

CITY COUNCIL PROCEEDINGS

September 8, 2004

The City Council of the City of David City, Nebraska met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on September 2, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notices to the Public, Mayor and Council members conveyed the availability of the Agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary L. Kroesing, Ted Lukassen, Mark Kirby, Gary Smith, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, Attorney Jim Birkel, Police Chief Stephen Sunday, Water/Sewer Supervisor Jim Kruse, Street Superintendent Jim McDonald, Electric Supervisor Tim Kovar, Park/Auditorium Supervisor Bill Buntgen, Library Director Kay Schmid, Banner Press Editor Larry Peirce, Mark & Starlyn Otte, Jan Sypal, Duane & Jeannette Zegers, Bill Dubs, Bob Bierbower, Phil Lorenzen of Kirkpatrick, Pettis, Smith, Polian Inc., Steve Miller of Olsson Associates, and City Clerk-Treasurer Joan E. Kovar.

The meeting opened with the Pledge of Allegiance.

The minutes of the August 11th, 16th, 17th, and 30th, 2004 meetings of the Mayor and City Council were approved upon a motion by Council member Kroesing and seconded by Council member Lukassen. Voting YEA: Council members Hein, Schatz, Smith, Kirby, Lukassen, and Kroesing. Voting NAY: None. The motion carried.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. A petition with approximately 75 signatures stating: "Your signature on this petition indicates you are against the proposed rezoning of 23 acres across from Aquinas High School from mobile home residential to highway commercial" was acknowledged. There were no communications.

Council member Hein questioned why there were no parking signs on 9th Street between "A" and Nebraska Streets. It was thought that the signs were installed years ago when Mrs. Stanek operated her beauty shop out of her house at 140 S. 9th Street. The Council instructed Street Superintendent Jim McDonald to remove the no parking signs.

Mayor Smith asked for consideration of claims. Council member Kroesing made a motion to authorize the payment of claims. Council member Kirby seconded the motion. Council member Kirby questioned when the City would be seeing a savings on the Alltel Cellular phone bills, and Council member Hein questioned why the police department cellular phone bill was so high. Council member Schatz and City Administrator Fiegenschuh stated that when they negotiated they received additional advanced services, such as call waiting, caller I.D., etc. at the same cost, but not necessarily at a reduced cost. The Council decided to review the Alltel Cellular invoices for Jan 2004 to the present at the next Committee of the Whole Meeting. Voting YEA to authorize the payment of claims: Council members Lukassen, Schatz, Smith, Hein, Kirby, and Kroesing. Voting NAY: None. The motion carried.

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

- Police Chief Sunday reported that a Board of Health meeting is scheduled for Thursday, October 7, 2004 at 5:00 p.m. in the City Office.
- Street Superintendent Jim McDonald stated that he did not have a written report this month as he was on vacation.
- Mayor Smith congratulated City Clerk Joan Kovar for successfully completing the Department of Economic Development's Community Development Block Grant (CDBG) certification training and passing the exam. Joan is now certified to administer CDBG Program projects through July 31, 2006.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, September 27, 2004 at 6:00 p.m. in the meeting room of the City Office.

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

Mayor Smith asked if anyone present had any comments, concerns, or questions regarding Ordinance No. 975 to amend the official zoning map by changing the zoning classification of property located across Hwy 15 (west) of Aquinas High School from Mobile Home Residential to Highway Commercial. There were none.

Council member Schatz made a motion to pass and adopt Ordinance No. 975 on the third and final reading. Council member Lukassen seconded the motion. Voting YEA: Council members Hein, Lukassen, and Schatz. Voting NAY: Council members Kroesing, Smith, and Kirby. The result being a tie vote, Mayor Smith broke the tie and voted NO. The motion failed.

Mayor Smith stated: "I do not think development is a bad thing, and I did not make this decision to hurt the Zegers". Following the September 1, public discussion meeting at the Library that included the public, Planning Commission members, and City Council members and provided an opportunity for questions, answers, and concerns, the Mayor received approximately 17 calls in favor of the development and 16 opposed. Mayor Smith stated "When I look at the total picture it seems that this is going to divide people; then it is necessary to take a step back and discuss this further; find out the pro's and con's." Mayor Smith thanked everyone who has been involved in this matter.

ORDINANCE NO. 975

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM MOBILE HOME RESIDENTIAL (MHR) TO HIGHWAY COMMERCIAL (HC), 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 Mobile Home Residential to Highway Commercial:

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

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

**FAILED 9-08-04 - tie vote -Mayor voted no
Mayor Stephen Smith**

**FAILED 9-08-04 - tie vote -Mayor voted no
City Clerk Joan E. Kovar**

City of David City
in
Butler County, Nebraska

NOTICE OF BUDGET HEARING AND BUDGET SUMMARY

PUBLIC NOTICE is hereby given, in compliance with the provisions of State Statute Sections 13-501 to 13-512, that the governing body will meet on the 8th day of September, 2004 at 7:30 p.m., at the City Office, 557 4th Street, David City, Nebraska, for the purpose of hearing support, opposition, criticism, suggestions or observations of taxpayers relating to the following proposed budget. The budget detail is available at the office of the Clerk during regular business hours.

Joan E. Kovar
City Clerk

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|--|-------------------------|
| 2002-2003 Actual Disbursements & Transfers | \$ <u>5,545,469.00</u> |
| 2003-2004 Actual/Estimated Disbursements & Transfers | \$ <u>5,600,111.00</u> |
| 2004-2005 Proposed Budget of Disbursements & Transfers | \$ <u>7,462,726.00</u> |
| 2004-2005 Necessary Cash Reserve | \$ <u>3,035,743.05</u> |
| 2004-2005 Total Resources Available | \$ <u>10,498,469.05</u> |
| Total 2004-2005 Personal & Real Property Tax Requirement | \$ <u>455,135.34</u> |
| Unused Budget Authority Created for Next Year | \$ <u>998,813.39</u> |

Breakdown of Property Tax:

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|---|----------------------|
| Personal and Real Property Tax Required for Bonds | \$ _____ |
| Personal and Real Property Tax Required for All Other Purposes | \$ <u>455,135.34</u> |

Mayor Smith opened the Public Hearing concerning the Budget Hearing and Budget Summary at 7:34 p.m.. The proposed budgets were previously discussed on August 16th and 17th. City Administrator Jeff Fiegenschuh presented new 2003-2004 budget print-outs for the street department: the personal services total was listed as \$136,500 with an additional laborer, and \$124,000 without an additional laborer. The Capital Improvement budget for the Street Dept. was \$720,000 without a street sweeper, and \$760,000 with a street sweeper. Discussion followed. Street Superintendent McDonald presented information concerning a 2000yr Johnston 3000 new/demo sweeper with 69 hours. Regularly priced at \$120,000 they would sell it to the City for \$82,000 less \$3,500 for our FMC sweeper as a trade in for a delivered price of \$78,500.

McDonald stated that the FMC sweeper is a health hazard to operate as really fine dust gets inside the cab.

Nebraska Sweeping Service, 3717 S. 117th Street, Omaha, NE, proposed sweeping in the month of April thru November for \$10.00 per residential block; \$15.00 per Main street wide blocks. Spring and fall clean-up is charged at \$.75 to \$1.50 per block as needed. Armor coating is swept at the rate of \$90.00 per hour. The city is required to furnish a dump site and water. Street Superintendent McDonald stated that he estimates a yearly service contract payment of \$9,900 based on 450 blocks cleaned twice per year.

Council member Kirby stated that he has nothing against the street department but feels that with money/budget issues this was not the proper time to purchase a new street sweeper. Council member Schatz stated that he feels the general fund reserves are getting dangerously low. Schatz is sufficiently concerned and suggested forming a committee to evaluate the reserves in the next few months before the reserves are problematic. Mayor Smith stated that he didn't want anyone running to the coffee shop stating that the City is out of money - "the City has money", he said. (Mayor Smith later suggested waiting until after the elections in November before setting up a committee to review the reserve accounts.) Council member Hein stated that it seems more economical to purchase a street sweeper rather than to contract out for the service. Council member Kroesing stated that the street department is also requesting an additional part-time laborer. Kroesing feels that if the street department is allowed to budget for a part-time laborer then Library Director Kay Schmid's request to make a part-time librarian full-time should also be allowed. After much discussion, the Council decided to budget for the purchase of the 2000yr Johnston 3000 street sweeper, but not to budget for an additional part-time man for the street department or to make a part-time librarian full-time. Street Superintendent McDonald is to provide financing options for the purchase of the Johnston street sweeper at the next Committee of the Whole meeting. There being no additional comments or questions, Mayor Smith declared the Budget Hearing closed at 7:50 p.m..

Council member Lukassen made a motion to approve the 2004-2005 Budgets as presented. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Schatz, Hein, Lukassen, and Smith. Voting NAY: Council member Kirby. The motion carried.

At 7:58 p.m., Mayor Smith declared the Special Hearing open to set the final tax request. Mayor Smith stated that the proposed tax levy for 2004-2005 is \$0.45 plus .05 for the interlocal agreement, with \$455,135.34 for the total property tax request. There being no comments or questions, Mayor Smith declared the Budget Hearing closed at 8:00 p.m..

NOTICE OF SPECIAL HEARING TO SET FINAL TAX REQUEST

PUBLIC NOTICE is hereby given, in compliance with the provisions of State Statute Section 77-1601.02, that the governing body will meet on the 8th day of September, 2004 at 7:45 p.m. at the

City Office, 557 4th Street, David City, NE, for the purpose of hearing support, opposition, criticism, suggestions or observations of taxpayers relating to setting the final tax request at a different amount than the prior year tax request.

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| 2003-2004 Property Tax Request | \$ <u>371,350.74</u> |
| 2003 Tax Rate | <u>.4444</u> |
| Property Tax Rate (2002-2003 Request/2003 Valuation) | <u>.45</u> |
| 2004-2005 Proposed Property Tax Request | \$ <u>455,135.34</u> |
| Proposed 2004 Tax Rate | <u>(.45+.05) .50</u> |

Council member Kirby introduced Resolution No. 21-2004 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Lukassen, Smith, Kroesing, and Kirby. Voting NAY: None. The motion carried and Resolution No. 21-2004 setting the property tax request was passed and adopted as follows:

RESOLUTION NO. 21 - 2004

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the City of David City passes by a majority vote a resolution or ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as requested by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interest of the City of David City that the property tax request for the current year be a different amount than the property tax request for the prior year.

NOW, THEREFORE, the Governing Body of the City of David City, by a majority vote, resolves that:

1. The 2004-2005 property tax request be set at \$ 455,135.34.
2. A copy of this resolution be certified and forwarded to the County Clerk on or before September 20, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein made a motion to approve an additional 1% increase in restricted funds authority. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Lukassen, Kroesing, Kirby, Hein, and Smith. Voting NAY: None. The motion carried.

Mayor Smith declared a ten minute recess at 8:02 p.m. The meeting resumed at 8:12 p.m.

Council member Hein made a motion to advance to agenda item #14 - Consideration of awarding a contract to update the City's General Plan. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Kirby, Schatz, Kroesing, Hein, and Lukassen.

Voting NAY: None. The motion carried.

The following are excerpts from the two proposals received for updating the City's General Plan:

Northeast Nebraska Economic Development District

**111 South 1st Street
Norfolk, NE 68701
(402) 379-1150**

The Northeast Nebraska Economic Development District (NENEDD) has a staff of twelve (12) full-time professionals who have a combined experience in community development, economic development, finance, construction and planning which exceeds 40 years. Ten of our professionals are Certified Community Development Block Grant (CDBG) Grant Administrators who regularly attend CDBG and other training sessions each year. On staff is a Certified Economic Development Finance Professional, a Master Consultant in Business Retention and Expansion and two graduates of the Economic Development Institute.

In the past eleven years the NENEDD assisted members in obtaining more than \$63 million in grants and loans being awarded to members for various community and economic development projects throughout the region. These grants and loans leveraged over three times that amount in local and private funds.

NENEDD presently has 39 contracts for CDBG and HOME grant administration services and has administered 41 contracts for affordable housing programs over the past ten years. We have been involved in every aspect of community and economic development projects and planning. Our expertise encompasses the entire comprehensive planning process from initial discussions and setup of a planning commission to development of individualized zoning ordinances.

The NENEDD Planning Staff consists of three Community Coordinators, three Housing Specialists, the housing assistant, the Executive and Deputy Directors and three support staff. Mapping and legal services are contracted for and are determined on a case-by-case basis.

The Comprehensive Planning process will be facilitated by Renay Robison-Scheer, Executive Director, Jeff Christensen, Deputy Director, Michela Keeler-Strom, Community Coordinator, and John Johnson, Madison and Pierce County Zoning Administrator. Ms. Robison-Scheer and Mr. Johnson will provide oversight of the entire process.

The law firm of John D. Feller will provide legal expertise to the process and will assist in drafting the zoning ordinances. Other support will be provided by support staff and housing specialists as needed.

Renay Robison-Scheer, Executive Director of the NENEDD, serves as Project Supervisor on planning projects. Post-graduate education includes a degree from the Economic Development Institute at the University of Oklahoma in 1995. Her thesis was on the economic impact of solid waste management and planning on small communities in Northeast Nebraska.

Robison-Scheer's strengths lie in citizen consensus building and economic development planning. She has been involved in community and economic development for fourteen years with the last twelve at the NENEDD. She has been facilitating comprehensive and strategic planning sessions for ten years.

John D. Feller of Feller Law Office, P.C., will serve as legal council for the project. Feller is a 1976 graduate of the University Of Nebraska College Of Law and has worked extensively for northeast Nebraska municipalities and counties. Feller's experience includes nine years as County Attorney for Cuming County. As a life-long resident of Cuming County, Feller understands the importance of developing proper land use regulations to maintain the County's agriculture business economy while balancing local values and environmental concerns.

Michela Keeler-Strom is the primary Community Coordinator who also works extensively with comprehensive planning. She has been with NENEDD for approximately two years and has been involved in all comprehensive planning projects to date. Michela has a Masters Degree in Public Administration with concentration in Local Government. Her thesis was on Sustaining Rural Communities with the Assistance of the CDBG program in South Dakota, Iowa and Minnesota. Michela has conducted the following studies: Fire Department Management, Structure Study, Brain Drain in the State of Nebraska Study, and Springfield Park Plan Study.

John Johnson has an extensive planning and zoning background in Michigan and Nebraska and currently serves on the District 111 Board of Directors for the Nebraska Planning and Zoning Association. He has a degree in Public Administration and has completed many comprehensive plans, zoning ordinances, and planning studies. He has served as director, chairman, or member of several municipalities and organizations in Michigan and is currently the Zoning Administrator for Madison and Pierce Counties in Nebraska.

Jeff Christensen will also be involved during the comprehensive planning process. He has been with NENEDD for four and one half years and has been involved in all aspects of strategic planning.

As communities and counties in northeast Nebraska have seen the need to intensify their efforts in planning for the future, the NENEDD has responded with enhanced and expanded services to meet those needs. NENEDD staff is currently assisting the community Allen in developing their comprehensive development plan and zoning ordinances. In addition, the NENEDD has assisted planning consultants and helped secure financing for studies in numerous communities and counties, including: Bloomfield, Creighton, Santee, Meadow Grove, Oakland, Norfolk, Spencer, Decatur, Tekamah, Stanton County and Colfax County.

NENEDD has completed many other planning projects including housing studies, blight studies, redevelopment plans, solid waste management plans and strategic action plans. As a means to revitalize depressed areas, the NENEDD has completed Blight Studies and Redevelopment Plans, including plans for Norfolk, Atkinson, Lyons and Wakefield. These efforts have lead to the creation of industry and development of housing utilizing Tax Increment Financing.

Solid Waste Management Plans were completed in the early 1990's with NENEDD's assistance for the following communities: Colfax County, Cuming County, Nance County, Fullerton, Genoa, Belgrade, Leigh, Howells, Clarkson, Schuyler, Tekamah, Rogers, Richland, Decatur, Platte Center, Lyons, and Scribner.

NENEDD staff has assisted several communities with housing and planning analysis throughout the last ten years. Lists of these communities are included. In-depth housing studies were completed for the cities of Norfolk, Atkinson, Laurel, Randolph, Emerson and West Point. NENEDD's housing studies include an inventory of the current housing status, statistics regarding housing trends and future needs for the community.

Comprehensive Planning and Zoning

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|---------|--------|--------------|---------------|---------|---------|
| Allen | Beemer | Cedar County | Cuming County | Decatur | Emerson |
| Fremont | Laurel | Santee | | | |

Blight Studies and Redevelopment Plans

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|----------|-------|---------|-----------|------------|
| Atkinson | Lyons | Norfolk | Wakefield | West Point |
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Solid Waste Management Plans

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| Belgrade | Clarkson | Colfax County | Cuming County | Decatur | Fuller-ton | Genoa |
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Other Planning Activities

- Twenty-county award winning regional marketing plan including facts brochure
- Five-year Comprehensive Economic Development Strategy for the sixteen-county area
- Impact study of solid waste management
- Regional labor study
- Strategic planning in over 50 communities in past four years
- Regional web site detailing the advantages of working and living in area
- Business, Retention and Expansion Program
- Citistate Initiative

Housing Analysis and Planning

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|------------|------------|--------------|------------|-----------|--------|-----------|
| Ainsworth | Albion | Atkinson | Bancroft | Beemer | | |
| North Bend | Bloomfield | Center | Clarkson | Coleridge | Craig | Creighton |
| Pilger | Palmer | Pierce | | | | Creston |
| Richland | Plainview | Randolph | | | | |
| | Rogers | Rosalie | St. Edward | Schuyler | | |
| | Scribner | Silver Creek | Snyder | Stanton | Tilden | Verdigre |
| | | | | | | Wausa |
| | | | | | | Wayne |

Housing Studies

- Atkinson Housing Market Study
- Emerson Housing Market Study
- Laurel Housing Needs Market Study
- Norfolk Housing Market Study
- Meadow Ridge Estates,
Multi-Family Housing Needs Assessment - Site Specific Study
- Meadow Ridge Estates Subdivision Study
- Randolph Housing Market Needs Study
- West Point Housing Market Study

CAPACITY OF FIRM

The NENEDD is a sixteen-county regional development organization that encourages cooperation between local government

officials, community-based organizations and the private sector. We provide the link between federal and state programs and the local level where development actually occurs. The NENEDD has extensive experience in community and economic development projects in

the northeast Nebraska region.

The mission of the NENEDD is to identify and address economic problems and opportunities through an overall economic development program. We provide many services designed to assist our 83 member communities and counties in strengthening their well being.

The Northeast Nebraska Economic Development District (NENEDD) is a multi-county economic development organization that was authorized by the U.S. Department of Commerce - Economic Development Administration in 1977 and serves its member counties, cities and villages through Interlocal Agreements. The NENEDD has a tremendous record in helping the 16-county region with community and economic development projects. In fact, since 1992, NENEDD staff has assisted nearly 500 entities, including towns, counties, organizations and businesses, by tapping into federal, state, and private financing programs. This assistance not only included preparing grant or loan applications, but more importantly, facilitating the planning and citizen involvement process that led to the setting of goals and priorities and the development of written plans of action.

Comprehensive Economic Development Strategy

Every five years NENEDD must complete a Comprehensive Economic Development Strategy (CEDS), detailing the economic conditions of the region and a five-year strategy for development of northeast Nebraska. The CEDS committee will meet four to five times in six months with approximately 45 committee members to look at the needs, problems and the resources of the region.

Comprehensive Planning and Zoning

In the past nine years NENEDD has assisted eight communities in the Planning and Zoning process. NENEDD's involvement at the local level has provided us the expertise needed to effectively facilitate the planning process leading to a comprehensive plan document that results in zoning regulations that are adequate and fair for the Village, City or County for which it was adopted.

Grant Writing Results

In the last 10 years, these planning efforts have resulted in over \$63 million dollars of grants and loans being awarded to members for various community and economic development projects throughout the region. These grants and loans leveraged over three times that amount in local and private funds.

Housing Rehabilitation and Development Efforts

During the past eight years, NENEDD has implemented and administered 40 community housing rehabilitation programs totaling nearly \$11 million in Federal and State funds, encompassing 54 communities and 576 housing units in Northeast Nebraska. NENEDD has leveraged other Federal and private funds to increase the amount of funding available for housing rehabilitation. In addition, NENEDD has implemented its own regional housing rehabilitation program using Nebraska Affordable Housing Program funds and HUD funds, resulting in the rehabilitation of 61 housing units. In 2002, we implemented a Down Payment Assistance Program that has assisted 36 families to become homeowners. In 2003, a Lead Hazard Control Program was initiated that will rehabilitate 29 homes of children with elevated lead blood levels and provide inspections to identify lead based paint hazards and the abatement necessary to remove it.

Business Expansion and Retention Efforts

NENEDD has assisted in the creation of 1,809 new full-time equivalent jobs in this same period through business retention and expansion efforts. NENEDD works with cities, counties and local economic development groups and partner resource agencies such as Nebraska Department of Economic Development and Nebraska Public Power District to assist communities in their recruitment efforts and industrial site development activities. NENEDD has assisted the cities of Columbus, Fremont, Hartington, and Bloomfield in packaging a CDBG Spec Building program in the respective communities. NENEDD has participated in trade shows and cold calls with the state and Nebraska Public Power District to recruit business to Nebraska. NENEDD was the applicant for grant funds in order to implement an 11-county Business Expansion and Retention Program. In 2002, USDA awarded NENEDD a grant to assist communities in populating the data on the Nebraska Economic Development Information (NEEI) Online and other online data systems so that prospective businesses, professionals and laborers have easy access to community profiles and websites.

Loan Program Results

The NENEDD has working relationships with numerous commercial lenders in the area who have participated in 80 loan projects from NENEDD's loan programs to date. Banks have participated as the primary lender enabling NENEDD to leverage \$14 million in private funds as well as providing capital for projects that would otherwise not be possible with only bank financing. NENEDD also received a commitment of \$500,000 in matching funds from 1st Nebraska Bank for housing rehabilitation loans through NENEDD's Housing Rehabilitation Revolving Loan Program.

NENEDD has been successful in gaining other private funds for its loan programs. NENEDD has received \$300,000 in loan capital from the Nebraska Microenterprise Partnership Fund, associated with the Nebraska Community Foundation. NENEDD has also received grants equaling \$136,000 from the Nebraska Microenterprise Partnership Fund to develop and maintain its microenterprise development efforts and to provide technical assistance to its clients.

Awards and Honors

The NENEDD has received many awards during the past several years, reflecting success in achieving community and economic development goals. Among the national awards include: *Three* NADO Innovation Awards and a Vision 2000 State Model of Excellence Award from the U.S. Small Business Administration. In addition, NENEDD has received several state-wide awards, including: the University of Nebraska Institute of Agriculture and Natural Resources 1997 Team Effort Award for EDGE (Enhancing, Developing & Growing Entrepreneurs); and 6 awards for projects that qualify as the top 100 Rural Initiatives from the Nebraska Rural Development

Commission. NENEDD was selected by the U.S. Department of Commerce Economic Development Administration to be a "Peer Reviewer" for other economic development organizations in the Midwest. NENEDD has also successfully completed a PEER 500 Review from the Northland Institute.

Budget and Operations

A 9-member Board of Directors comprised of area elected officials and business leaders governs NENEDD. Its executive director has over twelve years experience in management positions of economic development organizations and has been recognized by the Nebraska Jaycees as an "Outstanding Young Nebraskan" and by the Fairbury BPW as "Young Careerist" and the Norfolk Daily News "20 Under 40 Best and Brightest" and most recently nominated by the Board of Directors with endorsements from three State Senators and a congressman for the National Board on Rural America. Twelve professional and support staff assist NENEDD 82 Regular members and 80 Associate members. NENEDD has an annual operating budget of nearly \$700,000 and a total budget of \$1.6 million for 2003-2004.

**DAVID CITY PLANNING AND ZONING
SCOPE OF WORK**

The NENEDD will provide planning services for the completion of a David City Comprehensive Development Plan that will provide a comprehensive picture of the present and a plan for the future for a fee of \$22,000. The services for the comprehensive plan include all costs including plan development, legal council, mapping, and costs to produce 10 copies of the Comprehensive Development Plan and the Zoning and Subdivision Regulations.

- I. Prepare a Comprehensive Development Plan document -To develop a quality plan for David City that includes a strong regional perspective as par of a systematic approach to comprehensive planning, which includes the following:
 - A. **Background Analysis** - Brief descriptions of the comprehensive development plan process, elements included in the comprehensive plan document, a history and topographical features of the study area.
 - B.B. **Socio-Economic Inventory and Data Collection** - Present an accurate portrayal of collected data in reasonable and Understandable formats. Provide accurate projections of the future to the City of David City. This would include data collection on topics such as population, employment, housing, and fiscal trends for the study area. Projections of future demographic statistics will be made utilizing these factors influencing the dynamics of David City.
 - C. **Public Facilities Inventory** - To look critically at public facilities and services, incorporating both shared and individual participant alternatives to building, staffing for and duplicating the provision of future services to the study area. Topic areas include: health and safety services, education, parks and recreation, public works and administration, and transportation and communications.
 - D. **Land Use Plan** - Both the inventory and analysis of existing land uses and the development plan showing [the relationships between projected land uses and the various elements in the plan.
 - E. **Official Map** - The purpose of which is to compare current and future land uses and communicate the intentions of the City of David City, regarding the future construction of various public and infrastructure improvements, and at the same time reserving the land to accommodate the need.
 - F. **Transportation Plan** - Build on the current One and Six-Year Plan for roads. Take a local and regional perspective in developing future transportation needs.
 - G. **Develop Goals, Policies and Action Strategies** - Includes the development of long-term goals and strategies, based on quality citizen participation, a process for reviewing and maintaining the plan, and goals for the study area based upon information developed in the plan, including overall implementation policies.
- II. Prepare Zoning Ordinances and Subdivision Regulations
 - A. **Zoning Ordinances and Subdivision Regulations** - To be looked at, both individually and collectively, and will serve to prevent conflicts in land use, depreciation of property values and undue overcrowding or congestion. It will be the primary tool for resolving conflicts between incompatible land uses and guide the overall pattern of land use development for the future.
 - B. **Official Zoning Map** - To communicate the intentions of the City of David City, regarding the types of land uses consistent with goals and plans of the City.

OLSSON ASSOCIATES

PLANNING APPROACH

PLANNING IN SMALL CITIES AND TOWNS

Towns and villages throughout Nebraska are undergoing great transformation. No longer are most people from towns and rural areas able to earn a living solely from farming or ranching. In fact, manufacturing, government jobs, and the service industry now accounts for nearly 80% of rural employment. At the same time, some rural communities near large metropolitan areas, like Lincoln and Omaha, are experiencing significant growth in population.

Planning is a means for small cities and towns to gain a greater sense of vision and purpose. Planning for change--the desirable kind--is a process that prioritizes action to meet local needs and minimizes action that drains the community of limited, valuable resources. A Comprehensive Plan is like a blueprint for building or repairing a community. By following the blueprint, a community can maximize its resources, minimize costs and create a desirable place for its residents. Not following the blueprint can result in wasteful spending, squandered resources and under-served residents.

A common flaw in planning is attempting to apply big city planning tools to smaller communities. Small cities and towns are different from larger cities in size, attitude, character, economic base, appearance and aspirations. Planning in small cities and towns demands sensitivity to local residents and to the reality of limited resources.

Olsson Associates' planning approach works effectively in cities like David City. Our emphasis on community-based input, evaluation and feedback relies heavily on an orderly, open approach. We pride ourselves in using a common sense approach to finding local needs, setting goals and priorities, and taking action. As a result, our plans are innovative, yet easy to implement and economically feasible.

A successful planning process and a useful comprehensive plan can establish the framework for making critical decisions in David City to create a community in which people enjoy living, working and playing.

Our planning approach is based on the use of oemunity input and an understanding of the current issues, trends, strengths and assets within a community. This planning context is different from city to town to county. David City has some similarities with other communities in which we have worked--county seat, outdated comprehensive plan and a diverse economic base supported by agriculture and manufacturing industries, for example. However, the unique community values and decision-making processes in David City will continue to guide how these issues are dealt with in the community.

THE PLANNING PROCESS

The following narrative describes our planning process. The process often is changed to meet the specific needs of the client. In general, the planning process may involve a variety of steps and is continuous in nature.

These steps typically include:

- Decision to plan--commit time, energy and money
- Gather information--collect and analyze data, identify issues and opportunities
- Visioning--set goals and make priorities
- Plan development--create plan alternatives
- Select a preferred plan alternative
- Develop implementation strategies
- Adopt the plan
- Implement the plan
- Evaluate the plan
- Update and revise the plan

of the best ideas for the future will come from local residents, not from our team. Our challenge is not only to receive local input, but to also interpret that input into a comprehensive plan the community can embrace and take ownership of from the beginning of the project.

the very beginning of the planning process, ownership of the plan must encompass more than a few leaders in the community. It must include many residents, political leaders, business owners and other stakeholders who will be affected by the plan. Ownership of the plan is gained only through participation in the planning process. It is ownership that is the link between the plan and successfully putting the plan into action.

of the techniques we may use to involve the community in the planning process are one-on-one interviews, community meetings, potluck suppers, and visual preference exercises. Making a concerted effort to include all groups helps to lay the foundation for selecting a preferred plan and developing priorities for implementation.

Participants throughout the planning process may include:

Residents

- Elected officials
- City Staff
- Business owners

- Community organizations such as churches and schools
- High school youth, e.g. government class, class leaders, etc.

To better understand how small communities work, we put together a project team with significant experience in small cities and towns throughout Nebraska. We enjoyed our visit to David City and the opportunity to talk about planning issues. This experience and our commitment

to meeting the specific needs of David City form a great place to start the planning process. We are committed to creating quality living, working and playing environments in communities where we work.

Following Scope of Services outlines the planning process we think balances community involvement and professional planning practices needed to update David City's comprehensive plan.

SCOPE OF SERVICES

PHASE 1 - ASSESSMENT, ANALYSIS, AND VISIONING

Tasks: 1. Kick-off meeting with City Council 2. Existing Conditions and Assessment 3. Identification of Issues and Opportunities 4. Develop Draft Vision and Goals Statement

Purpose: The primary purpose of Phase 1 is to gain a solid understanding of the existing conditions and key issues in David City. The secondary purpose of Phase 1 is to develop a Vision for the City that takes into consideration existing conditions and community-based desires about how David City should look and function in the future.

The Olsson Associates team will kick-off the project with a meeting with the City Council, Planning Commission, Board of Adjustment, staff, business owners and interested residents to discuss the project scope including specific tasks in each phase of the project as well as the overall project schedule. We will also conduct a community input exercise to gain an understanding of the issues and opportunities critical to planning in David City.

The kick-off meeting will conclude with a Visioning exercise to help in developing an over-arching Vision for David City. The Vision should be a statement of desires or goals about how the community should look and function in the future. It is the basis for the rest of the planning process.

The OA team will conduct a thorough assessment of existing conditions in David City during Phase 1 of the project. We will collect and analyze existing maps, plans and other data related to the planning area. In addition, we will perform an on-site assessment and inventory of existing land uses, building and community conditions. The key existing conditions and issue areas that the OA team will focus on include:

- Transportation
- Land Use
- Public Facilities and Services
- Community Image and Amenities
- Housing
- Business and Industry

Time Line: 12 weeks

Products:

1. Kick-off Meeting with City Staff
 - a. City Staff
 - b. Planning Commission
 - c. Board of Adjustment
 - d. Business Community
 - e. Developers
 - f. Public
3. Documents and Reports:
 - a. Existing Conditions Report
 - b. Identification of Issues and Opportunities
 - c. Develop Draft Vision and Goals Statement

PHASE 2 - IDENTIFY ALTERNATIVES

Tasks: 1. Identify and Generate Plan Alternatives 2. Review Vision and Goals Statement 3. Review and Evaluate Plan Alternatives 4. Community Review Meeting or Event 5. Identify Preferred Plan Alternatives

Purpose: Phase 2 involves intensive work combining the existing conditions in the City with the Vision to identify up to three (3) Plan Alternatives. The OA team will develop the alternatives and present these to the City Council and interested residents at a Community Review Meeting or Event. The Community Meeting or Event may take the form of a potluck dinner, a workshop or open house.

The primary purpose of Phase 2 is to identify the Preferred Plan Alternative that reflects the community Vision. The work sessions at the Community Meeting will be interactive and give participants a broad understanding of the planning process. The meeting activities will involve selecting the preferred elements of the Plan Alternatives and combining them into a Preferred Plan Alternative. The Preferred Plan Alternative then will be reviewed for agreement with the draft Vision and Goals Statement.

Key elements of the Preferred Plan Alternative will address elements required by Nebraska law as well other issues important to the community. These elements include but are not limited to:

- Transportation
- Land Use
- Annexation
- Public Facilities and Services
- Community Image and Amenities
- Housing
- Business and Industry

Time Line: 12 weeks

Products:

1. Meeting with City Staff
2. Community Meeting or Event
3. Vision and Goals Statement
4. Identification of Preferred Plan Alternative

PHASE 3 - DRAFT PLAN DEVELOPMENT/IMPLEMENTATION STRATEGIES

Tasks: 1. Prepare Draft Comprehensive Plan Regulations 2. Prepare Draft Revisions to the Zoning and Subdivisions 3. Meeting with Planning Commission and City Council

Purpose: Once the Preferred Plan Alternative is identified in Phase 2, the OA team will refine the alternative and write a draft Comprehensive Plan with land use maps, graphics and text to effectively communicate the alternative to the community. The Comprehensive Plan will address key elements identified in the community meetings and lay out the blueprint to achieve the Vision developed at the beginning of the planning process. The OA team will develop implementation tools for the Comprehensive Plan that may include updates to the zoning ordinance and subdivision regulations.

OA team will present the draft plan and implementation tools to the Planning Commission and City Council during this Phase. Should more review be needed, another meeting may be scheduled during this Phase.

Time Line: 8 weeks

Products:

1. Draft Comprehensive Plan
2. Draft Implementation Tools
3. Meeting with Planning Commission and City Council

PHASE 4 - PLAN ADOPTION AND PRODUCTION

Tasks:

1. Incorporate Comments into Final Comprehensive Plan
2. Meeting with City Planning Commission/Public Hearing
3. Meeting with City Council

Purpose: The primary purpose of Phase 4 is to incorporate final revisions to the Comprehensive Plan and present the final draft to the City. After final revisions are made, the OA team will create the Final Draft of all planning documents to be submitted to the Planning Commission and City Council for adoption. The OA team will present the Comprehensive Plan, Zoning Ordinance and Subdivision Regulations for consideration during a public hearing.

Upon adoption, the OA team will make final revisions and produce the final documents. OA will deliver hard copies of the final documents to the City of David City. The OA team will also deliver one (1) reproducible electronic copy of all final documents.

Time Line: 8 weeks

Products:

1. Final Comprehensive Plan and Implementation Tools
2. Meeting with City Planning Commission/Public Hearing
3. Meeting with City Council

PROJECT TEAM

The Olsson Associates project team for David City's comprehensive planning efforts includes members with expertise in a variety of areas needed to help make your project a success.

Steve Miller, AICP--Project Manager

Steve's expertise is in community development, planning and urban design. With 15 years of experience, he has managed comprehensive plans for towns of all sizes. Steve will be able to anticipate issues and contribute a point of view that incorporates David City's future strength to the stakeholders involved with your project. Steve will provide direction to the project team and coordinate all activities with David City officials and key stakeholders. He will serve as your main point of contact, so you'll always know whom to call through the duration of your project.

Steve Clymer, AIA--Architect

Steve will serve David City through his role as Architect on your project team. For the past 25 years, his creative and visionary style has allowed him to gain an extensive background in all phases and types of architectural projects. Steve brings significant architectural and community design skills to the team.

JoAnn McManus-- Grant/Economic Development Specialist

JoAnn has gained 20 years experience in community and economic development by working with Nebraska communities on business development initiatives, economic development activities, and tourism development. JoAnn will focus on economic development issues in the comprehensive plan and will also research and share funding resources with David City.

Matt Reif--Project Engineer

With over 8 years of municipal engineering experience, Matt has provided excellent client service to many communities. He has technical expertise in roadway design, design of urban drainage systems, design of vertical and horizontal alignments, construction

services and surveying. Matt will work closely with planning and design staff to ensure that the needs of David City's sidewalks, streets, and water and sewer systems are met in your comprehensive plan.

Geri Rademacher, ASLA - Landscape Architect/Planner

Since 1998, Geri has been gaining valuable expertise and utilizing her creative talents in the areas of landscape architecture and land planning. She has been involved in the visual aspects of community planning, land use, recreational, urban, environmental and transportation projects. Geri will interpret the various themes and culture throughout David City and apply inventive and appropriate design concepts to create a successful comprehensive plan.

Avery Oltmans - Urban Planning Intern

Over the past few months, Avery has been working with the Urban Design and Planning team within Olsson Associates, providing data collection and research for various projects. Avery will assist the members of the project team in the production of the Comprehensive Plan for David City.

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We propose to have your project successfully completed within a 40-week time frame.

Estimated Lump Sum Fee: \$28,000 (reduced to \$22,000 - see motion)

Olsson Associates OVERVIEW

Established in 1956, Olsson Associates is ranked as one of the top 500 design firms in the United States by *Engineering News Record*. OA is headquartered in Lincoln, Nebraska, with seven additional office locations in Grand Island, Holdrege, Omaha, and South Sioux City, Nebraska as well as Missouri, Colorado, Arizona, and Minnesota

We offer a wide range of consulting services in areas such as community planning, water resources, transportation and traffic, environmental sciences, land planning, civil, structural, municipal, power electrical, mechanical/electrical, surveying, construction observation, landscape architecture, GIS, and mapping. Our staff encompasses more than 400 employees including planners, professional engineers, engineers-in-training, a professional hydrologist, an architect, registered landscape architects, registered land surveyors, and a support staff of highly trained technical personnel with broad experience in all phases of planning and engineering design and construction services.

Council member Hein made a motion to award a contract to Olsson Associates to update the City's General Plan at a cost of \$22,000. Council member Kroesing seconded the motion. All of the council members were present, all voted AYE and the motion carried.

Council member Kirby introduced Ordinance No. 984. Council member Kroesing made a

motion to suspend the statutory rule that requires an Ordinance be read on three separate days.

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

Council member Kroesing made a motion to pass and adopt Ordinance No. 984 on the third and final reading. Council member Kirby seconded the motion. Voting AYE: Council members Lukassen, Schatz, Smith, Hein, Kroesing, and Kirby. Voting NAY: None. The motion carried and Ordinance No. 984 was passed and adopted as follows:

ORDINANCE NO. 984

AN ORDINANCE AUTHORIZING THE ISSUANCE OF HIGHWAY ALLOCATION FUND PLEDGE BONDS OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF THREE

HUNDRED FIVE THOUSAND DOLLARS (\$305,000) FOR THE PURPOSE OF PAYING THE COSTS OF CONSTRUCTION OF STREETS OF THE CITY; PRESCRIBING THE FORM OF SAID BONDS; PLEDGING FUNDS TO BE RECEIVED BY THE CITY FROM THE STATE OF NEBRASKA HIGHWAY ALLOCATION FUND FOR THE PAYMENT OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME IF NECESSARY; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AND PROVIDING FOR THE DISPOSITION OF BOND PROCEEDS; AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

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

Section 1. The Mayor and City Council hereby find and determine: that the City requires the construction of certain streets and other appurtenant related improvements within the City; that the City's Engineers have prepared plans, specifications and estimates of cost for the said improvements; that said improvements are estimated to result in a total cost of not less than \$622,160; that the City has made application for certain Community Development Block Grant funds and expects to apply funds to be awarded to pay a portion of the project costs; that the City has no other funds on hand for the cost of such improvements; and that funds are required by the City to pay a portion of the costs with respect to said improvements in an amount not less than \$305,000, and that is necessary and advisable for the City to provide financing for such street improvements and related improvements and appurtenances by the issuance of its bonds and it is necessary and advisable to borrow the sum of \$305,000; that the City's expected receipts from the Nebraska Highway Allocation Fund for its current fiscal year are not less than \$224,756; that the City has no bonds outstanding issued pursuant to Section 66-4,101, R.R.S. Neb. 1996 (or any predecessor statute thereto); that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Highway Allocation Fund Pledge Bonds in the amount of \$305,000 pursuant to Section 66-4,101, R.R.S. Neb. 1996, do exist and have been done as required by law.

Section 2. To pay the costs of the improvements specified in Section 1 hereof, there shall be and there are hereby ordered issued the Highway Allocation Fund Pledge Bonds of the City of David City, Nebraska, in the principal amount of Three Hundred Five Thousand Dollars (\$305,000) (the "Bonds") with said Bonds bearing interest at the rates per annum and with principal payments to become due on October 15 of each year as follows:

| <u>Maturing October 15</u> | <u>Amount</u> | <u>Interest Rate</u> |
|--------------------------------|---------------|----------------------|
| 2008 | \$80,000 | 2.75% |
| 2010 | 60,000 | 3.35 |
| 2012 | 60,000 | 3.70 |
| 2014 | 70,000 | 4.05 |
| 2015 | 35,000 | 4.15 |

Provided, that the bonds maturing October 15, 2008, 2010, 2012, and 2014 are subject to mandatory sinking fund payments as follows:

\$80,000 Principal Amount Maturing October 15, 2008
\$25,000 To Be Called October 15, 2006
\$25,000 To Be Called October 15, 2007
\$30,000 Payable October 15, 2008

\$60,000 Principal Amount Maturing October 15, 2010

\$30,000 To Be Called October 15, 2009

\$30,000 Payable October 15, 2010

\$60,000 Principal Amount Maturing October 15, 2012

\$30,000 To Be Called October 15, 2011

\$30,000 Payable October 15, 2012

\$70,000 Principal Amount Maturing October 15, 2014

\$35,000 To Be Called October 15, 2013

\$35,000 Payable October 15, 2014

The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Bonds shall be October 1, 2004. Interest on the Bonds, at the respective rates for each maturity, shall be payable commencing October 15, 2005 and thereafter semi-annually on April 15 and October 15 of each year (each an "Interest Payment Date"), and the Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the last day of the month immediately preceding the month in which the Interest Payment Date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. The Bonds shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 4 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 4 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with unpaid accrued interest thereon, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Bond as the absolute owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond in accordance with the terms of this ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. The Treasurer of the City of David City, Nebraska, is hereby designated to serve as Paying Agent and Registrar for the Bonds. The City Treasurer, as Paying Agent and Registrar, shall keep and maintain for the City books for the registration and transfer of the Bonds at said Treasurer's office. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person

or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. In the event that payments of interest due on the Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. In addition to the mandatory sinking fund redemption set out therein, all bonds shall be subject to redemption, in whole or in part, prior to maturity at any time on or after October 15, 2007, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Bonds to be redeemed in its sole discretion but the Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new Bond evidencing the unredeemed principal thereof. Notice of redemption of any Bond called for redemption shall be given at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Bond at said owner's registered address. Such notice shall designate the Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue, series and the date fixed for redemption and shall state that such Bond or Bonds are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any Bond partially redeemed, such notice shall specify the portion of the principal amount of such Bond to be redeemed. No defect in the mailing of notice for any Bond shall affect the sufficiency of the proceedings of the City designating the Bonds called for redemption or the effectiveness of such call for Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Bond for which defective notice has been given.

Section 6. If the date for payment of the principal of or interest on the Bonds shall be
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Saturday, Sunday, legal holiday or a day on which banking institutions in David City, Nebraska are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such

banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 7. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER

HIGHWAY ALLOCATION FUND PLEDGE BOND OF
THE CITY OF DAVID CITY, NEBRASKA

No. _____ \$ _____

| <u>Interest Rate</u> | <u>Date of Maturity</u> | <u>Date of Original Issue</u> | <u>CUSIP Number</u> |
|----------------------|-------------------------|-------------------------------|---------------------|
| | October 15, | October 1, 2004 | |

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable on October 15, 2005, and semiannually thereafter on April 15 and October 15 of each year (each of said dates an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal hereof, together with unpaid accrued interest due at maturity or upon earlier redemption, is payable upon presentation and surrender of this bond at the office of the Treasurer of the City of David City, as the Paying Agent and Registrar, in David City, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the last business day of the month immediately preceding the month in which the Interest Payment Date occurs, to such owner's registered address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purposes become available.

This bond is one of an issue of fully registered bonds of the total principal amount of Three Hundred Five Thousand Dollars (\$305,000), of even date and like tenor except as to date of maturity, rate of interest and denomination which were issued by the City for the purpose of paying the costs of constructing streets and other related and appurtenant improvement in said City, in strict compliance with Section 66-4,101, R.R.S. 1996. The issuance of said bonds has been authorized by proceedings duly had and a Ordinance legally adopted by the Mayor and City Council of said City.

Provided, that the bonds maturing October 15, 2008, 2010, 2012, and 2014 are subject to mandatory sinking fund payments as follows:

\$80,000 Principal Amount Maturing October 15, 2008

\$25,000 To Be Called October 15, 2006
\$25,000 To Be Called October 15, 2007
\$30,000 Payable October 15, 2008

\$60,000 Principal Amount Maturing October 15, 2010

\$30,000 To Be Called October 15, 2009
\$30,000 Payable October 15, 2010

\$60,000 Principal Amount Maturing October 15, 2012

\$30,000 To Be Called October 15, 2011
\$30,000 Payable October 15, 2012

\$70,000 Principal Amount Maturing October 15, 2014

\$35,000 To Be Called October 15, 2013
\$30,000 Payable October 15, 2014

In addition to the foregoing mandatory sinking fund installments, Bonds of this issue maturing on and after October 15, 2008 are also subject to redemption at the option of the City, in whole or in part, at any time on or after October 15, 2007, at par plus interest accrued on the principal amount redeemed to the date fixed for redemption. Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed at said registered owner's address in the manner specified in the Ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof.

This bond is transferable by the registered owner or such owner's attorney duly authorizing in writing at the office of the Paying Agent and Registrar upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the Ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

For the prompt payment of the principal and interest on this bond and the other bonds of the same issue, the City of David City, Nebraska, has pledged funds received and to be received from the Highway Allocation Fund of the State of Nebraska with receipts from such fund to be allocated by the City to payment of principal and interest as the same fall due. In addition, the City hereby covenants and agrees that it shall levy ad valorem taxes upon all the taxable property in the City of David City, Nebraska at such rate or rates, within applicable statutory and constitutional limitations, as will provide funds which together with receipts from the Highway

This bond is one of the bonds authorized by Ordinance of the Mayor and City Council of the City of David City, Nebraska, described in the foregoing bond.

CITY
TREASURER OF THE CITY OF DAVID
DAVID CITY, NEBRASKA
as Paying Agent and Registrar

(Form of Assignment)

For value received _____ hereby sells, assigns and transfers unto (Social Security or Taxpayer I.D. No. _____) the within bond and hereby irrevocably constitutes and appoints _____, attorney, to transfer the same on the books of registration in the office of the within-mentioned Paying Agent and Registrar with full power of substitution in the premises.

Dated:

Registered Owner(s)

Signature Guaranteed

By _____
Authorized Officer(s)

Note: The signature(s) on this assignment MUST CORRESPOND with the name(s) as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 8. Each of the Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The Bonds shall be issued initially as "book-entry-only" bonds under the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers of the City are authorized to execute and deliver a letter of representations and inducement (the "Letter of Representations") in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Bonds. Upon the issuance of the Bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Bond from a Bond Participant while the Bonds are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Bonds,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Bonds. The Paying Agent and Registrar shall make payments with respect to the Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Bonds or (ii) to make available Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the Bonds be delivered to the ultimate Beneficial Owners of the Bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Bonds may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant

to this Section and the terms of the Paying Agent and Registrar's Agreement (if any).

(f) In the event of any partial redemption of a Bond unless and until such partially redeemed Bond has been replaced in accordance with the provisions of Section 6 of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Bond as is then outstanding and all of the Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of bond certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement bond certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of bond certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any Bond shall cease to be such officer before the delivery of such Bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Bond. The Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Bonds to be registered in the office of the Auditor of Public Accounts of the State of Nebraska. Thereafter the Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to Kirkpatrick Pettis, Smith, Polian Inc., as initial purchaser thereof, upon receipt of 98.50% of the principal amount of the Bonds plus accrued interest thereon to date of payment for the Bonds. Said initial purchaser shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance.

Section 9. The City Clerk is directed to make and certify a transcript or transcripts of the proceedings of the Mayor and City Council precedent to the issuance of said Bonds, one of which transcripts shall be delivered to the purchaser of said Bonds.

Section 10. The proceeds of the Bonds shall be applied to the costs of construction of the improvements described in Section 1 hereof upon order of the Mayor and City Council, including payment of any related warrant or note indebtedness. Pending such application the City Treasurer shall hold such proceeds.

Section 11. For the prompt payment of the Bonds, both principal and interest as the same fall due, the City hereby pledges all receipts now or hereafter received by the City from the State of Nebraska Highway Allocation Fund, as described and referred to in Section 66-4,101, R.R.S. 1996. The pledge provided for in this Section 11, however, shall not prevent the City from applying receipts from said fund in any year so long as sufficient receipts from such fund have been set aside for the payment of principal and interest falling due in such year on the Bonds. In addition, the City further reserves the right to issue additional highway allocation fund pledge

bonds payable on par with and equally and ratably secured by a pledge of receipts from the Highway Allocation Fund. The City hereby further agrees that it shall levy ad valorem taxes upon all the taxable property in the City at such rate or rates within any applicable statutory and constitutional limitations as will provide funds which, together with receipts from the Highway Allocation Fund, as pledged to the payment of the Bonds, and any other monies made available and used for such purpose, will be sufficient to pay the principal of and interest on the Bonds as the same fall due (including mandatory sinking fund redemptions).

Section 12. The City hereby covenants to the purchasers and holders of the Bonds hereby authorized that it will make no use of the proceeds of said Bond issue, including monies held in any sinking fund for the Bonds, which would cause the Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Bonds. The City hereby designates the Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code, and covenants and warrants that it does not reasonably expect to issue bonds or other obligations aggregating in principal amount more than \$10,000,000 during calendar 2004.

Section 13. The City's obligations under this Ordinance with respect to any or all of the Bonds herein authorized shall be fully discharged and satisfied as to any or all of such Bonds and any such Bond shall no longer be deemed to be outstanding hereunder if such Bond has been purchased by the City and canceled or when the payment of principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof, (b) shall have been provided for by depositing with a national or state bank having trust powers, or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) of or obligation the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payments; provided, however, that with respect to any Bond to be paid prior to maturity, the City shall have duly called such Bond for redemption and given notice of such redemption as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with such bank or trust company in excess of the amount required to pay principal of and interest on the Bonds for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 14. This Ordinance shall be published in pamphlet form and shall be in force and take effect from and after its adoption as provided by law.

ADOPTED this _____ day of _____, 2004.

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

(SEAL)

The following letter was received concerning the Supervisory Control and Data Acquisition (SCADA) system at the power plant::

**Harold K. Scholz Company
Box 27067
7800 Serum Avenue
Ralston, Nebraska 68127-0067
(402) 339-7600**

We are pleased to quote a Supervisory Control and Data Acquisition (SCADA) system to provide communication and data transfer between the Power Plant and the North Substation. The items offered below will use the existing programmable logic controller (PLC) in the Power Plant as a master and a new PLC in the substation. Fiber-optic cable will be used to transmit data between the PLC's.

Item 1) North Substation Data Gathering Terminal

- 1 North Substation programmable logic controller (PLC) system
- 3 Power Meters installed at North Substation
- 6 PLC controlled breaker trip/close relays for switchgear breakers
- 2 Reclosing relay ON-OFF control for switchgear feeder breakers
- 1 PLC/Power Meter communication module at North Substation
- 1 PLC discrete input and output modules at North Substation

Item 1 Price: \$18,900.00

Item 2) North Substation Equipment Installation

- 1 Install PLC in the switchgear and connect to existing switchgear battery
- 3 Install power meters and connect to existing current and potential circuits
- 1 Install communication network from PLC to power meters
- 3 Connect breaker status contact to PLC inputs
- 6 Install and connect breaker trip/close relay for switchgear breakers
- 2 Install and connect reclosing relay for switchgear feeder breakers
- 1 Lot of miscellaneous wiring materials to install the above items
- 1 Lot of schematic drawings and instruction manuals

Item 2 Price: \$12,800.00

Item 3) Power Plant Master Computer Station

- 1 Furnish and install computer and software at Power Plant
- 1 North Substation one-line/control/meter display screen(s)
- 1 Data logging of North Sub, South Sub, Total City & Total NPPD loads
- 1 Printable trends of North Sub, South Sub, Total City & Total NPPD loads
- 1 Provide operator training and instruction manual

Item 3 Price: \$13,300.00

Item 4) Power Plant Control Panel

- 1 Furnish and Install control panel at Power Plant
- 2 Wattmeters for North Substation feeders
- 3 Breaker control switches and red/green indicating lights
- 2 Reclosing relay ON-OFF control switches for North Substation feeders
- 1 PLC discrete input and output modules in control panel
- 1 Furnish and install conduit and communication cable to control panel
- 1 Lot of miscellaneous wiring materials to install the above items

Item 4 Price: \$17,300.00

Item 5) Power Plant/North Substation Communications

- 1 Furnish & install fiber-optic converter in existing Power Plant panel
- 1 Furnish & install fiber-optic converter in the North Substation
- 1 Termination of fiber-optic cable
- 1 Lot of miscellaneous wiring materials to install the above items

Item 5 Price: \$6,600.00

NOTE: There is approximately 8,500 feet of fiber-optic cable required.
Our price for a 6-fiber multi-mode cable only is \$633.00 per thousand feet;
however, installation of the cable is not included.

Item 6) North Substation Main Breaker Synchronizing

- 1 Outdoor potential transformer on the North Substation steel structure
- 1 Conduit and wiring from potential transformer to switchgear
- 1 Conduit and wiring from transformer tap changer control to switchgear
- 1 Incoming voltmeter on Power Plant control panel
- 1 Tap changer position meter on Power Plant control panel
- 1 Tap changer AUTO-MAN switch on Power Plant control panel
- 1 Tap changer LOWER-RAISE switch on Power Plant control panel
- 1 Synchronism check protective relay
- 1 Lot of miscellaneous wiring materials to install the above items

Item 6 Price: \$11,700.00

Sales tax is included in the above prices. We estimate completion 6-8 weeks after receipt of order.

Thank you for this opportunity to quote. Please do not hesitate to call if you have any questions or if you would like to discuss this further.

Sincerely,
H. K. Scholz Co.

John Fuchs

John Fuchs

City Administrator Fiegenschuh reported that he visited with City Attorney Egr who advised that the City does not have to hire an engineer before awarding a contract for the SCADA system. Council member Kirby asked Electric Supervisor Tim Kovar if he would be laying the

cable. Kovar responded that this is Electric Plant Supervisor John Kabourek's project and Kovar hasn't really been involved in it thus far; therefore doesn't know if special equipment is required to lay the fiber optic line. Kovar stated that he and his crew would assist if able but at this time isn't sure what is involved. Some of the Council members preferred to have two proposals to review for the SCADA system instead of just one. Therefore, Council member Smith made a motion to table consideration of awarding a contract for the SCADA system at the power plant until the October council meeting. Council member Hein seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Kirby introduced Resolution No. 22-2004 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Smith, Lukassen, Schatz, Kroesing, Hein, and Kirby. Voting NAY: None. The motion carried and Resolution No. 22-2004 was passed and adopted as follows:

RESOLUTION NO. 22 - 2004

WHEREAS, Lincoln Area on Aging/ LIFE Aging Center, has requested a fifteen (15) minute parking space in front of their office located at 370 5th Street in David City, Nebraska, and,

WHEREAS, a fifteen (15) minute parking space would be very beneficial for customers who are in need of Life Aging Services, and

WHEREAS, the City of David City, Nebraska, desires to aid local businesses in providing for consumer needs,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AS FOLLOWS:

- Section 1. That a fifteen (15) minute time restriction, between the hours of 8:00 a.m. and 5:00 p.m., be placed on one parking stall in front of the Lincoln Area on Aging / LIFE Aging Center, 370 - 5th Street, David City, Nebraska.
- Section 2. That this resolution shall be in full force and effect from and after its passage as provided by law.

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

Mayor Stephen Smith

City Clerk Joan E. Kovar

At the August 11th council meeting, Council member Smith stated that he received citizen concerns regarding the need for "No Parking" signs on both sides of 11th Street from

approximately "D" Street to "O" Street. 11th Street is always busy with traffic, bicyclers, and walkers, and becomes hazardous when cars are driving around parked vehicles. Council member Kirby stated that he would prefer "no parking" on either side of 11th Street rather than on both sides. Discussion followed. It was agreed that the Banner Press will run an article asking for comments regarding the proposed "no parking" along 11th Street and reducing the area from "I" Street to "O" Street. Therefore, Council member Kirby made a motion to table consideration of a resolution prohibiting parking on both sides of 11th Street. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Schatz, Hein, Lukassen, Kirby, and Smith. Voting NAY: None. The motion carried.

A Flex Account for employees is available through AFLAC Insurance Company. This allows employees to save tax free dollars for medical related expenses. Council member Hein made a motion to establish a Flex Account for interested city employees through AFLAC with the understanding that AFLAC will administer the plan and the employee will pay the \$6.00 per month fee. AFLAC will waive the \$200.00 set up fee. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby introduced Ordinance No. 985. Council member Smith made a motion to pass Ordinance No. 985 on the first reading only. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Hein, Smith, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 985 was passed on first reading as follows:

ORDINANCE NO.

985

AN ORDINANCE AMENDING CHAPTER 6: POLICE REGULATIONS OF THE DAVID CITY MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. Chapter 6: Police Regulations of the David City Municipal Code Book be amended to read as follows:

Chapter 6
POLICE REGULATIONS

Article 1. Dogs

§6-101 **DOGS; LICENSE.** Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog. The renewal date for a dog license shall be the first (1st) day of May of each year. The said tax shall be delinquent from and after May tenth (10th); Provided, the possessor of any dog brought into or harbored within the corporate limits subsequent to May first (1st) of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten (10) days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of seven (\$7.00) dollars for each dog. Said license shall not be transferable and no refund will be allowed in case of death, sale,

or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his name and address and the name, breed, color, and sex of each dog owned and kept by him. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (Ref. 17-526, 54-603, 71-4412 RS Neb.) (Amended by Ord. No. 546, 4/25/79)

- §6-102** **DOGS; LICENSE TAGS.** Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a dog license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirtieth (30th) day of April following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee of fifty (50¢) for each duplicate or new tag so issued. at no charge. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year.
- §6-103** **DOGS; WRONGFUL LICENSING.** It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other Municipal Identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an unspayed female dog with a license prescribed for a male or spayed female dog.
- §6-104** **DOGS; OWNER DEFINED.** Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed liable for all penalties herein prescribed. (Ref. 54-606, 71-4401 RS Neb.)
- §6-105** **DOGS; PROCLAMATION.** It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.
- §6-106** **DOGS; UNCOLLARED.** All dogs found running at large upon the streets and public grounds of the Municipality without a collar or harness are hereby declared a public nuisance. Uncollared dogs found running at large shall may be killed by the Municipal Police. (Ref. 54-604 RS Neb.)
- §6-107** **DOGS; RUNNING AT LARGE.** It shall be unlawful for the owner of any dog, whether licensed or unlicensed, to allow such dog to run at large in the Municipality. "Running at Large" shall mean any dog found off the premise of the owner, and not under

control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.

§6-107.01 DOGS; IMPOUNDMENT FEES WHEN DOGS LICENSED OR UNLICENSED ARE IMPOUNDED. Impoundment of dogs within the City of David City, Nebraska, shall be accomplished by the Municipal Police or person designated by the Mayor when found "running at large." There shall be a boarding fee of ~~four dollars (\$4.00) per day or part thereof, payable to the City of David City, Nebraska,~~ for each day the dog is impounded by the City, which shall be the responsibility of the owner. In addition there shall be a general impoundment fee of five dollars (\$5.00) for the first impoundment of a dog during any license year; then ten dollars (\$10.00) for the second impoundment during any license year; fifteen dollars (\$15.00) for the third impoundment during any license year.

All such fees, together with proof that a dog is licensed in accordance with the provisions of this Chapter, before any dog is released. When all fees have been paid to the City, the dog may be returned to the owner. (*Ord. No. 546, 4/25/79*) (*Amended by Ord. No. 706, 4/12/89*)

§6-108 DOGS; CAPTURE IMPOSSIBLE. The Municipal Police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (*Ref. 54-605 RS Neb.*)

§6-109 DOGS; VICIOUS. It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite. ~~without the said dog being securely held by a chain.~~ If any vicious or dangerous dog is allowed to run at large, the Municipal Police shall have the authority to put the dog to death. Upon the complaint of one (1) or more affected persons, filed with the Municipal Police Department, that any dog owned by the person named in the complaint is committing injury to persons or property, or is an annoyance, dangerous, offensive or unhealthy, the Municipal Police Department shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to ~~restrain such dog in a secure manner.~~ get rid of the dog. If the Municipal Police Department is unable to locate the owner of the dog, or if the owner of the dog fails to restrain such dog, the Municipal Police Department shall take custody of the dog, and impound said dog. The owner of the dog shall be required to pay impoundment fees as set forth in Municipal Code 6-107.01, before the dog will be released. (*Amended by Ord. No. 813, 10/11/95*)
(The Council would like to see this section 6-109 re-written.)

§6-110 DOGS; INTERFERENCE WITH POLICE. It shall be unlawful for any person to hinder, delay, or interfere with any Municipal Policeman who is performing any duty enjoined upon him by the provisions of this Article. (*Ref. 28-729 RS Neb.*)

§6-111 DOGS; KILLING AND POISONING. It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to Municipal Policemen acting within their power and duty. (*Ref. 28-1002 RS Neb.*)

- §6-112 DOGS; BARKING AND OFFENSIVE.** It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any person or neighborhood, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Municipality. Upon the complaint of one (1) or more affected persons from different households, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section of the Municipal Code, the Police shall investigate the complaint and, if in the opinion the situation warrants, shall notify the owner to silence and restrain such dog. If the Police Department is unable to locate the owner of the dog, or if the owner of the dog fails to silence and restrain such dog, the Police Department may take custody of the dog, and impound such dog. The owner of the dog shall be required to pay impoundment fees as set forth in Municipal Code 6-107.01, before the dog will be released. *(Amended by Ord. Nos. 804, 12/14/94; 813, 10/11/95)*
- §6-113 DOGS; LIABILITY OF OWNER.** It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. *(Ref. 54-601, 54-602 RS Neb.)*
- §6-114 DOGS; REMOVAL OF TAGS.** It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof.

Article 2. Animals Generally

- §6-201 ANIMALS; RUNNING AT LARGE.** It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way. *(Ref. 16-235, 17-506, RS Neb.)*
- §6-202 ANIMALS; CRUELTY.** No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the Municipality. *(Ref. 28-1001, 28-1002 RS Neb.)*
- §6-203 ANIMALS; KILLING AND INJURING.** No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. *(Ref. 28-1001, 28-1002 RS Neb.)*
- §6-204 ANIMALS; ENCLOSURES.** All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

§6-205 **FOWLS; RUNNING AT LARGE.** It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (Ref. 17-547 RS Neb.)

§6-206 **ANIMALS; PROHIBITED WITHIN THE CORPORATE LIMITS.** It shall be unlawful for the owner, keeper, or harbinger of any livestock, namely cows, horses, sheep, goats, swine or mules, to keep such livestock within the corporate limits of the City of David City, Nebraska, except as provided herein. All properties, within the corporate limits, where any of the above listed livestock are being kept at the time of the passage of this ordinance, shall be permitted to continue to keep livestock. (Ord. No. 722, 7/11/90) (Amended by Ord. No. 726, 8/8/90)

Article 3. Miscellaneous Misdemeanors

§6-301 **MISDEMEANORS; IMPERSONATING AN OFFICER.** It shall be unlawful for any person other than a Municipal or State Police Officer to wear an official badge or uniform, or to falsely and willfully impersonate the said officials. (Ref. 28-715.01 RS Neb.)

§6-302 **MISDEMEANORS; RESISTING OFFICER.** It shall be unlawful for any person to resist any Municipal Officer when lawfully requested to do so by him. Any person who refuses to assist an officer when lawfully requested to do so shall be fined in any amount not exceeding fifty (\$50.00) dollars. (Ref. 28-729 RS Neb.)

§6-303 **MISDEMEANORS; ABUSING OFFICER.** It shall be unlawful for any person to abuse a police officer or Municipal official in the execution of his office. (Ref. 28-729 RS Neb.)

§6-304 **MISDEMEANORS; TRESPASSING.** It shall be unlawful for any person to trespass upon any private grounds within the Municipality, or to break, cut, or injure any tree, shrub, plant, flower, or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same. (Ref. 28-588, 28-588.01 RS Neb.)

§6-305 **MISDEMEANORS; MALICIOUS DESTRUCTION OF PROPERTY.** It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner, or destroy real or personal property of any description belonging to another. (Ref. 28-572, 28-573 RS Neb.)

§6-306 **MISDEMEANORS; LARCENY.** It shall be unlawful for any person within the corporate limits to steal any money, goods, or chattels of any kind whatever. Any person who shall steal property of any kind, whether the same be entirely in money or entirely property of the value of three hundred (\$300.00) dollars shall be deemed to be guilty of a misdemeanor. (Ref. 28-512, 28-514 RS Neb.)

§6-307 **MISDEMEANORS; INJURY TO TREES.** It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure,

break down, or destroy the fruit of any trees planted or growing in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the Governing Body to do so, and the written permit of the Governing Body in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (Ref. 28-519 RS Neb.)

§6-308 **MISDEMEANORS; FIRE EQUIPMENT.** It shall be unlawful for any person who is not an active member of the ~~Municipal~~ Fire Department to deface, destroy, handle, or loiter about the equipment and property of the Fire Department.

§6-309 **MISDEMEANORS; FIRE HOSE.** It shall be unlawful for any person, without the consent of the Fire Chief, or the Assistant Fire Chief to drive any vehicle over the unprotected hose of the Fire Department at any time.

§6-310 **MISDEMEANORS; DRINKING IN PUBLIC.** It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways, or upon any property owned by the Municipality or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways, ~~in theaters, dance halls, or any other place open to the public except in or upon the Municipal Golf Course, the Municipal Auditorium and the City Fire Hall, said consumption and dispensing to be~~ in accordance with the provisions of the Nebraska Liquor Control Act and the licensing requirements of the State of Nebraska (Ref. 53-186 RS Neb.)

§6-311 **MISDEMEANORS; MINOR IN POSSESSION.** ~~It shall be unlawful for any person who is a minor as defined in Section 53-103(23) R.R.S. Nebraska to transport, knowingly possess, or have under his control in any motor vehicle, beer or other alcoholic liquor on any public street, alley, roadway, or property owned by the State of Nebraska or any subdivision thereof, or any other place within the Municipal limits. (Amended by Ord. No. 626, 1/23/85)~~

Except as provided in Section 53-168.06, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys, roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual, or ceremony

The governing body shall have the power to, and may by applicable resolution or ordinance, regulate, suppress, and control the transportation, consumption, or knowing possession of or having under his or her control beer or other alcoholic liquor in or transported by any motor vehicle, by any person under twenty-one years of age, and may provide penalties for violations of such resolution or ordinance.

§6-312 **MISDEMEANORS; POSTED ADVERTISEMENTS.** It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted, and the same remains of value.

- §6-313 **MISDEMEANORS; POSTING.** It shall be unlawful for any person to post, paste, or paint any sign, advertisement, or other writing of any nature upon a fence, pole, building, or other property without the written permission of the owner of the said property.
- §6-314 **MISDEMEANORS; DISCHARGE OF FIREARMS.** It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the Municipality; provided, nothing herein shall be construed to apply to officially sanctioned public celebrations if the persons so discharging firearms have written permission from the Governing Body. (Ref. 17-556 RS Neb.)
- §6-315 **MISDEMEANORS; CONCEALED WEAPONS.** It shall be unlawful for any person or persons to carry about their person any concealed pistol, revolver, knife, billy club, sling-shot, metal knuckles, or other dangerous weapon of any kind. Nothing herein shall be construed to apply to the Municipal Police. (Ref. 28-1001 RS Neb.)
- §6-316 **MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS.** It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, **paint ball gun**, or the like, loaded with rock or other dangerous missiles at any time or under any circumstances within the Municipality.
- §6-317 **MISDEMEANORS; FIRECRACKERS.** It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch ($\frac{7}{8}$ ") in length or one-eighth inch ($\frac{1}{8}$ ") in diameter, and which do not contain more than one-half ($\frac{1}{2}$) grain each in weight of explosive material. (Ref. 28-1003.07 RS Neb.)
- §6-318 **MISDEMEANORS; ASSAULTS.** It shall be unlawful for any person to assault or threaten any other person or persons. Any person who assaults another person or persons shall be deemed to be guilty of a misdemeanor. (Ref. 28-411 RS Neb.)
- §6-319 **MISDEMEANORS; PROVOKING ASSAULT.** It shall be unlawful for any person or persons within the Municipality to intentionally provoke or attempt to provoke an assault upon himself or another by the uttering of insulting words, cursing and swearing, or to use slander against any other person. Upon conviction a fine not to exceed ten dollars (\$10.00) shall be assessed. (Ref. 28-412 RS Neb.)
- §6-320 **MISDEMEANORS; MENACING THREATS.** It is hereby declared unlawful for any person within the corporate limits of this Municipality to assault or threaten another in a menacing manner or strike or injure another.
- §6-321 **MISDEMEANORS; ASSAULT AND BATTERY.** It shall be unlawful for any person to assault, threaten, strike, or injure any other person or persons. Any person who assaults or batters another person or persons shall be deemed to be guilty of a misdemeanor. (Ref. 28-411 RS Neb.)
- §6-322 **MISDEMEANORS; DISTURBING THE PEACE.** It shall be unlawful for any person

or persons to assemble or gather within the Municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the Municipality, or resident therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality. Any person or persons so assembled or gathered shall be deemed to be guilty of a misdemeanor. (Ref. 28-818 RS Neb.)

- §6-323 **MISDEMEANORS; DISORDERLY CONDUCT.** Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (Ref. 17-129, 17-556 RS Neb.)
- §6-324 **MISDEMEANORS; LITTERING.** It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body, any rubbish, debris, grass, leaves, or waste, and any person so doing shall be guilty of littering. (Ref. 39-683 RS Neb.) (Amended by Ord. No. 735, 10/10/90)
- §6-325 **MISDEMEANORS; PROHIBITED FENCES.** It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits.
- §6-326 **MISDEMEANORS; APPLIANCES IN YARD.** (1) It shall be unlawful for any person to permit a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance to be in the open and accessible to children whether on private or public property and possession of the same shall be deemed a nuisance.
(2) Upon the report being received by a City employee of a refrigerator, icebox, freezer or any other dangerous appliance being in the open and accessible to children, whether on private or public property, or, upon observation by a police officer of a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance being in the open and accessible to children, whether on private or public property, the police Department shall serve notice to the owner of said refrigerator, icebox, freezer, or any other dangerous appliance to remove same within five (5) days. In the event that the refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or other dangerous appliance is not removed within the five (5) days, the City will remove or cause to be removed said appliance(s) and assess the expense of the removal to the owner of said appliance(s). (Ref. 17-563, 18-1720 RS Neb.) (Amended by Ord. No. 781, 9/13/93)
- §6-327 **MISDEMEANORS; OBSTRUCTION OF PUBLIC.** It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same.
- §6-328 **MISDEMEANORS; OBSTRUCTING WATER FLOW.** It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant.
- §6-329 **MISDEMEANORS; REMOVING DIRT.** It is hereby declare unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt,

earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the Governing Body.

§6-330 **MISDEMEANORS; WEED REMOVAL.** It shall be the duty of every owner of real estate in the Municipality to cut and clear such real estate, together with one-half (½) of the streets and alleys abutting thereon, of all grass, weeds and worthless vegetation that are noxious, obstruct travel on public ways, or create a fire or health hazard. Such grass, weeds and worthless vegetation shall be cut so as not to extend more than twelve inches (12") above the ground. Subsequent to the cutting of the said grass and weeds, all loose vegetation shall be immediately removed. Upon the failure of the owner, lessee, or occupant having control of any real estate to cut and clear the said grass, weeds and worthless vegetation as set forth hereinbefore, the Municipal Police shall serve notice on the said owner, lessee, or occupant to do so. In the event that the grass, weeds and vegetation have not been removed after a period of five (5) days, the Governing Body may order the same to be done under the direction of the Street Department, and the cost thereof shall be chargeable to the property owner. If the owner fails to reimburse the Municipality after being properly billed, the cost may be assessed against the real estate and the Governing Body shall have the assessment certified to the County Treasurer and the same shall be collected in the manner provided by law. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-563.01, 18-1719 RS Neb.*) (*Mended by Ord. No. 721, 7/11/90*)

§6-331 **MISDEMEANORS; ABANDONED AUTOMOBILES.** It shall be unlawful to abandon any automobile on the Municipal Streets, highways, alleys, parks or other property. An automobile shall be deemed to be abandoned if left unattended for more than six (6) hours on any public property without current license plates; for more than twenty-four (24) hours on any public property, except where parking is legally permitted, for more than forty-eight (48) hours after the parking of such vehicle shall have become illegal; and for more than seven (7) days on private property if left initially without the permission of the owner, or after the permission of the owner shall have been terminated. Any automobile so abandoned shall immediately become the property of the Municipality if the automobile is unlicensed and if, in the estimation of the Municipal Police, the said automobile is of a wholesale value of one hundred dollars (\$100.00) or less. In the event the automobile is licensed or is of an estimated value of over one hundred dollars (\$100.00), the Municipal Police shall make a reasonable effort to contact the owner of the said automobile by sending a notice to the registered owner, if known; by sending an inquiry to the County it is registered in, if the owner is unknown; or by contacting the Director of Motor Vehicles, if the car is without license plates and the owner is unknown. If the owner is known, and does not claim the automobile within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the Municipality and the automobile may be sold. Any proceeds from the sale of the automobile less any expenses incurred by the Municipality in such sale shall be held without interest for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

Any person who abandons an automobile as hereinbefore defined shall be deemed to be guilty of a misdemeanor. (Ref. 50-1901 through 60-1911 RS Neb.)

§6-332 MISDEMEANORS; UNLICENSED OR INOPERABLE VEHICLES. No person in charge or control of any property within the Municipality, other than Municipal property, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any unlicensed, partially dismantled, wrecked, junked, inoperable or discarded vehicle to remain on property longer than seven (7) days; sixty (60) days for businesses; provided this section shall not apply to a vehicle in an enclosed building; a vehicle legally in transit; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Municipality. Licensed car dealers are exempt from licensing new or used vehicles being held for resale. Any vehicle allowed to remain on property in violation of this section shall constitute a nuisance and shall be abated, and any person violating this section shall be guilty of a misdemeanor. (Ordinance No. 903, 4/11/01)

Article 4. Penal Provisions

§6-401 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§6-402 ABATEMENT OF NUISANCE. Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgement in the case. (Ref. 18-1720, 18-1722 RS Neb.)

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

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

Passed and approved this _____ day of _____, 2004 .

Passed on 1st reading 9/08/04

(Seal)

Mayor Stephen Smith

Passed on 1st reading 9/08/04
City Clerk Joan E. Kovar

There being no further business to come before the Council, Council member Kirby made a motion to adjourn. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Lukassen, Hein, Kroesing, Smith, and Kirby. Voting NAY: None. The motion carried and Mayor Smith declared the meeting adjourned at 9:40 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
September 8, 2004

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of September 8, 2004; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar

