

CITY COUNCIL PROCEEDINGS

July 9, 2008

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 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on July 3rd, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council members Gary Smith, Ted Lukassen, Nick Hein, Bill Schatz, Bill Yindrick, and Bill Scribner, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk-Treasurer Joan Kovar.

Also present were: Police Chief Stephen Sunday, Phil Lorenzen of D.A. Davidson & Company, Surveyor Richard Ronkar, Pam Siroky, Amy Slama, Gary Niemann, Dave Scribner, Matt Reif of Olsson Associates, Marianne Long, Marge Grubaugh, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

Mayor Trowbridge informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and Resolution No. 2-2008 establishing rules and procedures for public participation at city council meetings.

The minutes of the May 28th and June 11th, 2008 meetings of the Mayor and City Council were approved upon a motion by Council member Lukassen and seconded by Council member Hein. Voting AYE: Council members Smith, Schatz, Yindrick, Hein, and Lukassen. Voting NAY: None. Council member Scribner was absent. The motion carried.

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

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

Mayor Trowbridge scheduled a Committee of the Whole meeting for Monday, July 28th, 2008, at 6:00 p.m. in the City Office meeting room.

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

There were no additional reports. Council member Schatz made reference to Police Chief Sunday's report that stated: "I will be taking vacation time August 4th through the 8th to attend the Crime Stoppers International Conference in Des Moines, Iowa. I will be attending as

President of the Nebraska Crime Stoppers. Crime Stoppers will be paying my expenses for this conference.” Schatz questioned why Steve Sunday would need to use vacation time to attend this conference when City Administrator Johnson and City Clerk Kovar attend conferences and do not use vacation time. City Clerk Kovar stated that several years ago the City Council authorized travel inside the state of Nebraska but stated that if you were going to attend a meeting outside of the state you needed council approval. Therefore, Council member Schatz made a motion to authorize Police Chief Sunday to attend the Crime Stoppers International Conference in Des Moines, Iowa, without using vacation time. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Yindrick, Hein, Lukassen, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Scribner arrived at 7:09 p.m.

Council member Schatz made a motion to advance to agenda item #15 - Consideration of Resolution No. 15 - 2008 to subdivide a tract of land owned by Gary & Louise Niemann, located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18, Township 15, Range 3E, Butler County, Nebraska, containing approximately 15.914 acres. Council member Yindrick seconded the motion. Voting AYE: Council members Smith, Lukassen, Scribner, Hein, Yindrick, and Schatz. Voting NAY: None. The motion carried.

Council member Schatz introduced Resolution No. 15 - 2008 and moved for its passage and adoption. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Scribner, Yindrick, Hein, Lukassen, and Schatz. Voting NAY: None. The motion carried and Resolution No. 15 - 2008 was passed and adopted as follows:

RESOLUTION NO. 15 - 2008

WHEREAS, Section 803, Administrative Subdivisions 803.01: City Council Authority, states “The City Council is hereby authorized to approve further subdivisions of, and combinations of, existing platted lots, whenever all required improvements have been installed, no new dedication of public rights-of-way or easements are involved and such subdivisions comply with Comprehensive Plan, the Major Street Plan and all applicable zoning regulations” and,

WHEREAS, Gary & Louise Niemann, 3651 MN Rd., David City, Butler County, Nebraska, as the owners of property located in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18 Township 15 Range 3E, Butler County, Nebraska, containing approximately 15.914 AC, and

WHEREAS, Gary & Louise Niemann have filed an application to divide their property and form a new parcel described as follows:

A tract of land located in the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows:

Commencing at the southeast corner of said N $\frac{1}{2}$; thence westerly, 341.60 feet, on the south line of said N $\frac{1}{2}$, to the Point of Beginning, said Point being the southwest corner of a parcel of land conveyed in Microfilm Book 81 page 521; thence continuing westerly, 977.83 feet, on the last described line, to the southwest corner of said N $\frac{1}{2}$; thence northerly, 658.98 feet, to the northwest corner of said N $\frac{1}{2}$; thence easterly, 979.92 feet, on the north line of said N $\frac{1}{2}$;

thence southerly, 657.35 feet, to the Point of Beginning, containing 14.79 acres, more or less.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Gary & Louise Niemann to subdivide their property is hereby approved.

Dated this 9th day of July, 2008.

Mayor Dana Trowbridge

Clerk Joan E. Kovar

Mayor Trowbridge opened the Public Hearing at 7:14 p.m. to consider the preliminary plat of ~~Prairie Creek Addition~~ located in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24 T15N R2E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Section 24; thence westerly, 702.00 feet, on the south line of the SE $\frac{1}{4}$ of said Section 24; thence northerly, 460.00 feet, parallel with the east line of said SE $\frac{1}{4}$; thence easterly, 202.00 feet, parallel with the south line of said SE $\frac{1}{4}$; thence southerly, 20.00 feet, parallel with the east line of said SE $\frac{1}{4}$; thence easterly, 500.00 feet, parallel with the south line of said SE $\frac{1}{4}$, to a point on the east line of said SE $\frac{1}{4}$; thence southerly, 440.00 feet, to the Point of Beginning, containing 7.18 acres, more or less. (Property located northwest of the intersection of "M" Road and "A" St.)

Surveyor Richard Ronkar stated that the preliminary plat should be called "Lanspa Addition" as they only referred to it as "Prairie Creek Addition" for a short time. (The application for the preliminary plat from Amy Slama referred to it as "Prairie Creek Addition".) Ronkar briefly explained the preliminary plat and stated that on the east side of the plat, parallel with M Road, they are dedicating an additional 7' onto the 33' street right-of-way. (This, however, will not be the City's responsibility to maintain.)

There being no further comments, Mayor Trowbridge declared the Public Hearing closed at 7:18 p.m.

Council member Schatz made a motion to approve the preliminary plat of Lanspa Addition located in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24 T15N R2E of the 6th P.M., Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Section 24; thence westerly, 702.00 feet, on the south line of the SE $\frac{1}{4}$ of said Section 24; thence northerly, 460.00 feet, parallel with the east line of said SE $\frac{1}{4}$; thence easterly, 202.00 feet, parallel with the south line of said SE $\frac{1}{4}$; thence southerly, 20.00 feet, parallel with the east line of said SE $\frac{1}{4}$; thence easterly, 500.00 feet, parallel with the south line of said SE $\frac{1}{4}$, to a point on the east line of said SE $\frac{1}{4}$; thence southerly, 440.00 feet, to the Point of Beginning, containing 7.18 acres, more or

less. (Property located northwest of the intersection of "M" Road and "A" St.) Council member Smith seconded the motion. Voting AYE: Council members Hein, Yindrick, Scribner, Lukassen, Smith, and Schatz. Voting NAY: None. The motion carried.

David Scribner requested permission to place private water and sewer lines for 443 So. 6th Street on and through City property. The City property, located between 5th & 6th Streets, north of Kansas Street, is currently being used as the parking lot for the athletic field. Discussion followed concerning the size of the lines and placement. It was noted a larger line may be more feasible in case some of the neighbors need to tap on in the future. Council member Schatz made a motion to table consideration of the request by David Scribner to place private water and sewer lines for 443 So. 6th Street on and through city property to allow time for City Administrator Joe Johnson, City Attorney Jim Egr, Phil Lorenzen of D.A. Davidson & Company, and Matt Reif of Olsson Associates to discuss this issue. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Yindrick, Hein, and Schatz. Voting NAY: None. Council member Scribner abstained. The motion carried.

Mayor Trowbridge stated that in accordance with published notice, it was now time to conduct a hearing concerning objections to the creation of Street Improvement District No. 2008-DST. Mayor Trowbridge declared the public hearing open at 7:35 p.m. and asked the City Clerk if any written objections had been filed. City Clerk Kovar stated that no written objections were received concerning the creation of Street Improvement District No. 2008-DST. Mayor Trowbridge then asked if there were persons present who wished to be heard concerning the proposed Street Improvement District. There being no persons wishing to be heard, Mayor Trowbridge declared the Public Hearing closed at 7:39 p.m.

Council member Schatz introduced Resolution No. 16 - 2008 and moved for its passage and adoption. Council member Hein seconded the motion. Council member Schatz asked for the estimated price per foot. Matt Reif of Olsson Associates stated that they are estimating the paving assessments at: 1080 foot frontage @ \$100 /linear foot for 16 feet of street paving; and for sidewalk assessments: 1080 foot frontage @ \$30 /linear foot for 5 feet of sidewalk paving. Voting AYE: Council members Smith, Lukassen, Scribner, Yindrick, Hein, and Schatz. Voting NAY: None. The motion carried and Resolution No. 16 - 2008 was passed and adopted as follows:

RESOLUTION NO. 16 - 2008

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska as follows:

1. The Mayor and City Council heretofore adopted Ordinance No. 1077 creating Street Improvement District No. 2008-DST, which ordinance was published as provided by law on May 22, 2008.
2. Notice of Creation of said Street Improvement District was given as provided by law by publication on June 19, 2008, June 26, 2008 and July 3, 2008.

There being no written objections representing abutting property filed within 20 days of the first publication of the notice of creation of the District, the Mayor and Council shall proceed with the construction of improvements in said District.

Passed this 9th day of July, 2008.

ATTEST:

Mayor

City Clerk

[SEAL]

Matt Reif of Olsson Associates reported that Storm Water Sewer District No. 2008-SWATER involves reconstructing "D" Street from Highway 15 to the railroad crossing, and includes storm water outlet pipe improvements for replacing the existing ditch traveling south along the railroad tracks to "C" Street and along "C" Street west to approximately Oak Street and then proceeding southwest into the natural drainage ditch. This project will also include street and pedestrian lighting, sidewalks, and hardscaping. Matt suggested doing the projects concurrently and bidding together. Phil Lorenzen, Vice President of D.A. Davidson & Company, reported on the financing of the proposed improvements. Phil stated that the City would be well advised to wait two or three weeks before passing the proposed Ordinance to see what interest rates are going to do. Therefore, Council member Scribner made a motion to table consideration of an ordinance authorizing issuance of water revenue and refunding bonds, series 2008, to refund outstanding Series 2003 Bonds, and Fund new water project costs, to the August 13th council meeting; or to a special council meeting if needed. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Smith, Schatz, Lukassen, Hein, and Scribner. Voting NAY: None. The motion carried.

Ordinance No. 1080 was introduced and passed on 1st reading June 11, 2008. The Council discussed the 5% occupation tax. Council member Scribner felt that the occupation tax should remain at 3%. Council member Hein agreed as the telephone companies will pass the occupation tax onto the customers. Council member Schatz stated the occupation tax is authorized by State Statute. "Why not go to 1% or 0% if we are worried" Schatz said, "what is the magic number?" Schatz stated that he supported the 5% occupation fee if the Council would stipulate that the occupation tax be used for the construction of new hard surface streets, concrete curb and gutter. Schatz stated that cell phones are not a necessity; they are a luxury item.

Council member Schatz made a motion to pass Ordinance No. 1080 on the second reading, setting the occupation tax at 5%, and earmarking the occupation tax for Capital Improvement: construction of new hard surfaced streets, curb and gutters. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Smith, and Schatz. Voting NAY: Council members Lukassen, Hein, and Yindrick. The vote resulted in a tie. Mayor Trowbridge broke the tie by voting AYE. The motion carried and Ordinance No. 1080 was passed on second reading as follows:

ORDINANCE NO. 1080

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, CREATING SECTION 10-506, AMENDING THE METHOD FOR CALCULATING THE OCCUPATION TAX FOR TELEPHONE AND TELECOMMUNICATION COMPANIES, AND CREATING AN ENFORCEMENT AND REPORTING SYSTEM FOR TELEPHONE AND/OR TELECOMMUNICATION COMPANIES OCCUPATION TAXES AND RATES; PROVIDING FOR AN EFFECTIVE DATE; REPEALING ORDINANCES IN CONFLICT; 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. That Chapter 10, Article 5, of the Municipal Code of the City of David City, Nebraska, be amended as follows:

Article 5. Occupation Taxes

§10-501 **OCCUPATION TAX; AMOUNTS.** For the purpose of raising revenue an annual occupation tax is hereby levied.

Amusement Devices, electronic entertainment or similar machines, per machine,
per year..... \$25.00

Pool Tables, per table, per year \$15.00

Dealers in Alcoholic Beverages:

The occupation tax on dealers in Alcoholic Beverages shall be equal to the license fee charged by the Nebraska Liquor Control Commission....

§10-502 **OCCUPATION TAX; FIRE INSURANCE COMPANIES.** For the use, support, and maintenance of the Municipal Fire Department all revenue realized from the occupation tax on Fire Insurance Companies shall be appropriated to the General Fund which shall then be disbursed to the D.C. Rural Volunteer Fire Department - District #9. *(Ref. 35-106 RS Neb.)*

§10-503 **OCCUPATION TAX; COLLECTION DATE.** All occupation taxes shall be due, and payable on the first (1st) day of May of each year, except in the event that the said tax is levied daily, and upon the payment thereof by any person or persons to the Municipal Clerk, the said Clerk shall give a receipt, properly dated, and specifying the person paying the said tax, and the amount paid; Provided, occupation taxes collected from Class C liquor licenses shall be due and payable on the first (1st) day of November. The revenue collected shall then be immediately deposited into the General Fund by the Municipal Treasurer. The Municipal Treasurer shall keep an accurate account of all revenue turned over to her. All forms, and receipts herein mentioned shall be issued in duplicate. One (1) copy shall then be kept by each party in the transaction. *(Ref. 17-525 RS Neb.)*

§10-504 **OCCUPATION TAX; CERTIFICATES.** The receipt issued after the payment of any occupation tax shall be the Occupation Tax Certificate. The said certificate shall specify the amount of the tax and the name of the person, and business that paid the said tax. The Occupation Tax Certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted. *(Ref. 17-525 RS Neb.)*

§10-505 **OCCUPATION TAX; FAILURE TO PAY.** If any person, company, or corporation fails, or neglects to pay the occupation taxes as provided herein on the day it becomes due, and payable, the Municipality shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of one percent (1%) per month until paid. *(Ref. 17-525 RS Neb.)*

§10-506 **OCCUPATION TAX; TELEPHONE COMPANIES AND TELECOMMUNICATIONS COMPANIES**

A. Revenue Measure. The provisions of this section are enacted solely as a revenue measure of the city.

B. Telephone Companies and Telecommunications Companies. An occupation tax is hereby levied and imposed on every company or person who engages in the business of providing local exchange telephone service, intrastate message toll telephone service and mobile telecommunications services for revenue in the city.

C. Mobile Telecommunications Services, defined. As used in this section, mobile telecommunications services shall mean a wireless communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: (i) Both one-way and two-way wireless communications services; (ii) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether on an individual, cooperative, or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and (iii) any personal communications service;

D. Amount of Tax. The occupation tax shall be five percent (5%) of the gross income received from furnishing local exchange telephone service and intrastate message toll telephone service, other than Mobile telecommunications services as defined in this Section, from subscribers within the corporate limits of the City of David City, Nebraska.

If the telecommunications services provided are Mobile telecommunication services as defined in this section, the tax shall be a percentage, as set by the City Fees ordinance, of the gross income received from furnishing service that originates and terminates in the same state to a customer with a place of primary use within the corporate limits of the City of David City, Nebraska. Gross receipts shall not mean (i) the gross income, including division of revenue, settlements, or carrier access charges received on or after January 1, 1984, from the sale of a telephone communication service to a communication service provider for purposes of furnishing telephone communication service or (ii) the gross income attributable to services rendered using a prepaid telephone calling arrangement.

E. Earmarking. Earmarking shall mean devoting a certain source of revenue, such as an occupation tax, to a specific public expenditure. The occupation tax by means of the gross income received from furnishing local exchange telephone service and intrastate message toll telephone services, other than Mobile telecommunication services as defined in Section C, from subscribers within the corporate limits of the City of David City, Nebraska, shall be earmarked ~~for the following public expenditures and based on the following percentages:~~ as follows:

1. The five percent (5%) occupation tax shall be placed in the Capital Improvement Account and shall be used to construct new hard surface streets, curbs, and/or gutters within the corporate limits of David City, Nebraska. ~~The General Fund of the City of David City, Nebraska, shall receive three percent (3%) of the occupation tax of the gross income received from furnishing local exchange telephone service and intrastate message toll telephone services, other than Mobile telecommunication services as defined in Section C, from subscribers within the corporate limits of the City of David City, Nebraska. Revenue resulting from such percentage of occupation tax shall be used for the purpose of funding general fund activities of the City of David City, Nebraska.~~
2. ~~The remaining two percent (2%) of the occupation tax of the gross income received from furnishing local exchange telephone service and intrastate message toll telephone services, other than Mobile telecommunication services as defined in Section C, from subscribers within the corporate limits of the City of David City, Nebraska, shall be used to construct new hard surface streets, curbs or gutters within the corporate limits of David City, Nebraska.~~

F. Quarterly payments; due dates. The payment of any occupation tax levied and imposed by the provisions of this article shall be made in quarterly payments using the calendar quarter year as a basis for determining the due date. Each quarterly payment shall be due thirty (30) days immediately following the termination of each calendar quarter year.

G. Statement to be filed. Every person coming within the provisions of this article shall, on or before the fifteenth day of the month immediately following the termination of each calendar quarter, file with the city clerk, in the case of those persons taxed by section 10-506, a full, complete and detailed statement of the income and gross receipts of said person for the preceding three (3) calendar months, omitting therefrom the appropriate exceptions and exemptions, if any. All statements shall be duly verified as true and correct and sworn to by the manager or managing officer of such person.

H. City's right to inspect. The city shall have the right at any and all times during business hours to inspect, through the comptroller or some other officer appointed by the city council, the books and records of any person coming under the provisions of this article for the purpose of ascertaining the correctness of the required statement.

I. Failure to file statement; interest and penalty. In the event any person coming under the provisions of this article shall refuse, fail or neglect to furnish or file the required statement at the time or times specified, the occupation tax for the

preceding three (3) calendar months shall draw interest at the rate of one (1) percent per month after due and payable, and in addition thereto, a penalty of five (5) percent for the failure to file.

J. Interest and penalty on delinquent payments. All delinquent payments shall draw interest at the rate of one (1) percent per month; and, if delinquent for six (6) months or more, a penalty of five (5) percent shall be added thereto in addition to the interest charge.

K. Collection of tax by civil action. In case any person shall fail to make payment of the occupation tax as required by this article, the city shall have the right and may sue any such person or persons in any court of competent jurisdiction for the amount of the occupation tax due and payable and may recover judgment against such person for the amount so due, together with interest and penalties, and may have execution thereon.

K. Disposition of receipts. The occupation taxes paid under the provisions of this article shall be credited to the general fund of the city.

Section 2. The calculation of the amount of occupation tax due under Section I(D) of this ordinance shall commence _____ 1, 2008.

Section 3. That any other ordinance or section passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with the provisions is herewith repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

PASSED AND APPROVED this _____ day of _____, 2008.

THE CITY OF DAVID CITY, NEBRASKA

Passed on 1st reading - 6/11/08
Passed on 2nd reading - 7/09/08
Mayor Dana Trowbridge

Passed on 1st reading - 6/11/08
Passed on 2nd reading - 7/09/08
City Clerk Joan Kovar

Council member Schatz introduced an ordinance to amend Chapter 8, Article 2, Section §8-202.2 of the City of David City, Nebraska, Municipal Code Book concerning sidewalk exceptions being authorized by the City Council instead of the Board of Zoning Adjustment. Discussion followed.

City Administrator Johnson stated that if a citizen has a problem with the placement of a sidewalk they present the issue to the Board of Zoning Adjustment (BOZA). Chapter 8, Article 2, Section §8-202.2 currently gives the BOZA the authority to tell the Council what to do regarding sidewalks.

Council member Lukassen stated that Section §8-205.2 of the Municipal Code Book states that all sidewalks in the residential districts shall be four feet (4') in width and shall be located at a distance of twelve inches (12") outside the lot line, unless otherwise authorized by the BOZA. The requirements for construction are also in the Code Book. Lukassen stated that he served on the BOZA prior to becoming a council member. When he was first on the council they dealt with sidewalk issues all of the time. The Council set the rules for sidewalks and the only time the BOZA can grant a variance is when the requesting party meets four criteria. Lukassen said that David City is finally making progress with the installation of sidewalks; the Board of Zoning Adjustment is following the guidelines and doing a good job. Council member Schatz stated that Lukassen made several informative comments.

Council member Schatz made a motion to indefinitely postpone an ordinance amending Chapter 8, Article 2, Section §8-202.2 of the City of David City, Nebraska, Municipal Code Book concerning sidewalk exceptions being authorized by the City Council instead of the Board of Zoning Adjustment. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Smith, Yindrick, Lukassen, Hein, and Schatz. Voting NAY: None. The motion carried.

ORDINANCE NO. - Indefinitely postponed

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 2, SECTION 8-202.2 OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. Chapter 8, Article 2, Section 8-202.2 of the David City Municipal Code Book be amended to read as follows:

§8-202.2 **SIDEWALKS: WIDTH AND DISTANCE FROM LOT LINE.** All sidewalks in the residential districts shall be four feet (4') in width. Sidewalks shall be located at a distance of twelve inches (12") outside the lot line, unless otherwise authorized by the City Council. Whenever possible, they shall correspond with width to sidewalks already built to which they are adjacent or adjoin.

Sidewalks in the commercial districts shall be of width as established by the Street Superintendent. (Ord. No. 720, 5/9/90, Amended by Ord. No. 882, 12/9/99; 915, 11/14/01)

STREET TREES. "Street trees" are herein defined as trees, shrubs, bushes and all

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.

Tabled indefinitely

Mayor

Tabled indefinitely

City Clerk

Council member Hein made a motion to approve the Sunshine Court Board of Commissioners as follows:

Chairperson Virgil Vrbka	term expires 5 - 2010
Vice Chairperson Catherine Marie Hoeft	term expires 6 - 2013
Commissioner Kate Martin	term expires 6 - 2012
Commissioner Judy Vanis	term expires 5 - 2011
Commissioner Joseph Roberts	term expires 5 - 2009

Council member Schatz seconded the motion. Voting AYE: Council members Yindrick, Lukassen, Scribner, Smith, Schatz, and Hein. Voting NAY: None. The motion carried.

The City Council discussed the Pool Committee's request to reimburse lifeguards for training and certifications such as CPR, WSI, LGT, etc. at the end of the swimming pool season and reimbursing lifeguards for a swimming suit. The Council agreed that at this time they will not reimburse for swimming suit costs.

Council member Schatz made a motion to reimburse lifeguards for one-half (1/2) the cost of training and certifications such as CPR, WSI, LGT, etc. at the end of the swimming pool season providing the lifeguards worked the entire season. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Smith, Lukassen, Hein, and Schatz. Voting NAY: None. The motion carried.

The horse swings were taken down at the City Park because they were viewed as hazardous. Council member Schatz made a motion to sell the "horses" on E-Bay with a disclaimer that the city is not liable, and earmark the money raised for the Contingency Fund for the Park. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Hein, Lukassen, Yindrick, and Schatz. Voting NAY: None. The motion carried.

In April, the #1 Fairbanks-Morse Engine was inspected and the engine exhaust was determined to be burnt out and rusted in half. A new 4,720 pound replacement exhaust system was ordered from Mid-State Erectors. Nelson Transportation provided a cost of \$2,000 to transport the new exhaust system from Stafford, Texas to David City. Power Plant Supervisor John Kabourek could travel to Stafford, TX to transport the exhaust system, using city equipment for approximately \$1,100 as follows:

Gas	\$0.425	Miles	1,804	\$768.40
Lodging	\$125.00	Nights	2	\$250.00
Meals	\$30.00	Per Day	3	<u>\$90.00</u>
		Total Cost:		\$1,108.40

The labor costs for John Kabourek were questioned as was the liability on the city vehicles. City Administrator Johnson stated that we would be paying John anyway and stated that he checked on the liability on the trucks and we are covered. Council member Scribner stated that he thought M&S Transfer 340 N 3rd Street, David City, Nebraska, goes to El Paso, Texas, twice a week and wondered if they couldn't transport it for less.

Council member Schatz made a motion to allow Power Plant Supervisor John Kabourek to drive to Stafford, Texas to transport a new exhaust system to the David City Power Plant for an estimated cost of \$1,100 unless we can find someone who is able to do it for less. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Lukassen, Smith, and Schatz. Voting NAY: Council members Yindrick and Hein. The motion carried.

Council member Yindrick made a motion to go into executive session to discuss pending litigation. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Smith, Lukassen, Schatz, Hein, and Yindrick. Voting NAY: None. The motion carried.

Mayor Trowbridge stated that the City Council was going into executive session to discuss pending litigation.

The City Council, Mayor Trowbridge, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk Joan Kovar went into executive session at 8:55 p.m.

Council member Schatz made a motion to come out of executive session at 9:13 p.m. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Hein, Lukassen, Yindrick, Smith, and Schatz. Voting NAY: None. The motion carried.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Lukassen, Smith, Yindrick, and Hein. Voting NAY: Council member Schatz. The motion carried and Mayor Trowbridge declared the meeting adjourned at 9:14 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
July 9, 2008

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 July 9, 2008; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar, City Clerk