

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, JANUARY 12, 2009 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

MARVIN Having been appointed to read the minutes of the City Council proceedings of January 5, 2009 reported having done so, found same correct.

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

MAYOR'S AWARD OF EXCELLENCE

Mayor Beutler presented the Mayor's Award of Excellence for the Month of December, 2008 to Barbara Boggs, Employment Technician II, of the Personnel Department and Nicholas Wemhoff, Systems Software Integrator, of Information Services Division in the Finance Department in the categories of Productivity and Loss Prevention. They created an almost paperless program to make the employment application and related hiring process almost paperless. Nick wrote the App-track program and Barb was the Project Manager. The money saving system is more efficient for applicants and staff and has increased productivity.

Mark Koller, Personnel Director, stated the department is very proud of Barbara and Nicholas for their effort then deferred to Pat Kant who made the nomination.

Pat Kant, Personnel Administrator, came forward to congratulate Barbara and Nicholas stating that Barbara has an exceptional attention to detail. She stated that Nick has created a comprehensive program making the department more productive and cost effective. She thanked them for their hard work.

Barbara Boggs came forward to thank the Employment Staff, Doug Thorpe, Lavada Shuster, and Diane Winch for all the testing of the program and providing input into the program.

Mayor Beutler recognized Nicholas Wemhoff for a second nomination in the category of Productivity and Customer Relations involving the Lancaster County Clerk Office. Nicholas created a program that allows property owners to complete a protest form electronically, print the protest and to self-schedule a convenient hearing time and date.

Dan Nolte, County Clerk, came forward to state Nick was great to work with, paid close attention to detail and they appreciated the time and energy he put into this project.

Don Herz, Finance Director, deferred comments to Terry Lowe.

Terry Lowe, came forward to congratulate Nick and commented that he is a special guy who often works after hours from his home on projects.

Nicholas Wemhoff, came forward to thank everybody for the nominations and the award. He thanked the Personnel staff and County Clerk staff for all they did to help and for the great support from management. He stated that what he does relies so much on a lot of other people doing their job.

APPLICATION OF NAM V. DUONG DBA NAM'S FOR A CLASS C LIQUOR LICENSE AT 940 NORTH 27TH STREET - Steve Henrichsen, Planning Department, came forward to state as per Brian Will the applicant will withdraw the application because they do not meet the zoning for this site either as a restaurant or a bar.

This matter was taken under advisement.

CHANGE OF ZONE 08058 - APPLICATION OF BRIAN AND DEBRA MARSHALL AND EARL VISSER FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-T RESIDENTIAL TRANSITION DISTRICT ON PROPERTY GENERALLY LOCATED AT 3333 A STREET AND 3345 A STREET. (RELATED ITEMS 08-170, 09R-8);

USE PERMIT 08002 - APPEAL OF LINDA M. WITFOTH FROM THE PLANNING COMMISSION APPROVAL OF USE PERMIT 08002 TO ALLOW OFFICE AND RESIDENTIAL USES AS PERMITTED USES ON PROPERTY LOCATED AT 3333 A STREET AND 3345 A STREET. (RELATED ITEMS 08-170, 09R-8) (ACTION DATE: 1/26/09) - Brian Marshall, 3333 A Street, owner of Envison Staffing a full service staffing company such as clerical, personal assistants, general laborers, warehouse assembly, light industrial, and in the future non-medical in-home care. He stated they have received approval from the Planning Commission, unanimous support from the 40th and A Neighborhood Association, and presented a petition in support from the neighborhoods residential establishments and from business owners in the area with the exception of two that were in opposition on the south side from their area.

Deborah Marshall, 3333 A Street, she was informed by Building and Safety to operate a home based business she needs to occupy the home. She has since formerly made this her legal place of residence, but does not live here. The house was purchased for their business because of the demographics and the convenience of some of the other retail opportunities. There are no employees at this residence at this time. The concern of privacy and safety will be addressed by putting up a fence, planting in shrubs and will pave the back for parking. Other issues are being addressed as well. If applicant would move, since it is zoned RT, new owners would need to apply for a new Use Permit. The address 3345 A Street is owned by Earl Visser and is part of this application to provide a common driveway between the two properties and by re-zoning his property it could provide more opportunities should he sell his properties.

Tracy Corr, 1001 S. 37th Street, President of the 40th and A Street Neighborhood Association. The Neighborhood Board decided this project would be relatively low volume traffic wise and would fit nicely in the business section of the neighborhood so therefore are in favor.

Michael Barna, 3336 Washington Street, came forward in opposition and presented a signed petition against the Change of Zone and Use Permit. There is a concern what would happen to the property if this business failed and how would this property be for residential with the backyard being paved?

Larry Baus, 3000 O'Reilly Dr., President of Maggie Properties, owner of the shopping center directly across the street from the zoning change and owns and operates Wagner's Food Pride. He came forward in opposition of the zoning change. The applicants never did talk to him and had used his parking lot without permission which he is concerned may continue.

Linda Witfoth, 3336 Washington St., came forward in opposition with concerns with this being a business and with the parking concerns.

Seth Witfoth, 3336 Washington, came forward in opposition.

Steve Henrichsen, Planning Department, the R-T zoning alone does not allow you to need the use permit. Once the use permit and zoning are approved the applicant has the ability to come back and administratively amend a use permit to do a different site plan. The Planning Director has the discretion to approve an administrative amendment to that use permit once it's granted.

Deborah and Brian Marshall came forward for rebuttal.

This matter was taken under advisement.

VACATION 08004 - VACATING PORTIONS OF VINE STREET, S STREET, NORTH 20TH STREET, R STREET, NORTH 18TH STREET, THE EAST-WEST ALLEY IN NORTH 20TH STREET, AND THE EAST-WEST ALLEY IN NORTH 18TH STREET NORTH OF VINE STREET, GENERALLY LOCATED BETWEEN NORTH 18TH STREET AND NORTH 22ND STREET AND R STREET TO VINE STREET - Mike Johnson, Land Surveyor for Olsson Associates, came forward to state he prepared the petitions for the vacation of public ways and was available to answer questions.
This matter was taken under advisement.

CHANGE OF ZONE 08059 - AMENDING CHAPTER 27.69 OF THE LINCOLN MUNICIPAL CODE RELATING TO SIGNS BY AMENDING SECTIONS 27.69.047 AND 27.69.049 TO ELIMINATE RESTRICTIONS REGARDING THE LOCATION OF SIGNS WITHIN 660 FEET OF A DESIGNED INTERSTATE AND REPEALING SECTIONS 27.69.047 AND 27.69.049 AS HITHERTO EXISTING - Dennis Plachy, 1120 N. 18th Street, representing Omaha Neon Sign Company, came forward to allow the property owner some flexibility to have a sign anywhere on the premises instead of right next to the building. He stated this came about because of the new Holiday Inn at the Airport.
This matter was taken under advisement.

CHANGE OF ZONE 08062 - APPLICATION OF LIGHTHOUSE FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO R-6 RESIDENTIAL DISTRICT, ON PROPERTY GENERALLY LOCATED EAST OF THE SOUTHEAST CORNER OF SOUTH 26TH STREET AND N STREET - William Michener, 2601 N Street, Executive Director of the Lighthouse, stated this came about to expand their special use permit to the property east of the new building to be used as a community garden green space. The young people will help grow the produce to be used in the Lighthouse kitchen and it will be extended to the community for their use as well. Non-profit, religious, educational, and philanthropic institutions are only permitted in the R-6, R-7, & R-8 districts so without this change of zone they would not be able to include this lot in this special permit for the gardens.
This matter was taken under advisement.

CHANGE OF ZONE 08063 - AMENDING SECTION 27.69.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED SIGNS FOR CHURCHES, SCHOOLS AND COMMUNITY PLAYHOUSES TO CONDITIONALLY ALLOW AN ELECTRONIC CHANGEABLE COPY SIGN FRONTING ON AN ARTERIAL STREET; AND REPEALING SECTION 27.69.090 AS HITHERTO EXISTING - Cleve Reeves, 1909 Ryons Street, came forward as President of the Community Playhouse Board to request permission to install an electronic changeable sign. The neighbors will not be contacted until the money is received from the donor. The sign is 6' tall and 11' wide and would set back 40' from roadway. Trees would be trimmed for better visibility of the sign.
Tim Gergen, 1111 Lincoln Mall, Ste. 111, came forward as a member of the Community Playhouse Board stated this sign would be used to advertise educational activities as well as the plays. The sign can be 75% LED and is to be in use from 7:00 a.m. to 11:00 p.m. Reports have shown that safety issues have not increased or decreased in the area of electronic signs.

Bob Everitt, 7521 S. 36th Street, Community Playhouse Board member, stated that a lot of people don't know the Playhouse is at this location and they will be careful to make this an improvement to the neighborhood.

Steve Henrichsen, Planning Dept., stated this change will address the interest of several churches and private schools expressing an interest in electronic changeable signs. This will apply to all busy arterial streets with certain conditions such as messages have to hold for three seconds and has to be 150' from side or rear setback to residential property. Playhouses are not listed under the special permit section so will research this and put in writing to the Council whether it is under private schools or maybe considered a pre-existing special permit.

This matter was taken under advisement.

TOOK BREAK 3:37 p.m.

RECONVENED 3:50 p.m.

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF LINCOLN REGARDING STATE OF NEBRASKA GRANT FUNDING FROM THE STORMWATER MANAGEMENT PLAN. (12/1/08 - PLACED ON PENDING INDEFINITELY) (REQUEST TO REMOVE FROM PENDING FOR P.H. & ACTION 1/12/09) (1/5/09 - REMOVED FROM PENDING TO HAVE P.H. & ACTION 1/12/09) - Ben Higgins, Public Works & Utilities Dept., stated this is an agreement w/NDEQ providing funding for the City to assist in implementing the City's mandated stormwater program. The cost will be \$539,508 which requires a 25% match of \$108,000. The grant will start as soon as this is approved and will end in 2010.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF DECEMBER 1 - 31, 2008 - Jon Camp, Council Member, asked City Attorney Hendry to analyze the last couple of years how many claims are involving City vehicles?

CAMP Moved to delay public hearing and action on the claim of Dale and Nancy Schmidt until the January 26, 2009 meeting.

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

This matter was taken under advisement.

APPROVING AND RATIFYING AN AGREEMENT BETWEEN THE CITY, LANCASTER COUNTY AND THE UNIVERSITY OF NEBRASKA BOARD OF REGENTS ON BEHALF OF THE COLLEGE OF DENTISTRY FOR THE CLINICAL TRAINING OF DENTAL AND DENTAL HYGIENE STUDENTS AT THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR A TERM OF JULY 1, 2008 THROUGH JUNE 30, 2011 - Judy Halstead, Health Department, stated this is a three year agreement which is similar to the multiple annual agreements in the past allowing the Dental and Hygiene Students to provide care at the Lincoln Lancaster County Health Department to their patients under the supervision of the contractual dentists and the Dental College Faculty. This allows for more dental students to participate at the Health Department during the renovation of the Dental College.

This matter was taken under advisement.

WAIVER 08008 - APPLICATION OF ROBERT SNELL TO WAIVE THE REQUIREMENTS OF THE LAND SUBDIVISION ORDINANCE TO INSTALL SIDEWALKS ALONG THE WEST SIDE OF SOUTH 39TH STREET ABUTTING LOTS 1 AND 2, SNELL ADDITION, GENERALLY LOCATED AT SOUTH 39TH STREET AND CALVERT STREET - Robert Snell, 3060 Stratford Avenue, came forward to request the waiver to install sidewalks because he has since sold his property and would be estimated to be approximately \$4,600 to install the sidewalk which will go no where.

This matter was taken under advisement.

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

COUNCIL ACTION

REPORTS OF CITY OFFICERS

APPOINTING MATT MCNAIR TO THE LINCOLN ELECTRIC SYSTEM ADMINISTRATIVE BOARD, TO REPLACE RON MELBYE, FOR A THREE-YEAR TERM EXPIRING DECEMBER 31, 2011 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85197 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Matt McNair to the Lincoln Electric System Administrative Board, to replace Ron Melbye, for a three-year term expiring December 31, 2011 is hereby approved.

Introduced by Dan Marvin

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

REAPPOINTING JOHN "JACK" LORENZEN AND MATT MORRISSEY TO THE WATER CONDITIONING BOARD OF EXAMINERS FOR THREE-YEAR TERMS EXPIRING SEPTEMBER 4, 2011 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85198 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of John "Jack" Lorenzen and Matt Morrissey to the Water Conditioning Board of Examiners for three-year terms expiring September 4, 2011 is hereby approved.

Introduced by Dan Marvin

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

REAPPOINTING JAMES LAMPHERE TO THE GOVERNMENT ACCESS AND INFORMATION COMMITTEE FOR A TWO-YEAR TERM EXPIRING JANUARY 1, 2011 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85199 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of James Lamphere to the Government Access and Information Committee for a two-year term expiring January 1, 2011 is hereby approved.

Introduced by Dan Marvin

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

REAPPOINTING DWIGHT BROWN JR., JIM ELSENER AND GREG KEY TO THE CITIZEN POLICE ADVISORY BOARD FOR THREE-YEAR TERMS EXPIRING NOVEMBER 17, 2011 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85200 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Dwight Brown Jr., Jim Elsener and Greg Key to the Citizen Police Advisory Board for three-year terms expiring November 17, 2011 is hereby approved.

Introduced by Dan Marvin

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

REAPPOINTING KEN SVOBODA TO THE DISTRICT ENERGY CORPORATION FOR A TWO-YEAR TERM EXPIRING DECEMBER 31, 2010 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85201 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Ken Svoboda to the District Energy Corporation for a two-year term expiring December 31, 2010 is hereby approved.

Introduced by Dan Marvin

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

APPOINTING JAMES O'HANLON TO THE AUDITORIUM ADVISORY BOARD FOR A TERM EXPIRING AUGUST 31, 2014 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85202 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the appointment of James O'Hanlon to the Auditorium Advisory Board for a term expiring August 31, 2014 is hereby approved.

Introduced by Dan Marvin

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

APPOINTING SCOTT HATFIELD TO THE CITIZEN POLICE ADVISORY BOARD FOR A THREE-YEAR TERM EXPIRING NOVEMBER 17, 2011 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85203 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the appointment of Scott Hatfield to the Citizen Police Advisory Board for a three-year term expiring November 17, 2011, is hereby approved.

Introduced by Dan Marvin

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

APPOINTING ALEX PAINE TO THE PARKS AND RECREATION ADVISORY BOARD FOR A TERM EXPIRING JUNE 1, 2009 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85204 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the appointment of Alex Paine to the Parks and Recreation Advisory Board for a term expiring June 1, 2009, is hereby approved.

Introduced by Dan Marvin

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

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF JULY 1, 2008 TO SEPTEMBER 30, 2008: CA AFFINITY; OCTOBER, 2008: NEW CINGULAR WIRELESS PCS, CRICKET, AT&T, USCOC OF GREATER IOWA, TWC DIGITAL PHONE, SPRINT SPECTRUM, WINDSTREAM NEBRASKA, WINDSTREAM SYSTEMS OF THE MIDWEST, SPRINT, GUARANTEED PHONE SERVICE, GRANITE, VERIZON SELECT, ACN, BUSINESS PROD. SOLUTIONS, WHO'S CALLING, VIAERO WIRELESS, TELECORP, USCOC OF NEBRASKA/KANSAS, TCG OMAHA, GLOBAL CROSSING, BROADWING, ONSTAR CORP., VERIZON LONG DISTANCE, UCN, WORKING ASSETS FUNDING SERVICE, QWEST, MCLEODUSA, TRANS NATIONAL COMM. INTERNATIONAL, PRIMUS, XO, VIRGIN MOBILE USA, IBM GLOBAL SERVICES-NS DIV., CIMCO, INTELICALL OPERATOR SERVICES, TON SERVICES, QUANTUM SHIFT, KDDI AMERICA, EARTHLINK, ATI, CINCINNATI BELL ANY DISTANCE, TRACFONE WIRELESS, ARIZONA TELEPHONY, GLOBALSTAR USA, VOICECOM, NEW EDGE NETWORKS, NORSTAN NETWORK, BT AMERICAS, NETWORK BILLING SYSTEMS, BUSINESS TELECOM.; NOVEMBER, 2008: NEXTEL, SPRINT, SPRINT SPECTRUM, MCI, NEXTEL WEST, D&D, ALLTEL, ALLTEL COMM. OF NEBRASKA, TRI-M, ZONE TELECOM., GTC, LIGHTYEAR NETWORK SOLUTIONS, ENHANCED COMM. NETWORK, NETWORK BILLING SYSTEMS, BT AMERICAS, BUSINESS TELECOM., LDMI, NORSTAN NETWORK, SBC LONG DISTANCE, GLOBALCOM, FIRST COMM., NOSVA LIMITED PARTNERSHIP, WHOLESALE CARRIER SERVICES, COVISTA, NOS COMM., 360NETWORKS (USA), VIAERO WIRELESS, UNITE PRIVATE NETWORKS, ATS MOBILE TELEPHONE, SPECTROTEL, INC. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE MONTH OF OCTOBER, 2008 AND NOVEMBER, 2008 FROM BLACK HILLS/NEBRASKA GAS UTILITY CO., LLC - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

REPORT FROM CITY TREASURER OF E911 TELECOMMUNICATION OCCUPATION TAX FOR NOVEMBER, 2008: LEVEL 3 COMM., AT&T COMM. OF MIDWEST, TWC DIGITAL PHONE, 8X8, INC., ACN COMM. SERVICES, COMTEL TELCOM ASSETS - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

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

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

PETITIONS & COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPT.:

Change of Zone 05026B - App. of Olsson Associates for an amendment to the Apple's Way PUD to adjust setbacks in the R-1 zoning district & to expand the boundary of the PUD to include an outlot for a subdivision identification sign on property at S. 66th Street and Highway 2.

Change of Zone 08051 - App. of Reserve Development, LLC from AGR to R-3 on property located southwest of SW 12th Street and W. Denton Road.

Change of Zone 08064 - App. of Director of Planning to amend Section 27.11.080 of the LMC relating to height and area regulations in the R-1 to reduce required side yards of single-family dwelling lots in existence on November 2, 1953 to a width of not less than 10% of the width of the lot, but not less than 5 feet and repealing Section 27.11.080 of the LMC.

Change of Zone 08066 - App. of Director of Urban Development, Antelope Village PUD for a PUD District designation of property northeast of N. 23rd Street and P Street and modifications to the standards of the underlying zoning district, subdivision ordinance and design standards.

Change of Zone 08067 - App. of Director of Urban Development from R-6 to B-3 and from I-1 to B-3 on property at North 26th Street and W Street.

Change of Zone 08068 - App. of Director of Planning amending Section 27.71.190 of the LMC relating to Building Line Districts to provide that the street centerlines referred to in this section are those shown on the Lincoln Building Line District Map dated November 1, 1985 as amended and repealing Section 27.71.190 of the LMC.

Change of Zone 08069 - App. of Director of Planning to adjust the Building Line District on property located at S. 66th Street and Highway 2.

Special Permit 08041 - App. of Reserve Development, LLC, Stone Haven CUP for approximately 84 single family lots and 72 single family attached lots with requests to waive pedestrian easements and setbacks on property located southwest of SW 12th Street and W. Denton Road. Planning Commission action is final action unless appealed to the City Council.

Special Permit 08050 - App. of Titus Construction for expansion of a nonstandard single family dwelling into the required rear yard on property located at N. 33rd Street and W Street (827 N. 33rd Street).

MISCELLANEOUS REFERRALS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF NAM V. DUONG DBA NAM'S FOR A CLASS C LIQUOR LICENSE AT
940 NORTH 27TH STREET - CLERK read the following resolution, introduced
by Jon Camp, who moved its adoption for denial:

A-85205 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 Nam V. Duong dba Nam's for a Class "C" liquor
license, at 940 North 27th Street, 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 not demonstrated that the issuance of the
license is or will be required by the present or future
public convenience and necessity.
- e. The applicant has failed to obtain a special permit under
applicable provisions of the City's zoning restrictions.

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

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

- CHANGE OF ZONE 08058 - APPLICATION OF BRIAN AND DEBRA MARSHALL AND EARL VISSER FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-T RESIDENTIAL TRANSITION DISTRICT ON PROPERTY GENERALLY LOCATED AT 3333 A STREET AND 3345 A STREET. (RELATED ITEMS 08-170, 09R-8) (12/15/08 - 1ST READING SUSPENDED; TO BE INTRODUCED 1/5/09 W/UP 08002) - CLERK read an ordinance, introduced by Doug Emery, 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.
- USE PERMIT 08002 - APPEAL OF LINDA M. WITFOTH FROM THE PLANNING COMMISSION APPROVAL OF USE PERMIT 08002 TO ALLOW OFFICE AND RESIDENTIAL USES AS PERMITTED USES ON PROPERTY LOCATED AT 3333 A STREET AND 3345 A STREET. (RELATED ITEMS 08-170, 09R-8) (ACTION DATE: 1/26/09)
- VACATION 08004 - VACATING PORTIONS OF VINE STREET, S STREET, NORTH 20TH STREET, R STREET, NORTH 18TH STREET, THE EAST-WEST ALLEY IN NORTH 20TH STREET, AND THE EAST-WEST ALLEY IN NORTH 18TH STREET NORTH OF VINE STREET, GENERALLY LOCATED BETWEEN NORTH 18TH STREET AND NORTH 22ND STREET AND R STREET TO VINE STREET - CLERK read an ordinance, introduced by Dan Marvin, vacating portions of Vine Street, S Street, North 20th Street, R Street, North 18th Street, the east-west alley located between North 20th Street and North 22nd Street, and the east-west alley north of Vine Street, generally located between North 18th Street and North 22nd Street, R Street to Vine Street, and retaining title thereto in the City of Lincoln, Lancaster County Nebraska, the second time.
- MISC. 08014 - VACATING A PORTION OF THE HYDE PARK 1ST ADDITION FINAL PLAT AND ADJACENT PUBLIC RIGHT-OF-WAY INCLUDING PAWNEE STREET, 7TH STREET AND THE NORTH/SOUTH ALLEY THEREIN, GENERALLY LOCATED AT SOUTH 6TH STREET AND VAN DORN STREET - CLERK read an ordinance, introduced by Dan Marvin, vacating a portion of Hyde Park 1st Addition including all internal abutting right-of-way, generally located at South 6th Street and Van Dorn Street, Lincoln, Lancaster County, Nebraska, and retaining title thereto in the City of Lincoln, Nebraska, the second time.
- CHANGE OF ZONE 08059 - AMENDING CHAPTER 27.69 OF THE LINCOLN MUNICIPAL CODE RELATING TO SIGNS BY AMENDING SECTIONS 27.69.047 AND 27.69.049 TO ELIMINATE RESTRICTIONS REGARDING THE LOCATION OF SIGNS WITHIN 660 FEET OF A DESIGNATED INTERSTATE AND REPEALING SECTIONS 27.69.047 AND 27.69.049 AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Dan Marvin, amending Chapter 27.69 of the Lincoln Municipal Code relating to Signs by amending Sections 27.69.047 and 27.69.049 to eliminate restrictions regarding the location of signs within 660 feet of a designated interstate; and repealing Sections 27.69.047 and 27.69.049 of the Lincoln Municipal Code as hitherto existing, the second time.
- CHANGE OF ZONE 08060 - AMENDING CHAPTER 27.03 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING CODE DEFINITIONS BY ADDING A NEW SECTION NUMBERED 27.03.634 TO PROVIDE A DEFINITION FOR TRUCK STOP; AMENDING SECTIONS 27.39.020 AND 27.43.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED USES IN THE H-1 INTERSTATE COMMERCIAL DISTRICT AND H-3 HIGHWAY COMMERCIAL DISTRICT, RESPECTIVELY, TO ADD TRUCK STOPS AS A PERMITTED USE IN SAID DISTRICT; AND REPEALING SECTION 27.39.020 AND 27.43.020 AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Dan Marvin, amending Chapter 27.03 of the Lincoln Municipal Code relating to zoning code definitions by adding a new section numbered 27.03.634 to provide a definition for truck stop; amending Sections 27.39.020 and 27.43.020 of the Lincoln Municipal Code relating to permitted uses in the H-1 Interstate Commercial District and H-3 Highway Commercial District, respectively, to add truck stops as a permitted use in said districts; and repealing Sections 27.39.020 and 27.43.020 of the Lincoln Municipal Code as hitherto existing, the second time.
- CHANGE OF ZONE 08062 - APPLICATION OF LIGHTHOUSE FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO R-6 RESIDENTIAL DISTRICT, ON PROPERTY GENERALLY LOCATED EAST OF THE SOUTHEAST CORNER OF SOUTH 26TH STREET AND N 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 second time.

CHANGE OF ZONE 08063 - AMENDING SECTION 27.69.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED SIGNS FOR CHURCHES, SCHOOLS AND COMMUNITY PLAYHOUSES TO CONDITIONALLY ALLOW AN ELECTRONIC CHANGEABLE COPY SIGN FRONTING ON AN ARTERIAL STREET; AND REPEALING SECTION 27.69.090 AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Dan Marvin, amending Section 27.69.090 of the Lincoln Municipal Code relating to permitted signs for churches, schools and community playhouses to conditionally allow an electronic changeable copy sign fronting on an arterial street; and repealing Section 27.69.090 of the Lincoln Municipal Code as hitherto existing, the second time.

PUBLIC HEARING RESOLUTIONS

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF LINCOLN REGARDING STATE OF NEBRASKA GRANT FUNDING FROM THE STORMWATER MANAGEMENT PLAN. (12/1/08 - PLACED ON PENDING INDEFINITELY) (REQUEST TO REMOVE FROM PENDING FOR P.H. & ACTION 1/12/09) (1/5/09 - REMOVED FROM PENDING TO HAVE P.H. & ACTION 1/12/09) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85206 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Cooperative Agreement between the City of Lincoln and the Nebraska Department of Environmental Quality (NDEQ) regarding grant funding from the state Stormwater Management Plan Program, upon the terms and conditions as set forth in said Agreement, is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City. This Agreement provides for NDEQ grant funding to implement programs and projects in association with the City of Lincoln's Stormwater Management Program.

The City Clerk is directed to transmit an executed original Agreement to Ben Higgins, Public Works and Utilities Department, 901 N. 6th Street, for transmittal to the Nebraska Department of Environmental Quality.

Introduced by Ken Svoboda

Seconded by Spatz & 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 DECEMBER 1 - 31, 2008 - PRIOR to reading:

CAMP Moved to remove the Schmidt claim to have continued public hearing and action on January 26, 2009.

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

CLERK Read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85207 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 December 31, 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>
Dale & Nancy Schmidt	\$1,612,500.00	Gina Olson \$ 100.00
Omar E. Magana	101.00	Professional Security Consultants 1,239.82
		Lilia Garcia 100.00
		Tracie Sanchez 323.22
		Joseph Wilford 1,985.49
		Patricia A. Vogel 946.10
		Jan L. Crosby 1,500.00
		Shannon Johnson 70,000.00
		Arlene Brubaker 60,000.00

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 Dan Marvin

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

APPROVING A CONTRACT BETWEEN THE CITY AND WESTERN PATHOLOGY CONSULTANTS, INC. INVOLVING THE EXPENDITURE OF MONEY FROM APPROPRIATIONS OF MORE THAN ONE YEAR FOR DRUG AND ALCOHOL TESTING SERVICES FOR THE PERIOD OF JANUARY 1, 2009 THROUGH DECEMBER 31, 2011 - PRIOR to reading:

SVOBODA Moved to amend Bill No. 09R-2 to accept the substitute Agreement between the City of Lincoln, Nebraska and Western Pathology Consultants, Inc. For Drug and Alcohol Testing Services.

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

CLERK Read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85208 WHEREAS, the City of Lincoln desires to enter into a contract with Western Pathology Consultants, Inc. to perform drug and alcohol testing services; and

WHEREAS, said contract will involve the expenditure of money from appropriations of more than one fiscal year and Article VII, Section 3 of the Charter of the City of Lincoln provides that no such expenditure of money from appropriations of more than one year shall be valid unless approved by resolution of the Council.

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

That a contract between the City of Lincoln and Western Pathology Consultants, Inc. for drug and alcohol testing services upon the terms and conditions as set out in said Agreement which is attached hereto as Attachment "A" is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to return one fully executed copy of this resolution and the Agreements to the Personnel Department for transmittal to Western Pathology Consultants, Inc.

Introduced by Dan Marvin

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

APPROVING AND RATIFYING AN AGREEMENT BETWEEN THE CITY, LANCASTER COUNTY AND THE UNIVERSITY OF NEBRASKA BOARD OF REGENTS ON BEHALF OF THE COLLEGE OF DENTISTRY FOR THE CLINICAL TRAINING OF DENTAL AND DENTAL HYGIENE STUDENTS AT THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR A TERM OF JULY 1, 2008 THROUGH JUNE 30, 2011 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85209 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Service Agreement between the City of Lincoln and the University of Nebraska Board of Regents on behalf of the College of Dentistry for the clinical training of dental and dental hygiene students upon the terms and conditions as set forth in said Agreement, which is attached hereto marked as Attachment "A" and made a part hereof by reference, is hereby accepted and approved and the Mayor is hereby authorized to execute said Agreement on behalf of the City.

Introduced by Dan Marvin

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

WAIVER 08008 - APPLICATION OF ROBERT SNELL TO WAIVE THE REQUIREMENTS OF THE LAND SUBDIVISION ORDINANCE TO INSTALL SIDEWALKS ALONG THE WEST SIDE OF SOUTH 39TH STREET ABUTTING LOTS 1 AND 2, SNELL ADDITION, GENERALLY LOCATED AT SOUTH 39TH STREET AND CALVERT STREET - PRIOR to reading:

SPATZ Moved to amend Bill No. 09R-9 in line 11 by deleting the word "not" and in line 16 delete the word "denied" and replace it with the word granted.

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

CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-85210 WHEREAS, Snell Addition, generally located at South 39th Street and Calvert Street was previously approved by the City of Lincoln; and

WHEREAS, pursuant to the Land Subdivision Ordinance, the conditions of approval for Snell Addition required the installation of sidewalks along the west side of South 39th Street abutting Lots 1 and 2, Snell Addition; and

WHEREAS, applicant has requested a modification of the Land Subdivision Ordinance to waive said requirement pursuant to § 26.31.010 of the Lincoln Municipal Code; and

WHEREAS, the Planning Commission has reviewed said request and has recommended denial of said waiver; and

WHEREAS, the City Council finds that the strict application of the requirement that sidewalks be installed along South 39th Street would not result in actual difficulties or substantial hardship or injustice to the property owner.

NOW, THEREFORE, BE IT RESOLVED by the City of Lincoln, Nebraska:
That the requested waiver of the requirement of the Land
Subdivision Ordinance that sidewalks be installed on the west side of
South 39th Street abutting Lots 1 and 2, Snell Addition, is hereby
denied.

Introduced by Dan Marvin

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

ORDINANCE - 1ST READING & RELATED RESOLUTIONS (AS REQUIRED) - NONE

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

APPROVING A SIX-YEAR LEASE AGREEMENT BETWEEN THE CITY AND FRONTIER HARLEY
DAVIDSON INC. FOR SEVEN POLICE MOTORCYCLES - CLERK read an ordinance,
introduced by Doug Emery, an ordinance accepting and approving a lease
agreement between the City of Lincoln, Nebraska and Frontier Harley
Davidson, Inc. For seven Harley Davidson police motorcycles for use by
the Police Department, the third time.

EMERY 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 #19192, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 08057 - APPLICATION OF URBAN DEVELOPMENT FOR A CHANGE OF ZONE
FROM B-3 COMMERCIAL DISTRICT TO P PUBLIC USE DISTRICT AND FROM B-3
COMMERCIAL DISTRICT TO B-3 COMMERCIAL PUD ON PROPERTY GENERALLY LOCATED
AT NORTH 48TH STREET FROM COLBY STREET TO ADAMS STREET - CLERK read an
ordinance, introduced by Doug Emery, an ordinance amending the Lincoln
Zoning District Maps attached to and made a part of Title 27 of the
Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln
Municipal Code, by changing the boundaries of the districts established
and shown thereon, the third time.

EMERY 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 #19193, is recorded in Ordinance Book #26, Page

REGISTERED TO SPEAK SESSION - NONE

OPEN MICROPHONE SESSION

Mike Morosin, 1500 N. 15th St., came forward to express opposition
to using the Carnegie Library as a new location of the Matt Talbot
Kitchen.

This matter was taken under advisement.

Ed Patterson, 700 N. 24th Street, came forward to state he is not
in favor of Matt Talbot Kitchen leasing the historic Carnegie Library.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to January 26, 2009.

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

UPCOMING RESOLUTIONS - NONE

REGULAR MEETING
JANUARY 12, 2009
Page 494

ADJOURNMENT 3:39 P.M.

CAMP Moved to adjourn the City Council meeting of January 12, 2009.
Seconded by Emery & carried by the following vote: AYES: Camp,
Emery, Eschliman, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Cook.
So ordered.

Joan E. Ross, City Clerk

Judy Roscoe, Senior Office Assistant