

## CITY COUNCIL PROCEEDINGS

September 14, 2011

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on September 8<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Gary Kroesing, Bill Scribner, John Vandenberg, Ruddy Svoboda, Mike Rogers, Gary Smith, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim Clerk-Treasurer Tami Comte.

Also present were: Police Chief Anthony McPhillips, Water/Wastewater Supervisor Gary Janicek, Electric Plant Supervisor Eric Betzen, Electric Plant Employee Dan Robinson, Jim Condon from Olsson Associates, Ross Scholz and Jody Ellis from the Harold K. Scholz Company, Carolyn Yates, Joy Fountain, Aida Hernandez, Dana Trowbridge, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the August 10<sup>th</sup> and September 7<sup>th</sup> meetings of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member Smith. Voting AYE: Council members Smith, Rogers, Svoboda, Vandenberg, Scribner, and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims and Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Smith, Rogers, Scribner and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny called for Committee and Officer Reports. Mayor Zavodny asked Chief McPhillips if they had moved into their new offices. Chief McPhillips stated that they had moved but were not totally out of the trailer. They are waiting for Time-Warner Cable and Windstream to remove their cables.

Council member Scribner asked if the Electric Dept. fixed the underground street lights by David City Elementary School and if so, are they going to bill someone for the repairs. Water/Wastewater Supt. Gary Janicek stated that he knew that Electric Supervisor Pat Hoeft was going to turn in a bill to someone.

Mayor Zavodny stated that he had been asked a few times about the fluctuations in power and he stated that seven squirrels and two doves had met their demise even though the electric department has done everything that they can to minimize the chances of those occurrences.

Council member Rogers asked Interim Administrator Kovar if she was still having problems getting the Keno reports. Interim Administrator Kovar stated that she was still having problems and so she called Todd Zeilinger of Zeilinger Keno and he came out and spoke with her about the reports. He explained that the machines have been changed so that they can't be reset to avoid paying for losses. Interim Administrator Kovar asked Interim Clerk Comte to accompany Todd Zeilinger to Ryan's Roadhouse so that he could show her how to access the needed reports.

The alley between 4<sup>th</sup> and 5<sup>th</sup> and between the RR tracks and E Street was discussed. Mayor Zavodny stated that he felt that the project was not coordinated as well as it could have been.

Council member Kroesing made a motion to authorize the committee and officers reports and Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Smith, Rogers, Scribner and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing stated that he received a citation for his trees on the parkay.

Council member Scribner stated that the tree board had discussed making a list of parkay trees that were hazardous when driving, however, they were supposed to discuss it further at another meeting before anything was done about it.

Mayor Zavodny stated that they may have been premature in taking those around.

Ordinance No. 1153 was introduced at the August 10, 2011 Council meeting.

Council member Scribner made a motion to suspend the statutory rule requiring an Ordinance be read on three separate days. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Rogers, Svoboda, Scribner, Kroesing and Vandenberg. Voting NAY: None.

Council member Scribner made a motion to pass Ordinance No. 1153 on third and final reading. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Rogers, Svoboda, Scribner, Kroesing and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1153 was passed on third and final reading as follows:

### **ORDINANCE NO. 1153**

**AN ORDINANCE AMENDING CHAPTER 8; ARTICLE 5 TREES; 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 8; Article 5 – Trees; is hereby amended to read as follows:

#### **Article 5. Trees**

##### **§8-501 TREES; DEFINITIONS.**

STREET TREES. "Street trees" are herein defined as trees, shrubs, bushes and all

other woody vegetation on street right-of-way, commonly called parquets, lying between property lines on either side of all streets, avenues, and ways within the City, and the street driving surface.

PARK TREES. "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.

COMMUNITY FORESTER. "Community Forester" shall be the City employee responsible for the funding and application of Tree City U.S.A.

**§8-502 TREES; STREET TREE SPECIES NOT TO BE PLANTED.**

Austrees	Elm Trees	Shrubbery of all types
Black Locust	Fruit Trees	Siberian Elm
Black Walnut	Poplars	Silver Maples
Conifers	Seedless Cottonwoods	Tree of Heaven
Cottonwood	<b>Weeping Willow</b>	

**§8-503 TREES; PUBLIC TREE CARE.**

(1) The City shall have the right to plant, maintain, and remove trees and shrubs on all public areas to ensure public safety and to preserve the continuity and aesthetic beauty of such public grounds.

(2) The City Tree Board may remove or order removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, underground utilities, and other public improvements, or is infected with an injurious fungus, insect or other pest.

(3) The City Tree Board shall also have cause to order removed any tree or part thereof which is deemed hazardous to private property or the general public.

(4) Planting trees on adjacent property is not affected by this Article except to the extent of provisions of section 8-506 and Attachment A.

(5) The adjacent or abutting property owners shall have the responsibility to perform appropriate tree care on their street trees.

**§8-504 TREES; CLEARANCE OVER STREETS AND WALKWAYS.**

(1) Clearance over streets and walkways shall be the responsibility of the adjacent or abutting property owner. A clearance of eight feet (8') will be maintained over the walkways and clearance of fourteen feet (14') will be maintained over streets and alleys.

(2) Property owners are responsible for the trees on their own property.

(3) It shall be the responsibility of the Utility Department to prune any trees in close proximity to utility lines.

**§8-505 TREES; DISTANCES FOR PLANTING.**

- (1) Street trees may be planted in the parquert where there is more than eight feet (8') between the edge of the sidewalk and the curb of the street. Trees planted in the parquert shall be equidistant from the sidewalk and the curb. Street or private property trees shall not be planted any closer than five feet (5') from a sidewalk.
- (2) No tree shall be planted closer than thirty-five feet (35') from the street corner, measured from the point of the nearest intersection of curbs or curb lines
- (3) Large trees are those that reach mature heights exceeding forty feet (40'). Medium trees have a mature height of twenty-five feet (25') to forty feet (40'), and small (ornamental) trees have a mature height of less than twenty-five feet (25').
- (4) Large or medium street trees shall not be planted closer than thirty-five feet (35') from another tree.
- (5) Small (ornamental) trees shall not be planted closer than twenty-five feet (25') from another tree.
- (6) No tree shall be planted closer than ten feet (10') from a fire hydrant or utility pole.

**§8-506 TREES; TREE TOPPING AND TRIMMING.**

It shall be unlawful to top any tree. Topping is defined as the severe cutting back of limbs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions will be pruned using other acceptable pruning techniques, such as drop crotch pruning or directional pruning.

**§8-507 TREES; TREE REMOVAL PERMIT.**

- (1) It shall be unlawful for any person, property owner, homeowner or any firm engaged in the business or occupation, for hire or other valuable consideration, to prune, treat or remove any street or any park trees within the City without first applying for and procuring a permit. There shall be no permit fee. The permit is obtained at the City Office during regular business hours.
- (2) The property owner will be required to submit two (2) written estimates with the tree removal application. The City will normally cost share on the removal;
- (3) After the bids / estimates have been reviewed, the City Street Superintendent will notify the bid winner (tree removal estimate);
- (4) If a tree is a hazard or a public safety concern, and the tree needs to be removed quickly, the requirement of two (2) estimates can be skipped with the approval of the Mayor or Council President;
- (5) Trees must be cut down within forty-five (45) days of the issuance of the permit;**
- (6) The City Office must be notified one (1) day prior to the actual tree removal;

- (7) During the cutting of anything within ten feet (10') of any street, the police department must be contacted and traffic caution cones must be placed on the street(s);
- (8) A safety letter is to be written by the City Attorney notifying residents of a hazardous tree and the time line in which to remove the tree and cost share with the City;
- (9) If the City removes, or has removed, a dead or hazardous tree the cost is to be assessed against the property;
- (10) Work performed by any public service company or City employee in the pursuit of the public service endeavors shall be exempt from this requirement.

**§8-508 TREES; STUMP REMOVAL.**

After any street or park tree is removed, the stump shall be removed at least four inches (4") below the surface of the ground and the remaining hole shall be filled with suitable soil. The City will provide the tree stump removal if the home owner removes the tree following the approval of the tree removal application.

**§8-509 TREES; BUSINESS LICENSE.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the City of David City, Nebraska without first filing for and paying a \$25.00 annual license fee based on a calendar year, due January 1. Individual homeowners and property owners pruning, treating or removing street in compliance with Article 8 shall be exempt from licensing, however shall be required to apply for a permit and comply with all requirements required in §8-507 and §8-510 prior to commencing any work.

**§8-510 TREES; INSURANCE REQUIREMENTS.**

(1) It shall be unlawful for any person or firm to engage in the business or occupation or pruning, treating or removing street or park trees within the City of David City, Nebraska without filing evidence of bond or insurance in the minimum amounts of five hundred thousand dollars (\$500,000.00) for bodily injury and five hundred thousand dollars (\$500,000.00) property damage, which shall be on file with the City Clerk.

(2) It shall be unlawful for individual homeowners and property owners to prune, treat or remove street trees within the City of David City, Nebraska without filing evidence of home owners insurance.

(3) Exempt from this requirement are: a) Any pruning and removals under the diameter of four inches (4") at the last cut, and b) any public employees doing such work in the pursuit of their public service endeavor.

**§8-511 TREES; PENALTY.**

(1) It shall be unlawful for any person to prevent the appointed representative from entering on to property for purposes of carrying out his or her duties, hereunder, or to interfere with the appointed representatives in the lawful performance of his or her duties under the provisions of this Article.

(2) Any persons violating any provision shall be subject to a fine not to exceed one hundred dollars (\$100.00). (Ordinance No. 1079 6-11-08)

SECTION 2. All ordinances or parts of Ordinances in conflict herewith are 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 14<sup>th</sup> day of September, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Mayor Zavodny declared the Budget Hearing and Budget Summary open at 7:23 p.m. for the purpose of hearing support, opposition, criticism, suggestions, or observations concerning the proposed budget.

Mayor Zavodny stated that we have a real gem and a treasure in Joan. She has been an invaluable source of information during the budget process and he thanked her for that. Mayor Zavodny also thanked former Mayor Trowbridge for being a valuable source of information on how things have progressed over the years.

Mayor Zavodny opened the floor for comments or questions concerning the proposed budget and asked former Mayor Trowbridge if he would like to begin.

Former Mayor Dana Trowbridge began by stating that back in 1998 the legislature passed a levy lid of .45/100 of valuation and .50 maximum with an interlocal agreement. Former Mayor Trowbridge said, "I think that the legislature's intent was to reduce the reliance on property taxes to run government. What seemed to have happened in David City was we just shifted it over to the golden goose, the Electric Dept. and we started collecting golden eggs from the electric department and our spending habits didn't vary. The first year, of my four years in office, I allowed an electric rate increase and the last three I did not. In order to understand that, I think that you have to understand all of the principles that we've spoken about thus far. We have moderate and middle income people and we have a community that has a lot of retiree's in it. We have a community that has a lot of fixed income people and to continually raise utility increases on them so we don't have to cut our city budget operations, I think, is shameful. It is not uncommon for cities in the state of Nebraska to have franchise or organizational fees and charges for people doing business within, generally, utilities such as, electric, gas, cable television. Five percent is generally the threshold. I'm not familiar with what the total billings of the utility departments are but I would guess them to be in the 4 million dollar range somewhere. Five percent would be \$200,000. Right now I think the electric in your budget you've got in front of you is raised to \$170,000 as an in lieu of tax payment, which I don't disagree with. There's an occupational fee, in there, of probably \$40 - \$60 thousand, if I remember correctly. Which again, brings us to that \$200,000 threshold. What the electric utility is forced to do though,

through the years, is pay quite a number of expenses and some salaries throughout city government that puts pressure on continuing rate increases. Because, Alan, you are exactly right in what Larry wrote about in the paper, you either reduce your reserves or you reduce your spending. Those are the only two options. The third one being, continue to take your rate increases. The rate increases for what NPPD is doing, we probably need to. I think that we need to take a look at the budget and figure out where \$170,000 is going to come out of it in the next number of years and return that rate payer to where they should be. Thank you for the opportunity to speak.”

Mayor Zavodny thanked Pekny & Associates and especially Jean Wolkenhorst for all of her work. Mayor Zavodny said, “We put a lot of time into this and I’ve met with Jean a few times and Joan and I have met with Jean. We really did try to work through the numbers on this.”

Mayor Zavodny stated that he had good talks with several city employees, but he wants to institute a pay freeze for the next year.

Mayor Zavodny stated that he sent an e-mail to Senator Johanns saying that this Rice thing is a dangerous thing to us as a small community because of the expense it gives us to come into compliance with our emissions. For this year, Mayor Zavodny’s recommendation is to not budget for putting on the catalytic converters. There are some risks in doing that. The risks are that if everybody waits until the last minute then we could be in trouble, however, there is some movement of people that are trying to do something about getting that law changed. Mayor Zavodny indicated that we need to have a very serious discussion on what is the commitment to our power plant. We still have \$200,000 a year for the next five years to pay for the generators that were purchased years ago. We also have the NPPD contract that needs to be considered. We, as a council, cannot fix the \$400,000 bleeding red right now. The magic number right now is \$400,000 that our expenses exceed our revenues. What Mayor Zavodny is proposing over the next year is that they give him the opportunity to look at some restructuring, some merging ideas, and this has to be approached in two ways. We have to increase our revenues and we have to reduce our expenses. Mayor Zavodny stated that he realized that we can’t wipe out \$400,000 in a year, but he said if we don’t do something now then you can give a reasonable prediction of a date where we become insolvent. We need to do something. It is incumbent upon us to do that.

Mayor Zavodny indicated that there were some line items where he wanted the councils input. Do we want to put a roof over our salt? Street Superintendent Jim McDonald has indicated that if we do not put a roof over the salt that we are in violation with the EPA. That would cost \$25,000 to do that project. We looked at \$60,000 for a building that was left in the budget because when you have pumps and the equipment with hydraulics in the middle of winter when a water main breaks for the water department, we need a heated place for that and he could not figure out a place for that within our current structure.

Interim Administrator Kovar stated that the \$6,000 for the salt spreader was also left in the budget.

Mayor Zavodny stated that there were requests for a new truck and a new pickup and he took all of those out but he did feel that we should budget the \$6,000 for the salt spreader because they deteriorate due to the nature of the use.

Mayor Zavodny introduced Ross Scholz who is with the HK Scholz Co.

Mr. Scholz introduced Jody Ellis who is also with the HK Scholz Co. Mr. Scholz stated that they have been the City’s electrical contractor for the last 40 years. They have worked on the substations and the engines at the power plant. He stated that they have an interest in the

City's longevity both as a contractor and they have an interest in preserving public power across the Midwest and the stability of small municipals across the Midwest. Mr. Scholz stated that the City spent about \$2.25 million dollars in 1996 to enhance the power plant and if you had to replace the power plant today it would cost at least \$8 million. In most cities the electric power system including the power plant is the largest revenue producing entity in the community. It is very critical to the operation of your city. He stated that it should be treated like it's a business and do everything that you can to make it as stable as possible. As you mentioned, your electrical system supports other functions in your city. For that to be healthy, the electrical infrastructure needs to be strong and healthy. An integral part of that is the power plant. Although you don't run that power plant very much, it provides you leverage in buying your power from your power supplier. It provides you an insurance policy for your city, in the fact that if the power company goes dead in the middle of winter, or during the heat of the summer, the majority of your citizens can maintain heating in their houses and preserve their food and their industry can continue. If you have an extended outage, your city could continue to function. It is also an economic development tool when an industry comes looking for a city to plant their industry in, they look at what is the electrical system. They want to know how reliable it is and how well is it backed up and what does electricity cost. Mr. Scholz also stated that another factor that is going on is what is called the Smart Grid and where that is heading is – we are not exactly sure but I have a pretty good idea. The Smart Grid is really going to be driven by cost. What is going to happen is that they are going to regulate power flow across the country and power usage by the price of the power. That's all coming down in a fast way. What it's going to amount to is today you can buy power for 2 – 3 cents per kwh and if the temperature goes up to 90 or 95 degrees then your cost of power will be 15 cents and if the temperature goes up to 100 or 105 degrees then it might be 40 or 50 cents per kwh. If you have an active generating plant you will be able to hedge that by generating your own electricity much cheaper than you can buy it. The catalytic converters are obviously a big issue. There is a lot of uncertainty about how to deal with it. In Kansas, they are putting on catalytic converters like crazy. In Iowa, Governor Branstad wrote a letter to their utilities saying that the EPA is reconsidering the situation and until they decide, you don't have to worry about it. He stated that he could leave the letter with the council. In Nebraska, some are putting on the converters and some are in a wait and see mode. There are other cities that are considering closing up their power plants and they have cities in Nebraska that are building power plants. Obviously, it's an undecided situation, but you have a long standing investment here that he would strongly encourage the council to preserve.

Mayor Zavodny stated that Chief McPhillips found an error in his budget that he wanted to address.

Police Chief McPhillips stated that there were two areas in his budget that needed to be increased. The salaries line needs to be increased to \$144,500. The group insurance needs to be increased to \$36,000.

Mayor Zavodny stated that they put Economic Development as its own line item.

Mayor Zavodny stated that one of the things that he was hopeful in doing this year was trying to use some of the sales tax money for the ball program. He would like to shift that from a general fund expense to a sales tax expense. He stated that he left the administrator position in the budget. That has been debated and debated. He stated that they are starting at a deficit of \$400,000 so anything that they add makes that deficit worse.

Jim Condon, of Olsson Associates was present to discuss the proposed wastewater project. We have the city revolving loan fund available to us. After speaking with DEQ, what we are looking at with Henningsen Foods, Inc. is a slow to a crawl process on this and to just try not to lose ground. We've got some potential for upwards of a million dollars worth of grant funds

and in terms of revenues, we are not looking at any type of increase in rates. Henningsen Foods pays a pretty significant part of this. The funds are there and available and we are not going to be adding to the debt. What we want to do is to go ahead and approve the SRF loan so that we can keep doing things and finish up looking at that FEMA grant for the wastewater lift station. Gary Janicek can attest that these things are going to save us money in the long run. It will have some energy savings and it will make it easier to run the plant. So, we want to add in revenue from the revolving loan fund and show an expense to go out of the same amount. We're going to spend some money to keep the process moving but all we would end up paying for next year would be the interest on whatever we spend during that year. The loan is a reimbursement type of loan. We don't have to borrow 2.7 million dollars if we don't want to. If we get the FEMA grant then that's going to save us almost \$700,000. The State revolving loan fund people have said that there's the potential for \$250,000 in loan forgiveness so we just want to keep those doors open so we don't lose that money. We need to just approve the SRF loan at this point and let the mayor control the pace of how quickly that actually happens.

Water/Wastewater Supervisor Gary Janicek stated that as long as the project is approved then we can take little steps and keep moving forward. After a year then the mayor can decide if we want to move into another phase of the project, instead of completely dropping the project and then trying to pick it back up in a year. We'd have to start the whole process over again and try to get the grant money again, if you don't approve the SRF part of the loan.

Mayor Zavodny asked when we would know if FEMA actually has the money.

Jim Condon answered by saying we would know after we submit the application and that doesn't cost us too much to do that. Henningsen's is paying a percentage on their current bills to cover some of the engineering costs. Currently they pay 54% of the capital of the existing bonds.

Jim Condon stated that it would go to 65% if this goes through. We've already done our rate increases to cover those costs.

Council member Kroesing asked how the scope of this project went from \$1.9 million to \$2.7 million.

Jim Condon stated that was the difference in the cost of the pump station that FEMA's going to fund.

Water/Wastewater Supervisor Janicek stated that they made it a separate phase of the project.

Mayor Zavodny stated that it was now up to the Council to decide on their priorities. We have the power plant and we need to evaluate where we are going to be 5 to 10 years from now. Mayor Zavodny stated that one thing that he absolutely did not want to do was to contribute to the City's long term debt. We finally made our last payment on the pool this year. We have five more years of \$200,000 for the power plant engines that we did years ago. Mayor Zavodny said, "I'm more concerned about the fact that, if push came to shove, and we had a big storm and we have no money to operate if we used all of that because we are running \$400,000 in the red. That's a big problem. The other things we need to consider is if we don't start reducing some of our long term debt, before we get into new long term debt, then we never get out of this hole. We don't have any plan for being able to replace two blocks worth of water and sewer and street and they are things that we need to do."

Power Plant Supervisor Eric Betzen stated that he has an extra man in his budget because he has a man that is going to retire next year and so he needs to hire to replace him.

Mayor Zavodny stated that Council member Scribner wanted to see a part-time person added to the police department budget.

Council member Scribner stated that in order to have employees be able to take their vacation time we need to add a part-time officer. We have four full-time employees at this point and only one can take vacation at a time. He stated that at most he would like to add \$15,000 per year.

Mayor Zavodny stated that if we add \$15,000 to the budget for that, you would call in another certified officer that works for another municipality or county or something. He asked Chief McPhillips if he felt that was efficient because there have to be pros and cons to this.

Chief McPhillips stated that there were definitely pros and cons to this either way that you look at it. With that, the employees that we currently have would be able to take their vacation, personal days, training days, etc. It is kind of a two-edged sword because you are bringing in somebody that is not a member of this agency and may not know to follow all of the policies and procedures for this agency. True, they would be a certified officer, but you are bringing in someone from outside your community to do your law enforcement. That could be a potential problem. The other issue is finding people from other agencies that are willing to come in and you would also have to set a salary for them. It would be a benefit so that the officers that you do have could get the training and take their vacation time.

Mayor Zavodny stated that is a little over half time if you use \$15,000.

Chief McPhillips stated that it depends on what salary you are going to set.

Mayor Zavodny stated that he was using the starting wage and you may not get someone who is making \$18 per hour want to come here for \$13 per hour but it's extra money.

Chief McPhillips stated that most departments have in their policies and procedures and even in our policies and procedures that he won't let an officer go work in another jurisdiction for anything less than \$20 per hour. You have to remember that they are not getting any benefits.

Mayor Zavodny asked Chief McPhillips if his new officers would be upset if we brought in someone part-time and paid them \$20 per hour when they are getting \$15 per hour.

Chief McPhillips stated that it won't make them mad because they are getting benefits.

Mayor Zavodny stated that maybe they don't care if they have someone to cover for them so that they can take the time off.

Council member Kroesing stated that this was discussed at the last meeting and we haven't had really good luck with bringing in part-time people.

Mayor Zavodny stated that he appreciated what Council member Scribner was trying to do but he didn't know how to do it.

Mayor Zavodny declared the public hearing closed at 8:14 p.m.

Council member Smith introduced Ordinance No. 1155. Council member Kroesing made a motion to suspend the statutory rule requiring an ordinance to be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members

Kroesing, Smith, Scribner, Vandenberg, Rogers and Svoboda. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass Ordinance No. 1155 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Smith, Scribner, Vandenberg, Svoboda and Rogers. Voting NAY: None. The motion carried and Ordinance No. 1155 was passed on third and final reading as follows:

**ORDINANCE NO. 1155**  
**THE ANNUAL APPROPRIATION BILL**

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

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

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

SECTION 1. That after complying with all procedures required by law, the budget presented and set forth in the budget statement is hereby approved as the Annual Appropriation Bill for the fiscal year beginning October 1, 2011, through September 30, 2012. All sums of money contained in the budget statement are hereby appropriate for the necessary expenses and liabilities of the City of David City, Nebraska. A copy of all completed State of Nebraska Budget Forms shall be forwarded as provided by law to the Auditor of Public Accounts, State Capital, Lincoln, Nebraska, and to the County Clerk of Butler County, Nebraska, for use by the levying authority.

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

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

PASSED AND APPROVED this 14th day of September, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami Comte

Mayor Zavodny declared the public hearing open at 8:17 p.m. to consider setting the final tax request at a difference amount than the prior year tax request.

Mayor Zavodny stated that there was just a small difference in that number.

Mayor Zavodny declared the public hearing closed at 8:18 p.m.

Council member Smith introduced Resolution No. 19 - 2011 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting AYE: Council members Svoboda, Scribner, Kroesing, Rogers, Smith, and Vandenberg. Voting NAY: None. The motion carried and Resolution No. 19-2011 was passed and approved as follows:

**RESOLUTION NO. 19 - 2011**

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

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

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

1. An additional one percent (1%) increase in restricted funds for the 2011 -2012 budget is approved.

PASSED AND APPROVED this 14<sup>th</sup> day of September, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Council member Smith introduced Resolution No. 20 - 2011 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Smith, Rogers, Kroesing, Scribner, and Svoboda. Voting NAY: None. The motion carried and Resolution No. 20 - 2011 was passed and approved as follows:

**RESOLUTION NO. 20 - 2011**

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

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

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

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

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

1. The 2011 - 2012 property tax request be set at \$529,431.90.
2. A copy of this resolution be certified and forwarded to the Butler County Clerk prior to September 20, 2011.

PASSED AND APPROVED this 14<sup>th</sup> day of September, 2011.

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Mayor Alan Zavodny

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Interim City Clerk Tami L. Comte

Council member Smith introduced Resolution No. 21 - 2011 and moved for its passage and adoption. Council member Kroesing seconded the motion. Voting AYE: Council members Rogers, Kroesing, Vandenberg, Scribner, Smith, and Svoboda. Voting NAY: None. The motion carried and Resolution No. 21 - 2011 was passed and approved as follows:

#### **RESOLUTION NO. 21 - 2011**

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

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

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

1. The unused budget authority of \$1,217,612.44 from the 2010 - 2011 budget shall be carried forward to the 2011-2012 budget of the City of David City, Nebraska.

PASSED AND APPROVED this 14<sup>th</sup> day of September, 2011.

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Mayor Alan Zavodny

ATTEST:

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Interim City Clerk Tami L. Comte

Council member Smith introduced Ordinance No. 1156.

Council member Smith stated that he asked to have this put back on the agenda because there were two council members absent at the last meeting and he wanted the entire council to have an opportunity to vote on it.

Mayor Zavodny stated that he felt that the Ordinance was put together very well.

Council member Vandenberg stated that he heard from a number of people in the community and he felt that the vehicles were meant for off-road. He agreed with Chief McPhillips that it would add more work for them and make it more difficult to catch culprits. He stated that he felt the way it went the first time was the right way to go.

Council member Smith made a motion to pass Ordinance No. 1156 on 1<sup>st</sup> reading only. Council member Kroesing seconded the motion. Voting AYE: Council members Smith, Kroesing, Svoboda and Rogers. Voting NAY: Council members Vandenberg and Scribner. The motion carried and Ordinance No. 1156 was passed on first reading only as follows:

**ORDINANCE NO. 1156**

AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

**SECTION 1:** Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of all-terrain vehicles.

**SECTION 2:** It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that all-terrain vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

**SECTION 3:** It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (A) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.
- (B) A non-refundable **application fee of \$50.00** shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (C) The permit is valid only one (1) year from the date of its issuance.
- (D) Operators of all-terrain vehicles must **be at least 21 years of age** and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (E) All-terrain vehicles may be operated only between the hours of sunrise and sunset.
- (F) Operators shall have liability insurance coverage for the all-terrain vehicles effective while operating the same within the corporate limits of the City.
- (G) Operators shall not operate an all-terrain vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (H) A person operating an all-terrain vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (I) When a person is operating an all-terrain vehicle the headlight and taillight of said vehicle should be on.
- (J) When a person is operating an all-terrain vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (K) **When operating an all-terrain vehicle, the operator must follow and obey all rules of the road.**
- (L) An all-terrain vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the 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 roadway of the highway.
- (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
- (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

#### **SECTION 4: PENALTY**

Any person violating the terms of this ordinance shall be guilty of an offense, fined in a sum of not more than \$500.00, and shall have the registration revoked as to the vehicle involved in said offense as follows:

- a. For the 1<sup>st</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2<sup>nd</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3<sup>rd</sup> offense, use of said vehicle shall be permanently prohibited within the City of David City.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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

Mayor Alan Zavodny

ATTEST:  
(Seal)

Passed on 1<sup>st</sup> reading only  
Interim City Clerk Tami Comte

Council member Smith introduced Ordinance No. 1157.

Council member Kroesing made a motion to pass Ordinance No. 1157 on first reading only. Council member Smith seconded the motion. Voting AYE: Council members Smith, Kroesing, Svoboda and Rogers. Voting NAY: Council members Vandenberg and Scribner. The motion carried and Ordinance No. 1157 was passed on first reading only as follows:

**ORDINANCE NO. 1157**

AN ORDINANCE AUTHORIZING THE OPERATION OF UTILITY TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of utility-type vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that utility-type vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (M) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.

- (N) A non-refundable **application fee of \$50.00** shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (O) Operators of utility-type vehicles must **be at least 21 years of age** and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (P) Utility-type vehicles may be operated only between the hours of sunrise and sunset.
- (Q) Operators shall follow and obey all rules of the road.**
- (R) Operators shall have liability insurance coverage for the utility-type vehicles effective while operating the same within the corporate limits of the City.
- (S) Operators shall not operate a utility-type vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (T) A person operating a utility-type vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (U) When a person is operating a utility-type vehicle the headlight and taillight of said vehicle should be on.
- (V) When a person is operating a utility-type vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (W) A utility-type vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
  - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the 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 roadway of the highway.
  - (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
  - (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

#### **SECTION 4: PENALTY**

Any person violating the terms of this ordinance shall be guilty of an offense, fined in a sum of not more than \$500.00, and shall have the registration revoked as to the vehicle involved in said offense as follows:

- a. For the 1<sup>st</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 6 months;
- b. For the 2<sup>nd</sup> offense, use of said vehicle shall be prohibited within the City of David City for a period of 1 year; and
- c. For the 3<sup>rd</sup> offense, use of said vehicle shall be permanently prohibited within the City of David City.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASS AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

Passed on 1<sup>st</sup> reading only  
Mayor Alan Zavodny

Passed on 1<sup>st</sup> reading only  
Interim City Clerk Tami Comte

Council member Kroesing introduced Resolution No. 18-2011 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Kroesing, Vandenberg, Scribner, Smith, and Svoboda. Voting NAY: None. The motion carried and Resolution No. 18 - 2011 was passed and approved as follows:

### **RESOLUTION NO. 18-2011**

WHEREAS, the City of David City, Nebraska recognizes that a properly functioning sewer system is necessary to the health and welfare of the citizens of the City; and

WHEREAS, the Mayor has determined that portions of the City sewer system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the City sewer system may be obtained by loan from the Nebraska Department of Environmental Quality, subject to certain requirements and obligations;

NOW, THEREFORE, BE IT RESOLVED by the Mayor of the City of David City, Nebraska that they should execute the contract for loan between the Nebraska Department of

Environmental Quality and the City of David City, Nebraska designated as Project No. C317836, incorporated by reference into this Resolution as if fully set forth; and

BE IT FURTHER RESOLVED, Alan Zavodny, Mayor, is hereby directed to execute the contract and all other documents necessary to facilitate the loan between the Nebraska Department of Environmental Quality and the City of David City, Nebraska for the purpose of repairing and improving the City sewer system; and

BE IT FURTHER RESOLVE THAT Tami Comte, Interim Clerk, be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS 14<sup>th</sup> day of September, 2011.

\_\_\_\_\_  
Mayor

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 14<sup>th</sup> day of September, 2011.

\_\_\_\_\_  
Interim City Clerk of the City of David City, NE

Aida Hernandez was present representing the Hernandez family. She stated that they are purchasing the property so that they can have a family run authentic Mexican restaurant.

Council member Smith introduced Ordinance No. 1154.

Council member Kroesing made a motion to suspend the statutory rule requiring an Ordinance to be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Smith, Rogers, Svoboda, Scribner, Kroesing and Vandenberg. Voting NAY: None.

Council member Kroesing made a motion to pass Ordinance No. 1154 on third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Smith, Rogers, Svoboda, Scribner, Kroesing and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1154 was passed on third and final reading as follows:

**ORDINANCE NO. 1154**

AN ORDINANCE TO CONVEY BY WARRANTY DEED A TRACT OF LAND DESCRIBED AS FOLLOWS:

315 South 4<sup>th</sup> Street, David City, Nebraska

Legally described as: David City PT NE ¼ NW ¼  
Cedar Lawn Addition (30 – 15- 3);

Lot Width x Depth: 160 x 224

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

SECTION 1. That a tract of land described as follows:

315 South 4<sup>th</sup> Street, David City, Nebraska

Legally described as: David City PT NE ¼ NW ¼  
Cedar Lawn Addition (30 – 15- 3);

Lot Width x Depth: 160 x 224

is hereby conveyed by Warranty Deed and by this Ordinance to Maria Hernandez, who was the highest bidder of the sealed bids received and who have paid the full bid price according to the terms of the letting, which were as follows:

- (A) Purchase price bid of Thirty-Three Thousand Dollars (\$33,000.00).
- (B) 10% down payment with the balance payable within 90 days, sale pending the approval of City Council.
- (C) The buyer shall pay all closing costs.
- (D) Possession upon payment of balance.
- (E) Balance due and payable in cash or cashier's check upon passing of an Ordinance confirming the sale by the City of David City, Nebraska pursuant to Section 17-503 of the Revised Statutes of Nebraska and upon passing of the 30 day remonstrance period after the third (3<sup>rd</sup>) publication of Notice.

SECTION 2. That Notice of this sale has been given according to law by publication once each week for three (3) consecutive weeks; that thirty (30) days have passed since the last publication on August 4, 2011, for the right-of-remonstrance period; that the period of remonstrance has passed; and that no remonstrance has been filed.

SECTION 3. The City Clerk shall upon passage of this Ordinance certify the name of the purchasers to the Register of Deeds/County Clerk of Butler County, Nebraska.

SECTION 4. The Mayor and City Clerk are authorized to execute the necessary Warranty Deed to the Purchasers.

SECTION 5. That any other Ordinance or part of Ordinance passed and approved prior to the passing, approval, and publication or posting of the Ordinance and in conflict with its possession is hereby repealed.

SECTION 6. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 14<sup>th</sup> day of September, 2011.

\_\_\_\_\_  
Mayor Alan Zavodny

\_\_\_\_\_  
Interim City Clerk Tami Comte

State of Nebraska    )  
                                  ) ss.  
County of Butler     )

The foregoing Ordinance was acknowledged before me on \_\_\_\_\_, 2011 by ALAN ZAVODNY, Mayor of the City of David City, Nebraska and TAMI COMTE, Interim City Clerk of the City of David City, Nebraska in their official capacity as said Mayor and City Clerk.

\_\_\_\_\_  
Notary Public

Council member Scribner began the discussion concerning scheduling for tree board meetings by stating that he liked having the meetings a half hour before the committee of the whole meetings.

Council member Kroesing stated that he told Interim Administrator Kovar to put this item on the agenda because he did not like the meetings only a half hour prior to the committee meetings. He would prefer to have the meetings an hour prior to the committee meeting.

Council member Smith asked if the Committee of the Whole meetings could begin at 7 p.m. instead of 6 p.m. Some of the council members asked if they could split the difference and begin at 6:30 p.m.

Interim Administrator Kovar stated that it may be in the code book that the meetings will begin at 6 p.m. and if so that would take an Ordinance to change it.

Mayor Zavodny instructed Interim Administrator Kovar to check into this and see if we need to change the Ordinance.

Council member Kroesing made a motion to adjourn. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Rogers, Vandenberg, Svoboda, Smith and Scribner. Voting NAY: None. The motion carried and the meeting was adjourned at 8:39 p.m.



CERTIFICATION OF MINUTES  
September 14, 2011

I, Tami L. Comte, duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of September 14, 2011; 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.

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Tami L. Comte, Interim City Clerk