

MINUTE RECORD

No. 729—REFFIELD & COMPANY, INC., OMAHA

LA VISTA CITY COUNCIL MEETING September 15, 2009

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 7:00 p.m. on September 15, 2009. Present were Councilmembers: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Absent: Ronan. Also in attendance were City Attorney McKeon, City Administrator Gunn, City Engineer Kottmann, Deputy City Clerk Lupomech, Library Director Barcal, Community Development Director Birch, Police Lieutenant Pokorny, Fire Chief Uhl, Recreation Director Stopak, Building and Grounds Director Archibald, and Park Superintendent Lukasiewicz.

A notice of the meeting was given in advance thereof by publication in the Times on September 2, 2009. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Mayor Kindig called the meeting to order and led the audience in the pledge of allegiance.

Mayor Kindig made an announcement of the location of the posted copy of the Open Meetings Act for public reference.

Mayor Kindig made an announcement regarding the new agenda policy statement providing for expanded opportunity for public comment on agenda items.

SERVICE AWARD – SUSAN TANGEMAN – 10 YEARS

Mayor Kindig presented service awards to Susan Tangeman for 10 years of service to the City.

Mayor Kindig informed those in attendance that the Nebraska Diplomats named La Vista that outstanding community of the year, and displayed the award that was received.

SPECIAL PRESENTATION – TOBY CHURCHILL – SARPY COUNTY ECONOMIC DEVELOPMENT CORPORATION

Toby Churchill, the Director of Sarpy County Economic Development addressed Council to give a 3rd quarter update. He reviewed permits issued, valuation projects, and prospect inquiries.

A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF CITY COUNCIL MINUTES FROM SEPTEMBER 1, 2009
3. MONTHLY FINANCIAL REPORT - AUGUST 2009
4. PAY REQUEST NO. 5 FROM EDAW – 84TH STREET REDEVELOPMENT VISION - \$15,791.70
5. PAY REQUEST FROM KIRKHAM MICHAEL – PROFESSIONAL SERVICES – GIS - \$4,800.00
6. APPROVAL OF CLAIMS

Councilmember Carlisle made a motion to approve the consent agenda. Seconded by Councilmember Ellerbeck. Councilmember Sheehan reviewed the claims for this period and reported that he found everything to be in order. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

AA WHEEL & TRUCK SUPPLY, Vehicle Maint.	25.52
ABE'S PORTABLES, Rentals	210.00
ALAMAR UNIFORMS, Wearing Apparel	1,895.02
AQUA-CHEM, Supplies	218.10
ARAMARK UNIFORM SERVICES, Contract Services	260.53
ASPEN EQUIPMENT, Vehicle Maint.	72.00
AVI SYSTEMS, Equip.	524.00
BAKER & TAYLOR BOOKS, Books	4,327.68
BCDM, Professional Services	150.00
BEAUMONT, MITCH, Professional Services	2,025.00

