THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, OCTOBER 17, 2011 AT 3:00 P.M.

The Meeting was called to order at 3:00 p.m. Present: Council Chair Carroll; Council Members: Camp, Emery, Eskridge, Hornung, Schimek; City Clerk, Joan E. Ross; Absent: Cook.

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

COOK Having been appointed to read the minutes of the City Council proceedings of October 10, 2011 reported having done so, found same correct.

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

PUBLIC HEARING

APPLICATION OF WMJD LLC DBA SINGLE BARREL FOR A CLASS CK LIQUOR LICENSE AT 130 NORTH 10TH STREET;
MANAGER APPLICATION OF HEATH A. MACOMBER FOR WMJD LLC DBA SINGLE BARREL AT 130 NORTH 10TH STREET - Heath Macomber, 7200 Silverthorn Dr., came forward to take oath and answer questions. He said he has not talked to residential neighbors as of yet, but plans to when remodeling is complete and his business opens full time. Inv. Russ Posler, LPD, came forward to answer Council questions about details of Mr. Macomber’s record which was processed when he opened the Hour Lounge in November 2010. In response to Council questions, Mr. Macomber expressed remorse for any poor judgment in his past and accepted responsibility for his actions.

This matter was taken under advisement.

APPLICATION OF HY-VEE, INC. DBA HY-VEE #1 FOR A CLASS CK LIQUOR LICENSE AT 5010 O STREET;
MANAGER APPLICATION OF SCOTT A. SCHLATTER FOR HY-VEE, INC. DBA HY-VEE #1 AT 5010 O STREET - Scott A. Schlatter, 3325 Longview Ct., came forward to take oath and answer questions.

This matter was taken under advisement.

APPLICATION OF NEBRASKA CVS PHARMACY, LLC DBA CVS PHARMACY #4033 FOR A CLASS D LIQUOR LICENSE AT 5611 SOUTH 27TH STREET;
MANAGER APPLICATION OF DON D. WESTERLIN FOR CVS PHARMACY, LLC DBA CVS PHARMACY #4033 AT 5611 SOUTH 27TH STREET - Buck Heim, Kutak Rock, LLP, 1650 Farnam St., Omaha, came forward as attorney for the applicant to take oath and answer questions.

This matter was taken under advisement.

APPLICATION OF LINCOLN SOUTH, LLC DBA PEPPER JAX GRILL FOR A CLASS A LIQUOR LICENSE AT 2801 PINE LAKE ROAD;
MANAGER APPLICATION OF ERIN D. DUENSING FOR LINCOLN SOUTH, LLC DBA PEPPER JAX GRILL AT 2801 PINE LAKE ROAD - Erin D. Duensing, 14536 N Street, Omaha, came forward to take oath and answer questions.

This matter was taken under advisement.

APPROVING THE DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT FOR HOLDREGE STREET AND IDYLWILD DRIVE BETWEEN KAPPA FOUNDATION AND THE CITY OF LINCOLN FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-6 RESIDENTIAL DISTRICT FOR A FRATERNITY NOT COMPATIBLE WITH THE ADJACENT NEIGHBORHOOD, ON PROPERTY GENERALLY LOCATED AT HOLDREGE STREET AND IDYLWILD DRIVE;
CHANGE OF ZONE 11012 - APPLICATION OF KAPPA FOUNDATION FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-6 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT HOLDREGE STREET AND IDYLWILD DRIVE;
SPECIAL PERMIT 11021 - APPLICATION OF KAPPA FOUNDATION TO ALLOW PARKING LOT IN THE R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT IDYLWILD DRIVE AND STARK STREET - Kent Seacrest, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing Alpha Gamma Rho Fraternity regarding property owned by Kappa Foundation.
Keith Carlson, #620 Echo Ct., came forward as an alum of AGR fraternity who served on the Kappa Chapter Foundation board for the past 10 years. Built in the 1950’s, Mr. Carlson said the fraternity house is suffering from deterioration and functional obsolescence. He said three alternatives were considered: 1) go out of business by 2017; 2) remodel and get in compliance; 3) build a new fraternity for 80 men or build one for 60. A progression of four neighborhood meetings led to changes which resulted in neighborhood support. Dan Grasso, designer for Sinclair Hille Architects, 700 Q St., came forward to cover key elements in the site plan.

Mary Eisenhart, 1420 N. 37th St., came forward representing members of the Committee for Preservation of East Campus Historic District who have worked to preserve the low density zoning in the single-family residential neighborhood. She said in the four meetings which were held, concerns of the scale/height were mitigated, grade was reduced, a buffer was created and historic lighting was added. Ms. Eisenhart expressed appreciation for all parties involved and wanted to state that the committee is in support of the project. Elizabeth Katt, 1308 N. 38th St., came forward as East Campus Community Organization (ECCO) President representing the entire neighborhood in which the fraternity resides and to express support for the project. She said the attention to detail/quality of the proposed Kappa project will set the standard for any future projects that may come to the neighborhood.

Council Member Emery said although the process was not easy, both sides talked & dealt with the issues. He expressed appreciation to the people involved in the meetings & those present today. This matter was taken under advisement.

APPROVING REVISED DISTRICT BOUNDARIES OF THE CITY FOR THE FOUR CITY COUNCIL DISTRICTS IN COMPLIANCE WITH ARTICLE IV, SECTION 2(A) OF THE HOME RULE CHARTER OF THE CITY OF LINCOLN - Marvin Krout, Director of Planning, came forward to answer questions about the three options provided to the City Council. He said the City has until November 26 to adopt a redistricting map. Mr. Krout said Option A is very balanced in terms of population and meets the requirement to be compact & contiguous. This matter was taken under advisement.

APPROVING AN INTER-GOVERNMENTAL AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) AND THE CITY OF LINCOLN REGARDING THE IMPLEMENTATION OF THE SECTION 319 PROJECT ENTITLED NORTH STAR WETLAND ENHANCEMENT AND EDUCATION PROJECT - Ben Higgins, Public Works & Utilities, came forward to address any technical issues relating to the wetland project that began in 2009. He said money was set aside previously and construction is nearly complete. Mr. Higgins said the agreement with NDEQ will allow pass-through funds from the federal government to pay for 55% of the project. He said the rest will be split evenly between the City & NRD. Tracie Chapo, 2340 Stockwell St., Educator of Biology & Environmental Studies at North Star High School, came forward to speak about the educational aspects of the project. Ms. Chapo said students previously used GPS to study the well site but as time evolved, erosion caused the stream bank to become unsafe. This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 14, 2011, AT 3:00 P.M. FOR THE BOARD OF EQUALIZATION ON THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, THE CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY AND THE DOWNTOWN MAINTENANCE DISTRICT ASSESSMENTS. CLERK Requested a motion for approval. ESKRIDGE So moved. Seconded by Emery & carried by the following vote: AYES: Camp, Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Cook.

CERTIFYING THE APPOINTMENT OF EUGENE CARROLL TO THE WEST HAYMARKET JOINT PUBLIC AGENCY BOARD OF REPRESENTATIVES FOR A FOUR YEAR TERM OR FOR SO LONG AS SUCH REPRESENTATIVE SERVES IN HIS POSITION AS CITY COUNCIL MEMBER - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:
BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, pursuant to the Joint Public Agency Act, Neb. Rev. Stat. §§ 13-2501 et seq. (Reissue 2007), and Section 301 of the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated April 1, 2010, that in accordance with Neb. Rev. Stat. § 13-2514, the City Clerk shall issue a certificate of appointment of Eugene Carroll, duly appointed by the Mayor, as the City Council Representative to the governing body of the West Haymarket Joint Public Agency for filing in the official records of the City of Lincoln, and with the clerk or secretary of the West Haymarket Joint Public Agency.

