

## CITY COUNCIL PROCEEDINGS

July 13, 2011

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on July 7<sup>th</sup>, 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 Alan Zavodny, Council members Gary Kroesing, Mike Rogers, Bill Scribner, John Vandenberg, Ruddy Svoboda, and Gary Smith, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim Clerk-Treasurer Tami Comte.

Also present were: Police Chief Anthony McPhillips, Butler County Economic Development Director Keith Marvin, Carol Brehm, Janis Cameron, Carolyn Yates, Dana Trowbridge, Duane Siffring, Maria Hernandez, Jose Padilla, Ryan Nelson and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the June 8, June 22, and June 24, 2011 meetings of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member Smith. Voting AYE: Council members Svoboda, Smith, Vandenberg, Scribner, Kroesing and Rogers. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Kroesing made a motion to authorize the payment of claims and Council member Scribner seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Smith, Scribner, Kroesing, and Rogers. Voting NAY: None. The motion carried.

Mayor Zavodny called for Committee and Officer Reports. Mayor Zavodny stated that he asked Library Director Schmid about the windows at the library and she told him that some of the seals need to be replaced, however, since the Library Foundation owns the building, they will be responsible for the cost of replacing the seals. Mayor Zavodny stated that one of the lakes in the park is leaking and they caught it early and so when the lake gets low enough they will repair the leak. Council member Kroesing noted on the Street Dept. report that Street Supt. McDonald was concerned about the burn pile at the old landfill. Council member Kroesing stated that he didn't feel that one or two instances were enough to warrant a change. Water/Wastewater Supervisor Janicek stated that Jared Jochim from Olsson Associates was at the wastewater plant that day and gave them a crash course of the Scada system. He also stated that they got the influent valves installed and in two weeks they will be wired and they will hopefully be able to have the plant up and running at that time. Council member Vandenberg made a motion to approve the committee and officer reports as presented. Council member Rogers seconded the motion. Voting AYE: Council members Vandenberg, Smith, Svoboda, Rogers, Scribner and Kroesing. Voting NAY: None. The motion carried.

Council member Scribner made a motion to pass and approve Ordinance No. 1146 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Smith, Svoboda, Rogers, Scribner and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1146 was passed on third and final reading as follows:

**ORDINANCE NO. 1146**

AN ORDINANCE TO AMEND ORDINANCE NO. 1040 CODIFYING THE GENERAL ORDINANCES OF THE MUNICIPALITY BY AMENDING CHAPTER 10: BUSINESS REGULATIONS; ARTICLE 1: ALCOHOLIC BEVERAGES §10-117 ALCOHOLIC BEVERAGES; HOURS OF SALE; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT CHAPTER 10, ARTICLE 1, §10-117 OF THE MUNICIPAL CODE BOOK BE AMENDED AS FOLLOWS:

§10-117 ALCOHOLIC BEVERAGES; HOURS OF SALE.

Section 1. For purposes of this section, "on sale" shall be defined as alcoholic beverages sold at retail by the drink for consumption on the premises of the licensed establishment. "Off sale" shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

It shall be unlawful for any licensed person or persons or their agents to sell any alcoholic beverages within the Municipality except during the hours provided herein:

**HOURS OF SALE**

Alcoholic Liquors (except beer and wine)

Secular Days

Off Sale ..... 6:00 A.M. to 1:00 A.M.

On Sale ..... 6:00 A.M. to 2:00 A.M.

Sundays

Off Sale ..... 12:00 Noon to 1:00 A.M.

On Sale ..... 12:00 Noon to 2:00 A.M.

Beer and Wine

Secular Days

Off Sale ..... 6:00 A.M. to 1:00 A.M.

On Sale ..... 6:00 A.M. to 2:00 A.M.

Sundays

Off Sale ..... 12:00 P.M. (Noon) to 1:00 A.M.

On Sale ..... 12:00 P.M. (Noon) to 2:00 A.M.

Provided that such limitations shall not apply after twelve (12:00) o'clock Noon on Sunday to a licensee which is a non-profit corporation holding a license pursuant to section 53-179(2) Reissue Revised Statutes of Nebraska.

No person or persons shall consume any alcoholic beverages on licensed premises for a period of time longer than fifteen (15) minutes after the time fixed herein for stopping the sale of alcoholic beverages on the said premises. Nothing in this section shall be construed to prohibit licensed premises from being open for business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section. (Ref. 53-179 RS Neb.)

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 13<sup>th</sup> day of July, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Mayor Zavodny presented the name of Larry Griffiths to replace LaDonna Naiberk to the library board whose four year term had expired. Council member Smith made a motion to appoint Larry Griffiths to the library board for a four year term. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Svoboda, Scribner and Smith. Voting NAY: None. The motion carried.

Mayor Zavodny asked if there was any public comment concerning Ordinance No. 1148 which deals with the operation of all-terrain vehicles within the corporate limits of David City.

Dana Trowbridge stated that he had yet to hear a logical reason for allowing all-terrain vehicles in David City.

