THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, DECEMBER 12, 2011 AT 3:00 P.M.

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

EMERY Having been appointed to read the minutes of the City Council proceedings of December 5, 2011 reported having done so, found same correct.

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

MAYOR’S AWARD OF EXCELLENCE

Mayor Chris Beutler came forward to present the Mayor’s Award of Excellence for the month of November, 2011 to Dave Alder, Southwest District Park Supervisor, in the categories of Customer Relations, Productivity, & Safety.

Lynn Johnson, Parks & Recreation Director, came forward to express appreciation for Mr. Alder’s work; stated that they expect an awful lot from their District Supervisors. We expect them to be skilled in landscape maintenance, in working with staff, in managing special events & also in reaching out & working with volunteers. Dave does all of those things. Dave also is one of those people who is absolutely passionate about the park system & following up & working to discourage continuing damage to Wilderness Park with 4 wheelers was a passion of his & obviously he made that happen.

Dave Alder came forward to graciously accept his award.

PUBLIC HEARING

APPLICATION OF PRINCE BROTHERS LLC DBA WAHOO’S FISH TACO FOR A CLASS I LIQUOR LICENSE AT 210 NORTH 14TH STREET;
MANAGER APPLICATION OF BO J. PRINCE FOR PRINCE BROTHERS LLC DBA WAHOO’S FISH TACO AT 210 NORTH 14TH STREET - Tim O’Neill, Harding & Shultz, 800 Lincoln Square, 121 S. 13th St., came forward as the attorney representing the applicant to take oath & answer questions.

Bo Prince, 3848 S 17th St., came forward as the applicant to take oath & answer questions. He explained this is a fast casual restaurant with Mexican-Asian fusion style food with a Southern California concept that they thought they’d bring here.

This matter was taken under advisement.

APPLICATION OF MEIER’S WINE INC. DBA WICK ALUMNI CENTER FOR A CLASS I LIQUOR LICENSE AT 1520 R STREET;
MANAGER APPLICATION OF KEVIN R. MEIER FOR MEIER’S WINE INC. DBA WICK ALUMNI CENTER AT 1520 R STREET - Kenneth Meier, 18515 Pioneer Blvd., came forward as the applicant to take oath & answer questions.

This matter was taken under advisement.

APPLICATION OF KALI RECORDS LLC DBA SMOOTH FOR A CLASS C LIQUOR LICENSE AT 1644 O STREET;
MANAGER APPLICATION OF BRANDY L. KROESE FOR KALI RECORDS LLC DBA SMOOTH AT 1644 O STREET - Jerrod Jaeger, 140 N. 8th St., Suite 250, came forward as the attorney representing the applicant to take oath & answer questions. The previous application was denied for various reasons but primarily the prior owner of the company exhibited traits that led the Council to make a finding that there were concerns about unfitness, unwillingness to conform to the law. Ms. Kroese is the managing owner, manager of Kali Records & will be the manager of Smooth Bar & believes that the application & supporting documents show that she is fit to be granted this license.
Brandy Kroese, applicant, came forward to take oath & answer questions. Stated she purchased the business in order to provide for her daughter. She has been in the customer service industry & in retail for over 10 years & loves dealing with people; Smooth is going to be a higher end establishment, a comfortable place for women & men around the age of 30 plus & she has followed & completed all training assigned to new bar owners & managers per LPD, State Liquor Control Commission & the Responsible Hospitality Commission. She is currently attending bar tending school & an owner's course at the Midwest Bartender School. She has purchased the business in full from Mr. Harrington & he is moving out of state to pursue other business options.

Council Member Eskridge thanked Ms. Kroese for her presentation & her desire to invest in our community. Inquired about her termination as manager of Smooth.

Ms. Kroese replied it started with her daughter's father. He came down there with about 15 other people & started problems with my employees & some of our customers. We called the police & they escorted them off the property. They did arrest one person. After that, he wasn't looking for that type of environment, he didn't want it to happen again so I was terminated.

Council Member Eskridge inquired how she can prevent that. Ms. Kroese stated she's filed for 2 protection orders against him. Stated she was granted it, he appealed it, & the judge revoked it. He's not welcome in the club so if he does come down I will have him removed.

Council Member Eskridge reviewed the hours they would be open & inquired about the number of employees. Ms. Kroese replied a minimum of ten to twelve.

Council Member Eskridge inquired about her financial backing & how she's going to be able to pay her bills. Ms. Kroese stated she thought Smooth should bring about $300,000 a year.

Council Chair Carroll inquired if the application was approved, would she agree to the restrictions that Mr. Harrington would not be an employee or owner of the club or the corporation at all & if she was agreeable to the restriction that if there was a default in her payment to Mr. Harrington for the corporation that the license is revoked at that time. Ms. Kroese stated she was agreeable to both.

Council Member Hornung inquired if the ownership changed, the new owner would have to come before the City Council. Rod Confer, City Attorney, came forward & confirmed this.

This matter was taken under advisement.

APPLICATION OF CHEDDAR'S CASUAL CAFÉ, INC. DBA CHEDDAR'S CASUAL CAFÉ FOR A CLASS I LIQUOR LICENSE AT 5424 EAST O STREET; MANAGER APPLICATION OF STEVE G. CAMPBELL FOR CHEDDAR'S CASUAL CAFÉ, INC. DBA CHEDDAR'S CASUAL CAFÉ AT 5424 EAST O STREET - Richard Payne, Senior Vice President for Cheddar's Casual Café, came forward to take oath & answer questions.

This matter was taken under advisement.

CHANGE OF ZONE 11039 - APPLICATION OF GRANDMOTHER'S, INC. AND PRAIRIE LIFE LIMITED PARTNERSHIP FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL DISTRICT AND O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 70TH STREET AND A STREET - Mark Hunzeker, Baylor Evnen Law Firm, 1248 O St., representing the applicant, came forward to explain that the purpose of this is to allow for some flexibility in the use to allow for retail uses in the event those opportunities present themselves. There have been some discussions in the last couple of years with people who have expressed some interest but the owners have been unable to proceed due to the fact that they had some lease obligations.

Council Member Cook inquired if notices were sent out to the nearby neighbors & didn't get any opposition. Mr. Hunzeker replied there was no opposition; talked with the President of one of the Homeowner's Associations & a couple of the neighbors in the Silver Ridge Townhomes & no one appeared or called in opposition. It was approved unanimously by Planning Commission.

