

**THE MINUTES OF THE CITY COUNCIL MEETING HELD  
MONDAY, OCTOBER 19, 2009 AT 3:00 P.M.**

The Meeting was called to order at 3:00 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 October 12, 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**

APPROVING THE APPOINTMENT OF RODNEY M. CONFER AS THE CITY ATTORNEY FOR A TWO YEAR TERM EFFECTIVE NOVEMBER 1, 2009 - Rodney M. Confer came forward to introduce himself and answer questions. In response to Council query, Mr. Confer said he graduated from the University of Nebraska in 1971, served in the Navy Jag Corp, worked as a law clerk in the Eighth Circuit and spent the last 34 years with the law firm of Knudsen, Berkheimer, Richardson & Endacott.

This matter was taken under advisement.

APPLICATION OF WHITEHEAD OIL COMPANY DBA U-STOP #25 FOR A CLASS D LIQUOR LICENSE AT 2140 K STREET, SUITE 100;

MANAGER APPLICATION OF BRIAN J. MAKOVICKA FOR WHITEHEAD OIL COMPANY DBA U-STOP #25 AT 2140 K STREET, SUITE 100 - Brian J. Makovicka, 4640 S. 86<sup>th</sup> Ct., came forward to take oath and answer questions. He said a grand opening is scheduled for November 20 and the business will offer traditional convenience store items as well as fuel and alcoholic beverages. He said McDonalds Restaurant will co-exist in the same building. To maintain the safe environment near Lincoln High School, Mr. Makovicka said store managers follow through with preventative measures: they attend hospitality classes for responsible liquor sales, train to verify ID checks, pass criminal & drug testing and are rewarded for sting passes.

This matter was taken under advisement.

DECLARING TWO PARCELS OF CITY OWNED PROPERTY, COMMONLY KNOWN AS 4802 O STREET AND 4850 O STREET AS SURPLUS AND AUTHORIZING THE SALE THEREOF TO SUP FAMILY II, LLC - David Landis, Director of Urban Development, came forward to state that the City bought this property some years ago for \$1.335 million. Upon the sale of two parcels the following will be achieved: the Sup family will make a donation for public art, an access point will be closed to achieve greater intersection safety, claims will be settled and ultimately result in the construction of a 13,000 sq. ft. building completing commercial development from 48<sup>th</sup> through 50<sup>th</sup> Streets. Mr. Landis said upon consummation of this agreement, funds from the street construction fund will be returned to the same.

Richard Esquivel, 733 W. Cuming, came forward to question previous parcel ownership and transaction figures presented in the purchase and sale of the property.

Mr. Landis came forward to answer Mr. Esquivel's questions. He said one parcel was purchased from Realty Trust and the other parcel was purchased from Mr. Robert Nefsky. He clarified values regarding various transactions. He emphasized that while 48<sup>th</sup> & O was the most dangerous intersection in the City with public & private costs to police, ambulance, hospitals, property, insurance, etc.; now safety has been achieved.

This matter was taken under advisement.

APPROVING THE DESIGNATION OF THE PUBLIC EMPLOYEES TO BE IN RESPONSIBLE CHARGE FOR PRE-CONSTRUCTION AND CONSTRUCTION PHASES FOR FEDERAL AID TRANSPORTATION PROJECTS FOR THE NEBRASKA DEPARTMENT OF ROADS - Roger Figard, Public Works & Utilities Dept. City Engineer, came forward to explain reasoning for the designation. He said to move ahead with the current federal aid & stimulus projects in place, each project must have an individual designated as a responsible charge from the local agency -- a public employee involved in the day-to-day activity who has gone through extensive, lengthy training -- not a hired professional consultant from another firm.

This matter was taken under advisement.

APPROVING AND ACCEPTING THE AWARD OF A CONTINUATION GRANT FUND FOR THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT IN THE AMOUNT OF \$45,000.00 FOR ASSESSING THE WALKABLE ENVIRONMENT THROUGH RESIDENT PARTICIPATION FOR THE PERIOD FROM OCTOBER 1, 2009 THROUGH JUNE 30, 2011 - Judy Halstead, Lincoln-Lancaster County Health Department, came forward to state that since this continuation grant is 21 months in length, it must come before Council for approval. Ms. Halstead said there is no match required in this partnership with UNL, Planning & Public Works Dept. and neighborhood associations for these activities.

This matter was taken under advisement.

APPROVING A MULTI-YEAR CONTRACT WITH WASTE CONNECTIONS OF NEBRASKA FOR WASTE HAULING SERVICES TO ALL CITY DEPARTMENTS FOR A TWO-YEAR TERM WITH A TWO-YEAR OPTION FOR RENEWAL - Bob Walla, Assistant Purchasing Agent, came forward to answer questions. He said current waste control contracts serve Parks & Recreation Departments only. Mr. Walla explained that previous work was spread out between 15 different haulers throughout the City. He said following an RFP in which three companies responded, two responses had all 266 locations; one had just one district. Previous costs totaled \$14,400/month and the new contract with Waste Connections of Nebraska will result in a 26% annual reduction, or \$10,635/month.

This matter was taken under advisement.

COMP. PLAN CONFORMITY NO. 09005 - APPROVING AND ADOPTING A PROPOSED AMENDMENT TO THE LINCOLN CENTER REDEVELOPMENT PLAN FOR THE BLOCK 68 REDEVELOPMENT PROJECT FOR THE DEVELOPMENT OF A HOTEL AND ENTERTAINMENT COMPLEX, MIXED-USE RESIDENTIAL AND COMMERCIAL BUILDING WITH RETAIL ON THE FIRST FLOOR AND PARKING FACILITY FOR THE PROPOSED USES ON PROPERTY LOCATED ON THE BLOCK BOUNDED BY 10TH, 11TH, M AND N STREETS - David Landis, Director of Urban Development, came forward with a modified proposal. He said a consensus has been achieved around three basic principles: 1) allow Developer to use their land for profit; 2) continue City's right-of-way on M Street; 3) exchange land for land rather than land for money. He said the architect, Gil Peace of Bahr Vermeer & Haecker redesigned the project so that it did not infringe on the City's ROW on M Street and is intended to support the goals of the Downtown Master Plan of creating a 24-hour Downtown and an M Street promenade. In response to Council questions, Mr. Landis said additional parking will be achieved by an underground location with surface parking to support the retail.

Mark Hunzeker, 600 Wells Fargo Center, 1248 O Street, came forward representing the developer, Randy Acker. In response to Council questions, Mr. Hunzeker said the project proposes 250-260 parking stalls.

Teri Pope Gonzalas, 349 S. 1<sup>st</sup> St., came forward to comment on construction cement dust that may contribute to public breathing and health problems.

Marvin Krout, Director of Planning, came forward to answer questions about reviewing and modifying the master plan in the future. He said the Comprehensive Plan for land use and transportation calls for an annual review and a major update review every five years. The

Downtown Master Plan includes a recommendation for a plan review every five years which should begin sometime next year. He said the key issue is creating an east/west link with a special street between Antelope Valley and Salt Creek with either a one-block promenade or with park blocks.

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 OCTOBER 5, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

APPROVING THE APPOINTMENT OF RODNEY M. CONFER AS THE CITY ATTORNEY FOR A TWO YEAR TERM EFFECTIVE NOVEMBER 1, 2009 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85541 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Rodney M. Confer to the position of City Attorney for a two-year term effective November 1, 2009, is hereby approved.

Introduced by Jonathan Cook

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

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 9, 2009, AT 3:00 P.M. FOR THE BOARD OF EQUALIZATION FOR DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY & DOWNTOWN MAINTENANCE DISTRICT.

CLERK Requested a motion for approval.

COOK So Moved.

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

### **PETITIONS & COMMUNICATIONS**

INFORMAL PAVING PETITION FOR PAVING OF LEWIS AVENUE NORTH OF ADAMS STREET TO KNOX STREET SUBMITTED BY EUGENE HINKLE - CLERK presented said petition which was referred to the Public Works Department.

### **LIQUOR RESOLUTIONS**

APPLICATION OF WHITEHEAD OIL COMPANY DBA U-STOP #25 FOR A CLASS D LIQUOR LICENSE AT 2140 K STREET, SUITE 100 - CLERK read the following resolution, introduced by Jayne Snyder, who moved its adoption for approval:

A-85542 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 Whitehead Oil Company dba U-Stop #25 for a Class "D"

liquor license at 2140 K Street, Suite 100, Lincoln, Nebraska, for the license period ending April 30, 2010, 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 Jayne Snyder

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

MANAGER APPLICATION OF BRIAN J. MAKOVICKA FOR WHITEHEAD OIL COMPANY DBA U-STOP #25 AT 2140 K STREET, SUITE 100 - CLERK read the following resolution, introduced by Jayne Snyder, who moved its adoption for approval:

A-85543 WHEREAS, Whitehead Oil Company dba U-Stop #25 located at 2140 K Street, Suite 100, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Brian J. Makovicka be named manager;

WHEREAS, Brian J. Makovicka 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 Brian J. Makovicka 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 Jayne Snyder

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

#### ORDINANCES - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required)

DECLARING TWO PARCELS OF CITY OWNED PROPERTY, COMMONLY KNOWN AS 4802 O STREET AND 4850 O STREET AS SURPLUS AND AUTHORIZING THE SALE THEREOF TO SUP FAMILY II, LLC - CLERK read an ordinance, introduced by Jonathan Cook, declaring two parcels of City-owned property generally located at the northeast corner of 48<sup>th</sup> and O Streets as surplus and authorizing the sale thereof to Sup Family II, LLC, the second time.

#### PUBLIC HEARING RESOLUTIONS

APPROVING THE DESIGNATION OF THE PUBLIC EMPLOYEES TO BE IN RESPONSIBLE CHARGE FOR PRE-CONSTRUCTION AND CONSTRUCTION PHASES FOR FEDERAL AID TRANSPORTATION PROJECTS FOR THE NEBRASKA DEPARTMENT OF ROADS - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85544 Whereas, City of Lincoln has full-time public employees on staff, who are fully qualified and have the time and interest in serving as a "Responsible Charge" (RC) for this project. The designated RC will be in day-to-day responsible charge of all aspects of the assigned project, from planning through post-construction activities, with the express purpose of doing all things necessary for the project to remain eligible for federal-aid transportation project funding; and

Whereas, the RC will ensure that, at a minimum, (1) the project receives independent and careful development, supervision and inspection, (2) the project is constructed in compliance with the plans and specifications, (3) all aspects of the project, from planning through construction activities, including all environmental commitments, remain eligible for federal funding, and (4) decisions made and actions taken for the project have adequate supporting documentation filed in an organized fashion.

For purposes of this resolution, the following definitions will apply:

**Fully qualified** means a person who has satisfactorily completed all applicable Nebraska Department of Roads (NDOR) training courses and who has met the other requirements necessary to be included on the NDOR list of qualified Local Public Agency (LPA) RCs.

**Full-time public employee** means a public employee who meets all the requirements and is afforded all the benefits of full-time employees as that phrase is applied to other employees of the employing public entity. A person is not a full-time public employee if that person provides outside private consulting services, or is employed by any private entity, unless that person can prove to NDOR in advance, that employee's non-public employment is in a field unrelated to any aspect of the project for which federal aid is sought.

**Public employee** means a person who is employed solely by a county, a municipality, a political subdivision; a Native American tribe; a school district; another entity that is either designated by statute as public or quasi-public; or an entity included on the list of entities determined by the NDOR, and approved by the Federal Highway Administration (FHWA), as fulfilling public or quasi-public functions.

**Responsible charge** means the public employee who is fully empowered by the LPA and has actual day-to-day working knowledge and responsibility for all decisions related to all aspects of the federal-aid project from planning through construction project activities, including all environmental commitments. The RC is the day-to-day project manager, and the LPA's point-of-contact for the project. Responsible charge does not mean merely delegating the various tasks; it means active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, making decisions, and actively monitoring project construction. It is understood that the RC may delegate or contract certain technical tasks associated with the project so long as the RC actively manages and represents the owner's interests in the delegated technical tasks.

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

The employees listed below are hereby designated as Responsible Charge (RC) for pre-construction and construction phases, in accordance with the Project Program Agreement previously executed, the NDOR LPA Guidelines Manual for Federal-aid Projects, and all Federal, State and local laws, rules, regulations, policies and guidelines for the following Federal-aid transportation projects:

<u>State C.N.</u>	<u>State Project #</u>	<u>Project Name</u>	<u>City of Lincoln Assigned Responsible Charge</u>	<u>Lincoln Project #</u>
13043	LCLC-5254 (9)	Superior Bridge Repair	Mr. Thomas Shafer	701844
		MPO Model Update	Mr. Thomas Shafer	541018
12927	HSIP 5239 (7)	Countdown Pedestrian Heads	Mr. Thomas Shafer	701076
12944	HSIP 5227 (7)	14th & Cornhusker Roundabout	Mr. Thomas Shafer	701075
12928	HSIP 5254 (8)	Northbound I-180 & Superior Ramp	Mr. Thomas Shafer	702620
12848	DPU-55(156)	East Beltway	Mr. Thomas Shafer	542702
12578D	DPU-LIN-2-6	South Beltway	Mr. Thomas Shafer	542701

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13037	LCLC-34-6(140)	Arterial Rehab - Package E (O, 15th to 25th, 29th to 44th and Wedgewood to 84th)	Ms. Erika Nunes	701812
13038	LCLC-5247(11)	Arterial Rehab - Package D (Holdrege, 19th to 25th; Cornhusker Hwy, Russell to 70th; 70th, Adams to Aylesworth; Vine, 70th to Sierra; Adams, I-180 to 14th)	Ms. Erika Nunes	701811
13040	LCLC-5236(2)	Arterial Rehab - Package B (Y, 18th to 27th; P, 17th to 27th; NW 1st, Highland to W. Fletcher)	Ms. Erika Nunes	701809
13041	LCLC-5220(3)	Arterial Rehab - Package A (A, 63rd to 70th and 70th to Imperial; Van Dorn, Normal to 70th)	Ms. Erika Nunes	701808
13067	LCLC-5244(7)	Arterial Rehab - Holdrege, 33rd to 47th	Ms. Erika Nunes	701772
13068	LCLC-5250(3)	Arterial Rehab - Adams, 57th to 62nd	Ms. Erika Nunes	701777
13081	LCLC-5247(12)	Arterial Rehab - 70th, Aylesworth to Vine	Ms. Erika Nunes	540012
13082	LCLC-5244(8)	Arterial Rehab - Holdrege, 70th to 79th	Ms. Erika Nunes	540013
12744	BR-5267(1)	SW 40th RR Overpass	Ms. Erika Nunes	700132
12776	BR-5248(4)	Adams Street Bridge Repair	Ms. Erika Nunes	701375
11215a	CM-55(142)	Antelope Valley - North/South Roadway from "K" to "Q"	Ms. Kris Humphrey	880109
11215b	CM-55(143)	Antelope Valley - North/South Roadway from Vine to "Y"	Ms. Kris Humphrey	880108
11215g	STPC-5257(1)	Antelope Valley - East Leg Bridge	Ms. Kris Humphrey	880107
11215h	STPC-5234(1)	Antelope Valley - "N" Street Bridge	Ms. Kris Humphrey	880112
11215i	STPC-34-6(135)	Antelope Valley - "O" Street Bridge	Ms. Kris Humphrey	880104
11215j	STPC-5226(1)	Antelope Valley - "J" Street Bridge	Ms. Kris Humphrey	880110
11215k	STPC-5212(5)	Antelope Valley - South Street Bridge	Ms. Kris Humphrey	880111
12572	BR-5266(1)	Harris Overpass	Ms. Kris Humphrey	701781
12946	ENH-5266	West "O" Transportation Enhancement Project	Mr. Ernesto Castillo	
12879	STPB-ENH-55(160)	Jamaica North Phase II	Mr. Terry Genrich	
13079	STPB-ENH-55(172)	Cavett Connector Trail	Mr. Terry Genrich	
12840	STPB-ENH-55(155)	Mopac Trail Bridge - 27th Street	Mr. Terry Genrich	

The City of Lincoln assures and agrees that:

- 1) It has authorized and fully empowered the RC(s) to be in day-to-day responsible charge of the subject federal-aid project; this does not mean merely supervising, overseeing or delegating the various tasks, it means active day-to-day involvement in the project including identifying issues, investigating options, working directly with stakeholders, and decision-making;
- 2) The RC(s) is a full-time public employee;
- 3) The RC(s) is fully qualified and has successfully completed required training to serve as a RC;
- 4) It will allow the RC(s) to spend all time reasonably necessary to properly discharge all duties associated with the project, including ensuring that all aspects of the project, from planning through post-construction activities, remain eligible for federal-aid highway project funding;
- 5) It will not assign other duties to the RC(s) that would affect his or her ability to properly carry out the duties set out in this agreement;
- 6) It will provide necessary office space, materials and administrative support for the RC(s);
- 7) It will fully cooperate with, support and not unreasonably interfere with the day-to-day control of the RC(s) concerning the acts necessary for making the project eligible for federal funding;
- 8) It will take all necessary actions and make its best good faith efforts to comply and assist the RC(s) in complying with all federal and state requirements and policies applicable to federal-aid transportation projects, including, but not limited to, all applicable requirements of 23 CFR 635.105;
- 9) It will take all necessary actions and make its best good faith efforts to ensure that the RC(s)' work on the project would be deemed to meet the same standards that the Nebraska Department of Roads must meet under 23 CFR 635.105;
- 10) It will comply with the conflict-of-interest requirements of 23 CFR 1.33;
- 11) It will notify NDOR immediately in the event the designated RC(s) will no longer be assigned to the project. A supplemental agreement designating a replacement RC(s) may be required by NDOR; and
- 12) It is ultimately responsible for complying with all federal and state requirements and policies applicable to federal-aid highway projects. This includes meeting all post-construction environmental commitments. The LPA understands that failure to meet any eligibility requirements for federal funding may result in the loss of all Federal funding for the project. In the event that the acts or omissions of RC(s), the LPA or its agents or representatives result in a finding that a project is ineligible for Federal funding, the LPA will be required to repay NDOR some or all previously paid Federal funds and any costs or expenses NDOR has incurred for the project, including but not limited to, those costs for the RC(s).

The City of Lincoln understands that the following are the duties of the RC(s):

- a) Serve as the LPA's contact for issues or inquiries for Federal-aid projects assigned by the LPA;
- b) Ensure that all applicable Federal, State and local laws, rules, regulations, policies and guidelines are followed during the development and construction of the project;
- c) Know and follow the NDOR LPA Guidelines Manual for Federal-aid Projects;
- d) Have active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, and decision-making;
- e) Ensure that the project plans and specifications are sealed, signed and dated by a professional engineer licensed in the State of Nebraska, and that estimates have been prepared and the construction has

been observed by a professional engineer licensed in the State of Nebraska or a person under the direct supervision of a professional engineer licensed in the State of Nebraska (reference Neb. Rev. Stat. § 81-3445);

f) Competently manage and coordinate the project day-to-day operations, including all project-related decisions, on behalf of the LPA, which includes the LPA's governing body, staff and any extended staff dedicated to the project such as consulting engineers;

g) Ensure that project documents are thoroughly checked, reviewed and have had quality control measures applied, prior to submitting to NDOR and/or FHWA;

h) Monitor the progress and schedule of the project and be responsible for ensuring that the project is completed on time in accordance with established milestone dates;

i) Properly serve as the owner's representative, and to visit the project site during construction on a frequency commensurate with the magnitude and complexity of the project;

j) Ensure that proper construction management processes have been developed and implemented for the project;

k) Serve as a steward of the public funds, i.e. ensure that the public gets what it is paying for;

l) Attend all required training including the annual workshop; and

m) Fulfill continuing education requirements as specified in the NDOR LPA Guidelines Manual for Federal-aid Projects.

Introduced by Jonathan Cook

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

APPROVING AND ACCEPTING THE AWARD OF A CONTINUATION GRANT FUND FOR THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT IN THE AMOUNT OF \$45,000.00 FOR ASSESSING THE WALKABLE ENVIRONMENT THROUGH RESIDENT PARTICIPATION FOR THE PERIOD FROM OCTOBER 1, 2009 THROUGH JUNE 30, 2011 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85545 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Intervention Implementation Continuation Grant between the Nebraska Department of Health and Human Services and the Lincoln-Lancaster County Health Department in the amount of \$45,000.00, for the project titled Assessing the Walkable Environment through Resident Participation, for the period of October 1, 2009 through June 30, 2011, in accordance with the terms, conditions and assurances contained in the Grant award letter, is hereby approved and accepted.

Introduced by Jonathan Cook

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

APPROVING A MULTI-YEAR CONTRACT WITH WASTE CONNECTIONS OF NEBRASKA FOR WASTE HAULING SERVICES TO ALL CITY DEPARTMENTS FOR A TWO-YEAR TERM WITH A TWO-YEAR OPTION FOR RENEWAL - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85546 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached contract between the City of Lincoln, Lancaster County, the Lincoln-Lancaster County Public Building Commission, as Owners, and Waste Connections of Nebraska, in accordance with Bid No. 09-212, for waste hauling services for various departments for a two-year period with an option to renew for an additional two-year period, upon the terms as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jonathan Cook

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



COMP. PLAN CONFORMITY NO. 09005 - APPROVING AND ADOPTING A PROPOSED AMENDMENT TO THE LINCOLN CENTER REDEVELOPMENT PLAN FOR THE BLOCK 68 REDEVELOPMENT PROJECT FOR THE DEVELOPMENT OF A HOTEL AND ENTERTAINMENT COMPLEX, MIXED-USE RESIDENTIAL AND COMMERCIAL BUILDING WITH RETAIL ON THE FIRST FLOOR AND PARKING FACILITY FOR THE PROPOSED USES ON PROPERTY LOCATED ON THE BLOCK BOUNDED BY 10TH, 11TH, M AND N STREETS - PRIOR to reading:

COOK Moved MTA #1 to amend Bill No. 09R-165 by substituting Attachment "A" (Block 68 Redevelopment Project) attached hereto for the existing Attachment "A".

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

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

A-85547 WHEREAS, the City Council on October 22, 1984, adopted Resolution No. A-69713 finding an area generally bounded by "R" Street, 17th Street, "S" Street, and 7th Street to be blighted, and on October 19, 1987, adopted Resolution No. A-71701 finding said area to be blighted and substandard as defined in the Nebraska Community Development Law (Neb. Rev. Stat. § 18-2101, et seq. as amended) and in need of redevelopment; and

WHEREAS, The City Council has previously adopted the Lincoln Center Redevelopment Plan and amendments thereto (hereinafter the "Lincoln Center Redevelopment Plan" or "Plan") including plans for various redevelopment projects within said blighted and substandard area in accordance with the requirements and procedures of the Nebraska Community Development Law; and

WHEREAS, the Director of the Urban Development Department has filed with the City Clerk proposed amendments to the Plan (hereinafter the "Amendments") for said blighted and substandard area contained in the document entitled "Block 68 Redevelopment Project" which is attached hereto, marked as Attachment "A", and made a part hereof by reference; and

WHEREAS, the Director of Urban Development has reviewed said Amendments and has found that if adopted the Amendments and the Plan meet the conditions set forth in Neb. Rev. Stat. § 18-2113 (Reissue 2007); and

WHEREAS, said proposed Amendments to the Lincoln Center Redevelopment Plan for the Block 68 Redevelopment Project have been submitted to the Lincoln-Lancaster County Planning Commission for review and recommendations; and

WHEREAS, on August 14, 2009 notice of public hearing was mailed, postage prepaid, to the president or chairperson of the governing body of each county, school district, community college, educational service unit, and natural resource district in which the real property subject to such plan is located and whose property tax receipts would be directly affected and to all registered neighborhood associations located in whole or in part within one mile radius of the area to be redeveloped setting forth the time, date, place, and purpose, of the public hearing to be held on August 26, 2009 before the Lincoln City - Lancaster County Planning Commission regarding the proposed Amendments, a copy of said notice and list of said governing bodies and registered neighborhood associations having been attached hereto as Attachment "B" and "C" respectively; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission on August 26, 2009 held a public hearing relating to the proposed Amendments to the Lincoln Center Redevelopment Plan and found the Amendments to be in conformance with the Comprehensive Plan and recommended approval thereof; and

WHEREAS, on September 10, 2009 a notice of public hearing was mailed postage prepaid to the foregoing registered neighborhood associations setting forth the time, date, place, and purpose of the public hearing before the City Council to be held on September 21, 2009, regarding the proposed Amendments to the Lincoln Center Redevelopment Plan, a copy of said notice having been attached hereto as Attachment "D"; and

WHEREAS, on September 4, 2009 and September 11, 2009 a Notice of Public Hearing was published in the Lincoln Journal Star newspaper, setting the time, date, place and purpose of the public hearing to be held on September 21, 2009 regarding the proposed Amendments to the Lincoln Center Redevelopment Plan for said blighted and substandard area, a copy of such notice having been attached hereto and marked as Attachment "E"; and

WHEREAS, on September 21, 2009 in the City Council chambers of the County-City Building, 555 South 10th Street, Lincoln, Nebraska, the City Council held a public hearing relating to the proposed Amendments to the Lincoln Center Redevelopment Plan and all interested parties were afforded at such public hearing a reasonable opportunity to express their views respecting said proposed Amendments to the Plan; and

WHEREAS, the City Council has duly considered all statements made and materials submitted relating to said proposed modifications to the Plan; and

WHEREAS, the City Council now desires to modify said Plan by establishing the "Block 68 Redevelopment Project", on property described as Lots 4-10, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska and the vacated east-west alley; Lots A-F, Cropsey's Subdivision and the vacated north-south alley adjacent thereto; Lots A-F, Brocks Subdivision and the vacated north-south alley adjacent thereto and the adjacent right-of-way to the property lines on the north side of N Street, the south side of M Street, the west side of 10th Street and the east side of 11th Street; all located in the Northeast Quarter of Section 26, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, to accommodate the redevelopment of a surface parking lot into a hotel, entertainment complex, residential, commercial, and a parking structure and related public improvements and streetscape.

NOW, THEREFORE, IT IS FOUND AND DETERMINED by the City Council of the City of Lincoln, Nebraska as follows:

1. That the Block 68 Redevelopment Project is described in sufficient detail and is designed with the general purpose of accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will promote the general health, safety and welfare, sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations or conditions of blight.

2. That incorporating the Block 68 Redevelopment Project into the Redevelopment Plan is feasible and in conformity with the general plan for the development of the City of Lincoln as a whole and said Plan is in conformity with the legislative declarations and determinations set forth in the Community Development Law.

3. That the substandard and blighted conditions in the Block 68 Redevelopment Project Area are beyond remedy and control solely by regulatory process and the exercise of police power and cannot be dealt with effectively by the ordinary operations or private enterprise without the aids provided by the Community Development law, specifically including Tax Increment Financing.

4. That elimination of said substandard and blighted conditions under the authority of the Community Development Law is found to be a public purpose and in the public interest; and

5. That the Block 68 Redevelopment Project would not be economically feasible without the use of tax-increment financing.

6. That the Block 68 Redevelopment Project would not occur in the Block 68 Redevelopment Project Area without the use of tax-increment financing.

7. That the costs and benefits of the redevelopment activities, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the City Council as the governing body for the City of Lincoln and have been found to be in the long-term best interest of the City of Lincoln.

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

1. That pursuant to the provisions of the Nebraska Community Development Law and in light of the foregoing findings and determinations, the Amendments to the Lincoln Center Redevelopment Plan attached hereto as Attachment "A", establishing the Block 68 Redevelopment Project are hereby accepted and approved by the City Council as the governing body for the City of Lincoln.

2. That the Urban Development Director, or his authorized representative, is hereby authorized and directed to take all steps necessary to implement the provisions of said Redevelopment Plan as they relate to the above-described amendments.

3. That the Block 68 Redevelopment Project Area is the Redevelopment Project Area comprising the property to be included in the area subject to the tax increment provision authorized in the Nebraska Community Development Law.

4. That the Finance Director is hereby authorized and directed to cause to be drafted and submitted to the City Council any appropriate ordinances and documents for the authorization to provide necessary funds including Community Improvement Financing in accordance with the Community Development Law to finance related necessary and appropriate public acquisitions, improvements and activities set forth in said Amendments to the Lincoln Center Redevelopment Plan.

Introduced by Jonathan Cook

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

**ORDINANCE - 1<sup>ST</sup> READING & RELATED RESOLUTIONS (as required)**

CHANGE OF ZONE 09023 - AMENDING SECTION 27.51.030 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE USE REGULATIONS IN THE I-3 EMPLOYMENT CENTER DISTRICT TO ADD A PROVISION ALLOWING A BUILDING TO BE USED AS AN ACCESSORY USE FOR A RESIDENCE FOR RESIDENT WATCHMEN AND CARETAKERS OR SUPERVISORY PERSONNEL EMPLOYED AND RESIDING ON THE PREMISES; AND REPEALING SECTION 27.51.030 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Adam Hornung, amending Section 27.51.030 of the Lincoln Municipal Code relating to the Use Regulations in the I-3 Employment Center District to add a provision allowing a building to be used as an accessory use for a residence for resident watchmen and caretakers or supervisory personnel employed and residing on the premises; and repealing Section 27.51.030 of the Lincoln Municipal Code as hitherto existing, the first time.

VACATION 09005 - VACATING THE ENTIRE EAST-WEST ALLEY BETWEEN NORTH 41ST STREET AND NORTH 42ND STREET, NORTH OF Y STREET - CLERK read an ordinance, introduced by Adam Hornung, vacating the east-west alley between North 41<sup>st</sup> Street, north of Y Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

CHANGE OF ZONE 09026 - AMENDING SECTION 27.45.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED USES IN THE H-4 GENERAL COMMERCIAL DISTRICT TO ADD OFFICE BUILDINGS AS A PERMITTED USE; AND REPEALING SECTION 27.45.020 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - CLERK read an ordinance, introduced by Adam Hornung, amending Section 27.45.020 of the Lincoln Municipal Code relating to permitted uses in the H-4 General Commercial District to add office buildings as a permitted use; and repealing Section 27.45.020 of the Lincoln Municipal Code as hitherto existing, the first time.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND THE ASIAN COMMUNITY & CULTURAL CENTER FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 2615 O STREET, LINCOLN, NEBRASKA FROM SEPTEMBER 1, 2009 TO AUGUST 31, 2010 - CLERK read an ordinance, introduced by Adam Hornung, accepting and approving a Lease

Agreement between the City of Lincoln and the Asian Community & Cultural Center for the lease of office space by the Lincoln Area Agency on Aging for its ActivAge Center program at 2615 O Street, Lincoln, NE 68510 for a term beginning September 1, 2009 through August 31, 2010, the first time.

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

APPROVING AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN LINCOLN MEDICAL EDUCATION PARTNERSHIP AND THE CITY OF LINCOLN FOR AN INCREASE FROM 200 SQ. FT. TO 511 SQ. FT. OF LEASED SPACE FOR THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT WIC PROGRAM AT 4600 VALLEY ROAD - CLERK read an ordinance, introduced by Eugene Carroll, accepting and approving an Amendment to the Lease Agreement between the City of Lincoln, Nebraska and the Lincoln Medical Education Partnership for an increase from 200 sq. ft. to 511 sq. ft. of leased space at 4600 Valley Road, Lincoln, Lancaster County, Nebraska, on behalf of the Lincoln-Lancaster County Health Department for its WIC Program, the third time.

CARROLL Moved to pass the ordinance as read.

Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.  
The ordinance, being numbered **#19318**, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 09021 - AMENDING CHAPTER 27.81 OF THE LINCOLN MUNICIPAL CODE RELATING TO GENERAL PROVISIONS OF THE ZONING CODE BY ADDING A NEW SECTION NUMBERED 27.81.021 TO PROVIDE A PROCEDURE FOR APPEALS OF ADMINISTRATIVE APPROVALS BY THE PLANNING DIRECTOR, AND BY ADDING A NEW SECTION NUMBERED 27.81.022 TO PROVIDE THE MANNER FOR GIVING NOTICE OF THE PLANNING DIRECTOR'S GRANT OF ADMINISTRATIVE APPROVALS - CLERK read an ordinance, introduced by Eugene Carroll, amending Chapter 27.81 of the Lincoln Municipal Code relating to General Provisions of the Zoning Code by adding a new section numbered 27.81.021 to provide a procedure for appeals of administrative approvals by the Planning Director, and by adding a new section numbered 27.81.022 to provide the manner for giving notice of the Planning Director's grant of administrative approvals, the third time.

CARROLL Moved to pass the ordinance as read.

Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.  
The ordinance, being numbered **#19319**, is recorded in Ordinance Book #26, Page

CHANGE OF ZONE 2463D - APPLICATION OF THE 3 AMIGOS PROPERTIES, LLC, TO AMEND THE HIGHPOINTE PLANNED UNIT DEVELOPMENT TO ALLOW A CHANGEABLE COPY FREESTANDING SIGN TO BE LOCATED IN THE COMMERCIAL COMPONENT OF THE DEVELOPMENT ADJACENT TO OLD CHENEY ROAD, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF S. 48TH STREET AND OLD CHENEY ROAD - CLERK read an ordinance, introduced by Eugene Carroll, amending the development plan for the Highpointe Planned Unit Development to allow a changeable copy freestanding sign to be located in the commercial component of the development adjacent to Old Cheney Road, on property generally located southwest of the intersection of South 48<sup>th</sup> Street, and Old Cheney Road and legally described as Lot 2, Block 1, Highpointe Addition, Lincoln, Lancaster County, Nebraska, the third time.

CARROLL Moved to pass the ordinance as read.

Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.  
The ordinance, being numbered **#19320**, is recorded in Ordinance Book #26, Page

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND THE PANAMA CAFÉ FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 310 LOCUST STREET, PANAMA, NEBRASKA FROM SEPTEMBER 1, 2009 TO AUGUST 31, 2010 - CLERK read an ordinance, introduced by Eugene Carroll, accepting and approving a Lease Agreement between the City of Lincoln, Nebraska and the Panama Café for the lease of office space by the

Lincoln Area Agency on Aging for its ActivAge Center program at 310 Locust Street, Panama, NE 68419 for a term beginning September 1, 2009 through August 31, 2010, the third time.

CARROLL Moved to pass the ordinance as read.

Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.  
The ordinance, being numbered **#19321**, is recorded in Ordinance Book #26, Page

ADOPTING AN AMENDED AND RESTATED CITY OF LINCOLN EMPLOYEES' RETIREMENT PLAN AND TRUST FOR CIVILIAN (NON-UNIFORMED SERVICE) EMPLOYEES PROVIDING FOR A CHANGE IN EMPLOYER CONTRIBUTIONS FOR EMPLOYEES HIRED AFTER A DATE CERTAIN AND ADOPTING IRS INTERIM AMENDMENTS NO. 1 AND NO. 2. (10/5/09 - Action Delayed to 10/12/09) (10/12/09 - Action Delayed to 10/19/09) - PRIOR to reading:

COOK            Moved to delay action of Bill No. 09-132 for one week to 10/26/09.  
                  Seconded by Hornung & carried by the following vote: AYES: Camp,  
Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CLERK           Read an ordinance, introduced by Jane Snyder, adopting an amended  
and restated version of the City of Lincoln Employees' Retirement Plan  
and Trust to provide that the employer contribution for employees hired  
on or after November 4, 2010 will be an amount equal to 3% of an  
employee's compensation up to and including \$4,800.00 plus 6% of his or  
compensation in excess of \$4,800.00 plus 6% of his or compensation in  
excess of \$4,800.00; to adopt Interim Amendment No. 1 relating to final  
IRS regulations under Internal Revenue Code Section 415 and Section  
411(d)(6); and to adopt Interim Amendment No. 2 relating to the plan  
qualification requirements under the Pension Protection Act of 2006  
(PPA) and other I.R.S. guidance; and to repeal Ordinance No. 17685 as  
hitherto existing, the third time.

**OPEN MICROPHONE SESSION - NONE**

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP            Moved to extend the Pending List to October 26, 2009.  
                  Seconded by Spatz & 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  
October 26, 2009.  
                  Seconded by Spatz & carried by the following vote: AYES: Camp,  
Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

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ADJOURNMENT 4:08 P.M.

CAMP Moved to adjourn the City Council meeting of October 19, 2009.  
Seconded by Spatz & carried by the following vote: AYES: Camp,  
Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

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Joan E. Ross, City Clerk

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Sandy L. Dubas, Senior Office Assistant