

CITY COUNCIL PROCEEDINGS

August 13, 2003

The City Council of the City of David City, Nebraska met in open public session in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on August 7, 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: Council President Gary L. Kroesing, Council members Gary Smith, Ted Lukassen, and Bill Schatz, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Street Superintendent Jim McDonald, Police Chief Stephen Sunday, Electric Plant Supervisor John Kabourek, Waste Water Operator Jim Kruse, Swimming Pool Manager Rachelle Birkel, Jackie Mahlin, Mark & Kristi Palik, Dave Streeter, Scott Steager, Banner-Press Editor Larry Peirce, and City Clerk-Treasurer Joan E. Kovar. Mayor Smith and Council member Hein were absent. Council member Mark Kirby, who was on a trouble call, arrived at 7:47 p.m..

The meeting opened with the Pledge of Allegiance.

The minutes of the July 9 & July 28, 2003 meetings of the Mayor and City Council were approved upon a motion by Council member Lukassen and seconded by Council member Smith. Voting YEA: Council members Schatz, Kroesing, Smith, and Lukassen. Voting NAY: None. Council members Hein and Kirby were absent. The motion carried.

Council President Gary Kroesing asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions or citizens concerns. The following communication was acknowledged:

Joan, City Administrator, Mayor and Council.

Last month (July) I was out in our backyard when Bob Palik came to read our meters. After reading our water meter, he commented that we had a very high water reading. He wanted to know if we watered our lawn a lot the past month and I said no. He did suggest that we might have a leak. He suggested that we call the Water Dept. and have them check it out for us. We discovered that our bathroom stool was the trouble. Les and I want to thank Bob for bringing this water reading to our attention. It saved us another high water reading. It also gives us a good feeling about living in a small town where people care.

Les & Verla Johnson

Council President Gary Kroesing called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet.

City Attorney Jim Egr stated that he made the requested changes to the interlocal agreement with Bruno concerning the water line and asked if anyone had any additional changes or

corrections. None were noted. Egr also reported that he sent letters to Joe Smith and Randy Janak concerning their unkept properties. Janak has several car tires which are a public nuisance. The water collecting in the tires emanates concerns regarding the West Nile Virus.

Council President Gary Kroesing scheduled a Committee of the Whole meeting for Monday, August 25, 2003 at 5:30 p.m. in the City Office.

Council member Smith made a motion to accept the Committee and Officers' Reports as presented. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Kroesing, Smith, and Lukassen. Voting NAY: None. Council members Kirby and Hein were absent. The motion carried.

Council President Kroesing asked for consideration of claims. Council member Lukassen made a motion to authorize the payment of claims. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Schatz, Smith, and Lukassen. Voting NAY: None. Council members Kirby and Hein were absent. The motion carried.

Consideration of allowing the Family Aquatic Center to remain open from 6:00 a.m. - 9:00 a.m. for adult swim during the last two weeks of August was discussed. Jackie Mahlin stated that the City has a big investment in the aquatic center and we are not using it to its full potential. Mahlin would like to see the aquatic center remain open for adult swim. She also stated that the water is sometimes 75° in the morning and questioned if next year the adult swim could be in the afternoon from 4:00 p.m. to 6:00 p.m. or from 5:00 p.m. to 6:00 p.m. when the water temperature is warmer. Mahlin stated that she is not being critical, just asking questions.

Swimming Pool Manager Rachelle Birkel stated that this presents a legal problem. The State of Nebraska requires that an operations manager, certified by the State, be available. Currently Jill Stara has been opening in the morning for the adult swim. Stara is not an operations manager, however, Mary Ann Mattingly and Rachelle, who are both operations managers, were on call and could have been at the aquatic center in just a few minutes if needed. Once school starts, however, that will not be the case. Rachelle stated "Mary Anne and I are both working; we can't just leave a classroom of students if we get a call from the aquatic center".

Council member Schatz made a motion to advance to agenda item #19 - Consideration of the request for a skate park facility to be located next to the Youth Center Building at 660 5th Street. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Kroesing, Schatz, and Smith. Voting NAY: None. Council members Kirby and Hein were absent. The motion carried.

Mrs. Mark (Kristi) Palik presented the following:

City Council members,

Sunday, July 20, 2003

The skate park committee had a meeting on Thursday, July 17, 2003. At this meeting we discussed possible locations for the skate park. The options we had discussed were: the city park (around the sand volleyball courts), the new baseball fields, next to the small playground located across the street from the hospital, and the old youth center. After some discussion we have decided the location with the most promising points is at the old youth center. After the meeting, some of the members, adults and children went to look at the area. We think the location shows a lot of potential, and would like the city councils approval to move forward with the planning of the skate park. We have presented the council with options of designs for skate parks and the one we would like to pattern ours after is the one on 27th street in Lincoln. We would also like to have space which allows us to have room for expansion, if funding

allows. The intital space we would like to have to start with would be approximately 1600 sq. ft. The youth center location would have this and ample room for expansion.

Thank you for your time,
The skate park committee

August 12, 2003

I talked in length to the Lincoln Parks and recreation department. I'm putting together some of the information we discussed in this letter. Hopefully this will help with some of the questions you may have concerning the skate park.

The best product to go with is the Rhino Top. It is best to start with a 1000 sq. ft. slab of concrete. Be sure to put concrete joints in no larger than 1/8th of an inch. You should make the park convenient for all ages. The best way is to divide the park into two sections, dividing these sections with grind rails. It's best, even though they are very heavy, to anchor down the ramps from the back side. They do not recommend steel in residential areas due to the noise issue.

I have these names of three highly recommended manufacturers:
Churchich Recreation Design, Jeff Churchich, Omaha, 1-800-747-7528
Outdoor Recreation Products, William Pospichal, Elkhorn, 1-402-0400
Fry and assoc. Kansas City, area rep. Syracuse.

It is suggested that if you want to talk to someone on the liability issues it is best to call:
Fremont Parks and recreation, ask for, Ken Walter.

Dave Streeter stated that rules and regulations must be followed at a skate park: no littering, helmets must be worn, etc.. If the rules aren't followed, shut the facility down for several days.

The Youth Center Building at 660 5th Street is zoned High Density Residential. City Administrator Fiegenschuh will check on zoning issues for a skate park in a High Density Residential area. Council member Lukassen advised the skate committee that if anything is needed to call. The Council gave the skate committee the go ahead to start raising money.

Council member Lukassen introduced Resolution No. 11-2003 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kroesing, Lukassen, and Smith. Voting NAY: None. Council members Hein and Kirby were absent. The motion carried and Resolution No. 11-2003 was passed and adopted as follows:

RESOLUTION NO. 11 - 2003

WHEREAS, Doug Osborn, as the owner of Lots 1 and 4, Block 16, Original Town of David City, Butler County, Nebraska, has filed a request to combine the above lots to form one lot approximately 100' x 140', and,

WHEREAS, there were no objections expressed concerning combining Lot 1 and Lot 4, Block 16, Original Town of David City, Butler County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Doug Osborn to combine Lot 1 and Lot 4, Block 16, Original Town of David City, Butler County, Nebraska, to form one lot, is hereby approved.

Dated this 13th day of August, 2003.

