

CITY COUNCIL PROCEEDINGS

September 10, 2003

The Mayor and 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 September 4, 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.

The meeting opened with the Pledge of Allegiance.

Present for the meeting were: Mayor Stephen Smith, Council members Gary Smith, Gary L. Kroesing, Bill Schatz, Nick Hein, and Mark Kirby, City Administrator Jeff Fiegenschuh, City Attorney Jim Egr, Waste Water Treatment Operator Jim Kruse, Electric Supervisor Tim Kovar, Street Superintendent Jim McDonald, Police Chief Stephen Sunday, Phil Lorenzen of Kirkpatrick Pettis, Jeff Christianson of the Northeast NE Economic Development District, Virginia Rerucha of the Chamber of Commerce, Larry Peirce of The Banner Press, and City Clerk-Treasurer Joan E. Kovar. Ted Lukassen was absent.

The minutes of the August 13, August 20, and August 21, 2003 meetings of the Mayor and City Council were approved upon a motion by Council member Kirby and seconded by Council member Smith. Voting YEA: Council members Schatz, Hein, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to advance to agenda item #46 - Consideration of Resolution No. 12-2003 calling the balance of Water System Revenue Bonds, Series 1980 for redemption. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Hein, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Phil Lorenzen, First Vice President of Kirkpatrick Pettis, presented hand-outs concerning calling the balance of Water System Revenue Bonds Series 1980, and refinancing with a savings of approximately \$73,388.46.

Water Revenue Refunding Bonds
City of David City, Nebraska

Water Revenue Refunding Bonds
Issuance - Series 2003

Refunds \$995,600.18 balance of Series 1980 Bonds
Originally issued and Purchased by FmHA
Bonds conveyed to GMAC the Current Holder
Callable Anytime at par and accrued interest

City Council Meeting Date: September 10, 2003

Loan Profile:

Original Principal Balance

\$1,515,000.00

Current Principal Balance 995,600.18
 Original Loan Date Monday, December 15, 1980
 Maturity Date Tuesday, December 15, 2020
 Term of Loan 40 Years, 00 Months
 Loan Type Conventional
 Rate Type Fixed Rate Loan
 Current Interest Rate 5.00%

 CITY OF DAVID CITY, NEBRASKA FmHA LOAN
 Est. Amortization of Loan Balance of \$996,000 as of August, 2003

Prepared by: Phil Lorenzen
 Kirkpatrick Pettis, August, 2003
 Uses calculation of 30/360 days
 Start Date of August 1, 2003, end date of August 1, 2020

Date	Interest	Principal	Total	Ending
August	5.00%	Payment	P & I	Balance
1				
2003	Beg. Bal.			\$995,600.18
2004	\$49,780.01	\$39,256.99	89,037.01	956,343.19
2005	\$47,817.16	41,219.84	89,037.00	915,123.35
2006	\$45,756.17	43,280.83	89,037.00	871,842.52
2007	\$43,592.13	45,444.87	89,037.00	826,397.64
2008	\$41,319.88	47,717.12	89,037.00	778,680.52
2009	\$38,934.03	50,102.97	89,037.00	728,577.55
2010	\$36,428.88	52,608.12	89,037.00	675,969.43
2011	\$33,798.47	55,238.53	89,037.00	620,730.90
2012	\$31,036.54	58,000.46	89,037.00	562,730.44
2013	\$28,136.52	60,900.48	89,037.00	501,829.97
2014	\$25,091.50	63,945.50	89,037.00	437,884.46
2015	\$21,894.22	67,142.78	89,037.00	370,741.69
2016	\$18,537.08	70,499.92	89,037.00	300,241.77
2017	\$15,012.09	74,024.91	89,037.00	226,216.86
2018	\$11,310.84	77,726.16	89,037.00	148,490.70
2019	\$7,424.54	81,612.46	89,037.00	66,878.24
2020	<u>\$3,343.91</u>	<u>66,878.24</u>	<u>70,222.15</u>	.00
	\$499,213.97	\$995,600.18	\$1,494,814.15	

WATER REVENUE REFUNDING BONDS, SERIES 2003
 REFUNDS EST \$1,000 GO FmHA WATER BONDS TO 2020 MATURITY

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 Savings Report
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----- Proposed Debt Service -----				Prior		Cumulative
Date	Principal Coupon	Interest	Total	Debt Service	Savings	
	12,958.33			1 511.81	-6 784 868/ 1/ 4	45,000.00
1.300000	19,437.50	77,395.83	89,037.00	11,641.17	4,856.312/ 1/ 5	
19,145.008/ 1/ 5		45,000.00	1.750000	19,145.00	83,290.00	89,037.00
10,603.31						5,747.00
2/1/06			18,751.25			
81/06	45,000.00	2.200000	18,751.25	82,502.50	89,037.00	6,534.50
2/1/07			18,256.25		17,137.81
8/1/ 7	50,000.00	2.600000	18,256.25	86,512.50	89,037.00	2,524.50
2/ 1/ 8			17,606.25			19,662.31
8/ 1/ 8	50,000.00	3.000000	17,606.25	85,212.50	89,037.00	3,824.50
2/ 1/ 9			16,856.258/ 1/00	50,000.00	3.400000	16,856.25
	89,037.00	5,324.50	28,811.312/ 1/10	 16,006.258/ 1/10	55,000.00
	16,006.25	87,012.50	89,037.00	2,024.50	30,835.812/ 1/11	3.750000
	14,975.00					
8/ 1/11	55,000.00	4.000000	14,975.00	84,950.00	89,037.00	4,087.00
		13,875.008/ 1/12	55,000.00	4.150000	13,875.00	82,750.00
	6,287.00	41,209.812/ 1/13			12,733.758/ 1/13	60,000.00
	12,733.75	85,467.50	89,037.00	3,569.50	44,779.31	4.300000
2/ 1/14			11,443.758/ 1/14	60,000.00	4.400000	11,443.75
	89,037.00	6,149.50	50,928.812/ 1/15	 10,123.758/ 1/15	65,000.00
	10,123.75	85,247.50	89,037.00	3,789.50	54,718.312/ 1/16	4.650000
	8,612.50					
8/ 1/16	70,000.00	4.650000	8,612.50	87,225.00	89,037.00	1,812.00
		6,985.008/ 1/17	70,000.00	4.850000	6,985.00	83,970.00
	5,067.00	61,597.312/ 1/18			5,287.508/ 1/18	70,000.00
	5,287.50	80,575.00	89,037.00	8,462.00	70,059.31	4.850000
2/ 1/19			3,590.008/ 1/19	70,000.00	4.900000	3,590.00
	89,037.00	11,857.00	81,916.312/ 1/20	 1,875.008/ 1/20	75,000.00
	1,875.00	78,750.00	70,222.15	-8,527.85	73,388.46	5.000000
	990,000.00		424,640.83	1,414,640.83	1,494,814.15	73,388.46

Phil explained that currently the City needs to have \$150,000 in reserve accounts. With the new issue \$80,000 will need to be in a reserve account.

CITY OF DAVID CITY, NEBRASKA
 WATER REVENUE REFUNDING BONDS, SERIES 2003
 REFUNDS EST \$1,000 GO FmHA WATER BONDS TO 2020 MATURITY

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 Sources and Uses of Funds
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Delivery Date: 10/15/3

Sources of Funds
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Par Amount of Bonds\$990,000.00
 +Premium/-Discount..... \$0.00

Bond Proceeds.....	990,000.00
Accrued Interest	1,511.81
Transfer of Debt Service Reserve Funds	90,000.00
Funds on hand in Bond Reserve Account	
Interest - two months accrual.....	8,296.67
Principal - two months accrual	6,542.83
Release of Replacement Fund Account.....	<u>60,000.00</u>
.....	\$1,156,351.31

Uses of Funds

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Est Principal Balance of Loan 8/1/03.....	995,600.18
Structuring, Marketing, Underwriting.... (1.200000%).....	11,880.00
Cost of Legal, Opinion and Issuance	
Est. \$1,250 paid by KPSP	
Paying Agent - City Treasurer - no cash	
Accrued Interest on 1980 Bonds.....	8,296.67
Accrued Interest	1,511.81
Debt Service Reserve	80,000.00
Contingency.....	<u>59,062.65</u>
.....	\$1,156,351.31

Council member Kroesing introduced Resolution No. 12 - 2003 and moved for its passage and adoption. Council member Schatz seconded the motion. Voting YEA: Council members Smith, Hein, Kirby, Schatz, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 12-2003 was passed and approved as follows:

RESOLUTION NO. 12-2003

**RESOLUTION CALLING WATER SYSTEM REVENUE BOND,
 SERIES 1980 FOR REDEMPTION**

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

Section 1. That the following bond is hereby called for redemption at par plus accrued interest on October 15, 2003 after which date said bond shall cease to bear interest:

Water System Revenue Bond, Series 1980, Dated December 15, 1980, in the principal amount of \$995,600.18, becoming due December 14, 2020 and payable in annual installments of principal and interest of the combined annual amount of \$89,037 payable each August 1 from August 1, 2004 through August 1, 2020, both inclusive, provided however, that any unpaid principal amount remaining outstanding after August 1, 2020, shall be due and payable on the day immediately preceding the final maturity date of the said Series 1980 Bond on the fortieth anniversary of its issuance, which fortieth anniversary date is December 15, 2020, which Series 1980 Bond was issued by the City for the purpose of

paying the cost of the construction of certain water system improvements and the establishment of a debt service reserve account, and to pay costs of issuance associated with the Series 1980 Bond.

Section 2. Said bond is payable at the office of the Treasurer of the City of David City, as Paying Agent and Registrar.

Section 3. A copy of this resolution shall be filed at least 30 days prior to the date of call with the Treasurer of the City of David City, as Paying Agent and Registrar and said Paying Agent and Registrar is hereby instructed to give notice of redemption in the manner provided for in the ordinance authorizing said bond.

PASSED AND APPROVED this 10th day of September, 2003.

ATTEST:

Mayor Stephen Smith

City Clerk Joan E. Kovar

Received by the Treasurer of the City of David City, Nebraska as Paying Agent and Registrar

Date: September 10, 2003

_____, City Treasurer
Joan E. Kovar

Council member Kirby made a motion to advance to agenda item #47 - Consideration of Ordinance No. 938 authorizing the issuance of Water Revenue Refunding Bonds, Series 2003. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Hein, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby introduced Ordinance No. 938. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Smith, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 938 on the third and final reading. Council member Kirby seconded the motion. .Voting YEA: Council members Schatz, Hein, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was

absent. The motion carried and Ordinance No. 938 was passed and adopted as follows:

ORDINANCE NO. 938

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AUTHORIZING THE ISSUANCE OF WATER REVENUE REFUNDING BONDS OF THE CITY OF DAVID CITY, NEBRASKA, SERIES 2003, IN THE PRINCIPAL AMOUNT OF NINE HUNDRED NINETY THOUSAND DOLLARS (\$990,000), FOR THE PURPOSE OF REFUNDING, TOGETHER WITH CASH ON HAND, THE \$995,600.18 PRINCIPAL BALANCE OF THE CITY'S OUTSTANDING WATER REVENUE BOND, SERIES 1980; PROVIDING FOR NECESSARY RESERVE FUNDS AND PAYING COSTS OF ISSUANCE OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE WATER SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID WATER SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; REPEALING ANY CONFLICTING ORDINANCES AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED by the Mayor and the City Council of the City of David City, Nebraska, as follows:

The Series 1980 Bond of the original principal amount of \$1,515,000 is amortized over a period ending December 14, 2020, with a scheduled annual payment of combined principal and interest due each August 1 in the amount of \$89,037.

<u>Principal & Interest Amount</u>	<u>Due and Payable August 1</u>	<u>Interest Rate</u>
\$89,037	2004	5.00%
89,037	2005	5.00
89,037	2006	5.00
89,037	2007	5.00
89,037	2008	5.00
89,037	2009	5.00
89,037	2010	5.00
89,037	2011	5.00
89,037	2012	5.00
89,037	2013	5.00
89,037	2014	5.00
89,037	2015	5.00
89,037	2016	5.00
89,037	2017	5.00
89,037	2018	5.00
89,037	2019	5.00
89,037	2020	5.00

The Series 1980 Bond is callable anytime at par and accrued interest to the date fixed for redemption and that said bond, as set out above, maturing on December 15, 2020 and payable in annual installments of principal and interest as set out above becoming due and payable on

August 1, 2004 through August 1, 2020 is ordered called in accordance with its call provisions on October 15, 2003.

Said bond is herein referred to as the "Outstanding Bond." The Outstanding Bond is a valid, interest bearing obligation of the City, that the City has or will have monies on hand to pay interest accruing and principal requirements accruing on the bond to October 15, 2003 and the Outstanding Bond maturing on December 14, 2020 has been and hereby is called for redemption on October 15, 2003. Since the Outstanding Bond was issued, the rates of interest available in the market have so declined that by taking up and paying off said bond on said call date, a substantial savings in the amount of yearly running interest will be made to the City. For the purpose of making said redemption on the date of call of said Outstanding Bond as set out above, it is in the best interest of the City to apply certain monies on hand from earnings of the City's Water System and to issue water refunding bonds of the City in the principal amount of \$990,000. The City has on hand no debt service or sinking fund monies available to pay the Outstanding Bond, except for a debt service reserve fund in the amount of \$90,000 for the Outstanding Bond, of which existing debt service reserve fund the amount of \$80,000 will be transferred to a debt service reserve fund for the Series 2003 Bonds authorized herein and \$5,000 of said debt service reserve fund will be applied to the payment and redemption of the called Outstanding Bond on October 15, 2003. All conditions, acts and things required to exist or to be done precedent to the issuance of water revenue refunding bonds of the City of David City, Nebraska, in the principal amount of Nine Hundred Ninety Thousand Dollars (\$990,000) pursuant to Sections 10-142, 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, as amended, do exist and have been done as required by law.

Section 2. That all conditions, acts and things required to exist or to be done precedent to the issuance of water revenue refunding bonds pursuant to Section 1 hereof do exist and have been done as required by law.

Section 3. In addition to the definitions provided in parentheses elsewhere in this Ordinance, the following definitions of terms shall apply, unless the context shall clearly indicate otherwise:

(a) the term "revenues" shall mean all of the rates, rentals, fees and charges, earnings and other monies, including investment income, from any source derived by the City of David City, Nebraska, through its ownership and operation of the Water System.

(b) the term "Additional Bonds" shall mean any and all bonds hereafter issued by the City pursuant to the terms of this Ordinance which are equal in lien to the Series 2003 Bonds, including all such bonds issued pursuant to Section 16 and refunding bonds issued pursuant to Section 22.

(c) the term "Average Annual Debt Service Requirements" shall mean that number computed by adding all of the principal and interest due when computed to the absolute maturity of the bonds for which such computation is required and dividing by the number of years remaining that the longest bond of any issue for which such computation is required has to run to maturity. In making such computation, the principal of any bonds for which mandatory redemptions are scheduled shall be treated as maturing in accordance with such schedule of mandatory redemptions.

(d) the term "Deposit Securities" shall mean obligations of the United States of America, direct or unconditionally guaranteed, including any such obligations issued in book entry form.

(e) the term "Net Revenues" shall mean the revenues derived by the City from the ownership or operation of the Water System, including investment income, but not including any income from the sale or other disposition of any property belonging to or forming a part of the Water System, less the ordinary expenses for operating and maintaining the Water System payable from the Operation and Maintenance Account described in Section 14 of this Ordinance. Operation and Maintenance expenses for purposes of determining "Net Revenues" shall not include depreciation, amortization of financing expenses or interest on any bonds or other indebtedness. Net Revenues for all purposes of this Ordinance shall be shown by an audit for the fiscal year in question as conducted by an independent certified public accountant or firm of such accountants.

(f) the term "Paying Agent and Registrar" shall mean Treasurer of the City of David City, David City, Nebraska, as appointed to act as paying agent and registrar for the Series 2003 Bonds pursuant to Section 5 hereof, or any successor thereto.

Section 4. To provide, together with cash available therefor, for the refunding of the Outstanding Bond as described in Section 1 hereof, and to pay the costs of issuance and underwriting hereof, there shall be and there are hereby ordered issued negotiable bonds of the City of David City, Nebraska, to be designated as "Water Revenue Refunding Bonds, Series 2003" (the "2003 Bonds") in the aggregate principal amount of Nine Hundred Ninety Thousand Dollars (\$990,000), with said bonds bearing interest at the rates per annum and to become due on August 1 of the year as indicated below:

<u>Principal Amount</u>	<u>Maturing August 1</u>	<u>Interest Rate</u>
\$45,000	2004	1.30%
45,000	2005	1.75
45,000	2006	2.20
50,000	2007	2.60
50,000	2008	3.00
50,000	2009	3.40
55,000	2010	3.75
55,000	2011	4.00

55,000	2012	4.15
60,000	2013	4.30
60,000	2014	4.40
135,000	2016	4.65
140,000	2018	4.85
70,000	2019	4.90
75,000	2020	5.00

Provided, however, bonds maturing August 1, 2016 and August 1, 2018 shall be subject to call for redemption through application of a mandatory sinking fund payment, said bonds being callable by lot in the amount and on the dates as set out below at par plus accrued interest to the date of such call:

\$135,000 Principal Maturing August 1, 2016
\$65,000 To Be Called August 15, 2015
\$70,000 Maturing August 15, 2016

\$140,000 Principal Maturing August 15, 2018
\$70,000 To Be Called August 15, 2017
\$70,000 Maturing August 15, 2018

The 2003 Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue of the 2003 Bonds shall be October 1, 2003. Interest on the 2003 Bonds, at the respective rate for each maturity, shall be payable beginning February 1, 2004, and semiannually thereafter on February 1 and August 1 of each year (each an "Interest Payment date"), and the 2003 Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 6 hereof. The 2003 Bonds shall be numbered from 1 upwards in the order of their issuance. No 2003 Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the 2003 Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the 2003 Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar as designated pursuant to Section 5 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each 2003 Bond, as of the Record Date for such Interest

Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 5 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity together with any unpaid interest accrued thereon shall be made by the Paying Agent and Registrar to the registered owners upon presentation and surrender of the 2003 Bonds to the Paying Agent and Registrar. The City and the Paying Agent and Registrar may treat the registered owner of any 2003 Bond as the absolute owner of such 2003 Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary whether such 2003 Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any 2003 Bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and the Paying Agent and Registrar, in respect of the liability upon the 2003 Bonds or claims for interest to the extent of the sum or sums so paid.

Section 5. The Treasurer of the City of David City, David City, Nebraska is hereby designated to serve as Paying Agent and Registrar for the 2003 Bonds. Said Paying Agent and Registrar shall serve in such capacities under such terms and conditions as shall be established by the Mayor and City Clerk, but with such changes as they shall deem appropriate or necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the 2003 Bonds at its office. The names and registered addresses of the registered owner or owners of the 2003 Bonds shall at all times be recorded in such books. Any 2003 Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such 2003 Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new 2003 Bond or 2003 Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the 2003 Bonds by this ordinance, one 2003 Bond may be transferred for several such 2003 Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such 2003 Bonds may be transferred for one or several such 2003 Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a 2003 Bond, the surrendered 2003 Bond shall be canceled and destroyed. All 2003 Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the 2003 Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the 2003 Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any 2003 Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any 2003 Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 6. In the event that payments of interest due on the 2003 Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the 2003 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 7. In addition to the mandatory sinking fund redemption, the 2003 Bonds maturing on or after August 1, 2008 shall be subject to redemption, in whole or in part, prior to

maturity on August 1, 2007, or at any time thereafter, at the principal amount thereof together with accrued interest on the principal amount redeemed to the date fixed for redemption. Such redemption shall be made from time to time as shall be directed by the Mayor and Council of the City. The City may select the 2003 Bonds for redemption in its sole discretion. The 2003 Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Any 2003 Bond redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new 2003 Bond evidencing the unredeemed principal thereof. Notice of redemption of any 2003 Bond called for redemption shall be given, at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such 2003 Bond at said owner's registered address. Such notice shall designate the 2003 Bond or 2003 Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such 2003 Bond or 2003 Bonds are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any 2003 Bond partially redeemed, such notice shall specify the portion of the principal amount of such 2003 Bond to be redeemed. No defect in the mailing of notice for any 2003 Bond shall affect the sufficiency of the proceedings of the City designating the 2003 Bonds called for redemption or the effectiveness of such call for the 2003 Bonds for which notice by mail has been properly given and the City shall have the right to direct further notice of redemption for any such 2003 Bond for which defective notice has been given.

Section 8. If the date for payment of the principal of or interest on the 2003 Bonds shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the City of David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

Section 9. The 2003 Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER

CITY OF DAVID CITY

WATER REVENUE REFUNDING BOND
SERIES 2003

No. _____ \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	August 1,	October 1, 2003	

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska, hereby acknowledges itself to owe and for value received

promises to pay, but only from the special sources hereinafter described, to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable beginning February 1, 2004, and semiannually thereafter on February 1 and August 1 of each year (each, an "Interest Payment Date"). Such interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this bond together with interest thereon unpaid and accrued at maturity (or earlier redemption) is payable upon presentation and surrender of this bond at the office of the Treasurer of the City of David City, David City, Nebraska, as Paying Agent and Registrar. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

Bonds of this issue are subject to call for redemption through application of a mandatory sinking fund payment, said bonds being callable by lot in the amount and on the dates as set out below at par plus accrued interest to the date of such call:

\$135,000 Principal Maturing August 1, 2016

\$65,000 To Be Called August 15, 2015

\$70,000 Maturing August 15, 2016

\$140,000 Principal Maturing August 15, 2018

\$70,000 To Be Called August 15, 2017

\$70,000 Maturing August 15, 2018

This bond is one of an issue of fully registered bonds of the total principal amount of Nine Hundred Ninety Thousand Dollars (\$990,000) of even date and like tenor, except as to the date of maturity, rate of interest and denomination (the ^ASeries 2003 Bonds[®]), which were issued by the City for the purpose of refunding together with cash available therefor, the City's previously issued and outstanding Water Revenue Bond, Series 1980, date of original issue ^B December 15, 1980, of the remaining outstanding and unpaid principal amount of \$995,600.18, to pay costs of construction of certain water system improvements, to provide for certain reserve funds, and to pay costs of issuance thereof, and is issued pursuant to the terms of an ordinance (the "Ordinance") passed and approved by the Mayor and Council of said City in accordance with and under the provisions of Sections 10-142 and 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, as amended and other applicable Statutes.

In addition to the above described mandatory sinking fund payments, Bonds of said issue maturing on or after August 1, 2008, are subject to redemption at the option of the City, in

whole or in part, on August 1, 2007, or at any time thereafter, at the principal amount thereof together with accrued interest on the principal amount redeemed to the date fixed for redemption. Such redemption shall be made from time to time as shall be directed by the Mayor and Council of the City. The City may select the Series 2003 Bonds for redemption in its sole discretion. Notice of redemption shall be given by mail to the registered owner of any Series 2003 Bond called for redemption in the manner specified in the Ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in the amount of \$5,000 or integral multiples thereof.

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

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

The revenues and earnings of the Water System of the City, including all improvements and additions thereto hereafter constructed or acquired (the "Water System"), are pledged and hypothecated by the City for the payment of this bond and the other Series 2003 Bonds and for the payment of any additional bonds of equal priority issued in accordance with the terms of the Ordinance authorizing the Series 2003 Bonds. The Series 2003 Bonds are a lien only upon said revenues and earnings and are not general obligations of the City of David City, Nebraska.

The Ordinance authorizing the 2003 Bonds sets forth the covenants and obligations of the City with respect to the Water System and the applications of the revenues and earnings thereof, which revenues and earnings under the terms of the Ordinance are required to be deposited to the "David City Water Fund" as established under the Ordinance and disbursed to pay costs of operation and maintenance of the Water System, make payments of principal and interest on the Series 2003 Bonds and any additional bonds of equal priority with said Series 2003 Bonds and other payments as specified in the Ordinance authorizing the Series 2003 Bonds. The Ordinance authorizing the Series 2003 Bonds also designate the terms and conditions under which additional bonds of equal priority with the Series 2003 Bonds may be issued. The Ordinance also designates the terms and conditions upon which this bond shall cease to be entitled to any lien, benefit or security under the Ordinance and all covenants, agreements and obligations of the City under the Ordinance may be discharged and satisfied at or prior to the maturity or redemption of this bond or bonds of equal lien if monies or certain specified securities shall have been deposited with a trustee bank. In the Ordinance authorizing the Series 2003 Bonds, the City also reserves the right to issue bonds or notes junior in lien to the Series 2003 Bonds and any additional bonds of equal priority to the Series 2003 Bonds, the principal and interest of which shall be payable from monies in the "Surplus Account" of the David City Water Fund as described in the Ordinance authorizing the 2003 Bonds.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as provided by law.

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

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

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

IN WITNESS WHEREOF, the Mayor and Council of the City of David City, Nebraska, have caused this bond to be executed on behalf of the City with the manual or the facsimile signatures of the Mayor and City Clerk of the City and by causing the official seal of the City to be imprinted hereon or affixed hereto , all as of the Date of Original Issue shown above.

CITY OF DAVID CITY, NEBRASKA

ATTEST:

(facsimile signature)
Mayor

(facsimile signature)
City Clerk

CERTIFICATE OF AUTHENTICATION

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

TREASURER OF THE CITY OF DAVID CITY,
DAVID CITY, NEBRASKA
as Paying Agent and Registrar

Authorized Signature

(FORM OF ASSIGNMENT)

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

Date:

Registered Owner

Signature Guaranteed

By:

Authorized Officer

Note: The signature(s) on this assignment MUST CORRESPOND with the name(s) as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 10. Each of the 2003 Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The 2003 Bonds shall be issued initially as "book-entry-only" bonds using the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of representations (the "Letter of Representations") in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Bonds. Upon the issuance of the Bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds 2003 Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a 2003 Bond from a Bond Participant while the 2003 Bonds are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the 2003 Bonds,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the 2003 Bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the 2003 Bonds. The Paying Agent and Registrar shall make payments with respect to the 2003 Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such 2003 Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated 2003 Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange 2003 Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the 2003 Bonds or (ii) to make available 2003 Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such 2003 Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the 2003 Bonds be delivered to the Bond Participants and/or Beneficial Owners of the 2003 Bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and

Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the 2003 Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the 2003 Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this ordinance to the contrary, so long as any 2003 Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such 2003 Bond and all notices with respect to such 2003 Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the 2003 Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the 2003 Bonds may be delivered in physical form to the following:

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

(f) In the event of any partial redemption of a 2003 Bond unless and until such partially redeemed Bond has been replaced in accordance with the provisions of Section 6 of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such 2003 Bond as is then outstanding and all of the 2003 Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of bond certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement bond certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of bond certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any 2003 Bond shall cease to be such officer before the delivery of such 2003 Bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such 2003 Bond. The 2003 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The 2003 Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the 2003 Bonds, they shall be delivered to the City's Treasurer, acting on behalf of the City, who shall register the 2003 Bonds as chief finance officer of the City and is thereupon authorized to deliver them to Kirkpatrick, Pettis, Smith, Polian Inc., as initial purchaser thereof, upon receipt of the purchase price of 98.80% of the principal amount thereof plus accrued interest on the principal amount of the 2003 Bonds to date of payment for the 2003 Bonds. The

2003 Bonds shall also be registered with the office of the Auditor of Public Accounts. Said initial purchasers shall have the right to direct the registration of the 2003 Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The City Clerk, acting on behalf of the City, shall make and certify a transcript of the proceedings of the governing body with respect to the 2003 Bonds which shall be delivered to said purchaser.

Section 11. For the payment of the 2003 Bonds, both principal and interest, together with any Additional Bonds, both principal and interest, the City hereby pledges and hypothecates the entire revenues and earnings of the Water System of the City as a first and prior pledge and encumbrance of such revenues, in accordance with the terms of this Ordinance.

Section 12. The City hereby agrees that it will impose and maintain and shall revise from time to time when necessary and shall collect such rentals, rates, fees and charges for the use and services of the Water System which in the aggregate shall be sufficient at all times to enable the City to pay the principal and interest on the 2003 Bonds and any Additional Bonds as the same become due.

Section 13. The City will maintain and collect rates and charges for all services furnished from its Water System adequate to produce revenues and earnings sufficient at all times:

- (a) to pay all reasonable costs of operation and maintenance of the Water System, including adequate insurance as provided by this ordinance and to pay for the necessary and reasonable repairs, replacements and extensions of said Water System;
- (b) to provide for the payment of interest on and principal of the 2003 Bonds and any Additional Bonds as such interest and principal become due; and
- (c) to establish and maintain the 2003 Debt Service Reserve Account as hereinafter set forth and any debt service reserves account for additional bonds.

Section 14. The revenues and earnings of the Water System (including any and all additions and improvements thereto hereafter acquired) are hereby pledged and hypothecated for the payment of the 2003 Bonds and any Additional Bonds as authorized by this Ordinance and interest on such 2003 Bonds and Additional Bonds and the City does hereby agree with the holders of said 2003 Bonds as follows:

(a) **DAVID CITY WATER FUND** - The entire gross revenues and income derived from the operation of the Water System shall be set aside as collected and deposited in a separate fund which is hereby ordered established to be designated as the "David City Water Fund." For purposes of allocating the monies in the David City Water Fund, the City shall maintain the following accounts: (1) Operation and Maintenance Account; (2) Bond Payment Account; (3) 2003 Debt Service Reserve Account; and (4) Surplus Account.

(b) **OPERATION AND MAINTENANCE ACCOUNT** - Out of the David City Water Fund there shall be monthly credited into the Operation and Maintenance Account such

amounts as the City shall from time to time determine to be necessary to pay the reasonable and necessary expenses of operating and maintaining the Water System, and the City may withdraw funds credited to the Operation and Maintenance Account as necessary from time to time to pay such expenses.

(c) **BOND PAYMENT ACCOUNT** - Out of the David City Water Fund there shall be credited monthly on or before the first day of each month to the Bond Payment Account, starting with the month of November 2003, the following amounts:

- (1) For the period from November 1, 2003 through February 1, 2004, an amount equal to 1/4th of the next maturing semiannual interest payment on the 2003 Bonds, and for the period from March 1, 2004 until the 2003 Bonds have been paid in full, an amount equal to 1/6th of the next maturing semiannual interest payment on the 2003 Bonds
- (2) For the period from November 1, 2003, through August 1, 2004 an amount equal to 1/10 of the next maturing principal payment on the 2003 Bonds and from September 1, 2004, until the 2003 Bonds have been paid in full, an amount equal to 1/12th of the next maturing principal payment for the 2003 Bonds.

The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond Payment Account, or if the monies in such Account are insufficient, then from the Debt Service Reserve Account and next from the Surplus Account, in an amount sufficient to pay, when due, the principal of and interest on the 2003 Bonds or any Additional Bonds and to transfer such amounts due to the Paying Agent and Registrar (or other paying agent for Additional Bonds) on or before each principal and interest payment date. Upon the issuance of any Additional Bonds pursuant to this Ordinance appropriate additional credits to the Bond Payment Account shall be provided sufficient to pay principal and interest on said Additional Bonds.

(d) **2003 DEBT SERVICE RESERVE ACCOUNT** - The City agrees that it shall transfer concurrently with the settlement of the Bonds \$80,000 from its Debt Service Reserve Account held for the called and redeemed Series 1980 Bond for a total of \$80,000 as the amount required to be maintained as a debt service reserve attributable to the 2003 Bonds. Monies credited to the 2003 Debt Service Reserve Account may be withdrawn, as needed to provide funds to pay, when due, the principal and interest on the 2003 Bonds issued pursuant to this Ordinance, if the Bond Payment Account contains insufficient funds for that purpose, and the City Treasurer is hereby authorized and directed to make such withdrawal if and when needed. In the event of a withdrawal from the 2003 Debt Service Reserve Account, there shall be credited to the 2003 Debt Service Reserve Account in the month following such withdrawal all monies in the David City Water Fund remaining after making the payments required to be made in such month to the Operation and Maintenance Account and Bond Payment Account and each month thereafter all such remaining monies shall be credited to the 2003 Debt Service Reserve Account until such account has been

restored to the 2003 Reserve Requirement. Upon the issuance of any Additional Bonds a separate debt service reserve account shall be established and any such separate debt service reserve account shall have the right to share, in the event of drawings upon the 2003 Debt Service Reserve Account and such reserve account for Additional Bonds, in revenues available in the David City Water Fund upon a pro rata basis in accordance with the respective outstanding principal amounts or each such issue. Anything in this Subsection 14(d) to the contrary notwithstanding, the amount required to be maintained in the 2003 Debt Service Reserve Account with respect to the 2003 Bonds or in any debt service reserve account for any issue of Additional Bonds shall not be required to exceed at any time the maximum amount permitted to be invested without yield restriction under Section 103(b) and 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations of the United States Treasury Department.

(e) **SURPLUS ACCOUNT** - Monies from the David City Water Fund remaining after the credits required in the foregoing Subsections 14(b), 14(c) and 14(d) shall be credited to the Surplus Account. Monies in the Surplus Account may be used to make up any deficiencies in the preceding Accounts, to retire any of the 2003 Bonds, or any Additional Bonds prior to their maturity, to pay principal of and interest on any junior lien indebtedness incurred with respect to the Water System, to provide for replacements or improvements for the Water System or to provide for any other lawful purpose of the City determined upon by the Mayor and Council.

The provisions of this Section shall require the City to maintain a set of books and records in accordance with such accounting methods and procedures as are generally applicable to a municipal utility enterprise, which books and records shall show credits to and expenditures from the several Accounts required by this Section. Monies credited to the David City Water Fund or any of the Accounts therein as established by this Ordinance shall be deposited or invested separate and apart from other City funds. Except as specified below for the 2003 Debt Service Reserve Account and any reserve account for Additional Bonds, the City shall not be required to establish separate bank or investment accounts for the Accounts described in Subsection 14(b), 14(c), 14(d) and 14(e). Monies credited to the 2003 Debt Service Reserve Account or any reserve account for Additional Bonds (unless otherwise directed in their authorizing ordinance) shall, if maintained in a demand or time deposit account, be kept in a separate account and not commingled with other Water Funds or accounts. If invested, monies credited to the 2003 Debt Service Reserve Account or any reserve account established for Additional Bonds may be commingled with other Water Funds or accounts so long as the City maintains books and records clearly identifying the specific investments, or portions thereof, which belong to the 2003 Debt Service Reserve Account or reserve account for Additional Bonds.

Section 15. So long as any of the 2003 Bonds and any Additional Bonds issued pursuant to this Ordinance shall remain outstanding and unpaid, the City covenants and agrees to establish, revise, from time to time as necessary, and collect such rates and charges for the service furnished from the Water System adequate to produce revenues and earnings sufficient at all times:

- (a) To pay all proper and necessary costs of operation and maintenance of the Water System and to pay for the necessary and proper repairs, replacements, enlargements, extensions and improvements to the Water System.

(b) To provide funds to pay, when due, the principal of and interest on the 2003 Bonds and any Additional Bonds issued pursuant to this Ordinance.

(c) To provide funds sufficient to make the credits into the Accounts and at the times and in the amounts required by Section 14 of this Ordinance.

Section 16. To provide funds for any purpose related to the Water System, the City may issue Additional Bonds, except for Additional Bonds issued for refunding purposes which are governed by Section 22 of this Ordinance, payable from the revenues of the Water System having equal priority and on a parity with the 2003 Bonds and any Additional Bonds then outstanding, only upon compliance with the following conditions:

(a) Such Additional Bonds shall be issued only pursuant to an ordinance which shall provide for an increase in the monthly credits into the Bond Payment Account in amounts sufficient to pay, when due, the principal of and interest on the 2003 Bonds, any Additional Bonds then outstanding and the proposed Additional Bonds and for a separate debt service reserve account for Additional Bonds, if deemed appropriate by the Mayor and Council, for which the required amount shall not exceed the amounts prescribed by the then current Internal Revenue Code.

(b) The City shall have complied with one or the other of the two following requirements:

- (1) The Net Revenues derived by the City from its Water System for the fiscal year next preceding the issuance of the Additional Bonds shall have been at least equal to 1.25 times the Average Annual Debt Service Requirements of the 2003 Bonds and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds; or
- (2) The City shall have received a projection made by a consulting engineer or firm of consulting engineers, recognized as having experience and expertise in municipal utility systems, projecting that the Net Revenues of the Water System in each of the three full fiscal years after the issuance of such Additional Bonds will be at least equal to 1.25 times the Average Annual Debt Service Requirements of the 2003 Bonds and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds. In making such projection, the consulting engineer shall use as a basis the Net Revenues of the Water System during the last year for which an independent audit has been prepared and shall adjust such Net Revenues as follows: (A) to reflect changes in rates which have gone into effect since the beginning of the year for which the audit was made, (B) to reflect such engineer's estimate of the net increase over or net decrease under the Net Revenues of the Water System for the year which the

audit was made by reason of: (i) changes of amounts payable under existing contracts for service; (ii) additional general income from sales or charges to customers under existing rate schedules for various classes of customers or as such schedules may be revised under a program of changes which has been adopted by the Mayor and Council of the City; (iii) projected revisions in costs for labor, wages, salaries, machinery, equipment, supplies and other operational items; (iv) revisions in the amount of service to be supplied and any related administrative or other costs associated with such increases due to increased supply from the acquisition of any new facility; and (v) such other factors affecting the projections or revenues and expenses as the consulting engineer deems reasonable and proper. Annual debt service on any proposed Additional Bonds to be issued may be estimated by the consulting engineer in projecting Average Annual Debt Service Requirements, but no Additional Bonds shall be issued requiring any annual debt service payment in excess of the amount so estimated by the consulting engineer.

The City hereby covenants and agrees that so long as any of the 2003 Bonds and any Additional Bonds are outstanding, it will not issue any bonds or notes payable from the revenues of the Water System except in accordance with the provisions of this Ordinance, provided, however, the City reserves the right to issue bonds or notes which are junior in lien to the 2003 Bonds and any such Additional Bonds with the principal and interest on such bonds or notes to be payable from monies credited to the Surplus Account as provided in Subsection 14(e).

Section 17. Moneys on deposit in the Water Fund shall be invested in such obligations as are permitted by law for cities of the class to which the City belongs, maturing at such times not later than ten years from the date of such investment and in such amounts as shall be determined by the City. Earnings from the investment of such moneys shall not be credited to the particular fund, account or sub-account from which the investment was made, but shall be treated as earnings of the Water System and shall be treated as any other revenues of the system. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any moneys credited to the Water Fund or any Account therein which are not invested shall be secured in the manner provided by law for the security of funds of cities of the class to which the City of David City belongs.

It is understood that the revenues of the Water System are to be credited to the various accounts herein above described and as set out in this Ordinance in the order in which said accounts have been listed in said Ordinance, and if within any period the revenues are insufficient to credit the required amounts in any of the said accounts, the deficiencies shall be made up of the following period or periods after payment into all accounts enjoying a prior claim on the revenues have been made in full.

Section 18. The City of David City shall keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all

transactions relating to the Water System and the holders of any of the 2003 Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect the Water System and all properties comprising the same. Within ninety days following the close of each fiscal year the City shall cause an audit of such books and accounts to be commenced by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Water System, and such audit, as soon as it is complete, shall be available for inspection by the holders of any of the aforesaid bonds. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

1. A statement in detail of the income and expenditures of each component of the Water System for such fiscal year.
2. A balance sheet as of the end of such fiscal year.

All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City shall furnish a copy of each such audit to Kirkpatrick Pettis as the original purchaser of the 2003 Bonds and to the holder of at least twenty-five percent (25%) of any issue of bonds outstanding, upon request, after the close of each fiscal year, and said purchasers or any such holder shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as each may require.

Section 19. The City Treasurer shall be bonded, in addition to said Treasurer=s official bond, by an insurance company licensed to do business in Nebraska, in an amount sufficient to cover at all times all the revenues and earnings of the Water System placed in said Treasurer=s hands. Any other person employed by the City in the collection or handling of moneys derived from the operation of the Water System shall also be bonded in an amount sufficient to cover all moneys which may at any time be placed in his or her hands. The amount of such bonds shall be fixed by the Council and the cost thereof shall be paid from the earnings of said Water System, and such bonds shall secure the faithful accounting of all moneys.

Section 20. The City will carry adequate insurance on the Water System in such amounts as are normally carried by private companies engaged in similar operations, including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance and any insurance covering such risks as shall be recommended by a consulting engineer. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense.

All insurance moneys, except from public liability insurance, shall be deposited in the Surplus Account and shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed, and expenditures from said moneys shall be made only upon a certificate issued by a consulting engineer and filed with the City Clerk stating that the proceeds, together with any other moneys available for such purposes, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of a consulting engineer stating that the property damaged or destroyed has been fully repaired or replaced and such repairs or replacements have been fully paid for, the residue, if any, of such insurance moneys shall be transferred from the Surplus Account to the Water System Revenue Bond Account to make up any deficiency in said account, if any such

deficiency exists.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, the City may use and shall pay out for such purpose, to the extent of such deficiency, any money remaining in the Surplus Account. If, in the opinion of a consulting engineer the proceeds of any insurance, together with any amount then available for that purpose in the Surplus Account shall be insufficient to fully complete and pay for such repairs or replacements and if the City shall fail to supply such deficiency from other sources within a period of six months after receipt by the City of such insurance moneys, or if in the opinion of a consulting engineer it is to the best interest of the City not to repair or replace all or any part of the damaged properties and that failure to repair or replace the damaged properties shall not affect the sufficiency of the income and revenue from the remaining properties to properly maintain and operate the same, provide funds for the Bond Payment Account, Debt Service Reserve Account and Surplus Account, as herein provided for, then such insurance moneys to the extent not applied to repair or replace the damaged properties shall be deposited in the Debt Service Reserve Account as described in Section 14 hereof and used for the purposes for which said account has been created, so as to fill any deficiency in said account, or if no deficiency exists, then to the Surplus Account.

If the holders of sixty percent (60%) or more in principal amount of the 2003 Bonds and any Additional Bonds at the time outstanding hereunder and under this Ordinance shall at any time direct the City in writing to do so, then any insurance moneys theretofore credited to the Surplus Account and then in the hands of the City may be used for extensions and betterments of said Water System properties or applied to the pro rata payment of the principal of and accrued interest on all such bonds then outstanding.

The proceeds of any and all policies for public liability shall be paid to and be held by the City Treasurer and used in paying the claims on account of which they were received.

Section 21. The City will maintain the Water System in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holders from time to time of the 2003 Bonds and any Additional Bonds that the City will continue to own, free from all liens and encumbrances, except the liens and pledges provided for herein and will adequately maintain and efficiently operate said Water System; provided, however, the City may sell for cash, property which is recommended to be sold by the manager or superintendent of utilities, or an independent Consulting Engineer and which is determined as a matter of record by the Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 22. In the event any change in the rates, rentals and charges for the use and service of the Water System or any part thereof has been made during the preceding fiscal year or during the interval between the end of such fiscal year and the issuance of such Additional Bonds, or in the event the City shall covenant in the ordinance or resolution authorizing the issuance of such Additional Bonds to impose, effective upon the issuance of such Additional Bonds, higher rates, rentals and charges for such use and service, compliance with the provisions of this Section 22 or Section 14 of this ordinance may be evidenced by a certificate of an independent Consulting Engineer or firm of engineers or Certified Public Accountant or firm of independent Certified Public Accountants to be filed with the City Clerk prior to the issuance of any such Additional Bonds. Such certificate shall state fully the facts upon which such certificate is based, and if it is a certificate of the Consulting Engineer or firm of Consulting Engineers shall have attached thereto the certified financial statement for the fiscal year next preceding the date of authorization of such Additional

Bonds used by the Engineer or firm of Engineers in arriving at the conclusion stated in said certificate. The Consulting Engineer or independent Certified Public Accountant of the City shall, in determining the earnings for such fiscal year, adjust the collections to reflect the result as if such changed rates, rentals and charges, or such higher rates, rentals and charges had been in existence for such entire preceding fiscal year period, and the amount of such net collections and adjusted earnings as aforesaid shall be conclusive evidence and the only evidence required to show compliance with the provisions and requirements of this Section 22 or Section 14 of this ordinance. A certificate of an independent Consulting Engineer or firm of engineers or Certified Public Accountant or firm of independent Certified Public Accountants contemplated herein shall not be required to evidence compliance with the provisions of this Section 22 or Section 14 if the City Council shall determine the revenues of the Water System for the fiscal year next preceding the date of the authorization of such Additional Bonds, based upon a certified public accountant's report, comply without adjustment with the requirements of this Section 22 or Section 14.

If the City shall find it desirable, it shall also have the right when issuing Additional Bonds to combine with its Water System any other utilities of the City authorized to be combined under Sections 18-1803 through 18-1805, Reissue Revised Statutes of Nebraska, as amended, including, but not limited to, an electric system, a sanitary sewer system, a municipal gas system, a solid waste disposal system or such other system as may constitute a revenue producing undertaking, and to cause all of the revenues of such systems to be paid into the Water Fund, which Fund may be appropriately redesignated, and to provide that all of the 2003 Bonds and any Additional Bonds previously issued, all as then outstanding, and the proposed issue of Additional Bonds shall be payable from the revenues of such Water System and such other utility or utilities and shall stand on a parity and in equality as to security and payment, provided, however, no such utility shall be combined with the Water System as contemplated in this paragraph unless the City is current with all the payments required to be made into the accounts set out in this Ordinance and the revenues of the Water System and such other combined utility or utilities shall satisfy one or the other of the requirements for Additional Bonds provided above in this Section 22 or in Section 16. For purposes of meeting such requirement, the definition of "Net Revenues" shall be altered to include the gross revenues of the additional utility or utilities and there shall be deducted from such revenues the ordinary expenses of operating and maintaining the additional utility or utilities (not including any deduction for depreciation or interest) and for such purposes any engineer or accountant furnishing projections may take into consideration the factors similar to those described in Section 16 above with respect to such additional utility or utilities. Revenues of the additional utility or utilities shall be based upon the report or reports of independent certified public accountants in the same manner as is required above.

For purposes of this ordinance, refunding bonds, which are issued to take up and pay off any or all of the 2003 Bonds or Additional Bonds then outstanding may be issued and shall themselves qualify as Additional Bonds having equal lien and priority as to the revenues of the Water System with any of the 2003 Bonds or Additional Bonds which are to remain outstanding after the completion of such refunding provided that the following conditions are met:

(1) if the proceeds of such refunding bonds are not to be applied immediately to the taking up and paying off of the bonds to be refunded from their proceeds, then such refunding bonds must provide by their terms that they shall be junior in lien to all such 2003 Bonds or Additional Bonds, as shall be then outstanding, until the time of application of the proceeds of such refunding bonds to the taking up and paying off of the bonds to be refunded by deposit with the designated paying agent pursuant to Section 10-

126, Reissue Revised Statutes of Nebraska, as amended (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner;

(2) such refunding bonds shall qualify as Additional Bonds under the revenues test described above in Section 16, provided that in computing Average Annual Bond Debt requirements, all payments of principal and interest due on such refunding bonds from the time of their issuance to the time of application of the proceeds thereof by deposit with the designated paying agent pursuant to Section 10-126, Reissue Revised Statutes of Nebraska, as amended (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall be excluded from such computation to the extent that such principal or interest are payable from other sources (such as bond proceeds or investment earnings thereon) or from moneys in the Surplus Account, and all payments of principal and interest due on the bonds to be refunded, from and after the time of the deposit with the designated paying agent pursuant to Section 10-126 Reissue Revised Statutes of Nebraska, as amended (or any successor statutory provision thereto) or the time when such bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall also be excluded from such computation.

Section 23. Nothing herein contained shall prevent the City from issuing bonds, revenue notes, or other forms of indebtedness, the payment of the principal and interest of which is a charge upon all or a portion of the revenues of the Water System, junior or inferior to the 2003 Bonds and any Additional Bonds and to the payments to be made into the Operation and Maintenance Account, Bond Payment Account and the Debt Service Reserve Account, as described herein, and the City shall have the right to pay interest thereon and the principal thereof, as long as no deficiency exists in the payments into such accounts, from funds available for improvements and enlargements to the Water System of the City or from other funds which are available for such debt service.

Section 24. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate a Water System plant or system in competition with that owned by the City.

Section 25. While any of the 2003 Bonds are outstanding, the City will render bills to all customers for Water System services. If bills are not paid within sixty days after due, such utility service will be discontinued, as and to the extent permitted by law. The City agrees that it will order Water System service shut off on all properties served by Water System service where there are delinquent Water System service use charges and will make appropriate charge for use of all properties of the City connected to the Water System, all as and to the extent permitted by law.

Section 26. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes, additions or alterations of any kind shall be made by the City in the provisions of this ordinance in any manner; provided, however, that from time to time the holders of sixty percent (60%) in principal amount of the 2003 Bonds and of Additional Bonds outstanding authorized hereunder (not including any of said bonds credited to any of the Accounts described in this Ordinance or any other of said bonds owned or controlled directly or indirectly by the City) by an instrument or instruments in writing signed by such holders and filed with the City Clerk shall have

the power to assent to and authorize any modification of the rights and obligations of the City and of the holders of the said bonds and the provisions of this ordinance that shall be proposed by the City, and any action authorized to be taken with the assent and authority given as aforesaid of the holders of sixty percent (60%) in principal amount of said bonds at the time outstanding hereunder shall be binding upon the holders of said bonds then outstanding and upon the City as fully as though such action were specifically and expressly authorized by the terms of this ordinance; provided, always, that no such modification shall be made which will (a) extend the time of payment of the principal of or interest on any of said bonds or reduce the principal amount thereof or the rate of interest thereon; or (b) give to any of said bonds secured by this ordinance any preference over any other of said bond or bonds; or (c) authorize the creation of any lien prior to the pledge of the revenues afforded by this Ordinance, for the 2003 Bonds and Additional Bonds; or (d) reduce the percentage in principal amount of said Outstanding Bond required to assent to or authorize any such modification. Any modification of the provisions of this ordinance made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of the City.

Section 27. So long as any of the 2003 Bonds or any Additional Bonds of equal lien are outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this ordinance shall be deemed to be a covenant between the City and every holder of said bonds, and this ordinance and every provision and covenant hereof shall constitute a contract of the City with every holder from time to time of said bonds. Any holder of a 2003 Bond or of an Additional Bond or Bonds may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this ordinance and every provision and covenant thereof including, without limiting the generality of the foregoing, the enforcement of the performance of all duties required by the City by this ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Water System, the segregation of the revenues of said system, and the application thereof to the respective Fund, Accounts and sub-accounts referred to and described in this Ordinance. Any holder of a 2003 Bond or Additional Bond shall, after any default in payout, have the right to request the appointment of a receiver for the Water System.

Section 28. The City's obligations under this ordinance and the liens, pledges, dedications, covenants and agreements of the City herein made or provided for shall be fully discharged and satisfied as to any of the 2003 Bonds or Additional Bonds issued hereunder, and said bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and canceled by the City or, as to any of said bonds not theretofore purchased and canceled by the City, when payment of the principal of and any applicable redemption premium, if any, on such bonds plus interest thereon to the respective dates of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing with a state or national bank having trust powers or trust company in trust solely for such payment (i) sufficient moneys to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such times as will ensure the availability of sufficient moneys to make such payment and such bonds shall cease to draw interest from the date fixed for their redemption or maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this ordinance; provided that, with respect to any such bonds called or to be called for redemption, the City shall have duly given notice of redemption or made irrevocable provision for such notice. Any such moneys so deposited with the aforesaid state or national bank or trust company as

provided in this section may be invested and reinvested in Government Obligations at the direction of the City and all interest and income from all such Government Obligations in the hands of the aforesaid trustee bank or trust company which are not required to pay principal and interest on the 2003 Bonds or Additional Bonds for which such deposit has been made shall be paid to the City as and when realized and collected.

Section 29. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 30. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Section 31. The Mayor and City Council hereby approve the Preliminary Official Statement with respect to the 2003 Bonds and the information therein contained, and the Mayor and City Administrator or either of them is authorized to approve and deliver a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 32. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default hereunder; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section. For purposes of this Section (1) "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes, (2) "Continuing Disclosure Certificate" shall mean that certain Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof, and (3) "Participating Underwriter" shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

Section 33. The City hereby covenants and agrees that it will make no use of the proceeds of the 2003 Bonds which would cause the 2003 Bonds to be arbitrage bonds within the meaning of Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and further covenants to comply with said Sections 103(b)(2) and 148 and all applicable regulations thereunder throughout the term of said issue, including all requirements with respect to payment and reporting of rebates, if applicable. The City hereby covenants to take all action necessary to preserve the tax-exempt status of the interest on the 2003 Bonds for federal income tax purposes under the Code with respect to taxpayers generally. The City further agrees that it will not take any actions which would cause the 2003 Bonds to constitute "private activity bonds" within the meaning of Section 141 of the Code. The City hereby designates (to the extent not deemed designated under Section 265 of the Code) the 2003 Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue bonds or other obligations aggregating in principal amount more than \$10,000,000 during calendar 2003.

Section 34. This ordinance shall be published in pamphlet form and shall be in force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 10th day of September, 2003.

Mayor Stephen Smith

ATTEST:

City Clerk Joan E. Kovar

[SEAL]

Mayor Stephen Smith asked for Petitions, Communications and Citizens' Concerns in addition to those contained in the Agenda packets. There were no petitions.

City Clerk Kovar read the following communication:

Thank You
Steve-

Thank you for being part of the Personal Safety Seminar. I appreciate the time and resources you shared. I only wish more girls had attended!
We are lucky to have the law enforcement we have!!

Thanks Again,
Jo Taylor RN

Council member Smith made a motion to advance to agenda item #9 - 7:30 p.m. Budget Hearing and Budget Summary. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Schatz, Hein, Smith, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Mayor Smith opened the Public Hearing at 7:31 p.m.. Virginia Rerucha, representing the Chamber of Commerce, stated that they wanted to withdraw their initial request for Keno money to be used for fireworks. The Chamber of Commerce are requesting \$2,500 of Keno funds to be used for flags and brochures instead of fireworks. Council member Hein questioned if that meant that the Chamber would not be involved with the fireworks display for the 2004 July Jam. Virginia Rerucha stated that the Chamber will try to raise funds for the fireworks display and still have the fireworks. Discussion followed. There being no additional comments or questions,

Mayor Smith declared the Budget Hearing closed at 7:36 p.m..

City of David City
in
Butler County, Nebraska

NOTICE OF BUDGET HEARING AND BUDGET SUMMARY

PUBLIC NOTICE is hereby given, in compliance with the provisions of State Statute Sections 13-501 to 13-512, that the governing body will meet on the 10th day of September, 2003 at 7:30 p.m., at the City Office, 557 4th Street, David City, Nebraska, for the purpose of hearing support, opposition, criticism, suggestions or observations of taxpayers relating to the following proposed budget. The budget detail is available at the office of the Clerk during regular business hours.

Joan E. Kovar
City Clerk

2001-2002 Actual Disbursements & Transfers	\$ <u>7,292,710.00</u>
2002-2003 Actual/Estimated Disbursements & Transfers	\$ <u>5,663,334.00</u>
2003-2004 Proposed Budget of Disbursements & Transfers	\$ <u>7,279,380.00</u>
2003-2004 Necessary Cash Reserve	\$ <u>1,339,420.00</u>
2002-2003 Total Resources Available	\$ <u>7,238,863.00</u>
Total 2003-2004 Personal & Real Property Tax Requirement	\$ <u>371,350.74</u>
Unused Budget Authority Created for Next Year	\$ <u>299,002.06</u>

Breakdown of Property Tax:

Personal and Real Property Tax Required for Bonds	\$ _____
Personal and Real Property Tax Required for All Other Purposes	\$ <u>371,350.74</u>

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

Mayor Smith called for Committee and Officers= Reports in addition to those written reports contained in the Agenda packet.

Police Chief Sunday reported that on March 12, 2003, he requested that the auditorium rental fee be waived for a town hall meeting with Police Chief Sunday and Sheriff Mark Hecker to discuss a drug dog and dog handler. The Council agreed to waive the auditorium rental fee. Police Chief Sunday stated that money came in so quickly to purchase a drug dog that it became a moot point to have a town hall meeting, so the auditorium was never used. Now, however, they would like the auditorium rental fee waived for an informational meeting on October 22, dealing with drug related issues. The Council informally approved waiving the City Auditorium rental fee on October 22, 2003, for an informational drug related meeting.

Police Chief Sunday also reported that Police Officer Dan Schleusener will be attending school in Omaha from now until the end of October to become certified as a Drug Recognition

Expert.

Waster Water Operator Jim Kruse reported that Water/Sewer Supervisor Gene Divis is recuperating from his heart surgery and is back working a couple hours a day.

Electric Supervisor Tim Kovar thanked the Mayor and Council for the new bucket truck and reported that it is working great. The fire /tornado sirens are not working. The fire department stated that they belong to the City. Kovar stated that he has checked the sirens; the problem is not electrical or fuses; the controls in the sirens are not working. The sirens are 35 years old and the controls need to be updated; tubes versus circuit boards and resistors. New sirens would cost approximately \$18,000. It will cost approximately \$10,500 to install new controls in the sirens. Kovar stated he went ahead and ordered new controls for the sirens.

City Attorney Jim Egr reported that Randy Janak is in violation of the Stipulation he signed because of various items he is storing on his property. A hearing for failure to comply is scheduled for October 7, 2003 at 10:00 a.m.. Council members Smith and Hein stated that the Joe Smith property at 595 C Street is also looking worse. Police Chief Sunday will do a follow up on the Smith property.

City Attorney Egr made reference to an article in the August 2003 issue of the Nebraska Municipal Review entitled "Municipal building codes need to change by Jan. 1". Egr stated that in his interpretation LB 643 regards state buildings and does not apply as stated in the article.

City Administrator Jeff Fiegenschuh reported the following:

- § the Strategic Planning meeting for the Mayor and City Council is scheduled for Saturday, October 4, 2003 from 9:00 a.m. to 12:00 noon at the Hruska Public Library in David City. Council member Smith stated he cannot attend as he works until noon.
- § Lueder Construction changed out the heat pumps at the Aquatic Center. They will be back in approximately 2 - 3 weeks to repair the grout by the water slide that has come off.
- § the pool committee decided not to continue with the Pulsar chemical feeder. There have been constant problems with the briquets dissolving and plugging the chemical feed system . The City will not be reimbursed for the chemical feeder. Dave Burbach of Burbach Aquatics said he would try to find a buyer, but as this is not materializing, the City may run an ad in the League magazine that the City has a chemical feeder for sale.
- § Pool Manager Rachelle Birkel, Mayor Smith, and Jeff met to discuss the swimming pool. Rachelle=s crew will clean out the pool building. Street Superintendent Jim McDonald is winterizing the pool. If McDonald needs help he is to notify other city/utility departments. McDonald is to show Park/Auditorium Supervisor Bill Buntgen how to winterize the pool and how to start it up next year.
- § Jeff will be meeting with the department heads every month to discuss their activities and track the progress of their budgets.
- § Randy Hellbusch of the Nebraska Rural Water Association performed a water and sewer rate study. Not many Class 2 cities have a water treatment plant. The City can=t be revenue neutral we must be revenue positive. Fiegenschuh stated that in the next 22 years the Water/Sewer Departments will use up all of its reserves.

Council member Kroesing stated "Don't say now that we have to catch up. We should have had some projections in the past."

Council member Schatz stated "Water/Sewer Supervisor Gene Divis has been harping that we needed to adjust the water rates. The signs were there."

§ David City was approved for the NDEQ Source Water Protection Grant that Jeff applied for. Most of the \$29,620 grant will go towards the purchase of fencing around the well houses. Brochures will also be printed on our wellhead protection ordinance as well as newspaper ads on water conservation.

Mayor Smith thanked Council President Kroesing for overseeing the August meeting in the Mayor's absence, asked for a round of applause for City Administrator Fiegenschuh for doing such a remarkable job, and thanked the department heads for the work they have been doing.

Mayor Smith scheduled a Committee of the Whole meeting for Monday, September 29, 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 Kirby seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Hein made a motion to advance to agenda item #10 - 8:00 p.m. Special Hearing to set the final tax request. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

At 8:04 p.m., Mayor Smith declared the Special Hearing open to set the final tax request. Mayor Smith stated that the proposed tax levy for 2003-2004 is \$0.4444 with \$371,350 for the total property tax request. There being no comments or questions, Mayor Smith declared the Budget Hearing closed at 8:05 p.m..

NOTICE OF SPECIAL HEARING TO SET FINAL TAX REQUEST

PUBLIC NOTICE is hereby given, in compliance with the provisions of State Statute Section 77-1601.02, that the governing body will meet on the 10th day of September, 2003 at 8:00 p.m. at the City Office, 557 4th Street, David City, NE, for the purpose of hearing support, opposition, criticism, suggestions or observations of taxpayers relating to setting the final tax request at a different amount than the prior year tax request.

2002-2003 Property Tax Request	\$ <u>372,604.15</u>
2002 Tax Rate	<u>.45</u>
Property Tax Rate (2002-2003 Request/2003 Valuation)	
2003-2004 Proposed Property Tax Request	\$ <u>371,350.74</u>
Proposed 2003 Tax Rate	<u>.4444</u>

Council member Hein made a motion to advance to agenda item #11 - Consideration of Resolution No. 13-2003 setting the property tax request. Council member Kirby seconded the

motion. Voting YEA: Council members Smith, Schatz, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Smith introduced Resolution No. 13 - 2003 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Kroesing, Schatz, Hein, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 13 - 2003 setting the property tax request was passed and adopted as follows:

RESOLUTION NO. 13 - 2003

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the City of David City passes by a majority vote a resolution or ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as requested by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interest of the City of David City that the property tax request for the current year be a different amount than the property tax request for the prior year.

NOW, THEREFORE, the Governing Body of the City of David City, by a majority vote, resolves that:

1. The 2003-2004 property tax request be set at \$ 371,351 .
2. A copy of this resolution be certified and forwarded to the County Clerk on or before September 20, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby made a motion to advance to agenda item #12 - Consideration of approving an additional 1% increase in restricted funds authority. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, Kirby, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Hein made a motion to approve an additional 1% increase in restricted funds authority. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kroesing, Kirby, Hein, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Jeff Christianson of the Northeast NE Economic Development District distributed a list of successful grants he has been a part of and the number of jobs created. Christianson helped Fiegenschuh prepare an Economic Development Administration grant application. Christianson stated that is what the City pays membership fees for.

Mayor Smith declared a ten minute recess at 8:18 p.m. The meeting resumed at 8:28 p.m.

Council members Lukassen, Hein, and Schatz are on the Park Committee to consider a bathroom/shower room facility and other park improvements. Council member Schatz stated that the architect drew up a A Cadillac plan for over \$300,000. The committee reduced it down to \$180,000 and stated they would only proceed if we received a grant. Council member Smith asked if we couldn't utilize the showers in the aquatic center as it is heated year round. Smith said that at Chadron State Park you go to the swimming pool to shower. Street Superintendent McDonald stated that when the ultra light gathering was held at the airport he sent them to the aquatic center to utilize the showers. McDonald stated that the pool was designed so that all doors could be locked so that there is only access to the shower/restroom facilities. Discussion followed.

Council member Schatz made a motion to pass Resolution No. 14-2003. Council member Hein seconded the motion. Voting YEA: Council members Kroesing, Smith, Kirby, Hein, and Schatz. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 14-2003 was passed and adopted as follows:

RESOLUTION NO. 14 -2003

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, APPROVING A LAND & WATER CONSERVATION FUND.

WHEREAS, the City of David City, Nebraska, proposes to apply for federal assistance from the Land and Water Conservation Fund program for the purpose of adding a bathroom/shower room facility, RV pads and other RV updates, and a handicap accessible fishing pier to our city park, and

WHEREAS, Mayor Stephen Smith is authorized to sign documents to obtain financial assistance, including a Project Agreement with the State of Nebraska and the National Park Service, and

WHEREAS, the City of David City, Nebraska, has budgeted its 50% share of the proposed total project funds and will allocate these funds toward this project upon project approval by the NGPC, and

WHEREAS, the City of David City has the financial capability to operate and maintain the completed project and park property in a safe, attractive, and sanitary manner, and

WHEREAS, the City of David City will replace the land in the event of conversion in use in accordance with Section 6(f)(3) of the Land and Water Conservation Fund Act of 1965, as

amended, and

WHEREAS, the City of David City, Nebraska, will not discriminate against any person on the basis of race, color, age, religion, handicap, sex, or national origin in the use of any property or facility acquired or developed pursuant to the project proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, P.L. 88-354 (1964), and any of the regulations promulgated pursuant to such Act by the Secretary of the Interior and contained in 43 CFR 17.

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

3. No property acquired and/or developed under this project shall, without the approval of the Nebraska Game and Parks Commission and the Secretary of the Interior, be converted to non-public outdoor recreation uses. And, such approval may be granted only if it is in accord with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP), and only upon such conditions as deemed necessary to assure the substitution of other recreation properties of at least fair market value and of reasonably equivalent usefulness and location.
4. The City of David City, Nebraska agrees to comply with all State and Federal requirements and standards where they can be applied in making the facilities developed under this project, and all future projects, accessible to and usable by the disabled.

Passed and adopted this 10th day of September, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

Received from Tom Evans:

August 19, 2003

David City, NE 68632

on this morning;

When any information regarding the tire damage that I incurred from the near-collision incident that occurred when Rodney Rech driving a David City Public Works dump truck pulled out in front of me on June 24, 2003 at the intersection of MN 38 & Hwy15.

Enclosing the letter and information that I previously sent to Jim McDonald on July 29, 2003. Enclosed are the following:

Letter to Jim McDonald dated July 30, 2003 including:
Photographs of the skid marks at the intersection on Hwy 15.

T.O. Haas invoice to replace the damaged tires with tread depth information.
Tire Damage Assessment with a pro-rated damage amount.

validated that my tires were indeed severely damaged by flat spotting and made note of this fact on the invoice that I have enclosed as well as the remaining tread depth.

and that I am the one who has been wronged here. All I expect is to be fairly compensated for the damages to my property that directly resulted from the faulty actions of one of your David City employees. I am not asking for the full cost to replace my tires, only the prorated amount based on the remaining useful tread of the damaged tires. That amount is \$210.96.

any additional questions and I would appreciate it if you will contact me after you have a chance to fully review all the material enclosed with your resolution to this issue.

38516402-420-0070

July 30, 2003

David City, NE 68632

rear-collision incident that occurred on June 24, 2003 at the intersection of MN 38 & Hwy 15 when Rodney Rech pulled out in front of me in his dump truck. I spoke with Gary Smith and he indicated this information would be helpful to review at the next City Council meeting on August 13, 2003.

- \$ Photographs of the skid marks at the intersection on Hwy 15.
- \$ T.O. Haas invoice to replace the damaged tires with tread depth information.
- \$ Tire Damage Assessment with a pro-rated damage amount.

previous discussions that an examination of the tires at any reputable tire dealer would suffice in verifying the flat spots as long as they also provided the tire tread depths for the new and existing tires so a fair pro-rated assessment could be made. T.O. Haas provided that information and included it on the invoice for the new tires.

the morning that you wanted one of the tires to also validate the damage and tire wear so I went back to T.O. Haas to get the tires, unfortunately, they had already hauled them off for disposal. I understand your desire to physically see the tires, but it should not be hard to visualize what happens to a tire supporting a 6000 lb suburban when you lock up the brakes on a cross cut concrete road surface for a distance of 84 ft. My suburban is a 1989 model and does not have anti-lock braking so all the skid wear was concentrated on one spot of the tires, resulting in much of the tread being removed from that spot. The vehicle had significant vibration due to the flat spots after the incident.

never trying to take advantage of this unfortunate situation. It was by the grace of God that no other serious damage or injury occurred, and for that I am greatly thankful. However, I do expect to be fairly compensated for the damage to my tires resulting from the direct action of your employee.

standing in this matter.

e cracks) in the concrete surface are 20 ft apart. Length of skid marks are 84 ft.

claim of Tom Evans. Evans had the opportunity to take the tires back to Northside Station so that Council member Smith could inspect them and he did not do so. We have a bill from T.O. Haas but how do we know that the tires they took off were from this vehicle. Therefore, Council member Hein made a motion to deny the claim of Tom Evans for tire repairs on his vehicle. Council member Smith seconded the motion. Voting YEA: Council members Kroesing Kirby, and Smith. Voting NAY: Council member Schatz and Hein. Council member Lukassen was absent. The motion carried and the claim will be denied.

Council was going to skip agenda item #14 - Consideration of two council members being appointed to the CDBG Revolving Loan Fund Committee for business loans, as a committee already exists.

asked for a resolution prohibiting truck traffic on 11th Street. 11th Street from approximately the Railroad Track north to AH Street was resurfaced. Hein stated that if we allow truck traffic it will be ruined again shortly. Hein stated he is against unnecessary truck traffic as he realizes that trucks will need to make deliveries to the power plant, water plant, etc.. City Attorney Egr stated that would be hard to define and it would be physically impossible for the police department to enforce. Council member Kirby suggested sending a letter to truck traffic users saying that the Council would appreciate their cooperation in not driving down 11th Street with a full load.

made a motion to table consideration of a resolution prohibiting truck traffic on 11th Street. Council member Hein seconded the motion. Voting YEA: Council members Smith, Kirby, Schatz, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, PROHIBITING TRUCK TRAFFIC ON 11TH STREET FROM AA TO AO STREET.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that it shall be unlawful for any person, partnership, firm, or corporation to drive trucks, or tractors pulling trailers, on 11th Street from AA Street to AO Street, unless to pick up or deliver goods, wares, or merchandise to a resident. Trucks shall be defined as having at least three (3) axles. Said streets shall be posted by the Street Superintendent and this shall constitute notice to the public.

Any person, partnership, firm, or corporation violating any of the provisions of this resolution, shall be deemed guilty of a misdemeanor and upon conviction shall be fined pursuant to Article 5 - Penal Provision, Section 8-501 Violation Penalty of the David City Municipal Code.

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Dated this 10th day of September, 2003.

_____ Tabled

Mayor Stephen Smith

ed that a speeding ticket was issued to someone driving approximately 25 mph in the park area. The speed limit in the immediate park area is posted at 15 mph. The County Attorney threw it out stating there are not enough 15 mph speed limit signs posted in the park area. Police Chief Sunday stated that we would need approximately 12 more signs as the County Attorney stated we need a sign by every intersection entering the park area. Chief Sunday stated that would be as

follows:

- § West bound from 9th, 10th, & 11th
- § East bound from 9th, & 10th
- § West bound from 8th & 9th
- § East/West bound from 6th Street
- § East bound from 4th & 5th

made a motion to table consideration of a resolution that 15 mph speed limit signs be posted in the Park. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Schatz, Kroesing, Kirby, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

RESOLUTION NO. -2003

WHEREAS, it is in the interest of the public safety to properly post assigned speed

WHEREAS, there is pedestrian traffic crossing the streets in the City Park at various locations,

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

1. 15 mile per hour speed limit signs be posted on the streets in the City Park.

Passed and approved this _____ day of _____, 2003.

(Tabled)

Mayor Stephen Smith

one minute recess at 9:35 p.m. The meeting resumed at 9:40 p.m..

made a motion to pass Ordinance No. 935 on the third and final reading. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Hein, Smith, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 935 was passed on third and final 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 ACONDOMINIUM@; ADWELLING, TOWNHOUSE@; ATOWNHOUSE@; ATOWNHOUSE OWNERSHIP@; ATOWNHOUSE 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 townhouses 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.

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 10th day of September, 2003.

Mayor Stephen Smith

made a motion to pass Ordinance No. 936 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Kirby, Schatz, Smith, and Kroesing. Voting NAY: Council member Hein. Council member Lukassen was absent. The motion carried and Ordinance No. 936 was passed on third and final reading as follows:

ORDINANCE NO. 936

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING 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 a 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 10th day of September, 2003.

Mayor Stephen Smith

de a motion to pass Ordinance No. 937 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Kirby, Schatz, Hein, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 937 was passed on 3rd and Final reading as follows:

ORDINANCE NO. 937

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, TO AMEND ZONING
ION 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.

10th day of September, 2003.

Mayor Stephen Smith

made a motion to table consideration of an ordinance making changes to the Municipal Code Book to incorporate a Zoning Administrator instead of a Building Inspector. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

made a motion to table consideration of an ordinance establishing a Zoning Administrator. Council member Kirby seconded the motion. Voting YEA: Council members Kroesing, Smith, Schatz, Kirby, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Ordinance No. 939. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Kroesing, and Hein. Voting NAY:

None. Council member Lukassen was absent. The motion carried.

made a motion to pass and adopt Ordinance No. 939 on the third and final reading. Council member Smith seconded the motion. City Attorney Jim Egr stated to be sure to keep ' 1-202 of the Municipal Code and that the ordinance should state in Section 1 that Sections 1-203, 1-205, and 1-205.01 be amended. Voting YEA: Council members Kirby, Hein, Schatz, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 939 was passed and adopted as follows:

ORDINANCE NO. 939

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. Sections 1-203, 1-205, and 1-205.01 of the Municipal Code of David City, Nebraska, be amended to read as follows:

(A) The City Treasurer shall be the custodian of all money belonging to the City. He or she shall be responsible for the safekeeping 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 priority, unless 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 77-2201.

The City Treasurer shall make duplicate receipts for all sums which shall be received. Each receipt 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

gister, 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 end of each 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, 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 all other 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.

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 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 940. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Schatz, Kirby, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

made a motion to pass and adopt Ordinance No. 940 on the third and final reading. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Hein, Schatz, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 940 was passed and adopted as follows:

ORDINANCE NO. 940

AN ORDINANCE RELATING TO RECALL OF ELECTED OFFICIALS; TO AUTHORIZE A DEFENSE STATEMENT BY THE OFFICIAL SOUGHT TO BE RECALLED; 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 1-715 of the Municipal Code of David City, Nebraska, is amended to read as follows:

- (A) Any or all of the elected officials of the city may be removed from office by recall pursuant to Neb. RS 32-1301 to 32-1309. Petition circulators shall conform to the requirements of Neb. RS 32-628, 32-630, and 32-1303. Each petition paper shall conform to the requirements of Neb. RS 32-1304.
- (B) (1) The petition papers shall be procured from the City Clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the Clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name and office of the official sought to be removed, shall include in typewritten form in concise language of 60 words or less the reason or reasons for which recall is sought and shall request that the Clerk issue initial petition papers to the principal circulator for circulation. The Clerk shall deliver a copy of the affidavit by certified mail to the official sought to be removed. If the official chooses, he or she may submit a defense statement in typewritten form in concise language of 60 words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within 20 days after the official receives the copy of the affidavit. The Clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within 30 days from the date of issuing the petitions.
- (2) The Clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers 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, existing 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 its passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 941. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Smith, Schatz, Hein, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

On the second reading, Council member Kroesing made a motion to pass and adopt Ordinance No. 941 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Schatz, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 941 was passed and adopted as follows:

ORDINANCE NO. 941

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:

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 10th day of September, 2003.

Mayor Stephen Smith

roduced Ordinance No. 942. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Kroesing, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

le a motion to pass and adopt Ordinance No. 942 on the third and final reading. Council member Kroesing seconded the motion. City Attorney Egr stated that Section 1 of the ordinance should state Section 1-106.01 of the municipal code be enacted. Voting YEA: Council members Smith, Hein, Schatz, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 942 was passed and adopted as follows:

ORDINANCE NO. 942

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 1-106.01 of the Municipal Code of David City, Nebraska, is enacted to read as follows:

EXCUSED 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 10th day of September, 2003.

Mayor Stephen Smith

introduced Ordinance No. 943. Council member Kirby made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Kroesing, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

le a motion to pass and adopt Ordinance No. 943 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Schatz, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 943 was passed and adopted as follows:

ORDINANCE NO. 943

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING SECTION
IALS: 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:

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.

City Administrator include the following:

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.

and agenda packets for the Mayor, Council, and other persons requesting such information.

and officials relevant to city affairs, or as directed by the Mayor and Council.

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.

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.

Reports on the City's operation.

Studies and research reports.

Coordinate with 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.

Identify 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 contractors, and others on questions relating to City code.

Organize seminars that provide continuing education in matters relating to City administration.

II.

City Administrator include the following:

City Administrator advised on the financial condition of the City.

Review 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.

Review expenditures.

Report to Council regarding current budget and expenditures.

Make suggestions and recommendations on rates and prices charged for all City services.

Recommend changes as needed.

Obtain bids for the City and obtain bids.

s regarding the yearly audit.

ancial planning.

e revenue sources for City projects.

III.

regarding **Personnel** include the following:

ersonnel matters for all departments of the City.

ok up-to-date and accurate according to changing laws and regulations.

ouncil the appointment and dismissal of appointed personnel.

department heads, is responsible for the appointment and dismissal of all subordinate employees in departments over which he/she exercises jurisdiction.

s between departments to meet varying workload emergencies.

u all department heads and employees.

en employee evaluation process.

City=s class specifications and compensation plan for all employees and recommend changes as needed.

IV.

s of the City Administration include the following:

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

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

encies and organizations encouraging economic development.

V.

y Administrator include the following:

ndor, the City Administrator is responsible to develop cooperative relationships with citizens, the media, and local business and community groups.

n citizen complaints.

VI.

the position of City Administrator include the following:

degree/university with a bachelor=s degree in public or business administration or related field. A Master=s degree is desirable, but not required.

direct, coordinate, and evaluate city programs.

and concisely.

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.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

introduced Ordinance No. 944. Council member Kirby made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion.

Voting YEA: Council members Schatz, Hein, Kirby, Kroesing, and Smith. Voting NAY: None.

Council member Lukassen was absent. The motion carried.

made a motion to pass and adopt Ordinance No. 944 on the third and final reading. Council member Kirby seconded the motion. Voting YEA: Council members Kroesing, Hein, Schatz, Smith, and Kirby.

Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 944 was passed and adopted as follows:

ORDINANCE NO. 944

AN ORDINANCE RELATING TO MEETINGS; TO CHANGE PROVISIONS RELATED TO MEETINGS HELD OUTSIDE OF THE STATE BY CERTAIN PUBLIC BODIES; 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 1-502 of the Municipal Code of David City, Nebraska, is amended to read as follows:

PARTICIPATION.

(A) Subject to the provisions of this subchapter, the public shall have the right to attend meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 1-503, (Closed Sessions) may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(B) It shall not be a violation of this section for any public body to make and enforce provisions regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(C) No public body shall require members of the public to identify themselves as a meeting. The body may require any member of the public desiring to address the body to identify himself or herself.

(D) No public body shall, for the purpose of circumventing the provisions of this section, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(E) No public body shall be deemed in violation of this section if it holds its meeting in its regular meeting place which is located in this state.

(F) No public body shall be deemed in violation of this section if it holds a meeting outside of this state, or if, a member entity of the public body is located outside of this state and the other requirements of Neb. RS 84-1412 are met.

(G) The public body shall, upon request, make a reasonable effort to accommodate the discussion and testimony presented at the meeting.

(H) Public bodies shall make available at the meeting, for examination and copying by the public, at least one copy of all reproducible written material to be discussed at an open meeting. (Neb. RS 84-1412)

Section 2. Any other ordinance or section passed and approved prior to passage, which is in conflict with the provisions 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 upon its passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

de a motion to advance to agenda items #44 - Consideration of appointing Carl K. Hart Sr. to the Library Board to fill the unexpired term of Jeff Yates to October 2005; #45 - Consideration of Ordinance No. 945 setting the pay scales; #48 - Consideration of a Resolution authorizing Mayor Smith to execute a grant application agreement with the Nebraska Game and Parks Commission. Council member Kirby seconded the motion. Voting YEA: Council members Hein, Smith, Schatz, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

a motion to appoint Carl K. Hart Sr. to the Library Board to fill the unexpired term of Jeff Yates to October 2005. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

introduced Ordinance No. 945. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Smith, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

le a motion to pass and adopt Ordinance No. 945 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Hein, Schatz, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 945 was passed and adopted as follows:

ORDINANCE NO. 945

ORATING A 2% COST OF LIVING INCREASE AND ADJUSTING THE PAY SCALES FOR FOUR POSITIONS; SETTING THE SALARIES AND PAY SCALES FOR THE APPOINTED OFFICERS AND EMPLOYEES OF THE CITY OF DAVID CITY, NEBRASKA; TO REPEAL ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

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

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

Part-Time Workers

0	6m	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
\$6.43	6.70	6.84	6.97	7.05	7.13	7.24	7.36	7.50	7.63	7.77	7.91	8.04	8.20	8.39	8.57	8.74	8.94	9.11	9.27	9.47	9.65

\$15.00/hr. - \$38.00/hr. depending on experience

Begin @ \$6.00/hr - experienced up to \$6.30

Full-Time Workers

A 0	B 6m	C 1	D 2	E 3	F 4	G 5	H 6	I 7	J 8	K 9	L 10	M 11	N 12	O 13	P 14	Q 15	R 16	S 17	T 18	U 19	V 20
8.90	9.03	9.14	9.26	9.38	9.50	9.61	9.73	9.85	9.97	10.09	10.20	10.32	10.44	10.56	10.67	10.79	10.91	11.03	11.15	11.26	11.37
8.32	8.64	8.79	8.94	9.00	9.05	9.11	9.19	9.28	9.37	9.46	9.54	9.63	9.69	9.75	9.81	9.86	9.91	9.97	10.03	10.09	10.15
8.97	9.11	9.26	9.41	9.56	9.71	9.86	10.02	10.16	10.31	10.47	10.61	10.76	10.91	11.07	11.22	11.35	11.49	11.61	11.74	11.89	12.03
10.73	11.00	11.15	11.30	11.41	11.51	11.61	11.77	11.93	12.08	12.24	12.42	12.61	12.71	12.83	12.94	13.07	13.19	13.31	13.43	13.58	13.70
11.23	11.50	11.65	11.80	11.91	12.01	12.10	12.27	12.43	12.58	12.76	12.94	13.13	13.23	13.35	13.46	13.59	13.71	13.83	13.96	14.10	14.23
9.41	9.56	9.77	9.97	10.16	10.36	10.55	10.74	10.93	11.14	11.33	11.55	11.74	11.94	12.14	12.33	12.55	12.74	12.94	13.16	13.35	13.57
11.37	11.87	12.42	12.56	12.72	12.89	13.15	13.40	13.66	13.91	14.17	14.41	14.60	14.75	14.93	15.10	15.27	15.43	15.62	15.78	15.86	15.95
14.49	14.66	14.80	14.98	15.11	15.26	15.40	15.54	15.71	15.85	16.01	16.18	16.34	16.49	16.66	16.82	16.97	17.14	17.30	17.46	17.62	17.79
10.95	11.25	11.41	11.56	11.65	11.74	11.85	12.01	12.16	12.30	12.46	12.61	12.75	12.85	12.94	13.06	13.16	13.25	13.34	13.43	13.55	13.64
13.02	13.30	13.45	13.64	13.74	13.84	13.95	14.12	14.28	14.44	14.63	14.79	14.96	15.09	15.22	15.35	15.45	15.56	15.69	15.81	15.93	16.07
15.09	15.42	15.57	15.74	15.85	15.97	16.10	16.28	16.47	16.64	16.82	16.98	17.17	17.30	17.43	17.56	17.69	17.83	17.96	18.08	18.20	18.33
15.90	16.36	16.58	16.81	16.95	17.11	17.26	17.48	17.71	17.93	18.16	18.38	18.60	18.74	18.90	19.04	19.20	19.34	19.50	19.64	19.77	19.93
9.41	9.67	9.82	9.97	10.07	10.16	10.25	10.41	10.57	10.72	10.88	11.04	11.20	11.30	11.42	11.54	11.64	11.76	11.87	12.00	12.12	12.23
9.95	10.20	10.36	10.51	10.60	10.69	10.79	10.94	11.11	11.25	11.42	11.58	11.73	11.84	11.95	12.07	12.18	12.29	12.40	12.54	12.65	12.76
11.36	11.53	11.68	11.84	12.01	12.17	12.32	12.50	12.65	12.81	12.98	13.16	13.32	13.48	13.67	13.83	14.00	14.18	14.35	14.51	14.70	14.86
11.89	12.05	12.21	12.36	12.54	12.69	12.85	13.02	13.18	13.33	13.52	13.68	13.84	14.01	14.19	14.36	14.52	14.71	14.87	15.05	15.22	15.39
13.59	13.89	14.04	14.18	14.28	14.38	14.48	14.67	14.83	14.92	15.12	15.30	15.47	15.58	15.70	15.81	15.91	16.02	16.13	16.25	16.37	16.49
12.83	13.12	13.26	13.40	13.52	13.61	13.71	13.87	14.04	14.18	14.33	14.49	14.68	14.78	14.89	15.01	15.12	15.22	15.33	15.44	15.56	15.69
6.98	7.16	7.26	7.34	7.40	7.46	7.52	7.62	7.71	7.79	7.88	7.98	8.07	8.12	8.19	8.26	8.31	8.37	8.44	8.49	8.54	8.59
9.30	9.58	9.72	9.87	9.97	10.07	10.16	10.30	10.45	10.59	10.74	10.88	11.03	11.13	11.22	11.31	11.42	11.52	11.61	11.70	11.80	11.90
9.53	9.77	9.88	10.01	10.09	10.17	10.25	10.39	10.52	10.64	10.78	10.92	11.07	11.16	11.25	11.35	11.45	11.55	11.64	11.73	11.84	11.95
10.02	10.26	10.41	10.55	10.63	10.72	10.82	10.97	11.13	11.26	11.41	11.56	11.71	11.82	11.93	12.05	12.16	12.26	12.36	12.48	12.60	12.71
12.59	12.91	12.08	13.25	13.35	13.45	13.59	13.74	13.91	14.08	14.25	14.40	14.59	14.69	14.79	14.91	15.01	15.13	15.24	15.35	15.46	15.58
A 0	B 6m	C 1	D 2	E 3	F 4	G 5	H 6	I 7	J 8	K 9	L 10	M 11	N 12	O 13	P 14	Q 15	R 16	S 17	T 18	U 19	V 20
11.59	11.83	11.97	12.11	12.20	12.29	12.38	12.53	12.65	12.79	12.94	13.10	13.26	13.35	13.48	13.58	13.68	13.78	13.89	13.97	14.08	14.17
13.86	14.16	14.32	14.48	14.62	14.78	14.92	15.00	15.11	15.28	15.45	15.62	15.79	15.91	16.02	16.16	16.27	16.40	16.53	16.65	16.76	16.90

11.77 12.10 12.26 12.42 12.55 12.66 12.78 12.96 13.14 13.32 13.50 13.66 13.87 14.01 14.15 14.29 14.41 14.56 14.70 14.83 14.98 15.12
15.95 16.16 16.27 16.37 16.43 16.51 16.59 16.70 16.80 16.90 17.02 17.13 17.23 17.29 17.37 17.44 17.50 17.58 17.67 17.75 17.83 17.91
15.50 15.96 16.19 16.41 16.55 16.72 16.86 17.09 17.31 17.53 17.76 17.97 18.20 18.34 18.49 18.64 18.78 18.93 19.07 19.22 19.36 19.52
16.23 16.51 16.66 16.81 16.90 16.99 17.10 17.23 17.39 17.52 17.67 17.82 17.96 18.06 18.16 18.25 18.35 18.45 18.54 18.64 18.74 18.86
15.52 15.86 16.04 16.24 16.35 16.46 16.58 16.76 16.94 17.14 17.33 17.50 17.68 17.82 17.94 18.07 18.20 18.34 18.48 18.60 18.74 18.89
15.43 16.00 16.28 16.56 16.76 16.94 17.14 17.42 17.71 17.98 18.27 18.55 18.84 19.02 19.22 19.41 19.59 19.78 19.98 20.18 20.36 20.56
18.23 18.80 19.07 19.36 19.55 19.74 19.94 20.23 20.51 20.78 21.07 21.35 21.64 21.82 22.01 22.21 22.39 22.57 22.78 22.96 23.14 23.33
\$38,760.00

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

shall be published in pamphlet form and shall be in full force and effect on September 26, 2003 following its passage, approval, and publication as provided by law and city ordinance.

On this 10th day of September, 2003.

Mayor Stephen Smith

introduced Resolution No. 15 - 2003 and moved for its passage and adoption. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Kirby, Hein, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried and Resolution No. 15 - 2003 was passed and adopted as follows:

RESOLUTION NO. 15 - 2003

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN APPLICATION FOR AFFORDABLE HOUSING PROGRAM FUNDS

Whereas, the City of David City, Nebraska, is an eligible unit of a general local government under the Nebraska Game and Parks Land and Water Conservation Grant Program; and,

Whereas, the City of David City, Nebraska, has obtained its citizens' comments on this project and received favorable comment respecting the application; and,

NOW, THEREFORE, BE IT RESOLVED BY The City Council of the City of David City, that the

Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of David City and the Nebraska Game and Parks Commission so as to effect acceptance of the grant application.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

duced Ordinance No. 946. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

made a motion to pass and adopt Ordinance No. 946 on the third and final reading. Council member Kirby seconded the motion. City Attorney Jim Egr stated that Section 1 of the ordinance should state Sections 1-704 and 1-711 of the Municipal Code be amended, and made some slight changes to the wording since we do not have a partisan office. Voting YEA: Council members Hein, Schatz, Smith, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 946 was passed and adopted as follows:

ORDINANCE NO. 946

AN ORDINANCE RELATING TO ELECTIONS; TO MODIFY THE PROCEDURES FOR PLACING A CANDIDATE=S NAME ON THE GENERAL ELECTION BALLOT; 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:

Passed and approved this 10th day of September, 2003.

Section 1. Sections 1-704 and 1-711 of the
Municipal Code of David City,

Nebraska, be amended to read
as follows:

OTHER CANDIDATES FOR GENERAL ELECTION BALLOT; PROCEDURES.

(A) (1) Any registered voter who was not a candidate in the primary election may have general election ballot for an office by filing petitions as prescribed in this section and Neb. RS 32-621.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of Neb. RS 32-625 and the candidate files for the office by petition as prescribed in this section or files as a write-in candidate as prescribed in Neb. RS 32-615. (Neb. RS 32-616)

(B) Petitions for nomination shall conform to the requirements of Neb. RS 32-628. to be filled and the name and address 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 an 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 he 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, 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 passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

roduced Ordinance No. 947. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

le a motion to pass and adopt Ordinance No. 947 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Schatz, Smith, Kroesing, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 947 was passed and adopted as follows:

ORDINANCE NO. 947

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

RESTRICTIONS ON OTHER EMPLOYMENT OR ELECTIVE OFFICE.

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

City.

(2) For purposes of this section, (a) elective office means any office which has candidates nominated at the time of a statewide primary election, any office which has candidates nominated 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 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 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 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

(6) Whenever an incumbent serving as a member of the Legislature or in an elective office described in 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

(8) Notwithstanding subsections (5) through (7) of this section, any person holding more than one 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, and any ordinance existing at the time of the passage 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 upon passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 948. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

A motion to pass and adopt Ordinance No. 948 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Hein, Schatz, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 948 was passed and adopted as follows:

ORDINANCE NO. 948

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

EMENT; CONTENTS; AVAILABILITY; CORRECTION.

(A) The Governing Body shall annually prepare a proposed budget statement on forms 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, 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, 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 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 item 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, existing 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 upon passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 949. Council member Kirby made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Kroesing, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

On a motion to pass and adopt Ordinance No. 949 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Kroesing, Schatz, Smith, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 949 was passed and adopted as follows:

ORDINANCE NO. 949

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

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

(A) The Governing Body shall each year conduct a public hearing on its proposed 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 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 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 e the amount of the levy increase. (Neb. RS 13-507)

Section 2. Any other ordinance or section passed and approved prior to passage, 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 passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

introduced Ordinance No. 950. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Smith, Hein, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried.

made a motion to pass and adopt Ordinance No. 950 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Schatz, Hein, Kirby, Smith, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 950 was passed and adopted as follows:

ORDINANCE NO. 950

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

FISCAL MANAGEMENT; ADOPTED BUDGET STATEMENT; FILING; CERTIFICATION OF AMOUNT OF TAX.

(1) After publication and hearing on the proposed budget statement and within the time the Governing Body shall file with and certify to the levying board on or before September 20 of each year and file with the Auditor of Public Accounts, a copy of the adopted budget statement, together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued by the Governing Body and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements.

(2) The Governing Body, in certifying the amount required, may make allowance for not more than five percent (5%) of the amount required plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, the Governing Body shall not certify an amount of tax more than one percent (1%) greater or lesser than the amount determined in the proposed budget statement.

(3) The Governing Body may designate one of its members to perform any duty or responsibility required by this section. (Ref. 13-508 RS Neb.)

Section 2. Any other ordinance or section passed and approved prior to passage, which is in conflict with 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 the date of passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 951. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, Kirby, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 951 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith, Kirby, Kroesing, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 951 was passed and adopted as follows:

ORDINANCE NO. 951

AN ORDINANCE RELATING TO FISCAL MANAGEMENT; TO PROVIDE THAT THE MAXIMUM AMOUNT OF TAX WHICH MAY BE CERTIFIED, ASSESSED, AND COLLECTED IS SUBJECT TO SECTION 77-3442 OF THE REVISED STATUTES NEBRASKA; TO PROVIDE THAT THE TAX IS TO BE LEVIED ON THE TAXABLE VALUE OF ALL TAXABLE PROPERTY IN THE MUNICIPALITY; 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 1-807 of the Municipal Code of David City, Nebraska is amended to

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, which is 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 upon passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 952. Council member Kirby made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, Kirby, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

On a motion to pass and adopt Ordinance No. 952 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Smith, Hein, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 952 was passed and adopted as follows:

ORDINANCE NO. 952

AN ORDINANCE RELATING TO REVISION OF THE BUDGET; TO ELIMINATE A PORTION OF 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

REVISION OF BUDGET.

(A) Unless otherwise provided by law, the Governing Body may propose to revise the budget 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, 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 as provided by law.

Mayor Stephen Smith

Ordinance No. 953. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Kroesing, Hein, Kirby, and Smith. Voting NAY: None. Council member Lukassen was absent. The motion carried.

On a motion to pass and adopt Ordinance No. 953 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Hein, Schatz, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 953 was passed and adopted as follows:

ORDINANCE NO. 953

AN ORDINANCE RELATING TO DEPOSIT OF FUNDS; TO ELIMINATE PROVISIONS RELATING TO BANK ASSOCIATIONS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; TO PROVIDE AN EFFECTIVE DATE.

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

Section 1. Section 1-817 of the Municipal Code of David City, Nebraska, is amended to

DEPOSIT OF FUNDS.

(A) The City Council, at its first meeting in each fiscal year, shall designate some one or more financial institutions, or qualifying mutual financial institutions of approved and responsible standing in which the City Treasurer shall keep at all times, subject to payment on his or her demand, all money held by him or her as City Treasurer. If there is one or more banks, capital stock financial institutions, or qualifying mutual financial institutions located in the city which apply for the privilege of keeping such money and give bond or give security for the repayment of deposits as provided in this section, such banks, capital stock financial institutions, or qualifying mutual financial institutions shall be selected as such depositories. The City Treasurer shall not give a preference to any one or more of them in the money he or she may so deposit.

(B) The City Council shall require from all banks, capital stock financial institutions, or mutual institutions (1) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation or, in lieu thereof, (2) security given as provided in the Public Funds Deposit Security Act to secure the payment of all such deposits

and accretions. The City Council shall approve such bond or giving of security. The City Treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as Mayor, as a member of the City Council, or as any other officer of the City shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. (Neb. RS 17-607)

(C) The insurance afforded to depositors in banks, capital stock financial institutions, or institutions through the Federal Deposit Insurance Corporation shall be deemed and construed to be a surety bond to the extent that the deposits are insured by such corporation, and for deposits so insured, no other surety bond or other security shall be required. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 77-2362)

Section 2. Any other ordinance or section passed and approved prior to passage, existing 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 the date of passage as provided by law.

Passed and approved this 10th day of September, 2003.

Mayor Stephen Smith

Ordinance No. 954. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

On this date, Council member Kroesing made a motion to pass and adopt Ordinance No. 954 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 954 was passed and adopted as follows:

ORDINANCE NO. 954

RELATING TO FISCAL MANAGEMENT; TO ADD QUALIFYING MUTUAL FINANCIAL INSTITUTIONS TO THE TYPES OF FINANCIAL INSTITUTIONS FROM OR IN WHICH THE MUNICIPAL TREASURER MAY BE AUTHORIZED TO PURCHASE CERTIFICATES OF DEPOSIT OR MAKE TIME DEPOSITS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE.

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

n 1-818 of the Municipal Code of David City, Nebraska, is amended to read as follows:

S OF DEPOSIT; TIME DEPOSITS; CONDITIONS.

er may, upon resolution of the Mayor and City Council authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the corporation, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in Neb. RS 16-714 to 16-716. Neb. RS 77-2366 shall apply to deposits in capital stock financial institutions. Neb. RS 77-2365.01 shall apply to deposits in qualifying mutual financial institutions. (Neb. RS 17-720)

her 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.

rdinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

proved this 10th day of September, 2003.

Mayor Stephen Smith

Kovar

r Hein introduced Ordinance No. 955. Council member Hein made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Smith, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

r Kirby made a motion to pass and adopt Ordinance No. 955 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Hein, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 955 was passed and adopted as follows:

ORDINANCE NO. 955

AN ORDINANCE RELATING TO FISCAL MANAGEMENT; TO ELIMINATE REQUIREMENTS FOR FILING A RESOLUTION AND A RECONCILING STATEMENT; 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 1-820 of the Municipal Code of David City, Nebraska, is amended to read as follows:
FISCAL MANAGEMENT; PROPERTY TAX LEVY AND REQUEST; AUTHORITY TO SET.

(A) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization in Neb. RS 77-1601 unless the City Council passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the municipality at least five days prior to the hearing.

(B) The hearing notice shall contain the following information:

- (1) The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request;
- (2) The property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and
- (3) The proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request.

(C) Any resolution sitting a tax request under this section shall be certified and forwarded to the County Clerk prior to October 14 of the year for which the tax request is to apply.

(D) Any tax levy which is not in compliance with this section and Neb. RS 77-1601 shall be construed as an unauthorized levy under Neb. RS 77-1606. (*Neb. RS 77-1601.02*)

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 10th day of September, 2003.

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby introduced Ordinance No. 956. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to pass and adopt Ordinance No. 956 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members

Schatz, Hein, Smith, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 956 was passed and adopted as follows:

ORDINANCE NO. 956

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 as follows:

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 prior to its expiration 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 rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective.

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

(i) By passing a resolution calling for the rescission or modification 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

(ii) Upon request 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.

(c) The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. 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, 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. The election shall be held pursuant to the Election Act. (Neb. RS 77-3444)

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 10th day of September, 2003.

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kroesing introduced Ordinance No. 957. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Kirby, Smith, Kroesing, and Hein. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 957 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith, Kirby, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 957 was passed and adopted as follows:

ORDINANCE NO. 957

AN ORDINANCE RELATING TO PAYMENTS TO MUNICIPALITIES; TO PROVIDE FOR ACCEPTANCE OF ELECTRONIC FUNDS TRANSFERS; TO PROVIDE FOR AND LIMIT SURCHARGE AND CONVENIENCE FEES; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND 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 1-822 of the Municipal Code of David City, Nebraska, is amended to read as follows:

CREDIT CARDS AND ELECTRONIC FUNDS TRANSFERS; AUTHORITY TO ACCEPT.

(A) The Governing Body may authorize municipal officials to accept credit cards, charge cards, 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 10th day of September, 2003.

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Hein introduced Ordinance No. 958. Council member Kirby made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kroesing seconded the motion. Voting YEA: Council members Schatz, Smith, Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to pass and adopt Ordinance No. 958 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Kroesing, Schatz, Hein, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 958 was passed and adopted as follows:

ORDINANCE NO. 958

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 10th day of September, 2003.

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kirby introduced Ordinance No. 959. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kirby seconded the motion. Voting YEA: Council members Schatz, Hein, Kroesing, Smith, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 959 on the third and final reading. Council member Hein seconded the motion. Voting YEA: Council members Kirby, Schatz, Smith, Hein, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 959 was passed and adopted as follows:

ORDINANCE NO. 959

AN ORDINANCE 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

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

Section 1. Section 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,

(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;
- (b) Nature of the interest of the officer in question;

- (c) Date that the contract was approved by the governing body;
- (d) Amount of the contract; and
- (e) Basic terms of the contract.

(2) The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this division (H) shall be available for public inspection during the normal working hours of the office in which it is kept. (Neb. RS 49-14,103.02)

(I) An open account established for the benefit of any governing body with a business in which an officer has an interest shall be deemed a contract subject to this section. The statement required to be filed by division (H) of this section shall be filed within ten days after such account is opened. Thereafter, the person charged with keeping records for the governing body shall maintain a running account of amounts purchased on the open account. Purchases made from petty cash or a petty cash fund shall not be subject to this section. (Neb. RS 49-14,103.03)

(J) Notwithstanding divisions (A) through (I) of this section, the governing body may prohibit contracts over a specific dollar amount in which an officer of the governing body may have an interest. (Neb. RS 49-14,103.05)

(K) The governing body may exempt from divisions (A) through (I) of this section, contracts involving \$100 or less in which an officer of such body may have an interest. (Neb. RS 49-14,103.06)

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 10th day of September, 2003.

(Seal)

Mayor Stephen Smith

City Clerk Joan E. Kovar

Council member Kroesing introduced Ordinance No. 960. Council member Kirby made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Schatz, Smith,

Kroesing, Hein, and Kirby. Voting NAY: None. Council member Lukassen was absent. The motion carried.

Council member Kirby made a motion to pass and adopt Ordinance No. 960 on the third and final reading. Council member Kroesing seconded the motion. Voting YEA: Council members Smith, Hein, Schatz, Kirby, and Kroesing. Voting NAY: None. Council member Lukassen was absent. The motion carried and Ordinance No. 960 was passed and adopted as follows:

ORDINANCE NO. 960

AN ORDINANCE RELATING TO RISK MANAGEMENT; TO PROVIDE FOR FORMATION OF RISK MANAGEMENT POOLS FOR HEALTH, DENTAL, ACCIDENT, AND LIFE INSURANCE; 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 1-1001 of the Municipal Code of David City, Nebraska, is amended to read as follows:

INTERGOVERNMENTAL RISK MANAGEMENT.

(A) *PUBLIC AGENCY* means any county, city, village, school district, public power district, rural fire district, or other political subdivision of this state, the State of Nebraska, the University of Nebraska, and any corporation whose primary function is to act as an instrumentality or agency of the State of Nebraska. (Neb. RS 44-4303)

(B) The City Council and any one or more public agencies may make and execute an agreement providing for joint and cooperative action in accordance with the Intergovernmental Risk Management Act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to protect members against losses arising from any of the following:

- (1) General liability;
- (2) Damage, destruction, or loss of real or personal property, including, but not limited to, loss of use or occupancy, and loss of income or extra expense resulting from loss of use or occupancy;
- (3) Errors and omissions liability; and
- (4) Workers' compensation liability.

(C) The City Council and any one or more public agencies, other than school districts and educational service units, may make and execute an agreement providing for joint and cooperative action in accordance with the act to form, become members of, and operate a risk management pool for the purpose of providing to members risk management services and insurance coverages in the form of group self-insurance or standard insurance, including any combination of group self-insurance and standard insurance, to provide health, dental, accident, and life insurance to member's employees and officers. (Neb. RS 44-4304)

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 10th day of September, 2003.

Mayor Stephen Smith

City Clerk Joan E. Kovar

City Attorney Jim Egr stated that section 1-302 of the Municipal Code could simply be amended to state Al _____ do solemnly swear or affirm@ rather than adopt a separate ordinance. Discussion followed. An ordinance to make changes to the Municipal Code Book concerning the Oath of Office died for lack of a motion.

ORDINANCE NO.

AN ORDINANCE RELATING TO THE OATH OF OFFICE; TO AUTHORIZE AN EXCEPTION BY AFFIRMATION; 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 -303 of the Municipal Code of David City, Nebraska, is amended to read as follows:

OATH; AFFIRMATION; EFFECT.

Whenever an oath is required by Section 1-302, the affirmation of a person conscientiously scrupulous of taking an oath shall have the same effect. (Ref. 11-101.03 RS Neb.)

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

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of September 10, 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