THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, SEPTEMBER 26, 2011 AT 5:30 P.M.

The Meeting was called to order at 5:30 p.m. Present: Council Chair Carroll; Council Members: Camp, Cook, Emery, Eskridge, Hornung; City Clerk, Joan E. Ross.

Council Chair Carroll 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

ESKRIDGE Having been appointed to read the minutes of the City Council proceedings of September 19, 2011 reported having done so, found same correct. Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

CITY COUNCIL ACTION TO FILL COUNCIL SEAT VACANCY

Council Chair Carroll explained the process to fill the Council Seat vacancy. He said each Council Member will have an opportunity to nominate a respective nominee and be allowed five minutes to discuss the nomination. At the end of that, a roll call vote will be held. He said upon seeking the City Attorney’s legal opinion, state law would be followed to have a second vote for approval.

COOK Nominated DiAnna Schimek to fill the vacancy. Seconded by Emery. Council Members discussed the process at hand. Council Member Hornung questioned the time allotted for general discussion just as any measure which has a motion before City Council. Council Member Cook clarified that what is before them is a nomination, not a motion; therefore, after all the nominations are done council members have five minutes to speak on any nominee. Council Chair Carroll stated that upon request from council members, he has agreed to have a preliminary vote and would be happy to listen to any nominations and any discussion. Council Member Emery said it takes four affirmative votes to elect someone's nomination.

CAMP Nominated Mary Bills-Strand to fill the vacancy. Seconded by Hornung. Council Chair Carroll asked if there were any more nominations; seeing none, he closed the nominations for this vote. Council Members discussed their nominations. Council Member Camp read a statement on his nomination of Mary Bills-Strand. The discussions having ended, Council Chair Carroll asked for a roll call of the first preliminary vote.

CLERK Called the vote.

HORNUNG Mary Bills-Strand.

CAMP Mary Bills-Strand.

CARROLL DiAnna Schimek.

COOK DiAnna Schimek.

EMERY DiAnna Schimek.

ESKRIDGE DiAnna Schimek.

CLERK Announced that DiAnna Schimek received four affirmative votes. Council Chair Carroll said that because he felt it was important to do so, he requested City Council to tell the public who they wanted to nominate. By completing this task, he said the public would have the opportunity to contact council members regarding their decision. Council Chair Carroll stated to act in accordance with the legal opinion of the City Attorney, a roll call vote would follow his announcement.

CARROLL Nominated DiAnna Schimek to fill the Council Seat Vacancy. Council Chair Carroll shared his views on his nomination of DiAnna Schimek. Carroll said it was important for him to consider his conversation with Jayne Snyder, respect her wishes for replacement to her former council position and nominate DiAnna Schimek.

Council Chair Carroll instructed Clerk to call the vote & it was carried by the following: AYES: Carroll, Cook, Emery, Eskridge; NAYS: Camp, Hornung.
COOK  Moved to make the memo regarding the process that is being followed to elect a Council Member to fill a vacancy public.  
Seconded by Eskridge & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

COOK  Moved to make public any e-mails concerning the legal opinion (the memorandum).  
Seconded by Eskridge.

HORNUNG  Made an amendment to Cook’s motion to include all e-mails related to the entire process and not just the memo.  
Seconded by Camp.

Rod Confer, City Attorney, came forward to clarify that there was a public records request from the Lincoln Journal Star for all communications concerning the filling of this vacancy. He said that upon discussion between a representative of the Journal Star and the Mayor’s Office, it was explained that it would be an extremely burdensome task requiring many hours of work to gather that information. In further clarification, the Journal Star was interested in the e-mails or communications concerning the preparation of the memo and the reason for preparation. He said the request was narrowed to that scope. Mr. Confer said his response, unless the City Council waives the attorney-client privilege, will be to identify all of the e-mails that relate to the making of the memo and say it is all protected by the attorney-client privilege; therefore, it will not be revealed. If the Council votes to waive the attorney-client privilege with respect to those requested documents, Mr. Confer said he will then make them available.

Rick Hoppe, Mayor’s Office Chief of Staff, came forward to clarify the Journal Star request. He said the Mayor’s Office is trying to fulfill the request in the most expeditious manner for city staff and the Journal Star. He said it became clear that the Journal Star was more focused on the creation of the memo.

The amendment to the motion was carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

Council Chair Carroll stated for the record that once Council Member Snyder’s resignation was made public, he sent an e-mail directly to Mr. Confer, City Attorney, requesting the memorandum. He immediately distributed it to council members and since that point in time, no one called or asked him about the memorandum. Mr. Carroll said, surprisingly, no one asked him as Chair to discuss the memorandum or make plans to release it. Further, he said, one council member released it without conferring with the city attorney.

The final vote to the amended main motion was carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

Council Member Camp requested that Council Chair Carroll allow him time for a question. He said he would like the record to reflect that at some appropriate time, he would like to see the Council review the City Attorney’s opinion. There are some who disagree with the analysis that was made. Mr. Camp said because it totally changes what had been done in past years as far back as history was known, it needs to be ironed out. Mr. Camp stated that he wanted it noted in the record that he does have reservations on what Mr. Confer wrote. He said it does have an impingement on our Home Rule Charter.

PUBLIC HEARING

AMENDING THE PAY SCHEDULE FOR A CERTAIN EMPLOYEE GROUP BY CREATING THE CLASSIFICATIONS OF “LIBRARY SERVICE ASSOCIATE”, “LIBRARY SERVICE SUPERVISOR”, “LIBRARIAN”, “LIBRARY MANAGER”, AND “LIBRARY COORDINATOR” - Mark Koller, Personnel Director, came forward to clarify the proposal. He said new positions will be used to reclassify positions in the library right now with the following intention: to remove the number of classes; make it easier for comparison studies with other communities; and to increase flexibility in making assignments. Mr. Koller summarized the five positions created stating that some will have an economic impact, others will not.

This matter was taken under advisement.
CREATING AND ORDERING CONSTRUCTION OF SIDEWALK IMPROVEMENT DISTRICT NO. 96 IN VARIOUS LOCATIONS WITHIN THE CITY AND ASSESSING THE COST AGAINST THE BENEFITED PROPERTY - Miki Esposito, Interim Director of Public Works & Utilities Department, came forward to answer questions.

Council Member Cook clarified that some years ago the City ordered in a number of sidewalks. Those sidewalks which were not completed are now on a list; therefore, upon installation the City will bill responsible owners.

Thomas Shafer, PW&U, came forward to address questions from Council Member Camp regarding installation of a section of sidewalk on South 70th Street. He further clarified that in 2006 proposed sidewalks were ordered in on the east side from Stevens Ridge Road to Hwy 2 but Council amended that.

Alan Embury, 6001 S. 70th St., came forward in opposition to sidewalk installation on the west side. He suggested the west side because there are fewer grade changes, no retaining walls and it would make sense to line up the existing bike path on the east side of 70th all the way south.

Harry Kroos, 6363 S. 70th St., came forward in opposition to sidewalk installation on the west side of South 70th. He expressed concern for pedestrians crossing a major five-lane highway on 70th with traffic speeds of 55 mph. He advised Council to compare this area to safer pedestrian bridges on/near 27th Street. He claimed the land adjacent to 70th Street is City land, so the City should pay for the sidewalk.

Mr. Shafer came forward to clarify that State Highway right-of-way abuts Highway 2.

Mr. Kroos came forward to answer questions. He said property owners are required to build up to the area adjacent to their property corner and the City would complete it to the edge of the highway including the curb ramps. In response to Council questions, Mr. Kroos reviewed the history which led to ordering the installation of sidewalk on the west side only.

Council Cook requested Public Works to provide documents, testimony, action and discussion that took place regarding the sidewalk controversy in 2006.

This matter was taken under advisement.

AMENDING CHAPTER 8.46 OF THE LINCOLN MUNICIPAL CODE RELATING TO WEED ABATEMENT BY ADDING A NEW SECTION NUMBERED 8.46.005 TO PROVIDE DEFINITIONS FOR CERTAIN WORDS AND PHRASES USED IN THIS CHAPTER; ADDING A NEW SECTION NUMBERED 8.46.015 TO DESIGNATE THE LANCASTER COUNTY WEED CONTROL AUTHORITY AS THE AGENCY TO PROVIDE, EXECUTE AND OPERATE A WEED CONTROL PROGRAM FOR AND ON BEHALF OF THE CITY; REPEALING SECTION 8.46.020, CITY MAY CAUSE REMOVAL OF WEEDS; ADDING A NEW SECTION NUMBERED 8.46.022, NOTICE OF WEED CONTROL ACTIVITIES, TO PROVIDE PROCEDURES FOR PROVIDING NOTICE OF CONTROL ACTIVITY; ADDING A NEW SECTION NUMBERED 8.46.024, COLLECTION OF COSTS, TO PROVIDE FOR A NOTICE OF POTENTIAL LIEN TO BE RECORDED IN REAL ESTATE RECORDS; ADDING A NEW SECTION NUMBERED 8.46.026, SERVICE OF NOTICE, MODIFY THE METHOD OF SERVICE OF NOTICES ISSUED PURSUANT TO THIS CHAPTER; ADDING A NEW SECTION NUMBERED 8.46.028, LIENS & COLLECTIONS, TO PROVIDE A PROCEDURE FOR COLLECTION OF COSTS AND RELEASE OF LIENS; AMENDING SECTION 8.46.030 TO PROVIDE THAT THE WEED CONTROL AUTHORITY REPORT WEED ASSESSMENT COSTS TO THE CITY COUNCIL; AMENDING SECTION 8.46.040 TO DESIGNATE THE WEED CONTROL AUTHORITY AS THE CITY’S AGENT FOR WEED ASSESSMENT COLLECTIONS; AND ADDING A NEW SECTION NUMBERED 8.46.045 TO PROVIDE FOR APPEALS - Chris Connolly, Assistant City Attorney, came forward to clarify reasons for the amendment to this ordinance as it affects the interlocal agreement with the Weed Control Authority for Lancaster County. He said the Weed Control Board sends out a notice to property owners with high grasses/weeds. He reviewed the current procedure and the step process which follows that order and the accompanying work that falls heavily in the months of May & June. If the bill for the work done is uncollected, an assessment made by the City creates a lien.
on the property. Mr. Connolly said between the time period from June to the month of November when the lien is filed, ownership of property may change. In an effort to shorten that window, a notice of potential lien will be filed in the real estate record by the Weed Control Authority within five days. This matter was taken under advisement.

APPROVING THE 2011-12 CITY TAX RATE OF 0.31580 PER $100.00 OF ASSESSED VALUATION - Steve Hubka, Finance Department, came forward to state the fact that the budget Council adopted on August 22, 2011 was based on expenditures, the property tax rate and property valuations. He said state law requires that a separate resolution be adopted and a public hearing be held specifically for the property tax rate. Mr. Hubka said this requirement has been done annually since 1997. This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY OF LINCOLN AND LANCASTER COUNTY FOR A COMBINED WEED CONTROL PROGRAM TO PROVIDE FOR ABATEMENT AND CONTROL OF NOXIOUS WEEDS, COMMON WEEDS AND WORTHLESS VEGETATION WITHIN THE LIMITS OF THE CITY - Danny Walker, 427 E St., came forward to comment. He said he would like to see a graduated fine increase enforced on repeat offenders. This matter was taken under advisement.

APPROVING AN AMENDMENT TO AGREEMENT FOR WASTE HAULING SERVICES BETWEEN THE CITY, LANCASTER COUNTY, LINCOLN LANCASTER COUNTY PUBLIC BUILDING COMMISSION AND WASTE CONNECTIONS OF NEBRASKA FOR AN ADDITIONAL TWO-YEAR TERM AND A 3% PRICE INCREASE PURSUANT TO BID NO. 09-212 FOR USE BY ALL CITY DEPARTMENTS FOR THE COLLECTION OF WASTE AS NEEDED - Vince Mejer, Purchasing Agent, came forward to answer questions. This matter was taken under advisement.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY, LANCASTER COUNTY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT PROVIDING FOR RTSD FUNDING FOR THE SOUTH LINCOLN QUIET ZONE AND THE CITY’S AND COUNTY’S ACCEPTANCE OF OWNERSHIP AND MAINTENANCE OF THE SAFETY IMPROVEMENTS CONSTRUCTED IN EACH RESPECTIVE AREA AT PARK BOULEVARD, SOUTH STREET, PIONEERS BOULEVARD, OLD CHENEY ROAD, SOUTH 14TH STREET AND SALTILLO ROAD, CITY PROJECT NO. 702618; APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO ACCEPT THE TRANSFER OF RTSD FUNDING FOR THE SW 40TH STREET/BNSF OVERPASS AND TO ACKNOWLEDGE THE PAVING OF APPROXIMATELY 900 FEET OF SW 40TH STREET FROM WEST O STREET TO THE SOUTH, CITY PROJECT NO. 700132; APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO ACCEPT THE TRANSFER OF RTSD FUNDING FOR THE SOUTH SALT CREEK QUIET ZONE AND THE CITY’S ACCEPTANCE OF OWNERSHIP AND MAINTENANCE OF THE SAFETY IMPROVEMENTS, CITY PROJECT NO. 702617 - Roger Figard, Public Works & Utilities Dept., came forward requesting Council approval to accept the RTSD budget funding for three projects. He explained that RTSD’s fiscal year runs July 1 through June 30. He said each year, the RTSD budgets or re-budgets finances to assist either the County or the City of Lincoln on projects that come through the Capital Improvement Program or that have been previously approved. Mr. Figard said as the District has appropriated these expenditures, the interlocal agreements serve as authorization to transfer money to the City as projects progress & expenditures are made. He said this legislation does not have anything to do with the establishment for the creation of the Quiet Zones themselves. He clarified that a Quiet Zone allows a locomotive engineer to not sound his horn for normal operations as he passes over crossings. Danny Walker, 427 E St., came forward to complain about the J Street railroad crossing closures at 2nd & 3rd Streets. He witnessed an ambulance call in his neighborhood and contended that the response time was increased due to crossing closures. This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

CLERK’S LETTER AND MAYOR’S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON SEPTEMBER 12, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)
BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, October 10, 2011, at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, S. 10th St., Lincoln, NE for the Application of Whitemark Energy, LLC dba U-Stop #26 for a Class D Liquor license located at 8350 Northwoods Drive. 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 Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

MICHELANGELO - NONE

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

AMENDING THE PAY SCHEDULE FOR A CERTAIN EMPLOYEE GROUP BY CREATING THE CLASSIFICATIONS OF "LIBRARY SERVICE ASSOCIATE," "LIBRARY SERVICE SUPERVISOR," "LIBRARIAN," "LIBRARY MANAGER," AND "LIBRARY COORDINATOR"; AMENDING SECTION 1 OF ORDINANCE NO. 18967 passed August 6, 2007, relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "A" by creating the job classification of "Library Service Associate," "Library Service Supervisor," "Librarian," "Library Manager," and "Library Coordinator," the second time.

AMENDING AND ORDERING CONSTRUCTION OF SIDEWALK IMPROVEMENT DISTRICT NO. 96 IN VARIOUS LOCATIONS WITHIN THE CITY AND ASSESSING THE COST AGAINST THE BENEFITED PROPERTY - CLERK read an ordinance, introduced by Jon Camp, amending Chapter 8.46 of the Lincoln Municipal Code relating to Weed Abatement by adding a new section numbered 8.46.005 to provide definitions for certain words and phrases used in this chapter; adding a new section numbered 8.46.015 to designate the Lancaster County Weed Control Authority as the agency to provide, execute and operate a weed control program for and on behalf of the City; repealing Section 8.46.020, City may cause removal of weeds; adding a new section numbered 8.46.022, Notice of Weed Control Activities, to provide procedures for providing notice of control activities; adding a new section numbered 8.46.024, Collection of Costs, to provide for a notice of potential lien to be recorded in real estate records; adding a new section numbered 8.46.026, Service of Notice, to modify the method of service of notices issued pursuant to this chapter; adding a new section numbered 8.46.028, Liens & Collections, to provide for a procedure for collection of costs and release of liens; amending Section 8.46.030 to provide that the Weed Control Authority report weed assessment costs to the City Council; amending Section 8.46.040 to designate the Weed Control Authority as the agency to provide, execute and operate a weed control program for and on behalf of the City; repealing all ordinances or parts of ordinances in conflict herewith, the second time.

PETITIONS & COMMUNICATIONS

LIQUOR RESOLUTIONS - NONE
A SPECIAL PUBLIC HEARING SHALL BE HELD ON THE FOLLOWING RESOLUTION

APPROVING THE 2011-12 CITY TAX RATE OF 0.31580 PER $100.00 OF ASSESSED VALUATION -

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

A-86508

A RESOLUTION establishing a final property tax levy for the City’s 2011-2012 fiscal year and adjusting the City tax rate to that adopted in the City budget resolution.

RECITALS

I. Pursuant to Neb. Rev. Stat. § 77-1601.02, the City Council of the City of Lincoln is authorized to pass, by a majority vote, a resolution setting the final tax rate.

II. Pursuant to Neb. Rev. Stat. § 77-1601.02, notice was published in a newspaper of general circulation on September 20, 2011, which date was at least five days prior to September 26, 2011 being the date upon which the City Council held a special public hearing called for the purpose of considering and acting upon this resolution.

III. When the budget was adopted on August 22, 2011 the tax rate was anticipated to be .31580 per $100 of assessed valuation. Final certified valuations from the County Assessor’s office have not changed the tax rate necessary to fund the adopted budget.

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

That after notice and public hearing as required by law, the City Council does hereby set the following final levy for the City of Lincoln 2011-2012 fiscal year for a property tax request of $50,214,813.00: $.31580 per $100 of assessed valuation which total rate is comprised of the following:

Bond Interest & Redemption .03708
General .18761
Library .04001
Social Security .01627
Police and Fire Pension .03483

Total .31580

Introduced by Jon Camp

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

PUBLIC HEARING - RESOLUTIONS

APPROVING AN AGREEMENT BETWEEN THE CITY OF LINCOLN AND LANCASTER COUNTY FOR A COMBINED WEED CONTROL PROGRAM TO PROVIDE FOR ABATEMENT AND CONTROL OF NOXIOUS WEEDS, COMMON WEEDS AND WORTHLESS VEGETATION WITHIN THE LIMITS OF THE CITY. (9/12/11 - PLACED ON PENDING TO HAVE PUBLIC HEARING & ACTION ON 10/3/11) (9/19/11 - TO HAVE PUBLIC HEARING ON 9/26 WITH ACTION ON 10/3/11)

APPROVING AN AMENDMENT TO AGREEMENT FOR WASTE HAULING SERVICES BETWEEN THE CITY, LANCASTER COUNTY, LINCOLN LANCASTER COUNTY PUBLIC BUILDING COMMISSION AND WASTE CONNECTIONS OF NEBRASKA FOR AN ADDITIONAL TWO-YEAR TERM AND A 3% PRICE INCREASE
PURSUANT TO BID NO. 09-212 FOR USE BY ALL CITY DEPARTMENTS FOR THE COLLECTION OF WASTE AS NECESSARY - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86509  BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the attached Amendment to Agreement for Waste Hauling Services between the City of Lincoln, Lancaster County, the Lincoln-Lancaster County Public Building Commission, and Waste Connections of Nebraska, in accordance with Bid No. 09-212, for waste hauling services for various departments for an additional two-year period and a 3% price increase, upon the terms as set forth in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jon Camp
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY, LANCASTER COUNTY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT PROVIDING FOR RTSD FUNDING FOR THE SOUTH LINCOLN QUIET ZONE AND THE CITY’S AND COUNTY’S ACCEPTANCE OF OWNERSHIP AND MAINTENANCE OF THE SAFETY IMPROVEMENTS CONSTRUCTED IN EACH RESPECTIVE AREA AT PARK BOULEVARD, SOUTH STREET, PIONEERS BOULEVARD, OLD CHENEY ROAD, SOUTH 14TH STREET AND SALTILLO ROAD, CITY PROJECT NO. 702618 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86510  WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, et seq., permits local governmental units to cooperate with other such units to make the most efficient use of their powers on the basis of mutual advantage; and
WHEREAS, the City of Lincoln, Nebraska (City), Lancaster County (County) and the Lincoln-Lancaster County Railroad Transportation Safety District (RTSD) desire to cooperate with each other for funding maintenance of the South Lincoln Quiet Zone Project improvements.
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the Annual Financial Interlocal Agreement between the City, County and RTSD attached hereto as Attachment "A" in connection with funding the maintenance of the South Lincoln Quiet Zone Project improvements is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jon Camp
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO ACCEPT THE TRANSFER OF RTSD FUNDING FOR THE SW 40TH STREET/BNSF OVERPASS AND TO ACKNOWLEDGE THE PAYING OF APPROXIMATELY 900 FEET OF SW 40TH STREET FROM WEST O STREET TO THE SOUTH, CITY PROJECT NO. 700112 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86511  WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, et seq., permits local governmental units to cooperate with other such units to make the most efficient use of their powers on the basis of mutual advantage; and
WHEREAS, the City of Lincoln, Nebraska (City) and the Lincoln-Lancaster County Railroad Transportation Safety District (RTSD) desire to cooperate with each other in funding construction of the S.W. 40th Street Overpass over the BNSF rail yard and the paving of approximately the first 900 feet of S.W. 40th Street south of West O Street.
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the Annual Financial Interlocal Agreement between the City and RTSD attached hereto as Attachment "A" in connection with funding the new bridge construction of the S.W. 40th Street Overpass over the BNSF rail yard and the paving of approximately the first 900 feet of S.W. 40th Street south of West O Street is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jon Camp
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO ACCEPT THE TRANSFER OF RTSD FUNDING FOR THE SOUTH SALT CREEK QUIET ZONE AND THE CITY’S ACCEPTANCE OF OWNERSHIP AND MAINTENANCE OF THE SAFETY IMPROVEMENTS, CITY PROJECT NO. 702617 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:
WHEREAS, the City of Lincoln, Nebraska (City) and the Lincoln-Lancaster County Railroad Transportation Safety District (RTSD) desire to cooperate with each other for funding maintenance of the South Salt Creek Quiet Zone Project safety improvements;

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

That the Annual Financial Interlocal Agreement between the City and RTSD attached hereto as Attachment "A" in connection with funding the maintenance of the South Salt Creek Quiet Zone Project safety improvements is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jon Camp
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

AMENDING TITLE 3 OF THE LINCOLN MUNICIPAL CODE RELATING TO REVENUE AND FINANCE BY ADDING A NEW SECTION NUMBERED 3.06.010 TO ESTABLISH AND DEFINE THE BIENNIAL BUDGET; ADDING A NEW SECTION NUMBERED 3.06.020 TO ESTABLISH THE PROCEDURE AND CALENDAR FOR THE FORMULATION OF THE PROPOSED BIENNIAL EXECUTIVE BUDGET AND FOR ITS SUBMISSION TO THE COUNCIL; ADDING A NEW SECTION NUMBERED 3.06.030 TO ESTABLISH THE CONTENTS OF THE BIENNIAL BUDGET; ADDING A NEW SECTION NUMBERED 3.06.040 TO ESTABLISH THE PROCEDURE FOR THE ADOPTION OF THE BIENNIAL BUDGET; ADDING A NEW SECTION NUMBERED 3.06.050 TO ESTABLISH AND DEFINE THE PROCEDURE FOR REDUCTION, TRANSFER AND REVISION TO THE BIENNIAL BUDGET; ADDING A NEW SECTION NUMBERED 3.06.060 TO ESTABLISH THE PROCEDURE FOR THE CAPITAL IMPROVEMENT BIENNIAL BUDGET; AND ADDING A NEW SECTION NUMBERED 3.06.070 TO ESTABLISH A DATE TO SET THE PROPERTY TAX RATE AND REAPPROPRIATE UNENCUMBERED APPROPRIATIONS FOR THE SECOND YEAR - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 3 of the Lincoln Municipal Code relating to Revenue and Finance by adding a new section numbered 3.06.010 to establish and define the biennial budget; adding a new section numbered 3.06.020 to establish the procedure and calendar for the formulation of the proposed biennial executive budget and for its submission to the council; adding a new section numbered 3.06.030 to establish the contents of the biennial budget; adding a new section numbered 3.06.040 to establish the procedure for the adoption of the biennial budget; adding a new section numbered 3.06.050 to establish and define the procedure for reduction, transfer and revision to the biennial budget; adding a new section numbered 3.06.060 to establish the procedure for the capital improvement biennial budget; and adding a new section numbered 3.06.070 to establish a date to set the property tax rate and reappropriate unencumbered appropriations for the second year, the first time.

AMENDING SECTION 2.76.200 OF THE LINCOLN MUNICIPAL CODE, COMPENSATION PLAN; TEMPORARY ASSIGNMENT IN A HIGHER CLASSIFICATION, TO ALLOW EMPLOYEES IN THE PAY RANGES PREFIXED BY THE LETTERS N AND X TO COINCIDE WITH PAGE EMPLOYEES TO BE EFFECTIVE AUGUST 18, 2011 - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 2.76.200 of the Lincoln Municipal Code relating to Temporary Assignment in a Higher Classification to provide that "N" and "X" employees coincide with recent changes with PAGE and making the changes retroactively effective as of August 18, 2011, and repealing Section 2.76.200 of the Lincoln Municipal Code as hitherto existing, the first time.


ANNEXATION NO. 07005 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 7.72 ACRES GENERALLY LOCATED AT N.W. 48TH STREET AND WEST HOLDREGE STREET (RELATED ITEMS: 11R-235, 11-149, 11-150) - CLERK read an ordinance, introduced by Jonathan Cook, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208 to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the first time.
CHANGE OF ZONE NO. 07063 - APPLICATION OF KINNECK DEVELOPMENT FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL WITH A PLANNED UNIT DEVELOPMENT DESIGNATION ON 7.72 ACRES OF PROPERTY GENERALLY LOCATED AT N.W. 48TH STREET AND WEST HOLDREGE STREET WITH REQUESTED WAIVERS AND MODIFICATION TO THE ZONING ORDINANCE AND LAND SUBDIVISION ORDINANCE TO ALLOW APPROXIMATELY 42,000 SQUARE FEET OF OFFICE AND COMMERCIAL FLOOR AREA AND SIX DWELLING UNITS ON THE UNDERLYING R-3 ZONED AREA (RELATED ITEMS: 11R-235, 11-149, 11-150) - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

APPROVING A LEASE AGREEMENT BETWEEN THE LINCOLN PARKS AND RECREATION DEPARTMENT AND LINCOLN PARKS AND RECREATION FOUNDATION FOR THE LEASE OF APPROXIMATELY 230 SQUARE FEET OF SPACE TO THE FOUNDATION AT 2740 A STREET FOR A 13.5 YEAR PERIOD - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving the Lease Agreement between the City of Lincoln, Nebraska on behalf of Lincoln Parks and Recreation Department and the Lincoln Parks and Recreation Foundation for the lease of approximately 230 square feet of office space in the Parks and Recreation Department’s administrative offices located at 2740 A Street to the Parks and Recreation Foundation for a term commencing on October 1, 2011 and terminating on April 30, 2024, the first time.

APPROVING THE ALLOCATION OF $1 MILLION OF CAPITAL IMPROVEMENT FUNDS APPROPRIATED IN THE FY 2011-12 BUDGET TO CERTAIN PROJECTS WITHIN THE PARKS AND RECREATION DEPARTMENT - CLERK read an ordinance, introduced by Jonathan Cook, approving the transfer of unspent and unencumbered appropriations to certain capital improvement projects within the Parks and Recreation Department, the first time.

AMENDING SECTION 2.76.380 OF THE LINCOLN MUNICIPAL CODE, SICK LEAVE WITH PAY, TO CLARIFY FOR EMPLOYEES IN THE PAY RANGES PREFIXED BY THE LETTERS N AND X THAT SICK LEAVE PAYOUT UPON RESIGNATION IS FOR REGULAR EMPLOYEES ONLY - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 2.76.380 of the Lincoln Municipal Code to clarify that for ‘N’ and ‘X’ employees sick leave payout upon resignation is only for regular employees; and repealing Section 2.76.380 of the Lincoln Municipal Code as hitherto existing, the first time.

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

AMENDING CHAPTER 14.56 OF THE LINCOLN MUNICIPAL CODE RELATING TO WORKS OF ART BY AMENDING SECTION 14.56.030 TO RESERVE THE RIGHT TO DETERMINE THE APPROPRIATENESS OF PLACING ART WORK ON CITY OWNED PROPERTY; AMENDING SECTION 14.56.040 TO CHANGE THE APPROVAL PROCESS FOR PLACEMENT OF ART WORK ON CITY OWNED PROPERTY; AMENDING SECTION 14.56.070 TO AUTHORIZE THE DIRECTOR OF PARKS AND RECREATION TO SUPERVISE INSTALLATION AND MAINTENANCE OF ART WORK ON CITY OWNED PROPERTY OUTSIDE OF STREET RIGHT-OF-WAY; AMENDING SECTION 14.56.090 TO MOVE THE AUTHORITY TO SUSPEND OR REVOKE A LICENSE AGREEMENT FROM THE CITY COUNCIL TO THE MAYOR; AMENDING SECTION 14.56.100 TO CHANGE INSURANCE REQUIREMENTS; AMENDING SECTION 14.56.110 TO CHANGE THE LENGTH OF LICENSE AGREEMENTS; AMENDING SECTION 14.56.120 TO CHANGE THE APPLICATION FEE; ADDING A NEW SECTION NUMBERED 14.56.130 TO REQUIRE THE MAYOR TO DEVELOP ONE OR MORE MASTER PLANS FOR ART WORK ON CITY OWNED PROPERTY; ADDING A NEW SECTION NUMBERED 14.56.140 TO CALL FOR APPROVAL OF PUBLIC ART MASTER PLANS BY THE CITY COUNCIL; AND ADDING A NEW SECTION NUMBERED 14.56.150 TO PROVIDE FOR REVIEW OF MASTER PLANS - PRIOR to reading:

COOK Moved MTA #2 to amend Bill No. 11-139 in the following manner: Moved an amendment to require that any two Council Members may agree to appeal the issuance of a license agreement, not four. Seconded by Camp & Lost by the following vote: AYES: Camp, Hornung; NAYS: Carroll, Cook, Emery, Eskridge.

(1) On page 5, line 3, reinsert the stricken words be subject to and delete the word “include”.

(2) On page 5, line 9 between the words “vacated” and “upon” insert the following for reasons other than revocation (i.e., relocation): to accommodate utility work, public safety, or other public purpose.

(3) On page 5, line 10, after the words “its use discontinued,” insert the following: the Mayor may waive this condition in the license agreement.”
(5) On page 7, at the end of line 3, insert the following new sentence: After execution of the license agreement, or any amendment or renewal thereof, the Mayor or the Director of Parks and Recreation shall, within 72 hours, notify the Council members that a license agreement has been executed and where the license agreement may be found.

(6) On page 7, between lines 3 and 4, insert the following new section:

Section 4.5. That Chapter 14.56 of the Lincoln Municipal Code be amended by adding a new section numbered 14.56.080 to read as follows:

14.56.080 Appeal Process.

(a) Any four Council members may appeal the issuance of a license agreement, or any amendment or renewal thereof, under this chapter to the full City Council by filing a notice of appeal with the City Clerk within 14 days after being notified that a license agreement has been executed by the Mayor and the applicant. The City Clerk shall then transmit the notice of appeal to the Mayor, the applicant, and all other Council members. A public hearing on the appeal shall be held within 30 days of filing the notice of appeal. The City Clerk shall provide written notice of the appeal to the Mayor and applicant. Notice to the public shall be by placement of the appeal on the agenda for the meeting when the appeal will be heard.

(c) In exercising its appellate jurisdiction, the execution of the license agreement shall be deemed advisory for appeal purposes and the City Council may confirm, amend, modify, revoke, or cancel the executed license agreement as the City Council may deem appropriate and consistent with this chapter. Any decision by the City Council rendered in accordance with this section shall be considered final.

(7) On page 7, line 10, after the word “Code” delete the semicolon and insert the following: or any other applicable law.

(8) On page 7, delete line 11 in its entirety and insert in lieu thereof the following language:

(c) Violations of any term or condition of the license agreement.

(9) On page 7, between lines 11 and 12, add the following new section:

Section 5.5 That Chapter 14.56 of the Lincoln Municipal Code be amended by adding a new section numbered 14.56.095 to read as follows:

14.56.095 Revocation of License Agreement by City Council.

Any license agreement issued pursuant to this chapter may be revoked by the City Council, by resolution, for reasons of health, safety or welfare of the citizens of the City.

(10) On page 9, lines 5, 6 and 7, add a period after the word “approval” on line 5; and delete the remainder of line 5, all of line 6, and “14.56.150.” on line 7.

(11) On page 9, delete lines 10 through 22 in their entirety (deleting Sections 10 and 11 from the ordinance); and renumber the remaining sections accordingly.

The motion to amend was carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

CLERK

Read an ordinance, introduced by Adam Hornung, amending Chapter 14.56 of the Lincoln Municipal Code relating to Works of Art by amending Section 14.56.030 to reserved the right to determine the appropriateness of placing art work on City owned property; amending Sections 14.56.040 and 14.56.050 to change the approval process for placement of art work on City owned property; amending Section 14.56.070 to authorize the Director of Parks and Recreation to supervise installation and maintenance of art work on City owned property outside of street right-of-way; amending Section 14.56.090 to move the authority to suspend or revoke a license agreement from the City Council to the Mayor; amending Section 14.56.100 to change insurance requirements; amending Section 14.56.110 to change the length of license agreements; amending Section 14.56.120 to change the application fee; adding a new section numbered 14.56.130 to require the Mayor to develop one or more master plans for art work on City owned property; adding a new section numbered 14.56.140 to call for approval of public art master plans by the City Council; adding a new section numbered 14.56.150 to provide for review
of master plans; and repealing Sections 14.56.030, 14.56.040, 14.56.050, 14.56.070, 14.56.090, 14.56.100, 14.56.110, and 14.56.120 of the Lincoln Municipal Code as hitherto existing, the third time.

HORNUNG Moved to pass the ordinance as amended.
Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.
The ordinance, being numbered #19623, is recorded in Ordinance Book #27, Page .

CHANGE OF ZONE 11026 – AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE, THE ZONING CODE, BY ADDING A NEW SECTION NUMBERED 27.03.225 TO ADD THE DEFINITION OF "FARM WINERY"; AMENDING SECTION 27.07.040 TO ALLOW FARM WINERIES AS A PERMITTED SPECIAL USE IN THE AG AGRICULTURE DISTRICT; AMENDING SECTION 27.63.680 TO ALLOW A FARM WINERY OPERATING UNDER A PERMITTED SPECIAL USE TO BE LOCATED WITHIN 100 FEET OF A RESIDENTIAL DISTRICT; AMENDING SECTION 27.63.685 TO PROVIDE THAT A SPECIAL PERMIT OR AMENDMENT THERETO SHALL NOT BE REQUIRED FOR INTERIOR EXPANSIONS OF AN EXISTING LICENSED FARM WINERY; AND ADDING A NEW SECTION NUMBERED 27.63.810 TO PROVIDE CONDITIONS FOR GRANTING A SPECIAL PERMIT TO ALLOW A FARM WINERY IN THE AG AGRICULTURE DISTRICT - Clerk read an ordinance, introduced by Adam Hornung, amending Title 27 of the Lincoln Municipal Code, the Zoning Code, by adding a new section numbered 27.03.225 to add the definition of "farm winery"; amending Section 27.07.040 to allow farm wineries as permitted special use in the AG Agriculture District; amending Section 27.63.680 to allow a farm winery operating under a permitted special use to be located within 100 feet of a residential district; amending Section 27.63.685 to provide that a special permit or amendment thereto shall not be required for interior expansions of an existing licensed farm winery; adding a new section numbered 27.63.810 to provide conditions for granting a special permit to allow a farm winery in the AG Agriculture District; and repealing Sections 27.07.040, 27.63.680, and 27.63.685 of the Lincoln Municipal Code as hitherto existing, the third time.

HORNUNG Moved to pass the ordinance as read.
Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.
The ordinance, being numbered #19624, is recorded in Ordinance Book #27, Page .

CHANGE OF ZONE 11030 – APPLICATION OF BRAD ALDERMAN, DDS, FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO O-3 OFFICE PARK DISTRICT ON APPROXIMATELY 3.6 ACRES GENERALLY LOCATED AT WEST A STREET AND U.S. HIGHWAY 77 - Clerk read an ordinance, introduced by Adam Hornung, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the district established and shown thereon, the third time.

HORNUNG Moved to pass the ordinance as read.
Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.
The ordinance, being numbered #19625, is recorded in Ordinance Book #27, Page .

MISC. NO. 11004 – AMENDING TITLE 26 OF THE LINCOLN MUNICIPAL CODE, THE LAND SUBDIVISION ORDINANCE BY AMENDING SECTION 26.11.060 TO PROVIDE THAT THE PLANNING DIRECTOR SHALL WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF ALL REQUIRED CITY DEPARTMENT APPROVALS OR REPORTS NOTIFY THE SUBDIVIDER OF APPROVAL, CONDITIONAL APPROVAL OR DISAPPROVAL OF A FINAL PLAT; AMENDING SECTION 26.19.010 TO ALLOW UTILITY PROVIDER RELEASE OF EASEMENT AND LIEN HOLDER CONSENT AND SUBORDINATION SIGNATURE BLOCKS AND ACKNOWLEDGMENTS TO BE ATTACHED TO FINAL PLATS ON SEPARATE 8 1/2" X 11" SHEETS; AND AMENDING SECTION 26.19.035 TO REVISE THE ADDITIONAL INFORMATION REQUIRED TO BE SUBMITTED WITH A FINAL PLAT - Clerk read an ordinance, introduced by Adam Hornung, amending Title 26 of the Lincoln Municipal Code, the Land Subdivision Ordinance by amending Section 26.11.060 to provide that the Planning Director shall within ten (10) days following receipt of all required city department approvals or reports notify the subdivider of approval, conditional approval or disapproval of a final plat; amending Section 26.19.010 to allow utility provider release of easement and lien holder consent and subordination signature blocks and acknowledgments to be attached to final plats on separate 8 1/2" x 11" sheets; amending Section 26.19.035 to revise the additional information required to be submitted with a final plat; and repealing Sections 26.11.060, 26.19.010, and 26.19.035 of the Lincoln Municipal Code as hitherto existing, the third time.

HORNUNG Moved to pass the ordinance as read.
Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Cook, Eskridge, Hornung; NAYS: None.
The ordinance, being numbered #19626, is recorded in Ordinance Book #27, Page .
OPEN MICROPHONE

Mike Morosin, 1500 N. 15th St., came forward to comment on the process of filling any type of vacancy seat. He cautioned Council to be careful about perceived information and advised citizens to be more understanding of the process.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to October 3, 2011. Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on October 3, 2011. Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.

ADJOURNMENT 7:21 P.M.

CAMP Moved to adjourn the City Council meeting of September 26, 2011. Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung; NAYS: None.