

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

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

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

READING OF THE MINUTES

CAMP Having been appointed to read the minutes of the City Council proceedings of May 18, 2009 reported having done so, found same correct. Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

PUBLIC HEARING

APPLICATION OF RED9 LLC DBA RED9 FOR THE ADDITION OF A BEER GARDEN AREA MEASURING APPROXIMATELY 100 FEET BY 132 FEET TO THE NORTH OF THE LICENSED PREMISES AT 322 SOUTH 9TH STREET - Derrick Eells, 2435 Winding Way, came forward to take oath and answer questions. He said there has been ongoing dialog between red9, LPD and the neighbors to ensure that noise levels will be maintained at reasonable levels. He said the only outdoor music will be during football game days and occasionally on weekends which is reasonable with the neighborhood.

Inv. Russ Fosler, Lincoln Police Department, came forward to answer questions about a condition regarding outdoor event noise disturbances. He said the condition which would allow police to revoke a beer garden license is a safeguard for neighborhood concerns and to allow the police department a tool to solve extreme noise issue complaints quickly.

This matter was taken under advisement.

APPLICATION OF BUGEATER INVESTMENTS INC. DBA THE WATERING HOLE WEST FOR THE ADDITION OF AN OUTSIDE SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 15 FEET BY 60 FEET TO THE NORTH OF THE LICENSED PREMISES AT 1550 SOUTH CODDINGTON AVENUE - Adam Roberts, 5231 Garland, came forward to take oath and answer questions. He stated he felt the expansion of their business to include a sidewalk café would increase sales.

This matter was taken under advisement.

APPLICATION OF TWISTED STEELE INC. DBA THE BAR FOR THE ADDITION OF A CATERING LICENSE TO ITS CLASS C LIQUOR LICENSE AT 1644 P STREET - Neal Grummert, 3160 Woodsdale Blvd., came forward to take oath and answer questions. He said catering will allow them to serve different events and weddings.

This matter was taken under advisement.

APPLICATION OF RICARDO TIBURCIO RICO DBA LOS DOS HERMANOS MEXICAN CAFÉ FOR A CLASS C LIQUOR LICENSE AT 6117 HAVELOCK AVENUE - Ricky Rico, 6117 Havelock, came forward to take oath and answer questions.

Rick Peo, Assistant City Attorney, came forward to answer questions clarifying that the lease wasn't fully executed by all parties.

Mr. Rico said he was in agreement with a stipulation that requires him to have no alcohol related issues within one year.

This matter was taken under advisement.

APPLICATION OF 55 DEGREES INC. DBA BREAD & CUP FOR A CLASS C LIQUOR LICENSE AT 440 NORTH 8TH STREET;

MANAGER APPLICATION OF KEVIN W. SHINN FOR 55 DEGREES INC. DBA BREAD & CUP AT 440 NORTH 8TH STREET - Kevin Shinn, 356 S. 53rd St., came forward to

take oath. He said an off-sale license will enable them to host wine dinners and allow a new convenience for their customers.

Kerry Knight, 840 S. 36th St., came forward to take oath and answer questions.

This matter was taken under advisement.

ANNEXATION NO. 09002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 1.88 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 84TH STREET AND FIRETHORN LANE - Jennifer Strand, Woods & Aitken Law Firm, 301 S. 13th St., came forward to explain that a small additional parcel is being annexed to allow a relocated maintenance building to access City sewer and water services. In answer to Council questions, Ms. Strand said all the residences at Firethorn have been annexed. She said had the golf course property been annexed to the corner of 84th & Van Dorn, the City would have been responsible for the road.

Mark Wible, Manager of Firethorn Golf Club, was on hand for questioning.

Marvin Krout, Director of Planning, came forward to answer questions about Firethorn's development and lot locations.

This matter was taken under advisement.

