IN LIEU OF
DIRECTORS' MEETING
MONDAY, JANUARY 15, 2007

CORRECTIONS TO AGENDA & ADDED ATTACHMENTS
(Corrections noted with *C)

I. MAYOR

1. Mayor Seng Presents December Award of Excellence to Officers Nathan Flood and Steven Wiese of the Technical Investigations Division of the Lincoln Police Department.
2. NEWS RELEASE. City Seeks Proposals for Downtown Project.
3. NEWS RELEASE. Holiday Tree Recycling Ends Sunday.
4. NEWS RELEASE. Nominations Now Accepted for Arts Awards.
5. Washington Report, January 5, 2007.

II. DIRECTORS

FINANCE/BUDGET

1. Fiscal Year 2005-2006 Operating Budget Report.

PLANNING COMMISSION

1. Hearing on Wednesday, January 31, 2007 to Consider Amendments to Bylaws and to the City and County Zoning and Subdivision Regulations.

PLANNING COMMISSION FINAL ACTION

1. Waiver No. 06010. Gushard and Omel Addition Final Plat - South 56th and Rokeby Road. Resolution No. PC-01034.
2. Special Permit No. 06070. Apple Hill Community Unit Plan. South 48th Street and Apple Hill Lane. Resolution No. PC-01033.
3. Special Permit No. 1989A. Lighting Plan. Sid Dillon Auto, South 27th Street and Kendra Lane. Resolution No. PC-01035.

III. CITY CLERK

IV. COUNCIL REQUESTS/CORRESPONDENCE

JON CAMP

1. Email from Eric Mitchell listing concerns.

ANNETTE McROY

1. Request to Public Works & Utilities Department-Traffic Division - RE: Parking in the Centrum (RFI#176 - 01/05/07)

ANNETTE McROY/PATTE NEWMAN

1. Request to ~~Scott Holmes & Bruce Dart, Health Department~~ /Dale Stertz & Mike Merwick, Building & Safety Department/Tonya Skinner & Dana Roper, City Law Department - RE: Bar owners, outdoor smoking areas (McRoyRFI#175 & NewmanRFI#41 - 12/18/06). — **1.) SEE RESPONSE FROM SCOTT HOLMES, HEALTH DEPARTMENT RECEIVED ON McRoyRFI#175 & NewmanRFI#41 - 01/11/07.**

2. Request to Darl Naumann, Mayor's Office/Karl Fredrickson, Public Works & Utilities Director/Nicole Fleck-Tooze, Public Works-Watershed Management - RE: 50th Street corridor costs (NewmanRFI#42 & McRoyRFI#177 - 01/10/07)

PATTE NEWMAN

1. Response of John McQuinn to email from Jacob Hamilton regarding unlawful possession of firearms.

***C2. Memorandum from Police Chief Tom Casady regarding 2006 Crime Statistics.**

***C3. Response Letter from Police Chief Casady to Jacob Hamilton - RE: Firearm Ordinance.**

V. MISCELLANEOUS

1. Email from Robert Heese re: Radon levels in Lincoln.
2. Letter from Kirkham Michael Consulting Engineers, Rick Haden, Traffic Engineer Manager, to Danny Walker with attached letter from Danny Walker to Kirkham Michael Consulting Engineers re: Lincoln BNSF Quiet Zone Study. The Wayside Horn Test on January 4, 2007.
3. Email regarding removing holiday decorations within a certain time frame.
4. Email from Sharon Smith re: 50th Street opening.
5. Email from David Oenbring re: Opposition to City funds spent on HyVee Store at 52nd and "O" Streets.
6. Written and Web comments faxed in from constituent.

VI. ADJOURNMENT

da011507/tjg

CITY OF LINCOLN
NEBRASKA

NEWS RELEASE

MAYOR COLEEN J. SENG

lincoln.ne.gov

OFFICE OF THE MAYOR
555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

FOR IMMEDIATE RELEASE: January 8, 2007
FOR MORE INFORMATION: Diane Gonzolas, Citizen Information Center, 441-7831

MAYOR PRESENTS DECEMBER AWARD OF EXCELLENCE

Mayor Coleen J. Seng today presented the Mayor's Award of Excellence for December to Officers Nathan Flood and Steven Wiese from the Technical Investigations Division of the Lincoln Police Department. The monthly award recognizes City employees who consistently provide exemplary service and work that demonstrates personal commitment to the City. The award was presented at the beginning of today's City Council meeting.

Flood has been with LPD since 1991, and Wiese has been with LPD since 1999. Both are currently assigned to the Forgery and Fraud Unit. They were nominated by Sergeant Mark Meyerson in the category of productivity for their work on a large number of forgery cases involving more than a dozen checking accounts. In all, more than 300 forged checks were passed at dozens of Lincoln retailers, resulting in losses of more than $10,000. Meyerson said tracking the cases was a complicated task requiring patience and outstanding organizational skills.

As a result of perseverance, investigative ability and many interviews with witnesses and victims, the team developed Jamie Allen as a strong suspect. Then came many more weeks of surveillance and pursuing leads to locate Allen – a task made more difficult because Allen knew he was wanted and was eluding police. A break came when a man failed to return a car after a test drive, and a witness identified Allen from a photographic line-up. After checking all motel parking lots for the stolen car, it was found at 28th and West "O." A lengthy surveillance resulted in the arrest of Allen and his accomplice. Allen's admissions helped clear more than 250 forgery case. Meyerson commended Flood and Wiese "for working together as a team to bring to justice one of the most prolific forgers the Lincoln Police Department has ever seen."

The other categories in which employees can be nominated are customer relations, loss prevention, safety and valor. All City employees are eligible for the award except for elected officials and some managers. Individuals or teams can be nominated by supervisors, peers, subordinates and the general public. Nomination forms are available from department heads, employee bulletin boards or the Personnel Department, which oversees the awards program.

All nominations are reviewed by a committee, which includes a representative with each union and a non-union representative appointed by the Mayor. Award winners receive a $100 U.S. savings bond, a day off with pay and a plaque. Monthly winners are eligible to receive the annual award, which comes with a $500 U.S. savings bond, two days off with pay and a plaque.

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CITY OF LINCOLN
NEBRASKA

NEWS RELEASE

MAYOR COLEEN J. SENG

lincoln.ne.gov

OFFICE OF THE MAYOR
555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

FOR IMMEDIATE RELEASE: January 9, 2007
FOR MORE INFORMATION: Diane Gonzolas, Citizen Information Center, 441-7831
Dallas McGee, Urban Development, 441-7857

CITY SEEKS PROPOSALS FOR DOWNTOWN PROJECT

The City of Lincoln will issue an invitation for redevelopment proposals this week seeking a private sector partner to build above a new parking garage at 14th and "Q" streets, Mayor Coleen J. Seng announced Tuesday.

The invitation for redevelopment proposals is for the site now occupied by the Star Ship 9 theater, Wasabi restaurant and Taste of China restaurant, Seng said. The City of Lincoln owns the theater and the Wasabi location. The owners of Taste of China have agreed to sell the property to Monte Froelich, who has agreed to sell the property to the successful developer selected through the competitive process to build above the garage. The City of Lincoln will pay Froelich $430,000. The developer selected by the City must agree to pay Froelich an additional $300,000.

"This is an exciting opportunity for new public and private investment in the heart of downtown Lincoln," Seng said. "This project is a key component in the Downtown Master Plan and will be a catalyst for economic development in the central business district."

The garage will be financed by the City's Parking Enterprise Fund. The garage is expected to have about 600 parking stalls. The invitation for redevelopment proposals seeks to attract a privately owned tower above the garage. Proposals will be due this spring and should be submitted to the Urban Development Department. Mayor Seng will make the final selection.

The invitation for redevelopment proposals also seeks proposals for new privately owned buildings to line the north and east sides of a future public plaza at the corner of 13th and "P" streets. These new buildings are intended to provide opportunities for retail, office or residential activity to enliven and beautify the plaza. The plaza and its adjacent buildings will be on the site previously occupied by the Douglas 3 Theater, which was acquired by the City last year and since removed.

Prospective developers may submit proposals for above the garage site, for one or both liner buildings, or for both, Seng said. As a result, the City has the option to select one developer for the entire complex or more than one developer, depending on what is received. Invitations for redevelopments proposals are issued in accordance with the Community Development Act. For more information, contact Dallas McGee at 441-7857.

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CITY OF LINCOLN
NEBRASKA

NEWS RELEASE

MAYOR COLEEN J. SENG

lincoln.ne.gov

PUBLIC WORKS AND UTILITIES DEPARTMENT
Recycling Office, 2400 Theresa Street, Lincoln, NE 68521, 441-7043, fax 441-8735

FOR IMMEDIATE RELEASE: January 11, 2007
FOR MORE INFORMATION: Gene Hanlon, Recycling Coordinator, 441-7043

HOLIDAY TREE RECYCLING ENDS SUNDAY

The City of Lincoln's annual holiday tree recycling program will end Sunday, January 14. The trees will then be ground into wood chips, and the wood chip mulch will be available at no charge to Lincoln residents beginning Wednesday, January 17 at each tree collection site. The mulch will be available on a first-come, first-served basis through Sunday, February 11. The Public Works and Utilities Department will use any remaining wood chips in its composting operation.

Individuals will need to self-load the wood chips. City staff and private grinders will not load or haul wood chips for the public.

Trees can be dropped off and mulch picked up at the following sites:

- Ballard Park, 3901 North 66th Street
- Oak Lake Park, 1st Street three blocks south of Cornhusker Highway
- Peter Pan Park, 33rd and "X" streets, in the east half of the parking lot
- University Place Park, 50th and Garland streets
- Holmes Lake Park, parking lot west of the north softball field
- Sawyer-Snell Park, 2nd and South streets, west of the Fire Department Building
- Tierra Park, 29th and Tierra Drive
- Woods Park, 31st and "J" streets, southeast corner of the parking lot

For more information regarding the holiday tree recycling program or the City's recycling program in general, see the City Web site, lincoln.ne.gov (keyword: recycle), or call the City Recycling Information Hotline at 441-8215.

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CITY OF LINCOLN
NEBRASKA

NEWS RELEASE

MAYOR COLEEN J. SENG

lincoln.ne.gov

OFFICE OF THE MAYOR
555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

FOR IMMEDIATE RELEASE: January 11, 2007
FOR MORE INFORMATION: Diane Gonzolas, Citizen Information Center, 441-7831
Deb Weber, Lincoln Arts Council, 434-2787

NOMINATIONS NOW ACCEPTED FOR ARTS AWARDS

Nominations are now being accepted for the 29th annual Mayor's Arts Awards. The awards will be presented by the Lincoln Arts Council (LAC) the **evening of Wednesday, June 6, 2007 at the Lied Center for Performing Arts.**

The Mayor's Arts Awards program formally recognizes artistic contributions and achievements in the Lincoln area. Those wishing to nominate a project, organization or person may request a nomination form by calling the LAC at 434-2787 or print a form from the LAC Web site: www.artscene.org. A list of previous winners is also available at that Web site. **The nomination deadline is February 16, 2007.**

The award categories are:

- The **Oliva "Arts for Kids" Award** honors an individual from outside of the arts professions whose leadership has enhanced arts activities and experiences for children.
- The **Artistic Achievement Award - Performing Arts** recognizes excellence and accomplishment in any of the performing arts.
- The **Artistic Achievement Award - Visual Arts** recognizes excellence and accomplishment in any of the visual arts.
- The **Artistic Achievement Award - Youth** recognizes excellence and accomplishment in any arts discipline by a young person age 18 or younger.
- The **Halcyon Allsman Benefactor of the Arts Award** honors an individual, family, organization or business making significant financial contributions to the arts in Lincoln.
- The **Arts Organization Award** recognizes an arts group that has made significant contributions to Lincoln's arts community over a period of years.
- The **Leadership Award** recognizes an individual or organization for making a major overall impact on the arts in Lincoln.
- The **Cultural Celebration Award** recognizes artistic work that has fostered an appreciation of a specific culture or cultures through the arts.
- The **Literary Heritage Award** recognizes a writer or individual who promotes excellence in writing and literature in Nebraska.

- more -

- The **Larry Enersen Award** recognizes outstanding urban design in Lincoln.
- The **Heart of the Arts Award** recognizes outstanding volunteer efforts on behalf of the arts.
- The **Event of the Year Award** recognizes a performance, exhibition, event or project in 2006 that will be notable in the community memory for years to come
- The **Gladys Lux Education Award** recognizes special initiatives or dedication to arts education.

A **Mayor's Choice Award** will also be presented.

The year's award will be created by bead artist Marcia Laging-Cummings, who won the 2006 Mayor's Arts Award for Artistic Achievement - Visual Arts.

The public also is encouraged to submit names of members of the Lincoln arts community who have died since the last awards ceremony in June 2006 for memorial recognition at the event.

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CITY OF LINCOLN Washington Office

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Washington Report

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110TH CONGRESS CONVENES

CONGRESS

110th Congress convenes as Democrats take control. The first session of the 110th Congress began this week, with much pomp surrounding the ascension of Democrats to control of both chambers and capped by the historic induction of Rep. Nancy Pelosi (D-CA) as the first female Speaker of the House. Senator Harry Reid (D-NV) was also installed as the new Senate Majority Leader by his colleagues. Democrats now outnumber Republicans in the House by 233-202 and in the Senate by 51-49.

For many years, new Congresses would be installed in early January, but legislative work would not begin until later that month. However, Democratic leaders this year have bucked that tradition, and shortly after their swearing-in began the process of considering pieces of its aggressive "First 100 Hours Agenda." First on the list in the House was a package of rules to govern the chamber that most significantly included a package of ethics reforms. These reforms prohibit Members and their staff from accepting any meals, gifts, or travel from lobbyists or personnel of private entities that employ lobbyists. The rules also require earmarks contained in legislation to specifically include the sponsor's name, and prohibit any earmark from personally benefiting a Member or that Member's spouse.

The House rules also bring back the "pay-as-you-go" requirements that call for offsets for any tax cuts and increases in mandatory spending. Republican leaders had exempted tax cuts from offsets in order to ease passage of billions of dollars in tax cuts proposed by President Bush in recent years. Also, Democrats kept a rule created by Republicans that places a three-session term limit on committee chairmen.

Next week, the House continues its work with high profile issues such as:

- Implementing additional recommendations of the September 11 Commission, including changes to Homeland Security funding formulas to make them more risk-based;
- Increasing the minimum wage for the first time since 1996 from $5.15 per hour to $7.25 per hour;
- Removing constraints on federal funding for embryonic stem-cell research that have been imposed by the Bush Administration, and
- Allowing the federal government to negotiate lower prices for prescription drugs for Medicare patients.

In the Senate, leaders of both parties conceded that there would have to be significant compromise in order the accomplish anything in that chamber and all indications are that Reid has a good working relationship with his new counterpart, Senate Minority Leader Mitch McConnell (R-KY). Reid's legislative agenda can likely be seen in the bills that were awarded the coveted first 10 Senate bill numbers:

S 1: ethics and lobby reform
S 2: raise the minimum wage
S 3: reduce prescription drug costs for seniors
S 4: additional recommendations of the 9-11 Commission
S 5: stem cell research
S 6: reducing energy dependence
S 7: making college more affordable
S 8: assistance to U.S. military
S 9: immigration reform
S 10: reinstate "pay-as-you-go" rules

Reid has also mentioned that he would like to bring legislation relating to climate change to the Senate floor sometime in the spring. Senator Barbara Boxer (D-CA), the incoming chairman of the Environment and Public Works Committee has repeatedly said that global warming will be a focus of that panel this year.

Finally, Democrats in Congress are expected to significantly increase its oversight of federal agencies, an area in which Republicans have been lax, they claim. In anticipation of increased investigations into his administration, President Bush is reportedly beefing up his legal team at the White House Counsel's office, which currently is far smaller than the operation that existed in the Clinton Administration. It has been reported that the President's closest advisors did not believe that White House Counsel Harriet Miers was up to the task of responding forcefully to the challenges that lay ahead, leading to her resignation this week.

BUDGET

In effort to expedite the passage of FY 2008 spending bills, Democrats this week realigned the House and Senate appropriations subcommittees. The House and Senate Appropriations Committees of the 109th Congress had a different number of subcommittees—10 in the House and 12 in the Senate—with different jurisdictions. The new setup realigns the House and Senate panels with 12 identical spending subcommittees.

The Appropriations Committee Chairmen in their respective chambers, Rep. David Obey (D-WI) and Sen. Robert Byrd (D-WV), said in a statement that they hope the realignment will enable them to finish the FY 2008 spending bills by the start of the new fiscal year Oct. 1, as they did in 1994, the last time they were also both Appropriations Committee Chairmen.

Most notably, the Transportation-Treasury-Housing and Urban Development Subcommittee, considered unmanageable because of its expansive jurisdiction, will shrink to Transportation-Housing. The House State-Science-Justice-Commerce Subcommittee will be renamed Commerce-Justice-Science (CJS) to correspond with the Senate subcommittee, with the State Department moving to the Foreign Operations subcommittee.

Also, the House will re-establish a Legislative Branch Subcommittee, which the Senate never abolished. One new subcommittee is being created in both chambers: Financial Services and General Government. That panel will oversee the Treasury Department, the federal judiciary, the Federal Deposit Insurance Corporation, and the District of Columbia.

The roster of chairs for the House and Senate appropriations subcommittees was also announced:

Agriculture:
Sen. Herb Kohl (D-WI) and Rep. Rosa DeLauro (D-CT)

Commerce-Justice-Science:
Sen. Barbara Mikulski (D-MD) and Rep. Alan Mollohan (D-WV)

Defense:
Sen. Daniel Inouye (D-HI) and Rep. John Murtha (D-PA)

Energy-Water:
Sen. Byron Dorgan (D-SD) and Rep. Peter Visclosky (D-IN)

Financial Services:
Sen. Richard Durbin (D-IL) and Rep. Jose Serrano (D-NY)

Homeland Security:
Sen. Robert Byrd (D-WV) and Rep. David Price (D-NC)

Interior-Environment:
Sen. Dianne Feinstein (D-CA) and Rep. Norm Dicks (D-WA)

Labor-Health-Education:
Sen. Tom Harkin (D-IA) and Rep. David Obey (D-WI)

Legislative Branch:
Sen. Mary Landrieu (D-LA) and Rep. Debbie Wasserman-Schultz (D-FL)

Military Construction-Veterans Affairs:
Sen. Tim Johnson (D-SD) and Rep. Chet Edwards (D-TX)

State-Foreign Operations:
Sen. Patrick Leahy (D-VT) and Rep. Nita Lowey (D-NY)

Transportation-Housing:
Sen. Patty Murray (D-WA) and Rep. John Olver (D-MA)

TELECOMMUNICATIONS

FCC ruling, state laws likely to take franchising off congressional menu but challenges for local governments remain. The Federal Communications Commission (FCC) issued a ruling in the waning days of 2006 that will effectively eliminate local cable franchising authority and threatens local government revenue.

The FCC action came after the 109th Congress failed to take final action on franchise reform legislation (HR 5252) and after a number of states, including the large population states of Texas, California, New Jersey and Virginia, enacted their own franchise reform legislation. As a result, the regional Bell operating companies — having received sufficient relief elsewhere and fearful that a Democratic Congress would impose network neutrality and build-out requirements on them — will probably not push cable franchise reform legislation this year.

The FCC adopted the cable franchise rule 3-2, with both Democratic Commissioners voting no and issuing blistering written dissents that highlighted the negative impact the rule will have on local governments. The ruling came despite the objections of local government officials throughout the nation and of several congressional leaders.

The details of the FCC rule will be issued in the coming weeks; they have only issued a press release to date. However, under the rule local governments will have a time limit, probably 90 days, to approve a cable franchise after which the franchise will be automatically granted. In addition, the rule will require that payments for in-kind services and the costs of public, educational and governmental (PEG) services be subtracted from the five percent franchise fee rather than added on top of it. Local government organizations are poised to mount a legal

challenge to the rule once it is issued and may also seek a stay pending a court decision. They will contend that the FCC overstepped its authority because the Cable Act of 1992 clearly gives the FCC no role in cable franchising, delegating that responsibility to the state and local governments instead.

The shifting of the franchise issue to the courts does not mean the end of legislative challenges for local governments on the telecommunications front. The biggest challenge will be the expiration of the Internet Tax Freedom Act on November 1, 2007. Indeed, on the first day of the new Congress, Senators Ron Wyden (D-OR), John McCain (R-AZ) and John Sununu (R-NH) introduced legislation (S 156) that would make the current moratorium on state and local government taxation of Internet access fees permanent. Although S 156 takes the simple approach of making the current moratorium permanent, in the past there have been attempts to expand its reach in ways that threaten a wide array of local government telecommunications taxes and fees.

McCain and Senator Jim DeMint (R-SC) introduced another bill (S 166) on the first day of the new Congress that would put a three year ban on any new state and local taxes on cell phones. McCain and DeMint argue that state and local governments tax cell phones similar to luxury items and that a three-year moratorium will give consumers relief from new taxes and allow state and local governments to work with the industry to create a tax regime that treats consumers fairly without harming revenue.

Look for many more bills similar to S 166 in the coming months as the telecommunications industry shifts its considerable lobbying muscle away from franchise reform and begins to lobby Congress for relief from state and local taxes. The industry argues that state and local governments tax it at a more onerous rate than other businesses.

However, state and local government organizations have already issued a detailed study showing that despite its claims, the industry pays lower taxes than most other businesses when fees for the use of public rights-of-way are not included. State and local governments argue that those fees are not taxes but are rent for the use and management of public property,

HOMELAND SECURITY

The Department of Homeland Security released FY 2007 grant guidance documents for state and local Homeland Security programs. The department announced a total of $1.7 billion will be available for funding the following programs:

- Urban Areas Security Initiative: $746.9 million
- State Homeland Security Program: $509.3 million
- Law Enforcement Terrorism Prevention Program: $363.8 million
- Metropolitan Medical Response System Program: $32 million
- Citizen Corps Program: $14.6 million

The Urban Areas Security Initiative (UASI) Program provides major urban areas support in preventing acts of terrorism. For FY 2007, there are 45 areas that are eligible for funding. From the total 45 UASI areas, this year six (New York, Los Angeles, San Francisco, District of Columbia, Chicago, and Houston areas) are established as having the highest risk and are able to compete for $410 million (55% of the available funds). The remaining $336 million (45% of the available funds) will be available to the remaining UASI areas.

In comparison to the funding for FY 2006, the total amount of funding for the UASI Program has increased by $36.3 million. DHS has determined four new urban areas to receive funds for FY 2007. These newly eligible areas are Tucson, Providence, El Paso, and Norfolk. Areas that had been slated to be eliminated from the UASI program, such as Phoenix and Las Vegas, were retained as well.

The Department's decision is likely to add fuel to the ongoing debate over how best to allocate Homeland Security funds, with critics arguing that the current system benefits rural states at the expense of high-threat metropolitan areas.

FISCAL YEAR 2005-06 OPERATING BUDGET REPORT

The purpose of this report is to provide the Mayor and City Council with a report on operating expenditures, General Fund revenues, and personnel expenditures for the most recently completed fiscal year.

The Operating expenditures and encumbrances in Exhibit 1 titled "Operating Budget Report of Appropriations, Expenditures, and Encumbrances" are displayed by fund and department. It should be noted that the "Approved Budget" column includes the original FY 2005-06 budget as approved by the City Council, plus any revisions authorized during the year, as well as amounts encumbered from the prior year (including purchase orders and contracts still open as of August 31, 2005). Exhibit 1 indicates that 97.6% of the General Fund budget was expended or encumbered as of August 31, 2006. The resolution passed in August 2006 adopting the FY 2006-07 Budget re-appropriated 100% of 2005-06 unspent and unencumbered General Fund appropriations of operating departments, including 100% of any remaining reappropriated funds for years prior to FY 2005-06 less $1,069,004 that the City Council used to partially fund the FY 2006-07 Operating Budget. Final authority to spend these re-appropriations rests with the Mayor. A breakdown by major type of expense is displayed below.

Percent of General Fund Operating Budget
Expended or Encumbered at End of Fiscal Year

	2005-06
Personnel	97.6%
Supplies	104.4%
Other Services & Charges	95.0%
Equipment	59.8%
Transfers[1]	100.0%
Total	97.6%

[1]Excludes CIP Transfers.

The estimated cash position of the General Fund is evaluated during each budget process to provide an estimate of balances available for appropriation in the ensuing fiscal year. For 2005-06, appropriated balances, used as a funding source for the budget, decreased $222,625 to $4,862,575 and decreased further for the FY 2006-07 budget. General Fund balances as a funding source for the budget, are projected to decrease over the next five-year budget forecast period as the City reduces balances, measured at fiscal year end, to a goal of 15% of the coming budget. Additionally, the process of preparing five-year projections and allocating surpluses over a five-year period assures that balances are drawn down according to City Council adopted policies.

TAX FUNDS

At the end of FY 2005-06, expenditures of two tax funds exceeded the appropriated amount:

Police and Fire Pension - exceeded the budgeted amount by $5,273,701. However, fiscal year expenditures are not related to the budget. The budget is the City's contribution, used to maintain proper long-term actuarial funding; investment income is used to pay expenses.

Bond Interest and Redemption – exceeded the budget by $4,942 or 0.1%. Only principal and interest payments are budgeted. The overage is due to service charges. All cash in the fund is appropriated to cover these expenditures.

Following are explanations of significant savings for entities expending less than 95% of their budget and with more than $5,000 surplus appropriations.

City Council - expended 79.8% or $69,847 less than their adjusted budget. Most of this savings is the remaining balance of the City Council member's discretionary funds that were carried forward to the next fiscal year. Also, there was an office position that remained open for a majority of the year. This position was eliminated in the FY 2006-07 budget.

General Expense - expended 92.6% of the approved budget resulting in savings of $1,300,982. The savings were realized primarily in Health Insurance and Misc. Contractual Services. Approximately one half of the savings was encumbered or reappropriated to fund commitments in 2006-07.

Contingency - $300,000 was expended in 2005-06 for relocation of the triplets. At year-end $293,631 was transferred in the resolution adopting the new budget to cover budget overruns in FY 2005-06.

Special Events – expended 73.2% or $39,923 less than their budget. This savings was realized primarily on insurance for the Star City Parade and salary costs for the 4th of July.

Social Security – expended 91.2% of the approved budget resulting in savings of $183,489. This savings is from the taxes on unused salary balances in all General Fund departments.

Unemployment Compensation - expended only 18.2% of the approved budget resulting in a total expenditure of $17,274. This expenditure rate is slightly lower than the previous year. Total benefit payments remain low. These payments have been funded with fund balances for many years.

SPECIAL REVENUE FUNDS

Expenditures of four special revenue funds exceeded the appropriated amount:

9-1-1 Communications – exceeded the budgeted amount by $14,799 or 0.5%. When the 9-1-1 Center was flooded, they were moved to their back-up center. Since they were there for an extended period of time while renovations were taking place, it was necessary to purchase an unbudgeted logging recorder to record radio and telephone communications to DVD. This piece of equipment will remain at the back-up center for future use.

Heritage Room – expended 107.1% of the appropriations exceeding the budget by $2,452. This slight overage is in response to an employee union pay schedule change that happened during the fiscal year.

KENO – exceeded the budgeted amount by $199,723 or 12.1%. This is due to revenue being greater than anticipated in the budget. The percentages transferred to the State, County, human service projects etc. were all greater than anticipated in the budget. The budget resolution appropriates all cash in the fund in order to cover these transfers.

WIA – expended 100.5% of the appropriations exceeding the budget by $5,002. Late in the fiscal year some expenditures were charged to F.Y. 2005-06 that were actually intended to be charged to 2006-07. The grant reimbursement for these items was received in 2006-07.

Explanations of savings for Special Revenue Funds entities that experienced significant savings follow.

Cable Access Television – expended 78.7% of the amount appropriated resulting in a savings of $19,176. The savings was accomplished due to a delay in purchasing some audio-visual equipment that was budgeted.

Aging – City/County – expended 93.2% of their budget realizing a savings of $328,653. Savings were achieved from staff vacancies, including retirements, Meals on Wheels that served fewer meals than budgeted and an employee on unpaid Family Medical Leave.

Aging – Multi-County – expended 93.1% of the appropriations under budget by $39,982. Savings were achieved from staff vacancies, including retirements and a planning intern that was not hired, and an employee on unpaid Family Medical Leave.

Snow Removal Fund – expended 72.1% of the amount appropriated with a savings of $833,198. A mild winter in 2005-06 allowed for a surplus in the snow removal section of the budget. Contractors and City Personnel spent fewer hours than normal in the snow removal efforts.

CDBG – expended 80.6% of budgeted funds resulting in a year-end balance of $983,503. Unexpended funds will be re-appropriated in 2006-07. Budget revisions are made throughout the year to appropriate unexpended balances from the prior year, program income and actual grant revenues.

Home Grant – expended 60% of budgeted funds resulting in a year-end balance of $1,245,543. Unexpended funds will be re-appropriated in 2006-07. Budget revisions are made throughout the year to appropriate unexpended balances from the prior year, program income and actual grant revenues.

OTHER DEBT SERVICE FUNDS

Five Other Debt Service Funds exceeded the budgeted amounts.

MIRF, Antelope Valley and Highway User Allocation Bonds – these funds exceeded the budget because only principal and interest payments are included in the budget. The overruns in each fund are due to service charges, which are not budgeted. All cash in the funds is appropriated to cover such charges.

2005-06 Debt Service – exceeded the budget by $37,585 or 1.4%. The money in this fund was used to pay debt service during the 2005-2006 fiscal year, which included 27 rather than 26 pay periods. The budget overrun resulted form more interest being earned on the balance in the fund than originally projected and being transferred to the Bond Interest and Redemption Funds.

Tax Allocation – exceeded the budget by $16,726 or 2.0%. This is the net result of not using appropriations budgeted for the Commerce Court T.I.F. because the balance was paid off early in 2004-05 to avoid further interest charges and not budgeting for payments that were made on the Liberty Village T.I.F. which was created in August 2005.

ENTERPRISE FUNDS

Six Enterprise Funds exceeded their listed budget by $5,000 or more. (However, the Budget Resolution appropriates all the receipts regardless of the amount budgeted.)

EMS Enterprise – exceeded the budget by $377,203 or 10.7%. A majority of this is from personnel costs that result from the multiple pay grades that the system certified paramedics fall in due to longevity. Also, there was an additional $85,700 spent on medical supplies as a result of the medical director adopting new requirements, $26,317 in the increased cost of fuel, $24,743 in the Star Care settlement and an additional $44,059 in interest paid to the General Fund that was not budgeted.

Pershing Auditorium – exceeded the budget by $167,162 or 7.5%. Actual revenue generated by operations exceeded projected revenues by $192,421. All cash in this fund is appropriated in the Budget Resolution in order to provide for such expenditures.

Golf - exceeded the budget by $195,928 or 7.7%. This was due primarily to greater than anticipated costs for fuel, water and credit card fees. All cash in this fund is appropriated in the Budget Resolution in order to provide for these expenditures.

Golf Debt Service – exceeded the budget by $376 or 0.1%. Only debt service principal and interest payments are budgeted. The budget overrun is due to an administrative fee. All cash in this fund is appropriated in the Budget Resolution in order to provide for these expenditures.

Parking Lot Revolving - expended $29,107 or 17.9% more than its appropriations. $11,884 of this overage resulted from a payment to Federal Garages for half of the revenue received from Pershing events parking. The revenue was received to cover this expense, but it was not budgeted for. There was also an unforeseen increase in rent of buildings and lots and some additional maintenance costs for the Havelock parking area.

Parking Revenue - expended 1.2%, $54,652 more than its appropriations. There was $20,170 in additional supplies expense that was offset by additional revenue from new parking customers. The other major overage was from an unanticipated electricity rate increase for the garages.

Explanations of savings for Enterprise Funds entities that experienced significant savings follow.

Solid Waste Management Revenue - expenditures were 6.7% less than budgeted resulting in a remaining balance of $452,530. Anticipated revenue bonds were not issued until 8/17/06 resulting in savings of $200,000 in interest. Also, the purchase of a replacement service truck was delayed in order to help offset the high cost of diesel fuel, a new semi-tractor was not purchased because of declining amounts of waste being received at he Transfer Station and a replacement front-end loader was not encumbered from the original budget because grant funding was received.

OTHER FUNDS

Community Health Endowment - expended 46.3% of the appropriation resulting in an unexpended amount of $1,231,992. The majority of these dollars have been committed through grant awards and were reappropriated in 2006-07 to be paid out as grant recipients request reimbursement. The remainder of the year end balance remains in the fund for future use.

INTERNAL SERVICE FUNDS

Four Internal Service Funds exceeded their estimated expenditures for 2005-06.

Information Services - exceeded the budget by $831,751 or 15.6% due to the unanticipated equipment purchases in various departments. These purchases are strictly pass-through expenditures that the Data Processing Fund is reimbursed for by various departments' budgets.

Police Garage – exceeded the budget by $147,593 or $4.9%. This was due to the cost of fuel being higher than anticipated in the budget.

Fleet Services – exceeded the budget by 3.3% or $182,181. This is the result of high costs for oil, gasoline and diesel products. Option to control this over run for energy costs are being reviewed and hopefully can be in place for FY 2006-07.

Radio Maintenance - expenditures exceeded the budget amount by $1,333,703 or 108.5% due to the unanticipated equipment purchases in various departments. These purchases are strictly pass-through expenditures that the Radio Maintenance Fund is reimbursed for by various departments' budgets.

An explanation of savings for the Internal Service Fund entities that significantly under utilized the authorized budget follows.

CIC Revolving – expended 89.4% of the amount budgeted, generating a $23,139 savings. This savings was achieved because CIC only hires part-time technical TV production staff as they are needed. With the tighter budgets, many departments cut back in this area.

GENERAL FUND REVENUES
EXPLANATION OF VARIANCES

The General Fund receipts for 2005-06 were budgeted at $107,540,777. The actual receipts for the year ending August 31, 2006, were $106,219,623 or 98.8% of the budgeted revenues. This is due to the City Charter method used to levy property taxes. This represents an increase of 2.4% over the previous year's receipts of $103,711,289. Receipts in all categories except property tax were 98.2% of the amount budgeted. Variances in categories that equal at least 5% and $40,000 are provided below.

Occupation Tax – actual revenues were less than projections by 6.0% or $592,556 due to collections from the Cablevision occupation tax being $191,265 below projections and the telecommunication occupation tax being $405,590 below projections.

Permits & Fees – collections were 8.1% more than the projections, over the budget by $207,595 due to collections for the Natural Gas franchise fee being $278,897 over the budgeted amount. This was due to Aquila beginning to collect some under collected past revenues from their customers. Collections of these amounts started in July of 2006.

Recreation Receipts – received 5.9% or $131,540 less than was budgeted due to receipts being lower than expected in several youth and adult recreation programs as well as some other recreation programs. Some programs exceeded the revenue projections but not enough to offset those that did not.

Earned Interest - collections were $167,220 or 34.8% less than was budgeted due to lower than expected balances and interest rates.

Inter-governmental Revenue - was $436,200 or 30.5% over projections. One item over projections was revenue from grants for police officers of $172,186 that was due to timing differences of the year budgeted versus the year received rather than additional revenue being available. Also, $80,000 was received for school resource officers that had not been budgeted. Some other sources of revenue in this category also exceeded projections.

Administrative Fees – were $112,907 or 16.6% less than projected due to an unexpected drop in non-moving violation administrative fees that came in $145,274 less than expected.

Miscellaneous – actual revenues were $76,948 or 18.8% more than anticipated. By their nature, this category of revenues is difficult to project and variances from projected amounts are normal.

EMPLOYEE UTILIZATION

Exhibit 3, titled "FY 2005-06 Personnel Costs Excluding Fringe Benefits," presents Personnel cost authorized in the budget, Personnel costs utilized as of the end of the fiscal year, and the percent of budgeted cost actually utilized. At the end of 2005-06, 97.2% of Tax Funds authorized Personnel costs were expended.

Eight budgets used more then 100% and were over budget by more than $5,000.

Planning Department – Over budget by 2% and $17,944. This is due to the retirement payout for a long-term employee and unanticipated temporary help costs incurred to fill in during the extended absence of an employee. Savings in non-salary line items covered the cost of these items.

Animal Control Fund – Over budget by 2.4% and $15,813. This was due to greater than anticipated overtime costs. Savings were realized in non-salary line items to cover the overtime in order to continue to provide the same hours of service with one less Animal Control Officer.

Health Fund – Over budget by 0.7% and $34,464. This is due to budgeting less than 100% of the anticipated personnel cost. Savings in non-salary line items covered the cost of these items.

Street Construction Fund – Over budget by 4.9% and $107,373. Due to the mild winter, City personnel that normally would have been working snow removal continued to work on the City streets doing street repair, and resulted in an over run to this budget. A corresponding cost -savings resulted in the Snow Removal Fund.

Home Grant – Over budget by 16.2% and $7,713. More staff time was spent on HOME rehab than CDBG projects during the year. In addition, costs for lead-based paint testing are charged to HOME if test results show no lead. This was a new HUD requirement and first year projections were low.

EMS Enterprise Fund – Over budget by 8.3% and $155,152. The primary reason for this results from the multiple pay grades that the system certified paramedics fall in due to longevity. EMS is unable to constantly staff with individual paramedics due to mandatory rotation by the medical director, vacations, sick leave and general daily staffing complications due to training, system status red and additional needs of the community for EMS response.

Solid Waste Mgt Revenue Fund – Over budget by 2.0% and $25,705. In the Business Office there was $54,715 of an employee's salary that was incorrectly expensed to this fund. It should have been expensed to Water and Wastewater and has been corrected for FY 2006-07. But this was partially offset by savings from two open positions that required multiple recruitments to fill, so they remained open for an extended portion of the year.

Engineering Revolving Fund – Over budget by 1.9% and $81,499. The majority of this overage resulted when a portion of the Antelope Valley Manager that was to be paid from the General Fund was actually paid from Engineering Revolving. This has been corrected for FY 2006-07.

Four budgets used less than 95% and were under budget by $20,000 or more of their authorization personnel cost for FY 2005-06.

City Council – utilized 87.3% or $31,283 less than their authorized budget. There was an office position that remained open for a majority of the year. This position was eliminated in the FY 2006-07 budget.

Parks and Recreation Department – utilized 94.2% or $459,368 less than their authorized budget. This was due to vacancy/turnover savings in several park districts, pool closings for bad weather, less sessions of FOCUS Day Camps due to lack of registrations and some scheduling problems with before and after school programs.

Snow Removal Fund – utilized 73.7% or $215,465 less than their authorized budget. Due to the mild winter, City personnel that normally would have been working snow removal continued to work on the City streets doing street repair, and resulted in an under expenditure of this budget. A corresponding cost over run resulted in the Street Construction Fund.

CIC Revolving Fund – utilized 72.7% or $28,076 less than their authorized budget. This savings was achieved because CIC only hires part-time technical TV production employees as they are needed. With the tighter budgets, many departments cut back in this area.

1/09/07

EXHIBIT 1
F.Y. 2005-06 OPERATING BUDGET REPORT OF
APPROPRIATIONS, EXPENDITURES AND ENCUMBRANCES

FUND/DEPARTMENT	APPROVED* BUDGET	EXPENDITURES AND ENCUMBRANCES	UNENCUMBERED BALANCE	PERCENT EXPENDED OR ENCUMBERED
GENERAL FUND				
City Council	346,121	276,274	69,847	79.8 %
Mayor's Department	1,347,717	1,294,023	53,694	96.0 %
Law Department	2,115,503	2,079,054	36,449	98.3 %
Personnel Department	915,099	909,536	5,563	99.4 %
Planning Department	1,656,678	1,601,641	55,037	96.7 %
Finance Department	2,258,037	2,154,559	103,478	95.4 %
Public Works/Utilities Department	4,345,961	4,272,455	73,506	98.3 %
Parks and Recreation Department	11,711,870	11,707,122	4,748	100.0 %
Fire Department	19,282,002	19,005,219	276,783	98.6 %
Police Department	29,424,940	28,952,360	472,580	98.4 %
Urban Development Department	818,599	812,824	5,775	99.3 %
Interfund Transfers	16,745,699	16,745,699		100.0 %
General Expense	17,609,273	16,308,291	1,300,982	92.6 %
Contingency	56,369		56,369	
Special Events	149,225	109,302	39,923	73.2 %
Street Lighting	3,651,386	3,615,889	35,497	99.0 %
TOTAL GENERAL FUND	112,434,479	109,844,248	2,590,231	97.7 %
OTHER TAX FUNDS				
Libraries	7,673,201	7,636,733	36,468	99.5 %
Police and Fire Pension	2,869,751	8,143,452	-5,273,701	283.8 %
Bond Interest and Redemption	6,594,000	6,598,942	-4,942	100.1 %
Social Security	2,092,897	1,909,408	183,489	91.2 %
Unemployment Compensation	95,000	17,274	77,726	18.2 %
TOTAL ALL TAX FUNDS	131,759,328	134,150,057	-2,390,729	101.8 %

FUND/DEPARTMENT	APPROVED* BUDGET	EXPENDITURES AND ENCUMBRANCES	UNENCUMBERED BALANCE	PERCENT EXPENDED OR ENCUMBERED
SPECIAL REVENUE FUNDS				
9-1-1 Communications	3,260,428	3,275,227	-14,799	100.5 %
Animal Control	1,529,593	1,501,931	27,662	98.2 %
Building and Safety	5,497,556	5,363,939	133,617	97.6 %
Cable Access Television	90,094	70,918	19,176	78.7 %
Health	9,020,004	8,796,498	223,506	97.5 %
Heritage Room	34,699	37,151	-2,452	107.1 %
KENO	1,648,597	1,848,320	-199,723	112.1 %
Lillian Polley Trust	152,281	150,269	2,012	98.7 %
Aging - City / County	4,853,701	4,525,048	328,653	93.2 %
Aging - Multi-County	575,665	535,683	39,982	93.1 %
Snow Removal Fund	2,983,352	2,150,154	833,198	72.1 %
StarTran Operating	8,556,315	8,452,344	103,971	98.8 %
Street Construction	10,127,827	9,951,369	176,458	98.3 %
Title V Clean Air	599,299	598,518	781	99.9 %
Air Pollution (EPA)	138,934	136,225	2,709	98.1 %
CDBG	5,066,390	4,082,887	983,503	80.6 %
Home Grant	3,115,907	1,870,364	1,245,543	60.0 %
WIA	973,525	978,527	-5,002	100.5 %
TOTAL SPECIAL REVENUE FUNDS	58,224,167	54,325,372	3,898,795	93.3 %
OTHER DEBT SERVICE FUNDS				
MIRF	424,600	426,480	-1,880	100.4 %
Antelope Valley	988,900	989,168	-268	100.0 %
Highway User Allocation Bonds	1,567,000	1,569,038	-2,038	100.1 %
2005-06 Debt Service	2,750,175	2,787,760	-37,585	101.4 %
Tax Allocation	853,085	869,811	-16,726	102.0 %
TOTAL OTHER DEBT SERVICES FUNDS	6,583,760	6,642,257	-58,497	100.9 %
ENTERPRISE FUNDS				
EMS Enterprise	3,508,941	3,886,144	-377,203	110.7 %
Pershing Auditorium	2,223,345	2,390,507	-167,162	107.5 %
Golf	2,534,401	2,730,329	-195,928	107.7 %
Golf Debt Service	380,000	380,376	-376	100.1 %
Solid Waste Mgt Revenue	6,705,110	6,252,580	452,530	93.3 %

FUND/DEPARTMENT	APPROVED* BUDGET	EXPENDITURES AND ENCUMBRANCES	UNENCUMBERED BALANCE	PERCENT EXPENDED OR ENCUMBERED
Wastewater	17,579,515	17,057,139	522,376	97.0 %
Water	25,982,455	25,592,923	389,532	98.5 %
Parking Lot Revolving	162,415	191,522	-29,107	117.9 %
Parking Revenue	4,564,603	4,619,255	-54,652	101.2 %
TOTAL ENTERPRISE FUNDS	63,640,785	63,100,775	540,010	99.2 %
OTHER FUNDS				
Community Health Endowment	2,293,715	1,061,723	1,231,992	46.3 %
TOTAL OTHER FUNDS	2,293,715	1,061,723	1,231,992	46.3 %
GRAND TOTAL BUDGETED OPERATING FUNDS INCLUDING INTERFUND TRANSFER	262,501,755	259,280,184	3,221,571	98.8 %
LESS INTERFUND TRANSFER				
From General Fund	-16,418,404	-16,418,404		100.0 %
From Street Construction	-1,942,952	-1,942,417	-535	100.0 %
From Wastewater	-400,000	-400,000		100.0 %
From Solid Waste Mgt Revenue	-722,574	-746,289	23,715	103.3 %
GRAND TOTAL ALL FUNDS- NET OF TRANSFER	243,017,825	239,773,074	3,244,751	98.7 %
INTERNAL SERVICE FUNDS				
Information Services	5,336,708	6,168,459	-831,751	115.6 %
Engineering Revolving	7,108,014	7,006,997	101,017	98.6 %
Police Garage	2,996,259	3,143,852	-147,593	104.9 %
Fleet Services	5,476,322	5,658,503	-182,181	103.3 %
Radio Maintenance	1,228,750	2,562,453	-1,333,703	208.5 %
CIC Revolving	219,149	196,010	23,139	89.4 %
Copy Services	357,859	345,777	12,082	96.6 %
Health Care	8,500	7,372	1,128	86.7 %
Worker's Compensation Loss Fund	740,197	723,683	16,514	97.8 %
TOTAL INTERNAL SERVICE FUNDS	23,471,758	25,813,106	-2,341,348	110.0 %

* Includes revisions and amounts reappropriated or encumbered from the prior year.

EXHIBIT 2
F.Y. 2005-06 GENERAL FUND RECEIPTS
BUDGET VS ACTUAL

	BUDGETED RECEIPTS	ACTUAL RECEIPTS	PERCENT OF BUDGET REALIZED	PERCENT OVER (UNDER) PRIOR YEAR
Property Tax	$23,897,283	$24,089,451	100.8%	7.0 %
Motor Vehicle Tax	4,458,758	4,277,075	95.9%	1.5 %
Sales Tax	55,404,929	54,270,346	98.0%	0.9 %
Occupation Tax	9,795,376	9,202,820	94.0%	(2.1)%
In Lieu of Tax (State)	1,478,792	1,478,820	100.0%	0.0 %
Permits & Fees	2,550,641	2,758,236	108.1%	9.1 %
In Lieu of Tax - LES	1,274,000	1,299,249	102.0%	13.3 %
Reimbursement for Services	1,949,430	2,017,151	103.5%	1.8 %
Recreation Receipts	2,233,870	2,102,330	94.1%	9.4 %
Parking Meter Receipts	835,000	835,000	100.0%	
Earned Interest	480,000	312,780	65.2%	(25.8)%
Interest on Property Taxes	110,500	104,838	94.9%	(0.8)%
Inter-governmental Revenue	1,430,768	1,866,968	130.5%	4.5 %
Rent	525,367	524,659	99.9%	23.4 %
Administrative Fees	681,300	568,393	83.4%	(14.6)%
Sundry Taxes	25,520	25,316	99.2%	(2.4)%
Miscellaneous	409,243	486,191	118.8%	0.7 %
TOTAL GENERAL FUND RECEIPTS	$107,540,777	$106,219,623	98.8%	2.4 %
TOTAL WITHOUT PROPERTY TAX	83,643,494	82,130,172	98.2%	1.1 %

EXHIBIT 3
F.Y. 2005-06 PERSONNEL COSTS EXCLUDING FRINGE BENEFITS
BUDGET VS ACTUAL BY FUND/DEPARTMENT

FUND/DEPARTMENT	APPROVED BUDGET	EXPENDITURES	UNENCUMBERED BALANCE	PERCENT OF PERSONNEL UTILIZED
GENERAL FUND				
City Council	246,641	215,358	31,283	87.3 %
Mayor's Department	1,119,768	1,112,873	6,895	99.4 %
Law Department	1,910,517	1,879,720	30,797	98.4 %
Personnel Department	797,488	802,263	-4,775	100.6 %
Planning Department	918,004	935,948	-17,944	102.0 %
Finance Department	1,804,241	1,715,348	88,893	95.1 %
Public Works/Utilities Department	2,493,456	2,432,231	61,225	97.5 %
Parks and Recreation Department	7,884,575	7,425,207	459,368	94.2 %
Fire Department	17,130,544	16,632,933	497,611	97.1 %
Police Department	23,584,038	23,003,107	580,931	97.5 %
Urban Development Department	713,231	712,204	1,027	99.9 %
Special Events	78,000	58,640	19,360	75.2 %
TOTAL GENERAL FUND	58,680,503	56,925,832	1,754,671	97.0 %
OTHER TAX FUNDS				
Libraries	4,128,388	4,116,990	11,398	99.7 %
Police and Fire Pension	80,687	80,170	517	99.4 %
Social Security	48,109	48,936	-827	101.7 %
TOTAL ALL TAX FUNDS	62,937,687	61,171,928	1,765,759	97.2 %
SPECIAL REVENUE FUNDS				
9-1-1 Communications	2,057,371	1,972,483	84,888	95.9 %
Animal Control	658,174	673,987	-15,813	102.4 %
Building and Safety	3,463,985	3,448,577	15,408	99.6 %
Cable Access Television	20,998	21,228	-230	101.1 %
Health	4,879,535	4,913,999	-34,464	100.7 %
Heritage Room	29,339	31,856	-2,517	108.6 %
Lillian Polley Trust	103,237	101,490	1,747	98.3 %
Aging - City/County	2,241,705	2,188,158	53,547	97.6 %

FUND/DEPARTMENT	APPROVED BUDGET	EXPENDITURES	UNENCUMBERED BALANCE	PERCENT OF PERSONNEL UTILIZED
Aging - Multi-County	339,518	333,275	6,243	98.2 %
Snow Removal Fund	818,307	602,842	215,465	73.7 %
StarTran Operating	4,464,095	4,408,579	55,516	98.8 %
Street Construction	2,197,737	2,305,110	-107,373	104.9 %
Title V Clean Air	363,065	366,025	-2,960	100.8 %
Air Pollution (EPA)	84,932	84,738	194	99.8 %
CDBG	671,744	647,305	24,439	96.4 %
Home Grant	47,468	55,181	-7,713	116.2 %
WIA	268,117	268,485	-368	100.1 %
TOTAL SPECIAL REVENUE FUNDS	22,709,327	22,423,318	286,009	98.7 %
ENTERPRISE FUNDS				
EMS Enterprise	1,872,915	2,028,067	-155,152	108.3 %
Golf	1,010,530	980,277	30,253	97.0 %
Solid Waste Mgt Revenue	1,283,528	1,309,233	-25,705	102.0 %
Wastewater	4,811,128	4,546,617	264,511	94.5 %
Water	5,495,424	5,220,430	274,994	95.0 %
Parking Revenue	81,044	81,475	-431	100.5 %
TOTAL ENTERPRISE FUNDS	14,554,569	14,166,099	388,470	97.3 %
INTERNAL SERVICE FUNDS				
Information Services	2,610,575	2,522,328	88,247	96.6 %
Engineering Revolving	4,369,995	4,451,494	-81,499	101.9 %
Police Garage	543,693	537,234	6,459	98.8 %
Fleet Services	762,701	742,746	19,955	97.4 %
Radio Maintenance	314,794	317,341	-2,547	100.8 %
CIC Revolving	102,998	74,922	28,076	72.7 %
Copy Services	28,377	21,881	6,496	77.1 %
Worker's Compensation Loss Fund	355,471	356,041	-570	100.2 %
TOTAL INTERNAL SERVICE FUNDS	9,088,604	9,023,987	64,617	99.3 %

Teresa A Mckinstry/Notes
01/11/2007 10:21 AM

To Planning_Dev.List, Planning_PC Members, Mayor/Notes@Notes, City Council Members, Commish/Notes@Notes, Planning_Planners
cc
bcc
Subject zoning and subdivision amendment

The Planning Commission will be holding a hearing on Wednesday, January 31, 2007 to consider amendments to their bylaws and to the City and County zoning and subdivision regulations. Staff is asking the Planning Commission to consider these amendments to deal with several procedural issues, summarized below. The proposed text changes can be viewed on our webpage at http://www.lincoln.ne.gov/city/plan/strmln/index.htm

Please contact Ray Hill in the Planning Department if you have any questions, concerns or suggestions, or you would like us to meet personally with any boards or committees of your organizations to discuss these amendments.

SUMMARY

1. Increase the timeframe from filing deadline for applications and Planning Commission hearing by one half day. Currently, the Commission's bylaws and subdivision regulations provide that applications filed by noon every other Thursday will be heard by the Planning Commission 27 days later. Staff is requesting that the filing deadline be pushed back one half day, from 12 noon four Thursday to 4:00 p.m. on Wednesday. This will provide enough time for staff to log in and prepare the applications for an initial review at an interdepartmental staff review meeting on Friday morning of that same week. This should give staff an earlier opportunity to flag issues that may require further explanation, or cause us to arrange meetings with applicants, and this should avoid delays later in the process.

2. Set a one-year period within which applications that have been deferred at the applicants' request are acted on or automatically expire. Currently, there are dozens of applications which were placed on the staff's "pending" list and not scheduled for Planning Commission or governing body hearings, at the request of applicants. These applications have remained on the list for years, despite our efforts to encourage the applicant to move forward or withdraw. Currently, the only way we can dispose of these cases is to set unilateral hearing dates, prepare staff reports, and advertise the hearings. The proposed amendments would allow us to save time and money by replacing this cumbersome process with a time period within which, if the applicant does not direct that his/her case be scheduled for hearing, the case is automatically closed. The proposed amendment will require staff to notify the applicant of the pending expiration date, in writing, at least 30 days before that date. If approved, this amendment would provide an additional year for action on applications that are already on our pending list.

3. Set a deadline (staff recommends 12 weeks from the initial hearing date) for the Planning Commission to act on applications and not defer them indefinitely without the consent of the applicant . This issue was brought to our attention by two different cases in the past two years, both involving "downzoning:" a request by a neighborhood association to rezone vacant land adjacent to the neighborhood, and a request by another neighborhood association to rezone the property within their association's boundaries.

In the first case, the property was held on pending by the Planning Commission for nearly a year as the Commission approved repeated requests from the neighborhood association for deferral (after the Planning Commission did act, the City Council voted to place the item on its indefinite pending list, where it sits today). In the second case, the Planning Commission delayed the association's request to consider imposing new procedural requirements for that request as well as future requests of the same nature. Before these applications were filed, it was not unusual for the Planning Commission to place applications on pending for indefinite periods, to await the completion of some planning study or another.

The deliberations on the second downzoning case led the City Attorney's office to give its opinion to the Planning Commission that due process required them to act in a timely manner and pass applications on to the governing body in a reasonable time, unless the applicant consented to further delay. Since we were asking the Planning Commission to consider two other procedural issues, this seemed a good time to ask them to consider a deadline for taking action. Some sections of the zoning and subdivision regulations today have a provision which is intended to deal with this issue, but it is very cumbersome: the applicant must appeal to the governing body, which must then hold a hearing and then vote to direct the Planning Commission to take action, and then the regulation presumes that the Planning Commission will heed that direction. The proposed amendments provide for the applicant to appeal and take his application on to the governing body for action if the Commission has not acted in the required timeframe.

The City and County Attorney determined, in the preparation of these amendments, that the proposed appeal could not be used in the case of a change of zone, because state statutes require that the Planning Commission "act " before the governing body can consider the item. We still believe it is useful to adopt this amendment for all the other types of applications that the Planning Commission considers, and at least to give guidance as to how they should act on change of zone request.

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PLANNING COMMISSION FINAL ACTION
NOTIFICATION

TO : Mayor Coleen Seng
Lincoln City Council

FROM : Jean Walker, Planning

DATE : January 4, 2007

RE : **Waiver No. 06010**
(Gushard and Omel Addition Final Plat - S. 56th and Rokeby Road)
Resolution No. PC-01034

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 3, 2007:

> Motion made by Carroll, seconded by Krieser, to approve **Waiver No. 06010,** requested by Ryan Omel and Bambie Gushard, to waive the lot depth-to-width ratio requirements associated with the Gushard and Omel Addition Final Plat, on property generally located at South 56th Street and Rokeby Road.
>
> Motion for approval carried 8-0: Larson, Strand, Cornelius, Taylor, Carroll, Krieser, Esseks and Carlson voting 'yes' (Sunderman absent).

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Ryan Omel, 10400 S. 56th Street, 68516
Daniel and Bambie Gushard, 10200 S. 56th Street, 68516

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Waiver 06010

RESOLUTION NO. PC- 01034

1 WHEREAS, Ryan Omel and Daniel and Bambie Gushard previously submitted
2 for approval by the Planning Director, the final plat of Gushard and Omel Addition,
3 generally located at S. 56th Street and Rokeby Road; and
4 WHEREAS, Lincoln Municipal Code Section 26.23.140(a) requires that lots have
5 a maximum depth of three times its width in subdivisions; and
6 WHEREAS, applicant has requested a modification to waive said requirement for
7 Lot 3 within Gushard and Omel Addition pursuant to § 26.31.010 of the Lincoln
8 Municipal Code; and
9 WHEREAS, the Planning Director has recommended conditional approval of the
10 requested modifications to the Land Subdivision Ordinance; and
11 WHEREAS, the Planning Commission finds that the strict application of the lot
12 depth to width ratio in Gushard and Omel Addition would result in actual difficulties or
13 substantial hardship or injustice to the property owner.
14 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County
15 Planning Commission of Lincoln, Nebraska:
16 1. That the provisions within Sections 26.23.140 of the Land Subdivision
17 Ordinance requiring that lots have a maximum depth of three times its width in
18 subdivisions, is hereby waived in Lot 3, Gushard and Omel Addtion, Lincoln, Lancaster
19 County, Nebraska.

2. The final plat of these lots shall provide a 30' wide easement on the south 30' of Lot 1, 30' wide easement on the north 30' of Lot 2, and a 30' wide easement on the north 30' of Lot 3 for a future east/west road and to provide a 20' setback from said future road easement.

3. A subdivision agreement for the plat containing language that the owners agree to contribute their share of the cost of the street and utilities in the east/west road prior to approval of any further subdivision.

4. The plat shall provide that at the time the abutting east/west road is constructed the lots shall relinquish access to South 56th Street and take access to the new road.

The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning Commission on this 3rd day of January, 2007.

ATTEST:

Chair

Approved as to Form & Legality:

Chief Assistant City Attorney

PLANNING COMMISSION FINAL ACTION
NOTIFICATION

TO : Mayor Coleen Seng
Lincoln City Council

FROM : Jean Walker, Planning

DATE : January 4, 2007

RE : **Special Permit No. 06070, Apple Hill Community Unit Plan**
(South 48th Street and Apple Hill Lane)
Resolution No. PC-01033

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 3, 2007:

> Motion made by Carroll, seconded by Krieser, to approve **Special Permit No. 06070,** with conditions, requested by Jerry Beach, for authority to develop the **Apple Hill Community Unit Plan,** consisting of 10 residential dwelling units, together with requests to waive the Zoning Code requirements to adjust the rear yard setback on Lots 1 through 8 from 30' or 20% of the lot depth to 10', on property generally located at South 48th Street and Apple Hill Lane.
>
> Motion for conditional approval carried 8-0 (Cornelius, Strand, Larson, Taylor, Krieser, Carroll, Esseks and Carlson voting 'yes'; Sunderman absent).

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Marcia Kinning, ESP, 601 Old Cheney Road, Suite A, 68512
Jerry and Barbara Beach, 3134 S. 48th Street, 68506
Mike Dennis, South 48th Street Neighborhood, 1845 S. 48th Street, 68506

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RESOLUTION NO. PC-01033

SPECIAL PERMIT NO. 06070

WHEREAS, Jerry Beach has submitted an application designated as Special Permit No. 06070 for authority to develop Apple Hill Community Unit Plan for 10 residential dwelling units, together with requests to waive the Zoning Code requirements to adjust the rear yard setback on Lots 1 through 8 from the 30' or 20% of the lot depth to 10', on property generally located at South 48th Street and Apple Hill Lane and legally described as:

Lot 2, Omnivillage Addition, located in the East Half of Section 5, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska;

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

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this community unit plan 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; and

NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County Planning Commission of Lincoln, Nebraska:

That the application of Jerry Beach, hereinafter referred to as "Permittee", to develop Apple Hill Community Unit Plan for 10 residential dwelling units be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction of said development be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 10 dwelling units and adjusts the requirements of § 27.15.080 of the Lincoln Municipal Code to reduce the rear yard setback on Lots 1 through 8 from 30' or 20% of lot depth to 10'.

2. Before receiving building permits:

a. The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.

i. A revised site plan including 5 copies showing the following revisions:

(1) A revised turnaround to the satisfaction of Public Works and Utilities.

(2) Show how the 5-year storm runoff is conveyed through the development and how it is transferred into offsite conveyance systems to the satisfaction of Public Works and Utilities.

(3) A 10-wide strip of Outlot A extended to the east lot line of Lot 5.

(4) Show the sidewalk on the east side of Apple Hill Court connected to the sidewalk in Outlot A.

(5) Show the correct density calculations.

(6) Revise REQUESTED WAIVERS to state SETBACK ADJUSTMENTS, and delete the requested front setback adjustment.

(7) Show building envelopes as per the general notes.

(8) Revise General Note #3 to state: A PUBLIC ACCESS EASEMENT SHALL BE DEDICATED OVER THE PRIVATE ROADWAY AND ADJACENT SIDEWALKS.

(9) Revise General Note #4 to state: A COMMON ACCESS EASEMENT FOR THE BENEFIT OF THE OWNERS OF LOTS 1-8 WILL BE GRANTED OVER OUTLOT A.

(10) Delete General Notes #9 and #10.

(11) Revise General Note #13 to state: THE LOCATION OF ALL LOT LINES IS CONCEPTUAL AND MAY VARY AT THE TIME OF FINAL PLAT.

(13) Revise the legal description to state the lot is located in THE EAST ½ OF SECTION 5, and not the WEST ½.

(14) Other corrections noted by Public Works and Utilities.

(15) Show additional easements per LES review.

ii. Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

iii. Final plats have been approved.

b. The construction plans comply with the approved plans.

c. The required easements as shown on the site plan are recorded with the Register of Deeds, and copies of recorded documents provided to the Planning Department.

c. This approval voids and rescinds Special Permit #1696.

d. An administrative amendment to SP#1257 showing how access and utility service is provided to this site is approved.

3. Before occupying the dwelling units all development and construction is to comply with the approved plans.

4. All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the owner or an appropriately established homeowners association approved by the City.

5. The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

6. This resolution's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.

7. The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning Commission on this 3rd day of January, 2007.

ATTEST:

Chair

Approved as to Form & Legality:

Chief Assistant City Attorney

PLANNING COMMISSION FINAL ACTION
NOTIFICATION

TO : Mayor Coleen Seng
Lincoln City Council

FROM : Jean Walker, Planning

DATE : January 8, 2007

RE : **Special Permit No. 1989A**
(Lighting plan - Sid Dillon Auto - S. 27th Street and Kendra Lane)
Resolution No. PC-01035

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 3, 2007:

> Motion made by Strand, seconded by Esseks, to approve **Special Permit No. 1989A,** with conditions, as amended, requested by Sid Dillon, Inc., for authority to amend Special Permit No. 1989 for a change in the lighting plan for Sid Dillon Automobile Dealership to modify the requirement that all outside lighting shall meet the City Design Standards for parking lots, on property generally located at S. 27th Street and Kendra Lane.
>
> Motion for conditional approval, with amendments, carried 7-0 (Cornelius, Strand, Larson, Krieser, Carroll, Esseks and Carlson voting 'yes'; Taylor absent; Sunderman absent and declaring a conflict of interest).

The Planning Commission's action is final, unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Peter Katt, Attorney at Law, P.O. Box 95109, 68509
Sid Dillon, Inc., 2627 Kendra Lane, 68512
Bob Ludwig, Porter Ridge Neighborhood Association, 7120 S. 31st Place, 68516
Paul Berggren, Porter Ridge Neighborhood Association, 7420 Lambert Place, 68516
Michael Rierden, Attorney at Law, 645 M Street, Suite 200, 68508

COPY

RESOLUTION NO. PC-01035

SPECIAL PERMIT NO. 1989A

WHEREAS, Sid Dillon Inc. has submitted an application designated as Special Permit No. 1989A for authority to amend Special Permit 1989 for a change in the lighting plan for Sid Dillon Automobile Dealership to modify the requirement that all outside lighting shall meet the City Design Standards for parking lots on property generally located at S. 27th Street and Kendra Lane, and legally described as:

> Lot 4, Block 1, Tamarin Ridge Addition located in the Northeast Quarter of Section 24, township 9 North, Range 6 East, Lancaster County, Nebraska;

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

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this amended special permit 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; and

NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County Planning Commission of Lincoln, Nebraska:

That the application of Sid Dillon Inc. hereinafter referred to as "Permittee", to amend Special Permit 1989 for a change in the lighting plan for Sid Dillon Automobile Dealership to modify the requirement that all outside lighting shall meet the City Design Standards for parking lots on property described above be and the same is hereby granted under the provisions of Section 27.63.470 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction of said lighting fixtures be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This amendment approves an amended lighting plan for the auto dealership on Lot 4, Block 1 as shown on the site plan.

2. This special permit is approved contingent on the following conditions:

a. The Permittee shall submit a revised site plan including five copies showing the following revisions to the Planning Department office for review and approval.

i. Revise Note #3 under Special Permit-Planned Service Commercial to read, "Parking lot lighting shall meet City of Lincoln Design Standards for parking lots. All outside lighting shall meet City of Lincoln Design Standards relative to light measurements at the zoned property line."

ii. Add a new note under Special Permit-Planned Service Commercial for display lot lighting levels in Lot 4, Block 1, to read, "After sunset and during business hours, display lot lighting levels shall not exceed an average foot candle measurement greater than 12, and after business hours display lot lighting levels shall not exceed an average foot candle measurement greater than 4.

The light fixtures for display lot lighting shall be modified to add full cut-off shielding. Any future replacement of the existing fixtures shall be a full cut-off design.

iii. Identify on the site plan the existing display lot area for Lot 4, Block 1.

iv. Outside lighting levels beyond the display lot area for Lot 4, Block 1, shall not exceed an average foot candle measurement greater than 4.

b. Provide documentation from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.

3. The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

4. This resolution's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.

5. The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant

6. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning Commission on this 3rd day of January, 2007.

ATTEST:

/S/ Original signed by Jon Carlson

Chair

Approved as to Form & Legality:

Chief Assistant City Attorney

campjon@aol.com
01/07/2007 06:43 PM

To tgrammer@lincoln.ne.gov
cc
bcc
Subject Fwd: 50th street extension

For Directors' packet

Jon Camp
Lincoln City Council
City Council Office: 441-8793

-----Original Message-----
From: emitchell@neb.rr.com
To: jcamp@lincoln.ne.gov
Sent: Sat, 6 Jan 2007 9:19 AM
Subject: 50th street extension
Council Member:

As a Tax paying citizen of this city I find the recent news articals about the 50th street extension to be VERY disturbing for the following reasons:

1: Why was funding for extending this street not secured prior the signing a contract to sell hy-vee the property?

2: How could the city legal department even write a contract with hy-vee that was not legal on its face without signed agreements with the ajacent property owners in the first place?(I would like to know who was respsonsible for this.... and see them terminated!)

3: And having all that said I find it INTOLLORABLE that the city council WOULD EVEN CONSIDER in its current financial status(a projected multi-million dollar shortfall) choosing to go ahead and fund this project on its own

It is this kind of Poor planning and lack of forsight that amazes me that we can attract bussiness to this city!

While I have you attention....

one more gripe....

I do not understand the city roads department seemingly unlimited funding for traffic light replacement.... I have never been in a city that seems to spend as much money as lincon on

NEW traffic lights... goto Omaha and Kansas City and you see Very few Replaced Lights at exsisting intersections But it seems we have to have all new ones! WHY? just one more place we could be saving funds!

Thank you for your time

Eric Mitchell

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

T0: Annette McRoy, Lincoln City Council
Patte Newman, Lincoln City Council

FROM: Scott E. Holmes, REHS, MS
Manager, Environmental Public Health Division

DATE: January 10, 2007

SUBJECT: RFI #175 & RFI #41

The text of your RFIs is in Times New Roman font and the response is in Arial font. This response has been reviewed by Tonya Skinner and Mike Merwick.

Last week several bar owners received letters or notification that their previously approved outdoor smoking areas were not in compliance with what the Lincoln-Lancaster County Health Department (LLCHD) deems appropriate. A "Compliance Fact Sheet" was enclosed stating that LLCHD requires the owner to provide at least 20% net open space relative to the total square footage of four walls and ceiling.

Last year several "outdoor smoking areas" were approved and signed off on by city officials. At that time, the understanding was that 20% referred to one wall.
The Lincoln-Lancaster County Health Department has consistently communicated to bar owners that 20% open space applies to the total square footage of walls and ceilings of the area that is intended to be an outdoor smoking area.

1. **Can you please advise, under what authority the LLCHD sets this type of policy? If they have this authority;**
   a. **What person, committee or board set the standards?**
      The authority to administer and enforce LMC 8.50 Lincoln Smoking Regulation Act was vested in the Lincoln-Lancaster County Health Department and law enforcement in **LMC 8.50.020 Purpose.** "The City Council does hereby declare it to be the public policy of this City to encourage places of employment and public places to reduce the health and safety risks posed by smoking in places of employment and public places. The City Council authorizes the Health Director of the Lincoln-Lancaster County Health Department and law enforcement to administer and enforce this Chapter within the City of Lincoln. (Adopted by Referendum, certified November 17, 2004: Ord. 18396 §2; June 28, 2004)."

      As with the application of the provisions of many other health ordinances, LLCHD adopted internal policy to provide guidance to staff on how to consistently apply standards. In this specific case, the standards were adopted to provide consistent interpretation of 20% open space for outdoor smoking areas. The original policy was developed by staff in collaboration with the Law Department. The Board of Health and Mayor's Office were kept informed of the progress in developing the policy through its various stages by the Health Director.

   b. **What is the basis for the standard (was this drafted with input from other departments or the public or based on another U.S. city's legislation?)**
      The basis for the standard began with the intent of the ordinance as passed by referendum of a vote of the people of Lincoln. The purpose statement in LMC 8.50.020 is clear that the goal is to reduce the health and safety risks posed by smoking in places of employment and public

places. While the ordinance does define indoor areas, places of employment and public places, it did not specifically define outdoor area or areas in which smoking would be allowed. In essence, what is not indoors is automatically outdoors. Staff researched ordinances adopted in other locales and found great variations in how outdoor areas were being interpreted. Examples included:

- Lexington, Kentucky allowed smoking in patio areas as long as less than 40% of the area was enclosed (60% exposed) and there was no roof or other covering.
- Boston Massachusetts required outdoor spaces to not be covered and remain open to the air at all times and not enclosed by any sort of wall or side covering.
- The state of Connecticut defined outdoor smoking area to be a place with no roof or other ceiling enclosure and that 75% of that open area be posted as non-smoking.
- New Brunswick Canada defined an enclosed place as having no more than 70% of the area enclosed (30% exposed) by walls, roofs, or a combination of the two.
- The State of New York's law allowed smoking in outdoor dining areas as long as the area did not have a roof or ceiling (and then only 25% of the area could be designated as smoking).
- Many other communities adopted regulations which prohibited smoking within certain distances of buildings, for example, no smoking within 25 feet of a public place or a place of employment.

Since the local ordinance (as adopted by referendum) did not specifically define an outdoor area with a specific percent of open space, nor did it ban smoking within a specified distance from indoor areas, the Health Department considered various approaches to assure the intent of the ordinance was maintained. The Law Department guidance was to use a common sense standard, which basically meant if it looks and feels outdoors, then it is outdoors. Conceptually, if you are in a space, do you feel as though you are indoors or outdoors. While legally supportable, such a standard would be difficult for our staff to apply easily. Therefore, after consideration of approaches in other communities with similar ordinances and much internal discussion, we chose the concept of an enforceable standard of 20% open space.

This standard was developed having the concept of the common sense standard in mind. Think of a room with equal dimensions for depth, width, and height. Applying the common sense standard, and based on our staff's extensive field experience in both indoor and outdoor air pollution, we believed that if any single wall or the entire ceiling was removed, it would feel outdoors. For example, think about a room that is 8 feet deep by 8 feet wide by 8 feet high. If you remove one entire wall, you would have 20% open space. For many facilities wishing to have an outdoor smoking area, removing a ceiling or an entire wall would have been cost prohibitive or not possible. Thus, the policy allowed for facilities to achieve a minimum of 20% open space through multiple openings. While this standard was less stringent than most other communities which had adopted complete smoking bans, we believed a minimum of 20% open space would allow adequate natural ventilation (not mechanical) and the space would feel outdoors. The policy allows the Health Department to require greater than 20% open space if necessary to assure adequate ventilation. We have not yet had to apply this provision.

c. What is the public process for adopting the standard? Is it approved by the Board of Health? When was this standard adopted?

As with many policies developed by Health Department staff to guide consistent application of provisions in ordinances, there was not a formal public process and this policy was not taken to the Board of Health for formal action. The BOH was informed that staff were developing the policy and the BOH actually considered 20% open space to be lenient in terms of what constituted an outdoor smoking area. The first "official" policy was signed by the Health Director on November 14, 2005. However, the 20% open space requirement was being applied to outdoor smoking areas prior to that date.

After working with the policy, staff became aware of a problem in how to calculate the 20% open space when tall ceilings are present. Taller ceilings create larger volumes of air and enhance

natural ventilation of the space, yet the existing policy would penalize facilities with taller ceilings. The policy was revised through an internal process by Health Department staff, then reviewed and approved by the Health Director on December 1, 2006. This policy change has not negatively impacted the compliance status of any facility with an outdoor smoking area.

d. **Can this standard be changed without any process whatsoever. If plans have already been approved and the rules change, aren't the establishments grandfathered in? If not, why not?**
Since the authority to enforce the ordinance resides with the Lincoln-Lancaster County Health Department and law enforcement, and the ordinance does not specify that policies used to guide staff in enforcing the ordinance must be adopted through the Board of Health or a public process, it is possible that the standard could be changed without an external or public process. Interpretations of ordinances occur quite often and typically do not involve public involvement processes.

If an error was made by LLCHD staff in approving an outdoor smoking area that should not have been approved, this does not negate the policy and there would be no "grandfathering".

We are aware of two facilities that did not build their outdoor smoking area to plan specifications and came up short of 20% open space. We also identified several facilities that modified what was either an approved outdoor smoking area or a beer garden and reduced the open area to less than 20%, causing non-compliance. And, there are some facilities that built outdoor smoking areas that did not submit plans to the Building and Safety Department for review. Thus, the concept of grandfathering does not apply to such facilities, nor does the ordinance provide for grandfathering.

e. **What was the rationale for changing of the guidelines from 20% of wall to 20% of wall and ceiling?**
The Health Department has consistently advised applicants that they need 20% open space of the total square footage and has never used a "20% of a wall" guideline.

2. **What department has final jurisdiction? Building & Safety or Health? What is the process of approving an "outdoor smoking area"? We had conflicting reports last year of one department approving and another saying no. Has that been worked out? Can the departments do inspections at the same time avoid conflicts between them?**
The Health Department has the final jurisdiction regarding if the outdoor smoking area meets 20% open space. Building and Safety has authority on building permits. Unfortunately, some business owners submitted remodeling plans and did not specify that they intended to use the area for an outdoor smoking area. We have worked out the process between our Departments.

3. **Are any guidelines posted on the website where they can be easily accessed by everyone?**
Yes. The City InterLinc site has a Frequently Asked Questions page on the Lincoln Smoking Regulation Act. The easiest way to access it is to go the Interlinc site and type in the word "smoking" in the search box and scroll down (it was #13 today). This guidance document specifically asks that people planning to design an outdoor smoking area contact the Health Department. We have found this to be the best guidance we can provide, as each outdoor smoking area seems to have unique variables that take one-on-one consultation to work out.

Since the Lincoln voters set into motion a smoking ban that was drafted by legal two years ago, we are requesting that legal amend this ordinance with definitions of outdoor smoking areas for adoption into the existing ordinance. This would then involve a public hearing allow for

input from the impacted parties and prevent expensive renovations based on miscommunication or misunderstandings.
The Health Department would welcome a public process to assure the intent of the voters is carried out and to reduce any misunderstandings on what constitutes an outdoor area. Please keep in mind that the public may advocate a much more stringent approach be applied than is currently being used to assure they are not exposed to second-hand smoke. Other communities have adopted a range of approaches to assure non-smokers are not exposed to second hand smoke, including:

- requiring much greater than 20% open space for outdoor smoking areas;
- requiring outdoor smoking areas to be a specific distance from any places of employment, public places, or enclosed or indoor areas where smoking is prohibited; or
- requiring that outdoor areas provide space for both smokers and non-smokers in a ratio similar to the prevalence of smoking in the adult population.

In addition, due to the staff time necessary to administer and enforce the Lincoln Smoking Regulation Act, the Health Department will request that the Law Department draft language for the Council's consideration on fees to cover some of the costs of plan review and inspections.

Please have a draft available as soon as possible to allow for public hearing at the evening meeting on January 29th. Thank you.

Due to existing commitments of key city attorneys to trial matters over the next several weeks, we respectfully request at least a one month extension to the January 29th deadline.

If you have any further questions, I would be happy to try to answer them.

cc**:** Lincoln City Council; Ann Harrell, Mayor's Office; Dana Roper, Tonya Skinner, Law; Mike Merwick, Dale Stertz, Building & Safety; Bruce D. Dart, Health

Enclosures**:**

a. Memo from Annette McRoy - RFI#175, Patte Newman - RFI #41
b. Lincoln-Lancaster County Health Department Policy and Procedure Bulletin; November 29, 2006; Outdoor Smoking Areas, Lincoln Municipal Code 8.50, Lincoln Smoking Regulation Act, Policy # 205.07
c. Outdoor Smoking Area Compliance Fact Sheet, December 1, 2006
d. Memo dated November 16, 2006 from Scott Holmes to Bruce Dart on a proposed revision to the Smoking Area Administrative Policy adopted on November 14, 2005
e. Smoking Area Administrative Policy adopted on November 14, 2005

FROM: Annette McRoy - RFI#175
Patte Newman - RFI#41

TO: Scott Holmes and Bruce Dart, Health Department
Dale Stertz and Mike Merwick, Building & Safety Department
Tonya Skinner and Dana Roper, City Law Department

Last week several bar owners received letters or notification that their previously approved outdoor smoking areas were not in compliance with what the Lincoln-Lancaster County Health Department (LLCHD) deems appropriate. A "Compliance Fact Sheet" was enclosed stating that LLCHD requires the owner to provide at least 20% net open space relative to the total square footage of four walls and ceiling.

Last year several "outdoor smoking areas" were approved and signed off on by city officials. At that time, the understanding was that 20% referred to one wall.

1) Can you please advise, under what authority the LLCHD sets this type of policy? If they have this authority;

a) What person, committee or board set the standards?
b) What is the basis for the standard (was this drafted with input from other departments or the public or based on another U.S. city's legislation?)
c) What is the public process for adopting the standard? Is it approved by the Board of Health? When was this standard adopted?
d) Can this standard be changed without any process whatsoever. If plans have already been approved and the rules change, aren't the establishments grandfathered in? If not, why not?
e) What was the rationale for changing of the guidelines from 20% of wall to 20% of wall and ceiling?

2) What department has final jurisdiction? Building & Safety or Health? What is the process of approving an "outdoor smoking area"? We had conflicting reports last year of one department approving and another saying no. Has that been worked out? Can the departments do inspections at the same time avoid conflicts between them?

3) Are any guidelines posted on the website where they can be easily accessed by everyone?

Since the Lincoln voters set into motion a smoking ban that was drafted by legal two years ago, we are requesting that legal amend this ordinance with definitions of outdoor smoking areas for adoption into the existing ordinance. This would then involve a public hearing allow for input from the impacted parties and prevent expensive renovations based on miscommunication or misunderstandings.

Please have a draft available as soon as possible to allow for public hearing at the evening meeting on January 29th.

Thank you.

POLICY AND PROCEDURE BULLETIN

DATE: November 29, 2006

POLICY TITLE: Outdoor Smoking Areas
Lincoln Municipal Code Chapter 8.50, Lincoln Regulation Act

POLICY NUMBER: 205.07

DIVISION: Environmental Public Health

REASON FOR THIS BULLETIN (Check One):

- ☐ NEW POLICY ADOPTED BY THE BOARD OF HEALTH
- ☒ NEW POLICY APPROVED BY THE HEALTH DIRECTOR
- ☐ POLICY IMPLEMENTED PENDING HEALTH DIRECTOR APPROVAL
- ☐ REVISION OF A POLICY APPROVED BY THE HEALTH DIRECTOR
- ☐ REVISION OF A POLICY APPROVED BY THE BOARD OF HEALTH
- ☐ REVISION OF AN IMPLEMENTED POLICY NEVER ADOPTED BY THE HEALTH DIRECTOR
- ☐ DELETIONS
- ☐ PLEASE DELETE ENTIRE POLICY
- ☐ REVIEWED WITH NO CHANGES

NOTE: Any copy of this policy that shows an earlier date should be discarded.

COMMENTS:

AUTHORIZATIONS:

DIVISION MANAGER _____ DATE 12/1/06

ADMINISTRATION _____ DATE 12/1/06

POLICY NUMBER: 205.07
DIVISION: Environmental Public Health
POLICY TITLE: Outdoor Smoking Areas
Lincoln Municipal Code Chapter 8.50, Lincoln Smoking Regulation Act
AGENCY (ies): Lincoln-Lancaster County Health Department
AUTHORITY: Health Director
DRAFTED: November 7, 2006
APPROVED: November 30, 2006
REVISED:
REVIEWED:

POLICY STATEMENT:

The purpose of this policy is to aid the Lincoln-Lancaster County Health Department and law enforcement in the administration and enforcement of the Lincoln Municipal Code chapter 8.50, Lincoln Smoking Regulation Act; and to provide guidelines to assist business owners establishing outdoor smoking areas in compliance with applicable provisions of the Lincoln Smoking Regulations Act.

I. Authority

A. The Lincoln-Lancaster County Health Director and law enforcement are granted authority to administer and enforce LMC 8.50.

B. The Lincoln-Lancaster County Health Director is granted authority to protect the public's health under LMC 8.02.040 and LMC 8.06, and possess the powers granted by Neb. Rev. Stat. 71-1628.04(2)(e) & (f).

II. Indoor Area

A. Indoor area shall mean an area enclosed by a floor, ceiling, and floor to ceiling walls on all sides that are continuous and solid except for closeable entry/exit doors and windows.

B. Smoking is prohibited in indoor areas. Exceptions to this prohibition are afforded to:
1. Guestrooms and suites as outlined in 8.50.220(a)(1); and
2. Scientific or analytical laboratories conducting research into the health effects of smoking as outlined in 8.50.220(a)(2). This exception is only during and for the purposes of the research.

C. An example of an indoor area includes, but is not limited to: A business wants to create a smoking area located in the middle of their building. This would not be allowed under LMC 8.50 because this would be an indoor area. It is surrounded by a floor, ceiling, and floor to ceiling walls on all asides that are continuous.

III. Outdoor Area

A. Outdoor area shall mean an area:

1. A portion of the exterior wall(s) is open to the outdoors in an amount equal to or greater than twenty percent of the area to provide for proper air circulation, hereinafter called "open area". For purposes of determining the total square footage of the room, the total square footage of the walls and ceiling shall be

calculated. However, when an interior wall height exceeds eight feet, only the first eight feet shall be used in the calculations. Twenty percent is only a minimum requirement and a larger area may be required to protect the health and safety of employees and the public. The open area must be permanent and remain uncovered; and

2. Where the exterior wall is not solid and continuous, either to the floor to ceiling or to the adjoining walls; and

3. Where the area appears to be an outdoor area and allows for appropriate circulation or exchange with outside air for the health and safety of employees and the public.

B. Smoking is allowed in outdoor areas.

C. Outdoor areas may have doors that may be opened and closed for exiting and entering the outdoor area. At all other times the doors must remain closed to the indoor area. An example is as follows: A business owner has a door between his indoor and outdoor area to allow customers easy access between the two areas. This door may not be propped open. It must be closed unless a customer is exiting or entering. An example of a door on the exterior wall: A business owner has an outdoor area with a door exiting onto the adjoining sidewalk. The door is closeable and cannot be counted in open area calculation.

D. An owner may install security devices in the open area. Security devises include, but are not limited to: louvers, bars, fencing, wood slats. These devises must be fixed, not closeable. The area of the security devises must be calculated and subtracted from the open area to determine if the open area meets the twenty percent minimum. An example of the use of security devises: A business owner removed twenty percent of the existing exterior wall to meet the minimum requirements of an outdoor smoking area. The owner then installs twenty fixed 2' x 2' wood louvers. The outdoor area would be denied because the amount of area open to the outdoors is less than twenty percent. In order to meet the requirements, the business owner needs to calculate the area of the security devices, then subtract this area from the proposed open area. The portion of the wall needing to be removed would increase as the owner installs more security devices. In addition, the angle of the louvers would need to be considered for proper air circulation.

E. The owner must consider air flow for the health and safety of the public and the employees. An owner's design must prevent smoke from entering the indoor area. If smoke enters an indoor area, this would be considered a violation of the LMC 8.50 and enforcement action will be taken.

F. An owner must comply with other Lincoln Municipal Codes in the design and operation of an outdoor area. It shall be the responsibility of the owner of the premises to comply with the codes, ordinances, and regulations of the City of Lincoln.

III. Procedure for Review of Outdoor Smoking Areas:

A. Any and all proposed outdoor smoking areas requiring a building permit or inspection shall be reviewed by the LLCHD for compliance with this administrative policy and LMC 8.50. The applicant must provide adequate drawing with the proper dimensions and calculations. If the drawing is not adequate and/or the proposal does not meet the requirements of this administrative policy and LMC 8.50, LLCHD shall not recommend approval of the building permit.

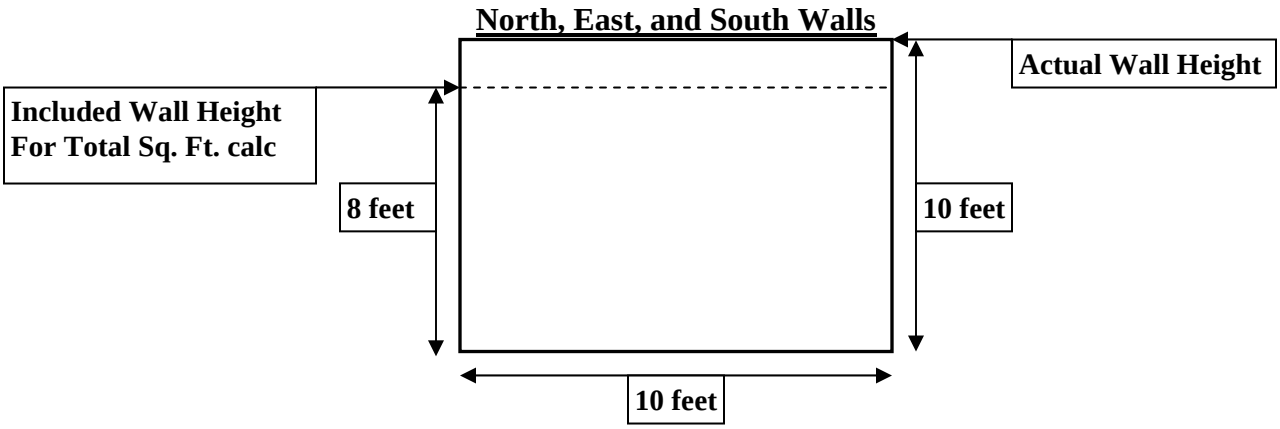
Outdoor Smoking Area Compliance Fact Sheet

Purpose: The intent of this fact sheet is to provide proprietors with guidance on how to comply with the Lincoln-Lancaster County Health Department's (LLCHD) requirements for an approved *outdoor* smoking area.

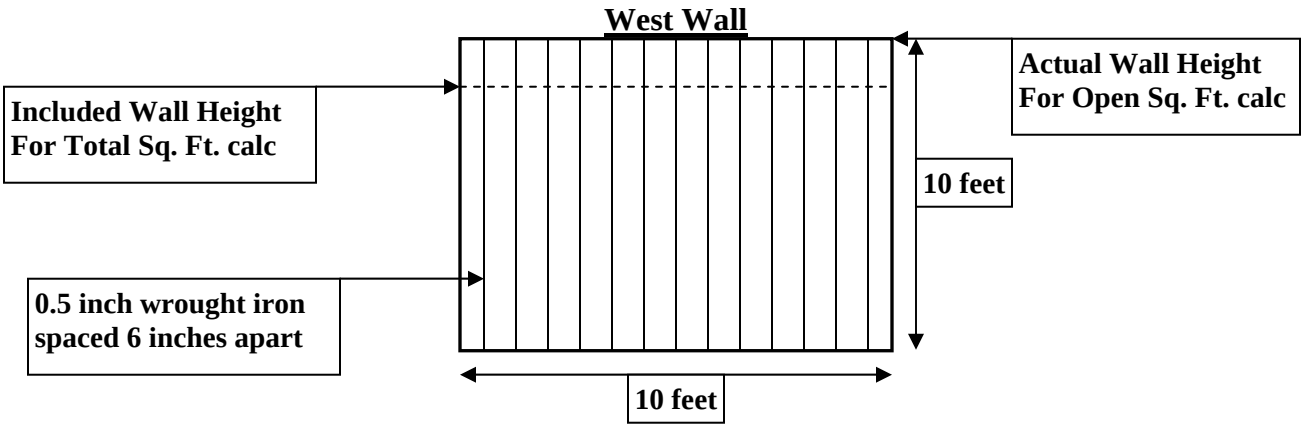
Requirements: The LLCHD requires approved outdoor smoking areas to provide at least 20% net open space relative to the total square footage of the ceiling and all four walls (excluding square feet of walls above 8 feet tall).

Application: As part of the review process, proprietors must submit detailed building plans, drawn to scale, of the proposed outdoor smoking area depicting all four walls, ceiling, and open spaces to the outside air including any building material (wrought iron, lattice work, re-bar, etc.) used in the open space.

Note: Any building material used in the open space must be subtracted from the provided total open space to the outside air. Calculations must also be submitted with the building plans to demonstrate the net percentage of open space provided by the proposed outdoor smoking area. An example is provided below of a hypothetical approved outdoor smoking area.

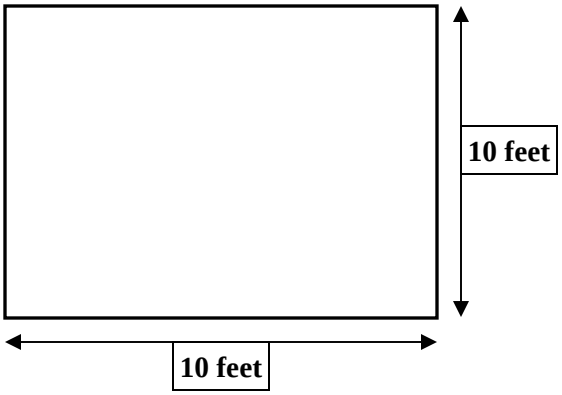


For this example, the overall wall height is 10 feet, but only the first 8 feet are included in the Total Square Footage calculation. The North, East, and South walls are completely enclosed, with no open area to the outdoors.



For this example, the overall wall height is 10 feet, but as before, only the first 8 feet are included in the Total Square Footage calculation. The entire West wall is open to the outdoors, but the opening is partially blocked by 0.5 inch thick iron bars spaced evenly 6 inches apart. The entire open area, including that above 8 feet tall, is included in the Open Square Footage calculation.

Smoking Area Overhead View



All ceiling area is included in the Total Square Feet calculation. In the case of a sloped or vaulted ceiling, the ceiling area will be considered equal to floor area. This prevents the applicant and/or business from being penalized for the extra surface area created by sloped or vaulted ceilings.

Calculating the Net Open Space

- **North Wall** – 10 feet Long * 8 feet Tall = 80 square feet
- **South Wall** – 10 feet Long * 8 feet Tall = 80 square feet
- **East Wall** – 10 feet Long * 8 feet Tall = 80 square feet
- **West Wall** – 10 feet Long * 8 feet Tall = 80 square feet
- **Ceiling** – 10 feet Long * 10 feet Wide = 100 square feet

Total Square Feet = 420 square feet

Required Net Open Space = 420 square feet * 20% (0.2) = 84 square feet

Provided Open Space = 10 feet Long * 10 feet Tall = 100 square feet

- **Subtract Wrought Iron bars – (0.042 feet Wide * 10 feet Tall) x 20 bars = 8.4 square feet**
- **Note: The width of the bars is 0.5 inches, which equals 0.042 feet, and there are 2 per foot.**

Total Net Open Space = 100 square feet open – 8.4 square feet (bars) = 91.6 net open square feet

Conclusion

This outdoor smoking area allows for 91.6 net open square feet, whereas 84 net open square feet are required to meet the 20% net open space rule. This means that this outdoor smoking area actually has ***21.8% net open space***, which would result in this outdoor smoking area achieving compliance.

For technical assistance, please call 441-8040.

LINCOLN LANCASTER COUNTY HEALTH DEPARTMENT

December 1, 2006

To: Bruce D. Dart, Ph.D.
Health Director

From: Scott E. Holmes, REHS, MS SEH
Manager, Environmental Public Health Division

Date: November 16, 2006

Re: Lincoln Municipal Code 8.50 Smoking Regulation Act
Proposed revisions to the Smoking Area Administrative Policy adopted on November 14, 2005

After extensive consideration, the Environmental Public Health Division is proposing a modification to the Smoking Area Administrative Policy to define and clarify how the twenty percent open area is calculated. We are proposing the following language be changed:
Section III. Outdoor Area:

A. Outdoor area shall mean an area:

1. A portion of the exterior wall(s) is open to the outdoors in an amount equal to or greater than twenty percent of the area to provide for proper air circulation, hereinafter called "open area". <u>For purposes of determining the total square footage of the room, the total square footage of the walls and ceiling shall be calculated. However, when an interior wall height exceeds eight feet, only the first eight feet shall be used in the calculations.</u> Twenty percent is only a minimum requirement and a larger area may be required to protect the health and safety of employees and the public. The open area must be permanent and uncovered; and

This change is proposed to address "outdoor" areas intended to be used for smoking which have ceiling heights that exceed eight feet. Numerous scientific articles on "natural ventilation" and "dispersion ventilation" provide evidence that taller ceilings have a positive impact on the ventilation and dilution of the pollutants in a semi-enclosed space. Several articles specifically reference ceiling heights greater than eight feet (which, of course, is a typical ceiling height of an indoor space). The scientific basis for these findings is found in the laws of fluid dynamics (air is a fluid). Taller ceilings allow for a larger temperature gradients, enhancing convection, creating buoyancy force, and increasing air flow. This results in increased pollutant dispersion and decreased levels of pollution in a normal breathing zone. In addition, taller ceilings create an additional volume of air into which smoke can further disperse and be diluted, which also reduces the concentration of smoke in the breathing zone. If you have two rooms with equal floor dimensions and equal open space, but different ceiling heights, due to its increased volume alone, the room with the taller ceiling will need fewer air changes per hour to maintain the same level of air quality. And, data on natural ventilation indicates that the room with the taller ceilings will in fact have better ventilation rates as well.

In essence, using the entire wall height to calculate the net open space needed penalizes facilities with tall ceilings, when in fact tall ceilings (thus taller wall heights) are beneficial.

The proposed change can be administrated consistently for all facilities and we believe it is a fair and reasonable approach.

SMOKING AREA ADMINISTRATIVE POLICY

I. Purpose

The purpose of this policy is to aid the Lincoln-Lancaster County Health Department and law enforcement in the administration and enforcement of the Lincoln Municipal Code Chapter 8.50, Lincoln Smoking Regulation Act; and to provide guidelines to assist business owners establishing outdoor smoking areas in compliance with applicable provisions of the Lincoln Smoking Regulations Act.

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Bruce D. Dart

Bruce D. Dart,
Health Director

11/14/05
Date

CITY OF LINCOLN
NEBRASKA

Law Department
Dana W. Roper, City Attorney
575 South 10th Street
Suite 4201
Lincoln, Nebraska 68508

402-441-7281
Civil fax:
402-441-8812
Pros. fax:
402-441-8813

Ernest R. (Rick) Peo III, Chief Assistant John C. McQuinn II, Chief Prosecutor
Richard C. Anderson, Police Legal Advisor
Civil Division
James D. Faimon Steven J. Huggenberger
Connor L. Reuter Margaret M. Blatchford
Tonya L. Skinner Joe J. Rupp
Prosecution Division
Patrick A. Campbell Christine A. Loseke
Rob E. Caples Marcee A Brownlee
Jessica Kerkhofs

LINCOLN
The Community of Opportunity

MAYOR COLEEN J. SENG

lincoln.ne.gov

January 11, 2007

Jacob Hamilton
6935 Walker Ave.
Lincoln, NE 68507

RE: Unlawful Possession of Firearms Citation LB048490

Dear Sir:

This office has been asked by Patte Newman, Chair of the Lincoln City Council, to respond to your email communication of January 10, 2007, regarding the citation referenced above. As you are aware, your case is set for trial in Lancaster County Court on January 25, 2007; therefore, I will be unable to discuss specifics regarding your case.

The ordinance under which you are charged, *L.M.C.* § 9.36.100, went into force in April 2003. A number of addition disqualifying crimes were added by amendment, that became effective in August 2006. As with any city ordinance, those amendments were presented at three public meetings of the Lincoln City Council (including one public hearing) and became effective 15 days after passage by the Council. Prior to its effective date, the ordinance was also signed by the Mayor and published in the Lincoln Journal-Star newspaper. This procedure was in full compliance with the process required by the Charter of the City of Lincoln and the laws of the State of Nebraska. The ordinance is also available in the Lincoln Municipal Code, published on the City of Lincoln web site. Regarding constitutionality, both the United States and Nebraska Supreme Courts have held that there is no absolute constitutional right to personal possession of a firearm granted by the United States or Nebraska Constitutions. In addition, both courts have held that it is a citizen's responsibility to know and comply with a legally adopted ordinance or statute.

Because your trial is pending in Lancaster County Court, ethical considerations prevent this office. or any other branch of City government, from advising you on how you could or should proceed in your case. You should direct any requests for legal assistance to a private attorney.

Sincerely yours,

John C. McQuinn
Chief City Prosecutor

cc: Lincoln City Council

Dana W Roper/Notes
01/11/2007 08:21 AM

To John C Mcquinn/Notes@Notes
cc
bcc
Subject Fw: Possession of Firearms Citation

----- Forwarded by Dana W Roper/Notes on 01/11/2007 08:20 AM -----

"Patte Newman"
<newman2003@neb.rr.com>
01/10/2007 05:21 PM

To <gbussjham@hotmail.com>
cc <tcasady@lincoln.ne.gov>, <DRoper@ci.lincoln.ne.us>
Subject Fw: Possession of Firearms Citation

Mr. Hamiton
The ordinance you referred to was brought to the Council for approval by either the LPD or at the Mayor's direction. I am copying our City Attorney and Police Chief who are in a much better position
to explain the need for and constitutionality of that ordinance than Councilmembers can.

Mr. Roper and Chief Casady, please copy the Council with your reply as this was sent to multiple Councilmembers.

Thank you.
Patte Newman

----- Original Message -----
From: "Jake Hamiton" <gbussjham@hotmail.com>
To: "Vice Chairman Patte Newman" <pnewman@lincoln.ne.gov>
Sent: Wednesday, January 10, 2007 2:36 AM
Subject: Possession of Firearms Citation

> Jake Hamiton
> 6935 Walker Ave.
> lincoln, NE 68507-2861
>
>
> January 10, 2007
>
> Vice Chairman Patte Newman
> 555 South 10th Street
> Lincoln, NE 68508
>
>
> Vice Chairman Newman:
>
> My name is Jake Hamilton I am writing you in concern with the citation i
> recieved in November for Unlawfull Possession Of Firearms which is a city
> code in Lincoln, NE that passed sometime last year. The code states that
> any person that has a second offense of drinking and driving is not
> allowed to have possesion of a firearm for ten years. I feel that this
> is an unfair law due to the circum stances, right now i have a hand gun
> permit and have had one for the past year since I purchased my first

> handgun. I had purchased this hand gun for fun and protection. In
> November when i recieved this violation when someone had been caught
> breaking into my house and the guns were confinscated from my house since
> they were involved in a burglary well the next day the officers that did
> the investigation on the burglary came back to my residence and issued me
> a citation for unlawfull possession of firearms. I just think this is a
> really unfair law I had no prior knowledge and I had just been released
> from the local jail 2 days before this happened for my 2nd offense
> D.U.I.. I really dont think this is constitutional to have all my firearm
> privlages taken away because of a D.U.I. I would like some help or some
> feed back please.
>
> Sincerely,
>
>
> Jake Hamiton
> 402-202-3220
>
> This message has been verified by CapwizXC as authentic and sent by this
> individual. Authentication ID: [BVK75Sx7]
>
>
>
> --
> No virus found in this incoming message.
> Checked by AVG Free Edition.
> Version: 7.5.432 / Virus Database: 268.16.8/621 - Release Date: 1/9/2007
> 1:37 PM
>
>

Memorandum

To: City Council Members

From: Chief Tom Casady

Date: January 11, 2007

Re: 2006 Crime Statistics

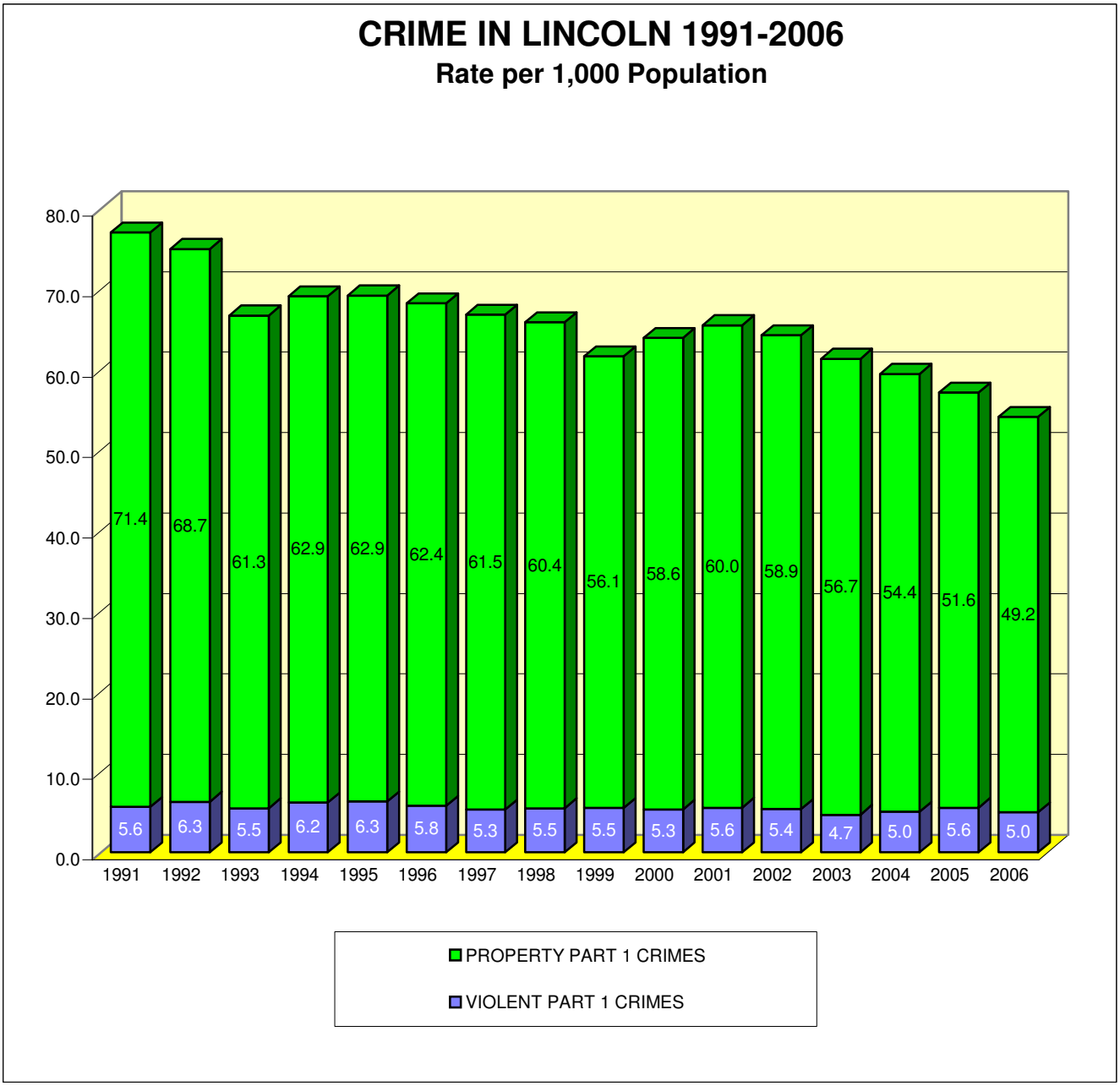
On Friday, January 12 the Mayor and I will be releasing the crime statistics for Lincoln for calendar year 2006. The Mayor's news release will be among the items you will be receiving, but I also wanted to provide you with the same documents that the reporters will receive as "handouts" at the news conference. Please contact me if you have any questions or would like any additional information.

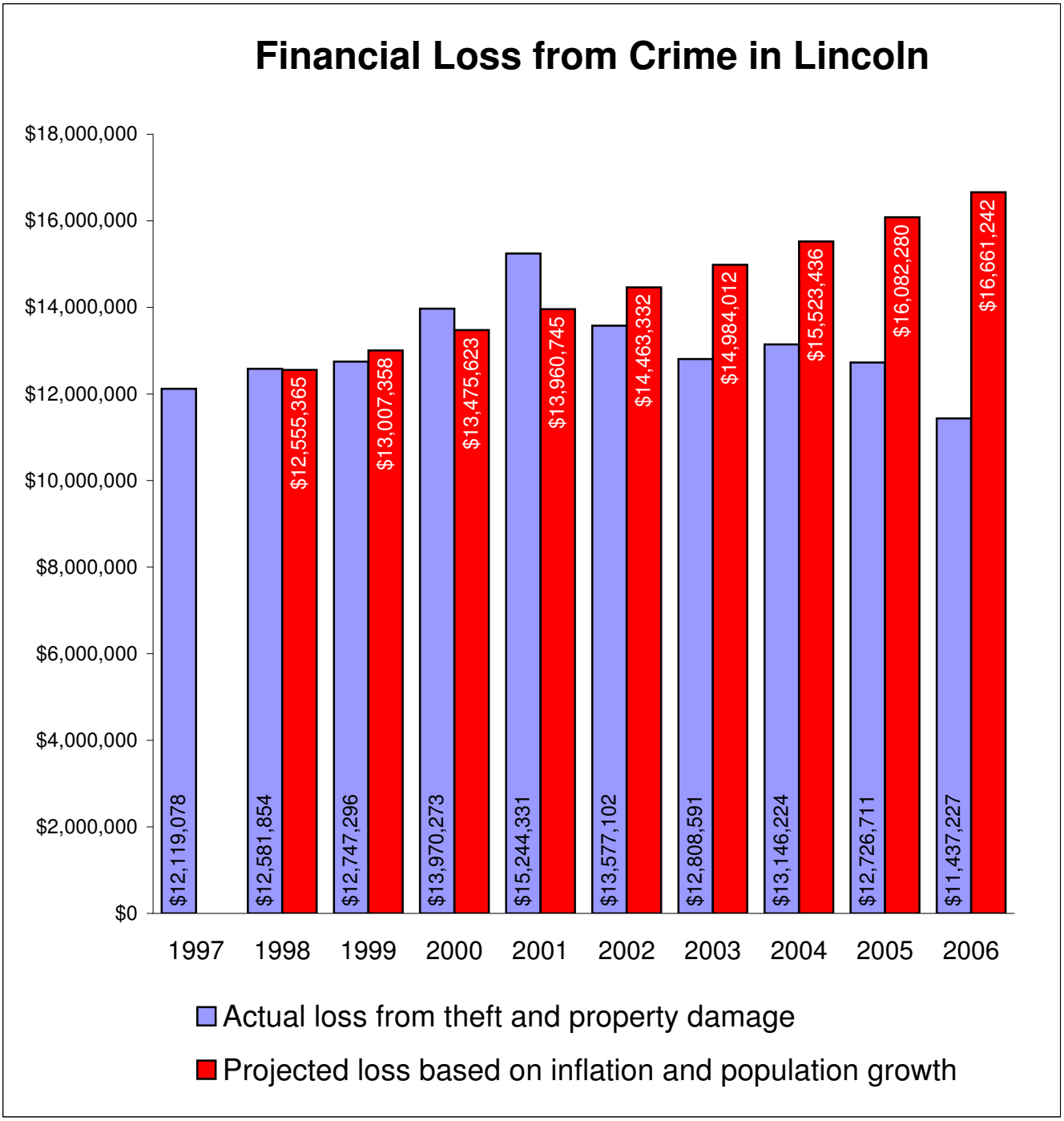
Lincoln Police Department
PART 1 CRIME 2006
January through December

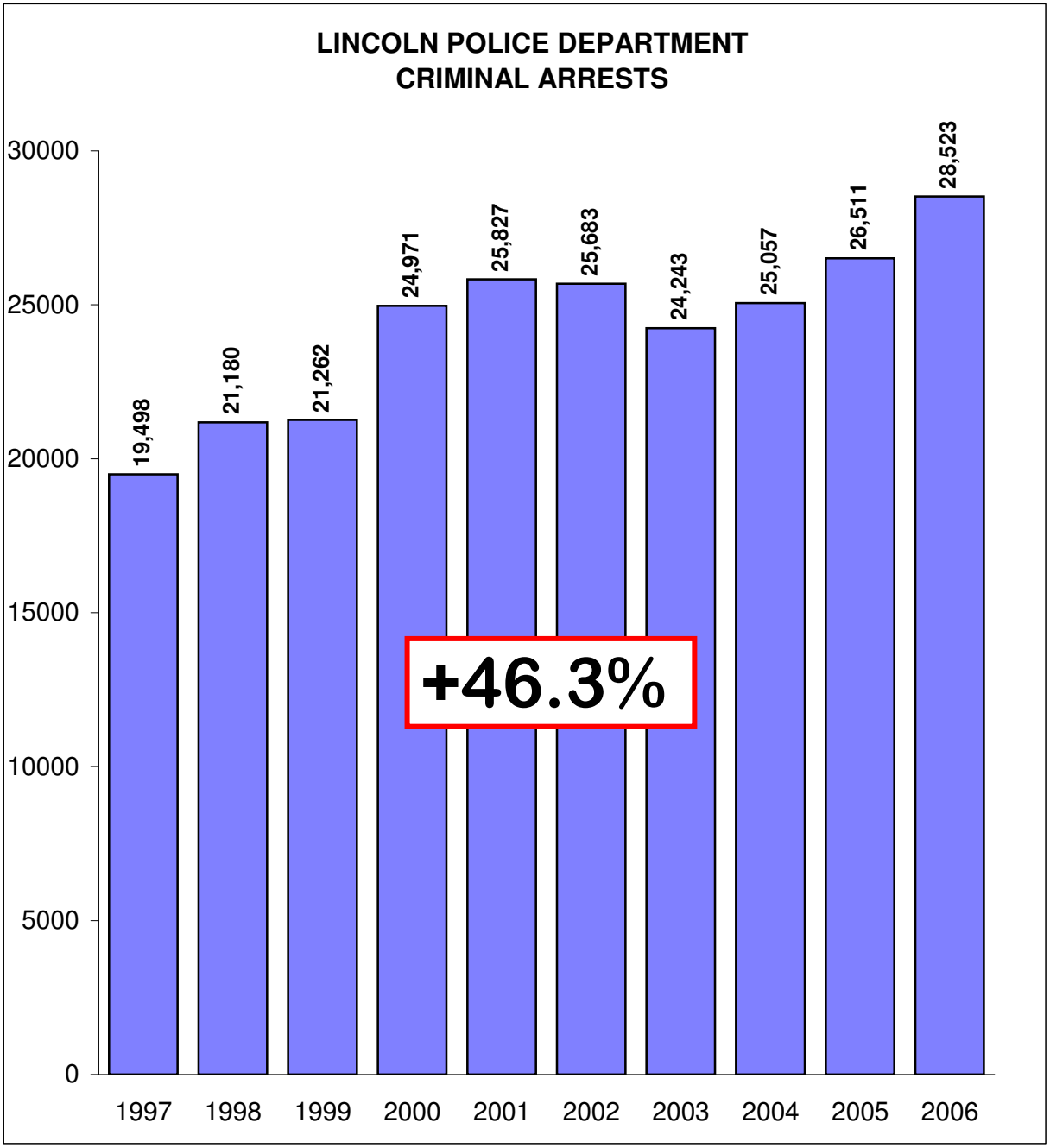
	2006	2005	Diff.	Change
MURDER	5	4	1	25.0%
RAPE	108	110	-2	-1.8%
ROBBERY	154	225	-71	-31.6%
AGGRAVATED ASSAULT	937	989	-52	-5.3%
BURGLARY-ALL	1,869	1,831	38	2.1%
LARCENY-THEFT	9,649	10,108	-459	-4.5%
AUTO THEFT	404	404	0	0.0%
TOTAL PART 1	***13,126***	***13,671***	***-545***	-4.0%

VIOLENT PART 1	1,204	1,328	-124	-9.3%
PROPERTY PART 1	11,922	12,343	-421	-3.4%

LINCOLN POPULATION	242,562	239,213	3,349	1.4%
VIOLENT PART 1 RATE PER 1,000	5.0	5.6		-10.6%
PROPERTY PART 1 RATE PER 1,000	49.2	51.6		-4.7%
TOTAL PART 1 RATE PER 1,000	***54.1***	***57.1***		-5.3%


CRIME IN LINCOLN 1991-2006
Rate per 1,000 Population
80.0
70.0
60.0
50.0
40.0
30.0
20.0
10.0
0.0
71.4
68.7
61.3
62.9
62.9
62.4
61.5
60.4
56.1
58.6
60.0
58.9
56.7
54.4
51.6
49.2
5.6
6.3
5.5
6.2
6.3
5.8
5.3
5.5
5.5
5.3
5.6
5.4
4.7
5.0
5.6
5.0
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
PROPERTY PART 1 CRIMES
VIOLENT PART 1 CRIMES


Financial Loss from Crime in Lincoln
$18,000,000
$16,000,000
$14,000,000
$12,000,000
$10,000,000
$8,000,000
$6,000,000
$4,000,000
$2,000,000
$0
$12,119,078
$12,581,854
$12,555,365
$12,747,296
$13,007,358
$13,970,273
$13,475,623
$15,244,331
$13,960,745
$13,577,102
$14,463,332
$12,808,591
$14,984,012
$13,146,224
$15,523,436
$12,726,711
$16,082,280
$11,437,227
$16,661,242
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
Actual loss from theft and property damage
Projected loss based on inflation and population growth


LINCOLN POLICE DEPARTMENT
CRIMINAL ARRESTS
30000
25000
20000
15000
10000
5000
0
19,498
21,180
21,262
24,971
25,827
25,683
24,243
25,057
26,511
28,523
+46.3%
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006

How the Lincoln Police Department Has Contributed to Falling Crime Rates

We have been productive

Traffic citations have increased by 30% in the past decade, felony arrests by 43%, drunk driving arrests by 63%, and drug arrests by 96%. Our productivity is vastly outstripping both population growth and the number of police officers.

We have been proactive

We have not waited for emerging problems to become crises. We got out in front of gang problems early by developing a written Gang Strategy in 1994 that has helped us reduce the impact of gangs in Lincoln. Similarly, we have implemented prevention projects to reduce the impact of thefts from autos, thefts of metals, gun violence, and methamphetamine labs. We have done long-term analyses, projections based on historical data, and maintained a strategic plan to identify and respond to future conditions.

We have been problem solvers

We haven't just responded to individual incidents after the fact, rather we have worked on underlying problems that threaten safety, security, and quality of life in the community. We have done this by researching, designing, and implementing over 100 problem-oriented policing projects every year. We created and we have led a City-wide Problem Resolution Team for the past decade.

We have been relentless

We have consistently maintained a significantly higher crime clearance rate than the national average. We have maintained a rigorous system for tracking follow-up and for reviewing investigative reports to insure quality and completeness. We have solved complex crimes that in many jurisdictions would have quickly been pushed to the back of the file cabinet, even after several years' investigation, like the murders of Tammy Martin, Michael Schmader, Duane Johnson, and Harold Fowler. We have paid particular attention to drug crimes. We developed the State's first multi-agency drug task force. We have concentrated on complex conspiracy cases and high-level dealers, leading the State in Federal indictments for drug conspiracies.

We have taken care of the small stuff

We have thoroughly embraced the "broken windows" theory of crime: taking care of lower-level offenses and disorder as a strategy to reduce and prevent more serious crimes. We have increased misdemeanor arrests by 47% in the past decade. We make a huge number of these arrests—25,998 in 2006. We have aggressively gone after street prostitution and public order crimes like disturbing the peace, maintaining a disorderly house, alcohol-related offenses. We issued 105,843 traffic tickets last year.

We have targeted our resources

We have earned a national—even international—reputation for our work in crime analysis, especially geographic crime analysis and the use of crime mapping technology. We have developed expertise in detecting hotspots and focusing our limited resources on the locations with the most significant problems and at the right times. We have deployed our personnel and developed our work schedules based on careful analysis of time of day, day of week, and location of incidents and the demand for police services.

We have leveraged technology

We have developed in-house one of the most complete and functional police information systems in the nation. We have deployed a mobile data network, geographic information systems, web

conferencing, computer forensic analysis, and a police intranet—all without consultants. We have provided our officers with unparalleled access to our information resources. We have also created excellent resources for the general public to get key information on our Internet site, especially for landlords, neighborhood associations, volunteer coordinators, and employers who need to keep track of crime in their area, or do background research on their applicants and prospective tenants. We have implemented Automated Fingerprint Identification, Rapid Brass Identification, video enhancement, and digital mug shots, to provide faster and more accurate identification.

We have collaborated with others

We have worked with a huge number of partners to maintain and improve the quality of life in Lincoln, such as *Free to Grow*, *NU directions*, the N. 27th Street and University Place redevelopment projects, the *Lincoln Public Schools*, *the Family Violence Council*, the *Child Advocacy Center*, *Project Safe Neighborhoods*, the *Downtown Lincoln Association,* and our six community advisory councils, to name a few.

We have been accountable

We have regularly reviewed our progress with a detailed monthly statistical report for the department, and individual monthly productivity reports for officers. We have reviewed our budget targets bi-weekly, and our fuel usage monthly. We have conducted a detailed annual workload analysis for each unit. We have conducted an annual comparison of our department to all other cities of similar size and all other cities in our region on key performance indicators. We have maintained scrupulous systems of accountability for our individual performance as police employees. We have conducted monthly ACUDAT meetings for the past decade to review our most recent crime statistics, discuss our current crime trends, and to develop strategies.

We have been efficient

We have operated under budget for 12 consecutive years, after a decade of running in the red. We have dramatically reduced overtime costs beginning in 1996. We have delivered our services at a very low per capita cost, with the smallest police force in the State and one of the smallest in the area. We rank as the 177th smallest police force of the 192 cities in Nebraska and all surrounding States, right between Hays, Kansas and Lee's Summit, Missouri. Only one other city of over 200,000 is in the bottom half—Colorado Springs, at 97th. We would have to add 118 police officers to our force of 317 in order to be the same size per capita as Colorado Springs.

CITY OF LINCOLN
NEBRASKA
MAYOR COLEEN J. SENG
www.ci.lincoln.ne.us

Lincoln Police Department
Thomas K. Casady, Chief of Police
575 South Tenth Street
Lincoln, NE 6508
(402) 441-7237

LINCOLN
The Community of Opportunity

January 11, 200

Jacob Hamilton
6935 Walker Ave.
Lincoln, NE 68507-2861

Dear Mr. Hamilton:

The City Council has referred your email of January 10, 2007 to me for a response. Upon review, I discovered that you have been convicted twice of driving under the influence of alcohol within the previous ten years, which does indeed prohibit you from possessing firearms in the City of Lincoln. This ordinance was modified last year by the City Council, and one of the City Council members suggested including two or more DWI convictions in the previous ten years.

I also note, however, that you have been convicted five times in the past few years for violations of the Uniform Controlled Substances Act—specifically, four convictions for possession of marijuana and one for possession of drug paraphernalia between 2004 and 2006. Any one of these convictions within the past ten years also prohibits you from possessing a firearm in the City of Lincoln.

I will remind the City Council that the purpose of your email was to express your opinion that this law is unfair. While I understand your disagreement, I must tell you that tell you that this result is precisely what I had in mind when I testified in favor of the ordinance.

Fortunately, the restriction on possessing firearms in the City of Lincoln is not life long. If a decade passes during which you do not have two or more drunk driving convictions, any convictions for violations of the Uniform Controlled Substances Act, or any other convictions for offenses which are listed in the ordinance, you may once again be able to lawfully possess firearms in Lincoln.

Sincerely,

Thomas K. Casady
Chief of Police

WebForm
<none@lincoln.ne.gov>
01/01/2007 06:58 PM

To General Council <council@lincoln.ne.gov>
cc
bcc
Subject InterLinc: Council Feedback

InterLinc: City Council Feedback for
General Council

Name: Robert Heese
Address: 5664 N. Pilot Hill Road
City: North Platte, Nebraska 69101

Phone: 308-534-3371
Fax:
Email: robertheese@yahoo.com

Comment or Question:
I intend to send this e-mail to the General Council, Mayor & Health Department of the City of Lincoln.

My wife (Bev) and I moved to Lincoln in 1998. While in Lincoln we moved twice, our second residence was at 2621 Heide Lane from April of 2000 to August of 2006.

I accepted a job with a new employer and we moved to North Platte around August 1st, 2006.

In the process of selling our house on Heide Lane, we recieved an offer and the potential buyer requested a home inspection, hired their home inspector and wanted the house checked for radon.

The home inspector tested for radon and the tests confirmed radon levels way off the charts. The radon levels were around 22 pCi/L. The EPA recommends homes having 2 to 4 pCi/L being fixed. I asked the realtor just how many homes that are tested in Lincoln fail and he said 50 %. We paid for a company to come in, drill into the concrete, place PVC and have a fan that vents the radon gas to the outside. The fan runs all the time & has a indicator that shows the radon levels. We closed on the house with this buyer.

Upon moving to North Platte, my wife who was a light smoker, a nurse & very active, started to have a sharp pain in her left side. She thought it was just from the move, went to the Dr. and took some pain meds. After 3 days of pain and getting worse she had an X-RAY that showed a mass in her left lung. She had a biopsy on Ausust 31 and it came back Non-Small Lung Cancer. She had futher tests in Lincoln & at UNMC in Omaha. We were told that she had Stage 4 lung cancer, a mass on her lung, on her ribs and a spot on the brain. She asked how long she had to live and was told 6 months to 1 year. She wanted to be with me in North Platte and started chemo and radiation treatments. She was in and out of the Hospital, in exterme pain and about Nov 1st we were told that she had cancer all up and down her spine, more in the brain, the mass in her lung was growing, cancer had went to the hips. We took her home for hospice and she died on Nov 8, 2006. At the age of 54.

Her death certificate is checked that she was a smoker & died due to lung cancer.

When I told the Doctors about the radon, all of them said "well let's don't

worry about the cause".

I believe that the combination of smoking and the radon caused her death. She loved to cook and had a cooking stove in the basement, where she did most of the cooking,sewed, ironed, crafts & watched TV and slept on the couch in the downstairs rec room (due to my snoring upstairs most of the time).

During the past few weeks, I noticed articles about radon in Nebraska newspapers and about ordering home test kits.

I did not realize the seriousness of radon and how bad it is in Lincoln.

Yes, my wife died of a cancer that some people may say "well she shouldn't have been smoking those damn cigg., she deserved it". Even that lung cancer has such a hish death rate- almost no cure- due to being discovered too late. Do you ever see anyone on a lung cancer walk, no because it has the stigma of being a lepers disease.

But think of this. Do you have a basement? Does your spouse or children inhabit the basement? (the upper levels get infected also, but not as much).

The EPA has a chart that shows at levels of 20 pCi/L
260 out of 1000 smokers may develop lung cancer
36 out of 1000 non-smokers may develop lung cancer.

This to me is too high and the public should be warned.

I feel that the City of Lincoln did a service to the public on the smoking issue. Please take this issue to heart. I have two children living in Lincoln and am going to pay to have their homes checked. I would suggest that you have yours checked too. How many of your friends live close to where I did? Do they have children?

Please go to the EPA website below and read the risks of radon.

http://www.epa.gov/radon/healthrisks.html

Thank you,

Robert Heese

KIRKHAM MICHAEL
CONSULTING ENGINEERS

Arizona • Colorado
Iowa • Kansas • Nebraska
www.kirkham.com

December 29, 2006

Mr. Danny Walker
427 E Street
Lincoln, NE 68508

RECEIVED
JAN 0 5 2007
CITY COUNCIL OFFICE

RE: Lincoln BNSF Quiet Zone Study
Wayside Horn Test- January 4
Lincoln, Nebraska
KM-0608232

Dear Mr. Walker:

Growth in train traffic along the BNSF Railway corridor in northeast Lincoln is continuing to impact the neighboring businesses and residences through train horn noise and crossing blockages. The City of Lincoln-Lancaster County Railroad Transportation Safety District (RTSD) and Public Works/Utilities Department have recognized the need to address these concerns. Kirkham Michael has been contracted by the RTSD to conduct a Quiet Zone Study along portions of the BNSF Railroad Corridor.

The attached notice is being sent to you because you attended our recent public information meeting on December 21, you own property that abuts the study corridor, or you have an interest in potential Quiet Zones. We would like to encourage you to be at your home or place of business on January 4th at the times indicated and provide us with your comments.

If you have any questions, please feel free to call us at 477-4240 or 430-4947.

Sincerely,

KIRKHAM MICHAEL

Rick Haden

Rick Haden
Traffic Engineering Manager

RH/rjh

S:\0608232\Steno\Wayside Horn Test.doc

Copy to: Mayor Seng, City Council, County Board, Sen. DiAnna Schimek, Roger Figard, Andy Amparan, Boyd Andrews, Ellis Tompkins, Kurt Anderson, Mark Hunzeker, Alicea McCluskey, Tina Queen

Lincoln BNSF Railroad

Quiet Zone Study

Citizen Comments

Please submit written comments by January 8th, 2007 (PLEASE PRINT)

SEE ATTACHMENT.

(Optional)
Name: _____
Address: _____
_____
Phone Number: _____

We appreciate your input. Your comments and questions will be reviewed by appropriate project engineers and staff.
Thank you for participating in our public information meeting.

KIRKHAM MICHAEL

Danny Walker
Board Member
South Salt Creek Community Organization
427 E Street
Lincoln, NE 68508-3049

(402) 477-7064 danny_1953@msn.com

Kirkham Michael
Consulting Engineers
Attn: Rick Haden
411 So. 13th St. Suite 101
Lincoln, Nebr.
68501
January 4, 2007

SUBJECT: BNSF Railroad Corridor Quiet Zones

Dear Rick:

Let me begin by thanking you for having the noise tests at the 3rd and "D" St. BNSF railroad crossing. I still cannot believe the lower noise level as a result of the wayside horn at my residence located at 427 "E" St.

What seems strange to me is the fact that noise level tests were run several months ago in my neighborhood by the Lincoln/Lancaster County Health Department in partnership with Columbia College Chicago. The project is called the Lincoln Environmental Noise Survey (LENS). One of the Dosimeters: (noise meter) was located at 416 "E" St., Lincoln, which is the property of Mr. Sam Wineberg.

Even stranger is the fact that no one seems to know anything (including results) about the aforementioned tests.

In addition, it seems that the Railroad Transportation Safety District showed favoritism by not notifying neighborhoods effected by noise levels attributed to train horns **PRIOR** to their December 11, 2006 Board Meeting that discussion was going to take place during the aforementioned meeting regarding Quiet Zones. **(Order No. 06-24)** Those present and representing neighborhoods were Mr. Scott Monroe, supposedly representing Vavrina Meadows and Wilderness Ridge and Mark Hunzeker who was representing Jerry Joyce, owner Countryshire Apartments at 44th and Cornhusker It is quit evident that there was advance notification of agenda item **(Order No. 64-24)** given to **SELECT** individuals. This is very strange when one considers the fact the South Salt Creek Neighborhood definitely contends with more train horn and movement (switching) noise and emergency vehicle blockage 24 hours a day than the 44th and Cornhusker crossing. Even more upsetting is the fact the Mr. Figard is fully aware of this fact along with several RTSD Board Members. Mr. Figard, RTSD

Board Members and the City of Lincoln should also be reminded that during discussions which took place **SEVERAL YEARS AGO** regarding a second track on Third Street quiet zones were discussed and the neighborhood was assured by the City Of Lincoln that their would be priority for quiet zones in the South Salt Creek Neighborhood.

Also, I don't know where Mr. Figard gets his information **BUT** Senator Schimek has **NOT** been meeting with the South Salt Creek Community Organization on any basis for several years.

It seems that someone has their priorities somewhat mixed up **OR** There is more going on than meets the eye.

Respectfully Submitted

Danny E. Walker

Danny Walker
427 "E" St.
Lincoln, Nebr.
68508

Cc Numerous

Plastercastdog@aol.com
01/09/2007 10:06 PM

To tgrammer@lincoln.ne.gov
cc
bcc
Subject question

I'm hearing something about an ordinance that would require citizens to remove holiday decorations within a certain time frame -- is this correct, if so, where can I get further info. Thanks.

"Sharon Smith"
<ssmith28@neb.rr.com>
01/11/2007 06:34 AM

To <council@lincoln.ne.gov>
cc
bcc
Subject 50th Street

Dear Council Members:

I sincerely hope you will reconsider the opening of 50th Street in order to accommodate the proposed HyVee grocery store. I was thrilled to know HyVee was opening in that particular area; however, beyond that.....it seems to me the opening of that road would alleviate some of the traffic congestion along R Street and would give greater through street access from O to R and the businesses along that corridor (Office Depot for one).

Thank you for your consideration. Sharon Smith
4110 Normal Blvd.

Dave O <daoco@yahoo.com>

01/11/2007 11:43 AM

To council <council@ci.lincoln.ne.us>
cc
bcc
Subject HyVee

Dear Members of the Council
I'm writing to voice my opposition to the spending of anymore city funds on the HyVee store at 52nd and "O" Street. The city should never have gotten into the re-development business in the first place. Additionally the construction of a new grocery store and the closing of two other stores hardly constitutes "economic development". Real economic development was possible before the city chased Pinnacle bank away from the project. This is just a shuffling of assets.

Instead of meddling in private enterprise and chasing Chinese restaurant owners away why wasn't the Mayor on top of the Quebecor issue? I would think a Mayor of a city the size of Lincoln would visit all major employers on a regular basis and inquire of their operations, plans and problems to see what the city can do to insure they are happy. I suppose that since Quebecor's problems are rumored to be with the union and given the cozy relationship that unions enjoy with the mayor's office it would never have occurred to them to contact the city.

Thank you for your time.
David Oenbring
2630 S 13th
Lincoln, NE 68502

faber est quisque fortunae suae

Page's [URGENT] important
please make copies
for all staff
We all have
why been marginalized
by all corp. controlled

[Important]

.rumormillnews.com

SAVE
E-vote
selfserving
see proprietary software
networked modems
that controls the
concealed black box
secret manipulation

20 Damning Facts About Voting In The USA

rense.com (http://www.rense.com/general73/voting.htm [1])
By Angry Girl of Nightweed.com
9-27-6

.commondreams.org/views03/0131-01.htm

* Please make extra copies
let the truth prevail

Did you know....

1. 80% of all votes in America are counted by only two companies: Diebold and ES&S.
http://www.onlinejournal.com/evoting/042804Landes/042804landes.html [2]

http://en.wikipedia [3] org/wiki/Diebold

2. There is no federal agency with regulatory authority or oversight of the U.S. voting machine industry. http://www.commondreams.org/views02/0916-04.htm [4]

http://www.onlinejournal.com/evoting/042804Landes/042804landes.html [5]

3. The vice-president of Diebold and the president of ES&S are brothers.
http://www.americanfreepress.net/html/private_company.html [6]

http://www.onlinejournal.com/evoting/042804Landes/042804landes.html [7]

4. The chairman and CEO of Diebold is a major Bush campaign organizer and donor who wrote in 2003 that he was "committed to helping Ohio deliver its electoral votes to the president next year." ?
http://www.cbsnews.com/stories/2004/07/28/sunday/main632436.shtml [8]

http://www.wishtv.com/Global/story.asp?S=1647886 [9]

5. Republican Senator Chuck Hagel used to be chairman of ES&S. He became Senator based on votes counted by ES&S machines.
http://www.motherjones.com/commentary/columns/2004/03/03_200.html [10]

http://www.onlinejournal.com/evoting/031004Fitrakis/031004fitrakis.html [11]

6. Republican Senator Chuck Hagel, long-connected with the Bush family, was recently caught lying about his ownership of ES&S by the Senate Ethics Committee.
http://www.blackboxvoting.com/modules.php?name=News&file=article&sid=26 [12]

http://www.hillnews.com/news/012903/hagel.aspx [13]

.infowars.com

http://www.onlisareinsradar.com/archives/000896.php [14]

7. Senator Chuck Hagel was on a short list of George W. Bush's vice-presidential candidates.
http://www.businessweek.com/2000/00_28/b3689130.htm [15]

.connectthedotsNWO.com

http://theindependent.com/stories/052700/new_hagel27.html [16]

8. ES&S is the largest voting machine manufacturer in the U.S. and counts almost 60% of all U.S. votes.
http://www.essvote.com/HTML/about/about.html [17]

http://www.onlinejournal.com/evoting/042804Landes/042804landes.html [18]

"Predatory"
Monse

Key:
who make the software? .rumormillnews.com

See Modems
Self-Serving Proprietary Software
unverified
Fantasy tabulations
Mickey 12/29/2006
wireless
id=V8

http://agonist.org/node/35813/print

.voterscoalition.com

.nytimes.com/Making Votecount

9. Diebold's new touch screen voting machines have no paper trail of any votes. In other words, there is no way to verify that the data coming out of the machine is the same as what was legitimately put in by voters.

http://www.commondreams.org/views04/0225-05.htm [19]

http://www.itworld.com/Tech/2987/041020evotestates/pfindex.html [20]

10. Diebold also makes ATMs, checkout scanners, and ticket machines, all of which log each transaction and can generate a paper trail.
http://www.commondreams.org/views04/0225-05.htm [21]

http://www.diebold.com/solutions/default.htm [22]

//SNIP//

By techadvisor 2006-10-28 17:40

URL:
http://agonist.org/techadvisor/20061028/20_damning_facts_about_voting_in_the_usa

Links:
[1] http://www.rense.com/general73/voting.htm
[2] http://www.onlinejournal.com/evoting/042804Landes/042804landes.html
[3] http://en.wikipedia
[4] http://www.commondreams.org/views02/0916-04.htm
[5] http://www.onlinejournal.com/evoting/042804Landes/042804landes.html
[6] http://www.americanfreepress.net/html/private_company.html
[7] http://www.onlinejournal.com/evoting/042804Landes/042804landes.html
[8] http://www.cbsnews.com/stories/2004/07/28/sunday/main632436.shtml
[9] http://www.wishtv.com/Global/story.asp?S=1647886
[10] http://www.motherjones.com/commentary/columns/2004/03/03_200.html
[11] http://www.onlinejournal.com/evoting/031004Fitrakis/031004fitrakis.html
[12] http://www.blackboxvoting.com/modules.php?name=News&file=article&sid=26
[13] http://www.hillnews.com/news/012903/hagel.aspx
[14] http://www.onlisareinsradar.com/archives/000896.php
[15] http://www.businessweek.com/2000/00_28/b3689130.htm
[16] http://theindependent.com/stories/052700/new_hagel27.html
[17] http://www.essvote.com/HTML/about/about.html
[18] http://www.onlinejournal.com/evoting/042804Landes/042804landes.html
[19] http://www.commondreams.org/views04/0225-05.htm
[20] http://www.itworld.com/Tech/2987/041020evotestates/pfindex.html
[21] http://www.commondreams.org/views04/0225-05.htm
[22] http://www.diebold.com/solutions/default.htm

• nytimes.com/MAKINGvotescount
• votetrustusa.org
• rumormillnews.com
See Modems & proprietary Software
• commondreams.org/views03/0131-01.htm

Lou Dobbs Covers the Voting Machine 'Sleepovers' in San Diego!

DOBBS: 'The Threat to American Democracy from Within', 'Mind-Boggling', 'What in the World are We Thinking About in This Country?'

A BRAD BLOG Source in San Diego Interviewed for Story...

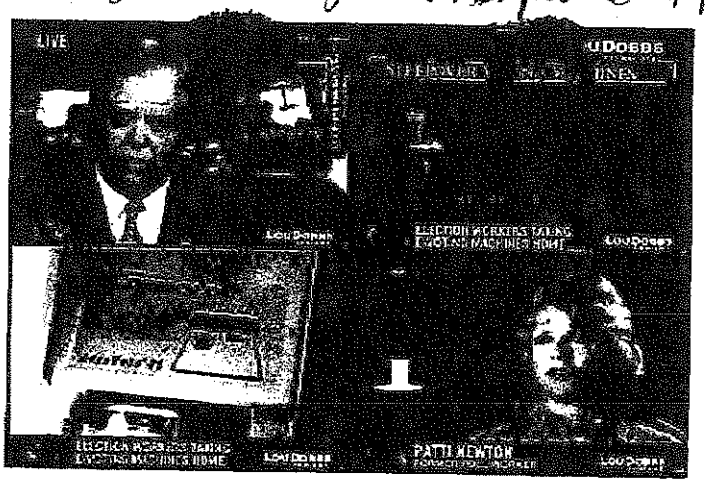
Posted By Brad On 26th June 2006 @ 23:48 In Busby/Bilbray, Diebold, Lou Dobbs, California | 52 Comments

• blackboxvoting.org
See election Systems & software AKA & hagel documents

Pages

Hagel documents also note

Read v-8!



The Swindle of the 21st Century where's the legally binding proof

Earlier this evening, I heard Mark Crispin Miller as the guest on Air America's *Majority Report* discussing the Busby/Bilbray election fiasco [1] with whoever was guest hosting tonight (sorry I missed the name.) As well, I'm told that Lara Flanders covered the issue on Air America as well tonight while guest hosting for Mike Malloy (I believe both Mimi Kennedy and Jeeni Criscenzo were her guests.)

Election system & software as well = neo-con

But the largest media outlet to cover the story that we originally broke [2] back on June 7th — and who still failed to invite me as a guest...am I hard to reach? — was Lou Dobbs on CNN.

Tonight, Dobbs covered the threat to democracy posed by the Voting Machine Sleepovers that we've been reporting on here since the Busby/Bilbray election was run on highly-hackable [3] Diebold voting machines which were sent home overnight with poll workers [4] for days and weeks prior to the election in contravention [5] of both state and federal rules and laws.

One of our sources, San Diego Poll Worker Patti Newton, who we had helped CNN's producers get in touch with, is interviewed in tonight's report. Newton shows, on camera, the location of the "secure storage" she provided (her garage, near the paints) for the voting machines given to her for use in the "bellweather" Busby/Bilbray U.S. House Special Election a full week prior to the Election Day on June 6th. We originally posted some of Patti's story in our report back on June 8th [6].

absolutely Know one trust ESS to count the Ballots

No.

Tonight Dobbs and reporter Kitty Pilgrim discussed "the threat to American democracy from within," the lack of security for e-voting machines and described them as "incredibly vulnerable to fraud, tampering, hacking and theft."

• commondreams.org/views03/0131-01.htm

FACT

Here's a QuickTime video of Dobbs' report [7], courtesy of BRAD BLOG [8] reader, Tab B.
UPDATE: Here are faster streaming versions of the video courtesy of David Edwards...

order

• connectthedotsnwo.com
.CNN.com
.LouDobbs.com
.LouDobbsTonite
.911truth.org

* Research
.ecotalk.org
See Voting machine Web PP
See Fact Cont. Can release & Security.htm

Distill Chambers and all 45 st. Sen.
Please make copies
T.O. Dost there to home.

• commondreams.org/views03/0131-01.htm (All Staff)

Vince Power → wireless vote fraud is here to stay

Scoop. INDEPENDENT NEWS
http://www.scoop.co.nz/stories/HL0301/S00166.htm

• votetrustusa.org → violates oath of office

AKA

Senator Hagel Admits Owning Voting Machine Company

See-[Election systems & software]

• blackboxvoting.org

Did John Graf, Chuck Hagel, Dave Hiemann violate their oath of office.

Sec. of St. Ne! Gov.

Friday, 31 January 2003, 10:13 am
Article: ~~Talion.com~~
• blackboxvoting.com

~~Greek~~ AKA

BREAKING NEWS: Senate Ethics Director Resigns; Senator Hagel Admits Owning Voting Machine Company

Research

2-29-04

• nytimes.com/makingvotescount → See Fed & Const law issue

Urosevich Brothers.htm

• ecotalk.org

See voting machine companies → See Matulka recount.htm

By Bev Harris

ABC-123-V-8 Gee

U.S. CHUCK HAGEL NOW ADMITS OWNERSHIP IN VOTING MACHINE COMPANY
SENATE ETHICS COMMITTEE DIRECTOR RESIGNS

?Hagel?s ethics filings pose disclosure issue? -- ?The Hill? 1/29/2003

On October, 10, 2002 Bev Harris, author of the upcoming ?Black Box Voting: Ballot-Tampering? in the 21st Century, revealed that Republican Senator Chuck Hagel has ties to the largest voting machine company, Election Systems & Software (ES&S). She reported that he was an owner, Chairman and CEO of Election Systems & Software (called American Information Systems until name change filed in 1997). ES&S was the ONLY company whose machines counted Hagel?s votes when he ran for election in 1996 and 2002. The Hill, a Washington D.C. newspaper that covers the U.S. national political scene, confirmed her findings today and uncovered more details.

Hagel?s campaign finance director, Michael McCarthy, now admits that Senator Hagel still owns a beneficial interest in the ES&S parent company, the McCarthy Group. ES&S counts approximately 60 percent of all votes cast in the United States. According to the Omaha World-Herald which is also a beneficial owner of ES&S, Hagel was CEO of American Information Systems, now called ES&S, from November 1993 through June 2, 1994. He was Chairman from July 1992 until March 15 1995. He was required to disclose these positions on his FEC Personal Disclosure statements, but he did not.

Hagel still owns up to $5 million in the ES&S parent company, McCarthy Group. But Hagel?s office, when interviewed by Channel 8 News in Lincoln, Nebraska for the evening news on October 22, 2002, said he had sold his shares before he was elected. His office issued a fact sheet claiming that he had made full disclosure.

Last week, Hagel?s campaign finance director, Michael McCarthy (currently an owner and a director of ES&S) admitted to Alexander Bolton of The Hill that Hagel is still an owner of ES&S parent company, the McCarthy Group, and said that Hagel also had owned shares in AIS Investors Inc., a group of investors in ES&S itself. Yet Hagel did not disclose owning or selling shares in AIS Investors Inc. on his FEC documents, a required disclosure, nor did he disclose that ES&S is an underlying asset of McCarthy Group, in which he lists an investment of up to $5 million in 1996, 1997, 1998, 1999, 2000, and 2001.

• votescoalition.com • thehill.com 1-29-03 Hagel Bagel

• rumormillnews.com
• alternet.org

wireless vote fraud lol

Software & modems stupid

October 19, 2006
P.O. Box 247
Dorchester, NE 68343

Lee Ent. Daily Sun Beatrice, Ne.

Letters to Editor
Lincoln Journal Star
P.O. Box 81689
Lincoln, NE 68501

Dear Editor

All voters in Lancaster, Gage, Cass, Otoe, Johnson, Nemaha, Pawnee and Richardson counties of District 1 of the Nebraska Public Service Commission have the distinct opportunity to elect Charlie Matulka as commissioner for District 1.

Matulka vows to enforce commission wireless communication regulations. He plans to prevent the use of two-way wireless modems in electronic vote counting devices that enable remote laptop computer hacking of the vote counting procedure.

A former U.S. Senate nominee, he has researched the way that computerized vote counting has made election auditing impossible. That is the case now in Nebraska where manual recounts are not allowed by law.

Sincerely,
Don Eret
Don Eret, former state senator

ph (402) 946-3981

Fauxed Verifiable Bottom-line solutions
Please call Beatrice daily Sun Newspaper
E-mail
&
Request
Lincoln Star & Journal Newspaper
Request the "2006 General voters guide
E-mail call for Public Service Comm. PSC

Please Request Ban all wireless clandistine
* [Important] unverifiable clandistine Opti Scanners "Steal this vote."
falsification of a valid paper trail
• votetrustusa.org
• blackboxvoting.org .com
See election machine companies to verify legal documents

Stop the Fraud Now Cure

Urgent

"Research" "Solution"

ES&S hopelessly corrupt must be banned

Solution

Cure ABC verified

Elective government of for & by citizenry = Equal Protection for all candidates

Common sense

Solution *

1st law-full

A Superseeding

YES Constitutional 1965 (VRA)

Key

Cure

"Impeach" Secy. of St ?! violated oath of office ...

Note add this on to the next LB Bills

Thanks Charli

Steve White, former assistant attorney general of California, said, "Given the importance of the national election, sooner or later it will be attempted. There is a real reluctance to concede the gravity of the problem."

Every official interviewed at the Illinois State Board of Elections was indifferent to the threat of computer vote fraud. Rick Fulle, assistant director of voting systems and 25-year veteran of the board said, "You can't secure any computer system." FACT

binding uniform

A hand count of the votes by the election judges at the precinct level, before posting the results, is the only way to ensure that the machine tally is correct and that no computer fraud has been perpetrated. However, election officials discourage any manual audit saying that there are too many choices on the ballot and that a manual count would take too long. [redacted] must be binding proof to do a offical canvass

1st = law-full Proof Do Process

ABC-123 Solution

Tests of computer vote-counting systems used in Illinois from 1983-1987, which checked tens of thousands of ballots, revealed significant errors in the computer counting in more than 20 percent of the tests.

Fulle said that in Illinois today there is "a 16 percent error rate" with ballot-counting machines. He expected numerous problems on election night saying "equipment will fail across the state."

"I don't understand why nobody cares," Michael L. Harty, former Illinois director of voting systems and standards said. "At one point, we had tabulation errors in 28 percent of the systems tested, and nobody cared."

Officials from the Illinois Board of Elections said election judges are only required to verify that the number of ballots tabulated by the machine matches the number of ballots counted by the judges—as if voters are only voting for one candidate.

"Nothing in the [Illinois] law requires that the count be accurate."

the only thing necessary for the triumph of vote ct. evil is for good people to do nothing...

- nytimes.com/makingvotecount
- rumormillnews.com
- ecotalk.org/votingmachine companies.htm
- ecotalk.org/Matulka Recount.htm Research
- blackboxvoting.org .com

See' april 2004 Vanity Fair Magazine titled "hack a Vote"

See hbo hacking democracy

Fake blind trust

a invisible fictionial mock attack!!

privatized selfserving-

-hacked -state E-vote produced "Data sheet"

unverifiable paper trail hood winking.

Is it real or is it e-vote Fraud

Fake memorex ???

(order) book

- connectthedotsnwo.com
- wherearethepapers.org

a Recipe for Vote fraud 101 Stop Neo-Conservatives Fraud of the vote tally

Who makes the software

V-8 - Ban all E-vote in Ne.

IMPORTANT for a legitimate Ne.

Fulle added.

In this way the basic role of election judges—to count and verify the accuracy of the vote—has been usurped and compromised by election machines operated by private companies.

Whether it was the Precinct Ballot Counter 2100 (PBC), the Optech Eagle III, the Model 100 Optic Mark Reader (OMR), or the Votronic touch-screen system that counted your vote, these machines have something in common: they are all designed and operated by Elections Systems & Software, Inc. (ES&S). Each contains a two-way modem, allowing them to communicate—and be communicated with—while they are in operation.

What is particularly troubling about these machines is the fact that they contain an internal modem, which enables anyone with a modem-equipped computer, from hackers and vendors to telephone company personnel and politicians, to access and alter the computer's tally of the votes.

ES&S is "the largest company in the world focusing solely on automating the election process." The company "provides specialized systems and software to automate the entire election process for local, state, and national governments worldwide."

ES&S is a reorganized company that was given a new name in November 1997 after combining two of the largest election machine companies: Business Re cords Corp. (BRC, formerly part of Cro nus In dus tries) and American Informa tion Systems, Inc. (AIS).

ES&S is a privately-held company owned by unknown investors and headed by Aldo Tesi, who refers to the democratic franchise as "the election industry."

The company is headquartered in Omaha, Neb. and supplies "thousands and thousands of machines being used across the country" to more than 2,200 U.S. jurisdictions in 49 states.

Lincoln Journal Star
Sunday, March 26, 2006 3C

Blindly Secret Bogus

State trusts machine on elections

= the State ESTS or hijack of our voting rights. = Bogus self serving vote cats

Proponents of a hand recount backup consistently rebuffed; leaders say machine voting system safe, hasn't caused problems

On the record

Secretary of state candidates' views on hand counting:

Republican

Incumbent John Gale: Nebraska's optical scan equipment is tested, certified and has a long history of reliability in state elections. A hand recount serves no useful purpose because the existing system is much more reliable. And it can delay certification of an election.

Democrats

Don Erst: These systems can be manipulated, so there should be hand-count options. "I don't think it is proper that people should remain suspicious or in the dark, when we have the paper ballots (for a recount)," the former state senator said.

Jay Stoddard: There is plenty of information indicating potential security problems with modern voting equipment. Every voting system should allow for a hand-count audit and give candidates the option to seek a hand recount.

BY NANCY HICKS
Lincoln Journal Star

John Hansen knows all about the fallibility of computer systems.

On the day he spoke at a public hearing for a bill that would allow a hand recount in Nebraska elections, the president of the Nebraska Farmers Union was fretting over a 90-member disparity between national and state databases.

The staff eventually had to trace Nebraska Farmers Union membership payments through the paper records because of a computer glitch.

The paper trail is a common-sense backup when the computer program fails to yield what we think is the bona fide number, Hansen said during a public hearing on the bill (LB1013). The measure would allow a losing candidate to ask for — and pay for — a hand recount.

His group believes Nebraska should use the available trail of paper ballots to assure voter confidence in the ballot process. At the least, a losing candidate should be able to ask for a hand recount if he or she is willing to pay for that recount, which would be between $40,000 and $50,000 for a statewide race.

LEGISLATURE 2006

But the Farmer's Union, the state Democratic Party and others have been unable to convince state senators a hand-count backup system is a good idea.

"We are frankly puzzled," Hansen said about the Legislature's reluctance to provide any hand-count options. "They have a lot more faith in machines than voters do."

Nebraskans do have paper ballots, which are then counted by optical scanning machines. Even the new touch machines for Nebraska voters with disabilities print out a paper ballot that is then scanned.

All election recounts are done by machine, with no post-election hand-count audit, nor the ability for a candidate to ask for a hand recount.

Twice in the past two years a bill allowing candidates to ask for hand recounts has failed to get out of committee. This year, the Government, Military and Veterans Affairs Committee killed the bill the day of its public hearing in mid-January.

Supporters have faith in the optical scan equipment and say there is no need for a more-human backup.

"I understand people's concerns, but I feel like we are keeping a good eye on what's going on," said Lincoln Sen. DiAnna Schimek, committee chairwoman. "We've had scanners forever and never had a problem with them. I think everyone has a lot of confidence in the electronic scanners."

See RECOUNT, Page 3C

Recount

Continued from Page 1B

Doug Jones, a University of Iowa computer security expert, also believes no one should place absolute faith in machines.

Nebraska has a good system — one that provides a paper ballot for every voter, the computer science associate professor said — but Nebraska doesn't take the next logical step: using that paper trail to ensure the machines are giving accurate results.

Some states require a post-audit — checking 1 percent to 3 percent of precincts through a hand count, he said. That's the best, he believes.

At the least, a state ought to allow a candidate willing to pay the cost to ask for a hand recount, he said.

Jones says faith in machines is not uncommon among elected officials, who, having just spent millions on new equipment, "are reluctant to admit the machinery may be less than perfect."

Secretary of State John Gale, whose office just spent $12 million to provide optical scan equipment to every county and touch voting machines for disabled voters statewide, believes the machines and the current system have good safeguards.

Independent testing companies certify the machines. They are considered a highly accurate tabulation system. And the state hasn't had any allegations of fraud during the 20 years high-population counties have been using optical scan equipment, he said.

"We have a fundamentally sound system," Gale said.

Jones agrees Nebraska's paper ballot and optical scan system is one of the more sensible systems — but only in combination with some kind of hand counting audit system, he said.

"To simply say the machine's judgment is binding and no one can ever question the judgment of the machine is a strange rule," he said.

"The technicians that program the machines are being trusted to run your elections. And speaking as a technician, I don't believe that society at large should ever trust technicians to run things, with no monitoring."

The best way to check on machines is to have a hand count, Jones said.

"The judgment of the machine shouldn't be above question," he said.

Nebraska's system of running already marked ballots through a scanner before an election is not sufficient, Jones said. Those ballots are marked perfectly. The real test is to use real ballots marked by real voters through a post-election audit, he believes.

Solution

Convenience and efficiency are the goals of public officials, but voters are more concerned about transparency and accuracy, said Hansen.

And Sen. Jeanne Combs, sponsor of the now-dead hand recount bill, says she will be back next year with another. Senators ought to have a chance to discuss the issue, she said.

Reach Nancy Hicks at 473-7250 or nhicks@journalstar.com.

All election recounts in the state are done by machine, with no post-election hand-count audit, nor the ability for a candidate to ask for a hand recount.

[Solution]

Law - Full Precinct binding hand-count legitimacy to verify the authenticity security of public elections

(Key)

Article I Sec. 22 Neb. Constitution

(2002) 1054 recount statute 32-1119(6)

1965 Voting Rights Act 32-1121

Think about it

We need & have smoking gun evid. trail

Ecotalk.org

[X] [Art. I Sec. 22]

Testimony by Don Eret on LB 1013
To Government, Military and Veterans Affairs Committee
On January 19, 2006

Senator Schimek and committee members, I am Don Eret, spelled E-R-E-T. I am here to support the enactment of LB 1013 which would provide for a manual recount for a candidate at cost to the candidate. I am currently the Saline County Democratic chairman.

I have an understanding of the elective franchise that is guaranteed in the U.S. Constitution to every citizen of good standing. The elective franchise was granted to women in the United States in 1920. That franchise as more clearly defined by the Voting Rights Act of 1965 requires that all votes must be counted and properly tabulated and be subject to a ballot audit in a contested election or in an election recount.

Some states have an election statute that provides a candidate the right to request a manual recount of ballots. Nebraska statute 32-1121, to provide a recount to a losing candidate, allows only for an electronic recount of ballots.

The bill before us today, LB 1013, would provide the option for a candidate to request a manual recount. This would then provide a true audit as intended by the elective franchise and as further required by the Voting Rights Act.

The Help America Vote Act (HAVA) of 2002 still further emphasizes the requirement that ballot audit provision be made for a manual recount for any recount. This requirement under Sec. 301 of the Act states this to be mandatory for federal elections starting in 2006.

An electronic recount that Nebraska statute now stipulates as the only form of recount does not represent a ballot audit simply because of its lack of meeting the definition of audit, which is: methodical examination to verify.

Without LB 1013 being enacted with an emergency clause in this session of the Legislature the State of Nebraska will be out of compliance to federal law in the Primary Election on May 9.

I am bringing this subject to the attention of your committee because you are ultimately responsible for the integrity of the elective franchise in Nebraska. Because optical scanner vote counting programming is proprietary to the private contractor that does the programming and because of the possibility of remote hacking of the counting program your committee cannot guarantee the integrity of the vote counts. Also your committee cannot direct a judicial contest ruling for a ballot audit if such becomes apparently necessary. Legislative records will then show how a member or members of your committee spoke on the floor of the Legislature in 2006 to the issue of authorizing an option to request a manual recount.

Please bear in mind that whatever election commissioners testify to in their neutral capacity, that is only secondary to what you, as a committee, decide is the appropriate measure to advance for enactment.

I thank you for your time to listen to me and I will try to answer any questions.

Don Eret

Neb. Recount Statute 32-1119(6)

Key Sea Keys for success

Neb. const / Artical I Sec 22

Lets stop E-voting Falsification Magical Tabulation

Falsification of Ballot. Today demand Precinct hand count Provision 5 1st

invisable phantom ghost ghost wireless

official Precinct audit verifiable Paper trail

verifiable precint as conclusive DNA legitimate hand-count

also ballots must be visually observable @ any physical hand-count

*Delete 1-para - & add

vote → Artical I Sec. 22 ← Insert

all Beatrice daily Sun on Ne.

Judge hears challenge to re-count law

The Associated Press

LINCOLN — A judge heard arguments Thursday in a case challenging Nebraska's law disallowing ballots in a close election to be re-counted by hand, unless that's how they were originally tallied.

Manual re-counts could be done in Nebraska until 2002. But the law was changed to require all re-counts be done in the same manner the ballots were originally counted.

Don Eret, a former state senator, filed the lawsuit last year in Lancaster County District Court, arguing that the law violates the Nebraska and U.S. constitutions.

Eret, who served as a state senator from Dorchester from 1983 to 1987, argues that voters in Nebraska have a constitutional right to a free election with no hindrance or impediment.

> "How can anyone have confidence in an election result if the state refuses to allow a candidate to pay for a hand re-count?"
>
> **VINCE POWERS**
> *attorney for former state senator Don Eret of Dorchester*

District Judge Bernard McGinn did not say when he would rule in the case.

Eret's lawyer, Vince Powers, said Nebraska should have learned from the problems that arose during the 2000 presidential election in Florida.

"What was it about the Florida 2000 election which would cause the Legislature to trust machines over people?" Powers said. "How can anyone have confidence in an election result if the state refuses to allow a candidate to pay for a hand re-count?"

The fallout from Florida's election chaos prompted Congress and legislatures across the country to address the problems and pitfalls exposed during the presidential race — where George W. Bush was ultimately declared the winner over Al Gore by the U.S. Supreme Court.

A divided Florida Supreme Court ordered a statewide manual re-count of all ballots for which no presidential vote had been recorded. The Supreme Court later stopped the re-count and Bush claimed the White House.

Powers said Democrat Bill Hoppner "graciously accepted a 41 vote loss to Ben Nelson" in Nebraska's 1990 gubernatorial primary.

"But today, with hand re-counts prohibited in counties which use machines, can any voter be confident that each vote has been counted accurately?" Powers said.

Christine Riser of the Nebraska Citizens Coalition, said: "We are outraged at this statute, which prohibits an independent audit of the vote and effectively eliminates our last remaining means to verify the authenticity of Nebraska elections."

Eret seeks $1 in damages, attorney's fees and a determination that the law is unconstitutional.

A bill (LB1168) introduced in the Legislature last year that would have allowed for manual re-counts died in committee.

Ban wireless secret tabulation = hoax
Proprietary
Sec LB 1013
St. Sen. Combs 2006

MATULKA FOR SENATE COMMITTEE
916 NORTH 21ST STREET
BEATRICE, NE 68310

Ecotalk.org/MatulkaRecount.htm

January 15, 2003

www.thehill.com Jan 29, '03 Wed Hag
www.commondreams.org
Hagel.ASPX

Lincoln Journal Star

Attention: Steve Thomas
Brian Carlson
Nancy Hicks

Enclosed are copies of my correspondence with Secretary of State John Gale requesting a proper vote tabulation. I am now awaiting a response from Secretary Gale.

Also enclosed is copy of a statute change that was made to Statute 32-1119 (6) by the Legislature's Government Committee in 2002 in LB 1054. It eliminates the manual-recount provision for any precinct which reflects a substantial change during a machine recount. This would appear to eliminate an exposed flank for the private contractor controlling the vote counting process with proprietary electronic programming.

This statute change makes the provision of an automatic recount (Statute 32-1119) meaningless. Also for those candidates wishing to pay for a recount for an election result larger than a one percent difference (Statute 32-1121) there is now no functional recourse. For instance in the recent election if Senators Deb Suttle and Jenny Robak would have wanted to have a recount of their very close races per Statute 32-1121 they would have been denied a manual recount that was previously allowed for a discrepancy.

• ecotalk.org EcoTalk.org/MatulkaRecount.htm
• blackboxvoting.org .com → See election machine companies hagel documents
• nytimes.com/makingvotescount
• hillnews.com/1129.03/hagel.ASPX
• votefraud.org
• Rumormillnews See Modems/software (Stop crooked elections today)

Research - Pagers

December 28, 2006
P.O. Box 247
Dorchester, NE 68343

Russ Karpisek (Dist 32) plans to file the enclosed bill draft in the Legislature in January. It amends the current statute 32-1119 wherein paragraph (6) is revised to require that a vote recount of ballots shall be a manual recount audit. It states:

> The recount audit shall be done manually and shall be conducted at the office of the election commissioner or county clerk.

32-1119 addresses automatic recounts (less than 1% vote difference). Less than one-tenth of a percent of the candidate races fall into this category yet the way the statute is now worded it prevents auditability of 100 percent of the races. This can lead to questionable election results from electronic vote counters. This is especially so because the counters are programmed with proprietary software by a private contractor.

This bill's amended change will also address 32-1121, a statute that provides for a recount requested (and paid for) by a losing candidate (more than 1% vote difference).

As one of many persons who are concerned about integrity and auditability of elections in Nebraska I request that you co-sign and support Russ's bill.

Thank you.

official / IMPORTANT / Pagers

.bradBlog.com

ATTN. Key Speaker of the legislater's Mr. Flood

URGENT

Sincerely

Don Eret

ph: 402-946-3981

Encl.

Prohibit → Stop Preditory E-voting now!

research → Vote Pagers Make Copies for all St Sen. 49

.votetrustusa.org

see hr. 550 Cong. Rush Holt. NY "D"

How nebraskans don't really vote Fact

I sent 17 of this letter to senators. All but two, Dierks & Heideman are Democrats. I know 10 of them.

connect the dots NWO.com

ORDER the books

Howard	Wallman	White
Heideman	Dubas	Rogert
Chambers	Nantkes	Kopplin
Kruse	McGill	Cornett
Synowiecki	Avery	Preister
Janssen	Dierks	

Let's Police unverified Public elections Now

Stop the culture of Corruption

Please make copies for all Staff
Note: 49 St. Sen & all media
all Pagers
Thanks

"URGENT"
Banall unverified E-Vote in Ne.

January 8, 2007
P.O. Box 247
Dorchester, NE 68343

Senator Gwen Howard
State Capitol
Lincoln, NE 68509

• votetrustUSA.org
• blackboxvoting.org
• rumormillnews.org
• Loudobbs@CNN.com

See election machine Co. & Hagel Documents
See Modems & Proprietary Software etc.....

Dear Senator Howard & All St. Sen.

Thank you for your response to my 12-28-06 letter about the bill Russ Karpisek plans to file on revising election recount procedure by requiring manual recount. This is a third attempt in addressing the Government Committee on this issue. Senator Combs filed LB 1068 in 2004 and LB 1013 in 2006 which thankfully you cosigned with her.

It looks like the members of this year's Committee will be receptive and supportive of Russ's bill to advance it to the floor. There are a number of subtleties to be recognized and overcome in advancing this to enactment past entrenched opposition. I want to discuss these with you when we finish explaining these to the Committee members.

Fortunately Nebraska has retained the use of paper ballots which so many large states did not do when they went to the use of DREs (touch screen voting devices to vote on and tally votes) and spent a couple of billion dollars of federal money for these. The paper ballot is the valid actual paper trail, but the spreadsheet printed from Nebraska's optical scanners is being touted as the paper trail to indicate the official vote tally and recount tally. This spreadsheet is what the current statute 32-1119(6) accepts as being valid and official. This is not a valid or acceptable tally because it could be electronically altered for various reasons. That is why a manual recount is the only actual tally for close races that could be easily marginalized otherwise such as with wireless communication two-way modems.

ecotalk.org
See all website about Security, Fed. Observers
voting machine Co. etc

You stated you would like to discuss the impact that the requirement for doing a recount manually would have on Douglas County. If a manual recount is conducted for an automatic recount (less than 1% vote difference) that recount would be required very rarely, probably less than one-tenth of one percent of all races and issues appearing on the ballots. Consider though that the current wording of 32-1119(6) renders 100 percent of all ballot races and issues nonauditable.

Douglas County did have the Lathrop-Stothert legislative race which required an automatic recount for which a manual recount would have been more convincing and official. A bipartisan county canvassing board manual recount inspection and tallying of paper ballots is more real than having the board watch an optical scanner slide ballots off the top of the stack without inspecting how they are marked.

Solution

Under 32-1121 losing candidates (more than 1% vote difference) could request a recount that would be manual and they would pay for it at a cost levied by the county election commissioner or county clerk.

For now it will be helpful if you would cosign Russ's bill. & add on the Solution

ABC 123 - Solution" do it Now
Demand binding Proof;
⇒ Ct. offical Ballots @ the Precinct 1st.
1st.. as the only weapon against unverified 100% vote fraud or Falsification of the ct.

Sincerely
Don Eret
Don Eret — frmr. St Sen
ph: 402-946-3981
Computerized

lawfull, verifiable, conservative proffessional precinct hand ct

note: See LB 1013 "2006" St. Sen. Jeanie Combs

BOND VOTE

NEW ES&S MACHINES GIVE WRONG RESULT IN SCHOOL ~~BOARD RACE~~

http://pub103.ezboard.com/fsoldiervoicefrm33.showMessage?topicID=3.topic

File offical = Paper trail to prevent any further hijacking of our democracy

Vote Watch

- votersCOALITION.com
- blackboxvoting.org .com
- Rumormillnews.com
- ecotalk.org
- verifiedvoting.org

Please Read ...

Research EES proprietary Secret ballot counting

See voting machine companies, Fed law(ov) [redacted] Mathilka.htm

VoteWatch Forum
> Nebraska
> NEW ES&S MACHINES GIVE WRONG RESULT IN SCHOOL ~~BOARD RACE~~

BOND VOTE

New Topic | Add Reply

Solution

- nytimes.com/making votes count

<< Prev Topic |

ABC 123

~~Tellen~~
Unregistered User
(11/11/02 10:58:22 pm)
Reply

- Blackboxvoting.org .com

Proprietary untraceable
*E-voting doesn't deserve trust ... fact !!!
Absolute Key Superseeding
valid constitutional, offical
Precinct
genuine binding evid.
physical hand ct evid
DNA Pt. FORIG Proof

BOND VOTE

NEW ES&S MACHINES GIVE WRONG RESULT IN SCHOOL ~~BOARD RACE~~

From AP Wire service, as reported in Lincoln Star-Journal:

Last night's apparent crushing defeat of the Gretna school-bond issue never happened. Vote-counting machines failed to tally "yes" votes, giving the false impression the measure failed,

Deputy Sarpy County Election Commissioner Ed Gilbert. The measure actually passed by a 2-1 margin. The counting error and a separate problem with ballots printed too lightly for machines to read dogged Sarpy County election workers and delayed the posting of final results in several key races until 3:46 a.m. ...Gilbert said responsibility for the errors lies with Election Systems & Software, the Omaha company that provided the ballots and the machines for reading them.

Don Ferguson, a spokesman for Election Systems & Software, said: "The situation was resolved, and the ballots were counted." He declined to comment further.

paper trail

...Early absentee results from the Gretna bond election - showing it losing by 91 percent - were so unexpected that the district's superintendent, Kevin Riley, couldn't believe it. "When I saw those numbers, my blood pressure must have shot up to 300 over 200," he said.

When the false readings were detected, the election office noted those results as "pending" on the Web site. A hand count resolved the race in the wee hours Wednesday!! Passed 2-1

Solution

"These are results we anticipated and needed to meet the future needs of the school district," Riley said Wednesday. "Every time the district has shown the need, Gretna residents have supported it."

St. Wide Solution

a valid hand-out @the precint level for kind proof to remedy any election outcome offically.

a Public legally binding valid hand-count paper trail foolproofing @the precint when they are cast.

verifiable absolute evidence vs untraceable, unreliable E

<< Prev Topic

p. 13

Jan 10 07 04:39p

"2006"

Randy Coleman "Urgent" ATTN: Adam Cohen & all journalists & Staff that YOU

ATTN Jim Weeks
Dennis Dodge
.nytimes.com/makingvotescount

All Staff Art I Sec 22 Nebr const/. [Solution] Legal transparency
Recount Statutes LB 1054 32-1119.(6) must allow Mandatory
valid precinct hand count evidence
1965 voting rights act proofing or a Post election hand count
U.S. Const. 1415 amendments const audit @ centralized location

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Vote: District1 PSC 1965 (VRA)

Spon MES for 2006 yr.

Charlie Matulka

Charlie is currently a nationally recognized freelance reporter on the hidden perils of Proprietary Optical Scan Software Recording Devices that secretly privatize the public vote counting in Nebraska.

Charlie is a former Nebraska United States Senate Nominee in 2002.

He attended the University of Nebraska. In high school he worked for the Soil Conservation Services and in college he worked for Pioneer Seed Company.

In Charlie's spare time he is an avid hunter/fisherman & outdoorsman.

Charlie Matulka Charlie is currently a nationally recognized freelance reporter on the hidden perils of Proprietary Optical Scan Software Recording Devices that secretly privatize the public vote counting in Nebraska.

• blackboxvoting.org
• rumsrumillnesses.com
See election systems & software
See Mcdens & Proprietary Software

• ECOtalk.org See voting machine web P.P. Please Research
• Blackboxvoting.com See election machine companies
Research E&S
• .org E&S

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- Frank E. Landis, Jr.
- Charlie Matulka

• 911truth.org
• nytimes.com/makingvotescount
See • Votetrustusa.org

Hr. 2239 = HR.550 → lou dobbs@CNN.com also
Rush Holt Brad Blog

• rural voterguide.com

Nebraska Democratic Party

edit. ATTN. KATHY Rutledge

Steven E. Achelpohl, *Chair* Audra Ostergard, *1st Associate Chair*
Barry R. Rubin, *Executive Director*

We must Protect the Husker Vote count!

nebraskademocrats.org 635 South 9th Street, Suite 201 Lincoln, Nebraska 68508 (402) 434-2180 main (402) 434-2188 fax

The Swindle of the 21st Century .nytimes.com/makingvotescount

January 18, 2006

HACK-A-vote

VanityFair Mag 2004 issue HACK A vote

Was T.O primary hacked, 100%

author Charlie M.

Legislature of Nebraska
Ninety-Ninth Legislature
Second Session

Solutions to Stop Crooked elections a Fair LAWFUL PRECINCT hand-count ABC 123

LB 1013: Government, Military and Veterans Affairs Committee:

= Where the law-full hand ct.

Dear Committee Members:

Solution ABC-123 law-full binding hand count

On behalf the Nebraska Democratic Party, please accept this letter as our official support of LB 1013. We believe that it is of paramount importance that every person is extended the unfettered right to vote, and for that vote to be counted. LB 1013 would impose no additional cost to state government, and would ensure that all candidates get a fair recount under the circumstances described in the legislation.

irrefutable evid paper trail audit proof verification verify the winner

Over the past several election cycles we have witnessed a nationwide outbreak of voting irregularities. We have witnessed voting regularities in our own state, as well. We applaud your Committee and the Vote Nebraska Initiative for your work to address these issues in Nebraska. LB 1013 is an important step in the process of restoring and sustaining the public trust in our election process.

T.O. his ballots will be destroyed in less than 22 mo.

Thank you for your serious consideration of this important measure.

Gestapo 1940

URGENT

Steven E. Achelpohl
State Chair

New Support Bret for TRANSPARENCY

Hr. 550 Rush Holt

.votetrustusa.org .truemajority.org

.blackboxvoting.org

.ecotalk.org/votingmachinecompanies.htm

.ecotalk.org/Matrilka Recount.htm — See Fed. & Const. laws issues.

Ecotalk.org Oct. 29, 03 Hitech Ambush

Stop Only You CAN Prevent E-vote Fraud Now — Security — Fed. Observers

You can cook the books thru E-Voting tabulation manipulation trade secret wireless remote access

unverifable Falsification of

of falsification of a unverifiable Falsification of

Paid for by the Nebraska Democratic Party (www.nebraskademocrats.org). Not authorized by any candidate or candidate's committee.