

CITY COUNCIL PROCEEDINGS

May 14, 2008

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 May 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: Council President Bill Schatz, Council members Gary Smith, Bill Scribner, Nick Hein, and Bill Yindrick, City Administrator Joe Johnson, Attorney Jim Birkel, and City Clerk-Treasurer Joan Kovar. Council member Lukassen was absent. Mayor Trowbridge arrived at 8:45 p.m.

Also present were: Marge Grubaugh, Darlene McClure, Marianne Long & son Frankie, Jim & Mary Redler, Jerry Kosch, Eldon Coufal, Jeff Hilger, Matt Rief of Olsson Associates, Phil Lorenzen, Vice President of D.A. Davidson & Co., and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

As Mayor Trowbridge was absent, Council President Bill Schatz 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 April 9th (and recessed April 28th meeting) of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Yindrick. Voting AYE: Council members Scribner, Smith, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council President Bill Schatz asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets. There were none.

Council President Bill Schatz asked for consideration of claims. Council member Hein made a motion to authorize the payment of claims. Council member Scribner seconded the motion. Voting AYE: Council members Yindrick, Smith, Schatz, Scribner, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council President Bill Schatz scheduled a Committee of the Whole meeting for Wednesday, May 28th, 2008, at 6:00 p.m. in the City Office meeting room.

Council President Bill Schatz asked if the Council members had any concerns or questions regarding the Committee and Officers' Reports contained in the Agenda packet. Council member Scribner made note of the Park and Auditorium Report by Supervisor Bill Buntgen concerning paint ball vandalism in the City Park. Scribner stated that something needs to be done to prove a point and minimize vandalism. Council President Schatz stated that Park/Auditorium Supervisor Buntgen may want to budget for video camera's and signage for in the City Park.

Council member Hein made a motion to accept the Committee and Officer Reports contained in the Agenda packets. Council member Yindrick seconded the motion. Voting AYE: Council

members Scribner, Smith, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

It was noted that there was a typo on the agenda and the Economic Development Loan Application was for \$35,000.00 and not \$30,000.00 as the agenda stated.

Council member Hein made a motion to accept the recommendation of the Economic Development Loan Committee and approve the loan application for CDBG Reuse Economic Development Loan Funds in the amount of \$35,000.00. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

A Public Hearing was held on April 28th to consider annexing property described as part of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section Twelve (12), Township Fifteen (15), North, Range Two (2), East of the 6th P.M., Butler County, NE, consisting of approximately 3.00 acres, more or less, owned by Edward and Gwendolynne Hein. Following the Public Hearing Ordinance No. 1073 was passed on first reading only on April 28, 2008.

Council member Yindrick made a motion to pass Ordinance No. 1073 on the second reading only. Council member Scribner seconded the motion. Voting AYE: Council members Smith, Schatz, Scribner, and Yindrick. Voting NAY: None. Council member Hein abstained due to a possible conflict of interest. Council member Lukassen was absent. The motion carried and Ordinance No. 1073 was passed on second reading only as follows:

ORDINANCE NO. 1073

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX PROPERTY TO, THE CITY OF DAVID CITY, SUCH PROPERTY LOCATED NORTH OF DAVID CITY ALONG THE WEST SIDE OF HIGHWAY 15, LEGALLY DESCRIBED BELOW, AND ALL OF THE CONTIGUOUS OR ABUTTING ROAD AS REQUIRED, REPEALING ANY ORDINANCES IN CONFLICT HERewith; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council 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 Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the southeast corner of said NW¼; thence westerly, 41.0 feet, on the south line of said NW¼, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly Highway right-of-way line, to the Point of Beginning, said Point being 41.08 feet west of the east line of said NW¼; thence westerly, 340.00 feet, at a right angle to the last described line; thence northerly, 385.00 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 340.00 feet, at a right angle to the last described line, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence southerly, 385.00 feet, on said westerly Highway right-of-way line, to the Point of Beginning,

containing 3.00 acres, more or less. (currently owned by Edward & Gwendolynne Hein, 3661 MN Road)

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 the _____th day of _____, 2008.

Passed on 2nd reading only 5-14-08
Mayor Dana Trowbridge

Passed on 2nd reading only 5-14-08
City Clerk Joan E. Kovar

Council member Hein introduced Ordinance No. 1074. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Scribner seconded the motion. Voting AYE: Council members Yindrick, Smith, Schatz, Scribner, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Hein made a motion to pass and adopt Ordinance No. 1074 on the third and final reading. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 1074 was passed and adopted as follows:

ORDINANCE NO. 1074

AN ORDINANCE AMENDING THE PAY SCALE TO ACCOUNT FOR AN INCREASE IN THE MINIMUM WAGE RATE FOR PART-TIME WORKERS AND SEASONAL WORKERS OF THE CITY OF DAVID CITY, NEBRASKA; TO REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales and salaries for the following positions for the appointed officers and employees of the City of David City, Nebraska:

SECTION 2. The wages for the Library Director and Librarians are set by the Library Board and therefore are not included.

SECTION 3. The wages for the Swimming Manager, Assistant Managers, Concession Stand Workers and Lifeguards are set by a separate Ordinance and therefore are not included.

Part-Time Workers

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
Years in Position	0	6m	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Part-time workers	7.55	7.72	7.89	8.06	8.23	8.40	8.57	8.74	8.91	9.08	9.25	9.42	9.59	9.76	9.93	10.10	10.27	10.44	10.61	10.78	10.95	11.12
Zoning Inspector	15.00	15.08	15.16	15.23	15.31	15.39	15.47	15.54	15.62	15.70	15.78	15.85	15.93	16.01	16.09	16.16	16.24	16.32	16.40	16.47	16.55	16.63
Bartenders -	Begin @ \$7.00/hr - experienced up to \$7.50																					
Recycling workers -	Begin @ \$7.00/hr - experienced up to \$7.50																					

Years in Position	1	2	3	4
Summer Time Help -	7.25	7.50	7.75	8.00

Full-Time Workers

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
Years in Position	0	6m	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

Office Staff

Clerical I	10.13	10.26	10.38	10.53	10.66	10.79	10.93	11.05	11.19	11.34	11.46	11.60	11.73	11.86	12.00	12.13	12.25	12.40	12.54	12.66	12.80	12.92
Police Clerical	9.61	9.98	10.17	10.32	10.39	10.46	10.53	10.62	10.71	10.81	10.93	11.01	11.11	11.18	11.25	11.33	11.38	11.43	11.49	11.57	11.64	11.71
Acct Clerk I	10.20	10.34	10.53	10.69	10.88	11.03	11.20	11.39	11.53	11.72	11.89	12.06	12.22	12.40	12.58	12.76	12.89	13.05	13.19	13.34	13.52	13.66
Acct Clerk II (includes .50/hr for CMC)	13.11	13.40	13.58	13.75	13.88	13.99	14.08	14.29	14.46	14.65	14.83	15.09	15.25	15.38	15.51	15.64	15.79	15.92	16.05	16.21	16.36	16.51

Utility Staff

Power Plant Operator	10.69	10.88	11.10	11.34	11.53	11.77	11.99	12.20	12.42	12.65	12.87	13.13	13.34	13.57	13.80	14.01	14.27	14.47	14.71	14.95	15.17	15.43
Power Plant Operator	12.92	13.50	14.10	14.28	14.45	14.66	14.94	15.22	15.52	15.81	16.11	16.38	16.59	16.76	16.69	17.16	17.35	17.54	17.75	17.98	18.03	18.12
Power Plant Operator II	16.46	16.66	16.82	17.03	17.17	17.34	17.51	17.66	17.86	18.02	18.18	18.39	18.56	18.74	18.93	19.11	19.28	19.48	19.66	19.83	20.02	20.21
Apprentice Lineman	12.44	12.79	12.96	13.14	13.24	13.34	13.48	13.64	13.82	13.98	14.15	14.33	14.48	14.61	14.71	14.83	14.95	15.06	15.16	15.25	15.41	15.50
Line Worker II	14.79	15.11	15.28	15.50	15.61	15.73	15.86	16.04	16.23	16.41	16.63	16.81	16.99	17.15	17.30	17.44	17.56	17.68	17.82	17.96	18.10	18.27
Line Worker I	17.53	17.90	18.07	18.27	18.39	18.52	18.67	18.87	19.09	19.28	19.49	19.67	19.90	20.03	20.18	20.33	20.48	20.63	20.79	20.92	21.05	21.21
Line Foreman	18.50	19.14	19.27	19.54	19.70	19.86	20.05	20.30	20.55	20.81	21.07	21.32	21.58	21.72	21.91	22.07	22.26	22.41	22.59	22.76	22.89	23.08
Water/Sewer Operator I	10.69	10.99	11.15	11.34	11.44	11.53	11.65	11.83	12.01	12.18	12.37	12.55	12.74	12.84	12.97	13.12	13.23	13.36	13.50	13.63	13.77	13.90
WA/SE Op 1 w Grade VI	11.32	11.60	11.77	11.94	12.05	12.15	12.25	12.43	12.62	12.79	12.97	13.16	13.33	13.47	13.58	13.71	13.85	13.97	14.08	14.26	14.37	14.49
WA/SE Operator II	12.90	13.11	13.27	13.47	13.64	13.84	14.00	14.22	14.37	14.56	14.75	14.95	15.14	15.31	15.53	15.71	15.91	16.12	16.30	16.49	16.70	16.89
WA/SE Op II w Gr VI	13.52	13.69	13.88	14.04	14.26	14.42	14.61	14.79	14.99	15.15	15.38	15.54	15.73	15.92	16.13	16.32	16.50	16.71	16.90	17.11	17.30	17.49
WA/SE Op III w Gr VI	15.45	15.79	15.95	16.12	16.23	16.34	16.45	16.67	16.85	16.95	17.18	17.38	17.58	17.70	17.85	17.96	18.08	18.21	18.33	18.47	18.60	18.74
Waste Water Plant Operator	14.58	14.91	15.07	15.22	15.38	15.47	15.57	15.76	15.95	16.12	16.28	16.46	16.68	16.80	16.92	17.06	17.18	17.30	17.41	17.55	17.68	17.82

City Maintenance Staff

Laborer I	7.93	8.13	8.18	8.34	8.41	8.48	8.55	8.66	8.76	8.85	8.96	9.07	9.17	9.23	9.31	9.39	9.45	9.51	9.58	9.65	9.71	9.77
Laborer II	10.57	10.90	11.04	11.22	11.34	11.44	11.53	11.71	11.87	12.04	12.20	12.37	12.54	12.64	12.76	12.85	12.97	13.10	13.19	13.29	13.40	13.53
Maintenance Worker I	10.82	11.10	11.23	11.38	11.46	11.56	11.65	11.81	11.96	12.10	12.24	12.41	12.58	12.67	12.79	12.89	13.01	13.13	13.23	13.33	13.47	13.58
Maintenance Worker II	11.39	11.66	11.83	11.99	12.08	12.18	12.29	12.46	12.64	12.80	12.96	13.14	13.30	13.43	13.56	13.69	13.82	13.94	14.04	14.19	14.32	14.44
Street Foreman	14.31	14.68	14.85	15.06	15.17	15.28	15.45	15.61	15.81	16.00	16.20	16.36	16.58	16.69	16.81	16.94	17.06	17.19	17.32	17.44	17.57	17.70

Police Staff

Police Officer	13.17	13.44	13.60	13.76	13.87	13.97	14.06	14.25	14.37	14.53	14.71	14.88	15.07	15.17	15.31	15.44	15.54	15.66	15.79	15.88	16.00	16.11
Sergeant	15.75	16.09	16.27	16.45	16.62	16.80	16.95	17.05	17.17	17.36	17.56	17.75	17.94	18.08	18.21	18.36	18.49	18.63	18.79	18.91	19.04	19.21

Department Supervisors

Park & Aud Supt.	14.25	14.62	14.79	14.99	15.13	15.24	15.40	15.58	15.80	16.00	16.21	16.39	16.63	16.79	16.94	17.11	17.24	17.40	17.57	17.71	17.89	18.05
City Clerk/Treas CMC MMC	18.35	18.59	18.72	18.83	18.89	18.99	19.08	19.21	19.32	19.43	19.57	19.70	19.80	19.86	19.97	20.05	20.12	20.20	20.31	20.40	20.49	20.57
Licensed Street Supt.	18.44	18.77	18.93	19.10	19.21	19.31	19.43	19.58	19.76	19.92	20.08	20.24	20.42	20.52	20.63	20.74	20.86	20.96	21.07	21.19	21.29	21.43
WA/SE Supervisors w Gr VI	17.64	18.03	18.23	18.46	18.58	18.71	18.84	19.04	19.25	19.48	19.70	19.90	20.09	20.24	20.39	20.53	20.68	20.85	20.99	21.14	21.29	21.46
Power Plant Supervisor	18.17	18.71	18.97	19.22	19.37	19.57	19.73	19.99	20.23	20.49	20.75	20.98	21.25	21.41	21.59	21.74	21.91	22.08	22.23	22.41	22.57	22.76
Police Chief	17.54	18.17	18.50	18.82	19.04	19.25	19.48	19.79	20.13	20.44	20.76	21.08	21.41	21.62	21.84	22.06	22.27	22.47	22.70	22.93	23.13	23.37
Electric Supervisor	20.72	21.36	21.67	22.00	22.21	22.43	22.66	23.00	23.31	23.61	23.94	24.26	24.59	24.78	25.01	25.25	25.44	25.66	25.88	26.10	26.28	26.51

SECTION 4. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 5. This ordinance shall be published in pamphlet form and shall be in full force and effect on July 24, 2008 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 14th day of May, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Matt Rief of Olsson Associates presented a preliminary "David City Downtown Improvement Plan" booklet. Matt explained that the future vision for downtown David City is outlined in this study which resulted from meetings with the Steering Committee, consisting of business leaders and city and county officials. Two town hall meetings were conducted to gather input. It was estimated there were approximately 75 citizens in attendance at the first town hall meeting in which they were asked, "What do you want to see?" This helped to develop the vision for the downtown improvements. Approximately 30 citizens were in

attendance at the second town hall meeting which was conducted to present the results. The Downtown Improvement Study will be used to help acquire grants and future funding for redeveloping the downtown area and for implementing future projects. The concept plan is designed to maintain/restore the historical integrity of the courthouse square; evaluate all sidewalks for cross slope and A.D.A. compliance, repair and replace brick parking stalls abutting the curb as necessary; upgrade and/or repair storm water systems as required; and upgrade water mains and services as required. The study shows that deficiencies were discovered in the water distribution system, the storm water drainage system, and pavement conditions.

Council member Scribner made a motion to accept the Downtown Revitalization Study as completed by Olsson Associates. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Smith, Schatz, Hein, and Scribner. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Scribner introduced Resolution No. 11 - 2008 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Smith, Yindrick, Schatz, Hein, and Scribner. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 11 - 2008 was passed and approved as follows:

RESOLUTION NO. 11 - 2008

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

1. That the Resolution of Necessity creating Storm Water Sewer District - Storm Water Sewer District No. 2008-SWATER of the City of David City be and it is hereby proposed.
2. The time of 7:30 o'clock p.m. on the 11th day of June, 2008, at the City Hall in David City, Nebraska, is hereby set as the time and place for the Mayor and Council to conduct a hearing on the adoption of said resolution and any objections to its passage, at which owners of real property located in said District may appear and make objections to such improvement, and the City Clerk is hereby instructed to publish notice of such hearing as required by law.

PASSED AND APPROVED this 14th day of May, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

Council member Scribner introduced Resolution No. 12 - 2008 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Smith, Schatz, Yindrick, Hein, and Scribner. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 12 - 2008 was passed and approved as follows:

RESOLUTION NO. 12 - 2008

RESOLUTION CONFIRMING THE APPROVAL OF THE PLANS, SPECIFICATIONS AND ESTIMATE OF COST PREPARED BY THE CITY'S ENGINEER FOR STORM WATER SEWER DISTRICT NO. 2008-SWATER AND RATIFYING PRIOR COUNCIL ACTIONS.

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska:

That the plans, specifications and estimate of cost of \$206,000 filed by the City's Engineers, Olsson Associates, in the office of the City Clerk on the 1st day of May, 2008, for the construction of Storm Water Sewer Drainage Improvements in Storm Water Sewer District No. 2008-SWATER be and the same are hereby approved and that the prior action of the Mayor and City Council in the approval of said plans specifications and estimate of cost and in the approval of the form of notice to contractors and publication of said notice to contractors is in all respects ratified, confirmed and approved.

PASSED this 14th day of May, 2008.

CITY OF DAVID CITY, NEBRASKA

By: _____
Mayor Dana Trowbridge

City Clerk Joan E. Kovar

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STORM WATER
SEWER DISTRICT #2008-SWATER

REV. NO.	DATE	REVISION DESCRIPTION

**STORM WATER SEWER
DISTRICT 2008-SWATER
DAVID CITY, NEBRASKA
5/1/2008**

STORM WATER OUTLET PIPE				
ITEM DESCRIPTION	UNITS	UNIT COST	QUANTITY	TOTAL COST
36" REINFORCED CONCRETE STORM SEWER PIPE	L.F.	\$75.00	1300	\$97,500.00
JACK AND BORE 36" STORM PIPE	L.F.	\$450.00	100	\$45,000.00
STORM SEWER MANHOLE	EA.	\$3,000.00	3	\$9,000.00
36" REINFORCED CONCRETE FLARED END SECTION	EA.	\$1,100.00	3	\$3,300.00
REMOVE & REPLACE PAVEMENT	S.Y.	\$50.00	200	\$10,000.00
SUBTOTAL				\$164,800.00
25% CONTINGENCY & ENGINEERING				\$41,200.00
TOTAL				\$206,000.00

Council member Hein made a motion to advance to Agenda Item #21 - Consideration of Ordinance No. 1077 creating a Street Improvement District for "D" Street between 4th Street and the Burlington Northern Santa Fe Railroad to be known as Street Improvement District No. 2008-DST. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Schatz, Yindrick, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Hein introduced Ordinance No. 1077. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Scribner seconded the motion. Voting AYE: Council members Yindrick, Smith, Schatz, Scribner, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Eldon Coufal, d.b.a. Eldon's Body and Paint, 220 D Street, stated that he fought with the City for 15 years concerning "D" Street and the approach to his business property. It was so rough and bumpy he couldn't even blade snow. He said the City said it was his responsibility so he finally spent the money and had his entrance and parking to the south of his building re-done. Eldon said that now his side of "D" Street is in good shape and the City wants to tear "D" Street up and re-do the street and address the drainage issues. Eldon stated: "Now you want to stick the property owners with assessments that the grant money won't cover. I fixed my property on my own so why should I have to pay an assessment?" It was noted that Eldon can appeal this to the City Council when they meet as a Board of Adjustment / Equalization.

Council member Yindrick made a motion to pass and adopt Ordinance No. 1077 on the third and final reading. Council member Hein seconded the motion. Voting AYE: Council

members Scribner, Smith, Schatz, Hein, and Yindrick. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 1077 was passed and adopted as follows:

CITY OF DAVID CITY, NEBRASKA

ORDINANCE NO. 1077

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. 2008-DST; DEFINING THE BOUNDARIES OF SAID DISTRICT AND THE PROPERTY CONTAINED THEREIN; AND, PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS THEREIN CONSISTING OF REMOVAL OF EXISTING STREET, GRADING AND CONSTRUCTION OF CURB AND GUTTER, PAVING, SIGNAGE, STREET LIGHTING, 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 'D' Street from C B & Q Railroad to 4th Street (Highway 15) including areas formed by the crossing of streets, avenues, and alleys therein, 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. 2008-DST, the outer boundaries of which shall contain the following property:

BEGINNING AT THE NORTHEAST CORNER OF LOT 8, BLOCK 23, IN THE ORIGINAL TOWN OF DAVID CITY, SAID POINT BEING THE POINT OF BEGINNING; THENCE WEST ALONG THE NORTH LINE OF LOTS 7 AND 8, BLOCK 23, TO THE NORTHWEST CORNER OF LOT 7, BLOCK 23, SAID POINT ALSO BEING ON THE EAST RIGHT OF WAY LINE OF THE C B & Q RAILROAD; THENCE WEST ON AN EXTENSION OF SAID NORTH LINE OF LOT 7, BLOCK 23 TO THE CENTER-LINE OF THE C B & Q RAILROAD; THENCE SOUTH ALONG AND UPON THE CENTERLINE OF THE C B & Q RAILROAD TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF LOT 3, BLOCK 34; THENCE EAST ALONG THIS LINE OF EXTENSION TO THE SOUTHWEST CORNER OF SAID LOT 3, BLOCK 34; THENCE CONTINUING EAST ALONG THE SOUTH LINE OF LOTS 3 AND 4, BLOCK 34 TO THE SOUTHEAST CORNER OF LOT 4, BLOCK 34, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF VACATED 3RD STREET; THENCE CONTINUING EAST ACROSS VACATED 3RD STREET AND ALONG AND UPON THE SOUTH LINE OF LOTS 14 AND 4, BLOCK 33 TO THE SOUTHEAST CORNER OF LOT 4, BLOCK 33, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF 4TH STREET; THENCE CONTINUING EAST TO THE CENTERLINE OF 4TH STREET; THENCE NORTH ALONG AND UPON THE CENTERLINE OF 4TH STREET TO THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 6, BLOCK 24; THENCE WEST ALONG THIS LINE OF EXTENSION TO THE NORTHEAST CORNER OF LOT 6, BLOCK 24, SAID POINT ALSO BEING ON THE WEST

RIGHT OF WAY LINE OF 4TH STREET; THENCE CONTINUING WEST ALONG AND UPON THE NORTH LINE OF LOT 6, BLOCK 24 TO THE NORTHWEST CORNER OF SAID LOT 6, BLOCK 24, SAID POINT ALSO BEING ON THE EAST RIGHT OF WAY OF ALLEY IN BLOCK 24; THENCE WEST UPON AND ALONG THE CENTERLINE OF THE EAST-WEST ALLEY IN BLOCK 24, TO A POINT ON THE EASTERLY RIGHT OF WAY OF 3RD STREET; THENCE CONTINUING WEST ACROSS 3RD STREET TO THE NORTHEAST CORNER OF SAID LOT 8, BLOCK 23 TO SAID POINT OF BEGINNING.

Attached is an exhibit of the boundary.

Within Street Improvement District No. 2008-DST, 'D' Street from C B & Q Railroad to 4th Street (Highway 15); including areas formed by the crossing of streets, avenues, and alleys therein, shall be and are hereby ordered improved by construction of improvements therein consisting of grading, construction of curb and gutter, paving, signage, sidewalks, hardscaping including brick pavers and decorative concrete, pedestrian lighting, street lighting, 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. 2008-DST 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 14th day of May 2008.

Mayor Dana Trowbridge

ATTEST:

City Clerk Joan E. Kovar

(SEAL)

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NAME	RANK	GRADE	UNIT	COMPONENT	SCORE
FARIES COOPERATE CT-BRAND					2
FARIES COOPERATE CT-BRAND					3
FARIES COOPERATE CT-BRAND					634
FARIES COOPERATE CT-BRAND					7
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LEON P PHILIPS	8
BENNETT A CEE7	7
FRANCO B.	6
JAMES R CLARKSON	5
PAULINE J.	4
UNITED STATES OF AMERICA	---
UNITED STATES OF AMERICA	3
UNITED STATES OF AMERICA	2
UNITED STATES OF AMERICA	1
UNITED STATES OF AMERICA	---

F&W INVESTMENTS, LLC	8
F&W INVESTMENTS, LLC	7
F&W INVESTMENTS, LLC	6
F&W INVESTMENTS, LLC	5
LEE ENTERPRISES, INC.	4
LEE ENTERPRISES, INC.	3

DIXIE GROCERY INC	24
DIXIE GROCERY INC	23
DIXIE GROCERY INC	22
DIXIE GROCERY INC	21
DIXIE GROCERY INC	20
DIXIE GROCERY INC	19

1	CITY OF DAND CITY HENNINGSON FOODS INC HENNINGSON FOODS INC
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2	C B A Q PALMADO	EDUM JOSEPH 1974
3	C B A Q PALMADO	EDUM JOSEPH 1974
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7	C B A Q PALMADO	EDUM JOSEPH 1974
10	C B A Q PALMADO	EDUM JOSEPH 1974
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City Administrator Joe Johnson stated that the Bone Creek Museum of Agrarian Art has not returned the necessary paperwork. Therefore, Council member Yindrick made a motion to table consideration of approving a loan agreement with Bone Creek Museum of Agrarian Art for the Dale W. Nichols painting belonging to the City, to the June 11th Council meeting. Council member Hein seconded the motion. Voting AYE: Council members Smith, Scribner, Schatz, Hein, and Yindrick. Voting NAY: None. Council member Lukassen was absent. The motion carried.

ARTWORK LOAN AGREEMENT

This Artwork Loan Agreement (hereinafter referred to as "AGREEMENT") is made between the City of David City, Nebraska (hereinafter referred to as "LENDER") and the Bone Creek Museum of Agrarian Art (hereinafter referred to as "BORROWER").

WHEREAS, LENDER owns a rare and valuable Dale W. Nichols painting, titled as "The Foundation" (1940) (hereinafter referred to as "ARTWORK") and desires to lend the ARTWORK to BORROWER to publicly exhibit said ARTWORK at 218 South 5th Street, David City, Nebraska from April 29, 2008 to an unstipulated time in the future.

WHEREAS, BORROWER desires to exhibit such ARTWORK, subject to the following terms and conditions:

1. BORROWER shall insure ARTWORK under an all risk property insurance policy, for the amount indicated on the face of the BORROWER'S Contract of Loan document, attached hereto as "Exhibit A", (hereinafter referred to as "LOAN"), against all risks or physical loss or damage from any internal or external causes while on location during the period of the AGREEMENT.
2. LENDER warrants that it has all right, title and ownership interest in the ARTWORK, and that the ARTWORK is not subject to any ownership, lien, encumbrance, copyright infringement or other claim by any other person or entity.
3. For incentive, LENDER shall lend ARTWORK to BORROWER for an unstipulated time in the future, as a long term loan, provided, BORROWER shall cause ARTWORK to be restored to the original condition by a licensed and reputable fine arts cleaning company or professional. Cost of such restoration shall be borne upon the BORROWER.
4. Except as provided herein or in case of emergency to preserve the ARTWORK, the ARTWORK shall not be cleaned, restored, or otherwise altered without the written consent of the LENDER.
5. No photograph, sketch or reproduction of the ARTWORK shall be made.
6. This AGREEMENT shall be governed by and construed under the laws of the State of Nebraska, which shall be the forum for any litigation arising from or incident to this AGREEMENT.
7. This AGREEMENT and attachments referenced herein shall constitute the entire understanding between the parties with respect to the ARTWORK and may be amended at any time only upon mutual written agreement of the parties.
8. Either party may terminate this AGREEMENT by giving the other party 30 calendar days written notice.

IN WITNESS WHEREOF, this AGREEMENT has been duly executed, in duplicate, by the parties hereto.

Dated this the th day of , 2008.

BONE CREEK MUSEUM OF AGRARIAN ART CITY OF DAVID CITY, NEBRASKA

Signature: _____ Signature: TABLED

Name: Dana Trowbridge

Title: Mayor

Council member Hein introduced Resolution No. 13 - 2008. Council member Scribner made a motion to pass and approve Resolution No. 13 - 2008. Council member Hein seconded the motion. Voting AYE: Council members Smith, Yindrick, Schatz, Hein, and Scribner. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 13 - 2008 was passed and approved as follows:

RESOLUTION NO. 13-2008

RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGREEMENT TO WAIVE RECEIPT OF THE NON-PRIMARY ENTITLEMENT FUNDS APPORTIONED TO DAVID CITY MUNICIPAL AIRPORT IN FISCAL YEAR 2005, AND TRANSFERRING THESE FUNDS TO ANOTHER NEBRASKA AIRPORT.

Be it resolved by the Mayor and Members of the City Council of David City, Nebraska,

1. The City of David City shall enter into an Agreement with the Federal Aviation Administration waiving the airport's right to the specified non-primary entitlement funds in the amount of \$43,576 and transferring those funds to the City of Valentine, Nebraska.
2. The Mayor of the City is hereby authorized and directed to execute said Agreement on behalf of the City.
3. The Agreement referred to hereinabove is attached hereto, and made a part hereof by reference.

Dated this 14th day of May, 2008.

Mayor Dana Trowbridge

City Clerk Joan Kovar

AGREEMENT FOR TRANSFER OF NON-PRIMARY ENTITLEMENTS

In accordance with section 47117(c)(2) of Title 49 U.S.C. (hereinafter called the "Act").

City of David City
(Name of Transferor Sponsor)

Hereby waives receipt of the following amount of funds apportioned to it for each fiscal year specified under section 47114(d)(3)(a) of the Act.

<u>Amount</u>	<u>Fiscal Year</u>
\$43,576	2005
\$	20_____
\$	20_____
<hr/>	
TOTAL \$43,576	

On the condition that the Federal Aviation Administration makes the waived amount available to:

City of Valentine
(Name of Transferee Sponsor)

for eligible projects under section 47104(a) Act. This waiver shall expire on earlier of September 20, 2008 (date) or when the availability of apportioned funds would lapse under section 47117(b) of the Act.

**FOR THE UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

(Signature)

(Typed Name)

(Title)

(Date)

FOR THE CITY OF DAVID CITY

(Signature)

Dana Trowbridge

(Typed Name)

Mayor of David City

(Title)

May 14, 2008

(Date)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:
That I have examined the foregoing Agreement and find that the Sponsor has been duly authorized to make such transfer and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of Nebraska and the Act.

Dated at _____ this _____ day of _____, 2008.

By: _____
(Signature of Sponsor's Attorney)

Council member Hein made a motion to appoint Mayor Trowbridge and City Administrator Joe Johnson to serve on the Butler County Development Board. Council member Yindrick seconded the motion. Voting AYE: Council members Schatz, Smith, Scribner, Yindrick, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council President Bill Schatz declared a ten minute recess at 8:36 p.m. Mayor Trowbridge arrived at 8:45 p.m. The meeting resumed at 8:46 p.m.

Council member Schatz introduced Ordinance No. 1075. Council member Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Scribner, Smith, Hein, and Schatz. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1075 on the third and final reading. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1075 was passed and adopted as follows:

ORDINANCE NO. 1075

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO SET THE PAY FOR THE CITY ADMINISTRATOR; REPEAL ALL ORDINANCES OR PORTIONS OF ANY ORDINANCE IN CONFLICT THEREWITH; PROVIDE AN EFFECTIVE DATE; AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the salary for City Administrator Joseph J. Johnson at **\$65,000.00 per year**, after the passage of this ordinance.

SECTION 2. The Mayor and City Council of David City, Nebraska, do hereby further establish and fix the salary for City Administrator Joseph J. Johnson at **\$67,500.00 per year**, after six (6) months of continuous employment after the passage of this ordinance.

SECTION 3. Any and all ordinances, or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, is hereby repealed.

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect beginning on May 26, 2008.

PASSED AND APPROVED this 14th day of May, 2008.

City Clerk Joan E. Kovar

Mayor Dana Trowbridge

Council member Schatz introduced Ordinance No. 1076. Council member Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. When Council member Smith was called upon for a vote he spent quite a bit of time deliberating on a response. Smith stated that by articles in the Banner Press it seems that it is a done deal. He questioned why the City is in such a hurry to proceed with this project. Much discussion followed. Voting AYE: Council members Yindrick, Hein, and Schatz. Voting NAY: Council members Smith and Scribner. Council member Lukassen was absent. The motion failed.

Council member Schatz questioned why anyone would vote against a pipeline to carry methane gas from Butler County Landfill to Henningsen Foods Inc.. Schatz stated that this ordinance simply gives the City authorization to run a pipe line business. The City is acting as a conduit; the City will benefit financially; the Council needs to pay attention to environmental issues and economic development issues; Henningsen Foods is one of the largest businesses in David City.

Council member Schatz asked that the Council reconsider suspending the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Hein, and Schatz. Voting NAY: Council members Smith and Scribner. Council member Lukassen was absent. The motion failed.

Council member Scribner stated that he would prefer three separate readings to allow the public an opportunity to comment on the project.

Council member Schatz wanted it entered into the minutes that he (Schatz) asked for reconsideration of the motion for further discussion. Mayor Trowbridge recognized this.

Council member Schatz explained that "time is of the essence; Timberline Energy LLC, needs a lease agreement to go forward with the project; things will ultimately catch up with us; they are already; We (the United States) failed to sign on to the Kyoto treaty." *[The Kyoto treaty was drawn up in Kyoto, Japan, in 1997, which committed industrialized nations to reducing emissions of greenhouse gases, principally Carbon Dioxide, by around 5.2% below their 1990 levels over the next decade. The agreement was dealt a severe blow in March 2001 when President Bush announced that the United States would never sign it. A scaled-down version was drawn up four months later. The treaty now only needs Russian ratification to come into force.]* Council member Schatz continued: "Methane gas goes into the ozone and causes problems with global warming; Polar Bears are on the endangered list as an impact of global warming." "This project protects the interests of David City." "We need to pay attention to environmental issues and economic development." "Henningsen Foods is one of our largest industries in David City." "To cut this project off at the knees and not understand the environmental and economic impacts are totally irresponsible as far as I'm concerned." "This will be a positive impact at so little cost to the City."

Mayor Trowbridge asked all present City Council members for clarification on the reason for not voting "AYE". Mayor Trowbridge explained that it is the responsibility of the City Council to do research on any subject matter before the council.

Council member Schatz again asked for a motion to reconsider. Schatz made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Smith, Scribner, Hein, and Schatz. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1076 on the third and final reading. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Smith, Hein, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1076 was passed and adopted as follows:

ORDINANCE NO. 1076

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA TO CONSTRUCT, PURCHASE, OTHERWISE ACQUIRE, OPERATE, MAINTAIN, AND/OR LEASE OUT A METHANE GAS SYSTEM, METHANE GAS DISTRIBUTION SYSTEM, AND/OR METHANE GAS PIPELINES, EITHER WITHIN OR WITHOUT THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA, AND REAL AND PERSONAL PROPERTY NEEDED OR USEFUL IN CONNECTION THEREWITH. PAY THE COST THEREOF THROUGH LEASE ARRANGEMENTS OR OTHER FINANCIAL ARRANGEMENTS ALLOWED BY LAW THAT DO NOT INCLUDE THE ISSUANCE AND SALE OF REVENUE BONDS OR DEBENTURES; ALL OF THE AFORESAID BEING DONE PURSUANT TO SECTION 17-905 AND SECTION 17-905.01 OF THE REVISED STATUTES OF NEBRASKA, REISSUE OF 1997. PROVIDE FOR SEVERABILITY. REPEAL CONFLICTING ORDINANCES AND PARTS. PROVIDE FOR PUBLICATION IN PAMPHLET FORM. PROVIDE FOR EFFECTIVE DATE.

SECTION 1: METHANE GAS UTILITY: The City of David City, Nebraska determines it is in the best interest of the City to be involved in a Methane Gas utility system to promote economic development of the City; to retain existing industry and businesses within and without the City; to promote clean air and protect the environment within and without the City; to use methane gas provided from the landfill located without the City to minimize and/or eliminate the necessity to release it into the air and/or burn it off; and to use said methane gas as an alternative energy source commensurate with good environmental stewardship.

SECTION 2: METHANE GAS SYSTEM: Pursuant to Section 17-905 of the Revised Statutes of Nebraska, Reissue of 1997, the City will construct, purchase or otherwise acquire, operate, and/or maintain a methane gas system, methane gas distribution system, and/or methane gas pipeline, either within or without the corporate limits of the City, and real and personal property needed or useful in connection therewith.

SECTION 3: FINANCING: The financing of the establishment of the methane gas system, methane gas distribution system, and/or methane gas pipeline will be through leasing arrangements or other financial arrangements allowed by law that DO NOT include the issuance and sale of revenue bonds or debentures.

SECTION 4: LEASE ARRANGEMENTS: Pursuant to Section 17-905.01 of the Revised Statutes of Nebraska, Reissue of 1997, the City in constructing, purchasing, otherwise acquiring, operating, and/or maintaining a methane gas system, methane gas distribution system, and/or methane gas pipelines, either within or without the corporate limits of the City, and real and personal property needed or useful in connection therewith, is hereby authorized to lease any such methane gas system or systems, pipeline or pipelines, and/or distribution systems to such person, persons, corporation, or corporations as the governing body of the City may select upon such terms and conditions as it shall deem advisable, BUT EXCLUDING the issuance and sale of revenue bonds or debentures.

SECTION 5: SEVERABILITY: If any section, subsection, paragraph, sentence, clause, phrase, term, or provisions of this Ordinance shall be declared invalid by any Court of competent jurisdiction for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which will remain in full force and effect, and the provisions of this

Ordinance are hereby declared to be severable.

SECTION 6: REPEAL CONFLICTING ORDINANCES AND PARTS: All Ordinances and parts of Ordinances of a general or permanent nature passed and approved prior to the passing and approval of this Ordinance and in conflict with this Ordinance or with any of its provisions of this Ordinance are hereby repealed.

SECTION 7: PUBLICATION: The Ordinance will be published in accordance with Nebraska Statutes applicable thereto.

SECTION 8: EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this 14TH day of May, 2008.

Mayor: Dana Trowbridge

City Clerk: Joan E. Kovar

Council member Smith left the Council meeting at 9:30 p.m.

A lease agreement for a Methane Gas System was discussed. Council member Scribner asked if Attorney Birkel had reviewed the agreement as he had concerns regarding the pipeline lease agreement and wanted to be sure it was adequate. Attorney Birkel stated that he had reviewed the agreement and did draft language that says if the Lessee abandons the pipeline or ceases its use of the pipeline for any reason, then the Lessee shall remove the pipeline in compliance with all applicable local, state, and federal regulations, if directed to do so by the Lessor. Birkel also made reference to paragraphs 8 and 9. Birkel stated that City Attorney Egr was in Alaska, but Egr concurred with Birkel concerning the changes. Birkel did state that the lease agreement is only as good as the party you are dealing with and their financial stability. Birkel said that he did not know anything about Timberline Energy L.L.C., but that the L.L.C. means Limited Liability Company. So, even if a millionaire is on the board, their liability is limited to just what they have in the company; there is no other liability. Birkel said it would be advisable to acquire a Surety Bond with a guarantee of ten years much like a default bond and also a Construction / Performance Bond. Therefore, Council member Schatz made a motion to approve a lease agreement for a Methane Gas System and authorizing the Mayor to execute the same, contingent upon Timberline Energy L.L.C., providing a Surety Bond and a Construction/Performance Bond, or any bond considered necessary and deemed to be an appropriate amount by the City's Bond Counsel Philip Lorenzen of D.A. Davidson & Company. Council member Hein seconded the motion. Voting AYE: Council members Yindrick, Scribner, Hein, and Schatz. Voting NAY: None. Council members Lukassen and Smith were absent. The motion carried.

PIPELINE LEASE AGREEMENT

THIS PIPELINE LEASE AGREEMENT ("Lease") is made and entered into this 14th day of May, 2008, by and between the City of David City, Nebraska, a municipal corporation organized under Nebraska law (the "Lessor"), and Timberline Energy, L.L.C., a Delaware limited liability company ("Lessee"). Lessor and Lessee shall sometimes be individually referred to

herein as a "Party" or, collectively, as the "Parties."

WITNESSETH:

WHEREAS, on May 14, 2008, Lessor approved Ordinance No. 1076 to authorize Lessor to install a pipeline (i) beginning at the Butler County Landfill, then (ii) north to County Road 36, then (iii) west to PO Road, then (iv) south to County Road 35½, then (v) west to the City Limits of David City, Nebraska (the "Pipeline Route"), along with all related valves and equipment necessary for operation of the pipeline (collectively, the "Pipeline"); and

WHEREAS, Lessee desires to lease the Pipeline from Lessor, and Lessor desires to lease the Pipeline to Lessee, all in accordance with the terms set forth in this Lease.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein contained, the sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Property Leased. Lessor leases to Lessee, and Lessee leases from Lessor, the Pipeline, and Lessor grants to Lessee for the term of this Lease, the exclusive right to use the Pipeline.

2. Term of Lease. The term of this Lease shall commence on the date set forth above ("Effective Date"), and shall continue for a period of ten (10) years from the Effective Date ("Initial Term"). Provided that Lessee is not in default under the terms of this Lease, Lessee shall have the right to extend the Initial Term of the Lease for nine (9) periods of ten (10) years each (each an "Extended Term"). Each extension of the Lease shall occur automatically unless Lessee provides Lessor with written notice of its desire to terminate the Lease at least one hundred twenty (120) days prior to expiration of the Initial Term or any Extended Term, as applicable. For purposes of this Lease, all references to the "Term" shall include the Initial Term and any Extended Term.

3. Consideration for Lease. In consideration for leasing the Pipeline, Lessee agrees to install the Pipeline along the Route for Lessor, all at the sole cost and expense of Lessee.

4. Ownership of Pipeline.

a. Lessee shall have no right or interest in the Pipeline except as expressly set forth in this Lease. Warranties made by the seller or manufacturer of any of the materials purchased by Lessee to construct the Pipeline shall be assigned to Lessor; provided, however, in the event of any loss or damage to the Pipeline arising during the Term of this Lease due to the quality of workmanship or materials utilized to manufacture or install the Pipeline, Lessor shall assign its rights to the warranties to Lessee for purposes of filing any warranty claims for repairs or replacement of the Pipeline.

b. It is understood that Lessor does not own the real estate underlying the Route in which the Pipeline shall be located; rather, Lessor has obtained rights to such real estate from Butler County (the "County") for purposes of installing the Pipeline in the County's right-of-way along the Route.

5. Use, Care, Operation and Maintenance of Pipeline.

a. Lessee shall use the Pipeline for transporting methane gas from the Butler County Landfill to its customer(s) in David City, Nebraska. Lessee shall operate the Pipeline in accordance with customary and then current good operating practices in the methane industry.

b. Lessee shall comply with all laws, rules, orders and regulations prescribed by any governmental authority having jurisdiction over the Pipeline, and Lessee agrees to indemnify Lessor for any violation of any such law, rule, order or regulation pursuant to the terms of Section 8. In addition, Lessee will maintain all required plans, procedures and records to ensure compliance with all applicable laws, rules, orders and regulations. Lessor shall have the right, but not the obligation, to review all plans, records and other documentation required to be kept by Lessee to (i) maintain compliance with any federal, state and local laws, regulations and orders, or (ii) maintain compliance with Lessee's obligations hereunder.

c. During the Term of this Lease, Lessee shall operate and maintain the Pipeline at its sole cost, except that Lessor shall be responsible for maintaining any rights to the County's right-of-way where the Pipeline is located. During the Term hereof, Lessee shall also perform, or cause to be performed, at its sole risk, cost and expense, any and all maintenance and repair necessary, in Lessee's and/or Lessor's reasonable judgment, to keep the Pipeline in safe operating order and in compliance with all applicable laws and regulations of any local, state or federal agencies having jurisdiction thereof.

d. Lessee shall bear the full cost of making the Pipeline operational to fit Lessee's needs.

e. Lessee will respond to all notices of odor, leaks or possible failures of the Pipeline. Lessee will immediately notify Lessor of any reported leak or failure ("Failure"). In addition, Lessee shall make all required notifications to the appropriate federal, state or local governmental bodies or agencies of any Failures. Lessee shall be responsible for and shall direct and control any clean-up and repair of the Pipeline following any Failure; provided, however, Lessor may respond to any Failure without Lessee's direction and control but at Lessee's cost if Lessor determines, in its good faith discretion, that Lessee is not properly responding to such Failure within 24 hours after providing Lessee with verbal notice of Lessor's intent to take such actions.

f. Alterations to the Pipeline. Lessee may perform alterations to the Pipeline, at its sole risk and expense, without the prior written consent of Lessor. Any tests to the Pipeline made by Lessee, for any reason, shall be at the sole cost and risk of Lessee. Lessee shall have the right to remove any alteration or addition installed by Lessee within ninety (90) days of the termination date of this Lease; provided, however, Lessee shall restore and repair any damage caused to the Pipeline as a result of the installation, use or removal of Lessee's alterations or additions. Any of Lessee's alterations or additions not removed from the Pipeline within ninety (90) days of the termination of this Lease shall become the property of Lessor without compensation or reimbursement of any kind to Lessee.

6. Damage to or Destruction of Pipeline; Abandonment or Non-use of Pipeline. In the event of damage to the Pipeline during the Term of this Lease, Lessee agrees terminate use, either temporary or indefinitely, of the Pipeline and cause repairs to the Pipeline at Lessee's sole cost and expense as soon as practicable, such repair to be carried out in accordance with industry standards and in compliance with all applicable local, state and federal

regulations. If it reasonably determines that the cost of the repairs or replacement would exceed the useful life of the Pipeline or the value of the use of the Pipeline and the Lessee desires to abandon the Pipeline or cease its use of the Pipeline, then the Lessee shall remove the Pipeline in compliance with all applicable local, state and federal regulations in the methane industry, if directed to do so by the Lessor. If the Lessee abandons the Pipeline or ceases its use of the Pipeline for any reason, then the Lessee shall remove the Pipeline in compliance with all applicable local, state and federal regulations, if directed to do so by the Lessor.

7. Release and Indemnification By Lessee. Lessee shall release, indemnify, defend and hold harmless Lessor, its officers, agents and employees from any and all claims, demands, causes of action, expenses (including, but not limited to, attorneys fees, court costs and expenses), losses or liability of any nature resulting from damage to the environment, property (including, but not limited to, that of the Parties), injuries to or death of persons (including, but not limited to, employees, contractors and agents of the Parties), or fines levied by governmental entities where such claim, demand, cause of action, expense, loss, liability, damage, injury, death or fine arises, directly or indirectly, in connection with Lessee's lease, use, operation, maintenance, repair, modification or addition to or of the Pipeline, except to the extent caused by the sole or contributory negligence or misconduct of Lessor, its agents, servants, employees or contractors.

8. Release and Indemnification By Lessor. Lessor shall release, indemnify, defend and hold harmless Lessee, its officers, agents and employees from any and all claims, demands, causes of action, expenses (including, but not limited to, attorneys fees, court costs and expenses), losses or liability of any nature resulting from damage to the environment, property (including but not limited to, that of the Parties), injuries to or death of persons (including but not limited to, employees, contractors and agents of the Parties), or fines levied by governmental entities where such claim, demand, cause of action, expense, loss, liability, damage, injury, death or fine arises, directly or indirectly, in connection with the use, operation, maintenance, repair, modification or addition to or of the Pipeline, but only to the extent caused by the negligence or misconduct of Lessor, its agents, servants, employees or contractors.

9. Taxes and Fees. Lessee shall pay any use or occupation tax or license or permit fees that may be payable because of Lessee's use of the Pipeline. Lessee shall pay any and all applicable taxes (including but not limited to ad valorem taxes, excise taxes, sales taxes and value added taxes), fees, assessments and charges with respect to the delivery, ownership, receipt, handling, use and storage of product in or moving through the Pipeline. In the event that either Lessor or Lessee fails to pay any taxes properly levied against, and such taxes levied upon, assessed against, collected from or otherwise imposed upon the other Party, the Party responsible for such taxes shall immediately indemnify, protect, defend and hold the other harmless from and against all such indemnified taxes, including any interest or penalties associated therewith.

10. Representations, Warranties and Covenants.

a. Lessor represents, warrants and covenants to Lessee that:

i. Lessor has adequate rights to the real estate underlying the Route in which the Pipeline shall be installed, all in accordance with either (A) an agreement between Lessor and the County or (B) action taken by the County to authorize Lessor's use of the Route.

ii. Lessor has all requisite power and authority, has taken all actions required by its municipal documents and applicable law, and has obtained all

necessary consents, to execute and deliver this Lease and to consummate the transactions contemplated in this Lease.

b. Lessee represents, warrants and covenants to Lessor that:

i. Lessee is duly organized, validly existing and in good standing under the laws of the State of Delaware, and is duly qualified to transact business in the State of Nebraska.

ii. Lessee has all requisite power and authority, has taken all actions required by its organizational documents and applicable laws, and has obtained all necessary consents, to execute and deliver this Lease and to consummate the transactions contemplated in this Lease.

iii. Lessee possesses or will possess all licenses, certificates and permits that are required to fulfill its obligations hereunder.

11. Insurance.

a. It is expressly understood and agreed that Lessor shall have no obligation to carry any insurance of any kind with respect to the Pipeline or the commodities carried therein. Unless the Parties hereto agree otherwise in writing, Lessee will, at all times during the term of this Lease, at its own expense, carry and maintain or cause to be carried or maintained with reputable insurance companies reasonably acceptable to Lessor, insurance coverages and limits which are typical in the industry for a Pipeline of this nature. Within ten (10) days after the Effective Date, Lessee shall furnish to Lessor a certificate of insurance evidencing that such insurance is in force.

b. All policies in any way related to this Lease or the Pipeline shall be unqualifiedly endorsed specifically to name Lessor as an additional insured. Should Lessee fail to procure or to maintain in force the insurance specified herein, Lessor may secure such insurance, and the cost thereof shall be borne by Lessee.

c. Lessee shall provide that any contractor or subcontractor performing any work related to this Lease or the Pipeline, shall obtain insurance which complies in all aspects with the provisions of this Section 12.

12. Return of Property. On the expiration or termination of this Lease, and subject to Lessor's rights in Section 7 above to require Lessee to remove the Pipeline, Lessee agrees to peacefully and quietly return and deliver possession to Lessor of the Pipeline free from all liens and encumbrances created by, through and under Lessee. Lessee shall transfer to Lessor all maintenance records, DOT or FERC required records, records of spills, releases or environmental incidents, and any and all other records required to be kept by an operator of a pipeline.

13. Waiver. No delay or omission to exercise any right of one Party by the other Party under this Lease shall be construed as a waiver of any such right or as impairing any such right. Any waiver to one Party by the other Party of a single breach or default shall not be construed as a waiver of any prior or subsequent breach or default.

14. Binding Effect. This Lease shall be binding on the Parties and their respective permitted successors and assigns, and all stipulations, terms, conditions, covenants, provisions

or agreements in the Lease shall be made and hereby are made covenants running with the land or any and all real property included as part of the Pipeline.

15. Severability. If any provision of this Lease is held invalid by a court of competent jurisdiction, it shall be considered deleted from this Lease, but such invalidity shall not affect the other provisions that can be given effect in the absence of the invalid provisions.

16. Entire Agreement. This Lease constitutes the entire agreement between the Parties. This Lease shall not be amended except by written agreement signed by both Parties.

17. Headings. Headings or titles to sections or paragraphs of this Lease are solely for the convenience of the Parties and shall have no effect whatsoever on the interpretation of the provisions of this Lease.

18. Governing Law. This Lease shall be governed by the laws of the State of Nebraska, without regard to principles of conflicts of laws thereof.

19. Assignment. If, for any reason, all or any portion of the right, title or interest of either Party in or to all or any portion of the Pipeline is sold, assigned, transferred or conveyed to any purchaser, assignee or transferee, this Lease shall remain in full force and effect and the right, title and interest of said purchaser, assignee or transferee in or to the Pipeline shall be subject to all of the terms of this Lease.

20. Notices. All notices hereunder must be in and are effective upon receipt thereof at the following addresses:

Lessor:	City of David City Attn: City Administrator 557 Fourth Street David City, NE 68632 (402) 367-3135
Lessee:	Timberline Energy, LLC 14694 Orchard Parkway, Suite 200 Westminster, CO 80031 (573) 368-9409
With a copy to:	Koley Jessen P.C., L.L.O. Attn: Thomas F. Ackley One Pacific Place, Suite 800 1125 South 103rd Street Omaha, NE 68124 (402) 390-9500

[Remainder of this page has been intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, each Party has caused this Lease to be executed on the date indicated above.

LESSOR:

ATTEST TO:

CITY OF DAVID CITY, NEBRASKA

By: _____

Name: _____

Its: _____

{Contingent upon Timberline Energy, LLC
providing appropriate bonds}

LESSEE:

TIMBERLINE ENERGY, LLC

By: _____

Name: _____

Its: _____

Mayor Trowbridge declared a recess at 10:05 p.m. The meeting resumed at 10:12 p.m.

Ordinance No. 1072 was introduced and passed on 1st reading on April 9, 2008. Council member Schatz made a motion to pass and approve Ordinance No. 1072 on the second reading only. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Hein, and Schatz. Voting NAY: None. Council members Lukassen and Smith were absent. The motion carried and Ordinance No. 1072 was passed on 2nd reading as follows:

ORDINANCE NO. 1072

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1, OF THE CITY OF DAVID CITY, NEBRASKA, 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. Article 1 of Chapter 6 of the David City Municipal Code Book be amended to read as follows:

Chapter 6

POLICE REGULATIONS

Article 1. Dogs

§6-101 DOGS; LICENSE. Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog. **The renewal date for a dog license shall be the first (1st) day of January of each year.** The said tax shall be delinquent from and after January tenth (10th); Provided, the possessor of any dog

brought into or harbored within the corporate limits subsequent to January first (1st) of any year, shall be liable for the payment of the dog tax levied herein and such tax shall be delinquent if not paid within ten (10) days thereafter. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of seven (\$7.00) dollars for each spayed or neutered dog, and ten (\$10.00) for each dog not spayed or neutered. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his name and address and the name, breed, color, and sex of each dog owned and kept by him. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (*Ref. 17-526, 54-603, 71-4412 RS Neb.*)

- §6-102 DOGS; LICENSE TAGS.** Upon the payment of the license fee, the Municipal Clerk shall issue to the owner of a dog license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirty-first (31st) day of December following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year at no charge. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year.
- §6-103 DOGS; WRONGFUL LICENSING.** It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other Municipal Identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an un-spayed or un-neutered dog with a license prescribed for a neutered or spayed dog.
- §6-104 DOGS; OWNER DEFINED.** Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed liable for all penalties herein prescribed. (*Ref. 54-606, 71-4401 RS Neb.*)
- §6-105 DOGS; PROCLAMATION.** It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.
- §6-106 DOGS; UN-COLLARED.** All dogs found running at large upon the streets and public grounds of the Municipality without a collar or harness are hereby declared a public nuisance. Un-collared dogs found running at large may be killed by the Municipal Police. (*Ref. 54-604 RS Neb.*)

- §6-107 DOGS; RUNNING AT LARGE.** It shall be unlawful for the owner of any dog, whether licensed or unlicensed, to allow such dog to run at large in the Municipality. "Running at Large" shall mean any dog found off the premise of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint.
- §6-108 DOGS; IMPOUNDMENT FEES WHEN DOGS LICENSED OR UNLICENSED ARE IMPOUNDED.** Impoundment of dogs within the City of David City, Nebraska, shall be accomplished by the Municipal Police or person designated by the Mayor when found "running at large." There shall be a boarding fee for each day the dog is impounded by the City, which shall be the responsibility of the owner. In addition there shall be a general impoundment fee of five dollars (\$5.00) for the first impoundment of a dog during any license year; then ten dollars (\$10.00) for the second impoundment during any license year; fifteen dollars (\$15.00) for the third impoundment during any license year.
All such fees, together with proof that a dog is licensed in accordance with the provisions of this Chapter, before any dog is released. When all fees have been paid to the City, the dog may be returned to the owner.
- §6-109 DOGS; CAPTURE IMPOSSIBLE.** The Municipal Police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (*Ref. 54-605 RS Neb.*)
- §6-110 DOGS; VICIOUS.** It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite. If any vicious or dangerous dog is allowed to run at large, the Municipal Police shall have the authority to put the dog to death. Upon the complaint of one (1) or more affected persons, filed with the Municipal Police Department, that any dog owned by the person named in the complaint is committing injury to persons or property, or is an annoyance, dangerous, offensive or unhealthy, the Municipal Police Department shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to dispose of the dog. If the Municipal Police Department is unable to locate the owner of the dog, or if the owner of the dog fails to restrain such dog, the Municipal Police Department shall take custody of the dog, and impound said dog. The owner of the dog shall be required to pay impoundment fees as set forth in Municipal Code 6-107.01, before the dog will be released.
- §6-111 DOGS; INTERFERENCE WITH POLICE.** It shall be unlawful for any person to hinder, delay, or interfere with any Municipal Policeman who is performing any duty enjoined upon him by the provisions of this Article. (*Ref. 28-729 RS Neb.*)
- §6-112 DOGS; KILLING AND POISONING.** It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog.
- §6-113 DOGS; BARKING AND OFFENSIVE.** It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any person or neighborhood, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Municipality. Upon the complaint of

one (1) or more affected persons from different households, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section of the Municipal Code, the Police shall investigate the complaint and, if in the opinion the situation warrants, shall notify the owner to silence and restrain such dog. If the Police Department is unable to locate the owner of the dog, or if the owner of the dog fails to silence and restrain such dog, the Police Department may take custody of the dog, and impound such dog. The owner of the dog shall be required to pay impoundment fees as set forth in Municipal Code 6-107.01, before the dog will be released.

§6-114 DOGS; LIABILITY OF OWNER. It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (Ref. 54-601, 54-602 RS Neb.)

§6-115 DOGS; REMOVAL OF TAGS. It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof.

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 appealed.

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 9th day of April, 2008.

Passed on 2nd reading only 5/14/08
Mayor Dana Trowbridge

Passed on 2nd reading only 5/14/08
City Clerk Joan E. Kovar

Council member Hein made a motion to approve the application of Richard Ludvik / Ka-Boomer's Enterprises, Inc., to sell permissible fireworks at 1510 4th Street, David City, Nebraska. Council member Schatz seconded the motion. Voting AYE: Council members Yindrick, Scribner, Schatz, and Hein. Voting NAY: None. Council members Lukassen and Smith were absent. The motion carried.

Council member Hein made a motion to approve the application of Scott T. Samek to sell permissible fireworks in Amigo's parking lot at 375 Nebraska Street, David City, Nebraska, contingent upon a letter from the property owner giving permission for Samek to be on their property. Council member Schatz seconded the motion. Voting AYE: Council members Scribner, Yindrick, Schatz, and Hein. Voting NAY: None. Council members Lukassen and Smith were absent. The motion carried.

Council member Schatz introduced Ordinance No. 1078. Council member Schatz made a motion to pass Ordinance No. 1078 on the first reading only. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Hein, and Schatz. Voting NAY: None. Council members Lukassen and Smith were absent. The motion carried and Ordinance No. 1078 was passed on first reading only as follows:

ORDINANCE NO. 1078

AN ORDINANCE AMENDING CHAPTER 2, §2-106, OF THE CITY OF DAVID CITY, NEBRASKA, 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 2, §2-106, of the David City Municipal Code Book be amended to read as follows:

§2-106 TREE BOARD; CREATION AND ESTABLISHMENT. There is hereby created and established a City Tree Board for the City of David City, Nebraska, which shall consist of three members, to include the Community Forester, one council member and one citizen, appointed by the Mayor with the approval of the City Council.

The term of office of the tree board members shall be two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. Members of the City Tree Board shall serve without compensation. It shall be the responsibility of the City Tree Board to develop and administer a written plan for the maintenance, planting and removal of all street and park trees and shrubs. Such plans, which may be updated or amended as need requires, will be presented to the City Council and upon their acceptance and approval shall constitute the official "Comprehensive City Tree Plan" for the City of David City, Nebraska.

The Tree Board, when requested by the City Council, shall research and make recommendations on any special matter within the scope of its duties. The City Tree Board shall keep a journal of its proceedings. The Tree Board shall hold quarterly meetings as a minimum. The City Council shall have the right to review the acts and decisions of the City Tree Board. Any person may appeal any ruling or order of the City Tree Board to the City Council, who will hear the appeal and make the final decision.

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 appealed.

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 _____ day of May, 2008.

Passed on 1st reading only 5/14/08
City Clerk Joan E. Kovar

Passed on 1st reading only 5/14/08
Mayor Dana Trowbridge

Council member Schatz introduced Ordinance No. 1079. Council member Schatz made a motion to pass and adopt Ordinance No. 1079 on the first reading only. Council member Hein seconded the motion. Voting AYE: Council members Scribner, Yindrick, Hein, and Schatz. Voting NAY: None. Council members Lukassen and Smith were absent. The motion carried and Ordinance No. 1079 was passed on first reading as follows:

ORDINANCE NO. 1079

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 5, OF THE CITY OF DAVID CITY, NEBRASKA, 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, of the David City Municipal Code Book be 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		

§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 parquet where there is more than eight feet (8') between the edge of the sidewalk and the curb of the street. Trees planted in the parquet 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) 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.

§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).

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 appealed.

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 _____ day of May, 2008.

Passed on 1st reading 5/14/08
Mayor Dana Trowbridge

Passed on 1st reading 5/14/08
City Clerk Joan E. Kovar

City Administrator Joe Johnson presented an updated Tree Removal Agreement Form. The Mayor and Council members stated that forms could be handled administratively and did not require their approval.

P.O. Box 191
557 4th Street
David City, NE 68632



Phone: (402) 367-3135
Fax: (402) 367-3126
www.davidcityne.com

TREE REMOVAL AGREEMENT

This agreement is made between the City of David City, Nebraska (hereinafter called "CITY") and _____ (hereinafter called APPLICANT) requesting the removal of a City street tree as defined in City Code §8-501 and in compliance with "Article 5 – Trees" of City Code.

It is mutually understood that the APPLICANT may be required to replace street trees removed in accordance with any CITY resolutions or codes in existence at the time of executing this agreement.

The APPLICANT agrees to indemnify and holds the CITY and property of the CITY free and harmless from any claims or liability resulting from the tree removal, including any claim or liability resulting from injury to persons or property, from any work performed, APPLICANT(S) failure to perform any provisions of this agreement and by reason of the APPLICANT(S) inability to pay or be paid for any obligations incurred.

It is understood that any APPLICANT who chooses to personally remove street trees only on CITY property adjacent to or abutting, after approval of this agreement, do so at their own risk and are strictly liable for any and all personal injury or property damage resulting from the tree removal and the CITY has no liability whatsoever for any personal injury or property damage.

APPLICANT shall provide the CITY with proof of insurance and are hereby CAUTIONED about the risk of doing any tree removal personally.

APPLICANT INFORMATION:

Name: _____

Address _____

Phone Number _____

TREE INFORMATION:

Address Location of Tree(s) _____

Describe Tree(s) and Reason for Removal _____

TREE REMOVAL OPTIONS (initial the section number for option being selected):

_____ The CITY will remove the tree(s) for a cost of _____ and the APPLICANT agrees to pay the total cost for removal at the time of the signing of this agreement. The CITY agrees to allow the APPLICANT to remove the wood resulting from tree removal so long as it is removed within one week. The APPLICANT agrees to pay the CITY for any wood removal remaining after one week.

_____ The APPLICANT will make arrangements with an individual or business licensed with the CITY for the tree removal services and provide at least two price quotes to the CITY. Once approved by the CITY, the licensed individual or business may commence tree removal and the APPLICANT shall pay all costs of the removal. Upon receipt of payment of all costs of removal and an inspection by

the CITY to determine acceptable completion of tree removal, the CITY will reimburse the APPLICANT 50% of the total cost.

_____ The APPLICANT will make arrangements with an individual or business licensed with the CITY for the tree removal services and will pay the total cost for tree removal and does not request cost participation by the CITY.

_____ The APPLICANT will personally remove the tree(s) and understands that it is done at their own risk and the APPLICANT will be liable for any and all injury or property damage. The APPLICANT shall be required to provide proof of insurance prior to approval of this agreement.

This agreement is binding on the heirs, assigns, successors and personal representatives of the CITY and the APPLICANT.

CITY OF DAVID CITY, NEBRASKA

APPLICANT

City Forester

Applicant

City Administrator or City Clerk

The following two bids were received for the proposed Street Improvements:

CASTLE CONSTRUCTION, INC.

P.O. Box 932, COLUMBUS, NE 68602 PHONE: 402/564-5554 FAX: 402/564-0517

CONSTRUCTION PROPOSAL

TO: HONORABLE MAYOR & CITY COUNCIL
c/o CITY ADMINISTRATOR JOE JOHNSON
CITY OF DAVID CITY
FX (402) 367-3126

DATE: 14-Apr-08

PROJECT: MUNICIPAL STREET IMPROVEMENTS
DAVID CITY, NEBRASKA

ITEM NO.	DESCRIPTION	U/M	UNIT PRICE BASE BID	
1.	MACHINE CONCRETE PAVING - L Street between 10 th & 11 th Streets	SY	\$	12.65
2.	SCREED CONCRETE PAVING--I Street between 4 th & 5 th Streets and M Street between 5 th & 6 th Streets	SY	\$	14.70
3.	TIE BAR EXISTING CURB & GUTTER	EA	\$	3.98

4. L STREET INTERSECTION PAVING HANDWORK	SY	\$	14.90
5. REMOVE & REPLACE CURB & GUTTER	LF	\$	11.50

Proposal includes subgrade preparation, concrete paving, sawing and sealing of pavement. Mobilization and bonding are included in unit prices. City to remove any culverts along project, remove existing street surface close to final grade. City to provide readymix concrete, all backfill behind the curb & gutter, and adjust manholes to grade.

Quote valid for twenty (20) days. Insured requirements above our standard policy will be an additional charge to the base bid.

Any alteration or deviation from the specifications provided involving extra cost, material or labor will only be executed upon written orders for the same, and will become an extra charge over the sum mentioned in the contract. All agreements must be made in writing.

The Contractor agrees to carry Workmen's Compensation and Public Liability Insurance, also to pay all Old Age Benefit and Unemployment Compensation Taxes upon the labor furnished under this contract, as required by the United States Government and the State in which this work is completed.

Monthly progress payments for work completed with final payment due twenty (20) days from receipt of final estimate.

Respectfully submitted by
Stuart Gerhold, President

M.E. COLLINS
CONTRACTING CO. INC.
980 E. 25TH ST.
P.O. BOX 83
WAHOO, NE 68066
(402) 443-3663
FAX: (402) 443-5013

April 14, 2008

Mayor and City Council, c/o City Administrator Joe Johnson
Proposal For: Street Improvements
P.O. Box 191
557 4th Street
David City, Nebraska 68632-0191

Mr. Johnson:

Listed below is our unit price for the proposed improvements as outlined in your invitation for bids.

Build concrete pavement	\$21.05/Square Yard
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Price as quoted above includes the following:
Finish grade, subgrade compaction (1'), formwork, concrete placement labor, pinning, saw joints, expansion joints, cure, full depth sawing for removals, labor for manhole adjustments, material for pavement

Joan E. Kovar, City Clerk