

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, OCTOBER 2, 2006 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chair Newman; Council Members: Camp, Cook, Eschliman, Marvin, McRoy, Svoboda; City Clerk, Joan E. Ross; Absent: None.

Council Chair Newman asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

CAMP Having been appointed to read the minutes of the City Council proceedings of September 25, 2006, reported having done so, found same correct.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

PUBLIC HEARING

MANAGER APPLICATION OF WILLIAM J. WAGNER FOR PLANET SUBS NEBRASKA, LLC, DBA PLANET SUBS AT 1332 P STREET. (9/25/06 - P.H. & ACTION CON'T. TO 10/2/06) - William J. Wagner, 925 S. 11th St., came forward to take oath and answer questions. Discussion followed.

This matter was taken under advisement.

MANAGER APPLICATION OF CHARLES R. HEINKE FOR SESOSTRIS TEMPLE HOLDING CORP. DBA SESOSTRIS TEMPLE AT 1717 YOLANDE AVENUE - Charles R. Heinke, 1856 Pawnee St., came forward to take oath and answer questions.

This matter was taken under advisement.

APPLICATION OF B&R STORES, INC. DBA RUSS'S MARKET #14 FOR A CLASS C LIQUOR LICENSE AT 6300 HAVELOCK AVENUE;

MANAGER APPLICATION OF CRYSTAL J. MCCARTHY FOR B&R STORES, INC. DBA RUSS'S MARKET #14 AT 6300 HAVELOCK AVENUE - Crystal J. McCarthy, 5225 Franklin St., came forward to take oath and answer questions.

This matter was taken under advisement.

COMP. PLAN AMENDMENT 06004 - AMENDING THE 2025 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN, NORTH 48TH STREET/UNIVERSITY PLACE PLAN TO SHOW A REDEVELOPMENT PROJECT SOUTHWEST OF 51ST AND GARLAND STREETS. (RELATED ITEMS 06R-143, 06-123, 06-171) (ACTION DATE: 10/9/06);

CHANGE OF ZONE 06035 - APPLICATION OF THE DIRECTOR OF PARKS & RECREATION FOR A CHANGE OF ZONE FROM P PUBLIC USE DISTRICT TO O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHWEST OF 51ST AND GARLAND STREETS. (RELATED ITEMS 06R-143, 06-123, 06-171);

APPROVING A GROUND LEASE BETWEEN THE CITY AND THE LINCOLN/LANCASTER COUNTY CHILD ADVOCACY CENTER FOR THE PROPERTY LOCATED AT LOTS 1 THROUGH 12, BLOCK 128, UNIVERSITY PLACE, FOR THE CONSTRUCTION OF A FACILITY TO PROVIDE A SAFE, CHILD-FRIENDLY ENVIRONMENT FOR INTERVIEWS AND MEDICAL EXAMS OF CHILD VICTIMS FOR AN INITIAL 30-YEAR TERM. (RELATED ITEMS 06R-143, 06-123, 06-171) - Kathy LeBaron, Board President of the Child Advocacy Center, came forward to explain the Comprehensive Plan and answer questions. Discussion followed.

Tom Casady, Chief of Police, came forward in support.

Lisa Guill, 40th & W Streets, came forward in support.

Lynn Ayers, 944 N. 55th St., came forward in support.

Lynn Johnson, Director of Parks & Recreation, came forward in support and to orient Council to the property. Discussion followed.

Dana Roper, City Attorney, came forward to answer Council questions. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 06056 - AMENDING SECTION 27.67.020 OF THE LINCOLN MUNICIPAL CODE, PARKING MATRIX, TO CHANGE THE OFF-STREET PARKING REQUIREMENT IN THE H-2 HIGHWAY BUSINESS AND H-3 HIGHWAY COMMERCIAL ZONING DISTRICTS FROM ONE PARKING SPACE PER 200 SQUARE FEET OF FLOOR AREA TO ONE PARKING SPACE PER 300 SQUARE FEET OF FLOOR AREA - Ray Hill, Planning Dept., came forward to answer questions.

This matter was taken under advisement.

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CHANGE OF ZONE 06054 - AMENDING SECTIONS 27.13.080, 27.15.080, 27.17.080, 27.19.080, 27.21.080, 27.23.080 AND 27.24.080 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE R-1, R-2, R-3, R-4, R-5, R-6, R-7, AND R-8 ZONING DISTRICTS TO PROVIDE PROVISIONS REGARDING THE USE OF VACANT AND OCCUPIED LOTS WHICH HAVE LESS AREA OR WIDTH OR BOTH LESS AREA AND WIDTH THAN REQUIRED BY SAID DISTRICT REGULATIONS; AMENDING SECTION 27.61.090 TO LIMIT THE NUMBER OF DWELLING UNITS IN A NONSTANDARD MULTIPLE DWELLING WHICH IS ENLARGED, EXTENDED OR RECONSTRUCTED, AND AMENDING THE STATEMENT OF INTENT IN CHAPTERS 27.21, 27.23, AND 27.24 TO DELETE BOARDING AND LODGING HOUSES WHICH ARE NO LONGER PERMITTED USES IN THOSE DISTRICTS - Steve Henrichsen, Planning Dept., came forward to explain the change of zone and answer questions. Discussion followed.

Mike Morosin, 2055 "S" Street, came forward with a question. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 06045 - APPLICATION OF THE WITHERBEE NEIGHBORHOOD ASSOCIATION FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL ON APPROXIMATELY 48 BLOCKS GENERALLY BETWEEN 33RD AND 48TH STREETS FROM O STREET TO RANDOLPH STREET, FROM B-1 LOCAL BUSINESS TO R-2 RESIDENTIAL AT 48TH AND RANDOLPH STREETS, AND FROM O-2 SUBURBAN OFFICE TO R-2 RESIDENTIAL FOR CALVARY CEMETERY AT 40TH AND O STREET - Mike Fitzgerald, 3794 H St., came forward representing the applicants stating this change will preserve and protect the characteristics of the neighborhood. Discussion followed.

Karen Vogeley, 3535 Frost Ct., came forward in support.

Fred Freytag, 530 S. 38th St., President of the Witherbee Neighborhood Association, came forward in support. Discussion followed.

Russell Miller, 341 S. 52nd St., Lincoln Neighborhood Alliance, came forward in support.

Mr. Fitzgerald came forward in rebuttal.

This matter was taken under advisement.

CHANGE OF ZONE 06052 - AMENDING SECTION 27.65.020 OF THE LINCOLN MUNICIPAL CODE TO ADJUST THE MINIMUM COVERAGE AREA AND BONUS FOR AN AGRICULTURAL DISTRICT COMMUNITY UNIT PLAN, UTILIZING A COMMUNITY WASTEWATER SYSTEM IN THE BUILD-THROUGH AREA - Ray Hill, Planning Dept., came forward to answer questions.

This matter was taken under advisement.

APPROVING A CONSENT DECREE BETWEEN DEVELOPMENTAL SERVICES OF NEBRASKA AND THE CITY OF LINCOLN TO RESOLVE A LAWSUIT IN THE UNITED STATES DISTRICT COURT IN CONNECTION WITH THE OPERATION OF HOUSING DEVELOPMENTALLY DISABLED PERSONS - Rick Peo, City Attorney, came forward to explain the resolution. Discussion followed.

Mike Fitzgerald, 3794 H St., came forward with concerns.

Mike Dennis, came forward with concerns of how it will affect all businesses.

Fred Freytag, 530 S. 28th St., came forward requesting a delay so more affected people may respond to this issue.

Cathy Beecham, 2540 C St., Vice President of Near South Neighborhood, came forward requesting to continue public hearing and had questions of quality care, spacing requirements and property values.

Ed Patterson, 700 N. 27th St., forward with concerns of spacing requirements.

Mike Morosin, 2055 "S" Street, came forward with concerns of group home staffing.

Marge Schlitt, 2600 C St., came forward to comment.

Mr. Peo came forward for rebuttal. Discussion followed.

This matter was taken under advisement.

SUPPORTING THE PASSAGE OF CONSTITUTIONAL AMENDMENT 2 TO THE NEBRASKA CONSTITUTION TO ALLOW PUBLIC ENDOWMENTS SUCH AS THE COMMUNITY HEALTH ENDOWMENT TO INVEST ITS ASSETS IN ACCORDANCE WITH THE "PRUDENT INVESTMENT STANDARD" - State Senator Chris Beutler came forward to explain the resolution and to answer Council questions. Discussion followed.

Michael J. Tavlin, 6320 Rogers Circle, came forward in support. Discussion followed.

Lori Seibel, 5845 Woodstock, Exec. Director of the Community Health Endowment, came forward in support and stated that the amendment will create opportunities for every Nebraska community. Discussion followed.

Mike Morosin, 2055 "S" Street, came forward with concerns of investment responsibility.

This matter was taken under advisement.

**** END OF PUBLIC HEARING ****

TOOK BREAK 3:39 P.M.

RECONVENED 3:50 P.M.

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF WILLIAM J. WAGNER FOR PLANET SUBS NEBRASKA, LLC, DBA PLANET SUBS AT 1332 P STREET (9/25/06 - P.H. & Action con't. to 10/2/06) - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84059 WHEREAS, Planet Subs Nebraska, LLC dba Planet Subs located at 1332 P Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that William J. Wagner be named manager;

WHEREAS, William J. Wagner appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that William J. Wagner be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

MANAGER APPLICATION OF CHARLES R. HEINKE FOR SESOSTRIS TEMPLE HOLDING CORP. DBA SESOSTRIS TEMPLE AT 1717 YOLANDE AVENUE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84060 WHEREAS, Sesostris Temple Holding Corp. dba Sesostris Temple located at 1717 Yolande Avenue, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Charles R. Heinke be named manager;

WHEREAS, Charles R. Heinke appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Charles R. Heinke be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

APPLICATION OF B&R STORES, INC. DBA RUSS'S MARKET #14 FOR A CLASS C LIQUOR LICENSE AT 6300 HAVELOCK AVENUE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84061 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the

application of B & R Stores, Inc. d/b/a "Russ's Market 14" for a Class "C" liquor license at 6300 Havelock Avenue, Lincoln, Nebraska, for the license period ending October 31, 2006, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

MANAGER APPLICATION OF CRYSTAL J. MCCARTHY FOR B&R STORES, INC. DBA RUSS'S MARKET #14 AT 6300 HAVELOCK AVENUE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84062

WHEREAS, B & R Stores, Inc. d/b/a "Russ's Market 14" located at 6300 Havelock Avenue, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Crystal J. McCarthy be named manager;

WHEREAS, Crystal J. McCarthy appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Crystal J. McCarthy be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

ORDINANCES - 2ND READING & RELATED RESOLUTIONS (as required)

COMP. PLAN AMENDMENT 06004 - AMENDING THE 2025 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN, NORTH 48TH STREET/UNIVERSITY PLACE PLAN TO SHOW A REDEVELOPMENT PROJECT SOUTHWEST OF 51ST AND GARLAND STREETS. (RELATED ITEMS 06R-143, 06-123, 06-171) (ACTION DATE: 10/9/06)

CHANGE OF ZONE 06035 - APPLICATION OF THE DIRECTOR OF PARKS & RECREATION FOR A CHANGE OF ZONE FROM P PUBLIC USE DISTRICT TO O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHWEST OF 51ST AND GARLAND STREETS. (RELATED ITEMS 06R-143, 06-123, 06-171) - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown, thereon, the second time.

APPROVING A GROUND LEASE BETWEEN THE CITY AND THE LINCOLN/LANCASTER COUNTY CHILD ADVOCACY CENTER FOR THE PROPERTY LOCATED AT LOTS 1 THROUGH 12, BLOCK 128, UNIVERSITY PLACE, FOR THE CONSTRUCTION OF A FACILITY TO PROVIDE A SAFE, CHILD-FRIENDLY ENVIRONMENT FOR INTERVIEWS AND MEDICAL EXAMS OF CHILD VICTIMS FOR AN INITIAL 30-YEAR TERM. (RELATED ITEMS 06R-143, 06-123, 06-171) - CLERK read an ordinance, introduced by Jon Camp, accepting and approving a Ground Lease Agreement between the City of Lincoln and the Lincoln/Lancaster County Child Advocacy Center for a lease of property generally located at North 51st and Garland Streets for the construction of a facility to provide a safe, child-friendly environment for interviews and medical exams of child victims, the second time.

APPROVING AN AGREEMENT BETWEEN THE CITY AND AMERICAN LEGION POST #280 FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 970 MONROE, BENNET, NE FOR A PERIOD OF SEPTEMBER 1, 2006 THROUGH AUGUST 31, 2007 - CLERK read an ordinance, introduced by Jon Camp, accepting and approving a Lease Agreement between the City of Lincoln and American Legion Post #280 for the lease of office space by the Lincoln Area Agency on Aging for its ActivAge Center program at 970 Monroe, Bennet, NE for a term beginning September 1, 2006 through August 31, 2007, the second time.

APPROVING AN AGREEMENT BETWEEN THE CITY AND FIRST UNITED METHODIST CHURCH/WAVERLY FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 14410 FOLKESTONE STREET, WAVERLY, NE FOR A PERIOD OF SEPTEMBER 1, 2006 THROUGH AUGUST 31, 2007 - CLERK read an ordinance, introduced by Jon Camp, accepting and approving a Lease Agreement between the City of Lincoln and First United Methodist Church/Waverly for the lease of office space by the Lincoln Area Agency on Aging for its ActivAge Center program at 14410 Folkestone Street, Waverly, NE for a term beginning September 1, 2006 through August 31, 2007, the second time.

CHANGE OF ZONE 06057 - APPLICATION OF RESTAURANTS SPACE 1997A, INC. AND DEEJAYS CORPORATION FOR A CHANGE OF ZONE FROM B-1 LOCAL BUSINESS DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH 48TH STREET AND VAN DORN STREET. (RELATED ITEMS: 06-173, 06R-191) - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

PRE-EXISTING USE PERMIT 8F - APPLICATION OF RESTAURANTS SPACE 1997A, INC. AND DEEJAYS CORPORATION, TO EXPAND THE PRE-EXISTING USE PERMIT, INCLUDING REQUESTS TO ADJUST THE PARKING FROM ONE SPACE PER 100 SQUARE FEET OF FLOOR AREA TO ONE SPACE PER 150 SQUARE FEET OF FLOOR AREA AND TO ADJUST THE FRONT YARD SETBACK FROM 20 FEET TO 6 FEET FOR PARKING, ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF VAN DORN STREET AND SOUTH 48TH STREET. (RELATED ITEMS: 06-173, 06R-191) (ACTION DATE: 10/9/06)

CHANGE OF ZONE 06056 - AMENDING SECTION 27.67.020 OF THE LINCOLN MUNICIPAL CODE, PARKING MATRIX, TO CHANGE THE OFF-STREET PARKING REQUIREMENT IN THE H-2 HIGHWAY BUSINESS AND H-3 HIGHWAY COMMERCIAL ZONING DISTRICTS FROM ONE PARKING SPACE PER 200 SQUARE FEET OF FLOOR AREA TO ONE PARKING SPACE PER 300 SQUARE FEET OF FLOOR AREA - CLERK read an ordinance, introduced by Jon Camp, amending Section 27.67.020 of the Lincoln Municipal Code to amend Figure 27.67.020, Parking Matrix, to change the off-street parking requirement in the H-2 Highway Business and H-3 Highway Commercial zoning districts from one parking space per 200 square feet of floor space (1/200) to one parking space per 300 square feet of floor area (1/300); and repealing Section 27.67.020 of the Lincoln Municipal Code as hitherto existing, the second time.

CHANGE OF ZONE 06054 - AMENDING SECTIONS 27.13.080, 27.15.080, 27.17.080, 27.19.080, 27.21.080, 27.23.080 AND 27.24.080 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE R-1, R-2, R-3, R-4, R-5, R-6, R-7, AND R-8 ZONING DISTRICTS TO PROVIDE PROVISIONS REGARDING THE USE OF VACANT AND OCCUPIED LOTS WHICH HAVE LESS AREA OR WIDTH OR BOTH LESS AREA AND WIDTH THAN REQUIRED BY SAID DISTRICT REGULATIONS; AMENDING SECTION 27.61.090 TO LIMIT THE NUMBER OF DWELLING UNITS IN A NONSTANDARD MULTIPLE DWELLING WHICH IS ENLARGED, EXTENDED OR RECONSTRUCTED, AND AMENDING THE STATEMENT OF INTENT IN CHAPTERS 27.21, 27.23, AND 27.24 TO DELETE BOARDING AND LODGING HOUSES WHICH ARE NO LONGER PERMITTED USES IN THOSE DISTRICTS - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Sections 27.11.080, 27.13.080, 27.15.080, 27.17.080, 27.19.080, 27.21.080, 27.23.080 and 27.24.080 relating to the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, respectively, to provide provisions regarding the use of vacant and occupied lots which have less area or width or both less area and width than required by said district regulations; amending Section 27.61.090 to limit the number of dwelling units in a nonstandard multiple dwelling which is enlarged, extended or reconstructed; repealing Sections 27.11.080, 27.13.080, 27.15.080, 27.17.080, 27.19.080, 27.21.080, 27.23.080, 27.24.080 and 27.61.090 of the Lincoln Municipal Code as hitherto existing; and amending the introductory statement of intent in Chapters 27.21, 27.23, and 27.24 to delete boarding and lodging houses which are no longer permitted in the R-6, R-7, and R-8 districts, respectively, the second time.

CHANGE OF ZONE 06045 - APPLICATION OF THE WITHERBEE NEIGHBORHOOD ASSOCIATION FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL ON APPROXIMATELY 48 BLOCKS GENERALLY BETWEEN 33RD AND 48TH STREETS FROM O STREET TO RANDOLPH STREET, FROM B-1 LOCAL BUSINESS TO R-2 RESIDENTIAL AT 48TH AND RANDOLPH STREETS, AND FROM O-2 SUBURBAN OFFICE TO R-2 RESIDENTIAL FOR CALVARY CEMETERY AT 40TH AND O STREET - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

CHANGE OF ZONE 06052 - AMENDING SECTION 27.65.020 OF THE LINCOLN MUNICIPAL CODE TO ADJUST THE MINIMUM COVERAGE AREA AND BONUS FOR AN AGRICULTURAL DISTRICT COMMUNITY UNIT PLAN, UTILIZING A COMMUNITY WASTEWATER SYSTEM IN THE BUILD-THROUGH AREA - CLERK read an ordinance, introduced by Jon Camp, amending Sections 27.65.020 and 27.65.075 of the Lincoln Municipal Code to allow the same "bonus" provision to be taken for acreage developments with community sewer systems regardless of lot size and to clarify the number of future lots shown for buildthrough, which would vary with the average site of the initial lots; and repealing Sections 27.65.020 and 27.65.075 of the Lincoln Municipal Code as hitherto existing, the second time.

RESOLUTIONS

APPROVING A CONSENT DECREE BETWEEN DEVELOPMENTAL SERVICES OF NEBRASKA AND THE CITY OF LINCOLN TO RESOLVE A LAWSUIT IN THE UNITED STATES DISTRICT COURT IN CONNECTION WITH THE OPERATION OF HOUSING DEVELOPMENTALLY DISABLED PERSONS - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84063 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Consent Decree between the City of Lincoln and Developmental Services of Nebraska to resolve a lawsuit in the United States District Court in connection with the operation of housing developmentally disabled persons, a copy of which is attached hereto marked as Attachment "A" and made a part hereof by reference, is hereby approved.

BE IT FURTHER RESOLVED that Rick Peo, Chief Assistant City Attorney, is hereby authorized to file said Consent Decree on behalf of the City of Lincoln with the United States District Court.

The City Clerk is hereby directed to transmit a copy of this executed Resolution and Consent Decree to Rick Peo, City Law Department, for filing with the United States District Court.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Eschliman, McRoy, Svoboda; NAYS: Cook, Marvin, Newman.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF SEPTEMBER 1 - 15, 2006 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84064 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated September 18, 2006, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>	
Tyler Millsap & Michelle Millsap	NAS*	Sandy Dorn	\$ 500.00
Mariann Bevins & Robert Bevins	\$ 120.00	Mark Hawk	900.52
Rachel Hartley	445.99	Chesley L. Lefever	939.82
Donna West	4,021.46	Terry Bokowski	214.00
Jon M. Richard	185.00	Julie Stickenschmidt	3,420.85
Lawrence Reeves	677.00	Arctic Glacier Ice	201.16

* No Amount Specified

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SUPPORTING THE PASSAGE OF CONSTITUTIONAL AMENDMENT 2 TO THE NEBRASKA CONSTITUTION TO ALLOW PUBLIC ENDOWMENTS SUCH AS THE COMMUNITY HEALTH ENDOWMENT TO INVEST ITS ASSETS IN ACCORDANCE WITH THE "PRUDENT INVESTMENT STANDARD." - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84065 A Resolution in support of Amendment 2, Proposal to amend the Nebraska Constitution, November 7, 2006 general election.

RECITALS

I.

Advanced by the Legislature with a vote of 42-0, Amendment 2 relates to a political subdivision's ability to invest public endowment funds. Current constitutional language unnecessarily restricts such entities from investing in equity securities (i.e., stocks). This restriction, in place since 1875, was designed to protect cities and other political subdivisions from the dangers of speculation in private railroad corporations and other business ventures. Since that time, the "prudent investment standard" and other protective measures have evolved to guide trustees in making investment decisions. Thus, the dangers identified in 1875 have now passed, and it is time to modernize Article XI, Section 1 of the Nebraska Constitution.

II.

Amendment 2 will be particularly beneficial for entities like the Community Health Endowment in Lincoln. The City established this endowment with proceeds from the sale of Lincoln General Hospital in 1997. The fund has returned nearly \$8 million to Lincoln and the surrounding area to support health-related initiatives. Many of these initiatives involve healthcare for the poor, elderly, homeless, and mentally ill. Endowment funds have also provided assistance to agencies that serve refugee and minority populations, high-risk children, victims of domestic violence, and persons with substance addictions. This source of revenue has reduced the City's reliance on taxpayer resources and has alleviated the growing burden on human service infrastructure.

III.

Amendment 2 will allow public endowments throughout Nebraska to invest in broader, more diversified portfolios that may include stocks. Most local charities, as well as most public pension funds, already enjoy this type of broader investment authority, and these entities are earning a much higher return on their investments. Endowment estimates indicate that, if it were allowed to diversify its investments to include stocks, an additional \$22 million dollars would be available for community grants and the Endowment would grow by nearly 160%, over the next 20 years. With such possibilities, Amendment 2 makes public endowments a more desirable option for political subdivisions looking to provide for its citizens into the future.

IV.

Amendment 2 is about opportunities for our cities and other political subdivisions' opportunities for diversification, opportunities for growth, and opportunities to ensure long-term benefits for the residents of our communities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that it be on the record in wholehearted support of Amendment 2.

Introduced by Jon Camp

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

PETITIONS AND COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone 06063 - App. of North 47 Group, LLC, for the North 40 Plaza Planned Unit Development, for a change from AG to B-2 and from AG to R-3 and for waivers of the rear yard setback & the preliminary plat process to allow approx. 74 residential dwelling units and commercial lots on property at N. 84th Street and Adams Street.

Special Permit 1393B - App. of Nebraska School of Gymnastics South, Inc for an amendment for expansion of an existing private school on property at 7545 Pioneers Boulevard.

Special Permit 06053 - App. of Ever Preciado to sell alcoholic beverages for consumption on the premises at 27th and O Streets.

Use Permit 146B - App. of West Gate Bank for an amendment to adjust the sign requirements to allow an additional sign and sign area on property at 6003 Old Cheney Road.

REPORTS OF CITY OFFICERS - NONE

ORDINANCES - 1ST READING & RELATED RESOLUTIONS

APPROVING AN AGREEMENT BETWEEN THE CITY AND CLYDE MALONE COMMUNITY CENTER FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 2032 U STREET FOR A PERIOD OF SEPTEMBER 1, 2006 THROUGH AUGUST 31, 2007 - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between the City of Lincoln and Clyde Malone Community Center for the lease of office space by the Lincoln Area Agency on Aging for its ActivAge Center program at 2032 U Street, Lincoln, NE for a term beginning September 30, 2006 through August 31, 2007, the first time.

ORDINANCES - 3RD READING & RELATED RESOLUTIONS (as required)

CREATING WATER DISTRICT NO. 1195 IN N.W. 19TH STREET BETWEEN WEST Q AND WEST S STREETS AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTY - CLERK read an ordinance, introduced by Ken Svoboda, creating Water District No. 1195, designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Camp & **LOST** by the following vote: AYES: Camp, Eschliman, Svoboda; NAYS: Cook, Marvin, McRoy, Newman.

The ordinance, having **LOST**, was assigned the File #38-4538 & was placed on file in the Office of the City Clerk.

CREATING SEWER DISTRICT NO. 1182 IN SOUTH 15TH STREET BETWEEN MULBERRY AND PLUM STREETS AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTY - CLERK read an ordinance, introduced by Ken Svoboda, creating Sewer District No. 1182, designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & **LOST** by the following vote: Ayes: Svoboda; NAYS: Camp, Cook, Eschliman, Marvin, McRoy, Newman.

The ordinance, having **LOST**, was assigned the File #38-4539 & was placed on file in the Office of the City Clerk.

CREATING WATER DISTRICT NO. 1196 IN ORCHARD STREET BETWEEN N. 67TH STREET AND N. 68TH STREET AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTY - CLERK read an ordinance, introduced by Ken Svoboda, creating Water District No. 1196, designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing or the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered #18817, is recorded in Ordinance Book #25, Page

ACCEPTING AND APPROVING A FOUR MONTH/400 HOUR SEASONAL LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND NEBRASKA MACHINERY TO PROVIDE ONE MOTOR GRADER FOR USE BY THE PUBLIC WORKS & UTILITIES, STREET MAINTENANCE OPERATIONS, IN ARTERIAL AND RESIDENTIAL SNOW REMOVAL, WITH AN OPTION TO RENEW FOR THREE ADDITIONAL SEASONS - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving a lease agreement between the City of Lincoln, Nebraska Machinery Company for the lease of one articulated frame four-wheel drive motor grader for a term from November 1, 2006 through February 28, 2007 with an option in the City to renew the lease for three additional seasons, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18818**, is recorded in Ordinance Book #25, Page

ACCEPTING AND APPROVING A FOUR MONTH/400 HOUR SEASONAL LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND MURPHY TRACTOR AND EQUIPMENT TO PROVIDE THREE MOTOR GRADERS FOR USE BY THE PUBLIC WORKS & UTILITIES, STREET MAINTENANCE OPERATIONS, IN ARTERIAL AND RESIDENTIAL SNOW REMOVAL, WITH AN OPTION TO RENEW FOR THREE ADDITIONAL SEASONS - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving equipment rental agreements between the City of Lincoln, Nebraska and Murphy Tractor & Equipment Company for the lease of three articulated frame four-wheel drive motor grader for a term from November 1, 2006 through February 28, 2007 with an option in the City to renew the lease for three additional seasons, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18819**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 06040 - APPLICATION OF THE 40TH & A STREET NEIGHBORHOOD ASSOCIATION TO CHANGE THE ZONING ON APPROXIMATELY 36 BLOCKS WITHIN THE 40TH AND A STREET NEIGHBORHOOD FROM B-1 LOCAL BUSINESS DISTRICT, R-6, R-5 AND R-4 RESIDENTIAL DISTRICTS TO R-2 RESIDENTIAL DISTRICT AND FROM B-1 LOCAL BUSINESS DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED IN THE NORTH AND WEST PORTIONS OF AN AREA BOUNDED BY RANDOLPH, 33RD, 48TH AND A STREETS - PRIOR to reading:

COOK Moved to Amend Bill No. 06-170 in the following manner:

1. On page 1, line 21, after the word "Lots" insert the following: 158 and.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

CAMP Moved to delay Bill No. 06-170 two weeks for action only to 10/16/06.

Seconded by Eschliman & **LOST** by the following vote: AYES: Camp, Eschliman; NAYS: Cook, Marvin, McRoy, Newman, Svoboda.

CLERK Read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

SVOBODA Moved to pass the ordinance as amended.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

The ordinance, being numbered **#18820**, is recorded in Ordinance Book #25, Page

REGISTERED TO SPEAK SESSION - NONE

OPEN MICROPHONE SESSION - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to October 9, 2006.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on
October 9, 2006.
Seconded by Svoboda & carried by the following vote: AYES: Camp,
Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

ADJOURNMENT 4:20 P.M.

CAMP Moved to adjourn the City Council meeting of October 2, 2006.
Seconded by Svoboda & carried by the following vote: AYES: Camp,
Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.
So ordered.

Joan E. Ross, City Clerk, CMC

Sandy L. Dubas, Senior Office Assistant