

THE MINUTES OF THE CITY COUNCIL MEETING HELD  
MONDAY, MAY 24, 2010 AT 5:30 P.M.

ELECTION OF CHAIR AND VICE CHAIR

Mayor Chris Beutler came forward to conduct nominations for the office of Chair for the City Council. Council Member Jonathan Cook nominated John Spatz. Seconded by Jayne Snyder, and the motion carried 6-0; Hornung Absent.

As newly elected Chair, Jon Spatz, conducted the nominations for the Office of Vice Chair for the City Council. Council Member Jonathan Cook nominated Eugene Carroll, seconded by Jayne Snyder, and the motion carried 6-0; Hornung absent.

The Meeting was called to order at 5:40 p.m. Present: Council Chair Spatz; Council Members: Carroll, Cook, Emery, Snyder, Spatz; City Clerk, Joan E. Ross; Absent: Hornung.

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

READING OF THE MINUTES

CAMP Having been appointed to read the minutes of the City Council proceedings of May 17, 2010 reported having done so, found same correct.  
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: None; ABSENT: Hornung.

PUBLIC HEARING

CONFIRMING THE APPOINTMENT OF KEVIN WAILES AS ADMINISTRATOR AND CEO OF THE LINCOLN ELECTRIC SYSTEM - Kevin Wailes, no address given, stated he is the recommended Administrator and CEO of the Lincoln Electric System. He mentioned the process with respect with the new arena was a very admirable recognition for both the leadership of the community, the Council, and the Mayor to be able to take such a large project to a successful referendum thru this economy which says a lot about this community. He was asked to give a little bit of his background in which he told of his current position as General Manager of the City of Tallahassee Electric Utility which is an electric utility that is roughly the same size as Lincoln. He works under a City/Manager form of government in Tallahassee. He was born and raised in Colorado living there the first 33 years of his life prior to moving to Florida. He went to school at Colorado State University. He was the manager of a utility in the southeast part of Colorado which also was a municipally owned utility.

Dawn Rockey, LES Chairman of the Board, stated this was a very deliberate process and very time consuming. They had a great set of candidates and one really, really good candidate to bring before the Council. The entire Board was involved thru the process. We couldn't have gone through the process we did if the Utility wasn't well run and continued to move forward under the circumstances.

This matter was taken under advisement.

APPROVING THE APPOINTMENT OF MAYOR CHRIS BEUTLER AND ONE MEMBER OF THE LINCOLN CITY COUNCIL TO THE WEST HAYMARKET JOINT PUBLIC AGENCY FOR FOUR YEAR TERMS OR FOR SO LONG AS SUCH REPRESENTATIVES SERVE IN THEIR POSITIONS AS MAYOR AND COUNCIL MEMBER, RESPECTIVELY - John Austin, 826 S. 14<sup>th</sup> Street, asked who the third member was.

John Spatz, Council Chair, answered that the Council voted Jayne Snyder to represent the Lincoln City Council on the West Haymarket Joint Public Agency.  
This matter was taken under advisement.

ANNEXATION 08027 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 45 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 48TH STREET AND DORIS BAIR CIRCLE - Marvin Krout, Planning Director, stated this particular tract is a little less than 45 acres in the north part of the City on the east side of 48<sup>th</sup> Street owned by Lincoln Trap and Skeet Club which is a private shooting range for guns and bow and arrows. It was found there was a separate ordinance that did not permit private shooting ranges in the city limits. Once this property is annexed they would have to cease shooting. Before any change in the City ordinance was made to grandfather this property in a state law was passed that cities could not shut down shooting ranges that were in existence after being annexed. There have been discussions by the City of Lincoln and the State of Nebraska about joint operations in this general area and about constructing a new building for indoor shooting that would either be city owned or State owned or operated. This property is surrounded on three sides to the south, east, and west by the city limits. The owners of this property are not objecting to this annexation as this property is tax exempt.

This matter was taken under advisement.

CHANGE OF ZONE 10008 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTIONS 27.43.030, 27.45.025, AND 27.49.030 TO ADD OUTDOOR VEHICLE STORAGE AS A PERMITTED CONDITIONAL USE IN THE H-3, H-4, AND I-2 ZONING DISTRICTS, RESPECTIVELY - Marvin Krout, Director of Planning, stated an applicant is requesting the change of zone to allow a tow yard, a special type of vehicle outside storage with no stacking, no dismantling, no salvage, just storing cars temporarily. These are cars that are impounded, basically it would be an impound lot. The location is on North 56<sup>th</sup> Street, south of I-80 which is in use. Building and Safety noted that it was a violation of the zoning ordinance because most of the zoning districts in the city say that if it is not a specific listed use in the district it is not permitted. This tract was not zoned industrial it was zoned heavy highway commercial which does not allow open storage type uses. This ordinance would create a new category which would allow for vehicular storage without salvage, without repair, without dismantling, without stacking the vehicles one on top of the other. It would be subject to screening requirements in the code if you are within 150' from a public way and visible from that way. The lighting should not be a problem since the lighting provisions were amended one and a half years ago limiting the kind of lighting and how it's directed to avoid being a problem for surrounding properties. This matter was taken under advisement.

ANNEXATION 10003 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 10 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND WHISPERING WIND BOULEVARD. (RELATED ITEMS: 10-51, 10-52);

CHANGE OF ZONE 10010 - APPLICATION OF LINCOLN FEDERAL BANCORP, INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND WHISPERING WIND BOULEVARD. (RELATED ITEMS: 10-51, 10-52) - Michael Rierden, 645 "M" Street, Suite 200, came forward representing the applicant Lincoln Federal Bancorp Inc. This will represent the second phase of Wilderness Hills 1<sup>st</sup> Addition Preliminary Plat. The applicant is completely out of lots in the first phase with the exception of lots along 27<sup>th</sup> Street. If this is approved it will create approximately 109 new residential lots with many of them already spoken for.

Pam Dingman, 1021 D Street, Engineering and Planning Consultant with Engineering Design Consultants, LLC stated the lots are approximately 72' to 76' wide. They are a little bigger than the lots of the first few phases due to client demand. More people want a three car garage or a wider house. The depth of a few lots are 120' deep, but the majority are 125' deep.

This matter was taken under advisement.

CHANGE OF ZONE 09024 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTION 27.15.030 TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS LOCATED OUTSIDE THE JANUARY 1, 2010 CORPORATE LIMITS AS A PERMITTED CONDITIONAL USE AND PROVIDING CONDITIONS OF APPROVAL; AMENDING SECTION 27.15.040 TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS LOCATED INSIDE THE JANUARY 1, 2010 CORPORATE LIMITS AS A PERMITTED SPECIAL USE; ADDING A NEW SECTION NUMBERED 27.63.800 TO PROVIDE CONDITIONS FOR GRANTING A SPECIAL PERMIT TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS IN THE R-3 DISTRICT LOCATED INSIDE THE JANUARY 1, 2010 CORPORATE LIMITS. (RELATED ITEMS: 10-53, 10-54);

MISC. 10002 AMENDING SECTION 26.23.140 OF THE LINCOLN MUNICIPAL CODE RELATING TO DEVELOPMENT STANDARDS FOR LOTS TO PROVIDE THAT RESIDENTIAL LOTS IN THE R-3 DISTRICT WHICH DO NOT MEET THE REQUIRED MINIMUM LOT AREA, AVERAGE LOT WIDTH, OR YARD REQUIREMENTS SHALL HAVE A MAXIMUM DEPTH OF FOUR TIMES ITS WIDTH. (RELATED ITEMS: 10-53, 10-54) - Marvin Krout, Director of Planning, stated this concerns other homes and townhomes that are on smaller lots. There may be more demand for smaller lots for single family homes and townhouses over the next 10 to 20 years and we are trying to look at how to accommodate those in a fair, reasonable, and efficient way as we go through the development process. It has been drafted to allow for smaller lots as conditional uses meaning there wouldn't be any notification of any land that is zoned R-3 or would be zoned in the future. This allows for notification or Planning Commission approval which is required for a C.U.P. or City Council approval for a P.U.D. There would be lesser standards allowing higher density in the R-3 zoning district. There would also be a couple of new standards not in the code today, but are very important; 1. to provide enough curbed area in front of each lot for a parking space; 2. to have at least a door and window facing the street. There will be no faceless facades or streetscapes making them friendly and more secure by being able to see out the front of the house. In January 2010 standards were set for inside the City limits where properties are already zoned R-3 and in those areas you would still have to obtain a special permit which means there would be notice and hearing at the Planning Commission with Planning Commission approval, but it would be a simpler process. The standards are all set out in the ordinance in future zoned areas outside the city limits today. It will be cheaper to obtain the special permit and the applicant would be working with neighbors to persuade them which would be the way to solve the issue of proper notice. Everyone in new areas would be offered the opportunity, if they're developing, to develop with a mix of lots that don't require C.U.P.'s and P.U.D.'s in the future. This will have a lesser set front yard and rear yard setback requirements, but have the same side yard requirements. This really only applies to the edges of the City. The use of the small lots is to increase the density in the neighborhoods for conservation of energy which allows for individuals that can still live in the community in smaller homes and not be at a disadvantage of size or distance.

Lois Hartzell, 5540 N. 19<sup>th</sup> Street, Vistar Homes, came forward as a developer in favor of the code change. She stated she has visited with the Police Department, Fire Department and parking issues were met. The existing neighbors were contacted to make sure they have a voice to be heard. Smaller

homes that have garages in the back wouldn't have much of a backyard. Most of them don't spend much time in the back, but the lots that are wider do provide some backyard space.

Roger Massey, Government Affairs Director for the Home Builders, came forward in support. He expressed his appreciation of the Planning Director and Staff to how effectively they work with the whole industry in trying to make things better.

This matter was taken under advisement.

DECLARING THE OFFICIAL INTENT OF THE CITY TO ISSUE ITS TAX-EXEMPT OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$5,000,000.00 AND USE THE PROCEEDS TO ACQUIRE, CONSTRUCT AND EQUIP A PROJECT TO BE LEASED TO TMCO, INC. - Don Herz, Director of Finance, came forward to ask approval of this reimbursement resolution that would allow TMCO to reimburse itself with bond proceeds they would receive pursuant to a bond ordinance coming forward in a month or two. They have a project in which they may want to pay for some equipment prior to that ordinance being completed and bank financing being in place. This will be the first bond ordinance to utilize a portion of the \$27,000,000 allocation that the city has received from Economic Recovery Facility Bonds through the American Recovery Zone Facility Act. Back in March the entire City was designated as a recovery zone area.

Lauren Wismer, Gilmore & Bell, 1248 O St, Ste. 710, stated there is a substitute resolution due to it being determined that in addition to TMCO Inc., TMCO Investments, LLC is also a potential borrower. Recovery Zone Facility Bonds are private activity bonds under the code. The proceeds are used in the trade or business of a non-governmental entity. For tax purposes they are recovery zoned bonds that are tax exempt. For state law purposes it would be undertaken by the City under the Industrial Revenue Bond statutes. The only difference in this case is the tax treatment under the Federal Tax Code that being Recovery owned bonds rather than a small issue exempt Industrial Development Revenue bond. This is very similar to Amendment 1 that allows Cities, Counties, and Villages to issue bonds and then acquire projects suitable for use by manufacturing or industrial enterprise. The credit on that obligation is the credit of the company. There is no credit of the city that is lent in anyway on any of these obligations. These are called a conduit transaction. The city is there for the purpose of putting the city's name on the obligation so that it gets tax exempt treatment under the tax code otherwise the purchaser of the obligation only recourse is against the company who is using the project with no recourse against the city. The American Recovery Act of 2009 is that they expanded the categories of private activities so they would grant tax exempt treatment and these had to occur in what was designated as recovery zones. The City has taken the step of designating everything within the corporate limits as a recovery zone which makes it eligible for the City to do these kinds of transactions basically anywhere in the city limits. There are fewer restrictions in recovery zones than there are small issue Industrial Revenue Bonds which make these attractive in this particular instance. From the City's stand point it is structurally and documented the same as an Industrial Development Revenue Bond and is just a little different under the Federal Tax Code.

John Albers, General Partner of TMCO, came forward to explain what the bonds are being used for. He stated his company is a contract manufacturing facility that basically is using computerized equipment to manufacture products for other companies which includes the machining, fabricating, robotic welding, powder painting, assembly and shipping of people's products all using computers. This includes a rather large customer in Omaha that is doing combines out of Germany and a company in Lincoln doing composite windings for storage of natural gas. There is a good, healthy growth of customers happening. There is a need for new, high speed equipment to handle those requirements. They have 165 employees and did not have to lay off anybody in the last two years anticipating that when the economy turned around everybody was going to be on board.

This matter was taken under advisement.

APPROVING A MULTI-YEAR CONTRACT BETWEEN PUBLIC SAFETY CORPORATION AND THE CITY OF LINCOLN FOR INTRUSION ALARM REGISTRATION, FALSE ALARM BILLING AND COLLECTION (BID NO. 10-040) FOR A FOUR-YEAR TERM WITH OPTION FOR ONE ADDITIONAL FOUR-YEAR TERM - Bob Walla, Assistant Purchasing Agent, came forward to answer questions and stated this is a multi-year contract for the Council's approval.

This matter was taken under advisement.

## COUNCIL ACTION

### REPORTS OF CITY OFFICERS

CONFIRMING THE APPOINTMENT OF KEVIN WAILES AS ADMINISTRATOR AND CEO OF THE LINCOLN ELECTRIC SYSTEM - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85863 WHEREAS, the Lincoln Electric System (LES) Administrator Board conducted an extensive, nationwide search for the position of LES Administrator and CEO following the unexpected retirement of Terry Bundy in 2009 due to health reasons; and

WHEREAS, on April 16, 2010 the LES Administrative Board adopted LES Resolution 2010-4 appointing Kevin Wailes as Administrator and CEO of LES subject to negotiation of terms and conditions of employment with the Board Personnel and Organization Committee; and

WHEREAS, on May 7, 2010 the LES Administrative Board adopted LES Resolution 2010-7 reaffirming the appointment of Kevin Wailes as Administrator and CEO of LES and approving Mr. Wailes' terms of employment; and

WHEREAS, Lincoln Municipal Code Section 4.24.010 provides that the Lincoln Electric System (LES) shall appoint a manager, subject to approval by the Mayor by executive order and the City Council by resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that the appointment of Kevin Wailes as Administrator and CEO of the Lincoln Electric System, is hereby approved.

Introduced by Jon Camp

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

APPROVING THE APPOINTMENT OF MAYOR CHRIS BEUTLER AND ONE MEMBER OF THE LINCOLN CITY COUNCIL TO THE WEST HAYMARKET JOINT PUBLIC AGENCY FOR FOUR YEAR TERMS OR FOR SO LONG AS SUCH REPRESENTATIVES SERVE IN THEIR POSITIONS AS MAYOR AND COUNCIL MEMBER, RESPECTIVELY - PRIOR to reading:

EMERY Moved to amend Bill No. 10R-123 by accepting Bill No. 10R-123S as the Substitute resolution.

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

CLERK Read the following Substitute resolution, introduced by Doug Emery, who moved its adoption:

A-85864 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, pursuant to the Joint Public Agency Act, Neb. Rev. Stat. §§ 13-2501 *et seq.* (Reissue 2007), and Section 301 of the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated April 1, 2010, that the resignation of Eugene Carroll as the appointed City Council representative to the governing body of the West Haymarket Joint Public Agency is hereby accepted. All actions heretofore taken for or on behalf of, or in the name of the City, by any of the Council Members, elected officials, employees or agents thereof with respect to the execution and delivery of the Agreement and the organization of the West Haymarket Joint Public Agency are hereby validated, ratified and confirmed.

BE IT FURTHER RESOLVED that Mayor Chris Beutler and Jayne Snyder, duly appointed by the Mayor, are hereby approved as representatives to the West Haymarket Joint Public Agency for four year terms or for so long as such representatives shall hold their positions as Mayor and Council Member, respectively.

The City Clerk is hereby directed to issue certificates of appointment of such representatives for filing in the official records of the City of Lincoln, and with the clerk or secretary of the West Haymarket Joint Public Agency.

Introduced by Doug Emery

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

CITY CLERK LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON MAY 10, 2010 - CLERK presented said report which was placed on file in the Office of the City Clerk.

#### PETITIONS & COMMUNICATIONS

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

Administrative Permit No. 10001, approved by the Planning Director on May 11, 2010, requested by Constructors, Inc., to operate a temporary concrete paving plant for the Interstate 80 widening project for three years on property located at 8100 N. 112<sup>th</sup> Street adjacent to I-80.

Administrative Amendment No. 10021 to Use Permit No. 57D, approved by the Planning Director on May 12, 2010, requested by Carlson Consulting Engineers, to revise the parking lot layout, add a loading canopy and add a canopy over tire and battery storage for the Sam's Club on property generally located northeast of N. 27<sup>th</sup> Street and Superior Street.

Administrative Amendment No. 10013 to Special Permit No. 1533, approved by the Planning Director on May 13, 2010, requested by Western Manor, LP c/o Mercy Housing, Inc., to revise the parking lot layout, add a community building and a 20 space garage on property generally located at N. Coddington Avenue and West "Q" Street.

Administrative Amendment No. 10022 and Administrative Amendment No. 10023 to Special Permit No. 04069 and Special Permit No. 04070, approved by the Planning Director on May 14, 2010, requested by ESP Engineering, to revise Lot 1, Block 2 and Lot 1, Block 1, and the abutting street on property generally located at SW. 14<sup>th</sup> Street and W. Bennet Road.

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPARTMENT:

CHANGE OF ZONE NO. 10011 - Application of the Director of Planning, amending Chapter 27.69 of the Lincoln Municipal Code relating to Signs by amending Section 27.69.020 to delete the definition of Pedestrian Marquee Sign; amending Section 27.69.030 to amend the general provisions to provide that for Center signs permitted on a "per frontage" basis, frontage shall mean the frontage of the Center adjacent to an arterial or collector street; and to delete the general provision regarding pedestrian marquee signs; amending Section 27.69.220 to add an exception to the requirement that a complex or subdivision freestanding sign abutting a residential zoned lot may not be illuminated unless located at least 100 feet from an abutting residential zoned lot if the abutting residential zoned lot is used for another multi-family use or a special permitted use; amending Section 27.69.340 to eliminate restrictions regarding height and illumination of freestanding signs used for office and retail uses; and repealing Sections 27.69.020, 27.69.030, 27.69.220, and 27.69.340 of the Lincoln Municipal Code as hitherto existing.

CHANGE OF ZONE NO. 10012 - Application of the Director of Planning, amending Chapter 27.63 of the Lincoln Municipal Code relating to Special Permits by

amending Section 27.63.680 and 27.63.685 regarding the sale of alcoholic beverages for consumption on and off the premises, respectively, to add a requirement that the licensed premises must be located no closer than 100 feet from the property line of a premises located in a nonresidential district which is occupied in whole or part by a first-floor residential use and to clarify that the required 100-foot separation from a day care facility, park, church, or state mental institution is measured from the licensed premises to the property line of the premises used for the day care facility, park, church, or state mental health institution; and repealing Sections 27.63.680 and 27.63.685 of the Lincoln Municipal Code as hitherto existing.

CHANGE OF ZONE NO. 10013 - Application of the Director of Planning, amending Title 27 of the Lincoln Municipal Code by amending Chapter 27.03, Definitions, to add a new Section numbered 27.03.162 to provide a definition for data center; amending Section 27.67.040 to establish parking requirements for data centers; and repealing Section 27.67.040 of the Lincoln Municipal Code as hitherto existing.

SPECIAL PERMIT NO. 07044A - Application of Terri Sherman, for additional parking, with request to waive parking in the front yard, on property legally described as Lot 18, Block 4, Sawyer's Addition, located in the SW 1/4 of Section 25-10-6, Lancaster County, Nebraska, generally located at S. 18<sup>th</sup> Street and F Street (1804 F Street).

SPECIAL PERMIT NO. 10023 - Application of Sandstone Construction, LLC., for a parking lot, with a request to adjust setbacks, on property legally described as the south 74.82 feet of the east 99.53 feet of the remaining portion of Lot 3, Lemings Subdivision, located in the NE 1/4 of Section 29-10-7, Lancaster County, Nebraska, generally located at S. 52<sup>nd</sup> Street and N Street.

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2010 AT 3:00 P.M. FOR THE APPLICATION OF 1644 STEELE LLC DBA THE BAR FOR A CLASS CK LIQUOR LICENSE LOCATED AT 1644 P STREET - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85865 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., June 7, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of 1644 Steele LLC dba The Bar for a Class CK liquor license located at 1644 P Street.

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

Introduced by Eugene Carroll

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

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2010 AT 3:00 P.M. FOR THE APPLICATION OF SB PARTNERS LLP DBA STAYBRIDGE SUITES FOR A CLASS I LIQUOR LICENSE LOCATED AT 2701 FLETCHER STREET - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85866 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., June 7, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of SB Partners LLP dba Staybridge Suites for a Class I liquor license located at 2701 Fletcher Street.

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

Introduced by Eugene Carroll

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

SETTING THE HEARING DATE OF MONDAY, JUNE 21, 2010 AT 3:00 P.M. FOR THE APPLICATION OF KEN'S LIQUOR INC. DBA MJ CATERING FOR A CLASS I LIQUOR LICENSE LOCATED AT 6305 WEST ADAMS - CLERK read the following resolution, introduced by Eugene Carroll, who moved its adoption:

A-85867 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., June 21, 2010 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for Application of Ken's Liquor Inc. dba MJ Catering for a Class I liquor license located at 6305 West Adams.

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

Introduced by Eugene Carroll

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

#### LIQUOR RESOLUTIONS - NONE

#### ORDINANCES - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required)

APPROVING THE LEASE AGREEMENT BETWEEN THE CITY AND ERIK ALM FOR THE LEASE OF OFFICE SPACE BY AGING PARTNERS FOR ITS PERSONAL & FAMILY SERVICES PROGRAM AT 1325 N. CHESTNUT STREET, WAHOO, NE 68066 FOR A TERM OF JULY 1, 2010 THROUGH JUNE 30, 2011 - PRIOR to reading:

**REGULAR MEETING**

**MAY 24, 2010**

**Page 476**

- CARROLL Moved to place Bill No. 10-48 on Indefinite Pending.  
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: None; ABSENT: Hornung.
- CLERK Read an ordinance, introduced by Jon Camp, accepting and approving a Lease Agreement between the City of Lincoln and Erik Alm for the lease of office space by the Aging Partners for its Personal & Family Services program located at 1325 N. Chestnut Street, Wahoo, NE, 68066, for a term of July 1, 2010 through June 30, 2011, the second time.
- ANNEXATION 08027 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 45 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 48TH STREET AND DORIS BAIR CIRCLE - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.
- CHANGE OF ZONE 10008 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTIONS 27.43.030, 27.45.025, AND 27.49.030 TO ADD OUTDOOR VEHICLE STORAGE AS A PERMITTED CONDITIONAL USE IN THE H-3, H-4, AND I-2 ZONING DISTRICTS, RESPECTIVELY - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Sections 27.43.030, 27.45.025, and 27.49.030 to add outdoor vehicle storage as a permitted conditional use in the H-3, H-4, and I-2 zoning districts, respectively; and repealing Sections 27.43.030, 27.45.025, and 27.49/030 of the Lincoln Municipal Code as hitherto existing, the second time.
- ANNEXATION 10003 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 10 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND WHISPERING WIND BOULEVARD. (RELATED ITEMS: 10-51, 10-52) - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.
- CHANGE OF ZONE 10010 - APPLICATION OF LINCOLN FEDERAL BANCORP, INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 27TH STREET AND WHISPERING WIND BOULEVARD. (RELATED ITEMS: 10-51, 10-52) - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.
- CHANGE OF ZONE 09024 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTION 27.15.030 TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS LOCATED OUTSIDE THE JANUARY 1, 2010 CORPORATE LIMITS AS A PERMITTED CONDITIONAL USE AND PROVIDING CONDITIONS OF APPROVAL; AMENDING SECTION 27.15.040 TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS LOCATED INSIDE THE JANUARY 1, 2010 CORPORATE LIMITS AS A PERMITTED SPECIAL USE; ADDING A NEW SECTION NUMBERED 27.63.800 TO PROVIDE CONDITIONS FOR GRANTING A SPECIAL PERMIT TO ALLOW SINGLE-FAMILY DWELLINGS ON SMALL LOTS IN THE R-3 DISTRICT LOCATED INSIDE THE JANUARY 1, 2010 CORPORATE LIMITS. (RELATED ITEMS: 10-53, 10-54) - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Section 27.15.030 to allow single-family dwellings on small lots located outside the January 1, 2010 corporate limits as a permitted conditional use and providing conditions of approval; amending Section 27.15.040 to allow single-family dwellings on small lots located inside the January 1, 2010 corporate limits as a permitted special use; adding a new section numbered 27.63.800 to provide conditions for granting a special permit to allow single-family dwellings on small lots in the R-3 district located inside the January 1, 2010 corporate limits, and repealing Sections 27.15.030 and 27.15.040 of the Lincoln Municipal Code, the second time.
- MISC. 10002 - AMENDING SECTION 26.23.140 OF THE LINCOLN MUNICIPAL CODE RELATING TO DEVELOPMENT STANDARDS FOR LOTS TO PROVIDE THAT RESIDENTIAL LOTS IN THE R-3 DISTRICT WHICH DO NOT MEET THE REQUIRED MINIMUM LOT AREA, AVERAGE LOT WIDTH, OR YARD REQUIREMENTS SHALL HAVE A MAXIMUM DEPTH OF FOUR TIMES ITS WIDTH. (RELATED ITEMS: 10-53, 10-54) - CLERK read an ordinance, introduced by Jon Camp, amending Section 26.23.140 of the Lincoln Municipal Code relating to Development Standards for Lots to provide that residential lots in the R-3 district which do not meet the required minimum lot area, average lot width, or yard requirements shall have a maximum depth of four times its width; and repealing Section 26.23.140 of the Lincoln Municipal Code as hitherto existing, the second time.

**PUBLIC HEARING - RESOLUTIONS**

- DECLARING THE OFFICIAL INTENT OF THE CITY TO ISSUE ITS TAX-EXEMPT OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$5,000,000.00 AND USE THE PROCEEDS TO ACQUIRE, CONSTRUCT AND EQUIP A PROJECT TO BE LEASED TO TMCO, INC. - PRIOR to reading:
- COOK Moved to amend Bill No. 10R-120 by accepting Bill No. 10R-120S as the Substitute resolution.  
Seconded by Carroll & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: None; ABSENT: Hornung.
- CLERK Read the following substitute resolution, introduced by Jonathan Cook, who moved its adoption:
- A-85868 A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF LINCOLN,

NEBRASKA TO ISSUE TAX-EXEMPT OBLIGATIONS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 AND USE THE PROCEEDS THEREOF TO ACQUIRE PROPERTY TO BE LEASED TO TMCO, INC. AND/OR TMCO INVESTMENTS, LLC FOR THE PURPOSES DESCRIBED HEREIN; AND RELATED MATTERS

BE IT RESOLVED by the Council (the "**Council**") of the City of Lincoln, Nebraska (the "**City**") as follows:

Section 1. Findings.

(a) The City of Lincoln, Nebraska (the "**City**"), is authorized and empowered pursuant to Article XIII, Section 2 of the Nebraska Constitution and Sections 13-1101 to 13-1110, inclusive, Reissue Revised Statutes of Nebraska, as amended (collectively, the "**Act**"), to acquire land, buildings, equipment or other improvements, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which are suitable for use for manufacturing or industrial enterprises, and to lease the same to others as a project in order to provide for the improvement, betterment and extension of economic, industrial and manufacturing development in the State of Nebraska (the "**State**").

(b) TMCO, Inc., a corporation duly organized and validly existing under and pursuant to the laws of the State (the "**Corporation**") and TMCO Investments, LLC, a limited liability company duly organized and validly existing under and pursuant to the laws of the State (the "**Company**"), have requested that (1) the City issue and sell its industrial development revenue bonds pursuant to the Act in an amount not to exceed \$5,000,000 to finance the costs and expenses incident to the acquisition and construction of improvements to the manufacturing facilities of the Corporation and/or the Company, together with necessary equipment (collectively, the "**Project**"), all of which will together constitute a project as that term is defined in the Act, to be located in Lincoln, Nebraska and (2) lease or sell the Project to the Corporation and/or the Company, all in accordance with and pursuant to the Act.

(c) The City desires to finance the costs of purchasing, constructing and equipping the Project through the issuance of its industrial development revenue bonds under the Act in a principal amount not to exceed \$5,000,000, said bonds to be payable solely out of payments, revenues and receipts derived from the lease or sale of the Project by the City to the Corporation and/or the Company.

(d) The Internal Revenue Code of 1986, as amended, (the "**Code**") and applicable regulations require the City to declare its official intent with respect to the Project, and the incurrence of certain expenses and uses of funds in connection with the Project, prior to the issuance of tax-exempt bonds to allow such expenditures and funds to be reimbursed with the proceeds thereof.

(e) The City has received an allocation of Recovery Zone Facility Bonds in the amount of \$26,256,000 (the "**Allocation**"), pursuant to the American Recovery and Reinvestment Tax Act of 2009 (the "**ARRA**").

(f) The City understands that Recovery Zone Facility Bonds ("**Recovery Zone Bonds**") are to be issued pursuant to a portion of the Allocation to finance certain expenditures located in or attributable to an area within the jurisdiction of the City, which the City determines has experienced an increase in unemployment and a decline in retail sales and sales tax receipts or general distress.

(g) Pursuant to Resolution No. A-85768 passed by the Council on March 8, 2010 and approved by the Mayor on March 10, 2010, the Mayor and Council have designated the City as a "Recovery Zone" to provide for the possible issuance of Recovery Zone Bonds (such area being referred to herein as the "**Recovery Zone**").

(h) The City, the Corporation and the Company desire that the purchase and construction of the Project commence as soon as practicable;

Section 2. The Council hereby finds and determines that: (a) the Project will promote the economic welfare and development of the City of Lincoln, Nebraska, and (b) the issuance of the City's industrial development revenue bonds to finance the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 3. The Council hereby determines and declares the intent of the City to finance the costs of the Project out of the proceeds of its industrial development revenue bonds to be issued pursuant to the Act in a principal amount not to exceed \$5,000,000.

Section 4. Subject to the conditions of this Resolution, the City will (a) issue its industrial development revenue bonds to pay the costs of financing the Project, including repayment to the Corporation and/or the Company of advances made by it in connection with the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by subsequent resolution of the City; (b) purchase and construct the Project and lease (with an option to purchase) or sell or otherwise dispose of the Project to the Corporation and/or the Company; and (c) adopt such resolutions and take such action as may be necessary or advisable to authorize and issue such industrial development revenue bonds of the City for the purposes set forth herein.

Section 5. The issuance of such bonds and the execution and delivery of any documents related to financing the Project are subject to (a) approval of the same by (i) the Mayor and Council and (ii) the respective governing bodies of the Corporation and/or the Company; (b) receipt of any other necessary governmental approval and (c) agreement by the City, the Corporation and/or the Company and the purchasers of the bonds upon (i) mutually acceptable terms and conditions with respect to (1) the bonds and the sale and delivery thereof and (2) any other documents related to the issuance of the bonds and the Project.

Section 6. The Corporation and the Company are hereby authorized to proceed with the purchase and construction of the Project, including the entering into of any contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes and, to the extent permitted by law, the City shall reimburse the Corporation and/or the

Company for all expenditures paid or incurred therefor out of the proceeds of the bonds.

Section 7. The City Attorney and bond counsel for the bonds, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the bonds, the Corporation and/or the Company, their respective counsel and others to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the bonds and other actions contemplated hereunder in connection with the financing of the Project.

Section 8. This Resolution shall inure to the benefit of the City, the Corporation, the Company and their respective successors and assigns.

Section 9. This Resolution shall take effect and be in full force immediately after its passage by the Council and approval of the Mayor as provided by law.

Section 10. Conflicting Resolutions Repealed. All resolutions of the Council, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Introduced by Jonathan Cook

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

APPROVING A MULTI-YEAR CONTRACT BETWEEN PUBLIC SAFETY CORPORATION AND THE CITY OF LINCOLN FOR INTRUSION ALARM REGISTRATION, FALSE ALARM BILLING AND COLLECTION (BID NO. 10-040) FOR A FOUR-YEAR TERM WITH OPTION FOR ONE ADDITIONAL FOUR-YEAR TERM - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-85869 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached multi-year Contract between the City of Lincoln, and Public Safety Corporation, for Intrusion Alarm Registration, False Alarm Billing and Collection, pursuant to Bid No. 10-040, for a four-year term with the option to renew for one additional four-year term, upon the terms as set forth in said contract, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by Jon Camp

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

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

AUTHORIZING THE CITY OF LINCOLN TO ENTER INTO A LEASE-PURCHASE TRANSACTION WITH UNION BANK AND TRUST COMPANY FOR THE ACQUISITION OF STREET LIGHTING EQUIPMENT AND AMBULANCES AND RELATED MATTERS - CLERK read an ordinance, introduced by Eugene Carroll, of the City of Lincoln, Nebraska authorizing and approving a lease-purchase transaction with Union Bank and Trust Company, the proceeds of which will be used to pay the costs of (A) acquiring and installing street lights and related improvements and (B) acquiring two new ambulances and additional defibrillators; approving the issuance, sale and delivery of not to exceed \$3,500,000 principal amount of certificates of participation in such lease; fixing in part and providing for the fixing in part of certain provisions of the lease; and related matters. the first time.

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$22,500,000 PRINCIPAL AMOUNT OF THE CITY OF LINCOLN GENERAL OBLIGATION BOND ANTICIPATION NOTES AND \$27,500,000 OF THE CITY OF LINCOLN GENERAL OBLIGATION TAX ANTICIPATION NOTES - CLERK read an ordinance, introduced by Eugene Carroll, authorizing and providing for the issuance, sale and delivery of (A) General Obligation Bond anticipation notes, Series 2010 in an aggregate principal amount not to exceed \$22,500,000 (the "Bond Anticipation Notes") and (B) Tax Anticipation Notes, Series 2010, of the City of Lincoln, Nebraska, in an aggregate principal amount not to exceed \$27,500,000 (the "Tax Anticipation Notes"), for the purpose of paying the costs of land acquisition and improvements thereon in connection with constructing, equipping and furnishing a new sports/entertainment arena in the West Haymarket area of the City; prescribing certain terms of the notes; delegating, authorizing and directing the Finance Director to exercise his independent judgment and absolute discretion in determining certain other terms of the notes; providing for the payment of the principal of and interest on (1) the Bond Anticipation Notes from the proceeds of bonds to be issued by or made available to the City notes and (2) the Tax Anticipation Notes by the levy of a tax on all of the taxable property within the City of from other funds made available to the City; authorizing and approving certain other documents and actions and related matters, the first time.

AMENDING SECTION 9.44.040 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE SALE OF PERMISSIBLE FIREWORKS BY CHANGING THE DATE BY WHICH APPLICATIONS FOR LICENSE AS A RETAILER OF PERMISSIBLE FIREWORKS MUST BE FILED WITH THE CHIEF OF THE BUREAU OF FIRE PREVENTION FROM JUNE 23 TO JUNE 10, INCREASING THE FEE FOR LATE FILING OF SAID APPLICATION FROM \$25.00 TO \$50.00, AND INCREASING THE APPLICATION FEE FROM \$75.00 TO \$100.00, TO HARMONIZE WITH THE PROVISIONS OF SECTION 19.03.100 OF THE LINCOLN FIRE CODE - CLERK read an ordinance, introduced by Eugene Carroll, amending Section 9.44.040 of the Lincoln Municipal Code relating to the sale of permissible fireworks by changing the date by which applications for license as a retailer of permissible fireworks must be filed with the Chief of the Bureau of Fire Prevention from June 23, to June 10, increasing the fee for late filing of said application from \$25.00 to \$50.00, and increasing the application fee from \$75.00 to \$100.00, to harmonize with the provisions of Section 19.03.100 of the Lincoln Fire Code; and repealing Section 9.44.040 of the Lincoln Municipal Code as hitherto existing, the first time.

VACATING THAT PORTION OF THE NORTH-SOUTH ALLEY BETWEEN S. 15TH STREET AND S. 16<sup>TH</sup> STREET FROM SOUTH STREET TO APPROXIMATELY 210 FEET NORTH OF SOUTH STREET - CLERK read an ordinance, introduced by Eugene Carroll, vacating a portion of the north-south alley between S. 15<sup>th</sup> Street and S. 16<sup>th</sup> Street from South Street to approximately 210 feet north of South Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

**ORDINANCES - 3<sup>RD</sup> READING & RELATED RESOLUTIONS (as required) - NONE**

**OPEN MICROPHONE**

Jane Svoboda, no address given, expressed her opinion of today's healthcare and proposed new methods of healthcare such as free hospital care funded with local taxes and not allow federal government to have any advanced directives.

This matter was taken under advisement.

Richard Slama, 4930 Lakewood Rd., came forward to state he heard Janice Hahn from Los Angeles had sent Lincoln a letter asking Lincoln to join Los Angeles and 12 other communities across the country in boycotting Arizona. He does not feel the City should do any business with communities that are boycotting Arizona.

This matter was taken under advisement.

Teri Pope Gonzalez, 349 S. 1<sup>st</sup> Street, presented a large piece of concrete representative of other concrete pieces that have fallen off a side dumper belonging to TCW or Husker Concrete as they are going down the residential street in her neighborhood. She received a letter from the City Attorney in reference to documents she requested stated the cost for research would be \$9,129.00 and the copying of them would be \$250, therefore, she did not receive this information. Some of the information requested was if Husker Concrete and TCW received any TIF money and if they did, how much? She also wanted to know how much those companies have in City & State contracts? She still hasn't had a meeting with the Health Department, but Jonathan Cook did call her as requested. She reported her neighbors are developing illnesses from the concrete dust in her area. She called the police at least four times last week to report the concrete companies were working from 11:00 p.m. to 4:00 a.m. violating the noise ordinance.

This matter was taken under advisement.

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP Moved to extend the Pending List to June 7, 2010.  
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: None; ABSENT: Hornung.

**UPCOMING RESOLUTIONS**

CAMP Moved to approve the resolutions to have Public Hearing on June 7, 2010.  
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: None; ABSENT: Hornung.

**ADJOURNMENT 6:37 P.M.**

CAMP Moved to adjourn the City Council meeting of May 24, 2010.  
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Snyder, Spatz; NAYS: None; ABSENT: Hornung.

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Joan E. Ross, City Clerk

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Judy Roscoe, Senior Office Assistant