Council Member Cook inquired if they needed the amount of rezoning in order to have the minimum of five acres. Mr. Hunzeker responded he was not certain but it possibly could be because under the O-3 Zoning, even the Health Club, was a special permitted use as was a medical testing lab that was in the office building.

This matter was taken under advisement.

APPROVING THE ISSUANCE BY THE CITY OF ITS EDUCATIONAL FACILITIES REVENUE AND REFUNDING BONDS (NEBRASKA WESLEYAN UNIVERSITY PROJECT) IN THE AMOUNT OF $21,000,000 - Scott Keene, Ameritas Investment Corp., Clark Chandler, Vice President for Finance &
Administration with Nebraska Wesleyan University, & Steve Likes, Bond Counsel with Kutak Rock Law Firm came forward to thank the Council for their consideration of this item. There was a recent change in the Nebraska Constitution that allows municipalities to act as issuers on behalf of 501(c)3 organizations like Nebraska Wesleyan. Under this structure of financing, the City of Lincoln takes no liability for the debt, provides no credit enhancement for the debt & we make it very clear in the documents that the bond holders are secured only by the credit worthiness of Nebraska Wesleyan as an entity. The City of Lincoln is acting merely as a conduit on behalf of Nebraska Wesleyan to allow for the bonds to be issued on a tax-exempt status.

Mr. Chandler stated this has the potential to provide significant savings to Nebraska Wesleyan & the additional funding will assist in their ability to improve & sustain the campus for the students. Johnson Hall was the first residence hall on the campus, it was an all-female hall, with approximately 100 students, built in 1947, & has many of its original systems. To preserve the historic nature of the campus, they plan a major renovation which will include: remodeling of all interior spaces, provide restrooms, improved heating, addition of air conditioning, improvement of energy efficiency & new windows, make the building more accessible to those with disabilities by reconfiguring the entrance & adding an elevator, make all the first floor rooms accessible. The second component of the project is additional parking of approx. 60 additional parking spaces near our residence halls. The third component is putting wireless networking in all of their residence halls.

Steve Likes, Kutak Rock Law Firm, 1650 Farnam St., Omaha, NE, came forward to explain that the statute would permit the City of Lincoln to enter into a trust indenture which is very similar to the bond ordinances that the City is accustomed to. The bond ordinance would have all the terms & provisions relating to the bonds but here the terms & provisions are in the trust indenture. he bond proceeds would then be loaned by the City to Wesleyan pursuant to a loan agreement whereby Wesleyan would agree to make loan payments back to the City in amounts & at the times sufficient to make all of the bond payments. The act further allows for the pledging of further collateral which Nebraska Wesleyan will do via a Deed of Trust & they'll also pledge their gross revenues to the repayment of the bonds. One of the other provisions that's required in order for the bonds to be tax exempt from the Federal Tax Code is that the City hold a public hearing which is happening today.

Mr. Keene stated that by doing this the University will save at least $200,000 over the life of the financing in issuance costs.

Council Member Hornung inquired if there was an indemnification provided by Wesleyan to the City. Mr. Likes affirmed this. Mr. Hornung questioned whether there is a release from the bond holders of the City? Mr. Likes stated no, the bond holders don't enter into any kind of agreement. There are enough provisions in the documents & there's State law & State Constitutional authority which absolves the City from any kind of liability.

Mr. Hornung inquired if this affected the City's outstanding indebtedness. Mr. Likes replied that it does not.

Council Member Eskridge asked the City Attorney to come forward & inquired what their office has done in terms of reviewing this. Rod Confer, City Attorney, came forward & stated they've reviewed both these documents the legislation that was passed by the Legislature & it is clearly stated that the City is not liable. Discussion followed.

This matter was taken under advisement.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY AND DAS/STATE BUILDING DIVISION ON BEHALF OF NEBRASKA DEPARTMENT OF EDUCATION, VOCATIONAL REHABILITATION SERVICES, AT THE ONE STOP CAREER CENTER AT 1010 N STREET FOR PROVIDING JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT FOR A TERM OF JANUARY 1, 2012 THROUGH DECEMBER 31, 2015 - Dan King, Urban Development, came forward to state this is a renewal of the sublease by Vocational Rehabilitation. They have been in the Career Center since 2000 & we'd like to have them there for another four years. They provide employment & training services to the individuals with disabilities.

This matter was taken under advisement.

CREATING A BUSINESS IMPROVEMENT DISTRICT FOR THE MAINTENANCE, REPAIR & RECONSTRUCTION OF CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS WITHIN THE AREA GENERALLY LOCATED ALONG SOUTH 48TH STREET BETWEEN CALVERT STREET AND PIONEERS BOULEVARD AND PROVIDING FOR SPECIAL ASSESSMENTS TO BE IMPOSED WITHIN THE DISTRICT - Ernie
Castillo, Urban Development, came forward to state that just a few weeks ago the City Council unanimously adopted the resolution of the intent to create the College View Business Improvement District & this is the final step. This matter was taken under advisement.

AMENDING TABLE 1A OF SECTION 20.08.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO BUILDING CODE PERMIT FEES TO INCLUDE THE $50.00 BASE FEE APPLIED TO EVERY COMMERCIAL PROJECT REGARDLESS OF THE VALUATION OF CONSTRUCTION - Fred Hoke, Building & Safety, came forward to state that on June 13th, the Council had the opportunity to review the form for the $50.00 fee for commercial permits regardless of the valuation & it was inadvertently left off the agreement & this is simply to add the $50.00 back in. This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF NOVEMBER 16 - 30, 2011 - Sharon Bertwell, 1016 B St., Apt. 6, came forward regarding her claim. Stated she was in an accident at the library at 27th & South Street; there was a little sign above that said “This is not a walk way” but her car was parked against a cement thing & when she came out from returning a book, she fell over it & into a 3 or 4 ft. drop off; she was unconscious, crushed every bone in her left arm, was hospitalized from April 30th to August 1st, & had numerous surgeries. Believes the hospital bills are going to be tremendous & felt the City should be responsible. Rod Confer, City Attorney, came forward to state that in order to pay these types of claims, we have to make a determination first that the City is negligent in some way & that there’s not contributory negligence under our comparative negligence statutes which would be enough to bar recovery. They have reviewed Ms. Bertwell’s claim & have made the determination that there did not appear to be any negligence on the part of the City & that there was contributory negligence on the part of Ms. Bertwell. This matter was taken under advisement.

APPROVING CONTRACT DOCUMENTS BETWEEN THE CITY OF LINCOLN AND THIEN FARM MANAGEMENT, INC. FOR THE ANNUAL REQUIREMENTS FOR FARM MANAGEMENT PURSUANT TO BID NO. 11-165 FOR A FOUR-YEAR TERM WITH THE OPTION TO RENEW FOR ONE ADDITIONAL FOUR-YEAR TERM - Vince Mejer, City Purchasing Agent, came forward to answer questions. Council Member Cook inquired how much land these people manage. Mr. Mejer replied a little over 1700 acres & stated the reason we’re doing this is to consolidate everything under one manager & one person within the City will be overseeing that person. We have land in Wastewater, Water, Parks & Rec., & Urban Development that is all being farmed. This matter was taken under advisement.

RESCINDING RESOLUTION NO. A-81080 ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 10, 2001 FOR THE USE OF PUBLIC RIGHT-OF-WAY IN PEACH STREET BETWEEN SOUTH 6TH AND SOUTH 7TH STREET - Dennis Bartels, Public Works Department, came forward to state this was a use of right-of-way approved for a private nitrogen line under an existing street right-of-way. The original applicant never built it but the new owners asked that it be repealed so they didn’t have to keep the bond & insurance in place. This matter was taken under advisement.

APPLICATION OF WRK REAL ESTATE LLC TO USE THE PUBLIC RIGHT-OF-WAY AT 210 NORTH 14TH STREET FOR THE CONSTRUCTION OF A RAISED DOCK AREA FOR OUTDOOR DINING IN THE RIGHT-OF-WAY AND SIDEWALK SPACE; APPLICATION OF WRK REAL ESTATE LLC TO USE THE PUBLIC RIGHT-OF-WAY AT 301 SOUTH 9TH STREET FOR THE CONSTRUCTION OF AN ACCESSIBLE RAMP AND LANDING FOR ACCESS TO AN EXISTING ENTRANCE OR EXIT TO THE PROPERTY - Harry Kroos, Public Works-Sidewalk Dept., came forward to answer any questions & stated that Justin Berger with WRK Real Estate was also available to answer questions. Council Member Camp stated he has an amendment for each regarding the annual fee. This matter was taken under advisement.

APPROVING A PRELIMINARY ENGINEERING AND NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) SERVICES AGREEMENT BETWEEN THE CITY OF LINCOLN AND E&A CONSULTING GROUP TO PROVIDE PRELIMINARY AND FINAL DESIGN SERVICES AND ENVIRONMENTAL RE-EVALUATION SERVICES FOR THE SOUTH 56TH STREET, SHADOW PINES DRIVE TO OLD CHENEY ROAD PROJECT - Thomas Shafer, Public Works Dept., came forward to state that since this is a
Federal Aid Project, it allows the Mayor to sign a contract that the Dept. of Roads will be partially funding through the Federal Aid process.

Council Member Camp inquired of a time frame & cost.

Mr. Shafer stated they hope to have a Notice to Proceed in January to the consultant, have an open house in April in regard to the environmental document that’s going to be re-evaluated as a part of this process & let them know about the design. The project should begin sometime in the summer of 2013 but the bulk of the work would probably occur in 2014. Mr. Shafer stated that the estimate for design, right-of-way, utilities, construction & construction engineering is estimated around $7 million.

Council Member Camp inquired if that is all City funding. Mr. Shafer responded that the Federal Aid Funds that we have to use are 80% but those are assigned to us so those are our own Federal Aid Funds & will be used on this.

Mr. Camp inquired with the environmental update, if there were any problems anticipated. Mr. Shafer stated he did not anticipate any but one thing we will have to look out for is noise walls & we’ll have to do some noise studies.

Discussion followed.

Council Member Cook inquired walls are the primary method or could berms be used? Mr. Shafer stated either. Mr. Cook inquired if this was done on an individual property basis? Mr. Shafer stated he did not know, it would be whatever it took to knock the noise down to whatever level it needed to be so it’s not necessarily property by property but where the increase is. Mr. Cook inquired what the ordinance specifies in terms of medians & right-turn lanes. Mr. Shafer stated it specifies both.

This matter was taken under advisement.

APPROVING A THREE-YEAR CONTRACT BETWEEN THE CITY OF LINCOLN AND CONTINUUM EMPLOYEE ASSISTANCE TRAINING CONSULTING FOR EMPLOYEE ASSISTANCE PROGRAM SERVICES FOR A THREE-YEAR PERIOD FROM JANUARY 1, 2012 THROUGH DECEMBER 31, 2014 - Don Taute, Interim Personnel Director/Assistant City Attorney, came forward to answer any questions regarding the three-year option to renew the contract with Continuum EAP.

Council Member Camp inquired how this compares on the fees for the upcoming three years versus what we’ve been paying in the past. Mr. Taute responded they are moderately increased & they are held steady for the three years. The increase might be about $2500 per year.

Mr. Camp inquired if this is totally paid for by the City or is there a co-pay with employees. Mr. Taute stated there is no co-pay but any additional professional services that they don’t do in-house, that would all be covered under health insurance so there wouldn’t be any City cost associated with that.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE MONTHS OF AUGUST, SEPTEMBER AND OCTOBER, 2011 FROM BLACK HILLS/NEBRASKA GAS UTILITY CO., LLC - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

REPORT FROM THE CITY TREASURER OF FRANCHISE TAX FOR THE PERIOD ENDING SEPTEMBER 30, 2011 FROM TIME WARNER CABLE - CLERK presented said report which was placed on file in the Office of the City Clerk. (41-2518A)

REPORT FROM CITY TREASURER OF E911 SURCHARGE FOR JULY 2011: CHARTER FIBERLINK-NEBRASKA, LLC; 3RD QUARTER 2011: ACN COMM. SERVICES, AIRSPRING, INC., GLOBALINK, TWC DIGITAL PHONE, AUGUST 2011: 8X8, INC., ACCESSLINE COMM. CORP., ACN COMM. SERVICES, AT&T COMM. OF MIDWEST, BUDGET PREPAY, CHARTER FIBERLINK-NEBRASKA, LLC, GRANITE TELECOMM., INETWORKS GROUP, LEVEL 3 COMM., QWEST COMM., TWC DIGITAL PHONE, LLC, VONAGE AMERICA; SEPTEMBER 2011: 8X8, INC., ACCESSLINE COMM. CORP., ACN COMM. SERVICES, AT&T COMM. OF MIDWEST, BUDGET PREPAY, CHARTER FIBERLINK - NEBRASKA, LLC, GRANITE TELECOMM., INETWORKS GROUP, LEVEL 3 COMM., QWEST COMM., TWC DIGITAL PHONE, LLC, VONAGE AMERICA; OCTOBER 2011: 8X8, INC., ACN COMM. SERVICES, AT&T COMM. OF MIDWEST, BUDGET PREPAY, LEVEL 3 COMM., ACCESSLINE COMM. GROUP, GRANITE TELECOMM., INETWORKS GROUP, QWEST COMM., TWC DIGITAL PHONE, VONAGE AMERICA - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)
PETITIONS & COMMUNICATIONS

REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone No. 11045 - Requested by the Director of Planning amending Section 27.67.040 of the Lincoln Municipal Code relating to special parking requirements to delete special parking requirements for rooming and boarding houses and to revise the parking requirements for fraternities and sororities; and repealing 27.67.040 Section of the Lincoln Municipal Code as hitherto existing.

Special Permit No. 10029 - Requested by Derek Zimmerman for the authority to sell alcoholic beverages for consumption off the premises on property generally located at SW 16th Street and West O Street (1603 West O Street).

Special Permit No. 11031 - Requested by First Street Bible Church for a parking lot and a reduction of the setback to 15' along G Street and to 12' along 1st Street and to allow for a 5' radius to the alley on property generally located at 8. 1st Street and G Street.

PLACED ON FILE IN THE OFFICE OF THE CITY CLERK:

Administrative Amendment No. 11052 to Special Permit No. 1020G, BryanLGH Medical Center West, approved by the Planning Director on November 29, 2011 requested by Kent Steen to revise the layout of the New Independence Center, add a new grounds building, change the parking layout around the new buildings and add a canopy to the Activities Center on property generally located at S. 17th St. and South St.

Administrative Amendment No. 11063 to Pre-Existing Use Permit No. 34 approved by the Planning Director on December 2, 2011 requested by Clarice Loomis to add a note that states “accessory buildings need not be shown on this use permit” on property generally located at the southwest corner of W. Van Dorn St. and S. Coddington Ave.

Waiver No. 11024 to Final Plat No. 05102 approved by the Planning Director on December 2, 2011, requested by Engineering Design Consultants, LLC., for a waiver to extend the time for two years to install sidewalks and street trees for Earl Carter Addition. The improvements shall be completed by December 2, 2013. Property is generally located at SW. 14th St. and West O St.

MISCELLANEOUS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF PRINCE BROTHERS LLC DBA WAHOO’S FISH TACO FOR A CLASS I LIQUOR LICENSE AT 210 NORTH 14TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86629
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 Prince Brothers LLC dba Wahoo's Fish Taco for a Class "I" liquor license at 210 North 14th Street, 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. Intended by Jon Camp

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

MANAGER APPLICATION OF BO J. PRINCE FOR PRINCE BROTHERS LLC DBA WAHOO’S FISH TACO AT 210 NORTH 14TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86630
WHEREAS, Prince Brothers LLC dba Wahoo’s Fish Taco located at 210 North 14th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Bo J. Prince be named manager;

WHEREAS, Bo J. Prince 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 Bo J. Prince 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 Schimek & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

APPLICATION OF MEIER’S WINE INC. DBA WICK ALUMNI CENTER FOR A CLASS I LIQUOR LICENSE AT 1520 R STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86631

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 Meier’s Wine Inc. dba Wick Alumni Center for a Class “I” liquor license at 1520 R 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.

Introduced by Jon Camp

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

APPLICATION OF KALI RECORDS LLC DBA SMOOTH FOR A CLASS C LIQUOR LICENSE AT 1640 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86633

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 Kali Records LLC dba Smooth for a Class “C” liquor license at 1640 O Street, Lincoln, Nebraska, for the license period ending October 31, 2012, be approved with the condition that:

1. Pursuant to Neb. Rev. Stat. § 53-132, the previous owner and current financial backer Shane Harrington is not eligible to hold a liquor license. Shane Harrington shall have no interest, directly or indirectly, in the operation or profit of the business nor will he, or any of his employees or business entities, tend bar, make sales, serve patrons, stock shelves, write checks, sign invoices or represent himself as the owner or in any way participate in the day-to-day operations of Kali Records LLC dba Smooth in any capacity, including conducting events or marketing on the licensed premises or on behalf of Kali Records LLC dba Smooth.

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 Schimek & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.
MANAGER APPLICATION OF BRANDY L. KROESE FOR KALI RECORDS LLC DBA SMOOTH AT 1640 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86634 
WHEREAS, Kali Records LLC dba Smooth located at 1640 O Street, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Brandy L. Kroese be named manager;

WHEREAS, Brandy L. Kroese 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 Brandy L. Kroese be approved as manager of this business for said licensees. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

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

APPLICATION OF CHEDDAR’S CASUAL CAFÉ, INC. DBA CHEDDAR’S CASUAL CAFÉ FOR A CLASS I LIQUOR LICENSE AT 5424 EAST O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86635
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 Cheddar’s Casual Café, Inc. dba Cheddar’s Casual Café for a Class "I" liquor license at 5424 East O Street, 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, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

MANAGER APPLICATION OF STEVE G. CAMPBELL FOR CHEDDAR’S CASUAL CAFÉ, INC. DBA CHEDDAR’S CASUAL CAFÉ AT 5424 EAST O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86636
WHEREAS, Cheddar’s Casual Café, Inc. dba Cheddar’s Casual Café located at 5424 East O Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Steve G. Campbell be named manager;

WHEREAS, Steve G. Campbell 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 Steve G. Campbell be approved as manager of this business for said licensees. 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, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

