

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, MARCH 23, 2009 AT 1:30 P.M.**

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

Council Vice Chair Emery asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

SVOBODA Having been appointed to read the minutes of the City Council proceedings of March 16, 2009 reported having done so, found same correct.

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

MAYOR'S AWARD OF EXCELLENCE

Mayor Chris Beutler came forward to recognize committee members who review nominations for the Monthly/Annual Award of Excellence. He requested nominees and monthly winners from 2008 who were in attendance to stand in recognition.

Mayor Beutler presented the 2008 Annual Award of Excellence Honorable Mention to 24-year employee Gregory Topil of the Engineering Services Division of Public Works & Utilities Department stating his traffic control plan for vehicles & pedestrians provides safety and prevents chaos at the annual 4th of July events at Oak Lake Park. He further shared Mr. Topil's responsibilities in arranging & approving traffic control devices at permitted holiday block parties.

Scott Opfer, Public Works & Utilities Dept. Traffic Engineer, came forward to congratulate Mr. Topil in his work efforts and care of volunteer staff.

Greg MacLean, Director of Public Works & Utilities, came forward to thank Mr. Topil on his work and problem-solving skills.

Greg Topil came forward to accept his award and express appreciation to his dedicated staff who give up their holidays for community events.

Mayor Beutler presented the 2008 Annual Award of Excellence and Mayor's Medallion to 12-year employee, Cynthia Koenig-Warnke, of the Lincoln Police Department for her productive investigation of an exploited elderly Lincoln woman and the subsequent pursuit to Mexico to liberate her.

Police Chief Tom Casady came forward to congratulate Ms. Koenig-Warnke on her award and express appreciation to the National White Collar Crime Center (NWCCC) for funding the mission, as Mexico offered little support. He also recognized the accompaniment of 33-year police veteran, Sgt. Robert Kubicek, whose bi-cultural & bi-lingual resources contributed to the successful outcome of the trip.

Robin Elkins, representative of NWCCC came forward to congratulate Ms. Koenig-Warnke and express support of law enforcement in their fight against white-collar crimes.

Cindy Koenig-Warnke came forward to graciously accept the award and thank all parties who played an important role in this particular team effort.

Vice Chair Emery spoke on behalf of the Council to express appreciation toward all public employees who work for the City of Lincoln.

PUBLIC HEARING

Council Vice Chair Emery recognized Boy Scout Troop 21 from Hope Community Church who were in attendance working on their civic involvement.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT FOR THE JOINT DEVELOPMENT OF A NATURAL PLAY SPACE IN BELMONT PARK - J.J. Yost, Parks & Recreation Department, came forward to clarify that the agreement provides funding in the amount of \$50,000 to develop the City of Lincoln's first play space using natural materials such as boulders & logs to create an outdoor play space/education area rather than the traditional plastic & metal playground. He said following the hiring of a design firm and as funding allows, implementation of the play space will begin. Mr. Yost said it is anticipated that additional partners would participate in development of the project along with a strategy for ongoing maintenance & care of the facility.

This matter was taken under advisement.

APPROVING THE ACQUISITION BY CONDEMNATION OF APPROXIMATELY 1.58 ACRES OF PROPERTY GENERALLY LOCATED AT S.W. 98TH STREET AND WEST O STREET FOR A WATER WELL SITE FOR THE EMERALD SANITARY AND IMPROVEMENT DISTRICT - Bill Austin, Erickson & Sederstrom, 301 S. 13th St., Ste. 400, came forward representing Emerald SID #6 who has been desperately seeking a new source of water to serve their community. He said through the efforts of the NRD & the engineer firm JEO, a site has been located that they believe will meet the requirements and provide adequate water for their purposes. He stated *Neb. Rev. Stat. § 31-736* requires a sanitary and improvement district to obtain the approval of the municipality or county having zoning jurisdiction over the property that it intends to acquire. Mr. Austin said that the proposed resolution is listed as just a condemnation but it is generally for the acquisition. He stated for the record that the approval the Council may give is generally for acquisition by purchase or by condemnation. In answer to Council questions, Mr. Austin responded that in his estimation the City & County are giving a zoning review as to the comprehensive plan. He clarified that the condemning entity is the SID. He said unfortunately the trend is toward a condemnation as negotiations have been unsuccessful with the property owner.

Tim Engler, Harding & Shultz, 800 Lincoln Square, 121 S. 13th St., came forward to answer questions. He said a lease was negotiated with the property owner to build a test well which came back successful as to quality and quantity. He said their efforts are not to totally replace the well system in Emerald but to supplement their existing wells. In response to Council comments, Mr. Engler said if necessary they would explore the possibility of a lengthy lease rather than a resort to condemnation.

Dennis Allen, 9931 West O St., came forward as landowner in opposition to the approval. He said while he desires for Emerald to have good water, he preferred it did not come from his property. He said the installment of the well system will eliminate the use of any land within 1,000 feet of the wellhead due to regulations, thereby affecting his future development plans. In answer to Council questions about the initial testing, Mr. Allen said he was naive at first but now feels it will gravely impact his property, of which he owns 47 acres.

Mike DeKalb, City/County Planning Department, came forward to answer questions. He said this item came before the County Board last Tuesday, March 17. He said it was deferred one week because the proposed resolution stated "by condemnation versus acquire" so it was directed to

the County attorney for revision with Board action on March 24. In response to Council Svoboda's request for a one-week delay commenting that a County vote should precede the City vote, Mr. Dekalb said staff would not have an issue with the sequence of approval.

Mr. Austin came forward in rebuttal stating that a one-week delay to allow both resolutions to be consistent would not be a problem.

This matter was taken under advisement.

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

COUNCIL ACTION

REPORTS OF CITY OFFICERS

APPOINTING KATHY MCKILLIP TO THE LINCOLN CITY LIBRARY BOARD OF TRUSTEES FOR AN UNEXPIRED SEVEN-YEAR TERM EXPIRING AUGUST 31, 2014 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:
A-85264 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Kathy McKillip to the Lincoln City Library Board of Trustees for an unexpired seven-year term expiring August 31, 2014 is hereby approved.

Introduced by Ken Svoboda

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

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON MARCH 9, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

PETITIONS & COMMUNICATIONS - NONE

MISCELLANEOUS REFERRALS - NONE

LIQUOR RESOLUTIONS - NONE

ORDINANCES - 2ND READING & RELATED RESOLUTIONS (as required) - NONE

PUBLIC HEARING RESOLUTIONS

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT FOR THE JOINT DEVELOPMENT OF A NATURAL PLAY SPACE IN BELMONT PARK - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-85265 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Interlocal Agreement between the City of Lincoln and Lower Platte South Natural Resources District, for joint development of a natural play space in Belmont Park generally located at N. 12th and Judson Streets, upon the terms and conditions set forth in said Agreement, which is attached hereto marked as Attachment "A", is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to transmit one fully executed original of said Agreement to Lynn Johnson, Director of Parks and Recreation Department, for transmittal and execution by the Lower Platte South NRD.

Introduced by Ken Svoboda

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

APPROVING THE ACQUISITION BY CONDEMNATION OF APPROXIMATELY 1.58 ACRES OF PROPERTY GENERALLY LOCATED AT S.W. 98TH STREET AND WEST O STREET FOR A WATER WELL SITE FOR THE EMERALD SANITARY AND IMPROVEMENT DISTRICT - PRIOR TO reading:

SVOBODA Moved to Delay Action on Bill No. 09R-42 for one week to March 30, 2009.

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

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

CHANGE OF ZONE 09005HP - APPLICATION OF NEBRASKA STATE HISTORICAL SOCIETY FOUNDATION AND MILLER LANDSCAPES AND CONSTRUCTION, INC. TO DESIGNATE THE WEESE FARMSTEAD, GENERALLY LOCATED AT 10901 ADAMS STREET, AS A LANDMARK - CLERK read an ordinance, introduced by Jonathan Cook, amending the City of Lincoln District Map attached to and made a part of Title 27 of the Lincoln Municipal Code by designating certain property as a Landmark, the first time.

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

AMENDING CHAPTER 8.20 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE LINCOLN FOOD CODE BY AMENDING SECTION 8.20.030 TO REVISE AND ADD DEFINITIONS; AMENDING SECTION 8.20.040 TO CREATE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE; AMENDING SECTION 8.20.060 TO CREATE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE; REPEALING SECTION 8.20.070 RELATING TO PROHIBITED ACTS; AMENDING SECTION 8.20.100 TO CREATE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE; AMENDING SECTION 8.20.110 TO CLARIFY THE TERM FOR A TEMPORARY FOOD ESTABLISHMENT PERMIT; AMENDING SECTION 8.20.120 TO PROVIDE EXEMPTIONS TO PERMIT REQUIREMENTS FOR SPECIFIC FOOD ESTABLISHMENTS; AMENDING SECTION 8.20.130 TO CREATE CLASSIFICATIONS OF TEMPORARY FOOD ESTABLISHMENTS; AMENDING SECTION 8.20.140 TO REPLACE A REFERENCE TO A SPECIFIC SECTION WITH A REFERENCE TO THE LINCOLN FOOD CODE; AMENDING SECTION 8.20.150 RELATING TO PERMIT FEES AND TEMPORARY FOOD ESTABLISHMENTS; AMENDING SECTION 8.20.170 TO REPLACE A REFERENCE TO A SPECIFIC SECTION WITH A REFERENCE TO THE LINCOLN FOOD CODE; REPEALING SECTION 8.20.180 RELATING TO EXEMPTIONS FOR FOOD SALES BY NONPROFIT ORGANIZATIONS; AMENDING SECTION 8.20.190 TO PROVIDE STAFFING AND RECORDS REQUIREMENTS FOR FOOD ESTABLISHMENTS; ADDING A NEW SECTION NUMBERED 8.20.195 TO SET FORTH TYPES OF FOOD HANDLER AND FOOD MANAGER PERMITS; ADDING A NEW SECTION NUMBERED 8.20.197 TO ESTABLISH REQUIREMENTS FOR SUBMITTING APPLICATIONS FOR FOOD HANDLER AND FOOD MANAGER PERMITS; REPEALING SECTION 8.20.200 RELATING TO THE DUTIES OF FOOD MANAGERS AND FOOD HANDLERS; AMENDING SECTION 8.20.210 TO CREATE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE; AMENDING SECTION 8.20.220 TO CREATE THE TERM OF FOOD HANDLER AND FOOD MANAGER PERMITS; AMENDING SECTION 8.20.230 TO REVISE FOOD HANDLER AND FOOD MANAGER PERMIT FEES TO REFLECT THE CHANGE IN CLASSIFICATIONS; AMENDING SECTION 8.20.245 TO REQUIRE THAT THE HEALTH DIRECTOR BE NOTIFIED IF AN EMPLOYEE IS DIAGNOSED WITH OR SUSPECTED OF HAVING NOROVIRUS, ENTEROHEMORRHAGIC OR SHIGA TOXIN-PRODUCING ESCHERICHIA COLI; AMENDING SECTION 8.20.260 TO CLARIFY AND ORGANIZE THE SECTION AND PROVIDE UNIFORM REFERENCES TO PARTICULAR TERMS; AMENDING SECTIONS 8.20.262 AND 8.20.264 TO CLARIFY AND ORGANIZE THE SECTIONS FOR MORE CONVENIENT REFERENCING; AMENDING SECTION 8.20.270 TO ADD PROHIBITED ACTS; AMENDING SECTION 8.20.280 TO REPLACE A REFERENCE TO A SPECIFIC

SECTION AND PROVIDE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE; AMENDING SECTION 8.20.290 TO DELETE A REFERENCE TO A SPECIFIC SECTION AND REPLACE IT WITH DATE OF SUSPENSION; AMENDING SECTION 8.20.300 TO PROVIDE A UNIFORM REFERENCE TO PERSON IN CHARGE AND LINCOLN FOOD CODE; AMENDING SECTION 8.20.310 TO DELETE A REFERENCE TO LICENSE AND PROVIDE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE; AMENDING SECTION 8.20.320 TO PROVIDE FOR A UNIFORM REFERENCE TO PERMIT HOLDER AND PERSON IN CHARGE; AMENDING SECTION 8.20.340 TO PROVIDE A UNIFORM REFERENCE TO THE LINCOLN FOOD CODE AND TO CLARIFY THAT CIVIL AND CRIMINAL ACTIONS MAY BE TAKEN; AND REPEALING SECTIONS 8.20.030, 8.20.040, 8.20.060, 8.20.100, 8.20.110, 8.20.120, 8.20.130, 8.20.140, 8.20.150, 8.20.170, 8.20.190, 8.20.210, 8.20.220, 8.20.230, 8.20.245, 8.20.260, 8.20.262, 8.20.264, 8.20.270, 8.20.280, 8.20.290, 8.20.300, 8.20.310, 8.20.320, AND 8.20.340 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING (REQUEST 2ND AND 3RD READING ON 3-16-09) - CLERK read an ordinance, introduced by John Spatz, amending Chapter 8.20 of the Lincoln Municipal Code relating to the Lincoln Food Code by amending Section 8.20.030 to revise and add definitions; amending Section 8.20.040 to create a uniform reference to the Lincoln Food Code; amending Section 8.20.060 to create a uniform reference to the Lincoln Food Code; repealing Section 8.20.070 relating to prohibited acts; amending Section 8.20.100 to create a uniform reference to the Lincoln Food Code; amending Section 8.20.110 to clarify the term for a temporary food establishment permit; amending Section 8.20.120 to provide exemptions to permit requirements for specific food establishments; amending Section 8.20.130 to create classifications of temporary food establishments; amending Section 8.20.140 to replace a reference to a specific section with a reference to the Lincoln Food Code; amending Section 8.20.150 relating to permit fees and temporary food establishments; amending Section 8.20.170 to replace a reference to a specific section with a reference to the Lincoln Food Code; repealing Section 8.20.180 relating to exemptions for food sales by nonprofit organizations; amending Section 8.20.190 to provide staffing and records requirements for food establishments; adding a new section numbered 8.20.195 to set forth types of food handler and food manager permits; adding a new section numbered 8.20.197 to establish requirements for submitting applications for food handler and food manager permits; repealing Section 8.20.200 relating to the duties of food managers and food handlers; amending Section 8.20.210 to create a uniform reference to the Lincoln Food Code; amending Section 8.20.220 to create the term of food handler and food manager permits; amending Section 8.20.230 to revise food handler and food manager permit fees to reflect the change in classifications; amending Section 8.20.245 to require that the Health Director be notified if an employee is diagnosed with or suspected of having Norovirus, Enterohemorrhagic or Shiga Toxin-producing Escherichia coli; amending Section 8.20.260 to clarify and organize the section and provide uniform references to particular terms; amending Sections 8.20.262 and 8.20.264 to clarify and organize the sections for more convenient referencing; amending Section 8.20.270 to add prohibited acts; amending Section 8.20.280 to replace a reference to a specific section and provide a uniform reference to the Lincoln Food Code; amending Section 8.20.290 to delete a reference to a specific section and replace it with date of suspension; amending Section 8.20.300 to provide a uniform reference to Person In Charge and Lincoln Food Code; amending Section 8.20.310 to delete a reference to license and provide a uniform reference to the Lincoln Food Code; amending Section 8.20.320 to provide for a uniform reference to permit holder and Person In Charge; amending Section 8.20.340 to provide a uniform reference to the Lincoln Food Code and to clarify that civil and criminal actions may be taken; and repealing Sections 8.20.030, 8.20.040, 8.20.060, 8.20.100, 8.20.110, 8.20.120, 8.20.130, 8.20.140, 8.20.150, 8.20.170, 8.20.190, 8.20.210, 8.20.220, 8.20.230, 8.20.245, 8.20.260, 8.20.262, 8.20.264, 8.20.270, 8.20.280, 8.20.290, 8.20.300, 8.20.310, 8.20.320, and 8.20.340 of the Lincoln Municipal Code as hitherto existing, the third time.

SPATZ Moved to pass the ordinance as read.
 Seconded by Svoboda & carried by the following vote: AYES: Cook,
 Emery, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp, Eschliman.
The ordinance, being numbered **#19225**, is recorded in Ordinance Book #26, Page

OPEN MICROPHONE SESSION - NONE

MISCELLANEOUS BUSINESS

PENDING -

COOK Moved to extend the Pending List to March 30, 2009.
 Seconded by Marvin & carried by the following vote: AYES: Cook,
 Emery, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp, Eschliman.

UPCOMING RESOLUTIONS

COOK Moved to approve the resolutions to have Public Hearing on March
 30, 2009.
 Seconded by Marvin & carried by the following vote: AYES: Cook,
 Emery, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp, Eschliman.

ADJOURNMENT 2:09 P.M.

COOK Moved to adjourn the City Council meeting of March 23, 2009.
 Seconded by Marvin & carried by the following vote: AYES: Cook,
 Emery, Marvin, Spatz, Svoboda; NAYS: None; ABSENT: Camp, Eschliman.
 So ordered.

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant