

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, JULY 28, 2008 AT 5:30 P.M.**

The Meeting was called to order at 5:30 p.m. Present: Council Chair Eschliman; Council Members: Cook, Emery, Marvin, Spatz, Svoboda; City Clerk, Joan E. Ross; Absent: Camp.

Council Chair Eschliman 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 July 21, 2008 reported having done so, found same correct.

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

PUBLIC HEARING

APPLICATION OF HUSKER MANAGEMENT, INC. DBA HOLIDAY INN & EXPRESS SUITES LINCOLN SOUTHEAST FOR A CLASS I LIQUOR LICENSE AT 8801 AMBER HILL CT.;
MANAGER APPLICATION OF KIRTI K. TRIVEDI FOR HUSKER MANAGEMENT, INC. DBA HOLIDAY INN & EXPRESS SUITES LINCOLN SOUTHEAST AT 8801 AMBER HILL CT.;
APPLICATION OF LNK LODGING, LLC DBA HOLIDAY INN EXPRESS & SUITES LINCOLN AIRPORT FOR A CLASS I LIQUOR LICENSE AT 1101 W. COMMERCE WAY;
MANAGER APPLICATION OF KIRTI K. TRIVEDI FOR LNK LODGING, LLC DBA HOLIDAY INN EXPRESS & SUITES LINCOLN AIRPORT AT 1101 W. COMMERCE WAY - Kirti K. Trivedi, 4803 S. 189th St., Omaha, came forward to take oath and answer questions about his past criminal history involving alcohol.

This matter was taken under advisement.

APPLICATION OF LAZLO INC. DBA FIREWORKS RESTAURANT TO EXPAND ITS PRESENTLY LICENSED PREMISES BY THE ADDITION OF AN OUTSIDE SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 25 FEET BY 25 FEET TO THE WEST AT 5750 S. 86TH DRIVE - Angela Tucci, 1570 S. Cotner Blvd., came forward to answer questions.

This matter was taken under advisement.

AMENDING CHAPTER 14.54 OF THE LINCOLN MUNICIPAL CODE RELATING TO OCCUPANCY ABOVE OR BELOW PUBLIC PROPERTY TO PERMIT FENCES AND RETAINING WALLS ON CITY PROPERTY UNDER THE TERMS AND CONDITIONS SET FORTH IN SAID CHAPTER BY AMENDING SECTION 14.54.010 TO ADD DEFINITIONS FOR FENCE AND RETAINING WALL AND TO AMEND THE DEFINITION OF OWNER; AMENDING SECTION 14.54.020 TO REMOVE THE REQUIREMENT THAT CITY COUNCIL APPROVE PERMITS; AMENDING SECTION 14.54.030 TO PROVIDE THE PROCEDURE FOR APPLYING FOR FENCE AND RETAINING WALL PERMITS, TO ALLOW PUBLIC WORKS TO SET AN APPLICATION FEE FOR USES OF PUBLIC SPACE OTHER THAN FENCES OR RETAINING WALLS, AND TO PROVIDE FOR AN APPEAL TO CITY COUNCIL FOR DENIED APPLICATIONS; ADDING A NEW SECTION NUMBERED 14.54.035 TO PROVIDE STANDARDS AND CONDITIONS FOR FENCES AND RETAINING WALLS; AMENDING SECTION 14.54.040 TO EXCLUDE FENCES AND RETAINING WALLS FROM THE INSURANCE AND BOND REQUIREMENTS; AMENDING SECTION 14.54.070 TO AMEND THE PERMIT REVOCATION PROCESS AND TO PROVIDE FOR AN APPEAL TO CITY COUNCIL FOR REVOKED PERMITS; AMENDING SECTION 14.54.080 TO INCLUDE FENCES AND RETAINING WALLS IN THE APPLICATION OF THIS CHAPTER; AMENDING SECTION 14.54.090 TO AMEND THE FEE FOR USE OF PUBLIC SPACE; AND REPEALING SECTIONS 14.54.010, 14.54.020, 14.54.030, 14.54.040, 14.54.070, 14.54.080, AND 14.54.090 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - Shawn Podraza, 548 N. 24th St., came forward in support of the amendment. He stated he has been dealing with the City for seven years regarding the retaining wall and improvements on the public right-of-way located at the corner of 24th and T Streets.

This matter was taken under advisement.

AMENDING CHAPTER 26.33 OF THE LINCOLN MUNICIPAL CODE RELATING TO FEES BY AMENDING SECTION 26.33.010 TO PROVIDE THAT ANY PERSON SUBMITTING AN APPLICATION UNDER TITLE 26 OF THE LINCOLN MUNICIPAL CODE SHALL PAY AN APPROPRIATE FEE THEREFOR AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; REPEALING SECTIONS. 26.33.020, 26.33.030, 26.33.050, 26.33.060, 26.33.070, 26.33.080, 26.33.090, 26.33.100, 26.33.110, 26.33.120, AND 26.33.130 WHICH SET SAID FEES BY ORDINANCE OF THE CITY COUNCIL; AND REPEALING SECTION 26.33.010 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING;

CHANGE OF ZONE 08035 - AMENDING CHAPTER 27.80 OF THE LINCOLN MUNICIPAL CODE RELATING TO FEES BY AMENDING SECTION 27.80.010 TO REQUIRE ANY PERSON SUBMITTING AN APPLICATION UNDER TITLE 27 OF THE LINCOLN MUNICIPAL CODE TO PAY AN APPROPRIATE FEE THEREFOR AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; REPEALING SECTIONS 27.80.020, 27.80.025, 27.80.030, 27.80.040, 27.80.060, 27.80.070, 27.80.080, 27.80.090, 27.80.100, 27.80.105, 27.80.110, 27.80.125, 27.80.130, AND 27.80.140, WHICH SET SAID FEES BY ORDINANCE OF THE CITY COUNCIL; AND REPEALING SECTION 27.80.010 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING;

AMENDING SECTION 14.20.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO VACATION OF PUBLIC WAYS TO PROVIDE THAT THE APPLICATION FEE SHALL BE IN THE AMOUNT ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; AND REPEALING SECTION 14.20.020 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING;

ADOPTING THE FEE SCHEDULE FOR APPLICATION REVIEWS UNDER CHAPTER 14.20, TITLE 26, AND TITLE 27 OF THE LINCOLN MUNICIPAL CODE AND AMENDMENTS TO THE LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN - Marvin Krout, Director of Planning, came forward to present changes involving fees. First, he stated that if approved, fees would increase by an average of 20%. Secondly, considerations of fee increases in the future would change. Today, it involves three ordinances and a separate resolution going through the Planning Commission to the City Council. In the future, the Planning Department will propose a simple resolution coming directly to the City Council for approval. While fee increases have not been requested often in the past, he stated during his tenure, an increase in 2003 was approved; however, in 2006 a 12% increase was not. He further explained that his department is not an enterprise fund and does not intend to recover the full cost of services but rather keep up with inflation. He said applications coming to his department involve the following: meeting times spent with applicants and agents, checking legals, preparing maps, sending out notice letters, writing staff reports, doing mail outs, newspaper advertisements, ordering, posting & picking up signs, making presentations, taking minutes at public hearings, attending neighborhood meetings and getting legal documents prepared, signed & filed and updating City maps & databases after an application has been approved. An implemented change will delete fees from three ordinances and put in one resolution. He also stated fees will be collected on a per-acre basis rather than a per-unit or per-lot basis encouraging higher density. In answer to a Council question, he replied that the Planning Commission did not oppose these changes.

This matter was taken under advisement.

VACATION 08001 - VACATING THE NORTH/SOUTH ALLEY IN THE BLOCK BETWEEN FREMONT STREET AND HARTLEY STREET AND TOUZALIN AVENUE AND N. 60TH STREET AS REQUESTED BY THE EVANGELICAL UNITED LUTHERAN CHURCH;

SPECIAL PERMIT 08022 - APPLICATION OF UNITED LUTHERAN CHURCH TO EXPAND A CHURCH PARKING LOT, WITH A REQUEST TO MODIFY THE PARKING REQUIREMENTS TO ALLOW PARKING IN THE FRONT YARD SETBACK OF HARTLEY STREET, TOUZALIN AVENUE AND N. 60TH STREET - Jeremy Williams, Design Associates, 1609 N St., came forward on behalf of the church summarizing their plan to expand parking and provide additional off-street parking.

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 and to state that an amendment has been drafted to satisfy both parties.

LeRoy Sievers, 3800 VerMaas Place, Suite 200, Attorney for Emerald SID #6, came forward to state his clients are in agreement with the final version of the language as presented.

Becky Vandenberg, 8301 West O St., came forward representing Emerald SID #6, to express gratitude that an agreement has been reached but stated she has concerns about other wellheads in the area.

This matter was taken under advisement.

APPROVING RFOX INC. DBA FOX NEIGHBORHOOD GRILL & BAR AS A KENO SATELLITE SITE AT 1245 LIBRA DRIVE;

APPROVING MIDTOWN DRIFTERS INC. DBA DRIFTERS AS A KENO SATELLITE SITE AT 3223 CORNHUSKER HIGHWAY - John Hewitt came forward on behalf of Big Red Keno to verify that there will now be 35 Keno sites in Lincoln.

This matter was taken under advisement.

APPROVING THE 2008-2009 MAINTENANCE AND MANAGEMENT BID BUDGETS AND PROGRAM OF WORK FOR THE DOWNTOWN LINCOLN ASSOCIATION PROGRAM FOR FISCAL YEAR 2008-09 - Jon Weinberg, Vice President of Ameritas Life, came forward on behalf of the Downtown Lincoln Association as Chair to answer any questions. He presented the budget for the Maintenance BID which reflects a 5% increase and the Management BID which reflects a 4% increase. Mr. Weinberg stated the major focus for next year will include the activation of the Downtown Civic Ventures Retail Recruitment and Retention Strategy, a direct outgrowth of the retail study performed last year.

Terry Uland, DLA President, was on hand for questioning.

George Pinkerton, DLA Maintenance Director, was on hand for questioning.

This matter was taken under advisement.

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

COUNCIL ACTION

REPORTS OF CITY OFFICERS - NONE

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, AUGUST 4, 2008 AT 1:30 P.M. FOR THE APPLICATION OF MARK H. MCDONALD DBA THE ITALIAN VINE: WINE DISTRIBUTORS FOR A CLASS X WHOLESALE LIQUOR LICENSE LOCATED AT 5310 S. 56TH STREET - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-84946 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 4, 2008, at 1:30 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 Mark H. McDonald dba The Italian Vine Wine Distributors for a Class X wholesale liquor license located at 5310 S. 56th Street.

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

Introduced by Doug Emery

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

SETTING THE HEARING DATE OF MONDAY, AUGUST 4, 2008 AT 1:30 P.M. FOR THE APPLICATION OF WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP FOR A CLASS D LIQUOR LICENSE LOCATED AT 110 W. FLETCHER AVENUE, SUITE 101 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-84947 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 4, 2008, at 1:30 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 Whitehead Oil Company dba U-Stop Convenience Shop for a Class D liquor license located at 110 W. Fletcher Avenue, Suite 101.

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

Introduced by Doug Emery

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

INFORMAL PETITION TO CREATE A WATER DISTRICT ON PROPERTY LOCATED AT 335 N.W. 19TH STREET BETWEEN WEST Q STREET AND WEST S STREET, SUBMITTED BY MICHAEL SMITH, GENERAL PARTNER OF SBR LIMITED PARTNERSHIP - CLERK presented said petition which was referred to the Public Works Department on 7/17/08.

LIQUOR RESOLUTIONS

APPLICATION OF HUSKER MANAGEMENT, INC. DBA HOLIDAY INN & EXPRESS SUITES LINCOLN SOUTHEAST FOR A CLASS I LIQUOR LICENSE AT 8801 AMBER HILL CT. - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

A-84948 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 Husker Management, Inc. dba Holiday Inn & Express Suites Lincoln Southeast for a Class "I" liquor license at 8801 Amber Hill Court, 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 Ken Svoboda

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

MANAGER APPLICATION OF KIRTI K. TRIVEDI FOR HUSKER MANAGEMENT, INC. DBA HOLIDAY INN & EXPRESS SUITES LINCOLN SOUTHEAST AT 8801 AMBER HILL CT. - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

SVOBODA So moved.

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

The resolution, having **LOST**, was assigned the File #38-4575 & was placed on file in the Office of the City Clerk.

CLERK Read the following resolution, introduced by Ken Svoboda, who moved its adoption for denial:

A-84949 WHEREAS, Husker Management Inc. dba Holiday Inn Express Suites, Lincoln Southeast, located at 8801 Amber Hill Court, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Kirti K. Trivedi be named manager;

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 to the Nebraska

Liquor Commission that Kirti K. Trivedi be denied as manager of this business for said licensee. The City Council has determined that the application should be denied for one or more of the following reasons:

- a. The applicant is unfit, unwilling, and/or unable to properly provide the service proposed within the City of Lincoln.
- b. The applicant cannot conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act and/or pertinent City ordinances.
- c. The Applicant has not demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, and pertinent City ordinances.

The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

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

APPLICATION OF LNK LODGING, LLC DBA HOLIDAY INN EXPRESS & SUITES LINCOLN AIRPORT FOR A CLASS I LIQUOR LICENSE AT 1101 W. COMMERCE WAY - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

A-84950 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 LNK Lodging LLC dba Holiday Inn & Express Suites Lincoln Airport for a Class "I" liquor license at 1101 W. Commerce Way, 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 Ken Svoboda

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

MANAGER APPLICATION OF KIRTI K. TRIVEDI FOR LNK LODGING, LLC DBA HOLIDAY INN EXPRESS & SUITES LINCOLN AIRPORT AT 1101 W. COMMERCE WAY - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for denial:

A-84951 WHEREAS, LNK Lodging LLC dba Holiday Inn Express Suites, Lincoln Airport, located at 1101 W. Commerce Way, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Kirti K. Trivedi be named manager;

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 to the Nebraska Liquor Commission that Kirti K. Trivedi be denied as manager of this business for said licensee. The City Council has determined that the application should be denied for one or more of the following reasons:

- a. The applicant is unfit, unwilling, and/or unable to properly provide the service proposed within the City of Lincoln.
- b. The applicant cannot conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act and/or pertinent City ordinances.
- c. The Applicant has not demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, and pertinent City ordinances.

The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

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

APPLICATION OF LAZLO INC. DBA FIREWORKS RESTAURANT TO EXPAND ITS PRESENTLY LICENSED PREMISES BY THE ADDITION OF AN OUTSIDE SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 25 FEET BY 25 FEET TO THE WEST AT 5750 S. 86TH

DRIVE - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

A-84952 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 Lazlo Inc. dba Fireworks Restaurant to expand its licensed premises by the addition of a sidewalk café area measuring

approximately 25 feet by 25 feet to the west at 5750 S. 86th Drive, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

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

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

AMENDING CHAPTER 14.54 OF THE LINCOLN MUNICIPAL CODE RELATING TO OCCUPANCY ABOVE OR BELOW PUBLIC PROPERTY TO PERMIT FENCES AND RETAINING WALLS ON CITY PROPERTY UNDER THE TERMS AND CONDITIONS SET FORTH IN SAID CHAPTER BY AMENDING SECTION 14.54.010 TO ADD DEFINITIONS FOR FENCE AND RETAINING WALL AND TO AMEND THE DEFINITION OF OWNER; AMENDING SECTION 14.54.020 TO REMOVE THE REQUIREMENT THAT CITY COUNCIL APPROVE PERMITS; AMENDING SECTION 14.54.030 TO PROVIDE THE PROCEDURE FOR APPLYING FOR FENCE AND RETAINING WALL PERMITS, TO ALLOW PUBLIC WORKS TO SET AN APPLICATION FEE FOR USES OF PUBLIC SPACE OTHER THAN FENCES OR RETAINING WALLS, AND TO PROVIDE FOR AN APPEAL TO CITY COUNCIL FOR DENIED APPLICATIONS; ADDING A NEW SECTION NUMBERED 14.54.035 TO PROVIDE STANDARDS AND CONDITIONS FOR FENCES AND RETAINING WALLS; AMENDING SECTION 14.54.040 TO EXCLUDE FENCES AND RETAINING WALLS FROM THE INSURANCE AND BOND REQUIREMENTS; AMENDING SECTION 14.54.070 TO AMEND THE PERMIT REVOCATION PROCESS AND TO PROVIDE FOR AN APPEAL TO CITY COUNCIL FOR REVOKED PERMITS; AMENDING SECTION 14.54.080 TO INCLUDE FENCES AND RETAINING WALLS IN THE APPLICATION OF THIS CHAPTER; AMENDING SECTION 14.54.090 TO AMEND THE FEE FOR USE OF PUBLIC SPACE; AND REPEALING SECTIONS 14.54.010, 14.54.020, 14.54.030, 14.54.040, 14.54.070, 14.54.080, AND 14.54.090 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 14.54 of the Lincoln Municipal Code relating to Occupancy Above or Below Public Property to permit fences and retaining walls on City property under the terms and conditions set forth in said chapter by amending Section 14.54.010 to add definitions for fence and retaining wall and to amend the definition of owner; amending Section 14.54.020 to remove the requirement that City Council approve permits; amending Section 14.54.030 to provide the procedure for applying for fence and retaining wall permits, to allow Public Works to set an application fee for uses of public space other than fences or retaining walls, and to provide for an appeal to City Council for denied applications; adding a new section numbered 14.54.035 to provide

standards and conditions for fences and retaining walls; amending Section 14.54.040 to exclude fences and retaining walls from the insurance and bond requirements; amending Section 14.54.070 to amend the permit revocation process and to provide for an appeal to City Council for revoked permits; amending Section 14.54.080 to include fences and retaining walls in the application of this chapter; amending Section 14.54.090 to amend the fee for use of public space; and repealing Sections 14.54.010, 14.54.020, 14.54.030, 14.54.040, 14.54.070, 14.54.080, and 14.54.090 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 26.33 OF THE LINCOLN MUNICIPAL CODE RELATING TO FEES BY AMENDING SECTION 26.33.010 TO PROVIDE THAT ANY PERSON SUBMITTING AN APPLICATION UNDER TITLE 26 OF THE LINCOLN MUNICIPAL CODE SHALL PAY AN APPROPRIATE FEE THEREFOR AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; REPEALING SECTIONS. 26.33.020, 26.33.030, 26.33.050, 26.33.060, 26.33.070, 26.33.080, 26.33.090, 26.33.100, 26.33.110, 26.33.120, AND 26.33.130 WHICH SET SAID FEES BY ORDINANCE OF THE CITY COUNCIL; AND REPEALING SECTION 26.33.010 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING. (RELATED ITEMS: 08-91, 08-92, 08-93, 08R-168) - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 26.33 of the Lincoln Municipal Code relating to fees by amending Section 26.33.010 to provide that any person submitting an application under Title 26 of the Lincoln Municipal Code shall pay an appropriate fee therefor as established by resolution of the City Council; repealing Sections. 26.33.020, 26.33.030, 26.33.050, 26.33.060, 26.33.070, 26.33.080, 26.33.090, 26.33.100, 26.33.110, 26.33.120, and 26.33.130 which set said fees by ordinance of the City Council; and repealing Section 26.33.010 of the Lincoln Municipal Code as hitherto existing, the second time.

CHANGE OF ZONE 08035 - AMENDING CHAPTER 27.80 OF THE LINCOLN MUNICIPAL CODE RELATING TO FEES BY AMENDING SECTION 27.80.010 TO REQUIRE ANY PERSON SUBMITTING AN APPLICATION UNDER TITLE 27 OF THE LINCOLN MUNICIPAL CODE TO PAY AN APPROPRIATE FEE THEREFOR AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; REPEALING SECTIONS 27.80.020, 27.80.025, 27.80.030, 27.80.040, 27.80.060, 27.80.070, 27.80.080, 27.80.090, 27.80.100, 27.80.105, 27.80.110, 27.80.125, 27.80.130, AND 27.80.140, WHICH SET SAID FEES BY ORDINANCE OF THE CITY COUNCIL; AND REPEALING SECTION 27.80.010 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING. (RELATED ITEMS: 08-91, 08-92, 08-93, 08R-168) - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 27.80 of the Lincoln Municipal Code relating to fees by amending Section 27.80.010 to require any person submitting an application under Title 27 of the Lincoln Municipal Code to pay an appropriate fee therefor as established by resolution of the City Council; repealing Sections 27.80.020, 27.80.025, 27.80.030, 27.80.040, 27.80.060, 27.80.070, 27.80.080, 27.80.090, 27.80.100, 27.80.105, 27.80.110, 27.80.125, 27.80.130, and 27.80.140, which set said fees by ordinance of the City Council; and repealing Section 27.80.010 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTION 14.20.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO VACATION OF PUBLIC WAYS TO PROVIDE THAT THE APPLICATION FEE SHALL BE IN THE AMOUNT ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL; AND REPEALING SECTION 14.20.020 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING. (RELATED ITEMS: 08-91, 08-92, 08-93, 08R-168) - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 14.20.020 of the Lincoln Municipal Code relating to vacation of public ways to provide that the application fee shall be in the amount established by resolution of the City Council; and repealing Section 14.20.020 of the Lincoln Municipal Code as hitherto existing, the second time.

ADOPTING THE FEE SCHEDULE FOR APPLICATION REVIEWS UNDER CHAPTER 14.20, TITLE 26, AND TITLE 27 OF THE LINCOLN MUNICIPAL CODE AND AMENDMENTS TO THE LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN. (RELATED ITEMS: 08-91, 08-92, 08-93, 08R-168) (ACTION DATE: 8/4/08)

VACATION 08001 - VACATING THE NORTH/SOUTH ALLEY IN THE BLOCK BETWEEN FREMONT STREET AND HARTLEY STREET AND TOUZALIN AVENUE AND N. 60TH STREET AS REQUESTED BY THE EVANGELICAL UNITED LUTHERAN CHURCH. (RELATED ITEMS: 08-94, 08R-169) - CLERK read an ordinance, introduced by Jonathan Cook, vacating the north-south alley between Touzalin Avenue and North 60th Street from Fremont Street to Hartley Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

SPECIAL PERMIT 08022 - APPLICATION OF UNITED LUTHERAN CHURCH TO EXPAND A CHURCH PARKING LOT, WITH A REQUEST TO MODIFY THE PARKING REQUIREMENTS TO ALLOW PARKING IN THE FRONT YARD SETBACK OF HARTLEY STREET, TOUZALIN AVENUE AND N. 60TH STREET. (RELATED ITEMS: 08-94, 08R-169) (ACTION DATE: 8/4/08)

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 - CONT'D P.H. W/ACTION ON 4/14/08) (4/14/08 - CONT'D P.H. W/ACTION TO 4/28/08) (4/28/08-CONT'D P.H. W/ACTION TO 5/19/08) (5/19/08-PLACED ON PENDING, NO DATE CERTAIN) (6/9/08 - REMOVED FROM PENDING TO HAVE P.H. ON 7/7/08) (7/7/08 - P.H. & ACTION CONT'D TO 7/28/08) - PRIOR to reading:

MARVIN Moved to amend Bill No. 08R-82 in the following manner:

1. Add a new condition to paragraph 2 as follows:

h. Install two (2) monitoring wells including continuous sediment collection as recommended by the Lower Platte South Natural Resources District ("LPSNRD") in its letter to LeRoy Sievers dated May 2, 2008. The results of the boring shall be provided to LPSNRD and SID #6. Installation of the monitoring wells and completion of the subsoil boring must be completed prior to the start of any soil mining operation.

2. Add a new paragraph (i) as follows:

Obtain and test water samples from the two (2) monitoring wells at frequencies as recommended by LPSNRD, but not less than annually and not more than four (4) times per year for contaminants likely to be generated by the soil mining operations under this Permit and submit the test results to LPSNRD and SID #6 when tested and to the City as part of the annual administrative review.

3. On page 2, paragraph 1, lines 6 through 9 amend the language to read as follows:

This Permit approves a soil, sand and gravel excavation operation for a period of three years from the date excavation operations are commenced with an administrative compliance review to be performed annually on the commencement date until the expiration of this special permit or completion of the operation, whichever first occurs. Permittee shall provide written notice to the City of the date excavation operations commence.

4. On page 2, paragraph 4, lines 30 and 31 amend the language to read as follows:

Operating hours shall be limited to daylight hours Monday through Saturday and night hours Monday through Friday for government contracts.

5. Add a new paragraph (5) as follows:

Should the soil mining activities authorized under this permit result in the water wells of the Lancaster County SID #6 ("SID #6") Public Water System running dry or becoming contaminated beyond their current condition, then Permittee shall immediately (i.e. within 24 hours) at its expense, provide an alternate water source for SID #6 in accordance with all applicable City and County ordinances and/or other state or federal laws or rules or regulations. The alternate water source

may be provided as bottled water, trucked or any other means to the Public Water System for SID #6. Permittee understands that the City of Lincoln will not provide such alternate water source.

Permittee agrees that LPSNRD in consultation with both an expert selected by the Permittee and the State of Nebraska Department of Health and Human Services and/or the Lancaster County Health Department shall be the entity to make a preliminary assessment whether Permittee's soil mining activities are the likely cause of the SID #6 wells running dry or becoming contaminated. Currently static water levels in SID #6 wells are at 18 and 20 feet. Should the level drop to 25 feet or below, then an investigation shall begin immediately to determine the cause of such reduced levels and all mining operations shall cease until the cause of the decline is determined.

Permittee agrees that the preliminary assessment by LPSNRD, after consultation as noted previously shall be binding for purposes of Permittee's initial obligation to provide an alternate water supply for SID #6. Should the preliminary assessment by LPSNRD prove to be incorrect, Permittee shall be reimbursed by SID #6 only for those costs and expenses SID #6 would have incurred in providing the alternate water supply absent Permittee's initial obligation. Permittee agrees that LPSNRD, the Department of Health and Human Services and the Lancaster County Health Department incur no liability and are held harmless as to any claims of Permittee for the performance of this service.

Permittee further agrees that if SID #6's wells become contaminated or run dry as specifies herein, then Permittee shall cease its soil mining operation until the determination is made by the LPSNRD of the cause of such contamination or the wells running dry.

6. Renumber all paragraphs accordingly.

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

CLERK Read the following amended resolution, introduced by Robin Eschliman, who moved its adoption:

A-84953 WHEREAS, Roger H. Schwisow has submitted an application designated as Special Permit No. 08015 for authority to allow mining/extraction of soil on Agricultural zoned property located northwest of the intersection of N.W. 56th Street and West O Street, and legally described as:

Lot 25 I.T. in the Southwest Quarter of Section 24,
Township 10 North, Range 5 East of the 6th P.M.,
Lancaster County, Nebraska;

WHEREAS, the Lincoln City-Lancaster County Planning Commission held a public hearing on said application and conditionally approved the same; and

WHEREAS, Roger H. Schwisow has filed a Notice of Appeal appealing the action of the Planning Commission approving Special Permit No. 08015; and

WHEREAS, pursuant to Lincoln Municipal Code § 27.63.025 the action appealed from is deemed advisory and the City Council is authorized to take final action on the matter; and

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this mining/extraction of soil will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln and 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 Roger H. Schwisow, hereinafter referred to as "Permittee," to operate a mining/extraction of soil be and the same is hereby granted under the provisions of Section 27.63.360 of the

Lincoln Municipal Code upon condition that the operation of said mining/extraction of soil be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. ~~This permit approves a soil, sand and gravel excavation operation for a period of three years from the date of approval of this special permit with administrative review annually from the date of approval until the expiration of this special permit or completion of the operation, whichever first occurs.~~ This Permit approves a soil, sand and gravel excavation operation for a period of three years from the date excavation operations are commenced with an administrative compliance review to be performed annually on the commencement date until the expiration of this special permit or completion of the operation, whichever first occurs. Permittee shall provide written notice to the City of the date excavation operations commence.

2. Before beginning the excavation operations, the Permittee shall:

- a. Revise the plans to meet the requests of the Watershed Management memo from Edwin Kouma dated February 21, 2008.
- b. Receive review and permits, if required, for the Federal NPDES and 404 Permits.
- c. Receive required permits from the NDOR.
- d. Add a note that soils and topography shall conform to the grading plan.
- e. Post and maintain a 4'x8' sign on the property at the entrance clearly visible and legible to the public showing the special permit number, the name of the permittee and operator and the telephone numbers where the permittee, operator and the Building & Safety Department can be contacted.
- f. Post a \$5,000 performance bond or escrow agreement in a form acceptable to the City Attorney/County Attorney.
- g. Grant an avigation and noise easement to the Lincoln Airport Authority on all or that part of the land located within the Airport Environs Noise District.
- h. Install two (2) monitoring wells including continuous sediment collection as recommended by the Lower Platte South Natural Resources District ("LPSNRD") in its letter to LeRoy Sievers dated May 2, 2008. The results of the boring shall be provided to LPSNRD and SID #6. Installation of the monitoring wells and completion of the subsoil boring must be completed prior to the start of any soil mining operation.
- i. Obtain and test water samples from the two (2) monitoring wells at frequencies as recommended by LPSNRD, but not less than annually and not more than four (4) times per year for contaminants likely to be generated by the soil mining operations under this Permit and submit the test results to LPSNRD and SID #6 when tested and to the City as part of the annual administrative review.

3. The construction plans shall substantially comply with the approved plans.

4. Operating hours shall be limited to daylight hours Monday through ~~Friday only~~ Saturday and night hours Monday through Friday for government contracts.

5. Should the soil mining activities authorized under this permit result in the water wells of the Lancaster County SID #6 ("SID #6") Public Water System running dry or becoming contaminated beyond their current condition, then Permittee shall immediately (i.e. within 24 hours) at its expense, provide an alternate water source for SID #6 in accordance with all applicable City and County ordinances and/or other state or federal laws or rules or regulations. The alternate water

source may be provided as bottled water, trucked or any other means to the Public Water System for SID #6. Permittee understands that the City of Lincoln will not provide such alternate water source.

Permittee agrees that LPSNRD in consultation with both an expert selected by the Permittee and the State of Nebraska Department of Health and Human Services and/or the Lancaster County Health Department shall be the entity to make a preliminary assessment whether Permittee's soil mining activities are the likely cause of the SID #6 wells running dry or becoming contaminated. Currently static water levels in SID #6 wells are at 18 and 20 feet. Should the level drop to 25 feet or below, then an investigation shall begin immediately to determine the cause of such reduced levels and all mining operations shall cease until the cause of the decline is determined.

Permittee agrees that the preliminary assessment by LPSNRD, after consultation as noted previously shall be binding for purposes of Permittee's initial obligation to provide an alternate water supply for SID #6. Should the preliminary assessment by LPSNRD prove to be incorrect, Permittee shall be reimbursed by SID #6 only for those costs and expenses SID #6 would have incurred in providing the alternate water supply absent Permittee's initial obligation. Permittee agrees that LPSNRD, the Department of Health and Human Services and the Lancaster County Health Department incur no liability and are held harmless as to any claims of Permittee for the performance of this service.

Permittee further agrees that if SID #6's wells become contaminated or run dry as specifies herein, then Permittee shall cease its soil mining operation until the determination is made by the LPSNRD of the cause of such contamination or the wells running dry.

~~5- 6.~~ At the conclusion of the operation, the permittee shall provide to the Building & Safety Department a certificate from an engineer stating that the final grading substantially reflects the finish contours shown on the approved site plan and request a release of the performance bond or escrow agreement.

~~6- 7.~~ The construction entrance shall be closed when not in operation.

~~7- 8.~~ All privately-owned improvements shall be permanently maintained by the Permittee.

~~8- 9.~~ This resolution's terms, conditions, and requirements bind and obligate the Permittee, his successors and assigns.

~~9-10.~~ 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.

~~10-11.~~ The Permittee 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 City 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.

Introduced by Robin Eschliman

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF JULY 1 - 15, 2008 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84954 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 July 16, 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:

DENIED
Kassandra Hill \$126.45
Vance Springer 99.75

ALLOWED/SETTLED
Joseph Egner \$44.99

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

APPROVING RFOX INC. DBA FOX NEIGHBORHOOD GRILL & BAR AS A KENO SATELLITE SITE AT 1245 LIBRA DRIVE - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84955 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for a joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of a keno type lottery with EHPV Lottery Services, LLC, a Nebraska limited liability company; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno Contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno Contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the city of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of RFOX, Inc. dba Fox Neighborhood Grill & Bar, 1245 Libra Drive, Lincoln, NE 68512.

The City Clerk is directed to return an executed copy of this Resolution to Fox Neighborhood Grill & Bar and a copy to EHPV Lottery Services, LLC.

Introduced by Jonathan Cook

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

APPROVING MIDTOWN DRIFTERS INC. DBA DRIFTERS AS A KENO SATELLITE SITE AT 3223 CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84956 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for a joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of a keno type lottery with EHPV Lottery Services, LLC, a Nebraska limited liability company; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno Contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno Contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the city of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of Midtown Drifters Inc. dba Drifters, 3223 Cornhusker Highway, Lincoln, NE 68504.

The City Clerk is directed to return an executed copy of this Resolution to Drifters and a copy to EHPV Lottery Services, LLC.

Introduced by Jonathan Cook

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

APPROVING THE 2008-2009 MAINTENANCE AND MANAGEMENT BID BUDGETS AND PROGRAM OF WORK FOR THE DOWNTOWN LINCOLN ASSOCIATION PROGRAM FOR FISCAL YEAR 2008-09 - PRIOR to reading:

MARVIN Moved to suspend the rules and allow a speaker to come forward after the public hearing ended.

Seconded by Emery & carried by the following vote: AYES: Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp.
CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84957 WHEREAS, the City of Lincoln has entered into a contract with the Downtown Lincoln Association for the provision of services within various downtown business improvement districts; and

WHEREAS, said contract requires the submittal of a work plan and annual budgets for work to be performed in the Downtown Management and Maintenance Districts by the Downtown Lincoln Association.

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

That the attached 2008-2009 Maintenance and Management BID Budgets and Program of Work for the Downtown Lincoln Association Program for the period of September 1, 2008 to August 31, 2009 which is attached hereto and marked as Attachment "A" is hereby approved.

Introduced by Jonathan Cook

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

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

AMENDING SECTION 12.08.270 OF THE LINCOLN MUNICIPAL CODE RELATING TO ALCOHOLIC LIQUOR IN PARKS TO CONDITIONALLY ALLOW ALCOHOL ON THE PREMISES OF HAZEL ABEL PARK, STRANSKY PARK, SUNKEN GARDENS, ANTELOPE PARK ROSE GARDEN, PIONEERS PARK NATURE CENTER; AND REPEALING SECTION 12.08.270 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Doug Emery, amending Section 12.08.270 of the Lincoln Municipal Code relating to alcoholic liquor in parks to allow alcohol to be served in conjunction with an event sponsored by or to benefit the Parks and Recreation Department on the premises of Hazel Abel Park, Stransky Park, Sunken Gardens, Antelope Park Rose Garden and Pioneers Park Nature Center; and repealing Section 12.08.270 of the Lincoln Municipal Code as hitherto existing, the first time.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND THE HICKMAN PRESBYTERIAN CHURCH FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 300 E. THIRD STREET, HICKMAN, NEBRASKA FROM SEPTEMBER 1, 2008 TO AUGUST 31, 2009 - CLERK read an ordinance, introduced by Doug Emery, accepting and approving a Lease Agreement between the City of Lincoln and the Hickman Presbyterian Church for the lease of space by the Lincoln Area Agency on Aging for its ActivAge Center Program at 300 E. Third Street, Hickman, NE 68372, for a term commencing September 1, 2008 and terminating on August 31, 2009, the first time.

APPROVING A TRANSFER OF APPROPRIATIONS AND CASH (WHERE APPROPRIATE) BETWEEN CERTAIN CAPITAL IMPROVEMENT PROJECTS WITHIN THE STREET CONSTRUCTION/VEHICLE TAX FUND, WATER CONSTRUCTION FUND, AND SANITARY SEWER CONSTRUCTION FUND WITHIN THE PUBLIC WORKS & UTILITIES DEPARTMENT - CLERK read an ordinance, introduced by Doug Emery, approving the transfer of unspent and unencumbered appropriations and cash (if any) between certain capital improvement projects within the Street Construction/Vehicle Tax Fund, Water Construction Fund, and Sanitary Sewer Construction Fund within the Public Works & Utilities Department, the first time.

AMENDING SECTIONS 2.76.153 COMPENSATION PLAN; MERIT PAY PLAN; SHIFT DIFFERENTIAL; 2.76.370 AUTHORIZED HOLIDAYS; 2.76.380 SICK LEAVE WITH PAY; AND 2.76.395 VACATION LEAVE WITH PAY; OF THE LINCOLN MUNICIPAL CODE TO REFLECT NEGOTIATED CHANGES AND CHANGES APPLICABLE TO EMPLOYEES NOT REPRESENTED BY A BARGAINING UNIT - CLERK read an ordinance, introduced by Doug Emery, amending Chapter 2.76 of the Lincoln Municipal Code relating to the Personnel System to reflect negotiated changes and changes applicable to employees not represented by a bargaining unit by amending Section 2.76.153 relating to shift differential; amending Section 2.76.370 relating to authorized holiday; amending Section 2.76.380 relating to sick leave with pay; amending Section 2.76.395 relating to vacation leave with pay; and repealing Sections 2.76.153, 2.76.370, 2.76.380, and 2.76.395 of the Lincoln Municipal Code as hitherto existing, the first time.

ADOPTING CHAPTER 14.58 OF THE LINCOLN MUNICIPAL CODE REGARDING STREET POLE BANNERS OVER PUBLIC WAYS - CLERK read an ordinance, introduced by Doug Emery, amending Title 14 of the Lincoln Municipal Code relating to Public Property and Public Ways by adding a new Chapter 14.58 entitled "Street Pole Banners" to establish a permit procedure, fee schedule, and rules and regulations for the placement of street pole banners over public ways, the first time.

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

CHANGE OF ZONE 08028 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE, THE ZONING CODE, BY AMENDING SECTION 27.25.020 TO ALLOW PRIVATE SCHOOLS AS A PERMITTED USE IN THE O-1 OFFICE DISTRICT; AMENDING SECTIONS 27.25.030 AND 27.63.075 TO DELETE PRIVATE SCHOOLS AS A PERMITTED SPECIAL USE IN THE O-1 OFFICE DISTRICT; AND REPEALING SECTIONS 27.25.020, 27.25.030 AND 27.63.075 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Ken Svoboda, amending Title 27 of the Lincoln Municipal Code, the Zoning Code, by amending Section 27.25.020 to allow private schools as a permitted use in the O-1 Office District, amending Sections 27.25.030 and 27.63.075 to delete private schools as a permitted special use in the O-1 Office District; and repealing Sections 27.25.020, 27.25.030 and 27.63.075 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, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp.
The ordinance, being numbered **#19109**, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 08029 - APPLICATION OF NEBRASKA ACQUISITION CORP. (KAPLAN UNIVERSITY) FOR A CHANGE OF ZONE FROM R-6 RESIDENTIAL DISTRICT AND R-7 RESIDENTIAL DISTRICT TO O-1 OFFICE DISTRICT, ON APPROXIMATELY 3.0 ACRES GENERALLY LOCATED AT THE SOUTHEAST CORNER OF S. 18TH STREET AND K STREET - 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 read.

Seconded by Marvin & carried by the following vote: AYES: Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp.
The ordinance, being numbered **#19110**, is recorded in Ordinance Book #26, Page

APPROVING THE DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN THE CITY AND WHITEHEAD OIL COMPANY RELATING TO THE DEVELOPMENT OF PROPERTY GENERALLY LOCATED AT SOUTH 21ST STREET AND K STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:
A-84958 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Development and Conditional Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Whitehead Oil Company restricting development of the property generally located at 21st Street and K Street as an inducement for approval of a change of zone from R-6 Residential District to B-3 Commercial District, is hereby approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Development and Conditional Zoning Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copies of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Applicant.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Development and Conditional Zoning Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Applicant.

Introduced by Ken Svoboda

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

CHANGE OF ZONE 08032 - APPLICATION OF WHITEHEAD OIL COMPANY FOR A CHANGE OF ZONE FROM R-6 RESIDENTIAL DISTRICT TO B-3 COMMERCIAL DISTRICT ON APPROXIMATELY 1.47 ACRES GENERALLY LOCATED AT S. 21ST STREET AND K STREET - 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 read.

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

The ordinance, being numbered #19111, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 08033 - APPLICATION OF CHATEAU PROPERTIES, LLC, FOR A CHANGE OF ZONE FROM R-2 AND R-3 RESIDENTIAL DISTRICTS TO R-4 AND R-5 RESIDENTIAL DISTRICTS; FROM R-3 RESIDENTIAL TO R-2 RESIDENTIAL DISTRICT; AND FROM R-5 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT, ON APPROXIMATELY 81.24 ACRES GENERALLY LOCATED AT NORTH 56TH STREET AND HOLDREGE STREET TO NORTH COTNER BLVD. AND VINE STREET - 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 read.

Seconded by Emery & carried by the following vote: AYES:

Eschliman, Marvin, Spatz, Svoboda; NAYS: Cook, Emery; ABSENT: Camp.

The ordinance, being numbered #19112, is recorded in Ordinance Book #26, Page

SPECIAL PERMIT 1174G - APPLICATION OF CHATEAU DEVELOPMENT, LLC, TO EXPAND THE CHATEAU LE FLEUR/CHARLESTON COURT COMMUNITY UNIT PLAN TO ADD 144 MULTIPLE-FAMILY DWELLING UNITS, ON PROPERTY GENERALLY LOCATED AT NORTH 56TH STREET AND HOLDREGE STREET TO COTNER BLVD. AND VINE STREET - PRIOR to reading:

MARVIN Moved amendment #2 to Bill No. 08R-159 in the following manner:

1. On page 3, after line 10, add the following new conditions:

xii. Add a note to the General Notes that states no building permit for a new structure shall be issued for that portion of the project lying west of Dead Man's Run until August 1, 2009.

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

SVOBODA Moved amendment #1 to Bill No. 08R-159 in the following manner:

1. On page 2, line 29, after the word "second" insert the word emergency.

2. On page 2, line 32, delete the word "open" and insert in lieu thereof the word emergency.

3. On page 2, line 32, delete the words "a public access easement or common" and insert in lieu thereof the words an emergency.

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

Due to a tie vote, MTA #1 and Main Motion carried over for action in one week to 8/04/08.

CHANGE OF ZONE 08034 - AMENDING SECTION 27.69.020 69.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO SIGN CODE DEFINITIONS BY AMENDING THE DEFINITION OF POLE SIGN TO DELETE THE REQUIREMENT THAT THE BOTTOM EDGE OF THE SIGN FACE IS TEN FEET OR MORE ABOVE GRADE AND TO DELETE THE REFERENCE THAT A PYLON SIGN IS A POLE SIGN; AND REPEALING SECTION 27.69.020 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Ken Svoboda, amending Section 27.69.020 of the Lincoln Municipal Code relating to Sign Code Definitions by amending the definition of pole sign to delete the requirement that a pole sign be mounted on a pole or other support so that the bottom edge of the sign face is ten feet or more above grade and to delete the reference that a pylon sign is a pole sign; and repealing Section 27.69.020 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, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp.
The ordinance, being numbered #19113, is recorded in Ordinance Book #26, Page

APPROVING THE LEASE AGREEMENT BETWEEN THE CITY AND ERIN ALM OF WAHOO, NEBRASKA, FOR THE LEASE OF OFFICE SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS LINCOLN INFORMATION FOR THE ELDERLY (LIFE) PROGRAM AT 1325 N. CHESTNUT ST., WAHOO, NE 68066 FOR A TERM OF JULY 1, 2008 THROUGH JUNE 30, 2009 - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving a Lease Agreement between the City of Lincoln and Erin Alm of Wahoo for the lease of office space by the Lincoln Area Agency on Aging for its Lincoln Information For the Elderly (LIFE) Program located at 1325 Chestnut Street, Wahoo, NE 68066, for a term of July 1, 2008 through June 30, 2009, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Emery & carried by the following vote: AYES: Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp.
The ordinance, being numbered #19114, is recorded in Ordinance Book #26, Page

REGISTERED TO SPEAK SESSION - NONE

OPEN MICROPHONE SESSION

Mike Morosin, 1500 N. 15th St., came forward to present an ongoing issue regarding his housing situation and to state that JAVA has not ironed out its differences with him.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

PENDING -

SVOBODA Moved to extend the Pending List to August 4, 2008.

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

UPCOMING RESOLUTIONS -

SVOBODA Moved to approve the resolutions to have Public Hearing on August 4, 2008.

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

ADJOURNMENT 6:45 P.M.

SVOBODA Moved to adjourn the City Council meeting of July 28, 2008.

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

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant

REGULAR MEETING
July 28, 2008
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