

**THE MINUTES OF THE CITY COUNCIL MEETING HELD  
MONDAY, MAY 17, 2010 AT 3:00 P.M.**

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

Council Vice Chair Spatz 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**

SNYDER Having been appointed to read the minutes of the City Council proceedings of May 10, 2010 reported having done so, found same correct.  
Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

**PUBLIC HEARING**

APPLICATION OF NEVELS INC. DBA PAUL'S OLD STYLE BBQ FOR A CLASS A LIQUOR LICENSE AT 4724 PIONEERS BLVD.;  
MANAGER APPLICATION OF NICOLE NEVELS FOR NEVELS, INC. DBA PAUL'S OLD STYLE BBQ AT 4724 PIONEERS BLVD. - Nichole Nevels, 5534 S. 38<sup>th</sup> Street, took the oath and came forward to answer any questions.

This matter was taken under advisement.

APPLICATION OF NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 114 FOR A CLASS D LIQUOR LICENSE AT 4135 SOUTH 48TH STREET;  
MANAGER APPLICATION OF ANDREW J. MAXEY FOR NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 114 AT 4135 SOUTH 48TH STREET;  
APPLICATION OF NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 116 FOR A CLASS D LIQUOR LICENSE AT 606 WEST A STREET;  
MANAGER APPLICATION OF ANDREW J. MAXEY FOR NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 116 AT 606 WEST A STREET - Andrew Maxey, 1518 D Street, took the oath and came forward to answer questions.

This matter was taken under advisement.

APPLICATION OF FIRETHORN GOLF COMPANY LLC DBA FIRETHORN GOLF CLUB TO DELETE THE SOUTH THREE HOLES OF THE WEST 9 HOLES FROM THE LICENSED PREMISES AT 9301 FIRETHORN LANE;  
APPLICATION OF WEST NINE AND LEARNING CENTER AT FIRETHORN LLC DBA WEST NINE AND LEARNING CENTER FOR A CLASS I LIQUOR LICENSE AT 8788 FIRETHORN LANE;  
MANAGER APPLICATION OF JAMES B. WHITE FOR WEST NINE AND LEARNING CENTER AT FIRETHORN LLC DBA WEST NINE AND LEARNING CENTER AT 8788 FIRETHORN LANE - Derek Zimmerman, came forward representing Jim White and the West Nine and Learning Center at Firethorn LLC. He took the oath and stated Jim White had a previous liquor license at West 40 and had no issues associated with that license. The reason for the deletion is Firethorn is operating as 27 holes. The West 9 is the subject of the license. James White & West Nine are operating in the same area pursuant to the lease. The owners of Firethorn are filing for the deletion so that we can file the application. The entire West Nine will have alcohol sales and will be open to the public.

This matter was taken under advisement.

APPLICATION OF IRIE INC. DBA DOC'S PLACE FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN INSIDE AREA MEASURING APPROXIMATELY 150 FEET BY 90 FEET AND AN OUTDOOR AREA MEASURING APPROXIMATELY 400 FEET BY 320 FEET AT 6891 A STREET, ON JUNE 12, 2010 FROM 9:00 A.M. TO 1:00 A.M. - City Clerk stated this item has been withdrawn.

This matter was taken under advisement.

APPLICATION OF BDF, LLC DBA CAPTAIN JACK'S FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 350 FEET BY 200 FEET IN THE PARKING LOT AT 605 NORTH 8TH STREET, ON JUNE 12, 2010 FROM 11:00 A.M. TO 10:00 P.M.

Jon Camp, Council Member, asked because of the nature of this would it ordinarily not require that some representative be here?

City Clerk answered Barry Franzen is an annual liquor license holder. The reason for bringing this forward was that although 605 8<sup>th</sup> Street may have been used in the past Barry Franzen has never had a liquor license here so the direction from Council was that he should be here. The applicant was sent a letter. This could be held over since his event is June 12<sup>th</sup>.

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 APRIL 16 - 30, 2010 - Pam Bulin, 15000 S. 158<sup>th</sup> Street, Bennet, NE, came forward to report her accident with a StarTran bus which happened January 19, 2010 as she was heading north on South 20<sup>th</sup> Street past Calvert Street going slowly. She stated the rear end of the bus slid over and hit the side of her van causing damage to her mirror and the side of the van.

Arlene Dowding, 12368 Roca Rd., Bennet, NE, came forward as a passenger in Ms. Bulin's car and as a witness to the accident. She verified that they were not fish tailing due to the icy conditions.

Rod Confer, City Attorney reported the mini van and the bus were passing each other on a narrow street with deep ruts on the street. Law enforcement was unable to determine if the negligence of the bus driver was any greater than Ms. Bulin's. Any claim turned down has the opportunity to be contested in court.

Lila Rublee, 1510 Manatt stated on December 19, 2009 a neighbor called the Fire Department to report water coming from the house at 2301 Park Avenue. The Fire Department gained entrance through the porch door by breaking both glass and screen and also a glass in the main entrance door. They used a crowbar to break the antique lock on the door which had recently been replaced. Upon inspecting the house there was no water damage found in the house. They wanted to know why the Water Department wasn't notified to turn the water off at the street?

Rod Confer, City Attorney, referred to the report that a neighbor observed water running out a basement window on the south side of the house at 2301 Park Avenue at 11:00 a.m. on December 19, 2009 and called the Fire Department. The Fire Department did also observe water running out of the house when they arrived. The Fire Department contacted the Water Department. The Water Department arrived at the scene and said it would be hard to shut off the water at the street so wanted to find a shut off in the house. He said someone would come on Monday to shut it off at the street. The Fire Department attempted to gain entrance to the house by knocking on the door, then tried going through an unlocked window, however, there were piles of material in front of the window and throughout the house that kept them from entering it that way. When they did get in they found a broken pipe under the sink and another broken pipe in the basement so they shut off the water. Negligence by the Fire Department was not found as they did what they had to do to prevent damage to the house. It seems the house has been vacant for a period of time as the owner, Mark Rublee, is doing a 10 year jail term. Upon recollection the weather was very cold during this time period.

Carl Strunk, P.O. Box 82, Ceresco, stated when he arrived to check out the damage he could not find any damage whatsoever. He felt there should have been puddles of water standing so felt there was no danger involved and water could have been shutoff at the street to prevent the damage to the doors.

Ms. Rublee explained the amount of the claim \$3,100 was based on the fact the door is an antique solid oak door not of normal size, the frame was damaged, the jam was damaged, and the veneer on the door is damaged. The lock may not be able to be replaced. In contacting an antique dealer he said he could repair the door for approximately \$600, therefore, the claim could be over stated.

This matter was taken under advisement.

APPROVING THE INTERLOCAL AGREEMENT ADDENDUM BETWEEN THE CITY AND LANCASTER COUNTY TO AMEND THE AGREEMENT ENTERED INTO ON JULY 14, 2005 UNDER RESOLUTION NO. A-83408 FOR AN EXTENSION OF THE TERM OF THE AGREEMENT FOR AN ADDITIONAL FIVE YEARS FOR THE COMPLETION OF THE GRADING AND PAVING PROJECT NEAR S.W. 40TH STREET BETWEEN WEST A AND WEST O STREETS, INCLUDING A VEHICULAR VIADUCT OVER THE BNSF TRACKS AND REPLACEMENT OF THE COUNTY'S MIDDLE CREEK BRIDGE - Chad Blahak, Public Works & Engineering, came forward to explain this resolution is to extend the Interlocal agreement between the County and the City to facilitate the SW 40<sup>th</sup> Street project five years to 2015.

Thomas Shafer stated this project is a high priority for the City, but they are dealing with two big entities, the Railroad and the Federal government. The Railroad has thousands of projects and the Federal government has millions of projects so this has to work into their process. It has taken a lot longer than anticipated to get this done.

This matter was taken under advisement.

APPLICATION OF BDF, LLC DBA CAPTAIN JACK'S FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 350 FEET BY 200 FEET IN THE PARKING LOT AT 605 NORTH 8TH STREET, ON JUNE 12, 2010 FROM 11:00 A.M. TO 10:00 P.M. - Jon Camp moved to reopen Item 22 for the Special Designated permit of Captain Jack's.

Barry Franzen of Captain Jack's came forward to answer questions. He wanted to mention this is for the U.S. vs. England in the U.S. Soccer tournament. Lincoln has the largest U.S. soccer support group in the nation and they are wanting to do a venue for them

This matter was taken under advisement.

## COUNCIL ACTION

### REPORTS OF CITY OFFICERS

REAPPOINTING SHAWN M. RYBA, PATTE L. NEWMAN AND RUSSELL MILLER TO THE GRAFFITI APPEALS BOARD FOR TERMS EXPIRING DECEMBER 1, 2012 - CLERK read the following resolution, introduced by Jayne Snyder, who moved its adoption:

A-85842 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the reappointment of Shawn M. Ryba, Patte L. Newman and Russell Miller to the Graffiti Appeals Board for terms expiring December 1, 2012, is hereby approved.

Introduced by Jayne Snyder

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

RESOLUTION APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED MARCH 31, 2010 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85843 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended December 31, 2007, \$742,880.98 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 Jon Camp

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

CITY CLERK LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON MAY 3, 2010 - CLERK presented said report which was placed on file in the Office of the City Clerk.

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR APRIL, 2010 - CLERK presented said report which was placed on file in the Office of the City Clerk. (8-71)

REPORT FROM CITY TREASURER FOR TELECOMMUNICATION OCCUPATION TAX FOR THE MONTH OF JANUARY 2010: NEBRASKA TECHNOLOGY & TELECOMM., LIGHTYEAR NETWORK SOLUTIONS, ZONE TELECOM, ENHANCED COMM. NETWORK, MEGAPATH; FEBRUARY 2010: MCI, VIRGIN MOBILE USA, USCOC OF GREATER IOWA, TWC DIGITAL PHONE, NEW CINGULAR WIRELESS, MCI COMM., QWEST, AT&T OF MIDWEST, ALLTEL OF NE, WWC LICENSE, OMAHA CELLULAR, VERIZON WIRELESS, XO COMM., ONSTAR, ARIZONA TELEPHONY, WORKING ASSETS FUNDING SERVICE, TRANS NATIONAL COMM. INT'L., CINCINNATI BELL ANY DISTANCE, UCN, INC., VOICECOM, GRANITE, TRI-M, PUBLIC COMM. SERVICES, NETWORK BILLING SYSTEMS, FLYING J COMM., IBM GLOBAL, KDDI AMERICA, CIMCO COMM., NEW EDGE NETWORKS, TRACFONE WIRELESS, INTELLECALL OPERATOR SERVICES, CTI LONG DISTANCE, GLOBALSTAR USA, TCG OMAHA, BROADWING COMM., GLOBAL CROSSING TELECOMM., MCLEODUSA; MARCH 2010: UNITE PRIVATE NETWORKS, NEXTEL WEST, NEXTEL, WINDSTREAM NEBRASKA, SPRINT COMM., D&D COMM., SPRINT SPECTRUM, ENHANCED COMM. NETWORK, ZONE TELECOM, TRI-M COMM., DCT TELECOM GROUP, GLOBALCOM, GRASSHOPPER GROUP, NOVEGA VENTURE PARTNERS, FIRST COMMUNICATIONS, SBC LONG DISTANCE, SHAFFER COMM., TSG GLOBAL, WHOLESALE CARRIER, I-WIRELESS, COVISTA, YESTEL USA, TOTAL HOLDINGS, IBFA ACQUISITIONS, NOSVA, PIONEER TELEPHONE, 360NETWORKS, ATS MOBILE, 800 RESPONSE INFORMATION SERVICES, NORLIGHT, BT AMERICAS, LIGHTYEAR NETWORK SOLUTIONS, NOS COMM., PRIMUS TELECOMM., SIOUX CITY MSA, TELECORP COMM., USCOC OF NE/KS, ACN COMM. SERVICES; JANUARY TO

MARCH, 2010: T-MOBILE CENTRAL, NECC TELECOM, COMTECH 21, ORBITCOM, INETWORKS GROUP, OPEX COMM., PNG TELECOMM., THE SIENNA GROUP, DIGZIP.COM, ENHANCED COMM. GROUP, AFFINITY 4 AND LIFELINE COMM., GUARANTEED PHONE SERVICE - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF E911 TELECOMMUNICATION SURCHARGE FOR FEBRUARY 2010: CHARTER FIBERLINK - NEBRASKA, LLC, VONAGE AMERICA, AT&T OF MIDWEST; MARCH 2010 : QWEST, GRANITE, LEVEL 3, TWC DIGITAL PHONE, LEVEL 3, 8X8, AT&T OF MIDWEST, INETWORKS GROUP, VONAGE AMERICA, AT&T OF MIDWEST, COMTEL TELCOM ASSETS, ACN COMM., BUDGET PREPAY; JANUARY TO MARCH 2010: ACN COMM. - CLERK presented said report which was placed on file in the Office of the City Clerk.

