



PROCLAMATION

WHEREAS, the Mayor and City Council of La Vista, Nebraska recognize that the strength of a community rests with its citizenry; and

WHEREAS, individual accomplishments of citizens bring positive recognition to a community; and

WHEREAS, the importance of youth athletics in our community as a healthy activity which promotes fitness, excellence, and teamwork is undisputed; and

WHEREAS, the Mayor and City Council of La Vista, Nebraska would like to recognize the accomplishments of Alexa Lind; and

WHEREAS, Alexa Lind was selected to the First Team All Nebraska soccer team by the Omaha World Herald and 1st Team Super State by the Lincoln Journal Star. Alexa Lind finished her high school career having started more games than any other player in Skutt's school history and compiled 35 goals, 43 assists, and 113 total career points.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of La Vista, Nebraska acknowledge the outstanding achievements of Alexa Lind, congratulate her on her success, encourage her continued efforts in excellence and teamwork, and recognize that she is a fine representative of her family, school, and community.

IN WITNESS WHEREOF, I have set my hand and caused the official Seal of the City of La Vista to be affixed this 7th day of July, 2009.



Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



**PROCLAMATION
INTERNATIONAL CLOWN WEEK**

WHEREAS, clowns are recognized all over the world as messengers of good tidings, bringing happiness and joy to all those whose lives they touch; and

WHEREAS, the clown is a person that is dedicated to bringing joy and sunshine into the lives of others; and

WHEREAS, clowns have helped us preserve our sense of humor and ability to laugh at ourselves; and

WHEREAS, clowns devote their time and energy to entertain people in hospitals, schools, nursing homes, parades, festivals, and fairs.

NOW, THEREFORE, I, Douglas Kindig, Mayor of the City of La Vista, do hereby proclaim the week of August 1 – 7, 2009 as

INTERNATIONAL CLOWN WEEK

in Nebraska with Omaha Wild Clown-Dum Alley #147 of Omaha, and I encourage all citizens of La Vista to give fitting recognition to the clowns of the world.

IN WITNESS WHEREOF, I have set my hand and caused the official Seal of the City of La Vista to be affixed this 7th day of July, 2009.



Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

MINUTE RECORD

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

LA VISTA CITY COUNCIL MEETING June 16, 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 June 16, 2009. Present were Councilmembers: Sell, Ronan Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Absent: None. Also in attendance were City Attorney McKeon, City Administrator Gunn, Assistant City Administrator Ramirez, City Engineer Kottmann, City Clerk Buethe, Library Director Iwan, Community Development Director Birch, Police Chief Lausten, Fire Chief Uhl, Recreation Director Stopak, Finance Director Lindberg, and Public Works Director Soucie.

A notice of the meeting was given in advance thereof by publication in the Times on June 4, 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 – PATRICK CAVLOVIC – 10 YEARS, JAMES RUFFNER – 15 YEARS

Mayor Kindig presented service awards to Patrick Cavlovic for 10 years of service to the City and to James Ruffner for 15 years of service to the City.

PRESENTATION OF BADGES TO FIRE DEPARTMENT PERSONNEL – CHRIS HALL, JERAD HENDERSON, STEVE LEIGHTON, HEATH LEWIS, TROY LITTLE, DAWN MASTRA, ALYSSA STUBBS, CHRIS WIEKER

Mayor Kindig and Fire Chief Uhl recognized Chris Hall, Jerad Henderson, Steve Leighton, Heath Lewis, Troy Little, Dawn Mastra, Alyssa Stubbs, Chris Wieker as full members of the La Vista Volunteer Fire Department after completing one year of training. Badges were presented and pinned on by Chief Uhl.

SPECIAL PRESENTATION – SAFE COMMUNITIES AWARD

Police Chief Lausten informed Council the City of La Vista received the Safe Communities Award from the National Safety Council on May 13, 2009. He thanked Bob Perry from LARM for nominating the City. A video was then shown to the Mayor and Council.

CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF CITY COUNCIL MINUTES FROM JUNE 2, 2009
3. APPROVAL OF LIBRARY ADVISORY BOARD MINUTES FROM MAY 14, 2009
4. MONTHLY FINANCIAL REPORT - MAY 2009
5. APPROVAL OF CLAIMS

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

ABE'S PORTABLES, Rentals	222.03
ACTION BATTERIES, Vehicle Supplies	87.95
ALAMAR UNIFORMS, Wearing Apparel	679.92
APPLE BOOKS, Books	82.59
AQUA-CHEM, Supplies	146.00
ARAMARK UNIFORM SERVICES, Contract Services	260.53

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

June 16, 2009

AVI SYSTEMS, Supplies	25.00
BAKER & TAYLOR BOOKS, Books	1,423.65
BCDM, Professional Services	448.75
BENNINGTON EQUIPMENT, Vehicle Maint.	1,554.69
BENSON RECORDS, Contract Services	53.54
BLACK HILLS ENERGY, Utilities	2,070.26
BLUE CROSS BLUE SHIELD, Rescue Revenue	425.33
BOB'S RADIATOR REPAIR, Vehicle Maint.	169.00
BRODART, Supplies	141.72
BUETHE, PAMELA, Vehicle Maint./Street Maint.	126.13
CARDMEMBER SERVICE, Professional Services/Travel/Training	9,672.42
CARL JARL LOCKSMITHS, Bldg & Grnds	12.00
CITY OF COUNCIL BLUFFS, Mobile Stage	530.00
CJ'S HOME CENTER, Bldg & Grnds/Street Maint./Vehicle Maint.	1,046.62
COLOMBO/PHELPS COMPANY, Concessions	836.56
COMP CHOICE, Professional Services	3,535.00
COX, Contract Services	198.80
D & D COMMUNICATIONS Vehicle Maint.	9.45
DAVIS & STANTON, Wearing Apparel	39.00
DAVIS, FRANKLIN TODD, Wearing Apparel	27.50
DULTMEIER SALES & SERVICE, Vehicle Maint.	46.20
EDAW, Planning	24,999.24
EDGEWEAR SCREEN PRINTING, Wearing Apparel/Supplies	740.70
FAVORABLE IMPRESSIONS, Books	39.96
FILTER CARE, Vehicle Maint.	82.70
FLEETPRIDE, Vehicle Maint.	20.10
GALE, Books	149.14
GALL'S, Supplies	157.99
GASSERT, ADAM, Contract Services	30.00
GCR OMAHA TRUCK TIRE CENTER, Vehicle Maint.	23.95
GLENDALE PARADE STORE, Wearing Apparel	48.20
GRAYBAR ELECTRIC, Bldg & Grnds	431.78
GREAT PLAINS ONE-CALL SVC, Contract Services	397.62
GREAT PLAINS UNIFORMS, Wearing Apparel	256.50
GREENKEEPER COMPANY, Supplies	300.00
HALLETT AUTO BODY, Vehicle Supplies	983.60
HANEY SHOE STORE, Wearing Apparel	101.95
HEARTLAND PAPER, Supplies	156.00
HEIMES CORPORATION, Repair	107.87
HOST COFFEE SERVICE, Concessions	21.50
HYDROLOGIC WATER MANAGEMENT, Bldg & Grnds	69.62
INDUSTRIAL SALES COMPANY, Bldg & Grnds	408.90
INLAND TRUCK PARTS, Vehicle Maint.	185.54
J Q OFFICE EQUIPMENT, Supplies	843.55
JOHN DEERE LANDSCAPES/LESCO, Supplies	218.44
JOHNSON CONTROLS, Bldg & Grnds	239.00
LANDS' END, Wearing Apparel	553.73
LAUGHLIN, KATHLEEN, Payroll Withholdings	372.00
LEYPOLDT, SUZANNE, Refund	45.00
LINWELD, Street Maint.	252.29
LOGAN CONTRACTORS, Street Maint.	2,902.91
LOU'S SPORTING GOODS, Wearing Apparel	98.84
LOVELAND LAWNS, Street Maint.	107.76
LUPOMECH, CATHY, Travel	788.21
MAPES, HANNAH, Contract Services	20.00
MAPES, RYAN, Contract Services	80.00
MES-MIDAM, Bunker Gear	12,740.00
METRO COMMUNITY COLLEGE, Utilities/Phone/Contract Services	7,042.04
METRO LANDSCAPE MATERIALS, Supplies	1,400.00
MIDWEST MUDJACKING, Street Maint.	1,835.00
MIDWEST TAPE, Media	235.67
MIDWEST TURF & IRRIGATION, Repair	154.68
MILLER BRANDS, Concessions	275.70
MONARCH OIL, Street Maint.	139.75
MUD, Utilities	396.37
MULHALL'S, Bldg & Grnds	880.20
NE DEPT OF LABOR, Bldg & Grnds	100.00
NEBRASKA AIR FILTER, Bldg & Grnds	210.24
NEBRASKA GOLF & TURF, Electric Cart	2,128.63
NEBRASKA LIBRARY COMMISSION, CD Rom	444.00
NEBRASKA LTAP TRAINING, Training	300.00

