

**THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, SEPTEMBER 27, 2010 AT 5:30 P.M.**

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

Council 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

EMERY Having been appointed to read the minutes of the City Council proceedings of September 20 reported having done so, found same correct.
Seconded by Hornung and carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

RECOGNITION

Council Chair Spatz recognized John Robert Litchy with Boy Scout Troop 16 who is working on his Citizenship for the Community merit badge.

PUBLIC HEARING

APPLICATION OF RPM BROS. INC. DBA SLICKS TO EXPAND THE EXISTING OUTSIDE BEER GARDEN BY THE ADDITION OF AN AREA MEASURING APPROXIMATELY 10 FEET BY 29 FEET AT THE NORTHWEST CORNER OF ITS LICENSED PREMISES AT 2805 N.W. 48TH STREET - Bob Miller, took oath and came forward representing Paul and Arla Meyer owners of Slicks Bar and Grill to answer questions.

This matter was taken under advisement.

STREET NAME CHANGE 10006 - RENAMING SOUTH 87TH STREET AS "ELLIE LANE" LOCATED IN THE BOULDER RUN ADDITION, GENERALLY LOCATED AT SOUTH 84TH STREET AND BARKLEY DRIVE - Marvin Krout, Director of Planning, stated there is an area in the southeast part of Lincoln where there are three subdivisions being planned by three different people at slightly different times. The subdivision Boulder Run was approved including the street name 87th Street. Building and Safety was assigning street name addresses to these lots and realized they had already numbered an adjacent subdivision which came earlier with the 8700 block numbers. So the easiest solution seemed to be to request a change to the name of the street before any lot owners moved out there.

This matter was taken under advisement.

AMENDING SECTION 5.38.075 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE APPEAL PROCEDURE FOR PERSONS AGGRIEVED BY A DECISION, NOTICE OR ORDER OF THE BUILDING OFFICIAL FOR A PERMIT TO MAINTAIN OR OPERATE A ROOMING HOUSE, LODGING HOUSE, APARTMENT HOUSE, MOTEL OR HOTEL, TO CORRECT AN OUTDATED LMC SECTION AND CHAPTER REFERENCE - Chris Connelly, Asst. Law Dept., stated this amendment is part of the Property Maintenance Code adopted back in March. It was noticed that there was still a reference to 21.01 which is the old Housing Code that had been repealed so this is a technical change that simply moves this into the Property Maintenance Code. Everyone still has the opportunity to appeal if needed.

This matter was taken under advisement.

AUTHORIZING THE CITY OF LINCOLN TO ENTER INTO A LEASE-PURCHASE TRANSACTION WITH UNION BANK AND TRUST COMPANY, LINCOLN, NEBRASKA, IN AN AMOUNT NOT TO EXCEED \$8,000,000 FOR THE ACQUISITION OF THE EXPERIAN BUILDING AND RENOVATIONS TO THE SAME;

AMENDING THE 2010/2011 - 2015/2016 CAPITAL IMPROVEMENTS PROGRAM BUDGET TO ADD A NEW PROJECT IN YEAR ONE TO THE PUBLIC WORKS & UTILITIES STREET MAINTENANCE PROGRAM TO INCLUDE THE LEASE PURCHASE OF THE EXPERIAN FACILITY AT 901 AND 949 WEST BOND STREET;

APPROVING A REAL ESTATE PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF LINCOLN AND EXPERIAN MARKETING SOLUTIONS, INC. FOR THE PURCHASE OF THE EXPERIAN FACILITY GENERALLY LOCATED AT 901 AND 949 WEST BOND STREET - Greg MacLean, Director of Public Works & Utilities, came forward explaining that this process started one year ago knowing that Engineering Services would be nearing the end of their lease at their present location. An RFP process for 23,000 sq. ft. was done at which time they became aware that Experian was wanting to sell their 251,000 sq. ft. of property. An assessment of the facility was done to see how it would fit with the needs of Engineering Services and also looked at other divisions within Public Works and to other departments to see if they had any need for this type of facility. Lincoln Fire & Rescue have a need for a training facility and administrative offices. Urban Search and Rescue also need storage. The 911 Center has a proposed new facility in the CIP for their future needs which they could save money by co-locating with Public Works Department. As many potential needs as possible were identified within the City. Agencies beyond the City were talked to such as the County, NDOR, Emergency Management and the Lower Platte South Natural Resource District. There are multiple opportunities to create efficiencies at different levels both financially and operationally for the City in a facility of this type. Public Works has been looking for a campus site of 30 acres plus or minus and the Experian site is 20 acres plus it should be within 5 of 10 minutes (a trial run showed it was within 8 minutes) of City Hall plus this site is not in a floodplain. The site should have expansion possibilities and to have adequate connections to major arterials and off the main entryway arterials. This site would not impact a residential neighborhood.

It would need the ability to accommodate fuel storage tanks and this site does have that capability. Public Works would prefer ownership of the property they would move to. This place is free of environmental concerns which is preferred. As part of this transaction Experian would agree to continue to stay at the site for a minimum of five years with the option to renew and continue through the 15 year term of our bond agreement. The cost of operating a facility of this size, just the heating, cooling, electrical lighting, is an issue. Public Works would not air condition the unused space and heat would be scaled back. The initial move would occupy about 25% of the facility until the anticipated future moves which would then be about a 70% occupancy. Through that process they would start off with about a \$100,000 a year deficit in operating expenses. Over time if Lincoln Fire & Rescue, Street Maintenance Operation, 911 Center, Fire Prevention Bureau, Radio Shop, move in these operating costs will dwindle as they share the expenses. New facilities for a new 911 Center and a training facility for Lincoln Fire & Rescue would be half of what is listed in the CIP if they would co-locate with Public Works & Utilities.

Don Herz, Director of Finance, came forward to state the purchase price of Experian would be 6.5 million dollars, renovation and moving for Phase 1 would be 1.1 million dollars, cost of issuance a little bit over \$100,000. The cost of a bond over 15 years would be less than 3% at this time. 30,000 sq. ft of sublease to Experian would be one of the revenue sources. The bond to be issued would be approximately 7.7 million dollars. This building would come off the tax roll, but as other activities are consolidated those buildings should be back on the tax roll.

Jon Camp, Council Member, requested further information of the size needed by the proposed users of this building, list of property Public Works has, how much the properties would sell for if relocated and where would the 7 million dollars to move 901 N. 6th St. facilities come from.

Mr. MacLean stated this would not be a campus where all Public Works would be combined. It is more efficient to have shop locations in different parts of the community.

Mr. Herz answered the question of expected loss of property tax revenue to be \$20,000 to \$22,000, but with the consolidation of existing space there should be property going back onto the tax roll over a course of time.

Jayne Snyder, Council Member, stated during the tour she was impressed with the condition and the upkeep of the building. She feels 6.5 million dollars is a steal for this building which would include furniture and other accessories already in the building.

Carolyn Eberly, 2810 S. 72nd Street, #25, came forward in favor of this purchase considering this to be a bargain for this building. She stated that when the State Office Building was built they didn't think the sixth floor would be used, but eventually it was used so she feels in the long term the entire Experian building will be used.

John Austin, 826 S. 14th Street, came forward against the purchase of the building.

Coby Mach, LIBA, came forward in a neutral position. He would like to see a plan in writing for the future use of the building and is concerned that Experian would not stay after five years. He continued with various questions and comments.

Mike Morosin, 1500 N. 15th St., came forward to state the public needs to have all the figures with more information before this is voted on.

John Layman, Real Estate Consultant and Appraiser for the private sector, stated the purchase price is a bargain for the quality of the building. He stated there is 4,000,000 sq. ft. of available office building and industrial land in Lincoln. He feels Public Works should demonstrate their needs beyond 23,000 and put out a new RFP. He stated in his opinion inflation cannot be 3%. He is projecting no inflation for the next year then it may go up 1.5%.

Mr. Herz came forward to state perhaps he should be using 2% rather than 3% inflation for his figures and should use the current rate of 3% for the cost of borrowing instead of the 4% he used. He was asked to use the figure \$6.00 per sq. ft. for office space in northwest Lincoln instead of \$11.30 per sq. ft. he currently used. He will update his figures with these changes.

Mr. MacLean agreed to put out an open RFP for the square footage for office space and a warehouse attached for Public Works to have a central campus.

This matter was taken under advisement.

APPROVING A LEASE AGREEMENT BETWEEN THE AIRPORT AUTHORITY AND THE CITY FOR THE LEASE OF STORAGE SPACE BY THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR A TERM OF DECEMBER 1, 2010 THROUGH NOVEMBER 30, 2011 - Judy Halstead, Health Dept., came forward to ask approval of this agreement using secured space by the Environmental Public Health or HAZMAT team at the Lincoln Airport for a one year term at a cost of \$1,800.

This matter was taken under advisement.

ORDERING CONSTRUCTION OF SIDEWALKS AT VARIOUS LOCATIONS WHERE SIDEWALKS CURRENTLY DO NOT EXIST - Harry Kroos, Public Works Dept., came forward to answer questions and stated this is to order sidewalks in areas that have been identified to complete sidewalk systems.

This matter was taken under advisement.

APPROVING AMENDMENT #2 TO THE JOINT FUNDING AGREEMENT (A-84982) FOR WATER RESOURCES INVESTIGATIONS BETWEEN THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, AND THE CITY OF LINCOLN, TO CONDUCT STORMWATER QUALITY MONITORING SERVICES UNDER THE CITY'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT - Ben Higgins, Public Works Dept., stated this is a monitoring contract as part of the City's Stormwater Permit the USGS uses for operating, maintaining, and analyzing water quality data at two continuous water quality stations. The funding is \$91,100. USGS's portion is \$22,775 and the City's amount is \$68,325 which will come from a grant.

This matter was taken under advisement.

AUTHORIZING AND SUPPORTING THE PARKS & RECREATION DEPARTMENT'S SUBMITTAL OF A GRANT APPLICATION TO THE NEBRASKA GAME AND PARKS COMMISSION FOR A RECREATIONAL TRAILS PROGRAM GRANT FOR REPLACEMENT OF THE BISON TRAIL BRIDGE OVER HAINES BRANCH TRIBUTARY ON WEST VAN DORN STREET - Terry Genrich, Parks and Recreation Dept., came forward to explain this is the funding agency that would annually provide funds for restoration work. The funds along with a donation from the Great Plains Trail Network of \$100,000 in the CIP will be used to replace the Bison Trail bridge that was closed earlier this year due to safety reasons.

Ms. Snyder commented that this is an important bridge because you cannot get on the Bison Trail out to Pioneer Park without access to this bridge other than by getting on a very busy highway.

This matter was taken under advisement.

APPROVING A MASTER DEVELOPMENT AGREEMENT BETWEEN THE CITY AND BNSF TO PROVIDE FOR A LAND EXCHANGE NEEDED TO CREATE THE NEW BNSF RAIL CORRIDOR AND THE SITE FOR THE WEST HAYMARKET PROJECT IMPROVEMENTS; TO PROVIDE FOR THE REMOVAL OF BNSF IMPROVEMENTS ON THE PROPERTY TO BE ACQUIRED BY THE CITY FROM BNSF; TO PROVIDE FOR BNSF'S CONSTRUCTION OF REPLACEMENT TRACKS AND RELATED IMPROVEMENTS; AND TO PROVIDE FOR BNSF'S GRANTING OF CERTAIN LICENSE AND EASEMENT RIGHTS TO THE CITY FOR RIGHT OF ENTRY WORK RELATED TO THE WEST HAYMARKET PROJECT IMPROVEMENTS;

APPROVING A LAND EXCHANGE AGREEMENT BETWEEN THE CITY AND BNSF FOR ACQUISITION OF PROPERTY FROM BNSF FOR THE WEST HAYMARKET PROJECT;

APPROVING A CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN THE CITY AND BNSF TO PROVIDE FOR TERMS AND CONDITIONS REGARDING CONSTRUCTION OF THE CITY'S RIGHTS OF ENTRY WORK UNDER THE MASTER DEVELOPMENT AGREEMENT FOR THE WEST HAYMARKET PROJECT;

APPROVING A THIRD ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN THE CITY AND THE WEST HAYMARKET JOINT PUBLIC AGENCY TO PROVIDE FOR THE CITY'S ASSIGNMENT OF ITS RIGHTS, INTERESTS, DUTIES AND OBLIGATIONS UNDER THE MASTER DEVELOPMENT AGREEMENT, LAND EXCHANGE AGREEMENT AND CONSTRUCTION AND MAINTENANCE AGREEMENT FOR THE WEST HAYMARKET PROJECT TO THE WEST HAYMARKET JOINT PUBLIC AGENCY - Rod Confer, City Attorney, stated there is still a lot of work to be done putting these agreements together. They continue to exchange drafts with BNSF several times a week of all the different components that need to be finalized in order for all this to occur. He requested the hearing be delayed for one week in order to get the agreements finalized.

Miki Esposito, Asst. City Attorney, confirmed that Phase I and Phase II Studies are all available online with respect to Burlington Northern property. The 7.5 million has not changed and neither has the schedule with respect to those things.

Ms. Snyder mentioned that JPA has a web page. All the legal documents within two days are on there.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON SEPTEMBER 13, 2010 - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF CASH ON HAND AT THE CLOSE OF BUSINESS AUGUST 31, 2010 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

PETITIONS & COMMUNICATIONS

PLACED ON FILE IN THE CITY CLERKS OFFICE:

Administrative Amendment No. 10046 to Use Permit No. 140C, Appian Way Regional Shopping Center, approved by the Planning Director on September 14, 2010, requested by Eiger Corp., to divide Lot 1, Block 1 into Lots 1 and 2, Block 1 and to revise the land use table accordingly, on property generally located at S. 84th Street and Highway 2.

Administrative Amendment No. 10052 to Use Permit No. 43A, Stockwell Office Park, approved by the Planning Director on September 15, 2010, requested by Design Associates of Lincoln, to expand the building envelope on Lot 4, on property generally located at S. 14th Street and Stockwell Street.

Administrative Amendment No. 10056 to Special Permit No. 692M, Tabitha New Community, approved by the Planning Director on September 20, 2010, requested by Home Solutions of Nebraska, to reduce the rear yard setback from 18 feet to 9 feet on Lot 1, located at the northeast corner of Venture Drive and Folkways Boulevard.

REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone 10018 - Application of University of Nebraska, Nebraska Innovation Campus Planned Unit Development, for a change from P to O-3 on property generally located at North Antelope Valley Parkway and Salt Creek Roadway for a Planned Unit Development district designation of said property which allows 2 million square feet of mixed use commercial, up to 250 dwelling units and up to 135 hotel rooms in the underlying O-3 Planned Unit Development.
Change of Zone 10019 - Application of Olsson Associates on behalf of Assurity Life Insurance Co. from O-3 to B-2 on property generally located at S. 27th Street and Old Cheney Road.
Use Permit 15D - Application of Olsson Associates on behalf of Assurity Life Insurance Co. for an amendment to change 33,020 sq. ft. of approved office use to retail use on property generally located at S. 27th Street and Old Cheney Road.

SETTING THE HEARING DATE OF MONDAY OCTOBER 11, 2010 AT 3:00 P.M. FOR THE APPLICATION OF VANEISER LLC DBA VENUE RESTAURANT & LOUNGE FOR A CLASS I LIQUOR LICENSE LOCATED AT 4107 PIONEER WOODS DRIVE, STE. 107 - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86021 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 11, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of Vaneiser LLC dba Venue Restaurant & Lounge for a Class I liquor license located at 4107 Pioneer Woods Drive, Ste. 107.

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

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, OCTOBER 11, 2010 AT 3:00 P.M. FOR THE APPLICATION OF THE PRESS BOX, INC. DBA THE PRESS BOX FOR A CLASS I LIQUOR LICENSE LOCATED AT 5601 S. 56TH STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86022 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 11, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of The Press Box, Inc. dba The Press Box for a Class I liquor license located at 5601 S. 56th Street.

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

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, OCTOBER 11, 2010 AT 3:00 P.M. FOR THE APPLICATION OF BNV CORPORATION DBA 19TH STREET LIQUOR FOR A CLASS D LIQUOR LICENSE LOCATED AT 230 S. 19TH STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86023 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 11, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of BNV Corporation dba 19th Street Liquor for a Class D liquor license at 230 S. 19th Street.

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

Introduced by Adam Hornung

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

LIQUOR RESOLUTIONS

APPLICATION OF RPM BROS. INC. DBA SLICKS TO EXPAND THE EXISTING OUTSIDE BEER GARDEN BY THE ADDITION OF AN AREA MEASURING APPROXIMATELY 10 FEET BY 29 FEET AT THE NORTHWEST CORNER OF ITS LICENSED PREMISES AT 2805 N.W. 48TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86024 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, September 20, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of RPM Bros. Inc dba Slicks for an addition of a beer garden on northwest corner of building approximately 40' x 16' located at 2805 NW 48th 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 Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

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

STREET NAME CHANGE 10006 - RENAMING SOUTH 87TH STREET AS "ELLIE LANE" LOCATED IN THE BOULDER RUN ADDITION, GENERALLY LOCATED AT SOUTH 84TH STREET AND BARKLEY DRIVE - CLERK read an ordinance, introduced by Doug Emery, changing the name of South 87th Street located in the Boulder Run Addition in the vicinity of South 84th Street and Barkley Drive from South 87th Street to Ellie Lane, as recommended by the Street Name Committee, the second time.

AMENDING SECTION 5.38.075 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE APPEAL PROCEDURE FOR PERSONS AGGRIEVED BY A DECISION, NOTICE OR ORDER OF THE BUILDING OFFICIAL FOR A PERMIT TO MAINTAIN OR OPERATE A ROOMING HOUSE, LODGING HOUSE, APARTMENT HOUSE, MOTEL OR HOTEL, TO CORRECT AN OUTDATED LMC SECTION AND CHAPTER REFERENCE - CLERK read an ordinance, introduced by Doug Emery, amending Section 5.38.075 of the Lincoln Municipal Code relating to the appeal procedure for persons aggrieved by a decision, notice or order of the Building Official for a permit to maintain or operate a rooming house, lodging house, apartment house, motel, or hotel to correct an outdated LMC section and chapter reference; and repealing Section 5.38.075 of the Lincoln Municipal Code as hitherto existing, the second time.

AUTHORIZING THE CITY OF LINCOLN TO ENTER INTO A LEASE-PURCHASE TRANSACTION WITH UNION BANK AND TRUST COMPANY, LINCOLN, NEBRASKA, IN AN AMOUNT NOT TO EXCEED \$8,000,000 FOR THE ACQUISITION OF THE EXPERIAN BUILDING AND RENOVATIONS TO THE SAME - CLERK read an ordinance, introduced by Doug Emery, authorizing and approving a Lease-Purchase Transaction with Union Bank and Trust Company, the proceeds of which will be used to pay the costs of acquiring real property and the buildings thereon and remodeling, renovating, equipping and furnishing the same; approving the issuance, sale and delivery of not to exceed \$8,000,000 principal amount of Certificates of Participation in such Lease; fixing in part and providing for the fixing in part of certain provisions of the Lease; and related matters, the second time.

AMENDING THE 2010/2011 - 2015/2016 CAPITAL IMPROVEMENTS PROGRAM BUDGET TO ADD A NEW PROJECT IN YEAR ONE TO THE PUBLIC WORKS & UTILITIES STREET MAINTENANCE PROGRAM TO INCLUDE THE LEASE PURCHASE OF THE EXPERIAN FACILITY AT 901 AND 949 WEST BOND STREET. (RELATED ITEMS: 10-128, 10R-236, 10R-241) (ACTION DATE: 10/4/10)

APPROVING A REAL ESTATE PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF LINCOLN AND EXPERIAN MARKETING SOLUTIONS, INC. FOR THE PURCHASE OF THE EXPERIAN FACILITY GENERALLY LOCATED AT 901 AND 949 WEST BOND STREET. (RELATED ITEMS: 10-128, 10R-236, 10R-241) (ACTION DATE: 10/4/10)

APPROVING A LEASE AGREEMENT BETWEEN THE AIRPORT AUTHORITY AND THE CITY FOR THE LEASE OF STORAGE SPACE BY THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR A TERM OF DECEMBER 1, 2010 THROUGH NOVEMBER 30, 2011 - CLERK read an ordinance, introduced by Doug Emery, accepting and approving a Lease Agreement between the Airport Authority of the City of Lincoln, Nebraska and the Lincoln-Lancaster County Health Department for a lease of storage space by the Health Department at Building 2714 in Lincoln Air Park West for a one-year period from December 1, 2010 through November 30, 2011, the second time.

PUBLIC HEARING - RESOLUTIONS

ORDERING CONSTRUCTION OF SIDEWALKS AT VARIOUS LOCATIONS WHERE SIDEWALKS CURRENTLY DO NOT EXIST - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-86025 WHEREAS, the City Council has the authority under the City of Lincoln Charter article VIII, § 19 and Lincoln Municipal Code § 14.80.070 to provide for construction of sidewalks where none have existed before; and

WHEREAS, in the interest of providing for the safety and welfare of the citizens of the City of Lincoln, it is necessary and advisable that sidewalks should be constructed in the following locations:

(A) A four foot sidewalk along the north side of Benton Street west of North 66th Street adjacent to Lot 12, Block 133, Havelock;

(B) A four foot sidewalk along the west side of Northwest 20th Street between West 'O' Street and West 'Q' Street adjacent to north 136 feet, Block 1, North Manchester; Lots 1, 2 & 3, Briggs Subdivision, N223' S250' E141.6', Block 1, North Manchester;

(C) A four foot sidewalk along the east side of Northwest 20th Street between West 'O' Street and West 'Q' Street adjacent to Lots 4, 5, 6, 7 & S95.5' Lot 8, Block 9, Woods Bros Lakeview Acres and Lot 1, Quattrocchi Addition;

(D) A four foot sidewalk along the west side of North 45th Street from Vine Street to 600 feet south, adjacent to E191.02' W321.02' N500', Lot 6, J G Millers Subdivision;

(E) A four foot sidewalk along the west side of North 27th Street adjacent to Lot 39 Irregular Tract in the Southeast Quarter of Section 36, Township 11 North, Range 6 East of the 6th Principal Meridian;

(F) A four foot sidewalk along the north side of Rainy River Road east of North 81st Street adjacent to Lot 13, Block 1, Northern Lights 11th Addition;

(G) A four foot sidewalk along the west side of North 63rd Street south of Holdrege Street adjacent to Lot 218 Irregular Tract in the Northwest Quarter of Section 21, Township 10 North, Range 7 East of the 6th Principal Meridian;

(H) A four foot sidewalk along the east side of Talbot Trail south of 'A' Street adjacent to Lot 30 Irregular Tract in the Northeast Quarter of Section 34, Township 10 North Range 7 East of the 6th Principal Meridian;

(I) A four foot sidewalk along the southwest side of Holmes Park Road northwest of Raven Circle adjacent to Outlot 'C' and Lot 36, Block 10 Fox Hollow First Addition;

(J) A four foot sidewalk along the north side of Eastwood Drive between Crown Pointe Road and South 83rd Street adjacent to Lots 10 & 11, Block 1, Pointe East Estates 9th Addition;

(K) A four foot sidewalk along the south side of Eastwood Drive between Crown Pointe Road and South 83rd Street adjacent to Lot 12, Block 2, Pointe East Estates 9th Addition;

(L) A four foot sidewalk along the south side of Patterson Drive between Southwest 13th Street and Southwest 14th Street adjacent to Lot 1, Block 3, Vestecka's Villa Dorn First Addition; NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska,

That the owners whose properties abut the above listed streets be and they are ordered to construct sidewalks in accordance with the ordinances of the City of Lincoln, within the sidewalk space of such streets within (45) forty five days from the date of service of this order upon said owners.

Introduced by Jonathan Cook

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF SEPTEMBER 1 - 15, 2010 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86026 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated September 16, 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>	
Ashly Lannin	\$388.25	Jonell Crain	\$ 315.90
Teresa Sierra	600.00	Rena Dean, Trustee of Gladys M. Forsyth Living Trust	4,143.12

<u>SETTLED LITIGATION</u>	
Wardell Millien	3,000.00

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 Doug Emery

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

APPROVING AMENDMENT #2 TO THE JOINT FUNDING AGREEMENT (A-84982) FOR WATER RESOURCES INVESTIGATIONS BETWEEN THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, AND THE CITY OF LINCOLN, TO CONDUCT STORMWATER QUALITY MONITORING SERVICES UNDER THE CITY'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86027 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Amendment #2 to the Joint Funding Agreement (A-84982) for Water Resources Investigations between the U.S. Geological Survey, United States Department of the Interior, and the City of Lincoln, to conduct stormwater quality monitoring services under the City's National Pollutant Discharge Elimination System (NPDES) stormwater permit, is hereby approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the 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 and Resolution to Ben Higgins, Public Works and Utilities Department, for transmittal to Dave Rus, U.S. Geological Survey, Nebraska Water Science Center, 5231 S. 19th Street, Lincoln, NE 68512.

Introduced by Doug Emery

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

AUTHORIZING AND SUPPORTING THE PARKS & RECREATION DEPARTMENT'S SUBMITTAL OF A GRANT APPLICATION TO THE NEBRASKA GAME AND PARKS COMMISSION FOR A RECREATIONAL TRAILS PROGRAM GRANT FOR REPLACEMENT OF THE BISON TRAIL BRIDGE OVER HAINES BRANCH TRIBUTARY ON WEST VAN DORN STREET - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86028 WHEREAS, the City of Lincoln through its Parks & Recreation Department proposes to apply to the Nebraska Game and Parks Commission for financial assistance from the Recreation Trails Program Grant funds for the purpose of replacement of the Bison Trail Bridge over Haines Branch Tributary on West Van Dorn Street.

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

1. The City of Lincoln hereby expresses its support for the application being made by its Parks & Recreation Department to the Nebraska Game and Parks Commission for financial assistance from the Recreation Trails Program fund for the purpose of constructing the Bison Trail Bridge over Haines Branch Tributary on West Van Dorn Street which was recently closed for safety reasons.

2. The City of Lincoln has available and will apply its share of the project cost and has the financial capability to maintain and will maintain the completed improvements in a safe and attractive manner for public use.

3. The City of Lincoln will not discriminate against any person on the basis of race, color, age, religion, handicap, sex, or national origin in the use of the proposed project acquired or developed pursuant to the application for financial assistance. The City of Lincoln certifies that it has the financial capabilities to operate and maintain the completed facility in a safe and attractive manner for public use and further certifies that it will comply, where applicable, with the Americans with Disabilities Act by making the facilities accessible to the handicapped.

4. The City of Lincoln will, within 30 days of federal approval, or as soon thereafter as legally possible, obtain any required consultant for this project.

5. The Mayor is hereby authorized to sign all documents necessary and required to make application to acquire said grant funds.

6. No property developed under this project will, without the approval of the Nebraska Game and Parks Commission and the Secretary of the Interior, be converted to non-public outdoor recreation purposes. The City of Lincoln will replace any converted land in accordance with Section 6(f)(3) of the Land and Water Act of 1965, as amended to date.

7. The City Clerk is directed to transmit a certified copy of this resolution to the Parks & Recreation Department for transmittal to the Nebraska Game and Parks Commission.

Introduced by Doug Emery

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

APPROVING A MASTER DEVELOPMENT AGREEMENT BETWEEN THE CITY AND BNSF TO PROVIDE FOR A LAND EXCHANGE NEEDED TO CREATE THE NEW BNSF RAIL CORRIDOR AND THE SITE FOR THE WEST HAYMARKET PROJECT IMPROVEMENTS; TO PROVIDE FOR THE REMOVAL OF BNSF IMPROVEMENTS ON THE PROPERTY TO BE ACQUIRED BY THE CITY FROM BNSF; TO PROVIDE FOR BNSF'S CONSTRUCTION OF REPLACEMENT TRACKS AND RELATED IMPROVEMENTS; AND TO PROVIDE FOR BNSF'S GRANTING OF CERTAIN LICENSE AND EASEMENT RIGHTS TO THE CITY FOR RIGHT OF ENTRY WORK RELATED TO THE WEST HAYMARKET PROJECT IMPROVEMENTS - PRIOR to reading:

CAMP Moved to continue Public Hearing for Bill 10R-237 one week to 10/4/10 with Action.

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

APPROVING A LAND EXCHANGE AGREEMENT BETWEEN THE CITY AND BNSF FOR ACQUISITION OF PROPERTY FROM BNSF FOR THE WEST HAYMARKET PROJECT - PRIOR to reading:

CAMP Moved to continue Public Hearing for Bill 10R-238 one week to 10/4/10 with Action.

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

APPROVING A CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN THE CITY AND BNSF TO PROVIDE FOR TERMS AND CONDITIONS REGARDING CONSTRUCTION OF THE CITY'S RIGHTS OF ENTRY WORK UNDER THE MASTER DEVELOPMENT AGREEMENT FOR THE WEST HAYMARKET PROJECT - PRIOR to reading:

CAMP Moved to continue Public Hearing for Bill 10R-239 one week to 10/4/10 with Action.

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

APPROVING A THIRD ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN THE CITY AND THE WEST HAYMARKET JOINT PUBLIC AGENCY TO PROVIDE FOR THE CITY'S ASSIGNMENT OF ITS RIGHTS, INTERESTS, DUTIES AND OBLIGATIONS UNDER THE MASTER DEVELOPMENT AGREEMENT, LAND EXCHANGE AGREEMENT AND CONSTRUCTION AND MAINTENANCE AGREEMENT FOR THE WEST HAYMARKET PROJECT TO THE WEST HAYMARKET JOINT PUBLIC AGENCY - PRIOR to reading:

CAMP Moved to continue Public Hearing for Bill 10R-240 one week to 10/4/10 with Action.

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

ORDINANCE - 1ST READING & RELATED RESOLUTIONS (as required)

ANNEXATION NO. 08013 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 15 ACRES OF PROPERTY GENERALLY LOCATED SOUTHEAST OF THE SALT CREEK CROSSING AT WARLICK BOULEVARD - CLERK read an ordinance, introduced by Adam Hornung, 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.

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

APPROVING A LEASE AGREEMENT BETWEEN THE CITY AND HICKMAN PRESBYTERIAN CHURCH FOR THE LEASE OF SPACE BY AGING PARTNERS FOR ITS SENIOR CENTER PROGRAM AT 300 EAST THIRD STREET, HICKMAN, NEBRASKA FROM SEPTEMBER 1, 2010 TO AUGUST 31, 2011 - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a lease of

office space by the Aging Partners for its Senior Center program located at 300 E. Third Street, Hickman, NE 68372, for a term of September 1, 2010 through August 31, 2011, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19453, is recorded in Ordinance Book #27, Page

AMENDING CHAPTER 3.24 OF THE LINCOLN MUNICIPAL CODE RELATING TO OCCUPATION TAXES BY AMENDING SECTION 3.24.080 TO PROVIDE THAT THE SELLER OF TELECOMMUNICATION EQUIPMENT MAY ITEMIZE THE TAX LEVIED ON A BILL, RECEIPT OR OTHER INVOICE TO THE PURCHASER AND AMENDING SECTION 3.24.100 TO CLARIFY THAT THE COMPANIES PAYING THE TELECOMMUNICATION OCCUPATION TAX HAVE UNTIL THE END OF THE MONTH TO PAY THE TAX FROM THE PREVIOUS MONTH - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 3.24 of the Lincoln Municipal Code relating to occupation taxes by amending Section 3.24.080 to provide that the seller of telecommunications equipment may itemize the tax levied on a bill, receipt, or other invoice to the purchaser; amending Section 3.24.100 to clarify that the companies paying the telecommunication occupation tax have until the end of the month to pay the tax from the previous month; and repealing Sections 3.24.080 and 3.24.100 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19454, is recorded in Ordinance Book #27, Page

AMENDING CHAPTER 14.55 OF THE LINCOLN MUNICIPAL CODE RELATING TO SIDEWALK VENDORS BY AMENDING SECTION 14.55.050, APPLICATION FOR PERMIT, TO ALLOW VENDORS IN THE B-3 COMMERCIAL DISTRICT AND TO PROVIDE ADDITIONAL APPLICATION SUBMITTAL REQUIREMENTS BY PERSONS SEEKING A VENDOR'S PERMIT TO OPERATE IN THE B-3 COMMERCIAL DISTRICT; AMENDING SECTION 14.55.070 RELATING TO RESTRICTIONS ON PUSHCARTS TO REDUCE THE REQUIRED EIGHT-FOOT PEDESTRIAN PATH TO A SIX-FOOT PEDESTRIAN PATH AFTER THE LOCATION OF ANY PUSH CART OR STAND WITHIN ANY SIDEWALK SPACE AND ADDING A NEW SECTION NUMBERED 14.55.075 TO PROVIDE ADDITIONAL RESTRICTIONS ON PUSHCARTS OPERATING IN THE B-3 COMMERCIAL DISTRICT - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 14.55 of the Lincoln Municipal Code relating to Sidewalk Vendors by amending Section 14.55.050, Application for Permit, to allow vendors in the B-3 Commercial District and to provide additional application submittal requirements by persons seeking a vendor's permit to operate in the B-3 Commercial District; amending Section 14.55.070 relating to Restrictions on Pushcarts to reduce the required eight-foot pedestrian path to a six-foot pedestrian path after the location of any pushcart or stand within any sidewalk space; adding a new section numbered 14.55.075 to provide Additional Restrictions on Pushcarts Operating in the B-3 Commercial District; and repealing Sections 14.55.050 and 14.55.070 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19455, is recorded in Ordinance Book #27, Page

AMENDING SECTION 5.20.130 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE HOURS DURING WHICH PUBLIC DANCING IS PROHIBITED - PRIOR to reading:

HORNUNG Moved to amend Bill No. 10-125 to allow hours of dancing to be 24 hours a day.

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

CLERK Read an ordinance, introduced by Jonathan Cook, amending Section 5.20.130 of the Lincoln Municipal Code relating to Dances to allow the closing time of adult public dances to be consistent with the closing time provided in Chapter 5.20.130 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19456, is recorded in Ordinance Book #27, Page

OPEN MICROPHONE

Jayne Svoboda, no address given, stated she had evidence that the Chinese had to recall 87 Canadian Slot Machines because they had subliminals in them. She mentioned home cures for chest pains and warned against going to the Emergency Room as they pretend to give EKG's. They will not give a copy of the EKG graph and no barium or iodine liquid before chest x-rays. The reason these are a fraud is because there may be subliminals in hospitals.
This matter was taken under advisement.

Ryan Cairns, 330 S. 44th Street, owner and operator of Dogs 'N Spuds, came forward to request streamlining the permit process for Sidewalk Vendors. On Football Saturday an employee was unable to work the cart due to a death in the family and because he had one less employee and the permit process takes three weeks to approve another employee his revenue was half of what it could have been. He is in favor of the Sidewalk Vendor zoning change. He feels that since the sidewalk vendors will be paying taxes to help pay for the Haymarket Arena the zoning should be re-written to take them into consideration.

Council Member Cook suggested he visit with Urban Development about the permit process.

This matter was taken under advisement.

Carolyn Eberly, 2810 S. 72nd Street, #25, stated she has found it difficult to figure out the City Council process. The Legislature has a Unicameral Information Network which explains the process to the public and feels something like this would benefit the City Council. She expressed her appreciation to the City Council because of the way they conducted the process of the City budget and is comfortable with the budget. She was in favor of a raise for the Mayor. She asked that they always think in terms of the citizen's public safety.

This matter was taken under advisement.

John Austin, 826 S. 14th Street, came forward to question if it was against the law for University of Nebraska buses to have taken bus loads of students to the polls when the Haymarket Arena was on the ballot? Do bicycles pay taxes? Two wheel trailers are taxed, why aren't bicycles? Bicycle riders should take a safety course before they can ride a bicycle. Do they confiscate the bicycle if they violate a law? He commented that the fairgrounds would have been a good place for the arena.

Jayne Snyder commented that if bicycle riders are riding on downtown sidewalks they get a citation. She also answered his question that the buses used to bus the University students to the polls were paid for by the For Arena Group and there were less than 200 people that took advantage of that.

This matter was taken under advisement.

Mike Morosin, 1500 N. 15th St., presented an Executive Order from 2005 showing the recommendations of the Relocation Assistance Appeal Board. He stated he completed all of his obligations for this and still does not have a garage.

Doug Emery, Council Member, suggested he visit with the City Attorney.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

PENDING -

ASSESSING PUBLIC HEALTH NUISANCE ABATEMENT COSTS ASSOCIATED WITH THE CLEARING OF PUBLIC NUISANCES BY THE HEALTH DEPARTMENT TO THE FOLLOWING BENEFITTED PROPERTIES: 1747 S. 15TH, 1635 S. 16TH, 5730 O, 1520 N. 25TH, 844 PEACH, 1425 N. 24TH, 1437 S. 34TH, 1834 PROSPECT, 720 WASHINGTON, 1020 PLUM, 1520 N. 14TH, 5601 M, 1645 WASHINGTON, 5427 NORMAL, 5359 COOPER, 1120 E, 1435 C, 1857 J, 2253 ORCHARD, 2928 S, 4626 MADISON, 550 N.W. 8TH, 2400 N, 2905 VINE, 2327 D, 436 S. 30TH, 2436 S. 8TH, 1608 N. 25TH, 333 N. 24TH, 3810 DUDLEY, 508 S. 25TH, 619 S. 55TH, 1942 SKYLINE, 2213 S.W. 19TH - CLERK requested a motion to delay introduction one week.

CARROLL Moved to delay introduction for one week to 10/4/10.
Seconded by Camp & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

CAMP Moved to extend the Pending List to October 4, 2010.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on October 4, 2010.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ADJOURNMENT 8:15 P.M.

CAMP Moved to adjourn the City Council meeting of September 27, 2010.
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

Joan E. Ross, City Clerk

Judy Roscoe, Senior Office Assistant