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

CHANGE OF ZONE 11039 - APPLICATION OF GRANDMOTHER’S, INC. AND PRAIRIE LIFE LIMITED PARTNERSHIP FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL DISTRICT AND O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 70TH STREET AND A STREET - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln 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.
BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING AMENDING TABLE 1A OF SECTION 20.08.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO CREATING A BUSINESS IMPROVEMENT DISTRICT FOR THE MAINTENANCE, REPAIR AND RECONSTRUCTION OF CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS WITHIN THE AREA GENERALLY LOCATED ALONG SOUTH 48TH STREET BETWEEN CALVERT STREET AND PIONEERS BOULEVARD; and repealing Section 20.08.090 of the Lincoln Municipal Code relating to Building Code Permit Fees to include the $50.00 base fee applied to every commercial project regardless of the valuation of construction; and providing maximum limits upon such assessments, the second time.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY AND DAS/STATE BUILDING DIVISION ON BEHALF OF NEBRASKA DEPARTMENT OF EDUCATION, VOCATIONAL REHABILITATION SERVICES, AT THE ONE STOP CAREER CENTER AT 1010 N STREET FOR PROVIDING JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT FOR A TERM OF JANUARY 1, 2012 THROUGH DECEMBER 31, 2015 - CLERK read an ordinance, introduced by Jon Camp, creating a business improvement district under the authority of the Business Improvement District Act (Neb.Rev.Stat. § 19-4015 et seq.) to be known as the College View Business Improvement District for the purpose of providing specified maintenance, repair and reconstruction of certain public facilities and improvements within the area of South 48th Street between Calvert Street and Pioneers Boulevard; providing for special assessments to be imposed within the district based upon the benefits conferred; and providing maximum limits upon such assessments, the second time.

CREATING A BUSINESS IMPROVEMENT DISTRICT FOR THE MAINTENANCE, REPAIR AND RECONSTRUCTION OF CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS WITHIN THE AREA GENERALLY LOCATED ALONG SOUTH 48TH STREET BETWEEN CALVERT STREET AND PIONEERS BOULEVARD AND PROVIDING FOR SPECIAL ASSESSMENTS TO BE IMPOSED WITHIN THE DISTRICT - CLERK read an ordinance, introduced by Jon Camp, creating a business improvement district under the authority of the Business Improvement District Act (Neb.Rev.Stat. § 19-4015 et seq.) to be known as the College View Business Improvement District for the purpose of providing specified maintenance, repair and reconstruction of certain public facilities and improvements within the area of South 48th Street between Calvert Street and Pioneers Boulevard; providing for special assessments to be imposed within the district based upon the benefits conferred; and providing maximum limits upon such assessments, the second time.

AMENDING TABLE 1A OF SECTION 20.08.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO BUILDING CODE PERMIT FEES TO INCLUDE THE $50.00 BASE FEE APPLIED TO EVERY COMMERCIAL PROJECT REGARDLESS OF THE VALUATION OF CONSTRUCTION - CLERK read an ordinance, introduced by Jon Camp, amending Table 1A of Section 20.08.090 of the Lincoln Code relating to Building Code Permit Fees to include the $50.00 base fee applied to every commercial project regardless of the valuation of construction; and repealing Section 20.08.090 of the Lincoln Municipal Code as hitherto existing, 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 NOVEMBER 16 - 30, 2011 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86627 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 December 1, 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:

DENIED CLAIMS

Sharon Lee Bertwell  NAS* $ 200.00
Michael Hartwell $247.88

ALLOWED/SETTLED CLAIMS

Brandon Smith Lincoln Housing Authority $ 1,688.88
Laila Alkequeani 500.00
Mary Ann Randall 250.00

* No Amount Specified

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

Page 637
APPROVING CONTRACT DOCUMENTS BETWEEN THE CITY OF LINCOLN AND THIEN FARM MANAGEMENT, INC. FOR THE ANNUAL REQUIREMENTS FOR FARM MANAGEMENT PURSUANT TO BID NO. 11-165 FOR A FOUR-YEAR TERM WITH THE OPTION TO RENEW FOR ONE ADDITIONAL FOUR-YEAR TERM - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

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

That the attached Contact Agreement between the City of Lincoln and Thien Farm Management, Inc. for the annual requirements for Farm Manager, pursuant to Bid No. 11-165, for a four-year term with the option to renew for one additional four-year term, upon the terms as set forth in said Contract 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 Eskridge & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

RESCINDING RESOLUTION NO. A-81080 ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 10, 2001 FOR THE USE OF PUBLIC RIGHT-OF-WAY IN PEACH STREET BETWEEN SOUTH 6TH AND SOUTH 7TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A RESOLUTION to repeal Resolution No. A-81080 adopted by the City Council on September 10, 2001 and approved by Mayor Don Wesely on September 13, 2001, relating to the application of a permit to use the public right-of-way in Peach Street between South 6th and South 7th Street.

WHEREAS, the application of MDS Pharma Services for a permit to use the public right-of-way in Peach Street between South 6th Street and South 7th Street for the installation of a nitrogen line to connect a tank at 621 Peach Street to the MDS Pharma Services main building was approved by Resolution No. A-81080 on September 10, 2001; and

WHEREAS, the nitrogen line was not installed in the right-of-way and the applicant has failed to use the space for which the permit was granted; and

WHEREAS, Celerion, the current owner of 621 Peach Street and the main building at 621 Rose Street, has requested that Resolution No. A-81080 be repealed as it does not intend to use the right-of-way for the installation of any connection and would like to terminate the bond for occupier of public space and certificate of liability insurance as required by Chapter 14.54 of the Lincoln Municipal Code for a permit for the use of public space; and

WHEREAS, the City Council has reviewed the application and finds that the request of the applicant to repeal the Resolution No. A-81080 for a permit to use the public space as outlined above should be allowed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that Resolution No. A-8108073 is hereby repealed.

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

APPLICATION OF WRK REAL ESTATE LLC TO USE THE PUBLIC RIGHT-OF-WAY AT 210 NORTH 14TH STREET FOR THE CONSTRUCTION OF A RAISED DOCK AREA FOR OUTDOOR DINING IN THE RIGHT-OF-WAY AND SIDEWALK SPACE - PRIOR to reading:

CAMP Moved MTA #2 to amend Bill No. 11R-296 in the following manner:

(1) On page 1, lines 21 and 22, delete the phrase "of $79.00 (158 square feet @ $.50 per square foot)" and insert in lieu thereof the following: “for rent as set forth in Section 14.54.090 and as may be amended from time to time.”.
(2) On page 1, line 22, add the following language before the period at the end of the sentence: "and this privilege shall be contingent upon issuance of a sidewalk café permit by the City Clerk pursuant to Chapter 14.50 of the Lincoln Municipal Code".

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

CLERK

Read the following resolution, introduced by Jon Camp, who moved its adoption as amended:

A-86640

WHEREAS, WRK Real Estate, LLC has submitted an application for a permit to use approximately 158 square feet of public right-of-way on the west side of the property at 210 North 14th Street for construction of a raised dock area for outdoor dining in the right-of-way and sidewalk space; and

WHEREAS, said applicant has submitted a letter of application and a site plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this resolution by reference, to use the public right-of-way as above described; and

WHEREAS, said applicant has complied with all of the provisions of Chapter 14.54 of the Lincoln Municipal Code pertaining to such use.

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

That the application aforesaid of WRK Real Estate, LLC to use approximately 158 square feet of public right-of-way on the west side of the building at 210 North 14th Street for the purpose of constructing a raised dock area for outdoor dining, be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and the following terms and conditions:

1. That the permission herein granted is granted as a privilege only, and is subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including those provisions relating to the posting of a continuing bond in the amount of $5,000, the filing of a certificate of insurance with a minimum combined single limit of $500,000.00 aggregate for any one occurrence, and the payment of the annual fee of $79.00 (158 square feet @ $0.50 per square foot) for rent as set forth in Section 14.54.090 and as may be amended from time to time, for the use of the surface of the public right-of-way, and this privilege shall be contingent upon issuance of a sidewalk café permit by the City Clerk pursuant to Chapter 14.50 of the Lincoln Municipal Code.

2. That said use shall be in full accordance with the aforesaid application, the site plan filed therewith, and with all applicable City ordinances and regulations.

3. The applicant, its heirs, successors or assigns shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the public way requested herein.

4. The applicant shall require its contractor to contact Diggers Hotline of Nebraska prior to commencing construction activities.

5. All work done under the authority of this resolution shall be subject to the inspection and approval of the Director of Public Works of the City of Lincoln.

6. The use of the public way herein granted and the terms and conditions of this resolution shall be binding and obligatory upon the above-named applicant, its successors and assigns.

7. Within thirty (30) days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named applicant shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon automatically terminate.

8. The City Clerk is directed to deliver a copy of this resolution to the City Treasurer for setting up an account for collection of the applicant’s annual fee.

Introduced by Jon Camp

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

APPLICATION OF WRK REAL ESTATE LLC TO USE THE PUBLIC RIGHT-OF-WAY AT 301 SOUTH 9TH STREET FOR THE CONSTRUCTION OF AN ACCESSIBLE RAMP AND LANDING FOR ACCESS TO AN EXISTING ENTRANCE OR EXIT TO THE PROPERTY - PRIOR to reading:

CAMP Moved MTA #1 to amend Bill No. 11R-297 in the following manner:

WHEREAS, WRK Real Estate, LLC has submitted an application for a permit to use approximately 105 square feet of public right-of-way at 301 South 9th Street for the purpose of constructing an ADA accessible ramp and landing, be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and all terms and conditions of this resolution, with all applicable City ordinances and regulations.

2. That said use shall be in full accordance with the aforesaid site plan, the site plan filed therewith, and with all applicable City ordinances and regulations.

3. That applicant, its heirs, successors or assigns shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the public way requested herein.

4. The applicant shall require its contractor to contact Diggers Hotline of Nebraska prior to commencing construction activities.

5. All work done under the authority of this resolution shall be subject to the inspection and approval of the Director of Public Works of the City of Lincoln.

6. The use of the public way herein granted and the terms and conditions of this resolution shall be binding and obligatory upon the above-named applicant, its successors and assigns.

7. Within thirty (30) days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named applicant shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon automatically terminate.

8. The City Clerk is directed to deliver a copy of this resolution to the City Treasurer for setting up an account for collection of the applicant's annual fee.

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

APPROVING A PRELIMINARY ENGINEERING AND NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) SERVICES AGREEMENT BETWEEN THE CITY OF LINCOLN AND E&A CONSULTING GROUP, INC. TO PROVIDE PRELIMINARY AND FINAL DESIGN SERVICES AND ENVIRONMENTAL RE-EVALUATION SERVICES FOR THE SOUTH 56TH STREET, SHADOW PINES DRIVE TO OLD CHENEY ROAD PROJECT - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86642

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

That the attached Preliminary Engineering and National Environmental Policy Act (NEPA) Services Agreement between the City of Lincoln and E&A Consulting Group, Inc. to provide preliminary and final design services and environmental re-evaluation services for the South 56th Street, Shadow Pines Drive to Old Cheney Road project and to City 2013/14 Regional Transportation Funds, Project No. LCLC-5241(5), in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to Kris Humphrey, Engineering Services Division of the Department of Public Works & Utilities, for transmittal and execution by the Nebraska Department of Roads.

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

APPROVING A THREE-YEAR CONTRACT BETWEEN THE CITY OF LINCOLN AND CONTINUUM EMPLOYEE ASSISTANCE TRAINING CONSULTING FOR EMPLOYEE ASSISTANCE PROGRAM SERVICES FOR A THREE-YEAR PERIOD FROM JANUARY 1, 2012 THROUGH DECEMBER 31, 2014 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86643

WHEREAS, there are employees working for the City of Lincoln who may, from time to time, experience problems which affect job performance; and
WHEREAS, Continuum Employee Assistance has established programs of assessment and referral in areas such as alcohol abuse, family, marital, emotional, financial, and legal concerns; and

WHEREAS, it is in the best interest of the employees of the City of Lincoln to have available to them the program of assisting and rehabilitating those employees who may have personal problems affecting job performance.

