

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, NOVEMBER 3, 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 October 27, 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 OLD FEDERAL PLACE LLC DBA JASMINE ROOM FOR A CLASS I LIQUOR LICENSE AT 129 NORTH 10TH STREET AND AN OUTSIDE PATIO AREA MEASURING APPROXIMATELY 20 FEET BY 40 FEET TO THE SOUTH;  
MANAGER APPLICATION OF MONTE FROEHLICH FOR OLD FEDERAL PLACE LLC DBA JASMINE ROOM AT 129 NORTH 10TH STREET - Monte Froelich, 129 N. 10<sup>th</sup> St., came forward to take oath and answer questions.

This matter was taken under advisement.

APPLICATION OF MARTINA ALVAREZ DBA LA HACIENDA DE FLORES FOR A CLASS I LIQUOR LICENSE AT 100 NORTH 1ST STREET, SUITE 4 - Martina Alvarez, 130 Oliver Circle, came forward to take oath and answer questions about her criminal history record and stated that she is amending the ways of her troubled past.

Russ Fosler, LPD, came forward to answer questions about criminal history records and clarified that City staff does not have discretion to eliminate applicants for new liquor licensing, but rather this decision must come to the Council for a vote.

This matter was taken under advisement.

RATIFYING THE INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF LANCASTER, NEBRASKA, AND THE LINCOLN LANCASTER COUNTY HEALTH DEPARTMENT WHEREBY THE HEALTH DEPARTMENT WILL PROVIDE SERVICES 24 HOURS PER DAY, 7 DAYS A WEEK, IN THE EVENT SUCH SERVICES ARE NEEDED AT THE YOUTH SERVICE CENTER FOR THE PERIOD OF JULY 1, 2008 TO JUNE 30, 2009 - Bruce Dart, Health Department Director, came forward to answer questions and to state this resolution extends the contract for one more year.

This matter was taken under advisement.

REQUEST FOR BOND ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$932,000.00 CITY OF LINCOLN, NEBRASKA BLOCK 85 REDEVELOPMENT PROJECT TAX ALLOCATION BONDS;

APPROVING THE BLOCK 85 REDEVELOPMENT AGREEMENT BETWEEN HAYMARKET SOUTH, LLC, WRK, LLC, AIRSPACE, LLC, AND THE CITY RELATING TO THE REDEVELOPMENT OF PROPERTY GENERALLY LOCATED ON BLOCK 85 FROM 8TH TO 9TH STREETS, AND M STREET TO ROSA PARKS WAY;

AMENDING THE FY 08/09 CIP TO AUTHORIZE AND APPROPRIATE \$932,000 IN TIF FUNDS FOR THE BLOCK 85 REDEVELOPMENT PROJECT GENERALLY LOCATED ON BLOCK 85 FROM 8TH TO 9TH STREETS AND M STREET TO ROSA PARKS WAY - Council Member Camp spoke up in reference to items regarding the Block 85 Redevelopment Project and North Haymarket Arts and Humanities Phase II Redevelopment Project. He stated that even though he provided an Accountability & Disclosure Commission review letter stating he had no conflict of interest, he expressed a desire to maintain the integrity of the City Council and would therefore abstain from public hearing and vote.

Council Chair Eschliman passed the gavel to Council Vice Chair Emery stating she would abstain from public hearing and vote on the three items relating to the Block 85 Redevelopment Project.

**1:46 P.M. COUNCIL CHAIR ESCHLIMAN AND COUNCIL MEMBER CAMP LEAVE CHAMBER**

Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward to answer questions about the amendments to reflect a name change and clarify recordation.

John V. Hendry, City Attorney, came forward to clarify that there are amendments to the Bond Ordinance and the Block 85 Redevelopment Agreement.

This matter was taken under advisement.

**1:51 P.M. COUNCIL CHAIR ESCHLIMAN RETURNS TO CHAMBER**

REQUEST FOR BOND ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,800,000.00 CITY OF LINCOLN, NEBRASKA NORTH HAYMARKET ARTS AND HUMANITIES PHASE II REDEVELOPMENT PROJECT TAX ALLOCATION BONDS; APPROVING THE NORTH HAYMARKET ARTS AND HUMANITIES PHASE II REDEVELOPMENT AGREEMENT BETWEEN BLOCK 21, LLC AND THE CITY RELATING TO THE REDEVELOPMENT OF PROPERTY GENERALLY LOCATED AT 8TH AND R STREETS; AMENDING THE FY 08/09 CIP TO AUTHORIZE AND APPROPRIATE \$2.8 MILLION IN TIF FUNDS FOR THE NORTH HAYMARKET ARTS AND HUMANITIES PHASE II REDEVELOPMENT PROJECT GENERALLY LOCATED AT 8TH AND R STREETS - Council Chair Eschliman returned for public hearing and to preside over the meeting.

John V. Hendry, City Attorney, came forward to clarify amendments.

Rick Peo, Assistant City Attorney, came forward to explain that in consensus of all the parties, an amendment to the Agreement reflects revised language and a revised signature block. In response to questioning, he said in order for parking revenue bonds to be non-taxable, federal regulations regarding private use & private activity specify that not more than 10% of parking stalls can be mandatorily committed to any particular developer. Mr. Peo stated that staff is comfortable that the Agreement does not violate that provision.

Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward to answer questions regarding his legal representation.

This matter was taken under advisement.

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

**COUNCIL ACTION**

**COUNCIL MEMBER CAMP RETURNED TO CHAMBER**

**REPORTS OF CITY OFFICERS**

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY COUNCIL ON OCTOBER 20, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

REPORT FROM CITY TREASURER OF CASH ON HAND AT THE CLOSE OF BUSINESS SEPTEMBER 30, 2008 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

APPROVING THE ASSESSMENT RESOLUTION FOR DOWNTOWN BUSINESS IMPROVEMENT DISTRICT FOR BOARD OF EQUALIZATION, MONDAY, NOVEMBER 10, 2008 AT 5:30 P.M. - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85103 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the cost of providing for the development of public activities and the promotion of public events in the Downtown Business Improvement District including management and promotion and advocacy of retail trade activities or other promotional activities in the district area; enhancement of the enforcement of parking regulations and the provision of security within the district area; the improvement of parking availability; the provision of physical improvements for decoration and security purposes; the maintenance, repair, and reconstruction of improvements of other facilities authorized by the Business Improvement District Act not otherwise subject to maintenance, repair, or reconstruction under or within another business improvement district; any other projects or undertakings for the benefit of the public facilities in the district area; the employment of or contracting for personnel, including administrators, to provide for any service as may be necessary or proper to carry out the purposes of the Business Improvements District Act and cost incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of the Downtown Business Improvement District", and made a part hereof; that the cost of said public activities and promotion of public events is the sum of \$311,288.62; that the property set forth in the proposed Distribution of Assessment is specially benefitted by such activities and improvement; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said activities and improvements; that the cost of said activities and improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of the Downtown Business Improvement District.