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NEBRASKA SOFTBALL ASSN DIST#10, Registration Fee	176.00
OABR PRINT SHOP, Printing	692.00
OFFICE DEPOT, Supplies	624.59
O'KEEFE ELEVATOR, Equipment	185.00
OMAHA COMPOUND, Bldg & Grnds/Supplies	171.51
OMAHA NEWSPAPER, Advertising	397.50
OMB EXPRESS POLICE SUPPLY, Wearing Apparel	403.91
OPPD, Utilities	38,656.09
PAPILLION SANITATION, Contract Services	212.11
PARAMOUNT LINEN & UNIFORM, Wearing Apparel/Uniform Cleaning	402.46
PAYLESS, Supplies	241.85
PEPSI COLA, Concessions	308.50
POKORNY, KEVIN, Travel	61.20
PRECISION INDUSTRIES, Vehicle Maint.	18.11
QUALITY BRANDS, Concessions	573.45
QWEST, Phone	134.37
READY MIXED CONCRETE, Bldg & Grnds	233.98
RECREONICS INC ETAL, Supplies	39.72
REGAL AWARDS, Supplies	10.56
REPUBLIC NATIONAL DISTR, Concessions	219.35
RUSTY ECK FORD, Vehicle Maint.	60.00
SAM'S CLUB, Membership	35.00
SAPP BROS PETROLEUM, Vehicle Supplies	15,653.11
SMITH MANUFACTURING, Traffic Signs	1,880.26
SMOOTHER CUT ENTERPRISES, Contract Services	1,320.00
SNITILY CARR, Professional Services	995.00
SQUAD-FITTERS, Wearing Apparel	334.95
STANDARD HEATING AND AIR, Bldg & Grnds	2,609.00
STAPLES, Supplies	50.97
SUBURBAN NEWSPAPERS, Legal Advertising	909.17
SUN COUNTRY DISTRIBUTING, Bldg & Grnds	59.70
SUN LIFE & HEALTH INSURANCE, Payroll Withholdings	2,072.28
TARGET BANK, Supplies	17.96
TED'S MOWER SALES & SERVICE, Repair & Maint.	234.43
THERNKA, DAMON, Contract Services	35.00
THOMPSON DREESSEN & DORNER, Professional Services	19,505.10
TRACTOR SUPPLY, Bldg & Grnds/Vehicle Maint./Wearing Apparel	424.57
TURFWERKS, Repair & Maint.	50.19
U S ASPHALT COMPANY, Street Maint.	1,483.78
UPS, Supplies	26.63
USI, Supplies	101.99
UTILITY EQUIPMENT, Repair & Maint.	112.08
V & V MANUFACTURING, Wearing Apparel	285.90
VIERREGGER ELECTRIC, Bldg & Grnds	458.96
WASTE MANAGEMENT, Contract Services	955.77
WHITE CAP CONSTRUCTION, Repair	57.16
ZEE MEDICAL SERVICE, Supplies	129.95

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Assistant City Administrator Ramirez informed Council the first Community Workshop for Vision 84 will be held on Tuesday, June 23rd at 6:30 p.m. The working group will take a bus tour to the Kansas City area on Wednesday, leaving City Hall at 7:30 a.m.

Police Chief Lausten informed Council the City received \$16,000 in stimulus funds for in-car computers. Traffic control during the Slumpbuster tournament went well with the temporary restriction of traffic and speed limit decreases on 66th Street.

Public Works Director Soucie thanked everyone for their help with La Vista Days this past weekend.

Library Director Iwan informed Council that 267 children registered for the Summer Reading Program on Tuesday June 9, 2009 and a total of 451 have signed up to date.

B. ZONING TEXT AMENDMENTS – PERMITS AND LICENSES FOR HOME OCCUPATIONS

1. PUBLIC HEARING

Community Development Director Birch introduced the agenda item. Councilmember Gowan asked why this change was brought up. He likes the idea of neighbors knowing about a home

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occupation. Community Development Director Birch stated that Deputy Clerk Lupomech, who handles home occupation licenses, asked if the Home Occupation II requirements could be lessened. Currently, if a home owner wants to have a business office in their home, they are required to get approval of their neighbors by obtaining signatures within a 200 ft radius of their home. Councilmember Sheehan thought a permit requirement based on the number of days of retail sales would be difficult to enforce, and further stated he was not concerned about a license for a homeowner whose home occupation is conducted entirely on-line. Councilmember Crawford thought the requirement for this type of home occupation should be removed from the ordinance. Staff was requested to research the number of people who call regarding a Home Occupation II license and what types of businesses they have.

At 7:36 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on Zoning Text Amendments – Permits and Licenses for Home Occupations

At 7:37 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

2. ORDINANCE TO APPROVE REVISIONS

Councilmember Ellerbeck introduced Ordinance No. 1093 entitled: AN ORDINANCE TO AMEND SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

Councilmember Ellerbeck 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, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: None. 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 Ellerbeck moved for final passage of the ordinance which motion was seconded by Councilmember Carlisle. Upon further discussion Councilmember Ellerbeck withdrew the motion for final passage. Carlisle withdrew the second for this motion also. Councilmember Sell moved to table any further action on this item which motion was seconded by Councilmember Crawford. Upon roll call vote the following Councilmembers voted aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: None. Motion carried.

C. CONDITIONAL USE PERMIT – OUTDOOR STORAGE

1. PUBLIC HEARING

Community Development Director Birch introduced the agenda item.

At 7:50 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on a Conditional Use Permit – Outdoor Storage.

At 7:51 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

2. RESOLUTION

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-054: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR THE WALDINGER CORPORATION FOR OUTDOOR STORAGE ON LOT 4, PAPIO VALLEY 2 BUSINESS PARK.

WHEREAS, The Waldinger Corporation, represented by Jack Wilhelm, on behalf of the property owner, Bell Avenue Properties, Inc., has applied for a conditional use permit for the purpose of having outdoor storage of materials on Lot 4, Papio Valley 2 Business Park; and

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

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

1. A barrier and/or landscape screening shall be constructed around the gravel surface to reduce the chance of gravel dust going airborne due to unnecessary driving or parking on the gravel area.
2. Visual screening of the outdoor storage area shall meet the requirements of Section 7.17.04 of the Zoning Ordinance.
3. All landscaping requirements in Section 7.17.03 shall be satisfied.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting, for the Waldinger Corporation, represented by Jack Wilhelmi, for the purpose of having outdoor storage of materials on Lot 4, Papio Valley 2 Business Park, subject to the conditions listed in the last recital above.

Seconded by Councilmember Sheehan. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

D. RESOLUTION – INTERLOCAL COOPERATION AGREEMENT – IT SERVICES

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-055: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN SARPY COUNTY AND THE CITY OF LA VISTA FOR INFORMATION TECHNOLOGY SERVICES.

WHEREAS, the City Council has determined that a need exists to contract for Information Technology Services; and

WHEREAS, the City's current contract for Information Technology Services expires on June 30, 2009; and

WHEREAS, Sarpy County has the resources and technology to provide said Information Technology Services; and

WHEREAS, Sarpy County has proposed an Interlocal agreement between the City of La Vista and the County for a period of three years to provide Information Technology Services to the City;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the proposed Interlocal agreement between Sarpy County and the City of La Vista regarding Information Technology Services for the City of La Vista is hereby approved subject to review by the City Attorney as to form, and that the Mayor and City Clerk are hereby authorized to execute said agreement on behalf of the City of La Vista.

Seconded by Councilmember Carlisle. Councilmember Carlisle asked if the City was still using Windows XP. Finance Director Lindberg stated all computers in the City have Windows XP. Councilmember Crawford asked if the City would go over the budgeted hours. Finance Director Lindberg stated that it was not probable to exceed the contracted usage. Councilmember Crawford asked if the City has looked at other vendors. Finance Director Lindberg stated that other vendors have not been reviewed. City Administrator Gunn stated the City went with Sarpy County after experiencing problems with other vendors. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Ellerbeck, and Gowan. Nays: Crawford. Absent: None. Motion carried.

E. RESOLUTION – COUNCIL POLICY STATEMENT – ASSET CONTROL PROGRAM

Councilmember Sell introduced and moved for the adoption of Resolution No. 09-056: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A COUNCIL POLICY STATEMENT PERTAINING TO THE ASSET CONTROL PROGRAM OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, the City Council has determined that it is necessary and desirable to create Council Policy Statements as a means of establishing guidelines and direction to the members of the City Council and to the city administration in regard to various issues which regularly occur; and

WHEREAS, a recommendation by the Finance Director to the City Administrator, in consultation with staff, has been made regarding procedures pertaining to the Asset Control Program

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby approve the Council Policy Statement pertaining to the Asset Control Program of the City and do further hereby direct the distribution of said Council Policy Statement to the appropriate City Departments.

Seconded by Councilmember Gowan. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

F. RESOLUTION – APPROVE AGREEMENT – UPDATE OF MASTER FACILITIES PLAN – CIVIC CAMPUS CONCEPT

Councilmember Sheehan introduced and moved for the adoption of Resolution No. 09-057: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, APPROVING AN AGREEMENT WITH LEO A. DALY FOR PROFESSIONAL SERVICES ASSOCIATED WITH THE FEDERAL APPLICATION PROCESS FOR THE FIRE STATION CONSTRUCTION GRANT PROGRAM IN AN AMOUNT NOT TO EXCEED \$10,000.

WHEREAS, the Leo A. Daly firm completed work on the City's Municipal Facilities Plan (MFP) in the fall of 2008; and

WHEREAS, the MFP identified the District 1 Fire Station as the City's first priority facility project; and

WHEREAS, the 2009 Federal stimulus funding package includes a grant program for fire station construction; and

WHEREAS, in order to meet the application timeline and the technical requirements of the grant submittal, some professional architectural, engineering and planning services will be necessary; and

WHEREAS, Leo A. Daly and FGM Architects have agreed to collaborate to provide said services.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska do hereby approve an agreement with Leo A. Daly to provide professional services associated with the Federal application process for the Fire Station Construction Grant Program in an amount not to exceed \$10,000 in the form and content presented at this meeting.

Seconded by Councilmember Carlisle. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

G. RESOLUTION – AUTHORIZATION TO PURCHASE – MOWING EQUIPMENT

Councilmember Sell introduced and moved for the adoption of Resolution No. 09-058: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE PURCHASE OF TWO (2) 2009 JOHN DEERE 1445 FRONT MOWERS; TWO (2) 72" COMMERCIAL SIDE DISCHARGE MOWER DECKS; ONE (1) HARD CAB; ONE (1) 60" HEAVY-DUTY HYDRAULIC ANGLING FRONT BLADE; ONE (1) WINTER WHEEL AND TIRE PACKAGE; AND TWO (2) LIGHT PACKAGES FROM A & M GREEN POWER, 15508 2ND AVENUE, PLATTSMOUTH, NE 68048, IN AN AMOUNT NOT TO EXCEED \$43,772.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of said mowing equipment for the Public Works Department is necessary; and

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WHEREAS, the FY 2008/09 General Fund Parks Operating Budget did include funds for the purchase of said mowing equipment; and

WHEREAS, the City Council authorized the solicitation of bids for said mowing equipment on May 19, 2009, and

WHEREAS A & M Green Power of Plattsmouth, Nebraska, has submitted the low, compliant bid, and

WHEREAS Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska designate A & M Green Power, Plattsmouth, Nebraska as the low compliant bid for two (2) 2009 John Deere 1445 front mowers; two (2) 72" commercial side discharge mower decks; one (1) hard cab; one (1) 60" heavy-duty hydraulic angling front blade; one (1) winter wheel and tire package; and two (2) light packages in an amount not to exceed \$43,772.00.

Seconded by Councilmember Sheehan. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

H. STRATEGIC PLAN PROGRESS REPORT

City Administrator presented the strategic plan progress report to Council. Gunn stated that staff was open to feedback on the new layout.

Councilmember Carlisle made a motion to accept the strategic plan progress report. Seconded by Councilmember Sheehan. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

I. SPECIAL ASSESSMENTS 1. PUBLIC HEARING

At 8:09 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on Special Assessments.

At 8:10 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

2. RESOLUTION

Councilmember Ellerbeck introduced and moved for the adoption of Resolution No. 09-059: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE LA VISTA CITY CLERK TO FILE WITH THE SARPY COUNTY TREASURER A SPECIAL ASSESSMENT FOR PROPERTY IMPROVEMENTS AT THE LOCATION AND IN AMOUNTS CITED HEREIN.

WHEREAS, the property owners of 7121 Harrison Street, Lot 1C EX PT TO RD La Vista Replat, \$111.88 were under an order to keep the building secure, or the City would do so and bill them accordingly, and

WHEREAS, the property owners of said addresses chose not to keep the building secure, thus necessitating the City to do so, and

WHEREAS, the City sent the property owners bills for said work to secure the building which have not been paid, and

WHEREAS, the City may file a Special Assessment for Improvements against property for which a City bill for services has not been paid.

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NOW THEREFORE BE IT RESOLVED, that the La Vista City Clerk is hereby authorized to file with the Sarpy County Treasurer a Special Assessment for Improvements in the amount and against the property specified above, located within Sarpy County, La Vista, Nebraska.

Seconded by Councilmember Carlisle. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

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

Public Works Director Soucie stated that the decreased speed limit which Councilmember Crawford asked about would stay in place until the Slumpbuster tournament is concluded.

J. EXECUTIVE SESSION – LITIGATION STRATEGY

At 8:10 p.m. Councilmember Carlisle made a motion to go into executive session for protection of the public interest for Litigation Strategy. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried. Mayor Kindig stated the executive session would be limited to the subject matter contained in the motion.

At 8:40 p.m. the Council came out of executive session. Councilmember Crawford made a motion to reconvene in open and public session. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

COMMENTS FROM MAYOR AND COUNCIL

Councilmember Ronan stated a neighbor of his loved the Barbeque class that was recently held at the La Vista Community Center.

Councilmember Sheehan asked if the City has an architect for designs. City Administrator Gunn stated the City uses BCDM. Councilmember Sheehan asked if Crestview Village is in the Gateway Corridor. City Administrator Gunn stated the Crestview Village is not in the Gateway Corridor, but the City can use a design consultant with the conditional use permit. Mayor Kindig asked if the developer pays the fee for the consultant. There was no response. City Administrator Gunn asked if Council wants to consider a design review in more areas of the City. The City could bring back recommendations for expanded design standards from the staff.

Mayor Kindig thanked the staff for their help with the success of La Vista Days.