CHANGE OF ZONE 09010 - AMENDING CHAPTER 27.70 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING CODE, ADDITIONAL USE REGULATIONS, BY ADDING A NEW SECTION NUMBERED 27.70.060 TO ALLOW CHURCHES IN THE AG, AGR, R OR O DISTRICTS TO HOLD TEMPORARY OR SEASONAL SALES OF GOODS AT RETAIL - Marvin Krout, Director of Planning, came forward to explain that in the zoning ordinance today, a special permit provision allows a non-profit organization in a residential district or an office district to apply and get Planning Commission permission for a temporary outside sales use on a property subject to limitation of no more than 45 days in a single calendar year. He said given their history with this, they felt non-profit was a very broad classification. He said churches ought to be able to have this sales activity as a conditional use without having to go to the Planning Commission for a hearing and approval. In response to a Council question on whether a church would pay tax on fireworks sales, Mr. Krout referred to the Finance Director.

Don Herz, City Finance Director replied, yes, they probably would.

Council requested verification of the sales tax issue before the voting session today.

Rick Peo, Assistant City Attorney, came forward to remind the Council that the code change is a land use issue not a determination of who the operator of the facility might be; therefore, sales tax is not a relevant issue. He clarified the ordinance is about simplifying a process for churches to be able to get a conditional use permit for what would typically go through a special permit process. He said the special permit would not be deemed to be "yay" or "nay" based upon whether or not they had tax exemption status. Mr. Peo advised Council to treat churches the same as they would treat other non-profits.

This matter was taken under advisement.

VACATION 09004 - VACATING THE EAST-WEST ALLEY BETWEEN NORTH 23RD STREET AND NORTH 24TH STREET, NORTH OF P STREET - Trent Sidders, Cline Williams Law Firm, 233 S. 13th St., Ste. 1900, came forward to represent NeighborWorks in their redevelopment project and to answer any questions.

This matter was taken under advisement.

APPROVING GJJRB, LLC DBA THE SPIGOT LOUNGE AS A KENO SATELLITE SITE AT 1634 O STREET - John Hewitt, 955 W. O St., came forward to state that Keno has been at The Spigot since about 1995 but due to a change of ownership, re-application was required.

This matter was taken under advisement.

APPROVING THE AMENDMENT TO ANNEXATION AGREEMENT BETWEEN THE CITY AND FIRETHORN GOLF COMPANY AND FIRETHORN UTILITY SERVICE COMPANY TO REVISE THE TERMS WITH RESPECT TO THE WATER DISTRIBUTION SYSTEM ON PROPERTY GENERALLY LOCATED AT 85TH STREET AND PIONEERS BOULEVARD - Jennifer Strand, Woods & Aitken, LLP, 301 S. 13th St., came forward to answer questions and to state that the amendment clarifies that a portion of a connecting water main will not be completed until the City completes the 98th Street water main.

Brad Marshall, Olsson Associates, came forward to answer questions about whether water service material on Firethorn properties was standard copper or plastic. He anticipated that 1/2 of them may not be copper from the curb stop to the water main.

This matter was taken under advisement.

APPROVING AMENDMENT NO. 1 DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN WHITEHEAD OIL COMPANY AND THE CITY REGARDING SIGN REGULATIONS ON PROPERTY GENERALLY LOCATED AT 21ST AND K STREETS - Mark Whitehead, Whitehead Oil Company, 2537 Randolph St., came forward to congratulate the new Council members and answer questions about the development site. He said details have been worked out, coming to the position of the original agreement by limiting signage and achieving the overall nature that is appropriate for the site. He said the one frontage which faces west going down toward 21st Street is where the largest concentration needs to be for identification.

Marvin Krout, Director of Planning, came forward to state the modest wall sign is typical of suburban strip center signage. He said the 62 sq. ft. sign is a lot less than the 25 ft. tall and 100 sq. ft. that it could be under the B-3 ordinance.

This matter was taken under advisement.

WAIVER 09002 - APPLICATION OF LINCOLN FAMILY CHURCH TO WAIVE THE PARKING LOT SURFACING REQUIREMENT ON PROPERTY GENERALLY LOCATED TWO BLOCKS SOUTH OF THE INTERSECTION OF HIGHWAY 2 AND SOUTH 70TH STREET - Darin Horst, Efficient Design, 6201 Oaks Hollow, came forward representing the church in their plan to expand their sanctuary, therefore requiring additional parking. He said until more money is raised, the surface beyond the concrete drive will be gravel.