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BENNINGTON EQUIPMENT, Vehicle Maint.	1,300.89
BENSON RECORDS, Contract Services	53.54
BLACK HILLS ENERGY, Utilities	1,177.96
BUETHE, PAM, Travel/Vehicle Maint/Postage	596.98
BUILDERS SUPPLY, Bldg & Grnds	418.70
BURT, STACIA, Training	216.00
CARDMEMBER SERVICE, Travel/Supplies/Wearing Apparel	5,596.01
CITY OF BELLEVUE, Training	500.00
CITY OF OMAHA, Contract Services	34,207.97
CJ'S HOME CENTER, Bldg & Grnds/Supplies/Vehicle Maint.	624.98
COLOMBO/PHELPS, Concessions	526.47
CORNHUSKER INTL TRUCKS, Vehicle Maint.	421.89
COX, Contract Services	198.80
D & J BEVERAGE, Bldg & Grnds	1,165.00
DELL, Contract Services	3,721.16
DEMCO, Supplies	114.52
DON'S PIONEER UNIFORMS, Wearing Apparel	132.90
DOSTALS CONSTRUCTION, Bldg & Grnds	990.00
DULTMEIER SALES & SERVICE, Vehicle Maint.	142.92
EBSCO SUBSCRIPTION SERVICES, CD Rom	830.00
ED M. FELD, Vehicle Maint.	737.00
ELECTRONIC ENGINEERING, Vehicle Maint.	17.41
ELLIOTT EQUIPMENT, Vehicle Maint.	67.77
EMBASSY SUITES HOTEL, Travel	95.41
FAIRWAY GOLF, Supplies	134.50
FILTER CARE, Vehicle Maint.	101.65
FIREGUARD, Squad Supplies	732.88
FORT DEARBORN LIFE INSURANCE, Employee Benefits	1,315.50
GALE, Books	156.31
GCR OMAHA TRUCK TIRE CENTER, Vehicle Maint.	870.75
GENUINE PARTS, Vehicle Maint.	1,036.16
GRAYBAR ELECTRIC, Bldg & Grnds/Contract Services	556.04
GREAT PLAINS ONE-CALL SVC, Contract Services	267.33
GREAT PLAINS UNIFORMS, Wearing Apparel	191.50
GREAT WESTERN BANK, Fees	250.00
GREENKEEPER COMPANY, Supplies/Bldg & Grnds	1,839.40
H & H CHEVROLET, Vehicle Maint.	106.75
HANEY SHOE STORE, Wearing Apparel	97.95
HARM'S CONCRETE, Sewer Repair	81.00
HEARTLAND PAPER, Supplies	70.00
HEARTLAND TIRES AND TREADS, Vehicle Supplies	522.35
HEIMAN FIRE EQUIPMENT, Vehicle Maint.	389.95
HEIMES, Street Maint.	126.69
HELGET GAS, Squad Supplies	35.00
HIGHSMITH, Supplies	335.52
HOME DEPOT, Bldg & Grnds	269.22
HOST COFFEE SERVICE, Concessions	21.50
HY-VEE, Concessions,	62.86
J Q OFFICE EQUIPMENT, Supplies	850.33
JESUS, MATTHEW, Contract Services	80.00
JOHN DEERE LANDSCAPES, Bldg & Grnds	250.00
JUSTIN THYME CAFÉ, Travel	423.00
KAPCO-KENT ADHESIVE PRODS, Supplies	65.40
LAUGHLIN, KATHLEEN, Payroll Withholdings	809.00
LEAGUE ASSN OF RISK MGMT, Insurance	37.00
LEAGUE OF NEBRASKA MUN, Training/Travel	423.00
LIFE ASSIST, Squad Supplies	243.80
LINWELD, Street Maint./Supplies	144.43
LOGAN CONTRACTORS SUPPLY, Street Maint.	1,757.90
MARTIN, ALEX, Travel	73.16
METRO AREA TRANSIT, May Fees	307.00
METRO COMMUNITY COLLEGE, Utilities/Phone/Contract Services	10,289.73
MIDWEST TAPE, Media	15.24
MILLER BRANDS, Concessions	115.50
MOTOROLA, Batteries	151.72
NATIONAL PAPER COMPANY, Supplies	281.38
NE DEPT OF REVENUE, Fees	25.00
NE LAW ENFORCEMENT, Travel	180.00
NEBRASKA GOLF & TURF, Cart Repair	264.20
NETWORK LIQUIDATORS, Contract Services	240.00

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NEW YORK TIMES, Books	195.00
NEWMAN TRAFFIC SIGNS, Traffic Signs	2,570.25
OFFICE DEPOT, Supplies	688.15
OMAHA SLINGS, Supplies/Bldg & Grnds	277.39
OMAHA WORLD HERALD, Legal Advertising	169.52
OPPD, Utilities	43,694.65
PARAMOUNT LINEN & UNIFORM, Uniform Cleaning	382.46
PAULSEN, SHARON, Travel	25.00
PAYLESS, Supplies	358.00
PRECISION INDUSTRIES, Vehicle Maint.	13.82
QUALITY BRANDS, Concessions	362.45
QWEST, Phone	52.97
RAMIREZ, RITA, Travel	385.00
READY MIXED CONCRETE, Street Maint.	1,758.15
RUSTY ECK FORD, Vehicle Maint.	54.70
SAFETY-KLEEN, Contract Services	285.49
SAM'S CLUB, Concessions/Supplies	1,485.13
SARPY COUNTY LANDFILL, Bldg & Grnds	43.71
SCHOLASTIC LIBRARY PUBLISHING, Books	247.00
SEAT COVER CENTER, Vehicle Maint.	194.50
SHAMROCK CONCRETE, Street Maint.	54.00
SMITH, MELANIE, Training	500.00
SOUTHEAST AREA CLERK'S ASSN, Dues	20.00
STANDARD HEATING AND AIR, Bldg & Grnds	247.00
SUN LIFE & HEALTH INSURANCE, Payroll Withholdings	1,959.78
TAB HOLDING COMPANY, Construction Cost	10,588.90
THOMPSON DREESSEN & DORNER, Professional Services	30,138.66
TRACTOR SUPPLY CREDIT PLAN, Bldg & Grnds/Maint.	122.94
TREAT AMERICA FOOD, Travel	129.52
TURF CARS, Electric Cart	82.45
UNIVERSITY OF VIRGINIA, Training	2,800.00
UPSTART, Summer Reading Program	71.94
WASTE MANAGEMENT, Contract Services/Bldg & Grnds	871.65
WICK'S STERLING TRUCKS, Vehicle Maint.	173.80

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

City Administrator Gunn reminded Council of the tour scheduled for Thursday, September 17th. The bus will leave from City Hall promptly at 5:30 p.m. She also reminded Council of the workshop scheduled for Tuesday, September 22nd, at 7:00 p.m. at the Police Facility for an update on Vision 84.

Parks Superintendent Lukasiewicz informed Council that Tire Collection will be held Friday and Saturday, September 25th and 26th at the Public Works facility from 8:00 a.m. – 3:00 p.m. The collection is open to all residents of the City and its extra territorial jurisdiction. Proof of residency is required. Councilmember Sheehan asked Parks Superintendent Lukasiewicz if they had received any complaints of sewer gas odor on 78th Street. Lukasiewicz said he wasn't aware of any issues in that area, but would check out to make sure there is not a problem.

Library Director Barcal informed Council the La Vista Library Advisory Board has received certification, which is required for state aid.

B. RENTAL INSPECTION PROGRAM

1. ORDINANCE NO. 1095 – ADOPT RENTAL INSPECTION PROGRAM (SECOND READING) (TABLED FROM 9/1/09 MEETING)

Councilmember Crawford made a motion to table Ordinance No. 1095 (Rental Inspection Program) until the October 6, 2009 meeting. Seconded by Councilmember Sheehan. Councilmembers voting aye: Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: Sell. Absent: Ronan. Motion carried.

C. MASTER FEE ORDINANCE NO. 1097 – FINAL READING

Finance Director Lindberg introduced this agenda item

Deputy City Clerk Lupomech read Ordinance No. 1097 entitled: AN ORDINANCE TO AMEND ORDINANCE NO. 1092, AN ORDINANCE TO ESTABLISH THE AMOUNT OF CERTAIN FEES AND TAXES CHARGED BY THE CITY OF LA VISTA FOR VARIOUS SERVICES INCLUDING

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BUT NOT LIMITED TO BUILDING AND USE, ZONING, OCCUPATION, PUBLIC RECORDS, ALARMS, EMERGENCY SERVICES, RECREATION, LIBRARY, AND PET LICENSING; SEWER AND DRAINAGE SYSTEMS AND FACILITIES OF THE CITY FOR RESIDENTIAL USERS AND COMMERCIAL USERS (INCLUDING INDUSTRIAL USERS) OF THE CITY OF LA VISTA AND TO GRANDFATHER EXISTING STRUCTURES AND TO PROVIDE FOR TRACT PRECONNECTION PAYMENTS AND CREDITS; REGULATING THE MUNICIPAL SEWER DEPARTMENT AND RATES OF SEWER SERVICE CHARGES; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE THE EFFECTIVE DATE HEREOF. Said ordinance was read by title.

Councilmember Gowan made a motion to approve Ordinance No. 1097 on its final reading. Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

D. CALL FOR REDEMPTION OF BONDS AND REFUNDING SERIES 2009 BOND ISSUE

1. RESOLUTION – CALL OF VARIOUS PURPOSE BONDS, 2003 SERIES FOR REDEMPTION

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-086: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE CALL OF VARIOUS PURPOSE BONDS, SERIES 2003, FOR REDEMPTION

BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, as follows:

Section 1. That the following bonds of the City are hereby called for redemption on such date as set forth in the Designation of Call Date (as defined below):

\$2,945,000 in principal amount of Various Purpose Bonds, Series 2003, maturing July 15, in each year from July 15, 2011 through July 15, 2023, date of original issue—July 15, 2003, numbered as shown on the records of the Paying Agent and Registrar therefor, such amount being a portion of the bonds of said issue remaining outstanding.

Section 2. Said bonds may be presented for payment at the office of the Treasurer of the City of La Vista, Nebraska.

Section 3. The Mayor or City Clerk of the City (each, an "Authorized Officer") are each individually hereby authorized to determine the call date for said Bonds on behalf of the City and such determination, when made in writing (the "Designation of Call Date"), shall constitute the action of the City without further action of the City Council. The Call Date may be set for any date on or prior to December 15, 2009, after which time the Authorized Officers shall have no authority to make any such determination hereunder without further action of the City Council and this resolution shall be of no further force and effect.

Section 4. A copy of this resolution may be filed immediately with the Treasurer of the City of La Vista, Nebraska, but not less than thirty days prior to said date fixed for redemption in the Designation of Call Date. The Treasurer of the City of La Vista, Nebraska is hereby directed to mail notice to all registered owners of the Bonds to be redeemed not less than thirty days prior to the date fixed for redemption in accordance with their authorizing resolution and to take all other actions deemed necessary in connection therewith.

Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

2. RESOLUTION – CALL OF REFUNDING BONDS, 2003 SERIES FOR REDEMPTION

Councilmember Crawford introduced and moved for the adoption of Resolution No. 09-087: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE CALL OF REFUNDING BONDS, SERIES 2003, FOR REDEMPTION

BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, as follows:

Section 1. That the following bonds of the City are hereby called for redemption on such date as set forth in the Designation of Call Date (as defined below):

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\$2,005,000 in principal amount of Refunding Bonds, Series 2003, maturing November 15, in each year from November 15, 2010 through November 15, 2019, numbered as shown on the records of the Paying Agent and Registrar therefor, such amount being a portion of the bonds of said issue remaining outstanding.

Section 2. Said bonds may be presented for payment at the office of the Treasurer of the City of La Vista, Nebraska.

Section 3. The Mayor or City Clerk of the City (each, an "Authorized Officer") are each individually hereby authorized to determine the call date for said Bonds on behalf of the City and such determination, when made in writing (the "Designation of Call Date"), shall constitute the action of the City without further action of the City Council. The Call Date may be set for any date on or prior to December 15, 2009, after which time the Authorized Officers shall have no authority to make any such determination hereunder without further action of the City Council and this resolution shall be of no further force and effect.

Section 4. A copy of this resolution may be filed immediately with the Treasurer of the City of La Vista, Nebraska, but not less than thirty days prior to said date fixed for redemption in the Designation of Call Date. The Treasurer of the City of La Vista, Nebraska is hereby directed to mail notice to all registered owners of the Bonds to be redeemed not less than thirty days prior to the date fixed for redemption in accordance with their authorizing resolution and to take all other actions deemed necessary in connection therewith.

Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

3. RESOLUTION – CALL OF GENERAL OBLIGATION BONDS, 2004 SERIES SID 200 FOR REDEMPTION

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 09-088: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE CALL OF REDEMPTION GENERAL OBLIGATION BONDS, SERIES 2004 SANITARY AND IMPROVEMENT DISTRICT NO. 200 OF SARPY COUNTY, NEBRASKA ANNEXED BY LA VISTA, NEBRASKA

BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, as follows:

Section 1. That the following bonds are hereby called for redemption on such date as set forth in the Designation of Call Date (as defined below):

\$1,725,000 in principal amount of General Obligation Bonds, Series 2004, issued by Sanitary and Improvement District No. 200 of Sarpy County, Nebraska, maturing September 15, in each year from September 15, 2011 through September 15, 2024, numbered as shown on the records of the Paying Agent and Registrar therefor, such amount being a portion of the bonds of said issue remaining outstanding. Said Sanitary and Improvement District No. 200 of Sarpy County, Nebraska, has been annexed by the City of La Vista and such obligations are now obligations of the City of La Vista, Nebraska.

Section 2. Said bonds may be presented for payment at the office of Great Western Bank, Omaha, Nebraska, as Paying Agent and Registrar.

Section 3. The Mayor or City Clerk of the City (each, an "Authorized Officer") are each individually hereby authorized to determine the call date for said Bonds on behalf of the City and such determination, when made in writing (the "Designation of Call Date"), shall constitute the action of the City without further action of the City Council. The Call Date may be set for any date on or prior to December 15, 2009, after which time the Authorized Officers shall have no authority to make any such determination hereunder without further action of the City Council and this resolution shall be of no further force and effect.

Section 4. A copy of this resolution may be filed immediately with Great Western Bank, Omaha, Nebraska, as Paying Agent and Registrar, but not less than thirty days prior to

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said date fixed for redemption in the Designation of Call Date. Great Western Bank, Omaha, Nebraska, as Paying Agent and Registrar, is hereby directed to mail notice to all registered owners of the Bonds to be redeemed not less than thirty days prior to the date fixed for redemption in accordance with their authorizing resolution and to take all other actions deemed necessary in connection therewith.

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

4. RESOLUTION – CALL OF GENERAL OBLIGATION BONDS, 2004 SERIES SID 218 FOR REDEMPTION

Councilmember Quick introduced and moved for the adoption of Resolution No. 09-089: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE CALL OF REDEMPTION GENERAL OBLIGATION BONDS, SERIES 2004 SANITARY AND IMPROVEMENT DISTRICT NO. 218 OF SARPY COUNTY, NEBRASKA ANNEXED BY LA VISTA, NEBRASKA

BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, as follows:

Section 1. That the following bonds are hereby called for redemption on such date as set forth in the Designation of Call Date (as defined below):

\$1,545,000 in principal amount of General Obligation Bonds, Series 2004, issued by Sanitary and Improvement District No. 218 of Sarpy County, Nebraska, maturing April 15, in each year from April 15, 2011 through April 15, 2024, numbered as shown on the records of the Paying Agent and Registrar therefor, such amount being a portion of the bonds of said issue remaining outstanding. Said Sanitary and Improvement District No. 218 of Sarpy County, Nebraska, has been annexed by the City of La Vista and such obligations are now obligations of the City of La Vista, Nebraska.

Section 2. Said bonds may be presented for payment at the office of Great Western Bank, Omaha, Nebraska, as Paying Agent and Registrar.

Section 3. The Mayor or City Clerk of the City (each, an "Authorized Officer") are each individually hereby authorized to determine the call date for said Bonds on behalf of the City and such determination, when made in writing (the "Designation of Call Date"), shall constitute the action of the City without further action of the City Council. The Call Date may be set for any date on or prior to December 15, 2009, after which time the Authorized Officers shall have no authority to make any such determination hereunder without further action of the City Council and this resolution shall be of no further force and effect.

Section 4. A copy of this resolution may be filed immediately with Great Western Bank, Omaha, Nebraska, as Paying Agent and Registrar, but not less than thirty days prior to said date fixed for redemption in the Designation of Call Date. Great Western Bank, Omaha, Nebraska, as Paying Agent and Registrar, is hereby directed to mail notice to all registered owners of the Bonds to be redeemed not less than thirty days prior to the date fixed for redemption in accordance with their authorizing resolution and to take all other actions deemed necessary in connection therewith.

Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

5. ORDINANCE – REFUNDING BOND ISSUE, SERIES 2009

Councilmember Gowan introduced Ordinance No. 1101 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION VARIOUS PURPOSE BONDS, SERIES 2009, OF THE CITY OF LA VISTA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED EIGHT MILLION THREE HUNDRED TWENTY THOUSAND DOLLARS (\$8,320,000) TO REFUND CERTAIN OUTSTANDING DEBT OF THE CITY OF LA VISTA; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY OF TAXES TO PAY THE SAME; PROVIDING FOR A DESIGNATION SETTING FINAL TERMS OF SAID BONDS; AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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Councilmember Carlisle moved that the statutory rule requiring reading on three different days be suspended. Councilmember Quick seconded the motion to suspend the rules and upon roll call vote on the motion the following Councilmembers voted aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: Ronan. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilmember Carlisle moved for final passage of the ordinance which motion was seconded by Councilmember Gowan. The Mayor then stated the question was, "Shall Ordinance No. 1101 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: Ronan. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

E. AMENDMENT TO LEASE-PURCHASE AND REFUNDING SERIES 2009 BOND ISSUE

1. ORDINANCE

Councilmember Gowan introduced Ordinance No. 1102 entitled: AN ORDINANCE APPROVING AN AMENDMENT TO THE EXISTING LEASE-PURCHASE AGREEMENT WITH CITY OF LA VISTA FACILITIES CORPORATION RELATING TO THE CITY'S POLICE STATION BUILDING USED BY THE CITY OF LA VISTA, NEBRASKA; APPROVING THE EXECUTION OF DOCUMENTS WITH RESPECT TO SAID AMENDMENT TO LEASE-PURCHASE AGREEMENT; AND PROVIDING FOR THE PUBLISHING OF THIS ORDINANCE.

Councilmember Carlisle moved that the statutory rule requiring reading on three different days be suspended. Councilmember Quick seconded the motion to suspend the rules and upon roll call vote on the motion the following Councilmembers voted aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: Ronan. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilmember Gowan moved for final passage of the ordinance which motion was seconded by Councilmember Carlisle. The Mayor then stated the question was, "Shall Ordinance No. 1102 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: Ronan. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

F. RESOLUTION – AMEND CONDITIONAL USE PERMIT

Councilmember Sell introduced and moved for the adoption of Resolution No. 09-090: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING AN AMENDED CONDITIONAL USE PERMIT FOR FIELDS INC DBA ISLAND BAR & GRILL TO ALLOW FOR AN OUTDOOR PATIO AREA.

WHEREAS, Fields Inc, represented by Lylette Fields, on behalf of the property owner, Fantasy's Inc, has applied for an amendment to their conditional use permit for the purpose of having an outdoor patio area on Lot 2, Southport East Replat Three; and

WHEREAS, the La Vista Planning Commission has reviewed the application and recommends approval; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the amended conditional use permit for such purposes, subject to the following conditions:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the Permitted Use:
 - a. A site plan showing the property boundaries of the tract of land and easements,

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proposed structures, parking, access points, and drives has been provided to the City and is attached to the permit as Exhibit "A". Specifically, based on the occupancy of the building, a minimum of 24 parking spaces shall be designated for the Permitted Use. Parking for the Permitted Use shall not overflow outside of the parking lot onto other properties.

- b. Hours of operation for the Permitted Use will be from 7 a.m. – 1:00 a.m. seven days a week.
- c. There will be a maximum of four (4) employees working at any given time at the Permitted Use.
- d. The Permitted Use will be comprised of 2,664 sq. feet of building space with an additional 172 sq. feet of outdoor patio area in front of the business.
- e. Adequate parking (24 parking stalls) shall be provided on-site to accommodate the maximum number of patrons and employees (113 occupants) in attendance at any one time between the hours of operation.
- f. A black, wrought-iron fence, not to exceed 48" in height, shall be constructed around the outdoor patio area, as shown on Exhibit "B".
- g. No additional restaurants, taverns, or cocktail lounges will be permitted within the same building as the Operator of the Permitted Use.
- h. The Permitted Use shall be developed and maintained in accordance with the site plan (Exhibit "A") as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.
- i. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the facility, except trash receptacles and those approved in writing by the City.
- j. There shall not be any outside storage of materials. All trash receptacles, benches and planters shall be placed on property and securely fastened to building or concrete.
- k. Landowner and Operator shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building, fire, ADA and FAA.
- l. Operator shall comply (and shall ensure that all employees, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the Premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
- m. Operator hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the Operator, his agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the Premises of any environmental or safety law, rule or regulation.

3. The Operator's right to maintain the Use as approved pursuant to these provisions shall be based on the following:
 - a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval, if the violation continues after written notice from the City to the Landowner and/or Operator and a reasonable time was given for Landowner and/or Operator to cure such violation.
4. In respect to the Gateway Corridor Overlay District and Southport East Design Guidelines: (All design guidelines have been followed in original Conditional Use Permit for Fantasy's Food and Fuel)
5. The Landowner and Operator's right to maintain the Use as approved pursuant to these provisions shall be based on the following:
 - a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
 - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the Landowner and Operator have fully complied with the terms of approval.
 - c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at Landowner's expense within twelve (12) months of cessation of the conditional use.
6. Notwithstanding any other provision herein to the contrary, this permit, and all rights

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granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:

- a. Operator's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
- b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
- c. Landowner's construction or placement of a storage tank, structure or other improvement on the Premises not specified in this permit.
- d. Landowner or Operator's breach of any other terms hereof and his failure to correct such breach within ten (10) days of City's giving notice thereof.

7. If the permitted use is not commenced within one (1) year from September 15, 2009, this Permit shall be null and void and all rights hereunder shall lapse, without prejudice to Landowner's right to file for an extension of time pursuant to the La Vista Zoning Ordinance.

8. In the event of the Landowner's failure to promptly remove any safety or environmental hazard from the Premises, or the expiration or termination of this permit and the Landowner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the Landowner or any third party to exercise said option) cause the same to be removed at Landowner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the Landowner shall reimburse the City the costs incurred to remove the same. Landowner hereby irrevocably grants the City, its agents and employees the right to enter the Premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the Premises as necessary or appropriate to carry out any other provision of this permit.

9. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the amended Conditional Use Permit in form and content submitted at this meeting, for Fields Inc dba Island Bar & Grill, represented by Lylette Fields, for the purpose of having an outdoor patio area on Lot 2, Southport East Replat Three, subject to the conditions listed in the last recital above.

Seconded by Councilmember Carlisle. Councilmember Carlisle asked where the sidewalk café would be located. Community Development Director Birch stated the outdoor section would be on the southeast side of the establishment. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

G. RESOLUTION – APPLICATION FOR ADDITION TO LIQUOR LICENSE – FIELDS INC DBA ISLAND BAR & GRILL

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-091: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA RECOMMENDING TO THE NEBRASKA LIQUOR CONTROL COMMISSION, APPROVAL OF THE APPLICATION FOR ADDITION TO THE CLASS C LIQUOR LICENSE FOR FIELDS INC DBA ISLAND BAR & GRILL, LA VISTA, NEBRASKA.

WHEREAS, Fields Inc dba Island Bar & Grill, 7826 S 123rd Plaza, Suite E & F, La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for an addition to their Class C Liquor License to add an sidewalk café, and

WHEREAS, the Nebraska Liquor Control Commission has notified the City of said application, and

WHEREAS, the City has adopted local licensing standards to be considered in making recommendations to the Nebraska Liquor Control Commission, and

WHEREAS, said licensing standards have been considered by the City Council in making its decision.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, hereby recommend to the Nebraska Liquor Control Commission approval of the

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application for the addition to the Class C Liquor License submitted by Fields Inc dba Island Bar & Grill, 7826 S 123rd Plaza, Suite E & F, La Vista, Nebraska.

Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

H. RESOLUTION – TERRORISM PREVENTION PROGRAM GRANT - INTERLOCAL COOPERATION AGREEMENT

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 09-092: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT WITH SARPY COUNTY FOR THE USE OF FUNDS FROM THE 2005 LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM GRANT.

WHEREAS, pursuant to the authority granted under Neb. Rev. Statute 13-801, et. Seq. Reissue 1997, the Mayor and City Council determine that it is in the best interest of the City of La Vista to enter into an Interlocal cooperation agreement for the use of funds from the 2005 Law Enforcement Terrorism Prevention Program (LETPP) grant, and

WHEREAS, an agreement has been proposed with Sarpy County for the use of re-allocated funds from the 2005 LETPP grant for the purpose of purchasing one mobile radio, and

WHEREAS, said agreement is in the best interests of the citizens of La Vista.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the execution of an Interlocal Cooperation Agreement with Sarpy County for the use of \$4,600 in re-allocated funds from the LETPP grant

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

I. RESOLUTION – KEYSTONE TRAIL PROJECT - PURCHASE AGREEMENT AND TEMPORARY EASEMENT – STEPANEK

Councilmember Crawford moved to table Resolution No. 09-093 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT AND TEMPORARY EASEMENT AGREEMENT RELATING TO THE LA VISTA LINK – KEYSTONE TRAIL PROJECT AND AUTHORIZING PAYMENT FOR SAID EASEMENT TO VICTOR STEPANEK AND LINDA S. PODANY-STEPANEK IN AN AMOUNT NOT TO EXCEED \$27,100.00.

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

J. RESOLUTION – KEYSTONE TRAIL PROJECT - PURCHASE AGREEMENT AND TEMPORARY EASEMENT – MULDER

Councilmember Gowan moved to table Resolution No. 09-094 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE MAYOR TO EXECUTE A PURCHASE AGREEMENT AND TEMPORARY EASEMENT AGREEMENT RELATING TO THE LA VISTA LINK – KEYSTONE TRAIL PROJECT AND AUTHORIZING PAYMENT FOR SAID EASEMENT TO BERNARD A. MULDER, JR. IN AN AMOUNT NOT TO EXCEED \$1,500.00.

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

K. RESOLUTION – KEYSTONE TRAIL PROJECT - PURCHASE AGREEMENT AND TEMPORARY EASEMENT – CORONA

Councilmember Ellerbeck moved to table Resolution No. 09-095 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY EASEMENT AGREEMENT RELATING TO THE LA VISTA LINK – KEYSTONE TRAIL PROJECT AND AUTHORIZING PAYMENT FOR SAID EASEMENT TO DEANNA CORONA IN AN AMOUNT NOT TO EXCEED \$25.00.

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Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

L. POSITION DESCRIPTION UPDATE

City Administrator Gunn reviewed the position description update for the Community Relations Coordinator. Councilmember Quick stated she thinks this is a position that the City needs. Councilmember Sheehan disagreed, and stated he does not feel it's required, and the job duties could be handled with current staffing. Councilmember Crawford asked if this position would have the required probationary period. City Administrator Gunn responded there would be a probationary period.

Councilmember Sell motioned to approve the position description update. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Quick, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: Sheehan. Absent: Ronan. Motion carried.

M. STRATEGIC PLAN PROGRESS REPORT #2

City Administrator Gunn reviewed the Strategic Plan Progress Report #2 with Council.

Councilmember Gowan motioned to approve the Strategic Plan Progress Report #2. Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

Councilmember Gowan made a motion to move "Comments from the Floor" up on the agenda ahead of Item N. "Executive Session". Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Ellerbeck, Crawford, and Gowan. Nays: None. Absent: Ronan. Motion carried.

COMMENTS FROM THE FLOOR

Mayor Kindig asked if there were any comments from the floor; and stated that anyone having comments should limit them to three minutes. There were no comments from the floor.

N. EXECUTIVE SESSION – STRATEGY SESSION/NEGOTIATING GUIDANCE – FOP; PERSONNEL

At 7:35 p.m. Councilmember Carlisle made a motion to go into executive session for protection of the public interest for Strategy Session/Negotiating guidance with FOP. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried. Mayor Kindig stated the executive session would be limited to the subject matter contained in the motion.

At 8:08 p.m. the Council came out of executive session. Councilmember Gowan made a motion to reconvene in open and public session. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

COMMENTS FROM MAYOR AND COUNCIL

At 8:09 p.m. Councilmember Sell made a motion to adjourn the meeting. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Quick Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: Ronan. Motion carried.

PASSED AND APPROVED THIS 6TH DAY OF OCTOBER 2009.

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe

Pamela A. Buethe, CMC
City Clerk