

CITY COUNCIL PROCEEDINGS

June 9, 2004

The City Council of the City of David City, Nebraska met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on June 3, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notices to the Public, Mayor and Council members conveyed the availability of the Agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Gary L. Kroesing, Mark Kirby, Gary Smith, Nick Hein, and Bill Schatz, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Police Chief Stephen Sunday, Street Superintendent Jim McDonald, Mike Novotny of Marquis Body Shop, Mary Sohl, Mike Sousek of LPNDRD, Planning Commission member Jackie Horan, Charlotte Worley, Bob Kobza, Jeff Christensen of Northeast NE Economic Development District, Banner Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar. Council member Lukassen was absent.

The meeting opened with the Pledge of Allegiance.

The minutes of the May 12th and June 1st, 2004 meetings of the Mayor and City Council were approved upon a motion by Council member Kroesing and seconded by Council member Hein. Voting YEA: Council members Schatz, Kirby, Smith, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Mayor Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions or communications.

Council member Gary Smith asked if the tornado sirens had battery back-ups so that if the electricity was out the sirens would still work. No one present knew the answer. It was also noted that the siren tones have changed and perhaps the tones should be clarified in the Banner Press

Mayor Smith asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims. Council member Kroesing seconded the motion. The Alltel cellular bill charged to the General Account for \$150.51 was questioned. City Administrator Fiegenschuh stated that was for his phone and he had to pay for two months in advance. All of the Council members present voted YEA. Council member Lukassen was absent. The motion carried.

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

Police Chief Sunday reported that a representative from the Burlington Northern Railroad stated that they are not utilizing their property located west of the following properties: Eldon Coufal's Body and Paint - 220 D Street, the police station - 475 N. 3rd Street, and Larry Plasek's Automotive Services - 511 N 3rd Street,. The representative reported that they would allow the City to use the property as their own as long as the City would mow and maintain the property.

Chief Sunday stated that perhaps the property could be used as an impoundment area for vehicles.

City Administrator Jeff Fiegenschuh reported the following:

- Alltel is going to contact Council member Kroesing to set up a meeting in which to check the tower site. Alltel is currently busy with storm damage;
- Timpte Inc., 1827 Industrial Drive, asked if they could receive a discount on pool passes if they agreed to purchase a minimum of 20 passes. Council member Schatz stated that quantity discounting should be a part of the rate structure. Council member Kroesing stated that this should have been considered prior to setting the pool rates for the season. The Council stated that if you didn't work at Timpte you would be out of luck; so what if other larger businesses or organizations also wanted discounted rates; where do you "stop"? Timpte will be advised that the rates have already been set for the 2004 swimming season, and perhaps they could petition the Council next spring before the rates are set.

Council member Kirby stated that the swimming pool in Columbus is not in operation so the Columbus YMCA is doing a lot of advertising. It was decided that an ad for the David City Aquatic Center should be placed in the Columbus Telegram. Fiegenschuh stated that Time Warner had previously offered free advertising as part of our grant match, so he will pursue that also.

City Attorney Jim Egr reported that he notified Randy Janak that there will be a Butler County Scrap Tire Collection at the Butler County Fairgrounds on Thursday, June 10th thru Saturday, June 12th from 8a.m. - 5p.m.. Egr stated that this gives Janak an opportunity to get rid of his tires. When it is time for the July hearing concerning the Randy Janak property, Egr will ask the court to pursue this matter if Janak doesn't utilize this opportunity.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, June 28, 2004, at 6:00 p.m. in the City Office meeting room.

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

Council member Hein made a motion to approve the request of the Chamber of Commerce for a public fireworks display in the City Park, in conjunction with the July Jam celebration scheduled for July 10, 2004, contingent upon proof of insurance. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Smith, Schatz, Kroesing, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to approve the application of Scott T. Samek for a Fireworks Permit. Samek will sell permissible fireworks on the Amigo's parking lot, 209 So. 4th Street, David City, Nebraska. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Schatz, Hein, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Mayor Smith opened the Public Hearing at 7:30 p.m to discuss David City's Community Development Block Grant application for Street Improvements. City Administrator Jeff

Fiegenschuh explained that the City is eligible to apply for \$325,000 of Community Development Block Grant funds for a street improvement project, in which the grant will pay for the assessments and there will be no charge to the property owners. Street Superintendent McDonald reported that the street improvement project includes: 6th Street from "C" to Kansas; Ohio Street from 6th to 8th; Nebraska Street from 4th to 7th, 3rd Street from "A" to Iowa Street, and the Trailer Court. There being no further comments, Mayor Smith declared the Public Hearing closed at 7:33 p.m..

Council member Kroesing made a motion to pass and adopt Resolution No. 15 - 2004. Council member Smith seconded the motion. Voting YEA: Council members Hein, Kirby, Schatz, Smith, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 15 - 2004 was passed and adopted as follows:

RESOLUTION NO. 15 - 2004

WHEREAS, the City of David City, Nebraska, is an eligible unit of general local government authorized to file an application under the Housing and Community Development Act of 1974 as amended for Small Cities Community Development Block Grant Program, and,

WHEREAS, the City of David City, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application for an amount of \$325,000 for a street improvement project; and,

NOW, THEREFORE, BE IT RESOLVED BY the City Council of David City, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or memoranda between David City, Nebraska and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Passed and approved this 9th day of June, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

City Attorney Egr stated that he, Water/Sewer Supervisor Jim Kruse, Mike Sousek of LPNNRD, City Administrator Fiegenschuh, and the Village of Bruno had all reviewed the first addendum to the interlocal agreement for water supply service from David City, Nebraska, to Bruno, Nebraska. This is the 3rd draft of the first addendum. Some changes were USDA requirements, some were implemented due to a potential cost increase due to the route change.

Council member Smith made a motion to approve the First Addendum to the Interlocal Agreement for Water Supply Service from David City, Nebraska, to Bruno, Nebraska. Council

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

**FIRST ADDENDUM TO
INTERLOCAL AGREEMENT FOR
WATER SUPPLY SERVICE FROM DAVID CITY, NEBRASKA
TO BRUNO, NEBRASKA**

This First Addendum to Interlocal Agreement For Water Supply Service from David City, Nebraska to Bruno, Nebraska hereinafter referenced as "ADDENDUM I", is made and entered into between the VILLAGE OF BRUNO, NEBRASKA, a Nebraska Municipal Corporation, hereinafter referenced as "BRUNO"; the CITY OF DAVID CITY, NEBRASKA, a Nebraska Municipal Corporation, hereinafter referenced as "DAVID CITY"; and the LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT, a Nebraska Natural Resource District and political subdivision of the State of Nebraska, hereinafter referenced as "LPNNRD".

WHEREAS, BRUNO, DAVID CITY, and LPNNRD entered into an Interlocal Agreement For Water Supply Service from David City, Nebraska to Bruno, Nebraska executed by BRUNO, March 8, 2004, executed by DAVID CITY August 18, 2003, and executed by LPNNRD August 14, 2003 with said Interlocal Agreement hereinafter being referenced as "AGREEMENT", with all its terminology references being incorporated herein; and,

WHEREAS, BRUNO has requested LPNNRD to purchase the WATER LINE after completion of the project involved in the AGREEMENT; and,

WHEREAS, DAVID CITY owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of DAVID CITY; capable of serving the present water users of BRUNO; and capable of serving an estimated number of water users along the WATER LINE outside of the one (1) mile zoning authority of BRUNO and of DAVID CITY, said estimated number NOT to exceed THREE HUNDRED FIFTY SEVEN (357) in number; and,

WHEREAS, LPNNRD has expressed a desire and willingness to purchase the WATER LINE upon the condition that DAVID CITY allows for aforesaid estimated water connections so that LPNNRD can offset its purchase of the WATER LINE.

NOW, THEREFORE, IN CONSIDERATION OF THE TERMS AND CONDITIONS STATED HEREIN which the parties hereto agree to be valuable consideration, the parties hereto agree to the following amendments, changes, and addendums to the AGREEMENT, to-wit:

1. Paragraph II of the AGREEMENT will have LPNNRD substitute for the BRUNO references. Further, LPNNRD will put BRUNO in the same "customer status" it will have with DAVID CITY in said Paragraph II of the AGREEMENT.2. All terms and conditions in Paragraph III of the AGREEMENT associated with BRUNO will apply in the same manner to and for LPNNRD as if LPNNRD was specifically listed. The terms and conditions in Paragraph III of the AGREEMENT will remain for BRUNO.3. All terms and conditions in Paragraph IV of the AGREEMENT associated with BRUNO will apply in the same manner to and for LPNNRD as if LPNNRD was specifically listed, EXCEPT, the "MASTER METER LOCATION" will be located at or near DAVID CITY'S one (1) mile jurisdiction as set by DAVID

CITY. The terms and conditions in
for BRUNO, EXCEPT LPNNRD will be
a "Master Meter Location" to be

Paragraph IV of the AGREEMENT will remain
billing BRUNO instead of DAVID CITY at or near
determined by LPNNRD and BRUNO.4.

Paragraph V of the AGREEMENT is amended to read as follows:

V

WATER MAIN AND WATER LINE

In order to provide the water supply to LPNNRD by DAVID CITY, the parties agree
to the following:

- (a) BRUNO will construct the line from DAVID CITY'S water tower, wherever located, to a route that has been determined ideal for all parties involved to a point that will be at or near DAVID CITY'S one (1) mile jurisdiction. This line will be hereinafter referenced as the "Water Main". All costs will be that of BRUNO, including but not limited to construction, easements, engineering, and lawyer fees. LPNNRD will maintain, repair, and upkeep the "Water Main" after construction is complete and ownership of the "Water Main" has been transferred to LPNNRD. DAVID CITY will have NO liability for the same.
- (b) BRUNO will construct the line from DAVID CITY'S one (1) mile jurisdiction to connect to BRUNO. This line will be hereinafter referenced as the "Water Line". All cost will be that of BRUNO, including but not limited to construction, easements, engineering, and lawyer fees. LPNNRD will maintain, repair, and upkeep the "Water Line" after construction is completed and ownership of the "Water Line" has been transferred to LPNNRD. DAVID CITY will have NO liability for the same.
- (c) LPNNRD will construct, maintain, repair, and upkeep the "Tap Ons" to the "Water Line". All costs for the same will be that of LPNNRD, including construction. DAVID CITY will have NO liability for the same.
- (d) DAVID CITY will construct, maintain, repair, and upkeep the "Tap Ons" to the "Water Main". All cost for the same will be that of DAVID CITY, including construction. LPNNRD will have NO liability for the same.
- (e) BRUNO shall relinquish full rights of ownership of the "Water Main" and "Water Line" to LPNNRD for BRUNO'S actual cost after construction is complete for no more than \$164,000. Further, LPNNRD will pay any extra costs associated with the change of route less any grants all as per the letter of LPNNRD dated April 27, 2004 attached hereto, marked Exhibit "A", and incorporated herein by reference as if fully set forth. However, LPNNRD will extend to DAVID CITY the EXCLUSIVE RIGHT TO PURCHASE the "Water Main" assets. The costs of purchase by DAVID CITY will be the actual cost of the "Water Main" part of the project contemplated in the AGREEMENT and this ADDENDUM I, which includes but is not necessarily limited to construction costs, right-of-way acquisition costs, engineering costs, interest, and such documented related costs, LESS the proportionate share of all grants, subsidies and monies paid on behalf of the project contemplated herein related to the "Water Main" part of the project herein.
- (f) DAVID CITY shall be paid an "allocated capital contribution" by BRUNO within one (1) year after completion of this project covered by this AGREEMENT. The agreed "allocated capital contribution" will be the sum of SIXTY-FIVE THOUSAND DOLLARS (\$65,000.00) and shall be paid with interest accrued at the current U.S.D.A. Rural Development loan rate.

5. Paragraph VI of the AGREEMENT is amended to read as follows:

VI

TAP ONS/HOOK UPS

The parties hereto

anticipate so-called "Tap Ons/Hook Ups" which shall be referenced herein as "Tap On Units". The following are terms and conditions agreed to by the parties hereto related to "Tap On Units", to-wit: (a) "Tap On Units" matters will be those involving the "Water Line" after the "Master Meter Location". There will be the possibility to have a total of FOUR HUNDRED FIFTY-SEVEN (457) "Tap On Unit" certificates. ONE HUNDRED (100) of these will go to BRUNO and LPNNRD will be responsible for the remaining THREE HUNDRED FIFTY-SEVEN (357) "Tap On Units".

(b) There is hereby created a "Tap Ons Committee", hereinafter referenced as "Committee" to address Tap Ons. The Committee will consist of the Mayor of DAVID CITY or the Mayor's designee, the City Administrator 6 DAVID CITY, the Water Department Head of DAVID CITY, and three (3) members appointed by LPNNRD. These three (3) members can be but are not limited to LPNNRD Board Members, LPNNRD Staff, and

residents living within the project area. The Committee shall choose its Chairperson, Vice-Chairperson, and Secretary from among its members.

(c) To protect the integrity of the "Water Line", Tap Ons must be approved by b Committee. Any Tap On will only be approved at designated valved "Water Line" cross or tee fittings. (d) The Committee will be responsible for approving Tap Ons. The Committee will also be responsible for determining how many "Tap On Units" will be used for different connections such as domestic, commercial, agricultural. (e) The Committee will determine periodically the charges to Tap Ons for the following:

I. Tap Reservation Fee, which will go 100% to LPNNRD. II. Once said loan for investment has been paid off, DAVID CITY and the LPNNRD Water Entity Board, hereinafter referenced, will split the tap fee 50% to LPNNRD and 50% to DAVID CITY.

- (f) The Committee will set any individual user capacity limits both in pressure and quantity of water.
- (g) The Tap Reservation Fee shall limit access to the "Water Line" water service for five (5) years from the date of payment of said fee. Cost of service from the Tap to the users shall be borne by the user.
- (h) The Committee must approve any user's resale of water for the "Water Line". The Committee shall determine if such resale is permitted and determine the same based upon the type of use, quantity to be used, and pressure demands, but the Committee is not necessarily limited to such considerations. The purpose herein is to assure the integrity, quality, and quantity of the water supply in the "Water Line" and "Water Main".
- (i) Any Tap Ons MUST install, maintain, and operate backflow prevention devices and comply with the Uniform Plumbing Code.
- (j) The fees and rates aforesaid to be charged Tap Ons after the "Master Meter" will be determined by LPNNRD.

6. The Agreement will have added the following:

XI

WATER ENTITY BOARD

The LPNNRD Board will be forming a Water Entity Board to run and manage the "Water Line" between DAVID CITY and BRUNO under the following terms and conditions:

- (a) This Water Entity Board will consist of five (5) members, four (4) being

- appointed by the elected officials of the LPNNRD Board and one (1) being appointed by the Mayor of DAVID CITY.
- (b) The Water Entity Board will set water rates for rural customers; these rates include cost of water plus operation and maintenance cost and transmission lost cost.
 - (c) It will be the responsibility of the Water Entity Board to pay all bills that the Water Entity Board incurs.
 - (d) It will be the responsibility of the Water Entity Board to set an annual budget.
 - (e) It will be the responsibility of the Water Entity Board to hire or contract with any party to work or perform maintenance on the "Water Line".
 - (f) It will be the responsibility of the Water Entity Board to insure the overall stability and welfare of the system.
 - (g) It will be the responsibility of the Water Entity Board to review the Tap Ons Committee's recommendations.
 - (h) It will be the responsibility of the Water Entity Board to develop the rules and regulations of the newly formed Water Entity Board.

XII

REGULATORY AGENCIES

This Agreement is subject to such rules, regulations or laws as may be applicable to similar agreements in this State. DAVID CITY and LPNNRD will collaborate in obtaining such permits, certificates, or other instruments as may be required to comply therewith.

XIII

FINANCING

The construction of the water supply distribution system by BRUNO and/or LPNNRD is being financed by a loan made or insured by, and a grant from, the United States of America, acting through the Rural Development of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of BRUNO and LPNNRD are conditioned upon approval, in writing, of the State Director of the U.S.D.A. Rural Development.

