

THE MINUTES OF THE CITY COUNCIL MEETING HELD  
MONDAY, NOVEMBER 21, 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, Hornung, Schimek; 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 November 14, 2011 reported having done so, found same correct.

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

PUBLIC HEARING

CHANGE OF ZONE 11036 - APPLICATION OF ROBERT AND SALLY SCHMIEDING FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 40TH STREET AND FREDERICK CIRCLE - Marvin Krout, Director of Planning, came forward to present the zoning change to allow apartments and single family uses. He said care will be taken in the CUP development plan to identify pad sites & drainage in an area located in the Salt Creek flood plain. Mr. Krout said there was a concern about access in/out of the project but the applicant clarified that there were two access points out to North 40<sup>th</sup> Street. This matter was taken under advisement.

CHANGE OF ZONE 11037 - APPLICATION OF THE PLANNING DIRECTOR FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 86TH STREET AND LEXINGTON AVENUE - Marvin Krout, Director of Planning, said this change is a clean-up request to re-zone a private drive that provides access to commercial development. This matter was taken under advisement.

VACATION NO. 11009 - VACATING BANCROFT AVENUE FROM SOUTH 49TH STREET TO SOUTH 51<sup>ST</sup> STREET AND SOUTH 51ST STREET FROM CALVERT STREET TO BANCROFT AVENUE - Tim Gergen, Olsson Associates, came forward representing Union College for an expansion of the Math & Science Building on campus. He said the proposed vacation will allow for a realignment of Bancroft Avenue to correlate more into the site designs for the new building and to slow down traffic & the travel-way through the campus. This matter was taken under advisement.

AMENDING TITLE 24 OF THE LINCOLN MUNICIPAL CODE BY ADDING A NEW CHAPTER 24.10 TO ADOPT THE 2009 EDITION OF THE UNIFORM PLUMBING CODE, WITH AMENDMENTS, ADDITIONS AND DELETIONS THERETO, REGULATING AND CONTROLLING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF ANY PLUMBING SYSTEM IN THE CITY OF LINCOLN; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; AND REPEALING CHAPTER 24.12 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING;

AMENDING CHAPTER 25.10 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN FUEL GAS CODE, BY AMENDING AND ADDING CERTAIN SECTIONS TO SAID CHAPTER 25.10 TO ADOPT THE 2009 INTERNATIONAL FUEL GAS CODE REGULATING AND GOVERNING FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES IN THE CITY OF LINCOLN AND PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR;

AMENDING CHAPTER 25.04 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN MECHANICAL CODE TO ADOPT THE 2009 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC), WITH AMENDMENTS, ADDITIONS AND DELETIONS THERETO - Council Chair Carroll announced there was a request to continue 2<sup>nd</sup> Reading/public hearing on these three items to December 5 with Council action on December 12, 2011.

Fred Hoke, Manager of DSC, came forward to discuss codes and inspection fees. He said each section has a code task force committee made up of contractors for that particular section. He said a code study committee is comprised of a broad range of citizens who look at the recommendations from the

code task force and approve them before presentation to Council. Mr. Hoke introduced Bob Siemsen and shared his experience as being with private contractors for 17 yrs. and the last 25 yrs. as Chief Plumbing Inspector.

Bob Siemsen, Chief Plumbing Inspector in the Department of Building & Safety, came forward to answer questions. He said the task force committee held 20 meetings using the 2009 Plumbing Code as a base document with amendments to arrive at the 2011 Lincoln Plumbing Code. As an enterprise fund, his section tries to recoup costs through fees. Mr. Siemsen said a future goal is to add another inspector as work increases. Currently, his section averages 2,000 inspections a month. Using the installation of a gas/electric water heater as an example, Mr. Siemsen said paying the permit fee with the follow-up inspection is a cheap liability insurance policy.

Doug Biggerstaff, 3605 N. 40<sup>th</sup> St., came forward as a member of the plumbing code committee to clarify hot water temperature.

Dennis Biggerstaff, 3605 N. 40<sup>th</sup> St., came forward currently serving his term as Plumbing & Heating President to answer questions. He feels that City inspectors are needed to see that a job is well done.

Mr. Hoke came forward to introduce the Chief HVAC Inspector, Merl Scott, who has a Bachelors Degree in Industrial Management. His experience includes 18 yrs. of private contract work, five yrs. in City inspections and the last 17 yrs. as Chief.

Merl Scott, Chief HVAC Inspector in the Department of Building & Safety, came forward to state his section is totally funded by permit fees. Mr. Scott said that he and three inspectors complete about 1,500 inspections per month. He said if equipment gets installed without a permit, they don't get an inspection until a complaint is received, which can be something dangerous. He said the task force met more than 20 times since December 2010 to submit the final product to the code study committee for approval. Mr. Scott said the intent of the fee increase is to cover all costs and recoup a shortfall. The most permitted items on an annual basis are new furnaces in new construction or in replacement and the installation of air-conditioners & heat pumps. A significant proposal has been the adoption of a chapter on refrigeration to be a permitted and inspected item. Mr. Scott said another significant change is a requirement proposed in the code to install all gas-burning furnaces being 90% efficient or greater, requiring them to have combustion air brought into the home through a PVC pipe and the flue gases discharged out of the building, also through a plastic pipe. Because of their efficiency, these furnaces would conserve fuel, thereby lowering gas bills over time. Mr. Scott said a big positive is that effectively, the combustion process has been removed out of a business/home structure. In response to Council Member Camp's suggestion to save City manpower & inspection costs, Mr. Scott said contractors tell him with some frequency that they are reassured through inspections and that another set of eyes can spot something dangerous that they may have missed.

Council Chair Carroll said because public hearing will occur again in two weeks, he requested Mr. Scott to supply Council with a list of changes that Mr. Camp has asked for. In response to the request, Mr. Scott complied and said typical changes in Council documents would be underlined.

Gene Krauel, 5700 Franklin St., owner of Clean Gene's Heating & Cooling, came forward in opposition to the 90% requirement. He said this change would affect the bottom line of rental property owners. Mr. Krauel said 80% furnaces are durable and do not need the filtration like 90% furnaces do. He foresees additional costs forced upon landlords will be passed on to renters in a poor economy. In response to Council Member Camp's suggestion to empower contractors to self inspect, Mr. Krauel said today everyone looks at bottom line costs. Masters are not on every job to install a furnace; therefore, inspections need to be inspected by the City of Lincoln's qualified, impartial people.

William J. Wood, 808 D St., came forward on behalf of the Real Estate Owners Managers Association (REOMA). While his organization comprises 125 members, none had any input in the committees. He expressed concerns about retrofitting apartments that involve stacked units. Mr. Wood also explained problems with the installation of electric furnaces. He said if enacted, it should not affect current buildings but rather those built now and going forward. He questioned why this proposal does not cover retail, commercial and industrial purposes.

Bob Boellstorff, 5401 Cornhusker Hwy., came forward as a member of the Mechanical Task Force Committee and the Code Study Committee which revised the code to meet the standards that Lincoln enjoys. He said according to furnace manufacturers, there are five models of each efficiency and he clarified costs. Mr. Boellstorff said the safety aspect was of highest concern.

Jon Jackson, 6543 Blue Ridge Ln., came forward as Chair of the HVAC Task Force. In response to Council Member Camp's suggestion to empower contractors, Mr. Jackson said neither contractors nor their liability insurers would choose to carry that responsibility.

Doug Kreifels, 5200 Happy Hollow, came forward representing Action Plumbing & Heating. As a member of the task force, he pointed out that implementing the requirement of the 90% furnace is beating the federal mandate by one year. Mr. Kreifels clarified what installation work should be self-policed and what should be inspected.

Randy Lowery, 5131 Martin, came forward stating he has been a landlord for 30 years. Rather than require costly retrofitting and structural work, Mr. Lowery suggested a requirement to install carbon monoxide testers instead. He compared costs to repair 90% units with that of the 80% units which have had very few issues.

Mr. Hoke came forward to express appreciation for the public testimony and the Council's good questions. He stated that the intention of the Department of Building & Safety is for everyone in the City to be safe.

This matter was taken under advisement.

APPROVING AN ENERGY GRANT INTERLOCAL AGREEMENT BETWEEN THE CITY OF OMAHA AND THE CITY OF LINCOLN TO ACCOMPLISH RESIDENTIAL AND COMMERCIAL UPGRADES IN LINCOLN UNDER THE REENERGIZE PROGRAM, FUNDED BY THE U.S. DEPARTMENT OF ENERGY "BETTER BUILDINGS PROGRAM" - Milo Mumgaard, Senior Policy Aid to the Mayor, came forward to present an exciting program to benefit hundreds of households and dozens of small businesses/commercial operations and non-profits in the community. He discussed various programs engaging the City to save & use energy efficiently. He described the Department of Energy-funded, market-stimulus program as one in which residential participants who are interested in saving money and making their homes more comfortable can take action to invest in the program. Mr. Mumgaard said focus is on pre-1950's or homes built before 1980 and they are looking for eligible contractors. Start zones include the following mapped areas: 1) Malone/Clinton/ Hartley; 2) Witherbee/West A; 3) University Place; 4) South Capitol/Everett/Near South/South Salt Creek. He clarified participant cost, benefits, incentives and savings. He said there would be at least a minimum 15% energy savings in each house. Mr. Mumgaard said the goal is to meet 700 households and 60 businesses by May of 2013. In response to Council questions about breaking down cost figures, Mr. Mumgaard said \$58,000 will cover staffing over the course of the next 18 months; \$32,000 for Mayoral staff over site; and a grant agreement with NeighborWorks for additional staffing.

This matter was taken under advisement.

COMP. PLAN CONFORMANCE NO. 11012 - RESOLUTION OF INTENT TO CREATE A BUSINESS IMPROVEMENT DISTRICT FOR THE MAINTENANCE, REPAIR AND RECONSTRUCTION OF CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS IN THE AREA OF SOUTH 48TH STREET BETWEEN CALVERT STREET AND PIONEERS BLVD., TO BE KNOWN AS THE COLLEGE VIEW BUSINESS IMPROVEMENT DISTRICT - David Landis, Urban Development Director, came forward to explain the three formal steps to create a Business Improvement District. He said as part of the second step, if 51% of the 38 property owners in this area step forward in opposition to the BID, the City Council no longer has the power to create one.

Ernie Castillo, Urban Development Dept., came forward to answer questions about the bioswales. He said there will be at least one berm in each bioswale but he encouraged people to use the crosswalks for now.

Ben Higgins, Public Works & Utilities/Watershed Management, came forward in agreement with Mr. Landis' explanation that a bioswale has a positive effect on water run-off providing a hold & use as a natural watering system rather than increasing run-off to the storm drains thereby causing erosion or carrying pollutants.

Lynn Fisher, Pres. of the BID Board and Pres. of College View Neighborhood Assoc., came forward to share his view on the placement of the bioswales but spoke in favor of the Business Improvement District process. He expressed appreciation to City Departments for the work that has been done.

This matter was taken under advisement.

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) AND THE CITY OF LINCOLN REGARDING STATE OF NEBRASKA GRANT FUNDING FROM THE STORMWATER MANAGEMENT PLAN PROGRAM;

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE UNIVERSITY OF NEBRASKA-LINCOLN TO CONDUCT STORMWATER QUALITY ANALYSIS TO MEET THE REQUIREMENTS OF THE CITY'S NPDES STORMWATER PERMIT FOR A PERIOD OF ONE YEAR FROM JANUARY 1, 2012 THROUGH DECEMBER 31, 2012 - Ben Higgins, Public Works & Utilities/Watershed Management, came forward to report that grant funds will amount to \$400,000; City cost share will

be 20%. He said the City match will come from bond money. Mr. Higgins said the cost of the fifth year of a 5-year monitoring program will amount to \$67,500 but the NRD is picking up more than half that cost with additional coverage by grant funds and General Fund money.

This matter was taken under advisement.

APPROVING A LABOR CONTRACT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN POLICE UNION TO BE EFFECTIVE AUGUST 18, 2011 - Don Taute, City Law/Interim Personnel Director, came forward to answer questions and clarify the economic impact of the proposed contract. He said there was a raise of .75% or about \$150,000.

Police Chief Jim Peschong was on hand for questioning.

This matter was taken under advisement.

APPROVING THE SELECTION OF PAVERS AS LOWEST BIDDER AND AUTHORIZING EXECUTION OF THE CONSTRUCTION CONTRACT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE USE OF FEDERAL HIGHWAY TRANSPORTATION PROGRAM FUNDS FOR PROJECT (PROJECT NO. LCLC-5230(2)), LINCOLN DOWNTOWN STREET RESURFACING;

APPROVING THE SELECTION OF BALLOU AS LOWEST BIDDER AND AUTHORIZING EXECUTION OF THE CONSTRUCTION CONTRACT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE USE OF FEDERAL HIGHWAY TRANSPORTATION PROGRAM FUNDS FOR PROJECT LCLC-5249(7), LINCOLN CITY STREET MICROSURFACE - Thomas Shafer, Public Works Dept., came forward to answer questions about the two federal aid projects. In answer to Council questions, he clarified that there were three bidders on the downtown project with Pavers being the lowest at \$4.2 million; on the microsurfacing project, there were two bidders and Ballou came in at the low \$850,000. Mr. Shafer described the microsurfacing process and the preparation of road surfaces. He said a dollar spent on preventative maintenance will save ten dollars down the road. Regarding the time line of the downtown project, Mr. Shafer said work can begin at about mid-March and will continue for 237 calendar days to about mid-November for completion.

This matter was taken under advisement.

ADOPTING THE LES RATE SCHEDULES PROVIDING FOR A SYSTEM AVERAGE RATE INCREASE OF 3.5%, EFFECTIVE JANUARY 1, 2012;

ADOPTING THE LINCOLN ELECTRIC SYSTEM ANNUAL BUDGET FOR 2012, TO BECOME EFFECTIVE JANUARY 1, 2012 - Kevin Wailes, Administrator and CEO of Lincoln Electric System, came forward to highlight costs associated with the budget and significant factors that impact those costs. He said over the last four years, average capital budgets ranged from \$40-50 million, with last year being \$53 million. Mr. Wailes said staff costs are 15% of the budget but being in an extraordinary regulatory environment, they struggle with excess man hours to meet liability requirements.

Mark Richardson, Rembolt Ludtke Law Firm, 1201 Lincoln Mall, Ste. 102, came forward on behalf of the Lincoln Employers Coalition with a request that LES refrain from adding \$2 million to the Rate Stabilization Fund. He also requested that the Sustainable Energy Program remain at the current \$2 million level. Mr. Richardson said while the Lincoln Employers Coalition supports those programs, he said the larger volume consumers of energy are already taking a significant hit with the City dividend.

Tomi Storz, 1602 N. 28<sup>th</sup>, came forward in opposition to the LES rate increase as it will place an undue burden on many people in Lincoln whose income has gone down but their costs have gone up. She said she follows energy saving measures in her home to lower energy costs.

Duane Hovorka, P.O. Box 81437, came forward representing the Nebraska Wildlife Federation in support of sustainable energy investments in the LES budget. He said cost effective investments are critical for the future of the Lincoln Electric System.

Barrie Marchant, 611 N. 26<sup>th</sup>, came forward in support of sustainable energy today for our children's future.

Jane Kinsey, 6703 Hawkins Bend, came forward representing Lincoln Watch Dogs stating that she is concerned about increases in inflation. She suggested that the City roll back the \$2 fee or else provide more money to LES for low income citizens of Lincoln.

Tim Rinne, 605 N. 26<sup>th</sup> St., came forward to share his success story following the installation of a geo-thermal system resulting in a 60% reduction in utility bills. He suggested that the Sustainable Energy Program funds be increased so more people can reduce energy costs.

Mr. Wailes came forward in rebuttal to state that LES has one of the lowest rates in the country, as they are still listed in the bottom 10%. He reminded everyone that sustainable energy programs do not just benefit residential customers, large customers take advantage of lighting programs, for example. In response to Council questions about comparative rates, Mr. Wailes said NPPD announced a 6.5% rate increase and OPPD announced a 5.9% rate increase.

This matter was taken under advisement.

## COUNCIL ACTION

### REPORTS OF CITY OFFICERS

RESOLUTION LEVYING THE SPECIAL TAXES FOR THE COSTS OF THE IMPROVEMENTS IN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, THE CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY AND THE MAINTENANCE DISTRICT AS APPROVED BY THE BOARD OF EQUALIZATION ON MONDAY, NOVEMBER 14, 2011 - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86603 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska, that:

The special taxes assessed November 17, 2011, to pay the costs of the improvements in the Downtown Business Improvement District, the Core Business Improvement District Overlay and the Downtown Maintenance District are hereby levied and that the period of time in which the assessments are to be paid shall be one (1) year.

Introduced by Adam Hornung

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

RESOLUTION SETTING THE HEARING DATE OF MONDAY, DECEMBER 19, 2011, AT 5:30 P.M. FOR THE ASSESSMENT OF WEED ABATEMENT COSTS INCURRED BY THE CITY OF LINCOLN FOR THE PERIOD OF JANUARY 1, 2011 THROUGH DECEMBER 31, 2011 - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86604 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That a public hearing date of Monday, December 19, 2011, at 5:30 p.m. or as soon thereafter as possible is hereby set on the assessment of weed abatement costs incurred by the City of Lincoln, Nebraska, for the period of January 1, 2011 through December 31, 2011.

Introduced by Adam Hornung

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

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON NOVEMBER 7, 2011 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

### PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, DECEMBER 12, 2011 AT 3:00 P.M. FOR THE APPLICATION OF MEIER'S WINE, INC. DBA WICK ALUMNI CENTER FOR A CLASS I LIQUOR LICENSE AT 1520 R STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86605 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 12, 2011, at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE for the application of Meier's Wine Inc. dba Wick Alumni Center for a Class I liquor license located at 1520 R Street.

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

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, DECEMBER 12, 2011 AT 3:00 P.M. FOR THE APPLICATION OF PRINCE BROTHERS LLC DBA WAHOO'S FISH TACO FOR A CLASS I LIQUOR LICENSE AT 210 N. 14TH STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86606 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 12, 2011, at 3:00 p.m. or as

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soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE for the application of Prince Brothers, LLC dba Wahoo Fish Taco for a Class I liquor license located at 210 N. 14<sup>th</sup> Street.

Introduced by Adam Hornung

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

SETTING THE HEARING DATE OF MONDAY, DECEMBER 12, 2011 AT 3:00 P.M. FOR THE APPLICATION OF KALI RECORDS LLC DBA SMOOTH FOR A CLASS C LIQUOR LICENSE AT 1644 O STREET - CLERK read the following resolution, introduced by Adam Hornung, who moved its adoption:

A-86607 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 12, 2011, at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE for the application of Kali Records, LLC dba Smooth for a Class C liquor license located at 1644 O Street.

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

Introduced by Adam Hornung

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

**REFERRALS TO THE PLANNING DEPARTMENT:**

Change of Zone No. 05085A - Requested by Olsson Associates, for an amendment to the Fallbrook Planned Unit Development to expand the PUD and change the zoning from AG Agricultural District to B-2 Planned Neighborhood Business District, on property generally located at Fallbrook Boulevard and Highway 34.

Special Permit No. 11029 - Requested by Derek Zimmerman for authority to sell alcoholic beverages for consumption off the premises on property generally located at SW 16th Street and West O Street.

Special Permit No. 11030 - Requested by Cheryl Dubas dba Little Munchkinland, for an early childhood care facility on property generally located at SW 27th Street and West A Street.

**PLACED ON FILE IN THE OFFICE OF THE CITY CLERK**

Administrative Amendment No. 11054 - to Use Permit No. 89C, Pine Ridge, requested by Olsson Associates, approved by the Planning Director on November 14, 2011, to revise the lot and parking layout and expand the building envelope on property generally located at S. 16th Street and Pine Lake Road.

**MISCELLANEOUS - NONE**

**LIQUOR RESOLUTIONS - NONE**

**ORDINANCE - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required)**

CHANGE OF ZONE 11036 - APPLICATION OF ROBERT AND SALLY SCHMIEDING FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 40TH STREET AND FREDERICK CIRCLE - CLERK read an ordinance, introduced by Carl Eskridge, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

CHANGE OF ZONE 11037 - APPLICATION OF THE PLANNING DIRECTOR FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 86TH STREET AND LEXINGTON AVENUE - CLERK read an ordinance, introduced by Carl Eskridge, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, pursuant to Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

VACATION NO. 11009 - VACATING BANCROFT AVENUE FROM SOUTH 49TH STREET TO SOUTH 51<sup>ST</sup> STREET AND SOUTH 51ST STREET FROM CALVERT STREET TO BANCROFT AVENUE - CLERK read an ordinance, introduced by Carl Eskridge, vacating Bancroft Avenue from South 49<sup>th</sup> Street to South 51<sup>st</sup> Street and South 51<sup>st</sup> Street from Calvert Street to Bancroft Avenue, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

AMENDING TITLE 24 OF THE LINCOLN MUNICIPAL CODE BY ADDING A NEW CHAPTER 24.10 TO ADOPT THE 2009 EDITION OF THE UNIFORM PLUMBING CODE, WITH AMENDMENTS, ADDITIONS AND DELETIONS THERETO, REGULATING AND CONTROLLING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF ANY PLUMBING SYSTEM IN THE CITY OF LINCOLN; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; AND REPEALING CHAPTER 24.12 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING - PRIOR to reading:

COOK Moved Bill No. 11-176 to have 2<sup>nd</sup> Reading/Public Hearing on December 5, 2011 with Action on December 12, 2011.

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

CLERK Read an ordinance, introduced by Carl Eskridge, amending Title 24 of the Lincoln Municipal Code by adding a new Chapter 24.10 to adopt the 2009 edition of the Uniform Plumbing Code, with amendments, additions and deletions thereto, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of any plumbing system in the City of Lincoln; providing for the issuance of permits and collection of fees therefor; and repealing Chapter 24.12 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 25.10 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN FUEL GAS CODE, BY AMENDING AND ADDING CERTAIN SECTIONS TO SAID CHAPTER 25.10 TO ADOPT THE 2009 INTERNATIONAL FUEL GAS CODE REGULATING AND GOVERNING FUEL GAS SYSTEMS AND GAS-FIRED APPLIANCES IN THE CITY OF LINCOLN AND PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR - PRIOR to reading:

COOK Moved Bill No. 11-177 to have 2<sup>nd</sup> Reading/Public Hearing on December 5, 2011 with Action on December 12, 2011.

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

CLERK Read an ordinance, introduced by Carl Eskridge, amending Chapter 25.10 of the Lincoln Municipal Code, the Lincoln Fuel Gas Code, by amending and adding certain sections to said Chapter 25.10 to adopt the 2009 International Fuel Gas Code regulating and governing fuel gas systems and gas-fired appliances in the City of Lincoln and providing for the issuance of permits and collection of fees therefor; and repealing Sections 25.10.010, 25.10.030, 25.10.040, 25.10.070, 25.10.080, 25.10.090, 25.10.100, 25.10.110, 25.10.150, 25.10.160, 25.10.200 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 25.04 OF THE LINCOLN MUNICIPAL CODE, THE LINCOLN MECHANICAL CODE TO ADOPT THE 2009 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC), WITH AMENDMENTS, ADDITIONS AND DELETIONS THERETO - PRIOR to reading:

COOK Moved Bill No. 11-178 to have 2<sup>nd</sup> Reading/Public Hearing on December 5, 2011 with Action on December 12, 2011.

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

CLERK Read an ordinance, introduced by Carl Eskridge, amending Chapter 25.04 of the Lincoln Municipal Code, the Lincoln Mechanical Code to adopt the 2009 edition of the International Mechanical Code (IMC), with amendments, additions and deletions thereto, the second time.

APPROVING AN ENERGY GRANT INTERLOCAL AGREEMENT BETWEEN THE CITY OF OMAHA AND THE CITY OF LINCOLN TO ACCOMPLISH RESIDENTIAL AND COMMERCIAL UPGRADES IN LINCOLN UNDER THE REENERGIZE PROGRAM, FUNDED BY THE U.S. DEPARTMENT OF ENERGY "BETTER BUILDINGS PROGRAM" - CLERK read an ordinance, introduced by Carl Eskridge, approving an Energy Grant Interlocal Agreement between the City of Omaha and the City of Lincoln to accomplish residential and commercial upgrades in Lincoln under the ReEnergize Program, funded by the U.S. Department of Energy "Better Buildings Program", the second time.

PUBLIC HEARING - RESOLUTIONS

COMP. PLAN CONFORMANCE NO. 11012 - RESOLUTION OF INTENT TO CREATE A BUSINESS IMPROVEMENT DISTRICT FOR THE MAINTENANCE, REPAIR AND RECONSTRUCTION OF CERTAIN PUBLIC FACILITIES AND IMPROVEMENTS IN THE AREA OF SOUTH 48TH STREET BETWEEN CALVERT STREET AND PIONEERS BLVD., TO BE KNOWN AS THE COLLEGE VIEW BUSINESS IMPROVEMENT DISTRICT - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86608 RESOLUTION of intention to create a Business Improvement District for the maintenance, repair and reconstruction of certain public facilities and improvements in the area generally located along South 48th Street between Calvert Street and Pioneers Boulevard to be known as the College View Business Improvement District:

WHEREAS, the City Council of the City of Lincoln created the College View Improvement Board by Resolution No. A-85739; and

WHEREAS, the College View Improvement Board recommended that the City Council create a new business improvement district within the area along South 48th Street between Calvert Street and Pioneers Boulevard to be funded by special assessments levied on a front foot basis and based on special benefits to the property within the district as the same may be fairly and equitably adjusted by the City Council of the City of Lincoln, Nebraska sitting as a board of equalization; and

WHEREAS, following the adoption of this resolution the City Council of the City of Lincoln, Nebraska intends to consider at public hearing on December 12, 2011 an ordinance to create the recommended business improvement district along South 48th Street between Calvert Street and Pioneers Boulevard, as more particularly described below.

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

Under the authority of the Business Improvement District Act, *Neb. Rev. Stat. § 19-4015 to 19-4038* (Reissue 2007) and based upon the recommendations received from the duly appointed College View Improvement Board and the Lincoln-Lancaster County Planning Commission, the City Council of the City of Lincoln, Nebraska hereby states its intention to create a Business Improvement District to be known as the College View Business Improvement District for the purpose of maintaining, repairing and reconstructing certain public facilities and improvements under the act for the betterment of the district and employing or contracting for personnel, including administrators, and to provide for any service as may be necessary or proper to carry out the purposes of the Business Improvement District Act as provided in the ordinance creating the district.

BE IT FURTHER RESOLVED that in accordance with the Business Improvement District Act, *Neb. Rev. Stat. § 19-4015 et seq.* (Reissue 2007) (the Act) the following information is provided regarding the proposed creation of such business improvement district:

1. DESCRIPTION OF BOUNDARIES. The boundaries of the proposed South Street Business Improvement District shall generally extend along South 48th Street between Calvert Street and Pioneers Boulevard including those properties abutting South 48<sup>th</sup> Street as more specifically shown on the map and list of properties which is attached hereto marked as Attachment "A" and made a part hereof by this reference. Commonly owned properties that are intersected by a boundary line establishing the district shall be considered as entirely within the district unless otherwise determined by the City Council when sitting as a Board of Equalization.

2. TIME AND PLACE OF HEARING ON CREATION OF THE DISTRICT. The City Council of the City of Lincoln, Nebraska will hold a public hearing on an ordinance to create such business improvement district on December 12, 2011, at the hour of 3:00 p.m., or as soon thereafter as possible in the City Council Chambers, first floor, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska 68508.

3. MAINTENANCE WORK TO BE PERFORMED IN THE DISTRICT. The maintenance, repair or reconstruction of public improvements and facilities ("Maintenance Work") to be performed in the proposed business improvement district shall consist of:

a. Maintenance of the irrigation system including Spring start-up and Fall shut-off.

b. Removal of litter from sidewalks, planting areas and beautification areas in the South 48<sup>th</sup> Street right-of-way.

c. Removal of trash from the South 48th Street trash receptacles.

d. Replacement, as needed, of street furniture, planters, ornamental lights and trash receptacles.

e. Care and maintenance of all landscaping to ensure plant health and appearance and create a safe environment. Maintenance includes, but is not limited to, the following: watering (provide supplemental water as needed for replacement plants during establishment); fertilizing (including the addition of compost or slow-release fertilizers); weeding (including chemical and non-chemical methods as appropriate for location); pruning (for safety and aesthetics and to produce strong structures in trees); pest control (identification of pests and timely application of IPM methods); mulching (raking and respraying after rains; remulching to the specified depth); and removal and replacement of dead plants during the appropriate planting season.

f. Monitoring quantity of water applied and perform adjustments to controller and head direction and flow as necessary.

4. ESTIMATED COSTS. The first year's estimated total annual costs and expenses for the Maintenance Work proposed to be performed within such district are \$13,000.00 and the maximum amount of the first year's annual assessment for the costs of the Maintenance Work shall not exceed \$15,000.00. In each succeeding year the City Council after public hearing shall approve an annual budget for the Maintenance Work consistent with the ordinance creating the district, provided that for each succeeding year the maximum amount of the total annual assessment for such Maintenance Work shall not exceed the prior year assessment amount by more than 5%.

5. METHOD OF RAISING REVENUE. The costs and expenses for the Maintenance Work proposed to be performed within such business improvement district will be raised through special assessments against real estate in the district authorized by *Neb. Rev. Stat. §§ 19-4015 to 19-4038* based upon the special benefits to the property as fairly and equitably equalized by the City Council sitting as a board of equalization. The assessments will be levied annually on a front foot basis.

6. PROPERTY EXEMPT FROM AD VALOREM TAXES. Based on the recommendation of the College View Improvement Board, all owners of property exempt from ad valorem taxes within the district will be invited to contribute annually to the City of Lincoln to the Maintenance Work. Any contributions shall be allocated to fairly and equitably reduce assessments against real estate in the district.

BE IT FURTHER RESOLVED that the City Clerk is directed to place an ordinance to create the College View Business Improvement District on the City Council formal agenda for introduction on December 5, 2011 with public hearing to be held on December 12, 2011.

BE IT FURTHER RESOLVED that the City Clerk is directed to publish a complete copy of this resolution of intention one time in a newspaper of general circulation in the City of Lincoln at least ten (10) days prior to the public hearing to be held on December 12, 2011.

BE IT FURTHER RESOLVED that the Director of Urban Development shall mail a complete copy of this resolution of intention, including any attachments hereto, to each owner of taxable property in the proposed district as shown on the latest tax roles of the County Treasurer for Lancaster County, Nebraska at least ten days prior to the public hearing to be held on December 12, 2011.

Introduced by Carl Eskridge

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

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) AND THE CITY OF LINCOLN REGARDING STATE OF NEBRASKA GRANT FUNDING FROM THE STORMWATER MANAGEMENT PLAN PROGRAM - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86609 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Intergovernmental Agreement between the City of Lincoln and the Nebraska Department of Environmental Quality (NDEQ) regarding grant funding from the State of Nebraska for the City's Stormwater Management Plan Program, upon the terms and conditions as set forth in said Agreement, is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City.

The City Clerk is directed to transmit an executed original Agreement to Ben Higgins, Public Works and Utilities Department, 555 South 10<sup>th</sup> Street, for transmittal to the Nebraska Department of Environmental Quality.

Introduced by Carl Eskridge

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE UNIVERSITY OF NEBRASKA-LINCOLN TO CONDUCT STORMWATER QUALITY ANALYSIS TO MEET THE REQUIREMENTS OF THE CITY'S NPDES STORMWATER PERMIT FOR A PERIOD OF ONE YEAR FROM JANUARY 1, 2012 THROUGH DECEMBER

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31, 2012 - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86610 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the Agreement, which is attached hereto, between the City of Lincoln and the University of Nebraska-Lincoln to conduct stormwater quality analysis required under the City's National Pollutant Discharge Elimination System (NPDES) stormwater permit for a period of one year from January 1, 2012, through December 31, 2012, is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement and Resolution to Ben Higgins, Public Works and Utilities Department, and one fully executed copy of this Agreement also to Ben Higgins for transmittal to Jennifer A. Fitchett, Office of Sponsored Programs, Alexander Building - West, 312 N. 14<sup>th</sup> Street, Lincoln, NE 68588-0430.

Introduced by Carl Eskridge

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

APPROVING A LABOR CONTRACT BETWEEN THE CITY OF LINCOLN AND THE LINCOLN POLICE UNION TO BE EFFECTIVE AUGUST 18, 2011 - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86611 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:  
That the attached labor contract between the City of Lincoln and the Lincoln Police Union, for the period of August 18, 2011 through August 31, 2012, is hereby approved, and the Mayor is authorized to execute the same on behalf of the City.

Introduced by Carl Eskridge

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

APPROVING THE SELECTION OF PAVERS AS LOWEST BIDDER AND AUTHORIZING EXECUTION OF THE CONSTRUCTION CONTRACT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE USE OF FEDERAL TRANSPORTATION PROGRAM FUNDS FOR PROJECT (PROJECT NO. LCLC-5230(2)), LINCOLN DOWNTOWN STREET RESURFACING - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86612 WHEREAS, the City of Lincoln adopted Resolution No. A-86134 on November 22, 2010 approving an Agreement for the use of Federal Surface Transportation Program Funds for Lincoln Downtown Street Resurfacing Project No. LCLC-5230(2); and

WHEREAS, the State and City received bids for the construction of the proposed work and selected Pavers as the low bidder to whom the contract should be awarded.

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

That the City concurs in the selection of the above mentioned contractor; that the City does not desire to perform the work with its own forces in lieu of performing the work by the contract method; and hereby authorizes the Mayor to execute the construction contract on behalf of the City.

The City Clerk is directed to return the executed copies of the Agreements to the Department of Public Works & Utilities, for transmittal and execution by the State Department of Roads.

Introduced by Carl Eskridge

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

APPROVING THE SELECTION OF BALLOU AS LOWEST BIDDER AND AUTHORIZING EXECUTION OF THE CONSTRUCTION CONTRACT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE USE OF FEDERAL HIGHWAY TRANSPORTATION PROGRAM FUNDS FOR PROJECT LCLC-5249(7), LINCOLN CITY STREET MICROSURFACE - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86613 WHEREAS, the City of Lincoln adopted Resolution No. A-86137 on November 22, 2010 approving an Agreement for the use of Federal Surface Transportation Program Funds for the Lincoln Citywide Street Microsurfacing Project No. LCLC-5249(7); and

WHEREAS, the State and City received bids for the construction of the proposed work and selected Ballou as the low bidder to whom the contract should be awarded.

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

That the City concurs in the selection of the above mentioned contractor; that the City does not desire to perform the work with its own forces in lieu of performing the work by the contract method; and hereby authorizes the Mayor to execute the construction contract on behalf of the City.

The City Clerk is directed to return the executed copies of the Agreements to the Department of Public Works & Utilities, for transmittal and execution by the State Department of Roads.

Introduced by Carl Eskridge

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

ADOPTING THE LES RATE SCHEDULES PROVIDING FOR A SYSTEM AVERAGE RATE INCREASE OF 3.5%, EFFECTIVE JANUARY 1, 2012. (ACTION DATE: 12/5/11)

ADOPTING THE LINCOLN ELECTRIC SYSTEM ANNUAL BUDGET FOR 2012, TO BECOME EFFECTIVE JANUARY 1, 2012. (ACTION DATE: 12/5/11)

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

ACCEPTING AND APPROVING THE SECOND AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND LANCASTER COUNTY SCHOOL DISTRICT NO. 001 TO EXTEND THE TERM FOR THE LEASE OF OFFICE SPACE IN THE BUILDING LOCATED AT 949 WEST BOND STREET - CLERK read an ordinance, introduced by Adam Hornung, accepting and approving the Second Amendment to Lease Agreement between the City of Lincoln, Nebraska and Lancaster County School District No. 001 to extend the term for the lease of office space in the building located at 949 West Bond Street to Lincoln Public Schools until August 31, 2013 with options to renew for two additional three month terms, the first time.

**ORDINANCES - 3<sup>RD</sup> READING & RELATED RESOLUTIONS (as required)**

CHANGE OF ZONE 11035 - APPLICATION OF R.I.P., INC. FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT NORTH 24TH STREET AND DODGE STREET. (RELATED ITEMS: 11-157, 11R-246, 05-188) (ACTION DATE: 10/17/11) (10/10/11 - P.H. CON'T. 4 wks. to 11/7/11 w/Action on 11/14/11) (11/14/11 - Action Delayed 1 wk to 11/21/11) - CLERK read an ordinance, introduced by Doug Emery, amending the Lincoln Zoning District Maps adopted by reference and made a part of Title 27 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

EMERY Moved to pass the ordinance as read.

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

The ordinance, being numbered #19652, is recorded in Ordinance Book #27, Page .

SPECIAL PERMIT 11023 - APPEAL OF LANDON'S NEIGHBORHOOD ASSOCIATION AND REGALTON NEIGHBORHOOD ASSOCIATION FROM THE PLANNING COMMISSION'S CONDITIONAL APPROVAL OF ITS APPLICATION FOR AUTHORITY TO DEVELOP THE MAGIC HILLS COMMUNITY UNIT PLAN CONSISTING OF 96 DWELLING UNITS IN FOUR BUILDINGS AND A CLUBHOUSE, ON PROPERTY GENERALLY LOCATED AT NORTH 24TH STREET AND DODGE STREET. (RELATED ITEMS: 11-157, 11R-246, 05-188) (ACTION DATE: 10/17/11) (10/10/11 - P.H. CON'T. 4 WKS. TO 11/7/11 W/ACTION ON 11/14/11) (11/14/11 - ACTION DELAYED 1 WK TO 11/21/11) - CLERK read the following resolution, introduced by Doug Emery, who moved its adoption:

A-86614 WHEREAS, Dan Klein and Martin Fortney of Regal Building Systems have submitted an application designated as Special Permit No. 11023 for authority to develop Magic Hills Community Unit Plan for 96 dwelling units on property generally located at N. 24th Street and Dodge Street and legally described as: Outlot "A", Block 1, Northview 3rd Addition and Lot 1, Block 1, Northview 4th Addition, all located in the Northeast Quarter of Section 12, Township 10 North, Range 6 East, Lancaster County, Nebraska;

WHEREAS, the Lincoln City-Lancaster County Planning Commission held a public hearing on said application and adopted Resolution No. PC-01250 conditionally approving the same; and

WHEREAS, Landon's Neighborhood Association and Regalton Neighborhood Association have filed a Notice of Appeal appealing the action of the Planning Commission conditionally approving Special Permit No. 11023; 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 domiciliary care facility 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 Dan Klein and Martin Fortney of Regal Building Systems, hereinafter referred to as "Permittee", to develop Magic Hills Community Unit Plan for 96 dwelling units, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction of said development be in substantial compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 96 apartment units in four buildings and a clubhouse, and rescinds Special Permit Nos. 1820 and 1821.
2. The City Council must approve the associated change of zone 11035.
3. Before receiving building permits the Permittee shall:
  - a. Cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including five copies showing the following revisions:
    - i. In the site information table change the required parking to 192.
    - ii. Delete Note #10 in the General Site Notes.
    - iii. Show a detail of the playground and the type of equipment within the playground.
    - iv. On the south property line show a 40 foot building setback and a 15 foot parking setback.
    - v. On Lot 1, Block 1, change R-5 to R-4.
    - vi. Delete "change of zone" from the legal description.
    - vii. Remove the landscaping on the east side if it is not intended to remain. If it is to remain, add a note stating landscaping to remain.
    - viii. Remove the City Council approval block.
  - b. Post a \$2,250.00 surety to guarantee the expansion of the detention cell and post a \$2,000.00 surety to guarantee the removal of the street return to be rebuilt to driveway design standards.
  - c. Provide verification from the Register of Deeds that the letter of acceptance as required by the approval of the special permit has been recorded.
  - d. The construction plans must substantially comply with the approved plans.
4. Before occupying the dwelling units all development and construction is to substantially comply with the approved plans.
5. All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City.
6. The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must 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, filing fees therefor to be paid in advance by the Permittee.

Introduced by Doug Emery

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

CHANGE OF ZONE 3413 - APPLICATION OF LANDON'S NEIGHBORHOOD ASSOC. FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL TO R-2 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT N. 24TH AND SUPERIOR STREETS. (12/19/05 - PLACED ON PENDING INDEFINITELY) (REQUEST TO REMOVE FROM PENDING TO HAVE P.H. ON 10/10/11 W/11-157 & 11R-246) (10/3/11 - TO

HAVE P.H. ON 10/10/11, W/ACTION ON 10/17/11) (RELATED ITEMS: 11-157, 11R-246, 05-188) (ACTION DATE: 10/17/11) (10/10/11 - P.H. CON'T. 4 WKS. TO 11/7/11 W/ACTION ON 11/14/11) (11/14/11 - ACTION DELAYED 1 WK TO 11/21/11) - PRIOR to reading:

COOK Moved to pass the ordinance as read.  
Seconded by Schimek & **LOST** by the following vote: AYES: Cook, Eskridge;  
NAYS: Camp, Carroll, Emery, Hornung, Schimek.  
The ordinance, having **LOST**, was assigned File #38-4612 & was placed on file in the Office of the City Clerk.

#### **OPEN MICROPHONE**

Jane Svoboda, address not given, came forward to comment on various issues regarding personal safety, food contaminants, suspect behavior by President Obama, hacking of voting machines, distrust of Chinese military and concerns of terrorist activities.

This matter was taken under advisement.

Dana Garrison, 924 Goodhue Blvd., came forward as a UNL student majoring in agriculture, originally from the Sacramento, California area, speaking on behalf of the Occupy Lincoln movement. She wanted to open the dialog with City Council members and answer any questions. Ms. Garrison said Occupy Lincoln has positive intentions for the City. She said LPD has been respectful & professional and, while there have been national reports of police brutality, she has not experienced it locally.

This matter was taken under advisement.

Julie Schmidt-Albin, Executive Director of Nebraska Right-to-Life, 404 S. 11<sup>th</sup> St., came forward expressing concerns about a possible disparate application of justice. She compared Occupy Lincoln encampment activities with that of organized First Amendment pro-life events. Ms. Schmidt-Albin asked that the Council reflect upon her view that Nebraska Right to Life and Lincoln Right to Life are held to a different standard than Occupy Lincoln.

This matter was taken under advisement.

Trina Derickson, 1421 D St., Apt. 2, came forward to speak on behalf of Occupy Lincoln to answer any questions regarding their peaceable movement.

This matter was taken under advisement.

Kevin Hopman, address not given, came forward stating he is a lifetime resident of Lincoln and in support of Occupy Lincoln and the Occupy movement in general. He shared ideas, small victories and general complaints. He invited Council to join their general assemblies and be a voice for the 99%.

This matter was taken under advisement.

Jeff & Susan Coffey came forward representing Clock Tower Shopping Center to speak on a liquor licence application for Grata bar. Council Chair Carroll advised the couple that they could not speak on a specific issue that had public hearing last week. He added that the City Attorney would be available after the meeting to answer their questions or listen to their important concerns.

This matter was taken under advisement.

Mike Morosin, 1500 N. 15<sup>th</sup> St., came forward to wish Council a happy Thanksgiving holiday.

This matter was taken under advisement.

#### **MISCELLANEOUS BUSINESS**

##### **PENDING -**

CAMP Moved to extend the Pending List to December 5, 2011.  
Seconded by Cook & carried by the following vote: AYES: Camp, Carroll, Cook, Emery, Eskridge, Schimek; NAYS: None; ABSENT: Hornung.

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**UPCOMING RESOLUTIONS**

CAMP                    Moved to approve the resolutions to have Public Hearing on December 5,  
2011.                    Seconded by Cook & carried by the following vote: AYES: Camp, Carroll,  
Cook, Emery, Eskridge, Schimek; NAYS: None; ABSENT: Hornung.

**ADJOURNMENT    9:32 P.M.**

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

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Joan E. Ross, City Clerk

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Sandy L. Dubas, Senior Office Assistant