

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

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

Council Chair Emery announced that a copy of the Open Meetings Law is posted at the back of the Chamber by the northwest door. He asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

COOK Having been appointed to read the minutes of the City Council proceedings of April 26, 2010 reported having done so, found same correct.

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

PUBLIC HEARING

AUTHORIZING THE SALE OF SURPLUS PROPERTY DESCRIBED AS PORTIONS OF LOTS 11 AND 12, WESLEYAN HEIGHTS ADDITION, GENERALLY LOCATED NORTHWEST OF NORTH 41ST STREET AND GREENWOOD STREET TO B&J PARTNERSHIP - Clint Thomas, Urban Development, Real Estate Division, stated this item came before the Council some time back and as instructed by the Council it was advertised in the newspaper and on the website, put up a sign and notified all the abutting property owners. Two property owners responded. An auction was held at Urban Development with only one bid of \$17,000 which was accepted. The final bid was \$500 less than the first bid received at which time the Council instructed Real Estate to go back and advertise.

This matter was taken under advisement.

APPROVING THE AMENDED AND RESTATED DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN THE CITY AND B&J PARTNERSHIP, LTD. RELATING TO THE DEVELOPMENT OF CVS PHARMACY ON PROPERTY GENERALLY LOCATED AT S. 15TH STREET AND SOUTH STREET;
CHANGE OF ZONE 10003 - APPLICATION OF B&J PARTNERSHIP FOR A CHANGE OF ZONE FROM R-5 AND R-2 RESIDENTIAL DISTRICTS TO B-3 COMMERCIAL DISTRICT AND O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 16TH STREET AND SOUTH STREET;

HEARING ON THE APPEALS BY BRAD NELSON AND THE NEAR SOUTH NEIGHBORHOOD ASSOCIATION OF THE PLANNING COMMISSION APPROVAL OF SPECIAL PERMIT NO. 10008 REQUESTED BY B&J PARTNERSHIP FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES ON PROPERTY GENERALLY LOCATED NORTHWEST OF SOUTH 16TH STREET AND SOUTH STREET - Mark Hunzeker, 600 Wells Fargo Center, 1248 O Street, came forward representing B & J Partnership owner of most of the property involved in this project. This area has been designated as blighted and is also within a redevelopment plan. Everything has been done that the staff has asked them to do that can physically be accomplished on this site and were in 100% agreement with the Planning staffs recommendations. A lease has been negotiated with CVS and no less than seven other agreements with owners and tenants of abutting properties. They have been approved by the Historic Preservation Commission to gain the approval of the move of a landmark property to a site currently owned by the City. The South Street Business and Civic Association supports this project. This represents a good improvement for the neighborhood and provides needed services.

Brad Nelson, 1464 Plum Street, came forward in opposition because of the proposed alcohol sales at the CVS Pharmacy. He presented a petition from the neighborhood.

William Carver, 2202 Washington Street, President of the Near South Neighborhood Assn., came forward in opposition of the Change of Zone and the Special Permit of the project at 16th and South Street. They oppose the process of circumventing the 100 foot buffer to make it possible for CVS Pharmacy to sell alcohol. The two houses being rezoned commercial, but still being used as residential, will not have the protection of the 100 foot buffer from alcohol sales.

Susan Melcher, 2401 Garfield Street, came forward in opposition to the Change of Zone. The owners of the two houses did not come forward with a plan for their property to be a business, but they agreed to the change from residential to commercial so the sale of alcohol would fall within the 100 foot buffer. This could set a dangerous precedent in the City.

Rebecca Hasty, 1640 S. 24th Street, came forward in opposition to the change of zone. In her neighborhood at 25th and Sumner there is a barber shop, beauty shop, printer, and across the street is a bookkeeper/accountant business. Her house, the neighbor next door, and behind her are zoned commercial. This means her house could be turned into a liquor store, Quik Shop, almost anything, but they won't do this so as to protect the neighborhood and keep it beautiful, quaint, mom and pop shops. If CVS Pharmacy was not selling alcohol she would be okay with this, but would really be okay if this was Wagey Drug or some mom and pop drug store.

Darrell Fisher, Executive Director of Lincoln Council on Alcoholism & Drugs, 914 L Street, came forward in opposition to the Change of Zone to meet the 100 foot spacing requirement and to continue to use those properties as residential. If this is approved it will put the 100 foot spacing at risk everywhere in the City of Lincoln. It is asked that the 100 foot loophole be closed to protect and preserve the neighborhoods.

Lynn Stokke, 1449 Mulberry Street, came forward in opposition to the sale of alcohol at the CVS Pharmacy with concerns that after buying alcohol at CVS people will be walking through her neighborhood littering. There are enough businesses selling alcohol in this area so don't see how selling liquor improves the neighborhood. She expressed a concern with vehicles blocking the crosswalk as they turn onto 15th Street turning south to go to South Street when exiting CVS Pharmacy.

Bob Van Valkenburg, 7921 Reno Road, came forward to suggest creating a new zoning category that is a commercial property with a built in alcohol sales provision.

Marvin Krout, Director of Planning, stated property that is rezoned, can continue to be used as it was first zoned being a nonconforming use. You find strips in older neighborhoods originally zoned residential have been rezoned commercial and eventually redeveloped into commercial purposes. The trend is to build neighborhoods where there is more permeability and more opportunity for mixed uses and to reduce the number of auto trips taken because you can walk to the businesses. In new urban neighborhoods you find Breckenridge you don't find Council Bluffs. The problem with a mix in older neighborhoods in terms of incoming population is the concern of the potential for uses that in some other circumstances would be just fine to be a nuisance in that particular neighborhood. CVS is not a good example of New Urbanism and there is not a South Street Plan that calls for New Urbanism. If you want to encourage development on a larger scale, 14,000 sq. ft. with a loading area & parking, then expansion needs to be looked at. South Street has too much traffic to have on-street parking. Zoning is there to protect surrounding property owners.

Mr. Hunzeker came forward for rebuttal. This is not a site that is nestled in the middle of a residential area. It is a site on the corner of two intersecting arterial streets with commercial development on three sides of it. The planning staff considered the Change of Zone to O-2 for those two houses without taking into account the fact that the 100 foot alcohol special permit distance was being accommodated by that Change of Zone. They reviewed the Change of Zone to O-2 as if it were a stand alone application without considering the alcohol. This area has been designated specifically for redevelopment. This national chain talked to the Planning staff first about what they thought of this idea. They told them that changing the zoning on those two houses to O-2 would be necessary for this Special Permit to be approved and was encouraged to get approval from the two property owners to do so.

This matter was taken under advisement.

APPROVING A FUNDING AGREEMENT BETWEEN THE CITY, THE LINCOLN PARKS FOUNDATION AND ASSURITY LIFE INSURANCE COMPANY FOR FUNDING OF CONSTRUCTION AND ENDOWMENT OF THE SCENIC OVERLOOK FEATURE AT UNION PLAZA - Lynn Johnson, Director of Parks & Recreation, stated this is approving a funding agreement with Assurity Life Insurance Company providing \$250,000 for the development and endowment of the scenic overlook feature located in Union Plaza just north of Q Street on 21st Street. Assurity will provide a proposed name for this facility and the Lincoln Parks Foundation will serve as a fiscal sponsor managing the funds. Mr. Johnson expressed his sincere appreciation to Assurity for their support and financial participation in the Union Plaza project. Across the road will be a trail center and an amphitheater.

This matter was taken under advisement.

APPROVING AMENDMENT NO. 2 TO THE MATT TALBOT KITCHEN AND OUTREACH PROJECT REDEVELOPMENT AGREEMENT BETWEEN THE CITY AND MATT TALBOT KITCHEN AND OUTREACH, INC. RELATING TO THE REDEVELOPMENT OF PROPERTY GENERALLY LOCATED AT 2121 N. 27TH STREET - David Landis, Director of Urban Development, told of the handsome new addition and remodeling of the new Matt Talbot Kitchen and Outreach. Originally Matt Talbot planned to do three years of fund raising, but because of the Antelope Valley Project they were pushed into a new facility sooner, therefore, the City will loan them \$200,000 for 10 years from the TIF funds with three levels of payback interest for a total of \$248,000. This will be based on the market based lending rate the City could get.

Bob Van Valkenburg, 7921 Reno Road, stated Matt Talbot is a great project. He suggested that the City solicit donations instead of using bonds for various projects.

This matter was taken under advisement.

WAIVER NO. 10008 - APPLICATION OF CAMP SONSHINE TO WAIVE THE PARKING LOT SURFACING REQUIREMENT ON PROPERTY GENERALLY LOCATED AT SOUTH 25TH STREET AND BENNET ROAD - Jeff Keiser, 13440 S. 25th Street, Roca, NE, Director of Camp Sonshine day camp requested approval of surfacing the parking lot. This area is surrounded by agricultural fields.

This matter was taken under advisement.

APPROVING THE EXTENSION OF THE TERMINATION DATE OF AN EXISTING INTER-GOVERNMENTAL AGREEMENT, PREVIOUSLY APPROVED BY RESOLUTION NO. A-85349, BETWEEN NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF LINCOLN FROM MARCH 30, 2010 TO DECEMBER 31, 2010 - Ben Higgins, stated the agreement originally was for five stormwater quality projects. Three have been finished to date with a fourth one almost finished. The fifth will be started in early summer so this is just a request to extend the grant for another six months.

Bob Van Valkenburg, 7921 Reno Road, questioned what this amendment was all about.

Mr. Higgins stated these are for fairly small water quality projects. One is at the Fireworks Restaurant on 84th & Old Cheney, the Lighthouse at 26th & N, Nebraska Statewide Arboretum on East Campus, Aspen Greens an outlet at 56th & Old Cheney which is being finished right now. They have received cost share from all those involved. The last one that hasn't been done yet is at the Ponca

Tribe at 17th & E. This is the one the extension is needed for.

Jonathan Cook stated that in reference to Dan Marvin selling bonds in relation to the arena he is in no way involved with bond sales for the arena.

Rod Confer, City Attorney, stated "that is my understanding".

This matter was taken under advisement.

ADOPTING THE CITY OF LINCOLN TITLE VI CIVIL RIGHTS PLAN TO SATISFY FEDERAL COMPLIANCE REQUIREMENTS RELATED TO QUALIFICATION FOR THE RECEIPT OF FEDERAL-AID TRANSPORTATION PROJECT FUNDS;

ADOPTING THE CITY OF LINCOLN ADA/SECTION 504 REHABILITATION ACT POLICY TO SATISFY FEDERAL COMPLIANCE REQUIREMENTS RELATED TO QUALIFICATION FOR THE RECEIPT OF FEDERAL-AID TRANSPORTATION PROJECT FUNDS - Don Taute, Asst. City Attorney, came forward to request a one week delay on these items due to an oversight of not having the two plans before the Council. They are very standard documents tailored to what the requirements are for the new Public Agency Compliance Manual that the Nebraska Department of Roads has developed to comply with the Federal Highway Administration requirements of the stimulus funding. The County is adopting a similar plan. It is important this body have an opportunity to look at those documents.

This matter was taken under advisement.

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY BY KINPORT CORP. FOR THE INSTALLATION OF AN EXTERIOR STAIR CASE IN THE ALLEY ADJACENT TO THE PROPERTY AT 211 NORTH 12TH STREET - Josh Berger, Kinport Corporation, 211 N. 12th Street, came forward to answer questions. This has been worked on for four months and it has been explored going across the building into an existing staircase and going across the building down into an existing corridor, but because of clearances and other various reasons exhausting all options this was the best alternative to make this happen. The Arbor Day Foundation will have an outdoor patio so this allows them to have a second means of an egress as well.

John Thompson, Kinport Corporation, 211 N. 12th Street, stated the Arbor Day Foundation is a neighbor on the corner of 12th and P and they have plans to have a rooftop garden as well. This just seemed to be the best route to pursue in the best interest of all parties involved. This project will cost close to \$800,000 to do something very unique and he was at his limit to do otherwise.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

RESOLUTION LEVYING THE SPECIAL TAXES ASSESSED FOR THE COSTS OF THE IMPROVEMENTS IN THE UNIVERSITY PLACE BUSINESS MAINTENANCE IMPROVEMENT DISTRICT AGAINST THE BENEFITTED PROPERTIES - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85824 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that:

The special taxes assessed April 12, 2010, to pay the costs of the improvements in the University Place Business Maintenance Improvement District are hereby levied and shall bear interest at 14% and that the period of time in which the assessments are to be paid shall be one (1) year.

Introduced by Adam Hornung

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

RESOLUTION LEVYING THE SPECIAL TAXES ASSESSED FOR THE COSTS OF THE IMPROVEMENTS IN THE NORTH 27TH STREET BUSINESS MAINTENANCE IMPROVEMENT DISTRICT AGAINST THE BENEFITTED PROPERTIES - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85825 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that:

The special taxes assessed April 12, 2010, to pay the costs of the improvements in the North 27th Street Maintenance Business Improvement District are hereby levied and shall bear interest at 14% and that the period of time in which the assessments are to be paid shall be one (1) year.

Introduced by Adam Hornung

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

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON APRIL 19, 2010 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

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

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, MAY 17, 2010 AT 3:00 P.M. FOR APPLICATION OF NEVEL INC. DBA PAUL'S OLD STYLE BBQ FOR A CLASS A LIQUOR LICENSE LOCATED AT 4724 PIONEER'S BOULEVARD - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85826 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 17, 2010 at 3:00 p.m. or as

soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of Nevel, Inc. dba a Paul's Old Style BBQ for a Class A liquor license located at 4724 Pioneers Boulevard.

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

Introduced by Adam Hornung

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

SETTING HEARING DATE OF MONDAY, MAY 17, 2010 AT 3:00 P.M. FOR APPLICATION OF NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 114 FOR A CLASS D LIQUOR LICENSE LOCATED AT 4135 S 48TH STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85827 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 17, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of Nebraska Retail Ventures LLC dba Kabredlo's 114 for a Class D liquor license located at 4135 S. 48th Street.

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

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, MAY 17, 2010 AT 3:00 P.M FOR APPLICATION OF NEBRASKA RETAIL VENTURES LLC DBA KABREDLO'S 116 FOR A CLASS D LIQUOR LICENSE LOCATED AT 606 WEST A STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85828 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 17, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of Nebraska Retail Ventures LLC dba Kabredlo's 116 for a Class D liquor license located at 606 West A Street.

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

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, MAY 17, 2010 AT 3:00 P.M FOR APPLICATION OF FIRETHORN GOLF COMPANY LLC DBA FIRETHORN GOLF CLUB FOR THE DELETION OF SOUTH 3 HOLES OF WEST 9 LOCATED AT 9301 FIRETHORN LANE - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85829 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 17, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of Firethorn Golf Company LLC dba Firethorn Golf Club for the deletion of south 3 holes of West 9 located at 9301 Firethorn Lane.

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

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, MAY 17, 2010 AT 3:00 P.M. FOR APPLICATION OF WEST NINE & LEARNING CNTR LLC DBA WEST NINE & LEARNING CENTER FOR A CLASS I LIQUOR LICENSE TO INCLUDE SOUTH PORTION OF GOLF COURSE INCLUDING CLUBHOUSE APPROXIMATELY 144 FT. X 226 FT. LOCATED AT 8788 FIRETHORN LANE - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-85830 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., May 17, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of West Nine & Learning Cntr LLC dba West Nine & Learning Center for a Class I liquor license to include South portion of golf course including Clubhouse approximately 144 ft. x 226 ft. located at 8788 Firethorn Lane.

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

Introduced by Adam Hornung

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

LIQUOR RESOLUTIONS - NONE

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE MUELLER/BIGERT RENTALS FOR THE LEASE OF OFFICE SPACE BY AGING PARTNERS FOR ITS PERSONAL & FAMILY SERVICES PROGRAM AT 137 N. 8TH STREET, GENEVA, NE 68361 FOR A TERM OF AUGUST 1, 2010 THROUGH JULY 31, 2011 - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between the City of Lincoln and Mueller/Bigert Rentals for the lease of office space by the Aging Partners for its Aging Partners Personal & Family Services program located at 302 N. 8th Street, Geneva, NE 68361, for a term of August 1, 2010 through July 31, 2011, the second time.

AMENDING SECTION 2.76.150 OF THE LINCOLN MUNICIPAL CODE RELATING TO PAY INCREASES FOR EXCEPTIONAL SERVICE WITHIN THE CITY'S MERIT PAY PLAN TO CLARIFY LANGUAGE TO PROVIDE CONSISTENCY BETWEEN THE LINCOLN MUNICIPAL CODE AND VARIOUS LABOR AGREEMENTS - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 2.76.150 of the Lincoln Municipal Code relating to pay increases for exceptional service within the City's merit pay plan to clarify language to provide consistency between the Lincoln Municipal Code and various labor agreements; and repealing Section 2.76.150 of the Lincoln Municipal Code as hitherto existing, the second time.

AUTHORIZING THE SALE OF SURPLUS PROPERTY DESCRIBED AS PORTIONS OF LOTS 11 AND 12, WESLEYAN HEIGHTS ADDITION, GENERALLY LOCATED NORTHWEST OF NORTH 41ST STREET AND GREENWOOD STREET TO B&J PARTNERSHIP - CLERK read an ordinance, introduced by Jonathan Cook, authorizing the sale of surplus property described as portions of Lots 11 and 12, Wesleyan Heights Addition, generally located northwest of North 41st Street and Greenwood Street to B&J Partnership, the second time.

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

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

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

PUBLIC HEARING - RESOLUTIONS

APPROVING A FUNDING AGREEMENT BETWEEN THE CITY, THE LINCOLN PARKS FOUNDATION AND ASSURITY LIFE INSURANCE COMPANY FOR FUNDING OF CONSTRUCTION AND ENDOWMENT OF THE SCENIC OVERLOOK FEATURE AT UNION PLAZA - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85831 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Memorandum of Agreement Regarding Funding, Construction, and Endowment of the Scenic Overlook at Union Plaza between the City, Lincoln Parks Foundation, and Assurity Life Insurance Company to accept a \$250,000 donation for the construction and endowment of the scenic overlook at Union Plaza, located near 21st Street between Q and R Streets, upon the terms and conditions as set forth in said Memorandum of Agreement, is hereby approved and the Mayor is authorized to execute said Memorandum of Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the deep and sincere appreciation of the City of Lincoln to the donor of this gift is hereby expressed and made a part of the records of the City of Lincoln.

The City Clerk is hereby directed to transmit a copy of the executed original Memorandum of Agreement to Lynn Johnson, Director of the Parks and Recreation Department, for transmittal to the Lincoln Parks Foundation and Assurity Life Insurance Company.

Introduced by Jonathan Cook

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

APPROVING AMENDMENT NO. 2 TO THE MATT TALBOT KITCHEN AND OUTREACH PROJECT REDEVELOPMENT AGREEMENT BETWEEN THE CITY AND MATT TALBOT KITCHEN AND OUTREACH, INC. RELATING TO THE REDEVELOPMENT OF PROPERTY GENERALLY LOCATED AT 2121 N. 27TH STREET - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85832 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Amendment No. 2 to the City of Lincoln Redevelopment Agreement for Matt Talbot Kitchen & Outreach Project relating to the redevelopment of property generally located at 2121 N. 27th Street, upon the terms and conditions set forth in said Amendment No. 2, which is attached hereto marked as Attachment "A", is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to transmit one fully executed original of said Agreement to Rick Peo, Chief Assistant City Attorney, for transmittal to Matt Talbot Kitchen and Outreach.

Introduced by Jonathan Cook

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

WAIVER NO. 10008 - APPLICATION OF CAMP SONSHINE TO WAIVE THE PARKING LOT SURFACING REQUIREMENT ON PROPERTY GENERALLY LOCATED AT SOUTH 25TH STREET AND BENNET ROAD - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85833 WHEREAS, Darrel and Patricia Schrader, Lonnie and Brenda Schrader, and Jeffrey L. and Trisha A. Keiser, owners of Camp Sonshine ("Owners") have requested a waiver of the surfacing requirements for a parking lot on property generally located at South 25th Street and Bennet Road and legally described as: Lot 3 and the east 314 feet of Lot 4, in the Northeast Quarter of Section 12, Township 8 North, Range 6 East and the west 332 feet of the North Half of the Northwest Quarter of Section 7, Township 8 North, Range 7 East, and the three acre "Parcel A" in the Southwest Quarter of the North Half of the Northwest Quarter of Section 7, Township 8 North, Range 7 East, all located in Lancaster County, Nebraska;

WHEREAS, the City Council finds that:

a. The parking lot for which the waiver of the surfacing requirement is requested is to be used in conjunction with a nonprofit religious institution;

b. An existing grass field and ground markings, signage and parking personnel will be utilized to provide reasonable control of dust, runoff, and safe circulation; and

c. The location of the parking lot is a sufficient distance from surrounding uses so that it will not adversely affect the surrounding uses, and the frequency of use of the parking lot is so low that compliance with the surfacing requirements at the present time would cause undue economic hardship upon the Owners as compared with minimal impact upon the surrounding land uses.

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

In consideration of the findings made above, the requirement for the paving of the parking lot for Camp Sonshine located at South 25th Street and Bennet Road on property legally described above is hereby temporarily waived subject to revocation pursuant to § 27.67.100(c) of the Lincoln Municipal Code under the following conditions:

1. Before commencing use of the parking lot, all development and construction must substantially comply with the approved plans.

2. The terms, conditions, and requirements of this resolution shall run with the land and be binding on the Owner, its successors and assigns.

3. The Owners shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the waiver, 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 waiver and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Owner.

Introduced by Jonathan Cook

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

APPROVING THE EXTENSION OF THE TERMINATION DATE OF AN EXISTING INTER-GOVERNMENTAL AGREEMENT, PREVIOUSLY APPROVED BY RESOLUTION NO. A-85349, BETWEEN NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE CITY OF LINCOLN FROM MARCH 30, 2010 TO DECEMBER 31, 2010 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-85834 BE IT RESOLVED by the City Council for the City of Lincoln, Nebraska: That Inter-Governmental Agreement (A-85349) between the Nebraska Department of Environmental Quality (NDEQ) and the City of Lincoln Watershed Management Division regarding the Implementation of the Section 319 Project entitled Stormwater Best Management Practices Demonstration be amended to extend the termination date from March 30, 2010, to December 31, 2010.

The City Clerk is directed to transmit an executed original Agreement of the extension to Ben Higgins, Public Works, 901 N. 6th Street, for transmittal to the Nebraska Department of Environmental Quality.

Introduced by Jonathan Cook

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

ADOPTING THE CITY OF LINCOLN TITLE VI CIVIL RIGHTS PLAN TO SATISFY FEDERAL COMPLIANCE REQUIREMENTS RELATED TO QUALIFICATION FOR THE RECEIPT OF FEDERAL-AID TRANSPORTATION PROJECT FUNDS - PRIOR to reading:

SPATZ Moved to continue public hearing with action for one week to 5/10/10.

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

ADOPTING THE CITY OF LINCOLN ADA/SECTION 504 REHABILITATION ACT POLICY TO SATISFY FEDERAL COMPLIANCE REQUIREMENTS RELATED TO QUALIFICATION FOR THE RECEIPT OF FEDERAL-AID TRANSPORTATION PROJECT FUNDS - PRIOR to reading:

SPATZ Moved to continue public hearing with action for one week to 5/10/10.

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

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY BY KINPORT CORP. FOR THE INSTALLATION OF AN EXTERIOR STAIR CASE IN THE ALLEY ADJACENT TO THE PROPERTY AT 211 NORTH 12TH STREET - PRIOR to reading:

CAMP Moved to place Bill No. 10R-114 on Pending.
Seconded by Hornung & LOST by the following vote: AYES: Camp; NAYS: Carroll, Cook, Emery, Hornung, Snyder, Spatz.

CAMP Moved to continue Public Hearing & to have Action in two weeks on 5/17/10.
Seconded by Hornung & LOST by the following vote: AYES: Camp; NAYS: Carroll, Cook, Emery, Hornung, Snyder, Spatz.

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

A-85835 WHEREAS, Kinport Corporation has submitted an application for a permit to use the public right-of-way in the alley on the north side of the building at 211 North 12th Street for construction of an exterior stair case; and

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

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

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

That the application aforesaid of Kinport Corporation to use the public right-of-way in the alley on the north side of 211 North 12th Street for the purpose of constructing an exterior stair case, be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and the following terms and conditions, to wit:

1. That the permission herein granted is granted as a privilege only, and is subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including those provisions relating to the posting of a continuing bond in the amount of \$5,000, the filing of a certificate of insurance with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence, and the payment of the annual fee for the use of the surface of the public right-of-way.

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

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

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

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

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

Introduced by Jonathan Cook

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

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

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

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

APPROVING THE LEASE AGREEMENT BETWEEN THE CITY AND SCOTT AND CINDY JENSEN FOR THE LEASE OF OFFICE SPACE BY AGING PARTNERS FOR ITS PERSONAL & FAMILY SERVICES MEDICAID WAIVER PROGRAM AT 320 N. STATE STREET, OSCEOLA, NE 68651 FOR A TERM OF JUNE 1, 2010 THROUGH MAY 31, 2011 - CLERK read an ordinance, introduced by Eugene Carroll, accepting and approving a Lease Agreement between the City of Lincoln and Scott and Cindy Jensen for the lease of office space by the Aging Partners for its Personal & Family Services Medical Waiver program located at 320 N. State Street, Osceola, NE 68651, for a term of June 1, 2010 through May 31, 2011, the third time.

CARROLL Moved to pass the ordinance as read.

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

The ordinance, being numbered #19380, is recorded in Ordinance Book #26, Page

**REGULAR MEETING
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ANNEXATION NO. 10002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY ONE ACRE OF PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 84TH STREET AND VAN DORN STREET - CLERK read an ordinance, introduced by Eugene Carroll, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the third time.

CARROLL Moved to pass the ordinance as read.
Seconded by Hornung & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19381, is recorded in Ordinance Book #26, Page

APPROVING AN AMENDED AND RESTATED RETIREMENT PLAN FOR UNCLASSIFIED CITY DEPARTMENT DIRECTORS AND ADMINISTRATIVE ASSISTANTS TO THE MAYOR PURSUANT TO ART. II, SECTION 3 OF THE CHARTER OF THE CITY OF LINCOLN, TO COMPLY WITH REVISIONS TO THE INTERNAL REVENUE CODE AND REGULATIONS - CLERK read an ordinance, introduced by Eugene Carroll, adopting an amended and restated version of the Retirement Plan for Unclassified Department Heads to update language contained in said Plan to comply with the requirements of EGTRRA (Economic Growth and Tax Relief Reconciliation Act of 2001), and repealing Ordinance No. 17716 as hitherto existing, the third time.

CARROLL Moved to pass the ordinance as read.
Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.
The ordinance, being numbered #19382, is recorded in Ordinance Book #26, Page

OPEN MICROPHONE - NONE

MISCELLANEOUS BUSINESS

PENDING -

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF APRIL 1 - 15, 2010. (4/26/10 - Claims of Dennis K. & Beni Cooper, Jeffery & Nerissa Ahern, Islamic Foundation of Lincoln delayed Action w/con't. P.H. for 2 wks. or as determined by City Attorney) - CLERK stated Bill No. 10R-101 will be deleted from the Agenda. It will be included in a different resolution at a later date.

CAMP Moved to extend the Pending List to May 10, 2010.
Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on May 10, 2010.
Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

ADJOURNMENT 5:00 P.M.

CAMP Moved to adjourn the City Council meeting of May 3, 2010.
Seconded by Spatz & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz; NAYS: None.

Joan E. Ross, City Clerk

Judy Roscoe, Senior Office Assistant