XIV

ASSIGNMENT

This Agreement May be assigned by BRUNO and/or LPNNRD to the United States of America or any agent thereof as collateral security for any loans made or to be made to BRUNO and/or LPNNRD in financing the construction, extension or repair and maintenance of the water supply of BRUNO and/or LPNNRD. Except as above stated, this Agreement shall not be sublet or assigned by either of the parties hereto without the express written consent of the other party.

XV

SUCCESSORS

In the event of any occurrence rendering DAVID CITY, BRUNO, or LPNNRD incapable of performing under this Agreement, any successor of the said parties, whether the result of legal process, assignment, or otherwise, shall be bound to each and every term, covenant and condition of this Agreement during the term thereof and shall assume all rights and liabilities of parties hereunder.

XVI

DEFAULT

Time is of the essence of this Agreement. If BRUNO and/or LPNNRD fail to pay any amounts due under the terms of this Agreement for a period exceeding Sixty (60) days, or if BRUNO and/or LPNNRD fail to perform any of the other terms, covenants, and conditions of this Agreement, or if BRUNO and/or LPNNRD abandon the project, DAVID CITY shall have the right, after giving Fifteen (15) days advance written notice to the Treasurer of BRUNO and/or LPNNRD, Water Entity Board herein, and to U.S.D.A. Rural Development with its principal office located at 100 Centennial Mall North, Room 308, Federal Building, Lincoln, Lancaster County, Nebraska, and said defect remaining, to discontinue and to declare this Agreement terminated.

In addition thereto, DAVID CITY shall have the right to take such intermediate steps without complete discontinuance or termination of this Agreement, including but not limited to the right of discontinuing the furnishing of water service, so long as any part of the amount due remains unpaid. Such a discontinuance of water service shall not relieve BRUNO and/or LPNNRD of liability for any minimum charge during the time water service is so discontinued.

The rights given hereto herein to DAVID CITY shall be cumulative and in addition to all other remedies available to DAVID CITY, either at law or in equity, and as otherwise provided in this Agreement, for the breach of any other provisions of this Agreement.

XVII

SPECIAL AGREEMENT - METER TEST

Either party at any time may request a meter test. Said meter test shall be conducted by DAVID CITY or its agent or engineer. In the event a test is requested by DAVID CITY, BRUNO and/or LPNNRD shall be notified in advance of the date and time of the test and may have a representative present at such test. In the event BRUNO and/or LPNNRD demands a meter test and said meter, after testing, shows to be accurate within TWO PER CENT (2%) BRUNO and/or LPNNRD shall bear the cost of such test. If meter inaccuracy exceeds TWO PER CENT (2%) to the detriment of BRUNO and/or LPNNRD, then DAVID CITY shall bear the costs of such test.

XVIII

GOVERNING LAW

The situs of the Agreement shall be the State of Nebraska, and this agreement shall be interpreted and enforced in accordance with the laws of such state.

XIX

NO PARTNERSHIP

It is hereby acknowledged that there is no partnership between DAVID CITY, BRUNO,

and/or LPNDRD, which would extend DAVID CITY'S liability to any claim of damage from BRUNO and/or LPNDRD or one of it's rural water users.

7. All terms and conditions of the AGREEMENT not otherwise amended by this ADDENDUM I shall remain in full force and effect.
8. This ADDENDUM I shall be binding upon the heirs, successors, assigns, and personal representatives of the parties hereto.
9. This ADDENDUM I shall become effective upon execution by all parties hereto.

BRUNO:	DAVID CITY:	LPNDRD:
By: _____ Chairman of the Village Board of Trustees	By: _____ Mayor of the City	By: _____ Chairperson of the Board
By: _____ Village Clerk	By: _____ City Clerk	By: _____ General Manager
(Seal)	(Seal)	(Seal)

State of Nebraska)) ss. County of Butler)

The foregoing instrument was acknowledged before me on _____, 2004 by _____, Chairman of the Village Board of Trustees and _____, Village Clerk of Bruno, Nebraska a Nebraska Municipal Corporation, on behalf of the Village.

Notary Public

State of Nebraska)) ss. County of Butler)

The foregoing instrument was acknowledged before me on _____, 2004 by _____, Mayor, and _____, City Clerk, of the City of David City, Nebraska, a Nebraska Municipal Corporation, on behalf of the City.

Notary Public

State of Nebraska)) ss. County of Butler)

The foregoing instrument was acknowledged before me on _____, 2004

by _____, Chairperson of the Board, and _____,
as General Manager of the Lower Platte North Natural Resources District, a Nebraska Natural
Resources District and political subdivision on behalf of the NRD.

Notary Public

This Addendum I is approved on behalf of the U.S.D.A. Rural Development on this the
_____ day of _____, 2004.

By:

Title:

EXHIBIT "A"

LOWER PLATTE NORTH
NATURAL RESOURCES DISTRICT
511 Commercial Park Road
P.O. Box 126
Wahoo, NE 68066

Tuesday, April 27, 2004

Dear Mayor Bill Voboril and Bruno Village Board;

This letter is in regards to our meeting and discussion on April 26, 2004 regarding the route of the David City/Bruno waterline. It is our recommendation that the route should head east out of David City on the 35 ½ County Road for two and a half (2.5) miles and then turn north for ½ mile and then follow the recommendation of the engineers (3.5 miles east, 1 mile north, 2 miles east to connect to Bruno). The Lower Platte North NRD (LPNNRD) realizes that this route will be adding an additional ½ mile to the engineers recommendation and will thus increase the cost of the project. The LPNNRD will be willing to pay the cost of adding that additional ½ mile minus any grants.

If you have any questions please call our office at (402) 443-4675.

Regards,

Mike Sousek
Specialist

John Miyoshi
Water Resource
General Manager LPNNRD

Council member Hein made a motion to pass Ordinance No. 971 on the second reading only. Council member Schatz seconded the motion. It was noted that none of the council members had heard any negative feedback. Council member Hein stated that he heard that it was about time the Council did this. Voting YEA: Council members Smith, Kroesing, Kirby, Schatz, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 971 was passed on the second reading as follows:

ORDINANCE NO. 971

AN ORDINANCE RELATING TO MUNICIPAL PROPERTY; PROVIDING FOR STREET CONSTRUCTION ASSESSMENTS, CURB AND GUTTER; REPEALING CONFLICTING ORDINANCES AND SECTIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Chapter 8 - Public Ways and Property, Article 3 - Streets, Section 8-316 of the Municipal Code of David City, Nebraska, is adopted to read as follows:

§8-316 STREETS; CONSTRUCTION ASSESSMENT; ALL NEW SUBDIVISIONS & HOUSING DEVELOPMENTS LOCATED WITHIN THE CITY'S CORPORATE LIMITS AND WITHIN THE CITY'S ZONING JURISDICTION.

- (A) To defray the costs and expenses of street improvements, as may be authorized by law, the Governing Body shall have the power and authority to require that all developers petitioning the municipality for street construction shall pay the following expenses:
- Street Construction: The developer(s) is responsible for eighty percent (80%) of all costs associated with the development of new streets within, leading to, or connecting the subdivision(s).
 - Curb and Gutter: The developer(s) is responsible for eighty percent (80%) of all costs associated with the installation of new curb; curb and gutter.
 - Intersections: The developer(s) is responsible for eighty percent (80%) of all costs associated with installation of intersections within the subdivision or housing development.
 - Engineering Fees: The developer(s) is responsible for eighty percent (80%) of all costs associated with the services provided by the selected engineer.
- (B) Before final plat approval is granted by the Governing Body, the developer(s) shall have completed and paid, their full share of the project costs.
- (C) The arrangement, character, extent, width, grade, and location of all streets within all subdivisions and housing developments shall conform to the standards of the Comprehensive Plan of current adoption and Zoning Ordinances of the City. All required improvements and installations shall be constructed or installed to conform to the provisions of this Ordinance and the standard specifications of the City.
- (D) All developers wishing to locate new subdivisions, or who have existing subdivisions and housing developments, located within the city limits and within the city's zoning jurisdiction are required to obtain and use an engineer that is selected by the municipality through a competitive bidding process.

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

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

Passed and approved this ____ day of _____, 2004.

(Seal)

Passed on 2nd reading only 6/9/04
Mayor Stephen Smith

Passed on 2nd reading only 6/9/04
City Clerk Joan E. Kovar

Council member Smith reported that at the June 1, 2004 special council meeting, when a motion was made to suspend the statutory rule that requires an ordinance be read on three separate days, he voted "No" as he had some unanswered questions regarding Ordinance No. 972. Smith stated that those questions have been answered.

Therefore, Council member Smith 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 Hein, Kirby, Kroesing, Schatz, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Hein made a motion to pass and adopt Ordinance No. 972 on the third and final reading. Council member Schatz seconded the motion. Voting YEA: Council members Smith, Kroesing, Kirby, Schatz, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 972 was passed as follows:

ORDINANCE NO. 972

AN ORDINANCE TO AMEND ARTICLE 3, SECTION 303 - DEFINITIONS, OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, NEBRASKA, TO CHANGE THE DEFINITION FOR SERVICE STATIONS, ADD DEFINITIONS FOR AUTOMOBILE REPAIR SERVICES, MOTOR VEHICLE BODY SHOPS, AND TRUCK STOPS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Article 3, Section 303 - Definitions - of the Municipal Code of David City, Nebraska shall be amended by the addition of the following:

- 303.07A Automobile Repair Services:
The use of a site for the repair of automobiles, buses, trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, tire sales and installation, wheel and brake shops, and similar repair and service activities, but excludes permanent dismantling or salvage.
- 303.77A Motor Vehicle Body Shop:
Any building, or portion thereof, used for the repair or straightening of a motor vehicle body or frame or painting of motor vehicles. Maintenance, service, and engine repair may be performed as an ancillary function of the body work.
- 303-110A Truck Stop:
A facility intended to provide services to the motoring public including the following activities: dispensing of fuel and other fuel delivery services, repair shops, automated washes, restaurants, motels, and overnight parking; all as part of the facility.

Section 2. That Article 3, Section 303 - Definitions - of the Municipal Code of David City, Nebraska shall be amended by the replacement of the following:

- 303.90 Service Station:
Any commercial building or structure, premises, or other place used to supply motor fuels, (including alternative fuels such as natural gas, or hydrogen) lubricants, tires, batteries, and other small accessories to motor vehicles. Motor vehicle maintenance is permitted in conjunction with a service station.

Section 3. 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 4. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 9th day of June, 2004.

Mayor Stephen Smith

City Clerk Joan Kovar

Council member Hein introduced Resolution No. 16 - 2004 and moved for its passage and adoption. Council member Schatz seconded the motion. Voting YEA: Council members Kirby, Smith, Kroesing, Schatz, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 16 - 2004 was passed and adopted as follows:

RESOLUTION NO. 16 - 2004

WHEREAS, Chapter 3, Article 2, Section 3-209 of the Municipal Code of the City of David City, Nebraska, provides the Mayor and City Council may establish by resolution the tap fees to be charged for the connection of a private sanitary sewer line to a City sanitary sewer main, and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the following tap fee schedule be and is hereby established:

For each tap to connect a private sanitary sewer line
to a City sanitary sewer main, the tap fee shall be\$775.00

Dated this 9th day of June, 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein introduced Resolution No. 17 - 2004 and moved for its passage and adoption. Council member Schatz seconded the motion. Voting YEA: Council members Kirby, Smith, Kroesing, Schatz, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 17 - 2004 was passed and adopted as follows:

RESOLUTION NO. 17 - 2004

WHEREAS, Chapter 3, Article 1, Section 3-105 of the Municipal Code of the City of David City, Nebraska provides the Mayor and City Council may establish by resolution the tap fees to be charged for the connection of a private water line to a City water main.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the following schedule of tap fees be and is hereby established:

For each tap to connect a private water line to a City water main the tap fee shall be:

- On a 2" line - - - - - \$775.00 plus the cost of a 2" curb valve
- On a 1" line - - - - - \$775.00
- On a ¾" line - - - - - \$775.00

BE IT FURTHER RESOLVED that the City will furnish a " x ¾" water meter and meter

couplings, or, when a larger meter is required, the City will credit the price of a " x $\frac{3}{4}$ " water meter and meter coupling toward the cost of a larger meter with the customer paying the balance of the cost.

Dated this 9th day of June , 2004.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Amending the land use plan in consideration of the request of Duane and Jeannette Zegers to re-zone their property located in part of the SW 1/4 of Section 30, Township 15, Range 3 East, containing 128.80 acres more or less, from Mobile Home Residential to Highway Commercial was discussed. Charlotte Worley was present and stated one business (Dollar General) is currently interested in approximately 1 acre. Charlotte visited with the highway department and said there would be no problem using an access road. Drainage would be to the west towards the Burlington Railroad and ditches. Permission would be needed from the Zegers' to run the drainage across their property. A buffer zone would be required. Bob Kobza stated that David City doesn't have many places conducive for a business of this type. The City needs an area for larger businesses to locate here.

Council member Kirby made a motion to table consideration of the Planning Commission's recommendation that the Land Use Plan remain as is to the July 14th council meeting. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith, Kroesing, Hein, and Kirby. Voting Nay: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to table consideration of the recommendation of the Planning Commission, that regarding the request of Duane and Jeannette Zegers to re-zone their property located in part of the SW 1/4 of Section 30, Township 15, Range 3 East, containing 128.80 acres more or less, from Mobile Home Residential to Highway Commercial, the property remain zoned as Mobile Home Residential, to the July 14th council meeting. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Mayor Smith declared a ten minute recess at 8:25 p.m. The meeting resumed at 8:35 p.m..

Council member Kirby made a motion to allow a 3% Cost of Living Adjustment for city employee's for fiscal year 2004 - 2005. Council member Kroesing seconded the motion. This is for full-time employees only. Voting YEA: Council members Smith, Hein, Schatz, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to advance to agenda item #20- Consideration of the request of Phantom Fireworks for a fireworks permit in the 500 block on the east side of 4th Street just south of Agency One Insurance, 594 No. 4th Street. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to approve the request of Phantom Fireworks for a fireworks permit in the 500 Block on the east side of 4th Street. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Hein, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to advance to agenda item #21- Consideration of an Ordinance amending Chapter 5 of the Municipal Code Book of the City of David City, Nebraska. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Hein, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kroesing introduced Ordinance No. 973. Council member Kirby made a motion to pass Ordinance No. 973 on the first reading only. Council member Schatz seconded the motion. Council members Schatz and Kirby stated some citizens have questioned why the City does not allow parking on the streets between the hours of 1:00 a.m. and 7:00 a.m., especially during the summer months. Voting YEA: Council members Smith, Hein, Kroesing, Kirby, and Schatz. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 973 was passed on first reading as follows:

ORDINANCE NO.

973

AN ORDINANCE AMENDING CHAPTER 5: TRAFFIC REGULATIONS OF THE DAVID CITY MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. Chapter 5: Traffic Regulations of the David City Municipal Code Book be amended to read as follows:

Chapter 5
TRAFFIC REGULATIONS

Article 1. Definitions

§5-101 **DEFINITIONS.** The words and phrases used in this Chapter, pertaining to motor vehicles and traffic regulations, shall be construed as defined in Chapter 60, Article 6 of the Revised Statutes of Nebraska, 1943, as now existing or hereafter amended. If not defined in the designated statutes, the word or phrase shall have its common meaning. (*Ref. 60-606 through 60-676 RS Neb.*)

BUSINESS DISTRICT. The term "business district" shall mean the territory included within a boundary line running East from the point of intersection of the medial lines of

Third Street and C Street to the point of intersection of the medial lines of Sixth Street and C Street, then North to the Union Pacific boundary limits, then West to the medial line of Third Street, then South to the point of beginning.

(Amended by Ord. No. 851, 4/8/98)

Article 2. Municipal Traffic Regulations

- §5-201** **TRUCK ROUTES**. The Governing Body may, by resolution, designate certain streets in the Municipality that trucks shall travel upon, and it shall be unlawful for persons operating such trucks to travel on other streets than those designated for trucks, unless to pick up or deliver goods, wares, or merchandise, and in that event, the operator of such truck shall return to such truck routes as soon as possible in traveling through, or about the Municipality. The Governing Body shall cause notices to be posted, or shall erect signs indicating the streets so designated as truck routes. *(Ref. 39-6, 189 RS Neb.)*
- §5-202** **ONE-WAY TRAFFIC**. The Governing Body may, by resolution, provide for one-way travel in any street, or alley located in the Municipality and shall provide for appropriate signs and markings when said streets have been so designated by resolution. *(Ref. 39-697 RS Neb.)*
- §5-203** **TRAFFIC LANE; DESIGNATION**. The Governing Body may, by resolution, mark lanes for traffic on street pavements at such places as it may deem advisable. *(Ref. 39-697 RS Neb.)*
- §5-204** **TURNING; "U" TURNS**. No vehicle shall be turned so as to proceed in the opposite direction, except at a street intersection. U-turns shall be prohibited on Fourth Street from the north city limits to the south city limits and on "D" Street from Third Street to Fifth Street. No vehicle shall be turned so as to proceed in the opposite direction at any intersection where an automatic signal is in operation, or where a sign is posted indicating that U-turns are prohibited. *(Ref. 39-651, 39-697 RS Neb.) Amended by Ord. No. 741, 3/13/91)*
- §5-205** **TURNING; GENERALLY**. Vehicles turning to the right into an intersecting street shall approach such intersection in the lane of traffic nearest to the right hand side of the highway and must turn the corner as near the right hand curb as possible to keep between the curb to the right and the center of the intersection of the two (2) streets. The driver of a vehicle intending to turn to the left shall approach such center line of the highway, and in turning shall pass as near as possible to the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. For the purposes of this Section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another. *(Ref. 39-650 RS Neb.)*
- §5-206** **RIGHT-OF-WAY; GENERALLY**. When two (2) vehicles approach, or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right when the paths of such vehicles intersect and there is danger of a collision, unless otherwise directed by a Municipal Policeman stationed at the intersection. The driver of a vehicle intending to turn to the left within an intersection, or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so

close thereto as to constitute an immediate hazard. The driver of a vehicle on any street shall yield the right-of-way to a pedestrian crossing such street within any clearly marked crosswalk, or at any regular pedestrian crossing at the end of a block where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a street at any point other than a pedestrian crossing, crosswalk, or intersection shall yield the right-of-way to vehicles upon the street. The driver of a vehicle entering a Municipal street from a private road, or drive shall yield the right-of-way to all vehicles approaching on such streets. The driver of a vehicle upon a street shall yield the right-of-way to authorized emergency vehicles when the latter are operated upon official business and the drivers thereof make proper use of visual or audible signals. (Ref. 39-635 thru 39-643 RS Neb.)

§5-207 **RIGHT-OF-WAY; OVERTAKING VEHICLES.** The driver of a vehicle about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle. (Ref. 39-622 RS Neb.)

§5-208 **RIGHT-OF-WAY; SLOW MOVING VEHICLES.** Vehicles moving slowly shall keep as close as possible to the curb on the right, allowing more swiftly moving vehicles free passage to their left. Vehicles in motion shall be kept between the curb at the right and the center of the street. (Ref. 39-622, 39-697 RS Neb.)

§5-209 **RIGHT-OF-WAY; EMERGENCY VEHICLES.** Upon the approach of any authorized emergency vehicle, every vehicle within one (1) block of the route of such emergency vehicle shall immediately stop, except at the time they are on or crossing a street intersection, in which event, such vehicle shall drive clear of the street intersection and then stop. Every vehicle along the route of such emergency vehicle shall immediately move to a position as near the right hand curb as possible and remain there until such authorized emergency vehicle or vehicles have passed; Provided, said vehicles are operated on official business and the drivers thereof make use of proper visual or audible signals. (Ref. 39-640 RS Neb.)

§5-210 **POSITION OF VEHICLE ON HIGHWAY; GENERALLY.** Upon all highways of sufficient width, one-way streets excepted, the driver of a vehicle shall drive the same on the right half of the roadway. In passing or meeting other vehicles, drivers shall give each other at least one half (1/2) of the main traveled portion of the roadway. (Ref. 39-620 RS Neb.)

§5-211 **POSITION OF VEHICLE ON HIGHWAY; PASSING.** A vehicle shall not be driven to the left of the center line of the highway in overtaking or passing another vehicle proceeding in the same direction, unless such left side is clearly visible and free from oncoming traffic for a sufficient distance to permit such overtaking and passing to be made in safety. (Ref. 39-625 RS Neb.)

§5-212 **POSITION OF VEHICLE ON HIGHWAY; SLOW VEHICLES.** Vehicles moving slowly shall keep as close as possible to the curb on the right, allowing more swiftly moving vehicles free passage on the left. (Ref. 39-622, 39-697 RS Neb.)

§5-213 **BACKING.** Before backing, ample warning shall be given and while backing, unceasing vigilance must be exercised not to injure those behind. The driver of a parked vehicle about to back shall give moving vehicles the right-of-way.

- §5-214 **STOPS; CROSSING SIDEWALKS.** All vehicles before crossing a sidewalk, emerging from a garage, alley, filling station, or other place within the “business district,” shall come to a complete stop, and after giving sufficient warning shall proceed slowly and with extreme caution while crossing such sidewalk, or leaving such garage, alley, filling station, or other place. The term “slowly” shall be construed to mean such rate of speed as is reasonable and proper under the circumstances and the condition of the street and traffic thereon.
- §5-215 **CROSSWALKS.** The Governing Body may, by resolution, establish and maintain, by appropriate devices, markers, or lines upon the street, crosswalks, at intersections where there is particular danger to pedestrians crossing the street, and at such other places as they may deem necessary. (Ref. 39-697 RS Neb.)
- §5-216 **SIGNS; SIGNALS.** The Governing Body may, by resolution, provide for the placing of stop signs, or other signs, signals, standards, or mechanical devices in any street or alley under the Municipality’s jurisdiction for the purpose of regulating, or prohibiting traffic thereon. Such resolution shall describe the portion of the street or alley wherein traffic is to be regulated or prohibited; the regulation or prohibition; the location where such sign, signal, standard or mechanical device shall be placed; and the hours when such regulation or prohibition shall be effective. It shall be unlawful for any person to fail, neglect, or refuse to comply with such regulations, or prohibition. (Ref. 39-609 thru 39-611, 39-967 RS Neb.)
- §5-217 **STOP SIGNS.** Every person operating any vehicle shall, upon approaching any stop sign erected in accordance with the resolution prescribed heretofore, cause such vehicle to come to a complete stop before entering or crossing any street, highway, or railroad crossing. The vehicle operator shall stop at a marked stop line, or, if there is no stop line, before entering the crosswalk; but if neither is indicated, then as near the right-of-way line of the intersecting roadway as possible. (Ref. 39-609 thru 39-611, 39-697 RS Neb.)

Article 3. Prohibitions and Enforcement

- §5-301 **LITTERING.** (Repealed by Ord. No. 735, 10/10/90)
- §5-302 **GLASS; POINTED OBJECTS.** No person shall throw, cast, lay, or place upon any street any thorns, nails, tacks, glass, bottles, window glass, or other articles made of, or containing, glass, and in case of an accident causing the breaking of any glass upon any street, the owner or person in charge of such glass, or the person responsible for such breakage, shall at once remove, or cause the same to be removed, from the street. (Ref. 39-638 RS Neb.)
- §5-303 **SIGNS; DEFACING OR INTERFERING WITH.** It shall be unlawful for any person to willfully deface, injure, remove, obstruct or interfere with any official traffic sign or signal. (Ref. 39-619 RS Neb.)
- §5-304 **SIGNS; UNAUTHORIZED DISPLAY.** It shall be unlawful for any person to maintain or display upon, or in view of any street, any unofficial sign, signal, or device which purports to be, is an imitation of, or resembles an official traffic sign or signal which attempts to direct the movement of traffic, or which hides from view, or interferes with the

effectiveness of any official sign or signal. Every such prohibited sign, signal, or device is hereby declared to be a public nuisance, and any police officer is hereby empowered to remove the same, or cause it to be removed, without notice. (*Ref. 39-618 RS Neb.*)

§5-305 **UNNECESSARY NOISE FROM A MOTOR VEHICLE.** It shall be unlawful for any person to operate any vehicle, as defined by ordinance, upon any highway, street, alley, public way, or within the corporate limits of the Municipality, in such a manner as to cause unnecessary noise, spinning or squealing of tires, loss of traction, skidding, sliding, swaying or abrupt turns, and, it shall be unlawful for any person at any time to use a horn on such a vehicle otherwise than as a necessary warning, or to make any unnecessary or unreasonably loud or harsh sound by means of a horn on such a vehicle. (*Amended by Ord. No. 643, 9/11/85*)

§5-306 **SPEED LIMITS.** No person shall operate a motor vehicle on any street, alley, or other place at a rate of speed greater than twenty-five (25) miles per hour within the residential district, and twenty (20) miles per hour within the business district, unless a different rate of speed is specifically permitted by ordinance. In no instance shall a person drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Where a different maximum speed is set by ordinance, appropriate signs shall be posted. (*Ref. 39-662, 39-663 RS Neb.*)

§5-307 **SPEED; ELECTRONIC DETECTOR.** The speed of any motor vehicle within the Municipality may be determined by the use of radio microwaves or other electronic device. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court, or legal proceedings, where the speed of the motor vehicle is at issue.

The driver of any such motor vehicle may be arrested without a warrant under the authority herein granted if the arresting officer is in uniform or displays his badge of authority; Provided, that such officer shall have observed the recording of the speed of such motor vehicle by the radio microwaves, or other electronic device or had received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other electronic device. In the event of an arrest based on such a message, such radio message must have been dispatched immediately after the speed of the motor vehicle had been recorded, and must include a description of the vehicle and the recorded speed. (*Ref. 39-664 RS Neb.*)

§5-308 **DRUNKEN DRIVING.** It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

- a. While under the influence of alcoholic liquor or of any drug;
- b. When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or
- c. When such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine. Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may

require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs.

Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a Class V misdemeanor.

Upon the conviction of any person for the violation of this section, there shall be assessed as part of the court costs, the fee charged by any physician or any agency administering the test or tests and the analysis thereof. (*Ref. 60-6,196 to 60-6,197.08 RS Neb.*)

§5-309 **RECKLESS DRIVING**. Any person who drives a motor vehicle in such a manner as to indicate an indifferent or wanton disregard for the safety of persons or property shall be deemed to be guilty of reckless driving, and as such shall be punished as provided by statute. (*Ref. 39-669.01, 39-669.02, 39-669.26 RS Neb.*)

§5-310 **NEGLIGENT DRIVING**. Any person who operates a motor vehicle in such a manner as to indicate a want of ordinary care and caution that a person of ordinary prudence would use under like circumstances shall be deemed guilty of negligent driving. (*Ref. 9-669.26 RS Neb.*)

§5-311 **BACKING**. It shall be unlawful for any person to back a motor vehicle on the municipal streets except to park in or to remove the vehicle from a permitted parking position, to move the vehicle from a driveway, or to back to the curb for unloading where such unloading is permitted; Provided, a vehicle shall be backed only when such movement can be made in safety and in no case shall the distance of the backing exceed one and one-half (1½) lengths of the vehicle. (*Ref. 39-675, 39-697 RS Neb.*)

§5-312 **UNNECESSARY STOPPING**. It shall be unlawful for any person to stop any vehicle on any public street or alley, other than in permitted parking areas, except when such a stop is necessary for emergency situations, to comply with traffic control devices and regulations, or to yield the right-of-way to pedestrians or to other vehicles. (*Ref. 39-672, 39-697 RS Neb.*)

§5-313 **VEHICLE; MUFFLER**. Every motor vehicle operated within this Municipality shall be provided with a muffler in good working order to prevent excessive or unusual noise or smoke. It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon any streets; Provided, the provisions of this section shall not apply to authorized emergency vehicles. (*Ref. 39-6, 137 RS Neb.*)

§5-314 **POLICE; REFUSAL TO OBEY**. It shall be unlawful for any person to refuse, or fail to comply with, any lawful order, signal, or direction of a police officer. (*Ref. 39-697 RS Neb.*)

- §5-315 DRIVING IN SIDEWALK SPACE.** It is hereby declared unlawful for any person or persons in the corporate limits of this City to drive an automobile or other motor vehicle on any sidewalk, crosswalk, or sidewalk area except upon a permanent or duly authorized temporary driveway in the corporate limits of said City. (*Ord. No. 501, 6/25/75*)
- §5-316 ENGINE BRAKING.** (1) A person commits the offense of engine braking if the person is operating a motor vehicle on a street or highway and uses an unmuffled engine brake.
(2) The offense described in this section, engine braking, is a traffic infraction with a minimum fine of \$25.00 and a maximum fine of \$100.00.
(3) A person is not in violation of this section if the person uses an unmuffled engine brake in an emergency situation to avoid imminent danger to a person or to property. (*Ord. #874 12/8/99*)

Article 4. Traffic Citations and Disposition

- §5-401 TRAFFIC CITATIONS; FORM AND RECORDS.** The Municipal Police shall obtain from the County Judge, traffic citations containing notices to appear. The County Judge may require and retain a receipt for every book so issued. The Municipal Police shall return all copies of every traffic citation which has been spoiled, or upon which any entry has been made, and not issued to an alleged violator.
- §5-402 TRAFFIC CITATIONS; DISPOSITION AND RECORDS.** The Municipal Police upon issuing a traffic citation to an alleged violator of any provision of this Chapter shall deposit a copy of the traffic citation with the Municipal Attorney, unless the citation is just a warning.
It shall be unlawful for the Municipal Police to dispose of a traffic citation, or copies thereof, or of the record of the issuance of the same in a manner other than as required herein.
- §5-403 TRAFFIC CITATION; ILLEGAL CANCELLATION.** Any person who cancels, or solicits the cancellation of any traffic citation in any manner other than as provided herein, shall be guilty of a misdemeanor.

Article 5. Bicycles

- §5-501 BICYCLE; REGISTRATION.** Anyone wishing to operate a bicycle within the corporate limits shall make an application to the Municipal Police before operating within the Municipality. A registration number shall then be issued by the Municipal Police. Said registration number shall then be attached to the bicycle in a substantial manner. The removal of such number, except by the proper authorities, shall be unlawful.
- §5-502 BICYCLE; PARKING.** All bicycles shall be parked in bicycle stands when left unattended in the Business District. Where stands are unavailable parking shall be allowed on the sidewalks as close to the curb as possible. Under no circumstances shall parking be allowed where said parking will obstruct a doorway or entrance into a business establishment.

Article 6. Minibikes, Snowmobiles, and All-Terrain Vehicles

§5-601 MINIBIKES; UNLAWFUL OPERATION. It shall be unlawful for any minibike or similar two, three, or four-wheeled miniature vehicle whose visibility, power, and equipment are inadequate for mixing with normal vehicular traffic upon the streets and highways to be operated on any such street or highway. For purposes of this Article, "minibike" shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen (14") inches or an engine rated capacity of less than forty-five (45) cubic centimeters displacement or a seat height of less than twenty-five (25") inches from the ground or any other two-wheel motor vehicle primarily designed by the manufacturer for off-road use only. (Ref. 60-2101.01, 60-2107 RS Neb.)

§5-602 SNOWMOBILES; UNLAWFUL ACTS. It shall be deemed a misdemeanor for any person to allow a snowmobile, either owned or operated by him, to be operated:

1. Within the Municipality unless weather conditions are such that it provides the only practicable method of safe vehicular travel, or said snowmobile is engaged in responding to an emergency.
2. At a rate of speed greater than reasonable or proper under the surrounding circumstances.
3. In a careless, reckless or negligent manner so as to endanger person or property.
4. Without a lighted headlight and tail light when such would be required by conditions.
5. In any tree nursery or planting in a manner which damages or destroys growing stock.
6. Upon any private lands without first having obtained permission of the owner, lessee or operator of such lands.

(Ref. 60-2013, 60-2015 RS Neb.)

§5-603 MINIBIKES; ON PUBLIC LANDS. Minibikes may be operated upon public lands owned by the Municipality; Provided, oral permission is first received from the Park Superintendent. Failure to gain said permission shall be a violation of this Article and shall be enforced by the Municipal Police.

§5-604 SNOWMOBILES; PUBLIC LANDS. Snowmobiles shall be prohibited from operation on the public lands owned by the Municipality, except where said snowmobile is responding to an emergency. (Ref. 60-2016 RS Neb.)

§5-605 SNOWMOBILES; ENFORCEMENT; PENALTY. Any peace officer, including a conservation officer, may enforce the provisions relating to snowmobiles. Any person convicted of violating any rule or regulation dealing with snowmobiles shall be punished by a fine of not more than one hundred (\$100.00) dollars or imprisonment not to exceed ninety (90) days. (Ref. 60-2021 RS Neb.)

[Editor's Note: Sections 5-606 thru 5-614 were adopted in their entirety by Ordinance No. 681, passed August 26, 1987]

§5-606 ALL-TERRAIN VEHICLES; DEFINED. As used in this Article, unless the context otherwise requires, all-terrain vehicle shall mean any motorized off-highway vehicle which (1) is fifty (50") inches or less in width, (2) has a dry weight of six hundred (600) pounds or less, (3) travels on three (3) or more low pressure tires, (4) is designed for operator use only with no passengers, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control.

All-terrain vehicles which have been modified to include additional equipment not required by Sections 5-608 and 5-609 of this Article shall not be registered under Chapter 60, Article 3. (Ref. 60-2801 RS Neb.)

§5-607 ALL-TERRAIN VEHICLES; OPERATION. Except as provided in Sections A through C of this Section, an all-terrain vehicle shall not be operated on any public street, road, or highway of this State. The crossing of any Interstate or limited-access highway shall not be permitted.

- A. The crossing of a public street, road, or highway shall be permitted only if:
1. The crossing is made at an angle of approximately ninety (90°) degrees to the direction of the street, road, or highway and at a place where no obstruction prevents a quick and safe crossing.
 2. The vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the street, road or highway.
 3. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
 4. In crossing a divided street, road, or highway, the crossing is made only at an intersection of such street, road, or highway with another public street, road, or highway; and
 5. Both the headlight and taillight of the vehicle are on when the crossing is made.
- B. All-terrain vehicles may be operated on a public street, road, or highway when such operation occurs only between the hours of sunrise and sunset and such operation is incidental to the vehicle's use for agricultural purposes. Any person operating an all-terrain vehicle on a public street, road, or highway shall have a valid motor vehicle operator's license or a special permit as provided in Section 60-407 (5) RS Neb. and shall not operate such vehicle at a speed in excess of thirty (30) miles per hour. When operated on a public street, road, or highway, the headlight and taillight shall be turned on. The all-terrain vehicle shall be equipped with a bicycle safety flag which extends not less than five (5') feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area not less than thirty (30) square inches and be day-glow in color.
- C. All-terrain vehicles may be operated on public streets, roads, and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state. (Ref. 60-2802 RS Neb.)

§5-608 ALL-TERRAIN VEHICLES; HEADLIGHTS. Every all-terrain vehicle shall display a lighted headlight and taillight during the period of time from one half (½) hour after sunset to one half (½) hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions. (Ref. 60-2803 RS Neb.)

§5-609 ALL-TERRAIN VEHICLES; EQUIPMENT, REQUIREMENT. Every all-terrain vehicle shall be equipped with:

1. A brake system maintained in good operating condition;
 2. An adequate muffler system in good working condition; and
 3. A United States Forest Service qualified spark arrester.
- (Ref. 60-2804 RS Neb.)

§5-610 ALL-TERRAIN VEHICLES; PROHIBITIONS. No person shall:

1. Equip the exhaust system of an all-terrain vehicle with a cutout, bypass, or similar device;
2. Operate an all-terrain vehicle with an exhaust system so modified; or
3. Operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events.

Ref. 60-2805 RS Neb.)

§5-611 ALL-TERRAIN VEHICLES; COMPETITION. All-terrain vehicles participating in competitive events may be exempted from Sections 5-607 to 5-610 of this Article at the discretion of the Director of Motor Vehicles. *(Ref. 60-2806 RS Neb.)*

§5-612 ALL-TERRAIN VEHICLES; ACCIDENT REPORT. If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner as provided in Section 60-505. *(Ref. 60-2807 RS Neb.)*

§5-613 ALL-TERRAIN VEHICLES; PENALTY. Any violation of Sections 5-607 to 5-612 of this Article which is also a violation under Chapter 39 or apter 60 of RS Neb. May be punished under the penalty provisions of such Chapter. *(Ref. 60-2808 RS Neb.)*

§5-614 ALL-TERRAIN VEHICLES; ENFORCEMENT. Any peace officer of the State or of any political subdivision, including conservation officers of the Game and Parks Commission shall be charged with the enforcement of the provisions of Section 5-607 to 5-612 of this Article.

Article 7. Parking

§5-701 PARKING; GENERALLY. No person shall park any vehicle, or approach the curb with a vehicle, except when headed in the direction of the traffic. Vehicles, when parked shall stand parallel with and adjacent to the curb or edge of the roadway, in such manner as to have both right wheels within twelve (12") inches of the curb or edge of the roadway, except where the Governing Body designates that vehicles shall be parked at an angle so as to have the front right wheel at the curb or edge of the roadway. Where stalls are designated either on the curb or pavement, vehicles shall be parked within such stalls. *(Reg. 39-673, 39-697 RS Neb.)*

§5-702 PARKING; DESIGNATION. The Governing Body may, by resolution, designate any street, or portion thereof, where vehicles shall be parked parallel with and adjacent to the curb or edge of roadway or at an angle so as to have the right front wheel at the curb or edge of roadway. *(Ref. 39-673, 39-697 RS Neb.)*

§5-703 PARKING; AREAS. The Governing Body may, by resolution, set aside any street, alley, public way, or portion thereof where the parking of a particular kind or class of vehicle shall be prohibited, or where the parking of any vehicle shall be prohibited. No vehicle prohibited from parking thereon shall stand or be parked adjacent to the curb of said street, alley, public way, or portion thereof, longer than a period of time necessary to load and unload freight or passengers. *(Ref. 39-697 RS Neb.)*

§5-704 PARKING; FIRE HYDRANTS AND STATIONS. No vehicle shall be parked within fifteen (15') feet in either direction of any fire hydrant nor within twenty (20') feet of the driveway entrance to any fire station. The curb space within such area of fifteen (15') feet in either direction of such fire hydrant shall be painted red to indicate such prohibition. *(Ref. 39-672 RS Neb.)*

§5-705 PARKING; OBSTRUCTING TRAFFIC. No person shall, except in case of an accident or emergency, stop any vehicle, in any location where such stopping will obstruct any street, intersection, alley, or entrance to an alley or public or private drive. *(Ref. 39-697 RS Neb.) (Amended by Ord. No. 725, 8/8/90)*

§5-706 PARKING; TIME LIMIT. The Governing Body may, by resolution, entirely prohibit, or fix a time limit for, the parking and stopping of vehicles on any street, streets, or district designated by such resolution, and the parking, or stopping, of any vehicle in any such street, streets, or district, for a period of time longer than fixed in such resolution shall constitute a violation of this Article. *(Ref. 39-697 RS Neb.)*

§5-707 PARKING; SNOW REMOVAL AND MAINTENANCE. The Municipal Police may order any street or alley, or portion thereof vacated for weather emergencies or street maintenance. Notice during the hours of seven (7:00) o'clock a.m. to six (6:00) o'clock p.m. shall be given by personally notifying the owner or operator of a vehicle parked on such street or alley, or by posting appropriate signs along such streets or alleys. In those areas in the central business district which are posted by permanent signs as snow removal areas all parking on such streets or alleys between the hours of eleven (11:00) o'clock p.m. to seven (7:00) o'clock a.m. shall be prohibited when there is two (2") or more inches of snowfall until the accumulated snowfall has been removed. Any person parking a vehicle in violation of this section shall be subject to the penalties provided in this Chapter and such vehicle may be removed and stored under the supervision of the Municipal Police in a suitable location without further notice to the owner or operator of such vehicle. *(Amended by Ord. No. 577, 12/23/81)*

§5-708 PARKING; EMERGENCY VEHICLES. The provisions of this Article regulating the movement, parking, and standing of vehicles shall not apply to authorized emergency vehicles, as defined in this Article, while the driver of such vehicle is operating the same in an emergency in the necessary performance of public duties. *(Ref. 39-608 RS Neb.)*

§5-709 PARKING; BUREAU OF VIOLATIONS. There is hereby created the Bureau of Violations within the powers and duties of the office of the Municipal Clerk. A copy of each citation issued for non-moving traffic violations shall be deposited with the Municipal Clerk, whose duty it shall be to collect all fines and to maintain appropriate and accurate records of all such fines paid to her. Fines shall be payable at the office of the Clerk. Such fines shall be in the amount of one (\$1.00) dollar for each violation if paid within five (5) days from the date of issuance. Should any such fine not be paid within the five (5) day period, the Clerk shall ask the Municipal Attorney to file a complaint in the appropriate court. The fine for any such violation after five (5) days or after judgement is entered against the violator shall be five (\$5.00) dollars plus costs. All money collected by the Municipal Clerk under this section shall be transferred to the school district in which the Municipality lies. *(Ref. 18-1729 RS Neb.)*

§5-710 PARKING; TICKETS. All tickets issued for violations of non-moving traffic regulations contained in this Chapter shall, in addition to information normally stated on such tickets, carry the following information:

- A. The amount of the fine if paid within five (5) days;
- B. The amount of the fine if not paid within five (5) days;
- C. The location where payment may be made; and
- D. The fact that a complaint will be filed after five (5) days if the fine is not paid in that time.

(Ref. 29-423 RS Neb.)

§5-711 SUMMONS; DESTRUCTION. It shall be unlawful for any person to tear up, or destroy, a parking tag placed upon any vehicle by the Municipal Police, or to disregard the summons contained on such tag, and fail to appear in court as directed by said tag.
(Ref. 39-697 RS Neb.)

§5-712 PARKING; REMOVAL OF ILLEGALLY PARKED VEHICLES. Whenever any Police Officer shall find a vehicle standing upon a street or alley in violation of any of the provisions of this Article, such individual may remove or have such vehicle removed, or require the driver or other person in charge of the vehicle to move such vehicle, to a position off the roadway of such street or alley or from such street or alley.

The owner or other person lawfully entitled to the possession of such vehicle may be charged with the reasonable cost for such removal and storage, payable before such vehicle is released. Any such towing or storage fee shall become a security interest in the vehicle prior to all other claims. This fee shall be in addition to any other fees or penalties owed the Municipality for such vehicle. *(Ref. 39-671, 39-697 RS Neb.) (Ord. No. 619, 12/26/84)*

Article 8. Penal Provision

§5-801 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

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

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

Passed and approved this 12th day of May, 2004.

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kroesing made a motion to advance to agenda item #22- Consideration of going into executive session. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Hein made a motion to go into executive session to discuss 1) updates on a former employee, 2) salary survey recommendations dealing with personnel, 3) Chief Sunday's report on skate boarding ramifications, and 4) personnel issues. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kroesing, Kirby, Smith, and Hein. Voting NAY: none. Council member Lukassen was absent. The motion carried. The Mayor and City Council went into executive session at 9:05 p.m. accompanied by City Administrator Fiegenschuh, Attorney Egr, Police Chief Sunday, and City Clerk Kovar. Police Chief Sunday and City Clerk Kovar were excused at 9:20 p.m..

Council member Kirby made a motion to come out of executive session. Council member Smith seconded the motion. Voting YEA: Council members Hein, Schatz, Kroesing, Kirby, and Smith. Voting NAY: none. Council member Lukassen was absent. The motion carried and the Mayor and Council came out of executive session at 9:50 p.m..

The following recommendations for salary survey adjustments were presented by City Administrator Jeff Fiegenschuh:

2004 Salary Survey Recommendations							
<u>Name</u>	<u>Job Title</u>	<u>Current Min. Hrly</u>	<u>Current Max Hrly</u>	<u>Recommended</u>	<u>Proposed Min Hourly</u>	<u>Proposed Max Hrly</u>	<u>Additional FY 05 Costs</u>
Joan Kovar	City Clerk	\$15.95	\$17.91	.20 increase	\$16.15	\$18.11	\$ 416.00
Tami Comte	Deputy Clrk	\$11.23	\$14.23	.30 increase	\$11.53	\$14.53	\$ 623.88
John Kabourek	PP Supv	\$15.50	\$19.52	.50 increase	\$16.00	\$20.02	\$1,040.00
Bill Buntgen	Park/Aud Sp	\$11.77	\$15.12	.76 increase	\$12.53	\$15.88	\$ 894.00
Pat Hoefft	Line Frmn	\$15.90	\$19.93	.38 increase	\$16.28	\$20.31	\$ 790.00
Mick Shipley	Line Wrk 1	\$15.09	\$18.33	.33 increase	\$15.42	\$18.66	\$ 686.00
Tim Kozisek	Line Wrk 1	\$15.09	\$18.33	.33 increase	\$15.42	\$18.66	\$ 686.00
Glayda Scofield	Police Clrcl	\$ 8.32	\$10.15	.15 increase	\$ 8.47	\$10.30	\$ 312.00

Council member Smith made a motion to approve the salary survey adjustments effective with the 2004-2005 fiscal year. Council member Schatz seconded the motion. Council member Kirby stated he felt it was wise to look at the salary survey year by year. Council member Kroesing agreed, especially when we receive the salary survey from the League of Nebraska Municipalities free of charge with our membership. Voting YEA: Council members Kirby, Kroesing, Smith, and Schatz. Voting NAY: Council member Hein. Council member Lukassen was absent. The motion carried.

City Administrator Fiegenschuh suggested the following additions / changes to the employees' manual:

4. Causes for Disciplinary Actions: The following acts or failures to act on the part of employees are proper cause for disciplinary action:
- a) Repeated and habitual tardiness or early departure;
 - b) Unsatisfactory performance of the quantity or quality of work considered standard for the position;
 - c) Failure to carry out a direct instruction by a superior;
 - d) Aggravated and habitual inability to get along with fellow workers;
 - e) Negligent or willful destruction of property while on duty;
 - f) Intoxication on duty;
 - g) Conviction of an offense related to intoxication, which would impair the employee's ability to perform his job duties;
 - h) Abuse of sick leave;
 - i) Absence without leave, including failure to notify the Department Head of injury or illness;
 - j) Discourtesy to the public;
 - k) Acceptance of any gratuity or gift for the performance or non-performance of official duties;
 - l) Conviction of a crime or of a misdemeanor involving moral turpitude, which would impair the employee's ability to perform his job duties;
 - m) Willful violations of these personnel rules;
 - n) Use of their City position for private gain;
 - o) Conduct prejudicial to the reputation of the City government.
 - p) Breach of confidentiality relating to city and people receiving city services;
 - q) **Unable to perform job duties set forth by supervisor and job description.**
5. Disciplinary Actions: Disciplinary action shall be taken only by Department Heads, the acting Department Head, or the City Administrator. Discipline is restricted to the following actions:
- a) Face-to-face oral admonishment and warning, made in such terms that the employee clearly understands it to be a warning;
 - b) A written memorandum addressed to the employee;
 - c) Leave without pay;
 - d) Dismissal;
 - e) **Demotion to a lower or suitable pay scale.**

Assignments to undesirable tasks, shifts, hours of work, or any measures other than the foregoing may be used for disciplinary purposes provided that the assignment is consistent with the offense and that a written record is made of the action taken.

Chapter VIII Sundry Matters:

4. Employee Evaluations/Performance Reviews: All employees including appointed officials shall be subject to semi-annual performance reviews to be performed by their immediate supervisor. The mayor and city council will perform the city administrator's performance review with input from the department heads.

Council member Hein stated that he totally agreed with the employee evaluations and performance reviews. This would be reviews only and have nothing to do with merit increases or wages. The Council expressed concerns regarding "unable to perform job duties set forth by supervisor and job description" and "demotion to a lower or suitable pay scale". Much discussion followed.

Council member Kirby made a motion to table consideration of changes / additions to the employees' manual to the July 14th council meeting. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

There being no further business to come before the Council, Council member Kirby made a motion to adjourn. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Smith, Hein, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Mayor Smith declared the meeting adjourned at 10:15 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
June 9, 2004

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of June 9, 2004; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar