

CITY COUNCIL PROCEEDINGS

September 22, 2008

The Mayor and City Council of the City of David City, Nebraska met in open public session at 5:30 p.m. on Monday, September 22, 2008, in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Mayor declared this an Emergency Council Meeting so advance notice by publication was not possible. In lieu of publishing, the notice was posted at eight locations in David City. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council members Gary Smith, Bill Scribner, Nick Hein, Ted Lukassen, Bill Schatz, and Bill Yindrick, City Administrator Joe Johnson, City Attorney Jim Egr, and City Clerk Joan Kovar.

Also present were: Dr. Kaufmann, Jeff Thompson and Dale Jones of Timplte, Inc., Economic Development Director Willow Holoubek, Bob Hilger, Zoning Administrator Roger Kotil, Pat Meysenburg, Janis Cameron, Don McLaughlin, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

Mayor Trowbridge stated that the reason for the emergency meeting was to consider Ordinance No. 1082 vacating "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length, due to an immediate adverse effect on an existing business. Mayor Trowbridge informed the council that Timplte, Inc. will be holding a future expansion meeting on Monday, September 29, 2008, in Denver, Colorado. At that time it will be decided if Timplte, Inc. should expand their facility at 1827 Industrial Drive in David City, Nebraska, or if they should expand and/or relocate elsewhere. The vacating of "S" Street will have a major impact on their decision.

At an earlier meeting, McLaughlin's stated that the BNSF Railroad had approached them about closing their railroad crossing and McLaughlin's expressed concern that if the city vacated "S" Street they would not have access to their property. City Attorney Jim Egr stated Revised Statute Section 74-1335 says: *"Whenever any person owns land on both sides of the right-of-way of any railroad, such railroad shall provide and keep in repair at least one adequate means for such landowner to cross the right-of-way."* It says "shall provide" not "may". City Attorney Egr pointed out that if the City would vacate "S" Street, the railroad is required to provide a railroad crossing to allow McLaughlin's access to their property

Council member Schatz stated that the economic development aspect is a major consideration. It is in the best interest of all the citizens of David City to retain Timplte, Inc. as they support our tax base and provides jobs. Schatz stated that he felt that the original intent of "S" Street was to serve Timplte, Inc. When working on the Future Land Use Plan map, there

were no future subdivisions planned in this area. "S" Street was a dead-end road to serve Timpte, Inc.

Economic Development Director Willow Holoubek reported that studies show that municipalities are much more successful getting existing industries to expand, rather than getting new industries.

Janis Cameron, owner of True Value, located at 443 N 4th, David City, stated that if Timpte Inc. relocates David City won't need two drug stores, three convenience stores; "Let's just take them out, we (the existing businesses) only take money to the bank". "Who else will leave?" "I hope my house sells before your house" Janis said.

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

Council member Schatz made a motion to pass and adopt Ordinance No. 1082 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Yindrick, Hein, Scribner, Smith, and Schatz. Voting NAY: None. Council member Lukassen abstained. The motion carried and Ordinance No. 1082 was passed and adopted as follows:

ORDINANCE NO. 1082

AN ORDINANCE VACATING "S" STREET FROM THE WEST SIDE OF INDUSTRIAL DRIVE TO THE DEAD-END OF "S" STREET WHICH IS APPROXIMATELY 647' IN LENGTH, DAVID CITY, BUTLER COUNTY, NEBRASKA; PROVIDING FOR THE RETENTION OF ANY UTILITY EASEMENTS; PROVIDING FOR AN EFFECTIVE DATE THEREOF, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. The Mayor and Council of the City of David City, Nebraska, received a Petition of Consent and Waiver asking that an ordinance be adopted vacating the public right of way that is located west of the intersection of Industrial Drive and "S" Street in David City Nebraska.

SECTION 2. The Mayor and City Council have found and determined that it is in the best interest of the City and is expedient for the public good to vacate part of "S" Street.

SECTION 3. That "S" Street from the west side of Industrial Drive to the dead-end of "S" Street which is approximately 647' in length, (running east and west), is hereby vacated.

SECTION 4. That the portion of vacated "S" Street shall revert to the abutting property owners.

SECTION 5. That the City of David City, and its franchisees, shall retain an easement to all existing and future utilities located within said vacated street.

SECTION 6. 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 7. This ordinance shall be published in pamphlet form and shall be in full force and effect following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 22nd day of September, 2008.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar

There being no further business to come before the Council, Council member Hein made a motion to adjourn and to forego the recessed meeting scheduled for Monday, September 29, 2008. Council member Yindrick seconded the motion. Voting AYE: Council members Scribner, Smith, Schatz, Lukassen, Yindrick, and Hein. Voting NAY: None. The motion carried and Mayor Trowbridge declared the meeting adjourned at 5:45 p.m.

Mayor Dana Trowbridge

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
September 29, 2008

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of September 29, 2008; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar, City Clerk