

**THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, NOVEMBER 30, 2009 AT 5:30 P.M.**

The Meeting was called to order at 5:30 p.m. Present: Council Chair Emery; Council Members: Camp, Carroll, Cook, Hornung, Snyder, Spatz; Deputy City Clerk, Teresa J. Meier.

Council Chair Emery announced that a copy of the Open Meetings Law is posted at the back of the Chamber by the northwest door. He asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

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

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

PUBLIC HEARING

Council Chair Emery recognized Cub Scout Pack 8 who were in attendance working on their civic duty badge.

AMENDING SECTION 9.16.250 OF THE LINCOLN MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR SEXUAL PREDATORS TO AMEND THE DEFINITION OF SEXUAL PREDATOR TO CONFORM WITH STATE STATUTE AND TO ESTABLISH AN EFFECTIVE DATE OF JANUARY 1, 2010 - Rod M. Confer, City Attorney, came forward to clarify that this action will bring Lincoln's ordinance into compliance with the State statute. In response to Council questions, Mr. Confer agreed to have Law Department review language in the coming week and determine that if a general reference is more appropriate, an amendment could be prepared.

This matter was taken under advisement.

APPROVING A LEASE AGREEMENT BETWEEN THE AIRPORT AUTHORITY OF THE CITY OF LINCOLN AND THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR THE LEASE OF STORAGE SPACE BY THE HEALTH DEPARTMENT AT BUILDING 2714 IN LINCOLN AIR PARK WEST FOR A ONE-YEAR PERIOD FROM DECEMBER 1, 2009 THROUGH NOVEMBER 30, 2010 - Scott Holmes, Environmental Health Division Manager with the Lincoln-Lancaster County Health Dept., came forward to explain this lease has been continuous for many years.

This matter was taken under advisement.

SPECIAL PERMIT 09023 - APPLICATION OF NATASHA OLSEN FOR AN EARLY CHILDHOOD CARE FACILITY FOR UP TO 10 CHILDREN IN A DWELLING NOT USED AS THE RESIDENCE OF THE LICENSED CARE PROVIDER, WITH A REQUEST TO MODIFY THE PARKING REQUIREMENTS TO ALLOW REQUIRED PARKING IN THE FRONT YARD ON A DRIVEWAY, ON PROPERTY GENERALLY LOCATED AT 2685 WEST PEACH STREET - Lindsey Kubicek, 1566 Augusta Dr., came forward to answer questions about her daycare facility which has been operating in this location for two years. She said since the home is no longer their place of residence, it required them to apply for a special permit.

Marvin Krout, Director of Planning, came forward to answer questions. He explained that once the daycare changed from a home occupation to daycare use only, the parking use changed as well.

This matter was taken under advisement.

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

COUNCIL ACTION

REPORTS OF CITY OFFICERS

APPOINTING GERARD R. FINNEGAN JR. TO THE POLICE AND FIRE PENSION PLAN INVESTMENT BOARD TO COMPLETE THE ORIGINAL APPOINTMENT TERM EXPIRING SEPTEMBER 1, 2011 - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85601 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Gerard R. Finnegan Jr. to the Police and Fire Pension Plan Investment Board for a term expiring September 1, 2011, is hereby approved.

Introduced by Eugene Carroll

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

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

CLERK'S LETTER AND MAYORS APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY CITY COUNCIL ON NOVEMBER 16, 2009 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

APPROVING THE CITY OF LINCOLN'S INVESTMENT ACTIVITY REPORT FOR THE FISCAL YEAR 2008-2009 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85602 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 Jonathan Cook

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

ADMINISTRATIVE AMENDMENT 09072 TO SPECIAL PERMIT 1903, APPROVED BY THE PLANNING DIRECTOR ON NOVEMBER 12, 2009, REQUESTED BY THE DIOCESE OF LINCOLN, TO RESCIND SPECIAL PERMIT 1903 ORIGINALLY APPROVED TO ALLOW A WIRELESS FACILITY ON PROPERTY AT 3700 SHERIDAN BLVD. - CLERK presented said report which was placed on file in the Office of the City Clerk.

PETITIONS & COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPARTMENT:

Special Permit 09025 - Application of Jon Newcomer for expansion of a non-standard use into the front yard setback on property located at 2600 Rathbone Road.

Special Permit 09026 - Application of BargNbarn LLC for an enclosed disassembly operation on property located at NW 27th Street and West Vine Street.

Use Permit 117C - Application of ESP, Inc for an amendment to increase the square footage of the use permit to 53,000 sq. ft. on property located at S. 14th Street and Yankee Hill Road.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 14, 2009 AT 3:00 P.M. FOR APPLICATION OF NADER'S INC. DBA BILLY'S RESTAURANT FOR AN ADDITION OF A SIDEWALK CAFÉ APPROXIMATELY 14' X 17' LOCATED AT 1301 H STREET - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85603 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 14, 2009 at 3:00 p.m. or as soon as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for application of Nader's Inc. dba Billy's Restaurant for a sidewalk café approximately 14' x 17' located at 1301 H Street.

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

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, DECEMBER 14, 2009 AT 3:00 P.M. FOR APPLICATION OF TWISTED STEELE INC. DBA THE BAR AND GRILL FOR A CLASS CK LIQUOR LICENSE LOCATED AT 803 Q STREET - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85604 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 14, 2009 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for application of Twisted Steele, Inc. dba The Bar and Grill for a Class CK liquor license located at 803 Q Street.

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

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, DECEMBER 14, 2009 AT 3:00 P.M. FOR APPLICATION OF OMAHA EXPOSITION & RACING, INC. DBA LINCOLN RACE COURSE FOR A CLASS CK LIQUOR LICENSE LOCATED AT 1800 STATE FAIR PARK - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85605 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 14, 2009 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for application of Omaha Exposition & Racing, Inc. dba Lincoln Race Course for a Class CK liquor license located at 1800 State Fair Park.

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

Introduced by Jonathan Cook

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

LIQUOR RESOLUTIONS - NONE

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

AMENDING SECTION 9.16.250 OF THE LINCOLN MUNICIPAL CODE RELATING TO RESIDENCY RESTRICTIONS FOR SEXUAL PREDATORS TO AMEND THE DEFINITION OF SEXUAL PREDATOR TO CONFORM WITH STATE STATUTE AND TO ESTABLISH AN EFFECTIVE DATE OF JANUARY 1, 2010 - CLERK read an ordinance, introduced by Eugene Carroll, amending Section 9.16.250 of the Lincoln Municipal Code relating to Residency Restrictions for Sexual Predators to amend the definition of sexual predator to conform with state statute; repealing Section 9.16.250 of the Lincoln Municipal Code as hitherto existing; and establishing an effective date of January 1, 2010, the second time.

APPROVING A LEASE AGREEMENT BETWEEN THE AIRPORT AUTHORITY OF THE CITY OF LINCOLN AND THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR THE LEASE OF STORAGE SPACE BY THE HEALTH DEPARTMENT AT BUILDING 2714 IN LINCOLN AIR PARK WEST FOR A ONE-YEAR PERIOD FROM DECEMBER 1, 2009 THROUGH NOVEMBER 30, 2010 - CLERK read an ordinance, introduced by Eugene Carroll, accepting and approving a Lease Agreement between the Airport Authority of the City of Lincoln, Nebraska and the Lincoln-Lancaster County Health Department for a lease of storage space by the Health Department at Building 2714 in Lincoln Air Park West for a one-year period from December 1, 2009 through November 30, 2010, the second time.

PUBLIC HEARING RESOLUTIONS

SPECIAL PERMIT 09023 - APPLICATION OF NATASHA OLSEN FOR AN EARLY CHILDHOOD CARE FACILITY FOR UP TO 10 CHILDREN IN A DWELLING NOT USED AS THE RESIDENCE OF THE LICENSED CARE PROVIDER, WITH A REQUEST TO MODIFY THE PARKING REQUIREMENTS TO ALLOW REQUIRED PARKING IN THE FRONT YARD ON A DRIVEWAY, ON PROPERTY GENERALLY LOCATED AT 2685 WEST PEACH STREET -

CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85606 WHEREAS, Natasha Olsen, on behalf of Craig and Lindsey Kubicek, has submitted an application designated as Special Permit No. 09023 for authority to operate an early childhood care facility that will not be used as the permanent residence of the licensed child care provider, together with a request to modify the parking requirements to allow required parking in the front yard on a driveway, on property located at 2685 West Peach Street, and legally described as:

Lot 4, Block 6, Hartland Homes SW 1st Addition,
Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this early childhood care facility will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

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

That the application of Natasha Olsen, on behalf of Craig and Lindsey Kubicek, hereinafter referred to as "Permittee", to operate an early childhood care facility that will not be used as the permanent residence of the licensed child care provider, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.070 of the Lincoln Municipal Code upon condition that construction and operation of said child care facility be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves an early childhood care facility for up to 10 children and two employees.
2. This permit approves a waiver to allow parking in the front yard on a concrete driveway.
3. The licensed care provider need not reside in this facility.
4. Before occupying this early childhood care facility, all development and construction must substantially comply with the approved plans.
5. The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
6. The terms, conditions, and requirements of this resolution shall run with the land and be binding and obligatory upon the Permittee and the Permittees' successors and assigns.

7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 60 days following approval of the special permit, 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 special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Eugene Carroll

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

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

AMENDING CHAPTER 5.56 OF THE LINCOLN MUNICIPAL CODE RELATING TO EMERGENCY ALARM SYSTEMS BY AMENDING SECTION 5.56.010 TO ADD AND REVISE DEFINITIONS; AMENDING SECTION 5.56.020 TO MAKE WORDS AND PHRASES CONSISTENT WITH THE DEFINITIONS; ADDING A NEW SECTION 5.56.025 TO SPECIFY PROCEDURES RELATING TO THE PERMITTING OF ALARM BUSINESSES, TO SPECIFY THE LENGTH OF TIME A PERMIT REMAINS VALID, TO SPECIFY THE FEE FOR AN ALARM BUSINESS PERMIT, TO SPECIFY THE TIME PERIOD ALLOWED FOR RENEWAL OF ALARM BUSINESS PERMITS, AND TO PROVIDE A FEE FOR FAILURE TO OBTAIN A PERMIT; AMENDING SECTION 5.56.030 TO REQUIRE PERMITS FOR ALL ALARM USERS, TO SPECIFY THE LENGTH OF TIME A PERMIT REMAINS VALID, TO SPECIFY THE TIME PERIOD ALLOWED FOR RENEWAL OF ALARM USER PERMITS, AND TO PROVIDE FOR A PERMIT FEE; AMENDING SECTION 5.56.040 TO REQUIRE AN ALARM BUSINESS TO IMMEDIATELY NOTIFY THE ALARM USER OF AN ALARM, TO PROVIDE A PROCEDURE FOR NOTIFICATION OF THE EMERGENCY COMMUNICATIONS/911 CENTER OF AN EMERGENCY ALARM, AND TO DELETE REQUIREMENTS THAT NOTIFICATION BE MADE BY THE CHIEF OF POLICE; AMENDING SECTION 5.56.050 TO ESTABLISH A FEE SCHEDULE FOR FALSE ALARMS TO BE ASSESSED TO THE ALARM USER DURING THE ALARM USER PERMIT TERM AND OTHER FEES; ADDING A NEW SECTION 5.56.055 TO PROVIDE AN APPEAL PROCESS; ADDING A NEW SECTION 5.56.065 RELATING TO THE PROCESS FOR NOTICES AND SERVICE OF THE SAME; AMENDING SECTION 5.56.080 TO CHANGE THE PENALTY LANGUAGE TO INCLUDE A \$50-\$500 FINE FOR VIOLATION OF SECTION 5.56.020; AND ADDING A NEW SECTION 5.56.090 TO ESTABLISH A SEVERABILITY SECTION FOR CHAPTER 5.56 - CLERK read an ordinance, introduced by John Spatz, amending Chapter 5.56 of the Lincoln Municipal Code relating to Emergency Alarm Systems by amending Section 5.56.010 to add and revise definitions; amending Section 5.56.020 to make words and phrases consistent with the definitions; adding a new Section 5.56.025 to specify procedures relating to the permitting of alarm businesses, to specify the length of time a permit remains valid, to specify the fee for an alarm business permit, to specify the time period allowed for renewal of alarm business permits, and to provide a fee for failure to obtain a permit; amending Section 5.56.030 to require permits for all alarm users, to specify the length of time a permit remains valid, to specify the time period allowed for renewal of alarm user permits, and to provide for a permit fee; amending Section 5.56.040 to require an alarm business to immediately notify the alarm user of an alarm, to provide a procedure for notification of the Emergency Communications/911 Center of an emergency alarm, and to delete requirements that notification be made by the Chief of Police; amending Section 5.56.050 to establish a fee schedule for false alarms to be assessed to the alarm user during the alarm user permit term and other fees; adding a new Section 5.56.055 to provide an appeal process; adding a new Section 5.56.065 relating to the process for notices and service of the same; amending Section 5.56.080 to change the penalty language to include a \$50-\$500 fine for violation of Section 5.56.020; adding a new Section 5.56.090 to establish a severability section for Chapter 5.56; and repealing Sections 5.56.010, 5.56.020, 5.56.030, 5.56.040, 5.56.050 and 5.56.080 of the Lincoln Municipal Code as hitherto existing, the first time.

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

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 NOS. 1 AND NO. 2. (10/5/09 - Action Delayed to 10/12/09) (10/12/09 - Action Delayed to 10/19/09) (10/19/09 - Action Delayed to 10/26/09) (10/26/09 - Action Delayed to 11/2/09) (11/2/09 - Action Delayed to 11/9/09) (11/9/09 - Action Delayed to 11/16/09) (11/16/09 - Action Delayed to 11/30/09) - PRIOR to reading:

SNYDER Moved to delay action of Bill No. 09-132 for one week to 12/07/09. Seconded by Cook & 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 December 7, 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 December 7, 2009. Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ADJOURNMENT 5:44 P.M.

CAMP Moved to adjourn the City Council meeting of November 30, 2009. Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

Teresa J. Meier, Deputy City Clerk

Sandy L. Dubas, Senior Office Assistant