

## CITY COUNCIL PROCEEDINGS

December 8, 2004

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 December 2, 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.

Mayor Smith called the meeting to order at 7:00 p.m.. City Attorney Jim Egr administered the Oath of Office to Ted Lukassen, Council member First Ward; Bill Schatz, Council member Second Ward; and Gary Smith, Council member Third Ward, and they were seated.

Present for the meeting were: Mayor Stephen Smith, Council members Gary L. Kroesing, Ted Lukassen, Mark Kirby, Gary Smith, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Electric Supervisor Tim Kovar, Police Chief Stephen Sunday, Water/Sewer Supervisor Jim Kruse and daughter Kelsey, Water/Sewer employees Gary Janicek and Scott Steager, Power Plant Supervisor John Kabourek, Zoning Administrator Roger Kotil, Vicky Stout, Administrator of St. Joseph's Villa, Attorney Virgil Johnson and Paul Heimann of Erickson & Sederstrom, P.C., Dr. Kaufmann, Bob Kobza, Greg Janak, Pat Prothman, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar.

The meeting opened with the Pledge of Allegiance.

The Council decided on a roll call nomination rather than distributing ballots for the election of Council President. Council member Kroesing nominated Council member Gary Smith. Council member Lukassen nominated Council member Bill Schatz. Nominations ceased. Hand vote was as follows: Voting for Council member Smith: Council member Kroesing, Kirby, and Hein. Voting for Council member Schatz: Council member Lukassen. Council members Smith and Schatz abstained. The vote being Smith: 3 and Schatz 1, Mayor Smith declared Council member Smith the Council President.

Mayor Smith opened the Public Hearing at 7:10 p.m. to consider issuing not more than two million five hundred twenty-five thousand dollars (\$2,525,000.00) in the aggregate principal amount of Industrial Development Revenue Refunding Bonds for the purpose of refinancing the City's Industrial Development Revenue Bonds (St. Joseph's Villa Inc.). Attorney Virgil Johnson of Erickson & Sederstrom explained that nothing contained in the ordinance shall be construed to impose upon the City any duty or obligation to levy any taxes in order to meet any obligations contained in the ordinance or to pay the principal of, interest or premium, if any, on the Bonds. St. Joseph's Villa is refinancing Industrial Development Revenue Bonds. The Villa will pay off the existing bonds and refinance at a lower interest rate with a maturity date of 2018. This will save the Villa a considerable amount. There being no further comments or discussions, Mayor Smith declared the Public Hearing closed at 7:15 p.m..

Council member Kirby introduced Ordinance No. 987. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Smith, Kirby, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 987 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Kirby, Lukassen, Schatz, Smith, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 987 was passed and adopted as follows:

**ORDINANCE NO. 987**

"AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$2,525,000 IN AGGREGATE PRINCIPAL AMOUNT OF INDUSTRIAL DEVELOPMENT REFUNDING REVENUE BONDS OF THE CITY OF DAVID CITY, NEBRASKA (ST. JOSEPH'S VILLA, INC. PROJECT) SERIES 2004 (THE "BONDS") FOR THE PURPOSE OF LOANING THE PROCEEDS THEREOF TO ST. JOSEPH'S VILLA, INC. (THE "BORROWER") IN ORDER TO REDEEM THE ISSUER'S OUTSTANDING INDUSTRIAL DEVELOPMENT REVENUE BONDS (ST. JOSEPH'S VILLA, INC., PROJECT) SERIES 1999 (THE "SERIES 1999 BONDS") AND INDEBTEDNESS OF BORROWER EVIDENCED BY A PROMISSORY NOTE IN THE ORIGINAL PRINCIPAL AMOUNT OF THREE MILLION DOLLARS (\$3,000,000) (THE "OUTSTANDING NOTE") (THE OUTSTANDING NOTE AND THE SERIES 1999 BONDS ARE HEREIN COLLECTIVELY REFERRED TO AS THE "OUTSTANDING INDEBTEDNESS") AND THEREBY PROVIDE REFINANCING FOR NURSING AND ASSISTED LIVING FACILITIES FOR THE ELDERLY AND DISABLED PERSONS LOCATED IN THE CITY OF DAVID CITY, NEBRASKA (COLLECTIVELY REFERRED TO AS THE "PROJECT"), WHICH BONDS AND THE INTEREST THEREON SHALL BE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE LOAN AGREEMENT TO BE ENTERED INTO BETWEEN THE CITY OF DAVID CITY, NEBRASKA, AS LENDER (THE "CITY") AND BORROWER (THE "LOAN AGREEMENT") AND THE PROMISSORY NOTE ISSUED BY THE BORROWER TO THE CITY THEREUNDER (THE "NOTE"), APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE TRUST INDENTURE BETWEEN THE CITY AND CORNERSTONE BANK, N.A., YORK, NEBRASKA, AS TRUSTEE (THE "TRUST AGREEMENT"); APPROVING THE FORM OF THE RESTATED AND AMENDED DEED OF TRUST AND SECURITY AGREEMENT BETWEEN THE BORROWER AS TRUSTOR AND DEBTOR, AND CORNERSTONE BANK, N.A., AS TRUSTEE (THE "TRUSTEE") AND THE CITY AS BENEFICIARY (THE "DEED OF TRUST"); APPROVING THE FORM OF GUARANTY AGREEMENT BY LEAVEN INTERNATIONAL CORPORATION; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT TO BE ENTERED INTO BETWEEN THE CITY, GOLD CAPITAL MANAGEMENT, INC., AND ST. JOSEPH'S VILLA, INC.; PROVIDING FOR THE APPROVAL OF "DEEMED FINAL" OFFICIAL STATEMENT; PROVIDING AUTHORIZATION FOR QUALIFICATION AND REGISTRATION FOR SALE OF THE BONDS IN VARIOUS STATES; PROVIDING RATIFYING PRIOR ACTIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF ADDITIONAL DOCUMENTS AND THE TAKING OF ADDITIONAL ACTION; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT AND THE BONDS; DETERMINING THAT SAID BONDS SHALL NOT BE A LIABILITY OF THE CITY NOR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS; DETERMINING THAT SAID BONDS ARE QUALIFIED TAX EXEMPT OBLIGATIONS; PROVIDING THAT THE INVALIDITY OF ANY PART OF THIS ORDINANCE SHALL NOT AFFECT THE REMAINDER; PROVIDING THAT THIS ORDINANCE CONSTITUTES A CONTRACT BETWEEN THE CITY AND THE HOLDERS OF THE BOND; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; REPEALING ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE PUBLICATION AND DATE OF EFFECT OF THIS ORDINANCE.

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

Section 1. The Mayor and Council of the City of David City, Nebraska, finds and determines:

(a) That the City is authorized by Section 2 of Article XIII of the Constitution of the State of Nebraska and by Neb. Rev. Stat. § 13-1101 through 13-1110 (Reissue 1997), (hereinafter referred to as the "Act") to finance and refinance the acquisition, construction, rehabilitation or purchase of projects in blighted areas, including the power to enter into any type of agreement, including a loan agreement, and the party to the agreement agrees to (a) use the proceeds of money provided under the agreement to redeem the Issuer's Outstanding Indebtedness and thereby provide refinancing for a nursing and assisted care facility for the elderly and disabled persons located in the city of David City, Nebraska ; which bonds shall be payable solely out of the revenue derived from the payments made under the said loan agreement.

(b) That the Mayor and Council have investigated and determined that St. Joseph's Villa, Inc., a Nebraska nonprofit corporation ("St. Joseph's"), is a nonprofit corporation qualified under Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, operating a nursing and assisted living facility within the City and desires that the City issue not to exceed \$2,525,000 in aggregate principal amount of the City of David City, Industrial Development Refunding Revenue Bonds (St. Joseph's Villa, Inc. Project) Series 2004 and loan the proceeds thereof to St. Joseph's in order to redeem the Outstanding Indebtedness and thereby provide refinancing for the Project all to induce St. Joseph's to continue its operations in the City with a savings in interest expense, and that, accordingly, a public benefit will result from said Project by St. Joseph's through the refinancing by the City, which public benefit shall include, but not be limited to, maintaining the employment of residents of the City, the providing of nursing and assisted living facilities within the City which benefits the health and welfare of the residents of the City, with an intended increase in the general economic activity within the City.

Section 2. The Loan Agreement in substantially the form and content presented to the meeting, and the Note be, and the same hereby are, in all respects, authorized, approved and confirmed, and the Mayor and the City Clerk be, and they hereby are, authorized to execute and deliver said Loan Agreement, including necessary counterparts, in substantially the form and content as presented to the meeting for and on behalf the City with such changes, alterations, amendments, revisions and modifications thereto as the Mayor, in the exercise of his independent judgment and discretion, may deem necessary or appropriate, such determinations to be evidenced by his execution thereof.

Section 3. The Trust Indenture between the City and Cornerstone Bank, N.A., York, Nebraska as Trustee ("Trustee") to be dated as of December 15, 2004 (the "Trust Indenture") in substantially the form and content presented to the meeting be, and the same hereby are, in all respects authorized, approved and confirmed, and the Mayor and City Clerk be, and they hereby are, authorized to execute and deliver said Trust Indenture, including necessary counterparts, in substantially the same form and content presented to the meeting for and on behalf of the City with such changes, alterations, amendments, revisions and modifications thereto as the Mayor, in the exercise of his independent judgment and discretion, may deem necessary or appropriate, such determinations to be evidenced by his execution thereof.

Section 4. The Deed of Trust to be dated as of December 15, 2004 from St. Joseph's to Trustee, in substantially the form and content presented to the meeting be and the same hereby is, in all respects authorized, approved and confirmed, in substantially the same form and content presented

to the meeting, with such modifications thereto as the Mayor, in the exercise of his independent judgment and discretion, may deem necessary or appropriate.

Section 5. The Bond Purchase Agreement to be entered into between the City, Gold Capital Management, Inc. (The "Underwriter") and St. Joseph's with respect to the sale of the Bonds for the City by the Underwriter, be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor and City Clerk or Deputy City Clerk be, and they hereby are, authorized to execute and deliver said Bond Purchase Agreement, including necessary counterparts, in such form and content as the Mayor, in the exercise of his independent judgment and discretion, may deem necessary or appropriate, such determination to be evidenced by his execution thereof. The sale of the Bonds by the Underwriter on behalf of the City pursuant to the Bond Purchase Agreement at the purchase price to be stated therein, plus accrued interest from the date of issue to the closing date (as determined in accordance with the Bond Purchase Agreement) is hereby authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 6. The issuance of not more than \$2,525,000 of Industrial Development Refunding Revenue Bonds (St. Joseph's Villa, Inc. Project) Series 2004 of the City in the form and content set forth in the Trust Indenture be, and the same hereby is, in all respects, authorized, approved and confirmed, and the Mayor and City Clerk be, and they hereby are, authorized to execute (either by manual or facsimile signatures), seal with the official seal of the City, register said Bonds with the Auditor of Public Accounts of the State of Nebraska and deliver said Bonds in registered book entry-form or otherwise in accordance with the Bond Purchase Agreement, and all other provisions of said Trust Indenture with respect to said Bonds be, and they hereby are, incorporated herein by reference.

Section 7. The Preliminary Official Statement with respect to the Bonds is hereby approved and deemed final as of its date as to the City and the Mayor and/or City Clerk or Deputy City Clerk are each hereby authorized to execute the Final Official Statement containing information substantially similar to that provided in said Preliminary Official Statement but with any required changes to reflect the final terms specified in the documents approved in this Ordinance and any additional necessary information. The use of such Final Official Statement in connection with the issuance, sale and delivery of the Bonds be, and the same hereby is, authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 8. The Guaranty Agreement of Leaven International Corporation (the "Guarantor") to the Trustee, dated as of December 15, 2004, in substantially the form and content presented to the meeting be, and the same hereby is, authorized, approved and confirmed, in substantially the same form and content presented to the meeting with such modifications thereto as the Mayor in the exercise of this independent judgment and discretion, may deem necessary or appropriate.

Section 9. It is hereby found and determined that it may be desirable and in the best interest of the City that the Bonds be qualified or registered for sale in various states; that the City Clerk or Deputy City Clerk is hereby authorized to determine, in consultation with the Underwriter, the states, if any, in which the appropriate action shall be taken to qualify or register for sale all or any part of the Bonds as said City Clerk or Deputy City Clerk, in consultation with the Underwriter, may deem advisable; that the Mayor and/or City Clerk or Deputy City Clerk each are hereby authorized to perform on behalf of the City any and all acts as he or she may deem necessary or advisable in order to comply with the applicable law of such states, and in accordance therewith, to execute, deliver and file all requisite papers and documents, including, but not limited to, applications, reports, surety bonds, irrevocable consents and appointments of attorneys for service of process; and that

the execution by the Mayor and/or City Clerk or Deputy City Clerk of any such paper or document or the doing by him or her of any act in connection with the foregoing matters, shall conclusively establish his or her authority therefor from the City and the approval and ratification by the City of the papers and documents so executed and the action so taken.

Section 10. All actions taken prior to the effective date of this Ordinance by the Mayor and City Clerk or Deputy City Clerk in connection with the issuance, sale and delivery of the Bonds, including, without limitation, (a) the expenditure of funds, (b) the selection, appointment and employment of bond counsel, financial advisors, and underwriters, and (c) the preparation, approval and circulation of the Preliminary Official Statement in connection with the issuance and sale of the Bonds, together with all other actions taken in connection with any of the foregoing, be, and the same hereby is in all respects, authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 11. The principal, premium (if any) and interest upon the Bonds shall not be construed, constitute, nor give rise to any pecuniary liability of the City nor a charge against its general credit or taxing powers, but shall be payable solely from the revenues of the Project.

Section 12. The City will not issue tax-exempt obligations in excess of \$10,000,000 during the calendar year ending December 31, 2004. The City, in accordance with Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, does hereby designate the Bonds as qualified tax-exempt obligations.

Section 13. That the Mayor, City Clerk or Deputy City Clerk and other appropriate officers and officials of the City be, and they hereby are, authorized to take such additional action and to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers and to perform all other acts (including without limitation the filing of any financing statements, continuation statements or other documents to create or maintain the security interest on the properties and revenues pledged under the Deed of Trust) as they may deem necessary or appropriate in order to carry out the intent and purposes of this Ordinance.

Section 14. If any section, paragraph, clause or provision of this Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 15. The provisions of this Ordinance shall constitute a contract between the City and the holders of the Bonds herein authorized and the said Trustee and/or the holder of any one or more of the Bonds (subject to the provisions of the aforesaid Loan Agreement and Trust Indenture) may sue in any action in mandamus, injunction or other proceedings, either at law or in equity, to enforce or compel performance of all duties and obligations required by this Ordinance to be done or performed by the said City. Nothing contained in this Ordinance shall, however, be construed to impose upon the said City any duty or obligation to levy any taxes in order to meet any obligations contained herein or to pay the principal of, interest or premium, if any, on the Bonds of the City herein authorized.

Section 16. All ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of any such conflict, hereby repealed.

Section 17. The City Clerk shall cause this Ordinance to be published once in a legal newspaper as required by law.

Section 18. This Ordinance shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 8th day of December, 2004.

CITY OF DAVID CITY, NEBRASKA

By:  
Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

Mayor Smith reported that Council members Smith and Schatz both agreed to serve on the Finance Committee for another year. Council member Schatz added unless someone else wanted to serve on the Finance Committee. Council member Kroesing stated that he would. Therefore Council member Hein made a motion to appoint Council members Gary Smith and Gary Kroesing to serve on the Finance Committee. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Lukassen, and Hein. Voting NAY: None. Council member Kroesing abstained. The motion carried.

Mayor Smith announced the appointment of Department Heads, Police Chief and Officers and other appointed officials. Council member Smith made a motion to approve the appointments as presented. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the appointments were approved as follows:

**APPOINTED OFFICIALS**  
December 8, 2004

CODE SECTION	OFFICIAL TITLE	APPOINTEE
201	City Administrator	Jeff Fiegenschuh
203 204	City Clerk + ) City Treasurer)	Joan E. Kovar *
203.01	Deputy Clerk	Tami L. Comte
206	City Attorney	James M. Egr

	Special Prosecutor	Carl K. Hart
207	City Physician	Victor J. Thoendel, M.D.
208	Chief of Police	Stephen M. Sunday *
209	Police Officers	James D. Sylvester, Sergeant Vincent A. Brehm Kevin L. Broman Chere' N. Massey
210	Fire Chief	Michael Hiatt
213	Street Superintendent	James K. McDonald *
214	Electric Supervisor	Tim L. Kovar *
	Power Plant Supervisor	John J. Kabourek *
	Water/Sewer Supervisor	Jim D. Kruse *
218.01	Zoning Administrator	Roger Kotil
219	Park & Auditorium Supervisor	Bill Buntgen *

\* Denotes Department Head

The minutes of the November 10, 2004 meeting of the Mayor and City Council were approved upon a motion by Council member Lukassen and seconded by Council member Kroesing. Voting YEA: Council members Schatz, Hein, Smith, Kirby, Kroesing, and Lukassen. Voting NAY: None. The motion carried.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions or communications. Council member Kroesing asked if the city was still paying unemployment on a previous employee. The Nebraska Workforce Development allowed the employee \$5,320.00. The employee has been paid \$2,720.00 thus far. We will have to wait and see if the employee files another claim.

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

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

City Administrator Fiegenschuh reported that he and Water/Sewer Supervisor Jim Kruse met with Bellwood's Utility Superintendent Brian Wilson concerning an interlocal agreement for use of David City's sewer jet truck and street sweeper. Wilson seemed very interested. Fiegenschuh stated that he

plans to meet with Brainard officials on the 20<sup>th</sup> and then possibly check with Rising City also.

Council member Gary Smith stated that the two large evergreen trees in the park, decorated for Christmas, look really nice. Smith said that Electric Supervisor Tim Kovar and the electric crew did a great job.

Council member Schatz made reference to the water/sewer monthly report which stated: *The #8 well did not have well and pump tests done because the isolation valve on the well could not be operated at this time. The one valve in the well house could not be closed and the other valve outside the well house had a valve box that shifted and they were unable to get a valve wrench on this valve. The #9 well also had a bad valve inside the well house.* Schatz questioned if these were repairable and if so why are we waiting. Water/Sewer Supervisor Kruse said "because of the budget" but planned to budget for it next year. Schatz stated that this should be repaired now, as he doesn't want the City to have problems and then be scrambling to put in a new well.

Mayor Smith and the Council decided not to schedule a Committee of the Whole meeting for December.

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

In Police Chief Sunday's report it stated: *"Gentlemen, I am not prepared to give you any other price quotes at this time on the carpeting for the police department, for I have not received responses back from all of the businesses I contacted. As we wait for the other prices to come in, keep in mind that we budgeted \$10,000.00 for carpeting. The carpeting I would prefer to install, and which we have a price on, will be saving the city \$3,000.00 from the get-go. You folks have authorized the spending up to \$10,000.00 already. I'm not asking for \$10,000.00, just \$6,900.00. Let me have a David City, property tax paying, sales tax collecting, business install carpet for the police department. Tim Kovar didn't have to jump through the same hoops when carpeting was purchased for the city office at its new location. He was told to go buy carpeting. Let me do the same. Thanks."*

Council member Smith made a motion to accept the bid of Zeger's Home Center in the approximate amount of \$6,906.67 for a commercial carpet and new cove molding for the police department. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Kirby, Schatz, Hein, Kroesing, and Smith. Voting NAY: None. The motion carried.

The Brahmsteadt property located at 988 E Street was discussed. City Attorney Jim Egr reported that he has acquired the title and has everything taken care of except for one lien against the property for back taxes. An individual does not have to meet the specifications the City would have to meet concerning the asbestos removal. Council member Schatz stated that we should set a minimum bid to cover the lien and Egr's legal fees. City Attorney Egr estimated \$3,500.00 would cover it. Council member Smith made a motion to sell the Brahmsteadt property at public auction. Council member Hein seconded the motion. Voting YEA: Council members Kroesing, Schatz, Lukassen, Kirby, Hein, and Smith. Voting NAY: None. The motion carried.

Because of the size of the combination Vacuum Sewer Jet Truck, it will not fit in the Sewer Plant garage. The Council had instructed WA/SE Supervisor Kruse to get the overall length of the truck, to check on a cab/over truck, and then measure the garage at the sewer plant to see if either style truck will fit in the garage. Water/Sewer Supervisor Jim Kruse reported that the prototype is a shorter truck as



it is a cab/over truck, but it is also one of a kind and never been tested. Kruse stated that Electric Supervisor Tim Kovar stated that the combination Vacuum Sewer Jet Truck could be stored in the electric shop. Kruse would prefer to accept the bid for the larger demo model. Council member Kirby apologized for making such a big deal out of this and stated that he knows Electric Supervisor Tim Kovar is always willing to let people use his shop but he may run out of room eventually. Kruse stated that next year he may budget to finish off, insulate, and heat 1/3 of the Astro Building, located between 5<sup>th</sup> & 6<sup>th</sup> and the Railroad Tracks and "G" Street; then the Sewer Jet Truck could be stored there.

Council member Smith made a motion to accept the bid of Elliott Equipment, in the amount of \$145,498.00 for a Demo International Unit, painted red, which meets specifications other than the color, and has additional options not asked for. This includes a \$6,000.00 trade-in for the 1950 Chevy Truck Jet & Vacuum. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Kirby, Kroesing, and Smith. Voting NAY: None. The motion carried.

Council member Hein introduced Ordinance No. 988. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Lukassen, Hein, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 988 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Smith, Hein, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 988 was passed and adopted as follows:

#### **ORDINANCE NO. 988**

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO AMEND SECTION 1-903 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, NEBRASKA, RELATING TO COMPENSATION FOR ELECTED OFFICIALS; REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. That Section 1-903 of the Municipal Code be amended to read as follows:

1-903 COMPENSATION: SALARIES OF ELECTED OFFICIALS. The salaries of the elected officials of the Municipality of David City are hereby fixed as follows:

Mayor -

Three hundred dollars (\$300.00) for each regular meeting(s).

One hundred fifty dollars (\$150.00) for each special meeting(s).

Council members -

Two hundred twenty-five dollars (\$225.00) for each regular meeting(s).

One hundred twelve dollars and fifty cents (\$112.50) for each special meeting(s).

SECTION 2. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions,

is hereby repealed.

SECTION 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 8<sup>th</sup> day of December, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby made a motion to pass Ordinance No. 986 on the second reading only. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Lukassen, Kirby, and Kroesing. Voting NAY: Council member Hein. The motion carried and Ordinance No. 986 was passed on second reading as follows:

**ORDINANCE NO. 986** AN ORDINANCE OF THE  
CITY OF DAVID CITY PROHIBITING PRIVATE POSSESSION OR SALE OF EXOTIC  
ANIMALS BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE  
CITY OF DAVID CITY, NEBRASKA: **Section 1 Intent** It is the intent of the City of  
David City to protect the public against health and safety risks that exotic animals pose to  
the community and to protect the welfare of the individual animals held in private  
possession. Exotic animals are wild and potentially dangerous in a captive environment.  
**Section 2 Definitions** A. "Animal control authority" means any agency designated by  
the mayor and city council responsible for animal control. B. "Exotic animal" means those  
species of animals that are wild by nature, including any or all hybrids, which, because of  
habitat, mode of life, or natural instinct, are incapable of being completely domesticated,  
and require the exercise of art, force, or skill to keep them in subjection, whether bred in  
the wild or in captivity. Examples of wild or exotic animals include, but are not limited to  
hawks, owls, mink, monkeys, deer, skunks, alligators, crocodiles, caimans, raccoons,  
opossums, any cat not a member of the family felis domestica, including, but not limited  
to, tigers, lions, panthers, and lynxes, and any dog not a member of the family canis  
familiaris, including, but not limited to, wolves, foxes, and coyotes. All venomous snakes  
and non-venomous snakes including but limited to Paupan python, Peruvian black-tailed  
boa, Guyana red-tailed boa, Suriname red-tailed boa, argentine boa, green anaconda,  
yellow anaconda, oenpelli python, amethystine python, bar-neck amethystine python,  
boelens python, Burmese python, tiger reticulated python dwarf reticulated python and  
African rock python. Also included as an exotic animal are the following types of lizards:  
gila monster, Mexican beaded lizard, Bengal monitor, gray's monitor, blackthroat monitor,  
gould's/sand monitor, nile monitor, green iguana, water monitor, lace monitor.  
C. "Domestic Animal" means any of various animals domesticated by people to live and breed in

a tame condition and shall include, but not limited to dogs, cats, ferrets, guinea pigs, rabbits and gerbils.

D. "Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative thereof. E. "Possessor" means any person who owns, possesses, keeps, harbors, brings into the state, has in one's possession, acts as a custodian, or has custody or control of a exotic animal. F. "Wildlife sanctuary" means a non-profit organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code 1986, and its subsequent amendments, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced exotic animals are provided care for their lifetime or released back to their natural habitat and, with respect to any animal owned by the organization, does not: conduct any activity that is not inherent to the animal's nature; use the animal for any type of entertainment; sell, trade or barter the animal or the animal's body parts; or breed the animal for any purpose.

**Section 3 Keeping of Exotic Animals Prohibited** A. It shall be unlawful for any person within the corporate limits of the city to own, sell, possess, keep, harbor, bring into the city, have in one's possession, act as a custodian, or have custody or control of an exotic animal, except in compliance with this act.

B. It shall be unlawful for a person to breed an exotic animal.

**Section 4 Exemptions** A. The provisions of this act shall not apply to: Licensed Zoos and Aquariums. Duly incorporated non-profit animal protection organizations. Animal control or law enforcement agencies or officers. Licensed veterinary hospitals or clinics. Any wildlife sanctuary as defined under this act. Any licensed or accredited research or medical institution. Any licensed or accredited educational institution. Any lawfully operated circus or rodeo. Any person exempted by Nebraska law consistent with Sec. 37 of the Neb. Rev. Stats.

#### B. Permits

Any person owning an exotic pet with the exception of all venomous snakes, constricting snakes more than 7 feet in length, monkeys, deer, skunks, alligators, crocodiles, tigers, caimans, raccoons, any cat not a member of the family felis domestica, including, but not limited to lions tigers, panthers, and lynxes, and any dog not a member of the family canis familiaris, including, but not limited to, wolves, foxes, and coyotes on or before February 9, 2005 shall file for a permit with the City of David City. All exotic pets listed above are not covered by this exception and are banned under this ordinance. Each permit, which will be kept on file at the David City Office, shall include the owner's name, address, phone-number, type of animal in possession and the animal's length and weight. The city administrator and the city clerk shall sign all permits. The owner shall then be responsible for filing another permit with the City of David City if he/she moves. If a new permit is not filed with the city within one month of the owner moving the owner will no longer be allowed to keep the specified animal within the corporate limits of David City. This exception does not cover owners who have had a pet die or who have sold a pet.

**Section 5 Enforcement of Article** The city animal control authority, its staff, its agents, any city, county or state law enforcement officer, are authorized and empowered to enforce the provisions of this ordinance. **Section 6 Inspection** The possessor of an exotic animal consistent with this act, at all reasonable times, shall allow the animal control authority, its staff, and its agents to enter the premises where the animal is kept to ensure compliance with this act. **Section 7 Confiscation and Disposition of Exotic Animals** A. The animal control authority

or law enforcement officer may immediately confiscate any exotic animal if the animal is kept in contravention of this act. The possessor is liable for the costs of placement and care for the exotic animal from the time of confiscation until the time of return to the possessor or until the time the animal has been relocated to an approved facility. B. If an exotic animal is confiscated due to the animal being kept in contravention of this act, the possessor must post a security bond or cash with the animal control authority in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in caring and providing for the animal, including but not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days. The security bond or cash shall not prevent the animal control authority from disposing of the animal at the end of the thirty (30) days unless the person claiming the animal posts an additional security bond or cash with the animal control authority to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional thirty (30) days, and does so prior to the expiration of the first thirty (30) day period. The amount of the security bond or cash shall be determined by the animal control authority and based on the current rate to feed, provide medical care, and house the animal. C. If a confiscated animal possessor cannot be located or if a confiscated animal remains unclaimed, in the discretion of the animal control authority, the animal control authority may contact an approved facility and allow the animal to be adopted by an authorized person or facility or may euthanize the animal. D. If the exotic animal cannot be taken up or recaptured safely by the animal control authority or if proper and safe housing cannot be found the animal control authority may immediately euthanize the animal. E. An exotic animal may be returned to the possessor only if, to the satisfaction of the animal control authority, the possessor is exempt from this act or has a legal possession permit, has corrected the conditions resulting in the confiscation, and has paid the cost of placement and care of the animal while under the care and control of the animal control authority. **Section 8 Penalties** A. Any person, upon violation of the provisions of this ordinance, who shall fail, neglect, or refuse to comply with any of the provisions of this section shall be in violation of this ordinance and upon conviction thereof, shall be fined as follows:

First violation	\$25.00 fine; forfeiture of animal
Second violation	\$50.00 fine; forfeiture of animal
Third violation	\$75.00 fine; forfeiture of animal
Fourth violation	\$100.00 fine; forfeiture of animal

**Section 9 Effective Date** A. Except as provided by this section, this act takes effect on \_\_\_\_\_.

**Section 10 Severability** If any part of this act is found to be unconstitutional or unenforceable it shall not affect the constitutionality or enforceability of any other part. Any other ordinance or section passed and approved prior to passage, approval, and publication or this ordinance and in conflict with its provisions is repealed. **Section 11**

**Passage** This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law. Passed and approved this day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

Passed on 2<sup>nd</sup> reading only 12/8/04  
Mayor Stephen Smith

Passed on 2<sup>nd</sup> reading only 12/8/04  
City Clerk Joan E. Kovar

On January 10, 2001, the Council passed Resolution No. 3-2001 that a special assessment in the sum of \$5,893.33 be assessed against the Bill Hlavac property at 320 No. 10<sup>th</sup> Street, for costs incurred by the City for cleaning up the property. There is still an outstanding amount due which is currently \$2,876.17 plus 1,981.47 interest for a total of \$4,857.64. Bob Kobza of Kobza Auction recently sold the property to Pat Prothman for \$2,700.00 less \$200 commission less \$50 miscellaneous expenses = \$2,450.00. The property brought less than what the outstanding lien is. Council member Schatz stated that the City could waive the interest on the lien but then the property could still sit there and continue to be a Board of Health problem. The Council agreed and felt that they should not release the lien until the new owner Pat Prothman gave them a time frame as to what he plans to do with the property and the property passes a Board of Health inspection. Bob Kobza called Pat Prothman and asked him to come to the Council meeting.

Mayor Smith declared a ten minute recess at 8:55 p.m.. The meeting resumed at 9:05 p.m..

Pat Prothman arrived at 9:05 p.m. and stated that he was unaware that there was a lien on the property and that not having a clear title made him nervous. Pat stated that he planned to rent the property and already had someone interested. Discussion followed. Council member Kirby made a motion to leave the existing lien on the property located at 320 N. 10<sup>th</sup> Street in David City, Nebraska, but if the property passes a Board of Health inspection by August 15, 2005, then the council will waive the interest on the lien. Council member Smith seconded the motion. Voting YEA: Council members Hein, Schatz, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Lukassen abstained. The motion carried.

Council member Kirby introduced Ordinance No. 989. Council member Kirby made reference to §7-107.01 which states "the cover must be larger in area than the top of the container and must be secured to the container by chains, hinges, or other suitable device". Kirby questioned if containers actually had secured covers. Police Chief Sunday stated that this Spring the police department could canvass the town, up and down alleys, and find violations. Kirby felt that there should be a \$10 permit fee, per year, per burn barrel; he may bring this up again for consideration in January. Council member Kroesing made a motion to pass Ordinance No. 989 on the first reading only. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kirby, Schatz, Kroesing, and Smith. Voting NAY: Council member Hein. The motion carried and Ordinance No. 989 was passed on first reading only as follows:

**ORDINANCE NO.**

**989**

**AN ORDINANCE AMENDING CHAPTER 7: FIRE REGULATIONS OF THE DAVID CITY 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. Chapter 7: Fire Regulations of the David City Municipal Code Book be amended to read as follows:

Chapter 7

## FIRE REGULATIONS

### Article 1. Fire Prevention

**§7-101 FIRE PREVENTION; ADOPTION OF UNIFORM FIRE CODE.** There is hereby adopted by the City of David City, Nebraska, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain Code and Standards known as the Uniform Fire Code Standards which Code makes reference to the National Fire Code, published by Western Fire Chiefs' Association and the International Conference of Building Officials, being the current editions thereof and the whole thereof, except such portions as are hereinafter deleted, modified or amended by this Chapter, of said Code and Standards.

One (1) copy is on file with the City Clerk of the City of David City, Nebraska.

These Codes are hereby adopted and incorporated as fully as if set out at length, herein, and from the date on which this Chapter shall take effect, the provisions of these Codes shall be controlling within the limits of the City of David City, Nebraska. (*Ref. 18-132, 19-902, 19-922, 81-502 RS Neb.*)

**§7-102 FIRE PREVENTION; DEFINITIONS.**

- a. The word "jurisdiction" used in the Uniform Fire Code, means the zoning jurisdiction of the City of David City.
- b. The term "Municipal official" means all elected and appointed officials of the City of David City.

**§7-103 FIRE PREVENTION; OFFICERS RESPONSIBLE FOR CODE ENFORCEMENT.**

- a. Inspection under the Uniform Fire Code shall be accomplished principally by the Zoning Administrator, the Fire Chief, Police Chief, and the Police Officers.
- b. For special or unusual situations the Zoning Administrator or the Fire Chief may recommend to the City of David City the employment of special technical inspectors to improve the enforcement of these codes.

**§7-104 FIRE PREVENTION; FIRE LIMITS DEFINED.** The following described territory in the Municipality shall be and constitute the fire limits:

The corporate limits of the City of David City, Nebraska  
as they exist from time to time

**§7-104.01 FIRE PREVENTION; STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS PROHIBITED.** The storage of flammable or combustible liquids in outside aboveground tanks is prohibited within the Residential, Public, Semi-Public and Park areas. (*Ref. 17-137 RS Neb.*)

**§7-104.02 FIRE PREVENTION; STORAGE OF LIQUEFIED PETROLEUM RESTRICTED.** In the zones where storage of liquefied petroleum is permitted, the provision of the Uniform Fire Code shall govern. Liquefied petroleum may be stored in areas that are zoned I-2, I-1, and B-2. (*Ref 17-137 RS Neb.*)

**§7-104.03 FIRE PREVENTION; STORAGE OF EXPLOSIVES AND BLASTING AGENTS PROHIBITED.** No areas are zoned to permit the storage of explosives and blasting agents except as regulated in Section 77.106(b) of the Uniform Fire Code. (Ref. 17-137 RS Neb.)

**§7-105 FIRE PREVENTION; PERMIT FOR HAZARDOUS MATERIALS.** Hazardous materials may be stored within the Commercial and industrial zones referred to in Section 7-104 provided that all such materials are identified as to kind, amount, location and other data concerning said materials in "Application to Store Hazardous Material" made annually on August 1, or on the date when such materials are initially placed in the City, to the Fire Chief and the Zoning Administrator, which application must be made by the person in control of such materials. "Application to Store Hazardous Materials" shall be made in duplicate to the Fire Chief and Zoning Administrator on forms supplied by the City and kept on file in the Fire Department. (Ref. 17-137 RS Neb.)

**§7-106 FIRE PREVENTION; BURNING REGULATIONS WITHIN FIRE LIMITS.** Within the prescribed fire limits, burning is allowed in incinerators that conform to the standards hereinafter set forth. An approved City permit must be issued for the incinerator prior to its use.

Barrels, steel cans, masonry boxes, whether covered or not, are not

classified as incinerators. Boilers and wood burning stoves may be used as outside commercial incinerators only if they substantially meet the requirements hereinafter set forth specifically including the requirements of spark arresters and foundations.

Incinerators to be used inside buildings shall conform to the standards as specified in the Codes adopted in Section 7-101.

Outside commercial incinerators for use in the fire limits shall, as a minimum, be constructed of steel plate not less than three-sixteenths (3/16) inches in thickness. The base or burning area of the incinerator may not exceed sixteen (16) square feet in area. All joints and seams of the incinerator must be welded together, except for access doors. There be no more than two (2) access doors for each incinerator. The base walls or burning area of the incinerator must have at least six (6), but not more than ten (10) ventilation holes in each wall of the incinerator base. The holes shall not be greater than one (1") inch in diameter. The base or burning area of the incinerator must be covered with a chimney with an opening not to exceed one (1) square foot in diameter. Chimneys shall be connected to the incinerator base or burning area as noted above. The terminating point of the chimney shall extend above the incinerator base or burning area the same distance as the height of the incinerator base or burning area. The chimney must terminate in a steel, or substantially constructed, spark arrester having mesh openings of not more than one half (1/2") inch in diameter or one-quarter (1/4") inch mesh. Spark arresters must cover the entire chimney opening. Incinerators may have a hole, not to exceed nine (9) square inches, in the bottom of the incinerator base.

Outside commercial incinerators must meet the location standards of Section 7-107.02. Inside incinerators shall be approved by an independent testing or rating agency and must conform to the Codes adopted in Section 7-101. (Ref. 17-549, 17-556, 81-520.02 RS Neb.) (Amended by Ord. No. 644, 9/25/85)

**§7-107 FIRE PREVENTION; BURNING AND FIRES PROHIBITED; EXCEPTION AND**

**REGULATIONS.** All open burning and open fires in the City are prohibited, except; in barbecues, outdoor fireplaces or with written permission of the Fire Chief for a particular event. Approved containers may be used for burning of materials that do not give off toxic gases or fumes, offensive or foul odors, or dirty or oily smoke. Permitted materials include paper, cardboard, wood, etc.. Prohibited materials include feathers, meat, tires, oil or other noxious material. (Ref. 17-549, 17-556, 81-520.01 RS Neb.) (Amended by Ord. No. 644, 9/25/85)

**§7-107.01 FIRE PREVENTION; DESIGN OF CONTAINERS FOR AREAS OTHER THAN THE FIRE LIMITS.** For areas other than the fire limits, steel containers, as hereinafter defined, shall be used. Steel containers for burning in areas other than the fire limits are defined as follows: A steel container used for burning must have a volume of at least thirty (30) gallons and not more than sixty (60) gallons. The container must be held above the ground at least 4" to 6" by steel, concrete or masonry material in a stable, plumb manner. It must have six (6) but not more than ten (10) holes in the walls, the diameter of which shall be not more than one (1") inch, all located in the lowest ten (10%) per cent of the sidewalls. There must be a woven or punched metal cover over the top of the container with opening not more than one half (½") inch by one half (½") inch. The cover must be larger in area than the top of the container and must be secured to the container by chains, hinges, or other suitable device. The cover must be visible for inspection to ensure compliance with these provisions. (Ref. 17-549, 17-556, 81-520.01 RS Neb.) (Amended by Ord. No. 644, 9/25/85)

**§7-107.02 FIRE PREVENTION; LOCATION OF CONTAINERS.** Containers used for burning must be placed on the property where the user resides and may not be located in a public alley, street, or right-of-way. Containers shall be placed on steel, concrete, or masonry support four (4") inches to six (6") inches high in a plumb manner and on a site where all vegetation and/or combustible material is removed in all directions for a distance of four feet (4') measured from the edge of the container; at least ten feet (10') from any building, garage or shed; at least six feet (6') distance from any utility pole, ground-level transformer or telephone pedestal; a distance of twenty feet (20') measured at the closest point, away from any overhead utility wires or cables; a distance of at least twenty feet (20') from the branches of any tree; and in general; in a manner so as to provide protection to other properties. (Ref. 17-549, 17-556, 81-520.01 RS Neb.) (Amended by Ord. No. 644, 9/25/85)

**§7-107.03 FIRE PREVENTION; HOURS PERMITTED.** Burning is permitted from seven o'clock (7:00) a.m. to six o'clock (6:00) p.m. from Monday through and including Saturday. No burning is permitted on Sunday. (Ref. 17-556, 81-520.01 RS Neb.) (Amended by Ord. Nos. 644, 9/25/85; 765, 11/12/92)

## Article 2. Fires

**§7-201 FIRES; AUTHORITY OF FIRE CHIEF.** When there is a fire, the Fire Chief or the designated Firemen in charge, shall have the authority to do all things that are, in his judgement, necessary to protect life and property in the area adjacent to the fire. (Ref. 17-147 RS Neb.)

**§7-201 FIRES; ASSISTANCE.** It shall be unlawful for any person to refuse, after receiving a



command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Ref. 28-908 RS Neb.)

**§7-203** **FIRES; SPECTATORS.** During the time of a fire, it shall be unlawful for any person to hinder, resist or refuse to obey the Municipal Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority, while fighting a fire and for a period of thirty-six (36) hours after its extinguishment, to command any such person to assist them in the performance of their official duties. (Ref. 28-908 RS Neb.)

**§7-204** **FIRES; TRAFFIC.** No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow, approach, or park closer than five hundred feet (500') to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. (Ref. 39-753 RS Neb.)

**§7-205** **FIRES; PEDESTRIANS.** It shall be unlawful for any pedestrian to enter upon or remain in any street or roadway within a distance of three hundred feet (300') from a fire when fire fighting vehicles are approaching or are present at the scene of a fire. (Ref. 28-908 RS Neb.)

**§7-206** **FIRES; FALSE ALARMS.** It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Ref. 28-907 RS Neb.)

**§7-207** **FIRES; DROP CEILINGS; REMOVAL OF TIN CEILING COVERINGS; UNLAWFUL INSTALLATION.** It shall be unlawful to install a drop ceiling in a room or rooms of a commercial building within the City limits with a tin and/or metal ceiling covering without:

1. First removing such tin and/or metal ceiling covering before installation of the drop ceiling; or
2. Installing a fire sprinkler system. All sprinkler systems installed, from this date, shall comply with the David City Fire Codes:
  - a. Having a static flow test to determine the water pressure;
  - b. Determining the minimum number of heads required, with each head covering the square footage specified in the 1990 Factory Mutual System pocket guide to automatic sprinklers;
  - c. Installing a back-flow device;
  - d. Placing the sprinkler heads below the suspended ceiling;
  - e. Sprinkler heads shall also be installed in basements when the building is being remodeled by at least fifty percent (50%) of its assessed value;
  - f. Having a pre-approved plan.

(Ord. No. 787, 12/20/93) (Amended by Ord. No. 789, 7/13/94)

### **Article 3. Penal Provision**

**§7-301** **VIOLATION; PENALTY.** Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or

incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

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

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

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

Passed on 1<sup>st</sup> reading only 12/08/04  
Mayor Stephen Smith

Passed on 1<sup>st</sup> reading only 12/08/04  
City Clerk Joan E. Kovar

Council member Lukassen made a motion to table consideration of an ordinance to amend the land use plan by changing the zoning classification of real estate located in part of the SW 1/4 of Section 30, Township 15, Range 3 East, containing 23 acres more or less from Highway Commercial (HC) to Mobile Home Residential (MHR), as this was not listed as a Public Hearing and signs hadn't been posted. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

### **ORDINANCE NO.**

AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM HIGHWAY COMMERCIAL (HC) TO MOBILE HOME RESIDENTIAL (MHR), REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

- a. To amend the following property from Highway Commercial to Mobile Home Residential:

part of the SW 1/4 of Section 30, Township 15,  
Range 3 East, containing 23 acres more or less

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

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

          **Tabled**  
Mayor Stephen Smith

          **Tabled**  
City Clerk Joan E. Kovar

The Sunshine Court read-out water meter was not operating correctly. The main water meter registered approximately two million gallons more water used. This discrepancy led to an outstanding bill of approximately \$4,767.00. The Office staff was going to bill this over the next twelve months and billed Sunshine Court approximately \$397.25 this month. Council member Schatz made a motion to waive the remaining water bill at Sunshine Court due to the read-out water meter mis-functioning. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Water meter cards are to be mailed out as soon as possible. If there is no response a second water meter card will be mailed stating customers not returning the meter reader cards within ten days will be charged \$5.00 for the City to make a special trip to read the meters. The meter cards are then to be mailed annually in June. Only one card will be mailed stating "if not returned within ten days the customer will be charged \$5.00".

Council member Kirby made a motion to appoint Dan Hook as a regular member on the Planning Commission. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby made a motion to appoint Janis Cameron as an alternate member of the Planning Commission. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kroesing wished everyone a Merry Christmas and a Happy New Year!

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Lukassen, Hein, and Kroesing. Voting NAY: None. The motion carried and Mayor Smith declared the meeting adjourned at 10:25 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
December 8, 2004

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 December 8, 2004; 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