

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, AUGUST 4, 2008 AT 1:30 P.M.**

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

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

COOK Having been appointed to read the minutes of the City Council proceedings of July 28, 2008 reported having done so, found same correct.

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

PUBLIC HEARING

APPLICATION OF MARK H. MCDONALD DBA THE ITALIAN VINE WINE DISTRIBUTORS FOR A CLASS X LIQUOR LICENSE AT 5310 S. 56TH STREET - Mark McDonald, 5310 S. 56th Street, took the oath and came forward to state this is a whole sale distributors license.

This matter was taken under advisement.

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 - Lynn Johnson, Director of Parks and Recreation Dept., came forward to explain that this amendment would allow alcoholic beverages be sold and consumed only at fund raisers for the Parks & Recreation Department at five park locations. These functions will be served by a licensed caterer who checks identification, monitors consumption and is responsible for compliance with State liquor regulations. It is estimated there would be two to three events per year with the proceeds going to capitol projects in the Parks Department and possibly eventually for maintenance of the parks. Pinewood Bowl and Auld Recreation Center would not be a part of this ordinance.

Dan Marvin, Council Member, stated Ken Svoboda would introduce an amendment that would require a report of any issues concerning serving and consumption of liquor be submitted to the Liquor Commission.

Doug Emery, Council Member, stated he would submit an amendment to Mr. Johnson for review allowing the Fast Pitch Softball Organization to be able to have a beer garden at their tournaments at Mahoney Park, University Place, Densmore Park and Ballard Field.

Bob Ripley, 3022 William Street, member of the Parks and Recreation Advisory Board, came forward in support.

Clancy Woolman, 920 Northborough Lane, member of the Parks Foundation, came forward in support.

Jolanda Junge Kuzma, 701 N. 148th Street, past member of the Parks Advisory Board and is currently the Executive Director of the Parks Foundation came forward in support.

Roger Larson, 600 S. 112th Street, Co-Chair of Union Plaza fund raising, came forward in support.

Roger Ludemann, 1730 Memorial Dr., came forward in support.

Dick Boyd, 1811 Sussex Place, came forward representing three groups; Stewardship of Parks, Sierra Club of Nebraska, Friends of Wilderness Park and United Nation Association of Nebraska in support.

Tom Casady, Chief of Police, came forward to state there have been no problems at previous fund raisers serving alcohol and that this wouldn't have any impact on the Police Department. He did not have an opinion of the Fast Pitch Tournament amendment, but did comment that sports and alcohol is different from chamber music and alcohol.

This matter was taken under advisement.

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 - Margaret Remmenga, Business Manager of Public Works & Utilities, came forward to request the end of fiscal year opportunity to transfer appropriations from many completed projects to projects where appropriations are needed. One of the transfers will authorize the use of City Council discretionary funds to be used for rehabilitation of S. 48th St. between Pioneers and Calvert. It is also authorizing the use of appropriations from projects closing in water revenue to do some replacement discharge piping and valves in the north pumping station at Ashland. It was requested to transfer appropriations of minimal dollars from the Storm Water Bond fund to two grant funds. The last transfer is for Urban Development Department for an Antelope Valley Revitalization Project.

Thomas Shafer, Public Works Engineering Dept., answered that the project on Pine Lake Road and Helen Witt between 14th and 27th Street is just for turn lanes and no relocation of traffic signal work other than the relocating of the flasher to get beyond the turn lane will be done.

David Landis, Director of Urban Development, answered that the figure of \$472,535 for Antelope Valley Liberty Village was a miscommunication of the amount actually wanted transferred. The correct amount is \$167,000 of which there is an amendment referencing this. The money was appropriated and was spent for the Liberty Village project and this is to acknowledge the appropriate way for that transaction to have been referred. The Budget Office said we really haven't reconciled from the appropriate fund of money and should do that so that is why this transfer is being done.

Mr. Shafer explained the \$369,000 for computer records is for aerial photos such as seen on Assessor's website, to store records from new developments constructed so can identify water and sewer lines during construction and for a multitude of other uses.

Ms. Remmenga requested the Street Construction funds be transferred to the Engineering Revolving Fund. Street construction dollars should have been charged to Internet Development that is street related so the bulk of these funds will be used for that.

Mr. Shafer explained this Internet Development fund is for the street closing list put out every week which is used by Fire Dept., businesses, and the public. All projects have a web presence so the public can find information about a project. It is used as a project management guide for consultants. This is a good investment.

Ms. Remmenga stated that the \$800,000 referred to were costs that occurred by Engineering Services which were run through an Engineering Service revolving fund, but should have been charged back to a street construction project. This amount does not represent one year instead probably two or three years of costs. Anything to do with internet costs will be charged to a project.

Ken Svoboda, Council Member, requested Thomas to give a better itemization on the Miscellaneous Street Construction, Miscellaneous Construction Costs, and Miscellaneous Engineering which was agreed upon.

Mr. Shafer in answering the Crash Report amount of \$110,000 he stated it is from a future project using 2007 data that was finalized in May. There are not new funds to commit to this so will use savings on other projects to use for the crash report. This report is done annually to keep up with the times.

This matter was taken under advisement.

APPLICATION OF WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP FOR A CLASS D LIQUOR LICENSE AT 110 W. FLETCHER AVE., SUITE 101;
MANAGER APPLICATION OF DOUGLAS LARKINS FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 110 W. FLETCHER AVE., SUITE 101.

SPATZ Moved to suspend the rules to go back to Items 6 & 7 for public hearing.

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

Mark Whitehead, President of Whitehead Oil Company, took the oath and came forward to state the lease for this location is being re-negotiated. Doug Larkin would be the supervisor for U-Stop until the transition is complete.

Joan Ross, City Clerk, stated Mr. Larkin has been through the Responsible Hospitality class and since the owner is before the Council Mr. Larkin does not need to appear.

This matter was taken under advisement.

APPROVING THE 2008-09 WORK PLAN FOR THE INTERLOCAL AGREEMENT ON STORMWATER MANAGEMENT BETWEEN THE CITY AND LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT TO ADDRESS STORMWATER QUALITY AND QUANTITY ISSUES - Ben Higgins, Public Works & Utilities Dept., came forward to answer questions.

This matter was taken under advisement.

APPROVING A SCHEDULE OF FEES THE CITY MAY CHARGE FOR AMBULANCE SERVICE - Niles Ford, Fire Chief, stated they are attempting to get a fee schedule increase for ambulance billing. It is projected there may be a 2% decrease in Medicare & Medicaid payments in the future. A new billing company is currently being used which is continually being evaluated. It is hoped it will be known by October or November the result of this new billing company. The Fire Department is currently going through the accreditation process.

This matter was taken under advisement.

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

COUNCIL ACTION

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON JULY 21, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk.

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON JULY 28, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk.

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, AUGUST 18, 2008 AT 1:30 P.M. FOR THE APPLICATION OF CASEY'S RETAIL COMPANY DBA CASEY'S GENERAL STORE #2744 FOR A CLASS B LIQUOR LICENSE AT 4335 N. 70TH STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:
A-84959 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 18, 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 Casey's Retail Company dba Casey's General Store 2744 for a Class B liquor license at 4335 N. 70th Street.

Introduced by Dan Marvin

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

LIQUOR RESOLUTIONS

APPLICATION OF MARK H. MCDONALD DBA THE ITALIAN VINE WINE DISTRIBUTORS FOR A CLASS X LIQUOR LICENSE AT 5310 S. 56TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84960 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 Mark H. McDonald dba The Italian Vine Wine Distributors for a Class "X" liquor license at 5310 S. 56th 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 Emery & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

APPLICATION OF WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP FOR A CLASS D LIQUOR LICENSE AT 110 W. FLETCHER AVE., SUITE 101 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84961 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 Whitehead Oil Company dba U-Stop Convenience Shop for a Class "D" liquor license at 110 W. Fletcher Ave., Suite 101, 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 Emery & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

MANAGER APPLICATION OF DOUGLAS LARKINS FOR WHITEHEAD OIL COMPANY DBA U-STOP CONVENIENCE SHOP AT 110 W. FLETCHER AVE., SUITE 101 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84962 WHEREAS, Whitehead Oil Company dba U-Stop Convenience Shop located at 110 W. Fletcher Ave., Suite 101, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Douglas Larkins be named manager;

WHEREAS, Douglas Larkins appears to be a fit and proper person to manage said business.

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

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

Introduced by Jon Camp

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

ORDINANCES - 2ND 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 second 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 second 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 second 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 second 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 second time.

PUBLIC HEARING RESOLUTIONS

APPROVING THE 2008-09 WORK PLAN FOR THE INTERLOCAL AGREEMENT ON STORMWATER MANAGEMENT BETWEEN THE CITY AND LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT TO ADDRESS STORMWATER QUALITY AND QUANTITY ISSUES- CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-84963 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Fiscal Year 2008-2009 Work Plan for the Interlocal Agreement on Stormwater Management between the City of Lincoln and the Lower Platte South Natural Resources District, 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. Said Fiscal Year 2008-2009 Work Plan establishes a framework and division of responsibilities for addressing stormwater quality and quantity in the City between the City of Lincoln and the Lower Platte South Natural Resources District and authorizes the use of appropriated monies in accordance with the terms and conditions contained in said Fiscal Year 2008-2009 Work Plan.

The City Clerk is directed to transmit a certified copy of the executed original Resolution and Fiscal Year 2008 - 2009 Work Plan for the Interlocal Agreement on Stormwater Management to Glenn Johnson, Lower Platte South Natural Resources District, PO Box 93581, Lincoln, NE 68501 and a copy of the same to Ben Higgins, Public Works and Utilities Department, 901 N. 6th Street, Lincoln, NE 68508.

Introduced by Doug Emery

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

APPROVING A SCHEDULE OF FEES THE CITY MAY CHARGE FOR AMBULANCE SERVICE- CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-84964 WHEREAS, in accordance with Title 7 of the Lincoln Municipal Code, the City Council has authority to approve a schedule of maximum fees which the City may charge for ambulance service rendered by the City of Lincoln; and

WHEREAS, the City Fire Department has proposed such a schedule of maximum fees for comment and review by EMS, Inc., the City's emergency medical services oversight agency; and

WHEREAS, EMS, Inc. has concluded the proposed maximum fees are reasonable; and

WHEREAS, the proposed rate schedule is before the City Council for its consideration and approval; and

WHEREAS, the City Council finds that the proposed rate schedule, based on the reasonable costs of providing ambulance service, represents reasonable maximum user fees to be charged for the provision of ambulance service by the City of Lincoln

NOW, THEREFORE, BE IT RESOLVED by the City Council, the proposed rate schedule attached hereto, marked as Attachment "A", and made a part hereof by reference, is hereby approved and shall take effect September 1, 2008.

Introduced by Doug Emery

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

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

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND ST. JAMES UNITED METHODIST CHURCH, FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 2400 S. 11TH STREET, LINCOLN, NEBRASKA FOR A ONE-YEAR TERM FROM SEPTEMBER 1, 2008 THROUGH AUGUST 31, 2009 - CLERK read an ordinance, introduced by Dan Marvin, accepting and approving a Lease Agreement between the City of Lincoln and St. James United Methodist Church for the lease of space by the Lincoln Area Agency on Aging for its ActivAge Center Program at 2400 S. 11th Street, Lincoln, NE, 68502, for a term commencing on September 1, 2008 and terminating on August 31, 2009, the first time.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND THE PANAMA CAFÉ, FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 310 LOCUST STREET, PANAMA, NEBRASKA FOR A ONE-YEAR TERM FROM SEPTEMBER 1, 2008 THROUGH AUGUST 31, 2009 - CLERK read an ordinance, introduced by Dan Marvin, accepting and approving a Lease Agreement between the City of Lincoln and the Panama Café for the lease of space by the Lincoln Area Agency on Aging for its ActivAge Center Program at 310 Locust Street, Panama, NE 68419, for a term commencing on September 1, 2008 and terminating on August 31, 2009, the first time.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND BENNET AMERICAN LEGION POST #280, FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 970 MONROE, BENNET, NEBRASKA FOR A ONE-YEAR TERM FROM SEPTEMBER 1, 2008 THROUGH AUGUST 31, 2009 - CLERK read an ordinance, introduced by Dan Marvin, accepting and approving a Lease Agreement between the City of Lincoln and the American Legion Post #280 for the lease of space by the Lincoln Area Agency on Aging for its ActivAge Center Program at 970 Monroe, Bennet, NE 68317, for a term commencing on September 1, 2008 and terminating on August 31, 2009, the first time.

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

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 due to tie vote on 7/28/08 the Main Motion and MTA #1 were not moved for introduction or a second. The Main Motion and MTA #1 were considered still "On The Table".

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.

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

CLERK Read the Main Motion for the record. Discussion ensued with the roll for voting being called immediately after discussion.

A-84965 WHEREAS, Chateau Development, LLC has submitted an application designated as Special Permit No. 1174G for authority to expand the Chateau La Fleur/Charleston Court Community Unit Plan to add 144 multiple-family dwelling units, on property generally located at N. 56th Street and Holdrege to N. Cotner Boulevard and Vine Street and legally described as:

Lots 1-5, Chateau First Addition, Lincoln, Lancaster County, Nebraska;

WHEREAS, the Lincoln City-Lancaster County Planning Commission denied said application after holding a public hearing thereon; and

WHEREAS, Chateau Development, LLC filed a Notice of Appeal appealing the action of the Planning Commission denying Special Permit No. 1174G; 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 amendment to the community unit plan, 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 Chateau Development, LLC, hereinafter referred to as "Permittee", to amend the Chateau La Fleur/Charleston Court Community Unit Plan to add 144 multiple-family dwelling units, on Lots 1-5, Chateau First Addition, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction of said community unit plan be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 826 dwelling units and 94 elderly housing units.
2. The City Council must approve associated request, Change of Zone #08033
3. Before receiving building permits:
 - a. The Permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final site plan including 5 copies with all required revisions as listed below:
 - i. Revise the Development Summary to the satisfaction of the Planning Department. The parking and density calculations need to be corrected and clarified.
 - ii. Revise the community unit plan boundary to include Lot 5, Chateau 1st Addition.
 - iii. Revise the change of zone boundaries to be consistent with Change of Zone #08033.
 - iv. Revise the title block on all sheets to delete "Amended Community Unit #___ & Change of Zone #___" to state "Community Unit Plan #1174G".
 - v. Show the easement for the existing trunk sewer.
 - vi. Revise the plans to the satisfaction of Public Works to show an alternative method for providing sanitary sewer service to the proposed 18 unit building on Norfolk Drive.
 - vii. Revise the site plan to remove or relocate the 18 unit building south of Salisbury Court adjacent to Deadmans Run or provide information that the building envelope does not interfere with the easement for the existing trunk sewer.
 - viii. Revise the plans to show a second emergency vehicular access and a looped water supply system to the proposed development on Abbey Court.
 - ix. Add a note to Sheet 2 General Site Notes that states "A second ~~open emergency~~ vehicular access with a ~~public access easement or common an emergency~~ access easement shall be constructed prior to the issuing of building permits for any dwelling units south of Abbey Court.

- x. Revise the plans to show a 30' setback from the boundary of the community unit plan to be more consistent with the existing development.
 - xi. Revise the plans to show additional recreational facilities that comply with the City of Lincoln Design Standards. This is to compensate for the recreational facility proposed to be removed.
 - xii. Add to the General Notes, "Signs need not be shown on this site plan, but need to be in compliance with Chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by Building & Safety Department prior to installation".
- b. The construction plans must substantially comply with the approved plans.
 - c. The Permittee shall provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
4. Before occupying the new dwelling units all development and construction must substantially comply with the approved plans.
5. All privately-owned improvements, including landscaping and recreational facilities, must be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
6. The Permittee must annually certify that all occupied dwelling units for elderly housing are occupied by individuals meeting the requirements for elderly or retirement housing.
7. 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.
8. The terms, conditions, and requirements of this resolution shall run with the land and shall bind and obligate the Permittee, its successors and assigns.
9. 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, filing fees therefor to be paid in advance by the applicant.
10. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however the terms, conditions and requirements of all resolutions/ordinances

On July 28, 2008 Introduced by Ken Svoboda

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

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 third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #19115, is recorded in Ordinance Book #26, Page

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 third time.

COOK 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 #19116, is recorded in Ordinance Book #26, Page

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 third time.

COOK 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 **#19117**, is recorded in Ordinance Book #26, Page

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 third time.

COOK 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 **#19118**, is recorded in Ordinance Book #26, Page

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) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84966 WHEREAS, in accordance with Section 14.20.020 of the Lincoln Municipal Code, the City Council has authority to approve the fee the Planning Department may charge for application reviews for street and alley vacations under Chapter 14.20 of the Lincoln Municipal Code; and WHEREAS, in accordance with Section 26.33.010 of the Lincoln Municipal Code, the City Council has authority to approve fees which the Planning Department may charge for application reviews under Title 26 of the Lincoln Municipal Code (Land Subdivision Ordinance); and

WHEREAS, in accordance with Section 27.80.010 of the Lincoln Municipal Code, the City Council has authority to approve fees which the Planning Department may charge for application reviews under Title 27 of the Lincoln Municipal Code (Zoning Ordinance); and

WHEREAS, the Planning Director is requesting authorization to collect an increased filing fee to review application to amend the Lincoln-Lancaster County Comprehensive Plan; and

WHEREAS, the Planning Department has proposed 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 attached hereto marked as Attachment A and recommends its 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 review the applications, represents reasonable maximum fees to be charged for said reviews.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that 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, attached hereto marked as Attachment A and made a part hereof by reference, is hereby approved.

BE IT FURTHER RESOLVED that the fees in the attached fee schedule shall take effect on September 1, 2008.

BE IT FURTHER RESOLVED that this Resolution supercedes and replaces the fee for Comprehensive Plan review established by Resolution No. A-82275.

Introduced by Jonathan Cook

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

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 third time.

COOK 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 #19119, is recorded in Ordinance Book #26, Page

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) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-84967 WHEREAS, United Lutheran Church has submitted an application designated as Special Permit No. 08022 for authority to expand a church parking lot into the required front yard on property generally located at Touzalin Avenue and Hartley Street, legally described as:

Lots 6, 7 and the south half of Lot 8, Block 181,
Havelock Addition to Lincoln, Lancaster County,
Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this expanded parking lot 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 United Lutheran Church, hereinafter referred to as "Permittee", to expand a church parking lot into the required front yard on property legally described above be and the same is hereby granted under the provisions of Section 27.63.170 of the Lincoln Municipal Code upon condition that construction of said parking lot be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a parking lot with stalls in the required front yard setback except for the front six feet.
2. The City Council must approved the associated Street and Alley Vacation #08001.
3. Before receiving building permits:
 - a. The Permittee must submit a revised and reproducible final site plan including five copies with all required revisions and documents to the Planning Department showing the following revisions:
 - i. Dimension the six foot landscape area on the site plan.
 - ii. Correct the Street and Alley Vacation number to # 08001 on the site plan.

- iii. Add some dimensions to the parking lot and porous paving.
 - iv. No parking in the sight triangles and sight penetration for driveways.
 - v. Add to the General Notes, "Signs need not be shown on this site plan, but need to be in compliance with Chapter 27.69 of the Lincoln Zoning Ordinance, and must be approved by Building & Safety Department prior to installation.
- b. The construction plans must substantially comply with the approved plans.
 - c. Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
4. Before use of the parking lot, all development and construction must be completed in substantial conformance with the approved plans.
5. All privately-owned improvements, including landscaping, must be permanently maintained by the Permittee.
6. 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.
7. The terms, conditions, and requirements of this resolution shall run with the land and be binding on the Permittee, its successors, and assigns.
8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 60 days following 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, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jonathan Cook

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 - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to August 11, 2008.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on August 11, 2008.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

REGULAR MEETING
AUGUST 4, 2008
Page 182

ADJOURNMENT 2:44 P.M.

CAMP Moved to adjourn the City Council meeting of August 4, 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

Judy Roscoe, Senior Office Assistant