1st) Class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the Municipality. The content of the notice will advise the abutting property owners that the Governing Body will consider vacating such street, avenue, alley, lane or similar public way at their next regular meeting or if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.
- B. Consent / Waiver. The Governing Body may have all the abutting property owners sign a form stating that they consent to the action being taken by the Governing Body and waive their right of access. The signing of such form has no effect on claims for special damages, as defined in Section 8-314 by the abutting property owners, but does create the presumption that the Governing Body's action was proper.
However, if all the abutting property owners do not sign the consent/waiver form, the Governing Body may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Sections 17-558 and 17-559 RRS Neb.
- C. Ordinance. The Governing Body shall pass an ordinance that shall state essentially the following:
 - 1. A declaration that the action is expedient for the public good or in the best interests of the Municipality.
 - 2. A statement that the Municipality shall have an easement for maintaining all utilities.

3. A method or procedure for ascertaining special damages to abutting property owners.
- D. Filing. The Clerk shall file a copy of the ordinance with the County Register of Deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane or similar public way and so that such land will be drawn to the attention of the County Assessor. (*Ref. 17-558, 17-559 RS Neb.*) (*Ord. No. 664, 8/27/86*)

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

- (A) To defray the costs and expenses of street improvements, as may be authorized by law, the Governing Body shall have the power and authority to require that all developers petitioning the municipality for street construction shall pay the following expenses:

Street Construction: The developer(s) is responsible for eighty percent (80%) of all costs associated with the development of new streets within, leading to, or connecting the subdivision(s).

Curb and Gutter: The developer(s) is responsible for eighty percent (80%) of all costs associated with the installation of new curb; curb and gutter.

Intersections: The developer(s) is responsible for eighty percent (80%) of all costs associated with installation of intersections within the subdivision or housing development.

Engineering Fees: The developer(s) is responsible for eighty percent (80%) of all costs associated with the services provided by the selected engineer.

- (B) Before final plat approval is granted by the Governing Body, the developer(s) shall have completed and paid, their full share of the project costs.
- (C) The arrangement, character, extent, width, grade, and location of all streets within all subdivisions and housing developments shall conform to the standards of the Comprehensive Plan of current adoption and Zoning Ordinances of the City. All required improvements and installations shall be constructed or installed to conform to the provisions of this Ordinance and the standard specifications of the City.
- (D) All developers wishing to locate new subdivisions, or who have existing subdivisions and housing developments, located within the city limits and within the city's zoning jurisdiction are required to obtain and use

an engineer that is selected by the municipality through a competitive bidding process.

§8-317 STREETS; CLEANLINESS AND SANITATION OF PUBLIC STREETS.

It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body any rubbish, debris, grass, grass clippings, or waste. It is hereby the duty of the Municipal Police Department to investigate and document such violations of this code, and made a report of such violations to the City Office. Upon receipt of such violation notice, the City Clerk's Office shall send a billing to the responsible party in the amount of \$25.00.

For the purposes of this section, person includes the owner of the property from which the grass cuttings originate, the person legally entitled to occupy the premises, and, or, any person who caused the grass cuttings to be placed onto the street.

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 14th day of November, 2007.

Passed on 1st reading only 11/14/07
Mayor Dana Trowbridge

Passed on 1st reading only 11/14/07
City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 1064. Council member Schatz made a motion to pass and adopt Ordinance No. 1064 on the first reading only. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Scribner, Lukassen, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried and Ordinance No. 1064 was passed on 1st reading only as follows:

ORDINANCE NO. 1064

AN ORDINANCE AMENDING CHAPTER 8, SECTION 1 OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK, PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. Section 1 of Chapter 8 of the David City Municipal Code Book be amended to read as follows:

Chapter 8

PUBLIC WAYS AND PROPERTY

Article 1. Municipal Property

§8-101 **DEFINITIONS.** The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

SIDEWALK SPACE. The term "sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

RIGHT-OF-WAY. Right-of-way (R.O.W.) shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both, and in which all pavement and most utilities are located. The R.O.W. is comprised of street, parking, and sidewalk.

§8-102 **MUNICIPAL PROPERTY; MAINTENANCE AND CONTROL.** The Governing Body shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Municipality, and shall cause the same to be kept open and in repair, and free from nuisances. (*Ref. 17-567 RS Neb.*)

§8-103 **MUNICIPAL PROPERTY; SALE AND CONVEYANCE.**

(1) Except as provided in subsection (4) of this section, the power of the Municipality to convey any real and personal property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid or such real and personal property and the manner and terms thereof, except that such real and personal property shall not be sold at public auction or by sealed bid when:

- (a) Such property is being sold in compliance with the requirements of federal or state grants or programs;
- (b) Such property is being conveyed to another public agency, or;
- (c) Such property consists of streets and alleys.

The Governing Body may establish a minimum price for such real and personal property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(2) After the passage of the resolution directing the sale, notice of all proposed sales of real and personal property described in subsection (1) of this section and the terms thereof, shall be published once each week for three (3) consecutive weeks in a legal newspaper published in or of general circulation in the Municipality; provided, if a remonstrance against such sale, signed by registered voters thereof equal in

number to thirty percent (30%) of the registered voters of the Municipality voting at the last regular Municipal election held therein, be filed with the Governing Body within thirty (30) days after the third (3rd) publication of the notice, such property shall not then, nor within one (1) year thereafter be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty (30) day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Real estate now owned or hereafter owned by the Municipality may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, such property shall be conveyed strictly in accordance with the conditions of sections 18-1001 to 18-1006 RS Neb.

(3) Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) passing of the thirty-day right of remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The Municipal Clerk shall upon passage of such ordinance certify the name of the purchaser to the Register of Deeds of the county in which the property is located.

(4) This section shall not apply to the sale of real and personal property if the authorizing resolution directs the sale of an item or items of real and personal property the total fair market value of which is less than five thousand dollars (\$5,000.00). Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Municipality for a period of not less than seven (7) days prior to the sale of the property. Confirmation of the sale by passage of an ordinance may be required. (Ref. 17-503, 17-503.01 RS Neb.)

§8-104 **MUNICIPAL PROPERTY; OBSTRUCTIONS.** Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this article. In case such abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, the city may cause such encroachments to be removed, and the cost of removal paid out of the street fund. The Council shall assess the cost of the notice and removal of the encroachment against such abutting property. Such special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as special taxes in addition to the general revenue taxes, and shall be subject to the same penalties and shall draw interest from the date of the assessment. Upon payment of the assessment, the same shall be credited to the street fund. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, building structures, debris, plowed snow or otherwise, any of the streets, municipal property, alleys or sidewalks. (Ref. 17-557.01 RS Neb.)

§8-105 **MUNICIPAL PROPERTY; PERMITTED OBSTRUCTIONS.** Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the

Municipal official in charge of Municipal streets to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third (1/3) of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the official issuing the permit.

Definitions:

- a. Break-away Mailboxes: Mailboxes which are designed to bend or fall away when struck by a vehicle, such as mailboxes which are constructed with a 4 by 4 wooden gate post, 2 inch tubular street gate post, one piece plastic mailbox placed upon a 3 ½ inch steel sleeve, and similar designs which are not constructed of brick and/or blocks.
- b. Multi-compartment Mailboxes: Mailboxes which typically contain multiple mailboxes for two or more separate residences upon a single post or pedestal.
- c. Non-breakaway Mailboxes: Mailboxes which are not designed to bend or fall away when struck by a vehicle. Examples of non-breakaway mailboxes include brick or block mailbox structures and pillar mailbox structures.
- d. Pillar: Decorative structures placed at the back of the curb or abutting the street that are not designed to bend or fall away when struck by a vehicle. Examples of pillars include brick or block decorative structures.

Residents are not allowed to build or maintain any building or structure which will be placed upon any street right-of-way, except breakaway mailboxes. Breakaway mailboxes may be installed in the City's street right-of-way without a building permit from the City. No person shall construct, use, or maintain any multi-compartment mailbox, non-breakaway mailbox, pillar, or a combination thereof in the City, unless and until permission is granted to construct multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof by the issuance of a building permit by the City Zoning Administrator. Multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof shall not exceed the total square footage of four square feet (4') per structure and five feet (5') in height. Multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof shall not exceed two (2) structures per residential property and shall be positioned at the end of the driveway or property entrance abutting a City street or one (1) structure per residential property without a driveway or property entrance abutting a City Street. Multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof shall meet site-triangle guidelines of the City and other City Zoning Regulations as may be applicable.

Any property owner, who places or constructs any structure or item of any kind in the City's street right-of-way, be it general, implied, or specific, including mailboxes and pillars, shall hold the City harmless from any liability relating to the construction and maintenance of the structure in the City's street right-of-way or because of any defect therein of said structure.

Any structure located in the City's street right-of-way, be it general, implied, or specific, and shall apply, also, to snow removal, pavement repairs, or street cleaning

is subject to damage or destruction, at any time, as the result of the City or a person with a utility easement entering upon the City's street right-of-way to construct, repair or maintain facilities located in the City's street space.

Structures in the City's street right-of-way, be it general, implied, or specific, have no absolute right to be there.

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 14th day of November, 2007.

Passed on 1st reading only 11/14/07
Mayor Dana Trowbridge

Passed on 1st reading only 11/14/07
City Clerk Joan E. Kovar

Timberline Energy, LLC is proposing to install a voluntary methane collection system at the Butler County landfill to collect methane and then pipe the methane to Henningsen Foods in David City. The project will improve the environment by capturing methane that would escape from the Butler County landfill into the environment and using that methane to displace natural gas which is currently being used by Henningsen Foods. One ton of methane has the same impact on global warming as 21 tons of carbon dioxide. Henningsen Foods is a company that is focused on the environment and they feel this project will make them more competitive at the David City plant. Timberline Energy is proposing the construction of a 6 inch poly-propylene pipe that will move gas from the Butler County Landfill to Henningsen Foods.

Timberline Energy, LLC is proposing to build a pipeline that would come into David City from County Hwy 35 east of the City and follow "A" Street from the eastern city limits west to the alley that runs on the west side of the Henningsen Foods building. They are proposing the pipeline would then travel north on the alley from A Street to Henningsen Foods, 325 N 3rd Street. The pipeline will be a 6 inch poly-propylene continuous pipe that will be operated at below 100 pounds per square inch. It will be buried three to six feet below the surface and is proposed to be placed on the north side of "A" Street. In order to construct the pipeline Timberline Energy would need to obtain a twenty five year pipeline easement from David City. Timberline would propose \$.25 (twenty-five cents) per foot as a price for a twenty five year non-exclusive pipeline easement from David City. They would like to construct the pipeline before winter sets in and the ground freezes.

Attorney Robert Bierbower questioned if the City could allow the use of right-of-way for a private purpose as the pipeline will only serve Henningsen Foods, and also asked if any alternate routes were proposed. Laurie Kastl asked if she was guaranteed that her driveway and/or underground sprinkler system wouldn't be wrecked, her water shut off, or her trees

damaged. She wanted to know who replaces the trees when they die and who will pay for the removal of the dead trees. Council member Scribner suggested trucking the methane or finding an alternate route. Discussion followed. Council member Hein made a motion to table consideration of approving a franchise agreement between the City of David City, Nebraska, and Timberline Energy, L.L.C. for the construction of a natural gas line in the public right-of-way. Council member Lukassen seconded the motion. Voting AYE: Council members Scribner, Schatz, Lukassen, and Hein. Voting NAY: None. Council member Gary Smith was absent. The motion carried.

Council member Schatz made a motion to advance to agenda item #20 - Presentation by, and consideration of, the David City High School Students Community Project(s). Council member Hein seconded the motion. Voting AYE: Council members Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried.

David City Middle School is doing a project that divides the middle school students into houses. Neil Samek and Megan Hoefft are members of the Green House and Jered Kirby is a member of the Blue House. The houses/groups teach the students to work together, and they compete with the other houses. Neil and Megan stated that the David City Middle School Green House would like to erect a new goal post at the practice football field, and also clean the Statue of Liberty located along Hwy 15 by the City Park, update the lighting, and do landscaping around the area. They will raise the needed funds but need permission to work on these projects. Council member Scribner made a motion to authorize the David City Middle School Green House Students to erect a new goal post at the practice football field, and also clean the Statue of Liberty located along Hwy 15 by the City Park, update the lighting, and do landscaping around the area under the direction of Park Supervisor Bill Buntgen. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Schatz, Hein, and Scribner. Voting NAY: None. Council member Smith was absent. The motion carried.

Jered Kirby, as a member of the Blue House, would like to make improvements to the east shot putt area of the track. They would like the street department to haul slag (fine crushed rock), clay, etc., for them as needed. Council member Hein made a motion to authorize the David City Middle School Blue House Students to improve the east shot putt area of the track, with the city street department hauling slag, clay, etc., as needed, under the direction of Park Supervisor Bill Buntgen. Council member Lukassen seconded the motion. Voting AYE: Council members Scribner, Schatz, Lukassen, and Hein. Voting NAY: None. Council member Smith was absent. The motion carried.

On March 14, 2007, the City Council approved the use of a credit card machine for payment of utility bills. The City was charging a user fee. On October 10, 2007, Joann Higgins, First National Bank Credit Card Service Center stated that VISA does not allow businesses to pass on the transaction cost to the customers. VISA will not allow the City to accept VISA credit cards if the City continues to pass on the transaction cost to the customers. VISA has a utility business charge of \$0.75 per transaction. Council member Schatz made a motion that all credit card transaction charges be paid by David City Utilities and no transaction costs for any credit card be passed on to the customer. Council member Lukassen seconded the motion. Voting AYE: Council members Hein, Scribner, Lukassen, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried.

Library Director Kay Schmid is requesting approval to purchase a multimedia projector for the Library using up to \$1,000 of the Library Contingency Fund which is the money

designated in-lieu of their electric, water, and sewer bill which has been waived. The Contingency Fund is to be utilized when there is no other resource available and it is an emergency need. This was a capital item request that was denied for lack of funds. Council member Scribner made a motion to table consideration of Library Director Kay Schmid's request to purchase a multimedia projector for the Library using up to \$1,000 of the Library Contingency Fund. The motion died for lack of a second. Council member Schatz made a motion to approve the request of Library Director Kay Schmid to purchase a multimedia projector for the Library using up to \$1,000 of the Library Contingency Fund. Council member Lukassen seconded the motion. Voting AYE: Council members Lukassen and Schatz. Voting NAY: Council members Scribner and Hein. Council member Smith was absent. As the vote resulted in a tie, Mayor Trowbridge broke the tie and voted AYE. The motion carried.

Council member Hein made a motion to appoint Olsson Associates to provide professional services to complete the downtown revitalization study project and to authorize Mayor Trowbridge to sign an agreement with Olsson Associates. Council member Scribner seconded the motion. Voting AYE: Council members Schatz, Lukassen, Scribner, and Hein. Voting NAY: None. Council member Smith was absent. The motion carried.

Council member Schatz made a motion to accept the recommendation of the Housing Committee and approve the request of a rehabilitation loan application for Applicant #46 for a CDBG Reuse Housing Loan in the amount of \$3,673.46. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Scribner, Hein, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried.

Council member Schatz introduced Resolution No. 16 - 2007 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Smith was absent. The motion carried and Resolution No. 16 - 2007 was passed and adopted as follows:

RESOLUTION NO. 16 - 2007

WHEREAS, Jerry L. Kracl, d.b.a. Kracl Enterprises Inc., is the owner of Lots 6 & 7, Block 2, Schmid's Addition to David City, as follows:

Schmid's Addition, Block 2, Lot 6: 135.95 x 285.30
and
Schmid's Addition, Block 2, Lot 7: 129.96 x 288.83', and

WHEREAS, Jerry L. Kracl has filed a request to sub-divide Lot 6, Block 2, of Schmid's Addition to David City, as follows:

The South 103.00' of Lot 6, Block 2,
Schmid's Addition to David City, to form one lot
103.00' x 285.30' equaling 29,385.90 square feet, and

by adding the North 32.95' of Lot 6 to Lot 7, all in Block 2,
Schmid's Addition to David City,
to form one lot 162.91' x 288.83'
to equal a lot size of 47,053.30'

WHEREAS, there were no objections expressed concerning dividing Lot 6 and combining the north 32.95' of Lot 6 to Lot 7, all in Block 2, Schmid's Addition to David City, to form two new lots.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Jerry L. Kracl, to form the above two lots, is hereby approved.

Dated this 14th day of November, 2007.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Scribner seconded the motion. Voting AYE: Council members Schatz, Lukassen, Scribner, and Hein. Voting NAY: None. Council member Smith was absent. The motion carried and Mayor Trowbridge declared the meeting adjourned at 9:10 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
November 14, 2007

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 November 14, 2007; 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, City Clerk