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

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 10th day of November, 2008, at 5:30 p.m., and on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ m., with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Dan Marvin

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

APPROVING THE ASSESSMENT RESOLUTION FOR DOWNTOWN MAINTENANCE IMPROVEMENT DISTRICT FOR BOARD OF EQUALIZATION, MONDAY, NOVEMBER 10, 2008 AT 5:30 P.M. - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85104 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the cost of providing for the development of public activities and the promotion of public events in the Downtown Business Improvement District including management and promotion and advocacy of retail trade activities or other promotional activities in the district area; enhancement of the enforcement of parking regulations and the provision of security within the district area; the improvement of parking availability; the provision of physical improvements for decoration and security purposes; the maintenance, repair, and reconstruction of improvements of other facilities authorized by the Business Improvement District Act not otherwise subject to maintenance, repair, or reconstruction under or within another business improvement district; any other projects or undertakings for the benefit of the public facilities in the district area; the employment of or contracting for personnel, including administrators, to provide for any service as

may be necessary or proper to carry out the purposes of the Business Improvements District Act and cost incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of the Downtown Business Improvement District", and made a part hereof; that the cost of said public activities and promotion of public events is the sum of \$311,288.62; that the property set forth in the proposed Distribution of Assessment is specially benefitted by such activities and improvement; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said activities and improvements; that the cost of said activities and improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of the Downtown Business Improvement District.

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

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 10th day of November, 2008, at 5:30 p.m., and on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ m., with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Dan Marvin

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

APPROVING THE ASSESSMENT RESOLUTION FOR DOWNTOWN CORE BUSINESS IMPROVEMENT DISTRICT FOR BOARD OF EQUALIZATION, MONDAY, NOVEMBER 10, 2008 AT 5:30 P.M. - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85105 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the cost of providing for the development of public activities and the promotion of public events in the Core Business Improvement District Overlay including management and promotion and advocacy of retail trade activities or other promotional activities in the district area; enhancement of the enforcement of parking regulations and the provision of security within the district area; the improvement of parking availability; the provision of physical improvements for decoration and security purposes; the maintenance, repair, and reconstruction of improvements of other facilities authorized by the Business Improvement District Act not otherwise subject to maintenance, repair, or reconstruction under or within another business improvement district; any other projects or undertakings for the benefit of the public facilities in the district area; the employment of or contracting for personnel, including administrators, to provide for any service as may be necessary or proper to carry out the purposes of the Business Improvements District Act and cost incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of the Core Business Improvement District Overlay", and made a part hereof; that the cost of said public activities and promotion of public events is the sum of \$146,639.77; that the property set forth in the proposed Distribution of Assessment is specially benefitted by such activities and improvement; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said activities and improvements; that the cost of said activities and improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of the Core Business Improvement District Overlay.

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

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 10th day of November, 2008, at 5:30 p.m., and on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ m., with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Dan Marvin

Seconded by Emery & 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 08053 - Application of Engineering Design Consultants, LLC for owners Kevin D. and Carla J. Pinneo to designate the Foster House as a historic landmark on property located at 1021 D Street.

Special Permit 08044 - Application of Engineering Design Consultants to allow the use of a historic landmark as office space on property located at 1021 D Street (Foster House).

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 17, 2008 AT 1:30 P.M. FOR THE APPLICATION OF PHILIP KUTLO AND IRMA KUTLO DBA CASTLE DRIVE IN FOR A CLASS D LIQUOR LICENSE LOCATED AT 6001 HAVELOCK AVENUE - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85106 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, November 17, 2008 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Philip Kutlo and Irma Kutlo dba Castle Drive In for a Class D liquor license located at 6001 Havelock Avenue.

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

Introduced by Dan Marvin

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

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 17, 2008 AT 1:30 P.M. FOR THE APPLICATION OF BLACK BEAR ENTERPRISES LLC DBA THE OFFICE GENTLEMAN'S CLUB FOR A CLASS I LIQUOR LICENSE LOCATED AT 640 WEST PROSPECTOR - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85107 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, November 17, 2008 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Black Bear Enterprises LLC dba The Office Gentleman's Club for a Class I liquor license located at 640 West Prospector.

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

Introduced by Dan Marvin

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

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 17, 2008 AT 1:30 P.M. FOR THE APPLICATION OF MAC ACQUISITION LLC DBA ROMANO'S MACARONI GRILL FOR A CLASS C LIQUOR LICENSE LOCATED AT 6800 S. 27<sup>TH</sup> STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85108 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, November 17, 2008 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Mac

Acquisition LLC dba Romano's Macaroni Grill for a Class C liquor license located at 6800 S. 27<sup>th</sup> Street.

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

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 OLD FEDERAL PLACE LLC DBA JASMINE ROOM FOR A CLASS I LIQUOR LICENSE AT 129 NORTH 10TH STREET AND AN OUTSIDE PATIO AREA MEASURING APPROXIMATELY 20 FEET BY 40 FEET TO THE SOUTH - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85109 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Old Federal Place LLC dba Jasmine Room for a Class "I" liquor license at 129 North 10th Street, Lincoln, Nebraska, and an outside patio area measuring approximately 20 feet by 40 feet to the south, for the license period ending April 30, 2009, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

MANAGER APPLICATION OF MONTE FROEHLICH FOR OLD FEDERAL PLACE LLC DBA JASMINE ROOM AT 129 NORTH 10TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85110 WHEREAS, Old Federal Place LLC dba Jasmine Room located at 129 North 10th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Monte Froehlich be named manager;

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

APPLICATION OF MARTINA ALVAREZ DBA LA HACIENDA DE FLORES FOR A CLASS I LIQUOR LICENSE AT 100 NORTH 1ST STREET, SUITE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for denial:

A-85111 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, pertinent City ordinances, and the following:

a. If the applicant is of a class of person to whom no license can be issued.

b. If the existing population of the City of Lincoln and the projected population growth of the City of Lincoln and within the area to be served are adequate to support the proposed license.

c. If the issuance of the license would be compatible with the nature of the neighborhood or community.

d. If existing licenses with similar privileges adequately serve the area.

e. If there are any existing motor vehicle and/or pedestrian traffic flow in the area or if this application would cause motor vehicle and/or pedestrian traffic flow issues.

f. If there is an adequate number of existing law enforcement officers in the area.

g. If there are zoning and/or distance restrictions that prevent the issuance of a license.

h. If there are sanitation and/or sanitary conditions on or about the area.

i. If a citizens' protest has been made.

The City Council recommends to the Nebraska Liquor Control Commission that the application of Martina Alvarez dba La Hacienda De Flores for a Class "I" liquor license, at 100 North 1st Street, Suite 4, Lincoln, Nebraska, be denied. The City Council has determined that the application should be denied for one or more of the following reasons:

a. The applicant is unfit, unwilling, and/or unable to properly provide the service proposed within the City of Lincoln.

b. The applicant cannot conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act and/or pertinent City ordinances.

c. The applicant has not demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, and pertinent City ordinances.

d. The applicant has provided an incomplete and/or invalid application. Neb. Rev. Stat. 53-1131.01.

e. The applicant has failed to provide a valid or complete lease for the full period of time in which the license is to be issued. Neb. Rev. Stat. 53-125(12).

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

Introduced by Jon Camp

Seconded by Marvin & 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 ORDINANCE NO. 19110, PASSED BY THE CITY COUNCIL ON JULY 28, 2008, TO INCLUDE LOTS 14-19, BLOCK 3, MCMURTRY'S ADDITION, IN THE CHANGE OF ZONE FROM R-6 RESIDENTIAL DISTRICT TO O-1 OFFICE DISTRICT, ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SOUTH 18TH STREET AND K STREET - CLERK read an ordinance, introduced by Doug Emery, amending Ordinance 19110 passed by the City Council of the City of Lincoln, Nebraska on July 28, 2008, for a change of zone from the R-6 and R-7 Residential Districts to the O-1 Office District on property generally located at South 18th and K Streets, to correct the legal description, the second time.

#### PUBLIC HEARING RESOLUTIONS

APPROVING A TWO-YEAR GRANT CONTRACT BETWEEN THE CITY OF LINCOLN AND EL CENTRO DE LAS AMERICAS TO PROVIDE GRANT FUNDS IN THE AMOUNT OF \$10,000.00 PER YEAR FOR ITS VICTIMS OF DOMESTIC VIOLENCE OUTREACH PROGRAM - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-85112 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 El Centro de las Americas to provide grant funds in the amount of \$10,000.00 per year for its Victims of Domestic Violence Outreach 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 El Centro De las Americas, 2032 U Street, Lincoln, NE 68503, and a copy of said Contract to the Finance Department.

Introduced by Doug Emery

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

RATIFYING THE INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF LANCASTER, NEBRASKA, AND THE LINCOLN LANCASTER COUNTY HEALTH DEPARTMENT WHEREBY THE HEALTH DEPARTMENT WILL PROVIDE SERVICES 24 HOURS PER DAY, 7 DAYS A WEEK, IN THE EVENT SUCH SERVICES ARE NEEDED AT THE YOUTH SERVICE CENTER FOR THE PERIOD OF JULY 1, 2008 TO JUNE 30, 2009 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-85113 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Agreement between the Lincoln-Lancaster County Health Department and the Lancaster County Youth Services Center whereby the Health Department will provide services 24 hours per day, 7 days a week, in the event such services are needed at the Youth Services Center for the period of July 1, 2008 to June 30, 2009, a copy of which is attached hereto, marked as Attachment "A" and made a part hereof by reference, is hereby ratified and approved and the Mayor is authorized to execute said Agreement on behalf of the City.

The City Clerk is directed to transmit one fully executed original Agreement to Susan Starcher, Lancaster County Clerk's Office, and one fully executed original Agreement to the Lincoln-Lancaster County Health Department for transmittal to Michelle Schindler, Director of Youth Services Center.

Introduced by Doug Emery

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

RATIFYING AND APPROVING THE CORRECTIONAL FACILITIES INTERLOCAL AGREEMENT BETWEEN THE CITY, LANCASTER COUNTY, AND THE LANCASTER COUNTY CORRECTIONAL FACILITY JOINT PUBLIC AGENCY RELATING TO THE TRANSPORT, SUPERVISION, AND HOUSING OF CITY OFFENDERS - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-85114 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Correctional Facilities Interlocal Agreement between the City of Lincoln, the County of Lancaster, Nebraska, and the Lancaster County Correctional Facility Joint Public Agency relating to the transport, supervision and housing of City offenders, a copy of which is attached hereto, marked as Attachment "A" and made a part hereof by reference, is hereby ratified and approved and the Mayor is authorized to execute said Interlocal Agreement on behalf of the City.

The City Clerk is directed to transmit an executed copy of said Interlocal Agreement to Bob Workman, Chair of the Board of County Commissioners of Lancaster County, Nebraska, and Bernie Heier, Chair of the Lancaster County Correctional Facility Joint Public Agency.

Introduced by Doug Emery

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



PUBLIC HEARING ORDINANCES - 3<sup>RD</sup> READING & RELATED RESOLUTIONS (AS REQUIRED)

REQUEST FOR BOND ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED  
\$932,000.00 CITY OF LINCOLN, NEBRASKA BLOCK 85 REDEVELOPMENT PROJECT TAX  
ALLOCATION BONDS. (RELATED ITEMS: 08-148, 08R-268, 08R-269) (10/27/08 -  
P.H. CON'T., LIMITED TO APPLICANTS' TESTIMONY, W/ACTION ON 11/3/08) -  
PRIOR to reading:

COOK Moved MTA #1 amending Bill No. 08-148 in the following manner:

1. On page 4, amend the second paragraph to read as follows:

**"Redevelopment Agreement"** means City of Lincoln Redevelopment Agreement  
(Block 85 Redevelopment Project), dated the date of its execution, among  
the City; ~~Haymarket South, LLC; WRK, L.L.C.~~ Block 85, LLC; and Airspace  
LLC, relating to the Project."

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

CLERK Read an ordinance, introduced by Jonathan Cook, authorizing and  
providing for the issuance of a City of Lincoln, Nebraska Tax Allocation  
Bond, Series 2008, in a principal amount not to exceed \$932,000 for the  
purpose of (1) paying the costs of acquiring, purchasing, constructing,  
reconstructing, improving, extending, rehabilitating, installing,  
equipping, furnishing and completing certain public improvements within  
the City's Block 85 Redevelopment Project Area, including acquiring any  
real estate and/or interests in real estate in connection therewith, and  
(2) paying the costs of issuance thereof; prescribing the form and  
certain details of the bond; pledging certain tax revenue and other  
revenue to the payment of the principal of and interest on the bond as  
the same become due; limiting payment of the bonds to such tax revenues;  
creating and establishing funds and accounts; delegating, authorizing  
and directing the finance director to exercise his independent  
discretion and judgment in determining and finalizing certain terms and  
provisions of the bond not specified herein; taking other actions and  
making other covenants and agreements in connection with the foregoing;  
and related matters, the third time.

COOK Moved to pass the ordinance as amended.

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

The ordinance, being numbered **#19169**, is recorded in Ordinance Book #26, Page

APPROVING THE BLOCK 85 REDEVELOPMENT AGREEMENT BETWEEN HAYMARKET SOUTH, LLC,  
WRK, LLC, AIRSPACE, LLC, AND THE CITY RELATING TO THE REDEVELOPMENT OF  
PROPERTY GENERALLY LOCATED ON BLOCK 85 FROM 8TH TO 9TH STREETS, AND M  
STREET TO ROSA PARKS WAY. (RELATED ITEMS: 08-148, 08R-268, 08R-269)  
(ACTION DATE: 11/3/08) (10/27/08 - P.H. CON'T., LIMITED TO APPLICANTS'  
TESTIMONY, W/ACTION ON 11/3/08) - PRIOR to reading:

MARVIN Moved MTA #1 amending Bill No. 08R-268 by accepting the substitute  
Redevelopment Agreement - Block 85 Redevelopment Project (10-21-08)  
attached hereto to reflect a reorganization of the ownership of Block 85  
as Block 85, LLC, a Nebraska limited liability company, and Airspace,  
LLC, a Nebraska limited liability company.

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

MARVIN Moved MTA #2 amending Bill No. 08R-268 in the following manner:

1. On line 4, delete "Haymarket South, LLC, WRK, LLC" and insert  
in lieu thereof, Block 85, LLC.

2. On line 14, after "Lancaster County, Nebraska," insert the  
following: and Lots 13, 14, and 15, Block 85, Original Plat of Lincoln,  
Lancaster County, Nebraska, together with all of the vacated east-west  
16 foot alley adjacent thereto on the south; and the north 67.00 feet of  
Lot 18, Block 85, in the Original Plat of Lincoln, Lancaster County,  
Nebraska and Lots 1, 2, and 3, and the north 5.00 feet of Lot 4, in  
Lincoln Land Company's Subdivision of Lots 16 and 17, Block 85, in the  
Original Plat of Lincoln, Lancaster County, Nebraska, together with the  
north 67.00 feet of the vacated north-south 10 foot alley lying between  
said lots,.

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

A-85115 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement entitled City of Lincoln Redevelopment Agreement (Block 85 Redevelopment Project) which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and ~~Haymarket South, LLC, WRK, LLC~~ Block 85, LLC, and Airspace, LLC, outlining certain conditions and understandings relating to the redevelopment of property generally located on Block 85 from 8th to 9th Streets, and M Street to Rosa Parks Way, for the commercial, office, and redevelopment of the property, is approved.

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

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

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Redevelopment Agreement or a summary memorandum thereof on Lots 1, 2, and 3, Airspace Addition, Block 85, Original Plat Lincoln, Lancaster County, Nebraska, and Lots 13, 14, and 15, Block 85, Original Plat of Lincoln, Lancaster County, Nebraska, together with all of the vacated east-west 16 foot alley adjacent thereto on the south; and the north 67.00 feet of Lot 18, Block 85, in the Original Plat of Lincoln, Lancaster County, Nebraska and Lots 1, 2, and 3, and the north 5.00 feet of Lot 4, in Lincoln Land Company's Subdivision of Lots 16 and 17, Block 85, in the Original Plat of Lincoln, Lancaster County, Nebraska, together with the north 67.00 feet of the vacated north-south 10 foot alley lying between said lots, with the Register of Deeds, filing fees to be paid by the Redevelopers.

Introduced by Jonathan Cook

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

AMENDING THE FY 08/09 CIP TO AUTHORIZE AND APPROPRIATE \$932,000 IN TIF FUNDS FOR THE BLOCK 85 REDEVELOPMENT PROJECT GENERALLY LOCATED ON BLOCK 85 FROM 8TH TO 9TH STREETS AND M STREET TO ROSA PARKS WAY. (RELATED ITEMS: 08-148, 08R-268, 08R-269) (ACTION DATE: 11/3/08) (10/27/08 - P.H. CON'T., LIMITED TO APPLICANTS' TESTIMONY, W/ACTION ON 11/3/08) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85116 WHEREAS, Resolution No. A-84988, adopted by the City Council of Lincoln, Nebraska on August 25, 2008, adopted the fiscal year 2008-2009 annual budget for the City of Lincoln and further adopted the Capital Improvement Program attached to Resolution No. A-84988 as Schedule No. 5; and

WHEREAS, Resolution No. A-84988 appropriated all money received or to be received from the County of Lancaster, the State of Nebraska, or the United States, as well as from any grants, donations, or contributions received for public purposes and the interest thereon notwithstanding any sum limitation set forth in the annual budget; and

WHEREAS, the City of Lincoln has adopted the Block 85 Redevelopment Project as an approved project within the Lincoln Center Redevelopment Plan; and

WHEREAS, a capital improvement project for the Block 85 Project was not included within Schedule No. 5 of the Annual Budget as a capital improvement project to be funded in fiscal year 2008-2009; and

WHEREAS, the City desires to amend the first year (2008-2009) of the Fiscal Year 2008/2009 - 2013/2014 Six Year Capital Improvement Program (CIP) to establish a project for the Block 85 Project, and establish appropriations for that project; and

WHEREAS, Article IX-B Section 7 of the Lincoln City Charter states that, "The [city] council shall not appropriate any money in any budget for any capital improvements project unless and until the conformity or

non-conformity of the project has been reported on by the Planning Department by special report or in connection with the Capital Improvements Programming process." The Charter definition of "Planning Department" includes the Planning Commission; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission has reviewed the Block 85 Project for conformity or nonconformity with the Comprehensive Plan as a capital improvement project as part of the review of the Lincoln Center Redevelopment Plan approved by Resolution No. A-84979; and

WHEREAS, the Planning Commission found the proposed Block 85 Project to be in conformity with the Comprehensive Plan.

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

That the implementation of the Block 85 Project to salvage and rehabilitate two buildings and construct a new building and related public improvements, is hereby established as a capital improvement project within the Capital Improvement Program.

BE IT FURTHER RESOLVED that the Capital Improvement Program on Schedule 5 of Resolution No. A-84988 be amended by adding the Block 85 Project to the Urban Development Department's list of capital of improvement projects on Schedule 5.

BE IT FURTHER RESOLVED that the City Council hereby appropriates and directs the Finance Director to make the necessary adjustments to the annual budget in the amount of \$932,000 to designate \$932,000 from Tax Increment Financing for this Block 85 Project.

Introduced by Jonathan Cook

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

REQUEST FOR BOND ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,800,000.00 CITY OF LINCOLN, NEBRASKA NORTH HAYMARKET ARTS AND HUMANITIES PHASE II REDEVELOPMENT PROJECT TAX ALLOCATION BONDS. (RELATED ITEMS: 08-149, 08R-270, 08R-271) (10/27/08 - P.H. CON'T., LIMITED TO APPLICANTS' TESTIMONY, W/ACTION ON 11/3/08) - CLERK read an ordinance, introduced by Jonathan Cook, authorizing and providing for the issuance of a City of Lincoln, Nebraska Tax Allocation Bond, Series 2008, in a principal amount not to exceed \$2,800,000 for the purpose of (1) paying the costs of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the City's North Haymarket Arts and Humanities Phase II Redevelopment Project Area. Including acquiring any real estate and/or interests in real estate in connection therewith, and (2) paying the costs of issuance thereof; prescribing the form and certain details of the bond; pledging certain tax revenue and other revenue to the payment of the principal of and interest on the bond as the same become due; limiting payment of the bonds to such tax revenues; creating and establishing funds and accounts; delegating, authorizing and directing the Finance Director to exercise his independent discretion and judgment in determining and finalizing certain terms and provisions of the bond not specified herein; taking other actions and making other covenants and agreements in connection with the foregoing, and related matters, the third time.

COOK Moved to pass the ordinance as read.

Introduced by Jonathan Cook

Seconded by Marvin & carried by the following vote: AYES: Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSTAIN: Camp. The ordinance, being numbered #19170, is recorded in Ordinance Book #26, Page

APPROVING THE NORTH HAYMARKET ARTS AND HUMANITIES PHASE II REDEVELOPMENT AGREEMENT BETWEEN BLOCK 21, LLC AND THE CITY RELATING TO THE REDEVELOPMENT OF PROPERTY GENERALLY LOCATED AT 8TH AND R STREETS. (RELATED ITEMS: 08-149, 08R-270, 08R-271) (ACTION DATE: 11/3/08) (10/27/08 - P.H. CON'T., LIMITED TO APPLICANTS' TESTIMONY, W/ACTION ON 11/3/08) - PRIOR to reading:

MARVIN Moved MTA #1 amending Bill No. 08R-270 by accepting the substitute Redevelopment Agreement - North Haymarket Arts and Humanities Phase II (10-23-08) attached hereto to revise the signature block and notary for Block 21, LLC.

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

SPATZ Moved MTA #2 amending Bill No. 08R-270 by amending paragraph 15 of the substitute Redevelopment Agreement - North Haymarket Arts and Humanities Phase II (10-23-08) to read as shown on the attachment hereto.

1. On page 17, line 3, following the words "Parking Garage on a monthly basis and" insert the following language: , subject to any rights the City may have granted to any other person or entity,

2. On page 18, line 1, delete the following words: ~~at the head of any waiting list compiled by the City or its agent operating the Haymarket Parking Garage. Notwithstanding the above, this right to be placed at the head of any waiting list does not require the City to place Redeveloper's request ahead of any other person who has been granted similar rights of first refusal prior to the date of this Agreement~~ and insert the following: on a waiting list compiled by the city or its agent operating the Haymarket Parking Garage. Redeveloper's priority on such list shall be junior to the priority of any other person or entity holding a right of first refusal granted prior to the right granted in this Agreement, in the order such rights were granted, but ahead of other unfilled requests.

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

CLERK Read the following amended resolution, introduced by Jonathan Cook, who moved its adoption:

A-85117 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement entitled City of Lincoln Redevelopment Agreement (North Haymarket Arts and Humanities Phase II) which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Block 21, LLC, outlining certain conditions and understandings relating to the redevelopment of property generally located at 8th and R Street, for the construction of a hotel and related building land uses, is approved.

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

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

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Redevelopment Agreement or a summary memorandum thereof on Lot 1, The Arts and Humanities Block Addition, Lincoln, Lancaster County, Nebraska, with the Register of Deeds, filing fees to be paid by the Block 21, LLC.

Introduced by Jonathan Cook

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

AMENDING THE FY 08/09 CIP TO AUTHORIZE AND APPROPRIATE \$2.8 MILLION IN TIF FUNDS FOR THE NORTH HAYMARKET ARTS AND HUMANITIES PHASE II REDEVELOPMENT PROJECT GENERALLY LOCATED AT 8TH AND R STREETS. (RELATED ITEMS: 08-149, 08R-270, 08R-271) (ACTION DATE: 11/3/08) (10/27/08 - P.H. CON'T, LIMITED TO APPLICANTS' TESTIMONY, W/ACTION ON 11/3/08) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85118 WHEREAS, Resolution No. A-84988, adopted by the City Council of Lincoln, Nebraska on August 25, 2008, adopted the fiscal year 2008-2009 annual budget for the City of Lincoln and further adopted the Capital Improvement Program attached to Resolution No. A-84988 as Schedule No. 5; and

WHEREAS, Resolution No. A-84988 appropriated all money received or to be received from the County of Lancaster, the State of Nebraska, or the United States, as well as from any grants, donations, or contributions received for public purposes and the interest thereon notwithstanding any sum limitation set forth in the annual budget; and

WHEREAS, the City of Lincoln has adopted the North Haymarket Arts and Humanities Phase II Redevelopment Project as an approved project within the Lincoln Center Redevelopment Plan; and

WHEREAS, a capital improvement project for the North Haymarket Arts and Humanities Phase II Project was not included within Schedule No. 5 of the Annual Budget as a capital improvement project to be funded in fiscal year 2008-2009; and

WHEREAS, the City desires to amend the first year (2008-2009) of the Fiscal Year 2008/2009 - 2013/2014 Six Year Capital Improvement Program (CIP) to establish a project for the North Haymarket Arts and Humanities Phase II Project, and establish appropriations for that project; and

WHEREAS, Article IX-B Section 7 of the Lincoln City Charter states that, "The [city] council shall not appropriate any money in any budget for any capital improvements project unless and until the conformity or non-conformity of the project has been reported on by the Planning Department by special report or in connection with the Capital Improvements Programming process." The Charter definition of "Planning Department" includes the Planning Commission; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission has reviewed the North Haymarket Arts and Humanities Phase II Project for conformity or nonconformity with the Comprehensive Plan as a capital improvement project as part of the review of the Lincoln Center Redevelopment Plan approved by Resolution No. A-84924; and

WHEREAS, the Planning Commission found the proposed North Haymarket Arts and Humanities Phase II Project to be in conformity with the Comprehensive Plan.

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

That the implementation of the North Haymarket Arts and Humanities Project to construct a new hotel and related public improvements, is hereby established as a capital improvement project within the Capital Improvement Program.

BE IT FURTHER RESOLVED that the Capital Improvement Program on Schedule 5 of Resolution No. A-84988 be amended by adding the North Haymarket Arts and Humanities Phase II Project to the Urban Development Department's list of capital of improvement projects on Schedule 5.

BE IT FURTHER RESOLVED that the City Council hereby appropriates and directs the Finance Director to make the necessary adjustments to the annual budget in the amount of \$2.8 million to designate \$2.8 million from Tax Increment Financing for this North Haymarket Arts and Humanities Phase II Project.

Introduced by Jonathan Cook

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

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

AMENDING CHAPTER 2.18 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE CITY'S PURCHASING DIVISION TO UPDATE DEPARTMENT EXPENDITURE AMOUNTS AND TO INCORPORATE THE CHANGES TO THE CITY CHARTER APPROVED BY THE VOTERS IN THE MAY 2008 ELECTION, BY AMENDING SECTION 2.18.020 TO INCREASE THE LEVEL OF REPAIR EXPENDITURES WHICH REQUIRE PURCHASE BY BIDDING, AND TO CONFORM LANGUAGE TO THE REVISED CHARTER PROVISIONS; AMENDING SECTION 2.18.030 TO INCREASE THE THRESHOLD OF EXPENDITURES WHICH REQUIRE BIDDING TO \$25,000, TO UPDATE DEPARTMENT EXPENDITURE AMOUNTS, TO UPDATE OBSOLETE LANGUAGE TO REFLECT ELECTRONIC BIDDING PROVISIONS, TO PROVIDE ADDITIONAL GROUNDS UNDER WHICH THE CITY COULD DISQUALIFY VENDORS FROM BIDDING, TO CREATE AN APPEAL PROCESS FOR DISQUALIFIED VENDORS, AND TO STREAMLINE PURCHASING PROVISIONS ALLOWING JOINT PURCHASING WITH OTHER UNITS OF

GOVERNMENT; BY AMENDING SECTION 2.18.060 TO AUTHORIZE THE PURCHASING AGENT TO REQUIRE PRE-DELIVERY OR POST DELIVERY INSPECTIONS FOR PURCHASES, AND TO REQUIRE INSPECTIONS FOR ALL PURCHASES OVER \$100,000; AND REPEALING SECTIONS 2.18.020, 2.18.030, AND 2.18.060 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Dan Marvin, amending Chapter 2.18 of the Lincoln Municipal Code relating to the City's Purchasing Division to update department expenditure amounts and to incorporate the changes to the City Charter approved by the voters in the May 2008 election, by amending Section 2.18.020 to increase the level of repair expenditures which require purchase by bidding, and to conform language to the revised Charter provisions; amending Section 2.18.030 to increase the threshold of expenditures which require bidding to \$25,000, to update department expenditure amounts, to update obsolete language to reflect electronic bidding provisions, to provide additional grounds under which the City could disqualify vendors from bidding, to create an appeal process for disqualified vendors, and to streamline purchasing provisions allowing joint purchasing with other units of government; by amending Section 2.18.060 to authorize the Purchasing Agent to require pre-delivery or post delivery inspections for purchases, and to require inspections for all purchases over \$100,000; and repealing Sections 2.18.020, 2.18.030, and 2.18.060 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 08052 - APPLICATION OF VIEN C. LE FOR A CHANGE OF ZONE FROM B-1 LOCAL BUSINESS DISTRICT TO R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 45TH STREET AND W STREET - CLERK read an ordinance, introduced by Dan Marvin, 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 first time.

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

AMENDING CHAPTER 27.35 OF THE LINCOLN MUNICIPAL CODE BY ADDING A NEW FIGURE 27.35.070(A) TO REFLECT MAXIMUM HEIGHTS WITHIN THE B-4 DISTRICT AT THE END OF CHAPTER 27.35 AS PROVIDED FOR IN SECTION 27.35.070 - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 27.35 of the Lincoln Municipal Code relating to the B-4 Lincoln Center Business District by adding a new Figure 27.35.070(a) to reflect maximum heights within the B-4 district, 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 #19171, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 08017 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTION 27.05.020 TO DELETE REFERENCES TO THE DATES OF THE LINCOLN AIRPORT ZONING MAP AND THE AIRPORT ENVIRONS NOISE DISTRICT MAP; BY AMENDING SECTIONS 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, AND 27.24.040, TO DELETE EXPANSION OF NONSTANDARD SINGLE AND TWO-FAMILY DWELLINGS INTO REQUIRED YARDS AS A PERMITTED SPECIAL USE IN THE R-1 THROUGH R-8 ZONING DISTRICTS; BY AMENDING SECTION 27.27.020 TO DELETE THE RESTRICTION THAT TECHNOLOGY TRANSFER INDUSTRIES OR APPLICATIONS MUST BE IN AN AREA DESIGNATED IN THE COMPREHENSIVE PLAN AS A TECHNOLOGY PARK; BY AMENDING SECTION 27.51.030 TO DELETE A REFERENCE TO EMPLOYMENT CENTER; BY AMENDING SECTION 27.61.090 TO DELETE A REFERENCE TO REPEALED SECTION 27.63.540; BY AMENDING SECTION 27.63.260 TO DELETE A REFERENCE TO COUNTY LAND USE MAP (FIGURE 17); BY AMENDING SECTIONS 27.63.380, 27.70.050, AND 27.80.105 RELATING TO SPECIAL PERMITS FOR FLOOD PLAIN CONSTRUCTION, REQUIREMENTS AFTER APPROVAL OF FINAL PLOT PLANS, AND FLOOD PLAIN DEVELOPMENT PERMITS, RESPECTIVELY, TO DELETE REFERENCES TO REPEALED CHAPTER 27.55 (FLOOD PLAIN DISTRICT) AND TO ADD CORRECT REFERENCES TO

THE LINCOLN MUNICIPAL CODE; BY REPEALING SECTION 27.63.540 RELATING TO SPECIAL PERMITS FOR EXPANSION OF NONSTANDARD SINGLE AND TWO-FAMILY DWELLINGS INTO REQUIRED YARDS; BY AMENDING SECTION 27.83.020 TO CHANGE A REFERENCE FROM THE CITY OF LINCOLN'S 2025 COMPREHENSIVE PLAN TO THE LINCOLN-LANCASTER COUNTY 2030 COMPREHENSIVE PLAN; AND REPEALING SECTIONS 27.05.020, 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, 27.24.040, 27.27.020, 27.51.030, 27.61.090, 27.63.260, 27.63.380, 27.70.050, 27.80.105, AND 27.83.020 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 27 of the Lincoln Municipal Code relating to zoning by amending Section 27.05.020 to delete references to the dates of the Lincoln Airport Zoning map and the Airport Environs Noise District map; by amending Sections 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, and 27.24.040, to delete expansion of nonstandard single and two-family dwellings into required yards as a permitted special use in the R-1 through R-8 Zoning Districts; by amending Section 27.27.020 to delete the restriction that technology transfer industries or applications must be in an area designated in the Comprehensive Plan as a Technology Park; by amending Section 27.51.030 to delete a reference to Employment Center; by amending Section 27.61.090 to delete a reference to repealed Section 27.63.540; by amending Section 27.63.260 to delete a reference to County Land Use map (Figure 17); by amending Sections 27.63.380, 27.70.050, and 27.80.105 relating to Special Permits for flood plain construction, requirements after approval of final plot plans, and flood plain development permits, respectively, to delete references to repealed Chapter 27.55 (Flood Plain District) and to add correct references to the Lincoln Municipal Code; by repealing Section 27.63.540 relating to Special Permits for expansion of nonstandard single and two-family dwellings into required yards; by amending Section 27.83.020 to change a reference from the City of Lincoln's 2025 Comprehensive Plan to the Lincoln-Lancaster County 2030 Comprehensive Plan; and repealing Sections 27.05.020, 27.11.040, 27.13.040, 27.15.040, 27.17.040, 27.19.040, 27.21.040, 27.23.040, 27.24.040, 27.27.020, 27.51.030, 27.61.090, 27.63.260, 27.63.380, 27.70.050, 27.80.105, and 27.83.020 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 **#19172**, is recorded in Ordinance Book #26, Page

MISC. 08011 - AMENDING TITLE 26 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE LAND SUBDIVISION ORDINANCE BY AMENDING SECTION 26.11.037 TO DELETE THE PROVISIONS REGARDING EXPIRATION OF AN APPLICATION FOR A PRELIMINARY PLAT WHICH HAS BEEN PLACED ON PENDING; BY AMENDING SECTION 26.11.060 TO DELETE PROVISIONS REGARDING THE EXPIRATION OF FINAL PLATS; BY AMENDING SECTION 26.19.010 TO DELETE THE REQUIREMENT THAT SIGNATURES BE IN BLACK OPAQUE INK; BY AMENDING SECTION 26.31.010 TO DELETE THE PROVISION REGARDING THE EXPIRATION OF EXISTING REQUESTS FOR MODIFICATION OF THE REQUIREMENTS OF TITLE 26; BY CREATING A NEW CHAPTER 26.35 ENTITLED GENERAL PROVISIONS BY ADDING A NEW SECTION NUMBERED 26.35.010 TO PROVIDE PROVISIONS FOR AMENDING TITLE 26 AND ADDING A NEW SECTION NUMBERED 26.35.020 TO PROVIDE PROVISIONS FOR EXPIRATION OF APPLICATIONS; AND REPEALING SECTIONS 26.11.037, 26.11.060, 26.19.010, AND 26.31.010 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Jonathan Cook, Amending Title 26 of the Lincoln Municipal Code relating to the Land Subdivision ordinance by amending Section 26.11.037 to delete the provisions regarding expiration of an application for a Preliminary Plat which has been placed on pending; by amending section 26.11.060 to delete provisions regarding the expiration of Final Plats; by amending Section 26.19.010 to delete the requirement that signatures be in black opaque ink; by amending Section 26.31.010 to delete the provision regarding the expiration of existing requests for modification of the requirements of Title 26; by creating a new Chapter 26.35 entitled General Provisions by adding a new section numbered 26.35.010 to provide provisions for amending Title 26 and adding a new

section numbered 26.35.020 to provide provisions for expiration of applications; and repealing Sections 26.11.037, 26.11.060, 26.19.010, and 26.31.010 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 #19173, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 08049 - REQUEST OF RJL DEVELOPMENT NORTH, LTD. FOR A CHANGE OF ZONE FROM O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON APPROXIMATELY 7.75 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 40TH STREET AND OLD CHENEY ROAD. (08-152, 08R-273) - CLERK read an ordinance, introduced by Jonathan Cook, 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 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 #19174, is recorded in Ordinance Book #26, Page

USE PERMIT 58G - APPLICATION OF RJL DEVELOPMENT NORTH, LTD. TO AMEND THE WILLIAMSBURG VILLAGE USE PERMIT TO SHOW A CHANGE OF ZONE FROM O-3 TO B-2 TO ACCOMMODATE THE EXPANSION OF THE EXISTING HYVEE STORE AND TO UPDATE THE LAND USE TABLE AND SITE LAYOUT, INCLUDING A REQUEST TO REDUCE SETBACKS WITHIN THE DESIGNATED BUILDABLE AREA TO ZERO, ON PROPERTY GENERALLY LOCATED AT SOUTH 40TH STREET AND OLD CHENEY ROAD. (08-152, 08R-273) (ACTION DATE: 11/3/08) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85119 WHEREAS, RJL Development North, Ltd. has submitted an application in accordance with Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 58G to allow the expansion of the existing HyVee store and to update the land use table and site layout, including a request to reduce setbacks within the designated buildable area to zero, on property generally located at South 40th Street and Old Cheney Road, and legally described on Attachment "A" attached hereto; and  
WHEREAS, the real property adjacent to the area included within the site plan for this expansion 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 RJL Development North, Ltd., hereinafter referred to as "Permittee", to allow the expansion of the existing HyVee store and to update the land use table and site layout, be and the same is hereby granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon the condition that the construction and operation of said expansion be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This approval permits 705, 270 total square feet of floor area including a waiver to all setbacks within the buildable area shown on the site plan.
2. The City Council approves associated request, Change of Zone # 08049.
3. Before receiving building permits, the Permittee shall:
  - a. Cause to be prepared and submitted to the Planning Department a revised and reproducible final site plan including 5 copies with the revisions as listed below:



i. Remove parking from the land use table and add to #17 of the General Notes "All parking shall be in conformance with Chapter 27.67 and shall be submitted separately for review at the time of building permit and need not be shown on this plan."

ii. Show rear and side yard setbacks for the buildable area on area # 20.

iii. Change all the front yard setbacks for the buildable areas from 50 ft to 20 ft.

iv. Remove General Notes #5, 6, 7, 9, 10, 14, 15, 16, 18, 21, 22, and 31.

v. Change General Note #3 to "All new construction shall meet Pedestrian Design Standards."

vi. Correct the miss-spelling in the title.

vii. Eliminate the buildable area shown in the Village Drive (a private Roadway).

viii. Revise General Note # 19 to read "An irrigation pump house may be located on the east side of S. 34th Street approximately 300 feet south of Orwell Street. The finish floor elevation shall be a minimum of 1 foot above the low point in S. 34th Street."

b. Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the use permit has been recorded.

c. The construction plans substantially comply with the approved plans.

d. Final plats must be approved by the City. If any final plat on all or a portion of the approved use permit is submitted five (5) years or more after the approval of the use permit, the city may require that a new use permit be submitted, pursuant to all the provisions of section 26.31.015. A new use permit may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the use permit as originally approved does not comply with the amended rules and regulations.

Before the approval of a final plat, the public streets, private roadway improvements, sidewalks, public sanitary sewer system, public water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for sidewalks and street trees along major streets that have not been improved to an urban cross section. A cash contribution to the City in lieu of a bond, escrow, or security agreement may be furnished for street trees on a final plat with 10 or fewer lots.

e. Before the approval of a final plat, the Permittee must enter into a Subdivision Agreement with the City wherein Permittee as Subdivider agrees:

i. To complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.

ii. To complete the paving of private roadway, and temporary turnarounds and barricades located at the temporary dead-end of the private roadways shown on the final plat within two (2) years following the approval of this final plat.

iii. To complete the installation of sidewalks along both sides of the streets and private roadways in this use permit as shown on the final plat within four (4) years following the approval of the final plat.

iv. To complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

v. To complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

vi. To complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

vii. To complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

viii. To complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat.

ix. To complete the installation of public street lights along all streets within this plat within two (2) years following the approval of the final plat.

x. To complete the installation of private street lights along private roadways within this plat within two (2) years following the approval of the final plat.

xi. To complete the planting of the street trees along streets and private roadways within this plat within four (4) years following the approval of the final plat.

xii. To agree that in consideration of the waiver of the requirements of Section 26.27.090 of the Lincoln Municipal Code that street trees shall be planted along both sides of all streets and private roadways within the subdivision and on the streets and private roadways which abut the subdivision along the south side of Old Cheney Road and the west side of S. 40th Street because of existing trees the Owner shall:

(1) Continuously and regularly maintain the existing trees;

(2) Replace the street trees located on the streets and private roadways with a street tree specified by the Parks and Recreation Department in the event such trees die and/or are removed;

(3) Inform potential lot buyers of the foregoing obligations prior to the closing on the sale of such lots; and

(4) Incorporate the foregoing obligations in permanent covenants and deed restrictions in the deed to such lots.

xiii. To complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.

xiv. To complete the installation of the street name signs within two (2) years following the approval of the final plat.

xv. To complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.

xvi. To complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

xvii. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

xviii. To keep taxes and special assessments on the outlots from becoming delinquent.

xix. To maintain the outlots and private improvements in a condition as near as practical to the original construction on a permanent and continuous basis.

xx. To maintain the plants in the medians and islands on a permanent and continuous basis.

xxi. To maintain the street trees along the private roadways and landscape screens on a permanent and continuous basis.

xxii. To maintain and supervise the private facilities which have common use or benefit in a condition as near as practical to the original construction on a permanent and continuous basis, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development and that these are the responsibility of the land owner.

xxiii. To retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Subdivider may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:

(1) Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.

(2) The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

xxiv. To protect the trees that are indicated to remain during construction and development.

xxv. To relinquish the right of direct vehicular access to Old Cheney Road and S. 40th Street except as shown on the site plan.

4. Before occupying buildings all development and construction is to substantially comply with the approved plans.

5. All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established association approved by the City.

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 upon the Permittee, its successors and assigns.

8. 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.

9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, and all resolutions and ordinances approving previous permits but does not void approved waivers.

Introduced by Jonathan Cook

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

**RESOLUTION - ACTION ONLY**

AUTHORIZING ACCEPTANCE OF THE LOW BID WHICH IS IN EXCESS OF 25% OVER THE ESTIMATE FOR PAVING UNIT 141 ON Q STREET FROM 35TH TO 36TH STREET. (10/27/08 - ACTION DELAYED TO 11/3/08 DUE TO TIE VOTE) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

COOK So moved.

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

The resolution, having **LOST**, was assigned the File #38-4581 & was placed on file in the Office of the City Clerk.

**REGISTERED TO SPEAK SESSION - NONE**

**OPEN MICROPHONE SESSION - NONE**

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP Moved to extend the Pending List to November 10, 2008.  
Seconded by Emery & 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 November 10, 2008.  
Seconded by Emery & carried by the following vote: AYES: Camp, Cook, Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

**ADJOURNMENT 2:26 P.M.**

CAMP Moved to adjourn the City Council meeting of November 3, 2008.  
Seconded by Emery & 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