#### PETITIONS & COMMUNICATIONS

THE FOLLOWING HAS BEEN PLACED ON FILE IN THE OFFICE OF THE CITY CLERK:

Administrative Amendment No. 10028 to Special Permit No. 1254, approved by the Planning Director on May 7, 2010, requested by Craig Vacek, to rescind Special Permit No. 1254 originally approved to allow a broadcast tower at 343 N. Cotner Blvd. Special Permit No. 1254 is hereby rescinded and no longer in force and effect.

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2010 AT 3:00 P.M. FOR APPLICATION OF WALGREEN COMPANY DBA WALGREENS #01162 FOR A CLASS D LIQUOR LICENSE AT 8300 NORTHERN LIGHTS DRIVE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85844 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., June 7, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Walgreen Company dba Walgreens #01162 for a Class D liquor license located at 8300 Northern Lights Drive.  
If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

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

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2010 AT 3:00 P.M FOR APPLICATION OF WALGREEN COMPANY DBA WALGREENS #04088 FOR A CLASS D LIQUOR LICENSE AT 2502 N. 48<sup>TH</sup> STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85845 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., June 7, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Walgreen Company dba Walgreens #04088 for a Class D liquor license located at 2502 N. 48<sup>th</sup> Street.  
If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

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

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2010 AT 3:00 P.M. FOR APPLICATION OF WALGREEN COMPANY DBA WALGREENS #03182 FOR A CLASS D LIQUOR LICENSE AT 7045 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85846 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., June 7, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Walgreens #03182 for a Class D liquor license located at 7045 O Street.

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

Introduced by Jon Camp

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

#### LIQUOR RESOLUTIONS

APPLICATION OF NEVELS INC. DBA PAUL'S OLD STYLE BBQ FOR A CLASS A LIQUOR LICENSE AT 4724 PIONEERS BLVD. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85847 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 Nevels, Inc. dba Paul's Old Style BBQ for a Class "A" liquor license at 4724 Pioneers Blvd., Lincoln, Nebraska, for the license period ending April 30, 2011, 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 premise 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

MANAGER APPLICATION OF NICOLE NEVELS FOR NEVELS, INC. DBA PAUL'S OLD STYLE BBQ AT 4724 PIONEERS BLVD. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85848 WHEREAS, Nevels, Inc. dba Paul's Old Style BBQ located at 4724 Pioneers Blvd., Lincoln, Nebraska has been approved for a Retail Class "A" liquor license, and now requests that Nicole Nevels be named manager;

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

APPLICATION OF NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 114 FOR A CLASS D LIQUOR LICENSE AT 4135 SOUTH 48TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85849 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Nebraska Retail Ventures LLC dba Kabredlo's 114 for a Class "D" liquor license at 4135 South 48th Street, Lincoln, Nebraska, for the license period ending April 30, 2011, be approved with the condition that the premise complies 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

MANAGER APPLICATION OF ANDREW J. MAXEY FOR NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 114 AT 4135 SOUTH 48TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85850 WHEREAS, Nebraska Retail Ventures LLC dba Kabredlo's 114 located at 4135 South 48th Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Andrew J. Maxey be named manager;

WHEREAS, Andrew J. Maxey 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 Andrew J. Maxey 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

APPLICATION OF NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 116 FOR A CLASS D LIQUOR LICENSE AT 606 WEST A STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85851 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Nebraska Retail Ventures LLC dba Kabredlo's 116 for a Class "D" liquor license at 606 West A Street, Lincoln, Nebraska, for the license period ending April 30, 2011, be approved with the condition that the premise complies 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

MANAGER APPLICATION OF ANDREW J. MAXEY FOR NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 116 AT 606 WEST A STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85852 WHEREAS, Nebraska Retail Ventures LLC dba Kabredlo's 116 located at 606 West A Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Andrew J. Maxey be named manager;

WHEREAS, Andrew J. Maxey 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 Andrew J. Maxey 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

APPLICATION OF FIRETHORN GOLF COMPANY LLC DBA FIRETHORN GOLF CLUB TO DELETE THE SOUTH THREE HOLES OF THE WEST 9 HOLES FROM THE LICENSED PREMISES AT 9301 FIRETHORN LANE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85853 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 including Neb. Rev. Stat. § 53-132, the pertinent City ordinances, and Resolution No. A-66729, the City Council recommends that the application of Firethorn Golf Company LLC dba Firethorn Golf Club to delete the south three holes of the west 9 holes from their presently licensed premises located at 9301 Firethorn Lane, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

APPLICATION OF WEST NINE AND LEARNING CENTER AT FIRETHORN LLC DBA WEST NINE AND LEARNING CENTER FOR A CLASS I LIQUOR LICENSE AT 8788 FIRETHORN LANE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85854 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 West Nine and Learning Center at Firethorn LLC dba West Nine and Learning Center for a Class "I" liquor license at 8788 Firethorn Lane, Lincoln, Nebraska, for the license period ending April 30, 2011, 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 premise 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

MANAGER APPLICATION OF JAMES B. WHITE FOR WEST NINE AND LEARNING CENTER AT FIRETHORN LLC DBA WEST NINE AND LEARNING CENTER AT 8788 FIRETHORN LANE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85855 WHEREAS, West Nine and Learning Center at Firethorn LLC dba West Nine and Learning Center located at 8788 Firethorn Lane, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that James B. White be named manager;

WHEREAS, James B. White 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 James B. White 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 Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

APPLICATION OF IRIE INC. DBA DOC'S PLACE FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN INSIDE AREA MEASURING APPROXIMATELY 150 FEET BY 90 FEET AND AN OUTDOOR AREA MEASURING APPROXIMATELY 400 FEET BY 320 FEET AT 6891 A STREET, ON JUNE 12, 2010 FROM 9:00 A.M. TO 1:00 A.M. - PRIOR to reading:

CAMP Moved to Withdraw Special Designated Liquor License application of Doc's Place.

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

The ordinance, having been **WITHDRAWN**, was assigned the File #38-4601 & was placed on file in the Office of the City Clerk.

APPLICATION OF BDF, LLC DBA CAPTAIN JACK'S FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 350 FEET BY 200 FEET IN THE PARKING LOT AT 605 NORTH 8TH STREET, ON JUNE 12, 2010 FROM 11:00 A.M. TO 10:00 P.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-85856 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 BDF, LLC dba Captain Jack's for a Special Designated License to cover an outdoor area measuring approximately 350 feet by 200 feet at 605 North 8th Street, Lincoln, Nebraska, on the 12th day of June, 2010, between the hours of 11:00 a.m. and 10:00 p.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

Introduced by Jon Camp

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

**ORDINANCES - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required) - NONE**

**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 APRIL 16 - 30, 2010 -PRIOR to reading:

CARROLL Moved to amend Bill No. 10R-117 in the following manner:

On line 19, the claim of Glen Emswiler in the amount of \$40.00 should be removed from the list of Denied Claims and added to the list of Withdrawn Claims.

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

CLERK Read the following resolution, introduced by Jayne Snyder, who moved its adoption:

A-85857 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 May 3, 2010, 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:

<u>DENIED CLAIMS</u>		<u>ALLOWED/SETTLED CLAIMS</u>	
Karen Kammann	NAS*	Johnny Montoya Vazquez	\$1,389.31
Charles Fletcher	\$ 301.95	Eugene Bode	47.94
John & Judy Scdoris	1,400.00	Daryl Dean Limbach	898.14
Gayle Stuefer	NAS*	Windstream Communications	3,726.85
Barry A. Townsend	1,392.00	Olive Branch Insurance	5,000.00
Jerry Placzek	222.50	Gaylord Construction Inc.	1,800.04
Pam Bulin	1,871.10	Jean Fager	33.53
Marion Haberman	172.88	Ray's Lawn and Home Care	255.00
Zach Nadolski	1,069.95	Darrell Gross o/b/o Ruby L. Gross	251.00
Glen Emswiler	40.00	Dennis Watkins	106.99
Landon Troyer	652.51	Craig Mustard	275.00
Roger A. Cognard	NAS*	Doug Curry	765.78
Donald C. Miller	599.81	Daniel Jasper	754.98
Miguel Garcia	8,020.90		
Fred Hansel o/b/o Janet Sack	121.01		
Nebraska Real Estate Investment Solutions, Inc.	NAS*	<u>WITHDRAWN</u>	
Continental Western Group (Claim No. 40028239)	8,771.68	Lincoln Lumber Company	NAS*
R. Michael Norris, M.D.	461.57	<u>Glen Emswiler</u>	<u>\$40.00</u>
Lila M. Rublee o/b/o Mark Rublee	3,157.60		
Eric R. Benes	NAS*		
Mike Wooten	100.00		

\* 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 Jayne Snyder

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

APPROVING A CONTRACT AGREEMENT BETWEEN THE CITY AND NEBRASKA LABLINC FOR ANNUAL REQUIREMENTS FOR BLOOD CHEMISTRY PROFILE QUOTE 2969 FOR A TWO YEAR TERM WITH THE OPTION FOR ONE ADDITIONAL TWO YEAR TERM - CLERK read the following resolution, introduced by Jayne Snyder, who moved its adoption:

A-85858 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the attached multi-year Contract between the City of Lincoln and Nebraska LabLinc for Annual Requirements for Blood Chemistry Profile, Quote 2969, for a two-year term, with the option for one additional two-year term, upon the terms as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jayne Snyder

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

APPROVING THE INTERLOCAL AGREEMENT ADDENDUM BETWEEN THE CITY AND LANCASTER COUNTY TO AMEND THE AGREEMENT ENTERED INTO ON JULY 14, 2005 UNDER RESOLUTION NO. A-83408 FOR AN EXTENSION OF THE TERM OF THE AGREEMENT FOR AN ADDITIONAL FIVE YEARS FOR THE COMPLETION OF THE GRADING AND PAVING PROJECT NEAR S.W. 40TH STREET BETWEEN WEST A AND WEST O STREETS, INCLUDING A VEHICULAR VIADUCT OVER THE BNSF TRACKS AND REPLACEMENT OF THE COUNTY'S MIDDLE CREEK BRIDGE - CLERK read the following resolution, introduced by Jayne Snyder, who moved its adoption:

A-85859 WHEREAS, the County and City are responsible for providing road improvement and maintenance to the streets and roads located within their respective jurisdictions; and

WHEREAS, the County and City entered into an interlocal agreement executed by the County on May 31, 2005, under County Contract No. C-05-0300 and executed by the City on July 14, 2005, under Resolution No. A-83408, hereinafter referred to as the "Interlocal Agreement", to participate in a grading and paving project near SW 40th Street between West "A" and West "O" which includes the construction of a new vehicular viaduct over the BNSF Railway Company tracks and the replacement of the County's Middle Creek bridge known as "L-218"; and

WHEREAS, the Interlocal Agreement had a duration of five years and the parties have not completed the project and are interested in entering into an Interlocal Agreement Addendum to continue the agreement for an additional five years.

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

That the Interlocal Agreement Addendum attached hereto as Attachment "A" to extend the duration of the Interlocal Agreement for Project No. STPN-BR-TMT-5267(1) - SW 40th Street for an additional five year term to July 13, 2015, is hereby accepted and approved and the Mayor is hereby authorized to execute said Interlocal Agreement Addendum and any other necessary amendments.

The City Clerk is directed to send a copy of this Resolution and the Interlocal Agreement Addendum to Tom Fox in the County Attorney's office for execution by the County.

Introduced by Jayne Snyder

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

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY BY T.O. HAAS TIRE TO CONSTRUCT A NEW ADA ENTRY TO THE PROPERTY AT 2400 O STREET - CLERK read the following resolution, introduced by Jayne Snyder, who moved its adoption:

A-85860 WHEREAS, T.O. Haas Tire has submitted an application for a permit to use the public right-of-way on the south side of the building at 2400 O Street for construction of a new entry into the building to meet ADA requirements; 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 T.O. Haas Tire to use the public right-of-way on the south side of the building at 2400 O Street for the purpose of constructing a new entry into the building, 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 for the use of the surface of the public right-of-way.

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. 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.

5. 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.

6. 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.

Introduced by Jayne Snyder

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

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

- APPROVING THE LEASE AGREEMENT BETWEEN THE CITY AND ERIK ALM FOR THE LEASE OF OFFICE SPACE BY AGING PARTNERS FOR ITS PERSONAL & FAMILY SERVICES PROGRAM AT 1325 N. CHESTNUT STREET, WAHOO, NE 68066 FOR A TERM OF JULY 1, 2010 THROUGH JUNE 30, 2011 - CLERK read an ordinance, introduced by Jon Camp, accepting and approving a Lease Agreement between the City of Lincoln and Erik Alm for the lease of office space by the Aging Partners for its Personal & Family Services program located at 1325 N. Chestnut Street, Wahoo, NE, 68066, for a term of July 1, 2010 through June 30, 2011, the first time.
- ANNEXATION 08027 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 45 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 48TH STREET AND DORIS BAIR CIRCLE - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the first time.
- CHANGE OF ZONE 10008 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTIONS 27.43.030, 27.45.025, AND 27.49.030 TO ADD OUTDOOR VEHICLE STORAGE AS A PERMITTED CONDITIONAL USE IN THE H-3, H-4, AND I-2 ZONING DISTRICTS, RESPECTIVELY - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Sections 27.43.030, 27.45.025, and 27.49.030 to add outdoor vehicle storage as a permitted conditional use in the H-3, H-4, and I-2 zoning districts, respectively; and repealing Sections 27.43.030, 27.45.025, and 27.49/030 of the Lincoln Municipal Code as hitherto existing, the first time.
- ANNEXATION 10003 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 10 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND WHISPERING WIND BOULEVARD. (RELATED ITEMS: 10-51, 10-52) - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the first time.
- CHANGE OF ZONE 10010 - APPLICATION OF LINCOLN FEDERAL BANCORP, INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND WHISPERING WIND BOULEVARD. (RELATED ITEMS: 10-51, 10-52) - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.
- CHANGE OF ZONE 09024 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTION 27.15.030 TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS LOCATED OUTSIDE THE JANUARY 1, 2010 CORPORATE LIMITS AS A PERMITTED CONDITIONAL USE AND PROVIDING CONDITIONS OF APPROVAL; AMENDING SECTION 27.15.040 TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS LOCATED INSIDE THE JANUARY 1, 2010 CORPORATE LIMITS AS A PERMITTED SPECIAL USE; ADDING A NEW SECTION NUMBERED 27.63.800 TO PROVIDE CONDITIONS FOR GRANTING A SPECIAL PERMIT TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS IN THE R-3 DISTRICT LOCATED INSIDE THE JANUARY 1, 2010 CORPORATE LIMITS. (RELATED ITEMS: 10-53, 10-54) - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Section 27.15.030 to allow single-family dwellings on small lots located outside the January 1, 2010 corporate limits as a permitted conditional use and providing conditions of approval; amending Section 27.15.040 to allow single-family dwellings on small lots located inside the January 1, 2010 corporate limits as a permitted special use; adding a new section numbered 27.63.800 to provide conditions for granting a special permit to allow single-family dwellings on small lots in the R-3 district located inside the January 1, 2010 corporate limits, and repealing Sections 27.15.030 and 27.15.040 of the Lincoln Municipal Code, the first time.
- MISC. 10002 - AMENDING SECTION 26.23.140 OF THE LINCOLN MUNICIPAL CODE RELATING TO DEVELOPMENT STANDARDS FOR LOTS TO PROVIDE THAT RESIDENTIAL LOTS IN THE R-3 DISTRICT WHICH DO NOT MEET THE REQUIRED MINIMUM LOT AREA, AVERAGE LOT WIDTH, OR YARD REQUIREMENTS SHALL HAVE A MAXIMUM DEPTH OF FOUR TIMES ITS WIDTH. (RELATED ITEMS: 10-53, 10-54) - CLERK read an ordinance, introduced by Jon Camp, amending Section 26.23.140 of the Lincoln Municipal Code relating to Development Standards for Lots to provide that residential lots in the R-3 district which do not meet the required minimum lot area, average lot width, or yard requirements shall have a maximum depth of four times its width; and repealing Section 26.23.140 of the Lincoln Municipal Code as hitherto existing, the first time.

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

CHANGE OF ZONE 10009 - APPLICATION OF PIONEER WOODS, LLC FOR A CHANGE OF ZONE FROM O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT, ON PROPERTY GENERALLY LOCATED AT PIONEER WOODS DRIVE AND PIONEERS BOULEVARD - CLERK read an ordinance, introduced by Adam Hornung, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

CARROLL Moved to pass the ordinance as read.

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

The ordinance, being numbered #19386, is recorded in Ordinance Book #26, Page 692

APPROVING THE AMENDED AND RESTATED DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN THE CITY AND B&J PARTNERSHIP, LTD. RELATING TO THE DEVELOPMENT OF CVS PHARMACY ON PROPERTY GENERALLY LOCATED AT S. 15TH STREET AND SOUTH STREET. (RELATED ITEMS: 10R-109, 10-45, 10R-110) (ACTION DATE: 5/10/10) - PRIOR to reading:

CARROLL Moved to amend Bill No. 10R-109 by accepting the Amended and Restated

Development and Conditional Zoning Agreement between the City and B&J Partnership, Ltd. which is attached hereto to replace the Amended and Restated Development and Conditional Zoning Agreement attached to Bill No. 10R-109.

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

CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85861 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Amended and Restated Development and Conditional Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City and B&J Partnership, Ltd., upon the terms and conditions contained in said Agreement regarding the development of a CVS Pharmacy on the property generally located at South 15th Street and South Street and legally described as Lots 1-6, Block 3, Electric Park Addition, and Lots 14-18, Maxwells Addition, Lincoln, Lancaster County, Nebraska, is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Amended and Restated Development and Conditional Zoning Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Zoning Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Jonathan Cook

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

CHANGE OF ZONE 10003 - APPLICATION OF B&J PARTNERSHIP FOR A CHANGE OF ZONE FROM R-5 AND R-2 RESIDENTIAL DISTRICTS TO B-3 COMMERCIAL DISTRICT AND O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 16TH STREET AND SOUTH STREET. (RELATED ITEMS: 10R-109, 10-45, 10R-110) (ACTION DATE: 5/10/10) - CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #19387, is recorded in Ordinance Book #26, Page 692

HEARING ON THE APPEALS BY BRAD NELSON AND THE NEAR SOUTH NEIGHBORHOOD ASSOCIATION OF THE PLANNING COMMISSION APPROVAL OF SPECIAL PERMIT NO. 10008 REQUESTED BY B&J PARTNERSHIP FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES ON PROPERTY GENERALLY LOCATED NORTHWEST OF SOUTH 16TH STREET AND SOUTH STREET. (RELATED ITEMS: 10R-109, 10-45, 10R-110) (ACTION DATE: 5/10/10) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85862 WHEREAS, B&J Partnership and Growth Management Corp. have submitted an application designated as Special Permit No. 10008 for authority to sell alcoholic beverages for consumption off the premises on property generally located northwest of the intersection of S. 16th Street and South Street, legally described as:

Lots 1-6, Block 3, Electric Park Addition, and Lots 14-18, Maxwells Addition, Lincoln, Lancaster County, Nebraska;

WHEREAS, the Lincoln City-Lancaster County Planning Commission conditionally approved said application after holding a public hearing thereon; and

WHEREAS, Brad Nelson and the Near South Neighborhood Association filed a Notice of Appeal appealing the action of the Planning Commission approving Special Permit No. 10008; and

WHEREAS, pursuant to Lincoln Municipal Code § 27.63.025 the action appealed from is deemed advisory and the City Council is authorized to take final action on the matter; and

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this permit to sell alcoholic beverages for consumption off the premises will not be adversely affected by granting such a permit; and

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

**REGULAR MEETING**

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

That the application of B&J Partnership and Growth Management Corp., hereinafter referred to as "Permittee", to sell alcoholic beverages for consumption off the premises on property legally described above be and the same is hereby granted under the provisions of Section 27.63.685 of the Lincoln Municipal Code upon condition that operation of said licensed premises be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the sale of alcohol for consumption off the premises as designated on the attached site plan.
2. Before commencing the sale of alcohol, the Permittee shall cause to be prepared and submitted to the Planning Department, a revised and reproducible final plot plan shading or otherwise identifying the building footprint and labeling the same as the "Licensed Premises."
3. The City Council must approved Change of Zone 10003.
4. Before commencing the sale of alcohol for consumption off the premises, all development and construction must substantially conform to the approved plans.
5. The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
6. The terms, conditions, and requirements of this resolution shall run with the land and be binding and obligatory upon the Permittee, its successors, and assigns.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 60 days following approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jonathan Cook

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

**OPEN MICROPHONE - NONE**

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP Moved to extend the Pending List to May 24, 2010.  
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

**UPCOMING RESOLUTIONS**

CAMP Moved to approve the resolutions to have Public Hearing on May 24, 2010.  
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

**ADJOURNMENT 3:46 P.M.**

CAMP Moved to adjourn the City Council meeting of May 17, 2010.  
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Snyder, Spatz; NAYS: None; ABSENT: Emery, Hornung.

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Joan E. Ross, City Clerk

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Judy Roscoe, Senior Office Assistant

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