

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, NOVEMBER 13, 2006 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chair Newman; Council Members: Cook, Eschliman, Marvin, McRoy, Svoboda; City Clerk, Joan E. Ross; Absent: Camp.

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**

COOK Having been appointed to read the minutes of the City Council proceedings of November 6, 2006, reported having done so, found same correct.

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

**MAYOR'S AWARD OF EXCELLENCE**

Mayor Coleen Seng presented the Mayor's Award of Excellence for the month of October, 2006 to Alicia Hettenbaugh a Community Outreach Specialist from the Health Department in the category of Customer Relations.

**PUBLIC HEARING**

APPLICATION OF B&R STORES, INC. DBA SUPER SAVER #17 FOR A CLASS C LIQUOR LICENSE AT 2525 PINE LAKE ROAD;

MANAGER APPLICATION OF NICK KELSO FOR B&R STORES, INC. DBA SUPER SAVER #17 AT 2525 PINE LAKE ROAD - Nick Kelso, 1863 S.W. 37<sup>th</sup> Street, took oath and came forward to answer questions.

This matter was taken under advisement.

CREATING SPECIAL ASSESSMENT DISTRICT NO. 1 FOR THE ACQUISITION OF RIGHT-OF-WAY, GRADING, PAVING, RE-PAVING, SIDEWALKS, ORNAMENTAL STREET LIGHTING, AND STREET TREES IN N. 50TH STREET BOUNDED BY O STREET ON THE SOUTH TO APPROXIMATELY 800 FEET NORTH TO THE EXISTING ROADWAY AND ASSESSING THE COST THEREOF AGAINST THE BENEFITTED PROPERTIES. (REQUEST 2<sup>ND</sup> & 3<sup>RD</sup> READINGS ON 11/13/06)- Darl Naumann, Economic Development Coordinator for Lincoln, came forward to request the assessment of benefitted properties along N. 50<sup>th</sup> Street bounded by O Street with 15 years to pay the assessments and to request to have 2<sup>nd</sup> & 3<sup>rd</sup> reading today.

Joe Rupp, Asst. City Attorney, came forward to request to have 2<sup>nd</sup> and 3<sup>rd</sup> reading this date due to the closing date being December 14, 2006 and to answer questions. Discussion followed.

Elmer Cole, Engineering Services, Public Works Department, came forward to answer questions. Discussion followed.

Nicole Fleck-Tooze, Public Works Department, came forward to state the improvements being made as part of this paving district are separate from the improvements necessary to address the flooding problems. That is being addressed as part of the stormwater bond issue.

Tom Huston, 233 S. 13<sup>th</sup> Street, Suite 1900, came forward representing Doane College at 52<sup>nd</sup> and R Street in favor of the improvements, but not supportive of the assessment. He stated the access will not benefit Doane. Discussion followed.

Bill Blake, 1045 Lincoln Mall, came forward representing Units A, C & D of Cool Crest Condominium to request a delay of one week to work out questionable issues and also came forward against the proposed assessment. Discussion followed.

Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward to state there should not be a need to delay this ordinance as the closing date is not until December 14, 2006 which should be time to work out any issues. Discussion followed.

Dennis Bartels, Engineering Services, Public Works Department, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 06069 - APPLICATION OF HIDDEN VALLEY ESTATES LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO AGR AGRICULTURAL RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF S. 112th Street and Pine Lake Road - Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing the developers of Wilderness Ridge Golf Course, Hidden Valley Estates, LLC, to request the dedication of 112th Street thru the middle of the golf course, with free right-of-way to the city, be allowed.

Mike Eckert, Civil Design Group, came forward to further explain the request for a change of zone. Discussion followed.

