

## CITY COUNCIL PROCEEDINGS

September 10, 2008

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

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

Also present were: Police Chief Stephen Sunday, Police Clerical Glayda Scofield, Park/Auditorium Supervisor Bill Buntgen, Jeff Thompson of Timpote, Sally and Don McLaughlin, Marianne Long and son Frankie, Jeff Hilger, Darlene McClure, Marge Grubaugh, Louis Woita, Mike Rogers, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

Mayor Trowbridge asked Council member Scribner to remove his cap. Council member Scribner stated that his hat would remain on his head as that is his Constitutional right. Mayor Trowbridge stated that if Scribner did not remove his hat he would be escorted out of the Council Chamber. Council member Scribner and citizens Marge Grubaugh and Darlene McClure, who were also wearing head gear, left the meeting at 7:03 p.m.

The minutes of the August 13<sup>th</sup> / 25<sup>th</sup>, 2008 meetings of the Mayor and City Council were considered. Council member Hein noted corrections and changes to the minutes as follows: Page 2: ~~City~~ "County" Attorney Reiter; and Page 56: cut the ~~wages~~ "hours" for the police clerical. Council member Smith made a motion to approve the August 13<sup>th</sup> / 25<sup>th</sup>, 2008 minutes as corrected and Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Schatz, Hein, and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets.

Council member Hein read a letter from Dorothy Schaecher stating that she has fallen twice due to the bad condition of sidewalks. She currently has no use of her one hand due to an injury sustained in a fall. Some sidewalks are cracked, heaved, or sunk below normal level. Shrubs and tree limbs are hanging low above the sidewalks. Dorothy stated that she and her husband Don now drive to the Park and walk on the walking trail. She said she sees people walking, pushing babies, and children on bikes with training wheels, all on the streets because the sidewalks are in such poor condition. Sidewalks are a necessity for everyone.

Mayor Trowbridge read the following Proclamation:

WHEREAS, the annual sale of Buddy Poppies by the Veterans of Foreign Wars, and the VFW Auxiliary, of the United States an organization chartered by the Congress has been officially recognized and endorsed by the President of the United States and the Veterans Administration; and

WHEREAS, the proceeds of this worthy fund-raising campaign are used exclusively for the benefit of disabled and needy veterans, and the widows and orphans of deceased veterans; and

WHEREAS, the basic purpose of the annual sale of Buddy Poppies by the Veterans of Foreign Wars is eloquently reflected in the desire to "Honor The Dead By Helping The Living"; therefore,

I, Dana Trowbridge, Mayor of the City of David City, Nebraska, do hereby recognize the patriotic merits of this cause by urging the citizens of this community to contribute generously to its support through the purchase of Buddy Poppies, on the 19<sup>th</sup> day of September, 2008, for the distribution of these symbols of loyalty in this city. I urge all patriotic citizens to wear a Buddy Poppy as mute evidence of our gratitude to the men and women of this country who have risked their lives in defense of the freedoms which we continue to enjoy as American citizens.

-----

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

Mayor Trowbridge scheduled a Committee of the Whole meeting for Monday, September 29, 2008, at 6:00 p.m. in the City Office meeting room.

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. It was noted that the Library Trustee minutes stated "Invite to City Council: Once the room is completely finished, the City Council will be invited to hold one of their council meetings here." The regular meeting location for council meetings is at the City Office; however a Committee of the Whole meeting may be scheduled there. There being no additional reports, the Committee and Officers' Reports were accepted as presented.

In an effort to balance the budget the police clerical position was discussed. The Finance Committee came up with three options: 1) Leave the police clerical position at full-time, 2) Split the position so that ½ of the work is performed for the Police Department and the other half is performed at the City Office which could be charged to the proprietary funds, or 3) Cut the police clerical position to half time. The Finance Committee felt that these options should be presented to the full council for consideration. Council member Schatz stated that initially the City was facing a short fall and cuts needed to be made. Council member Schatz also stated that Police Chief Sunday said he needs a full-time secretary and as the department head he knows what is needed. Council member Schatz made a motion to retain the full-time police clerical position. Council member Lukassen seconded the motion. Voting AYE: Council members Smith, Lukassen, and Schatz. Voting NAY: Council members Yindrick and Hein. Council member Scribner was absent. The motion carried.

County Attorney Julie Reiter asked Police Chief Sunday if there was office space in the police department that a juvenile diversion official could use. The Council felt that perhaps a rental fee should be charged. Police Chief Sunday reported that County Attorney Reiter has no money for rent. Therefore Council member Schatz made a motion to indefinitely postpone allowing County Attorney Julie Reiter office space in the police department that a juvenile diversion official could use. Council member Hein seconded the motion. Voting AYE: Council members Smith, Yindrick, Lukassen, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Street Superintendent Jim McDonald is requesting to buy a 1996 GMC Dump Truck from State Surplus for a cost of \$12,300.00. The truck has 90,000 miles; cat diesel engine; 8 speed transmission with snow plow mounts and close wheelbase with twin screws. Jim would like to sell the 1986 GMC Truck at the State sale scheduled for October 11, 2008. He would keep the plow since it is in good condition. Jim is requesting that \$8,900 be paid out of the current budget for the purchase of the 1996 GMC Dump Truck and that the remaining amount be paid out of the 2008-2009 budget.

Council member Schatz made a motion to allow Street Superintendent Jim McDonald to purchase a 1996 GMC Dump Truck from State Surplus for a cost of \$12,300.00, pay \$8,900.00 out of the current budget, pay the remaining amount from the 2008-2009 budget, and sell the 1986 GMC Truck at the State Sale scheduled for October 11, 2008. Council member Yindrick seconded the motion. Voting AYE: Council members Smith, Hein, Lukassen, Yindrick, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz introduced Resolution No. 23 - 2008 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Hein, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 23 - 2008 was passed and approved as follows:

**RESOLUTION NO. 23 - 2008**

WHEREAS, the City of David City has authority by Municipal Code Section No. 4-401 to establish definitions of what constitutes a public nuisance. Specifically, the maintaining, using, placing, depositing, leaving, or permitting any of the specific acts, omissions, places, conditions, and things as set out in the twelve sections of said municipal code.

WHEREAS, the City of David City, as established in code #4-402, has the authority to abate all nuisances as defined in code #4-401.

WHEREAS, the David City Board of Health at a public meeting held on August 14, 2008, declared the property located at 210 S. 8<sup>th</sup> Street, David City, Butler County, Nebraska, to be in violation of Municipal Code Section No. 4-401 (8), and a public nuisance.

WHEREAS, at the September 10, 2008 City Council meeting, the Governing Body affirmed the findings of the Board of Health.

WHEREAS, the City of David City, having followed the rules and procedures as set out in code #4-402, does hereby declare on this the 10<sup>th</sup> day of September, 2008, that said property, owned by Louise Sanders at 210 S. 8<sup>th</sup> Street, David City, Butler County to be a public nuisance.

WHEREAS, the Governing Body (City Council) having declared said property to be a public nuisance, by this Resolution, orders and directs that the public nuisance be abated at once. The owner, occupant, lessee, or mortgagee may appeal such decision to the District Court of Butler County, Nebraska.

THEREFORE, BE IT RESOLVED THAT, the City of David City has declared the property located at 210 S. 8<sup>th</sup> Street, David City, Butler County, Nebraska, to be a public nuisance, and further more directs that the Municipality begin cleaning up said property on, or after, September 10, 2008 unless a notice of appeal is made with the District Court of Butler County, Nebraska.

DATED, this 10<sup>th</sup> day of September, 2008.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

David Scribner requested permission to place private water and sewer lines for 443 So. 6<sup>th</sup> Street on and through City property. The City property, located between 5<sup>th</sup> & 6<sup>th</sup> Streets, north of Kansas Street, is currently being used as the parking lot for the athletic field. Discussion followed. If the City installs water and sewer lines it would require engineering and inspection fees estimated at \$30,000.00 so the City is not interested. An easement should be drawn up allowing David Scribner to place the water and sewer lines through City property.

Council member Smith made a motion to allow David Scribner to place private water and sewer lines through City property contingent upon an easement being drawn up by City Attorney Egr and David Scribner following all City codes and paying all expenses associated with the installation of the private water and sewer lines including the attorney fees for the easement. Council member Lukassen seconded the motion. Voting AYE: Council members Yindrick, Schatz, Hein, Lukassen, and Smith. Voting NAY: None. Council member Scribner was absent. The motion carried.

Jeff Thompson of Timpfe, Inc., 1827 Industrial Drive, was present for the discussion concerning vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length. Mrs. McLaughlin and son Don were also present for this discussion as they own property located west of Timpfe and don't want "S" Street vacated. The Burlington Northern Railroad would like to close some of the railroad crossings and that is currently McLaughlin's only access to this piece of property. They would like "S" Street for access to their property. Discussion followed.

Council member Schatz made a motion to table consideration of Ordinance No. 1082, vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length, to Wednesday, September 17, 2008, at 5:30 p.m. This will allow time for City Administrator Joe Johnson to visit with the McLaughlin's concerning a possible

easement through their property. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1082 was tabled.

**ORDINANCE NO. 1082**

AN ORDINANCE VACATING "S" STREET FROM THE WEST SIDE OF INDUSTRIAL DRIVE TO THE DEAD-END OF "S" STREET WHICH IS APPROXIMATELY 647' IN LENGTH, DAVID CITY, BUTLER COUNTY, NEBRASKA; PROVIDING FOR THE RETENTION OF ANY UTILITY EASEMENTS; PROVIDING FOR AN EFFECTIVE DATE THEREOF, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. The Mayor and Council of the City of David City, Nebraska, received a Petition of Consent and Waiver asking that an ordinance be adopted vacating the public right of way that is located west of the intersection of Industrial Drive and "S" Street in David City Nebraska.

SECTION 2. The Mayor and City Council have found and determined that it is in the best interest of the City and is expedient for the public good to vacate part of "S" Street.

SECTION 3. That "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length, (running east and west), is hereby vacated.

SECTION 4. That the portion of vacated "S" Street shall revert to the abutting property owners.

SECTION 5. That the City of David City, and its franchisees, shall retain an easement to all existing and future utilities located within said vacated street.

SECTION 6. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 7. This ordinance shall be published in pamphlet form and shall be in full force and effect following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

9/10/08: Tabled to 9/17/08  
Mayor Dana Trowbridge

9/10/08: Tabled to 9/17/08  
City Clerk Joan E. Kovar

Mayor Trowbridge declared the Public Hearing open at 7:50 p.m. to consider the Resolution of Necessity creating Storm Water Sewer District No 2008-SW2. City Administrator Brannen stated that he suggests amending the Resolution by deleting the word "channel" and replacing with "storm water sewer system". There being no further comments, Mayor Trowbridge closed the Public Hearing at 7:53 p.m.

Council member Gary Smith stated that he has served 4 terms on the City Council. During that 16 years when David City has dry years you hear nothing and the northwest drainage issue is forgotten. Then you get a wet year and here we go again; nothing but drainage problems and complaints. Don McLaughlin stated that this has been going on for 25 years but stated that now it seems they are being rushed into making a decision. Don stated that they are expected to sign agreements by next week and they don't even know what they are signing; will there be a storm sewer or will there be an open ditch?; It doesn't sound right to him. "It seems as if we are getting the horse in front of the cart" Don stated. Mrs. McLaughlin stated that "S" Street needs to be left open for them. City Administrator Johnson stated that not all of the information is available at the present time. The city will apply for grants. This is a window of opportunity because this can be a TIF project for ½ of the costs. City Administrator Johnson stated that he plans to schedule a town hall meeting at a later date with all of the property owners to discuss the route, costs, etc.

Council member Schatz made a motion to table consideration of a Resolution creating Storm Water Sewer District No. 2008-SW2 to Wednesday, September 17, 2008. Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Hein, Lukassen, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

RESOLUTION NO. \_\_\_\_\_  
RESOLUTION OF NECESSITY

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

1. The Mayor and Council hereby find and determine that it is necessary and advisable to construct additions and improvements to the City's Storm Water Sewer System consisting of the following:

*Approximately 650 l.f. of 43" x 68" RCP along Hwy 15, approximately 670 l.f. of 54" RCP and 230 l.f. of 58" x 91" RCP along "S" street, approximately 1000 l.f. of ~~channel~~ storm water sewer system along "S" street to the BNSF railroad, approximately 375 l.f. of 6' x 3' concrete box culvert, and approximately 300 l.f. of ~~channel~~ storm water sewer system to Co. Rd. M.*

2. The outer boundaries of the said Storm Water Sewer District, referred to as Storm Water Sewer District No. 2008-SW2 shall include certain property located within the corporate limits, or outside but not in excess of 1 mile, of the City of David City, Nebraska, more fully described as follows:

A tract of land located in the S½ of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:

Beginning at the southwest corner of the SE¼ of said Section 18; thence easterly, 120 feet, on the south line of said SE¼; thence northerly, 380 feet, parallel with the west line of said SE¼; thence easterly, 239 feet, parallel with the south line of said SE¼; thence northerly, 940 feet, more or less, parallel with the west line of said SE¼, to a point on the north line of SW¼ of said SE¼; thence westerly, 370 feet, to the northwest corner of the SW¼ of said SE¼; thence northerly, 912.77 feet, on the west line of said SE¼; thence westerly, 340.98 feet, parallel with the south line of the N½ of the NE¼ of the SW¼ of said Section 18; thence northerly, 401.35 feet, to a

point on the north line of said Section 18, said point being 340 feet west of the northeast corner of said SW $\frac{1}{4}$ ; thence westerly, 979.92 feet, to the northwest corner of the NE $\frac{1}{4}$  of said SW $\frac{1}{4}$ ; thence southerly, 1742.15 feet, on the west line of the E $\frac{1}{2}$  of said SW $\frac{1}{4}$ , to a point on the easterly right-of-way line of the Burlington Northern Railroad; thence southeasterly, 928 feet, on said easterly Railroad right-of-way line, to a point on the south line of the SW $\frac{1}{4}$  of said Section 18, thence easterly, 1000 feet, more or less, on the south line of said SW $\frac{1}{4}$ , to the Point of Beginning.

3. The size, kind and location and terminal points of pipe proposed to be constructed as a part of said additions and improvements is as follows:

*Approximately 650 l.f. of 43" x 68" RCP along Hwy 15,  
Approximately 670 l.f. of 54" RCP and 230 l.f. of 58" x 91" RCP  
along "S" street, approximately 1000 l.f. of channel along "S"  
street to the BNSF railroad, approximately 375 l.f. of 6' x 3'  
concrete box culvert, and approximately 300 l.f. of channel to  
Co. Rd. M.*

4. Reference is hereby made to the plans and specifications for said additions and improvements which have been prepared by The Schemmer Associates in coordination with the Upper Big Blue Natural Resources District, Special Engineers of the City, and which, together with said Engineer's estimate of total cost for said additions and improvements have been filed with the City Clerk prior to the proposing of this Resolution.
5. The Engineer's estimate of total cost for the proposed Storm Water Sewer System improvements for said Storm Water Sewer District No. 2008-SW2 is as follows:

TOTAL ESTIMATED PROJECT COST      \$650,000.

6. It is hereby found and determined that the Storm Water Sewer Improvements constitute improvements of general benefit to the City of David City as a whole. Said additions and improvements shall be financed by the issuance of the City's General Obligation Sewer Bonds issued pursuant to Section 17-925, R.R.S. Neb. 1997.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

Tabled to: September 17, 2008  
Mayor Dana Trowbridge

ATTEST:  
Tabled to : Wednesday, September 17, 2008  
City Clerk Joan E. Kovar

[SEAL]

Ordinance No. 1083 was introduced and passed on first reading on August 13, 2008. Council member Schatz made a motion to pass Ordinance No. 1083 on the second reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Hein, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1083 was passed on second reading as follows:

**ORDINANCE NO. 1083**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A TRACT OF LAND LOCATED IN THE N $\frac{1}{2}$  OF THE NE $\frac{1}{4}$  OF THE SW $\frac{1}{4}$  OF SECTION 18 T15N R3E OF THE 6<sup>TH</sup> P.M., BUTLER COUNTY, NEBRASKA, CONTAINING 14.79 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of land located in the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:  
Commencing at the southeast corner of said N $\frac{1}{2}$ ; thence westerly, 341.60 feet, on the south line of said N $\frac{1}{2}$ , to the Point of Beginning, said Point being the southwest corner of a parcel of land conveyed in Microfilm Book 81 page 521; thence continuing westerly, 977.83 feet, on the last described line, to the southwest corner of said N $\frac{1}{2}$ ; thence northerly, 658.98 feet, to the northwest corner of said N $\frac{1}{2}$ ; thence easterly, 979.92 feet, on the north line of said N $\frac{1}{2}$ ; thence southerly, 657.35 feet, to the Point of Beginning, containing 14.79 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City water will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Section 1 (a) above.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.



SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2008.

Passed on 2<sup>nd</sup> reading 9/10/08  
Mayor Dana Trowbridge

Passed on 2<sup>nd</sup> reading 9/10/08  
City Clerk Joan E. Kovar

Ordinance No. 1085 was introduced and passed on first reading on August 13, 2008. Council member Schatz made a motion to pass Ordinance No. 1085 on the second reading. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1085 was passed on second reading as follows:

**ORDINANCE NO. 1085**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION TWELVE (12), TOWNSHIP FIFTEEN (15), NORTH, RANGE TWO (2), EAST OF THE 6<sup>TH</sup> P.M., BUTLER COUNTY, NEBRASKA, LYING EAST OF THE RIGHT-OF-WAY OF THE CHICAGO, BURLINGTON & QUINCY RAILROAD TRACK, CONSISTING OF APPROXIMATELY 128.63 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City water will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2008.

Passed on 2<sup>nd</sup> reading 9-10-08  
Mayor Dana Trowbridge

Passed on 2<sup>nd</sup> reading 9-10-08  
City Clerk Joan E. Kovar

Ordinance No. 1086 was introduced and passed on first reading on August 13, 2008. Council member Schatz made a motion to pass Ordinance No. 1086 on the second reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Hein abstained. Council member Scribner was absent. The motion carried and Ordinance No. 1086 was passed on second reading as follows:

**ORDINANCE NO. 1086**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE NORTHWEST QUARTER (NW<sup>1</sup>/<sub>4</sub>) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6<sup>th</sup> P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1. It is hereby found and determined by the Mayor and City Council that:

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said City;
- (b) Police, fire, mad snow removal benefits will be immediately available thereto, and City water service will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the Offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water service will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED and APPROVED this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2008.

Passed on 2<sup>nd</sup> reading 9-10-08  
Mayor Dana Trowbridge

Passed on 2<sup>nd</sup> reading 9-10-08  
City Clerk Joan E. Kovar

**EXHIBIT "A"**

Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, LESS all real estate conveyed for road

purposes,

AND LESS THE FOLLOWING THREE (3) TRACTS OF REAL ESTATE:

TRACT I: A tract of land located in the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast Comer of said Northwest Quarter; thence westerly, 41.0 feet, on the south line of said Northwest Quarter, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly highway right-of-way line, to the point of beginning, said point being 40.08 feet west of the east line of said Northwest Quarter; thence westerly, 340.00 feet, at a right angle to the last described line; thence northerly, 385.00 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 340.00 feet, at a right angle to the last described line, to a point on the westerly right-of-way line of Nebraska Highway Nebraska 15; thence southerly, 385.00 feet, on said westerly right-of-way line to the point of beginning, containing 3.00 acres, more or less.

AND

TRACT II: A parcel of land located in a part of the East Half of the Northwest Quarter of Section 18, Township 15 North, Range 3, East of the 6<sup>th</sup> P.M., Butler County, Nebraska, being more particularly described as follows: Commencing at the Northeast Comer of said Northwest Quarter; thence N90°00'00"W (assumed bearing) on the North Line of said Northwest Quarter, a distance of 89.01 feet to a point on the westerly right-of-way line of State Highway No. 15, said point also being the point of beginning; thence S06°11'15"E on said westerly right-of-way line, a distance of 221.29 feet; thence N90°00'00"W parallel with said North Line, a distance of 253.85 feet; thence N00°00'00"E perpendicular to said North Line, a distance of 220.00 feet to a point on said North Line; thence S90°00'00"E on said North Line, a distance of 230.00 feet to the point of beginning, containing 1.22 acres, more or less.

AND

TRACT III: A tract of land located in the Southeast Quarter (SE<sup>1</sup>/<sub>4</sub>) of the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the SE comer of said NW<sup>1</sup>/<sub>4</sub>, thence westerly, 41.0 feet, on the South line of said NW<sup>1</sup>/<sub>4</sub>, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly Highway right-of-way line; thence westerly 325.00 feet, at a right angle to the last described line; thence southerly, 321.57 feet, parallel with said westerly Highway right-of-way line, to a point on the South line of said NW<sup>1</sup>/<sub>4</sub>, thence easterly, 325.00 feet, on the South line of said NW<sup>1</sup>/<sub>4</sub>, to the point of beginning, containing 2.40 acres,

ALSO EXCEPT THE RAILROAD RIGHT-OF-WAY.

-----

Mayor Trowbridge declared the Budget Hearing and Budget Summary to set the final tax request open at 8:03 p.m. Mayor Trowbridge opened the floor for questions, comments, or concerns regarding the proposed budget and final tax request. It was noted that the payments

to the Butler County Development Board and a larger percentage of the City Administrator's and City Clerk's pay will be charged to the proprietary funds. The Salaries & Wages allow for a 4% Cost of Living Adjustment and pay steps. The majority of Keno revenues have been earmarked for swimming pool debt reduction. City Administrator Johnson reviewed each departments proposed budget and answered any questions or concerns. City Administrator Johnson stated there is approximately an \$18,000 cushion. There being no other comments, questions, or concerns, Mayor Trowbridge closed the Budget Hearing at 8:29 p.m..

Council member Schatz introduced Ordinance No. 1091, the annual appropriation bill. Council member Schatz made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1091 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Hein, Lukassen, Yindrick, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1091 was passed and adopted as follows:

**ORDINANCE NO. 1091**

**THE ANNUAL APPROPRIATION BILL**

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, ADOPTING THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

WHEREAS, Nebraska Revised Statue 17-706 provides that a city council of the second class shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill", in which corporate authorities may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of city.

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

SECTION 1. That after complying with all procedures required by law, the budget presented and set forth in the budget statement is hereby approved as the Annual Appropriation Bill for the fiscal year beginning October 1, 2008, through September 30, 2009. All sums of money contained in the budget statement are hereby appropriate for the necessary expenses and liabilities of the City of David City, Nebraska. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capital, Lincoln, Nebraska, and to the County Clerk of Butler County, Nebraska, for use by the levying authority.

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

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

PASSED AND APPROVED this 10th day of September, 2008.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

(SEAL)

Mayor Trowbridge declared the Public Hearing open at 8:30 p.m. to consider setting the final tax request at a different amount than the prior year tax request. City Administrator Johnson stated the tax request will be set at \$508,730.00. There being no other comments, questions, or concerns, Mayor Trowbridge closed the Budget Hearing at 8:31 p.m.

Council member Schatz introduced Resolution No. 24 - 2008 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 24 - 2008 was passed and approved as follows:

**RESOLUTION NO. 24 - 2008**

A RESOLUTION OF THE CITY OF DAVID CITY TO APPROVE AN ADDITIONAL ONE PERCENT (1%) INCREASE IN RESTRICTED FUNDS.

WHEREAS, Nebraska Revised Statute 13-519.02 provides that a governmental unit may exceed its restricted funds limit for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

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

1. An additional one percent (1%) increase in restricted funds for the 2008-2009 budget is approved.

PASSED AND APPROVED this 10<sup>th</sup> day of September, 2008.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

Council member Schatz introduced Resolution No. 25 - 2008 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner

was absent. The motion carried and Resolution No. 25 - 2008 was passed and approved as follows:

**RESOLUTION NO. 25 - 2008**

RESOLUTION OF THE CITY OF DAVID CITY  
SETTING THE PROPERTY TAX REQUEST.

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 purpose 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, resolution of ordinance setting the tax request at a different amount; and,

WHEREAS, a special public hearing was held as required 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, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that:

1. The 2008-2009 property tax request be set at \$508,730.00.
2. A copy of this resolution be certified and forwarded to the Butler County Clerk prior to September 20, 2008.

PASSED AND APPROVED this 10<sup>th</sup> day of September, 2008.

\_\_\_\_\_  
Mayor Dana Trowbridge

ATTEST:

\_\_\_\_\_  
City Clerk Joan E. Kovar

(SEAL)

Council member Schatz introduced Resolution No. 26 - 2008 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Resolution No. 26 - 2008 was passed and approved as follows:

**RESOLUTION NO. 26 - 2008**

A RESOLUTION OF THE CITY OF DAVID CITY  
TO CARRY FORWARD THE UNUSED BUDGET AUTHORITY

WHEREAS, Nebraska Revised Statute 13-521 provides that a governmental unit may choose not to increase its total of restricted funds by the full amount by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority.

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

1. The unused budget authority of \_\_\_\_\_ from the 2007-2008 budget shall be carried forward to the 2008-2009 budget of the City of David City, Nebraska.

PASSED AND APPROVED this 10<sup>th</sup> day of September, 2008.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

Ordinance No. 1087 was introduced and passed on first reading on August 13, 2008. Council member Schatz made a motion to pass Ordinance No. 1087 on the second reading. {This is a strip of land just west of Niemann's 3651 MN RD} Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Lukassen, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1087 was passed on second reading as follows:

**ORDINANCE NO. 1087**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A TRACT OF REAL ESTATE LOCATED IN THE NE<sup>1</sup>/<sub>4</sub> OF THE SW<sup>1</sup>/<sub>4</sub> OF SECTION 18, T15N, R3E OF THE 6<sup>TH</sup> P.M., BUTLER COUNTY, NEBRASKA, CONSISTING OF APPROXIMATELY 1.07 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

**SECTION 1:** It is hereby found and determined by the Mayor and City Council that: A tract of real estate located in the NE<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub> of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the northeast corner of said



SW¼; thence westerly, 241 feet, on the north line of said SW¼, to the Point of Beginning; thence southerly, 145 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 27 feet, parallel with the north line of said SW¼; thence southerly, 256.14 feet, parallel with said westerly Highway right-of-way line, to a point on the north line of a parcel of land conveyed in Microfilm Book 81 page 521; thence westerly, 126 feet, to the northwest corner of said parcel; thence northerly, 401.35 feet, parallel with said westerly Highway right-of-way line, to a point on the north line of said SW¼; thence easterly, 99 feet, to the Point of Beginning, containing 1.07 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said City;

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Section 1.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water services will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not effect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 8: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED and APPROVED this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2008.

Passed on 2<sup>nd</sup> reading 9-10-08  
Mayor Dana Trowbridge

Passed on 2<sup>nd</sup> reading 9-10-08  
City Clerk Joan E. Kovar

Council member Schatz introduced Ordinance No. 1092 and made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member

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

Council member Schatz made a motion to pass and adopt Ordinance No. 1092 on the third and final reading. Council member Smith seconded the motion. City Administrator Johnson stated that this was based on the Consumer Price Index that stated May was 4.2 percent higher than in May 2007. Voting AYE: Council members Lukassen, Yindrick, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1092 was passed on third and final reading as follows:

**ORDINANCE NO. 1092**

AN ORDINANCE INCORPORATING A 4% COST OF LIVING ADJUSTMENT TO THE PAY SCALES FOR APPOINTED OFFICERS AND EMPLOYEES OF THE CITY OF DAVID CITY, NEBRASKA; TO REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales and salaries for the following positions for the appointed officers and employees of the City of David City, Nebraska:

SECTION 2. The wages for the Library Director and Librarians are set by the Library Board and therefore are not included.

**Part-Time Workers**

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	X	T	U	V
<b>Years in Position</b>	<b>0</b>	<b>6 mo</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
Part-time workers	7.85	8.03	8.21	8.38	8.56	8.74	8.91	9.09	9.27	9.44	9.62	9.80	9.97	10.15	10.33	10.50	10.68	10.86	11.03	11.21	11.39	11.56
Zoning Inspector	15.60	15.86	16.07	16.12	16.19	16.24	16.32	16.37	16.44	16.49	16.56	16.61	16.67	16.72	16.80	16.86	16.92	16.99	17.07	17.12	17.19	17.30

Bartenders - Begin @ \$7.00/hr - experienced up to \$7.50

Recycling Workers - Begin @ \$7.00/hr - experienced up to \$7.50

<b>Years in Position</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Summer Time Help -	7.54	7.80	8.06	8.32

**Full-Time Workers**

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	X	T	U	V
<b>Years in Position</b>	<b>0</b>	<b>6 mo</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
<b>Office Staff</b>																						
Clerical I	10.54	10.67	10.80	10.95	11.09	11.22	11.37	11.49	11.64	11.79	11.92	12.06	12.20	12.33	12.48	12.62	12.74	12.90	13.04	13.17	13.31	13.44
Police Clerical	9.99	10.38	10.58	10.73	10.81	10.88	10.95	11.04	11.14	11.24	11.37	11.45	11.55	11.63	11.70	11.78	11.84	11.89	11.95	12.03	12.11	12.18
Acct Clerk I	10.61	10.75	10.95	11.12	11.32	11.47	11.65	11.85	11.99	12.19	12.37	12.54	12.71	12.90	13.08	13.27	13.41	13.57	13.72	13.87	14.06	14.21
Acct Clerk II (includes .50/hr for CMC)	13.63	13.94	14.12	14.30	14.44	14.55	14.64	14.86	15.04	15.24	15.42	15.66	15.86	16.00	16.13	16.27	16.42	16.56	16.69	16.86	17.01	17.17

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	X	T	U	V
<b>Years in Position</b>	<b>0</b>	<b>6 mo</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
<b>Utility Staff</b>																						
Power Plant Operator I	11.12	11.32	11.54	11.79	11.99	12.24	12.47	12.69	12.92	13.16	13.38	13.66	13.87	14.11	14.35	14.57	14.84	15.05	15.30	15.55	15.78	16.05
Power Plant Operator	13.44	14.04	14.66	14.85	15.03	15.25	15.54	15.83	16.14	16.44	16.75	17.04	17.25	17.43	17.64	17.85	18.04	18.24	18.46	18.65	18.75	18.84
Power Plant Operator III	17.12	17.33	17.49	17.71	17.86	18.03	18.21	18.37	18.57	18.74	18.91	19.13	19.30	19.49	19.69	19.87	20.05	20.26	20.45	20.62	20.82	21.02
Apprentice Lineman	12.94	13.30	13.48	13.67	13.77	13.87	14.02	14.19	14.37	14.54	14.72	14.90	15.06	15.19	15.30	15.42	15.55	15.66	15.77	15.86	16.03	16.12

City Council Proceedings  
 September 17, 2008  
 Page #20

Line worker II	15.38	15.71	15.89	16.12	16.23	16.36	16.49	16.68	16.88	17.07	17.30	17.48	17.67	17.84	17.99	18.14	18.26	18.39	18.53	18.68	18.82	19.00
Line worker I	18.23	18.62	18.79	19.00	19.13	19.26	19.42	19.62	19.85	20.05	20.27	20.46	20.70	20.83	20.99	21.14	21.30	21.46	21.62	21.76	21.89	22.06
Line Foreman	19.24	19.91	20.04	20.32	20.49	20.65	20.85	21.11	21.37	21.64	21.91	22.17	22.44	22.59	22.79	22.95	23.15	23.31	23.49	23.67	23.81	24.00
Water/Sewer Operator I	11.12	11.43	11.60	11.79	11.90	11.99	12.12	12.30	12.49	12.67	12.86	13.05	13.25	13.35	13.49	13.64	13.76	13.89	14.04	14.18	14.32	14.46
WA/SE Op 1 w Grade VI	11.77	12.06	12.24	12.42	12.53	12.64	12.74	12.93	13.12	13.30	13.49	13.69	13.86	14.01	14.12	14.26	14.40	14.53	14.64	14.83	14.94	15.07
WA/SE Operator II	13.42	13.63	13.80	14.01	14.19	14.39	14.56	14.79	14.94	15.14	15.34	15.55	15.75	15.92	16.15	16.34	16.55	16.76	16.95	17.15	17.37	17.57
WA/SE Op II w Gr VI	14.06	14.24	14.44	14.60	14.83	15.00	15.19	15.38	15.59	15.76	16.00	16.16	16.36	16.56	16.78	16.97	17.16	17.38	17.58	17.79	17.99	18.19
WA/SE Op III w Gr VI	16.07	16.42	16.59	16.76	16.88	16.99	17.11	17.34	17.52	17.63	17.87	18.08	18.28	18.41	18.56	18.68	18.80	18.94	19.06	19.21	19.34	19.49
Waste Water Plant Operator	15.16	15.51	15.67	15.83	16.00	16.09	16.19	16.39	16.59	16.76	16.93	17.12	17.35	17.47	17.60	17.74	17.87	17.99	18.11	18.25	18.39	18.53

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	X	T	U	V
Years in Position	0	6 mo	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
<b>City Maintenance Staff</b>																						
Laborer I	8.25	8.46	8.51	8.67	8.75	8.82	8.89	9.01	9.11	9.20	9.32	9.43	9.54	9.60	9.68	9.77	9.83	9.89	9.96	10.04	10.10	10.16
Laborer II	10.99	11.34	11.48	11.67	11.79	11.90	11.99	12.18	12.34	12.52	12.69	12.86	13.04	13.15	13.27	13.36	13.49	13.62	13.72	13.82	13.94	14.07
Maintenance Worker I	11.25	11.54	11.68	11.84	11.92	12.02	12.12	12.28	12.44	12.58	12.73	12.91	13.08	13.18	13.30	13.41	13.53	13.66	13.76	13.86	14.01	14.12
Maintenance Worker II	11.85	12.13	12.30	12.47	12.56	12.67	12.78	12.96	13.15	13.31	13.48	13.67	13.83	13.97	14.10	14.24	14.37	14.50	14.60	14.76	14.89	15.02
Street Foreman	14.88	15.27	15.44	15.66	15.78	15.89	16.07	16.23	16.44	16.64	16.85	17.01	17.24	17.36	17.48	17.62	17.74	17.88	18.01	18.14	18.27	18.41
<b>Police Staff</b>																						
Police Officer	13.70	13.98	14.14	14.31	14.42	14.53	14.62	14.82	14.94	15.11	15.30	15.48	15.67	15.78	15.92	16.06	16.16	16.29	16.42	16.52	16.64	16.75
Sergeant	16.38	16.73	16.92	17.11	17.28	17.47	17.63	17.73	17.86	18.05	18.26	18.46	18.66	18.80	18.94	19.09	19.23	19.38	19.54	19.67	19.80	19.98
<b>Department Supervisors</b>																						
Park & Aud Supt.	14.82	15.20	15.38	15.59	15.74	15.85	16.02	16.20	16.43	16.64	16.86	17.05	17.30	17.46	17.62	17.79	17.93	18.10	18.27	18.42	18.61	18.77
Licensed Street Supt.	19.18	19.52	19.69	19.86	19.98	20.08	20.21	20.36	20.55	20.72	20.88	21.05	21.24	21.34	21.46	21.57	21.69	21.80	21.91	22.04	22.14	22.29
Water Super w/Gr VI	18.45	18.65	18.84	19.04	19.24	19.44	19.64	19.83	20.03	20.23	20.74	20.62	20.82	21.02	21.22	21.41	21.61	21.81	22.01	22.20	22.40	22.60
Wastewater Super w/Gr VI	18.45	18.65	18.84	19.04	19.24	19.44	19.64	19.83	20.03	20.23	20.74	20.62	20.82	21.02	21.22	21.41	21.61	21.81	22.01	22.20	22.40	22.60
Power Plant Supervisor	18.90	19.46	19.73	19.99	20.14	20.35	20.52	20.79	21.04	21.31	21.58	21.82	22.10	22.27	22.45	22.61	22.79	22.96	23.12	23.31	23.47	23.67
Police Chief	18.24	18.90	19.24	19.57	19.80	20.02	20.26	20.58	20.94	21.26	21.59	21.92	22.27	22.48	22.71	22.94	23.16	23.37	23.61	23.85	24.06	24.30
Electric Supervisor	21.55	22.21	22.54	22.88	23.10	23.33	23.57	23.92	24.24	24.55	24.90	25.23	25.57	25.77	26.01	26.26	26.46	26.69	26.92	27.14	27.33	27.57

**SECTION 3.** Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

**SECTION 4.** This ordinance shall be published in pamphlet form and shall be in full force and effect on September 26, 2008 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 10<sup>th</sup> day of September, 2008.

\_\_\_\_\_  
 Mayor Dana Trowbridge

\_\_\_\_\_  
 City Clerk Joan E. Kovar

Council member Schatz made a motion to authorize Mayor Trowbridge to enter into a Public Safety Dispatch Agreement with GeoComm Inc. Council member Lukassen seconded the motion. Voting AYE: Council members Yindruck, Smith, Hein, Lukassen, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

### **Public Safety Dispatch Consulting Project**

This Project Agreement is made by and between David City, organized under the laws of the state of Nebraska, and GeoComm Inc., a Minnesota corporation with its principal offices at 601 West Street, Germain Street, St. Cloud, MN, 56301.

In this agreement the party who is contracting to receive the professional services shall be referred to as "the Customer" and the party who will be providing the services shall be referred to as "GeoComm."

GeoComm has an established background in communications engineering, geographic information systems development, cartography, software development, and professional project management and is willing to provide those services to the Customer based on this background.

The Customer desires to have services provided by GeoComm. Therefore, the parties agree as follows:

#### **Section 1 - Description of Service**

Beginning upon contract signing GeoComm will provide the following goods and services (collectively the Services): Refer to the itemized Exhibit(s) herein and made part of this agreement:

- Public Safety Consulting Services

#### **Section 2 - Payment**

The Customer will pay a fee to GeoComm of \$3,900.00 for services as described in this agreement and provided under this agreement by GeoComm. The Customer agrees to pay GeoComm \$650.00 per month beginning October 1, 2008 and continuing through and including March 1, 2009.

#### **Section 3 - Late Payment Fee**

All invoices issued under this contract shall be submitted to the Customer net 45 days. A 1.5% service charge, or the legally allowed amount, whichever is less, shall be assessed to all invoices not paid within 45 calendar days from date of invoice.

#### **Section 4 - Expense Reimbursement**

GeoComm shall pay all "out-of-pocket" expenses and shall not be entitled to reimbursement from the Customer except by mutual prior agreement

#### **Section 5 - Performance of Services**

GeoComm will work as many hours as is necessary to fulfill its obligations under this agreement.

#### **Section 6 - Changes in the Work**

The Customer may, at any time by written order, make changes within the general scope of the work including but not limited to, revisions of, additions to, or subtractions from, portions of the work, or changes in method of shipment or packaging and place of delivery. If any change order causes an increase or decrease in the cost of or time required for the performance of any part of the work under this Agreement, an adjustment based on the exhibits, shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified in writing accordingly.

#### **Section 7 - Excusable Delays**

Neither GeoComm nor the Customer shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties.

#### **Section 8 - Limitation of Liability**

Except for personal injury or death, the Customer's total liability under this contract, including but not limited to breach of contract, negligence, warranty, strict liability in tort, or otherwise is limited to the difference between the market price at the time and place for tender of the goods and the unpaid sales price less expenses saved in consequence of the breach by GeoComm. In no event shall the Customer be liable for GeoComm's incidental or consequential damages to the full extent such may be disclaimed by law.

**Section 9 - Termination**

Either party, upon thirty (30) days written notice to the other party, may terminate this Agreement for violation of the material terms of this Agreement and failure to cure any deficiency within a reasonable time after notice thereof. In the event of termination for just cause by the Customer, GeoComm shall refund all amounts received to that point. In the event of termination for just cause by GeoComm, the Customer shall forfeit any funds paid and return any software and hardware received.

**Section 10 - Relationship of Parties**

The parties understand that GeoComm is an independent contractor and not an employee of the Customer. The Customer will not provide fringe benefits, including health insurance benefits, paid vacation, or any other employee benefit for the benefit of GeoComm as a function of this agreement.

**Section 11 - Disclosure**

GeoComm is required to disclose any outside activities or interests, including ownership or participation in the development of prior inventions, that conflict or may conflict with the best interests of the Customer. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to any activity that GeoComm may be involved with or on behalf of the Customer.

**Section 12 - Employees**

GeoComm's employees and agents, if any, who perform services for the Customer under this Agreement shall also be bound by the provisions of this agreement.

**Section 13 - Injuries**

GeoComm acknowledges its obligation to obtain appropriate insurance coverage for the benefit of GeoComm and its employees. GeoComm waives any rights to recover damages from the Customer for any injuries that GeoComm and/or its employees may sustain while performing services under this agreement and that are in any way a result of the negligence of GeoComm or its employees or agents.

**Section 14 - Indemnification**

GeoComm shall indemnify and hold harmless the Customer against and from all liability, claims, damages, and costs including attorney's fees of every kind and nature and attributable to bodily injury, sickness, disease or death, or to damage or destruction of property resulting from or in any manner arising out of or in connection with the project and the performance of the work under the contract.

**Section 15 - Insurance**

GeoComm shall obtain liability insurance for both personal injury and property damage. Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days prior notice thereof to the Customer. Minimum limits for GeoComm liability insurance shall be in the amount of \$1,000,000.00 for any number of claims arising out of a single occurrence under a single limit or combined limit or excess umbrella general liability insurance policy. GeoComm shall additionally obtain Worker's Compensation Insurance extending coverage to all its employees. The Customer shall be named as additional insured under GeoComm's liability policy.

**Section 16 - Data Confidentiality**

GeoComm agrees to review, examine, inspect, or obtain Customer data only for the purposes described in this agreement and to at all times hold such information confidential. The obligation to protect the confidentiality of confidential information disclosed to the other party shall extend for a period of five (5) years following disclosure and shall survive early termination of this Agreement.

**Section 17 - Records Retention and Availability**

GeoComm agrees that the Customer, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of GeoComm and involve transactions relating to this Agreement- GeoComm agrees to maintain these records for a period of three (3) years from the date of termination of this Agreement.

**Section 18 - Ownership**

It is agreed by and between the parties that all products created as a result of this contract will be the sole property of the Customer. With the exception of the GeoComm's proprietary software products, all products created and delivered under this agreement may be used, altered, and distributed at the Customer's discretion.

**Section 19 - Nondiscrimination**

During the performance of this contract, GeoComm agrees as follows:

- A. GeoComm shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. GeoComm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting the provisions of this nondiscrimination clause.
- B. GeoComm, in all solicitations or advertisements for employees placed by or on behalf of GeoComm, shall state that such contractor is an equal opportunity employer.
- C. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- D. GeoComm shall include the provisions of the foregoing paragraphs of this section in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**Section 20 - Drug-Free Workplace to be maintained by the Contractor**

During the performance of this contract, GeoComm agrees as follows:

- A. GeoComm shall provide a drug-free workplace for all of their employees. GeoComm agrees to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specify the actions that will be taken against employees for violations of this prohibition.
- B. GeoComm, in all solicitations or advertisements for employees placed by or on behalf of GeoComm, shall state that such contractor maintains a drug-free workplace.
- C. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

GeoComm shall include the provisions of the foregoing paragraphs of this section in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**Section 21 - Assignment**

GeoComm's obligations under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the Customer.

**Section 22 - Notices**

All notices required or permitted under this agreement shall be in writing and shall be deemed delivered in person or deposited in the United States mail, postage prepaid, addressed as follows.

**City of David**

Joe Johnson  
City Administrator  
557 4<sup>th</sup> St  
David City NE 68632  
Phone (402) 367-3135  
Email joejohnson@alltel.net

**GeoComm**

Todd Pieper  
Assistant Consulting Services Manager  
601 West St. Germain Street  
St. Cloud, MN 56301  
Phone (320) 240-0040  
Fax (320) 240-2389  
E-mail tpieper@geo-comm.com

Either party may change such address from time to time by providing written notice to the other in the manner set forth above.

**Section 23 - Entire Agreement**

This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties.

**Section 24 - Severability**

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it becomes valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**Section 25 - Waiver of Contractual Right**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**Section 26 - Laws to be Observed**

GeoComm shall keep fully informed of all Federal and state laws, all regulations pertaining to the Occupational and Safety Hazards Act (OSHA), all local laws, ordinances and regulations, and all orders and decrees of bodies and tribunals having any jurisdiction or authority, which in any manner affect the conduct of work.

**Section 27 - Applicable Law**

If there is any dispute concerning this agreement, the laws of the State of Nebraska shall apply. Proper venue and jurisdiction for all lawsuits, claims, disputes, and other matters in questions between the parties to this agreement or any breach thereof shall be in state of Nebraska.

**For David City**

By: \_\_\_\_\_

Date: September 10, 2008

**For GeoComm**

By: \_\_\_\_\_  
Janet Grones/Treasurer

Date: \_\_\_\_\_

**Exhibit A - Scope of Services**

**David City, Nebraska - Public Safety Consulting Services**

GeoComm understands the City of David City seeks assistance in reviewing current public safety dispatching costs and service delivery options to determine the feasibility and practicality of contracting with another communications center for dispatch services. The goal of the dispatch review will be to document existing operations, define workload, define goals and objectives, examine redundancies, common operating systems, failover, and other opportunities that would lead to the continuity or improvement of service delivery while reducing current spending levels.

As a result of the dispatch review GeoComm will provide a report defining the current level of dispatch activity and the requirements and expectations for future dispatching services from another service provider.

GeoComm proposes to conduct the public safety dispatch review, and assist in service provider negotiations and contract development over a six month period. We anticipate that the analysis and evaluation will be completed within the first two to three months. During the next three to four months GeoComm will assist in negotiations and contract development with the selected service provider.

GeoComm understands the importance of feedback from management personnel throughout the review process. GeoComm will provide regular status reports to the city project team and will elicit feedback from this group prior to issuing any findings.

**Working Site Visits**

GeoComm will dedicate a significant amount of time to gathering information during our site visits. During these visits our consultant will develop a full understanding of the functions performed by the existing dispatch center through interviews with management and line personnel, observation of operations, and through meetings with the David City's project team. We also will begin the process of collecting hard data related to work loads, equipment schedules, costs, and associated issues.

**Phase One: Project Initiation**

The David City project will be initiated with a project kickoff meeting where GeoComm will present our specific



approach to the project and the anticipated project schedule. This meeting allows city staff and project team members to familiarize themselves with GeoComm staff and with our approach to the project. It is anticipated that GeoComm be represented by Stacy Gross Regional Account Manager.

The meeting agenda includes:

Introductions: David City project team and GeoComm

- Reviewing project objectives and goals
- Reviewing and refining work plan and study methodology
- Establishing and jointly accepting responsibilities
- Developing project timeline, including periodic progress reporting
- Conducting initial site visits and interviews where indicated
- Gathering any hard copy resources as applicable to the analysis

#### **Assessment & Analysis Objectives**

GeoComm will conduct an assessment of David City's dispatch needs. During our assessment we will focus on call processing starting from the dispatch center, to effective dispatch of the appropriate response agencies. We will also examine and collect data related to the workload and workforce resources including:

- Staffing needs relative to call volumes
- Effective practices and local standards for processing calls for service to include the effective transition of event data between the call taker, dispatcher, and responder
- Law enforcement, fire/rescue, and EMS radio protocols
- Emergency and non emergency call handling protocols
- Current radio configuration, talk groups/channels, shared and primary
- Emergency Medical Dispatch (EMD) processes (if applicable)

#### **Data to be collected from David City**

GeoComm may request the following dispatch center data as related to this review.

- Final budget and actual expenditures for communications and dispatching
- Computer Aided Dispatch (CAD) activity data in summary form as specified
- E9-1-1 activity data in summary form and as specified
- Seven-digit non emergency call data
- State and NCIC dispatch or other requested inquiry activity
- Other- recorded dispatch generated activity data

Council member Schatz introduced Ordinance No. 1093. Council member Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried.

City Administrator Joe Johnson stated that Ordinance No. 1093 would change City Clerk-Treasurer Joan Kovar from an hourly rate to a salary. City Administrator Johnson stated that Kovar is being paid well below what she needs to be paid. With a paid salary there is no overtime pay. Council member Schatz verified that City Clerk Kovar will receive comp time instead of overtime; if she works 4 hours overtime she can take 4 hours off. Mayor Trowbridge and the council members present agreed.

Council member Schatz made a motion to pass and adopt Ordinance No. 1093 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Lukassen, Hein, Smith, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried and Ordinance No. 1093 was passed and adopted as follows:

**ORDINANCE NO. 1093**

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO SET THE PAY FOR THE CITY CLERK/TREASURER; REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCE IN CONFLICT THEREWITH; PROVIDE AN EFFECTIVE DATE; 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. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the salary for City Clerk/Treasurer Joan E. Kovar at **\$49,500.00 per year**, after the passage of this ordinance.

SECTION 3. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect beginning on September 26, 2008.

PASSED AND APPROVED this 10<sup>th</sup> day of September, 2008.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

Council member Hein made a motion to go into executive session to discuss 1) negotiations of the 911 and communication center and 2) pending legal action. Council member Yindrick seconded the motion. Voting AYE: Council members Smith, Lukassen, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Scribner was absent. The motion carried.

Mayor Trowbridge stated that the City Council was going into executive session to discuss 1) negotiations of the 911 and communication center, and 2) pending legal action.

The City Council, Mayor Trowbridge, City Administrator Joe Johnson, City Attorney Jim Egr, Police Chief Sunday, and City Clerk Joan Kovar went into executive session at 8:50 p.m.

Council member Hein made a motion to come out of executive session at 9:18 p.m. Council member Yindrick seconded the motion. City Attorney Egr stated that a motion and second wasn't need to come out of executive session. You just state you came out of executive session.

Council member Schatz made a motion to recess to Wednesday, September 17, 2008, at 5:30 p.m. to continue consideration of the following agenda items:

- 1) Consideration of Ordinance No. 1082 vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length;  
(this was originally agenda item #13)
- 2) Consideration of Resolution No. 27 - 2008 creating Storm Water Sewer District No. 2008-SW2;  
(this was originally agenda item #15)

Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Yindrick, Hein, and Schatz. Voting NAY: None. Council member Scribner was absent. The motion carried. At 9:30 p.m. Mayor Trowbridge declared the meeting recessed to Wednesday, September 17, 2008, at 5:30 p.m.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

September 17, 2008

Mayor Trowbridge called the meeting of the City Council of David City, Nebraska to order at 5:30 p.m. on Wednesday, September 17, 2008 in the Council Room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska, to continue the meeting of September 10<sup>th</sup>, 2008 which had been in recess.

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

Also present were: Dr. Jack Kaufmann, Jeff Thompson of Timpte, Pat Meysenburg, Zoning Administrator Roger Kotil, Sally McLaughlin and daughter Jeanne, Don McLaughlin, Bob Hilger, and Banner Press Editor Larry Peirce.

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

Council member Schatz introduced Ordinance No. 1082 vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length.

Don McLaughlin read the following:

*Some of what I am going to say you have heard before, but it deserves repeating.*

*On May 14<sup>th</sup>, 1980, our parents, Mac and Sally McLaughlin, signed a Grant of Easement to the Lower Platte NRD. This was a 20 foot easement along the south side of the NW¼ of the SW¼, Section 18, Township 15N, Range 3E, of the 6<sup>th</sup> P.M., Butler County, for the purpose of constructing and maintaining "A drainage way as part of the Central Butler Water Management Project". This easement was granted for the consideration of \$1. To the best of our knowledge, no work was ever done in conjunction with this easement, making it null and void, due to the easement statement, "it shall lapse and have no force or effect whenever the works or construction are not used for the purpose of purposes originally intended by the parties. "No Action" violates the above clause. This document was signed by Mac and Sally, Alvin Smith, Dean Struebing, and Dona Meysenburg. **Note:** the City of David City was not a party to this easement, thus, even if this easement could be construed as in effect yet, it is not the City of David City's to enforce, as they were not a party to the easement contract.*

*This was followed by a second document written on June 10<sup>th</sup>, 1980 and signed on June 14<sup>th</sup>, 1980 by Mac, Bob Hilger, Alvin Smith, Dean Struebing, and Dona Meysenburg. This document addresses a meeting of Mac, Bob, Alvin, and Sid Magdanz on our driveway at the BNSF crossing. This document called for a ditch to go west to the county road for drainage purposes. The ditch will be cleaned North to where the R.R. crosses "M" road. Ditches on both sides of the R.R. from that point North will be cleaned to where the water goes under the tracks to Plasek's dam. Also, from Hwy 15, across the Bruno Hwy, ditches will be cleaned to the west to the R.R. tracks, involving 4 farmsteads, so water may drain to Plasek's Dam.*

*The ditch was installed along our driveway west to "M" Road, however for the last 25 plus years, there has been no maintenance performed on the ditch, thus it is silted in to the point of greatly impeding water flow to "M" Road. The "M" Road ditches were cleaned at one point, but have not been maintained.*

*With the current plan the drainage is to go South at "M" Road, this does not follow the original plan, which ran the water North, thus is in violation of any presumed easement having to do with the ditch from the R.R. tracks to "M" Road. And again, the City of David City was not a party to this document. Thus they have no interest in this project or easement.*

*Then in 1998, another agreement was reached for water drainage. On May 5<sup>th</sup>, 1998, the Chairman of the Butler County Board of Supervisors, William Prochaska, signed the document, followed by Mac and Sally, and Stephen Smith, David City Mayor, on June 16<sup>th</sup>, 1998. This agreement was for construction and maintenance of an easement for the flow of water across the easement per the study, "David City Northwest Drainage Project - Phase II". This calls for a culvert from the R.R. to our east property line. It further states that both the City of David City and Butler County agree to provide a gravity flow pipe from a cistern west of our house, south to the ditch. In addition, it calls for the balance of \$6,500, after the drainage pipe is installed to be given to the McLaughlins to utilize as they deem necessary. Also, Butler County and/or the City of David City will pay Mac and Sally \$350 per acre, per year for any row crop damages that may occur during the construction or maintenance of the row crop area.*

*Mom and Dad were never paid the \$6,500; if you can find a record of this payment, I stand corrected, however, with compound interest, I would guesstimate that the City of David City owes Mom approximately \$15,000 right now. And, as far as construction or maintenance damages to row crops, since there was never a culvert buried*

or any maintenance ever performed on any easement on our property by any of the public entities going back to the 1980's, this isn't an issue.

Now, the City of David City is back with another request for an easement, or what is being called a RIGHT-OF-WAY, which includes another water drainage plan for the area. This time you produce a document for Mom to sign that has no specific information or plans with regard to what will be done. The document reads, "Grantor understands and agrees that the Grantee shall use such RIGHT-OF-WAY for the future installation, construction, maintenance, operation, and use of street and utilities, including but not necessarily limited to sewer, water, electricity, gas, telephone, cable television, sewer drainage system, storm sewer drainage system, and other governmental functions in the most cost effective and economically sound manner, to be precise, roads/streets may not be constructed and/or paved and storm sewer drainage system may be an open ditch."

Now, I don't know if any of you would want to sign a contract that basically asks you to give up 10% of your property for \$1; especially when you have no idea as to what is going to actually be done on it. In this case, most likely a ditch and possibly a gravel road that would cut our property into 4 parcels of ground, instead of the current 2 parcels. One of which would be unfarmable due to it's small size, and possibly unsellable for the same reason. We have been told by the City of David City how this is a "win-win situation" for the City of David City and the McLaughlin Family, as well as the area along Hwy 15 affected by surface water flooding during high water conditions. I have yet to see where we even break even on it!!! We give approximately 10% of our property, 2 to 3 acres, to the City of David City for \$1, after an abutting property was sold this year for in excess of \$18,000 per acre!! That sounds like a potential \$50,000 plus gift to the City of David City!! Also, throughout the negotiation on this RIGHT-OF-WAY we have been told that our property was zoned for commercial/industrial development. Then Tuesday of this week, we find at the Butler county Courthouse that in fact it is not zoned commercial/industrial on the east side of the R.R. tracks, it is in fact zoned "Flexible Use" land, and the west side of the R.R. tracks are zoned as heavy industrial. From what we have found "Flexible Use" land is zoned for such usage as a truck stop, motel, veterinarian office, or a medical office or some such type of use.

As you can see from the history I have laid out for you, Mac and Sally have done more than their share to help solve the drainage issues in the past, not only for the City of David City, but also Butler County, and the Lower Platte NRD to deserve to be treated fairly now. The closure of "S" Street is being dangled to get Mom to sign this agreement without a completed engineering study or knowing what the financing situation is, which we have been repeatedly told will determine whether the drainage system is a storm sewer system or an open ditch, knowing very well that Mom is very concerned about "S" Street being closed. I guess at this point this council can and will do what it wants to do, but rest assured there will not be any increase of water flow across our property on either of the previous contracts/easements, which in both cases represent the same path across our property. One of these easements, which the City of David City was not a party to, and can't enforce, and the other which was never completed and was to drain water in the opposite direction of the current plan, which violates the purposes of the purpose of the easement.

It is rather ironic that Timpte can dictate closure of "S" Street the way they are when the monies that they are willing to "kick in" for this project are actually by the Tax Increment Financing method. Granted they will give the City of David City "X" number of \$ for the drainage project, but then who has caused most of these drainage issues in the first place by raising their ground so much higher than any abutting ground? Besides, during the life of the Tax Increment Financing Agreement, they will recoup a portion, or possibly all of their contribution by only having to pay the taxes based on the current taxable value. None of the improvements will be taxed until after the Tax Increment Financing Agreement has expired. Taking the Niemann property from being taxed as farm land, and then developing it, plus the addition, or additions, being built onto the Timpte Plant, this will result in a considerable tax advantage to Timpte. This money still ends up coming out of the pockets of the tax payers of David City, and I would imagine, Butler County, including David City Public Schools, which I am sure need as much local funding as they can obtain.

So if you do close "S" Street now, the City of David City loses, those businesses along Hwy 15 that have been flooded by surface water loose, and yes, the McLaughlin Family loses too. The only winner may be Timpte, but that is yet to be determined too, how are they going to keep any additional water from the Niemann land, which they recently purchased, from flowing west onto our property?? Increased water flow onto our land will not be tolerated, and after any heavy rains we will document any water flows that do travel in a westerly direction onto our property and seek appropriate legal recourse. Earlier this year, after the signing of the purchase agreement by Timpte and the Niemanns, someone dug a ditch from the southwest corner of the Niemann/Timpte property southwesterly, across the unpaved end of "S" Street to drain water south, along our east property line, and then west onto our property. Any future ditches dug for like purposes will be blocked. This is not a pre November 2007 change to the flow of surface water; this is a 2008 change to the surface water flow.

All that the McLaughlin Family is asking for is to give the process time to determine what form of drainage project will be built across our property. If at that point it is a buried culvert storm sewer system and a completion date is specified for maintaining the validity of the easement, Mom will sign it in a heart beat. But if that doesn't happen, all four of us siblings agree that we are willing to farm that ground until we are dead and gone, before we will give into this type of pressure for a signature now!!!

City Administrator Johnson stated that a petition was received on June 28, 2008, signed by Jeff Thompson for Timpte Inc., and Gary D. Niemann Sr., representing all footage of the property directly abutting upon the portion of public way ("S" Street) proposed to be vacated.

Jeff Thompson of Timppte Inc. stated that Timppte was an Industrial Development Project in 1978. They employ 350 employees with a five million dollar payroll. It is a hardship for them to have "S" Street between their two parcels. They would like "S" Street vacated so that they can eventually build across that area.

Bob Hilger, a neighboring land owner, stated that if the Burlington Northern Santa Fe Railroad closes the railroad crossing as they would like to do, and the City vacates "S" Street, McLaughlin's will have no way to access their property. Bob Hilger stated that he would like to see Timppte Inc., step up to the plate and hire an engineer to conduct a water study which he believes is necessary in this area.

Jeff Thompson of Timppte Inc. stated that Timppte has a vested interest in future development. The Niemann property, which Timppte has purchased, was engineered and an "open" retention site was properly designed for drainage.

Following much discussion, Council member Hein made a motion to table consideration of Ordinance No. 1082 vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length to Monday, September 29, 2008, at 6:00 p.m. in the City Council Chamber. Council member Yindrick seconded the motion. This will give Timppte Inc. and the McLaughlin Family time to hopefully reach some agreement for an easement so that the McLaughlin Family will have an access road to their property from the east. Voting AYE: Council members Scribner, Smith, Schatz, Lukassen, Yindrick, and Hein. Voting NAY: None. The motion carried.

Council member Schatz introduced Resolution No. 27 - 2008 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Scribner, Hein, Yindrick, Smith, and Schatz. Voting NAY: None. The motion carried and Resolution No. 27 - 2008 was passed and approved as follows:

**RESOLUTION NO. 27 - 2008**  
**RESOLUTION OF NECESSITY**

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

7. The Mayor and Council hereby find and determine that it is necessary and advisable to construct additions and improvements to the City's Storm Water Sewer System consisting of the following:

*Approximately 650 l.f. of 43" x 68" RCP along Hwy 15, approximately 670 l.f. of 54" RCP and 230 l.f. of 58" x 91" RCP along "S" street, approximately 1000 l.f. of storm water sewer system along "S" street to the BNSF railroad, approximately 375 l.f. of 6' x 3' concrete box culvert, and approximately 300 l.f. of storm water sewer system to Co. Rd. M.*

8. The outer boundaries of the said Storm Water Sewer District, referred to as Storm Water Sewer District No. 2008-SW2 shall include certain property located within the corporate limits, or outside but not in excess of 1 mile, of the City of David City, Nebraska, more fully described as follows:

A tract of land located in the S $\frac{1}{2}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:

Beginning at the southwest corner of the SE $\frac{1}{4}$  of said Section 18; thence easterly, 120 feet, on the south line of said SE $\frac{1}{4}$ ; thence northerly, 380 feet, parallel with the west line of said SE $\frac{1}{4}$ ; thence easterly, 239 feet, parallel with the south line of said SE $\frac{1}{4}$ ; thence northerly, 940 feet, more or less, parallel with the west line of said SE $\frac{1}{4}$ , to a point on the north line of SW $\frac{1}{4}$  of said SE $\frac{1}{4}$ ; thence westerly, 370 feet, to the northwest corner of the SW $\frac{1}{4}$  of said SE $\frac{1}{4}$ ; thence northerly, 912.77 feet, on the west line of said SE $\frac{1}{4}$ ; thence westerly, 340.98 feet, parallel with the south line of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 18; thence northerly, 401.35 feet, to a point on the north line of said Section 18, said point being 340 feet west of the northeast corner of said SW $\frac{1}{4}$ ; thence westerly, 979.92 feet, to the northwest corner of the NE $\frac{1}{4}$  of said SW $\frac{1}{4}$ ; thence southerly, 1742.15 feet, on the west line of the E $\frac{1}{2}$  of said SW $\frac{1}{4}$ , to a point on the easterly right-of-way line of the Burlington Northern Railroad; thence southeasterly, 928 feet, on said easterly Railroad right-of-way line, to a point on the south line of the SW $\frac{1}{4}$  of said Section 18, thence easterly, 1000 feet, more or less, on the south line of said SW $\frac{1}{4}$ , to the Point of Beginning.

9. The size, kind and location and terminal points of pipe proposed to be constructed as a part of said additions and improvements is as follows:

*Approximately 650 l.f. of 43" x 68" RCP along Hwy 15, Approximately 670 l.f. of 54" RCP and 230 l.f. of 58" x 91" RCP along "S" street, approximately 1000 l.f. of channel along "S" street to the BNSF railroad, approximately 375 l.f. of 6' x 3' concrete box culvert, and approximately 300 l.f. of channel to Co. Rd. M.*

10. Reference is hereby made to the plans and specifications for said additions and improvements which have been prepared by The Schemmer Associates in coordination with the Upper Big Blue Natural Resources District, Special Engineers of the City, and which, together with said Engineer's estimate of total cost for said additions and improvements have been filed with the City Clerk prior to the proposing of this Resolution.
11. The Engineer's estimate of total cost for the proposed Storm Water Sewer System improvements for said Storm Water Sewer District No. 2008-SW2 is as follows:

TOTAL ESTIMATED PROJECT COST      \$650,000.

12. It is hereby found and determined that the Storm Water Sewer Improvements constitute improvements of general benefit to the City of David City as a whole. Said additions and improvements shall be financed by the issuance of the City's General Obligation Sewer Bonds issued pursuant to Section 17-925, R.R.S. Neb. 1997.

PASSED AND APPROVED this 17<sup>th</sup> day of September, 2008.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

Council member Yindrick made a motion to recess to Monday, September 29, 2008, at 6:00 p.m. to continue consideration of Ordinance No. 1082 vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Scribner, Smith, Schatz, Hein, and Yindrick. Voting NAY: None. The motion carried. At 6:50 p.m. Mayor Trowbridge declared the meeting recessed to Monday, September 29, 2008, at 6:00 p.m.

---

Mayor Dana Trowbridge

---

City Clerk Joan E. Kovar

[Mayor Trowbridge called an emergency meeting for Monday, September 22, 2008 at 5:30 p.m. to consider Ordinance No. 1082 vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length, due to an immediate adverse effect on an existing business. At the close of that meeting Council member Hein made a motion to forego the recessed meeting scheduled for Monday, September 29, 2008, at 6:00 p.m. Council member Yindrick seconded the motion. All of the council members were present, all voted AYE, and the motion carried.]



CERTIFICATION OF MINUTES  
September 10/17, 2008

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of September 10/17, 2008; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

---

Joan E. Kovar, City Clerk