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

REPORT OF SETTLEMENT AGREEMENT UNDER NEB. REV. STAT. § 84-713. (NON TORT CLAIMS) - CLERK presented said report which was placed on file in the Office of the City Clerk.

CLERK’S LETTER AND MAYOR’S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON OCTOBER 3, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY NOVEMBER 7, 2011 AT 3:00 P.M. FOR THE APPLICATION OF KINJA, INC. DBA KINJA SUSHI & JAPANESE CUISINE FOR A CLASS I LIQUOR LICENSE LOCATED AT 4141 PIONEER WOODS DRIVE, SUITE F - CLERK read the following resolution, introduced by DiAnna Schimek, who moved its adoption:

A-86535
BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, November 7, 2011, at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 655 S. 10th St., Lincoln, NE for the Application of Kinja, Inc. dba Kinja Sushi & Japanese Cuisine for a Class I liquor license located at 4141 Pioneer Woods Drive, Suite F.

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

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

SETTING THE HEARING DATE OF MONDAY, NOVEMBER 7, 2011 AT 3:00 P.M. FOR THE APPLICATION OF GRAYSON, INC. DBA 501 WEST A BAR & GRILL FOR THE ADDITION OF CATERING TO THEIR EXISTING CLASS I LIQUOR LICENSE LOCATED AT 501 WEST A STREET, SUITE 104 - CLERK read the following resolution, introduced by DiAnna Schimek, who moved its adoption:

A-86536
BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, November 7, 2011, at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 655 S. 10th St., Lincoln, NE for the Application of Grayson, Inc. dba 501 West "A" Bar & Grill for the addition of catering to their existing Class I liquor license located at 501 West A Street, Suite 104.

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

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

PLACED ON FILE IN THE OFFICE OF THE CITY CLERK: Administrative Amendment No. 11046 to Pre-Existing Use Permit No. 38 approved by the Planning Director on October 7, 2011 to add approximately 2,000 square feet to the existing Southeast Rural Fire Station on property generally located at Holdrege St. and Eagle Crest Rd.
MISCELLANEOUS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF PARKER’S RIB RANCH, INC. DBA PARKER’S SMOKEHOUSE FOR THE ADDITION OF A CATERING LICENSE TO ITS CLASS I LIQUOR LICENSE AT 6440 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86537  BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinance, the City Council recommends that the application of Parker’s Rib Ranch, Inc. dba Parker’s Smokehouse for the issuance of a Catering Permit to the existing Class I liquor license, located at 6440 O Street, Lincoln, Nebraska, be approved with the condition that the premises complies in every respect with all city and state regulations.

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

Introduced by Jon Camp

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

APPLICATION OF WMJD LLC DBA SINGLE BARREL FOR A CLASS CK LIQUOR LICENSE AT 130 NORTH 10TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86538  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 WMJD, LLC dba Single Barrel for a Class “CK” liquor license at 130 North 10th Street, Lincoln, Nebraska, for the license period ending October 31, 2012, be approved with the condition that the premises must comply in every respect with all city and state regulations.

The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

MANAGER APPLICATION OF HEATH A. MACOMBER FOR WMJD LLC DBA SINGLE BARREL AT 130 NORTH 10TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86539  WHEREAS, WMJD, LLC dba Single Barrel located at 130 North 10th Street, Lincoln, Nebraska has been approved for a Retail Class “CK” liquor license, and now requests that Heath A. Macomber be named manager; WHEREAS, Heath A. Macomber 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 Heath A. Macomber be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

APPLICATION OF HY-VEE, INC. DBA HY-VEE #1 FOR A CLASS CK LIQUOR LICENSE AT 5010 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86540  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 Hy-Vee, Inc. dba
Hy-Vee #1 for a Class "CK" liquor license at 5010 O Street, Lincoln, Nebraska, for the license period ending October 31, 2012, be approved with the condition that the premises must comply in every respect with all city and state regulations.

The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

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

MANAGER APPLICATION OF SCOTT A. SCHLATTER FOR HY-VEE, INC. DBA HY-VEE #1 AT 5010 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

WHEREAS, Hy-Vee, Inc. dba Hy-Vee #1 located at 5010 O Street, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Scott A. Schlatter be named manager;

WHEREAS, Scott A. Schlatter 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 Scott A. Schlatter 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.

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

APPLICATION OF NEBRASKA CVS PHARMACY, LLC DBA CVS PHARMACY #4033 FOR A CLASS D LIQUOR LICENSE AT 5611 SOUTH 27TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

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 Nebraska CVS Pharmacy, LLC dba CVS Pharmacy #4033 for a Class "D" liquor license at 5611 South 27th Street, Lincoln, Nebraska, for the license period ending April 30, 2012, be approved with the condition that the premises must comply in every respect with all city and state regulations.

The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

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

APPLICATION OF DON D. WESTERLIN FOR CVS PHARMACY, LLC DBA CVS PHARMACY #4033 AT 5611 SOUTH 27TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

WHEREAS, Nebraska CVS Pharmacy, LLC dba CVS Pharmacy #4033 located at 5611 South 27th Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Don D. Westerlin be named manager;

WHEREAS, Don D. Westerlin 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 Don D. Westerlin 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.

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

APPLICATION OF LINCOLN SOUTH, LLC DBA PEPPER JAX GRILL FOR A CLASS A LIQUOR LICENSE AT 2801 PINE LAKE ROAD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:
BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Lincoln South, LLC dba Pepper Jax Grill for a Class "A" liquor license at 2801 Pine Lake Road, Lincoln, Nebraska, for the license period ending April 30, 2012, be approved with the condition that:
1. Applicant must successfully complete the responsible beverage server training course required by Section 5.04.035 of the Lincoln Municipal Code within 30 days of approval of this resolution.
2. The premises must comply in every respect with all city and state regulations.

The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

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

MANAGER APPLICATION OF ERIN D. DUENSING FOR LINCOLN SOUTH, LLC DBA PEPPER JAX GRILL AT 2801 PINE LAKE ROAD
- CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:
WHEREAS, Lincoln South, LLC dba Pepper Jax Grill located at 2801 Pine Lake Road, Lincoln, Nebraska has been approved for a Retail Class "A" liquor license, and now requests that Erin D. Duensing be named manager;
WHEREAS, Erin D. Duensing 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 Erin D. Duensing be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

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

ORDINANCE - 2ND READING & RELATED RESOLUTIONS (as required)
APPROVING THE DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT FOR HOLDREGE STREET AND IDYLWILD DRIVE BETWEEN KAPPA FOUNDATION AND THE CITY OF LINCOLN FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-6 RESIDENTIAL DISTRICT FOR A FRATERNITY NOT COMPATIBLE WITH THE ADJACENT NEIGHBORHOOD, ON PROPERTY GENERALLY LOCATED AT HOLDREGE STREET AND IDYLWILD DRIVE. (RELATED ITEMS: 11R-251, 11-159, 11R-249)
(ACTION DATE: 10/24/11)

CHANGE OF ZONE 11032 – APPLICATION OF KAPPA FOUNDATION FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-6 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT HOLDREGE STREET AND IDYLWILD DRIVE. (RELATED ITEMS: 11R-251, 11-159, 11R-249)
(ACTION DATE: 10/24/11) - CLERK read an ordinance, introduced by Carl Eskridge, 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 districts established and shown thereon, the second time.

SPECIAL PERMIT 11021 – APPLICATION OF KAPPA FOUNDATION TO ALLOW PARKING LOT IN THE R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT IDYLWILD DRIVE AND STARK STREET. (RELATED ITEMS: 11R-251, 11-159, 11R-249) (ACTION DATE: 10/24/11)

APPROVING REVISED DISTRICT BOUNDARIES OF THE CITY FOR THE FOUR CITY COUNCIL DISTRICTS IN COMPLIANCE WITH ARTICLE IV, SECTION 2(A) OF THE HOME RULE CHARTER OF THE CITY OF LINCOLN - CLERK read an ordinance, introduced by Carl Eskridge, WHEREAS, the electors of the City of Lincoln on November 7, 1978, adopted an amendment to the Charter of the City of Lincoln which requires the district election of four City Council members commencing with the City election of 1979, the second time.
PUBLIC HEARING - RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF SEPTEMBER 16 - 30, 2011 - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86546 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the claims listed in the attached report, marked as Exhibit "A", dated September 3, 2011, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<table>
<thead>
<tr>
<th>DENIED CLAIMS</th>
<th>ALLOWED/SETTLED CLAIMS</th>
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<tbody>
<tr>
<td>Praxis Consulting/FirstComp Insurance Co.</td>
<td>LeRoy Meints</td>
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<tr>
<td>(Claim ##9000027445)</td>
<td>Loretta Mains</td>
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<tr>
<td>Pines Condominium Association</td>
<td>Sara Cooper</td>
</tr>
<tr>
<td>Tetanya Minnick</td>
<td>NAS</td>
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<tr>
<td>Farshid Sabetrasekh</td>
<td>Terri Heckman</td>
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<td>Bette McCown</td>
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<td>Manzitto Bros.</td>
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<td>Farshid Saberzadeh</td>
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<td>Ernest L. Strassl Jr.</td>
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<td>Donna R. Ranta</td>
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<td>Donald A. Clark</td>
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<td>Brad Marushak</td>
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<td>USAA (Claim #15560135-5)</td>
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<tr>
<td>Amber D. Briley</td>
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</tbody>
</table>

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

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

APPROVING AN INTER-GOVERNMENTAL AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) AND THE CITY OF LINCOLN REGARDING THE IMPLEMENTATION OF THE SECTION 319 PROJECT ENTITLED NORTH STAR WETLAND ENHANCEMENT AND EDUCATION PROJECT - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86547 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the attached Inter-Governmental Agreement between the City of Lincoln and the Nebraska Department of Environmental Quality regarding the Implementation of the Section 319 Project Entitled "North Star Wetland Enhancement and Education Project," upon the terms and conditions as set forth in said Agreement, is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City. This Agreement provides for Section 319 grant funding to address degradation of a wetland and channel adjacent to North Star High School in Northeast Lincoln.

The City Clerk is hereby directed to transmit a copy of the executed original Agreement to Ben Higgins, Public Works & Utilities Department, for transmittal to the Nebraska Department of Environmental Quality.

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

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

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

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED $3,000,000.00 PRINCIPAL AMOUNT THE CITY OF LINCOLN, NEBRASKA GENERAL OBLIGATION SPECIAL ASSESSMENT REVOLVING FUND BONDS, SERIES 2011B - CLERK read an ordinance, introduced by Doug Emery, authorizing and directing the issuance, sale and delivery of $3,000,000 principal amount of general obligation special assessment revolving fund bonds, series 2011B, of the City of Lincoln, Nebraska; prescribing the form...
and details of such bonds; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on such bonds as they become due; and authorizing certain other documents and actions in connection therewith, the third time.

EMERY Moved to pass the ordinance as read.
Seconded by Eskridge & carried by the following vote: AYES: Camp, Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Cook.
The ordinance, being numbered #19635, is recorded in Ordinance Book #27, Page .

AUTHORIZING THE CITY OF LINCOLN, NEBRASKA TO ENTER INTO A LEASE-PURCHASE TRANSACTION WITH UNION BANK AND TRUST COMPANY, LINCOLN, NEBRASKA, IN AN AMOUNT NOT TO EXCEED $4,750,000.00 FOR THE ACQUISITION OF STREET LIGHTS, COMPUTER SOFTWARE AND A NEW CLUBHOUSE AND RELATED FURNISHINGS AT HOLMES GOLF COURSE - CLERK read an ordinance, introduced by Doug Emery, authorizing and approving a lease-purchase transaction with Union Bank and Trust Company, the proceeds of which will be used to pay the costs of (A) acquiring and installing street lights and related improvements and certain computer software and (B) constructing, equipping and furnishing a new clubhouse at the City's Holmes Golf Course; approving the issuance, sale and delivery of not to exceed $4,750,000 principal amount of certificates of participation in such lease; fixing in part and providing for the fixing in part of certain provisions of the lease and related documents; and related matters, the third time.

EMERY Moved to pass the ordinance as read.
Seconded by Hornung & carried by the following vote: AYES: Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: Camp; ABSENT: Cook.
The ordinance, being numbered #19636, is recorded in Ordinance Book #27, Page .

CHANGE OF ZONE 11031 – APPLICATION OF OLDERBAK GEORGETOWN/WILLOWS, LLC FOR A CHANGE OF ZONE FROM B-1 LOCAL BUSINESS DISTRICT AND R-3 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 70TH STREET AND VAN DORN STREET. (RELATED ITEMS: 11-155, 11R-244) (ACTION DATE: 10/17/11) - CLERK read an ordinance, introduced by Doug Emery, 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 districts established and shown thereon, the third time.

EMERY Moved to pass the ordinance as read.
Seconded by Eskridge & carried by the following vote: AYES: Camp, Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Cook.
The ordinance, being numbered #19637, is recorded in Ordinance Book #27, Page .

SPECIAL PERMIT 459A – APPLICATION OF OLDERBAK GEORGETOWN/WILLOWS, LLC, TO AMEND THE GEORGETOWN APARTMENTS COMMUNITY UNIT PLAN TO INCREASE THE NUMBER OF APARTMENT DWELLING UNITS FROM 115 TO 160, WITH A REQUEST TO ADJUST THE PARKING REQUIREMENTS, ON PROPERTY GENERALLY LOCATED AT SOUTH 70TH STREET AND VAN DORN STREET. (RELATED ITEMS: 11-155, 11R-244) (ACTION DATE: 10/17/11) - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:
A-86548
WHEREAS, Olderbak Georgetown/Willows, LLC has submitted an application Designated as Special Permit No. 459A for authority to expand the existing Georgetown Apartments Community Unit Plan approved by Special Permit No. 459 to increase the number of apartment dwelling units from 115 to 160, and a requested waiver to adjust the parking requirements on property generally located at S. 70th Street and Van Dorn Street and legally described as:
A tract of land being out of and a part of Lots 6 and 7, Strain's Acres and vacated Drury Lane abutting said lots, all located in the Southwest Quarter of Section 34, Township 10 North, Range 7 East of the Sixth Principal Meridian, Lincoln, Lancaster County, Nebraska, more particularly described as follows:
Beginning at a 5/8" Rebar found at the intersection of the north right-of-way of Van Dorn Street and the east line of said Lot 7, being the southeast corner of the tract herein described as follows: Beginning at a 5/8" Rebar found at the intersection of the north right-of-way of Van Dorn street and the east line of said Lot 7, being the southeast corner of the tract herein described; thence north 15 minutes 00 seconds east, a distance of 30.70 feet; thence south 69 degrees 26 minutes 04 seconds west, a distance of 94.31 feet; thence south 89 degrees 47 minutes 59 seconds...
west, a distance of 522.64 feet, to the east right-of-way of 70th Street; thence south 89 degrees 47 minutes 00 seconds west, a distance of 8.67 feet; thence south 00 degrees 00 minutes 00 seconds west, a distance of 14.17 feet; thence south 89 degrees 47 minutes 00 seconds west, a distance of 310.00 feet; thence north 89 degrees 47 minutes 00 seconds east, a distance of 440.87 feet to the point of beginning and containing 7.200 acres, more or less;

WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public hearing on said application; and

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this expansion of the Community Unit Plan area will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln and 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 Olderbak Georgetown/Willows, LLC, hereinafter referred to as "Permittee", to expand the existing Georgetown Apartments Community Unit Plan approved by Special Permit No. 459 to increase the number of apartment dwelling units from 115 to 160, and a requested waiver to adjust the parking requirements, be and the same are hereby granted under the provisions of Chapter 27.65, Section 27.63.320 and Section 27.67.065 of the Lincoln Municipal Code upon condition that development of the apartment dwelling units be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This approval permits a revised site plan showing 151 dwelling units with nine unallocated units for a maximum of 160 units and a waiver to adjust the required parking from 302 to 288 stalls.

2. Before receiving building permits:
   a. The Permittee will reconcile the legal description of the boundary of the CUP with City/County staff as necessary.
   b. The Permittee shall submit a revised site plan including five copies showing the following revisions:
      i. A revised legal description if necessary.
      ii. Per Exhibit A for the new 36-unit apartment building in the northeast corner of the site, reflect the placement of the building, adjacent parking, surrounding landscaping and placement of trees and accompanying vegetation. Identify all plant material and provide all typical landscape plan information.
      iii. That the land directly to the east of the new apartment building will be landscaped and maintained as a green space with grass, trees and other vegetation forming a buffer zone between the Georgetown Apartments and the property to the north.
      iv. That an opaque 6 foot privacy fence will be built generally along the north boundary of the special permit.
      v. That the 30 foot setback between the new building and the property to the north will be planted with additional trees and other appropriate vegetation beyond the minimum design standards, to create at least a 75% screen between 6 and 15 feet above the adjacent ground elevation between the new apartment building and the homes to the north.
   c. City Council approves associated request CZ#11031.

3. The Permittee shall provide to the Planning Department documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

Before occupying the new dwellings all development and construction must substantially comply with the approved plans.

4. All privately-owned improvements are to be permanently maintained by the Permittee or an appropriately established owners association approved by the City.

5. The site plan accompanying this permit shall be the basis for all interpretations of setback, yards, locations of buildings, location of parking and circulation elements, and similar matters.
7. The terms, conditions, and requirements of this resolution shall run with the land and be binding on the Permittee, its successors and assigns.

8. The Permittee shall sign and return the letter of acceptance to the City Clerk within 60 days following the 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 to be paid in advance by the applicant.

9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however the terms and conditions of all resolutions approving previous permits remain in force and effect except as specifically amended by this resolution.

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

CHANGE OF ZONE 11033 - APPLICATION OF NORTH THIRTY THIRD, LLC FOR A CHANGE OF ZONE FROM I-1 INDUSTRIAL DISTRICT, I-3 EMPLOYMENT CENTER DISTRICT, B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT AND R-5 RESIDENTIAL DISTRICT TO P PUBLIC USE DISTRICT; FROM B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT AND R-3 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT; AND FROM I-3 EMPLOYMENT CENTER DISTRICT, B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT, R-3 RESIDENTIAL DISTRICT AND R-5 RESIDENTIAL DISTRICT TO H-3 HIGHWAY COMMERCIAL DISTRICT, ON PROPERTY GENERALLY LOCATED AT NORTH 33RD STREET AND FOLKWAYS BOULEVARD - CLERK read an ordinance, introduced by Doug Emery, amending the Lincoln Zoning District Maps adopted by reference and made a part of the Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and show thereon, the third time.

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

The ordinance, being numbered #19638, is recorded in Ordinance Book #27, Page .

OPEN MICROPHONE - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to October 24, 2011.
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Cook.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on October 24, 2011.
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Cook.
ADJOURNMENT  4:02 P.M.

CAMP Moved to adjourn the City Council meeting of October 17, 2011. Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Cook.

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant