

THE MINUTES OF THE CITY COUNCIL MEETING HELD  
MONDAY, JANUARY 9, 2012 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

HORNUNG Having been appointed to read the minutes of the City Council proceedings of December 19, 2011 reported having done so, found same correct.

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

PUBLIC HEARING

APPROVING THE APPOINTMENT OF MIKI ESPOSITO AS DIRECTOR OF THE PUBLIC WORKS AND UTILITIES DEPARTMENT EFFECTIVE DECEMBER 12, 2011 - Miki Esposito, Interim Director of Public Works & Utilities, came forward. Council requested she tell them a little bit about herself. She stated that she is an attorney by trade, started at the Nebraska Dept. of Environmental Quality before coming to the City in 2006, worked in the Law Dept. working on Public Works issues, briefly worked for the Mayor's office, moved over to the Compliance Administrator position within Public Works, & was appointed interim Director.

This matter was taken under advisement.

REAPPOINTING DAN HARSHMAN, W. DON NELSON AND MATT MCNAIR TO THE LINCOLN ELECTRIC SYSTEM ADMINISTRATIVE BOARD FOR THREE-YEAR TERMS EXPIRING DECEMBER 31, 2014 - Don Nelson, 2430 S. Canterbury Ln. came forward to state that if reappointed he'd spend 2012 redoubling his efforts to try to get the process more transparent, interactive & started earlier so we can have less debates at the last minute as to budgets & rates.

Council Member Camp stated that he's served with Mr. Nelson on the District Energy Corporation & he does bring some excellent credentials. Stated he would like to see the LES Board talk a little more prospectably on some of the economics & weighing the future course of things & how best to use the resources we have.

This matter was taken under advisement.

APPLICATION OF P.R. VENTURES LLC DBA NEBRASKA CHAMPIONS CLUB FOR A CLASS CK LIQUOR LICENSE AT 707 STADIUM DRIVE;

MANAGER APPLICATION OF CHAD W. CARLSON FOR P.R. VENTURES LLC DBA NEBRASKA CHAMPIONS CLUB AT 707 STADIUM DRIVE - Chad Carlson, 6235 Havelock Ave., came forward as the applicant to take oath & answer questions.

Council Member Camp inquired if Misty's would be the only food caterer.

Mr. Carlson responded there are multiple food caterers but that they would be the permanent liquor license holder.

This matter was taken under advisement.

APPLICATION OF BSR INC. DBA THE OFFICE FOR A CLASS C LIQUOR LICENSE AT 640 WEST PROSPECTOR, #200;

MANAGER APPLICATION OF ROGER WESTERHOLD FOR BSR INC. DBA THE OFFICE AT 640 WEST PROSPECTOR, #200 - Michael Rierden, 645 M St., Suite 200, came forward as the attorney representing the applicant to take oath & answer questions.

Roger Westerhold, 2104 S. 9<sup>th</sup> St., #115, applicant, came forward to take oath & answer questions.

This matter was taken under advisement.

APPLICATION OF ZRC OPERATIONS COMPANY DBA QDOBA MEXICAN GRILL FOR A CLASS A LIQUOR LICENSE AT 211 NORTH 11TH STREET;

MANAGER APPLICATION OF HEATHER HAMPTON FOR ZRC OPERATIONS COMPANY DBA QDOBA MEXICAN GRILL AT 211 NORTH 12TH STREET - Heather Hampton, 211 N. 12<sup>th</sup> St., came forward as the applicant to take oath & answer questions. Stated she has not taken the server training but will be doing so this Thursday

Council Member Camp asked for clarification of their address.

Ms. Hampton stated the actual address is 211 N. 12<sup>th</sup> St.

This matter was taken under advisement.

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A COMMUNITY DEVELOPMENT REVENUE NOTE, (10TH AND MILITARY CREEKSIDE VILLAGE PROJECT) IN A TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$800,000.00. (REQUEST 2<sup>ND</sup>, 3<sup>RD</sup> READINGS ON 1/9/12) - Loren Wismer, Gilmore & Bell, 1248 O St., Suite 710, Bond Counsel for the City, came forward & passed out a Substitute Ordinance.

Tom Huston, Cline Williams Law Firm, 233 S. 13<sup>th</sup> St., Suite 1900, came forward representing Creekside Village Ltd. The Council approved a redevelopment agreement with Creekside Village back in April, 2009 which was

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completed this past fall. We're trying to put the permanent financing together. Gave a brief overview of the project. They have 71 units of affordable housing back on the tax rolls.

Council Chair Carroll asked for the reason for the request to have 2<sup>nd</sup> & 3<sup>rd</sup> Readings on this date.

Mr. Huston replied the request was primarily because of the vacation schedule of the Council's. If he has to wait another 2 weeks to get the permanent financing in place, it will cost more money.

Mr. Wismer stated after they'd submitted the original ordinance, they realized the dollar amount was incorrect. It should be increased from \$720,700.00 to \$785,000.00. The only change has been to the principal amount.

Council Member Camp asked for an explanation of the change in dollar amount.

Mr. Huston stated that when they originally did their projections, they were assuming a certain percentage rate & interest rates are better now so the present value calculations of that income stream yielded a higher amount based upon the same incremental value. That is the only difference.

Fred Hoppe, no address given, came forward & stated he was the General Partner of this project. He requested Council approve the 2<sup>nd</sup> & 3<sup>rd</sup> Readings today. The construction interest is fairly significant & they could save a significant amount if this could be passed.

This matter was taken under advisement.

APPROVING A REAL ESTATE PURCHASE AGREEMENT AND LEASE AGREEMENT BETWEEN THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION ON BEHALF OF THE CITY OF LINCOLN AND LANCASTER COUNTY & ALFRED BENESCH & COMPANY FOR THE PURCHASE AND LEASE BACK OF PROPERTY LOCATED AT 825 J STREET. **(REQUEST TO CONTINUE P.H. TO 1/30/12)** - Council Member Cook stated he would support the request to continue the Public Hearing to Jan. 30<sup>th</sup> due to the fact that there is an interest by the other bodies in getting us more information.

Council Chair Carroll stated the County Board would have their meeting on the 24<sup>th</sup> & vote that same day.

This matter was taken under advisement.

APPROVING JJ'S BAR & GRILL AS A KENO SATELLITE SITE AT 2310 NORTH 1ST STREET, SUITE 7-9 - Katrina Coffey, Vice President of Marketing for Big Red Keno, 11248 John Galt Blvd., Omaha, came forward in support of this application.

This matter was taken under advisement.

APPROVING A CONSTRUCTION ENGINEERING AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO ALLOW THE USE OF FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION ENGINEERING SERVICES FOR THE LINCOLN DOWNTOWN STREET RESURFACING PROJECT. CITY PROJECT NO. 540021. STATE PROJECT NO. LCLC-5230(2), CN 13140.

APPROVING A CONSTRUCTION ENGINEERING AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO ALLOW THE USE OF FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION ENGINEERING SERVICES FOR THE LINCOLN CITYWIDE STREET MICRO-SURFACING PROJECT. CITY PROJECT NO. 540024. STATE PROJECT NO. LCLC-5249(7), CN 13139 - Thomas Schaefer, Public Works, came forward to explain this would allow Mayor to sign a contract allowing the City to be reimbursed for their construction engineering activities that will occur on these two projects. The two bike lanes on 11<sup>th</sup> & 14<sup>th</sup> will be restriped as a part of this project.

This matter was taken under advisement.

## **COUNCIL ACTION**

### **REPORTS OF CITY OFFICERS**

APPROVING THE APPOINTMENT OF MIKI ESPOSITO AS DIRECTOR OF THE PUBLIC WORKS AND UTILITIES DEPARTMENT EFFECTIVE DECEMBER 12, 2011 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86657 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the appointment of Miki Esposito to the position of Director of the Public Works and Utilities Department effective December 12, 2011 is hereby approved.

Introduced by Doug Emery

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

REAPPOINTING DAN HARSHMAN, W. DON NELSON AND MATT MCNAIR TO THE LINCOLN ELECTRIC SYSTEM ADMINISTRATIVE BOARD FOR THREE-YEAR TERMS EXPIRING DECEMBER 31, 2014 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86658 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the reappointment of Dan Harshman, W. Don Nelson and Matt McNair to the Lincoln Electric System Administrative Board for three-year terms expiring December 31, 2014 is hereby approved.

Introduced by Doug Emery

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

REAPPOINTING STEVE MASTERS TO THE DISTRICT ENERGY CORPORATION FOR A TWO-YEAR TERM EXPIRING DECEMBER 31, 2013 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86659 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the reappointment of Steve Masters to the District Energy Corporation for a two-year term expiring December 31, 2013 is hereby approved.

Introduced by Doug Emery

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

RESOLUTION ASSESSING THE COSTS FOR CONSTRUCTION OF WATER DISTRICT NO. 1201 LOCATED IN 84TH STREET FROM HIGHWAY 6 TO FLETCHER AVENUE - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86672 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the cost of the improvements in Water District No. 1201 including the following streets and alleys and real estate to wit:

84th Street, Highway 6 to Fletcher Avenue

and costs incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of Water District No. 1201", and made a part hereof; that the cost of said improvements is the sum of \$153,521.54; that the property set forth in the proposed Distribution of Assessment is specially benefitted more than the cost of said improvements; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said improvements: that the cost of said improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of Water District No. 1201

BE IT FURTHER RESOLVED that the City Clerk be and is hereby directed to record this resolution in the minutes of the City Council with the vote thereon by yeas and nays.

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 23<sup>rd</sup> day of January, 2012, at 3:00 P.M., with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Carl Eskridge

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

RESOLUTION ASSESSING THE COSTS FOR CONSTRUCTION OF SEWER DISTRICT 1185 LOCATED IN 84TH STREET, HIGHWAY 6 TO APPROXIMATELY 430 FEET SOUTH OF FLETCHER AVENUE - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86673 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the cost of the improvements in Sanitary Sewer District No. 1185 including the following streets and alleys and real estate to wit:

84th Street, Highway 6 to approximately 430-feet south of Fletcher Avenue

and costs incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of Sanitary Sewer District No. 1185", and made a part hereof; that the cost of said improvements is the sum of \$132,151.44; that the property set forth in the proposed Distribution of Assessment is specially benefitted more than the cost of said improvements; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said improvements: that the cost of said improvements is hereby apportioned and assessed upon the several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of Sanitary Sewer District No. 1185.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby directed to record this resolution in the minutes of the City Council with the vote thereon by yeas and nays.

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 23<sup>rd</sup> day of January, 2012, at 3:30 P.M. with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Carl Eskridge

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

RESOLUTION ASSESSING THE COSTS FOR CONSTRUCTION OF ALLEY RE-PAVING DISTRICT 49 LOCATED IN THE EAST/WEST ALLEY 10TH TO 11TH STREETS, G TO H STREETS - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86674 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the cost of the improvements in Alley Re-paving District No. 49 including the following streets and alleys and real estate to wit:

East West Alley from 10<sup>th</sup> to 11<sup>th</sup> Street, "G" to "H" Street

and costs incidental thereto, be and the same is hereby assessed upon the property in said district described in the proposed Distribution of Assessment attached to this resolution, marked "Proposed Distribution of Assessment of Alley Re-paving District No. 49", and made a part hereof; that the cost of said improvements is the sum of \$54,108.78; that the property set forth in the proposed Distribution of Assessment is specially benefitted more than the cost of said improvements; that each piece and parcel of property described is specially benefitted in the amount set forth therein, and no property is taxed more than the special benefits accruing thereto by reason of said improvements: that the cost of said improvements is hereby apportioned and assessed upon the

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several pieces and parcels of property in said district in the manner and amount set forth in the proposed Distribution of Assessment of Alley Re-paving District No. 49

BE IT FURTHER RESOLVED that the City Clerk be and is hereby directed to record this resolution in the minutes of the City Council with the vote thereon by yeas and nays.

