

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, APRIL 14, 2008 AT 1:30 P.M.**

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

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

READING OF THE MINUTES

SVOBODA Having been appointed to read the minutes of the City Council proceedings of April 7, 2008 reported having done so, found same correct.

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

PUBLIC HEARING

Chair Dan Marvin recognized several dignitaries visiting from the country of Afghanistan who were present at today's meeting.

APPLICATION OF OLD FEDERAL PLACE LIMITED LIABILITY COMPANY DBA THE GRAND MANSE FOR A CLASS I LIQUOR LICENSE AT 129 NORTH 10TH STREET;
MANAGER APPLICATION OF DEBORAH L. LOCH FOR OLD FEDERAL PLACE LIMITED LIABILITY COMPANY DBA THE GRAND MANSE AT 129 NORTH 10TH STREET - Tonya Skinner, Assistant City Attorney, came forward to state that Ms. Loch requested her name be withdrawn from manager application; therefore, a denial has been prepared. Ms. Skinner said the State Liquor Control Commission is in agreement that Monte Froehlich replace her as manager of record which will come before Council for approval in one week; nonetheless, the business liquor license application may proceed today. In response to Council Member Camp's question, Ms. Skinner stated that liquor hearings do not require a first or second reading.

This matter was taken under advisement.

ANNEXATION NO. 08002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 64 ACRES OF PROPERTY GENERALLY LOCATED AT CORNHUSKER HIGHWAY AND FLETCHER AVENUE - Marvin Krout, Director of Planning, came forward to identify the boundaries of the property. He stated that by annexation, City water and sewer may be provided as a health benefit to these sites following Health Department and EPA findings of chemical contamination in the groundwater.

This matter was taken under advisement.

MISCELLANEOUS NO. 08004 - AMENDING TITLE 26 OF THE LINCOLN MUNICIPAL CODE RELATING TO SUBDIVISIONS BY AMENDING SECTION 26.11.060 TO MODIFY WHEN AN APPLICATION FOR A FINAL PLAT SHALL AUTOMATICALLY EXPIRE AND BECOME NULL AND VOID; AMENDING SECTION 26.15.020 TO DELETE THE REQUIREMENT THAT AN AERIAL PHOTOGRAPH FROM THE LANCASTER COUNTY SOIL SURVEY MAPS DESIGNATING SOIL TYPES AND AN EXPLANATION ON HOW (1) THE ENGINEERING PROPERTIES, AND (2) THE PHYSICAL CHEMICAL AND WATER PROPERTIES OF THE SOIL WILL AFFECT THE PROPOSED DEVELOPMENT TO BE INCLUDED WITH THE PRELIMINARY PLAT AND FURTHER DELETING THE REQUIREMENT FOR A CERTIFICATION FROM A GEOTECHNICAL ENGINEER THAT THE SOIL DATA SUPPLIED IS STILL APPROPRIATE IF THE GRADING PLAN SHOWS MORE THAN A FIVE-FOOT CUT ON A SIGNIFICANT PART OF THE AREA OR A LARGE NUMBER OF BASEMENTS ARE ANTICIPATED - Marvin Krout, Director of Planning, came forward to clarify that the amendment allows for closing of inactive files dating back 10-15 years and to eliminate a subdivision code that was unnecessary.

This matter was taken under advisement.

APPROVING THE SALE OF CITY OWNED PROPERTIES LOCATED AT 1747, 1801, 1803, AND 1807 NORTH 24TH STREET AND 429 B STREET TO NEIGHBORWORKS-LINCOLN AND AFFORDABLE HOUSING INITIATIVE - David Landis, Director of Urban Development, came forward to answer Council questions and to explain that the Ponca Tribe surrendered four properties to the City to satisfy a \$109,000 debt; hence, the City will rehabilitate them, sell them for profit and pay \$17,000 in back taxes. Mr. Landis said any modest gain achieved, possibly amounting to \$25,000, will be shared in a 50/50 split with the Ponca Tribe. He stated the B Street property will result in a loss for all parties involved but will eventually bring a substantial return to the neighborhood of single-family home ownership.

This matter was taken under advisement.

SPECIAL PERMIT 08015 - APPLICATION OF ROGER SCHWISOW FOR AUTHORITY TO ALLOW MINING/EXTRACTION OF SOIL OF AGRICULTURAL ZONED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF N.W. 56TH STREET AND WEST O STREET - Peter Katt, 600 Wells Fargo Center, 1248 O St., came forward representing the applicant to report back on operational issues agreeing that operating hours will be Monday-Saturday and evening hours for government contracts Monday-Friday. Mr. Katt stated that Emerald SID did not report any information to him. To answer Council questions, Mr. Katt responded with the fact that permit approval required his client to obtain a Stormwater Pollution Prevention Plan (SWPPP) creating a plan to deal with environmental contamination on-site from operational machinery and equipment (oil, gas, runoff) but no one has come up with a reason why soil removal has any impact on the wellhead.

LeRoy Sievers, 3800 VerMaas Pl., Suite 200, attorney representing Emerald SID #6, came forward in opposition stating concerns of SID's water supply which is within 1/4 mile of the operation. He stated that the two small, shallow wells are 30-32 ft. deep and replenished by surface water. He said he would like groundwater addressed, as Emerald's substitute water supply would not be available for two years and any disturbance in material resulting in contamination before that time would eliminate their only source of water.

Mike DeKalb, Planning Department, came forward to clarify the boundaries of the soil mining operation.

Council Member Svoboda stated that to understand the area more precisely, it would be best to call the location NW 63rd Street.

Karen Kurbis, 17500 N. 84th St., came forward in a neutral position stating that she is in agreement with the hours of operation, requesting timely installation of signage and keeping dust to a minimum.

LeeAnn Lauenroth, 6920 W. O St., came forward stating concerns of her personal well and how runoff may affect water quality. In response to a Council question she could not determine the depth of her well.

Becky Vandenberg, 8301 W. O St., came forward to request that the owner/developer assist in protecting the SID water. She requested that two monitoring wells be in place and soil boring be done under the direction of the LPS-NRD. She further stated that if contamination occurred, Mr. Schwisow should be held responsible to replenish their water supply.

Dan Schultz, Lower Platte South NRD, came forward in a neutral capacity to answer questions. Their agency has worked with and helped Emerald locate a new well field to be in use in about two years. He clarified that their conservative approach to water flow paths is because the geology of Nebraska is mixed up by the glaciation that occurred in an earlier era. In answer to another question, Mr. Schultz estimated that the monitoring cost for a shallow well may amount to \$2,000-\$4,000.

Mr. DeKalb came forward to answer Council questions stating he contacted NDEQ but has had no response yet. He continued by answering that relative to the Special Permit, the Building & Safety Dept. is the primary enforcement agency which also handles issues on a complaint basis; Health Dept. monitors air pollution and contamination; NDEQ or LSP-NRD monitors runoff; and NDOR monitors road issues.

John Hendry, City Attorney, came forward in response to Council Member Emery's inquiry of the City's liability and stated the City should be very cautious.

Scott Holmes, Health Department, came forward to clarify where/what is a source of contamination.

Mr. Katt came forward in rebuttal stating that Emerald SID has not developed a local Wellhead Protection Plan through the NDEQ. He stated farm chemicals create nitrate contamination in water, so changing from farm use to soil mining will have a greater likelihood to improve water quality than degrade it. Laws are in place to hold property owners liable for any future concerns. He stated that to be fair, standards should be equally imposed on all property owners in the wellhead protection area. Any special permit holder who is in violation will risk revocation of the special permit.

Mr. Hendry came forward to clarify his answer to Council on an earlier question. He stated that after hearing all arguments he reasoned that this Special Permit was a discretionary function that would exempt the City from liability.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF MARCH 16 - 31, 2008 - Mary Kay Rhoden, 3153 N. Hill Rd., Apt. #303, came forward to request her claim be paid. She stated that since she is on a limited income, she cannot afford the cost of repairing her door following rescue personnel's emergency entry into her home.

Council member Eschliman asked general questions of Ms. Rhoden's lease agreement with her landlord and offered to personally read through the agreement.

This matter was taken under advisement.

APPROVING THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY AND LOWER PLATTE SOUTH NRD, NEBRASKA DEPT. OF CORRECTIONAL SERVICES AND NEBRASKA EMERGENCY MANAGEMENT AGENCY FOR THE FLOOD CONTROL PROJECT AT SOUTH 14TH STREET AND HIGHWAY 2 ALONG BEAL SLOUGH - Nicole Fleck-Tooze, Public Works Dept., came forward to explain the flood control project which will result in very significant reductions in flood hazards and construction is planned for 2010.

Doug Hansen, Department of Correctional Services, Facilities Engineering Manager, came forward in support of this project explaining that 25% of the State's inmate population is located at the State Penitentiary which began at this site in 1865 as a Territorial Prison.

This matter was taken under advisement.

USE PERMIT 137A - APPLICATION OF PIONEER WOODS/NORMANDY COURT ASSOCIATION TO AMEND USE PERMIT NO. 137 TO REDUCE THE EXISTING FRONT YARD SETBACK FROM 20 FEET TO 8.5 FEET IN FRONT OF LOT 3 ALONG S. 16TH STREET, AND TO ADD EIGHT PARKING STALLS, ON PROPERTY GENERALLY LOCATED AT S. 16TH STREET AND NORMANDY COURT - Mike Rierden, 645 "M" Street, Suite 200, came forward on behalf of the applicant to explain the changed setback and answer questions.