At 8:50 p.m. Councilmember Carlisle made a motion to adjourn the meeting. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

PASSED AND APPROVED THIS 7TH DAY OF JULY 2009.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

K:\APPSS\CITYHALL09 COUNCIL MINUTES\June 16, 2009

Invoice

Ann Birch
 City of La Vista
 8116 Park View Boulevard
 La Vista, NE 68128-2198
 United States

June 10, 2009
 Project No: 08030111.01
 Invoice No: 3

Project 08030111.01 84th Street Redevelopment Vision

Description of Services: Walking tour; preparation for first community meeting.

Professional Services from May 2, 2009 to May 29, 2009

Fee

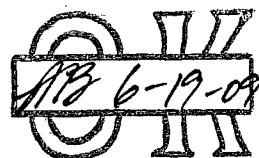
Billing Phase	Fee	Percent Complete	Earned	Previous Fee Billing	Current Fee Billing
Project	42,840.00	61.00	26,132.40	26,132.40	0.00
Startup/Inventory/Analysis					
Initial Outreach	51,724.00	45.00	23,275.80	10,862.04	12,413.76
Developing A Vision	52,822.00	0.00	0.00	0.00	0.00
Vision Plan Preparation	24,559.00	0.00	0.00	0.00	0.00
Vision Plan Refinement	27,844.00	0.00	0.00	0.00	0.00
Total Fee	199,789.00		49,408.20	36,994.44	12,413.76
		Total Fee			12,413.76

Total this Invoice \$12,413.76

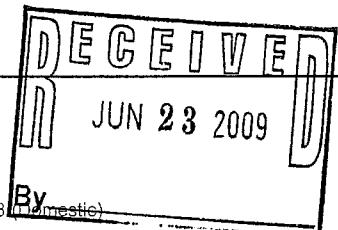
Outstanding Invoices

Number	Date	Balance
2	5/12/09	24,999.24
Total		24,999.24

Consent Agenda
 7-7-09



05-71-0830.01



Remit payment to EDAW Inc. Dept 9269-03. Los Angeles California 90084-9269. Tel 970.484.6073
 Wire payment to Wells Fargo Bank. 420 Montgomery Street. San Francisco California 94104. Routing #121000248 (Domestic)
 Swift #WFBUS6S (Intl). Acct #4030013163

When making payment, please reference itemized amount by invoice number and EDAW job number. Payment terms net 30 days.
 A 1.5% per month finance charge will be assessed on all past due accounts.

BANK NO BANK NAME

CHECK NO DATE

VENDOR NO VENDOR NAME

CHECK AMOUNT

CLEARED

VOIDED

MANUAL

1 Bank of Nebraska (600-873)

46043 Payroll Checks
Thru 4604646047 Gap in Checks
Thru 96732

96733	6/17/2009	292 SAM'S CLUB	1,127.27	**MANUAL**
96734	6/17/2009	2760 GREENBLATT & SEAY	156.00	**MANUAL**
96735	6/23/2009	615 MILLER BRANDS OF OMAHA INC	233.50	**MANUAL**
96736	6/23/2009	1270 PREMIER-MIDWEST BEVERAGE CO	214.00	**MANUAL**
96737	6/23/2009	1194 QUALITY BRANDS OF OMAHA	506.90	**MANUAL**
96738	6/24/2009	3702 LAUGHLIN, KATHLEEN A, TRUSTEE	372.00	**MANUAL**
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96740	7/07/2009	3983 ABE'S PORTABLES INC	210.00	
96741	7/07/2009	886 ACCURATE TESTING INC	802.20	
96742	7/07/2009	762 ACTION BATTERIES UNLTD INC	15.00	
96743	7/07/2009	571 ALAMAR UNIFORMS	703.42	
96744	7/07/2009	3730 ALEX, MARY	95.32	
96745	7/07/2009	720 AMERICAN LEGAL PUBLISHING CORP	1,705.00	
96746	7/07/2009	81 AMSAN	161.61	
96747	7/07/2009	736 AQUA-CHEM INCORPORATED	286.20	
96748	7/07/2009	536 ARAMARK UNIFORM SERVICES INC	339.86	
96749	7/07/2009	1678 ASPEN EQUIPMENT COMPANY	221.89	
96750	7/07/2009	201 BAKER & TAYLOR BOOKS	1,313.16	
96751	7/07/2009	849 BARONE SECURITY SYSTEMS	142.50	
96752	7/07/2009	1839 BCDM-BERINGER CIACCIO DENNELL	50.00	
96753	7/07/2009	929 BEACON BUILDING SERVICES	7,237.00	
96754	7/07/2009	1784 BENNINGTON EQUIPMENT INC	817.24	
96755	7/07/2009	634 BEST ACCESS SYSTEMS DIVISION	27.99	
96756	7/07/2009	410 BETTER BUSINESS EQUIPMENT	43.93	
96757	7/07/2009	196 BLACK HILLS ENERGY	1,389.88	
96758	7/07/2009	56 BOB'S RADIATOR REPAIR CO INC	78.00	
96759	7/07/2009	2757 BOBCAT OF OMAHA	301.15	
96760	7/07/2009	4051 BOLEY, ANN	100.00	
96761	7/07/2009	1242 BRENTWOOD AUTO WASH	174.00	
96762	7/07/2009	3760 BUETHE, PAM	20.00	
96763	7/07/2009	76 BUILDERS SUPPLY CO INC	40.87	
96764	7/07/2009	1401 BURT, STACIA	432.00	
96765	7/07/2009	3972 CAHILL, KAROLYN	80.00	
96766	7/07/2009	4034 CAHILL, THOMAS	80.00	
96767	7/07/2009	4024 CALENTINE, JEFFREY	30.00	
96768	7/07/2009	2285 CENTER POINT PUBLISHING	240.84	
96769	7/07/2009	4135 CHAMBERS, NICOLE	62.00	
96770	7/07/2009	4132 CHRISTIE, CLAYTON	50.00	
96771	7/07/2009	3815 CIVIC PLUS	12,200.04	
96772	7/07/2009	3126 CCCA-COLA BOTTLING COMPANY	376.80	
96773	7/07/2009	2683 COLOMBO/PHELPS COMPANY	111.29	
96774	7/07/2009	836 CORNHUSKER INT'L TRUCKS INC	228.00	
96775	7/07/2009	2158 COX COMMUNICATIONS	97.65	

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96779	7/07/2009	3839	DE LAGE LANDEN FINANCIAL SVCS	268.33			
96780	7/07/2009	111	DEMCO INCORPORATED	120.09			
96781	7/07/2009	77	DIAMOND VOGEL PAINTS	525.40			
96782	7/07/2009	374	DISPLAY SALES	320.00			
96783	7/07/2009	632	EASTERN LIBRARY SYSTEM	20.00			
96784	7/07/2009	4049	ECCLES, PAT	100.00			
96785	7/07/2009	3334	EDGEWEAR SCREEN PRINTING	1,545.50			
96786	7/07/2009	3463	FARQUHAR, MIKE	100.00			
96787	7/07/2009	3159	FASTENAL COMPANY	26.56			
96788	7/07/2009	3460	FEDEX	70.18			
96789	7/07/2009	1245	FILTER CARE	39.85			
96790	7/07/2009	3007	FIRE-EXTRICATION-HAZMAT	79.50			
96791	7/07/2009	439	FIREGUARD INC	145.35			
96792	7/07/2009	142	FITZGERALD SCHORR BARMETTLER	7,957.00			
96793	7/07/2009	3132	FORT DEARBORN LIFE INSURANCE	2,626.50			
96794	7/07/2009	4130	FOX, ANDREA	183.75			
96795	7/07/2009	4050	FROEHLICH, RORY	100.00			
96796	7/07/2009	3984	G I CLEANER & TAILORS	160.70			
96797	7/07/2009	1344	GALE	98.21			
96798	7/07/2009	1161	GALL'S INCORPORATED	79.99			
96799	7/07/2009	1248	GASSERT, MIKE	596.00			
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96806	7/07/2009	35	GOLDMAN, JOHN G	85.00			
96807	7/07/2009	4086	GREAT PLAINS UNIFORMS	316.75			
96808	7/07/2009	71	GREENKEEPER COMPANY INC	309.00			
96809	7/07/2009	1624	GUNN, BRENDA	45.00			
96810	7/07/2009	1044	H & H CHEVROLET LLC	81.56			
96811	7/07/2009	426	HANEY SHOE STORE	120.00			
96812	7/07/2009	3400	HARDESTY, MARK E	36.00			
96813	7/07/2009	3657	HEARTLAND PAPER	763.00			
96814	7/07/2009	2407	HEIMES CORPORATION	119.85			
96815	7/07/2009	1403	HELGET GAS PRODUCTS INC	88.00			
96816	7/07/2009	908	HENRY DOORLY ZOO	50.00			
96817	7/07/2009	630	HOCKENBERGS	15.71			
96818	7/07/2009	390	HOLIDAY INN-KEARNEY	279.80			
96819	7/07/2009	2888	HOME DEPOT CREDIT SERVICES	79.00			
96820	7/07/2009	1612	HY-VEE INC	266.77			
96821	7/07/2009	2140	HYDROLOGIC WATER MANAGEMENT	72.14			
96822	7/07/2009	1151	ICMA-INTL CITY/COUNTY MANAGE	119.00			
96823	7/07/2009	1498	INDUSTRIAL SALES COMPANY INC	138.42			
96824	7/07/2009	1760	INTERSTATE ALL BATTERY CENTER	93.80			
96825	7/07/2009	1896	J Q OFFICE EQUIPMENT INC	670.04			
96826	7/07/2009	100	JOHNSTONE SUPPLY CO	48.95			
96827	7/07/2009	3687	KIMBALL MIDWEST	129.28			
96828	7/07/2009	788	KINDIG, DOUGLAS	40.00			

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96831	7/07/2009	381 LANDS' END BUSINESS OUTFITTERS	619.95			
96832	7/07/2009	231 LEAGUE OF NEBRASKA MUNICIPA-	544.00			
96833	7/07/2009	2380 LEXIS NEXIS MATTHEW BENDER	34.30			
96834	7/07/2009	1288 LIFE ASSIST	738.54			
96835	7/07/2009	877 LINWELD	93.79			
96836	7/07/2009	263 LOVELAND LAWNS	66.67			
96837	7/07/2009	2124 LUKASIEWICZ, BRIAN	930.00			
96838	7/07/2009	919 MARTIN MARIETTA AGGREGATES	205.38			
96839	7/07/2009	4138 MARTIN, ALEX	62.00			
96840	7/07/2009	1119 MEADOWBROOK INC	1,855.00			
96841	7/07/2009	2212 DENNY JONES	1,104.00			
96842	7/07/2009	553 METROPOLITAN UTILITIES DIST.	.00	**CLEARED**	**VOIDED**	
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96845	7/07/2009	2497 MID AMERICA PAY PHONES	150.00			
96846	7/07/2009	184 MID CON SYSTEMS INCORPORATED	312.67			
96847	7/07/2009	3921 MID-STATES UTILITY TRAILER	221.44			
96848	7/07/2009	1046 MIDWEST TURF & IRRIGATION	341.91			
96849	7/07/2009	4116 NACR INCORPORATED	.00	**CLEARED**	**VOIDED**	
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96852	7/07/2009	4116 NACR INCORPORATED	2,359.94			
96853	7/07/2009	1028 NATIONAL PAPER COMPANY INC	117.41			
96854	7/07/2009	2529 NEBRASKA SOFTBALL ASSN DIST#10	110.00			
96855	7/07/2009	2631 NEXTEL COMMUNICATIONS	94.16			
96856	7/07/2009	2631 NEXTEL COMMUNICATIONS	582.53			
96857	7/07/2009	2530 NOVA HEALTH EQUIPMENT	4,668.75			
96858	7/07/2009	179 NUTS AND BOLTS INCORPORATED	41.67			
96859	7/07/2009	1014 OFFICE DEPOT INC-CINCINNATI	.00	**CLEARED**	**VOIDED**	
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96864	7/07/2009	79 OMAHA COMPOUND COMPANY	1,961.33			
96865	7/07/2009	195 OMAHA PUBLIC POWER DISTRICT	1,667.26			
96866	7/07/2009	319 OMAHA WINNELSON	170.28			
96867	7/07/2009	2129 OMB EXPRESS POLICE SUPPLY	47.97			
96868	7/07/2009	3172 OXMOOR HOUSE	35.91			
96869	7/07/2009	976 PAPILLION TIRE INCORPORATED	148.61			
96870	7/07/2009	2686 PARAMOUNT LINEN & UNIFORM	573.69			
96871	7/07/2009	1769 PAYLESS OFFICE PRODUCTS INC	273.74			
96872	7/07/2009	3058 PERFORMANCE CHRYSLER JEEP	12.30			
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96877	7/07/2009	1030 POKORNY, KEVIN L	26.00			
96878	7/07/2009	159 PRECISION INDUSTRIES INC	582.65			
96879	7/07/2009	1921 PRINCIPAL LIFE-FLEX SPENDING	216.00			
96880	7/07/2009	3362 PUBLIC AGENCY TRAINING COUNCIL	885.00			
96881	7/07/2009	802 QUILL CORPORATION	56.18			

APCHCKRP
10.16.06

Tue Jul 7, 2009 12:36 PM

City of LaVista
ACCOUNTS PAYABLE CHECK REGISTER

OPER: AKH

PAGE 4

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96882	7/07/2009	219 QWEST	1,150.95
96883	7/07/2009	427 RAMIREZ, RITA M	43.00
96884	7/07/2009	1568 RAPTOR RECOVERY NEBRASKA	75.00
96885	7/07/2009	191 READY MIXED CONCRETE COMPANY	2,458.89
96886	7/07/2009	3139 RECORDED BOOKS, LLC	43.87
96887	7/07/2009	3986 RICHT, TREVOR	80.00
96888	7/07/2009	1783 RON TURLEY ASSOCIATES INC	700.00
96889	7/07/2009	4133 ROTELLA'S ITALIAN BAKERY	48.24
96890	7/07/2009	4037 RUSTY ECK FORD	338.41
96891	7/07/2009	487 SAPP BROS PETROLEUM INC	.00
96892	7/07/2009	487 SAPP BROS PETROLEUM INC	10,297.53
96893	7/07/2009	2240 SARPY COUNTY COURTHOUSE	3,487.34
96894	7/07/2009	738 SIGN IT	433.50
96895	7/07/2009	115 SIRCHIE FINGER PRINT LABS	123.75
96896	7/07/2009	4134 SLIVA, STACY	32.24
96897	7/07/2009	533 SOUCIE, JOSEPH H JR	.00
96898	7/07/2009	533 SOUCIE, JOSEPH H JR	120.71
96899	7/07/2009	3838 SPRINT	98.66
96900	7/07/2009	4131 STERLING DISTRIBUTING COMPANY	143.60
96901	7/07/2009	910 STEVENS, MARK	62.00
96902	7/07/2009	4140 STUBBS, ALYSSA	62.00
96903	7/07/2009	4141 STUBBS, MICKEY	62.00
96904	7/07/2009	3795 SUN COUNTRY DISTRIBUTING LTD	133.24
96905	7/07/2009	3718 SUN LIFE & HEALTH INSURANCE CO	1,953.38
96906	7/07/2009	3800 T-SHIRT ENGINEERS	56.25
96907	7/07/2009	264 TED'S MOWER SALES & SERVICE	286.09
96908	7/07/2009	822 THERMO KING CHRISTENSEN	247.92
96909	7/07/2009	143 THOMPSON DREESSEN & DORNER	1,533.88
96910	7/07/2009	547 TODCO BARRICADE COMPANY	185.00
96911	7/07/2009	3333 TRAVELODGE	621.00
96912	7/07/2009	1122 TURF CARS LTD	237.97
96913	7/07/2009	3052 V & V MANUFACTURING INC	48.44
96914	7/07/2009	2337 VALUATION SERVICES	2,000.00
96915	7/07/2009	809 VERIZON WIRELESS, BELLEVUE	364.26
96916	7/07/2009	1174 WAL-MART COMMUNITY BRC	.00
96917	7/07/2009	1174 WAL-MART COMMUNITY BRC	952.82
96918	7/07/2009	78 WASTE MANAGEMENT NEBRASKA	262.77
96919	7/07/2009	3150 WHITE CAP CONSTR SUPPLY/HDS	425.00
96920	7/07/2009	2541 ZOLL MEDICAL CORPORATION	86.01

BANK TOTAL	112,459.76
OUTSTANDING	112,459.76
CLEARED	.00
VOIDED	.00

FUND

TOTAL

OUTSTANDING

CLEARED

VOIDED

01	GENERAL FUND	87,809.55	87,809.55	.00	.00
02	SEWER FUND	17,188.94	17,188.94	.00	.00
05	CONSTRUCTION	1,533.88	1,533.88	.00	.00
08	LOTTERY FUND	658.87	658.87	.00	.00
09	GOLF COURSE FUND	4,442.97	4,442.97	.00	.00
15	OFF-STREET PARKING	825.55	825.55	.00	.00

APCHCKRP
10.16.06

Tue Jul 7, 2009 12:36 PM

City of LaVista
ACCOUNTS PAYABLE CHECK REGISTER

OPER: AKH

PAGE 5

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REPORT TOTAL	112,459.76
OUTSTANDING	112,459.76
CLEARED	.00
VOIDED	.00
+ Gross Payroll 6/26/09	<u>112,459.76</u>
GRAND TOTAL	<u>\$336,674.62</u>

APPROVED BY COUNCIL MEMBERS 7/7/09

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 7, 2009 AGENDA**

Subject:	Type:	Submitted By:
ZONING TEXT AMENDMENT— HOME OCCUPATIONS	◆ RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing was held by the City Council at their June 16, 2009 meeting and adoption of the ordinance was tabled for Council to consider amendments to Section 2.02.155, Section 2.02.156, and Section 7.10 of the Zoning Ordinance regarding Home Occupations.

FISCAL IMPACT

Reduction of approximately \$350 in Home Occupation II license fees annually.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing was held by the City Council at their June 16, 2009 meeting and adoption of the ordinance was tabled for Council to consider amendments to Section 2.02.155, Section 2.02.156, and Section 7.10 of the Zoning Ordinance regarding home occupations.

Discussion during the public hearing centered on the types of businesses which would be or have been classified as a Home Occupation II (Minor) business. Attached is a spreadsheet of those which are currently licensed. The majority of the phone calls in the last six months have been for office-related or computer-based home businesses, although two recent calls were regarding a catering business and a cake-baking business. Often no further contact is made with the City once the individual is mailed the information regarding the requirement to obtain signatures from neighbors. Staff believes many of these individuals are choosing not to follow-through on the requirements.

There was additional discussion at the Council meeting regarding the frequency of retail sales as one method of distinguishing between major and minor home occupations. This option was based on a publication from the American Planning Association (see attached Zoning Practice article). In light of the Council's concern regarding enforcement, staff has revised the draft to delete these references and define a minor home occupation as having no sales on-site. The revised draft also deletes the requirement for minor home occupations to obtain a license. As more people are working from their homes, if there are no on-site sales or service and there are no employees, there may be no public interest to be served by requiring them to obtain a license.

One other question from Council was regarding whether individuals who are conducting businesses from their homes are complying with other state regulations. Staff does advise them to contact other state agencies, particularly if the request involves cooking or baking.

Attached is a revised red-lined copy of Section 2.02.155, Section 2.02.156, and Section 7.10 of the Zoning Ordinance with the proposed amendments, and a revised ordinance.

The Planning Commission held public hearings on April 16, 2009, and May 21, 2009, and recommended approval.

\\Lvdcfp01\users\Administration\BRENDA\ COUNCIL\09 Memos\Zoning Text Amend. - Home Occ rev draft.doc

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Section 2.02.155. Section 2.02.155 of Ordinance No. 848 is hereby amended to read as follows:

2.02.155 **HOME OCCUPATION** shall mean an "in-home" or "home-based" business, industry, or service (not including uses defined as Adult Entertainment Establishment) operating from within a residential dwelling, or within an accessory structure in a residential zoning district. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property. Home Occupations shall satisfy the standards set forth in Section 7.10 of the City's Zoning Ordinance.

- 2.02.155.01 **Home Occupation I (Major)** shall include Home Occupations that include on-site sales or services and/or one part-time or full-time employee that does not reside on the premises.
- 2.02.155.02 **Home Occupation II (Minor)** shall include Home Occupations in which an office in the home is used for telecommuting and/or deriving other income or sales. Minor Home Occupations shall also include all home-based craftmaking or cooking, which is not intended for sale on-site. **(Ordinance No. 879, 11-19-02)**
- 2.02.155.03 Occupations defined as Home Occupation II are exempt from a conditional use permit and Home Occupation License. All Home Occupation I uses are required to have a Home Occupation License. **(Ordinance No. 879, 11-19-02)**

SECTION 2. Amendment of Section 2.02.156. Section 2.02.156 of Ordinance No. 848 is hereby amended to read as follows:

2.02.156 **HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation. Such license shall include (but not limited to) the following:

- 2.02.156.01 Application fee in accordance with Master Fee Schedule. **(Ordinance No. 879, 11-19-02)**
- 2.02.156.02 *For major Home Occupations requiring a Conditional Use Permit, a minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address. (Ordinance No. 879, 11-19-02)*
- 2.02.156.03 A Conditional Use Permit is required for Home Occupation I uses, except Child Care Homes. **(Ordinance No. 879, 11-19-02)**

SECTION 3. Amendment of Section 7.10. Section 7.10 of Ordinance No. 848 is hereby amended to read as follows:

Section 7.10 Home Occupations

The following are the minimum standards required for a Home Occupation:

- 7.10.01 *No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two (2) square foot in area attached flat against the building located on local or collector*

streets. However, four (4) square feet in area attached flat against the building located on arterial streets.

7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.

7.10.03 No more than twenty-five percent (25%) of the home, *not to exceed four hundred (400) square feet*, can be used for the home occupation, *except for Child Care Home. This percentage is inclusive of any detached accessory buildings used for the Home Occupation.*

7.10.04 Home occupations shall employ no more than one full-time or part-time employee on-site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

7.10.05 Unless expressly permitted by a Conditional Use Permit, no retail sales are permitted from the site.

7.10.06 No outdoor storage is permitted.

7.10.07 Additional off-street parking may be required for the business.

7.10.08 *If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way.*

Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.

7.10.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

7.10.10 *A Home Occupation License shall be required for Home Occupation I uses.*

7.10.11 *A Conditional Use Permit is required, except for Home Occupation II uses and Child Care Homes.*

7.10.12 *Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.*

7.10.13 All fees shall be paid in accordance with the Master Fee Schedule.

7.10.14 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R.R.S. 1943, Sec. §71-1911. **(Ordinance No. 884, 11-19-02)**

SECTION 4. Repeal of Section 2.02.155, Section 2.02.156, and Section 7.10 as Previously Enacted. Section 2.02.155, Section 2.02.156, and Section 7.10 of Ordinance No. 848 as previously enacted is hereby repealed.

