

CITY COUNCIL PROCEEDINGS

April 24, 2001

The Mayor and City Council of the City of David City, Nebraska met in open public session at 5:30 p.m. on April 24, 2001 in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the special meeting by publication of Notice in The Banner-Press on April 12, 2001 and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notices to the Public, Mayor and Council members conveyed the availability of the Agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the Agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Stephen Smith, Council members Mark Kirby, Ted Lukassen, Gary Kroesing, Bill Schatz, Gary Smith, and Nick Hein, City Administrator Andrew Brannen, Electric Supervisor Tim Kovar, Water/Sewer Supervisor Gene Divis, Park/Auditorium Supervisor Bill Buntgen, Street Superintendent Jim McDonald, and City Clerk Joan E. Kovar.

Also present were: Pam Siroky of Agency One, Kim Shore, Keith Evavold, John Bongers, John Svec of Aquinas High School, Tom Jadhe and Jerry Phillips of David City Public School, and Phil Lorenzen of Kirkpatrick Pettis.

The bids for the new running track were opened on January 11. The bidders were asked to submit a base bid and two alternate bids. The base bid included a 6" asphalt base and polyurethane surfacing. The first alternate bid included a 5" asphalt base and polyurethane surfacing. The second alternate bid included a 6" asphalt base and latex surfacing. Bids were received from two companies as follows:

	<u>M.E. Collins</u>	<u>Castle Construction</u>
Base Bid	\$287,414	\$304,468
First Alternate	\$273,949	\$286,881
Second Alternate	\$267,239	\$285,355

At the February 16, 2001, council meeting the Council awarded the bid to M.E. Collins, but did not make a decision on the surfacing and thickness. The project engineer is waiting for a final decision on the alternates for surfacing (latex or polyurethane) and asphalt thickness (5 or 6 inches). The Council and representatives from the schools discussed the pros and cons of the base bid and the alternates. Discussion covered the following points:

- Although the base bid carries a higher initial construction cost than the alternate bids, a track with a 6" asphalt base and polyurethane surface would require less maintenance and, therefore, be more cost-effective in the long run.
- Latex tracks are generally resurfaced every 10-12 years, while polyurethane tracks are resurfaced every 18-20 years.
- A 6" asphalt base allows 3 lifts of asphalt to be put down while a 5" track would have only 2 lifts. The extra lift helps insure a smoother asphalt surface, which in turn reduces the possibility of cracks or bubbles developing on the track surface.

The City received a \$179,000 grant from the Nebraska Department of Environmental Quality

for the running track. John Svec asked if money would be earmarked for the facility such as fencing and cement posts. It was noted that the track project was earmarked for approximately \$266,000 in the sales tax plan. \$200,000 for the all weather track, \$36,000 for new fencing, and \$30,000 for portable bleachers.

Council member Hein made a motion to go with the polyurethane surfacing and asphalt thickness of 6 inches for the new running track. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

City Administrator Andrew Brannen and Bill Schneider, a Licensed Insurance Consultant, reviewed the bids received for property insurance. Our current carrier, Agency One, submitted the bid from EMC Insurance, and Jones Insurance Agency submitted bids for Cornhusker and Columbia. The three bids were very comparable in terms of coverage amounts, deductibles, etc., so it basically comes down to price. The following bids were received for property insurance:

EMC Insurance	\$53,020
Cornhusker Insurance	\$57,518
Columbia Insurance	\$74,739

Council member Hein made a motion to award the bid for property insurance to Agency One Insurance, who submitted the bid from EMC Insurance in the amount of \$53,020. This is a three year bid but the price is not locked in. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Three bids were received for the group health insurance. Our current carrier United Healthcare, and Trustmark from Jones Insurance Agency, and Trustmark from Agency One Insurance. The bids were as follows:

Carrier	Actual	High	Low
United Healthcare	\$14,146	-	-
Trustmark (Jones)	\$13,454*	\$19,777	\$10,763
Trustmark (Agency One)	-	\$19,320	\$12,270

*Estimate

Andrew informed the Council that:

1. Both Agency One and Jones Insurance can provide United Healthcare and Trustmark Insurance. Agency One could not submit a bid for United Healthcare because Jones Insurance already has the city account.

2. Under the current coverage for city employees (United Healthcare 125 Plan) there is no deductible and the maximum out of pocket payments for one year is \$750 (for up to 2 family members).

3. If we switched to the 451 Plan there would be a deductible of \$250 (for up to 2 family members) and an out of pocket limit of \$1,250 (for up to 2 family members). Therefore, under the existing plan the maximum an employee would pay in any one year is \$1,500, while under the 451 Plan the maximum an employee would pay in any one year is \$3,000. The monthly cost for the 451 Plan is \$12,830.

4. The quote Jones received from Trustmark in an estimate and is likely to go up once past claims are reviewed.

5. The Health Insurance is not up until June 1. Brannen stated that he had not had a chance to visit with the employees concerning the health insurance.

Council member Kroesing made a motion to table consideration of the bids received for the group health insurance until the May 9 council meeting, to allow time for City Administrator Brannen to discuss the bids and options (various plans) with the city employees. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Phil Lorenzen of Kirkpatrick Pettis reviewed a swimming pool financing update and discussed a \$1,200,000 project series 2001 bond issue and lease purchase agreement. Phil stated "I have spent considerable time with bond counsel and Andrew relative to the financing of the project. The Feds responded with an unanticipated decrease in interest rates which helps us. The rates look like they will be 4%-4.5% which is lower than they were previously when they were 4.7%. There are two issues that we need to address: 1) the City and Council would be well advised to lock in the rates of today's market. The Fed bonds and discount rates are currently at 4% and 4.5%, this may go another bump down, but the key word is "may". That's an unknown. Lock this in at a very impressive rate and have the 1.2 million secured. 2) As to the lease purchase; if we can find enough value in the total project cost, that is movable equipment: the filtration system, slides, all those kind of amenities that go with a recreation facility/pool and go ahead and do that as a lease purchase without tapping the real property, and we're inclined to think that will be better for us to do that separate piece of financing. Bond council was agreeable to do the financing either as a real estate lease purchase or as a collateralized improvement lease purchase either one would be appropriate. We are looking at an interest rate of about 4% but we need to negotiate with all the parties involved to make sure it is clear. I would be inclined to wait and lock in that piece of the transaction until we have bids."

Council member Kirby introduced Ordinance No. 905. Council member Kroesing made a motion to suspend the statutory rule that an Ordinance be read on three separate days. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 905 on the third and final reading. Council member Hein seconded the motion. All Council members were present, all voted YEA, and the motion carried. Ordinance No. 905 was passed and adopted as follows:

ORDINANCE NO. 905

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AUTHORIZING THE ISSUANCE OF SWIMMING POOL SALES TAX REVENUE BONDS, SERIES 2001, OF THE CITY OF DAVID CITY, IN THE PRINCIPAL AMOUNT OF ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000) TO PAY THE COST OF THE ACQUISITION OF A SITE AND CONSTRUCTION OF SWIMMING POOL, AND FURNISHING THE NECESSARY EQUIPMENT AND APPARATUS FOR THE SAME; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE COLLECTION AND APPLICATION OF TAX REVENUES FROM A ONE PERCENT CITY SALES TAX TO PAY THE SAME; ESTABLISHING CERTAIN ACCOUNTS FOR THE HANDLING AND APPLICATION OF SUCH REVENUES; AND PROVIDING 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 Council of the City of David City, Nebraska (the "City") hereby find and determine that pursuant to Section 17-950, R.R.S. Neb. 1997, the Mayor and City Council have the authority, upon a majority vote of electors voting at a general or special election, to issue negotiable bonds of the City payable from tax revenues for such purposes as are specified in said election proposition; that pursuant to Sections 77-27,142 to 77-27,148, R.R.S. Neb. 1996, as amended (the "Local Option Revenue Act"), the City has the authority to levy and collect a special one percent sales tax upon approval by a majority vote of the electors voting at a special election; that pursuant to resolutions of the Mayor and Council, a special election (the "Election") was called and was held in conjunction with the Statewide General Election held on May 9, 2000, on the proposition of the issuance of bonds in an amount not to exceed \$1,200,000 for the purpose of acquiring real estate and constructing swimming pool and furnishing the necessary equipment and apparatus for the same (said swimming pool and related equipment and apparatus to be constructed and acquired in accordance with plans and specifications approved or to be approved by the Mayor and Council of the City is referred to in this Ordinance as the "Project") and on the question of the levy and collection of a sales and use tax of not to exceed one percent (the "Special Tax") for a ten (10) year period ending October 1, 2010, with the proceeds collected to be used for a new swimming pool, for a new all-weather running/walking track, and other municipal park and recreation type projects, and to apply such portion of said one percent (1.00%) sales and use tax as shall be required to pay the principal of and interest on said bonds as herein described for a period of time of not to exceed the ten (10) year period ending October 1, 2010; that notice of such election propositions was published as provided by law; that the County Clerk of Butler County has reported to the City the results of the canvass of the vote on such propositions; that as set forth in such report at said election a majority of the electors voting on the said proposition of the issuance of bonds voted in favor of the issuance of said bonds and the application of a portion of said sales and use tax and at said election a majority of the electors voting on the said proposition of the levy and collection of the special one percent (1.000/o) sales and use tax voted in favor of the levy and collection of said sales and use tax; that the Mayor and City Council have been authorized to issue \$1,200,000 of Bonds for the purposes as stated hereinbefore in this Section 1, and to levy and collect a special one percent sales and use tax for the purpose of applying such portion of said sales and use tax as shall be required for the purpose of paying said bonds, both principal and interest, as the same become due; and, that by Ordinance No. 10-2000 passed and adopted June 14, 2000, the Mayor and Council have authorized the levy and collection of the aforesaid one percent sales and use tax and have certified said Ordinance No. 10-2000 to the Nebraska Department of Revenue, with the levy of the one percent sales and use taxes to be collected commencing October, 2000, and with the initial receipts of the sales and use tax to be received by the City in January, 2001, with said sales and use tax to continue to be collected for a ten (10) year period ending October 1, 2010, said tax to remain in effect and the proceeds thereof applied as provided in the proposition authorizing said sales and use tax even though provision may have been made to retire all of the bonds authorized and issued herein, both as to principal and interest.

Section 2. The Mayor and Council further find and determine that all conditions, acts and things required to exist or to be done precedent to the issuance of its Swimming Pool Sales Tax Revenue Bonds of the City of David City, Nebraska, in the principal amount of One Million Two Hundred Thousand Dollars (\$1,200,000) pursuant to Section 17-950, R.R.S. Neb. 1997, to pay the cost of the improvements and the application of a portion of a one percent (1.00%) sales

and use tax, all as described in Section 1 hereof do exist and have been done as required by law.

Section 3. To provide for the issuance of bonds as described in Section 1 and Section 2 hereof, there shall be and there are hereby ordered issued Swimming Pool Sales Tax Revenue Bonds, Series 2001, of the City of David City, Nebraska, in the principal amount of One Million Two Hundred Thousand Dollars (\$1,200,000) (the "Bonds"), with said Bonds bearing interest at the rates per annum and to become due on December 15 of each year as indicated below:

<u>Maturing December 15</u>	<u>Amount</u>	<u>Interest Rate</u>
2002	\$150,000	3.80%
2003	100,000	4.00
2004	100,000	4.10
2005	110,000	4.20
2006	115,000	4.30
2007	120,000	4.45
2008	125,000	4.60
2009	130,000	4.70
2010	250,000	4.80

The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Bonds shall be May 15, 2001. Interest on the Bonds, at the respective rates for each maturity, shall be payable on December 15, 2001, and semi-annually thereafter on June 15 and December 15 of each year (each an "Interest Payment Date"), and the Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 5 hereof. The bonds shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the Bonds shall be made by the Paying Agent and Registrar, as designated pursuant to Section 4 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 4 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Bond as the absolute owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond in accordance with the terms of this ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

Section 4. The City Clerk, of David City, Nebraska, is hereby designated to serve as

Paying Agent and Registrar for the Bonds. Said Paying Agent and Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and said Paying Agent and Registrar, the form of which is hereby approved. The Mayor and City Clerk are hereby authorized to execute said agreement in substantially the form presented at the meeting at which this ordinance was adopted, but with such changes as they shall deem appropriate or necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Bonds at its principal corporate trust office. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the principal corporate trust office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 5. In the event that payments of interest due on the Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to registered owners of the Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 6. The Bonds shall be subject to redemption prior to maturity as follows:

(a) Optional Redemption. Bonds maturing on or after December, 2006 shall be subject to optional redemption, in whole or in part, prior to maturity at any time on or after May 15, 2006, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City shall have complete discretion in the selection of amounts and maturities for redemption.

(b) Mandatory Sinking Fund Redemption. The Bonds maturing as term Bonds on December 15, 2002, shall be redeemed prior to their stated maturity on December 15, 2001, and paid at final maturity on December 15, 2002, in part, from monies deposited into the Bond Payment Account for such redemption, which redemptions shall be in the years and for the amounts set forth below:

<u>Year</u>	<u>Amount to be Redeemed</u>
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2001 \$50,000
2002 \$100,000 (final maturity)

Such mandatory redemption shall be at a price equal to 100% of the principal amount redeemed plus interest accrued on the principal amount being redeemed to the date fixed for redemption. Any such mandatory sinking fund redemptions are herein referred to as "Required Sinking Fund Redemptions". Bonds selected for Required Sinking Fund Redemptions shall be selected using any random selection method determined appropriate by the Paying Agent and Registrar, subject to methods of selection determined by the procedures of the Depository and Participants with respect to the Bonds while outstanding in "book-entry-only" form in accordance with Section 9 of this Ordinance.

Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new Bond evidencing the unredeemed principal thereof. Notice of redemption of any Bond called for redemption shall be given, at the direction of the Mayor and Council with respect to Optional Redemptions and without further direction upon receipt of funds from the City Treasurer with respect to Mandatory Sinking Fund Redemptions, by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Bond at said owner's registered address. Such notice shall designate the Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue, series and the date fixed for redemption and shall state that such Bond or Bonds are to be presented for prepayment at the principal corporate trust office of said Paying Agent and Registrar. In case of any Bond partially redeemed, such notice shall specify the portion of the principal amount of such Bond to be redeemed. No defect in the mailing of notice for any Bond shall affect the sufficiency of the proceedings of the City designating the Bonds called for redemption or the effectiveness of such call for Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Bond for which defective notice has been given.

Section 7. If the date for payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent and Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 8. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER

SWIMMING POOL
SALES TAX REVENUE BONDS
OF THE CITY OF DAVID CITY, NEBRASKA
SERIES 2001

No. _____

\$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	December 15,	May 15, 2001	

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or the most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable December 15, 2001 and semiannually thereafter on June 15 and December 15 of each year (each an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of and interest on this bond due at maturity or upon redemption prior to maturity are payable upon presentation and surrender of this bond at the principal corporate trust office of the City Clerk, the Paying Agent and Registrar, in David City, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed on such Interest Payment Date by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available. For the prompt payment of this bond, both principal and interest, as the same become due, the proceeds of a special one percent sales tax to be levied and collected through the Nebraska Department of Revenue and paid over to the City when and as collected as provided by law are hereby irrevocably pledged.

This bond is one of an issue of fully registered bonds of the total principal amount of One Million Two Hundred Thousand Dollars (\$1,200,000), of even date and like tenor herewith, except as to date of maturity and rate of interest and denomination, which were issued by the City to pay the costs of acquiring a site and constructing a Swimming Pool and furnishing the necessary equipment and apparatus for the same, in pursuance of Sections 17-950, R.R.S. Neb. 1997, and Sections 77-27,142 through 77-27,148, R.R.S. Neb. 1996, as amended, and other applicable statutes and the issuance of said bonds and the levy and collection of said sales tax has been duly authorized by a majority of the electors voting at a special election held in conjunction with the Statewide Primary Election on May 9, 2000, and by ordinance (the "Ordinance") legally passed, approved and published and by proceedings duly had by the Mayor and Council of said City.

The bonds of this issue shall be subject to redemption prior to maturity as follows:

- (a) Optional Redemption. Bonds maturing on or after December 15, 2006 shall be subject to optional redemption, in whole or in part, prior to maturity at any time on or after May 15, 2006, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City shall have complete discretion in the selection of amounts and maturities for any such optional redemptions.
- (b) Mandatory Sinking Fund Redemption. The Bonds maturing as term Bonds on December 15, 2002, shall be redeemed prior to their stated maturity on December 15, 2001, and paid at final maturity on December 15, 2002, in part, from monies deposited into the Bond Payment Account for such redemption, which redemptions shall be in the years and for the amounts set forth below:

<u>Year</u>	<u>Amount to be Redeemed</u>
2001	\$50,000
2002	\$100,000 (final maturity)

Such mandatory redemption shall be at a price equal to 100% of the principal amount redeemed plus interest accrued on the principal amount being redeemed to the date fixed for redemption. Bonds selected for such required sinking fund redemptions shall be selected using any random selection method determined appropriate by the Paying Agent and Registrar in accordance with the terms of the Ordinance.

Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed in the manner specified in the ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof. If less than all of the principal sum hereof is to be redeemed, in such case upon the surrender hereof, there shall be issued to the registered owner hereof, without charge therefor, a registered bond or registered bonds for the unpaid principal balance of like series, maturity and interest rate in any of the authorized denominations provided for in the ordinance authorizing the issuance hereof.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the principal corporate trust office of the Paying Agent and Registrar in David City, Nebraska, upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent and Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC
(A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR
(B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREOF IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law. The Mayor and Council have been authorized to levy and collect a special one percent sales tax, as approved by the voters of the City at an election held on May 9, 2000, and pursuant to such authorization, the City agrees to cause to be levied and collected through the Nebraska Department of Revenue said sales tax and that said sales tax, when collected, shall be set aside and constitute a sinking fund for the payment of the principal and interest on the bonds; the City agrees that it will cause to be collected said special sales tax and shall apply said sales tax revenues when paid over to the City to fully pay the principal of and interest on this bond as the same become due in accordance with the terms of the Ordinance. The provisions of the

Ordinance are hereby incorporated by reference. The Ordinance provides for the application of receipts from such special tax in any calendar year first to the payments of principal and interest due on the bonds of this issue and second to the establishing of a debt service reserve account.

This bond shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

IN WITNESS WHEREOF, the Mayor and Council of the City of David City, Nebraska, have caused this bond to be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be impressed or imprinted hereon, all as of the date of original issue specified above.

CITY OF DAVID CITY, NEBRASKA

ATTEST:

(facsimile)
Mayor

(facsimile)
City Clerk

[SEAL]

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds authorized by ordinance passed and approved by the Mayor and Council of the City of David City, Nebraska as described in said bond.

City Clerk
David City, Nebraska
Paying Agent and Registrar

By:
Authorized Signature

For value received _____ hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____, attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.

Date:

Registered Owner

Witness:

Note: The signature(s) of this assignment must correspond with the name(s) as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever.

Section 9. Each of the Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk and shall have impressed or imprinted thereon the City's seal. The Bonds shall be issued initially as "book-entry-only" bonds using the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of understanding and representations (the "Letter of Representations") in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Bonds. Upon the issuance of the Bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Bond from a Bond Participant while the Bonds are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Bonds,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any notice of redemption or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Bonds. The Paying Agent and Registrar shall make payments with respect to the Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Bonds to the extent of the sum or sums so

paid. No person other than the Depository shall receive an authenticated Bond, except as provided in subsection 9(e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Bonds or (ii) to make available Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the Bonds be delivered to the Bond Participants and/or Beneficial Owners of the Bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this ordinance to the contrary, so long as any Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Bonds may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section.

(f) In the event of any partial redemption of a Bond unless and until such partially redeemed Bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Bond as is then outstanding and all of the Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed bond certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of

certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Bonds upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of said City. In case any officer whose signature or facsimile thereof shall appear on any Bond shall cease to be such officer before the delivery of such Bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Bond. The Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Bonds to be registered in the office of the Auditor of Public Accounts of the State of Nebraska. The Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to Kirkpatrick, Pettis, Smith, Polian Inc., as the initial purchaser thereof, upon receipt of 98.35% of the principal amount of the Bonds plus accrued interest thereon to date of payment of the Bonds. Said initial purchaser shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The City Clerk shall make and certify a transcript of the proceedings of the Mayor and Council with respect to the Bonds, which shall be delivered to said purchaser.

Section 10. All accrued interest received from the sale of the Bonds shall be applied to pay interest falling due on December 15, 2001. The proceeds of the Bonds shall be deposited to the "David City, Nebraska Swimming Pool Project Fund" and shall be applied, upon order of the Mayor and Council, for acquisition, construction and other costs related to the improvements described in Section 1 hereof.

Section 11. Pursuant to the election proposition approved at the Election in accordance with the Local Option Revenue Act, such portion of the revenues from the Special Tax as and when received by the City as are required for the timely payment of principal of and interest on the Bonds and as are required for deposit to the Debt Service Reserve Fund established in this Ordinance and to maintain such Debt Service Reserve Fund as also set out in this Ordinance, are hereby pledged to the payment of principal of and interest on the Bonds and shall be held and applied in accordance with the terms of the propositions submitted at the Election as directed in this Section 11. For purposes of holding, allocating and applying the receipts from the Special Tax, the City hereby agrees to establish and maintain under this Ordinance a Bond Payment Account and a Debt Service Reserve Account. Said accounts shall be maintained, so long as any of the Bonds remain outstanding in accordance with the following terms and conditions:

BOND PAYMENT ACCOUNT - In each calendar year, as and when received, revenues from the Special Tax shall be deposited first to the Bond Payment Account until such account has credited thereto an amount equal to the amount of principal and interest falling due on the Bonds in such calendar year. The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond Payment Account, or if the monies in such Account are insufficient, then from the Debt Service Reserve Account in an amount sufficient to pay, when due, the principal of and interest on the Bonds (including amounts necessary for any Required Sinking Fund Redemptions) and to transfer such amounts to the Paying Agent and Registrar at least five (5) business

days before each principal and interest payment date.

DEBT SERVICE RESERVE ACCOUNT - There shall be deposited concurrently with the issuance and delivery of the Bonds from the proceeds of the Bonds the sum of \$60,000 and there shall be deposited in each quarter of each calendar year beginning with the calendar quarter commencing July 1, 2001, only after all requirements for the Bond Payment Account have been satisfied, revenues in the amount of \$7,500 in each calendar quarter of the Special Tax to the Debt Service Reserve Account until such account contains the total sum of \$120,000 (the "Reserve Requirement"). Monies credited to the Debt Service Reserve Account shall be withdrawn, as needed, to provide funds to pay, when due, the principal of and interest on the Bonds, if the Bond Payment Account contains insufficient funds for that purpose or to make the final payment on the Bonds at the last maturity or redemption in full of all Bonds then remaining outstanding, and the City Treasurer is hereby authorized and directed to make such withdrawal if and when needed or so required. In the event of a withdrawal from the Debt Service Reserve Account, there shall be credited to the Debt Service Reserve Account from the next revenues of the Special Tax available after providing in full for the requirements for the Bond Payment Account all available funds from the Special Tax, until such account has been restored to an amount equal to the Reserve Requirement. Anything in this Subsection 11(b) to the contrary notwithstanding, the amount required to be maintained in the Debt Service Reserve Account with respect to the Bonds shall not at any time exceed the maximum amount permitted to be invested without yield restriction as a reasonably required reserve under Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations of the United States Treasury Department.

The provisions of this Section 11 shall require the City to maintain a set of books and records in accordance with such account methods and procedures as are generally applicable to municipal funds and accounts, which books and records shall show credits to and expenditures from the several accounts required by this Section. Monies credited to any of the accounts described in this Section 11 shall be deposited or invested separate and apart from other City funds. Except as specified below for the Debt Service Reserve Account, the City shall not be required to establish separate bank or investment accounts within the separate and segregated fund or account established for revenues from the Special Tax, for the accounts described in this Section 11. Monies credited to the Debt Service Reserve Account shall, if maintained in a demand or time deposit account, be kept in a separate account and not commingled with other accounts related to the revenues of the Special Tax. If invested, monies credited to the Debt Service Reserve Account may be commingled with other accounts related to the revenues of the Special Tax so long as the City maintains books and records clearly identifying the specific investments, or portions thereof, which belong to the Debt Service Reserve Account.

Monies in any of said Accounts may be invested in investments permissible for a city of the second class.

Section 12. The City hereby covenants with the purchasers and holders of the Bonds herein authorized that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payment of principal and interest on said Bonds, which would cause said Bonds to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended, and further covenants to comply

with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue. The City hereby covenants and agrees to take all actions necessary under the Internal Revenue Code of 1986, as amended, to maintain the tax exempt status (as to taxpayers generally) of interest payable on the Bonds. The City hereby designates the Bonds as its "qualified tax-exempt obligations" under Section 265 (b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that it does not reasonably anticipate issuance of tax-exempt bonds or other tax-exempt interest bearing obligations in an amount exceeding \$10,000,000 in calendar year 2001, including for such purposes all such bonds or obligations issued by governmental units, if any, subordinate to the City but excluding "private activity bonds" (other than "qualified 501(c)(3) bonds") and also excluding bonds or other obligations issued to refund (other than to advance refund) any bonds or other obligations to the extent that the amount of the refunding bonds or other refunding obligations does not exceed the amount of the bonds or other obligations refunded. The City agrees to take all further actions, if any, necessary to qualify the Bonds herein authorized as such "qualified tax-exempt obligations", as and to the extent permitted by law.

Section 13. The City's obligations under this ordinance with respect to any or all of the Bonds herein authorized shall be fully discharged and satisfied as to any or all of such Bonds and any such Bond shall no longer be deemed to be outstanding hereunder if such Bond has been purchased by the City and canceled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made in accordance with the terms thereof or (b) shall have been provided for by depositing with the Paying Agent and Registrar, or with a national or state bank having trust powers or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will insure the availability of sufficient money to make such payment; provided, however, that with respect to any Bond to be paid prior to maturity, the City shall have duly called such Bond for redemption and given notice thereof or made irrevocable provisions for the giving of such notice. Any money so deposited with the Paying Agent and Registrar or such bank or trust company may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of the Paying Agent and Registrar or such bank or trust company in excess of the amount required to pay principal of and interest on the Bonds for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 14. The Mayor and City Council hereby approve the Preliminary Official Statement with respect to the Swimming Pool Bonds and the information therein contained, and the Mayor and City Administrator or either of them is authorized to approve and deliver a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 15. In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the City hereby agrees that it will provide the following continuing disclosure information:

- (1) to Kirkpatrick, Pettis, Smith, Polian, Inc. (the "Underwriter") and any person making request at least annually or in the alternative to any state information depository ("SID") for the State of Nebraska (no such SID currently exists or is presently expected to exist

based upon any current pending legislation, the following financial information or operating data regarding the City:

- (a) the general financial and operating information shown under the heading "FINANCIAL INFORMATION" in the Official Statement for the Bonds
- (b) any additional financial information and operating data which customarily prepared by the City, including the City's most recently prepared audited financial statements, which shall be prepared for governmental and fiduciary fund types on the basis of generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States demonstrating compliance with the modified accrual basis and for proprietary funds on the accrual basis, both in accordance with current generally accepted accounting principles.

(2) in a timely manner to the Underwriter, to the Municipal Securities Rule Making Board (the "MSRB"), to the SID (if any) and to any nationally recognized municipal securities information repository for which the Underwriter makes request, notice of the occurrence of any of the following events with respect to the Bonds, if in the judgement of the City, such event is material:

principal and interest payment delinquencies,
nonpayment related defaults,
unscheduled draws on debt service reserves reflecting financial difficulties,
unscheduled draws on credit enhancements reflecting financial difficulties,
substitution of credit or liquidity providers, or their failure to perform,
adverse tax opinions or events affecting the tax-exempt status of the Bonds,
modifications to rights of the bondholders,
bond calls,
defeasances,
release, substitution, or sale of property securing repayment of the Bonds, and
rating changes.

The City does not undertake to provide notice of the occurrence of any other material event, except the events listed above.

The City reserves the right to modify the type of information or the format for any such information provided pursuant to such undertaking, to the extent necessary or appropriate in the judgement of the City, so long as any such modification is consistent with the requirements of the Rule. The undertakings of the City in this Ordinance relating to continuing disclosure are hereby declared to be for the benefit of the registered owners of the Bonds (including beneficial owners of the Bonds held in nominee name, each a "Beneficial Owner") and such covenants may be enforced by the registered owner of any of the Bonds or by any Beneficial Owner of the Bonds, provided that the any right to enforcement shall be limited to specific enforcement of such covenants and any failure shall not constitute an event of default under this Ordinance. The City hereby designates its City Clerk as the contact person from whom the foregoing

information, data and notices can be obtained.

Section 16. This ordinance shall be in force and take effect from and after its passage and publication in pamphlet form as provided by law.

PASSED AND APPROVED this 24th day of April, 2001.

Mayor

ATTEST:

City Clerk

[SEAL]

Council member Kroesing introduced Resolution No. 11 - 2001 and moved for its passage and adoption. Council member Hein seconded the motion. All of the Council members were present and all voted YEA. The motion carried and Resolution No. 11 - 2001 was passed and adopted as follows:

RESOLUTION NO. 11 - 2001

WHEREAS, the City of David City passed Resolution No. 14-1999 on June 9, 1999, and entered into the Interlocal Cooperation Agreement for Nebraska Energy Service Company effective July 15, 1999, and,

WHEREAS, the City of David City has decided to terminate their participation in the Interlocal Cooperation Agreement for Nebraska Energy Service Company, and,

WHEREAS, such termination of the City of David City in this Interlocal Cooperation Agreement shall be effective upon receipt of written notice of such termination of participation in this Interlocal Cooperation Agreement, and,

WHEREAS, upon receipt of notice of termination, the City of David City shall no longer be a participant and shall not be liable for any costs, obligation or liabilities of the Joint Entity incurred by the Joint Entity after the termination of participation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City of David City hereby notifies the Nebraska Energy Services Company and all members that the City of David City has officially terminated

their participation in the Interlocal Cooperation Agreement for Nebraska Energy Service Company.

Dated this 24th day of April, 2001.

Mayor

City Clerk

Council member Smith made a motion to advance ahead to agenda item #12 - consideration of the construction progress on John Bongers' garage and apartment house at the northeast corner of 4th and "H" Streets (Litty's 1st Addition, Block 8, Lots 11, 10, and the So. 25' of Lot 7). Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

John Bongers stated that he would like to hold off a bit on the construction of an apartment house at the northeast corner of 4th and "H" Streets (Litty's 1st Addition, Block 8, Lots 11, 10, and the So. 25' of Lot 7). He may determine to build three apartment units rather than six as originally planned. He is evaluating prospective tenants and has heard comments that the rent is too high. He stopped construction of the four car garage before because of the tree on the east side of the alley. John wants to pave the alley at his expense but wants the tree on the east side of the alley removed. The tree board decided it is not dead and they would not authorize its removal. John said it is not feasible to pave around the tree and he believes now that the tree is dead. John feels that he has been met with hostility from the Council from the very start. Council member Kroesing stated the Council has not been hostile but the rules state that the primary building on a lot must be a dwelling. Since John gave his word that he would build the apartment house after he constructed the garage, the Council, at their August 16, 2000 council meeting, approved the request of John Bongers to construct a garage first, and then the six unit apartment house. The garage was started last fall but is still not completed, and there are no signs of an apartment house. Some disagreements followed. Mayor Smith stated that the Council needed a time frame. John said he would continue on the garage but he can't pour a foundation for the apartment house when he doesn't know what he wants to build. John said eventually he will build there, but it's to the point it's not worth all the stress. The Mayor and Council instructed John that he has until June 1, 2001, to get the four car garage done, and then John is to attend the June council meeting to advise the council as to when he will begin building the apartment house.

Mayor Smith declared a ten minute recess at 6:55 p.m.. Meeting reconvened at 7:05 p.m..

Council member Kroesing made a motion to accept the recommendation of the Planning Commission to establish Home Based Businesses in High Density Residential. Council member

Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Lukassen introduced Ordinance No. 906. The Council discussed Item #1 under Section 622.2 General Provisions. Some changes were made in the proposed wording. The Council also felt that items #5 and #6 under Section 622.3 Performance Standards were contradictory. This will be given further consideration. Kroesing made a motion to pass Ordinance No. 906 on the 1st reading. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Ordinance No. 906 was passed on 1st reading as follows:

ORDINANCE NO. 906

AN ORDINANCE TO AMEND ORDINANCE NO. 616, BY ADDING SECTION 622: HOME OCCUPATIONS; AND SUB-SECTIONS 622.1 INTENT; 622.2 GENERAL PROVISIONS; 622.3 STANDARDS; AND 622.4 REVOCATION; TO THE GENERAL PLAN.

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

Section 1. That Ordinance No. 616, be amended as follows:
That Home Occupation Sections 622, 622.1, 622.2, 622.3, and 622.4 be added to the General Plan as follows:

SECTION 622 HOME OCCUPATIONS:

622.1 INTENT:

Home occupation shall be permitted to accompany residential uses by the grant of an Occupancy Permit subject to the requirements of this Section.

622.2 GENERAL PROVISIONS:

1. A home occupation shall be permitted when said occupation conducted on residentially used premises is ~~considered customary and traditional~~, incidental to the primary use of the premises as a residence, and not construed as a business. **An application for a home occupation shall be made to the City Clerk on a form provided and approved by the Zoning Administrator (City Administrator).**
2. Permitted home occupations shall be of a personal service nature limited to domestic crafts and professional service, including, but not limited to:
 - A. Such domestic crafts as dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work, carpentry work and furniture repair.
 - B. Such professions as law, medicine, architecture, engineering, planning, real estate, insurance, notary public, manufacturer's agent, clergy, writing, painting, photography, and tutoring, provided, however, the service is limited to advice and consultation and the premises are not used for the general practice of the profession.

- C. Day Nurseries or Day Care Centers.
 - D. Barber and Beauty Shops.
 - 1. Limited to one (1) chair.
 - E. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
 - F. Services provided outside the home such as lawn care, snow removal, and other similar uses.
- 3. Permitted home occupations shall be subject to all the regulations of the applicable zone district.
 - 4. Permitted home occupations shall not affect adversely the residential character of the zone district or interfere with the reasonable enjoyment of adjoining properties.
 - 5. Prohibited uses are those uses that are deemed to be in violation of the Performance Standards of this Ordinance.

622.3 PERFORMANCE STANDARDS:

- 1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
- 2. The operator conducting the home occupation shall be the sole entrepreneur, and he shall not employ any other person other than a member of the immediate family residing on the premises. **This standard applies only when the primary service is conducted within the confines of the residence.**
- 3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
- 4. No more than twenty-five percent (25%) of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
- 5. *Such home occupations shall be conducted **entirely** within the primary building or dwelling unit used as a residence.*
- 6. Home occupations conducted within an Accessory Building shall be confined to

- the structure of the said Accessory Building.
7. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.
 8. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities of the zone district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities, and no additional driveway to serve such home occupations shall be permitted.
 9. No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two (2) sq. ft. in total surface area.
 10. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises, or violate the general performance standards of Section 203 of this Ordinance.

622.4 REVOCATION:

1. ***Conditions.*** A home occupation permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - A. That any condition of the home occupation permit has been violated;
 - B. That the use **has become detrimental to the public health or safety or is deemed to constitute a nuisance;**
 - C. That the permit was obtained by misrepresentation or fraud;
 - D. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
 - E. That the condition of the premises, or of the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. ***Appeal.*** Within five working days of a revocation, an appeal may be made to the city council, through the ~~development director~~ Zoning Administrator (City Administrator). The ~~director of development~~ Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation action, shall report his or her

findings of fact and decision to the city council. The city council shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation permit in accordance with the council's final determination.

3. *Nontransferable.* A home occupation permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 2. That any ordinance or section of any ordinance passed and approved prior 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 take effect and be in full force from and after its passage, approval and publication or posting as required by law.

Passed and adopted this 24th day of April, 2001.

(Passed on 1st reading)
Mayor

(Passed on 1st reading)
City Clerk

The street department's budget is almost \$10,000 over for snow removal items. This overage is usually taken from the street repair and maintenance categories in Jim's budget. In addition, \$23,000 for the extra paving that was done in the Kozi Addition last fall came out of this year's paving budget. The bottom line is that Jim's budget for paving and street maintenance is going to be limited. Since the condition of our streets is a major concern, Council member Hein made a motion to transfer \$33,000 out of the Contingency Fund to the Capital Improvement Account for Street repairs and improvements. All of the Council members were present, all voted YEA, and the motion carried.

Leon Phillips has expressed some interest in purchasing a small section of land back by the alley of what used to be the theater building at 481 4th Street. It really has no value to the City but would square off both his lot and the now vacant lot. Usually the City would have to have an auction or take sealed bids, but because the market value on this property is less than \$5,000 the City can pass a resolution and post notices in three prominent places.

Council member Hein introduced Resolution No. 12-2001 and moved for its passage and adoption. Council member Lukassen seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. Resolution No. 12-2001 was passed and

adopted as follows:

RESOLUTION NO. 12 - 2001

WHEREAS, Nebraska State Statute 17-503.01 allows any city of the second class to convey any real and personal property owned by it provided the fair market value is less than five thousand dollars; and,

WHEREAS, the City of David City, Nebraska, is the owner of the property located at Original Town of David City, Block 24, Lots 9, 10, 11, and the North 13'7" of the west 44'60" of Lot 8, and,

WHEREAS, the North 13'7" of the west 44'60" of Lot 8, Block 24, Original Town of David City has a fair market value of _____ (less than \$5,000), and,

WHEREAS, Leon Phillips currently owns all of Lot 8, except the North 13'7" of the west 44'60", Block 24, Original Town of David City, and is therefore interested in purchasing the North 13'7" of the west 44'60" of Lot 8, Block 24, Original Town of David City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City of David City sell the North 13'7" of the west 44'60", Block 24, Original Town of David City, to Leon Phillips for a fair market price of _____.

BE IT FURTHER RESOLVED that the notice of sale shall be posted in three prominent places within the City for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of the sale.

Dated this 24th day of April, 2001.

Mayor

City Clerk

Council member Kroesing made a motion to advance ahead to agenda item #13 - consideration of a proclamation for municipal clerk's week. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Hein made a motion to recognize the week of April 29 through May 5, 2001,

as Municipal Clerks Week and authorize Mayor Smith to sign the proclamation for Municipal Clerks Week. Council member Kirby seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Proclamation

Municipal Clerks Week

April 29 through May 5, 2001

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the office of the municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

Now, Therefore, I, Stephen Smith, Mayor of David City, do recognize the week of April 29 through May 5, 2001, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerk Joan E. Kovar, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they

represent.

Dated this 24th day of April, 2001.

Mayor

Council member Hein made a motion to go into executive session to discuss a personnel matter. Council member Kroesing seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council, Mayor Smith, City Administrator Brannen and City Clerk Kovar went into executive session at 8:06 p.m.. City Clerk Kovar was excused from the executive session at 8:15 p.m..

Council member Kirby made a motion to come out of executive session. Council member Hein seconded the motion. All of the Council members were present, all voted YEA, and the motion carried. The Council came out of executive session at 8:39 p.m..

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Hein, Schatz, Kirby, Lukassen, and Kroesing. Voting NAY: None. The motion carried and Mayor Smith declared the meeting adjourned at 8:40 p.m..

Mayor

City Clerk

CERTIFICATION OF MINUTES
April 24, 2001

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 April 24, 2001; 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

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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