Don Day, Olsson Associates, was on hand for questioning.

Marvin Krout, Planning Dept., came forward to explain the approval of the amendment due to its location and a combination of factors.

This matter was taken under advisement.

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

TOOK BREAK 3:40 P.M.

RECONVENED 3:51 P.M.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

RESOLUTION ASSESSING THE COSTS OF THE NORTH 27TH STREET MAINTENANCE BUSINESS IMPROVEMENT DISTRICT AGAINST THE BENEFITTED PROPERTIES - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84812 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that:

1. The cost of providing for the maintenance of certain public facilities in the North 27th Street Maintenance Business Improvement District including:
 - a. Litter and refuse removal from sidewalks, planting areas, and beautification areas within the public right-of-way;
 - b. Care and maintenance, including replacement, of all landscaping, including watering, fertilizing, weeding, pruning, spraying, and removal and replacement of dead plantings;
 - c. Maintenance (excluding repair) of sidewalks;
 - d. General maintenance of median signs including repair and repainting; including the employment of or contracting for personnel, to provide for any service as may be necessary or proper to carry out the purposes of the Business Improvements District Act and cost incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of the North 27th Street Maintenance Improvement District" and made a part hereof;
2. The cost of said activities is the sum of \$10,047.11.
3. The property set forth in the proposed Distribution of Assessment is specially benefitted by such activities and improvement.
4. Each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said activities and improvements.
5. The cost of said activities and improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of the North 27th Street Maintenance Improvement District.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby directed to record this resolution in the minutes of the City Council with the vote thereon by yeas and nays.

BE IT FURTHER RESOLVED that the City Council sit as a Board of Equalization for the purpose of equalizing said assessments on the 28th day of April, 2008, at 1:30 p.m., with adjournments from day to day until the work of equalizing said assessments shall be completed.

Approved this _____ day of _____, 2008.

Introduced by Jon Camp

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

RESOLUTION ASSESSING THE COSTS OF THE UNIVERSITY PLACE MAINTENANCE BUSINESS IMPROVEMENT DISTRICT AGAINST THE BENEFITTED PROPERTIES - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84813 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that:

1. The cost of providing for the maintenance of certain public facilities in the University Place Maintenance Business Improvement District including:
 - a. Litter and refuse removal from sidewalks, planting areas, and beautification areas within the public right-of-way;

- b. Care and maintenance, including replacement, of all landscaping, including watering, fertilizing, weeding, pruning, spraying, and removal and replacement of dead plantings;
 - c. Maintenance (excluding repair) of sidewalks;
 - d. General maintenance of median signs including repair and repainting; including the employment of or contracting for personnel, to provide for any service as may be necessary or proper to carry out the purposes of the Business Improvements District Act and cost incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of the University Place Maintenance Improvement District" and made a part hereof;
2. The cost of said activities is the sum of \$11,617.55.
 3. The property set forth in the proposed Distribution of Assessment is specially benefitted by such activities and improvement.
 4. Each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said activities and improvements.
 5. The cost of said activities and improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of the University Place Maintenance Improvement District.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby directed to record this resolution in the minutes of the City Council with the vote thereon by yeas and nays.

BE IT FURTHER RESOLVED that the City Council sit as a Board of Equalization for the purpose of equalizing said assessments on the 28th day of April, 2008, at 1:30 p.m., with adjournments from day to day until the work of equalizing said assessments shall be completed.

Approved this _____ day of _____, 2008.

Introduced by Jon Camp

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

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED FEBRUARY 29, 2008 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84814 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended February 29, 2008, \$930,731.62 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Jon Camp

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

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE MONTH OF FEBRUARY, 2008 FROM AQUILA - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR 4TH QUARTER 2007: ANDIAMO TELECOM; JANUARY 2008: ACN COMMUNICATIONS, ADVANCED TEL INC, BROADBAND DYNAMICS, BROADWING, BT AMERICAS, BUSINESS PROD. SOLUTIONS, CIMCO, CINCINNATI BELL ANY DISTANCE, CRICKET COMMUNICATIONS, EARTHLINK, FLYING J COMMUNICATIONS, GLOBAL CROSSING TELECOMMUNICATIONS, GLOBALSTAR USA, GUARANTEED PHONE SERVICE, IBM GLOBAL, INTELLICALL OPERATOR, KDDI AMERICA, LONG DISTANCE OF MICHIGAN, MCLEOD USA, MOVIDA, NEBRASKA TECHNOLOGY, NETWORK BILLING SYSTEMS, NEW

CINGULAR WIRELESS, NEW EDGE NETWORK, NORSTAN NETWORK, ONSTAR CORP, PRIMUS, QUANTUM SHIFT, QWEST COMMUNICATIONS CORP, TELECORP, TRACFONE WIRELESS, TRANS NATIONAL, TWC DIGITAL PHONE, UCN, USCOC OF GREATER IOWA, USCOC OF NEBRASKA/KANSAS, VERIZON-BELL ATLANTIC, VERIZON SELECT, VIRGIN MOBILE USA, VOICECOM, WHOLESAL CARRIER SERVICES, WORKING ASSETS FUNDING SERVICE, XO COMMUNICATIONS; FEBRUARY 2008: 360 NETWORKS, ACCERIS, ALLTEL, ALLTEL COMM. OF NEBRASKA, ATS MOBILE TELEPHONE, AT&T COMM. OF MIDWEST, BT AMERICAS, BUSINESS TELECOM, COVISTA, D&D COMMUNICATIONS, ENHANCED, FIRST COMMUNICATIONS, GLOBALCOM, LIGHTYEAR NETWORK, NETWORK BILLING SYSTEMS, NEXTEL PARTNERS, NORSTAN NETWORK, NOS COMMUNICATIONS, NOSVA LIMITED PARTNERSHIP, SBC LONG DISTANCE, SHAFFER COMMUNICATIONS, SPRINT COMMUNICATION COMPANY, SPRINT SPECTRUM, TCG OMAHA, TRI-M COMM, UNITE PRIVATE, NETWORKS, VERIZON, WINDSTREAM NEBRASKA, WINDSTREAM SYSTEMS OF THE MIDWEST, ZONE TELECOM - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF E911 SURCHARGE FOR FEBRUARY 2008: ACN COMM. SERVICES, AT&T COMM OF MIDWEST, BUDGET PREPAY, COMTEL TELCOM ASSETS, LEVEL 3 COMM, QWEST COMM, TWC DIGITAL PHONE - CLERK presented said report which was placed on file in the Office of the City Clerk. (20-02)

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON MARCH 31, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON APRIL 7, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, APRIL 28, 2008 AT 5:30 P.M. FOR THE APPLICATION OF RETT A. BELLAMY DBA SIDEWINDERS FOR A CLASS C LIQUOR LICENSE LOCATED AT 1644 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-84815 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, April 28, 2008, at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the application of Rett A. Bellamy dba Sidewinders for a Class C liquor license located at 1644 O Street.

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

Introduced by Jon Camp

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

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone No. 2938C - App. of the University of Nebraska Foundation for an amendment to expand the special sign district to include 12 acres on property generally located at NW 1st St. and W. Highlands Boulevard.

Change of Zone No. 08015 - App. of the University of Nebraska Foundation, from I-2 Industrial Park District to O-3 Office Park District on property generally located at NW 1st Street and W. Highlands Boulevard.

Special Permit No. 08019 - App. of SWIG, LLC, for the authority to sell alcoholic beverages for consumption on the premises on property generally located at S. 9th Street and South St. The Planning Commission action is final action, unless appealed to the City Council.

Use Permit No. 80A - App. of the University of Nebraska Foundation, for an amendment to add an additional 12 acres, on property generally located at NW 1st Street and W. Highlands Blvd. The Planning Commission action is final action, unless appealed to the City Council.

Use Permit No. 05005A - App. of Gregg and Cindy Trautman, for an amendment to reduce a portion of the front yard setback, on property generally located at S. 37th Street and O Street.

MISCELLANEOUS BUSINESS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF OLD FEDERAL PLACE LIMITED LIABILITY COMPANY DBA THE GRAND MANSE FOR A CLASS I LIQUOR LICENSE AT 129 NORTH 10TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84816 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 Old Federal Place Limited Liability Company dba The Grand Manse for a Class "I" liquor license at 129 North 10th Street, Lincoln, Nebraska, for the license period ending April 30, 2009, 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, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

MANAGER APPLICATION OF DEBORAH L. LOCH FOR OLD FEDERAL PLACE LIMITED LIABILITY COMPANY DBA THE GRAND MANSE AT 129 NORTH 10TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for denial:

A-84817 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 Deborah L. Loch as manager of Old Federal Place Limited Liability Company dba The Grand Manse located at 129 North 10th Street, Lincoln, Nebraska, be denied based upon information from Thomas K. Casady, Chief of Police, whereby Deborah L. Loch has requested her application be withdrawn as she no longer desires to be the manager of record 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, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

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

ANNEXATION NO. 08002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 64 ACRES OF PROPERTY GENERALLY LOCATED AT CORNHUSKER HIGHWAY AND FLETCHER AVENUE - CLERK read an ordinance, introduced by Ken Svoboda, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.

MISCELLANEOUS NO. 08004 - AMENDING TITLE 26 OF THE LINCOLN MUNICIPAL CODE RELATING TO SUBDIVISIONS BY AMENDING SECTION 26.11.060 TO MODIFY WHEN AN APPLICATION FOR A FINAL PLAT SHALL AUTOMATICALLY EXPIRE AND BECOME NULL AND VOID; AMENDING SECTION 26.15.020 TO DELETE THE REQUIREMENT THAT AN AERIAL PHOTOGRAPH FROM THE LANCASTER COUNTY SOIL SURVEY MAPS DESIGNATING

SOIL TYPES AND AN EXPLANATION ON HOW (1) THE ENGINEERING PROPERTIES, AND (2) THE PHYSICAL CHEMICAL AND WATER PROPERTIES OF THE SOIL WILL AFFECT THE PROPOSED DEVELOPMENT TO BE INCLUDED WITH THE PRELIMINARY PLAT AND FURTHER DELETING THE REQUIREMENT FOR A CERTIFICATION FROM A GEOTECHNICAL ENGINEER THAT THE SOIL DATA SUPPLIED IS STILL APPROPRIATE IF THE GRADING PLAN SHOWS MORE THAN A FIVE-FOOT CUT ON A SIGNIFICANT PART OF THE AREA OR A LARGE NUMBER OF BASEMENTS ARE ANTICIPATED - CLERK read an ordinance, introduced by Ken Svoboda, amending Title 26 of the Lincoln Municipal Code relating to subdivisions by amending Section 26.11.060 to modify when an application for a final plat shall automatically expire and become null and void; amending Section 26.15.020 to delete the requirement that an aerial photograph from the Lancaster County soil survey maps designating soil types and an explanation on how (1) the engineering properties, and (2) the physical chemical and water properties of the soil will affect the proposed development to be included with the preliminary plat and further deleting the requirement for a certification from a geotechnical engineer that the soil data supplied is still appropriate if the grading plan shows more than a five-foot cut on a significant part of the area or a large number of basements are anticipated; and repealing Sections 26.11.060 and 26.15.020 of the Lincoln Municipal Code as hitherto existing, the second time.

APPROVING THE SALE OF CITY OWNED PROPERTIES LOCATED AT 1747, 1801, 1803, AND 1807 NORTH 24TH STREET AND 429 B STREET TO NEIGHBORWORKS-LINCOLN AND AFFORDABLE HOUSING INITIATIVE - CLERK read an ordinance, introduced by Ken Svoboda, authorizing the sale of City owned property at 1747, 1801, 1803, 1807 North 24th Street and 429 B Street, the second time.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND SLICK GRAPHIX FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS LINCOLN INFORMATION FOR THE ELDERLY (LIFE) PROGRAM AT 370 FIFTH STREET, DAVID CITY, NEBRASKA - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving a Lease Agreement between the City of Lincoln and Jamie Sylvester dba Slick Graphix for the lease of office space by the Lincoln Area Agency on Aging for its Lincoln Information For the Elderly (LIFE) Program office located at 370 Fifth Street, David City, NE 68632, for a 12-month term from March 1, 2008 through February 28, 2009, the second time.

PUBLIC HEARING RESOLUTIONS

SPECIAL PERMIT 08015 - APPLICATION OF ROGER SCHWISOW FOR AUTHORITY TO ALLOW MINING/EXTRACTION OF SOIL OF AGRICULTURAL ZONED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF N.W. 56TH STREET AND WEST O STREET. (3/31/08 - CON'T P.H. W/ACTION ON 4/14/08) - PRIOR to reading:

COOK Moved to continue Public hearing with Action for Bill No. 08R-82 in two weeks on April 28, 2008.

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF MARCH 16 - 31, 2008 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-84818 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 April 1, 2008, 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/SETTLED</u>	
Daniel Hartong	\$ 53.00	Binh Nguyen	\$9,000.00
Mary Woltemath	125.00	Richard M. Lorenzen	150.00
Martin Mantey	70.00	Michael Mercer	882.81
Jeremiah D. Furrow	200.00	Arshad Mehmood	1,709.69
Graylin Gray	1,000,000.00	State Farm Insurance	
Mary Kay Rhoden	275.00	(Claim No. 27-7790-147)	7,715.02

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 Ken Svoboda

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

APPROVING THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY AND LOWER PLATTE SOUTH NRD, NEBRASKA DEPT. OF CORRECTIONAL SERVICES AND NEBRASKA EMERGENCY MANAGEMENT AGENCY FOR THE FLOOD CONTROL PROJECT AT SOUTH 14TH STREET AND HIGHWAY 2 ALONG BEAL SLOUGH - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-84819 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Interlocal Agreement between the City of Lincoln, Lower Platte South Natural Resources District, Nebraska Department of Correctional Services, and Nebraska Emergency Management Agency, for the Flood Control Project at S. 14th Street and Highway 2 along Beal Slough, upon the terms and conditions set forth in said Agreement, which is attached hereto marked as Attachment "A", is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to transmit one fully executed original of said Agreement to Susan Starcher for filing with Lancaster County.

Introduced by Ken Svoboda

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

USE PERMIT 137A - APPLICATION OF PIONEER WOODS/NORMANDY COURT ASSOCIATION TO AMEND USE PERMIT NO. 137 TO REDUCE THE EXISTING FRONT YARD SETBACK FROM 20 FEET TO 8.5 FEET IN FRONT OF LOT 3 ALONG S. 16TH STREET, AND TO ADD EIGHT PARKING STALLS, ON PROPERTY GENERALLY LOCATED AT S. 16TH STREET AND NORMANDY COURT - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-84820 WHEREAS, Pioneer Woods/Normandy Court Association has submitted an application in accordance with Sections 27.27.080 of the Lincoln Municipal Code designated as Use Permit No. 137A to amend Use Permit No. 137 in order to reduce the existing front yard setback in front of Lot 3 along S. 16th Street and to add eight parking stalls on property generally located at S. 16th Street and Normandy Court, and legally described as:

Lots 1, 2, 3, 4, 5, 6, and 7, all in Kensington Plaza Addition, located in the Southwest Quarter of Section 12, Township 9 North, Range 6 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska, and more particularly described as follows:

Commencing at the northwest corner of said Lot 3, said point being on the east line of South 16th Street right-of-way, said point also being the true point of beginning; thence easterly along the north line of said Lot 3, and the north line of Lots 4 and 5, on an assumed bearing of south 89 degrees 58 minutes 59 seconds east, a distance of 810.68 feet to the northeast corner of said Lot 5; thence south 45 degrees 37 minutes 10 seconds west along the southeast line of said Lot 5, and the southeast line of Lots 6, 7, and 1, a distance of 719.18 feet to the southeast corner of said Lot 1, said point being on the north

line of Old Cheney Road right-of-way; thence north 89 degrees 11 minutes 53 seconds west along the south line of said Lot 1, said line being the north line of Old Cheney Road right-of-way, a distance of 277.58 feet to the southwest corner of said Lot 1; thence north 44 degrees 35 minutes 57 seconds west along the southwest line of said Lot 1, said line being the northeast line of said right-of-way, a distance of 35.60 feet to a southwest corner of said Lot 1, said point being on the east line of South 16th Street right-of-way; thence north 00 degrees 00 minutes 00 seconds east along the west line of said Lot 1, the west line of Lot 2, and a west line of said Lot 3, said line being the east line of South 16th Street right-of-way, a distance of 395.33 feet to a point of curvature of a non-tangent curve in a clockwise direction having a radius of 560.00 feet, a central angle of 08 degrees 04 minutes 46 seconds, an arc distance of 78.97 feet along a west line of said Lot 3, said line being an east line of said right-of-way, a tangent length of 39.55 feet, a chord bearing of north 04 degrees 16 minutes 12 seconds east, and a chord distance of 78.90 feet to the point of beginning, said tract contains a calculated area of 280,449.39 square feet or 6.44 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this amendment to the development within the use permit will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

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

That the application of Pioneer Woods/Normandy Court Association, hereinafter referred to as "Permittee", to amend Use Permit No. 137 in order to reduce the existing front yard setback in front of Lot 3 along S. 16th Street and to add eight parking stalls, on the property legally described above be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said development be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a waiver to the front yard setback from 20 feet to 8.5 feet in front of Lot 3 along S. 16th Street as shown on the site plan and will provide 100 percent screening from 0 to 3 feet in front of the new parking area along S. 16th Street.
2. Upon approval of the use permit by the City Council, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproducible final site plan including five copies before receiving building permits.
3. Before applying for a building permit all development and construction must substantially comply with the approved plans.
4. All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the owner or an appropriately established homeowners association approved by the City.
5. The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said Items as shown on the approved site plan.
6. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
7. The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six

months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

8. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Ken Svoboda

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

ORDINANCE - 1ST READING & RELATED RESOLUTIONS (AS REQUIRED)

AMENDING CHAPTER 2.54 OF THE LINCOLN MUNICIPAL CODE RELATING TO CONFLICTS OF INTEREST OF OFFICERS AND EMPLOYEES TO DECLARE THE POLICY OF THE CHAPTER; TO REVISE THE DEFINITION OF IMMEDIATE FAMILY; TO ADOPT STANDARDS FOR ETHICAL CONDUCT OF OFFICERS AND EMPLOYEES, INCLUDING GENERAL PRINCIPALS RELATING TO FINANCIAL INTERESTS, USE OF INFORMATION, STATUS, OR PROPERTY FOR PRIVATE GAIN, AND CONTRACTING WITH THE CITY; TO REQUIRE CANDIDATES FOR OFFICE TO DISCLOSE EXISTING OR PENDING CONTRACTUAL RELATIONSHIPS WITH THE CITY; TO DECLARE INTERESTS IN CONTRACTS BY REVISING LANGUAGE, POSTING OF INFORMATION ON WEBSITES, TO REQUIRE ADDITIONAL INFORMATION ON DISCLOSURES, TO EXTEND BID DEADLINES, AND TO REQUIRE COUNCIL APPROVAL OF SUCH CONTRACTS. (3/31/08 - CON'T ON 1ST READING; TO HAVE P.H. 4/14/08) (4/7/08 - CON'T. 1ST READING TO 4/14/08) - CLERK read an ordinance, introduced by John Spatz, amending Chapter 2.54 of the Lincoln Municipal Code relating to conflicts of interest of officers and employees to declare the policy of the Chapter; to revise the definition of immediate family; to adopt standards for ethical conduct of officers and employees, including general principals relating to financial interests, use of information, status, or property for private gain, and contracting with the City; to require candidates for office to disclose existing or pending contractual relationships with the City; to declare interests in contracts by revising language, posting of information on websites, to require additional information on disclosures, to extend bid deadlines, and to require Council approval of such contracts, the first time.

AMENDING CHAPTER 8.46 OF THE LINCOLN MUNICIPAL CODE RELATING TO WEED ABATEMENT BY AMENDING SECTIONS 8.46.010 AND 8.46.020 TO RAISE THE HEIGHT OF WEEDS OR WORTHLESS VEGETATION THAT MUST BE CUT FROM SIX INCHES TO TWELVE INCHES ABOVE THE GROUND; AND REPEALING SECTIONS 8.46.010 AND 8.46.020 AS HITHERTO EXISTING - PRIOR to reading:

COOK Moved to Delay Bill No. 08-43 to have Public Hearing with 2nd Reading in four weeks on May 12, 2008.

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

CLERK Read an ordinance, introduced by Jon Camp, amending Chapter 8.46 of the Lincoln Municipal Code relating to Weed Abatement by amending Section 8.46.010, Owner of Real Estate to Remove Weeds, and Section 8.46.020, City May Cause Removal of Weeds, to raise the height of weeds or worthless vegetation that must be cut from six inches to twelve inches above the ground; and repealing Sections 8.46.010 and 8.46.020 of the Lincoln Municipal Code as hitherto existing, the first time.

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

CHANGE OF ZONE 08003 - APPLICATION OF OLDERBAK ENTERPRISES NORTH, LLC FOR A CHANGE OF ZONE FROM O-2 SUBURBAN OFFICE DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 48TH AND MEREDETH STREET. (RELATED ITEMS: 08-17, 08R-65) (ACTION DATE: 3/10/08) (3/3/08 - P.H. CON'T. 4 WEEKS TO 3/31/08) (ACTION DATE: 4/7/08) (4/7/08 - ACTION DELAYED 1 WK TO 4/14/08) - 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 first time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Camp & **LOST** by the following vote: AYES: None; NAYS: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda.

The ordinance, having **LOST**, was assigned the File #38-4568 & was placed on file in the Office of the City Clerk.

SPECIAL PERMIT 08007 - APPEAL OF KEITH SACKSCHEWSKY TO THE PLANNING COMMISSION'S CONDITIONAL APPROVAL OF THE APPLICATION OF OLDERBAK ENTERPRISES NORTH LLC TO EXPAND A NONCONFORMING USE TO INCREASE THE AREA WHERE THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES IS ALLOWED, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 48TH STREET AND MEREDETH STREET. (RELATED ITEMS: 08-17, 08R-65) (ACTION DATE: 3/10/08) (3/3/08 - P.H. CON'T. 4 WEEKS TO 3/31/08) (ACTION DATE: 4/7/08) (4/7/08 - ACTION DELAYED 1 WK TO 4/14/08) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

Seconded by Camp & **LOST** by the following vote: AYES: None; NAYS: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda.

The resolution, having **LOST**, was assigned the File #38-4569 & was placed on file in the Office of the City Clerk.

APPROVING A CONTRACT BETWEEN THE CITY AND LINCOLN HAYMARKET DEVELOPMENT CORP. TO OPERATE AND REGULATE A SATURDAY PUBLIC MARKET IN THE HAYMARKET AREA, 7TH STREET FROM P TO Q STREETS AND P STREET FROM 7TH TO 8TH STREETS FROM MAY 3, 2008 THROUGH OCTOBER 11, 2008 AND ON 8TH STREET FROM P TO Q STREET FROM JUNE 14, 2008 THROUGH AUGUST 9, 2008 - CLERK read an ordinance, introduced by John Spatz, accepting and approving the Contract between the City of Lincoln, Nebraska, a municipal corporation, and the Lincoln Haymarket Development Corporation for establishment and regulation of a Saturday public market in the Haymarket area, 7th Street from P to Q Streets and P Street from 7th to 8th Streets, from May 3, 2008 through October 11, 2008, and on 8th Street from P to Q Street from June 14, 2008 through August 9, 2008, and authorizing the Mayor to sign such Contract on behalf of the City, the third time.

SPATZ Moved to pass the ordinance as read.

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

The ordinance, being numbered #19068, is recorded in Ordinance Book #26, Page

APPROVING A CONTRACT BETWEEN THE CITY AND DOWNTOWN LINCOLN ASSOCIATION TO OPERATE AND REGULATE A MID-WEEK JAZZ IN JUNE PUBLIC MARKET IN THE AREA LOCATED AT 12TH STREET FROM Q TO R STREET AND R STREET FROM 12TH TO 13TH STREETS FROM JUNE 3, 2008 THROUGH JUNE 24, 2008 - CLERK read an ordinance, introduced by John Spatz, accepting and approving the Public Market Contract between the City of Lincoln, Nebraska and Downtown Lincoln Association for establishment and regulation of a Jazz in June public market in the Marketplace area, 12th Street from Q to R Streets and R Street from 12th to 13th Streets, on each Tuesday from June 3, 2008 through June 24, 2008, and authorizing the Mayor to sign such Contract on behalf of the City, the third time.

SPATZ Moved to pass the ordinance as read.

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

The ordinance, being numbered #19069, is recorded in Ordinance Book #26, Page

AMENDING TITLE 28 OF THE LINCOLN MUNICIPAL CODE RELATING TO STORMWATER QUALITY AND EROSION AND SEDIMENT CONTROL BY CREATING A NEW CHAPTER 28.02, REGULATIONS FOR ILLICIT DISCHARGES - CLERK read an ordinance, introduced by John Spatz, amending Title 28 of the Lincoln Municipal Code relating to stormwater quality and erosion and sediment control by creating a new Chapter 28.02, Regulations for Illicit Discharges, the third time.

SPATZ Moved to pass the ordinance as read.
Seconded by Svoboda & carried by the following vote: AYES: Camp,
Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.
The ordinance, being numbered #19070, is recorded in Ordinance Book #26, Page

ADOPTING FEES TO COVER THE EXPENSES OF CONDUCTING NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT COMPLIANCE INSPECTIONS AT
REGULATED INDUSTRIAL FACILITIES BY HEALTH DEPARTMENT STAFF. (TO HAVE
ACTION 4/14/08 W/BILL NO. 08-36) - CLERK read the following resolution,
introduced by John Spatz, who moved its adoption:

A-84821 WHEREAS, in accordance with Section 28.02.070 of the Lincoln
Municipal Code, the City Council has authority to approve fees which the
City may charge for National Pollutant Discharge Elimination System
(NPDES) stormwater permit compliance inspections at industrial
facilities; and

WHEREAS, the City Health Department has proposed a fee of \$400 per
year for industries holding "General" NPDES permits and a fee of \$300
per year for industries holding "No Exposure" NPDES permits; and

WHEREAS, the Lincoln Lancaster County Board of Health has reviewed
the proposed fees and recommends their adoption; and

WHEREAS, the proposed fees are before the City Council for its
consideration and approval; and

WHEREAS, the City Council finds that the proposed fees, based on
the reasonable costs of providing staff to conduct the compliance
inspections represents reasonable maximum fee to be charged for said
inspections.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
Lincoln, Nebraska that effective upon adoption of this Resolution, the
following schedule of costs for NPDES stormwater permit compliance
inspection fees shall be as follows:

SCHEDULE OF COSTS

<u>NPDES Permit Type</u>	<u>Annual Fee</u>
General	\$400.00
No Exposure	\$300.00

Introduced by John Spatz

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

REGISTERED TO SPEAK SESSION - NONE

OPEN MICROPHONE SESSION

Richard Esquivel, 733 W. Cuming, came forward to comment on
current tax dollar issues regarding the following: loss of State Fair
and how it will affect the race track; air quality at the future
Technology Park; operation of water fountains in parks; youth sports
funding; and Douglas Theater competition.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to April 21, 2008.
Seconded by Svoboda & carried by the following vote: AYES: Camp,
Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

REGULAR MEETING
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UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on April
21, 2008.
 Seconded by Svoboda & carried by the following vote: AYES: Camp,
Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

ADJOURNMENT 4:24 P.M.

CAMP Moved to adjourn the City Council meeting of April 14, 2008.
 Seconded by Svoboda & carried by the following vote: AYES: Camp,
Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.
So ordered.

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant