

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, JUNE 22, 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

HORNUNG Having been appointed to read the minutes of the City Council proceedings of June 15, 2009 reported having done so, found same correct.

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

PUBLIC HEARING

APPLICATION OF LINCOLN MEADOWS SOCIAL HALL, INC. DBA LINCOLN MEADOWS SOCIAL HALL FOR A CLASS I LIQUOR LICENSE AT 3235 N. 35TH STREET;
MANAGER APPLICATION OF FRANK J. SCHMAL III FOR LINCOLN MEADOWS SOCIAL HALL, INC. DBA LINCOLN MEADOWS SOCIAL HALL AT 3235 N. 35TH STREET - Frank J. Schmal III, 5957 Arrowwood Rd., came forward to take oath and answer questions.

This matter was taken under advisement.

AMENDING CHAPTER 20.10 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN RESIDENTIAL BUILDING CODE BY AMENDING SECTION 20.10.710 TO INCLUDE CHAPTERS 13, 14, 15, 16, 17, AND 18 OF THE INTERNATIONAL RESIDENTIAL CODE, AS PART OF THE LINCOLN RESIDENTIAL BUILDING CODE; AND REPEALING SECTION 20.10.710 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING;

AMENDING TITLE 25 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEATING BY CREATING A NEW CHAPTER 25.04 TO ADOPT THE 2006 EDITION OF THE INTERNATIONAL MECHANICAL CODE AND APPENDIX CHAPTERS A AND B REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF MECHANICAL SYSTEMS WITHIN THE CITY OF LINCOLN AND WITHIN THREE MILES THEREOF AND OUTSIDE THE LIMITS OF ANY OTHER INCORPORATED CITY OR VILLAGE; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING CHAPTER 25.03 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING; AND ESTABLISHING THE OPERATIVE DATE AS 60 DAYS AFTER PASSAGE OF THE ORDINANCE;

AMENDING TITLE 25 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEATING BY CREATING A NEW CHAPTER 25.10 TO ADOPT THE INTERNATIONAL FUEL GAS CODE, 2006 EDITION, INCLUDING APPENDIX CHAPTERS B AND C, REGULATING AND GOVERNING FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES WITHIN THE CITY OF LINCOLN AND WITHIN THREE MILES THEREOF AND OUTSIDE THE LIMITS OF ANY OTHER INCORPORATED CITY OR VILLAGE, AND THE REGULATIONS, PROVISIONS, PENALTIES, CONDITIONS AND TERMS OF SAID FUEL GAS CODE; AND ESTABLISHING THE OPERATIVE DATE FOR THIS ORDINANCE AS 60 DAYS AFTER PASSAGE - Ron Peery, Building & Safety Inspection Manager, came forward to provide an update and explain the reasoning for these ordinances. He reported the names of task force members who met 14 times to come up with this code. He said the original Uniform Mechanical Code is no longer supported as it now exists under the International Code Congress. Mr. Peery said even though the industry was reluctant to go to the 2000 or 2003 Codes because of the three divisions, he said more than ten years had passed and it was time to adopt the 2006 Edition. He explained that fee increases will help support and maintain inspection staff who meet

timely inspections. In answer to Council questions, Mr. Peery said the task force began meeting in February or March of 2007 and looked at all three changes in cooperation with the Law Department.

Merl Scott, Building & Safety Chief Mechanical Inspector, was on hand for technical questioning.

This matter was taken under advisement.

APPROVING THE FISCAL YEAR 2009 ACTION PLAN: ONE YEAR USE OF FUNDS FOR HUD ENTITLEMENT PROGRAMS - David Landis, Urban Development Department Director, came forward for approval and to answer questions. He said four years ago a 5-year strategic plan was done and set goals have been met or are very close to being achieved. Mr. Landis said that while only three people attended a well-publicized open house last year, this year's 30-day public comment period without inducement in an effort to save money will end on Wednesday, June 24.

Council Member Camp clarified an amendment that would correct a recalculation amounting to \$106. Mr. Landis acknowledged that figure as a reworking of the federal formula and noted a clerical error on another page.

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 CITY COUNCIL ON JUNE 1, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE MONTH OF APRIL 2009 FROM BLACK HILLS/NEBRASKA GAS UTILITY COMPANY, LLC - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

REPORT FROM CITY TREASURER OF TELECOMMUNICATION OCCUPATIONAL TAX FOR THE MONTHS OF JAN.-MARCH, 2009: MATRIX, RELIANCE, STARTEC GLOBAL OPERATING, SOUTHWEST, OPEX, MEGAPATH; MARCH, 2009: SPRINT, CRICKET, WINDSTREAM NEBRASKA #150, WINDSTREAM SYSTEMS OF THE MIDWEST, WINDSTREAM NEBRASKA #494, VERIZON, NEW CINGULAR, USCOC OF GREATER IOWA, AT&T COMM. OF MIDWEST, VIRGIN MOBILE USA, QWEST, OMAHA CELLULAR, TWC DIGITAL PHONE, NEBRASKA TECHNOLOGY & TELECOMM., NOSVA, UCN, USCOC OF NE/KS, MCLEODUSA, IDT DOMESTIC, PNG, CTI LONG DISTANCE, CELLCO PARTNERSHIP, AIRESPRING, GRANITE, BROADWING, VERIZON SELECT, WORKING ASSETS ACCESSLINE, TRANS NAT'L COMM., ONSTAR, I-WIRELESS, ACN, FLYING J, IBM GLOBAL, PRIMUS, GUARANTEED PHONE, ARIZONA TELEPHONY, TELECORP, VERIZON LONG DISTANCE, CIMCO, GLOBAL CROSSING, NORSTAN NETWORK, COMTEL TELECOM ASSETS, NETWORK BILLING, KDDI AMERICA, GLOBALSTAR USA, XO, EARTHLINK, CINNCINNATI BELL ANY DISTANCE, TCG OMAHA, NEW EDGE NETWORKS, VOICECOM, TRACFONE WIRELESS, SIOUX CITY MSA, ATI, INTELLICAL OPERATOR, QUANTUM SHIFT; APRIL 2009; UNITE PRIVATE NETWORKS, ALLTEL COMM. OF NE, ALLTEL, D&D, SPRINT SPECTRUM, MCI, NEXTEL, CRICKET, SPRINT, NEXTEL WEST, ZONE TELECOM, ENHANCED, TRI-M, LIGHTYEAR NETWORK, GTC, SBC LONG DISTANCE, BT AMERICAS, FIRST COMM., GLOBALCOM, COVISTA, YESTEL USA, 360NETWORKS, WHOLESALE CARRIER, ATS MOBILE - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF 911 TELECOMMUNICATION OCCUPATIONAL TAX FOR MONTH OF MARCH 2009: INETWORKS GROUP; APRIL 2009: VONAGE AMERICA, ACN, INETWORKS, BUDGET PREPAY, LEVEL 3, LEVEL 3, GRANITE TELECOMM., TWC

DIGITAL PHONE, TWC DIGITAL PHONE, AT&T COMM. OF MIDWEST, QWEST, 8X8, VONAGE AMERICA, COMTEL TELCOM ASSETS, ACN, AT&T COMM. OF MDIWEST - CLERK presented said report which was placed on file in the Office of the City Clerk. (20-02)

PETITIONS & COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPARTMENT:

Special Permit No. 500B - Req. by Montessori School for an amendment to the special permit for a private school to include an evening adult component on property generally located at Austin Drive and Antelope Creek Road.

Special Permit No. 09013 - Req. by Tuyet Nguyen for the authority to sell alcoholic beverages for consumption on the premises on property generally located at North 27th Street and Y Street.

MISCELLANEOUS REFERRALS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF LINCOLN MEADOWS SOCIAL HALL, INC. DBA LINCOLN MEADOWS SOCIAL HALL FOR A CLASS I LIQUOR LICENSE AT 3235 N. 35TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85405 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 Lincoln Meadows Social Hall, Inc. dba Lincoln Meadows Social Hall for a Class "I" liquor license at 3235 N. 35th Street, Lincoln, Nebraska, for the license period ending April 30, 2010, be approved with the condition that

1. Applicant must successfully complete the responsible beverage server training course required by Section 5.04.035 of the Lincoln Municipal Code within 30 days of approval of this resolution.

2. The premise must comply 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 FRANK J. SCHMAL III FOR LINCOLN MEADOWS SOCIAL HALL, INC. DBA LINCOLN MEADOWS SOCIAL HALL AT 3235 N. 35TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85406 WHEREAS, Lincoln Meadows Social Hall, Inc. dba Lincoln Meadows Social Hall located at 3235 N. 35th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Frank J. Schmal III be named manager;

WHEREAS, Frank J. Schmal III 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 Frank J. Schmal III 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.

APPLICATION OF VANEISER LLC DBA THE VENUE RESTAURANT & LOUNGE FOR THE ADDITION OF AN OUTDOOR AREA CONSISTING OF A SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 40 FEET BY 10 FEET TO THE SOUTH OF THE LICENSED PREMISES AT 4111 PIONEER WOOD DRIVE, SUITE 100 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85407 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 Vaneiser LLC dba The Venue Restaurant & Lounge to expand its licensed premises by the addition of an outside sidewalk café area measuring approximately 40 feet by 10 feet to the south of the presently licensed premises located at 4111 Pioneer Wood Drive, Suite 100, 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 Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

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

AMENDING CHAPTER 20.10 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN RESIDENTIAL BUILDING CODE BY AMENDING SECTION 20.10.710 TO INCLUDE CHAPTERS 13, 14, 15, 16, 17, AND 18 OF THE INTERNATIONAL RESIDENTIAL CODE, AS PART OF THE LINCOLN RESIDENTIAL BUILDING CODE; AND REPEALING SECTION 20.10.710 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Jayne Snyder, amending Chapter 20.10 of the Lincoln Municipal Code, the Lincoln Residential Building Code, by amending Section 20.10.710 to include Chapters 13, 14, 15, 16, 17 and 18 of the International Residential Code, as amended by this ordinance, as part of the Lincoln Residential Building Code; and repealing Section 20.10.710 of the Lincoln Municipal code as hitherto existing, the second time.

AMENDING TITLE 25 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEATING BY CREATING A NEW CHAPTER 25.04 TO ADOPT THE 2006 EDITION OF THE INTERNATIONAL MECHANICAL CODE AND APPENDIX CHAPTERS A AND B REGULATING AND GOVERNING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF MECHANICAL SYSTEMS WITHIN THE CITY OF LINCOLN AND WITHIN THREE MILES THEREOF AND OUTSIDE THE LIMITS OF ANY OTHER INCORPORATED CITY OR VILLAGE; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING CHAPTER 25.03 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING; AND ESTABLISHING THE OPERATIVE DATE AS 60 DAYS AFTER PASSAGE OF THE ORDINANCE - CLERK read an ordinance, introduced by Jayne Snyder, amending Title 25 of the Lincoln Municipal Code relating to Heating by creating a new Chapter 25.04 to adopt the 2006 edition of the International Mechanical Code and Appendix Chapters A and B regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of

mechanical systems within the City of Lincoln and within three miles thereof and outside the limits of any other incorporated city or village; providing for the issuance of permits and collection of fees therefor; repealing Chapter 25.03 of the Lincoln Municipal Code as hitherto existing; and establishing the operative date for this ordinance as 60 days after passage hereof, the second time.

AMENDING TITLE 25 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEATING BY CREATING A NEW CHAPTER 25.10 TO ADOPT THE INTERNATIONAL FUEL GAS CODE, 2006 EDITION, INCLUDING APPENDIX CHAPTERS B AND C, REGULATING AND GOVERNING FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES WITHIN THE CITY OF LINCOLN AND WITHIN THREE MILES THEREOF AND OUTSIDE THE LIMITS OF ANY OTHER INCORPORATED CITY OR VILLAGE, AND THE REGULATIONS, PROVISIONS, PENALTIES, CONDITIONS AND TERMS OF SAID FUEL GAS CODE; AND ESTABLISHING THE OPERATIVE DATE FOR THIS ORDINANCE AS 60 DAYS AFTER PASSAGE - CLERK read an ordinance, introduced by Jayne Snyder, amending Title 25 of the Lincoln Municipal Code relating to Heating by creating a new Chapter 25.10 to adopt the International Fuel Gas Code, 2006 edition, including Appendix Chapters B and C, regulating and governing fuel gas systems and gas-fired appliances within the City of Lincoln and within three miles thereof and outside the limits of any other incorporated city or village, and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code on file in the office of the Director of Building and Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this ordinance; and establishing the operative date for this ordinance as 60 days after passage hereof, the second time.

PUBLIC HEARING RESOLUTIONS

APPROVING THE FISCAL YEAR 2009 ACTION PLAN: ONE YEAR USE OF FUNDS FOR HUD ENTITLEMENT PROGRAMS - PRIOR to reading:

CAMP Moved to amend Bill No. 09R-102 in the following manner:

1. On page 1, line 22, delete the amounts "\$2,986,537" and "\$1,769,599" and insert in lieu thereof the amounts \$2,986,431 and \$1,769.493.

2. On page 7, line 11, delete the year "2008" and insert in lieu thereof the year 2009.

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

CLERK Read the following amended resolution, introduced by Jayne Snyder, who moved its adoption:

A-85408 WHEREAS, the City of Lincoln, Nebraska, acting by and through the Mayor as the Chief Executive Officer and the City Council as the Legislative body of this City, with full citizen participation with reference thereto and in full compliance with the U.S. Department of Housing and Urban Development requirements, has prepared the City of Lincoln Fifth Program Year Action Plan - 2009 (hereinafter "FY 2009 Action Plan" or "Action Plan") outlining the activities and initiatives of Urban Development for CDBG and HOME entitlement funds from HUD Entitlement Programs under the provisions of 24 C.F.R., Part 91, et al.; and

WHEREAS, such plan includes the proposed community development activities and community development objectives, all prepared in full compliance with the requirements, instructions, and recommendations contained in the Community Development Block Grant Regulations and HOME Investment Partnerships Act Regulations; and

WHEREAS, such plan and the items contained therein and each of them appear to be in the best interest of the City of Lincoln, Nebraska; and

WHEREAS, certain assurances must be incorporated into the City of Lincoln's FY 2009 Action Plan, as prescribed in the Community Development Block Grant Regulations and HOME Investment Partnerships Act Regulations and 24 C.F.R., Part 91.

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

That the FY 2009 Action Plan, a copy of which is attached hereto, is hereby approved and the Mayor is authorized to submit the FY 2009 Action Plan to the Department of Housing and Urban Development for total grants for Fiscal Year 2009-10 in the amount of ~~\$2,986,537~~ \$2,986,431 (~~\$1,769,599~~ \$1,769,493 CDBG and \$1,216,938 HOME) under the provisions of Title I of the Housing and Community Development Act of 1974, as amended, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, Title IV of Subtitle B of the Stewart B. McKinney Homeless Assistance Act of 1988, as amended, and each and every item included therein is hereby approved. The Mayor and other City officials charged with responsibilities pertinent to the proposed certifications are hereby authorized to execute said certifications for and on behalf of the City of Lincoln, Nebraska, and the Mayor is hereby authorized and directed to execute said statement for and on behalf of the City of Lincoln, Nebraska, to submit same to the Secretary of Housing and Urban Development, or his designate, in the form and substance as required by the Community Development Block Grant Regulations and HOME Investment Partnerships Act Regulations, and to supplement such Action Plan in any way reasonably required by the Department of Housing and Urban Development to expedite approval of the same.

BE IT FURTHER RESOLVED that the City of Lincoln, Nebraska, hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements of Federal Management Circulars 74-4 and 74-7 and OMB Circular A-87 and 24 Code of Federal Regulations, Part 85, as they relate to the FY 2009 Action Plan, acceptance and use of Federal funds for the City's federally-assisted programs.

BE IT FURTHER RESOLVED that the City of Lincoln, Nebraska hereby assures and certifies with respect to the FY 2009 Action Plan that:

1. The City will affirmatively further fair housing.
2. The City has in effect and is following a residential anti-displacement and relocation assistance plan.
3. The City will continue to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing an ongoing drug-free awareness program to inform employees about -
 - i. The dangers of drug abuse in the workplace;
 - ii. The grantee's policy of maintaining a drug-free work-place;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by subparagraph (1);
 - d. Notifying the employee in the statement required by sub-paragraph (a) that, as a condition of employment under the grant, the employee will:
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.ii. from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to

every grant officer or other designed on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.ii., with respect to any employee who is so convicted -

- i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs a, b, c, d, e, and f.

4. The City will comply with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms if required by that part. The City further certifies that to the best of the City's knowledge and belief:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the City, to any person for influencing or attempting to influence any officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. The City will require that the language of paragraph 4 of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

5. The City possesses legal authority under state and local law to make a grant submission and to carry out the proposed community development and housing program for which it is seeking funding in accordance with applicable HUD regulations. By passage of this resolution, the Mayor, as the official representative of the City of Lincoln is hereby authorized to submit the Action Plan, including all the understandings and assurances contained therein. Further the Mayor is hereby directed and authorized to act in connection with the submission of the Action Plan and to provide such additional information as may be required.

6. The housing activities to be undertaken with CDBG and HOME funds are consistent with the City's strategic plan.

7. The City will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 C.F.R. § 570.606(b) and Federal implementing regulations; and the requirements in 24 C.F.R. § 570.606(c) governing the residential antidisplacement and relocation assistance plan under Section 104(d) of the Act (including a certification that the grantee is following such a

plan); and the relocation requirements of 24 C.F.R. § 570.606(d) governing optional relocation assistance under Section 105(a)(11) of the Act.

8. The City will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701a) and implementing regulations at 24 CFR Part 135.

BE IT FURTHER RESOLVED that the City of Lincoln hereby assures and certifies with respect to the Community Development Block Grant program portion of the FY 2009 Action Plan that:

1. The City is in full compliance and following a detailed citizen participation plan that satisfies the requirement of 24 CFR § 91.105 and which:

a. Provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low and moderate income neighborhoods as defined by the City;

b. Provides citizens with reasonable and timely access to local meetings, information, and records relating to the City's proposed use of funds, as required by the regulations of the Secretary, and relating to the actual use of funds under the Act;

c. Provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

d. Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

e. Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

f. Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;

2. The City's strategic housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been in accordance with the primary objective of the statute authorizing the CDBG Program, as described in 24 CFR 570.2 and the requirements of 24 CFR Part 91 Subpart C and 24 CFR Part 570.

3. The City is following a current HUD approved consolidated plan.

4. The City has developed its final statement of projected use of funds so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight; (the final statement of projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available); except that the aggregate use of CDBG funds received under Section 106 of the Act and, if applicable, under Section 108 of the Act, during program year ~~2008~~ 2009 shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit such persons during such period.

The City will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under Section 106 of the Act or with amounts resulting from a guarantee under

Section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

a. Funds received under Section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or

b. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the City certifies to the Secretary that it lacks sufficient funds received under Section 106 of the Act to comply with the requirements of subparagraph (1) above.

5. The City has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

6. The City will conduct and administer the grant in compliance with Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. 2000d et seq.), the Fair Housing Act (42 U.S.C. 3601-19), and implementing regulations.

7. The City's notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 C.F.R. § 570.608.

8. The City will comply with all applicable law.

BE IT FURTHER RESOLVED that the City of Lincoln hereby assumes and certifies with respect to the HOME program portion of the FY 2009 Action Plan that:

1. The City is using and will use HOME funds for eligible activities and costs, as described in §§ 92.205 through 92.209 of 24 C.F.R., Subtitle A, and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214 of 24 C.F.R. Subtitle A;

2. Before committing funds to a project, the City will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

Introduced by Jayne Snyder

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

ORDINANCE - 1ST READING & RELATED RESOLUTIONS (as required) - NONE

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

AMENDING ORDINANCE NO. 19223 WHICH AUTHORIZED AND PROVIDED FOR THE ISSUANCE OF LINCOLN FLATS/BANK OF THE WEST REDEVELOPMENT PROJECT TAXABLE TAX ALLOCATION BOND, SERIES 2009A AND SERIES 2009B IN A TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$764,000 - CLERK read an ordinance, introduced by Adam Hornung amending Ordinance No. 19223 to provide for resetting the interest rate on the bonds from time to time; to repeal certain provisions of Ordinance No. 19223, in connection therewith; taking other action in connection with the foregoing; and related matters, the third time.

HORNUNG Moved to pass the ordinance as read.

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

The ordinance, being numbered #19274, is recorded in Ordinance Book #26, Page

OPEN MICROPHONE SESSION - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to June 29, 2009.
Seconded by Spatz & carried by the following vote: AYES: Camp,
Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

UPCOMING RESOLUTIONS

COOK Moved to approve the resolutions to have Public Hearing on June
29, 2009.
Seconded by Spatz & carried by the following vote: AYES: Camp,
Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ADJOURNMENT 1:51 P.M.

CAMP Moved to adjourn the City Council meeting of June 22, 2009.
Seconded by Spatz & 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