THE MINUTES OF THE CITY COUNCIL MEETING HELD MONDAY, AUGUST 29, 2011 AT 5:30 P.M.

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

Council Chair Carroll 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 August 22, 2011 reported having done so, found same correct.

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

PUBLIC HEARING

APPOINTING VICKI HUFF TO THE LES BOARD TO FILL AN UNEXPIRED TERM EXPIRING DECEMBER 31, 2012 - Vicki Huff, 505 Pier 2, came forward to accept the appointment to the LES Board and answer questions from the Council. Council Member Camp questioned Ms. Huff as to alternative energy sources and the cost to bury power lines. Ms. Huff responded saying she would look at all projects from the eyes of the rate payer. She would consider many sources of information to make her decisions.

This matter was taken under advisement.

APPLICATION OF BENCHMARK REDEVELOPMENT, INC. DBA BUZZARD BILLY'S FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 24 FEET BY 13.4 FEET AT 247 NORTH 8TH STREET ON SEPTEMBER 10, 17, OCTOBER 8, AND 29, 2011 FROM 8:00 A.M. TO 2:00 A.M. - Roger W. Hothan, Benchmark Redevelopment, Inc., came forward to request a special license and to answer questions from the Council. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 11027 – AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY AMENDING SECTIONS 27.25.020, 27.27.020, 27.28.020, 27.31.030, 27.37.020, 27.41.020, 27.43.020, AND 27.45.020 TO ALLOW ADULT CARE CENTERS AS A PERMITTED USE IN THE O-1 OFFICE DISTRICT, O-3 OFFICE PARK DISTRICT, R-T RESIDENTIAL TRANSITION DISTRICT, B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT; B-5 PLANNED REGIONAL BUSINESS DISTRICT, H-2 HIGHWAY BUSINESS DISTRICT, H-3 HIGHWAY COMMERCIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT, RESPECTIVELY - Travis Jacobs, 7508 S 37th Street, Associate Director for Community Alternatives Nebraska, came forward to request the change of zone in order to open an adult care center which is known as Adult Day Support from an industrial district at 4851 S 16th Street to 2801 N 27th which is a commercial district and would appreciate changing zoning so they could move into this building because they feel the location is ideal for their adult care center program.

This matter was taken under advisement.

CHANGE OF ZONE 11029 – AMENDING SECTION 27.45.025 OF THE LINCOLN MUNICIPAL CODE TO ALLOW HOTELS AND MOTELS IN THE H-4 GENERAL COMMERCIAL DISTRICT AS A PERMITTED CONDITIONAL USE - Derek Zimmerman, 7931 S 34th, came forward to request and answer questions regarding the change of the H-4 zone to allow this district to have hotels and motels. Mr. Zimmerman was asked if there was a specific project he was purposing. Mr. Zimmerman stated that a potential developer approached a client of his about wanting to put a hotel in this district. No specific project is identified for this area because they would need the zone changed first in order to complete a project.

Marvin Krout, Planning Director, also came forward informing the Council Members the reasoning for H-4 Zoning. He indicated it was developed in 1979 prior to the big zoning changes and prior to the big use permit districts for the Trade Center at 56th and Hwy 2 and Old Cheney. He also indicated the Planning Commission has stated that they would like to revisit the H-4 Zoning district to simplify it in the future.

Council Member Cook asked that a map from the Planning Commission be provided to the Council when changing a zone.

This matter was taken under advisement.

AMENDING CHAPTER 5.41 OF THE LINCOLN MUNICIPAL CODE RELATING TO SALVAGE, RECYCLING AND COMPOSTING OPERATIONS BY AMENDING SECTION 5.41.050 TO INCREASE RELATED PERMIT FEES; AND AMENDING SECTION 5.41.060 TO INCREASE THE ANNUAL OCCUPATION TAX LEVIED ON SALVAGE OPERATIONS OR COMMERCIAL COMPOSTING OPERATIONS;

AMENDING TITLE 8 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEALTH AND SANITATION BY AMENDING SECTION 8.06.145 TO INCREASE THE PERMIT FEE FOR OPEN BURNING; AMENDING SECTION 8.08.060 TO INCREASE THE PERMIT FEES FOR A BODY ART ESTABLISHMENT; AMENDING SECTION 8.08.150 TO INCREASE THE INITIAL PERMIT FEE FOR A BODY ART PRACTITIONER; AMENDING SECTION 8.14.037 TO INCREASE THE PERMIT FEES ASSOCIATED WITH CHILD CARE PROGRAMS; AMENDING SECTION 8.20.150 TO INCREASE THE PERMIT FEES ASSOCIATED WITH FOOD ESTABLISHMENTS; AMENDING SECTION 8.24.150 TO INCREASE THE PERMIT FEE FOR A VARIANCE TO THE PROVISIONS OF LMC SECTION 8.24.090 RELATING TO NOISE DISTURBANCES; AMENDING SECTION 8.38.090 TO INCREASE THE PERMIT FEE FOR THE OPERATION OF A CLASS A OR CLASS B SWIMMING POOL; AMENDING SECTION 8.40.070 TO INCREASE THE PERMIT FEES ASSOCIATED WITH THE OPERATION OF SPA FACILITIES;

AMENDING TITLE 24 OF THE LINCOLN MUNICIPAL CODE RELATING TO PLUMBING AND SEWERS BY AMENDING SECTION 24.38.070 TO INCREASE THE PERMIT FEES ASSOCIATED WITH ON-SITE WASTEWATER TREATMENTS SYSTEMS;
AMENDING CHAPTER 24.42 OF THE LINCOLN MUNICIPAL CODE RELATING TO REGULATION OF PROPERTY TRANSFERS WITH ON-SITE SYSTEMS TO INCREASE THE FEES FOR REQUIRED SERVICES OF REVIEWING PRIVATE INDUSTRY PROPERTY TRANSFER REPORTS AND CONDUCTING INSPECTIONS, PROVIDING CONSULTATIVE ASSISTANCE, AND ENFORCEMENT;
AMENDMENT CHAPTER 8.44 OF THE LINCOLN MUNICIPAL CODE RELATING TO WATER WELLS TO INCREASE THE FEES FOR PROVIDING REQUIRED SERVICES OF WATER WELL INSPECTIONS, SAMPLING, CONSULTATIVE ASSISTANCE AND ENFORCEMENT - Judy Halstead and Scott Holmes, Lincoln Lancaster County Health Department, came forward to request the 3% increase to cover program costs discussed previously in the budget discussion with the Mayor's budget and the joint budget meeting in July for 11, 12, and 13. Judy indicated that 14 and 15 were also looked at and direction from the joint budget meeting was to solely fee fund the water wells inspections. This would be a significant fee increase and a letter was sent to the property owners that own wells and are being impacted so that they could come and speak tonight.

Council Member Camp asked Judy if there was a distinction made between a water well made for drinking or water well for irrigation? The answer was that there was no distinction between the two. Camp asked if there has ever been consideration of that since they do have quite a difference in the use. Judy asked Scott Holmes to answer and he indicated that this matter has been discussed many times and the bottom line is that everybody is shared the same ground water no matter what your particular use of it is. Camp then asked about the fee going from $60 to $110 and asked if the said purpose of that was to make it solely self-funded? Judy indicated yes to make it solely fee funded and not to use any general fund dollars to fund the program.

Scott Holmes talked inspecting the wells annually and indicated that historically this was a two permit, but within the last five years, we have tried to inspect annually. Scott talked about specific items such as inspections and how all wells are regulated by the Federal Clean Water Act. The fee used to be a shared cost with well owners and all citizens of Lincoln and the proposal is that those that get the direct service should pay for it. Scott provided handouts with the well location and recent testing results. Scott also indicated that the city water is tested daily to assure safe water for everyone in the city.

Council Member Cook referred to the map indicating that a lot of wells appear to be on newer developments. He asked Scott Holmes if it was his experience that over time these wells will slowly go away and that if we were to look at this map a hundred years from now that these areas that have all these wells would look much like the rest of the city that does not or has there been a change are these wells likely to be ones that stick around for a long time? Scott indicated that the change occurred about three years ago when the city annexed multiple properties ane in brining in many of those, almost all of them had well water that they were relying on. Most people do not want to get rid of their wells.

Bill Moser, 800 Pinetree Lane, came forward with his concerns about the rate increase. New wells are rigorously inspected when put in and he does not see where an annual inspection is necessary on new wells. He feels that this is government intervention and is an intrusion. He states the fee is supposed to pay for inspections, water sampling, follow-up, consultation, and enforcement. Bill indicated his well has not always been tested every year and he was still charged. There was a time when no one showed up for two years.

Don Fricke, 3921 S 78th Street, stated he was here to offer options indicating that there is no scientific evidence to say that it is safer to test water every year or two or three years. Another option would be to drop the fee totally and do as they do for back flow testing and send results in to the Health Department. Don indicated this was nothing more than another tax increase.

Jane Kinsey, 6703 Hawkins Bend, said that the Council promised not to raise taxes. Jane indicated she has a well and saves thousands of dollars for not tapping into city water and feels this is a punishment for having her own well.

Jerry Lulge, 4014 N 44th Street, indicates his well is only used for watering and thinks that the city would encourage people to do this because it is saving the city's water. He feels the $110 fee plus the $120 for back flow testing is a significant increase compared to the $50 he paid 10 years ago.

Helen Foreman, 1400 Manchester Drive, stated that she is taking a different position and understands the reasoning to protect the quality of well water and would like to tap onto the city. She indicated she has contacted two or three different plumbers for bids, but it is difficult to accomplish and it has become very prohibitive because of all the red tape that is involved to tap into the city water. They have been maintaining the wells that they have and the cost has gone up to maintain that integrity. She indicated the bids she received to tap into city water were well over $10,000 even though the city indicated on the letter they sent out that the approximate cost to tap into the city water is $5,000 to $10,000 and then there was the $40 per linear foot for the assessment to the water mains.

Don Frank, 510 Hill Street, reported that several years ago when the Van Dorn connection occurred there was a water district put in at that time only 50 feet for him to hook up to city water. He indicated that his well was tested and tested positive for Carbon Tetra Chloride. Over 20 years ago it cost him $1,000 to hook up to city water which was 50 feet from his home. Don reports that his well has a back flow preventer on it that he had to install when he was hooked up to city water and is back flow tested and he does not use his well for drinking just for irrigation. He indicated he still has to pay the annual fee for back flow test. He indicated the well doesn't have to draw a drop of water and because he has a well on his property he would have to pay $110 plus the fee for the back flow test. He sees no reason for the increase and feels it is just another way to get money from his pocket to your pocket.

Council Member Camp would like further discussion about doing inspections every couple of years instead of annually. He would also like to discuss charging for what is needed by the well owner.

Scott Holmes indicated that there are many approaches to fees in almost all cases in almost all of our fees we have the standard fee that applies to most everyone the costs for those additional services are part of that whether you use them or not that would be almost to the letter throughout the health codes. There are some legal ramifications and it opens the city up to more liability for allegations of intentionally marking things on an inspection so that they can collect fees for a re-inspection fee and the board of health has not supported such fees in the past nor has the food advisory committee or their quality board and I think the same applies here.

Council Member Camp indicated he would rather not penalize everyone for the re-inspections needed and knows that the Building and Safety Department where there are situations where there are fees for re-inspections so that if somebody is providing a more economical need for building and safety inspections and complies that they are not hit with those extra charges so I very much encourage starting right now in the Health Department in making those that use the service and cause the need to pay. I would also like to see a distinction between drinking wells and irrigation wells and if they did connect a fine or a severe penalty. He does not want to increase the fees to those who are doing the right thing and also hopefully that would make it easier on the Health Department staff. Since this is the second reading in two weeks this will be voted on because of holiday. He wants this to be reviewed with further discussion on how to approach it.

Scott Holmes indicated that this is the current proposal and there is no doubt we could talk about it. We would be looking at a significant change to the ordinance and more administrative time and fees relative to it. Each time it would require a separate billing and follow-up.

Judy Halstead indicated that this would be a major restructuring of the fees. In addition, we would need to go back to the Board of Health with the restructured fees for their approval. Before that is done, she would like to do more research and look at numbers and estimates before we take a position related to restructuring the ordinance.

Council Member Camp asked Judy if this research could be done in a couple of weeks and she indicated it could.

Council Member Emery asked her to also research if testing should be performed annually or bi-annually.

Council Member Cook indicated whatever plan is used the goal is to cover the costs. The contaminated wells will be significantly higher in costs, so he is hoping that somewhere there is a middle ground but the fact is that it is hard to see how just the basic inspection wouldn't have to rise some to cover the costs.

Judy Halstead commented in regard to the middle ground is where we are with this proposal to cover the costs. So I believe that this is where we are, but because of the request we are going to look at an alternative, but I can tell you that those costs will rise significantly on the number of inspections we have to do.

Council Member Cook commented that if a well is found to be contaminated, it may not be the fault of the well owner.

Judy Halstead agreed and there are times that we have identified that the contamination came from another property or damage to the well that the owner was not aware of.

Council Member Cook indicated he would not want to be punitive toward those well owners as we are trying to help them out and get the well cleaned up and it is not their responsibility if we saddle them with hundreds of dollars.

Judy Halstead indicated those are all things they will have to consider if we went to changing the structure. Then it wouldn't matter how the contamination occurred it would still be the well owner responsible for those re-inspections until that well was cleaned up.

Council Member Eskridge indicated that small increases are expected and that this is a case where it is a major increase. He indicated to Judy to look at ways to schedule the increase over time instead of all at once.

This matter was taken under advisement.

HEARING ON THE APPEAL OF AMEETA MARTIN FROM THE DETERMINATION OF IMPACT FEES IMPOSED FOR THE NON-RESIDENTIAL BUILDING LOCATED AT 7301 SOUTH 27TH STREET, SUITE 150 AND REQUESTING A WAIVER OR REDUCTION OF SAID FEES - Rick Peo, City Law Department, indicated that after discussion and a review of this matter a fee should not have been imposed on Ms. Martin; it has been withdrawn and she will be refunded the dollars that she spent. Basically the situation revolved around the fact that it is a shopping center and her bay was located in a multi-bay building within the same area as the Super Saver at 27th Pine Lake Road and we felt that area was deemed to be a shopping center and they receive an impact fee based on a variety of costs and potential costs and uses. It is a balanced fee that is not recalculated each time a new use goes into the building. It is a one time/first time calculation. There was not need to re-calculate based on

the Taekwondo facility switching to a drinking establishment.

Council Member Cook asked if this was a stand alone facility somewhere this kind of a change could occur and a re-calculated fee could occur. Peo informed him that a fee would be re-calculated in the case he presented. Cook then thanked Mr. Peo for his research.

This matter was taken under advisement.

DECLARING THE OFFICIAL INTENT OF THE CITY TO REIMBURSE CERTAIN EXPENSES IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION, EQUIPPING AND FURNISHING OF IMPROVEMENTS IN WATER DISTRICT NO. 1198, WATER DISTRICT NO. 1199, WATER DISTRICT NO. 1200, AND SANITARY SEWER DISTRICT NO. 1184 OF THE CITY FROM THE PROCEEDS OF CITY SPECIAL ASSESSMENT REVOLVING FUND BONDS - Steve Hubka, City Finance, reported that this was a routine reimbursement resolution to the city to reimburse itself out of future bond proceeds for the construction of these three water districts and one sanitary sewer district. They are located between Cornhusker Highway, Interstate 80 and North 56th Street.

This matter was taken under advisement.

APPROVING CONTRACT DOCUMENTS BETWEEN THE CITY OF LINCOLN AND ESRI INC. FOR THE SUPPLY AND DELIVERY OF ESRI GEOGRAPHIC INFORMATION SYSTEM (GIS) SOFTWARE PRODUCTS, MAINTENANCE SERVICES AND TRAINING PURSUANT TO STATE OF NEBRASKA CONTRACT NO. 11842 OC FOR A TERM EFFECTIVE FROM THE DATE OF EXECUTION THROUGH JANUARY 1, 2013 - Jeff McReynolds, City of Lincoln/Lancaster County GIS Program Manager, indicated that this request is for the approval of a master purchase agreement with ESRI in coordination with the State of Nebraska for reduced costs on any future purchases.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF AUGUST 1 - 15, 2011 - Patricia Mahoney, 5545 T Street, came forward because the city is refusing to pay the claim submitted due to damage that she sustained to her car in August 2010. Mahoney has been writing letters and calling various individuals over the past year and has exhausted all her efforts except for coming before the Council. She read a letter that she sent to the city attorney in May 2011 explaining the circumstances regarding her claim. She explained in the letter that she received a notice from the Public Works Department on August 24 regarding project #54009 stating the city purposes to overlay 56th Street from T Street to Vine Street starting August 30. She said a few days later a city employee stopped by her home and informed her that her driveway would be closed and she would need to move her car. The city employee indicated that the city would be putting up barricades and she should park behind them. On August 30, Mahoney parked her car behind the barricades and the city started milling the street. On August 31, my car was parked behind the barricade facing east, it was sunny and hot, and at approximately 2:30 p.m. she looked out her living room window and saw a large dump truck parked beside her car and a conveyor belt loading the dump truck with the milled asphalt. Mahoney reported seeing debris falling onto her car. She reported just getting out of the shower; so she hurried to get dressed to run out. But by the time I got dressed, the truck and the conveyor machine were gone. Mahoney observed several dents and scratches on the hood, roof, trunk and side of the car along with melted tar. Mahoney saw a public works man on the corner and went over to talk to him. Mahoney reported that he told her that she needed to contact Constructors, Inc. as the city had contracted this job with them. On September 1, she called Constructors, Inc. and talked with Kevin Fry who told her that they had contracted the work with Industrial, Inc. and she needed to call them. On September 2, Mahoney called Industrial, but got no answer. On September 2, I called Ron Edson, Project Manager, he told me to call Craig, Constructors, Inc., which she did; Craig had her call Mark and Mark wanted her to call Wes. Mahoney told Mark that she had already called enough people and that he should have Wes call her. Wes did call and informed her that he would be out to look at her car later that day. Wes told her that the marks on her car were from tree sap. He took photos and said that he would turn them into their insurance company. On September 7, Mr. Edson went to Ms. Mahoney's house and Mahoney told him that she had not heard anything; he advised her to call them back. On September 10, she talked to Mark who had her call Wes. Mahoney left a message for Wes stating that she was going to call the city on Monday. Wes returned her call and said that he could not talk to the workers about the accident until September 17. Mahoney heard nothing again and called Wes on September 21. Wes told her that he did not get in touch with anyone and that he would call her back. On September 23, she talked to Karen Sullivan with EMS Risk Insurance Services and she said that this was the first that she had heard of the accident. Sullivan informed Mahoney that she would send an adjustor out to see her car. Mr. Harding, an adjustor, came to look at her car. Mahoney described the day as a cloudy day and the car was dusty and it was hard to really see the marks and scratches. He informed her that he would talk with Karen and they would be back in touch. On October 6, Mahoney received a letter from EMS Risk Insurance informing her that they would pay $285 for the damages. Mahoney advised EMS Risk Insurance that the $285 was not acceptable and she was going to fight it. On October 18, she obtained an estimate for repairs from Speidell in the amount of $985. Mahoney had the car detailed so you could really see the damage. Mahoney feels like she has gotten the run around. Mahoney reports that she is a retired citizen who bought this new 2008 Kia and kept it in the garage and it looked the same as new in August 2010. Mahoney feels the city should pay for these damages, because she did as she was told to park the car in the street behind the barricade. Mahoney presented pieces of the asphalt that were on her car. Mahoney feels that she did as she was told and the city should not have instructed me to do this if it wasn't a safe area. Mahoney stated that this is a legitimate claim and it is a matter of principal as a tax payer and a home owner that this claim

should be reconsidered. Last week, she was told by Craig that if she would obtain two more estimates and she did that he said he would look at them. Mahoney indicates that she never heard back from him or anyone else.

Council Member Camp asked who and when from the city were you contacted versus these contractors?

Mahoney indicated it was August 23 for the overlay project and then personally came and told her the next day to park her car behind the barricade.

Council Member Camp asked if the person that talked to you the next day personally was a city employee?

Mahoney indicated it was a city employee and that she talked to Mr. Edson and he came out several times to talk to her. She just feels if the city contracts out to these contractors that they should be responsible for them. I sent a letter to the City Attorney's office in December but did not make a copy of it and when she contacted them in March, they didn't have it.

Rod Confer, City Attorney, understands the frustration that Ms. Mahoney has but this is a situation where the city hired a private contractor to do some street work and the private contractor according the Ms. Mahoney damaged her car. The city is not liable under those circumstances. So what we have done is that we have tried to notify the contractors, we gave her instructions on how to pursue her claim against the contractor and she has done and admirable job of keeping track of all the steps that she has gone through, with no agreement with the contractor and apparently is still negotiating with them. If she is not able to come into agreement with the contractor, then her next course that is left open to her is to bring a law suite against the contractor, but the city doesn't when they hire somebody to do work for the city they don't insure that whatever they do is going to be covered by the city and that the city is going to agree to be liable for everything that happens as a result of that. So it is simply a matter that she needs to do again, keep pursuing and go after the contractor to try to reach an agreement with them.

Council Member Cook indicated that this was for those who advocate privatization this is how it works; when we hire a private firm they are liable for the mistakes they make; not us and that is part of the benefit we get from hiring them. But, in this case there is an additional element that she was asked to put her car in a particular place that a city employee believed was a safe place. Is that relevant here or should it have been a safe place and it is not our fault that it wasn't.

Confer commented that it should have been a safe place, but apparently the contractor according to Ms. Mahoney set up to close to this area that was supposed to be available to the public for parking and so forth and again, that would be the contractors fault.

Council Member Camp suggested helping in two ways; one a courtesy call to the contractor since the city does work with this firm quite a bit on a good will measure to encourage them to conduct themselves on the level of standard that doesn't cause damage to our citizens. Confer indicated that we do attempt to notify the contractors and to assist the public in dealing with them, we do not want to get into the business of babysitting, but in this instance, we can certainly make that call. Camp if I may we are not practicing law here either but I guess in a last resort she could bring this to a small claims situation.

Debra Roberts, 269 Irving Street, came forward stating that she sent emails and copies of estimates to Council Members. She reported having pictures of her driveway with her. Last October there was damage to her driveway from a Parks and Recreation truck turning around in her driveway. Another incident with a K-2 truck in January that used her driveway to turn around in as they were plowing the street and also there was a city truck that did it again in February. Roberts reported trying to catch the truck because when he was backing up in my driveway my eight year old son was standing in the driveway and watched him take out my mail box. The truck was fully loaded with salt or sand. She got into her car with wet hair and tried to find him. Roberts indicated she lives on a dead end street and that the properties around her are taken care of she stated that damage has also happened to the dead end sign. Roberts reports that if she stands outside, they won't turn around in her's but will her neighbors. Roberts appreciated being copied on the email to the subcontractors in where they were told not turn around in residential driveways in this area. Council Member Eskridge asked for the dollar amount being claimed.

Roberts indicated she sent the estimates and is just asking for the bottom half of the driveway that they turn around in. She actually has two estimates and they were for $3,294.38 and $2,165.80; she is just asking for $3,294.38 and she would pay $2,165.80. The city said that they would pay for her mailbox ($56) and has not received the money yet. Roberts put pictures of her driveway on display. Roberts was scheduled to attend the January Council meeting, but could not come because she was working.

Rod Confer, City Attorney, indicated that this is actually the third time Ms. Roberts has made a claim for this damage to her driveway. This claim was denied in January. She should have been here in January to contest the denial. This claim was denied because the Parks and Recreation Department indicated that they were not in the area that day. The February claim for the mailbox did not include additional damage to the driveway and has been approved for $56.00 and is on the approval list for tonight.

This matter was taken under advisement.

APPROVING THE AUDIT ADVISORY BOARD RECOMMENDATION, PURSUANT TO RESOLUTION NO. A-86267, REGARDING THE APPROPRIATE TYPE OF AUDIT AND THE APPROPRIATE SCOPE OF THE AUDIT OF THE FUNCTIONS, PROGRAMS AND ACTIVITIES OF THE CITY OF LINCOLN, DEPARTMENT OF PUBLIC WORKS AND UTILITIES IN THE AREAS OF OPERATIONS OF ITS ENGINEERING SERVICES DIVISION AND UTILIZATION BY THE DEPARTMENT OF COLLECTED IMPACT FEES - Don Herz, City Finance Director, here to review with the Council because earlier this year the Council passed a resolution asking the Audit Advisory Board to review impact fees and to do a performance audit of engineering services. Actually the review of impact fees is item number 21 and is provided fairly routinely. The Audit Advisory Board and there is a memo attached to this resolution that their Chair sent to the Council Members asking you to take a look at the scope as they were concerned that they could not do a performance audit of all engineering services within a $100,000 limitation and it appears that the focus is more of the revolving fund of engineering services. So that is what they are proposing that they do a limited engagement to ensure that the accounting with engineering revolving is being done appropriately and then maybe doing some bench marking to see if the fees that they charge are appropriate. So that is what they ask you to consider.

Council Member Camp stated that part of what they had hoped was a goal with the audit committee and the reviews that it does it to help us find efficiencies and financial savings for the city. So the first part that you mentioned of reviewing the revolving engineering services was just a matter of seeing money in/money out. I know that is important from an accounting audit standpoint, but from reviewing to help find savings and all I see more emphasis put on that second part that you described that really reviewing this at a certain level because I have heard contractors and other real estate related people express concerns about the amount of engineering costs that are assessed in projects.

Herz indicated he thinks that where most of the dollars would go toward that second engagement. I think the Audit Board held several meetings with one or two of the Council Members and others and got the impression that there was some desire to just make sure that the time sheets were getting charged to the right accounts and so the audit examination would probably be a fairly limited cost; maybe in the $5,000 range. But the bench marking engagement would be the more significant and more expensive cost involved in looking at engineering services. I think there was some desire to look at whether or not the fee/time was charged to the right jobs and costs were being accounted for appropriately.

Council Member Camp stated so there will be a substantial emphasis then on the level of costs that are being incurred as opposed to just the pure auditing ins and outs.

Council Member Cook stated he would like it if the second part of the audit would look at the fees that we charge verses the private sector. They will look at that and review what we are doing and what the private sector is doing and look at the fees and see if they are the same more or less and also look at other public entities to see if we match to what they are doing so that we get a good spectrum of engineering costs across the board in the Midwest. Cook also asked if the $100,000 cap would remain in place and Mr. Herz indicated it would.

This matter was taken under advisement.

APPROVING A CONSULTANT AGREEMENT BETWEEN THE CITY OF LINCOLN AND HBE BECKER MEYER LOVE LLP FOR EXAMINATION OF THE CITY'S PUBLIC WORKS & UTILITIES DEPARTMENT WITH REGARD TO COMPLIANCE AND COLLECTION OF IMPACT FEES - Don Herz, Finance Director, again I alluded to this previously this is a $7,500 engagement. The city purchasing agent went through a procurement process and this was the lowest fee.

This matter was taken under advisement.

SPECIAL PERMIT NO. 1114E - APPEAL OF HERITAGE BUILDERS, INC. TO THE PLANNING COMMISSION'S DENIAL FOR AUTHORITY TO AMEND THE PHEASANT RUN COMMUNITY UNIT PLAN TO ALLOW THE SIDEWALK REQUIRED ALONG ONE SIDE OF PHEASANT RUN LANE TO REMAIN AS IT IS CONSTRUCTED WITH ONE-HALF ON EITHER SIDE OF THE STREET, ON PROPERTY GENERALLY LOCATED AT PHEASANT RUN LANE AND OLD CHENEY ROAD - Tim Gerken, Olsson Associates, representing the developer and residents of Pheasant Run. We are essentially asking for a revision to the CUP of Pheasant Run to allow the sidewalks to be built as they are constructed today (displayed a site map). Pheasant Run is a small community off of Old Cheney Road between 56th and 70th Street. It was developed over the course of many years. Sidewalks are build on the east side throughout Pheasant Run. What happened throughout the course of the development the first two homes were constructed on the Pheasant Run Place on the north and the sidewalks were built what happened is the developer used the rest on the development land as a tree orchard to grow trees for the homes as they were being built. In recent development this cul-de-sac was installed on Pheasant Run Place and as the developer was building the homes knew that the trees on the east side of the road would interfere with the sidewalk placement to be put out further. The developer called the city and asked if the sidewalks could be pushed onto the west side in lieu of having to avoid the trees on the east side. At that time the city said yes you can build a side on the west side. The sidewalks were built and now in this recent year the homes were being built on the east side and the city indicated that there was a need of a sidewalk connection so what happened is we met with the city and asked to

connect the sidewalks at this mid-block location. The residents are happy with the way that they sidewalks are built and actually prefer the mid-block crossing to potentially crossing on Old Cheney Road there is not a right turn lane off Old Cheney Road and the residents witnessed that you have a high speed velocity coming on Old Cheney Road and to make a right turn, you have to exit Old Cheney Road fairly fast or risk the fear of possibly getting rear ended. So, at crossing the mid-block it makes the residents happier. Displayed pictures of the mid-block crossing from the north and south.

Phillip Euler, 5520 Grouse Avenue, is a member of the Pheasant Run Road Owners Association. He reported that they queried their membership and he read what they association as him to reports as follows: "the members of Pheasant Run Road Association by a strong majority and with none disagreeing believe that the existing sidewalks along Pheasant Run Lane are satisfactory as they currently exist. We feel it is not necessary to have additional sidewalks on the east side where the west side's already exist. We support approval of the proposed amendment CUP 1114E." Euler provided a list of the members who had an affirmative and one abstention and I think eleven just did not respond. and I took a vote and the vote supports the existing sidewalks indicating that they are satisfactory as they currently exist and they support the proposed amendment of the CUP Special Permit #1114E and included a list of the members.

Council Member Emery asked if there was a connecting road anywhere else on Pheasant Run Road?

Gerken informed him that there is not.

Council Member Emery stated so then it is a self-contained project so as long as the people inside of Pheasant Run Road are happy with the sidewalk it would seem to be that would maybe satisfy everyone.

Euler indicated that there were thirty-five residents in Pheasant Run.

Council Member Cook, I just want to clarify the staff report because it said that the sidewalk was required only along the west side, so even early on the requirement was that there only be a sidewalk on one side of Pheasant Run.

Gerken responded that was correct.

Council Member Cook indicated the west side.

Gerken responded no on the east side.

Council Member Cook indicated he was trying to figure that out because it states in the staff report only along the west side.

Gerkin indicated that was correct initially Pheasant Run was approved to be built on one side of the street and it was the west side. Later administratively it was changed to be built on one side of the road and that was the east side.

Council Member Cook indicates on March 11, 1997 it was switched to the east side, but the west side portion was built when and the east side built?