SECTION 5. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 6. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 7th DAY OF JULY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

I:\Administration\BRENDA\COUNCIL\ORDINANCE\2.02.155, 2.02.156, 7.10 6-16-09.doc

Home Occupation II

Company	DoingBusinessAs	MailingAddress	City	State	Zip	Local Address
Evangelism, Counseling and Healing Ministry, Inc.	Silas Ministries	7713 Elm Drive	La Vista	NE	68128	7713 Elm Drive
IC Green Lawns		7910 Laurel Court	La Vista	NE	68128	7910 Laurel Court
Melia Photography		7613 S. 72nd Avenue	La Vista	NE	68128	7613 S. 72nd Avenue
On-Site Forklift Service, Inc.		8853 Elm Drive	La Vista	NE	68128	8853 Elm Drive
Safety Training Specialists, Inc.		PO Box 27241	Ralston	NE	68127	8702 Wilbur Street
Simply Delightful Scents		9006 Honeylocust Drive	La Vista	NE	68128	9006 Honeylocust Drive
The Russell Center LLC		6602 Crabapple Street	La Vista	NE	68128	6602 Crabapple Street
Vodicka Detailing Services, LLC		7775 Greenleaf Drive	La Vista	NE	68128	7775 Greenleaf Drive
Bob Papek		7202 Giles Rd, Suite 4-208	La Vista	NE	68128	8208 S 87th Plaza
Lucid Dream Interactive, LLC		9235 Park View Blvd	La Vista	NE	68128	9235 Park View Blvd

Fee, per business, is \$35.00 per year
 10 Businesses X \$35.00 = \$350.00

ZONING PRACTICE

September 2006

AMERICAN PLANNING ASSOCIATION



④ ISSUE NUMBER NINE

PRACTICE HOME OCCUPATIONS



Modernizing Zoning for Home Occupations

By Patricia E. Salkin, AICP

According to the 2000 U.S. Census report, over four million people—3.3 percent of the nation's population—work from home.

That number can actually range between 18.8 million to 20.3 million, depending on how one defines “working from home.” The Small Business Administration reported that in 2000, nearly 20,000 entrepreneurs grossed more than \$1 million operating from a home-based environment. Labeled by some as an “explosion of home-based businesses,” a number of organizations implore local officials to reassess their antiquated zoning laws to address this trend. Zoning codes, traditionally designed to separate incompatible land uses, led to the establishment of distinct zoning districts for businesses and residential areas. However, with the growth in home-based businesses and home occupations, municipalities must creatively balance public health, safety, and welfare in residential districts against the pressures necessitating the accommodation of appropriate home-based businesses.

Environment and energy conservation advocates tout zoning for increased home occupations as a positive step towards reducing daily commuter traffic, energy consumption, and air pollution. The American Planning Association advocates reducing dependence on fossil fuels by promoting land-use actions that allow for home-based occupations, and thereby reducing the number of commuters. On the APA website, one planner recently commented:

Twenty-five years ago, planners and zoning regulations focused on segregating uses in different zones. With the advent of computers, decentralization of the workplace, work-at-home environments, footloose industry leaving the country, and the abandonment of employees to fend for themselves for retirement planning and health care protection, individuals and families are faced with doing everything from home—multitasking and being self-reliant.

One of the leading smart growth and land-use advocates observed that as telecommuting and home offices become a way of life, local zoning codes should reflect, rather than deny, the reality. In a recent law review article, Professor Nicolle Stelle Garnett, law professor in property and land use at Notre Dame University, urged local officials to tackle the home-based business dilemma. She explained that working from home can help parents balance work and family, enable low-income individuals to achieve economic self-sufficiency, and alleviate social and environmental problems resulting from sprawl. The Town of Floyd, New York, Comprehensive Plan echoes these sentiments:

Home occupations can provide numerous benefits for both home-based workers and the town. Home-based businesses provide useful services and encourage business growth by eliminating the initial need for some small businesses to rent commercial space, an important factor to someone who is just starting a new venture. Working at home also saves commuting and childcare costs and reduces traffic congestion. Home occupations can also provide many people who might be unable to work outside the home (including single parents, the elderly, and the disabled) an opportunity to earn a living. And by creating activity in residential neighborhoods that might otherwise be deserted during the day, home occupations help to reduce crime.

Professor Garnett points out that many people currently engage in home occupations despite the fact that in many cases these uses violate zoning codes. While she acknowledges that in some situations individuals may not know the restrictive zoning laws, she suspects that many believe they can avoid detection by circumscribing their activities. However, the prospect of unhappy

neighbors running to the local zoning enforcement officer to complain puts home-based business operators at constant risk for civil or criminal sanctions and the possibility of needing to cease operations immediately if found in violation of the local zoning law. Professor Garnett concludes that the “widespread defiance of zoning laws itself suggests that the rules governing home businesses may be candidates for reform.”

This issue of *Zoning Practice* offers planners ideas and examples of ways to modernize local zoning laws to balance the growing demand by residents to engage in legitimate home-based businesses, while protecting community character and the health, safety, and welfare of neighbors in residential zoning.

DEFINING “HOME OCCUPATION”

The U.S. Supreme Court established zoning as a constitutionally valid exercise of state police power in *Village of Euclid v. Ambler Realty Co.* (272 US 365 (1926)). Euclid, Ohio, sought to prevent hotels, retail establishments, or apartments from cropping up around residential areas for the purposes of limiting building height and promoting residential safety. Ambler Realty fought Euclid's zoning, claiming it violated due process. However, the court supported the zoning as rational under the 14th Amendment's due process requirements and therefore within the states' police power. In “Modernizing Your Zoning Ordinance to Regulate Home-Based Businesses,” Andrew Cates of the University of Connecticut asserts that courts now presume zoning ordinances fall within the states' police powers. However, municipalities—not state entities—create zoning laws.

Local zoning laws and ordinances define “home occupation” in slightly different ways. For example, officials in Cochise, Arizona, define home occupation as “an activity carried on by

ASK THE AUTHOR ONLINE

From October 1 to 29, go online to participate in our "Ask the Author" forum, an interactive feature of *Zoning Practice*. Patricia F. Salkin, author, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using an e-mail link. The authors will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web page.

About the Author

Patricia F. Salkin, JD, is associate dean and director of the Government Law Center of Albany Law School. The author is grateful to Albany Law School students Andrea Andrei, Melissa Aspinwall, and Gunnessa Gaillard for their research assistance. This article is an edited version of the author's work that appeared in *35 Real Estate Law Journal* (3), Summer 2000.

the occupant of a dwelling as a secondary use, including personal and professional services . . . " subject to certain limitations. Similarly, the City of Albany, New York, defines the term as "a business, profession, occupation or trade conducted by the occupant of a dwelling unit or accessory structure" . . . "incidental and secondary to the use of the dwelling unit." Other definitions include "the secondary use of a person's residence for a business activity carried on for profit (Torrance, California)" or "any gainful occupation engaged in by an occupant of a dwelling unit (Boise, Idaho)." The zoning ordinance in the Town of Old Saybrook, Connecticut, simply provides that a home occupation consists of an activity conducted for gain. The zoning code sets forth a number of standards and requirements that applicants must satisfy prior to receiving a home occupation permit.

TYPES OF HOME OCCUPATIONS

While the number and variety of home occupations has increased over the years, local zoning did not keep pace with this expansion. For example, the Home Based Business Council lists roughly 200 potential home occupations, including advertising, art instruction, credit checking, auditing, fashion consulting, dating service, medical billing, travel consulting, market research services, tutoring, manicurist, massage therapy, and telephone answering service. The zoning enforcement authority for New Rochelle, New York, determined that a resident could not maintain a home-based management consulting business because the zoning in effect at the time only permitted offices of architects, artists, and teachers or a "similar professional person" as home occupations. In that case, a number of neighbors complained about the use, alleging that it resulted in increased traffic and excessive parking. Although code enforcement officers and building inspectors must strictly enforce zoning,

they do not possess the discretion to determine whether to permit home occupations not specifically listed in a zoning ordinance. As a result, municipalities should regulate home occupations based not on the type of business, but