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

That the attached contract by and between the City of Lincoln and Continuum Employee Assistance, pursuant to the terms and conditions of the contract, shall be $69,300 for 2012, $69,300 for 2013, and $69,300 for 2014, all as set forth in the contract between the parties. The fee for HelpNet Services shall be $3.00 per employee per year based on the employee count at the start of each year. The fee for 2012 is $5,964.00

BE IT FURTHER RESOLVED that the fees for the services provided by Continuum Employee Assistance, pursuant to the terms and conditions of the contract, shall be $69,300 for 2012, $69,300 for 2013, and $69,300 for 2014, all as set forth in the contract between the parties. The fee for HelpNet Services shall be $3.00 per employee per year based on the employee count at the start of each year. The fee for 2012 is $5,964.00

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

ORDINANCES - 1st READING & RELATED RESOLUTIONS (as required)

APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN TRAP AND SKEET CLUB FOR A PORTION OF BOOSALIS PARK LOCATED AT NORTH 44TH STREET AND SUPERIOR STREET TO BE USED AS A PUBLIC SPORTING CLAYS RANGE FOR A 15 YEAR TERM - CLERK read an ordinance, introduced by Jonathan Cook, accepting & approving a Lease Agreement between the City of Lincoln, Nebraska and Lincoln Trap & Skeet Club for the lease of a portion of Boosalis Park located at North 44th Street & Superior Street to be used as a public Sporting Clays Range for a 15 year term, the first time.

COMP. PLAN AMENDMENT NO. 11007 - APPLICATION OF THE PLANNING DIRECTOR ON BEHALF OF NEBCO, INC. TO AMEND THE 2040 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN FROM URBAN RESIDENTIAL TO COMMERCIAL ON PROPERTY GENERALLY LOCATED AT HIGHWAY 34 AND FALLBROOK BOULEVARD. (RELATED ITEMS: 11R-306, 11-187, 11-188) (ACTION DATE: 1/9/12)

ANNEXATION NO. 11003 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 10 ACRES GENERALLY LOCATED AT FALLBROOK BOULEVARD AND TALLGRASS PARKWAY. (RELATED ITEMS: 11R-306, 11-187, 11-188) (ACTION DATE: 1/9/12) - CLERK read an ordinance, introduced by Jonathan Cook, annexing & include the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to & made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established & shown thereon, the first time.

CHANGE OF ZONE NO. 05085A - APPLICATION OF NEBCO, INC. TO AMEND THE FALLBROOK PLANNED UNIT DEVELOPMENT TO EXPAND THE PUD AND CHANGE THE ZONING FROM AG AGRICULTURAL DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT PUD, ON PROPERTY GENERALLY LOCATED AT FALLBROOK BOULEVARD AND HIGHWAY 34; FOR A PLANNED UNIT DEVELOPMENT
DESIGNATION OF SAID PROPERTY; AND FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES WAIVERS AND MODIFICATIONS TO THE ZONING AND LAND SUBDIVISION ORDINANCE TO ALLOW APPROXIMATELY 220,000 SQUARE FEET OF ADDITIONAL COMMERCIAL FLOOR AREA, ON THE UNDERLYING B-2 ZONED AREA, FOR A TOTAL OF APPROXIMATELY 900,000 SQUARE FEET OF COMMERCIAL FLOOR AREA IN THE ENTIRE PUD. (RELATED ITEMS: 11R-306, 11-187, 11-188) (ACTION DATE: 1/9/12) - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to & made a part of Title 27 of the Lincoln Municipal Code, by changing the boundaries of the districts established & shown thereon, the first time.

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

ACCEPTING AND APPROVING THE SECOND AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND LANCASTER COUNTY SCHOOL DISTRICT NO. 001 TO EXTEND THE TERM FOR THE LEASE OF OFFICE SPACE IN THE BUILDING LOCATED AT 949 WEST BOND STREET - CLERK read an ordinance, introduced by Adam Hornung, accepting and approving the Second Amendment to Lease Agreement between the City of Lincoln, Nebraska and Lancaster County School District No. 001 to extend the term for the lease of office space in the building located at 949 West Bond Street to Lincoln Public Schools until August 31, 2013 with options to renew for two additional three month terms, the third time.

HORNUNG Moved to pass the ordinance as read. Seconded by Eskridge & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

CAMP Moved MTA #1 to amend Bill No. 11-176 in the following manner:
1. On page 28, line 10, between the words “The maximum” insert the word “recommended”.
2. On page 28, line 11, delete the word “shall” and insert in lieu thereof the word “should”.
3. On page 28, line 12, delete the word “shall” and insert in lieu thereof the word “should”.
4. On page 28, lines 13 and 14, delete the sentence “This does not apply to single family dwellings”.

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

ESKRIDGE Moved to pass the ordinance as read. Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

EMERY Moved MTA #1 to amend Bill No. 11-177 in the following manner:
(a) On page 8, delete lines 24 through 27 in their entirety.
On page 9, delete lines 1 through 5 in their entirety.
Renumber Sections 15 and 16 as Sections 14 and 15, respectively.

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

CLERK


ESKRIDGE

Moved to pass the ordinance as amended.
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

The ordinance, being numbered #19659, is recorded in Ordinance Book #27, Page 7.

AMENDING CHAPTER 25.04 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN MECHANICAL CODE TO ADOPT THE 2009 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC), WITH AMENDMENTS, ADDITIONS AND DELETIONS THERETO (11/21/11 - Con't. 2nd Reading/P.H. to 12/5/11 w/Action on 12/12/11) - CLERK read an ordinance, introduced by Carl Eskridge, amending Chapter 25.04 of the Lincoln Municipal Code, the Lincoln Mechanical Code to adopt the 2009 edition of the International Mechanical Code (IMC), with amendments, additions and deletions thereto, the third time.

ESKRIDGE

Moved to pass the ordinance as amended.
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

The ordinance, being numbered #19660, is recorded in Ordinance Book #27, Page 7.

RESOLUTIONS - ACTION ONLY

ADOPTING THE LES RATE SCHEDULES PROVIDING FOR A SYSTEM AVERAGE RATE INCREASE OF 3.5%, EFFECTIVE JANUARY 1, 2012. (ACTION DATE: 12/5/11 - ACTION DELAYED 1 WEEK TO 12/12/11) - PRIOR to reading:

EMERY

Moved to amend Bill No. 11R-285 to reduce the rate schedule to offset a $2 million reduction in the budget.
Seconded by Hornung & LOST by the following vote: AYES: Camp, Emery, Hornung; NAYS: Carroll, Cook, Eskridge, Schimek.

COOK

Moved MTA #1 to amend Bill No. 11R-285 in the following manner:
1. On page 1, line 1, delete "and service regulations".
2. On page 1, line 8, delete "Service Regulations and Cost Analysis Summary".
3. On page 2, line 1, after the words "Rate Schedules, insert a closed quotation mark (".
Seconded by Schimek & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

CLERK

Read the following resolution, introduced by Carl Eskridge, who moved its adoption as amended:

WHEREAS, rat schedules and service regulations for the use and services of Lincoln Electric System of the City of Lincoln, including the electric energy sold, furnished or supplied by said City of Lincoln, Nebraska, have been established by resolution from time to time, the last one being Resolution No. A-86163, adopted by the City Council on December 13, 2010 and approved by the Mayor on December 16, 2010; and
WHEREAS, the Administrative Board of the Lincoln Electric System has recommended to the City Council of the City of Lincoln, Nebraska, that the document entitled, “Rate Schedules, Service Regulations and Cost Analysis Summary”, for rates effective January 1, 2012, which is attached hereto and fully incorporated herein, be adopted for the use of Lincoln Electric System and the provision of services to ratepayers in the service area of Lincoln Electric System; and
WHEREAS, the rate recommendation demonstrating the justification for a system average increase of 3.5% to be effective January 1, 2012 complies with the City of Lincoln’s Bond Ordinance for Lincoln Electric System regarding rates; and
WHEREAS, it is evident to the City Council of the City of Lincoln, Nebraska, that the justification for said rates and charges has been demonstrated and therefore said rates should be adopted.
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That effective January 1, 2012, the attached "Rate Schedules" for rates effective January 1, 2012, for the use of Lincoln Electric System and for the provision of services to ratepayers in the service area of Lincoln Electric System is hereby established and adopted;

BE IT FURTHER RESOLVED that LES is authorized to utilize the Accounting Standards Codification (ASC) 980 procedure to defer $2.1 million wind interconnection costs and recover the costs through future LES rates, amortizing the costs over 20 years;

BE IT FURTHER RESOLVED that LES is authorized to utilize the ASC procedure to recover through future rates any costs due to periodic reconciliations of monies collected from the City Dividend for Utility Ownership that are necessary to meet the specified payment obligation to the City of Lincoln;

BE IT FURTHER RESOLVED that Resolution No. A-86163, adopted on December 13, 2010, is hereby superseded by this Resolution effective January 1, 2012.

Introduced by Carl Eskridge

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

ADOPTING THE LINCOLN ELECTRIC SYSTEM ANNUAL BUDGET FOR 2012, TO BECOME EFFECTIVE JANUARY 1, 2012. (ACTION DATE: 12/5/11) (REQUEST TO DELAY ACTION 1 WEEK TO 12/12/11) (12/5/11 - ACTION DELAYED 1 WEEK TO 12/12/11) - PRIOR to reading:

COOK Moved MTA #1 to amend Bill No. 11R-286 in the following manner:

1. On page 1, line 2, delete "2011" and insert in lieu thereof 2012.

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

** BEGIN VERBATIM TRANSCRIPT **

SCHIMEK Your mentioning the large rate payers, I really want to mention the small rate payers. One of the reasons that I liked the kinds of things that Adam said was in that’s been my concern too because the people who are on the lower ends of the economic ladder are having problems dealing with all of these kinds of hits. So, I would personally like to see some discussion as to what could be done...what more could be done not only for the low-income people but for people who are just simply struggling. And I think that LES is also willing to have those kinds of discussions. So, I wanted to interject that into the record.

** END VERBATIM TRANSCRIPT **

CLERK Read the following resolution, introduced by Carl Eskridge, who moved its adoption as amended:

A-86645

WHEREAS, under the provisions of Section 4.24.090 of the Lincoln Municipal Code, a proposed annual budget for the operation of the Lincoln Electric System (LES) for 2011 was approved by the LES Administrative Board at a special Board meeting on November 3, 2011; and

WHEREAS, pursuant to the above-cited code section, a public hearing on the proposed budget was held on October 25, 2011, notice thereof having been published in one issue of the Lincoln Journal Star newspaper published and of general circulation in the City more than five (5) days before such hearing.

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

1. That pursuant to the provisions of Section 4.24.090 of the Lincoln Municipal Code, the Lincoln Electric System Annual Budget for the fiscal year beginning January 1, 2012, is hereby adopted, and all funds listed therein are hereby appropriated for the several purposes therein stated.

2. That all money received and any of the aforesaid funds in excess of the estimated balances and receipts set forth in said budget shall be credited to the unappropriated surplus of such funds.

3. That all monies received and set apart for the operation and maintenance of the Lincoln Electric System and all monies received from any source that are required to be applied to the costs of said operation and maintenance, shall be deposited in the appropriate operation and maintenance account, and paid out upon the order of those persons designated by the LES Administrative Board.

4. That LES is authorized to utilize the Accounting Standards Codification (ASC) 980 procedure to defer $2.1 million wind interconnection costs and recover the costs through future LES rates, amortizing the costs over 20 years.

5. That LES is authorized to utilize the ASC procedure to recover through future rates any costs due to periodic reconciliations of monies collected from the City dividend for Utility Ownership that are necessary to meet the specified payment obligation to the City of Lincoln.
6. That by adoption of the Capital Improvements Budget, the City Council hereby authorizes the acquisition of all necessary right-of-way, easements, or other interests in land, by purchase if possible, by condemnation if necessary, for those projects included within the Capital Improvements Budget.

7. That, to the extent capital improvements for facilities of LES are made from LES revenue and other funds, it is intended that the amount of such expenditures, which is not reasonably expected to exceed $95 million shall be reimbursable to the LES revenue and other funds through the issuance of future electric system revenue bonds, there being no funds of LES or the City reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to such expenditures, other than pursuant to the issuance of such electric system revenue bonds, this Resolution being determined to be consistent with the budgetary and financial circumstances of LES and the City as they exist or are reasonably foreseeable on the date hereof.

8. There is hereby appropriated all money received from any source as grants or donations received for public purposes.

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

OPEN MICROPHONE - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to December 19, 2011.
   Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on December 19, 2011.
   Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

ADJOURNMENT 4:45 P.M.

CAMP Moved to adjourn the City Council meeting of December 12, 2011.
   Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant