

CITY COUNCIL PROCEEDINGS

October 14, 2009

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

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

The meeting opened with the Pledge of Allegiance.

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

The minutes of the September 9th meeting of the Mayor and City Council were approved upon a motion by Council member Scribner and seconded by Council member Rogers. Mayor Trowbridge asked the Council members to take a look, when they have time, at those particular minutes: "Take particular attention to the citizen's communications/concerns area, and ask yourself some questions. This was an agenda item and it turned into significantly more." Voting AYE: Council members Kroesing, Hein, Rogers, and Scribner. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns. Relative to something that is not on the agenda. There were none.

Mayor Trowbridge asked for consideration of claims. Council member Kroesing stated that the Windstream bill was quite costly. City Administrator Johnson stated that the city recently switched over to Cable except for the departments that need actual physical landlines such as the police and utility departments. This will result in a sizeable savings. Council member Kroesing made a motion to authorize the payment of claims. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Rogers, Hein, and Kroesing. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried.

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. There were no additional reports. Mayor Trowbridge reported that the two Subcommittee's met for the first time on September 28th for a very brief time for both circumstances, mainly to set the times and dates that the subcommittees will attempt to continue to meet on a monthly basis. The Governmental Subcommittee meetings will be the third Tuesday of each month at 5:30 p.m. in the City Hall. The Utility Subcommittee

meetings will be the third Wednesday of each month at 5:30 p.m. in the City Hall. This is the week after the council meeting so it should be fairly simple to remember.

Governmental Subcommittee

Date and Time: 3rd Tuesday of each month
at 5:30 p.m. at City Hall

Includes:

City Hall
Police / Public Safety
Park
Auditorium
Library
Zoning
Swimming Pool

Members:

Mayor Dana Trowbridge
City Council Member Nick Hein
Kroesing
City Council Member Bill Scribner
City Council Member Bill Yindrick

Utility Subcommittee

Date and Time: 3rd Wednesday of each month
at 5:30 p.m. at City Hall

Includes:

Electric Systems
Power Plant
Water
Wastewater
Street
Airport
Recycling

Members:

Mayor Dana Trowbridge
City Council President Gary

City Council Member Mike Rogers
City Council Member Gary Smith

Mayor Trowbridge had two "Fifteen Year Service Appreciation Certificates" to award to city employees. Mayor Trowbridge stated: "I am going to pick on John Smith first. We have a letter of resignation or a letter of retirement, however you wish to read it; the glass is half full or half empty I don't know which. We hope it's half full; OK and you're thinking of drinking the rest of it." (Everyone laughed.) "John waits until the age that he is; 15 years with the City. I have always had a lot of respect for you, the work you did. If I ever saw you leaning on a shovel, you're tongue was usually hanging out and your brow had some sweat on it, so I knew there was something going on. So, you can set this by your easy chair and look at it for hours on end." John laughed and said "I probably will". Mayor Trowbridge continued: "The fifteen year check won't buy the easy chair but it's a "thank you" for the fifteen years. Come on up here and I hope everybody else appreciates your attitude and smiling face like I always have. Thank you very much. Enjoy your retirement." Everyone applauded. Mayor Trowbridge stated: "Would you like to address the group one last time? You are certainly welcome to." John Smith just laughed and waved off the suggestion. Mayor Trowbridge stated: "We won't be nearly as hard on Mick Shipley but we like him as well as John so it's OK Mick. You'll just have to put this by the kitchen table and look at it because you're going to work the next day. But again, 15 years of good service in storms, in rain, hail, and sleet, you're better than the mailman. And again, a small token of the City's appreciation for fifteen years of your life Mick; "thank you", and everybody in the room "thanks you." Everyone applauded.

Mayor Trowbridge stated: "Agenda Item #8 came as a request for future agenda items from John Klosterman and Bill Lawson who worked together on this particular project. John is going to do the presenting this evening, so John, if you would have the floor please."

John Klosterman provided handouts and then addressed the Mayor and City Council as follows: "I've noted with some interest there was a letter in the Banner several weeks ago about

the Wolfe building, so I've given that a lot of thought here lately and in fact went and looked around in the building with Joe and the Mayor and Bill Lawson, and the gist of my comments are on that page that you've got and I'm just going to read them for you.....

There has been discussion lately regarding the possible use of the Wolfe Building to meet the city's needs for police and administration. The structure including the present KC hall is available, and at a reasonable cost. Obviously there is adequate square footage there. There are a number of approaches to renovation that would make the building accessible and useful - all of them are expensive. However, the apartments on the second floor do present the prospect of an income stream.

I am not convinced, based on what I know at this time, that all potential avenues for obtaining federal funds to renovate a downtown building in a small town have been adequately investigated.

It would be a mistake to let perceived time constraints rush you into a short-sighted solution. There is adequate space available on a temporary basis to allow for some serious long term planning for the city.

Having said that, I now want to turn to the bigger and more important picture.

Downtown David City is at a crossroads. Either a full commitment and necessary action to save and restore it is pursued, or it falls into deterioration and abandonment.

The Wolfe Building, the Opera House, and much of the east side of the square are on the brink. It is time to act if they are to be saved.

The responsibility for the future of the downtown rests right here in this room. Without the full commitment of the citizens, the city and its resources toward the renovation of the downtown private investors are not going to come forward. No individual or group of individuals can make this happen without the city's involvement and assistance.

If the city does not cause the renovation of the Wolfe Building, then it is safe to assume that at some point in the future the city will get possession of it in lieu of taxes - - and what will then be the city's cost? The same can be said of several other downtown structures.

If the City were to take the lead by renovating the Wolfe Building for its purposes, that would illustrate to all that you are committed to David City's future, and it would set the stage for further action to save the downtown.

Unless you make the commitment and build the citizen support necessary to lead the way toward restoration of the downtown, it will become a scene of abandonment and decay. That would have a devastating effect on any future growth of the city.

It's your call.

.....John Klosterman

Mayor Trowbridge stated that John's presentation was a great thought starter, and a jump start for discussion concerning the Wolfe Building and what we can see happening to it with or without the City's help or participation. Discussion followed. It was agreed that it would certainly take a lot of money to renovate. The biggest problem is accessibility. An elevator would be needed in addition to renovations and it would be costly; it is substantial. The cost estimate is \$1.2 - \$1.5 million. It is not currently registered as a historic building. Under certain circumstances it may be better off registered as a historic building because there are funds available for those buildings which aren't available for other buildings. We need to look at alternative solutions and we need to look at what it is going to look like in another 15 years. Is it going to become another Perkins Hotel? Bill Lawson reported that the entire building is for sale; the Wolfe Building and the Knights of Columbus Building which is all owned by the Knights of Columbus legally described as Original Town, Block 19, Lot 10 and PT of Lots 11+12.

John Klosterman stated: "The gist of my message tonight is: Don't rush off and commit yourself to something that is short term. There are a lot of spaces around town available to accommodate the police department and to do so at a fairly reasonable cost. Sometimes, in all the years of success we've had with the Health Care Center, you don't often make progress by taking the easy way, it isn't what it is today because we failed to be bold at times and to lay some things on the line and the same thing is true for the City. It isn't going to happen by itself. I hope to generate some serious thinking and some discussion. Please don't rush ahead without really thinking about where you want David City to be in ten or fifteen years."

City Administrator Johnson stated: "I definitely respect what John Klosterman said, however, by approving the floor plan (for the city office/police department building) and going out to bid for construction documents you still haven't committed to anything, you still haven't committed to building a building, you're just furthering that cause, and those processes will probably take a month, two months, so that will allow us two months to get those documents prepared to do our due diligence, let you guys do your due diligence, looking at the Wolfe building and then you can make a decision at that point."

The proposed floor plan for the City Office/Police Department building was on display in the council room. It is approximately 4,800 sq. ft. There is not a designated building site at this time, however, the city property located on the east side of 5th Street, between the railroad tracks and "G" Street has been considered. Mayor Trowbridge stated that he might be getting the cart in front of the horse, but he thought it would be a terrible shame to do this project a block off of the highway where nobody can see it. Council members Rogers and Hein agreed. Trowbridge stated: "If the City is going to put that kind of money in something it should advertise the progressive nature of a good community."

Council member Scribner made a motion to approve the floor plan for the construction of a new building to appropriately accommodate city hall and the police department. Council member Rogers seconded the motion. City Administrator Johnson stated that there will be some modifications that the engineers and architects will make and those will be reviewed by the building committee and the department heads. Voting AYE: Council members Hein, Kroesing, Rogers, and Scribner. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried.

Council member Scribner made a motion to obtain bids from professional architect/engineering firms for detailed building plans for the construction of a new municipal building. Council member Kroesing seconded the motion. Someone questioned what it would cost to request bids and they were informed just postage and publication costs. Voting AYE:

Council members Hein, Rogers, Kroesing, and Scribner. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried.

Mayor Trowbridge stated: "Before we move on from that, give some thought to taking some time, Joe can line up a key to the Wolfe building/ K.C. Hall, it's an interesting trip. Open your mind; there are some possibilities that would be interesting there. And again, try to project fifteen years downstream. Do we end up with something less than appropriate? That is kind of the entrance to our downtown area and it sets the tone as people come by and we certainly don't wish to see laundry hanging out the windows; not a good environment."

City Administrator Joe Johnson stated that he had a key to the Knights of Columbus/Wolfe building and he would make himself available if anyone wanted to view the building or discuss what it would take to renovate the building or do a project like that. The offer was not limited to the council members but available to the public as well.

Mayor Trowbridge announced the 7:30 p.m. Public Hearing, however, City Administrator Joe Johnson stated: "The City was going to apply for the Community Development Block Grant but it turns out you cannot do a housing study and use CDBG funds to do that housing study because with that housing study we would have applied for low to moderate income housing and funds for redevelopment, and we can't do that. We learned that late yesterday so that is no longer an issue."

An ordinance, creating a Street Improvement District within the City of David City, Nebraska, to be known as Street Improvement District No. 2009-1, located on Industrial Drive from west "O" Street to "S" Street, including the intersections at "O" Street and "S" Street and setting a hearing date to receive all sufficient objections, was discussed. City Administrator Johnson met with the property owners on October 13th to discuss the proposed Street Improvement District. The following signed petition was submitted:

To the Mayor and City Council of David City, NE

Attached is a list of Owners, Legal Descriptions and Estimated Cost for the Industrial Drive Construction Project as provided to us at a meeting held on October 13, 2009 with Joe Johnson, City Administrator.

Under the current proposal, we, the undersigned, are not in favor of the Industrial Road Street Paving Project.

With this proposal, our feeling is that the cost to the adjacent property owners is too excessive.

Christopher Palensky
Kobza LLC: Henry Kobza
Kobza Storage: John J. Kobza
Schmid Truck Shop: Dick A. Schmid
Bank of the Valley: Larry McPhillips, President
Steager Lawn Service: Scott Steager
Kracl Funeral Home: Jerry L. Kracl
Robert Kobza

Lindsey Palensky
Janice Kobza
Kimberly Kobza
Janice Schmid
Chelsea Steager
Laura Kobza

Jeff Thompson of Timppte was present to state that Timppte supported the project because they know there is a fair amount of industrial traffic on that road and that creates a large amount of dust. Timppte is certainly prepared to pay their fair share of the assessment if the other land owners are so inclined to participate. They expect to be there a long time and they anticipate the traffic to increase not decrease.

Whereas, Section 17-510 of the Revised States of Nebraska states: Whenever a petition signed by the owners of the record title representing more than sixty percent (60%) of the front footage of the property directly abutting upon the street proposed to be improved shall be presented and filed with the city clerk petitioning therefore, the governing body shall by ordinance create a paving improvement district. Sixty percent are not in favor of the project.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, CREATING A STREET IMPROVEMENT DISTRICT WITHIN THE CITY OF DAVID CITY TO BE KNOWN AS STREET IMPROVEMENT DISTRICT NO. 2009-1; DEFINING THE BOUNDARIES OF SAID DISTRICT AND THE PROPERTY CONTAINED THEREIN; AND, PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS THEREIN CONSISTING OF GRADING AND CONSTRUCTION OF CURB AND GUTTER, CONCRETE PAVING, AND STORM SEWER IMPROVEMENTS TOGETHER WITH SUCH OTHER APPURTENANCES AS MAY BE INCIDENTAL THERETO.

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

Section 1. The Mayor and City Council of the City of David City, Butler County, Nebraska, hereby find and determine that it is in the best interests of the City that Industrial Drive from West O Street north to S Street, in the City of David City, including the intersections at O Street and S Street, be improved as hereinafter described; and that it is in the best interests of the City of David City to create a street improvement district for the construction of the said improvements.

Section 2. There is hereby created within the City of David City, Nebraska, a street improvement district to be known and designated as Street Improvement District No. 2009-1, the outer boundaries of which shall contain the following property:

- Butler County, Nebraska Parcel ID# 120008155 being legally described as: David City SE ¼, SW ¼ Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008149 being legally described as: Lot 1, in 1993 replat of lots 1, 2, 3, 4 and 5, Block 3, Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008151 being legally described as: Part of Lot 4, (105 x 174.16) Sypal's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008143 being legally described as: Part of Lot 4, (147.15 x 93.46) Sypal's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008134 being legally described as: Lots 3, 4, 5 and 6, of 1993 replat of lots 1, 2, 3, 5 and 5, Block 3, Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008120 being legally described as: Outlot A (less the north 20 feet of the east 200 feet of said Lot A), of 1993 replat of Lots 1, 2, 3, 4 and 5, Block 3, Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008106 being legally described as: Lot 4, the north 20 feet of the east 200 feet of Outlot A, and Lot 5 of Block 2 Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008126 being legally described as: the south 103 feet of Lot 6, Block 2, Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008127 being legally described as: the north 22.6 feet of Lot 6, and all of Lots 7 and 8, Block 2, Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008170 being legally described as: Lot 2, Block 1, Schmid's Addition to the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008177 being legally described as: Lot 1, 3, 4, 5, 6 and 7, Block 1, Schmid's Addition to the City of David City, Nebraska and vacated S Street (50 x 254) in the City of David City, Nebraska.
- Butler County, Nebraska Parcel ID# 120008176 being legally described as: Lots 8, 9, 10, 11, 12 and 13, Block 1, Schmid's Addition to the City of David City, Nebraska and vacated S Street (50 x 393.05) in the City of David City, Nebraska.

Within Street Improvement District No. 2009-1, Industrial Drive from West O Street north to S Street, in the City of David City, including the intersections at O Street and S Street, shall be and is hereby ordered improved by construction of improvements therein consisting of grading, construction of curb and gutter, concrete paving, and storm drainage, together with other necessary appurtenant improvements.

Section 3. All of said improvements shall be constructed to the established grades as fixed by ordinances of the City of David City, and shall be constructed in accordance with plans and specifications to be prepared by the City's Engineers and approved by the Mayor and City Council. Said improvements shall be made at public cost, but special assessments shall be levied to reimburse the City for the cost of the improvements as provided by law.

Section 4. Notice of the creation of said Street Improvement District No. 2009-1 shall be published in the Banner Press, a legal newspaper of general circulation within the City of David City, for three weeks after the publication of this Ordinance.

Section 5. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the other provisions of this Ordinance.

Section 6. This Ordinance shall be published and take effect as provided by law.

PASSED AND APPROVED this ____ day of _____, 2009.

(Not 60% in favor)

Mayor

(Not 60% in favor)

City Clerk

Council member Hein introduced Resolution No. 28 - 2009 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting AYE: Council members Rogers, Kroesing, Scribner, and Hein. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried and Resolution No. 28 - 2009 was passed and approved as follows:

RESOLUTION NO. 28 - 2009

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA'S DESIRE FOR PAVING AND STORM SEWER IMPROVEMENTS ALONG D STREET, C STREET OUTLET IMPROVEMENTS AND STORM SEWER IMPROVEMENTS ASSOCIATED WITH HIGHWAY 15 AND CONVEY SUCH AS PART OF AN AGREEMENT WITH THE STATE OF NEBRASKA, DEPARTMENT OF ROADS FOR THEIR CONTRIBUTION OF \$29,602.22.

WHEREAS, the City of David City, Nebraska (hereinafter referred to as "City") is an independent body of government, and

WHEREAS, the State of Nebraska, Department of Roads (hereinafter referred to as "State") is a department of state government, and

WHEREAS, the City has awarded a contract for paving and storm sewer improvements along D Street, C Street outlet improvements and storm sewer improvements associated with Highway 15, and

WHEREAS, as part of the City improvements to right-of-way along Highway N-15, the State will be gaining benefits from the drainage improvements that will also function in a future State project, and

WHEREAS, the State agrees to participate in the costs of the improvements associated with Highway N-15 right-of-way, as described above, and

WHEREAS, the State agrees to pay the City \$29,602.22 for drainage improvements to N-15 as accomplished under the City's project.

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

1. The City of David City, Nebraska, desires the above improvement.

PASSED AND APPROVED this 14th day of October, 2009.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Hein made a motion to re-appoint Alan Scott Boyd as the Wastewater Supervisor effective October 24, 2009. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Rogers, Scribner, and Hein. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried.

With consideration of moving the regular City Council meeting scheduled for Wednesday, November 11, 2009, which is Veterans Day, to Wednesday, November 18, 2009, Council member Hein asked if, since the meeting date is set by ordinance, can the Council change the meeting date. City Attorney Egr stated we are not changing the ordinance to change the normal date of the council meeting. This is simply due to the particular circumstance that this happens to be Veterans Day; so they can in this instance. Therefore, Council member Hein made a motion to move the regular City Council meeting scheduled for Wednesday, November 11, 2009, which is Veterans Day, to Wednesday, November 18, 2009. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Rogers, Scribner, and Hein. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Scribner seconded the motion. Voting AYE: Council members Kroesing, Rogers, Scribner, and Hein. Voting NAY: None. Council members Smith and Yindrick were absent. The motion carried and Mayor Trowbridge declared the meeting adjourned at 7:45 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
October 14, 2009

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 October 14, 2009; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar, City Clerk