AND BE IT FURTHER RESOLVED that the City Council sit as Board of Equalization for the purpose of equalizing said assessments on the 23<sup>rd</sup> day of January, 2012 at 3:00 P.M. with adjournments from day to day until the work of equalizing said assessments shall be completed.

Introduced by Carl Eskridge

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

AFFIDAVIT OF MAILING FOR PUBLIC WORKS BOARD OF EQUALIZATION TO BE HELD ON JANUARY 23, 2012, AT 3:00 P.M. FOR WATER DISTRICT NO. 1201, SEWER DISTRICT 1185 AND ALLEY RE-PAVING DISTRICT 49 - CLERK presented said report which was placed on file in the Office of the City Clerk.

RESOLUTION SETTING THE HEARING DATE OF MONDAY, JANUARY 30, 2012, AT 5:30 P.M. OR AS SOON THEREAFTER AS POSSIBLE ON THE ASSESSMENT OF CLEAN UP COSTS INCURRED BY THE CITY OF LINCOLN ON PROPERTY LOCATED AT 2304 SOUTH 24TH STREET - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86660

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

That a public hearing date of Monday, January 30, 2012, 5:30 p.m. or as soon thereafter as possible is hereby set on the assessment of clean-up costs incurred by the City of Lincoln on property located at 2304 South 24<sup>th</sup> Street and legally described as Sheridan Place, Block 6, Lot 14, and North Half of vacated East/West alley adjacent, Lincoln, Lancaster County, Nebraska.

Introduced by Carl Eskridge

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

LINCOLN ELECTRIC SYSTEM RATE SCHEDULES AND SERVICE REGULATIONS FOR RATES EFFECTIVE JANUARY 1, 2012 - CLERK presented said report which was placed on file in the Office of the City Clerk. (40)

REPORT FROM CITY TREASURER OF CITY CASH ON HAND AT THE CLOSE OF BUSINESS NOVEMBER 30, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED NOVEMBER 30, 2011 - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86661

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

That during the month ended November 30, 2011, \$18,174.18 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Carl Eskridge

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

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON DECEMBER 12, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON DECEMBER 19, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

**PETITIONS & COMMUNICATIONS**

REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone No. 11041 - Requested by the Director of Parks and Recreation, from AG Agricultural District to P Public Use District; from R-3 Residential District to P Public Use District, generally located at N. 44th Street and Superior Street.

Change of Zone No. 11043 - Requested by Olsson Associates, from R-3 Residential District to O-2 Suburban Office District, on property generally located at S. 80th Street and Pioneers Boulevard.

Special Permit No. 11032 - Requested by Lindsay Kubicek, for expansion of a non-conforming use into the required front yard setback to allow an outdoor play area associated with an early childhood care facility generally located at S. 47th Street and Van Dorn Street.

PLACED ON FILE IN THE OFFICE OF THE CITY CLERK

Administrative Amendment No. 11069 - to Special Permit No. 1959, Prairie Village Community Unit Plan, approved by the Planning Director on December 27, 2011 requested by Colby and Katie Venema to reduce the setback from a pedestrian easement from 10 feet to 7.5 feet on Lot 30, Block 2, Prairie Village, on property generally located at N. 84th St. and Leighton Ave.

**MISCELLANEOUS - NONE**

**LIQUOR RESOLUTIONS**

APPLICATION OF P.R. VENTURES LLC DBA NEBRASKA CHAMPIONS CLUB FOR A CLASS CK LIQUOR LICENSE AT 707 STADIUM DRIVE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86662 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 P.R. Ventures LLC dba Nebraska Champions Club for a Class "CK" liquor license at 707 Stadium Drive, 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 Schimek and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

MANAGER APPLICATION OF CHAD W. CARLSON FOR P.R. VENTURES LLC DBA NEBRASKA CHAMPIONS CLUB AT 707 STADIUM DRIVE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86663 WHEREAS, P.R. Ventures LLC dba Nebraska Champions Club located at 707 Stadium Drive, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Chad W. Carlson be named manager;

WHEREAS, Chad W. Carlson 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 Chad W. Carlson 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 and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

APPLICATION OF BSR INC. DBA THE OFFICE FOR A CLASS C LIQUOR LICENSE AT 640 WEST PROSPECTOR, #200 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86664 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 BSR Inc. dba The Office for a Class "C" liquor license at 640 West Prospector, #200, 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 Schimek and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

MANAGER APPLICATION OF ROGER WESTERHOLD FOR BSR INC. DBA THE OFFICE AT 640 WEST PROSPECTOR, #200 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86665 WHEREAS, BSR Inc. dba The Office located at 640 West Prospector, #200, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Roger Westerhold be named manager;

WHEREAS, Roger Westerhold 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:

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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 Roger Westerhold 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 and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

APPLICATION OF ZRC OPERATIONS COMPANY DBA QDOBA MEXICAN GRILL FOR A CLASS A LIQUOR LICENSE AT 211 NORTH ~~11TH~~ 12TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86666 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 ZRC Operations Company dba Qdoba Mexican Grill for a Class "A" liquor license at 211 North ~~11th~~ 12th 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 Schimek and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

MANAGER APPLICATION OF HEATHER HAMPTON FOR ZRC OPERATIONS COMPANY DBA QDOBA MEXICAN GRILL AT 211 NORTH 12TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86667 WHEREAS, ZRC Operations Company dba Qdoba Mexican Grill located at 211 North ~~11th~~ 12th Street, Lincoln, Nebraska has been approved for a Retail Class "A" liquor license, and now requests that Heather Hampton be named manager;

WHEREAS, Heather Hampton 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 Heather Hampton 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 and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

**ORDINANCE - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required)**

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A COMMUNITY DEVELOPMENT REVENUE NOTE, (10TH AND MILITARY CREEKSIDE VILLAGE PROJECT) IN A TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$800,000.00 (REQUEST 2<sup>ND</sup>, 3<sup>RD</sup> READINGS ON 1/9/12) - PRIOR to reading:

HORNUNG Moved to suspend the Council Rules for Bill 11-190 to have 2<sup>nd</sup> & 3<sup>rd</sup> Reading on this date.

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

CLERK Read an ordinance, introduced by Doug Emery, authorizing and providing for the issuance of indebtedness in one or more taxable or tax-exempt series in the amount of not to exceed \$720,700 in the form of a Community Redevelopment Revenue Note (10th and Military Creekside Village Project) of City of Lincoln, Nebraska, for the purpose of (1) paying the costs of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing, and completing certain public improvements within the City's 10th and Military Creekside Village Redevelopment Project area, and (2) paying the costs of issuance thereof; prescribing the form and certain details of such Revenue Notes; pledging certain tax revenue and other revenue to the payment of the principal of and interest on such Revenue Notes as the same become due; limiting payment of such revenue notes to such tax revenues; creating and establishing funds and accounts; delegating, authorizing and directing the Finance Director to exercise his independent discretion and judgment in determining and finalizing certain terms and provisions of such Revenue Notes not specified herein; taking other actions and making other covenants and agreements in connection with the foregoing; and related matters, the second time. (See further Council Action under ORDINANCES - 3<sup>RD</sup> READING.)

APPROVING A REAL ESTATE PURCHASE AGREEMENT AND LEASE AGREEMENT BETWEEN THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION ON BEHALF OF THE CITY OF LINCOLN AND LANCASTER COUNTY & ALFRED BENESCH & COMPANY FOR THE PURCHASE AND LEASE BACK OF PROPERTY LOCATED AT 825 J STREET - PRIOR to reading:

COOK Moved to continue Public Hearing to 1/30/12 with Action on 2/6/12.

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

CLERK Read an ordinance, introduced by Doug Emery, accepting and approving a Real Estate Purchase Agreement and a Lease Agreement between the Lincoln-Lancaster County Public Building Commission, on behalf of the City of Lincoln and Lancaster County, and Alfred Benesch & Company for the purchase and leaseback of property generally located at 825 J Street, the second time.

#### PUBLIC HEARING - RESOLUTIONS

APPROVING JJ'S BAR & GRILL AS A KENO SATELLITE SITE AT 2310 NORTH 1ST STREET, SUITE 7-9 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86668 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for a joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of a keno type lottery with EHPV Lottery Services, LLC, a Nebraska limited liability company; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno Contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno Contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of JJ's Bar & Grill, 2310 North 1st Street, Suite 7-9, Lincoln, NE 68521.

The City Clerk is directed to return an executed copy of this Resolution to JJ's Bar & Grill.

Introduced by Doug Emery

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

APPROVING A CONSTRUCTION ENGINEERING AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO ALLOW THE USE OF FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION ENGINEERING SERVICES FOR THE LINCOLN DOWNTOWN STREET RESURFACING PROJECT. CITY PROJECT NO. 540021. STATE PROJECT NO. LCLC-5230(2), CN 13140 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86669 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the use of Federal Surface Transportation Program Funds for construction engineering services for the Lincoln Downtown Street Resurfacing project, City Project No. 540021, State Project No. LCLC-5230(2), CN 13140, 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 Engineering Services Division of the Department of Public Works & Utilities, for transmittal and execution by the State Department of Roads.

Introduced by Doug Emery

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

APPROVING A CONSTRUCTION ENGINEERING AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO ALLOW THE USE OF FEDERAL SURFACE TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION ENGINEERING SERVICES FOR THE LINCOLN CITYWIDE STREET MICRO-SURFACING PROJECT. CITY PROJECT NO. 540024. STATE PROJECT NO. LCLC-5249(7), CN 13139 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86670 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the use of Federal Surface Transportation Program Funds for construction engineering services for the Lincoln Citywide Street Micro-surfacing project, City Project No. 540024, State Project No. LCLC-5249(7), CN 13139, 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 Engineering Services Division of the Department of Public Works & Utilities, for transmittal and execution by the State Department of Roads.

Introduced by Doug Emery

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

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

AMENDING CHAPTER 10.16 OF THE LINCOLN MUNICIPAL CODE (DRIVING WHILE INTOXICATED, UNLICENSED OR UNINSURED) BY AMENDING SECTION 10.16.030 RELATING TO THE PENALTY FOR DRIVING UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR TO COMPLY WITH STATE STATUTE; BY AMENDING SECTION 10.16.040 RELATING TO THE PENALTY FOR REFUSING TO SUBMIT TO A CHEMICAL TEST OF BLOOD, BREATH OR URINE TEST TO DETERMINE THE CONCENTRATION OF ALCOHOL OR THE PRESENCE OF DRUGS IN SUCH BLOOD, BREATH OR URINE TO COMPLY WITH STATE STATUTE; AND AMENDING SECTION 10.16.045 RELATING TO RESTRICTIONS IMPOSED FOR A SECOND VIOLATION OF SECTION 10.16.030 OR 10.16.040 TO COMPLY WITH STATE STATUTE, AND DECLARING AN EMERGENCY - CLERK read an ordinance, introduced by Carl Eskridge, amending Chapter. 10.16 of the Lincoln Municipal Code (Driving While Intoxicated, Unlicensed or Uninsured) by amending Section 10.16.030 relating to the penalty for driving under the influence of alcoholic liquor to comply with state statute; by amending Section 10.16.040 relating to the penalty for refusing to submit to a chemical test of blood, breath or urine test to determine the concentration of alcohol or the presence of drugs in such blood, breath or urine to comply with state statute; amending Section 10.16.045 relating to restrictions imposed for a second violation of Section 10.16.030 or 10.16.040 to comply with state statute; repealing Sections 10.16.030, 10.16.040, and 10.16.045 of the Lincoln Municipal Code as hitherto existing; and declaring an emergency.

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

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A COMMUNITY DEVELOPMENT REVENUE NOTE, (10TH AND MILITARY CREEKSIDE VILLAGE PROJECT) IN A TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$800,000.00 (REQUEST 2<sup>ND</sup>, 3<sup>RD</sup> READINGS ON 1/9/12) - PRIOR to reading:  
EMERY Moved to pass the ordinance as read. Seconded by Hornung.  
HORNUNG Moved Motion to Amend #1 to accept a Substitute Ordinance.  
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.  
CLERK Read an ordinance, introduced by Adam Hornung, authorizing and providing for the issuance of indebtedness in one or more taxable or tax-exempt series in the amount of not to exceed \$785,000 in the form of a Community Redevelopment Revenue Note (10<sup>th</sup> and Military Creekside Village Project) of City of Lincoln, Nebraska, for the purpose of (1) paying the costs of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the City's 10<sup>th</sup> and Military Creekside Village Redevelopment Project Area, and (2) paying the costs of issuance thereof; prescribing the form and certain details of such revenue notes; pledging certain tax revenue and other revenue to the payment of the principal of and interest on such revenue notes as the same become due; limiting payment of such revenue notes to such tax revenues; creating and establishing funds and accounts; delegating, authorizing and directing the finance director to exercise his independent discretion and judgment in determining and finalizing certain terms and provisions of such revenue notes not specified herein; taking other actions and making other covenants and agreements in connection with the foregoing; and related matters, the third time.  
FINAL VOTE: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None. The ordinance, being numbered #19666, is recorded in Ordinance Book 27, Page

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 44<sup>th</sup> Street & Superior Street to be used as a public Sporting Clays Range for a 15 year term, the third time.

COOK Moved to pass the ordinance as read.  
Seconded by Emery and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.  
The ordinance, being numbered #19667, is recorded in Ordinance Book 27, Page

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) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-86671 WHEREAS, the Planning Director, on behalf of NEBCO, Inc. has made application to amend the 2040 Lincoln-Lancaster County Comprehensive Plan to change the land designation in the Future Land Use Plan from Urban Residential to Commercial for approximately 38.6 acres of land generally located at Highway 34 and Fallbrook Boulevard and to make associated amendments to the Comprehensive Plan; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has recommended approval of the requested change from Urban Residential to Commercial.



NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that the 2040 Lincoln-Lancaster County Comprehensive Plan be and the same is hereby amended in the following manner:

1. Amend the Lancaster County Future Land Use Plan on pages 1.8 and 12.2, and the Lincoln Area Future Land Use Plan on pages 1.9 and 12.3 to change the land designation on approximately 38.6 acres of land generally located at Highway 34 and Fallbrook Boulevard from Urban Residential to Commercial use as shown on Attachment "A".

BE IT FURTHER RESOLVED that all other maps, figures, and plans where the land use map is displayed and other references in said plan which may be affected by the above-specified amendment be, and they hereby are amended to conform with such specific amendments.

Introduced by Jonathan Cook

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

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 third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #19668, is recorded in Ordinance Book 27, Page

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, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established & shown thereon, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #19669, is recorded in Ordinance Book 27, Page

#### OPEN MICROPHONE

Jane Svoboda, address not given, came forward to warn of a comet that is coming with earthquakes & tidal waves & people should take precautions; shared her personal concerns regarding tuberculosis.

This matter was taken under advisement.

Tom Heatherly, 3420 P St., came forward in opposition to the Keystone XL Pipeline & big corporations.

This matter was taken under advisement.

Jo Tetherow, 3118 Shirley Ct., came forward in opposition to corporations which are designed to make money at any cost.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

##### PENDING -

CAMP Moved to extend the Pending List to January 23, 2012.

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

##### UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on January 23, 2012.

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

**REGULAR MEETING**  
**January 9, 2011**  
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**ADJOURNMENT 3:40 P.M.**

CAMP            Moved to adjourn the City Council meeting of January 9, 2012.  
                  Seconded by Eskridge and carried by the following vote: AYES: Camp,  
                  Carroll, Cook, Emery, Eskridge, Schimek; NAYS: None; ABSENT: Hornung.

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Joan E. Ross, City Clerk

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Teresa J. Meier, Deputy City Clerk