LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for March 14, 2007 PLANNING COMMISSION MEETING

-REVISED REPORT-

PROJECT #: Change of Zone #06084

PROPOSAL: A text amendment that defines animal hospitals, indoor animal hospitals, kennels, indoor kennels, and outdoor play yards; allows animal hospitals and indoor kennels as permitted uses in the B-1, B-2, B-3, H-2, H-3 and H-4 districts; and creates a special permit in the H-3 and H-4 zoning districts for outdoor play yards.

CONCLUSION: The provisions of Lincoln Municipal Code (LMC) Title 6 currently prohibit kennels within the city limit and would need to be amended to allow them. The Zoning Ordinance only allows kennels in the AG, AGR, B-4, I-1 and I-2 zoning districts. This amendment defines indoor animal hospitals and indoor kennels as having no more three animals outside at any one time and no outside boarding, and allows them as permitted uses in the B-1, B-2, B-3, H-2, H-3 and H-4 districts. The ability to have more than three animals outside at any one time is limited to H-3 and H-4, requires a special permit approved by the Planning Commission, and must conform to certain minimum conditions which can be made more restrictive by the Commission.

RECOMMENDATION:	Approval

HISTORY: This request was delayed for four weeks by the Planning Commission at the January 17, 2007 public hearing at the request of the Planning Department. Staff requested the delay to allow time for staff to gain a better understanding of the animal care/boarding industry and refine the draft text if necessary.

At the February 14, 2007 hearing, the Planning Commission voted to delay this item for four weeks to allow time for the amendment to be revised to include definitions for kennels, veterinary clinics and outdoor play areas, and provisions that require more equal treatment of veterinary clinics and kennels regarding animal boarding. The Commission also wanted to allow for input from veterinarians if animal boarding associated with clinics was treated the same as kennels.

ANALYSIS:

1. Kennels are regulated by LMC Title 27 (Zoning Ordinance), and are allowed in the AG, AGR, B-4, I-1 and I-2 zoning districts as a permitted use. Kennels are also regulated by LMC Title 6 (Animals), which prohibits them within Lincoln's city limit except for the

Humane Society, an animal shelter or research facility, zoos, or animal hospitals operated by licensed veterinarians.

2. A local agent for a nationally-franchised company named Camp Bow Wow has been attempting to site a facility in the Lincoln area, but has been unable to find a suitable location. The use is described by the owner as a "Premier Doggy Day and Overnight Camp", and is considered a kennel (specifically, a commercial boarding kennel) for the purposes of LMC. The intent of this text amendment and associated amendments to LMC Title 6 now under consideration by the Board of Health are intended to provide areas within the city where such businesses can locate.

3. Being allowed in only the AG, AGR, B-4, I-1 and I-2 zoning districts and outside the city limit, areas where kennels can be located are limited and often not in proximity to the population centers where customers live. While a kennel is not an appropriate land use in residential or low intensity commercial /office areas, it is an appropriate land use in additional zoning districts beyond those currently allowed.

4. Planning Staff originally proposed amending Chapter 27 to allow commercial boarding kennels in the H-4 district by special permit, and continue as a permitted use in the AG, AGR, B-4, I-1 and I-2 districts inside or outside the city. At the January 17, 2007 public hearing, there was testimony to the effect that the boarding activities have grown beyond the point of being incidental and accessory to veterinary operations in some cases. The Commission continued the hearing to February 14, to allow staff time to research the facts and implications and return any new proposals that research would suggest.

5. At the February 14, 2007 hearing, staff presented a new option: treating kennels as "conditional uses" in the H-3 and H-4 districts. This was intended to recognize the expanded boarding activities occurring in some existing animal hospitals. The Commission continued the hearing again until March 14, 2007. Members expressed concerns about the adequacy of the proposed conditions for outdoor exercise areas. They also suggested that zoning regulations should deal with the impacts of outdoor animal exercise areas in the same manner regardless of whether or not the operator of the boarding use is a veterinarian.

6. Based on the Commissioners' February 14 comments, staff has developed and advertised a third approach to this issue:
a) Allow "indoor kennels" as permitted uses in all the same commercial zoning districts in which "animal hospitals" are currently allowed , but not kennels: B-1, B-2, B-3, H-2, H-3 and H-4.

b) Define both uses as including outside animal runs for no more than three animals at any one time. This would be the equivalent to the three dogs which any household in the city can keep as pets inside and outside on a residential property.
c) Create a special permit process for individualized review/approval by the Planning Commission of outdoor animal runs, defined as allowing more than three animals outside at any one time - whether part of an animal hospital or an indoor kennel. These special permits would only be available in the H-3 and H-4 districts, but not the B districts.

7. LMC Title 6 has five definitions for uses that include the term 'kennel'. The definition in LMC Section 6.02.140 states "Commercial boarding kennel shall mean any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska." The intent of this amendment to title 27 is to allow those kennels as defined by LMC Section 6.02.140 - Commercial Boarding Kennel - as permitted uses if they have very limited outdoor activity, and to allow more substantial outdoor activity only by special permit.

8. Impacts typically associated with kennels include noise from dogs barking, and odor caused by confined animals. The proposed conditions for the conditional use are intended to mitigate these impacts by confining boarding inside the building, limiting the number of animals during the noise sensitive night hours, and requiring outdoor play areas to be 100% screened and located a minimum of 100' away from any land zoned R-1 through R-8. A summary of the proposed text amendment is attached.

9. This amendment does not change the current provisions regarding kennels in the AG, AGR , B-4, I-1 and I-2 districts. The requirements for the AG and AGR districts were not amended because the minimum lot areas (20 acres in AG and 3 acres in AGR) help provide separation among uses, and because there are few areas inside the city limit zoned AG and AGR. The B-4, I-1 and I-2 districts were not included because kennels are already permitted in those districts, and all three districts allow a wide range of uses generally compatible with kennels.

10. For kennels to be allowed in the city, Title 6 must be amended. The Board of Health and the Animal Control Advisory Committee held public hearings on the proposed amendments to Title 6 in January and February. The Board of Health voted to not amend Title 6 in order to allow commercial boarding kennels inside the city limits. The minutes from that meeting are attached to this report. Councilmember Svoboda, who is also a member of the Health Board but was not present for that hearing, has requested that the issue be brought to the City Council along with proposed zoning amendments.

11. Chapter 6 also has a provision called "Barking, Howling or Yelping Dogs" (6.08.160), which makes loud, continued barking which causes a disturbance a misdemeanor offense. The Humane Society and veterinary operations are currently exempted from this provision. If one accepts the Planning Commission's premise that the outdoor activities of a veterinary operation and a commercial boarding operation be handled consistently in the zoning ordinance, then to be consistent, veterinary operations should not be exempted from this provision in Chapter 6. This issue was not considered by the Health Board at their meetings.

12. This item has not been presented to the Mayor's Neighborhood Roundtable, as staff has been instructed that the Roundtable will not be presented zoning text amendments until further notice.

Prepared by:

_____
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March 2, 2007, 2007

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Attachment: Summary of proposed text amendment

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PROPOSED TEXT AMENDMENT - KENNELS

1. Amend Chapter 27.03 Definitions to include the following new definitions:

   a. **Animal Hospital** - Animal hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of injuries of animals including boarding of animals under treatment or benefit of the client; provided said veterinarian or veterinarians are duly licensed under the laws of Nebraska.
   b. **Animal Hospital, Indoor** - Indoor Animal hospital shall mean any establishment or business maintained and operated by a veterinarian or veterinarians for examination, prophylaxis, surgery, diagnosis and treatment of injuries of animals including boarding of animals under treatment or benefit of the client; provided said veterinarian or veterinarians are duly licensed under the laws of Nebraska, but shall not include outdoor boarding and shall be limited to no more than three animals outside at any one time.
   c. **Kennel** - Kennel shall mean any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska.
   d. **Kennel, Indoor** - Indoor Kennel shall mean any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians duly licensed under the laws of the State of Nebraska, but shall not include outdoor boarding and shall be limited to no more than three animals outside at any one time.
   e. **Outdoor Exercise Area Associated with an Animal Hospital or Kennel** - An area located outside for more than three animals for the purpose of an animal exercise area, but shall not include animal boarding.

2. Amend the following sections to allow Indoor Animal Hospitals as a permitted use in the following districts:

   27.29.020(k) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (B-1).

   27.31.030(k) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (B-2).

   27.33.020(j) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (B-3).

27.41.020(i) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (H-2).

27.43.020(j) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (H-3).

27.45.020(k) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (H-4).

27.63.470(a) - **Indoor Animal** Hospitals ~~and clinics for animals, but not open kennels~~ (Permitted Special Use, Planned Service Commercial).

3. Add the following sections to allow Indoor Kennels as a permitted use in the following districts:

27.29.020(ee) - Indoor Kennels (B-1).

27.31.030(aa) - Indoor Kennels (B-2).

27.33.020(ff) - Indoor Kennels (B-3).

27.41.020(ff) - Indoor Kennels (H-2).

27.43.020(ll) - Indoor Kennels (H-3).

27.45.020(x) - Indoor Kennels (H-4).

27.63.470(a)(24) - Indoor Kennels (Permitted Special Use, Planned Service Commercial in H-4).

4. Add a new section creating a special permit for Outdoor Exercise Area Associated with an Animal Hospital or Kennel .

27.63.780 Outdoor Exercise Area Associated with an Animal Hospital or Kennel

Outdoor Exercise Areas Associated with an Animal Hospital or Kennel may be allowed by special permit in the H-3 and H-4 zoning districts under the following conditions:

(1) All outdoor exercise areas associated with an animal hospital or kennel and fences surrounding outdoor exercise areas shall meet the setbacks of the zoning district, except the outdoor exercise area must be at least 100' from any R-1 through R-8 zoning district as measured to the closest point of the outdoor exercise area.

(2) Outdoor exercise areas associated with an animal hospital or kennel shall be screened 100% from the ground to 6' in height with an opaque fence or wall. Slats in chain link fence are not acceptable.
(3) Use of outdoor exercise areas associated with an animal hospital or kennel between the hours of 10:00 p.m. and 7 a.m. is prohibited.
(4) An outdoor exercise area associated with an animal hospital or kennel is only allowed in conjunction with an an animal hospital or kennel.
(5) The Planning Commission may limit the number of animals allowed in the outdoor exercise area at any one time.
(6) The Planning Commission may increase these requirements with consideration given to both facilities and adjacent environment.

5. Add the following sections allowing Outdoor Exercise Area Associated with an Animal Hospital or Kennel by special permit in the H-3 and H-4 districts, and as a permitted use in Planned Service Commercial.

27.43.040 - Permitted Special Uses (H-3):

(r) Outdoor Exercise Area Associated with an Animal Hospital or Kennel .

27.45.030 - Permitted Special Uses (H-4):

(r) Outdoor Exercise Area Associated with an Animal Hospital or Kennel .

27.63.470(a)(25) - Outdoor Exercise Area Associated with an Animal Hospital or Kennel (Permitted Special Use, Planned Service Commercial):

(i) Provided that such facilities comply with the requirements of 27.63.780, Outdoor Exercise Area Associated with an Animal Hospital or Kennel.

LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

Board of Health Minutes
February 13, 2007

DRAFT

I. ROLL CALL

The meeting of the Board of Health was called to order at 6:31 PM by Lisa Peterson at the Lincoln-Lancaster County Health Department. Members present were: Rodrigo Cantarero, Deb Humphrey, Tony Messineo, Ed Schneider, Deb Schorr, Ann Harrell (ex-officio) and Lisa Peterson.

Members Absent: Cathy Alley, Hena Roy, Ken Svoboda, Kristy Bauer (ex-officio), and Tonya Skinner (ex-officio).

Staff Present: Bruce Dart, Steve Beal, Charlotte Burke, Jim Weverka, Scott Holmes, and Elaine Severe.

Others Present: Mark Anderson, Ron Burke, Peter Katt, Paul Marcussen, Tom Ryan, Kent Forney, Henry Sader, Sr., Henry Sader, Jr., Mike Anderson, Coleen Claric, David Bargen, Larry Hudkins.

Dr. Peterson welcomed Deb Schorr to the Board of Health. Ms. Schorr represents the Lancaster County Board of Commissioners. Board members introduced themselves and welcomed Ms. Schorr to the Board of Health.

II. APPROVAL OF AGENDA

Dr. Peterson asked if there were any additions or corrections to the Agenda.

Motion: Moved by Mr. Messineo that the Agenda be approved as mailed. Second by Dr. Humphrey. Motion carried by acclamation

III. APPROVAL OF MINUTES

Dr. Peterson asked if there were any additions or corrections to the Minutes.

Motion: Moved by Dr. Schneider that the January 9, 2007 Minutes be approved as mailed. Second by Dr. Cantarero. Motion carried by acclamation.

IV. PUBLIC SESSION

V. DEPARTMENT REPORTS

A. Health Director Update

Dr. Dart stated the monthly highlights were mailed to the Board members. He reported a 11 year old Lancaster County resident has died of influenza. Nebraska Health and Human Services System issued a news release and Communicable Disease staff are doing followup with the family. Dr. Dart reported the number of influenza cases has increased and noted influenza vaccine is still available at the Health Department's Clinic.

Dr. Dart responded to Dr. Schneider's request from last month on the increase in the number of gonorrhea cases in the past year in Lancaster County. He stated the Department is testing more individuals, therefore, the number of cases reported has increased. Mr. Messineo asked for an update on the statewide smoking legislation. Dr. Dart responded the Legislature heard testimony on the bill today. The proposed legislation essentially mirror's Lincoln's Smokefree Act.

Mr. Messineo suggested the Board of Health set aside time at each Board of Health meeting for members to ask questions about any issue. This would allow Board of Health members opportunities to bring up issues for discussion or agenda items for future meetings. Dr. Peterson and Dr. Dart will review and discuss Mr. Messineo's request.

Mr. Beal previewed the Health Department's 59th Annual Report. The Report will be available on the City of Lincoln/Health Department website. A news release will announce the release of the Report and it will be made available to our stakeholders via e-mail. It will also be debuted on Chanel 5 City TV. Dr. Schneider complimented Mr. Beal and the staff for their fine work on the Annual Report. The Report will be presented to the Board of Health for approval at the March 13, 2007 meeting.

Mr. Messineo asked for an update on the pandemic flu. Staff are meeting with the Lincoln Police Department and Lincoln Fire & Rescue to finalize their pandemic plans. Mr. Messineo requested for information on pandemic flu to disseminate to businesses. The website and pertinent information will be forwarded to Mr. Messineo and his office.

VI. CURRENT BUSINESS

A. Proposed Revisions to LMC 6.02 - Definitions; 6.04 - Animals Generally; 6.08 - Dogs; 6.10 - Dangerous and Potentially Dangerous Dogs; and 6.12 - Cats

Dr. Dart stated the proposed revisions to the Animal Control ordinances were tabled at the January 9th meeting to allow the Animal Control Advisory Committee another chance to review them. He stated the Animal Control Advisory Committee met on February 7, 2007 to discuss the revisions. They voted to send their recommendations on boarding kennels to the Board of Health. Their vote failed 5-3. Mr. Weverka stated the proposed revisions are now presented to the Board of Health for their review. Ordinance 6.04.205 - mandatory neuter/spay will be removed from the materials presented as the Animal Control Advisory Committee wanted more time to review this particular revision. This revision relates to microchips. Dr. Dart stated the City Attorney continues to maintain that if existing boarding kennels are annexed into the City of Lincoln, they cannot be "grandfathered in". The City Attorney's Office says the Planning Commission will discuss zoning issues and health issues override zoning issues. Board members asked if the "grandfathering issue" could be changed.

Mr. Bargan, attorney for the Nebraska Animal Medical Center, stated public health issues need to be addressed. He also disagreed with the City Attorney on annexation and grandfathering issues. Mr. Sader, Sr. stated allowing more kennels in the city limits will bring more problems. He also stated a 100 ft. setback is not enough to eliminate noise issues. Dr. Forney stated the Animal Control Advisory Committee has voted twice to not

allow commercial boarding kennels in the city limits and asked the Board of Health to follow the advise of the Advisory Committee. Mr. Ryan, Camp Bow Wow, stated Camp Bow Wow's plans call for 60 kennels. He stated the Belmont Veterinary Clinic has 88 kennels and the Nebraska Animal Medical Center has 50 kennels. He stated kennels are not the same as they were 50 years ago and there are no problems with the kennels that are currently in the city limits. He stated people are requesting this service and Camp Bow Wow looks out for the welfare of their animals. Mr. Katt, attorney for Camp Bow Wow, stated we currently have boarding kennels in the city of Lincoln and there are no problems. The Board of Health should not pick and choose who should be allowed and who should not. Mr. Marcussen, stated his kennel provides a service to the community and asked for parity with the veterinarians. Mr. Anderson asked what the Department will do when bad owners bring animals into public places.

Dr. Schneider stated if more kennels are allowed in the City of Lincoln, there could be more barking complaints, odor complaints, etc. He suggested forwarding the proposed ordinance revisions to the City Council stating there is no public health reason to locate more kennels in the City Limits and express the Board's concerns. Dr. Dart stated the Department has not received noise/sanitation complaints from kennels. Dr. Dart reminded Board members that their role is to advise on policy issues as they affect the public health of the community. Dr. Peterson read a letter from Board member Svoboda stating commercial boarding kennels, operated by veterinarians, already exist within the city limits, the Health Department has not received any complaints regarding the existing kennels, The City Attorney's Office continues to express concern relative to annexation of boarding kennels into the City limits and the role of the Board of Health is to advise on policy issues based on public health principles only. Zoning issues and policy development on land use are the role of the Planning Commission and the City Council.

Mr. Messineo stated there might be health issues in the future. Camp Bow Wow appears to be a good operation, but we don't know who else may wish to locate in the City of Lincoln. Dr. Cantarero asked if we could assume regulate of the kennels. The State of Nebraska currently regulates the veterinary clinics and kennels located outside the City limits. Dr. Humphrey noted she has concerns about noise/barking issues and noted the Animal Control Advisory Committee voted it down on two occasions.

Motion: Moved by Dr. Schneider to forward the Animal Control ordinances (without the commercial boarding kennels and micro-chipping portions) to the City Council for their review. Second by Mr. Messineo. Motion carried on a 6-0 roll call vote.

Motion: Moved by Dr. Schneider to not forward the commercial boarding kennel ordinance revisions to the City Council. Second by Mr. Messineo. Motion failed by a 4-2 roll call vote.

VII. NEW BUSINESS

A. Proposed Policy 222.92 - Food Code Variance Requests

Mr. Holmes reviewed the proposed policy stating the FDA National Retail Food Program Standard #3 requires that regulatory agencies have a written policy on how requests for variances of the Food Code are reviewed and approved. The food industry is constantly evolving and there is a need to allow for a variance from the regulations as long as food safety is not compromised. Mr. Holmes stated requests for a variance are not common so having a written policy is important to assure the review is completed appropriately.

Motion: Moved by Mr. Messineo that the Board of Health approve Policy 222.92 - Food Code Variance Requests. Second by Dr. Humphrey. Motion carried by a 6-0 roll call vote.

B. Proposed Policy 222.82 - HACCP Plan Reviews

Mr. Holmes reviewed the proposed policy stating the FDA National Retail Food Program Standard #3 requires regulatory agencies have a written policy on how HACCP (Hazardous Analysis Critical Control Points) plans that are required by the Food Code are reviewed and approved. The Department has reviewed two plans in the past. Reque4sts to review a HACCP plan are not a common occurrence so having a written policy is important to assure that review is completed appropriately.

Motion: Moved by Dr. Cantarero that the Board of Health approve Policy 222.82 - HACCP Plan Reviews. Second by Dr. Humphrey. Motion carried by a 6-0 roll call vote.

VIII. FUTURE BUSINESS

IX. ANNOUNCEMENTS

The next meeting is March 13, 2007 at 6:30 PM.

X. ADJOURNMENT

Motion: Moved by Dr. Humphrey to adjourn the meeting. Second by Ms. Schorr. Motion carried by acclamation. The meeting was adjourned at 8:07 PM.

Elaine Severe
Recording Secretary

Tony Messineo
Vice-President

LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT

Board of Health Minutes
January 9, 2007

I. ROLL CALL

The meeting of the Board of Health was called to order at 6:32 PM by Lisa Petersonat the Lincoln-Lancaster County Health Department. Members present were: Cathy Alley, Rodrigo Cantarero, Deb Humphrey, Tony Messineo, Ed Schneider, Ken Svoboda, Ann Harrell (ex-officio) and Lisa Peterson.

Members Absent: Larry Hudkins, Hena Roy, Kristy Bauer (ex-officio), and Tonya Skinner (ex-officio).

Staff Present: Bruce Dart, Steve Beal, Judy Halstead, Charlotte Burke, Jim Weverka, Dave Humm, and Elaine Severe.

Others Present: Mark Anderson, Marvin Krout, Peter Katt, Paul Marcussen, Tom Ryan, Kent Forney, Henry Sader, Sr., Henry Sader, Jr., Mike Anderson, Hal Smith.

II. APPROVAL OF AGENDA

Dr. Peterson asked that the Alcohol Use Sub-Committee Report be moved from Item C to Item B under New Business. She asked if there were any other additions or corrections to the Agenda.

Motion: Moved by Dr. Alley that the Agenda be approved as amended. Second by Mr. Svoboda. Motion carried by acclamation

III. APPROVAL OF MINUTES

Dr. Peterson asked if there were any additions or corrections to the Minutes.

Motion: Moved by Dr. Schneider that the December 12, 2006 Minutes be approved as mailed. Second by Dr. Alley. Motion carried by 7-0 roll call vote.

IV. PUBLIC SESSION

V. DEPARTMENT REPORTS

A. Health Director Update

Dr. Dart stated the monthly highlights were mailed to the Board members. He stated plans are underway for the Department's Annual Meeting. It is scheduled for Wednesday, April 18, 2007 from 11:30-1:00 at BryanLGH East Conference Room. Lt. Governor Rick Sheehy will be the keynote speaker. The topic of the meeting will be Adolescent Health and Risk Factor Issues. The meeting will include a luncheon, awards presentation, and a panel discussion session following until 3:30 PM.

Dr. Schneider asked Dr. Dart for an explanation for the 73% increase in gonorrhea cases in the past year in Lancaster County. Dr. Dart will obtain the information from the Communicable Disease staff. He also asked Ms. Burke about the 35% non-compliance in

establishments selling tobacco products to minors. Ms. Burke responded there has been an increase and staff are working with the Lincoln Police Department on this issue. Board members also asked about food handler permits and requirements, tuberculosis cases and shigella cases in day care centers. Dr. Dart responded staff are now providing education classes to day care centers. Board members also asked if the increase in the federal minimum wage would affect the City's living wage ordinance. Mr. Svoboda responded increases are built into the City's living wage ordinance.

Mr. Messineo asked Dr. Dart whether food establishments that employee Special Needs employees are required to have a Level IV Manager on staff when the employees are scheduled to work. Dr. Dart will respond to Mr. Messineo.

VI. CURRENT BUSINESS

VII. NEW BUSINESS

A. 59th Annual Report for the Lincoln-Lancaster County Health Department

Mr. Beal provided a draft copy of the 59th Annual Report. The final report will be ready in approximately two weeks. It will have interactive pages and promote the Department's website. In past years, the Annual Report has been distributed through the Lincoln Journal Star. This will not be done this year. Release and availability of the Annual Report will be done through a media release.

B. Alcohol Use Sub-Committee Policy Statement

Mr. Beal and Mr. Humm stated the Sub-Committee met to review the information and are recommending a letter be sent to the Substance Abuse Action Coalition from the Board of Health supporting the Coalition's efforts regarding substance abuse prevention in Lincoln and Lancaster County. Mr. Humm provided an update on the Coalition's work to date and what their next steps will be. He serves as a member of the Coalition and will provide monthly updates on the Coalition's work in the Department's Monthly Report. Dr. Schneider asked that the letter emphasize "action".

Motion: Moved by Mr. Messineo that the Board of Health send a letter of support to the Substance Abuse Action Coalition supporting their substance abuse prevention efforts in Lincoln and Lancaster County. Second by Dr. Schneider. Motion carried on a 7-0 roll call vote.

C. Proposed Revisions to LMC 6.02 - Definitions; 6.04 - Animals Generally; 6.08 - Dogs; 6.10 - Dangerous and Potentially Dangerous Dogs; and 6.12 - Cats

Mr. Weverka reviewed the proposed revisions to the animal control ordinances. They were reviewed by the Animal Control Advisory Committee and all were recommended for approval for the Board of Health except those related to Commercial Boarding Kennels. The Committee reviewed and discussed the Commercial Boarding Kennel ordinance draft in December, 2006 and heard comments from the boarding kennel owners

and veterinarian present. They did not want competition from franchise operations, they disagreed with the City Attorney opinion that if annexed by the City, they would have to cease operation. Therefore, the Animal Control Advisory Committee voted to not approve the ordinance revisions regarding boarding kennels. Staff prepared an alternate proposal and he distributed it to Board members. Changes included kennels would have to comply with all zoning and land use restrictions of the City of Lincoln and they would have to be licensed under the State of Nebraska. Dr. Dart stated Camp Bow Wow is proposing a kennel operation and would like to operate in the City limits. Under current ordinances, they would not be allowed to do that. Dr. Dart stated the City of Lincoln is growing and kennels that are now outside the City limits will eventually be annexed. The City will eventually have to deal with this issue. If the property current kennels are located on is annexed, they would not comply with current City ordinances. The proposed revisions to the ordinance would simplify the process.

Dr. Peterson stated each person present who wished to comment will be given 5 minutes to do so.

Testifiers - Support for the Ordinance Revisions.

1) Tom Ryan - Camp Bow Wow Owner. He stated Camp Bow Wow would like to begin operations in the City of Lincoln. He provided information on his proposed operation and their services. Currently commercial boarding kennels are not allowed in the City limits under current ordinances.

2) Peter Katt - Pierson Fitchett Law Firm - Camp Bow Wow Attorney - Mr. Katt stated he fully supported the proposed revisions. Currently, commercial boarding kennels are not allowed in the City Limits. The revisions would bring the Health ordinances and Zoning regulations up to date and allow Camp Bow Wow to locate in Lincoln. He noted many cities allow commercial kennels within their borders. He also commented veterinarians have already ben providing commercial boarding within the City limits and there are no concerns with that.

3) Paul Marcussen - Prairie Winds Kennels Owner. Mr. Marcussen stated he supported the revisions. He did ask that the hours be defined in the zoning regulations. He stated there would be noise and complaints may be received depending on where the kennels are located. He currently owns a kennel outside the city limits. He supported the "grandfathering clause" for those operations that are already in existence.

Testifiers - Against the Ordinance Revisions

1) Henry Sader, Sr. and Henry Sader, Jr. - Wilderness Kennels Owners. Mr. Sader stated Wilderness Kennels has been in operation since 1968 at 21st & Saltillo Road. He stated there is no need to put a kennel within the City limits.

Commercial kennels should be built outside the City Limits and allowing them in the City limits would allow for unfair competition.

2) Kent Forney - Veterinarian. He stated he is a local veterinarian and he is opposed to the ordinance revisions. He stated there was no need for more boarding kennels in the City of Lincoln. He stated the Board of Health should listen to the Animal Control Advisory Committee and follow their recommendations. He felt opening the City to commercial kennels would open the door for other operations such as Pet Smart to offer boarding kennel services. He stated his business does offer boarding services but most of the animals he boards have health problems and require monitoring.

3) Mike Anderson - Driftwood Kennels owner. He stated he wanted to build a kennel in the City limits in the 1990s and was not allowed to. He had to purchase 20 acres in the County to open his operation. He stated he is opposed to the ordinance revisions as they allow for unfair competition.

Testifiers - Neutral

1) Hal Smith - Highlands Animal Hospital owner. He stated noise would be an issue that would have to be addressed. The more animals you have, the more noise you have.

Marvin Krout, Lincoln Lancaster County Planning Director, stated the Planning Commission would address the zoning changes and a public hearing would be held by the Planning Commission. Mr. Svoboda asked if the Special Permit process would address the hours of operation of proposed boarding kennels. Mr. Krout responded yes. He also suggested the Board of Health get a legal opinion from the City Attorney to determine whether health regulations override "grandfathering" issues.

Dr. Schneider and Mr. Svoboda stated the Board of Health should only address public health issues when reviewing the proposed ordinance revisions. Dr. Schneider stated he believed the staff and Board could prepare language that was acceptable to all parties to deal with these issues. From a public health perspective, he saw little need to add commercial kennels within the City limits. He asked that the Board request a legal opinion on this issue on non-conforming use property and grandfathering issues. Dr. Canterero asked Dr. Dart what the public health implications would be. Dr. Dart replied they would be noise and sanitation issues. He noted the State currently oversees and licenses kennel operations. Dr. Alley asked whether the Animal Control Advisory Committee had an opportunity to review the new proposed language. Dr. Dart replied they had not seen it.

Motion: Moved by Dr. Schneider that the Board of Health table the proposed ordinance revisions until the February 13, 2007 meeting and ask that the revisions be presented to

the Animal Control Advisory Committee prior to the February 13, 2007 meeting. The Board also requests the City Attorney provide a legal opinion on non-conforming use property. Second by Dr. Alley. Motion carried by a 7-0 roll call vote.

D. Election of Officers

Dr. Peterson presented the nominations for Board of Health officers for 2007. President - Dr. Lisa Peterson, Vice-President - Tony Messineo. She and Mr. Messineo have agreed to serve if elected.

Motion: Moved by Dr. Schneider that the Board of Health elect Lisa Petrson, MD as President and Tony Messineo as Vice-President for 2007. Second by Dr. Cantarero. Motion carried by a 7-0 roll call vote.

VIII. FUTURE BUSINESS

IX. ANNOUNCEMENTS

The next meeting is February 13, 2007 at 6:30 PM.

X. ADJOURNMENT

Motion: Moved by Dr. Schneider to adjourn the meeting. Second by Dr. Alley. Motion carried by acclamation. The meeting was adjourned at 8:15 PM.

Elaine Severe
Recording Secretary

Tony Messineo
Vice-President