This matter was taken under advisement.

APPROVING THE PURCHASE OF PROPERTY LOCATED AT 21ST AND N STREETS. THE PURCHASE PRICE AND DEMOLITION COSTS RELATED TO THE PROPERTY TOTAL \$1,750,000 OF WHICH \$650,000 WOULD COME FROM THE ADVANCE LAND ACQUISITION FUND - Steve Huggenberger, Assistant City Attorney, came forward to explain the proceedings of the law suit brought about by J & D Leasing (Williamson dealership) claiming inverse condemnation against the City and JAVA. He said as the City was moving to trial, Lincoln Electric System expressed an interest in locating a substation on part of the property; therefore, it became a much more viable prospect for settlement. He stated this resolution provides the City with the funds to accomplish the property transfers and settlement of the law suit. In answer to Council questions, Mr. Huggenberger said J & D Leasing is responsible for all environmental issues related to the property.

This matter was taken under advisement.

AMENDING SECTION 10.14.250 OF THE LINCOLN MUNICIPAL CODE, RELATING TO SPEED REGULATIONS, TO BRING SAID SECTION INTO CONFORMITY WITH STATE STATUTE BY PROVIDING A FINE FOR TRAVELING MORE THAN 35 MPH OVER THE AUTHORIZED SPEED LIMIT AND ESTABLISHING RANGES FOR FINES OF TWENTY-ONE MILES PER HOUR TO THIRTY-FIVE MILES PER HOUR OVER THE AUTHORIZED SPEED LIMIT, AND THIRTY-SIX MILES PER HOUR OR MORE OVER THE AUTHORIZED SPEED LIMIT RELATING TO THE DEFINITION AND FINES FOR SPEEDING IN A CONSTRUCTION ZONE; AND REPEALING SECTION 10.14.250 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - John McQuinn, Chief Assistant City Prosecutor, came forward to explain the consistency between State and City law. In answer

to Council questions, Mr. McQuinn responded that this change would include Public Works & Utilities Dept. working on repairs within City limits with properly posted signs indicating construction zones and fines-doubled-when-workers-present zones.

This matter was taken under advisement.

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

COUNCIL ACTION

REPORTS OF CITY OFFICERS

Clerk's Letter and Mayor's Approval of Resolutions and Ordinances passed by the City Council on May 11, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

Clerk's Letter and Mayor's Approval of Resolutions and Ordinances passed by the City Council on May 18, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

Report from City Treasurer of City Cash on hand at the close of business April 30, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

Resolution approving the City of Lincoln's Investment Activity Report from the City Treasurer for the Second Quarter, Fiscal Year 2008-09 - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85359 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the Investment Activity report and attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Eugene Carroll

Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, JUNE 15, 2009 AT 1:30 P.M. FOR THE APPLICATION OF TODD P. PFUNDT DBA SUN VALLEY BAR & GRILL FOR A CLASS C LIQUOR LICENSE LOCATED AT 300 WEST P STREET - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85360 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 15, 2009, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the application of Todd P. Pfundt dba Sun Valley Bar & Grill for a Class C liquor license located at 300 West P Street.

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

Introduced by Eugene Carroll

Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, JUNE 15, 2009 AT 1:30 P.M. FOR THE APPLICATION OF KABREDLO'S, INC. DBA KABREDLO'S 127 FOR A CLASS D LIQUOR LICENSE LOCATED AT 4411 N. 27TH STREET - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85361 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 15, 2009, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the application of Kabredlo's Inc. dba Kabredlo's 127 for a Class D liquor license located at 4411 N. 27th Street.

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

Introduced by Eugene Carroll

Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, JUNE 15, 2009 AT 1:30 P.M. FOR THE APPLICATION OF HOME COOKIN' LLC DBA PAT'S BBQ & NERO'S PIZZA FOR A CLASS C LIQUOR LICENSE LOCATED AT 1401 SUPERIOR STREET, SUITE 7 - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85362 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 15, 2009, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the application of Home Cookin' LLC dba Pat's BBQ & Nero's Pizza for a Class C liquor license located at 1401 Superior Street, Suite 7.

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

Introduced by Eugene Carroll

Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, JUNE 15, 2009 AT 1:30 P.M. FOR THE APPLICATION OF B & R STORES, INC. DBA RUSS'S MARKET #21 FOR AN ADDITION TO PREMISE OF THEIR EXISTING CLASS C LIQUOR LICENSE BY ADDING A MEZZANINE MEASURING APPROX. 29 FT. BY 136 FT. LOCATED AT 1550 S. CODDINGTON AVENUE - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85363 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 15, 2009, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the application of B & R Stores, Inc. dba Russ's Market #21 for an addition to premise of their existing Class C liquor license by adding a mezzanine measuring approx. 29 ft. by 136 ft. located at 1550 S. Coddington Avenue.

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

Introduced by Eugene Carroll

Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, JUNE 15, 2009 AT 1:30 P.M. FOR THE APPLICATION OF ROGELIO ARIAS DBA SUPER TACO FOR AN ADDITION TO PREMISE OF THEIR EXISTING CLASS I LIQUOR LICENSE BY ADDING A ROOM APPROX. 30 FT. BY 44 FT. LOCATED AT 5501 HOLDREGE STREET - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85364 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 15, 2009, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the application of Rogelio Arias dba Super Taco for an addition to premise of their existing Class I liquor license by adding a room approx. 30 ft. by 44 ft. located at 5501 Holdrege Street.

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

Introduced by Eugene Carroll

Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

MISCELLANEOUS REFERRALS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF RED9 LLC DBA RED9 FOR THE ADDITION OF A BEER GARDEN AREA MEASURING APPROXIMATELY 100 FEET BY 132 FEET TO THE NORTH OF THE LICENSED PREMISES AT 322 SOUTH 9TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85365 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 Red9 LLC dba Red9 to expand its licensed premises by the addition of an outside beer garden area measuring approximately 100 feet by 132 feet to the north of the presently licensed premises located at 322 South 9th Street, Lincoln, Nebraska, be approved with the condition that:

1. The outside area shall be maintained in an orderly manner without disturbing the neighboring businesses or residences.

2. The premise complies in every respect with all City and State regulations.

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 Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPLICATION OF BUGEATER INVESTMENTS INC. DBA THE WATERING HOLE WEST FOR THE ADDITION OF AN OUTSIDE SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 15 FEET BY 60 FEET TO THE NORTH OF THE LICENSED PREMISES AT 1550 SOUTH CODDINGTON AVENUE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85366 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 Bugeater Investments Inc. dba The Watering Hole West to expand its licensed premises by the addition of an outside sidewalk café area measuring approximately 15 feet by 60 feet to the north of the presently licensed premises located at 1550 South Coddington Avenue, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

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

Introduced by Jon Camp

Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPLICATION OF TWISTED STEELE INC. DBA THE BAR FOR THE ADDITION OF A CATERING LICENSE TO ITS CLASS C LIQUOR LICENSE AT 1644 P STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85367 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinance, the City Council recommends that the application of Twisted Steele Inc. dba The Bar for the issuance of a Catering Permit to the existing liquor license, located at 1644 P

Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all city and state regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPLICATION OF RICARDO TIBURCIO RICO DBA LOS DOS HERMANOS MEXICAN CAFÉ FOR A CLASS C LIQUOR LICENSE AT 6117 HAVELOCK AVENUE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval.

Motion **DIED** for lack of a second.

CAMP Moved its adoption for denial:

A-85368 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 Ricardo Tiburcio Rico dba Los Dos Hermanos Mexican Café for a Class "C" liquor license, at 6117 Havelock Avenue, 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.

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, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPLICATION OF 55 DEGREES INC. DBA BREAD & CUP FOR A CLASS C LIQUOR LICENSE AT 440 NORTH 8TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85369 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 55 Degrees Inc. dba Bread & Cup for a Class "C" liquor license at 440 North 8th Street, Lincoln, Nebraska, for the license period ending October 31, 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 Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

MANAGER APPLICATION OF KEVIN W. SHINN FOR 55 DEGREES INC. DBA BREAD & CUP AT 440 NORTH 8TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85370 WHEREAS, 55 Degrees Inc. dba Bread & Cup located at 440 North 8th Street, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Kevin W. Shinn be named manager;

WHEREAS, Kevin W. Shinn 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 Kevin W. Shinn 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 Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

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

ANNEXATION NO. 09002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 1.88 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 84TH STREET AND FIRETHORN LANE - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.

CHANGE OF ZONE 09010 - AMENDING CHAPTER 27.70 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING CODE, ADDITIONAL USE REGULATIONS, BY ADDING A NEW SECTION NUMBERED 27.70.060 TO ALLOW CHURCHES IN THE AG, AGR, R OR O DISTRICTS TO HOLD TEMPORARY OR SEASONAL SALES OF GOODS AT RETAIL. (REQUEST 2ND & 3RD READINGS W/ACTION ON 6/1/09) - PRIOR to reading:

Rick Peo, Chief Assistant City Attorney, came forward to provide Council answers for a tax question. He said the State Department of Revenue was contacted and they indicated that religious organizations can have one sale per year up to three consecutive days without collecting sales tax whether that is an on-site or off-site sale. For any sales beyond that one, they have to collect sales tax.

CLERK Read an ordinance, introduced by Jon Camp, amending Chapter 27.70 of the Lincoln Municipal Code relating to Zoning Code, Additional Use Regulations, by adding a new section numbered 27.70.060 to allow churches to hold temporary or seasonal sales of goods at retail, the second time.

VACATION 09004 - VACATING THE EAST-WEST ALLEY BETWEEN NORTH 23RD STREET AND NORTH 24TH STREET, NORTH OF P STREET - CLERK read an ordinance, introduced by Jon Camp, vacating the east-west alley between N. 23rd and N. 24th Streets, north of P Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

PUBLIC HEARING RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF MAY 1 - 14, 2009 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85371 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 May 14, 2009, 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>
Linda Nosal	\$ 69.87	Darlene G. Mora	\$1,533.24
Roger Nelsen & Rachel Nelsen	5,808.83	Leighton Schmidt	407.57
Charles Kaczor	NAS*		

*No Amount Specified

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

Introduced by Jon Camp

Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPROVING GJJRB, LLC DBA THE SPIGOT LOUNGE AS A KENO SATELLITE SITE AT 1634 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85372 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for a joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of a keno type lottery with EHPV Lottery Services, LLC, a Nebraska limited liability company; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno Contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno Contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of GJJRB, LLC, dba The Spigot Lounge, 1634 "O" Street, Lincoln, NE 68508.

The City Clerk is directed to return an executed copy of this Resolution to The Spigot Lounge and a copy to EHPV Lottery Services, LLC.

Introduced by Jon Camp

Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPROVING THE AMENDMENT TO ANNEXATION AGREEMENT BETWEEN THE CITY AND FIRETHORN GOLF COMPANY AND FIRETHORN UTILITY SERVICE COMPANY TO REVISE THE TERMS WITH RESPECT TO THE WATER DISTRIBUTION SYSTEM ON PROPERTY GENERALLY LOCATED AT 85TH STREET AND PIONEERS BOULEVARD - PRIOR to reading:

CAMP Moved to amend Bill No. 09R-84 by substituting the attached Amendment to Annexation Agreement marked as Attachment "A" for the existing Amendment to Annexation Agreement.

Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85373 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Amendment to Annexation Agreement which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City and Firethorn Golf Company, LLC and Firethorn Utility Service Company, upon the terms and conditions contained in said Agreement with respect to the water distribution system on the property generally located at 85th Street and Pioneers Boulevard is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Amendment to Annexation 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 Owners.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Amendment to Annexation Agreement or a summary memorandum or notice thereof against the property described in Attachment "B" to said Amendment with the Register of Deeds, filing fees to be paid by the Owners.

BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this Agreement to Michaela Dugan, Impact Fee Administrator.

Introduced by Jon Camp

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPROVING AMENDMENT NO. 1 DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN WHITEHEAD OIL COMPANY AND THE CITY REGARDING SIGN REGULATIONS ON PROPERTY GENERALLY LOCATED AT 21ST AND K STREETS - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85374 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Amendment No. 1 Development and Conditional Annexation Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City and Whitehead Oil Company, upon the terms and conditions contained in said Agreement regarding sign regulations on the property generally located at 21st Street and K Street and legally described on Exhibit "A" attached to said Amendment No. 1, is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Amendment No. 1 Development and Conditional Zoning 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 Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Zoning Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this Agreement to Michaela Dugan, Impact Fee Administrator.

Introduced by Jon Camp

Seconded by Snyder & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

WAIVER 09002 - APPLICATION OF LINCOLN FAMILY CHURCH TO WAIVE THE PARKING LOT SURFACING REQUIREMENT ON PROPERTY GENERALLY LOCATED TWO BLOCKS SOUTH OF THE INTERSECTION OF HIGHWAY 2 AND SOUTH 70TH STREET - PRIOR to reading:

CAMP Moved to amend Bill No. 09R-86 in the following manner:

1. On page 2, line 4, delete the word "west" and insert in lieu thereof the word east.

Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85375 WHEREAS, the Lincoln Family Church ("Owner") has requested a waiver of the surfacing requirements for an expanded parking lot on property generally located two blocks south of the intersection of Highway 2 and South 70th Street and legally described as:

Lot 162, located in the Southeast Quarter of Section 16, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska;

WHEREAS, the City Council finds that:

a. The parking lot for which the waiver of the surfacing requirement is requested is to be used in conjunction with a nonprofit religious institution;

b. Alternate materials or techniques will be utilized which provide reasonable control of dust, runoff, and safe circulation; and

c. The location of the parking lot is a sufficient distance from surrounding uses so that it will not adversely affect the surrounding uses, and the frequency of use of the parking lot is so low that compliance with the surfacing requirements at the present time would cause undue economic hardship upon the Owner as compared with minimal impact upon the surrounding land uses.

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

In consideration of the findings made above, the requirement for the paving of the parking lot for the Lincoln Family Church located two blocks south of Highway 2 and South 70th Street on property legally described above is hereby waived pursuant to § 27.67.100(c) of the Lincoln Municipal Code under the following conditions:

1. This approval waives the requirement to pave the parking lot for four years.

2. Before commencing use of the expanded parking lot the applicant shall provide a revised site plan that shows the driveway paved from the concrete apron to the ~~west~~ east edge of the existing paved parking spaces.

3. Before commencing use of the expanded parking lot, all development and construction must substantially comply with the approved plans.

4. The terms, conditions, and requirements of this resolution shall run with the land and be binding on the Owner, its successors and assigns.

5. The Owner shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the waiver, 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 waiver and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Owner.

Introduced by Jon Camp

Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

APPROVING THE PURCHASE OF PROPERTY LOCATED AT 21ST AND N STREETS. THE PURCHASE PRICE AND DEMOLITION COSTS RELATED TO THE PROPERTY TOTAL \$1,750,000 OF WHICH \$650,000 WOULD COME FROM THE ADVANCE LAND ACQUISITION FUND - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85376 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That pursuant to Article IX-B, Section 12, of the Charter of the City of Lincoln, the Mayor is hereby authorized to use \$650,000.00 from the Advance Acquisition Fund for the purchase of the property located at 21st and N street, legally described on Attachment A. The purchase price and demolition costs related to the property total \$1,750,000.00. The Mayor is hereby further authorized to dispose of all or part of such property to Lincoln Electric System for its purposes.

Introduced by Jon Camp

Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: Hornung.

PUBLIC HEARING ORDINANCE - 3RD READING WITH ACTION

AMENDING SECTION 10.14.250 OF THE LINCOLN MUNICIPAL CODE, RELATING TO SPEED REGULATIONS, TO BRING SAID SECTION INTO CONFORMITY WITH STATE STATUTE BY PROVIDING A FINE FOR TRAVELING MORE THAN 35 MPH OVER THE AUTHORIZED SPEED LIMIT AND ESTABLISHING RANGES FOR FINES OF TWENTY-ONE MILES PER HOUR TO THIRTY-FIVE MILES PER HOUR OVER THE AUTHORIZED SPEED LIMIT, AND THIRTY-SIX MILES PER HOUR OR MORE OVER THE AUTHORIZED SPEED LIMIT RELATING TO THE DEFINITION AND FINES FOR SPEEDING IN A CONSTRUCTION ZONE; AND REPEALING SECTION 10.14.250 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING (5/18/09 - P.H. con't. to 6/1/09 with Action) - CLERK read an ordinance, introduced by Dan Marvin, amending Section 10.14.250 of the Lincoln Municipal Code, relating to speed regulations, to bring said section into conformity with state statute by providing a fine for traveling more than 35 mph over the authorized speed limit and establishing ranges for fines of twenty-one miles per hour to thirty-five miles per hour over the authorized speed limit, and thirty-six miles per hour or more over the authorized speed limit relating to the definition and fines for speeding in a construction zone; and repealing Section 10.14.250 of the Lincoln Municipal Code as hitherto existing, the third time.

CAMP Moved the pass the ordinance as read.

Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19269, is recorded in Ordinance Book #26, Page

ORDINANCE - 1ST READING & RELATED RESOLUTIONS (as required)

AMENDING ORDINANCE NO. 19094, PASSED BY THE CITY COUNCIL ON JUNE 16, 2008, WHICH AMENDED RULE 3-3 OF THE RULES OF COUNCIL, DECORUM, DEBATE AND PROCEDURE, TO ELIMINATE THE EXPIRATION DATE OF ONE YEAR AFTER ITS EFFECTIVE DATE - CLERK read an ordinance, introduced by Eugene Carroll, amending Ordinance No. 19094 (amending Section 2.04.010) of the Lincoln Municipal Code relating to the Rules of the City Council) by amending Section 3 to delete the provision that Ordinance No. 19094 shall automatically expire one year after its effective date, the first time.

COMP. PLAN CONFORMITY 08025 - DECLARING APPROXIMATELY 6,600 SQ. FT. OF PROPERTY GENERALLY LOCATED NORTHWEST OF NORTH 41ST STREET AND GREENWOOD STREET AS SURPLUS PROPERTY AND AUTHORIZING THE SALE THEREOF - CLERK read an ordinance, introduced by Eugene Carroll, declaring approximately 6,600 sq. ft. of City-owned property generally located northwest of North 41st Street and Greenwood Street as surplus and authorizing the sale thereof, the first time.

ORDINANCES - 3RD READING & RELATED RESOLUTIONS (as required) - NONE

MAYOR'S VETO OF ORDINANCE NO. 19268

AMENDING SECTION 4.20.010 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE BOARD OF DIRECTORS OF THE LIBRARY BOARD OF THE CITY OF LINCOLN TO AMEND THE TERM OF SAID DIRECTORS; AND REPEALING SECTION 4.20.010 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - Prior to reading:

CAMP Moved to override Mayor Chris Beutler's Veto of Ordinance 19268. Seconded by Spatz & **LOST** by the following vote: AYES: Camp, Hornung, Spatz; NAYS: Carroll, Cook, Emery, Snyder.

OPEN MICROPHONE SESSION - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to June 8, 2009. Motion carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on June 8, 2009. Motion carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ADJOURNMENT 2:41 P.M.

CAMP Moved to adjourn the City Council meeting of June 1, 2009. Motion carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant

REGULAR MEETING
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