

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 21, 2008 AGENDA

| Subject: | Type: | Submitted By: |
|---|---|--------------------------|
| OFFICIALS/EMPLOYEE BONDS AMEND MUNICIPAL CODE SECTIONS 31.21, 31.23, 33.23, AND 33.40 | RESOLUTION ◆ ORDINANCE RECEIVE/FILE | PAM BUETHE CITY CLERK |

SYNOPSIS

Ordinances have been prepared to amend the City of La Vista Municipal Code Sections 31.21(A)(3), 31.23(E), 33.23, and 33.40 to allow for a Blanket bond for Elected/Appointed Officials and employees of the City of La Vista who are required by state statute to have a bond.

FISCAL IMPACT

The city would incur a savings of approximately \$3,000.00.

RECOMMENDATION

Approval.

BACKGROUND

In January 2007 Legislative Bill (LB) 347 was introduced to amend various sections of revised statutes of Nebraska to allow a city, in place of the individual bonds previously required by municipal officers, to have a "single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking". LB 347 was passed by the legislature March 13, 2007 and approved by the Governor March 19, 2007. The blanket bond will be for \$100,000 for each elected/appointed official or employee. A separate bond in the amount of \$25,000 will still be required for the position of Treasurer as is stated in the City of La Vista Municipal Code.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 31.21(A)(3) REGARDING CITY TREASURER BOND, INSURANCE, PREMIUM, DUTIES AND REPORTS; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Municipal Code Section 31.21(A)(3) is hereby amended to read as follows:

"(3) The Treasurer shall be required to give bond ~~in not less than \$25,000 or evidence of equivalent insurance of not less than twenty-five thousand dollars, or he or she~~ may be required to give bond in double the sum of money estimated by the ~~City~~ Council at any time to be in his or her hands belonging to the City and school district, and ~~the Treasurer he or she~~ shall be the custodian of all money belonging to the corporation. The City Council shall pay the actual premium of the bond or insurance coverage of ~~the such~~ Treasurer. The Treasurer shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. ~~The Treasurer~~~~He or she~~ shall give every person paying money into the treasury a receipt therefor, specifying date of payment and on what account paid. ~~and The Treasurer~~~~He or she~~ shall also file ~~a copy of the copies of such~~ receipts, except tax receipts, with his or her monthly reports. ~~The Treasurer~~~~He or she~~ shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by ~~the Treasurer~~~~him or her~~, shall be filed with ~~the his or her~~ account in the clerk's office. ~~The Treasurer~~~~He or she~~ shall produce and show all funds shown by ~~the such~~ report to be on hand, or satisfy the ~~City~~ Council or its committee that he or she has such funds in ~~his or her~~ custody or under ~~his or her~~ control. If the Treasurer ~~neglects or fails for the space of ten days from the end of every month to render his or her account within twenty days after the end of the month, or by a later date established by the Council, the Mayor with the consent of the Council may consider this failure as cause to remove the Treasurer from office, the treasurer's office may, by resolution of the Mayor and City Council, be declared facant, and the Mayor shall appoint and the City Council confirm some person to fill the cy until the next election for city officers.~~ The Treasurer may employ and appoint a delinquent tax collector, who shall be allowed a percent upon ~~his or her~~ collections to be fixed by the Council not to exceed the fees allowed by law to the County Treasurer for like services, and upon taxes collected by such delinquent tax collector the City Treasurer shall receive no fees. The City Treasurer shall prepare all paving and curbing tax lists and shall collect all paving and curbing taxes."

SECTION 2. Repeal of Conflicting Ordinances. Section 31.21(A)(3) as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS _____ DAY OF _____ 2008.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 31.23(E) REGARDING CITY ADMINISTRATOR BOND; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Municipal Code Section 31.23(E) is hereby amended to read as follows:

"(E) The City Administrator shall take no part in any election held for the purpose of electing the Mayor, members of the City Council or other elective city office of the city, except for the casting of his or her individual ballot. The City Administrator shall be an officer of the city within the meaning of Neb. Rev. Stat. section 16-502 and shall be subject to and bound by the prohibitions therein contained. Before taking office, the City Administrator shall file with the City Clerk a bond in favor of the city for the faithful performance of his or her duties in the amount of \$5,000, or such blanket bond or other bond or insurance in lieu of individual bond as permitted by Code section 33.40(2). The premium of said bond shall be paid by the city."

SECTION 2. Repeal of Conflicting Ordinances. Section 31.23(E) as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

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CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 33.23 REGARDING CITY COUNCIL ORGANIZATIONAL MEETING AND BONDING REQUIREMENTS; REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Municipal Code Section 33.23 is hereby amended to read as follows:

"33.23 ORGANIZATIONAL MEETING.

The newly elected Council shall convene at the regular place of meeting in the city on the first regular meeting in December of each year in which a city election is held immediately after the prior Council adjourns and proceed to organize themselves for the ensuing year. The Mayor elected for the new municipal year shall call the meeting to order. The Council shall then proceed to examine the credentials of its members and other elective officers of the city to see that each has been duly and properly elected and to see that such oaths and bonds have been given as are required. After ascertaining that all members are duly qualified, the Council shall then elect one of its own body who shall be styled as "President of the Council." The Mayor shall then nominate his or her candidates for appointive offices. He or she shall then proceed with the regular order of business. It is hereby made the duty of each and every member of the Council, or his or her successor in office, and of each officer elected to any office, to qualify prior to the first regular meeting in December within the time required by applicable law following his or her election. All appointive officers likewise shall qualify within the time following their appointment as required by applicable law. Qualification for each officer who is not required to give bond shall consist of his or her subscribing and taking an oath to support the Constitution of the United States, the Constitution of the state of Nebraska, the laws of the city and to perform faithfully and impartially the duties of his or her office, in form specified in Neb. Rev. Stat. Section 11-101, said oath to be filed in the office of the City Clerk. Each officer who is required to give a bond shall file the required bond in the office of the City Clerk with sufficient sureties, conditioned on the faithful discharge of the duties of his or her office, with the oath endorsed thereon: or satisfy an alternative method of compliance described in Code Section 33.40(2)."

SECTION 2. Repeal of Conflicting Ordinances. Section 33.23 as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

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CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 33.40 REGARDING OFFICIAL BOND REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Municipal Code Section 33.40 is hereby amended to read as follows:

“33.40 BONDS; FORM.

(1) Subject to subsection 33.40(2) below, official bonds of the city shall be in form joint and several and shall be made payable to the city in such penalty as the City Council may set by resolution; provided however, that, absent specification by resolution, the required penalty shall be \$1,000. Provided further, however, that the penalty amount on any bond shall not fall below the legal minimum, when one has been set by the State of Nebraska, for each particular official. All official bonds of the city officials shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county, or by the official as principal and by a guaranty, surety, fidelity or bonding company, provided that no city official, while still in his of her official term of office, shall be accepted as surety on any other official's bond, contractor's bond, license bond or appeal bond under any circumstances. Only companies that are legally authorized to transact business in the state of Nebraska shall be eligible for suretyship on the bond of an official of the city. All said bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of the city and any persons who may be injured by a breach of the conditions of such bonds, in addition to incorporating any other requirements of applicable law. Notwithstanding anything in this Code to the contrary, each bond shall be required to be filed no earlier than the date that the bond is required to be filed under applicable Nebraska statute, as enacted or amended from time to time. Bonds of City Council members shall be approved by the Mayor. Bonds of all other city officials shall be approved by the City Council. The approval of each official bond shall be endorsed upon such bond by the officer approving the same. The Mayor shall be authorized to endorse approval of bonds approved by the City Council, and the Mayor shall be deemed to be and constitute the officer approving said bonds for purposes of said endorsement. The premium on any official bond required to be given shall be paid out of the General Fund or other proper city fund. All official bonds, meeting the conditions herein, shall be filed with the City Clerk for his of her official records, and it shall be the duty of the City Clerk to furnish a certified copy of any bond so filed upon the payment of a fee which shall be set by resolution of the City Council. In the event that the sureties on the official bond of any appointed officer of the city, in the opinion of the Mayor, with the approval of the City Council, become insufficient, the Mayor, with approval of the City Council, may fix a reasonable time within which the said officer may give a new bond or additional sureties as directed. In the event that the officer should fail, refuse or neglect to give a new bond or additional sureties to the satisfaction of the Mayor, then, with the approval of the City Council, the office shall, by such failure, refusal or neglect, become vacant, and another officer shall be appointed to fill said office in accordance with applicable law. Any official who is re-elected or re-appointed to office shall be required to file a new bond after each election or appointment.

(2) In place of the individual bonds required to be furnished by City officers or officials, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by City officers or officials, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers and officials, including officers and officials required by law to furnish an individual bond or undertaking, may be furnished. The City shall pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law, by the Council or otherwise by Section 33.40(1) above, and with such terms and conditions as may be required.”

SECTION 2. Repeal of Conflicting Ordinances. Section 33.40 as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

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CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk