

## CITY COUNCIL PROCEEDINGS

July 9, 2003

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 July 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.

The meeting opened with the Pledge of Allegiance.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Ted Lukassen, Gary L. Kroesing, Bill Schatz, Nick Hein, and Mark Kirby who arrived at 8:04 p.m., City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Park/Auditorium Supervisor Bill Buntgen, Water/Sewer Supervisor Gene Divis, Electric Supervisor Tim Kovar, Street Superintendent Jim McDonald, Police Chief Stephen Sunday, Darlene Divis, Mark Carlson, Rachele Birkel, John Zwingman of Gilmore & Associates, Inc., Library Trustee President Steve Mowers, Ruby Barlean, Adeline Jakub, Mark & Kristi Palik and Andy, Dave & Michelle Streeter and Alex and Erik, Jeanne Ingwersen and Joe, Joe Smith, Daniel Hart, Dr. Kaufmann, Randy & Wendy Isham, Eric Freeman of The Banner Press, and City Clerk-Treasurer Joan E. Kovar.

The minutes of the June 11, 2003 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Lukassen. Voting YEA: Council members Schatz, Hein, Kroesing, Smith, and Lukassen. Voting NAY: None. Council member Kirby was absent. 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 or communications.

Mark Carlson, 128 Pine Ridge Road, was present to oppose to the proposed water tower site located northeast of 11<sup>th</sup> & "O" Street. Carlson stated that this would have a negative effect on his property as it will ruin the skyline view. Carlson suggested forming a committee to study other available sites and volunteered to serve on such a committee. Mayor Smith stated that this would be a good idea. Carlson distributed pictures of the location of his home in relation to the proposed water tower site as follows:

The vertical road is the County Road north of 11<sup>th</sup> Street.

Dr. Carlson's home, 128 Pine Ridge Road, is on the west side of the County Rd, just north of Souba's Silver Heights Addition.

The proposed water tower site is on the east side of the county road.

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

Council member Lukassen made a motion to advance to agenda item #11 - Consideration of the request for a new skate park within the City Park. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Hein, Lukassen, and Kroesing. Voting NAY: None. Council member Kirby was absent. The motion carried.

The following letter was presented:

City Administrator

June 23, 2003

Extreme Sports, such as skateboarding, in-line skating, and BMX biking are becoming more and more popular in the community of David City. The need for adequate facilities to practice such sports is growing rapidly. While David City has a pool for swimmers, baseball diamonds for baseball players, a tennis and basketball court for tennis and basketball players, a walking and biking path for pedestrians and bikers, and a lake for fishers, the members of the community who enjoy extreme sports do not have a place to practice and perform their skills.

By building a skate park in David City, many would be benefitted. Currently, many skate and ride BMX bikes on the streets and other unsafe places not designed for those types of sports. The skate park would provide many a safe, legal place to enjoy their sporting. Store and home owners would not have to be concerned about pedestrians on sidewalks being scared or threatened by skateboards and bikes.

We feel there is a need to build a skate park within the city limits of David City. The nearest parks that are available for such activities are located in Columbus and Fremont, too great a distance to pursue the extreme sport enjoyment.

On behalf of the many youth of David City who feel there is a need for such a skate park, we ask you to consider the prospect of constructing one in David City.

Sincerely,

*Dan Hart*

*Joe Ingwersen*

Daniel Hart  
Joseph Ingwersen

Mark & Kristi Palik and Andy, Dave & Michelle Streeter and Alex and Erik, Jeanne Ingwersen and Joe, Joe Smith, Daniel Hart, and Randy & Wendy Isham were present in favor of a skate park. City Administrator Jeff Fiegenschuh stated that liability and costs are his two main concerns. After some discussion it was decided to form a committee to consider a new skate park. The following volunteered to serve on the committee: City Administrator Jeff Fiegenschuh, Mayor Stephen Smith, Council members Lukassen and Kroesing, Dave Streeter, Mark & Kristi Palik, Randy Isham and son, Daniel Hart, Alex Streeter, and Joe Ingwersen.

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

The county assessor's office assessed the city's airport ground of 85 acres at about \$2,700. Mayor Smith, Street Superintendent Jim McDonald, City Administrator Jeff Fiegenschuh, and Attorney Jim Egr attended a Board of Equalization meeting on July 8<sup>th</sup> to protest this. The city argued that the land is required as a safety buffer under Federal Aviation Administration rules.

There is a Nebraska Supreme Court decision pending concerning the assessment of taxes on the York Municipal Airport. City Attorney Jim Egr stated the next County Board meeting is scheduled for July 22 at which time they may make a decision on whether the city's airport ground will be taxed. Attorney Egr questioned if the County Board determines that the Airport land is taxable, if the Council would want to move ahead with the appeal process.

Council member Hein made a motion to move ahead with the appeal process if the County Board determines that the Airport land is taxable. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Schatz, Kroesing, Smith, and Hein. Voting NAY: None. Council member Kirby was absent. The motion carried.

Water/Sewer Supervisor Gene Divis advised the Council that he may be short on capital improvement funds as when he prepared his budget last year he was not aware of Kozi's 2<sup>nd</sup> Addition and there will be additional expenses to run the water and sewer lines in Kozi's 2<sup>nd</sup> Addition. Divis also reported that he can't get parts for old water meters and is forced to purchase touch read or radio read meters. This will also be an additional expense.

Park/Auditorium Supervisor Bill Buntgen reported that Family Fishing Day will be held on Saturday, July 19<sup>th</sup> from 9:00 a.m. to noon. The Nebraska Game and Parks Commission Urban Fisheries Program will provide the bait and the fishing gear. Fishing experts will be on hand to help youngsters with angling instructions.

Rachelle Birkel, Aquatic Center Manager, reported that last month she stated that Zone 1 at the Aquatic Center was shutting down approximately four times a day. Zone 1 is shutting down more and more all the time and now is shutting down approximately every 15 minutes. Dave Burbach of Burbach Aquatics wrote the specifications for the motor for Zone 1. The electrician states we need a larger motor. The chlorine feeder in Zone 2 is not working properly. A meeting is scheduled for July 18<sup>th</sup> at 10:00 a.m. at the Aquatic Center between Dave Burbach of Burbach Aquatics, Andy Bailey Project Manager of Lueder Construction, and a representative of Pool Construction Inc..

City Attorney Egr suggested that Rachelle Birkel, Jim McDonald, and Fiegenschuh keep track of all their phone calls and correspondence with Burbach Aquatics, Lueder Construction, Pool Construction, Inc., etc.

Rachelle also reported that she has scheduled a training day for the lifeguards. Vicky, a Water Safety Instructor from the Seward Swimming Pool will do the training.

City Administrator Jeff Fiegenschuh reported that the Chamber of Commerce decided not to purchase liability insurance for the fireworks display for the July Jam on July 12, and questioned whether the city would be liable. City Attorney Egr stated that according to the tort claims act, the city is not truly responsible unless there is negligence. If the Chamber hired Mel Bolte, it would seem that Bolte would actually be responsible if a fireworks display went awry. However, if there was an accident, the insurance companies would probably go after everyone involved. Therefore, Council member Lukassen made a motion that the City pay for liability insurance for the fireworks display for this year only. Council member Smith seconded the motion. The insurance will be approximately \$850 for the fireworks display and \$150 for the parade. Voting YEA: Council members Lukassen, Schatz, Kroesing, Smith, and Hein. Voting NAY: None. Council member Kirby was absent. The motion carried.

Mayor Smith stated that a special council meeting will be required to 1) consider the Planning Commissions recommendation concerning townhouses, 2) 2<sup>nd</sup> reading on the annexation of Kozi's 2<sup>nd</sup> Addition, and 3) 2<sup>nd</sup> reading on the annexation of the property located between Kozi's 1<sup>st</sup> Addition and Kozi's 2<sup>nd</sup> Addition. Therefore, Council member Hein made a motion to schedule a special council meeting on Monday, July 28 at 5:30 p.m. in the City Office. Council member Kroesing seconded the motion. Voting YEA: Council members Lukassen, Schatz, Kroesing, Smith, and Hein. Voting NAY: None. Council member Kirby was absent. The motion carried.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, July 28<sup>th</sup>, immediately following the special council meeting at 5:30 p.m., in the City Office.

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

Council member Lukassen made a motion to advance to agenda item #14 - Consideration of allowing the Family Aquatic Center to close during the week when school is back in session, but re-open on the weekends. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Lukassen, Kroesing, and Hein. Voting NAY: None. Council member Kirby was absent. The motion carried.

Pool Manager Rachelle Birkel stated that she, and her assistant manager Mary Ann Mattingly, are both teachers, and Rachelle also coaches. Several of the lifeguards are leaving for college which leaves her with only 8 guards. Once school begins, children are busy with homework, sports, other activities, and going to bed early. Rachelle felt the City would be paying the guards way more to work than they would take in. Rachelle suggested just being open on the week-ends and see how it goes.

Council member Smith made a motion to close the aquatic center during the school week (school begins on August 18<sup>th</sup>) but re-open it on the weekends on Fridays from 6:00 p.m. - 10:00 p.m., Saturdays and Sundays from noon to 10:00 p.m., and be open on Labor Day, Monday, September 1, which will be the last day of the season. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Lukassen, Kirby, Smith, and Hein. Voting NAY: None. Council member Kroesing was absent. The motion carried.

Council member Kirby arrived at 8:04 p.m..

Council member Kroesing made a motion to advance to agenda item #15 - Consideration of the City paying ½ of the cost of the Water Safety Instructor Class if the employee will work for the Family Aquatic Center for the following season. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Aquatic Center Manager Rachelle Birkel reported that Water Safety Instructors are required for public swimming lessons. There are currently 4 guards that have their WSI's, however, Birkel doesn't think any of those guards are coming back next year. The cost for Water Safety Instruction is approximately \$150.00 and Rachelle asked if the City would pay ½ of the cost if the employee agreed to work for the family aquatic center the following season. The Council discussed this stating that they needed something definite to insure the employee actually works

the following season. They also stated that just because the City would consider paying for ½ of the WSI training they don't need 20 lifeguards with their WSI's. Rachelle understood this and stated she would ask that 4 or 5 be WSI's. Council member Smith made a motion to reimburse an employee ½ of the cost of their WSI training after they have completed one full year of working at the David City Aquatic Center. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to advance to agenda item #26 - Consideration of allocating \$838.50 from the Contingency Fund for the Library. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Library Trustee President Steve Mowers stated that the Library did not budget enough money for the maintenance and repairs of the heating and air conditioning for fiscal year 2002-2003. The library is requesting that the city council approve allocating \$838.50 from the contingency fund since these repair costs were not anticipated during the budget process for the current fiscal year. Council member Kroesing made a motion to allocate \$838.50 of the Contingency Funds for the library heater and air conditioning repairs to Beard-Warren Heating & Air Conditioning, Inc.. Council member Hein seconded the motion. Council member Schatz stated he approved of this, "this is what we have the contingency fund for" - emergencies that may come up. All of the Council members were present, all voted YEA, and the motion carried.

Council member Lukassen made a motion to advance to agenda item #8 - Consideration of Ordinance No. 930 creating Street Improvement District No. 2003-1 for 8<sup>th</sup> Street between Nebraska and Iowa Streets. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Ruby Barlean stated that she has been waiting a long time to get 8<sup>th</sup> Street between Nebraska and Iowa Street repaired and Adeline Jakub agreed. They were interested in the costs. Mayor Smith stated the cost will be an 80/20 split with the property owners share at 80% of total costs. The city will pay for the asphalt. John Zwingman of Gilmore & Associates Inc., stated he is estimating \$13-\$18 per foot. Mrs. Barlean stated that she has a sprinkler system and asked what would happen to that. John Zwingman of Gilmore & Associates Inc., stated that she should mark where her sprinklers are and the contractors are to work around them. Mrs. Barlean also stated that the street department hit one of her sprinkler heads during snow removal and she submitted the bill to the city. (Her bill is being paid this month to T.L.C. Lawn Service.) Street Superintendent McDonald stated that the policy is the City will pay to repair one sprinkler head per property, but that the City can't be responsible for every sprinkler head. The sprinkler heads should not be installed so close to the curb line.

Council member Kirby made a motion to pass Ordinance No. 930 on the second reading. Council member Lukassen seconded the motion. Voting YEA: Council members Hein, Schatz, Lukassen, Kroesing, Kirby, and Smith. Voting NAY: None. The motion carried and Ordinance No. 930 was passed on the second reading as follows:

**ORDINANCE NO. 930**

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, CREATING A CERTAIN STREET IMPROVEMENT DISTRICT WITHIN THE CITY OF DAVID CITY, NEBRASKA, TO BE KNOWN AS STREET IMPROVEMENTS DISTRICT NO. 2003-1; DEFINING THE

BOUNDARIES OF SAID DISTRICT AND THE PROPERTY CONTAINED THEREIN; AND PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS AND SUCH OTHER WORK AS MAY BE INCIDENTAL THERETO.

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

Pursuant to a petition signed by more than sixty percent of the resident owners, owning property directly abutting upon the streets proposed to be improved being presented and filed with the City Clerk of David City, Nebraska, petitioning therefore, the Mayor and City Council find and determine said petitions are sufficient and adequate; there is hereby created within said City of David City, Nebraska, a Street Improvements District No. 2003-1.

Section 1. That pursuant to a petition signed by more than sixty percent of the resident owners, owning property directly abutting upon the street proposed to be improved, being presented and filed with the City Clerk of David City, Nebraska, petitioning therefore, the Mayor and City Council find and determine said petition is sufficient and adequate.

The following street is hereby included within Street Improvement District No. 2003-1:

8th Street between Nebraska and Iowa Streets together with all lots and lands abutting thereon.

The following street within Street Improvement District No. 2003-1 shall be and is hereby ordered improved by improvements consisting of grading, concrete curb and gutter, asphalt surface, and such other work as may be incidental thereto:

8th Street between Nebraska and Iowa Streets, including the intersection and the areas formed by the crossing of avenues and alleys.

Section 2. All of said improvements shall be constructed in accordance with plans and specifications to be made by engineers for the City and to be approved by the City Council.

Section 3. That the cost of such curb and gutter and street improvements included in Street Improvement District No. 2003-1, shall be levied and assessed against the property's in said district. The cost will be an 80/20 split with the property owners share at 80% of total costs, which will include all aspects of the project, and the City's cost at 20% of the total costs. The City will pay for the street surfacing. The assessments shall constitute a lien on said property.

Section 4. This ordinance shall be in full force and effect from and after its passage according to law.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Passed on 2<sup>nd</sup> reading only - 7/09/03  
Mayor

-  
\_\_\_\_\_  
2<sup>nd</sup> reading only  
City Clerk

Council member Smith made a motion to advance to agenda item #13 - Consideration of approving the specifications and contract documents for Kozi 2<sup>nd</sup> Addition paving as presented by Gilmore & Associates Inc.. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

John Zwingman of Gilmore & Associates Inc., stated that they did the topography work on 8<sup>th</sup> Street between Nebraska and Iowa Streets. Zwingman questioned if the City would like the work bid out separately or combined. It was decided to bid one set of contract documents with the total project combined, but each district will be kept separately.

Council member Kroesing made a motion to approve the plans and specifications for Kozi 2<sup>nd</sup> Addition as prepared by Gilmore & Associates Inc. and to bid one set of contract documents, the total project combined but the districts kept separately. Council member Smith seconded the motion. All of the council members were present, all voted YEA, and the motion carried.

Council member Kroesing made a motion to authorize the notice to bidders for the street project that includes Kozi 2<sup>nd</sup> Addition and 8<sup>th</sup> Street between Nebraska and Iowa Streets. Bids must be received by 1:00 p.m. on August 8<sup>th</sup>, 2003. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

In May, Vern Hlavac, Bill's son from Minnesota, had asked if the City would forgive the balance of the lien on the William Hlavac property located at 320 10<sup>th</sup> Street. The council had asked that a letter detailing the request be received from Vern Hlavac. No one has received a letter or heard any more from Vern. Police Chief Sunday reported that no family member is overseeing Bill's affairs. Bill has been placed in the Alzheimer's unit at the Villa by his family. Dick Grubaugh has durable power of attorney. City Attorney Jim Egr stated that the City must enforce the rules the same for Hlavac as they would for anyone else. Council member Schatz agreed that we must follow the same procedure for the Hlavac property as we would for anyone else. It was noted that perhaps Probation Officer Chris Kozisek would know of someone who needs to do community service work and they could mow the property. Therefore, Council member Kirby made a motion to retain the lien on the William Hlavac property located at 320 10<sup>th</sup> Street. Council member Hein seconded the motion. Voting YEA: Council members Kroesing, Smith, Schatz, Kirby, Lukassen, and Hein. Voting NAY: None. The motion carried.

Council member Kirby made a motion to advance to agenda item #10 - Consideration of Ordinance No. 931 to annex a tract of land located between Kozi 1<sup>st</sup> Addition and Kozi 2<sup>nd</sup> Addition. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Lukassen introduced Ordinance No. 931. (The statutory rule that requires an ordinance to be read on three separate readings can not be suspended for an annexation). Council member Kroesing made a motion to pass Ordinance No. 931 on the first reading. Council member Kirby seconded the motion. Voting YEA: Council members Hein, Smith, Schatz, Lukassen, Kroesing, and Kirby. Voting NAY: None. The motion carried and Ordinance No. 931 was passed on the first reading as follows:

**ORDINANCE NO. 931**

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6<sup>TH</sup> P.M., BUTLER COUNTY, NEBRASKA, REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council of the City of David City, Nebraska, favors the annexation of the following described real property and the extension of the city limits to include said property, as follows:

1) A tract of land located in the Southwest Quarter (SW ¼) of Section 20, Township Fifteen (15) North, Range Three (3) East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:

Beginning at the northeast corner of Lot 1, Block 3, Kozi Addition to the City of David City; thence easterly, 50.00 feet, on the easterly extension of the North line of said Lot 1; thence southerly, 135.31 feet, parallel with the east line of said Lot 1, to a point on the easterly extension of the south line of said Lot 1; thence westerly, 50.00 feet, on the easterly extension of the south line of said Lot 1, to the southeast corner of said Lot 1; thence northerly, 135.31 feet, to the point of beginning, containing 0.155 acre, more or less.

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

Section 1. That the boundaries of the City of David City, Nebraska, be amended and changed in order to include the above described property.

Section 2. That this Ordinance be filed with the Office of the County Assessor and County Clerk of Butler County, Nebraska, and that the City Clerk be directed to amend the plat filed in her office to show the inclusion of the real estate listed above and that the boundary of David City as amended by this Ordinance be certified and placed on record in the office of the City Clerk of David City, Nebraska.

Section 3. That any Ordinance, setting or establishing boundaries of the City of David City, Nebraska, which is in conflict with this Ordinance be and the same 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 \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST:

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading  
Mayor

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading  
City Clerk

Council member Kirby introduced Ordinance No. 932. (The statutory rule that requires an ordinance to be read on three separate readings can not be suspended for an annexation). Council member Kroesing made a motion to pass Ordinance No. 932 on the first reading. Council member Lukassen seconded the motion. Voting YEA: Council members Kirby, Hein, Smith, Schatz, Lukassen, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 932 was passed on the first reading as follows:

**ORDINANCE NO. 932**

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN CONTIGUOUS TERRITORY TO THE CITY OF DAVID CITY, NEBRASKA, AS DESCRIBED BELOW, A TRACT OF LAND LOCATED IN THE SW 1/4 OF SECTION 20, T15N, R3E OF THE 6<sup>TH</sup> P.M. IN BUTLER COUNTY, NEBRASKA, **KOZI 2<sup>ND</sup> ADDITION**, REPEALING ANY ORDINANCES IN CONFLICT HERewith; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council of the City of David City, Nebraska, favors the annexation of the following described real property and the extension of the city limits to include said property, as follows:

1) A tract of land located in the SW 1/4 of Section 20, T15N, R3E of the 6<sup>th</sup> P.M. in Butler County, Nebraska, described as follows:

Beginning at the northeast corner of Lot 4, Block 1, Kozi Addition to the City of David City, said point being on the southerly right-of-way line of the Union Pacific Railroad, and assuming said southerly railroad right-of-way to have a bearing of S 88°14'22" E; thence S 88°14'22" E and on said southerly right-of-way line, 419.65 feet; thence S 04°27'46" W, 336.77 feet; thence S 14°27'00" W, 241.35 feet; thence N 90°00'00" W, 340.01 feet; thence N 00°00'00" E, 110 feet, to the southwest corner of Lot 1, Block 3, of said Kozi Addition; thence S 89°58'14" E and on the south line of said Lot 1, 149.02 feet; thence N 04°47'35" E, 135.47 feet; thence S 89°58'54" W, 49.89 feet, to the northeast corner of Lot 1, Block 3, said Kozi Addition; thence N 00°02'46" E, 60.00 feet; thence S 89°58'54" W, 103.51 feet, to the southeast corner of Block 1, said Kozi Addition; thence N 00°00'00" E and on the east line of said Block 1, 277.48 feet, to the point of beginning, containing 4.56 acres, more or less.

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

Section 1. That the boundaries of the City of David City, Nebraska, be amended and changed in order to include the above described property.

Section 2. That this Ordinance be filed with the Office of the County Assessor and County

Clerk of Butler County, Nebraska, and that the City Clerk be directed to amend the plat filed in her office to show the inclusion of the real estate listed above and that the boundary of David City as amended by this Ordinance be certified and placed on record in the office of the City Clerk of David City, Nebraska.

Section 3. That any Ordinance, setting or establishing boundaries of the City of David City, Nebraska, which is in conflict with this Ordinance be and the same 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, approval, and publication as provided by law and city ordinance.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_ Passed on 1<sup>st</sup> reading  
Mayor

Mayor Smith declared a ten minute recess at 9:05 p.m. The meeting resumed at 9:15 p.m.

Council member Kroesing introduced Resolution No. 10 - 2003 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Lukassen, Kirby, Schatz, Smith, Hein, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 10 - 2003 was passed and adopted as follows:

**RESOLUTION NO. 10 - 2003**

WHEREAS, there exists a serious problem within the counties and cities that are a part of the Rural Apprehension Program (R.A.P.) Drug Task Force area regarding methamphetamine labs and the illegal manufacturing of methamphetamine; and

WHEREAS, it is desirable to investigate, apprehend, and prosecute individuals responsible for this illegal manufacturing of methamphetamine, by participating in a cooperative effort to this end between the member agencies of R.A.P.; and

WHEREAS, there are federal grants available, namely "Methamphetamine Drug Hot Spots" grant funds available to assist in the purchase of equipment to be used during the investigation of methamphetamine manufacturing; and

WHEREAS, an Interlocal Cooperation Agreement, or Memorandum of Understanding, pursuant to Neb. Rev. Stat. 13-801 et. seq. (Reissue 1987) would be in the best interest of R.A.P. and each participating agency within R.A.P.; and

WHEREAS, the various counties, political subdivisions and law enforcement agencies desire to enter into a written Interlocal Cooperation Agreement for the purpose of carrying out the Rural Apprehension Program objectives and grant requirements of the Federal

“Methamphetamine Drug Hot Spots” grant program.

NOW, THEREFORE, BE IT RESOLVED that the City Council, in and for the City of David City, sub-grantee for the R.A.P. Drug Task Force, hereby authorizes Stephen M. Sunday, Chief of Police, Coordinator/Project Director for R.A.P., to enter into an Interlocal Agreement with the various political subdivisions as set forth in such Agreement pursuant to the provisions of Neb. Rev. Stat. 13-801 et. seq. (Reissue 1987) for the purpose of a joint and cooperative undertaking between R.A.P., Nebraska State Patrol and Department of Justice COPS Office. The agreement shall be for the strict administration of the “Methamphetamine Drug Hot Spots” grant funds as allocated by the Nebraska State Patrol. The City Council authorizes the disbursement of the sum of \$5,300.00 in grant funds to be paid by the City of David City on behalf of the Rural Apprehension Program to facilitate the purpose of the “Methamphetamine Drug Hot Spots” grant.

PASSED AND APPROVED this 9<sup>th</sup> day of July, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

City Administrator Jeff Fiegenschuh suggested increasing the parking fee from \$1 to \$5 to generate new revenues and cover the costs of actually writing the ticket. Much discussion followed. Council member Schatz questioned if this was punitive or money generated. Council member Kirby stated he had a problem with increasing the parking violation fines when we have such a strict code. (Chapter 5, Section 5-706 of the Municipal Code provides 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..... Resolution No. 14-1981 states that no person shall park a motor vehicle and/or trailer on any part of the roadway service of any public streets in the residential area of David City, Nebraska between the hours of One (1:00) o'clock a.m. and Seven (7:00) o'clock a.m.) Council member Kirby has a problem with the year-round parking restrictions; he understands the need during the winter months for snow removal but questions the need for the restriction year round. Other Council members agreed with this. Council member Schatz stated that if the Council is not in agreement with the current Resolution, they can change it. After further discussion, Council member Schatz introduced Ordinance No. 933. Council member Schatz made a motion to pass Ordinance No. 933 on the first reading. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, and Lukassen. Voting NAY: Council members Kroesing, Hein, and Kirby. Mayor Smith broke the tie and voted YEA. The motion carried and Ordinance No. 933 was passed on 1<sup>st</sup> reading as follows:

**ORDINANCE NO. 933**

AN ORDINANCE TO AMEND SECTION 5-709 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, TITLED: PARKING: BUREAU OF VIOLATIONS; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS

ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; 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 5, Article 7, Section 5-709 of the Municipal Code of David City, Nebraska shall read as follows:

§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 him. Fines shall be in the amount of ~~one (\$1.00)~~ five (\$5.00) 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)~~ ten (\$10.00) dollars plus costs.

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

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading (SEAL)  
Mayor Stephen Smith

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading  
City Clerk Joan Kovar

Council member Schatz introduced Ordinance No. 934. Council member Kirby made a motion to pass Ordinance No. 934 on the first reading. Council member Schatz seconded the motion. Voting YEA: Council members Hein, Lukassen, Kirby, Smith, and Schatz. Voting NAY: Council member Kroesing. The motion carried and Ordinance No. 934 was passed on 1<sup>st</sup> reading as follows:

**ORDINANCE NO. 934**

AN ORDINANCE TO AMEND SECTION 10-501 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, TITLED: OCCUPATION TAX; AMOUNTS; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

NEBRASKA:

Section 1. That Chapter 10, Article 5, Section 10-501 of the Municipal Code of David City, Nebraska shall read as follows:

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

**Private Utility Companies:**

Telephone companies, annual gross local exchange tariff plus interstate calls for phone inside City limits times ~~2%~~ 3%.

**Amusement Devices:**

Electronic entertainment or similar machines, per machine, per year..... \$25.00

Pool Tables, per table, per year ..... \$15.00

**Dealers in Alcoholic Beverages:**

Class A

Beer only, retailer on-sale, per year ..... \$50.00

Class B

Beer only, retailer off-sale, per year ..... \$25.00

Class C

Alcoholic beverages on-sale, off-sale, per year..... \$250.00

Class D

Alcoholic beverages off-sale in original packages only, per year ..... \$150.00

Class I

Alcoholic beverages on-sale, per year..... \$200.00

Class J

Beer and Wine, on-sale, per year ..... \$125.00

Class K

Catering, per year..... \$75.00

For the purpose of raising revenue, an occupation tax is hereby levied on holders of Special Designated Liquor Permits (except when issued to holders of Class C or Class K Liquor Licenses):

Special Designated Liquor Permits..... \$25.00

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

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading  
Mayor Stephen Smith

(SEAL)

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading  
City Clerk Joan Kovar

Adding a voluntary contribution line to the utility bills was discussed. City Administrator Fiegenschuh reported that many other communities have raised significant funds to pay for their community development projects by allowing their customers to earmark a small amount of money from each utility bill to a specified project; "If 800 people donate \$5 a month for six months we can general \$24,000 for the Family Aquatic Center". City Clerk Kovar stated that they can add this on the utility bill but many people tear off the stub and remit only that. Kovar was not sure that the information could be placed on the stub and will need to check on this. Therefore, Council member Kroesing made a motion to table consideration of adding a voluntary contribution line to the utility bills. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Park/Auditorium Supervisor Bill Buntgen had a price quote of \$4,200 from The Fabric Shoppe, 530 N 5<sup>th</sup> Street, to make new curtains for the upstairs of the Auditorium. Buntgen checked with the "Breakers" basketball group to see if they would contribute. The "Breakers" stated they would contribute towards the curtains if the City took ½ off of their rent. This is not really "donating" anything. Council member Kroesing stated that this is not an emergency item so suggested that the Council discuss this during budget hearings. Council member Hein made a motion to table consideration of purchasing new drapes for the City Auditorium until budget discussions. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Park/Auditorium Supervisor Bill Buntgen presented the following bids for a new front mount mower for the City Park:

FRONT MOWER  
4-WHEEL DRIVE

JOHN DEERE

1420    28 HP  
\$11,801.58

1445    31HP  
\$13,280.04

1565    36HP  
 \$14,207.77

NEW HOLLAND

MC22    22HP  
 \$11,975.00

MC28    28HP  
 \$12,920.00

MC35    35HP  
 \$13,770.00

Council member Lukassen asked how much it would cost to recondition the mower they currently have. Council member Smith stated that even if you spent the money to recondition the mower you would still have a 1994 mower. There was much discussion concerning this. Some of the Council members felt that the current mower is still operable and the discussion should wait until budget time. Benes Service had quoted: "You may put down as much money as you like, Bill said approximately 50%, and the balance pay in one year at 0% interest, or if you would like a two year contract the interest rate would be 6.5%. Plains Power & Equipment (RLD) stated they would match these terms. The City's fiscal year ends in September. The Council questioned if we could use the old mower trade-in as this year's payment and then pay 50% in October (2003-2004 fiscal year) and then the remaining 50% the following October (2004-2005 fiscal year). Discussion followed. Council member Smith made a motion to approve the purchase of the John Deere 1420 - 28HP Commercial 4-wheel drive Front Mower for a cost of \$11,801.58. Council member Schatz seconded the motion. Voting YEA: Council members Kroesing, Schatz, and Smith. Voting NAY: Council members Hein, Lukassen, and Kirby. Mayor Smith broke the tie and voted YEA. The motion carried and the following mower will be purchased:

PLAINS POWER & EQUIPMENT  
 RON LYONS, SALES  
 NORTH HWY. 15  
 DAVID CITY, NE 68632

	28 HP	GAS	
DO61TC	JOHN DEERE 1420 COMMERCIAL FRONT MOWER . . . . .		\$14,889.00
1001	4 WHEEL DRIVE (full time or on demand) . . . . .		\$2,420.00
2000	23x10.50 - 12    4 Ply Tube Tires . . . . .		.00
			<u>\$17,309.00</u>
035ITC	#62 IN - 7 Gauge Steel Commercial . . . . .		\$3,485.00
	Rear Discharge Mower Deck . . . . .		.00
	Freight . . . . .	\$403.31	
	Setup/Delivery . . . . .		\$395.00
			<u>\$21,592.31</u>

**BID PRICE: ..... \$14,951.58**

TRADE-IN: 1994 JD F932 FRONT MOWER 72" MOWER DECK  
47 IN SNOW BLOWER - CAB - REAR WEIGHTS  
SN F032X130041 - 2300 HOURS

**TRADE VALUE: ..... \$3,150.00**

**PURCHASE PRICE ..... \$11,801.58**

Street repairs and/or improvements were discussed. The Council asked Street Superintendent McDonald if he needed more money for street repairs and improvements. McDonald replied "Give me more money and I'll spend it wisely; If not, I'll do without." Council member Schatz stated he felt there was not enough money budgeted for maintenance. After much discussion, Council member Hein made a motion to table consideration of street repairs and/or improvements until the budget hearings. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Mayor Smith advised the Council that the paperwork, regarding the next two agenda items concerning a Zoning Administrator, was not ready. Therefore, Council member Kroesing made a motion to table consideration of making changes to the municipal code book to incorporate a Zoning Administrator instead of a Building Inspector to the August 13<sup>th</sup> Council Meeting. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to table consideration of an ordinance establishing a Zoning Administrator to the August 13<sup>th</sup> Council Meeting. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

City Administrator Fiegenschuh stated that David City has not taken part in a strategic planning session for over 5 years. Along with himself, he is asking the Mayor, the entire council, and all department heads to attend a session to go over our goals for the City as an organization for the upcoming 1 to 2 years. The session will be held in September, after the budget is finished, in a neutral location - not in the city office. Nebraska Public Power District offers this service at no charge to us and has already stated they will conduct the session. The Council members and Mayor Smith agreed and so Fiegenschuh will schedule this.

City Administrator Fiegenschuh stated that he looked at the David City website and it hadn't been updated since February. The information mainly covered the City park, swimming pool, hospital, and schools. There were no links to government. Fiegenschuh heard some very positive feedback from members of the Chamber of Commerce and other local citizens who believe that the city needs an updated and better managed website. The website is very important as it is our window to the world. Fiegenschuh's goals for our future website include:

- (1) Providing a narrative of our community and what it has to offer
- (2) Links to our government, as well as our state and federally elected officials. This will also include links to the Nebraska Departments of Economic Development, Agriculture, the Unicameral and our Governor's office.
- (3) Links to the Chamber of Commerce, the BCDA, our local schools, the library, the volunteer fire department
- (4) E-mail and contact info for the city council, the mayor, and the city administrator

- (5) Photos and links to our downtown businesses, major manufacturing employers, businesses not located downtown
- (6) Photos of the Aquatic Center, the park, our hospitals and schools
- (7) Incorporating some of our current website

City Administrator Fiegenschuh received the following proposal from Diane Duren of DKD Enterprises:

\$350.00	start-up fee
\$550.00	yearly maintenance fee which includes unlimited updates and all technical work;
<u>\$ 15.00</u>	yearly domain registration fee - proposed website address: <a href="http://www.davidcity.org">www.davidcity.org</a>
\$915.00	

Council member Lukassen made a motion to approve the development of a new city run website at an estimated cost of \$915.00. Council member Schatz seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Mayor Smith declared the meeting adjourned at 10:15 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
July 9, 2003

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of July 9, 2003; 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