

## CITY COUNCIL PROCEEDINGS

November 14, 2001

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

Present for the meeting were: Mayor Stephen Smith, Council members Ted Lukassen, Gary Kroesing, Gary Smith, Bill Schatz, Mark Kirby and Nick Hein, City Administrator Andrew Brannen, City Attorney Jim Egr, Park/Auditorium Supervisor Bill Buntgen, Police Chief Stephen Sunday, Water/Sewer Supervisor Gene Divis, Electric Supervisor Tim Kovar, and City Clerk Joan E. Kovar.

Also present were: Mr. & Mrs. Curtis Brahmsteadt, John & Christina Carter and children Jaila, Jaeden, and Justin, Mrs. Dorothy Bohaty, Dr. Jack Kaufmann, Lori Kallenbach, Janet Peters, Mary Ann Ziethen, Gary Janicek, and Sherri Nun of the Banner Press.

The minutes of the October 10<sup>th</sup>, 2001 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Smith. Voting YEA: Council members Kroesing, Smith, Kirby, Schatz, Hein, and Lukassen. Voting NAY: None. The motion carried.

Stephen Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions. Mayor Smith received a "Thank You" from Dan & Barb Petrik stating that the Auditorium was clean and looked really nice for their daughters wedding, and they wanted the Mayor and Council to know that the City has a great employee with Bill Buntgen. Mayor Smith also received a letter from someone tracing a relative, J. B. Morgan, who apparently lived in David City. Mayor Smith will give the letter to George Morgan who currently lives in David City.

Dr. Jack Kaufmann stated that the grass planted on the old theater lot, 481 4<sup>th</sup> Street, looks really nice. Kaufmann stated that a Christmas wreath or display of some sort would look really nice on this vacant lot and volunteered to keep debris on the lot picked up. Kaufmann may check into the costs of a Christmas display of some sort.

Mr. & Mrs. Curtis Brahmsteadt were present from West Point to discuss their property at 988 - E Street. They stated that two people had expressed an interest in buying this property, but they have not heard back from them. Mayor Smith stated that the City would work with them, but the property needs to be cleaned up. Mr. Brahmsteadt stated that he gave his phone number to Police Chief Sunday so that if he needs to contact them he can. Brahmsteadt stated he felt they could have the property cleaned up within the next ninety (90) days. Police Chief Sunday will contact them once a week in an effort to continue the clean-up process.

Mrs. Dorothy Bohaty questioned if you could park vehicles on the city parkay. Mayor Smith stated that there is not an ordinance against it. Police Chief Sunday stated that some people do park on the parkay since there is an ordinance against overnight parking on the streets. Mrs.

Bohaty then questioned if vehicles can be parked everywhere on the property . Police Chief Sunday stated that they need to be licensed. Mrs. Bohaty stated that Randy Janak, who resides at the Barb Vogl property at 1070 N 8<sup>th</sup> Street, is parking on the parkay and has unlicensed vehicles. Police Chief Sunday will add this to the agenda for the Board of Health meeting scheduled for December 6, 2001. Mrs. Bohaty then asked if the City had regulations regarding fences. She made reference to a wood fence where the posts are to the neighbors side and the finished side of the fence faces the property owner. Mrs. Bohaty feels that the posts should have to be to the inside. Mayor Smith stated that the City has regulations for the height, type, and placement of a fence but not detailed construction.

Council member Kroesing stated that he was recently selling tickets for the Aquinas High School football play-off at the City Memorial Field. It was so dark that he could not see to make change. Electric Supervisor Tim Kovar stated that he was the employee on call. The street lighting is activated by an electronic eye. Due to daylight savings time it was dark at 6:00 p.m., however, when the football field lights were turned on they gave off such light that the electronic eye shut off the street lights. Kovar stated there was nothing he could do at that moment to alleviate the problem so he did nothing.

Council member Hein stated he had received a call of "Thanks" for the snow fence that the street department erected on the north side of "O" Street between 7<sup>th</sup> and 8<sup>th</sup> Streets. Hein also thanked the street department for cleaning the sidewalk by U.S. Bank of some unspeakable graffiti.

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

Council member Hein made a motion to advance ahead to agenda item #6 - Consideration of the appointment of John Carter as a police officer. Council member Kirby seconded the motion. Voting YEA: Council members Lukassen, Kirby, Schatz, Hein, Smith, and Kroesing. Voting NAY: None. The motion carried.

Police Chief Sunday introduced John Carter, who in turn introduced his wife Christina and their three children: Jaila, Jaeden, and Justin. John Carter has a total of 8 years service; 2 years with the Sheriff's Dept. that cover New Orleans, LA, and 6 years with the Lincoln Police Department. John is Nebraska certified. John has several college degrees, including being a paralegal; is currently attending Doane College and will graduate in May, 2001. John is a personal advisor to Governor Johannes, served in the Marine Corps in a top security intelligence assignment, has written one book on income taxes, and is an ordained minister.

Council member Kirby made a motion to appoint John Carter as a police officer. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. City Attorney Jim Egr administered the official Oath of Office to John Carter as a police officer.

Council member Kirby made a motion to advance ahead to agenda item #8 - 7:30 p.m. Public Hearing to consider the application of TMK Inc., d.b.a. Tia Maria Restaurant, for a Class "C" Liquor License. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Schatz, Hein, Kirby, Smith, and Kroesing. Voting NAY: None. The motion carried.

At 7:33 p.m., Mayor Smith declared the Public Hearing open to consider the application of TMK Inc., d.b.a. Tia Maria Restaurant, for a Class "C" Liquor License. The place of business is the American Legion Club Building, 551 E Street in David City. Lori Kallenbach and Janet Peters were present representing Tia Maria Restaurant. There were no objections expressed, and Mayor Smith declared the Public Hearing closed at 7:34 p.m..

Council member Kirby made a motion to approve the application of TMK Inc., d.b.a. Tia Maria Restaurant, for a Class "C" Liquor License. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

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

Park/Auditorium Supervisor Bill Buntgen reported that construction of the new swimming pool is progressing well; the footings are poured, the weather has been great, and weekly meetings are held with Burbach Associates. Buntgen stated that they are busy cleaning the auditorium following the St. Mary's Harvest Festival, and are currently reinstalling the white posts around the lake in the park. Buntgen has heard many compliments concerning the inside of the Auditorium since it was recently painted and new curtains were installed, but has also received a few complaints concerning the public address system.

Water/Sewer Supervisor Gene Divis had nothing to report. Mayor Stephen Smith reported that City Administrator Brannen, Water/Sewer employee Ron Truksa, and himself recently went to Kearney, Nebraska where Gene Divis was awarded the Water Industry Service Award from the American Water Works Association. Good Job Gene Divis!

Electric Supervisor Tim Kovar began by saying he had nothing to report, but then stated that he was really upset that the street lighting incident, mentioned earlier, had to be brought up at a council meeting. A brief confrontation ensued between Kovar and Council member Kroesing and Kovar left the council meeting.

City Clerk Kovar reported that Tony Smith completed the Keno audit, and the auditors from Scow, Rief, Kruse, & Schumacher are scheduled to be here Monday, November 19<sup>th</sup>, to begin the General audit.

City Administrator Brannen reported that he is preparing a financial statement for last year concerning the park lakes, running track, and the pool project. The actual revenues from the 1% City Sales Tax are currently ahead of the projected revenues.

Police Chief Sunday reported that he had a "gentleman's agreement" with Hank Kobza to store impounded vehicles on Kobza's property located west of Southern XV, 315 So. 4<sup>th</sup> Street. Now, however, Hank Kobza stated that he is going to send a bill for the past year. If a bill is received, Police Chief Sunday advised the Council that he did not budget for such an expenditure. For the time being, Police Chief Sunday will store the impounded vehicles by the sewer lagoons. The City will need to consider a long term solution.

Mayor Smith reported that Library Director Kay Schmid was the recipient of the Excalibur Award, and Librarian Lucy Cooper was the recipient of the Trustees Citation Award for outstanding volunteer work. Both were statewide awards from the Nebraska Library Association. Mayor Smith will send them both letters of congratulations.

Mayor Smith scheduled a Committee of the Whole meeting for Wednesday, November 28, 2001, at 5:30 p.m. in the City Office. Mayor Smith also reminded the Council members of the recognition banquet scheduled for Friday, November 30, 2001.

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

Council member Hein made a motion to advance ahead to agenda item #13 - Consideration of a resolution declaring the property located at 314 N 7<sup>th</sup> Street a public nuisance and directing the clean-up of the Roy Remmer property located at 314 N 7<sup>th</sup> Street in David City, Nebraska. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kirby, Schatz, Hein, Smith, and Kroesing. Voting NAY: None. The motion carried.

Mary Ann Ziethen was present to report that two pick-up loads of trash were removed from the Roy Remmers property at 314 No. 7<sup>th</sup> Street. Police Chief Sunday made the recommendation, due to the tremendous clean-up, that no further action be taken against the Roy Remmers property at 314 No. 7<sup>th</sup> Street. Discussion followed. Council member Hein made a motion to accept the recommendation of Police Chief Sunday that the Roy Remmers property at 314 No. 7<sup>th</sup> Street has been cleaned up sufficiently and no further action needs to be taken. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

**RESOLUTION NO.        - 2001**

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 September 6, 2001, declared the property located at 314 N. 7<sup>th</sup> Street, David City, Butler County, Nebraska, to be in violation of Municipal Code Section No. 4-401 (3), (6), (7), and (9), and a public nuisance.

WHEREAS, at the September 12, 2001 City Council meeting, the Governing Body affirmed the findings of the Board of Health, and further ordered that notice be given to the owner, occupant, lessee, or mortgagee of said property, of the violations.

WHEREAS, the City of David City, held a public hearing at a regularly scheduled City Council meeting on October 10, 2001, regarding the property located at 314 N. 7<sup>th</sup> Street, David City, Butler County, Nebraska.

WHEREAS, the City of David City, having followed the rules and procedures as set out in code #4-402, and having held a public hearing on October 10, 2001, does hereby declare said property, owned by Roy Remmers, 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 the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once. The owner, occupant, lessee, or mortgagee may appeal such decision to the District Court of Butler County, Nebraska.

WHEREAS, the City of David City, by this Resolution, shall proceed to abate the nuisance if the owner, occupant, lessee or mortgagee fails to remedy said public nuisance at once. Upon the completion of the work by the Municipality, a statement of the costs of such work shall be transmitted to the Governing Body (City Council), which is authorized to bill the property owner, occupant, lessee or mortgagee.

THEREFORE, BE IT RESOLVED THAT, the City of David City has declared the property located at 314 N. 7<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, October 11, 2001, unless a notice of appeal is made with the District Court of Butler County, Nebraska.

DATED, this \_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
 (Void - property cleaned up)  
 Mayor

\_\_\_\_\_  
 (Void -property cleaned up)  
 City Clerk

The following bids were received for a loader for the street department:

Company	MakeModel	Operating Weight	Engine	Base Price	Trade In	Warranty	Warranty Ext.	Total Price
Road Builders	Komatsu WA250-3	25,573	6 cylinder	\$95866.	N/A	Full \$1997. 5yr 5000hrs	\$95,866	\$97,863.
Spreitzer	Volvo L700	24,000	6 cylinder	\$96850	12,000	\$3980 5yr 5000hrs	\$84,850	\$88,830
NE Machinery	Caterpillar 924GZ 2002	24,125	6 cylinder	\$94,644	14,000	\$3393 5yr 7500hrs	\$80,644	\$84,037
Murphy	John Deere 444H22,000	4 cylinder	\$88,506	11,581	\$4182	\$76,925 5yr 7000hrs	\$81,107	
Midland Equip	Case 521D21,603	4 cylinder	\$80,900	14,800	\$4246	\$66,100 5yr 5000hrs	\$70,346	

Council member Smith made a motion to accept the bid of NE Machinery for a 6 cylinder Caterpillar loader for the street department in the amount of \$80,644. This will be a 3 year lease purchase with annual payments of \$28,667. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

City Administrator Andrew Brannen reported that a representative of CableVision was not present, however, the religion channel EWTN will now be broadcast on both channel 13 & 38, so that it will be available to those with only the basic cable channels as requested.

Council member Lukassen introduced Resolution No. 30 - 2001 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Lukassen, Kroesing, and Hein. Voting NAY: None. The motion carried and Resolution No. 30 - 2001 was passed and adopted as follows:

**RESOLUTION NO. 30-2001**

WHEREAS, Gary D. Niemann Sr., has filed an application to subdivide his property and sell approximately .67 acres, and,

WHEREAS, Ordinance No. 909, adopted June 25, 2001, Section 803, Administrative Subdivisions 803.01: City Council Authority, states "The City Council is hereby authorized to approve further subdivisions of, and combinations of, existing platted lots, whenever all required improvements have been installed, no new dedication of public rights-of-way or easements are involved and such subdivisions comply with Comprehensive Plan, the Major Street Plan and all applicable zoning regulations."

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Gary D. Niemann Sr., to subdivide his property by selling a tract of land located in the N ½ of the SW ¼ of Section 18, T15N, R3E of the 6<sup>th</sup> P.M. in Butler County, Nebraska, described as follows:

Commencing at the northeast corner of the SW ¼ of Section 18, T15N, R3E of the 6<sup>th</sup> P.M. in Butler County, Nebraska, and assuming the north line of the SW ¼ of said section to have a bearing of N 90°00'00" W; thence N 90°00'00" W and on the north line of the SW ¼ of said section, 41.0 feet, to a point on the west right-of-way line of Highway #15; thence N 90°00'00" W and on the north line of the SW ¼ of said section, 200.00 feet; thence S 00°15'52" W, 145.00 feet; thence S 90°00'00" E and parallel with the north line of the SW ¼ of said section, 200.00 feet, to a point on the west right-of-way line of Highway #15, thence N 00°15'52" E and on the west right-of-way line of Highway #15, 145.00 feet, to the point of beginning, containing 0.67 acre, more or less.

Dated this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein introduced Ordinance No. 915. Council member Lukassen made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Smith seconded the motion. Voting YEA: Council members Smith, Hein, Lukassen, Kirby, Schatz, and Kroesing. Voting NAY: None. The motion carried.

Council member Hein made a motion to pass and adopt Ordinance No. 915 on the third and final reading. Council member Lukassen seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, Smith, Kroesing, and Kirby. Voting NAY: None. The motion carried and Ordinance No. 915 was passed and adopted as follows:

**ORDINANCE NO. 915**

AN ORDINANCE TO AMEND SECTION 8-205.02 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, AS PREVIOUSLY PROVIDED FOR BY THE ORDINANCE FOR SIDEWALKS; WIDTH AND DISTANCE FROM LOT LINE.

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

Section 1. That Chapter 8, Article 2, Section 8-205.02 of the Municipal Code of David City, Nebraska shall read as follows:

§8-205.02 SIDEWALKS; WIDTH AND DISTANCE FROM LOT LINE.

All sidewalks in the residential districts shall be four feet (4') in width. Sidewalks shall be located at a distance of twelve inches (12") outside the lot line, unless otherwise authorized by the Board of Zoning Adjustment. Whenever possible, they shall correspond in width to sidewalks already built to which they are adjacent or adjoin.

Sidewalks in the commercial districts shall be of width as established by the Street Superintendent.

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

Section 3. This ordinance shall take effect and be in full force from and after it's passage, approval, and publication in The Banner Press as required by law.

Passed and approved this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

(SEAL)

City Clerk Joan Kovar

Mayor Smith declared a ten minute recess at 8:20 p.m. The meeting resumed at 8:30 p.m.

Council member Smith made a motion to continue the additional compensation of \$500.00 per month for the next 6 months, retroactive to October (October thru March, 2002) to be paid out of the Contingency Fund, to City Administrator Andrew Brannen for his work on the swimming pool project. Council member Schatz seconded the motion. Voting YEA: Council members Kroesing, Smith, Schatz, Hein, and Lukassen. Voting NAY: None. Council member Kirby abstained. The motion carried.

Council member Lukassen introduced Ordinance No. 916. Council member Hein made a motion to suspend the statutory rule that requires an ordinance be read on three separate days.

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

Council member Lukassen made a motion to pass and adopt Ordinance No. 916 on the third and final reading. Council member Kirby seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, Smith, Kroesing, and Kirby. Voting NAY: None. The motion carried and Ordinance No. 916 was passed and adopted as follows:

**ORDINANCE NO. 916**

AN ORDINANCE PROVIDING FOR THE APPOINTMENT OF ONE ALTERNATE MEMBER TO THE PLANNING COMMISSION WHO SHALL BE CHOSEN BY THE MAYOR WITH THE APPROVAL OF A MAJORITY VOTE OF THE ELECTED MEMBERS OF THE COUNCIL, AND PROVIDE AN EFFECTIVE DATE.

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

Section 1. Section 2-202 of the Municipal Code of David City, Nebraska, is amended to read as follows:

**PLANNING COMMISSION.** The Governing Body shall appoint the Planning Commission, which shall consist of five (5) regular members plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. At least four (4) regular members shall be residents of the Municipality and one (1) regular member and the alternate shall live within the jurisdictional limits of the Municipality. The members of the Commission, including the alternate shall serve a three (3) year term of office unless reappointed. The Commission shall serve without compensation and shall hold no other municipal office except when appointed to serve on the board of adjustment as provided in State Statute 19-908. The Commission may be required, in the discretion of the Governing Body, to give a bond in a sum set by resolution of the Governing Body, and conditioned upon the faithful performance of their duties. At the time of the Commission's first (1<sup>st</sup>) meeting in January of each year, the Commission shall organize by selecting from its membership a Chairman and Vice-Chairman. The City Clerk shall serve as the recording secretary and shall keep an accurate record of all proceedings of meetings and hearings of the commission and shall have these available for public inspection at any reasonable time. The Planning Commission shall be funded by the Governing Body from time to time out of the General Fund. A majority of the membership of the Commission shall constitute a quorum for the purpose of doing business. Special meetings may be called by the Chairman. It shall also be the duty of the Chairman to call such meeting when requested to do so in writing by a majority of the commission members. It shall be the duty of the Commission to make and adopt plans for the physical development of the municipality as well as those areas within the jurisdictional limits of the Municipality. All actions by the Commission shall be subject to the review and supervision of the Governing Body. The Commission shall be responsible for making such reports and performing such other duties as the Governing Body may, from time to time, designate. No member of the Governing Body, or other municipal official, except where otherwise specifically provided, shall serve as a member of the Planning Commission while serving any other term of office. (Ref. 19-926 through 19-933 RS Neb.)

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



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

Passed and approved this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby introduced Resolution No. 31 - 2001 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Lukassen, Kroesing, and Hein. Voting NAY: None. The motion carried and Resolution No. 31 - 2001 was passed and adopted as follows:

**RESOLUTION NO. 31 - 2001**

WHEREAS, the David City ponds restoration project is nearing an end, and

WHEREAS, once the lake work is completed and the lakes are refilled, the Nebraska Game and Parks Commission will restock the lakes with fish, and,

WHEREAS, the Nebraska Game and Parks Commission does not recommend any activity on the lakes until habitat has been established, and,

WHEREAS, any wind, waves, or action upon the water will deteriorate the lakes shore line.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that there will not be any boats, paddle boats, kayaks, or any other type of activity allowed on the park lakes to allow for the fish habitat and the lakes shore line to be established.

Passed and approved this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein introduced Resolution No. 32 - 2001 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Smith, Kroesing, and Hein. Voting NAY: None. The motion carried and Resolution No. 32 - 2001 was passed and adopted as follows:

**RESOLUTION NO. 32 - 2001**

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

Section 1. The Mayor and City Council have heretofore designated the time and place for considering and levying assessments upon the property specially benefitted by the improvements in Street Improvement District No. 2000-1; that in lieu of publishing notice of the time of holding such meeting and the purpose for which it is to be held at least four weeks before the same, did personally serve such notice upon persons owning or occupying property to be assessed; the Mayor and members of the City Council have each personally inspected said improvements and real estate on and adjacent thereto; the Mayor and Council have, at this session, heard all persons who desire to be heard in reference to the valuation of each lot to be assessed and the special benefits or damages thereto and have considered the advice of the engineers in charge of the construction and improvements.

Section 2. The Mayor and City Council further find and determine that the costs of street improvements in Street Improvement District No. 2000 - 1 are:

\$47,296.80

The Mayor and Council further find and determine that no lot or parcel of land in said district has been damaged by the construction of said improvements, and that the amount of benefits specially accruing to each lot and parcel of land in said district by reason of the construction of said improvements at least equals the amount to be assessed against each lot or parcel of the land to pay the cost of said improvements.

Section 3. That the Council has concluded that an 80/20 split with the property owners share at 80% of total costs, which would include all aspects of the project, and the City's cost at 20% of the total costs is a reasonable amount to assess the property owners.

Section 4. There is hereby levied and assessed upon the several lots and parcels of land in said district, 1304 linear ft., special assessments to pay the cost of constructing said improvement in the amount in dollars and cents set out as follows which are made a part hereto:

STREET IMPROVEMENT DISTRICT NO. 2000 - 1

PARCEL DESCRIPTION ASSESSMENT	OWNER	AMOUNT
Lot 1, 100.02' East Park Meadows Addition to the City of David city, Butler, County, Nebraska	Milton & Janet Bemis.....	\$2,902.22
Lot 2, 100.02' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	\$2,902.22
Lot 3, 100.02' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	\$2,902.22
Lot 4, 100.01' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	\$2,901.93
Lot 5, 100.02' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	\$2,902.22
Lot 6, 100.02' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	\$2,902.22
Lot 7, 100.02' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Dean & Pat Hilderbrand .....	\$2,902.22
Lot 8, 100.01' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	\$2,901.93
Multi-purpose land around cul-de-sac, 503.86' East Park Meadows Addition to the City of David City, Butler County, Nebraska	Milton & Janet Bemis.....	<u>\$14,620.26</u>
Total Assessments:.....		\$37,837.44

That the assessment upon each lot and parcel of land is not in excess of benefit thereto specially accruing from the construction of said improvements, and the special assessments have been apportioned among the several lots and parcels of land subject to assessments in proportion to the special benefits accruing to said lots and parcels of and respectively from such improvements.

Section 5. Said special assessments shall be a lien on the property on which they are

levied from the date of passage of this resolution and shall be certified by the City Clerk-Treasurer, to the County Treasurer of this City for collection; the City Clerk-Treasurer shall also at the time provided by law, cause such assessments or the portion thereof then remaining unpaid, to be certified to the County Clerk of the county for entry upon the property tax list; the first said assessments shall be payable to the City Clerk-Treasurer; all ensuing assessments shall be payable to the County Treasurer.

Section 6. Said special assessments above provided for shall become due in sixty (60) days after the statement date of the assessment and may be paid within that time without interest, but if not paid, to bear interest thereafter at the rate of eight per cent (8%) per annum for the improvements in the said district until delinquent; such assessments shall become delinquent in ten equal annual installments with the first falling due 60 days from the statement date and subsequent installments falling due in each year thereafter on the 30<sup>th</sup> day of January until paid in full. Delinquent installments shall bear interest at the rate of fourteen per cent (14%) per annum until paid and shall be collected in the usual manner for the collection of taxes.

BE IT FURTHER RESOLVED that a certified copy of said assessment schedules be filed by the City Clerk-Treasurer with the County Clerk of Butler County, Nebraska, as provided by law.

Passed and adopted this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

City Clerk-Treasurer Joan Kovar

Council member Lukassen introduced Resolution No. 33 - 2001 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Smith, Kroesing, and Hein. Voting NAY: None. The motion carried and Resolution No. 33 - 2001 was passed and adopted as follows:

**RESOLUTION NO. 33 - 2001**

WHEREAS, Gary Janicek, as the owner of the east ½ of Lots 2, 3, and 6, recently purchased Lot 7 and the north ½ of Lot 10, all in Block 35, Original Town of David City, and,

WHEREAS, Gary Janicek would like to subdivide Lot 7 and the north ½ of Lot 10, and

WHEREAS, Gary Janicek has filed a request to:

- 1) Sub-divide Lot 7 and the north ½ of Lot 10 to enable him to sell the west ½ of Lot 7 and the west ½ of the North ½ of Lot 10, Block 35, Original Town of David City, and

- 2) Combine the east ½ of Lots 2, 3, 6, 7, and the east ½ of the North ½ of Lot 10, all in Block 35, Original Town of David City, to form one 225' Lot.

WHEREAS, there were no objections expressed concerning the request of Gary Janicek to subdivide and combine lots.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Gary Janicek to sub-divide Lot 7 and the north ½ of Lot 10 and combining the east ½ of Lots 2, 3, 6, 7, and the east ½ of the North ½ of Lot 10, all in Block 35, Original Town of David City, Butler County, Nebraska, to form one 225' lot, is hereby approved.

Dated this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

City Clerk Joan Kovar

Council member Hein introduced Resolution No. 34 - 2001 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Lukassen, Schatz, Smith, Kroesing, and Hein. Voting NAY: None. The motion carried and Resolution No. 34 - 2001 was passed and adopted as follows:

**RESOLUTION NO. 34 - 2001**

WHEREAS, Victor C. Palik, as the owner of the west ½ of Lots 2, 3, and 6, Block 35, Original Town of David City, recently purchased the west ½ of Lot 7 and the west ½ of the North ½ of Lot 10, Block 35, Original Town of David City, and

WHEREAS, Victor C. Palik has filed a request to combine the west ½ of Lots 2, 3, 6, 7, and the west ½ of the North ½ of Lot 10, Block 35, Original Town of David City, to form one 225' Lot.

WHEREAS, there were no objections expressed concerning the request of Victor C. Palik to subdivide and combine lots.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Victor C. Palik to combine the west ½ of Lots 2, 3, 6, 7, and the west ½ of the North ½ of Lot 10, Block 35, Original Town of David City, Butler County, Nebraska, to form one 225' lot, is hereby approved.

Dated this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

City Clerk Joan Kovar

Council member Kirby made a motion to approve the appointment of David Palomaki to serve an additional 4 year term on the Library Board. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Smith made a motion to approve the appointment of Jeff Yates to serve an additional 4 year term on the Library Board. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kirby introduced Ordinance No. 917. Council member Hein made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Hein, Lukassen, Kirby, Schatz, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 917 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, Smith, Kroesing, and Kirby. Voting NAY: None. The motion carried and Ordinance No. 917 was passed and adopted as follows:

**ORDINANCE NO. 917**

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING ORDINANCE NO. 616, SECTION 416 - INDUSTRIAL DISTRICT, TO ALLOW "AUCTION HOUSE" AS A PERMITTED USE UNDER SECTION 416.2 PERMITTED PRINCIPAL USES AND STRUCTURES, TO REPEAL ALL ORDINANCES IN CONFLICT WITH THIS PROVISION AND PROVIDING FOR AN EFFECTIVE DATE AFTER PASSAGE, APPROVAL AND PUBLICATION AS REQUIRED BY LAW.

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

Section 1. That Ordinance No. 616, Section 416.2 Industrial District - be amended by the addition of the following:

16. Auction House;

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

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

Passed and approved this 14<sup>th</sup> day of November, 2001.

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

Council member Hein made a motion to go into executive session to discuss personnel matters. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. City Clerk Kovar was excused. The Council, Mayor Smith, City Administrator Brannen, and City Attorney Jim Egr went into executive session at 9:01 p.m..

Council member Kirby made a motion to come out of executive session. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council came out of executive session at 9:45 p.m..

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Lukassen, Kroesing, and Hein. Voting NAY: None. The motion carried and Mayor Smith declared the meeting adjourned at 9:46 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar

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November 14, 2001

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 November 14, 2001; 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