Gerken did not know and Euler responded that it was build roughly about seven years ago and parts more recent than that.

Council Member Cook so the west side portion was built after this '97 change that allow it. So there were not any sidewalks when this change was made.

Euler indicated that there were not sidewalks down to Old Cheney.

Council Member Cook responded so in fact, since this was done and since the change in '97, which said build it on the east side, half was built on the east side and half was built on the west side.

Gerken and Euler indicated that was correct.

Council Chair Carroll had a couple suggestions first where the sidewalk crosses going from west to east on the east side it goes right at somebody's driveway. Can you move that entrance on the sidewalk a little farther north, I don't like people walking right up to somebody's driveway to get onto a sidewalk. I'd rather have it their own entrance right off the street onto the sidewalk not going into somebody's driveway because if somebody is backing out of that driveway and someone is walking across the street at the same time I think there is a conflict there.

Gerken asked so you are talking about moving the connection a little bit further north?

Council Chair Carroll responded no, I think on the car side that is the east side isn't it? So the entrance to the sidewalk is right on that person's driveway there is no ramp off the street. You have to walk in the driveway to get onto the sidewalk. So I would ask that if you put a ramp a little bit north of that driveway.

Euler put a curb cut there with a ramp?

Council Chair Carroll responded yes. The second thing is if you would mark the pedestrian walkway.

Gerken said that would work.

Council Chair Carroll then indicated that on the east side there are two mail boxes in the dead center of the sidewalk. So if you are walking down the sidewalk at night you are going to walk right into two mail boxes. Is there anyway to deal with those?

Gerken replied that he can ask the homeowners.

Council Chair Carroll indicated this because the sidewalk is right up against the curb and one of them is a large brick mail box.

Euler commented that this is a standard mail box and that there is a little bump in the sidewalk to allow you to go around it. The other one, Euler is not sure where it is at.

Council Chair Carroll indicated it was just north of this one. So, he would like to know how those two mail boxes should be dealt with. He is fine with the sidewalk on that side but would like to see some arrangement so that people do not walk into those mail boxes. So if you could build a sidewalk around them and then mark them. Those are my issues that I would like you to correct.

Council Member Cook regarding the sidewalk next to the street here is how wide; 4 feet?

Gerken the sidewalk width is about 4 feet.

Council Member Cook so it is right behind the curb on the east side?
Gerken yes.
Council Member Cook other than the mail boxes; the mail boxes are the obstruction primarily along this route otherwise you are going along the curb there really are no trees within 4 feet of the curb, the rest of the way down to Old Cheney are there?
Gerken indicated that at the time the sidewalk was built on the west side there were trees and then when the homes got built the trees were removed ironically enough.
Council Member Cook indicates so this could be completed on the east side immediately behind the curb all the way to Old Cheney.
Euler indicated this would not be easy with the home that was built about 2 years ago right at the corner of Pheasant Run Lane and Old Cheney on the northeast corner that has been totally landscaped and he's got a big mail box right on the curb and he would have to do some major relocation of everything.
Council Member Cook and moving the sidewalk in further would run into potentially some existing landscaping. There are all these issues about whether this development connects to anything else so it doesn't make a big difference here, but also for me even if we said go ahead and extend it beyond the curb I don't know if that is a design I would like to see anyway, so it is better that at least a portion of this sidewalk on the west side is back further.
Council Chair Carroll so then you would agree to mark the crosswalk and change it not to enter into a driveway?
Gerken responded yes that is a condition of the staff if this was approved we would have signage of the truncated domes at the ramps.
Council Chair Carroll indicated that he would also like 4 foot around those mail boxes or they could go across the street.
Gerken indicated the homeowners would need to be talked to about those issues.
Council Member Camp asked regarding the mail boxes aren't you fairly far north there so there is not a lot of pedestrian traffic going much farther is there?
Euler indicated that was true. When we say there are 31 homes there are actually 4 homes that don't even access the east side of that because they are in Pheasant Run Place Circle, which is the first corner after you turn onto Pheasant Run Lane.
Council Member Camp thinks the mail boxes are far enough in that people aren't walking into them.
Euler said they have been there a long time.
This matter was taken under advisement.

ADOPTING AN AMENDED SCHEDULE OF COSTS INCREASING THE ANNUAL INSPECTION FEE FOR CONDUCTING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT COMPLIANCE INSPECTIONS AT REGULATED INDUSTRIAL FACILITIES BY HEALTH DEPARTMENT STAFF;
INCREASING FEES FOR SPECIAL WASTE PERMITS AS AUTHORIZED UNDER CHAPTER 8.32 OF THE LINCOLN MUNICIPAL CODE;
AMENDING THE LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL REGULATIONS AND STANDARDS TO REVISE AND CONSOLIDATE THE LOCATION OF VARIOUS FEES, TO INCREASE THE FEE FOR ASBESTOS NOTIFICATIONS AND FOR EMISSIONS OF REGULATED AIR POLLUTANTS FOR WHICH FEES ARE CHARGED - Scott Holmes, Health Department, reports that these fees are going up approximately 3% to 5%. These are programs which are fee funded and for the most part the changes are pretty similar to the last several years. On the air regulations we have made an attempt to move fees that are in various sections into a single section so that it would be more understandable and easier for our regulated public to see what the fee are. So it looks like there are a lot of changes in our air regulations, but in fact, it is very few changes other than moving the fee sections togeher.
Council Member Camp asked Scott how many businesses are affected by these regulations.
Holmes indicated that NPDS regulations affect approximately 100 businesses by Federal Law on National Pollution Discharge Elimination Systems that require them to hold a permit federally enforceable through the state. The city also has a permit that applies to the entire city and we are responsible to ensure those businesses are in compliance with their permit. The Special Waste

fees apply to 700 to 800 businesses and there are 35 different kinds of special wastes. Air regulations currently affect about 200 to 240 businesses. He also commented that some businesses overlap requiring more than one of these permits.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

APPOINTING VICKI HUFF TO THE LES BOARD TO FILL AN UNEXPIRED TERM EXPIRING DECEMBER 31, 2012 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86472 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Vicki Huff to the Lincoln Electric System Board for a term expiring December 31, 2012 is hereby approved.

Introduced by: Doug Emery

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

LINCOLN WATER AND WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR THE MONTH JUNE, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. **(8-71)**

LINCOLN WATER AND WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR THE MONTH JULY, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. **(8-71)**

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON AUGUST 15, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. **(27-1)**

PETITIONS & COMMUNICATIONS

PLACED ON FILE IN THE OFFICE OF THE CITY CLERK:

Administrative Amendment No. 11032 to Special Permit No. 1753B, Vavrina Meadows 1st Addition Community Unit Plan, approved by the Planning Director on August 19, 2011, requested by ESP, Inc., to remove the number of units shown on each building in the multifamily area of the community unit plan and reflect the total number of units permitted in the multifamily area in the land use table, on property generally located at S. 14th St. and Garrett Lane.

Administrative Amendment No. 11031 to Special Permit No. 06001, The Grand Terrace Community Unit Plan, approved by the Planning Director on August 22, 2011, requested by Fox Hollow, LLC., to revise the site plan to show apartments instead of townhouses on property generally located at S. 84th St. and Highway 2.

Waiver No. 11023 to Administrative Final Plat No. 02058, approved by the Planning Director on August 22, 2011, requested by Krueger Holding Company, to extend the time for two years to install sidewalks and street trees for Vavrina Meadows 12th Addition. The improvements shall be completed by August 22, 2013. Property is generally located at S. 14th St. and Dahlberg Dr.

REFERRALS TO PLANNING DEPARTMENT:

Change of Zone No. 11031, requested by Hutchinson Architects, P.C., from B-1 Local Business District and R-3 Residential District to R-5 Residential District and from R-1 Residential District to R-4 Residential District, on property generally located at S. 70th and Van Dorn Streets.

Special Permit No. 459A, requested by Hutchinson Architects, P.C., for an amendment to the Georgetown Apartments Community Unit Plan, for expansion from 115 to 175 apartment units, Strain's Acres, and vacated Drury Lane, located in the SW 1/4 of Section 34-10-7, Lancaster County, Nebraska, generally located at S. 70th and Van Dorn Streets. The Planning Commission action is final action, unless appealed to the City Council.

Special Permit No. 11022, requested by Gana Trucking & Excavating for soil excavation, on property legally described as the remaining portion of Lot 1, Woodlawn West and part of Lot 60 I.T., located in Section 31-11-6, Lancaster County, Nebraska, generally located at Highway 34 and NW 48th Street. The Planning Commission action is final action, unless appealed to the City Council.

MISCELLANEOUS REFERRALS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF BENCHMARK REDEVELOPMENT, INC. DBA BUZZARD BILLY'S FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 24 FEET BY 13.4 FEET AT 247 NORTH 8TH STREET ON SEPTEMBER 10, 17, OCTOBER 8, AND 29, 2011 FROM 8:00 A.M. TO 2:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-86473 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor control Act, and the pertinent City ordinances, the City Council recommends that the application of Benchmark

Redevelopment, Inc. dba Buzzard Billy's for a Special Designated License to cover an outdoor area measuring approximately 24 feet by 13.4 feet at 247 North 8th Street, Lincoln, Nebraska, on September 10, 17, and October 8, 29, 2011 from 8:00 a.m. to 2:00 a.m., be approved with the condition that the premises complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for th permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practice shall be followed.
5. Any food sold shall be provided by a licensed and inspected establishment.

Introduced by: Jon Camp

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

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

CHANGE OF ZONE 11027 – AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY AMENDING SECTIONS 27.25.020, 27.27.020, 27.28.020, 27.31.030, 27.37.020, 27.41.020, 27.43.020, AND 27.45.020 TO ALLOW ADULT CARE CENTERS AS A PERMITTED USE IN THE O-1 OFFICE DISTRICT, O-3 OFFICE PARK DISTRICT, R-T RESIDENTIAL TRANSITION DISTRICT, B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT; B-5 PLANNED REGIONAL BUSINESS DISTRICT, H-2 HIGHWAY BUSINESS DISTRICT, H-3 HIGHWAY COMMERCIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT, RESPECTIVELY - CLERK read an ordinance, introduced by Doug Emery amending Title 27 of the Lincoln Municipal Code by amending Sections 27.25.020, 27.27.020, 27.28.020, 27.31.030, 27.37.020, 27.41.020, 27.43.020, and 27.45.020 to allow adult care centers as a permitted use in the O-1 Office District, O-3 Office Park District, R-T Residential Transition District, B-2 Planned Neighborhood Business District; B-5 Planned Regional Business District, H-2 Highway Business District, H3 Highway Commercial District and H-4 General commercial District, respectively; and repealing Sections 27.25-020, 27.27.020, 27.28.020, 27.31.030, 27.37.020, 27.41.020, 27.43.020, and 27.45.020 of the Lincoln Municipal code as hitherto existing, the second time.

CHANGE OF ZONE 11029 – AMENDING SECTION 27.45.025 OF THE LINCOLN MUNICIPAL CODE TO ALLOW HOTELS AND MOTELS IN THE H-4 GENERAL COMMERCIAL DISTRICT AS A PERMITTED CONDITIONAL USE - CLERK read an ordinance, introduced by Doug Emery, amending Section 27.45.025 of the Lincoln Municipal Code to allow hotels and motels in the H-4 General Commercial District as a permitted conditional use; and repealing Section 27.45.025 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 5.41 OF THE LINCOLN MUNICIPAL CODE RELATING TO SALVAGE, RECYCLING AND COMPOSTING OPERATIONS BY AMENDING SECTION 5.41.050 TO INCREASE RELATED PERMIT FEES; AND AMENDING SECTION 5.41.060 TO INCREASE THE ANNUAL OCCUPATION TAX LEVIED ON SALVAGE OPERATIONS OR COMMERCIAL COMPOSTING OPERATIONS - CLERK read an ordinance, introduced by Doug Emery, amending Chapter 5.41 of the Lincoln Municipal Code relating to Salvaging, Recycling and Composting Operations by amending Section 5.41.050 to increase related permit fees; amending Section 5.41.060 to increase the annual occupation tax levied on salvage operations or commercial composting operations; and repealing Sections 5.41.050 and 5.41.060 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING TITLE 8 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEALTH AND SANITATION BY AMENDING SECTION 8.06.145 TO INCREASE THE PERMIT FEE FOR OPEN BURNING; AMENDING SECTION 8.08.060 TO INCREASE THE PERMIT FEES FOR A BODY ART ESTABLISHMENT; AMENDING SECTION 8.08.150 TO INCREASE THE INITIAL PERMIT FEE FOR A BODY ART PRACTITIONER; AMENDING SECTION 8.14.037 TO INCREASE THE PERMIT FEES ASSOCIATED WITH CHILD CARE PROGRAMS; AMENDING SECTION 8.20.150 TO INCREASE THE PERMIT FEES ASSOCIATED WITH FOOD ESTABLISHMENTS; AMENDING SECTION 8.24.150 TO INCREASE THE PERMIT FEE FOR A VARIANCE TO THE PROVISIONS OF LMC SECTION 8.24.090 RELATING TO NOISE DISTURBANCES; AMENDING SECTION 8.38.090 TO INCREASE THE PERMIT FEE FOR THE OPERATION OF A CLASS A OR CLASS B SWIMMING POOL; AMENDING SECTION 8.40.070 TO INCREASE THE PERMIT FEES ASSOCIATED WITH THE OPERATION OF SPA FACILITIES - CLERK read an ordinance, introduced by Doug Emery, amending Title 8 of the Lincoln Municipal Code relating to Health and Sanitation by amending Section 8.06.145 to increase the permit fee for open burning; amending Section 8.08.060 to increase the permit fees for a body art establishment; amending Section 8.08.150 to increase the permit fees for a body art practitioner; amending Section 8.14.037 to increase the permit fees associated with food establishments; amending Section 8.24.150 to increase the permit fee for a variance to the provisions of LMC Section 8.24.090 relating to noise disturbances; amending Section 8.38.090 to increase the permit fee for the operation of a Class A or Class B swimming pool; amending Section 8.40.070 to increase the permit fees associated with the operation of spa facilities; and repealing Sections 8.06.145, 8.08.060, 8.08.150, 8.14.037, 8.20.150, 8.24.150, 8.38.090, and 8.40.070 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING TITLE 24 OF THE LINCOLN MUNICIPAL CODE RELATING TO PLUMBING AND SEWERS BY AMENDING SECTION 24.38.070 TO INCREASE THE PERMIT FEES ASSOCIATED WITH ON-SITE WASTEWATER TREATMENT SYSTEMS - CLERK read an ordinance, introduced by Doug Emery, amending Section 24.38.070 to increase the permit fees associated with on-site wastewater treatment systems; and repealing Section 24.38.070 of the

Lincoln Municipal code as hitherto existing, the second time.

AMENDING CHAPTER 24.42 OF THE LINCOLN MUNICIPAL CODE RELATING TO REGULATION OF PROPERTY TRANSFERS WITH ON-SITE SYSTEMS TO INCREASE THE FEES FOR REQUIRED SERVICES OF REVIEWING PRIVATE INDUSTRY PROPERTY TRANSFER REPORTS AND CONDUCTING INSPECTIONS, PROVIDING CONSULTATIVE ASSISTANCE, AND ENFORCEMENT - CLERK read an ordinance, introduced by Doug Emery, amending Section 24.42.110 of the Lincoln Municipal Code to increase fees associated with the regulation of property transfers with on-site wastewater treatment systems; and repealing Section 24.42.110 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDMENT CHAPTER 8.44 OF THE LINCOLN MUNICIPAL CODE RELATING TO WATER WELLS TO INCREASE THE FEES FOR PROVIDING REQUIRED SERVICES OF WATER WELL INSPECTIONS, SAMPLING, CONSULTATIVE ASSISTANCE AND ENFORCEMENT - CLERK read an ordinance, introduced by Doug Emery, amending Section 8.44.070 to increase the annual water well permit fee and the water well construction permit fee; and repealing Section 8.44.070 of the Lincoln Municipal Code as hitherto existing, the second time.

PUBLIC HEARING - RESOLUTIONS

HEARING ON THE APPEAL OF AMEETA MARTIN FROM THE DETERMINATION OF IMPACT FEES IMPOSED FOR THE NON-RESIDENTIAL BUILDING LOCATED AT 7301 SOUTH 27TH STREET, SUITE 150 AND REQUESTING A WAIVER OR REDUCTION OF SAID FEES (8/15/11 - Con't P.H. 2 wks to 8/29/11)- PRIOR to reading:

COOK: Moved to withdraw Bill #11R-187.

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

The resolution, having been **WITHDRAWN**, was assigned to the File **#38-4610** & was placed on file in the Office of the City Clerk.

DECLARING THE OFFICIAL INTENT OF THE CITY TO REIMBURSE CERTAIN EXPENSES IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION, EQUIPPING AND FURNISHING OF IMPROVEMENTS IN WATER DISTRICT NO. 1198, WATER DISTRICT NO. 1199, WATER DISTRICT NO. 1200, AND SANITARY SEWER DISTRICT NO. 1184 OF THE CITY FROM THE PROCEEDS OF CITY SPECIAL ASSESSMENT REVOLVING FUND BONDS - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86474 A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF LINCOLN, NEBRASKA TO REIMBURSE CERTAIN EXPENSES IN CONNECTION WITH ACQUIRING, CONSTRUCTING, EQUIPPING AND FURNISHING IMPROVEMENTS IN THE CITY'S WATER DISTRICT NO. 1198, WATER DISTRICT NO. 1199, WATER DISTRICT NO. 1200 AND SEWER DISTRICT N0. 1186 FROM THE PROCEEDS OF CITY OF LINCOLN, NEBRASKA SPECIAL ASSESSMENT REVOLVING FUND BONDS.

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

Section 1. Findings.

(a) The City has begun acquiring, constructing, equipping and furnishing certain improvements (the "Project") in Water District No. 1198, Water District No. 1199, Water District No. 1200 and Sanitary Sewer District No. 1184 of the City (collectively, the "Districts") in the current fiscal year to provide for the health, safety and welfare of its residents and on and after August 29, 2011, the City anticipates spending funds in the amount of not less than $2,200,000 to pay the costs of the Project

(b) The City is authorized, pursuant to the provisions of Section 10a of Article VIII of the City's Home Rule Charter (the "Charter"), to issue and sell its Special Assessment Revolving Fund Bonds, payable from the levy of a tax upon all the taxable property located in the City, and the City anticipates issuing such bonds in the maximum aggregate principal amount of $2,250,000 (the "Bonds") in connection with the Project to finance all or a portion of the costs of the Project.

(c) The City anticipates incurring a portion of the costs of the Project prior to the issuance of the Bonds and desires to preserve its ability to reimburse such costs under the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations thereunder, including but not limited to Section 1.150-2 thereof (the "Regulations").

(d) The Code and the Regulations (collectively, the "Tax Law" require that the City declare its official intent to reimburse any original expenditures (except as set forth in the Tax Law) for costs of the Project with the proceeds of tax-exempt obligations not later than 60 days after the payment of such expenditures. The Tax Law requires that the Bonds be issued and a reimbursement allocation be made from the proceeds of the Bonds within 18 months after the later of the date (i) the original expenditure is paid or (ii) the Project is placed in service or abandoned, but in no event more than 3 years after the date the expenditure is paid.

(e) It is necessary, desirable, advisable and in the best interests of the City that it declare its official intent to permit the City to reimburse costs of the Project made by the City from the proceeds of the Bonds in accordance with the requirements of the Tax Law.

Section 2. Declaration of Intent and Related Matters.

(a) In accordance with the provisions of the Tax Law, the Council hereby declares the official intent of the City to reimburse all or part of the costs of the Project through the issuance of the Bonds in connection therewith, the interest on which will be excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. Prior to the issuance of the Bonds, the City is authorized to advance money in an amount not to exceed $2,250,000 for the purposes hereinbefore described.

(b) Except for (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) "de minimis expenditures" defined under Section 1.150-

2(f)(1) of the Regulations, and (iii) "preliminary expenditures" defined under Section 1.150-2(f)(2) of the Regulations, no expenditures made in furtherance of the Project have been paid by the City more than 60 days prior to the adoption of this Resolution.

(c) The reasonably expected source of funds to be used to pay debt service on the Bonds will be the proceeds of the levy of a tax upon all taxable property in the City, which, together with special assessments on property in the Districts, shall be sufficient to pay principal and interest on the Bonds and shall be pledged to the payment of the principal of and interest on the Bonds.

(d) The Bonds will be issued in the amount and upon the terms and conditions agreed to between the City and the purchaser of the Bonds for the purpose of paying all or a portion of the costs and expenses incident to the planning, acquisition, construction and financing of the Project, the Bonds to be authorized by the Council at a meeting held for such purpose.

(e) As of the date of this Resolution, there are no funds of the City reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than the contemplated issuance of the Bonds. This Resolution is consistent with the budgetary and financial circumstances of the City as they exist or are reasonably forseeable on the date hereof.

(f) Notwithstanding any other provision of this Resolution, nothing contained herein is intended to obligate the City to issue the Bonds or to reimburse any particular expenditure.

Section 3. Authorizations.

(a) The Finance Director and the City Controller (each an "Authorized Officer") are hereby authorized to take any further action as such Authorized Officer shall deem necessary or desirable without further action by the Council to carry out the transactions contemplated by this Resolution.

(b) The Authorized Officers shall be, and each of them hereby is, authorized to execute on behalf of the City and to deliver any and all other instruments and documents including, but not limited to, such certificates or instruments as may be required under the terms of this Resolution necessary to be executed and delivered in connection with this Resolution and the approvals made hereby.

(c) The Authorized Officers shall be responsible for making any "reimbursement allocation" described in Section 1.150-2 of the Regulations by transferring the appropriate amount of Bonds proceeds to the City accounts used to temporarily finance some or all of the costs of the Project. Each allocation must be evidenced by an entry on the official books of the City maintained for the Project and shall specifically identify the original expenditure being reimbursed.

Section 4. Ratification. All acts and deeds heretofore done by any officer, employee or agent of the City, on behalf of the City, to preserve the City's ability to reimburse expenditures made in furtherance of the Project with the proceeds of the Bonds are hereby ratified, confirmed and approved.

Section 5. Effective Dates. This Resolution will be in full force and effect from and after its passage and adoption by the Council and approval by the Mayor.

Section 6. 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: Doug Emery

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

APPROVING CONTRACT DOCUMENTS BETWEEN THE CITY OF LINCOLN AND ESRI INC. FOR THE SUPPLY AND DELIVERY OF ESRI GEOGRAPHIC INFORMATION SYSTEM (GIS) SOFTWARE PRODUCTS, MAINTENANCE SERVICES AND TRAINING PURSUANT TO STATE OF NEBRASKA CONTRACT NO. 11842 OC FOR A TERM EFFECTIVE FROM THE DATE OF EXECUTION THROUGH JANUARY 1, 2013 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86475 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Contact Documents between the City of Lincoln and ESRI Inc. for the supply and delivery of ESRI Geographic Information System (GIS) software products, maintenance services and training, pursuant to State of Nebraska Contract No. 11842OC for a term effective from the date of execution through January 13, 2013, upon the terms as set forth in said Contract Documents, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Introduced by: Doug Emery

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF AUGUST 1 - 15, 2011 - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86476 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated August 16, 2011, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

DENIED CLAIMS		ALLOWED/SETTLED CLAIMS	
Debra S. Roberts	NAS*	Debra S. Roberts	$ 56.67
Pat Mahoney	$ 985.00	Rick Urwiler	3,631.08
SaRena Freet	NAS*	Inspro Insurance(Quality Concrete Construction, Insured)	463.24
Randall & Lisa Olson	3,175.67		

Della L. Meyers 131.72
Nick & Cheryl Wood 46.00
Allstate Insurance Company
(Claim #0206726598 SRT) 4,933.41
* No Amount Specified

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by: Doug Emery

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

APPROVING THE AUDIT ADVISORY BOARD RECOMMENDATION, PURSUANT TO RESOLUTION NO. A-86267, REGARDING THE APPROPRIATE TYPE OF AUDIT AND THE APPROPRIATE SCOPE OF THE AUDIT OF THE FUNCTIONS, PROGRAMS AND ACTIVITIES OF THE CITY OF LINCOLN, DEPARTMENT OF PUBLIC WORKS AND UTILITIES IN THE AREAS OF OPERATIONS OF ITS ENGINEERING SERVICES DIVISION AND UTILIZATION BY THE DEPARTMENT OF COLLECTED IMPACT FEES - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86477 WHEREAS, the City Council adopted Resolution No. A-86267 on March 14, 2011, requesting the City Audit Advisory Board, pursuant to Art. IV, § 8 of the Lincoln Charter and Chapter 4.66 of the Lincoln Municipal Code, to consider the appropriateness and desirability of performing an independent assessment of the performance of the Department of Public Works and Utilities; and

WHEREAS, the City Audit Advisory Board has evaluated the City Council's Resolution A-86267 regarding a performance audit of the Department of Public Work & Utilities and recommends that the audit be divided into two separate engagements, (1) an examination of collected impact fees and activity within the Engineering Revolving Fund and (2) an examination of Engineering Services Division charges in comparison with other cities and private engineering firms.

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

The recommendations of the Audit Advisory Board as set out in the attached Memorandum dated August 10, 2011 regarding type and scope of audit and for separate phases of examination of the Public Works & Utilities Department, Engineering Services Division, are hereby accepted.

Introduced by: Doug Emery

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

APPROVING A CONSULTANT AGREEMENT BETWEEN THE CITY OF LINCOLN AND HBE BECKER MEYER LOVE LLP FOR EXAMINATION OF THE CITY'S PUBLIC WORKS & UTILITIES DEPARTMENT WITH REGARD TO COMPLIANCE AND COLLECTION OF IMPACT FEEs - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86478 WHEREAS, the City Council adopted Resolution No. A-86267 on March 14, 2011, requesting the City Audit Advisory Board, pursuant to Art. IV, § 8 of the Lincoln Charter and Chapter 4.66 of the Lincoln Municipal Code, to consider the appropriateness and desirability of performing an independent assessment of the performance of the Department of Public Works and Utilities; and

WHEREAS, the City Audit Advisory Board has evaluated the City Council's Resolution A-86267 regarding a performance audit of the Department of Public Work & Utilities and recommends that the audit be divided into two separate engagements, (1) an examination of collected impact fees and activity within the Engineering Revolving Fund and (2) an examination of Engineering Services Division charges in comparison with other cities and private engineering firm; and

WHEREAS, the estimated costs and available resources to engage in the first phase of the aforementioned two-part audit have been determined and deemed appropriate by the Audit Advisory Board and it recommends pursuing this phase of the audit.

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

That the attached Engagement Letter between the City of Lincoln and HBE Becker Meyer Love LLP for examination of the City's Public Works & Utilities Department with regard to compliance and collection of impact fees, in accordance with the terms and conditions contained in said Engagement Letter, 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 return the executed copies of the Engagement Letter to Vince Mejer, Purchasing Agent, for transmittal to HBE Becker Meyer Love LLP.

Introduced by: Doug Emery

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

SPECIAL PERMIT NO. 1114E - APPEAL OF HERITAGE BUILDERS, INC. TO THE PLANNING COMMISSION'S DENIAL FOR AUTHORITY TO AMEND THE PHEASANT RUN COMMUNITY UNIT PLAN TO ALLOW THE SIDEWALK REQUIRED ALONG ONE SIDE OF PHEASANT RUN LANE TO REMAIN AS IT IS CONSTRUCTED WITH ONE-HALF ON EITHER SIDE OF THE STREET, ON PROPERTY GENERALLY LOCATED AT PHEASANT RUN LANE AND OLD CHENEY ROAD - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86479 WHEREAS, Olsson Associates on behalf of the Developer and the Home Owners Association for Pheasant Run has submitted an application designated as Special Permit No. 1114E for authority to amend the Pheasant Run Community Unit Plan to allow the sidewalk required along the east side of Pheasant Run Lane to remain as it is constructed with one-half on either side of the street on property generally located at Pheasant Run Lane and Old Cheney Road, and legally described as:

Outlot "B" and Lots 2 through 7, Block 1, Pheasant Run

Addition; Outlot "B" and Lots 2 through 9, Pheasant Run 1st Addition; Lot 1, Pheasant Run 2nd Addition; Lot 1, Pheasant Run 3rd Addition; Lots 2 through 4, Pheasant Run 4th Addition; Lots 1 and 2, Pheasant Run 5th Addition; Outlot "A", Lots 1 through 6, Block 1, and Lots 1 through 3, Block 2, Pheasant Run 7th Addition; Outlots "A", "B", and "C", Pheasant Run 8th Addition; Lot 3, Pheasant Run 9th Addition; Lots 1 and 2, Pheasant Run 10th Addition; all located in the Southeast Quarter of Section 9, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska; containing a calculated area of 21.08 acres more or less;

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

WHEREAS, Tim Gergen of Olsson Associates on behalf of the Developer, Heritage Builders, Inc., filed a Notice of Appeal appealing the action of the Planning Commission's denial of Special Permit No. 1114E; and

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

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

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

That the application of Olsson Associates on behalf of the Developer and the Home Owners Association for Pheasant Run, hereinafter referred to as "Permittee" to amend the Pheasant Run Community Unit Plan to allow the sidewalk required along the east side of Pheasant Run Lane to remain as it is constructed with one-half on either side of the street, on the property described above, 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 community unit plan be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves an amendment to the existing Pheasant Run to allow the sidewalk to remain as it is presently constructed with one-half of either side of the street.

2. Upon approval of the special permit by the Planning Commission, the Permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including five copies with all required revisions listed below:

   a. Show the sidewalk in the approved location.
   b. Show crossing details including truncated domes, ramps and signs to the satisfaction of the Public Works Department.

3. The construction plans must substantially comply with the approved plans.

4. All development and construction must substantially comply with the approved plans.

5. All privately-owned improvements shall be permanently maintained by the Permittee.

6. The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters be in substantial compliance with the location of said items as shown on the approved site plan.

7. The terms, conditions, and requirements of this resolution shall run with the land and be binding upon the Permittee, its successors and assigns.

8. The Permittee 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 Permittee.

9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all prior resolutions approving this permit remain in full force and effect as specifically amended by this resolution.

Introduced by: Doug Emery

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

ADOPTING AN AMENDED SCHEDULE OF COSTS INCREASING THE ANNUAL INSPECTION FEE FOR CONDUCTING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT COMPLIANCE INSPECTIONS AT REGULATED INDUSTRIAL FACILITIES BY HEALTH DEPARTMENT STAFF - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86480 WHEREAS, the City Council adopted Resolution No. A-85994 on August 30, 2010, and is authorized under Chapter 28.02 of the Lincoln Municipal Code to establish and revise fees which the City may charge for National Pollutant Discharge Elimination System (NPDES) stormwater permit compliance inspections; and

WHEREAS, the Health Director has re-evaluated the estimated costs and available resources to administer, operate and enforce Lincoln Municipal Code Chapter 28.02, Illicit Discharges, and has determined that certain revisions are appropriate; and

WHEREAS, the Lincoln-Lancaster County Board of Health has reviewed the proposed fees and recommends their adoption; and

WHEREAS, the proposed fees are before the City Council for its consideration and approval.

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

Commencing on September 27, 2011, the following schedule of costs for NPDES stormwater permit compliance inspection fees shall be as follows:

SCHEDULE OF COSTS

NPDES Permit Type	Annual Inspection Fee
General	~~$420.00~~ $430.00
No Exposure	~~$300.00~~ $310.00
Subject to permit, not yet issued	$310.00
Late payment within 30 days after March 1	Annual fee plus 33% of annual fee
Late payment after 30 days after March 1	Annual fee plus 67% of annual fee

BE IT FURTHER RESOLVED that City Council Resolution No. A-85994 shall be superseded by the terms of this resolution.

Introduced by: Doug Emery

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

INCREASING FEES FOR SPECIAL WASTE PERMITS AS AUTHORIZED UNDER CHAPTER 8.32 OF THE LINCOLN MUNICIPAL CODE - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption.

A-86481 WHEREAS, the City Council adopted Resolution No. A-85993 on August 30, 2010, and is authorized under Chapter 8.32 of the Lincoln Municipal Code to establish and revise fees and minimum quantities for the issuance of Special Waste Permits; and

WHEREAS, the Health Director has re-evaluated the estimated costs and available resources to administer, operate and enforce the Special Waste Disposal provision of Chapter 8.32, and has determined that certain revisions are appropriate.

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

Commencing on September 27, 2011, the following schedule of annual permit fees, special fees, and minimum quantities is hereby established:

A. Group 1: Wastes That May Contain Free Liquids

1. Cooking oil and grease. Any quantity going to the Theresa Street Wastewater Treatment Plant Dump Station requires a permit, which permit may be issued as a blanket permit covering multiple disposals as provided on the permit. Annual Permit Fees: None. Waste in excess of one gallon per month or one pound per load disposed at a waste disposal site other than the Theresa Street Wastewater Treatment Plant Dump Station requires a Special Waste Permit. Annual permit fee: ~~$175.00~~ $180.00.
2. Cooking grease trap waste. Any quantity requires a permit. Disposal at the Theresa Street Wastewater Treatment Plant Dump Station. Annual permit fee: None.
   For all other disposal sites. Annual permit fee: ~~$175.00~~ $180.00.

3. Mud or sand from sumps or traps. Any quantity requires a permit.
   Disposal at the Theresa Street Wastewater Treatment Plant Dump Station. Annual permit fee: None.
   For all other disposal sites. Annual permit fee: ~~$175.00~~ $180.00.
4. Septic tank waste. Any quantity requires a permit.
   Disposal at the Theresa Street Wastewater Treatment Plan Dump Station - Annual permit fee: None.
   For all other disposal sites - Annual permit fee: ~~$175.00~~ $180.00.
5. Chemicals and waste from portable or chemical toilets. Any quantity requires a permit.
   Disposal at the Theresa Street Wastewater Treatment Plant Dump Station - Annual permit fee: None.
   For all other disposal sites - Annual permit fee: ~~$175.00~~ $180.00.
6. Sewage or other organic residues or sludges. Any quantity requires a permit.
   Disposal at the Theresa Street Wastewater Treatment Plan Dump Station - Annual permit fee: None.
   For all other disposal sites - Annual permit fees: ~~$175.00~~ $180.00.
7. Sludges containing a liquid concentration of 80% or more by weight or material producing free liquids in a Standard Paint Filter Test. Any quantity requires a permit.
   Disposal at the Theresa Street Wastewater Treatment Plant Dump Station - Annual permit fee: None.
   For all other disposal sites - Annual permit fee: ~~$175.00~~ $180.00.

Group II: Petroleum-based Wastes

8. Petroleum type grease trap waste. Any quantity requires a permit. Annual permit fee: $~~295.00~~ $305.00.
9. Sludges from petroleum tanks. Any quantity requires a permit - Annual permit fee: $~~295.00~~ $305.00.
10. a. Used oil filters. Any quantity requires an annual permit - Annual permit fees:
    Less than 220 pounds per month - ~~$66.00~~ $70.00.
    220 pounds or more a month - $~~295.00~~ $305.00.
    b. Petroleum contaminated soil and granular absorbents. Permitted Quantity: 220 pounds per month or more - Annual permit fee: $~~295.00~~ $305.00.
    c. Petroleum contaminated refuse or other materials except oil filters, soil and granular absorbents. Any quantity requires a permit - Annual permit fee:
    Quantities up to 220 pounds per month - ~~$65.00~~ $70.00.
    Quantities 220 pounds or more per month - ~~$285.00~~ $305.00.
11. Petroleum contaminated water. Permitted quantity: 55 gallons per month or more - Annual permit fee: $~~295.00~~ $305.00.
12. Oil, lubricants, hydraulic fluids, fuels, and other petroleum products. Any quantity requires a permit. Permit issued only for incineration in a used oil burning heating unit - Annual permit fee: ~~$35.00~~ $40.00.

Group III: Empty Containers

13. Pressurized containers or containers that may explode upon crushing. Empty containers meeting criteria for safe disposal at the City of Lincoln's Sanitary Landfill adopted according to §8.32.070 will not require a permit.
    For all other disposal sites: any quantity requires a permit - Annual Permit fee: ~~$175.00~~ $180.00.
14. Containers over five gallons in size. Empty containers meeting criteria for safe disposal at the City of Lincoln's Sanitary Landfill adopted according to §8.32.070 will not require a permit.
    For all other disposal sites: Any quantity requires a permit - Annual Permit fee: ~~$175.00~~ $180.00.
15. Empty containers labeled "DANGER" or which once contained hazardous material. Empty containers meeting criteria for safe disposal at the City of Lincoln's Sanitary Landfill adopted according to §8.32.070 will not require a permit.
    For all other disposal sites: Any quantity requires a permit - Annual permit fee: ~~$175.00~~ $180.00.
16. Fuel tanks. Empty containers meeting criteria for safe disposal at the City of Lincoln's Sanitary Landfill adopted according to §8.32.070 will not require a permit.
    For all other disposal sites - Any quantity requires a permit - Annual permit fee: ~~$175.00~~ $180.00.

Group IV: Solvents, Absorbents, Filters, and Residues

17. Solvents, degreasers, strippers, thinners, and related products. Any quantity requires a permit. Annual permit fee: ~~$175.00~~ $180.00.
18. Refuse containing solvents, degreasers, strippers, or thinners. Any quantity requires a permit - Annual permit fee: ~~$175.00~~ $180.00.
19. Lime or other inorganic residues or sludges. Minimum quantities: twenty-five gallons or 43 pounds per month - Annual permit fee: $~~295.00~~ $305.00.
20. Paint dry waste, filters, and paint contaminated material. Minimum quantities: 43 pounds per month - Annual permit fee: $~~295.00~~ $305.00.
21. Fly ash. Minimum quantities: 43 pounds per month - Annual permit fee: $~~295.00~~ $305.00.
22. Bottom ash. Minimum quantities: 43 pounds per month - Annual permit fee: $~~295.00~~ $305.00.

Group V: Hazardous or Toxic Chemicals or Chemical Products

23. Antifreeze or treatment chemicals for boilers, heat exchangers, cooling towers, and similar uses. Minimum quantities: Five gallons

or more per day - Annual permit fee: ~~$175.00~~ $180.00.

24. Chemicals labeled WARNING for toxics and pesticides: Minimum quantities: One pint or one pound per load or more - Annual permit fee: $~~295.00~~ $305.00.
25. Pharmaceutical products. Minimum quantities: More than five gallons or 43 pounds per month - Annual permit fee: $~~295.00~~ $305.00.
26. Adhesives, sealants, coatings or catalysts. Minimum quantities: More than five gallons or 43 pounds per month - Annual permit fee: $~~295.00~~ $305.00.
27. Material containing between 25 and 100 percent of the maximum concentration of any Toxic Characteristic Leaching Procedure (TCLP) listed chemical as referenced in 30 CFR 261.24, Table 1 or that exceeds a concentration of 0.3 mg/kg of nickel. Minimum quantities: More than five gallons or 43 pounds per month - annual permit fee; $~~295.00~~ $305.00.
28. Hazardous or potentially hazardous waste or chemicals labeled "DANGER."

Any quantity requires a permit - Annual permit fee: $~~295.00~~ $305.00.

Group VI: Miscellaneous

29. Treated or untreated infectious waste from hospitals. Any quantity requires a permit - Annual permit fee: $~~295.00~~ $305.00.
30. Treated or untreated infectious waste from other than hospitals. Any quantity requires a permit - Annual permit fee: ~~$35.00~~ $40.00.
31. Waste containing or likely to contain polychlorinated biphenyls (PCB). Any quantity requires a permit - Annual permit fee: ~~$175.00~~ $180.00.
32. Waste containing asbestos. Wastes from National Emission Standards of Hazardous Air Pollutants (NESHAP) and Nebraska Department of Health and Human Services permitted removal projects in Lincoln and Lancaster County do not require a Special Waste Permit.
All other asbestos waste material in any quantity requires a permit - Annual permit fee: ~~$65.00~~ $70.00.
33. Material other than asbestos that could create a health hazard if airborne. Any quantity requires a permit - Annual permit fee: ~~$175.00~~ $180.00.
34. Wood that has been treated with hazardous or toxic chemicals. Quantities more than 43 pounds per month - Annual permit fee: ~~$65.00~~ $70.00.
35. Any other solid waste which, because of its physical, chemical or biological characteristics, requires special handling, treatment or disposal methodologies in order to protect public health, safety, and the environment. Any quantity requires a permit - Annual permit fee: ~~$175.00~~ $180.00.

F. General

1. If the Health Department identifies a new special waste stream due to process changes or otherwise, such special waste stream shall require an additional application, permit, and permit fee even if the special waste generator has an existing permit for a separate waste stream, including an existing permit for the same waste or waste category.
2. New industries, commercial operations, or home occupations disposing special wastes shall file a completed inventory/permit application with the Lincoln-Lancaster County Health Department within six months.
3. Inventory/permit applications from existing special waste generators must be filed within 60 days of notification by the Health Director. If, after notice has been sent, an inventory/permit application is received by the Lincoln-Lancaster County Health Department after 60 days or if the application is postmarked after the 60-day period, the resulting permit, if issued, will be assessed an additional ~~$65.00~~ $75.00.

BE IT FURTHER RESOLVED that City Council Resolution No. A-85993 shall be superseded by the terms of this resolution.

Introduced by: Doug Emery

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

AMENDING THE LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL REGULATIONS AND STANDARDS TO REVISE AND CONSOLIDATE THE LOCATION OF VARIOUS FEES, TO INCREASE THE FEE FOR ASBESTOS NOTIFICATIONS AND FOR EMISSIONS OF REGULATED AIR POLLUTANTS FOR WHICH FEES ARE CHARGED - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86482 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Amendments to Article 1, Section 5 Variance; Article 1, Section 6 Fees; Article 2, Section 8 Operating Permits – Content; Article 2, Section 17 Construction Permits – When Required; Article 2, Section 29 Operating Permit Emission Fees; and Article 2, Section 30 Construction Permit Fee of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards implemented by the Lincoln-Lancaster County Health Department, copies of which are attached hereto, marked as Attachment "A" and made a part hereof by reference, to modify the annual fee structure for all regulated industries and business, are hereby approved.

The City Clerk is directed to return two (2) fully executed copies of this Resolution and Amendments to Angela Zocholl, Lancaster County Clerk's Office, for filing with the County.

Introduced by: Doug Emery

Seconded by Eskridge & carried by the following vote: AYES: Camp, Carroll,

Cook, Emery, Eskridge; ABSENT: Hornung, Snyder; NAYS: None.

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

AMENDING CHAPTERS 2.62, 2.65, AND 2.66 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLANS A, B AND C, RESPECTIVELY, BY AMENDING SECTIONS 2.62.045, 2.65.045, AND 2.66.045 RELATING TO THE OPERATION OF THE DEFERRED RETIREMENT OPTION PLAN (DROP) TO PROVIDE THAT FIRE FIGHTER MEMBERS SHALL RECEIVE A 13TH CHECK DURING DROP PARTICIPATION; AND AMENDING SECTIONS 2.62.140, 2.65.140, AND 2.66.107 RELATING TO COST OF LIVING ADJUSTMENTS TO PROVIDE THAT FIRE FIGHTERS' $15,000 CREDIT TOWARD THE PURCHASE OF A COST-OF-LIVING ADJUSTMENT BE REDUCED BY THE SUM OF 13TH CHECK PAYMENTS RECEIVED AS A DROP PARTICIPANT - CLERK read an ordinance, introduced by Carl Eskridge, amending Chapters 2.62, 2.65, and 2.66 of the Lincoln Municipal Code relating to the Police and Fire Pension Plans A, B and C, respectively, by amending Sections 2.62.045, 2.65.045, and 2.66.045 relating to the operation of the Deferred Retirement Option Plan (DROP) to provide that Fire Fighter members shall receive a 13th check during DROP participation; amending Sections 2.62.140, 2.65.140, and 2.66.107 relating to Cost of Living Adjustments to provide that Fire Fighters' $15,000 credit toward the purchase of a cost-of-living adjustment be reduced by the sum of 13th check payments received as a DROP participant; and repealing Sections 2.62.045, 2.62.140, 2.65.045, 2.65.140, 2.66.045, and 2.66.107 of th Lincoln Municipal Code as hitherto existing, the first time.

AMENDING SECTIONS 2.62.090, 2.65.090, AND 2.66.085 OF THE LINCOLN MUNICIPAL CODE TO INCREASE THE REVIEW PERIOD FOR DISABILITY RETIREMENT BENEFITS FOR THE POLICE AND FIRE PENSION PLANS A, B AND C, RESPECTIVELY, FROM THREE TO FIVE YEARS, THE FIRST TIME - CLERK read an ordinance, introduced by Carl Eskridge, amending Sections 2.62.090, 2.65.090, and 2.66.085 of the Lincoln Municipal Code to increase the review period for Disability Retirement Benefits for the Police and Fire Pension Plans A, B and C, respectively, from three to five years; and repealing Sections 2.62.090, 2.65.090, and 2.66.085 of the Lincoln Municipal code as hitherto existing, the first time.

AMENDING SECTION 4.62.010 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN INVESTMENT BOARD TO PROVIDE STAGGERED TERMS FOR MEMBERS ELECTED BY THE POLICE AND FIRE DEPARTMENTS - CLERK read an ordinance, introduced by Carl Eskridge, amending Section 4.62.010 of the Lincoln Municipal Code relating to the Police and Fire Pension Plan Investment Board to provide staggered terms for members elected by the Police and Fire departments; and repealing Section 4.62.010 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING SECTION 4.64.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO DISABILITY PENSION APPLICATIONS; PROCEDURE AND APPEAL TO ALLOW EXAMS TO INCLUDE THOSE PERFORMED BY MEDICAL PROFESSIONALS OTHER THAN PHYSICIANS OR PSYCHIATRISTS - CLERK read an ordinance, introduced by Carl Eskridge, amending Section 4.64.020 of the Lincoln Municipal Code relating to Disability Pension Applications; Procedure and Appeal to allow exams to include those performed by medical professionals other than physicians or psychiatrists; and repealing Section 4.64.020 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING SECTION 2.76.380 OF THE LINCOLN MUNICIPAL CODE RELATING TO SICK LEAVE WITH PAY TO PROVIDE THAT UNREPRESENTED "M" EMPLOYEES COINCIDE WITH "M" LABOR CONTRACT CHANGES AND MAKING THE CHANGES RETROACTIVELY EFFECTIVE AS OF AUGUST 18, 2011 - CLERK read an ordinance, introduced by Carl Eskridge, amending Section 2.76.380 of the Lincoln Municipal Code relating to Sick Leave with Pay to provide that unrepresented "M" employees coincide with "M" Labor Contract changes and making the changes retroactively effective as of August 18, 2011; and repealing Section 2.76.380 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING SECTION 2.78.020 OF THE LINCOLN MUNICIPAL CODE RELATING TO MANAGEMENT COMPENSATION PLAN ANNUAL LEAVE TO CLARIFY WHEN NEW VACATION HOURS GO INTO EFFECT EACH YEAR FOR "M" EMPLOYEES NOT REPRESENTED BY LABOR CONTRACT AND DIRECTORS, THE FIRST TIME - CLERK read an ordinance, introduced by Carl Eskridge, amending Section 2.78.020 of the Lincoln Municipal Code relating to Management Compensation Plan Annual Leave to clarify when new vacation hours go into effect each year for "M" employees not represented by Labor Contract and Directors; and repealing Section 2.78.020 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING SECTION 2.78.027 OF THE LINCOLN MUNICIPAL CODE RELATING TO MANAGEMENT COMPENSATION PLAN LONGEVITY PAY TO PROVIDE THAT UNREPRESENTED "M" EMPLOYEES COINCIDE WITH "M" LABOR CONTRACT CHANGES AND MAKING THE CHANGES RETROACTIVELY EFFECTIVE AS OF AUGUST 18, 2011 - CLERK read an ordinance, introduced by Carl Eskridge, amending Section 2.78.027 of the Lincoln Municipal Code relating to Management Compensation Plan Longevity Pay to Provide that unrepresented "M" employees coincide with "M" Labor Contract changes and making the changes retroactively effective as of August 18, 2011; and repealing Section 2.78.027 of the Lincoln Municipal Code as hitherto existing, the first time.

CREATING A BUSINESS IMPROVEMENT DISTRICT FOR THE MAINTENANCE, REPAIR AND RECONSTRUCTION OF CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS WITHIN THE AREA GENERALLY LOCATED ALONG HAVELOCK AVENUE FROM CORNHUSKER HIGHWAY ON THE WEST TO

64TH STREET ON THE EAST AND PROVIDING FOR SPECIAL ASSESSMENTS TO BE IMPOSED WITHIN THE DISTRICT - CLERK read an ordinance, introduced by Carl Eskridge, creating a business improvement district under the authority of the Business Improvement District Act (Neb.Rev.Stat. § 19-4015 et seq.) to be known as the Havelock Business Improvement District for the purpose of providing specified maintenance, repair and reconstruction of certain public facilities and improvements within the area of Havelock Avenue from Cornhusker Highway on the west to 64th Street on the east; providing for special assessments to be imposed within the district based upon the benefits conferred; and providing maximum limits upon such assessments, the first time.

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

APPROVING THE FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND LANCASTER COUNTY SCHOOL DISTRICT 001 FOR AN ADDITIONAL 3,425 SQUARE FEET OF SPACE FOR USE BY LINCOLN PUBLIC SCHOOLS AT 949 WEST BOND STREET - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving the First Amendment to Lease Agreement between the City of Lincoln and Lancaster County School District No. 001 for the lease of additional office space in the building located at 949 West Bond Street to Lincoln Public Schools, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered **#19607**, is recorded in Ordinance Book #27, Page .

OPEN MICROPHONE

Jane Kinsey, 6703 Hawkins Bend, came forward representing Watch Dogs of County Government. She stated that she felt that the city was overstaffed and overpaid. She also expressed the council has too many cozy relationships between department heads and the counsel has broke their promises that they made to taxpayers about not raising taxes.

This matter was taken under advisement.

Roger Yant, 5640 Hunter Drive, came forward to question why wheel taxes are going to pay for other projects and not just the roadways like it was intended. He presented an article from the Journal Star dated August 14 referring to several projects the wheel taxes are being used to pay for. He also asked why the jail was built when the taxpayers voted it down. Mr. Yant also asked why the City was paying a consultant $105,000 to study the Star-Tran bus issues. He said the City does not need to pay a consultant it is easy to solve buy smaller buses.

This matter was taken under advisement.

Mike Morosin, 1500 N 15th Street, came forward to present his wheel taxes for his 1949 Chevy and to inform the council that increasing the wheel tax is causing senior citizens to sell or give-up their vehicles.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to September 12, 2011.

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

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on September 12, 2011.

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

ADJOURNMENT 7:34 P.M.

CAMP Moved to adjourn the City Council meeting of August 29, 2011. Seconded by Eskridge & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge; ABSENT: Hornung, Snyder; NAYS: None.

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Joan E. Ross, City Clerk

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Brenda J. Coufal, Senior Office Assistant