Marvin Krout, Director of Planning Department, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN, URBAN DEVELOPMENT DEPARTMENT DBA ONE STOP EMPLOYMENT SOLUTIONS AND SECURITY NATIONAL PROPERTIES FUNDING, LLC FOR LEASE OF OFFICE SPACE LOCATED AT 1010 N STREET, SUITE 150 FOR THE TIME PERIOD JANUARY 1, 2007 THROUGH DECEMBER 31, 2016 - Marc Wullschleger, Director of Urban Development, came forward to request approval of a lease agreement for office space at 1010 N Street, Suite 150 and to answer questions. Discussion followed.

This matter was taken under advisement.

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

TOOK BREAK 2:40 P.M.

RECONVENED 2:48 P.M.

## COUNCIL ACTION

### LIQUOR RESOLUTIONS

APPLICATION OF B&R STORES, INC. DBA SUPER SAVER #17 FOR A CLASS C LIQUOR LICENSE AT 2525 PINE LAKE ROAD - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-84106 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. dba Super Saver #17 for a Class "C" liquor license at 2525 Pine Lake Road, Lincoln, Nebraska, for the license period ending October 31, 2007, 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 Dan Marvin

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

MANAGER APPLICATION OF NICK KELSO FOR B&R STORES, INC. DBA SUPER SAVER #17 AT 2525 PINE LAKE ROAD - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-84107 WHEREAS, B&R Stores, Inc. dba Super Saver #17 located at 2525 Pine Lake Road, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Nick Kelso be named manager;

WHEREAS, Nick Kelso 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 Nick Kelso 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 Dan Marvin

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

ORDINANCES - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required)

CREATING A SPECIAL ASSESSMENT DISTRICT NO. 1 FOR THE ACQUISITION OF RIGHT-OF-WAY, GRADING, PAVING, RE-PAVING, SIDEWALKS, ORNAMENTAL STREET LIGHTING, AND STREET TREES IN N. 50TH STREET BOUNDED BY O STREET ON THE SOUTH TO APPROXIMATELY 800 FEET NORTH TO THE EXISTING ROADWAY AND ASSESSING THE COST THEREOF AGAINST THE BENEFITTED PROPERTIES - PRIOR to reading:

MARVIN Moved to waive the rules to have 2<sup>nd</sup> and 3<sup>rd</sup> reading this date.  
Seconded by McRoy & carried by the following vote: AYES: Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp

CLERK Read an ordinance, introduced by Jonathan Cook, creating a Joint Paving, Re-paving, Ornamental Lighting, Sidewalk and Street Tree District No. 1, defining the limits thereof, establishing the width of the roadway and the width of the grading to be done, providing for paving, re-paving, street lighting, construction of sidewalks, and street trees, providing for the payment of the cost thereof, designating the property to be benefitted, 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 second time.

COOK Moved to pass the ordinance as read.  
Seconded by McRoy & carried by the following vote: AYES: Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp.  
The ordinance, being numbered **#18841**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 06069 - APPLICATION OF HIDDEN VALLEY ESTATES LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO AGR AGRICULTURAL RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF S. 112TH STREET AND PINE LAKE ROAD - CLERK read an ordinance, introduced by Jonathan Cook, 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 06068 - APPLICATION OF MICHAEL RAASCH FOR A CHANGE OF ZONE FROM R-8 RESIDENTIAL DISTRICT TO B-4 LINCOLN CENTER BUSINESS DISTRICT, ON PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF S. 18TH STREET AND M STREET - CLERK read an ordinance, introduced by Jonathan Cook, 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 LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN, URBAN DEVELOPMENT DEPARTMENT DBA ONE STOP EMPLOYMENT SOLUTIONS AND SECURITY NATIONAL PROPERTIES FUNDING, LLC FOR LEASE OF OFFICE SPACE LOCATED AT 1010 N STREET, SUITE 150 FOR THE TIME PERIOD JANUARY 1, 2007 THROUGH DECEMBER 31, 2016 - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between the City of Lincoln and Security National Properties Funding, LLC for a lease of space at 1010 N Street, Lincoln, Lancaster County, Nebraska for a 10-year term from January 1, 2007 through December 31, 2016, whereby the City of Lincoln is leasing 13,718 square feet space for the One Stop Career Center to unify the employment and training programs into a single system under the Workforce Investment Act, the second time.

RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF OCTOBER 16 - 31, 2006- CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84108 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 November 1, 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>	
Robyn Spaeth	\$ 665.49	State of Nebraska -	
Allied Insurance		Camp Ashland Training Site	\$ 986.00
(Claim No. 26E68278)	1,157.24	State Farm Insurance	
Eddy D. Stable	1,280.00	(Claim No. 27-7745-675)	3,856.28
Jerry L. Dutton	NAS*	Jennifer Johannes-Hascall	100.17
		Kelsey Gardner	100.00
		Megan Mejstrik	53.00
		Eric Hilton	1,214.88
		Jim Hille	53.00
		Kim Roehrs-Lary	7,500.00
		Ashley S. Chaves	25,427.00

\* 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 Jonathan Cook

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

APPROVING THE HARVEST PROJECT CONTRACT BETWEEN THE CITY'S LINCOLN AREA AGENCY ON AGING AND LANCASTER COUNTY ON BEHALF OF COMMUNITY MENTAL HEALTH CENTER TO PROVIDE MENTAL HEALTH, SUBSTANCE ABUSE, AND AGING SERVICES TO ELDERLY RESIDENTS OF LANCASTER COUNTY FOR A ONE-YEAR PERIOD - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84109 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Harvest Project Contract LAAA/LIFE between the Lincoln Area Agency on Aging and Lancaster County on behalf of Community Mental Health Center to assist in obtaining specialized professional services and staff to provide mental health, substance abuse, and aging services to elderly residents of Lancaster County, upon the terms and conditions as set forth in said Contract, which is attached hereto marked as Attachment "A" and made a part hereof by reference, is hereby accepted and approved and the Mayor is hereby authorized to execute said Harvest Project Contract on behalf of the City.

Introduced by Jonathan Cook

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

#### PETITIONS AND COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPT.:

Change of Zone 04086 - App. of Olsson Associates for a change from AGR to R-3 on property located at S. 56<sup>th</sup> Street and Cumberland Dr.

Change of Zone 06062 - App. of the Director of Planning to amend Sections 27.27.080, 27.28.090, 27.31.100, 27.37.070, 27.51.100, 27.60.040, 27.63.020 and 27.81.040 of the Zoning Ordinance to : 1) require the Planning Commission to take final action or make a recommendation within 4 weeks of their first public hearing and authorizing the applicant to appeal to the City Council requesting final action; 2) require all applications which have been placed on pending by the applicant shall automatically expire one year thereafter unless the applicant requests the application be removed from pending prior to the expiration date.

Change of Zone 06073 - App. of Director of Planning to change from H-3 to I-1 on property located at S. 10<sup>th</sup> Street and High Street.

Change of Zone 06074 - App. of Wilderness View Townhomes, LLC to change from R-2 to R-4 on property located at Warlick Boulevard and Creekside Trail.

Change of Zone 06075 - App. of Engineering Design Consultants, Wilderness Commons Planned Unit Development for a change from AG to B-2 and R-5 on property located at S. 40<sup>th</sup> Street and Yankee Hill Road for a Planned Unit Development District designation of said property; and for approval of a development plan which proposes modifications to the zoning ordinance and land subdivision ordinance to allow approximately 300 dwelling units in the underlying R-5 zoned area and approximately 600,000 square feet of office/retail floor area in the underlying B-2 zoned area.

Special Permit 531F - App. of Wilderness View Townhomes, LLC for an amendment to the Wilderness View Townhomes Community Unit Plan for 162 townhomes with requests to waive lot width, minimum lot area, rear yard setback, and sanitary sewer running against street grade on property located at Warlick Blvd. and Creekside Trail.

