

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, OCTOBER 13, 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**

SPATZ Having been appointed to read the minutes of the City Council proceedings of October 6, 2008 reported having done so, found same correct.

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

**MAYOR'S AWARD OF EXCELLENCE**

Mayor Chris Beutler presented the Award of Excellence for the Month of September 2008 to 15-year Firefighter, Tod Sehnert, of Lincoln Fire & Rescue in the Category of Productivity. In January 2006, Mr. Sehnert recognized a need to accurately update old hand-drawn detail site maps used by emergency responders for apartment complexes in Engine 4 area. He voluntarily continued to produce suitable site maps from converted aerial photos of 52 apartment complexes in the entire City documenting building numbers, private fire hydrants and water main locations and sizes. Mayor Beutler recognized Mr. Sehnert's commitment to the project during his unassigned time while on duty, the simplicity of use and affordability of the \$40 computer software.

Asst. Fire Chief John Huff came forward to express appreciation and recognize Tod Sehnert's outstanding work to expand and update maps beyond the close proximity of his fire station at 27<sup>th</sup> & Old Cheney.

Fire Chief Niles Ford came forward in appreciation toward department employees who step forward to fill areas of need. He said this was an awesome example of an employee who took a job that was not assigned but rather an assignment that Firefighter Tod Sehnert accepted.

Mr. Sehnert came forward in gratitude to accept his award. He stated that while he initiated the project, he expressed appreciation to the many employees who contributed to the accuracy of the mapping process.

**PUBLIC HEARING**

APPROVING THE APPOINTMENT OF PAT LEACH AS THE LIBRARY DIRECTOR - Pat Leach, Library Director, came forward to answer questions about her new and exciting appointment. In response to Council questions, she stated the "Read to a Dog" program in collaboration with local therapy dog organizations will be continued.

This matter was taken under advisement.

APPLICATION OF HY-VEE, INC. DBA HY-VEE FOR THE ADDITION OF A LIQUOR CATERING LICENSE TO ITS CLASS D LIQUOR LICENSE AT 5010 O STREET - Frank Woodward, 5010 O St., came forward to take oath and answer questions.

This matter was taken under advisement.

AMENDING CHAPTER 2.62 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN A TO PROVIDE A 1.5% COLA AND A 4% INCREASE IN MEMBER CONTRIBUTIONS;

AMENDING CHAPTER 2.65 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN B TO PROVIDE A 1.5% COLA AND A 4% INCREASE IN MEMBER CONTRIBUTIONS;

AMENDING CHAPTER 2.66 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN C TO PROVIDE A 1.5% COLA AND A 4% INCREASE IN MEMBER CONTRIBUTIONS;

APPROVING THE LABOR CONTRACT BETWEEN THE CITY AND IAFF, LOCAL 644, EFFECTIVE AUGUST 21, 2008;

APPROVING A TRANSFER OF APPROPRIATIONS AND CASH WITHIN THE 2008-2009 OPERATING BUDGET FROM THE FIRE & RESCUE GENERAL FUND, EMS ENTERPRISE FUND, GRANTS-IN-AID FUND, BUILDING & SAFETY FUND, SOCIAL SECURITY FUND AND POLICE GENERAL FUND FOR REALLOCATION TO THE POLICE AND FIRE PENSION FUND IN THE AMOUNT OF \$356,342.00 - Mayor Chris Beutler came forward in support of the ordinances and present factors relating to the Pension Plan and labor contract. He said by asking Unions for one-year contracts, pay and benefit increases will be kept to 2.4% including both step and comparability increases and raises will be kept in line with projected revenue increases. Instead of a wage increase, the Firefighter Union requested their increase to be part of a plan to offer a cost of living adjustment (COLA) to their pension. They proposed to fund their COLA by increasing their pension fund contributions from 8% to 12% of their pay. Mayor Beutler stressed that unlike other individuals, Firefighters do not receive Social Security nor do they receive a COLA; hence, the City does not pay a Social Security employer tax. He said essentially the COLA is the lesser of inflation or a 1.5 annual increase which allows the overall deal fully fundable. Mayor Beutler continued to briefly address specifics by reporting the following: the Firefighter salary increase for 08-09 would be only .8 of a percent; they would pay a portion of their additional 4% retirement contribution to cover the ongoing service costs of the COLA; approximately \$8 million would be transferred from the 13<sup>th</sup> Check Fund (established 17 years ago) to completely finance Firefighters' years of service to date; and the City & the Firefighters would both contribute money in a separate fund until enough was built up to give an additional .5% COLA. The City's contribution would be equal to a 1.7% salary increase bringing the City's total contracted commitment to an equivalent of 2.4% of salary. He said the combined revenues fully fund the COLA for the past and the future. In summary, taxpayers will save hundreds of thousands of dollars in the General Fund, Firefighters will receive a fair and reasonable COLA just like most other people, Fire Administration will get a key management tool and all will benefit from the drug policy protecting the firefighters and people they serve.

Dave Engler, President of Lincoln Firefighters Assn., 241 Victory Lane, came forward in support of the fairly- & cooperatively-negotiated pension plan, to share membership concerns about minimal monthly retirement income and answer questions. To clarify statistics he said that the current pension plan requires an individual to be age 50 and have at least 25 years of service.

Don Taute, City/County Personnel Director, came forward to highlight negotiation elements, present important factors and answer questions. He stated all calculations have been provided from the Gabriel Roeder Smith actuary firm associated with the plan for about 60 years. The report is in preparation phase with the final numbers to be determined once the actual amount is transferred from the 13<sup>th</sup> check fund to take care of the past service requirement for fiscal year ending August 31, 2008. He said the primary focus is the 1.5% COLA which is 100% funded from day one. Mr. Taute reported that there is a little over \$205 million in the Police & Firefighter Pension fund.

John Hewitt, 15-year Retired Police Officer, came forward to share that many cannot live on the minimal monthly retirement supplement. He asked what will happen to the 13<sup>th</sup> check and it was clarified that retirees getting the 13<sup>th</sup> check will continue to receive it.

Paul Lutomski, Police & Fire Pension Officer, came forward to answer questions and to clarify that future and normal costs are covered by employee contributions. He said in this economic situation, rationally it is a good time to get increased contributions and put an additional amount of 4% to work. He stated the 1.5% and 2% is on the low end of what is comparable. He stated the numbers he had to work with from the actuary were considered rough and ballpark due to the use of

8/31/07 data. If passed, the actuarial firm will provide a formal analysis with exact names, salaries, and years of service of everyone involved. In discussion with Council Member Camp, Mr. Lutomski stated prior to a down financial market the fund was at 101%; however, expected performance as of 8/31/08 could be only 97-98% funded. He explained the actuary's method of using a 4-year smoothing process, otherwise big changes could necessitate changes in what the City should contribute to the pension. Council Member Marvin reiterated dollar figures with Mr. Lutomski and in agreement clarified that there are large amounts of resources to cover retirees well into the future.

Coby Mach, LIBA, came forward in a neutral capacity on the contract and requested the Council to exercise caution in moving forward and recommended following the formal actuarial analysis as being expert advice.

John Cripe, Personnel Dept. Compensation/Classification Manager, came forward to answer questions about the actuary's report and clarified that the process is to manage the plan for a 20 or 30 year span, so the reaction to a market increase in one or two years isn't that significant. He said from 1984 to 2001 the plan had significant over funding levels on an annualized basis. Mr. Cripe said every penny of over funding was used by the City to offset their contribution in those years without an increase in benefits which in turn saved millions of dollars to taxpayers.

Scott Holeccheck, 6310 Woodstock, came forward stating he has had 19-years' experience in private/public retirement plans including his current position as Director of Ameritas Client Services, and reported that the amount of COLA suggested is on the low side as compared with other firms.

Mr. Taute came forward in rebuttal stating the City has exercised caution in its approach. He presented the fact that Firefighters are willing to increase their contributions to help fund the conservative COLA. In discussion with Mr. Taute, Council Member Marvin clarified that a liability is created only if the contract is voted down and the taxpayers could be forced to pay more money.

This matter was taken under advisement.

APPROVING THE TRANSFER OF CASH AND APPROPRIATION OF UNSPENT FUND BALANCE IN THE AMOUNT OF \$750,000 IN FY 2008-09 FROM THE STREET CONSTRUCTION FUND BALANCE TO PROJECT NO. 070716 SIDEWALK MAINTENANCE AND REPAIR - Steve Hubka, Budget Officer, came forward to clarify that in 2006, Highway Allocation Bonds were issued followed by the January 2007 passage of an ordinance intending \$2.25 million for sidewalks to be appropriated over a three fiscal-year period. In response to questioning, Mr. Hubka said by charter the transfer requires Council action.

This matter was taken under advisement.

CHANGE OF ZONE 08040 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY ADDING A NEW SECTION NUMBERED 27.03.638 TO DEFINE WIND ENERGY CONVERSION SYSTEM (WECS); BY AMENDING SECTIONS 27.07.020, 27.09.020, 27.11.020, 27.13.020, 27.15.020, 27.17.020, 27.19.020, 27.21.020, 27.23.020, 27.24.020, 27.25.020, 27.26.020, 27.27.020, 27.29.020, 27.31.030, 27.33.020, 27.37.020, 27.39.020, 27.41.020, 27.43.020, 27.45.020 TO ADD WECS AS A PERMITTED USE IN THE AG, AGR, R-1 THROUGH R-8, O-1 THROUGH O-3, B-1, B-2, B-3, B-5 AND H-1 THROUGH H-4 ZONING DISTRICTS; BY AMENDING SECTIONS 27.07.030, AND 27.09.030 TO ADD WECS OVER THE DISTRICT HEIGHT AS A PERMITTED CONDITIONAL USE IN THE AG AND AGR DISTRICTS, AMENDING SECTIONS 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, 27.24.040, 27.25.030, 27.26.040, 27.27.030, 27.29.040, 27.31.050, 27.33.040, 27.35.030, 27.37.030, 27.45.030, 27.47.030, 27.49.040 AND 27.51.050 TO ADD WECS OVER THE DISTRICT HEIGHT AS A PERMITTED SPECIAL USE IN THE R-1 THROUGH R-8, O-1 THROUGH O-3, B-1 THROUGH B-5, H-1 THROUGH H-4, AND I-1 THROUGH I-3 ZONING DISTRICTS; AMENDING SECTION 27.63.420 TO AMEND THE SPECIAL PERMIT REQUIREMENTS FOR WECS; AMENDING SECTION 27.71.025 TO CLARIFY WECS MAY EXCEED THE HEIGHT OF THE DISTRICT IN WHICH THE WECS IS LOCATED; AND REPEALING SECTIONS 27.07.020, 27.07.030, 27.09.020, 27.09.030,

27.11.020, 27.11.040, 27.13.020, 27.13.040, 27.15.020, 27.15.040, 27.17.020, 27.17.040, 27.19.020, 27.19.040, 27.21.020, 27.21.040, 27.23.020, 27.23.040, 27.24.020, 27.24.040, 27.25.020, 27.25.030, 27.26.020, 27.26.040, 27.27.020, 27.27.030, 27.29.020, 27.29.040, 27.31.030, 27.31.050, 27.33.020, 27.33.040, 27.35.030, 27.37.020, 27.37.030, 27.39.020, 27.39.030, 27.41.020, 27.41.040, 27.43.020, 27.43.040, 27.45.020, 27.45.030, 27.47.030, 27.49.040, 27.51.050, 27.63.420, AND 27.71.025 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - Mike DeKalb, County Planning, came forward to explain the change of zone to allow wind machines to be a permitted use in all the districts, allowing additional height conditionally in AG as a 1 to 1 ratio and higher in the rest of the zoning districts by special permit. He said this adjustment is in response to an increase in wind turbine sales and to update particular zoning language from 1982. He responded to questions about possible visual/noise issues by stating that the impact is similar to dish antennae and research revealed that the noise created by a machine is less than the wind in the trees.

This matter was taken under advisement.

CHANGE OF ZONE 08043 - REQUEST OF WRK, LLC, ON BEHALF OF HAYMARKET SOUTH LLC AND INFINITY S DEVELOPMENT CO. FOR A CHANGE OF ZONE FROM I-1 INDUSTRIAL DISTRICT TO B-4 LINCOLN CENTER BUSINESS DISTRICT ON APPROXIMATELY 1.03 ACRES GENERALLY LOCATED AT S. 8TH STREET AND M STREET - Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing the applicants in cooperation with Bob Stephens with Infinity S Development to unify the zoning in the center. In response to Council questioning, Mr. Seacrest said there will be flexibility to allow residential if the market warrants.

This matter was taken under advisement.

CHANGE OF ZONE 08046 - REQUEST OF THE HISTORIC PRESERVATION COMMISSION, ON BEHALF OF AGINVEST, FOR A CHANGE OF ZONE FROM B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT TO R-3 RESIDENTIAL DISTRICT ON APPROXIMATELY 2.7 ACRES GENERALLY LOCATED AT N. 14TH STREET AND MORTON STREET;

CHANGE OF ZONE 08022HP - APPLICATION OF DANJA PEGRAM SIDERS, ON BEHALF OF AGINVEST LLC, TO DESIGNATE THE DR. SLATTERY HOUSE AT 5230 NORTH 14TH STREET AS A HISTORIC LANDMARK - Ed Zimmer, Planning Dept. Historic Preservation, came forward to clarify that the unification of zoning preserves the landmark 6-acre house lot but does not advantage the owner in any way. He said Public Works is comfortable with creating a 3-way intersection at 14<sup>th</sup> & Morton.

This matter was taken under advisement.

CHANGE OF ZONE 08048 - REQUEST OF HARTLAND HOMES FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL DISTRICT TO B-1 LOCAL BUSINESS DISTRICT ON APPROXIMATELY 8.500 SQ. FT. OF PROPERTY GENERALLY LOCATED AT N.W. 48TH STREET AND W. ADAMS STREET - Lyle Loth, ESP Engineering, 601 Old Cheney Rd., came forward representing the applicant and to answer questions.

This matter was taken under advisement.

VACATION 08005 - VACATING THE EAST-WEST ALLEY IN BLOCK 21, ORIGINAL PLAT, LINCOLN, GENERALLY LOCATED BETWEEN R AND S STREETS FROM N. 8TH STREET TO N. 9TH STREET - Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing Block 21 LLC of the Woodbury Corp. of Salt Lake City and WRK, LLC regarding the development of the Arts & Humanities Block stating the alley has not been practical for vehicle transportation in the Downtown or Haymarket network.

Clint Thomas, Urban Development Real Estate Agent, came forward to answer Council questions stating he placed a minimal valuation of 15 cents a sq. ft. on the 16 ft. wide by 300 ft. long parcel because it would probably not sell in a market with sanitary sewer and electrical easements running through it.

This matter was taken under advisement.

APPROVING THE MASTER FIBER IRU CONVEYANCE AND CONDUIT SHARING AGREEMENT BETWEEN THE CITY AND UNITE PRIVATE NETWORKS FOR THE PLACEMENT AND SHARING OF NETWORK FACILITIES ON CITY EASEMENT AREAS FROM LINCOLN TO THE ASHLAND WATER TREATMENT FACILITIES - Steve Huggenberger, Asst. City Attorney, came forward to explain the agreement which allows an opportunity to share conduit for fiber on the route from Ashland to Lincoln and provides 30 years of maintenance.

This matter was taken under advisement.

SPECIAL PERMIT 08038 - APPEAL OF THOMAS E. MADSEN TO THE PLANNING COMMISSION'S DENIAL OF HIS APPLICATION TO EXPAND A NONCONFORMING USE BY ADDING AN OUTDOOR CAFÉ AT THE BOWLING ALLEY/RESTAURANT THAT SELLS ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES, ON PROPERTY GENERALLY LOCATED AT N. 48TH STREET AND DUDLEY STREET - Thomas E. Madsen, President of Madsen's Bowling & Billiards, came forward as appellant to give his customers the opportunity to consume alcohol on his deck.

Marvin Krout, Director of Planning, came forward to answer questions clarifying the amendment which directs the installation of an 8 ft. fence from the ground up consisting of any material to contain patrons consuming alcohol. He said there is not a standard 8-foot height requirement for a beer garden, deck or patio but felt Planning Commission, in this case, was reacting to an opposition letter.

Mr. Madsen came forward in rebuttal stating he prefers not to have the fence would comply with the terms of the Council.

This matter was taken under advisement.

MISC. 08013 - AMENDING THE CITY OF LINCOLN DESIGN STANDARDS BY ADDING CHAPTER 1.10 TO ESTABLISH A PROCESS FOR AMENDING THE CITY OF LINCOLN DESIGN STANDARDS, AND TO AMEND CHAPTER 2.15, URBAN PUBLIC STREET DESIGN STANDARDS;

AMENDING SECTION 3.2.3 OF THE DRAINAGE CRITERIA MANUAL BY AMENDING TABLE 3-2, ALLOWABLE MAXIMUM ENCROACHMENT FOR MINOR STORMS - Marvin Krout, Director of Planning, came forward to report that following the assembly of a Mayor's task force charged to modify road design standards without affecting safety to reduce the cost of building new roads, improving arterials in growth areas or to defer costs to stretch limited road funds to a greater degree. In response to questions regarding building a road type D, he stated impact fees are used if there is requirement of 8-inch asphalt or according to Public Works standards. He said while development is in the works, there is not a current formal policy on directed impact fees.

Thomas Shafer, Public Works & Utilities Dept., was on hand to answer questions.

This matter was taken under advisement.

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN LITERACY COUNCIL TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$10,000.00 PER YEAR FOR ITS ENGLISH LANGUAGE ACADEMY PROGRAM;

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN COUNCIL ON ALCOHOLISM AND DRUGS, INC. TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$37,000.00 PER YEAR FOR ITS ALCOHOL AND DRUG EDUCATION AND PREVENTION PROGRAMS;

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE ASIAN COMMUNITY AND CULTURAL CENTER TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$10,000.00 PER YEAR FOR ITS FAMILY RESOURCE PROGRAM;

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE FRIENDSHIP HOME TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$189,362.00 PER YEAR FOR ITS EMERGENCY SHELTER PROGRAM;

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE CLYDE MALONE COMMUNITY CENTER TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$35,000.00 PER YEAR FOR ITS AFTER SCHOOL PROGRAM;

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE FAMILY VIOLENCE COUNCIL TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$26,259.00 PER YEAR FOR ITS PROGRAMS TO STOP VIOLENCE AND ABUSE - Kit Boesch, Human Services Dept. Administrator, came forward to answer questions stating these grant funds are now on a two-year cycle which requires Council approval rather than a previous automatic annual renewal.

This matter was taken under advisement.

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

## COUNCIL ACTION

### REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY COUNCIL ON SEPTEMBER 29, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY COUNCIL ON OCTOBER 6, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED AUGUST 31, 2008 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85081 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended August 31, 2008, \$793,189.90 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Jon Camp

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

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR SEPTEMBER 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (8-71)

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

REPORT FROM CITY TREASURER OF 911 TELECOMMUNICATION OCCUPATION TAX FOR THE MONTH OF AUGUST, 2008: LEVEL 3 COMM., LEVEL 3 COMM., QWEST COMM., ACN COMM., COMTEL TELCOM ASSETS, TWC DIGITAL PHONE, AT&T COMM. OF MIDWEST, GRANITE TELECOMM., BUDGET PREPAY, AT&T COMM. OF MIDWEST - CLERK presented said report which was placed on file in the Office of the City Clerk. (20-02)

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF FEBRUARY, 2008: MOVIDA COMM.; MARCH, 2008: MOVIDA COMM.; APRIL, 2008: BUSINESS TELECOM.; JULY, 2008: CRICKET, NEW CINGULAR, USCOC OF GREATER IOWA, TUC DIGITAL PHONE, NEBRASKA TECHNOLOGY & TELECOMM., AT&T OF MIDWEST, BUSINESS PROD. SOLUTIONS, IBM GLOBAL, CIMCO, TON SERVICES, NORSTAN NETWORK, BUSINESS TELECOM., WORKING ASSETS, NEW EDGE NETWORK, CINCINNATI BELL ANY DISTANCE, GLOBAL CROSSING, PRIMUS TELECOMM., TRANS NATIONAL, BELL ATLANTIC, KDDI AMERICA, QUANTUM SHIFT, ATI, TELECORP, ACN, VOICECOM, MCLEOD USA, VERIZON SELECT, TCG OMAHA, NE/KS, BROADWING, QWEST, BROADBAND DYNAMICS, GLOBALSTAR USA, TRACFONE WIRELESS, XO COMM.,

VIRGIN MOBILE USA, EARTHLINK, INTELICALL OPERATOR, ONSTAR, UCN, WHOLESAL CARRIER, BUSINESS TELECOM., NETWORK BILLING SYSTEMS; AUGUST 2008: ALLTEL, ALLTEL OF NE, D&D COMM., MCI, NEXTEL, SPRINT SPECTRUM, KDDI AMERICA, QUANTUM SHIFT, TON SERVICES, IBM GLOBAL, NETWORK BILLING SYSTEMS, ENHANCED, LIGHTYEAR NETWORK SOLUTIONS, ZONE TELECOM., TRI-M, GTC TELECOM., ACCERIS, SBC LONG DISTANCE, BT AMERICAS, FIRST COMMUNICATIONS, NOSVA LTD. PARTNERSHIP, 360NETWORKS (USA), GLOBALCOM, NOS, BUSINESS TELECOM., COVISTA, LDMI, ATS MOBILE TELEPHONE, UNITE PRIVATE NETWORKS - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

APPROVING THE APPOINTMENT OF PAT LEACH AS THE LIBRARY DIRECTOR - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85065 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Pat Leach to the position of Library Director effective September 22, 2008, is hereby approved.

Introduced by Ken Svoboda

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

APPOINTING JOHN KAY TO THE CAPITOL ENVIRONS COMMISSION TO FILL AN UNEXPIRED TERM EXPIRING JANUARY 9, 2010 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85066 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of John Kay to the Capital Environs Commission for a term expiring January 9, 2010, is hereby approved.

Introduced by Ken Svoboda

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

APPOINTING JIM JOHNSON TO THE HISTORIC PRESERVATION COMMISSION FOR A THREE-YEAR TERM EXPIRING APRIL 15, 2011 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85067 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Jim Johnson to the Historic Preservation Commission for a three-year term expiring April 15, 2011, is hereby approved.

Introduced by Ken Svoboda

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

APPOINTING ANNE PAGEL AND JEFF SCHWEBKE TO THE PARKS AND RECREATION ADVISORY BOARD FOR TERMS EXPIRING APRIL 27, 2011 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85068 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Anne Pagel and Jeff Schwebke to the Parks and Recreation Advisory Board for terms expiring April 27, 2011, is hereby approved.

Introduced by Ken Svoboda

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

REAPPOINTING AMIR AZIMI, THOMAS CHRISTIE, AMRITA MAHAPATRA AND DAN MARVIN TO THE MULTICULTURAL ADVISORY COMMITTEE FOR THREE YEAR TERMS EXPIRING SEPTEMBER 18, 2011 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85069 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Amir Azimi, Thomas Christie, Amrita Mahapatra and Dan Marvin to the Multicultural Advisory Committee for three-year terms expiring September 18, 2011, is hereby approved.

Introduced by Ken Svoboda

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

REQUEST OF PUBLIC WORKS TO SET THE HEARING DATE OF MONDAY, OCTOBER 27, 2008, AT 5:30 P.M. & PLACE ON THE FORMAL CITY COUNCIL AGENDA THE FOLLOWING:

08R-242 TO PROVIDE AUTHORITY TO AWARD LOW BID RECEIVED FOR PAVING UNIT NO. 141, BEING Q STREET, 35TH TO 36TH STREETS, WHICH IS IN EXCESS OF 25% OVER THE PRELIMINARY COST ESTIMATE.

08R-243 TO PROVIDE AUTHORITY TO AWARD LOW BID RECEIVED FOR SANITARY SEWER DISTRICT NO. 1183 BEING L STREET AT SOUTH 37TH FROM EXISTING MANHOLE EAST APPROXIMATELY 170 FEET, WHICH IS IN EXCESS OF 25% OVER THE PRELIMINARY COST ESTIMATE.

CLERK Requested a motion for approval.  
CAMP So Moved.

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

#### PETITIONS & COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPT.:

Change of Zone 08052 - App. of Vien Le for a change from B-1 to R-2 on property located at N. 45<sup>th</sup> Street and W Street.

Special Permit 08034A - App. of Whispering Meadows, LLC Whispering Meadows Community Unit Plan, an amendment for approximately 155 attached single family lots with requests to waive sidewalks on both sides of the street, minimum lot area, sanitary sewer design, and private roadway design standards on property located at SW 27<sup>th</sup> Street and West A Street.

Use Permit 107C - App. of Architectural Design Associates for an amendment to adjust the front yard setback for a monument sign on property located at S. 84<sup>th</sup> Street and Firethorn Lane.

#### LIQUOR RESOLUTIONS

APPLICATION OF HY-VEE, INC. DBA HY-VEE FOR THE ADDITION OF A LIQUOR CATERING LICENSE TO ITS CLASS D LIQUOR LICENSE AT 5010 O STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-85070 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 ordinance, the City Council recommends that the application of Hy-Vee, Inc. dba Hy-Vee for the issuance of a Catering Permit to the existing liquor license, located at 5010 O Street, 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 a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Dan Marvin

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

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

AMENDING CHAPTER 2.62 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN A TO PROVIDE A 1.5% COLA AND A 4% INCREASE IN MEMBER CONTRIBUTIONS. (RELATED ITEMS: 08-133, 08-134, 08-135, 08R-240, 08R-241) - CLERK read an ordinance, introduced by Ken Svoboda, amending Chapter



2.62 of the Lincoln Municipal Code relating to the Police & Fire Pension, Plan A, by amending Section 2.62.020 to add a definition for "COLA (Cost of Living Adjustment) contribution"; amending Section 2.62.045 to require applicable members to make COLA contributions while enrolled in the DROP program; amending Section 2.62.070 to provide that members who terminate with less than ten years of service are not entitled to reimbursement of COLA contributions; amending Section 2.62.140 to clarify that members not entitled to COLA pursuant to Section 2.62.145 shall continue to receive lump sum payments (13<sup>th</sup> check); adding a new section numbered 2.62.145 to provide for an annual percentage increase as a cost of living adjustment for eligible members; amending Section 2.62.160 to establish the COLA contribution percentage from applicable members; and repealing Sections 2.62.020, 2.62.045, 2.62.070, 2.62.140, and 2.62.160 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 2.65 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN B TO PROVIDE A 1.5% COLA AND A 4% INCREASE IN MEMBER CONTRIBUTIONS. (RELATED ITEMS: 08-133, 08-134, 08-135, 08R-240, 08R-241) - CLERK read an ordinance, introduced by Ken Svoboda, amending Chapter 2.65 of the Lincoln Municipal Code relating to the Police & Fire Pension, Plan B, by amending Section 2.65.020 to add a definition for "COLA (Cost of Living Adjustment) contribution"; amending Section 2.65.045 to require applicable members to make COLA contributions while enrolled in the DROP program; amending Section 2.65.070 to provide that members who terminate with less than ten years of service are not entitled to reimbursement of COLA contributions; amending Section 2.65.140 to clarify that members not entitled to COLA pursuant to Section 2.65.145 shall continue to receive lump sum payments (13<sup>th</sup> check); adding a new section numbered 2.65.145 to provide for an annual percentage increase as a cost of living adjustment for eligible members; amending Section 2.65.160 to establish the COLA contribution percentage from applicable members; and repealing Sections 2.65.020, 2.65.045, 2.65.070, 2.65.140, and 2.65.160 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 2.66 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN C TO PROVIDE A 1.5% COLA AND A 4% INCREASE IN MEMBER CONTRIBUTIONS. (RELATED ITEMS: 08-133, 08-134, 08-135, 08R-240, 08R-241) - CLERK read an ordinance, introduced by Ken Svoboda, amending Chapter 2.66 of the Lincoln Municipal Code relating to the Police & Fire Pension, Plan B, by amending Section 2.66.020 to add a definition for "COLA (Cost of Living Adjustment) contribution"; amending Section 2.66.045 to require applicable members to make COLA contributions while enrolled in the DROP program; amending Section 2.66.070 to provide that members who terminate with less than ten years of service are not entitled to reimbursement of COLA contributions; amending Section 2.66.107 to clarify that members not entitled to COLA pursuant to Section 2.66.108 shall continue to receive lump sum payments (13<sup>th</sup> check); adding a new section numbered 2.66.108 to provide for an annual percentage increase as a cost of living adjustment for eligible members; amending Section 2.66.120 to establish the COLA contribution percentage from applicable members; and repealing Sections 2.66.020, 2.66.045, 2.66.070, 2.66.107, and 2.66.120 of the Lincoln Municipal Code as hitherto existing, the second time.

APPROVING THE TRANSFER OF CASH AND APPROPRIATION OF UNSPENT FUND BALANCE IN THE AMOUNT OF \$750,000 IN FY 2008-09 FROM THE STREET CONSTRUCTION FUND BALANCE TO PROJECT NO. 070716 SIDEWALK MAINTENANCE AND REPAIR - CLERK read an ordinance, introduced by Ken Svoboda, approving the transfer of cash and appropriation of unspent fund balance from the Street Construction Fund Balance to Sidewalk Maintenance and Repair in accordance with Ordinance 18863 for the issuance of Highway Allocation Bonds, the second time.

CHANGE OF ZONE 08040 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY ADDING A NEW SECTION NUMBERED 27.03.638 TO DEFINE WIND ENERGY CONVERSION SYSTEM (WECS); BY AMENDING SECTIONS 27.07.020, 27.09.020, 27.11.020, 27.13.020, 27.15.020, 27.17.020, 27.19.020, 27.21.020, 27.23.020, 27.24.020, 27.25.020, 27.26.020, 27.27.020, 27.29.020, 27.31.030, 27.33.020, 27.37.020, 27.39.020, 27.41.020, 27.43.020, 27.45.020 TO ADD WECS AS A PERMITTED USE IN THE AG, AGR, R-1 THROUGH R-8, O-1 THROUGH O-3, B-1, B-2, B-3, B-5 AND H-1 THROUGH H-4 ZONING DISTRICTS; BY AMENDING SECTIONS 27.07.030, AND 27.09.030 TO ADD WECS OVER THE DISTRICT HEIGHT AS A PERMITTED CONDITIONAL USE IN THE AG AND AGR DISTRICTS, AMENDING SECTIONS 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, 27.24.040, 27.25.030, 27.26.040, 27.27.030, 27.29.040, 27.31.050, 27.33.040, 27.35.030, 27.37.030, 27.45.030, 27.47.030, 27.49.040 AND 27.51.050 TO ADD WECS OVER THE DISTRICT HEIGHT AS A PERMITTED SPECIAL USE IN THE R-1 THROUGH R-8, O-1 THROUGH O-3, B-1 THROUGH B-5, H-1 THROUGH H-4, AND I-1 THROUGH I-3 ZONING DISTRICTS; AMENDING SECTION 27.63.420 TO AMEND THE SPECIAL PERMIT REQUIREMENTS FOR WECS; AMENDING SECTION 27.71.025 TO CLARIFY WECS MAY EXCEED THE HEIGHT OF THE DISTRICT IN WHICH THE WECS IS LOCATED; AND REPEALING SECTIONS 27.07.020, 27.07.030, 27.09.020, 27.09.030, 27.11.020, 27.11.040, 27.13.020, 27.13.040, 27.15.020, 27.15.040, 27.17.020, 27.17.040, 27.19.020, 27.19.040, 27.21.020, 27.21.040, 27.23.020, 27.23.040, 27.24.020, 27.24.040, 27.25.020, 27.25.030, 27.26.020, 27.26.040, 27.27.020, 27.27.030, 27.29.020, 27.29.040, 27.31.030, 27.31.050, 27.33.020, 27.33.040, 27.35.030, 27.37.020, 27.37.030, 27.39.020, 27.39.030, 27.41.020, 27.41.040, 27.43.020, 27.43.040, 27.45.020, 27.45.030, 27.47.030, 27.49.040, 27.51.050, 27.63.420, AND 27.71.025 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Ken Svoboda, amending Title 27 of the Lincoln Municipal Code relating to zoning by adding a new Section numbered 27.03.638 to define Wind Energy Conversion System (WECS); by amending Sections 27.07.020, 27.09.020, 27.11.020, 27.13.020, 27.15.020, 27.17.020, 27.19.020, 27.21.020, 27.23.020, 27.24.020, 27.25.020, 27.26.020, 27.27.020, 27.29.020, 27.31.030, 27.33.020, 27.37.020, 27.39.020, 27.41.020, 27.43.020, 27.45.020 to add WECS as a permitted use in the AG, AGR, R-1 through R-8, O-1 through O-3, B-1, B-2, B-3, B-5 and H-1 through H-4 zoning districts; by amending Sections 27.07.030, and 27.09.030 to add WECS over the district height as a permitted conditional use in the AG and AGR Districts, amending Sections 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, 27.24.040, 27.25.030, 27.26.040, 27.27.030, 27.29.040, 27.31.050, 27.33.040, 27.35.030, 27.37.030, 27.45.030, 27.47.030, 27.49.040 and 27.51.050 to add WECS over the district height as a permitted special use in the R-1 through R-8, O-1 through O-3, B-1 through B-5, H-1 through H-4, and I-1 through I-3 zoning districts; amending Section 27.63.420 to amend the special permit requirements for WECS; amending Section 27.71.025 to clarify WECS may exceed the height of the district in which the WECS is located; and repealing Sections 27.07.020, 27.07.030, 27.09.020, 27.09.030, 27.11.020, 27.11.040, 27.13.020, 27.13.040, 27.15.020, 27.15.040, 27.17.020, 27.17.040, 27.19.020, 27.19.040, 27.21.020, 27.21.040, 27.23.020, 27.23.040, 27.24.020, 27.24.040, 27.25.020, 27.25.030, 27.26.020, 27.26.040, 27.27.020, 27.27.030, 27.29.020, 27.29.040, 27.31.030, 27.31.050, 27.33.020, 27.33.040, 27.35.030, 27.37.020, 27.37.030, 27.39.020, 27.39.030, 27.41.020, 27.41.040, 27.43.020, 27.43.040, 27.45.020, 27.45.030, 27.47.030, 27.49.040, 27.51.050, 27.63.420, and 27.71.025 of the Lincoln Municipal Code as hitherto existing, the second time.

CHANGE OF ZONE 08043 - REQUEST OF WRK, LLC, ON BEHALF OF HAYMARKET SOUTH LLC AND INFINITY S DEVELOPMENT CO. FOR A CHANGE OF ZONE FROM I-1 INDUSTRIAL DISTRICT TO B-4 LINCOLN CENTER BUSINESS DISTRICT ON APPROXIMATELY 1.03 ACRES GENERALLY LOCATED AT S. 8TH STREET AND M STREET - CLERK read an

ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

CHANGE OF ZONE 08046 - REQUEST OF THE HISTORIC PRESERVATION COMMISSION, ON BEHALF OF AGINVEST, FOR A CHANGE OF ZONE FROM B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT TO R-3 RESIDENTIAL DISTRICT ON APPROXIMATELY 2.7 ACRES GENERALLY LOCATED AT N. 14TH STREET AND MORTON STREET. (RELATED ITEMS: 08-139, 08-73) - CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

CHANGE OF ZONE 08022HP - APPLICATION OF ANJA PEGRAM SIDERS, ON BEHALF OF AGINVEST LLC, TO DESIGNATE THE DR. SLATTERY HOUSE AT 5230 NORTH 14TH STREET AS A HISTORIC LANDMARK. (6/23/08 - PLACED ON PENDING INDEFINITELY, W/CON'T P.H.) (9/29/08 - REMOVED FROM PENDING TO HAVE 2ND READING WITH CONTINUED PUBLIC HEARING ON 10/13 WITH ACTION ON 10/20) (RELATED ITEMS: 08-139, 08-73) CLERK read an ordinance, introduced by Doug Emery, amending the City of Lincoln District Map attached to and made a part of Title 27 of the Lincoln Municipal Code by designating certain property as a Landmark, the second time.

CHANGE OF ZONE 08048 - REQUEST OF HARTLAND HOMES FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL DISTRICT TO B-1 LOCAL BUSINESS DISTRICT ON APPROXIMATELY 8.500 SQ. FT. OF PROPERTY GENERALLY LOCATED AT N.W. 48TH STREET AND W. ADAMS STREET - CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

VACATION 08005 - VACATING THE EAST-WEST ALLEY IN BLOCK 21, ORIGINAL PLAT, LINCOLN, GENERALLY LOCATED BETWEEN R AND S STREETS FROM N. 8TH STREET TO N. 9TH STREET - CLERK read an ordinance, introduced by Ken Svoboda, vacating the east-west alley between R Street and S Street from N. 8<sup>th</sup> Street to N. 9<sup>th</sup> Street, in Block 21, Original Plat, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

APPROVING THE MASTER FIBER IRU CONVEYANCE AND CONDUIT SHARING AGREEMENT BETWEEN THE CITY AND UNITE PRIVATE NETWORKS FOR THE PLACEMENT AND SHARING OF NETWORK FACILITIES ON CITY EASEMENT AREAS FROM LINCOLN TO THE ASHLAND WATER TREATMENT FACILITIES - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving the Master Fiber IRU Conveyance and Conduit Sharing Agreement between the City of Lincoln, Nebraska, a municipal corporation, and Unite Private Networks, LLC, (Unite) for the placement and sharing of network facilities upon certain City easement areas between Lincoln and the Ashland facilities and authorizing the Mayor to sign such Agreement on behalf of the City, the second time.

#### PUBLIC HEARING RESOLUTIONS

APPROVING THE LABOR CONTRACT BETWEEN THE CITY AND IAFF, LOCAL 644, EFFECTIVE AUGUST 21, 2008. (RELATED ITEMS: 08-133, 08-134, 08-135, 08R-240, 08R-241) - PRIOR to reading:

MARVIN Moved to have Action on Bill No. 08R-240 in one week to October 20, 2008.

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

APPROVING A TRANSFER OF APPROPRIATIONS AND CASH WITHIN THE 2008-2009 OPERATING BUDGET FROM THE FIRE & RESCUE GENERAL FUND, EMS ENTERPRISE FUND, GRANTS-IN-AID FUND, BUILDING & SAFETY FUND, SOCIAL SECURITY FUND AND POLICE GENERAL FUND FOR REALLOCATION TO THE POLICE AND FIRE PENSION FUND IN THE AMOUNT OF \$356,342.00. (RELATED ITEMS: 08-133, 08-134, 08-135, 08R-240, 08R-241) - PRIOR to reading:

MARVIN Moved to have Action on Bill No. 08R-241 in one week to October 20, 2008.

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

SPECIAL PERMIT 08038 - APPEAL OF THOMAS E. MADSEN TO THE PLANNING COMMISSION'S DENIAL OF HIS APPLICATION TO EXPAND A NONCONFORMING USE BY ADDING AN OUTDOOR CAFÉ AT THE BOWLING ALLEY/RESTAURANT THAT SELLS ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES, ON PROPERTY GENERALLY LOCATED AT N. 48TH STREET AND DUDLEY STREET - PRIOR to reading:

MARVIN Moved MTA #1 to amend Bill No. 08R-249 in the following manner:

1. On page 2, after line 12, add a new paragraph 1 as follows:

1. Revise the site plan to show an 8 ft. fence from the ground up around the perimeter of the deck.

2. On page 2 renumber paragraphs 1 through 6 as paragraphs 2 through 7.

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

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

A-85071 WHEREAS, Thomas E. Madsen has submitted an application designated as Special Permit No. 08038 for authority to expand a nonconforming use for the sale of alcoholic beverages for consumption on the premises at the bowling alley/restaurant generally located at N. 48th Street and Dudley Street by adding an outdoor café. The premises is legally described as:

Lots 1, 2, and 3, except the east 60 feet thereof, together with the east half of the vacated alley adjacent thereto; and the south half of vacated Starr Street adjacent thereto; Lots 6 and 7, except the east 60 feet of Lot 6, and except that part of Lots 6 and 7 conveyed to the City of Lincoln, Nebraska, in Deed Book 698, Page 303, but including the vacated alley adjacent to Lots 6 and 7; all of Lots 8, 9, 10, 11, and 12, and the west half of the vacated alley adjacent to Lots 8, 9, 10, 11, and 12; and the south 25 feet of the south half of vacated Starr Street adjacent to Lot 12, all in Block 8, Mount Forest, Lincoln, Lancaster County, Nebraska; and

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

WHEREAS, Thomas E. Madsen filed a Notice of Appeal appealing the action of the Planning Commission's denial of Special Permit No. 08038; 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 expansion of a non-conforming use for the sale of alcoholic beverages for consumption on the premises 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 Thomas E. Madsen, hereinafter referred to as "Permittee", to expand a nonconforming use for the sale of alcoholic beverages for consumption on the premises to add an outdoor café on property described above be and the same is hereby granted under the provisions of Section 27.63.280 of the Lincoln Municipal Code upon condition that construction of said outdoor café area be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the expansion of a nonconforming use for the sale of alcohol for consumption on the premises.

2. Before allowing the consumption of alcohol in the outdoor cafe, all development and construction must conform to the approved plans.

3. All privately-owned improvements, including landscaping, are to be permanently maintained by the Permittee.

4. 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.

5. The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee and his successors and assigns.

6. The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The 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 Ken Svoboda

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

MISC. 08013 - AMENDING THE CITY OF LINCOLN DESIGN STANDARDS BY ADDING CHAPTER 1.10 TO ESTABLISH A PROCESS FOR AMENDING THE CITY OF LINCOLN DESIGN STANDARDS, AND TO AMEND CHAPTER 2.15, URBAN PUBLIC STREET DESIGN STANDARDS (RELATED ITEMS: 08R-250, 08R-251) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85072 WHEREAS, the Mayor's Road Design Standards Technical Task Force (Task Force) was asked to review and evaluate the City's standards for roadway design standards and industry practices; and

WHEREAS, the Task Force has completed their evaluation of the City's standards for roadway designs and has issued recommendations for modifications; and

WHEREAS, the City would like to implement the Task Force recommendations involving the City of Lincoln Design Standards, Chapter 2.15, Urban Public Street Design Standards; and

WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Design Standards by Resolution No. A-80518; and

WHEREAS, the Mayor's Road Design Standards Technical Task Force has proposed amendments to the City of Lincoln Design Standards to add a Chapter 1.10 to establish a process for amending the City of Lincoln Design Standards, and to amend Chapter 2.15, Urban Public Street Design Standards, to implement the recommendations of the Task Force.

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

That the City of Lincoln Design Standards, adopted by the City Council on November 6, 2000 by Resolution No. A-80518, be and the same are hereby amended by:

1. Adding a new Chapter 1.10 "Amendments to Design Standards" as shown on Attachment "A" which is attached hereto and incorporated herein by reference; and

2. Amending Section 3.7 "Roadway Cross-section" of Chapter 2.15 "Urban Public Street Design Standards" to read as shown on Attachment "B" which is attached hereto and incorporated herein by reference.

Introduced by Ken Svoboda

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

AMENDING SECTION 3.2.3 OF THE DRAINAGE CRITERIA MANUAL BY AMENDING TABLE 3-2, ALLOWABLE MAXIMUM ENCROACHMENT FOR MINOR STORMS (RELATED ITEMS: 08R-250, 08R-251) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85073 WHEREAS, the Mayor's Road Design Standards Technical Task Force (Task Force) was asked to review and evaluate the City's standards for roadway design standards and industry practices; and

WHEREAS, the Task Force has completed their evaluation of the City's standards for roadway designs and has issued recommendations for modifications; and

WHEREAS, the City would like to implement the Task Force recommendations involving the Drainage Criteria Manual; and

WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Drainage Criteria Manual by Resolution No. A-80038; and

WHEREAS, a text change to Chapter 3 of the Drainage Criteria Manual is necessary to amend Table 3-2, Allowable Maximum Encroachment for Minor Storms, within Section 3.2.3, Pavement Drainage; Spread.

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

That Table 3-2 "Allowable Maximum Encroachment for Minor Storms" within Section 3.2.3 of the Drainage Criteria Manual, adopted by the City Council on February 22, 2002 by Resolution No. A-80038, be and the same is hereby amended to read as follows:

**3.2.3 Spread**

For multi-laned curb and gutter or guttered roadways with no parking, it is not practical to avoid travel lane flooding when grades are flat. Allowable maximum encroachment is provided in the following table.

<b>Street Classification</b>	<b>Maximum Encroachment</b>
Local	No curb overtopping.
Collector	No curb overtopping.
Arterial	No curb overtopping. Flow spread must leave at least one lane free of water in each direction. <u>For arterials with only one lane in each direction, both a 4-foot and 6-foot spread limit should be investigated, and if the 4-foot spread is within 15% of the cost of a 6-foot spread, then 4-foot spread design should be used, otherwise 6-foot spread is the maximum.</u>
Freeway	Refer to Nebraska Department of Roads design criteria.

~~When these encroachments are met, the storm drain system shall commence.~~

Introduced by Ken Svoboda

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF SEPTEMBER 16 - 30, 2008 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85074 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 October 1, 2008, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the

Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED/SETTLED</u>	
Tanya Carlmark	NAS*	Edward Weisser/Farmers Mutual	
Stephanie Bradley	NAS*	of Nebraska	\$2,797.97
Elizabeth Hogrefe	\$306.23	Sara Baines	1,148.45
		Nebraska Intergovernmental	
		Risk Management Association	
		(NIRMA File	
		#VAWASHI026958)	8,995.00
		Juliana Thompson	219.50
		Mark & Julie Olson	521.51
		Sabrina Hall	521.50
		Lisa Kolbaum	2,127.62

\*No Amount Specified

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

Introduced by Ken Svoboda

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

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN LITERACY COUNCIL TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$10,000.00 PER YEAR FOR ITS ENGLISH LANGUAGE ACADEMY PROGRAM - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85075 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached two-year Grant Contract between the City of Lincoln and the Lincoln Literacy Council to provide grant funds in the amount of \$10,000.00 per year for its English Language Academy Program, upon the terms and conditions as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit one fully executed original Contract to the Lincoln Literacy Council, 745 South 9th Street, Lincoln, NE 68508, and a copy of said Contract to the Finance Department

Introduced by Ken Svoboda

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

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN COUNCIL ON ALCOHOLISM AND DRUGS, INC. TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$37,000.00 PER YEAR FOR ITS ALCOHOL AND DRUG EDUCATION AND PREVENTION PROGRAMS - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85076 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached two-year Grant Contract between the City of Lincoln and the Lincoln Council on Alcoholism and Drugs, Inc. to provide grant funds in the amount of \$37,000.00 per year for its Alcohol and Drug Education and Prevention Programs, upon the terms and conditions as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit one fully executed original Contract to the Lincoln Council on Alcoholism and Drugs, 914 L Street, Lincoln, NE 68508, and a copy of said Contract to the Finance Department

Introduced by Ken Svoboda

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

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE ASIAN COMMUNITY AND CULTURAL CENTER TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$10,000.00 PER YEAR FOR ITS FAMILY RESOURCE PROGRAM - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85077 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached two-year Grant Contract between the City of Lincoln and the Asian Community and Cultural Center to provide grant funds in the amount of \$10,000.00 per year for its Family Resource Program, upon the terms and conditions as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit one fully executed original Contract to Asian Community & Cultural Center, 2615 O Street, Lincoln, NE 68510, and a copy of said Contract to the Finance Department.

Introduced by Ken Svoboda

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

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE FRIENDSHIP HOME TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$189,362.00 PER YEAR FOR ITS EMERGENCY SHELTER PROGRAM - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85078 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached two-year Grant Contract between the City of Lincoln and the Asian Community and Cultural Center to provide grant funds in the amount of \$10,000.00 per year for its Family Resource Program, upon the terms and conditions as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit one fully executed original Contract to Asian Community & Cultural Center, 2615 O Street, Lincoln, NE 68510, and a copy of said Contract to the Finance Department

Introduced by Ken Svoboda

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

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE CLYDE MALONE COMMUNITY CENTER TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$35,000.00 PER YEAR FOR ITS AFTER SCHOOL PROGRAM - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85079 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached two-year Grant Contract between the City of Lincoln and the Clyde Malone Community Center to provide grant funds in the amount of \$35,000.00 per year for its After-School Program, upon the terms and conditions as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit one fully executed original Contract to Clyde Malone Community Center, 2032 U Street, Lincoln, NE 68503, and a copy of said Contract to the Finance Department

Introduced by Ken Svoboda

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

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND THE FAMILY VIOLENCE COUNCIL TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$26,259.00 PER YEAR FOR ITS PROGRAMS TO STOP VIOLENCE AND ABUSE - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85080 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached two-year Grant Contract between the City of Lincoln and the Family Violence Council to provide grant funds in the amount of \$26,259.00 per year for its Programs to Stop Violence and



Abuse, upon the terms and conditions as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit one fully executed original Contract to Family Violence Council, 4600 Valley Road, Lincoln, NE 68510, and a copy of said Contract to the Finance Department

Introduced by Ken Svoboda

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

**ORDINANCE - 1<sup>ST</sup> READING & RELATED RESOLUTIONS (AS REQUIRED)**

AMENDING ORDINANCE NO. 19143, PASSED BY THE CITY COUNCIL ON SEPTEMBER 22, 2008, TO CORRECT THE LEGAL DESCRIPTION FOR THE SURPLUS PROPERTY GENERALLY LOCATED AT SOUTH 46TH STREET AND O STREET (COMP. PLAN CONFORMANCE 07023) - CLERK read an ordinance, introduced by Jon Camp, amending Ordinance 19143 passed by the City Council of the City of Lincoln, Nebraska on September 22, 2008, declaring approximately 2,739 square feet of City-owned property generally located at South 46<sup>th</sup> Street and O Street as surplus, to correct the legal description of the surplus property, the first time.

AMENDING TITLE 10 OF THE LINCOLN MUNICIPAL CODE BY CREATING A NEW CHAPTER 10.55, ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES, TO DEFINE THE SAME, TO REGULATE THE USE THEREOF, AND TO PROVIDE PENALTIES FOR VIOLATIONS - CLERK read an ordinance, introduced by Jon Camp, creating Chapter 10.55 of the Lincoln Municipal Code, Electric Personal Assistive Mobility Devices, to define the same, to regulate the use thereof, and to provide penalties for violation, the first time.

APPROVING THE PINE WOODS CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND REALTY TRUST GROUP RELATING TO THE ANNEXATION OF APPROXIMATELY 4.87 ACRES OF PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF SOUTH 70TH STREET AND SOUTH OF PINE LAKE ROAD (RELATED ITEMS: 08-R-260, 08-145, 08-146) (ACTION DATE: 10/27/08)

ANNEXATION NO. 08006 - APPLICATION OF REALTY TRUST GROUP TO AMEND THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 4.87 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 70TH STREET AND PINE LAKE ROAD (RELATED ITEMS: 08-R-260, 08-145, 08-146) - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the first time.

CHANGE OF ZONE 08041 - APPLICATION OF REALTY TRUST GROUP FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT PUD AND FOR APPROVAL OF A DEVELOPMENT PLAN FOR MODIFICATIONS TO THE ZONING AND LAND SUBDIVISION ORDINANCES TO DEVELOP APPROXIMATELY 11 DWELLING UNITS AND APPROXIMATELY 53,000 SQUARE FEET OF OFFICE, RETAIL AND/OR COMMERCIAL FLOOR AREA ON PROPERTY GENERALLY LOCATED AT SOUTH 70TH STREET AND PINE LAKE ROAD (RELATED ITEMS: 08-R-260, 08-145, 08-146) - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

**ORDINANCES - 3<sup>RD</sup> READING & RELATED RESOLUTIONS (as required) - NONE**

**REGISTERED TO SPEAK SESSION - NONE**

**OPEN MICROPHONE SESSION**

Dr. Henry Cech, 4104 Clifford Dr., came forward as a 61-year city dweller expressing anger and disappointment over the City's decision as of August 2007 to no longer mow grass and control noxious weeds in the detention pond located in his residential neighborhood. Council Member Emery stated he would follow up on this concern.

This matter was taken under advisement.

Council Member Spatz read two testimonials written by Goodrich Middle School Youth Afterschool Ambassadors, Holly Gibbs and Luke Edwards, which were sent to him by e-mail from Dayna Drannawitter, Arnold CLC Site Supervisor, in support of after school programs. In summary, the two ambassadors expressed appreciation for programs that keep them involved in positive activities after school until their parents pick them up.

This matter was taken under advisement.

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP Moved to extend the Pending List to October 20, 2008.  
Seconded by Cook & 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 October 20, 2008.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

**ADJOURNMENT 4:39 P.M.**

CAMP Moved to adjourn the City Council meeting of October 13, 2008.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.  
So ordered.

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Joan E. Ross, City Clerk

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Sandy L. Dubas, Senior Office Assistant