Council President Gary L. Kroesing

City Clerk Joan E. Kovar

Council member Smith made a motion to pass Ordinance No. 930 on the third and final reading. Council member Lukassen seconded the motion. Voting YEA: Council members Schatz, Kroesing, Lukassen, and Smith. Voting NAY: None. Council members Hein and Kirby were absent. The motion carried and Ordinance No. 930 was passed on the third and final reading as follows:

ORDINANCE NO. 930

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, CREATING A CERTAIN STREET IMPROVEMENT DISTRICT WITHIN THE CITY OF DAVID CITY, NEBRASKA, TO BE KNOWN AS STREET IMPROVEMENT DISTRICT NO. 2003-1; DEFINING THE BOUNDARIES OF SAID DISTRICT AND THE PROPERTY CONTAINED THEREIN; PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS AND SUCH OTHER WORK AS MAY BE INCIDENTAL THERETO; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, 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:

Pursuant to a petition signed by more than sixty percent of the resident owners, owning property directly abutting upon the streets proposed to be improved being presented and filed with the City Clerk of David City, Nebraska, petitioning therefore, the Mayor and City Council find and determine said petitions are sufficient and adequate; there is hereby created within said City of David City, Nebraska, a Street Improvement District No. 2003-1.

Section 1. That pursuant to a petition signed by more than sixty percent of the resident owners, owning property directly abutting upon the street proposed to be improved, being presented and filed with the City Clerk of David City, Nebraska, petitioning therefore, the Mayor and City Council find and determine said petition is sufficient and adequate.

The following street is hereby included within Street Improvement District No. 2003-1:
8th Street between Nebraska and Iowa Streets together with all lots and lands abutting thereon.

The following street within Street Improvement District No. 2003-1 shall be and is hereby ordered improved by improvements consisting of grading, concrete curb and gutter, asphalt/cement surface, and such other work as may be incidental thereto:

8th Street between Nebraska and Iowa Streets, including the intersection and the areas formed by the crossing of avenues and alleys.

Section 2. That pursuant to a petition signed by more than sixty percent of the resident owners, owning property directly abutting upon the street proposed to be improved, being

presented and filed with the City Clerk of David City, Nebraska, petitioning therefore, the Mayor and City Council find and determine said petition is sufficient and adequate.

The following street is hereby included within Street Improvement District No. 2003-1:

Cottonwood Street and the extension of East "E" Street both located in Kozi 2nd Addition, together with all lots and lands abutting thereon.

The following street within Street Improvement District No. 2003-1 shall be and is hereby ordered improved by improvements consisting of grading, concrete curb and gutter, asphalt/cement surface, and such other work as may be incidental thereto:

Cottonwood Street and the extension of East "E" Street both located in Kozi 2nd Addition, including the intersection and the areas formed by the crossing of avenues and alleys.

Section 3. All of said improvements shall be constructed in accordance with plans and specifications to be made by engineers for the City and to be approved by the City Council.

Section 4. That the cost of such curb and gutter and street improvements included in Street Improvement District No. 2003-1, shall be levied and assessed against the property's in said district. The cost will be an 80/20 split with the property owners share at 80% of total costs, which will include all aspects of the project, and the City's cost at 20% of the total costs. The City will pay for the street surfacing. The assessments shall constitute a lien on said property.

Section 5. 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 ADOPTED this 13th day of August, 2003.

Council President Gary L. Kroesing

City Clerk Joan E. Kovar

The following bids for the street project that includes Kozi 2nd Addition and 8th Street between Nebraska and Iowa Streets were opened on August 8th, 2003, as follows:

	Knight Asphalt, Inc. P.O. Box 180 Chapman, NE 68627	M.E. Collins Contracting P.O. Box 83 Wahoo, NE 68066	Medallion Const. Co. P.O. Box 1482 Norfolk, NE 68702-1482	Castle Const P.O. Box 932 Columbus, NE 68602-0932
5" Asphaltic Concrete, Type SP-2 Superpave	\$44,837.90	No bid	No bid	No bid
6" P.C. Concrete Paving NDOR Type 47B-3625	No bid	\$92,205.75	\$96,218.25	\$97,765.00

Council member Smith made a motion to accept the bid of Knight Asphalt in the amount of

\$44,837.90 for construction of Street Improvement District 2003-1. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Lukassen, Kroesing, and Smith. Voting NAY: None. Council members Hein and Kirby were absent. The motion carried.

Council member Kirby arrived at 7:47 p.m..

Council member Lukassen made a motion to pass Ordinance No. 931 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Smith, Schatz, Lukassen, Kroesing, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 931 was passed on third and final reading as follows:

ORDINANCE NO. 931

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP FIFTEEN (15) NORTH, RANGE THREE (3) EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, REPEALING ANY ORDINANCES IN CONFLICT HERewith; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council of the City 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 Southwest Quarter (SW ¼) of Section 20, Township Fifteen (15) North, Range Three (3) East of the 6th P.M., Butler County, Nebraska, described as follows:

Beginning at the northeast corner of Lot 1, Block 3, Kozi Addition to the City of David City; thence easterly, 50.00 feet, on the easterly extension of the North line of said Lot 1; thence southerly, 135.31 feet, parallel with the east line of said Lot 1, to a point on the easterly extension of the south line of said Lot 1; thence westerly, 50.00 feet, on the easterly extension of the south line of said Lot 1, to the southeast corner of said Lot 1; thence northerly, 135.31 feet, to the point of beginning, containing 0.155 acre, more or less.

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 this 13th day of August, 2003.

ATTEST:

Council President Gary L. Kroesing

City Clerk Joan E. Kovar

Council member Smith made a motion to pass Ordinance No. 932 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Smith, Schatz, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 932 was passed on third and final reading as follows:

ORDINANCE NO. 932

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF CERTAIN CONTIGUOUS TERRITORY TO THE CITY OF DAVID CITY, NEBRASKA, AS DESCRIBED BELOW, A TRACT OF LAND LOCATED IN THE SW 1/4 OF SECTION 20, T15N, R3E OF THE 6TH P.M. IN BUTLER COUNTY, NEBRASKA, **KOZI 2ND ADDITION**, REPEALING ANY ORDINANCES IN CONFLICT HERewith; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, a majority of the City Council of the City 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 SW 1/4 of Section 20, T15N, R3E of the 6th P.M. in Butler County, Nebraska, described as follows:

Beginning at the northeast corner of Lot 4, Block 1, Kozi Addition to the City of David City, said point being on the southerly right-of-way line of the Union Pacific Railroad, and assuming said southerly railroad right-of-way to have a bearing of S 88°14'22" E; thence S 88°14'22" E and on said southerly right-of-way line, 419.65 feet; thence S 04°27'46" W, 336.77 feet; thence S 14°27'00" W, 241.35 feet; thence N 90°00'00" W, 340.01 feet; thence N 00°00'00" E, 110 feet, to the southwest corner of Lot 1, Block 3, of said Kozi Addition; thence S 89°58'14" E and on the south line of said Lot 1, 149.02 feet; thence N 04°47'35" E, 135.47 feet; thence S 89°58'54" W, 49.89 feet, to the northeast corner of Lot 1, Block 3, said Kozi Addition; thence N 00°02'46" E, 60.00 feet; thence S 89°58'54" W, 103.51 feet, to the southeast corner of Block 1, said Kozi Addition; thence N 00°00'00" E and on the east line of said Block 1, 277.48 feet, to the point of beginning, containing 4.56 acres, more or less.

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, approval, and publication as provided by law and city ordinance.

Passed and approved this ____ day of _____, 2003.

ATTEST:

Council President Gary L. Kroesing

City Clerk Joan E. Kovar

Council member Lukassen made a motion to pass Ordinance No. 933 on the second reading. Council member Schatz seconded the motion. Voting YEA: Council members Schatz, and Lukassen. Voting NAY: Council members Kroesing, Smith, and Kirby. Council member Hein was absent. The motion failed.

ORDINANCE NO. 933

AN ORDINANCE TO AMEND SECTION 5-709 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, TITLED: PARKING: BUREAU OF VIOLATIONS; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; 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. That Chapter 5, Article 7, Section 5-709 of the Municipal Code of David City, Nebraska shall read as follows:

§5-709 PARKING BUREAU OF VIOLATIONS. There is hereby created the Bureau of Violations within the powers and duties of the office of the Municipal Clerk. A copy of each citation issued for non-moving traffic violations shall be deposited with the Municipal Clerk, whose duty it shall be to collect all fines and to maintain

appropriate and accurate records of all such fines paid to him. Fines shall be in the amount of ~~one (\$1.00)~~ five (\$5.00) dollar for each violation if paid within five (5) days from the date of issuance. Should any such fine not be paid within the five (5) day period, the Clerk shall ask the Municipal Attorney to file a complaint in the appropriate court. The fine for any such violation after five (5) days or after judgement is entered against the violator shall be ~~five (\$5.00)~~ ten (\$10.00) dollars plus costs.

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

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(SEAL) _____ FAILED
City Clerk Joan Kovar

_____ FAILED
Mayor Stephen Smith

Council member Lukassen made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Schatz seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried.

Council member Kirby made a motion to pass Ordinance No. 934 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kroesing, Lukassen, Kirby, and Smith. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 934 was passed as follows:

ORDINANCE NO. 934

AN ORDINANCE TO AMEND SECTION 10-501 OF THE MUNICIPAL CODE OF THE CITY OF DAVID CITY, TITLED: OCCUPATION TAX; AMOUNTS; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; 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. That Chapter 10, Article 5, Section 10-501 of the Municipal Code of David City, Nebraska shall read as follows:

§10-501 OCCUPATION TAX; AMOUNTS. For the purpose of raising revenue an occupation tax is hereby levied on the following:

Private Utility Companies:

Telephone companies, annual gross local exchange tariff plus interstate calls for phone inside City limits times **3%**.

Amusement Devices:

Electronic entertainment or similar machines, per machine, per year..... \$25.00
Pool Tables, per table, per year \$15.00

Dealers in Alcoholic Beverages:

Class A

Beer only, retailer on-sale, per year \$50.00

Class B

Beer only, retailer off-sale, per year \$25.00

Class C

Alcoholic beverages on-sale, off-sale, per year..... \$250.00

Class D

Alcoholic beverages off-sale in original packages only, per year \$150.00

Class I

Alcoholic beverages on-sale, per year..... \$200.00

Class J

Beer and Wine, on-sale, per year \$125.00

Class K

Catering, per year..... \$75.00

For the purpose of raising revenue, an occupation tax is hereby levied on holders of Special Designated Liquor Permits (except when issued to holders of Class C or Class K Liquor Licenses):

Special Designated Liquor Permits..... \$25.00

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

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 13th day of August, 2003.

Council President Gary L. Kroesing

City Clerk Joan E. Kovar

Council member Kirby made a motion to pass Ordinance No. 935 on the second reading. Council member Smith seconded the motion. Voting YEA: Council members Lukassen, Schatz, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 935 was passed on second reading as follows:

ORDINANCE NO. 935

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING ORDINANCE NO. 616, ARTICLE 3, SECTION 303: DEFINITIONS, TO INCLUDE AND CLARIFY "CONDOMINIUM"; "DWELLING, TOWNHOUSE"; "TOWNHOUSE"; "TOWNHOUSE OWNERSHIP"; "TOWNHOUSE STRUCTURE"; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT 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. That Ordinance No. 616, Article 3, Section 303: Definitions - be amended by the addition of the following:

CONDOMINIUM: Shall mean an ownership regime whereby the title to each unit of occupancy is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units, with each owner having an undivided interest in the common real estate. Condominiums may include residential, commercial, office, or industrial uses. Condominiums are subject to the Nebraska State Statutes, Section 76-801 through 76-823, the *Condominium Law*.

DWELLING, TOWNHOUSE: is one of a group or row of not less than two, single-family dwellings designed and built as a single structure facing upon a street or place and in which the individual town-houses may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the group of townhouses shall be considered as one building occupying a single lot.

A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit. A townhouse may be owner-occupied.

303.112 TOWNHOUSE: A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit. A

townhouse may be owner-occupied.

TOWNHOUSE OWNERSHIP: Ownership of a townhouse is allowed whereby the title of each unit of occupancy, and the real estate on which the unit resides, is held in separate ownership. The ownership shall be the unit and an area of land which shall reflect the property if the common wall were extended to serve as a property line.

TOWNHOUSE STRUCTURE: A building formed by at least two townhouses and not more than six contiguous townhouses with common or abutting walls. For the purpose of the side yard regulations, the structure containing a group of townhouses shall be considered as one building occupying a single lot.

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 the provisions is hereby repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law and city ordinance.

Passed and approved this ____th day of _____, 20 ____.

ATTEST:

(Passed on 2nd reading 8-13-03)
Mayor Stephen Smith

(Passed on 2nd reading 8-13-03)
City Clerk Joan E. Kovar

Council member Lukassen made a motion to pass Ordinance No. 936 on the second reading. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Smith, Schatz, Lukassen, and Kroesing. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 936 was passed on second reading as follows:

ORDINANCE NO. 936

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING ORDINANCE NO. 616, SECTION 410 (LDR) LOWER DENSITY RESIDENTIAL DISTRICT, TO ALLOW TOWNHOUSE DWELLINGS; YARD REQUIREMENTS, MAXIMUM LOT COVERAGE; REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT 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. That Zoning Regulations, Section 410.4 - Special Exceptions - be amended by the addition of the following:

7. Townhouse Dwellings, provided the minimum requirements, as well as any other conditions deemed necessary based upon the project location, are met when:

- a. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure
- b. Each unit shall be serviced by separate utilities
- c. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit
- d. No more than two units shall be attached in this district

Section 2. That Zoning Regulations, Section 410.6 - Minimum Lot Area - be amended as follows:

1. The minimum lot area for single and two-family dwellings shall be ten thousand five hundred (10,500) feet. For Townhouse dwellings the minimum shall be five thousand six hundred (5,600) square feet per unit.
2. The minimum lot area for uses prescribed as exceptions shall be the area appropriate for each exception as determined and approved by the Commission in accordance with Article 9 of this Ordinance, provided that the lot area shall not be less than ten thousand five hundred (10,500) square feet, unless otherwise prescribed herein.

Section 3. That Zoning Regulations, Section 410.7 - Minimum Lot Width and Frontage - be amended by the addition of the following:

2. The minimum lot frontage shall be fifty (50) feet.

Townhouse Dwellings containing only two (2) units, the minimum lot frontage shall be one hundred (100) feet with fifty (50) feet per unit.

Section 4. That Zoning Regulations, Section 410.8 - Minimum Yard Requirements - be amended by the addition of the following:

3. Side Yard: Side yards shall not be less than a depth of twelve (12) feet. Townhouse dwellings shall have a zero lot line along any common wall.

Section 5. That Zoning Regulations, Section 410.9 - Maximum Lot Coverage - be amended to read as follows:

The maximum lot coverage, including all principal and accessory buildings, shall not exceed fifty (50) percent of the total lot area.

Section 6. 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 the provisions is hereby repealed.

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

Passed and approved this ____th day of _____, 20__.

ATTEST:

Passed on 2nd reading 8/13/03

Passed on 2nd reading 8/13/03
Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Smith made a motion to pass Ordinance No. 937 on the second reading. Council member Lukassen seconded the motion. Voting YEA: Council members Kirby, Schatz, Lukassen, Kroesing, and Smith. Voting NAY: None. Council member Hein was absent. The motion carried and Ordinance No. 937 was passed on 2nd reading as follows

:

ORDINANCE NO. 937

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING ORDINANCE NO. 616, SECTION 411 (HDR) HIGHER DENSITY RESIDENTIAL DISTRICT, TO ALLOW TOWNHOUSE DWELLINGS; YARD REQUIREMENTS, MAXIMUM LOT COVERAGE; REPEAL ANY ORDINANCES IN CONFLICT HERewith; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT 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. That Zoning Regulations, Section 411.4 - Special Exceptions - be amended by the addition of the following:

10. Townhouse Dwellings, provided the minimum requirements, as well as any other conditions deemed necessary based upon the project location, are met when:
 - a. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure
 - b. Each unit shall be serviced by separate utilities
 - c. When each unit is in separate ownership, the accompanying lot shall not be in common ownership with any other unit
 - d. No more than six units shall be connected in this district

Section 2. That Zoning Regulations, Section 411.6 - Minimum Lot Area - be amended to read as follows:

1. The minimum lot area for single-family and two-family dwellings shall be seven thousand (7,000) square feet. For Townhouse dwellings the minimum shall be four thousand (4,000) square feet per unit.
2. The minimum lot area for multi-family dwellings shall be one thousand five hundred (1,500) square feet per dwelling unit, provided in no case shall the minimum lot area be less than eight thousand four hundred (8,400) square feet.
3. The minimum lot area for uses prescribed as exceptions shall be the area appropriate for each exception as determined and approved by the Commission in accordance with Article 9 of this Ordinance provided that the lot area shall not be less than seven thousand (7,000) square feet, unless otherwise prescribed

herein.

Section 3. That Zoning Regulations, Section 411.7 - Minimum Lot Width and Frontage - be amended as follows:

1. The minimum lot width at the front building line shall be fifty (50) feet.

Townhouse Dwellings containing only two (2) units, the minimum lot frontage shall be one hundred (100) feet with fifty (50) feet per unit

Townhouse Dwellings containing more than two (2) units the lot frontage shall be fifty (50) feet for each unit on the ends and thirty-five (35) feet for each interior unit.

2. The minimum lot frontage shall be forty (40) feet.

Section 4. That Zoning Regulations, Section 411.8 - Minimum Yard Requirements - be amended as follows:

3. Side Yard: Side yards shall not be less than a depth of six (6) feet for single-story construction. For multi-story construction, an additional four (4) feet shall be added to side yard requirements for each additional floor or ten (10) feet in height, whichever is greater.

Townhouse dwellings shall have a zero lot line on any common walls.

Section 5. That Zoning Regulations, Section 411.9 - Maximum Lot Coverage - be amended as follows:

The maximum lot coverage shall not exceed seventy (70) percent of the total lot area.

The maximum lot coverage, including all principal and accessory buildings for Townhouse Dwellings shall not exceed seventy (70) percent of the total lot area.

Section 6. 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 the provisions is hereby repealed.

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

Passed and approved this ____th day of _____, 20__.

ATTEST:

Passed on 2nd reading 8/13/03
City Clerk Joan E. Kovar

Passed on 2nd reading 8/13/03
Mayor Stephen Smith

Last month, City Administrator Fiegenschuh reported that many other communities have

raised significant funds to pay for their community development projects by adding a voluntary contribution line to the utility bills. City Clerk Kovar distributed sample copies of utility bills with the following line item: "I have added a \$_____ voluntary contribution for the D.C. Aquatic Center". The Council asked if the line could be more noticeable: bold print, highlighted, or in color. City Clerk Kovar will check on this. Council member Lukassen made a motion to add a memo on the utility bills concerning a voluntary contribution for the D.C. Aquatic Center. Council member Kroesing seconded the motion. All of the Council members present voted YEA. Council member Hein was absent. The motion carried.

Council member Lukassen made a motion to pay Waste Water Operator Jim Kruse an additional \$300 per month while he assumes additional duties during the absence of Water/Sewer Supervisor Gene Divis who had heart surgery. Council member Schatz seconded the motion. All of the Council members present voted YEA. Council member Hein was absent. The motion carried.

Council member Schatz stated that he did not receive his agenda packet until Sunday evening, August 10th. Schatz read through all of the proposed ordinances but has changes to discuss concerning Chapter 1 of the municipal code book. Schatz felt that it would be best to discuss these proposed changes during a Committee of the Whole meeting. Therefore, Council member Schatz made a motion to table consideration of Agenda Items #21 thru #43. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Kirby, Kroesing, Lukassen, and Schatz. Council member Hein was absent. The motion carried.

Agenda Item #21. Consideration of an ordinance making changes to the municipal code book to incorporate a zoning administrator instead of a building inspector. Tabled

Agenda Item #22. Consideration of an ordinance establishing a zoning administrator. Tabled.

ORDINANCE NO. _____ (Agenda Item #23)

AN ORDINANCE RELATING TO THE MUNICIPAL TREASURER; TO CHANGE PROVISIONS RELATED TO DEPOSITS OF MUNICIPAL MONEY; TO CHANGE POWERS AND DUTIES TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE 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. Section 1-203 of the Municipal Code of David City, Nebraska, is amended to read as follows:

CITY TREASURER.

(A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports. The City Treasurer shall, at the end of every month, and as often as may be required, render an account to the City Council, under

oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the City Clerk's office. If the City Treasurer neglects or fails, for the space of ten days from the end of each month, to render his or her account, the office shall be declared vacant, and the City Council shall fill the vacancy by appointment until the next election for municipal officers. (Neb. RS 17-606)

(B) (1) All warrants upon the City Treasurer shall be paid in the order of their presentation therefor and as otherwise provided in Neb. RS 77-2201 through 77-2215. (Neb. RS 77-2201)

(2) The City Treasurer shall keep a warrant register in the form required by Neb. RS 77-2202.

(3) The City Treasurer shall make duplicate receipts for all sums which shall be paid into his or her office, which receipts shall show the source from which such funds are derived, and shall, by distinct lines and columns, show the amount received to the credit of each separate fund, and whether the same was paid in cash, in warrants, or otherwise. The Treasurer shall deliver one of the duplicates to the person making the payment and retain the other in his or her office. (Neb. RS 77-2209)

(4) The City Treasurer shall daily, as money is received, foot the several columns of the cash book and of the register, and carry the amounts forward, and at the close of each year, in case the amount of money received by the Treasurer is insufficient to pay the warrants registered, he or she shall close the account for that year in the register and shall carry forward the excess. (Neb. RS 77-2210)

(C) (1) The City Treasurer shall prepare and publish annually within 60 days following the close of the municipal fiscal year a statement of the receipts and expenditures by funds of the City for the preceding fiscal year. (Neb. RS 19-1101)

(2) Publication shall be made in one legal newspaper of general circulation in the City. If no legal newspaper is published in the City, then such publication shall be made in one legal newspaper published or of general circulation within the county in which the City is located. (Neb. RS 19-1103)

(D) The City Treasurer shall keep all money belonging to the City separate and distinct from his or her own money. He or she shall invest and collect all money owned by or owed to the City as directed by the City Council. He or she shall maintain depository evidence that all municipal money is, in the name of the City, in a solvent and going financial institution of a type authorized by state law for deposit of municipal funds. He or she shall cancel all bonds, coupons, warrants, and other evidences of debt against the City, whenever paid by him or her, by writing or stamping on the face thereof, "Paid by the City Treasurer," with the date of payment written or stamped thereon. He or she shall collect all special taxes, allocate special assessments to the several owners, and obtain from the County Treasurer a monthly report as to the collection of delinquent taxes.

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

issued. The Clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the Clerk may distribute such petitions to registered voters residing in the district who may act as circulators of such petitions. For purposes of this section, if the official were elected by ward, district shall mean that ward, and if the official was not elected by ward, district shall mean the city.

(3) Petition signers shall conform to the requirements of Neb. RS 32-629, 32-630, and 32-1303.

(4) A petition demanding that the question of removing the Mayor, a member of the City Council, or another elected official be submitted to the registered voters shall be signed by registered voters equal in number to at least 35% of the total vote cast for that office in the last general election, except that for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least 35% of the number of votes cast for the person receiving the most votes for such office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition. (Neb. RS 32-1303)

(C) (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the Clerk within 30 days after the Clerk issues the initial petition papers to the principal circulator or circulators.

(2) Within 15 days after the filing of the petition, the Clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the Clerk receives an affidavit signed by the person requesting his or her signature be removed before the petitions are filed with the Clerk for signature verification. If the petition is found to be sufficient, the Clerk shall attach to the petition a certificate showing the result of such examination. If the requisite number of signatures has not been gathered, the Clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose. (Neb. RS 32-1305)

(D) If the recall petition is found to be sufficient, the Clerk shall notify the official whose removal is sought and the City Council that sufficient signatures have been gathered. If the official does not resign within five days after receiving the notice, the Council shall order an election to be held not less than 30 nor more than 45 days after the expiration of the five-day period, except that if any other election is to be held in the city within 90 days of the expiration of the five-day period, the Council shall provide for the holding of the removal election on the same day. After the Council sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held. (Neb. RS 32-1306)

(E) (1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in division (F) of this section.

(2) If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall

petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as otherwise provided in this section and state law.

(3) If the election results show a margin of votes equal to 1% or less between the removal or retention of the official in question, the Secretary of State, Election Commissioner, or County Clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the City Clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of a majority or more of the members of the City Council at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the Secretary of State, Election Commissioner, or County Clerk.

(5) No official who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal of any other member of the same governing body during the remainder of his or her term of office. (Neb. RS 32-1308)

(F) No recall petition shall be filed against an elected official within 12 months after a recall election has failed to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office. (Neb. RS 32-1309)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

Tabled 8-13-03
City Clerk Joan E. Kovar

Tabled 8-13-03 (Seal)

ORDINANCE NO. _____ (Agenda Item #25)

AN ORDINANCE RELATING TO ELECTED OFFICIALS; TO CHANGE PROVISIONS RELATED TO FILLING VACANCIES; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE 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. Section 1-105 of the Municipal Code of David City, Nebraska, is amended to read as follows:

ELECTED OFFICIALS; VACANCY

(A) Every elective office shall be vacant upon the happening of any of the events specified in Neb. RS 32-560 except as provided in Neb. RS 32-561. (Neb. RS 32-560)

(B) In the case of any vacancy in the office of Mayor, or in case of his or her disability or absence, the President of the Council shall exercise the office of Mayor for the unexpired term until such vacancy is filled or such disability is removed, or in case of temporary absence, until the Mayor returns. If the President of the Council assumes the office of Mayor for the unexpired term, there shall be a vacancy on the Council. (Neb. RS 32-568(4))

(C) (a) Except as otherwise provided in subsections (B), (D), or (E) of this section, vacancies in city elected offices shall be filled by the Mayor and City Council for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the Council at a regular or special meeting and shall appear as a part of the minutes of such meeting. The Council shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or by posting in three public places in the city the office vacated and the length of the unexpired term.

(b) The Mayor shall, within four weeks after the meeting at which such notice of vacancy has been presented or upon the death of the incumbent, call a special meeting of the Council or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the mayor shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The Council shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the Mayor shall, at the next regular or special meeting, submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the Mayor shall continue at such meeting to submit the names of qualified registered voters in nomination and the Council shall continue to vote upon such nominations until the vacancy is filled. The Mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the Council. All Council members present shall cast a ballot for or against the nominee. Any member of the Council who has been appointed to fill a vacancy on the Council shall have the same rights, including voting, as if such person were elected.

(D) The Mayor and Council may, in lieu of filling a vacancy in a city elected office as provided in subsection (C) of this section, call a special city election to fill such vacancy.

(E) If vacancies exist in the offices of a majority of the members of the City Council, the Secretary of State shall conduct a special city election to fill such vacancies. (Neb. RS 32-569)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

Tabled 8-13-03

Mayor Stephen Smith

Tabled 8-13-03
City Clerk Joan Kovar

ORDINANCE NO. _____ (Agenda Item #26)

AN ORDINANCE RELATING TO THE CITY COUNCIL; TO PROVIDE FOR VACANCIES DUE TO UNEXCUSED ABSENCES FROM MEETINGS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE 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. Section 1-106 of the Municipal Code of David City, Nebraska, is enacted to read as follows:

VACANCY DUE TO UNEXCUSED ABSENCES.

- (A) In addition to the events listed in Neb. RS 32-560 and any other reasons for a vacancy provided by law, after notice and a hearing, a vacancy on the City Council shall exist if a member is absent from more than five consecutive regular meetings of the council unless the absences are excused by a majority voted of the remaining members.
(Neb. RS 19-3101)
- (B) The City Council shall take a vote on whether to excuse a member's absence from a meeting upon either (1) a written request from the member submitted to the City Clerk or (2) a motion of any other council member.
- (C) If a council member has been absent from six consecutive regular meetings and none of the absences have been excused by a majority vote of the remaining members, the City Clerk shall include this as an item on the agenda for the next regular meeting. At that meeting, the council shall set a date for a hearing and direct the City Clerk to give the member notice of the hearing by personal service of first class mail to the member's last-known address.
- (D) At the hearing, the council member shall have the right to present information on why one or more of the absences should be excused. If the council does not excuse one or more of the member's absences by a majority vote at the conclusion of the hearing, there shall be a vacancy on the council.

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

 Tabled 8-13-03
Mayor Stephen Smith

(SEAL)
 Tabled 8-13-03
City Clerk Joan Kovar

ORDINANCE NO. ____ (Agenda Item #27)

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING SECTION 1-201.02 APPOINTED OFFICIALS: CITY ADMINISTRATOR; DUTIES AND RESPONSIBILITIES, TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE 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. That Section 1-201.02 of the Municipal Code of David City, Nebraska, is amended to read as follows:

APPOINTED OFFICIALS: CITY ADMINISTRATOR; DUTIES AND RESPONSIBILITIES

The City Administrator shall be appointed by the Mayor, with the approval of a majority of the City Council.

The Administrator directs and supervises all departments of City government, and is responsible for the City's compliance with all statutes, codes, ordinances, and policies.

The Administrator works under legislative direction of the City Council and administrative direction of the Mayor. He/she is to be available to citizens and employees during normal business hours.

Administrative duties of the City Administrator include the following:

Attend all meetings of the City Council and report on matters concerning city affairs under his/her supervision and direction. Keep the Council informed regarding operations and problems and recommend solutions.

Direct the preparation of agendas and agenda packets for the Mayor, Council, and other persons requesting such information.

Attend meetings of departments and officials relevant to city affairs, or as directed by the Mayor and Council.

Evaluate all City business and projects and make recommendations to the Mayor and Council for the adoption of measures and ordinances deemed necessary for the good government of the City.

Continuously monitor and evaluate the efficiency and effectiveness of the City's organization structure, staffing patterns, service levels and administrative systems, and work with the Mayor and Council to implement necessary improvements.

Prepare and present periodic reports on the City's operation.

Initiate, prepare and present studies and research reports.
Supervise contracts and bids.

Maintain contact with State and Federal agencies in all matters regarding the City, analyze the

City's position on State and Federal legislation which may impact the City, and communicate the city's position to appropriate individuals and committees of the State and Federal Government.

Obtain information concerning Federal and State funds available to the City. Identify qualifying need areas and implement necessary procedures to obtain such funds if so directed by the Mayor and Council.

Advise citizens, property owners, contractors, and others on questions relating to City code.

Attend authorized meetings and seminars that provide continuing education in matters relating to City administration.

II.

Financial duties of the City Administrator include the following:

Keep the Mayor and Council fully advised on the financial condition of the City.

Prepare annual estimates of revenues and expenditures and submit a proposed budget of a complete financial plan for the City to the Mayor and Council 30 days prior to the consideration and adoption of the annual budget by the Council.

Supervise authorized budget expenditures.

Present monthly reports to the Council regarding current budget and expenditures.

Evaluate all City revenues and make suggestions and recommendations on rates and prices charged for all City services.

Review all employee benefits and recommend changes as needed.

Prepare insurance specifications for the City and obtain bids.

Assist accountants with questions regarding the yearly audit.

Be responsible for long-range financial planning.

Investigate and report on alternate revenue sources for City projects.

III.

Duties of the City Administrator regarding **Personnel** include the following:

Plan, coordinate, and supervise personnel matters for all departments of the City.

Keep the City Personnel Handbook up-to-date and accurate according to changing laws and regulations.

Recommend to the Mayor and Council the appointment and dismissal of appointed personnel.

In coordination with appropriate department heads, is responsible for the appointment and

dismissal of all subordinate employees in departments over which he/she exercises jurisdiction.

Provide for the transfer of workers between departments to meet varying workload emergencies.

Build good employee relations.

Hold periodic staff meetings with all department heads and employees.

Supervise the City's annual written employee evaluation process.

Conduct an annual review of the City's class specifications and compensation plan for all employees and recommend changes as needed.

IV.

Community Development duties of the City Administration include the following:

Oversee and assist in the development of long-range and short-range plans for the City, developing goals, objectives, and priorities. Keep department heads involved and informed concerning these plans.

Provide direction and assistance to citizens, community groups and, community promotional organizations to implement community development goals.

Serve as a liaison with outside agencies and organizations encouraging economic development.

V.

Public relations duties of the City Administrator include the following:

As chief public relations ambassador, the City Administrator is responsible to develop cooperative relationships with citizens, the media, and local business and community groups.

Receive, investigate, and act upon citizen complaints.

VI.

Qualification requirements for the position of City Administrator include the following:

Graduation from a four-year college/university with a bachelor's degree in public or business administration or related field. A Master's degree is desirable, but not required.

Ability to plan, organize, staff, direct, coordinate, and evaluate city programs.

Ability to communicate clearly and concisely.

Ability to perform related duties as assigned by the Mayor and City Council.

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

partisan office shall also indicate the party affiliation of the candidate. Petitions shall be signed by registered voters residing in the ward in which the officer is to be elected, if candidates are chosen by ward, or residing in the municipality, if candidates are not chosen by ward, and shall be filed with the filing officer in the same manner as provided for candidate filing forms in Neb. RS 32-607. Petition signers and circulators shall conform to the requirements of Neb. RS 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing payment of the filing fee required pursuant to Neb. RS 32-608. The petitions shall be filed by September 1 in the year of the general election. (Neb. RS 32-617)

(C) (1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be at least 10% of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the ward in which the officer is to be elected or in the municipality, as appropriate.

(2) The number of signatures of registered voters needed to place the name of a candidate upon the partisan ballot for the general election shall be at least 20% of the total vote for Governor or President of the United States at the immediately preceding general election within the municipality, not to exceed 2000. (Neb. RS 32-618)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

Tabled 8-13-03
Mayor Stephen Smith

(SEAL)

Tabled 8-13-03
City Clerk Joan Kovar

ORDINANCE NO. _____ (Agenda Item #30)

AN ORDINANCE RELATING TO ELECTED OFFICIALS; TO PROHIBIT CANDIDATES FOR OR PERSONS SERVING IN CITY ELECTIVE OFFICES FROM BEING A CANDIDATE FOR OR SERVING IN CERTAIN OTHER OFFICES; TO MODIFY OTHER PROVISIONS RELATED TO RESTRICTIONS ON ELECTED OFFICIALS TO HARMONIZE WITH STATE LAW; TO ELIMINATE PROVISIONS ON QUALIFICATIONS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE 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. Section 1-717 of the Municipal Code of David City, Nebraska, is amended to read as follows:

ELECTED OFFICIALS; RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

(1) The Mayor and members of the Council shall hold no other elective or appointive

office or employment with the City.

(2) For purposes of this section, (a) elective office means any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the Legislature which has candidates elected at an election and includes an office which is filled at an election held in conjunction with the annual meeting if a public body created by an act of the Legislature and (b) high elective office means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

(3) No candidate for member of the Legislature or an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. No candidate for any other high elective office shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be declared a write-in candidate for more than one high elective office to be filled at the same election.

(4) Except as provided in subsection (5) or (7) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

(5) No person serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

(6) Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

(7) No person serving in a high elective office shall simultaneously serve in any other high elective office.

(8) Notwithstanding subsections (5) through (7) of this section, any person holding more than one high elective office upon September 13, 1997, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed. (Ref. 17-108.02, 32-109, 32-603, 32-604 RS Neb.)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(SEAL)

Tabled 8-13-03

Tabled 8-13-03
Mayor Stephen Smith

City Clerk Joan Kovar

ORDINANCE NO. _____ (Agenda Item #31)

AN ORDINANCE RELATING TO PROPOSED BUDGET STATEMENTS; TO ELIMINATE THE AUGUST 1 FILING REQUIREMENT; TO REQUIRE THAT THE PROPOSED BUDGET STATEMENT BE AVAILABLE PRIOR TO PUBLICATION OF THE HEARING NOTICE; TO REQUIRE INFORMATION FOR THE IMMEDIATELY PRECEDING FISCAL YEAR INSTEAD OF THE IMMEDIATE TWO PRIOR FISCAL YEARS; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE 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. Section 1-802 of the Municipal Code of David City, Nebraska, is amended to read as follows:

PROPOSED BUDGET STATEMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The Governing Body shall annually prepare a proposed budget statement on forms prescribed and furnished by the Auditor of Public Accounts. The proposed budget statement shall be made available to the public prior to publication of the notice of the hearing on the proposed budget statement. A proposed budget statement shall contain the following information, except as provided by state law:

(1) For the immediately preceding fiscal year, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately stated as to each such source: The unencumbered cash balance at the beginning and end of the year; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(2) For the current fiscal year, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(3) For the immediately ensuing fiscal year, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed 50% of the total budget adopted exclusive of capital outlay items;

(4) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (a) for the purpose of paying the principal or interest on bonds issued by the Governing Body and (b) for all other purposes;

(5) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the Governing Body; and

(6) A list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the Governing Body as provided in the Municipal Proprietary Function Act.

- (B) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the municipality as well as any funds held by the County Treasurer for the municipality and shall be accurately stated on the proposed budget statement.
- (C) The municipality shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources. (Neb. RS 13-504)
- (D) The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources, including motor vehicle taxes, other than taxation for personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to this section. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year. (Neb. RS 13-505)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(SEAL)

Tabled 8-13-03
City Clerk Joan Kovar

Tabled 8-13-03
Mayor Stephen Smith

ORDINANCE NO. _____ (Agenda Item #32)

AN ORDINANCE RELATING TO BUDGET STATEMENTS; TO ELIMINATE THE OPTION OF DIRECTLY MAILING HEARING NOTICES TO EACH RESIDENT; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

NEBRASKA:

Section 1. Section 1-803 of the Municipal Code of David City, Nebraska, is amended to read as follows:

PROPOSED BUDGET STATEMENT; HEARING; ADOPTION; CERTIFICATION OF TAX AMOUNT.

(A) The Governing Body shall each year conduct a public hearing on its proposed budget statement. Notice of the place and time of the hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for the hearing in a newspaper of general circulation within the municipality.

(B) After the hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. The certification of the amount to be received from personal and real property taxation shall specify separately (1) the amount to be applied to the payment of principal or interest on bonds issued by the Governing Body and (2) the amount to be received for all other purposes.

(C) If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within 20 days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes. (Neb. RS 13-506)

(D) When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase. (Neb. RS 13-507)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(Seal)

Tabled 8-13-03
City Clerk Joan E. Kovar

Tabled 8-13-03
Mayor Stephen Smith

ORDINANCE NO. _____ (Agenda Item #33)

AN ORDINANCE RELATING TO FISCAL MANAGEMENT; TO REQUIRE THAT THE GOVERNING BODY CERTIFY TO THE LEVYING BODY THE AMOUNT OF TAX REQUIRED TO FUND THE ADOPTED BUDGET; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE.

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

Section 1. Section 1-804 of the Municipal Code of David City, Nebraska is amended to read as follows:

Section 1. Section 1-807 of the Municipal Code of David City, Nebraska is amended to read as follows:

FISCAL MANAGEMENT; PROPERTY TAX; CERTIFICATION OF AMOUNT.

The Governing Body shall, at the time and in the manner provided by law, cause to be certified to the County Clerk the amount of tax to be levied upon the taxable value of all the taxable property of the Municipality which the Municipality requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as otherwise provided. Subject to section 77-3442 RS Neb., the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of the amounts specified in section 17-702 RS Neb. (Ref. 17-702 RS Neb.)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(Seal) _____
Tabled 8-13-03
Mayor Stephen Smith

Tabled 8-13-03
City Clerk Joan E. Kovar

ORDINANCE NO. _____ (Agenda Item #35)

AN ORDINANCE RELATING TO REVISION OF THE BUDGET; TO ELIMINATE A REFERENCE TO CERTIFYING THE REVISED AMOUNT OF TAX TO BE LEVIED; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM, AND TO PROVIDE AN EFFECTIVE DATE.

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

Section 1. Section 1-813 of the Municipal Code of David City, Nebraska, is amended to read as follows:

REVISION OF BUDGET.

(A) Unless otherwise provided by law, the Governing Body may propose to revise the previously adopted budget statement and shall conduct a public hearing on such proposal whenever during the current fiscal year it becomes apparent to the Governing Body that:

(1) There are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted;

(2) The budget adopted violated Neb. RS 13-518 to 13-522, such that the revenue of

the current fiscal year for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with Neb. RS 13-518 to 13-522; or

- (3) The Governing Body has been notified by the Auditor of Public Accounts of a mathematical or accounting error or noncompliance with the Nebraska Budget Act.
- (B) Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the municipality. Such published notice shall set forth:
- (1) The time and place of the hearing;
 - (2) The amount in dollars of additional or reduced money required and for what purpose;
 - (3) A statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner;
 - (4) A copy of the summary of the originally adopted budget previously published; and
 - (5) A copy of the summary of the proposed revised budget.
- (C) At such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.
- (D) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the Governing Body, the Governing Body shall file with the County Clerk of the county or counties in which such Governing Body is located, and with the Auditor of Public Accounts, a copy of the revised budget, as adopted. The Governing Body may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.
- (E) Within 30 days after the adoption of the budget under Neb. RS 13-506, a Governing Body may, or within 30 days after notification of an error by the Auditor of Public Accounts, a Governing body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than 1% or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the Governing Body shall file a copy of the corrected budget with the County Clerk of the county or counties in which such Governing Body is located and with the Auditor of Public Accounts. The Governing Body may then issue warrants in payment for expenditures authorized by the budget. (Neb. RS 13-511)

Section 2. Any other ordinance or section passed and approved prior to passage,

ORDINANCE NO. _____

(Agenda Item
#39)

AN ORDINANCE RELATING TO property tax; to include judgments and orders from the Commission on Industrial Relations in the levy limit; to change how the tax in an offstreet parking district is counted in the allocation of the levy authority; to harmonize with state law; to repeal conflicting ordinances and sections; to provide for publication of the ordinance in pamphlet form, and to provide an effective date.

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

Section 1. Section 1-821 of the Municipal Code of David City, Nebraska, is amended to read asfollows:

PROPERTY TAX LEVY; MAXIMUM; AUTHORITY TO EXCEED.

(A) Property tax levies for the support of the city for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this division (A), except as provided in division (C). The city may levy a maximum levy of \$0.45 per \$100 of taxable valuation of property subject to the levy plus an additional \$0.05 per \$100 of taxable valuation to provide financing for the city's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to Neb. RS 51-201, museum pursuant to Neb. RS 51-501, visiting community nurse, home health nurse, or home health agency pursuant to Neb. RS 71-1637, or statue, memorial, or monument pursuant to Neb. RS 80-202. Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against the city which require or obligate the city to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of the city, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this division (A). The limitations on tax levies provided in this division (A) are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this division (A) are those provided by or authorized by this section. Tax levies in excess of the limitations in this section shall be considered unauthorized levies under Neb. RS 77-1606 unless approved under division (C). (Neb. RS 77-3442)

(B) (1) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, and offstreet parking districts established under the Offstreet Parking District Act may be allocated property taxes as authorized by law which are authorized by the city and are counted in the municipal levy limit provided by division (A), except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. For offstreet parking districts established under the Offstreet Parking District Act, the tax shall be counted in the allocation by the city proportionately, by dividing the total taxable valuation of the taxable property within the district by the total taxable valuation of the taxable property within the city multiplied by the levy of the district. The City Council shall review and approve or disapprove the levy request of the political subdivisions subject to this division (B). The City Council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the city may be exceeded as provided in division (C).

(2) On or before August 1, all political subdivisions subject to municipal levy authority

under this division (B) shall submit a preliminary request for levy allocation to the City Council. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in Neb. RS 77-3444 to exceed the final levy allocation as determined in this division (B).

(3) (a) The City Council shall:

(i) Adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions; and

(ii) Forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions.

(b) No final levy allocation shall be changed after September 1 except by agreement between both the City Council and the governing body of the political subdivision whose final levy allocation is at issue. (Neb. RS 77-3443)

(C) (1) The city may exceed the limits provided in division (A) by an amount not to exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits.

(2) The City Council may call for the submission of the issue to the voters:

(a) By passing a resolution calling for exceeding the limits by a vote of at least 2/3 of the members of the City Council and delivering a copy of the resolution to the County Clerk or Election Commissioner of every county which contains all or part of the city; or

(b) Upon receipt of a petition by the County Clerk or Election Commissioner of every county containing all or part of the city requesting an election signed by at least 5 % of the registered voters residing in the city.

(3) The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in division (A) and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the County Clerk or Election Commissioner no later than 30 days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in Neb. RS 32-802 shall be no later than 20 days prior to the election.

(4) The County Clerk or Election Commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least 30 days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the County Clerk or Election Commissioner on or after May 1, 1998, the petition shall be in the form as provided in Neb. RS 32-628 through 32-631.

(5) Any excess levy authority approved under this division (C) shall terminate pursuant to its terms, on a vote of the City Council to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit, or as provided in division (C)(8), whichever is earliest.

(6) The City Council may pass no more than one resolution calling for an election pursuant to this division (C) during any one calendar year. Only one election may be held in any one calendar year pursuant to a petition initiated under this division (C). The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the language specified in Neb. RS 77-3444.

(7) If a majority of the votes cast upon the ballot question are in favor of such tax, the County Board shall authorize a tax in excess of the limits in division (A), but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the City Council shall not impose such tax.

(8) (a) The city may rescind or modify a previously approved excess levy authority

or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by Neb. RS 77-1702.

(B) The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card, or electronic funds transfer shall be collected by the municipal official.

(C) With respect to a facility which it operates in a proprietary capacity, the Governing Body may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash payment and may adjust the price for services to reflect the handling and payment costs.

(D) The municipal official shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

(E) The Governing Body may choose to participate in the state contract for such payment services. If the Governing Body chooses not to participate in the state contract, it may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services.

(F) When authorizing acceptance of credit card or charge card payments, the Governing Body shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the municipality, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted with the state or under division (E) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to the municipality by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving information electronically, the municipal official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(G) For purposes of this section, electronic funds transfer means the movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system. (Neb. RS 13-609)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force

and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(Seal)

 Tabled 8-13-03
City Clerk Joan E. Kovar

 Tabled 8-13-03
Mayor Stephen Smith

ORDINANCE NO. _____

(Agenda Item #41)

AN ORDINANCE RELATING TO fiscal management; to change bidding and other requirements related to contracts and purchases; to repeal conflicting ordinances and sections; to provide an effective date; to provide 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. Section 1-823 of the Municipal Code of David City, Nebraska is amended to read as follows:

FISCAL MANAGEMENT; CONTRACTS AND PURCHASES; BIDDING AND OTHER REQUIREMENTS.

(1) Except as provided in section 18-412.01 RS Neb. for a contract with a public power district to operate, renew, replace, or add to the electric distribution, transmission, or generation system of the Municipality, no contract for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over twenty thousand dollars (\$20,000.00) shall be made unless it is first approved by the Governing Body.

(2) Except as provided in section 18-412.01 RS Neb., before the Governing Body makes any contract in excess of twenty thousand dollars (\$20,000.00) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the Municipal Engineer and submitted to the Governing Body. In advertising for bids as provided in subsections (3) and (5) of this section, the Governing Body may publish the amount of the estimate.

(3) Advertisements for bids shall be required for any contract costing over twenty thousand dollars (\$20,000.00) entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(4) A Municipal Electric Utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Twenty thousand dollars (\$20,000.00) or less; (b) forty thousand dollars (\$40,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of one million dollars (\$1,000,000.00); (c) sixty thousand dollars (\$60,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of five million dollar's (\$5,000,000.00); or (d) eighty thousand dollars (\$80,000.00) or less and the Municipal Electric Utility has gross annual revenue from retail sales in excess of ten million dollars (\$10,000,000.00).

(5) The advertisement provided for in subsection (3) of this section shall be published at least seven (7) days prior to the bid closing in a legal newspaper published in or of general circulation in the Municipality and, if there is no legal newspaper published in or of general circulation in the Municipality, then in some newspaper of general circulation published in the county in which the Municipality is located, and if there is no legal newspaper of general circulation published in the county in which the Municipality is located, then in a newspaper, designated by the County Board, having a general circulation within the county where bids are required, and if no newspaper is published in the Municipality or county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three (3) public places in the Municipality at least seven (7) days prior to the bid closing. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling /or immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 RS Neb. when adopted by a three-fourths (3/4) vote of the Governing Body and entered of record.

(6) If, after advertising for bids as provided in this section, the Governing Body receives fewer than two (2) bids on a contract or if the bids received by the Governing Body contain a price which exceeds the estimated cost, the Mayor and City Council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(7) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the Governing Body, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing Municipality, the Governing Body may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(8) Any Municipal bidding procedure may be waived by the Governing Body (a) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the State bidding procedure in sections 81-145 to 81-162 RS Neb. or (b) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503 RS Neb.

(9) Notwithstanding any other provisions of law or a home rule charter, a Municipality which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the material division of the Department of Administrative Services. For purposes of this subsection:

(a) Personal property includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and

(b) Purchasing or purchase means the obtaining of personal property by sale, lease, or other contractual means. (Ref. 17-568.01, 17-568.02, 18-1756 RS Neb.)

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this _____ day of _____, 2003.

(Seal)

Tabled 8-13-03
City Clerk Joan E. Kovar

Tabled 8-13-03
Mayor Stephen Smith

ORDINANCE NO. _____ (Agenda Item
#42)

DE RELATING TO conflicts of interest; to change provisions relating to restrictions on contracts between municipal Officers and governing bodies; to harmonize with state law; to repeal conflicting ordinances and sections; to provide an effective date to provide for publication of the ordinance in pamphlet form

ED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

tion 1-902 of the Municipal Code of David City, Nebraska, is amended to read as follows:

INTEREST INVOLVING CONTRACTS.

(A) (1) *BUSINESS ASSOCIATION* means a business:

(a) In which the individual is a partner, limited liability company member,

er; or

(b) In which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5 % equity interest or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than 10% equity interest.

An individual who occupies a confidential professional relationship protected by law shall be exempt from this definition. This definition shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker. (Neb. RS 49-408)

(2) *IMMEDIATE FAMILY* means a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes. (Neb. RS 49-1425)

(3) *OFFICER* means:

(a) A member of any board or commission of the municipality which spends and administers its own funds, who is dealing with a contract made by such board or commission; or

(b) Any elected municipal official.

Officer does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(B) (1) Except as provided in Neb. RS 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the

reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefitted thereby.

(2) The prohibition in this division (B) shall apply only when the officer or his or her parent, spouse, or child:

- (a) Has a business association with the business involved in the contract; or
- (b) Will receive a direct pecuniary fee or commission as a result of the contract.

(C) Division (B) of this section does not apply if the contract is an agenda item approved at a meeting of the governing body and the interested officer:

(1) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(2) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

(3) Does not act for the governing body which is a party to the contract as to inspection or performance under the contract in which he or she has an interest.

(D) An officer who (1) has no business association with the business involved in the contract or (2) will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

(E) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than 5 % of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

(F) If an officer's parent, spouse, or child is an employee of the officer's governing body, the officer may vote on all issues of the contract which are generally applicable to (1) all employees or (2) all employees within a classification and do not single out his or her parent, spouse, or child for special action.

(G) Neb. RS 49-14,102 shall not apply to contracts covered by this section. (Neb. RS 49-14,103.01)

(H) (1) The person charged with keeping records for the governing body shall maintain separately from other records a ledger containing the information listed in subdivisions (a) through (e) of this division (H)(1) about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to division (C) of this section. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

- (a) Names of the contracting parties;

present voted YEA. Council member Hein was absent. The motion carried. Council President Kroesing declared the meeting adjourned at 8:25 p.m..

Council President Gary L. Kroesing

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
August 13, 2003

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 August 13, 2003; 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