Special Permit 04072 - App. of SCMH, LLC, Muller Estates Community Unit Plan, for approximately 15 lots with waiver requests to allow lot lines non-perpendicular to right-of-way, adjust yard setbacks, and to exceed the maximum intersection approach grade on property located at S. 56<sup>th</sup> Street and Cumberland Dr.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 4, 2006 AT 1:30 P.M. FOR THE MANAGER APPLICATION OF HOLLY LOOS FOR HOLIDAY INN, DOWNTOWN LOCATED AT 141 NORTH 9<sup>TH</sup> STREET - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84110 BE IT RESOLVED BY THE City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 4, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, NE, for Manager Application of Holly Loos for Holiday Inn, Downtown located at 141 North 9<sup>th</sup> Street.

If the Police Department is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Robin Eschliman

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

SETTING THE HEARING DATE OF MONDAY, DECEMBER 4, 2006 AT 1:30 P.M. FOR THE MANAGER APPLICATION OF RANDY JAY MUTCHIE FOR WILDERNESS RIDGE, LLC DBA WILDERNESS RIDGE GOLF COURSE LOCATED AT 1800 WILDERNESS WOODS PLACE - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84111 BE IT RESOLVED BY THE City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 4, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, NE, for Manager Application of Randy Jay Mutchie for Wilderness Ridge, LLC dba Wilderness Ridge Golf Course located at 1800 Wilderness Woods Place.

If the Police Department is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Robin Eschliman

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

SETTING THE HEARING DATE OF MONDAY, DECEMBER 4, 2006 AT 1:30 P.M. FOR THE MANAGER APPLICATION OF MAXWELL UZOMA EMEROLE FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP LOCATED AT 1421 CENTERPARK RD.- CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84112 BE IT RESOLVED BY THE City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 4, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, NE, for Manager Application of Maxwell Uzoma Emerole for Whitehead Oil Company dba U-Stop Convenience Shop located at 1421 Centerpark Road.

If the Police Department is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Robin Eschliman

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

SETTING THE HEARING DATE OF MONDAY, DECEMBER 4, 2006 AT 1:30 P.M. FOR THE MANAGER APPLICATION OF JAMI LYNN WALLACE FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP LOCATED AT 8231 O STREET- CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84113 BE IT RESOLVED BY THE City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 4, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, NE, for Manager Application of Jami Lynn Wallace for Whitehead Oil Company dba U-Stop Convenience Shop located at 8231 O Street.

If the Police Department is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Robin Eschliman

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

#### REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON OCTOBER 30, 2006 EXCEPT RESOLUTION A-84096 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

MAYOR'S VETO MESSAGE ON RESOLUTION NO. A-84096 - APPEAL OF HARTLAND HOMES, INC. FROM THE CONDITIONS OF THE PLANNING COMMISSION APPROVAL OF SPECIAL PERMIT 5015A, FOR THE DEVELOPMENT OF HARTLAND'S GARDEN VALLEY COMMUNITY UNIT PLAN ON PROPERTY GENERALLY LOCATED NORTHWEST OF N. 14<sup>TH</sup> STREET AND PENNSYLVANIA AVENUE.

COOK Moved to request Planning Director administratively approve as recommended by Planning Commission.

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

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON NOVEMBER 6, 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR OCTOBER 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk. (8-71)

REPORT FROM CITY TREASURER OF FRANCHISE TAX FROM AQUILA FOR THE MONTH OF SEPTEMBER 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

REPORT OF CITY TREASURER OF FRANCHISE TAX FROM TIME WARNER CABLE FOR THE QUARTER ENDING SEPTEMBER 30, 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk. (41-2518A)

REPORT FROM CITY TREASURER OF TELECOMMUNICATION OCCUPATION TAX FOR THE QUARTER JULY - SEPTEMBER 2006: T-MOBILE CENTRAL, NECC, COMTECH 21, TRINSIC, CA AFFINITY, DIGIZIP.COM, INC., HELIO, AMERIVISION, COMTEL TELCOM ASSETS, MATRIX, ALIANT; AUGUST 2006: TRI-M, VERIZON-BELL ATLANTIC, NORSTAN NETWORK SERVICES, GUARANTEED PHONE SERVICE, NETWORK BILLING SYSTEMS, ATI, VOICECOM, TRACFONE, COVISTA, QWEST, CINCINATTI BELL ANY DISTANCE, TRANS NAT'L, MCLEOD USA, WORKING ASSETS, ACN, GLOBAL CROSSING, BROADWING, VIRGIN MOBILE USA, USCOC OF NE/KS, TELECORP, PRIMUS, VERIZON SELECT, UCN, ONSTAR, ANDIAMO, BROADBAND DYNAMICS, XO, AIRLINK MOBILE, IBM GLOBAL-NS DIV., QUANTUM SHIFT, KDDI AMERICA, EARTHLINK, INTELICALL OPERATOR, GLOBAL CROSSING BANDWIDTH, BUSINESS PROD SOLUTIONS, CIMCO, TELEPLUS WIRELESS, ALLTEL, ALLTEL COMM. OF NE, NEBRASKA TECHNOLOGY & TELECOMM., AT&T COMM. OF MIDWEST, USCOC OF GREATER IOWA, NEW CINGULAR WIRELESS, CRICKET; SEPTEMBER 2006: NEXTEL PARTNERS, D&D, SPRINT SPECTRUM, MCI WORLDCOM NETWORK, SPRINT, TWC INFO SERVICES OF NEBRASKA, WINDSTREAM SYSTEMS OF THE MIDWEST, WINDSTREAM NEBRASKA, ALLTEL COMM. OF NEBRASKA, ALLTEL, ATS MOBILE TELEPHONE, SHAFFER, BT AMERICAS, NOSVA LIMITED PARTNERSHIP, NEXTEL WEST, 360NETWORKS (USA), SBC LONG DISTANCE, AFFINITY NETWORK, ACCERIS, ACCERIS MANAGEMENT & ACQUISTION, TRI-M, LDMI, NOS, GTC, ZONE, LIGHTYEAR NETWORK, GLOBALCOM, 800 RESPONSE. (20)

ASSESSING SPECIAL TAXES FOR THE COSTS OF THE IMPROVEMENTS IN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, THE CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY, AND THE DOWNTOWN MAINTENANCE DISTRICT- CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84114 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that:

The special taxes assessed October 30, 2006, to pay the costs of the improvements in the Downtown Business Improvement District, the Core Business Improvement District Overlay and the Downtown Maintenance District are hereby levied and that the period of time in which the assessments are to be paid shall be one (1) year.

Introduced by Robin Eschliman

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

#### ORDINANCES - 1<sup>ST</sup> READING & RELATED RESOLUTIONS

VACATION NO. 06003 - VACATING THE EAST 14 FEET OF 1ST STREET BETWEEN THE NORTH AND SOUTH LINES OF R STREET, VACATING R STREET BETWEEN 1ST STREET AND 2ND STREET, AND VACATING THE WEST 25 FEET OF 2ND STREET BETWEEN THE SOUTH LINE OF THE NORTH 14 FEET OF VACATED Q STREET AND THE NORTH LINE OF R STREET. (RELATED ITEMS: 06-199, 06R-223) - CLERK read an ordinance, introduced by Robin Eschliman, vacating the east 14 feet of 1<sup>st</sup> Street between the north and south lines of R Street, vacating R Street between 1<sup>st</sup> and 2<sup>nd</sup> Streets, and vacating the west 25 feet of 2<sup>nd</sup> Street between the south line of the north 14<sup>th</sup> feet of vacated Q Street and the north line of R Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

APPROVING A CONSERVATION EASEMENT AGREEMENT BETWEEN THE CITY AND THE PEOPLES CITY MISSION HOME, INC. TO ACCEPT A PERMANENT CONSERVATION EASEMENT TO PRESERVE THE FLOOD STORAGE CAPACITY ON PROPERTY GENERALLY LOCATED AT 1ST AND Q STREETS. (RELATED ITEMS: 06-199, 06R-223) (ACTION DATE: 12/4/06) - CLERK read an ordinance, introduced by Robin Eschliman, WHEREAS, the Peoples City Mission Home, Inc has offered to grant a conservation easement to preserve the flood storage capacity and to restrict the development of the property over an area generally located at 1<sup>st</sup> and Q, the first time.

CHANGE OF ZONE 06066 - APPLICATION OF WOODS PARK NEIGHBORHOOD ASSOCIATION FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED BETWEEN 27TH AND 33RD STREETS, FROM N TO A STREETS; FROM R-5 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED BETWEEN 27TH AND 31ST STREETS, FROM N TO O STREETS; AND FROM R-6 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED FROM H TO N STREETS ON BOTH SIDES OF 27TH STREET AND THE EAST SIDE OF 26TH STREET - CLERK read an ordinance, introduced by Robin Eschliman, 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 first time.

CHANGE OF ZONE 06067 - APPLICATION OF OUTFIELD PARK LLC FOR A CHANGE OF ZONE FROM H-3 HIGHWAY COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT WEST CHARLESTON STREET AND N. 1ST STREET, AND SUN VALLEY BLVD. AND LINE DRIVE - CLERK read an ordinance, introduced by Robin Eschliman, 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 first time.

AMENDING CHAPTER 9.16 OF THE LINCOLN MUNICIPAL CODE RELATING TO OFFENSES AGAINST PUBLIC DECENCY BY ADDING NEW SECTIONS TO DEFINE MARIJUANA, TO DEFINE PARAPHERNALIA, TO MAKE IT AN INFRACTION TO POSSESS PARAPHERNALIA FOR THE PURPOSE OF MANUFACTURING, INHALING, OR INGESTING MARIJUANA OR TOXIC COMPOUNDS, AND TO MAKE IT UNLAWFUL TO POSSESS ONE OUNCE OR LESS OF MARIJUANA AND TO PRESCRIBE PENALTIES FOR VIOLATIONS - CLERK read an ordinance, introduced by Robin Eschliman, amending Chapter 9.16 of the Lincoln Municipal Code relating to Offenses Against Public Decency by

adding a new section numbered 9.16.025 to define marijuana; adding a new section numbered 9.16.035 to define paraphernalia; adding a new section numbered 9.16.105 to make it an infraction to possess paraphernalia for the purpose of manufacturing, inhaling, or ingesting marijuana or toxic compounds; and adding a new section numbered 9.16.145 to make it unlawful to possess one ounce or less of marijuana and to prescribe penalties for violations, the first time.

AMENDING SECTION 1.24.010 OF THE LINCOLN MUNICIPAL CODE RELATING TO GENERAL PENALTIES FOR VIOLATIONS OF THE LMC BY ADDING PENALTIES FOR INFRACTION VIOLATIONS AND SPECIFYING SUBSECTIONS FOR MISDEMEANOR PENALTIES AND INFRACTION PENALTIES - CLERK read an ordinance, introduced by Robin Eschliman, amending Section 1.24.010 of the Lincoln Municipal Code relating to general penalties for violations of the Lincoln Municipal Code by adding penalties for infraction violations and specifying subsections for misdemeanor penalties and infraction penalties; and repealing Section 1.24.010 of the Lincoln Municipal Code as hitherto existing, the first time.

**ORDINANCES - 3<sup>RD</sup> READING & RELATED RESOLUTIONS (as required)**

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$27,000,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION HIGHWAY ALLOCATION BONDS OF THE CITY OF LINCOLN, NEBRASKA - PRIOR to reading:

MARVIN Moved to amend Bill No. 06-189 on page 15, under Section 25, delete all of paragraph (a) and insert in lieu thereof the following:

(a) Highway Allocation Construction Fund. The net proceeds of the Bonds remaining after the deposit required by Section 4(b)(i) has been made shall be deposited by the Finance Director or the Controller in a special capital projects fund, which is hereby created, established and designated as the 2006 Highway Allocation Construction Fund, and shall be disbursed according to such procedures as shall be established by the Finance Director or the Controller (1) to pay the costs of constructing the Project, subject to the restrictions set forth in the following paragraph, and (2) to pay the costs of issuing the Bonds.

Not more than 20% of Bond proceeds deposited in the 2006 Highway Allocation Construction Fund may be expended for improvements within the area set forth on Exhibit A attached hereto and made a part hereof, of which \$750,000 shall be made available for improvements to local streets located within "low to moderate" income areas of the City set forth on Exhibit B attached hereto and made a part hereof; provided, however, that (A) not less than 50% of the costs of such improvements shall be paid by the owners of property benefitted from such improvements and (B) work on such improvements shall be initiated not later than two years after the date of issuance of the Bonds.

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

CLERK Read an ordinance, introduced by Ken Svoboda, authorizing and providing for the issuance of General Obligation Highway Allocation Fund Bonds, Series 2006 in an aggregate principal amount not to exceed \$27,000,000 for the purpose of providing funds to pay the costs of constructing improvements to streets and state highway or federal-aid routes of the City and to pay the costs of issuing the bonds; prescribing certain of the terms of the bonds; delegating, authorizing and directing the Finance Director to exercise his or her own independent judgement and absolute discretion in (A) determining, fixing and finalizing the principal amount, rates of interest and the other terms and provisions of the bonds not specified herein, (B) determining the manner in which such bonds shall be sold, (C) accepting a bid or negotiating an agreement for the purchase of such bonds, and (D) determining and fixing the terms and provisions of any such sale agreement; pledging funds received from the Nebraska Highway Allocation Fund and providing for the levy of a tax on all of the taxable property within the City to pay the principal and interest on such bonds; establishing the terms and conditions upon which additional highway allocation fund bonds may be issued; and related matters, the third time.

SVOBODA Moved to pass the ordinance as amended.

Seconded by McRoy & carried by the following vote: AYES: Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered **#18842**, is recorded in Ordinance Book #25, Page



APPROVING A ONE-YEAR LEASE AGREEMENT BETWEEN THE CITY AND SPIRITS BY BECKMAN FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS LINCOLN INFORMATION FOR THE ELDERLY (LIFE) PROGRAM AT 708 N. CHESTNUT, WAHOO, NEBRASKA - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving a Lease Agreement between the City of Lincoln and Spirits by Beckman for the lease of office space by the Lincoln Area Agency on Aging for its Lincoln Information For the Elderly (LIFE) at 708 N. Chestnut, Wahoo, NE 68066, for a one-year term from September 1, 2006 through August 31, 2007 the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Cook Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered **#18843**, is recorded in Ordinance Book #25, Page

AMENDING SECTION 2.76.385 OF THE LINCOLN MUNICIPAL CODE TO REVISE AND CLARIFY THAT FUNERAL LEAVE IS ALLOWED FOR EMPLOYEES ATTENDING THE FUNERAL OF A FELLOW EMPLOYEE - CLERK read an ordinance, introduced by Ken Svoboda, amending Section 2.76.395 of the Lincoln Municipal Code relating to funeral leave to clarify that funeral leave is allowed for an employee to attend the funeral of a fellow employee; and repealing Section 2.76.385 of the Lincoln Municipal Code as hitherto existing, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Cook Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered **#18844**, is recorded in Ordinance Book #25, Page

APPROVING A LICENSE AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS PCS FOR THE PLACEMENT OF TELECOMMUNICATIONS FACILITIES UPON CITY PROPERTY AT VAN DORN PARK GENERALLY LOCATED AT S. 10TH AND VAN DORN STREET - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving the License Agreement between the City of Lincoln, Nebraska, a municipal corporation, and New Cingular Wireless PCS, LLC dba Cingular for the placement of telecommunications facilities upon City property located in Van Dorn Park and authorizing the Mayor to sign such License Agreement on behalf of the City, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Cook Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered **#18845**, is recorded in Ordinance Book #25, Page

APPROVING A LICENSE AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS PCS FOR THE PLACEMENT OF TELECOMMUNICATIONS FACILITIES UPON CITY PROPERTY AT PIONEERS PARK GENERALLY LOCATED AT 3403 WEST VAN DORN STREET - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving the License Agreement between the City of Lincoln, Nebraska, a municipal corporation, and New Cingular Wireless PCS, LLC dba Cingular for the placement of telecommunications facilities upon City property located in Pioneers Park and authorizing the Mayor to sign such License Agreement on behalf of the City, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Cook Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered **#18846**, is recorded in Ordinance Book #25, Page

APPROVING A LICENSE AGREEMENT BETWEEN THE CITY AND VERIZON WIRELESS FOR THE PLACEMENT OF TELECOMMUNICATIONS FACILITIES UPON CITY PROPERTY AT HOLMES LAKE PARK GENERALLY LOCATED AT 3801 S. 70TH STREET. STREET - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving the License Agreements between the City of Lincoln, Nebraska, a municipal corporation, and Verizon Wireless (VAW) LLC dba Verizon Wireless for the placement of telecommunications facilities upon City property located in Holmes Lake Park and authorizing the Mayor to sign such License Agreement on behalf of the City, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Cook Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered **#18847**, is recorded in Ordinance Book #25, Page

VACATION NO. 06006 - VACATING THE EAST-WEST ALLEY BETWEEN Q AND R STREETS FROM 24TH STREET TO 25TH STREET - CLERK read an ordinance, introduced by Ken Svoboda, vacating the east-west alley between Q and R Streets from 24<sup>th</sup> Street to 25<sup>th</sup> Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Cook Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp. The ordinance, being numbered #18848, is recorded in Ordinance Book #25, Page

**RESOLUTIONS - ACTION ONLY**

APPLICATION OF LEAD DOG ENTERTAINMENT, INC. DBA THE PIT CREW FOR A CLASS C LIQUOR LICENSE AT 3223 CORNHUSKER HIGHWAY. (11/6/06 - ACTION DELAYED 1 WEEK TO 11/13/06)- CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-84115 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 Lead Dog Entertainment, Inc. dba The Pit Crew for a Class "C" liquor license at 3223 Cornhusker Highway, Lincoln, Nebraska, for the license period ending October 31, 2007, 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 Dan Marvin

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

MANAGER APPLICATION OF DAVID B. MILLER FOR LEAD DOG ENTERTAINMENT, INC. DBA THE PIT CREW AT 3223 CORNHUSKER HIGHWAY. (11/6/06 - ACTION DELAYED 1 WEEK TO 11/13/06)- CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-84116 WHEREAS, Lead Dog Entertainment, Inc. dba The Pit Crew located at 3223 Cornhusker Highway, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that David B. Miller be named manager;

WHEREAS, David B. Miller 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 David B. Miller 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 Dan Marvin

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

**REGISTERED TO SPEAK SESSION - NONE**

**OPEN MICROPHONE SESSION - NONE**

**MISCELLANEOUS BUSINESS**

**PENDING -**

COOK Moved to extend the Pending List to November 20, 2006.

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

**UPCOMING RESOLUTIONS -**

COOK            Moved to approve the resolutions to have Public Hearing on  
November 20, 2006.  
                  Seconded by McRoy & carried by the following vote: AYES: Cook,  
Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp.

**ADJOURNMENT 3:09 P.M.**

COOK            Moved to adjourn the City Council meeting of November 13, 2006.  
                  Seconded by McRoy & carried by the following vote: AYES: Cook,  
Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Camp.  
                  So ordered.

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Joan E. Ross, CMC, City Clerk

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Judy Roscoe, Senior Office Assistant

REGULAR MEETING  
November 6, 2006  
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