Council member Kroesing stated that he had an all-terrain vehicle in the 70's that he rode all over before the State of Nebraska out-lawed them and he never had a problem.

City Attorney Egr stated that there are safety provisions in the ordinance and he read a portion of the ordinance to the public.

Discussion followed.

Council member Kroesing made a motion to pass Ordinance No. 1148 on 2<sup>nd</sup> reading only. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Vandenberg, Scribner, Rogers, Svoboda and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1148 was passed on second reading only as follows:

**ORDINANCE NO. 1148**

AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

**SECTION 1:** Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of all-terrain vehicles.

**SECTION 2:** It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that all-terrain vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

**SECTION 3:** It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (A) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.
- (B) A non-refundable application fee of \$10.00 shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (C) The permit is valid only one (1) year from the date of its issuance.
- (D) Operators of all-terrain vehicles must have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (E) All-terrain vehicles may be operated only between the hours of sunrise and sunset.
- (F) Operators shall have liability insurance coverage for the all-terrain vehicles effective while operating the same within the corporate limits of the City.

- (G) Operators shall not operate an all-terrain vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (H) A person operating an all-terrain vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (I) When a person is operating an all-terrain vehicle the headlight and taillight of said vehicle should be on.
- (J) When a person is operating an all-terrain vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (K) An all-terrain vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
  - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
  - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
  - (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
  - (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 5: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Passed on 2<sup>nd</sup> reading only  
Mayor

ATTEST:  
(Seal)

Passed on 2<sup>nd</sup> reading only  
Interim City Clerk

Council member Smith made a motion to pass Ordinance No. 1149 on 2<sup>nd</sup> reading only. Council member Kroesing seconded the motion. Voting AYE: Council members Smith, Vandenberg, Scribner, Rogers, Svoboda and Kroesing . Voting NAY: None. The motion carried and Ordinance No. 1149 was passed on second reading only as follows:

**ORDINANCE NO. 1149**

AN ORDINANCE AUTHORIZING THE OPERATION OF UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of utility-type vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that utility-type vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation utility-type vehicles within the corporate limits of the City be as follows:

- (A) Any person desiring to operate a utility-type vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said utility-type vehicle.

- (B) A non-refundable application fee of \$10.00 shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (C) The permit is valid only one (1) year from the date of its issuance.
- (D) Operators of utility-type vehicles must have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (E) Utility-type vehicles may be operated only between the hours of sunrise and sunset.
- (F) Operators shall have liability insurance coverage for the utility-type vehicles effective while operating the same within the corporate limits of the City.
- (G) Operators shall not operate a utility-type vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (H) A person operating a utility-type vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (I) When a person is operating a utility-type vehicle the headlight and taillight of said vehicle should be on.
- (J) When a person is operating a utility-type vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (K) A utility-type vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
  - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
  - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.

(3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.

(4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 5: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Passed on 2<sup>nd</sup> reading only  
Mayor

ATTEST:  
(Seal)

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Passed on 2<sup>nd</sup> reading only  
Interim City Clerk

City Attorney James Egr said, "The Cities insurance carrier, Cornhusker Casualty, requested that we attempt mediation before trial that starts next week. So, on Wednesday, July 6, 2011 from 1:30 p.m. to 8:30 p.m. at Mike Mullen's office, which is at Kutak and Rock in Omaha. Vincent Brehm was with his council and his wife in one room and in the other room was our insurance adjuster who is in charge of our particular case, Tom Culhane, who is the attorney hired by the insurance carrier, Pam Bourne, who is the extra attorney that we hired and myself. Things went back and forth. Different figures were tossed back and forth and what ended up as a proposed mediation that has to be approved by this City Council is that Mr. Brehm would be paid \$54,000. Of this \$54,000, \$25,000 would come from the insurance carrier and \$29,000 from the City. The insurance carrier indicated that they would waive the \$2,500 deductible that we have on the policy. There were several considerations and discussions on the particular matter that I outlined in the letter to the mayor. You have to be aware that council member Vandenberg and council member Svoboda would not have to attend that trial that was supposed to start next week. It's still set for next week because if you don't pass this then we're going to trial. The other four council members, former mayor Skip Trowbridge as well as Nick Hein and Bill Yindrick will have to be present for that hearing. The insurance carrier has a method of calculating out their risks and what our risks are. This is a jury case. So, you have to look at what the potential is on both sides or what would happen. I think it's only fair to mention

that the figures started out very high and then we got down to reasonable figures, and of course, ours were naturally low. I calculated out, in preparing for trial, not the lawyer that the insurance carrier pays for, but myself and Pam Bourne, the City would probably have \$26,000 in legal fees in preparation and four days of jury trial in federal district court.”

City Attorney Egr said, “This is up to you to decide. You should also be aware that it’s one of those things that it could be a home run deal for the City or it could be a home run deal for Mr. Brehm. Two major factors that I think enter into the picture that the Council should consider: Number one – this is in Federal District Court and one of the three allegations of Mr. Brehm is that he was denied his due process rights. Due process rights, in effect, is a violation of the constitution. Now, maybe there was no damages to him by reason of that, but, if the court or the jury found that there was a violation of due process rights the City would get stuck, along with its insurance carrier, of paying for his legal fees. Even if he only got \$1.00 for that violation, we could get stuck with whatever his attorney fees would be for the whole trial preparation, etc. The other thing that really concerned Tom Culhane, Pam Bourne and myself is the fact that Judge Laurie Smith Camp on two occasions, when we filed motions for summary judgment, and a motion for summary judgment is saying, “Court, we believe because of these particular facts, A, B, C, D, that there is not a basis for the cause of action and that there is not enough to go to trial”, and in both cases she says, “Yes, there is a question of fact and it should go to trial.” The concern that has to be considered is, what if through the trial, the other side, normally, will present a motion to grant a directed verdict. A directed verdict means that it doesn’t go to the jury, it goes to the judge who says, “Yes, there’s no basis to even go to the jury.” The judge could find against the City and she’s already done twice saying that there was a violation of due process rights so there’s that question there. Or she could go the other way after presentation of the evidence. So, everybody’s at risk in one of these things. We were sued for a million dollars. Things got down to lesser figures. The insurance adjuster and the three attorneys figured that if you were looking to compromise that this might be a good way to go. I believe that the Brehm’s are probably not happy with it and we are not happy with it and so then it’s probably a good compromise. You have to decide. I’m open to questions.”

Council member Scribner asked if we were admitting guilt with this payment and does this affect our bond rating.

City Attorney Egr stated that this was a full release. There is no admission of guilt on either side. The other thing that the City has to consider is that the Buntgen case and the Brehm case have been check marks on our annual audit. He said, “I think the Brehm case more than the Buntgen case has a potential for affecting our bond rating. We have a big project coming up with Northwest Drainage.” Egr said, “You also have to understand that two of the other parts of the causes of action was for lost wages. No political subdivision, City, County, whatever, no policy ever covers lost wages. We’re on the hook for that. They don’t write a policy that covers lost wages.”

Council member Rogers stated that we need to put this behind us.

City Attorney Egr stated that the Cities insurance carrier will write the check for the \$54,000 and then we would pay them for our share.

Mayor Zavodny said, “I don’t think we get to gamble with taxpayer money on a principle issue. This becomes a business decision and that decision is what is in the best interest of the taxpayer. This is a bird in the hand versus those two in the bush that you have no control over.

We've seen recently with national cases what juries can do. They are very unpredictable. I think it's absolutely irresponsible of us to gamble."

Mayor Zavodny said, "I want to make sure that it's really clear that you have an opportunity if you're here, because we're talking about spending a considerable amount of taxpayer money, if someone has a very strong feeling about this issue, speak now or forever hold your peace. We're going to be deciding here shortly, whether we go to trial or whether we settle this, this is your chance to speak on this issue, if you'd like to, because we're going to move to agenda item #12 and we're going to vote here pretty soon. Does anyone want to make a public comment on this issue?"

Hearing no comments, Mayor Zavodny stated that takes us to agenda item #12 consideration of approving mediation and approving payment under the mediation settlement concerning Vince Brehm.

Council member Smith made a motion to approve payment under the mediation settlement concerning Vince Brehm of \$29,000. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Rogers, Svoboda, Scribner, Kroesing and Vandenberg. Voting NAY: None. The motion carried.

Mayor Zavodny opened the public hearing at 7:55 p.m. to consider the application of Duering Enterprises Inc., dba Duering 5<sup>th</sup> Street Pub & Grill for a Class C liquor license at 536 N. 5<sup>th</sup> Street, David City, NE.

City Attorney James Egr recused his role as city attorney and was seated in the audience as a citizen. James Egr stated that on behalf of Gerald and Cheri Thomas, they would like you to approve this so that they can retire.

Mayor Zavodny closed the public hearing at 7:56 p.m.

Council member Kroesing made a motion to approve the application of Duering Enterprises Inc., dba Duering 5<sup>th</sup> Street Pub & Grill, for a Class C Liquor License at 536 N. 5<sup>th</sup> Street. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Scribner, Rogers, Vandenberg, Smith and Svoboda. Voting NAY: None. The motion carried.

Mayor Zavodny opened the public hearing at 7:58 p.m. to consider amending the future land use map and the official zoning map by changing the zoning of the property legally described as David City Lot 1, Block 8, Hildy Estates, from MDR (Medium Density Residential) to I (Industrial).

Interim City Administrator Kovar stated that the Hildy brothers would like to rezone the property that is located just east of David City Manufacturing along A Street because they want to put in a storage unit. The property is zoned residential and it has to be zoned industrial in order to put up the storage sheds. This isn't spot zoning because David City Manufacturing is already zoned Industrial. The request went before the Planning Commission twice because Hildy's weren't present to answer questions so it was tabled for another month and it went back to the Planning Commission and the Planning Commission got all of their questions answered. They were concerned about another driveway off of A Street but the current driveway actually sits on the Hilderbrand property so they will maintain the same driveway and both use it. So, all

of the Planning Commission's questions were resolved and so they recommended to the Council that it be approved.

Keith Marvin, Planning Commission Vice-chairman, stated that the biggest concern was site distance at the top of the hill there and as it falls to the east. The east driveway of David City Manufacturing actually sits on their property and they are going to share the driveway. They are going to have to do some dirt work because that thing has a relatively steep slope to it to the east and south. We do have some standards in our zoning code that they are going to have to meet and that includes no doorways facing A Street and they are aware of all that. It is a permitted use in an industrial area so once they get their permit it is up to Zoning Administrator Kotil to deal with the permit process.

Mayor Zavodny declared the public hearing closed at 8:03 p.m.

Council member Smith introduced Ordinance no. 1151.

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 AYE: Council members Smith, Kroesing, Rogers, Scribner, Svoboda and Vandenberg. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1151 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Rogers, Scribner, Svoboda and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1151 was passed on third and final reading as follows:

### **ORDINANCE NO. 1151**

AN ORDINANCE TO AMEND THE LAND USE PLAN BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MDR (MEDIUM DENSITY RESIDENTIAL) TO I (INDUSTRIAL), 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 MDR (Medium Density Residential) to I (Industrial):

David City Lot 1, Block 8, Hildy Estates  
David City, NE

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 13<sup>th</sup> day of July, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Council member Smith introduced Ordinance No. 1152.

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 AYE: Council members Smith, Kroesing, Rogers, Svoboda, Scribner and Vandenberg. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1152 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Rogers, Scribner, Svoboda and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1152 was passed on third and final reading as follows:

**ORDINANCE NO. 1152**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM R2 (TWO FAMILY RESIDENTIAL) TO L-1 (LIGHT INDUSTRIAL), 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 Official Zoning Map be amended as follows:

- a. To amend the following property from R2 (Two Family Residential) to L-1 (Light Industrial):

David City Lot 1, Block 8, Hildy Estates  
David City, NE

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 appealed.

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 13<sup>th</sup> day of July, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Mayor Zavodny stated that there was one bid received for the property located at 315 So. 4<sup>th</sup> Street, however, it was received after the deadline for bids had passed and asked City Attorney Egr since there was only one bid if it could be allowed.

City Attorney Egr stated that there would be no reason to not allow it. He stated that what happens is that there has to be a notice of proposed sale of real estate with the terms published once a week for three consecutive weeks in a legal newspaper of general circulation. There is a period of remonstrance which means if the public said they don't want that or they don't like the terms then there has to be a petition for remonstrance equal in number to 30% of the electors of such City voting in the last general election and it has to be filed within 30 days after the third publication notice. If they get that remonstrance the property cannot be sold for a year after that. If we don't get the remonstrance then we can go ahead and sell it.

Mayor Zavodny stated that he felt that it was in the best interest of the City to get it back on the tax rolls. He stated that there were several inquiries.

Interim City Administrator Joan Kovar opened the bid and read it publicly. The bid was in the amount of \$33,000. She stated that she would publish the notice for three weeks and if there is no remonstrance that it could be accepted at the September Council meeting.

Economic Development Director Keith Marvin stated that the committee that Mayor Zavodny appointed in conjunction with the Downtown Lighting Project met on Friday, July 8, 2011 and they had one bid and that was Olsson Associates. Keith Marvin said, "The only thing that I need to warn the rest of the council on is the fee that you've got to approve. When it says, "and aid in the design and associated steps for the downtown lighting project" that doesn't mean that's what it's going to cost to design the project. They have to do some basic steps in order to know roughly how many poles and that based upon the light source that's going to be involved so they can make the proper estimate for the grant application. That is as far as design is going to go. If we are successful in December with the grant money, the City will have to go back on the street, thanks to Federal Highway Administration, and procure services to design the entire project.

Mayor Zavodny asked if sales tax money could be used for that part of it.

Economic Development Director Keith Marvin stated that he didn't see why not because it's part of the Downtown Redevelopment.

Council member Scribner made a motion to accept the bid of Olsson Associates to provide professional services for assistance with the Enhancement Grant application process and aid in the design and associated steps for the Downtown Lighting Project and authorize Mayor Zavodny to sign the agreement. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Rogers, Svoboda, Scribner and Vandenberg. Voting NAY: None. The motion carried.

Council member Scribner made a motion to table consideration of the FCC requirements concerning narrowbanding due on all frequencies by December 31, 2012. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Smith, Rogers, Svoboda, Scribner and Vandenberg. Voting NAY: None. The motion carried.

Council member Kroesing introduced Resolution No. 21-2011 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting YEA: Council members Kroesing, Rogers, Svoboda, Scribner, Vandenberg and Smith. Voting NAY: None. The motion carried and Resolution No. 21-2011 was passed and adopted as follows:

**RESOLUTION NO. 21 - 2011**

**A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, ESTABLISHING A REPLACEMENT COST FOR MAILBOXES AND/OR POSTS DAMAGED BY CITY EMPLOYEES DURING SNOW REMOVAL PROCEDURES.**

WHEREAS, the city employees are in charge of the snow removal from public streets, and

WHEREAS, the snow is sometimes heavy enough and deep enough that in the process of clearing the snow from the public streets, mailboxes and or posts are damaged or destroyed, and

WHEREAS, although the mailboxes are located on city property, the City realizes that this is a requirement of the United States Postal Service, and therefore will help with the replacement of mailboxes and/or posts that have been damaged by city employees during the snow removal procedure.

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of David City, Nebraska, that upon receiving a copy of a paid invoice from a property owner, whose residence is located in the City of David City, for the replacement of a damaged or destroyed mailbox and/or post, the City will reimburse the property owner up to \$50.00 for the replacement of the damaged or destroyed mailbox and/or post. The City will reimburse up to \$20.00 for the mailbox and up to \$30.00 for a post.

DATED this 13<sup>th</sup> day of July, 2011.

\_\_\_\_\_  
Mayor Alan Zavodny

\_\_\_\_\_  
Interim City Clerk Tami L. Comte

Mayor Zavodny began the discussion concerning the city administrator position by stating that we have gone without an administrator for some time now. It is certainly a big decision for this city. Mayor Zavodny stated that he has had several discussions with Interim City Administrator Joan Kovar about the position and she enjoys her job as City Clerk and she would like to continue in that role and she told Mayor Zavodny that some communities have a combined Administrator/Clerk position. Mayor Zavodny said, "There are a lot of things going on in the community right now and I mean A LOT! We are handling it kind of by committee. When something comes up we assign a small group to work on it, but we've got several economic development things that are in the works that aren't public yet that we have been working on behind the scenes. There's the Northwest Drainage, the Downtown Redevelopment, Sales Tax things and budgetary things. There's just a lot going on. We need to figure out where we are going to go with this and if we don't hire one how we propose to deal with things."

Interim Administrator Joan Kovar mentioned that additional office staff would be very helpful because they are shorthanded.

Council member Rogers suggested getting some office help because that beats paying \$70,000 for an administrator.

Council member Scribner commended Interim Administrator Kovar and stated that she had done everything that they had asked her to do, but he felt that the city needs a full-time administrator.

Dana Trowbridge said, "One of the reasons that things can't get done is that you've taken one person out of the equation in city hall and not replaced that person with anybody and we've expected Joan as Interim Administrator to fill some of those shoes and try to continue doing what she's doing and Tami is doing a balancing act with her jobs and her responsibilities and I think that we've proven one thing – that the challenges before us really should be seen as opportunities. It's nice that we have these problems because there are communities our size that don't have the vitality and the things going on that we have going on. I think to say we don't want to get a seasoned or a trained or a very good potential city administrator is not thinking clearly from a budgetary stand point. The ones that we'd had in the past have brought up more value than we've paid them on an annual basis. That can be proven. It's a proven fact. What we paid Joe for four years, Joe brought us back in spades. I don't know that anybody would want to argue with that, but I think for a progressive community you need an administrator. Alan is not a full-time mayor and you guys aren't full-time councilmen. Nobody has all the requisite skills around the table to fill an administrator's position properly and to move a community. One thing that we've got is location between Omaha and Lincoln that most people would kill for. There is a ton of potential. If you read the economic forecast for the next ten years of rural America, we speak of six to eight dollar corn, and I think we blow that off easily. That's the future of development. There is tons of money in these areas. They are going to have to do something with investing this money. I believe that we absolutely have to have an administrator and a very capable one. If we have our mind in the right place, I think we can keep one."

Water/Wastewater Supervisor Gary Janicek said, "I agree with Skip that we need an administrator. Speaking as a department head, working directly with all the gals in the office, and I've spoken with other department heads too, Joan has done a great job but she's under a tremendous amount of pressure with some of the requests that we come to her about that should have been sent to an administrator who could probably take care of it right away, where Joan has to research it a lot to get back to us with the answers. We'll support her 100% in whatever she wants to do, but, I think we need a city administrator."

Economic Development Director Keith Marvin said, "I agree with the other two, I think we need to have a full-time city administrator. If you take a real quick history back, even if it's just Andrew Brannen, look at the success and the dollars that these young administrators have brought in to this community, trying to make their name. We have a water tower because of some gung-ho young administrator, we have some sewer treatment plant work done that need not have gotten done. Joe Johnson was eager in putting together the street projects. We've got a golf course that is using recycled water out of the treatment plant to water their golf course. A lot of those were done because we had an administrator and they worked hard at doing it. I agree with Skip, these people probably bring in much more money than what we pay them in the long run."

Carolyn Yates said, "I also think that we need an administrator, just having watched the amount of business that the city has to conduct and working, myself, on development issues for the town, I don't think it can be done without a full-time administrator because I read that you guys don't have the time. It takes a lot of time with this government process and someone just needs to stay on top of it all the time and I think that the future demands that we have one. If we spend some of our taxpayer money on an administrator, it would go a long way."

Mayor Zavodny asked to hear from the council, what they want to have happen and how they would like it done.

Council member Scribner said, "Advertise and get a city administrator."

Mayor Zavodny stated that he was not a huge fan of selection by committee.

Council member Kroesing said, "Make sure that the ladies in the office know who you are going to hire because they are the ones that have to work with them."

Mayor Zavodny stated that he had already received applications. We want to make sure that we are evaluating what we're looking for.

Carolyn Yates said, "I have served on two selection committees that hired city administrators and as I reflect back on it, I think that at this stage of our development, it would be better to have experts and professional people helping with that process rather than just plain citizens. It's not a good place for citizen input and I'm not sure even department heads should do the hiring. The hiring needs to be people that know how to hire."

Mayor Zavodny said, "I think that is the appropriate discussion to have at this point. That's why I posed the question of how to go about doing this. We have some applications from people that have ranged from sending their resume with postage due, to they are expecting \$100,000, to they would just be happy to be working. We run a wide range of interest in this. There are so many considerations when you are choosing that important of a position. You would like to know a little bit about their history and really ask follow up questions about where they've been, why they've left jobs, why they are interested in this and it's been suggested that we should do a financial background check. There have been suggestions that we consider a wide range of screening criteria."

Dana Trowbridge stated that they are talking about executive recruitment and asked if they had any "headhunter" operations that he was aware of.

Mayor Zavodny stated that usually those are quite pricey and they charge based on the salary and a lot of times they will charge the person who gets the job, which is nice in our case.

Mayor Zavodny said, "Frankly, this has been a stepping stone position and I would like to see it be a destination position as opposed to, we get them great experience and they go on to that next shinier thing, which, maybe we can't control that, totally, but, part of it is a balancing act. We have some people who are more mature and have experience who say they want to stay here until the end but, are they just going to bide their time and not have a vision for our community so there is so many things to consider as we do this. Frankly, what I'd like to do is talk to people that I trust and respect like Lance Hedquist, and people who work in city government, and say we are looking at doing this and how do you go about it? How do you choose right? What mistakes did you make that you learned from and that kind of thing and figure out the right way to go about it."

Mayor Zavodny stated that he will talk to some people simultaneously and contact the people that have applied and contact some other people in other communities about what they do to keep them and people who have been around and figure out who we have for candidates and if we have the right one who has applied or if we go out and find somebody. Mayor Zavodny said, "I think one of the best things that you can do is target somebody. If you can find who that right person can be."

City Attorney Egr said, "I've said this before in the 25+ years that I've been the city attorney, don't cut short going to the University of Nebraska-Omaha special school that they have for city administrators. If you talk to them, they will talk very frankly. They know their students. They know where they are coming from and where they want to go. I think there's a terrific opportunity to take a look over there."

Mayor Zavodny said, "I feel like I have a fairly clear course of action and how to proceed, if you guys are comfortable with that. I'll check with UNO and their public administration dept. and check with some other cities and I'm going to talk to the ones we have and before this process is over, all of you will have an opportunity to meet people who are looking at us and do your part to land our next one. We'll take them around to talk to people who do like being here. We won't lie to them – we do have a few issues – we have some people who aren't as positive about our future."

Mayor Zavodny stated that he would like to reinstitute the tree board because there are a lot of trees that are old and some are sick and this is something that we need to keep on top of. Mayor Zavodny presented Council member Scribner, Roger Comte and Scott Bales to be on the tree board. Council member Scribner asked about appointing Electric Supervisor Pat Hoeft to the tree board. Mayor Zavodny indicated that he would talk to Pat Hoeft and see if he would like to serve in that capacity.

Council member Vandenberg made a motion to appoint Council member Bill Scribner, Roger Comte and Scott Bales to the tree board for a two year term. Electric Supervisor Pat Hoeft was appointed contingent upon his acceptance. Council member Smith seconded the motion. Voting AYE: Council members Smith, Vandenberg, Svoboda, Kroesing and Rogers. Voting NAY: None. Council member Scribner abstained. The motion carried.

Mayor Zavodny stated that Mike Moravec came to talk to him about the bill for tree trimming concerning Moravec house moving from 9<sup>th</sup> and D Street to out of town. There were some hard feelings once the house was moved about some people that had some trees that

might not have been trimmed in a way that they viewed was the best way. So, we instructed Street Supt. Jim McDonald to go back and talk to the property owners along the path and find out from them how they felt about it and if there was anything that we, as a City, could do to make them feel better, going back and doing additional trimming, that kind of thing. The trimming was done and that was good, however, Mike came in and he brought this bill that we sent for \$345.38 and what his argument was is that he never knew ahead of time that he would potentially get this bill. Mike told Mayor Zavodny that he could probably have gotten his tree trimmer to go back at no expense to him and make the adjustments on the trimming that would have satisfied the land owner. Mayor Zavodny stated that what this boils down to is that we didn't communicate very well at all. Mayor Zavodny also stated that he felt that Mike Moravec had a valid argument in that he got a bill without his chance to rectify it with his person that he already paid a large amount of money.

Council member Smith made a motion to waive the tree bill for Mike Moravec in the amount of \$345.38. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Vandenberg, Svoboda, Kroesing and Rogers. Voting NAY: None. Council member Scribner abstained. The motion carried.

Mayor Zavodny stated that Pat Prothman came to the Committee of the Whole meeting in June and asked for this bill to be waived. Pat Prothman had stated that he didn't realize that he needed tree removal permits. He had taken one tree down and had just trimmed the other two when Street Supt. Jim McDonald informed him that he needed permits.

Council member Smith stated that we need to make sure that everyone knows that they need permits to remove trees on the City parkway.

Council member Smith made a motion to waive the tree bill for Pat Prothman in the amount of \$300.00 contingent upon him repairing the sidewalk at 289 7<sup>th</sup> Street. Council member Kroesing seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, Kroesing, Vandenberg and Rogers. Voting NAY: None. The motion carried.

Mayor Zavodny began the discussion on the Northwest Drainage Project by saying, "The latest development, and where we are at, is possibly an impasse. We had two designs and we had a meeting last week and Duane Siffring was gracious enough to come and meet with us. At that meeting we said if we can make it work with the 3<sup>rd</sup> alternate route, which would be to cut between Jeff Schmid's and Family Dollar (1654 N. 4<sup>th</sup>), we would do that and I was actually very encouraged that we could make that work which would have brought it down to an easement down the property of Schmid's where the car wash is going and we could run pipe and make it work. To spite Jack's best efforts, we didn't get close enough to making that work so we were back to square one. If this project is going to happen, we, as a council, will have to make some decisions that are going to be difficult. Of the designs that have been put out there we are back to the one that includes property that is owned by Mr. Siffring and some of his family members. We aren't necessarily close to agreeing on what that amount is. I called Duane earlier tonight and certainly encouraged him to come. We had a good conversation and I think he raised some good issues. The original design does take away his highway frontage with the berm and the slow release into the system. He was less objectionable to the 2<sup>nd</sup> design that was further in the field, would retain back a ways but it wasn't necessarily deep enough for construction. Am I representing it fairly?"

Duane Siffring said, "My goal from the very beginning was to protect my highway frontage, to protect its potential for commercial development. I worked with Jay Bitner, the

engineer from the Upper Big Blue, who redesigned it moving that dyke about 300 feet east and I found that design acceptable. What I didn't find acceptable was the appraisal that couldn't find a single comparable that had highway frontage. There wasn't a single comparable on the appraisal that was even on a paved road. So, my objection was the dollar amount of the appraisal, but I liked the second design."

Mayor Zavodny said, "Given where we are in this process we're really back to the original design or the secondary design. Since we've gotten to this point we can't agree on the price for the further east one and the possibility of those easements. The other consideration that came up was condemnation or as it's more commonly known as eminent domain. Nobody likes to be told when they have property of what could happen to them with it, but the reality in this, for the public good, is that we're going to have to do something and for this to move forward we need to do that. We need to do something to be able to have a final design, get the final landowners lined up and get ready to bid this. We still have hope to bid this this fall to start next spring. We are so far into the season and it's not from lack of effort. There have been negotiations and Jack has talked to people over and over about how to go about it. The options that we have are back to the original project design or the alternate of moving the retention dyke further east. With the difference in price, I would defer to council saying our options as a city for condemnation given where we are at, I would ask City Attorney Egr to explain how that would work."

City Attorney Egr explained the process for condemnation (imminent domain).

Mayor Zavodny stated that from a design standpoint that the first design was what Jay Bitner, with the Upper Big Blue, recommended if the city had to proceed with eminent domain.

Mayor Zavodny stated that we really don't know how far apart we are from an agreement with Mr. Siffing except to say that it is not \$22,500.

Duane Siffing stated that he can live with the revision and he has said that all along.

Mayor Zavodny said, "So, you can live with the revision and we would probably be moving forward with that at the \$22,500 if that was accepted. So, really, the issue is that you could live with the revision but you can't live with it at the \$22,500."

Duane Siffing said, "Without my own appraisal, I'm not sure."

Mayor Zavodny asked Duane Siffing if he was willing to offer the city a number without us having to wrangle about it.

Duane Siffing stated that he would not do that tonight but that he could do that.

Mayor Zavodny stated that it would be his preference to work it out.

Mayor Zavodny said, "If we don't get to that point, I just want it to be clear that the options that we're looking at have been laid out.

Duane Siffing said, "So, you're saying that if I can't reach an agreement on the price on the revision, then we revert back to the original?"

Mayor Zavodny said, "What I'm saying is that I think the only other option that we have available to us is the imminent domain. Where that ends up being is probably a point of discussion that we can have but, listening to the engineer, he said if you're going to go imminent domain and you're going to own the property, our preference is the first design where the berm is along the highway."

Mayor Zavodny stated that if the number was double what was offered then there was not much room to negotiate because they still have a responsibility to the tax payer. Mayor Zavodny stated that he wants to let bids this fall so the sooner this can be resolved, the better and we will certainly work with Mr. Siffring.

Mayor Zavodny asked Mr. Siffring how much time he needed and what he wanted to do.

Duane Siffring asked for 10 days to discuss it with his family and then he would contact Mayor Zavodny.

Mayor Zavodny thanked Mr. Siffring for his graciousness throughout this process and stated that he would prefer to work it out because it's better for everyone.

Mayor Zavodny stated that if the council members are in agreement that the water/wastewater departments will hire a new employee and not a new department head and Gary Janicek will assume the duties of Water/Wastewater Supervisor. The council members were all in agreement.

Mayor Zavodny stated that we are in the last quarter of the budget and we have lost aid to cities in the amount of about \$20,000. We've got some capital expenditures that we have to do and part of the problem with this budget is that there were some capital expenditures that ended up happening that we had some idea that were going to happen and that's why some of the budget figures are 200% – 300% higher than what was budgeted as far as actual. It was noted that we are going to have to budget for repeaters and radios, the cities website is a disaster, the park needs new equipment, and there are other capital expenditures that we know are coming.

Mayor Zavodny said, "In looking at this and not being willing to go to the electric fund to make up short falls, I'm going to put out there and test our political will, I think for one year that we should consider a wage freeze. If you look at what's been happening around the country, the federal government has done it, the state government has done it, and I think it's naïve of us to think that local government shouldn't think about it. We have really no big increases of revenue coming at this point. We are working on some things but they are not there now and you can't count on them. The reason that I'm only saying one year is because in another year we can look at it and decide if we are on a course. That will also allow department heads to manage their budgets from a capital expenditure and try to find the savings and the economies of scale that can help with that."

Council member Scribner asked how much money that would save us.

Mayor Zavodny stated that he didn't have that figure but he just doesn't want to make it any worse because right now we have several departments that have a big gap, but if we left it at the same amount we should be ok.

Council member Scribner stated that now is the time to look at what the department heads are spending. If they have money in their budget and they are trying to spend it so they get the same amount next year, then that is something that we need to look at.

Mayor Zavodny stated that is something that he wants to look at and if they can come in under budget that he is more likely to leave their budget alone than if they want to spend up to that, thinking that is their spending authority. That is a terrible way to approach a budget.

Council member Scribner stated that before he goes for the freeze that he would like to know how much that will actually save.

Mayor Zavodny also stated that he felt strongly that the city should put on hold any changes to the wastewater facility at this point. He stated that we need to focus on what we need to run as opposed to things that would be kind of nice. Mayor Zavodny stated that he also felt that we need to be planning for a couple blocks a year for water and sewer line replacement. If this is going to be a good place to live and we're going to have development, we've got to take care of infrastructure.

Interim Administrator Kovar handed out the budget sheets to the department heads so they can be working on their budgets. Mayor Zavodny stated that he would be meeting with the department heads over the next few weeks and he was anxious to see what they came back with and they would talk about wants versus needs.

Council member Scribner stated that he would like to see the park get a little more handicapped accessible over the next few years.

Council member Kroesing stated that Council member Scribner should get a hold of Park Supt. Scott Bales and have him put that on his priority list because he knows that it's not on it.

Mayor Zavodny stated that the park committee and Scott also have said that they'd like part of the sales tax money and he considers that third priority that the voters approved. We've got to take care of Northwest Drainage and then we hit Downtown Redevelopment and then we see where we are at.

Economic Development Director Keith Marvin stated that the sales tax is up, through the first four months, about 14% in total sales over last year.

Mayor Zavodny stated that if there is anything else in the budget that the council feels is a priority that they should feel free to tell him.

Mayor Zavodny stated that Butler County is hiring GIS Workshop, Inc. to determine their population shifts and what the proposal is, is to have David City balance their wards to look at where the people live.

Interim City Administrator Kovar stated that the last time this was done, Chris Meysenburg who was the Butler County Clerk, just did it at the court house and she didn't really have exact numbers. We changed it because the railroad track was the dividing line between second and third ward and we moved it a block to H Street. You only have to do this every 10 years and so this would cover us for 10 years. They would do the study so they would know

where the people were actually located so that we could have the same number of voters in each ward and that's a requirement by State Statute.

Mayor Zavodny asked how complicated the process was and if we had anybody that could do it ourselves.

Council member Rogers stated that he thought that the City would find it quite complicated. He stated that this was the second time that the County has used GIS Workshop, Inc. He stated that this is a great program.

Council member Scribner made a motion to hire GIS Workshop, Inc., for redistricting David City. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, Vandenberg, Rogers and Kroesing. Voting NAY: None. The motion carried.

There being no further business to come before the Council, Council member Smith made a motion to adjourn. Council member Vandenberg seconded the motion. Voting AYE: Council members Rogers, Scribner, Svoboda, Smith, Vandenberg and Kroesing. Voting NAY: None. . The motion carried and Mayor Zavodny declared the meeting adjourned at 9:30 p.m.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte



CERTIFICATION OF MINUTES  
July 13, 2011

I, Tami L. Comte duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of July 7, 2011; 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.

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Tami L. Comte, Interim City Clerk