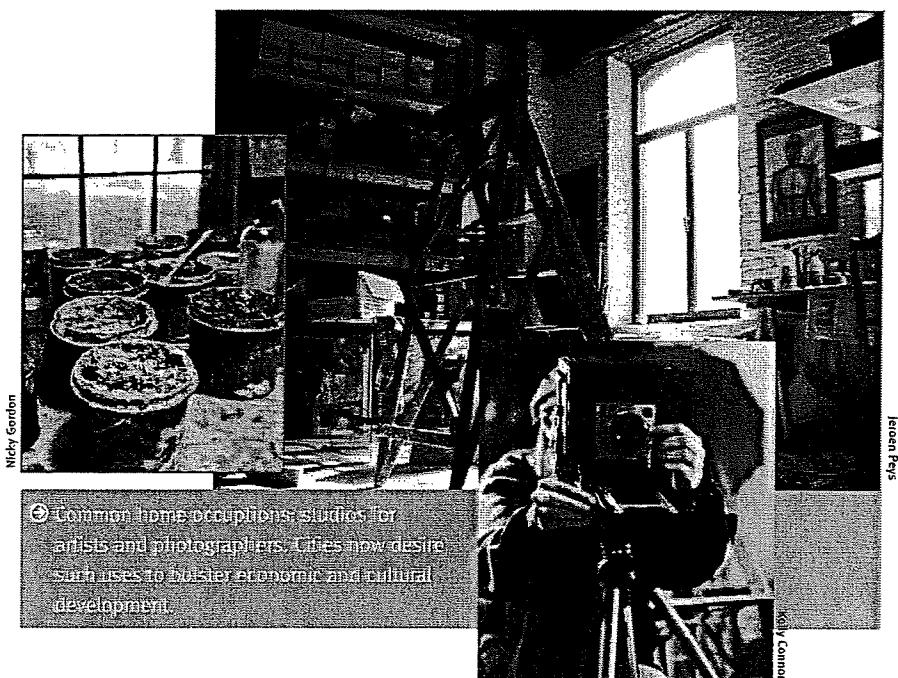
"Widespread defiance of zoning laws itself suggests that the rules governing home businesses may be candidates for reform."

—NICOLE STELLE GARNETT
PROFESSOR OF PROPERTY AND LAND-USE LAW
NOTRE DAME UNIVERSITY

rather on factors such as percent of floor area dedicated to business use, number of employees, number of parking spaces, and other criteria discussed in greater detail in the following sections of this article.

What constitutes a home occupation differs among jurisdictions, and allowable home occupations may vary depending upon the character of the community. For example, in one Wyoming municipality a meat processing operation qualified as a home occupation. Operating child day care programs in one's home may also constitute a home occupation. The Town of Alfred, Maine, identified four types of home occupations in its zoning ordinance:

1. *Office in the home.* A home office creating or manufacturing home crafts without



on-site sales; no on-site parking of commercial vehicles; and no more than three client contacts in the home per week. This does not include on-site manufacturing, warehousing, and sales, or home occupations which employ anyone not related by blood or marriage to the business owner, or who does not reside on the premises.

2. *Home crafts.* Creating or manufacturing an item, including, but not limited to, dress-making, knitting, the manufacture of crafts, woodworking, drawing, painting, and sculpting. This does not include those home occupations which employ more than one person not related by blood or marriage to the business owner, or who does not reside on the premises. No more than three client contacts in the home per week are permitted.
3. *In-home sales and service.* A home occupation that does not meet the definition of "office in the home" or "home crafts" but does not include those home occupations that employ more than one person not related by blood or marriage to the business owner, or who does not reside on the premises.
4. *Home-based business.* Any home occupation that employs more than one person not related by blood or marriage to the business owner or who does not reside on the premises.

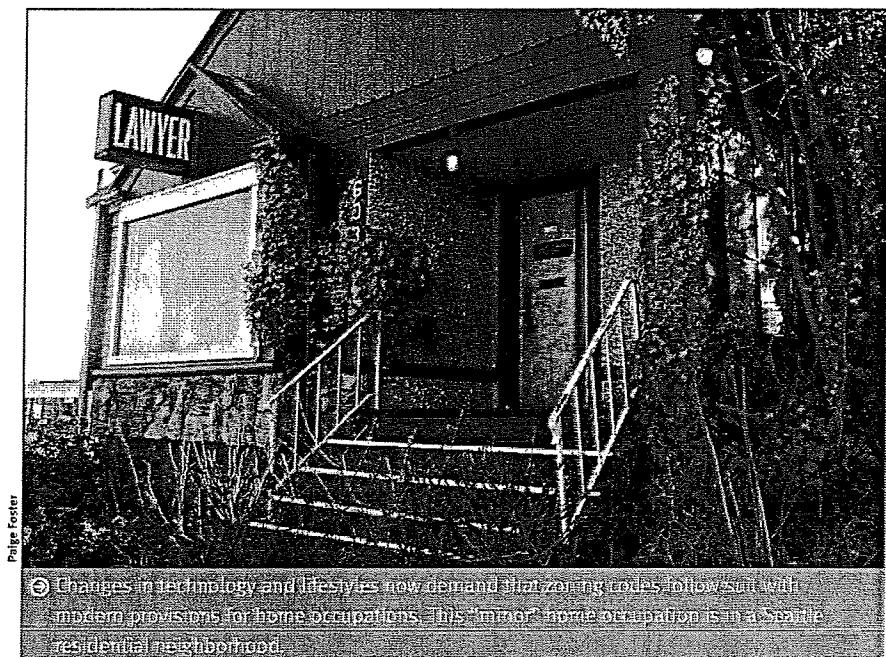
Some municipalities choose to list the types of business uses that do not qualify for home occupation status in the jurisdiction. For example, the ordinance for the City of Deephaven, Minnesota, provides the following prohibited home occupations: service, repair, or painting of any motorized vehicle, including, but not limited to, motor vehicles, trailers, boats, personal watercraft, recreation vehicles, and snowmobiles; dispatch centers; medical or dental clinics; rental businesses; contracting, excavating, welding, or machine shops; commercial kennels and veterinary clinics; tow truck services; the sale, lease, trade, or other transfer of firearms or ammunition; sale or use of hazardous materials in excess of consumer quantities packaged for consumption by individual households for personal care or household use; and any other use of residential property deemed detrimental or inconsistent with the residential character of the neighborhood.

METHODS OF REGULATING HOME OCCUPATIONS

While zoning ordinances may allow a limited number of home occupations as-of-right in specific districts, this approach does not appropriately balance quality-of-life considerations for all district residents. Some home occupations leave neighbors unaware that the residence contains a business. Other uses may attract cars and delivery trucks and could involve signage on residential property that could raise legitimate neighborhood concerns. Other municipalities may deal with home occupations by considering requests on a case-by-case basis through the zoning variance process. The granting of use variances for home occupations may not meet statutory and common law tests for this type of relief. Preferably, municipalities should allow home-based business uses through performance standards.

In Ames, Iowa, the special use permit application lists the regulations and asks that the applicant explain in writing how the proposed home occupation use meets those standards. Doing so educates applicants, arguably promoting greater compliance.

Some municipalities separate home occupations by categories, whereby one category requires special use permit review, but another does not. For example, the Town of Princeton, New York, designates minor and major home occupations. It appears from the list (doctors, artists, lawyers, plumbers, and instructors of dance, music, or art) that minor occupations attract small amounts of traffic while major occupations attract greater numbers of people at one time. Major home occupations, such as repair shops, offices of doctors who see patients, and hair salons, may create a nuisance or alter the residential appearance of the neighborhood. Focusing on



Special use permits—standards and requirements. As-of-right means that as long as the business meets all specified limitations the applicant will receive the requested permit. Special use permits (sometimes referred to as special exceptions) grant those uses generally compatible with other uses in the district. To be certain, the board adds another layer of criteria for review. Review discretion in these cases remains limited to the criteria set forth in the zoning ordinance.

these differences, the town established different standards of review for each category.

Performance standards. Zoning can effectively manage the surge in home-based businesses by developing performance standards to regulate home occupations. Municipalities can employ a variety of standards to accomplish local goals and reduce the amount of litigation. Some municipalities regulate zoning by limiting negative effects such as signage; traffic; number of employees;

clientele; odor, noise, or smoke nuisances; and restricting changes to the building structure or neighborhood appearance.

According to Cates, however, municipalities must consider both the level and the quality of the negative effect to clarify the purpose of zoning regulations. Quality indicates the effect's inherent noxiousness whereas level considers the amount of excess traffic or noise a neighborhood can tolerate without changing its basic nature.

REGULATING THE SIZE OF THE HOME OCCUPATION

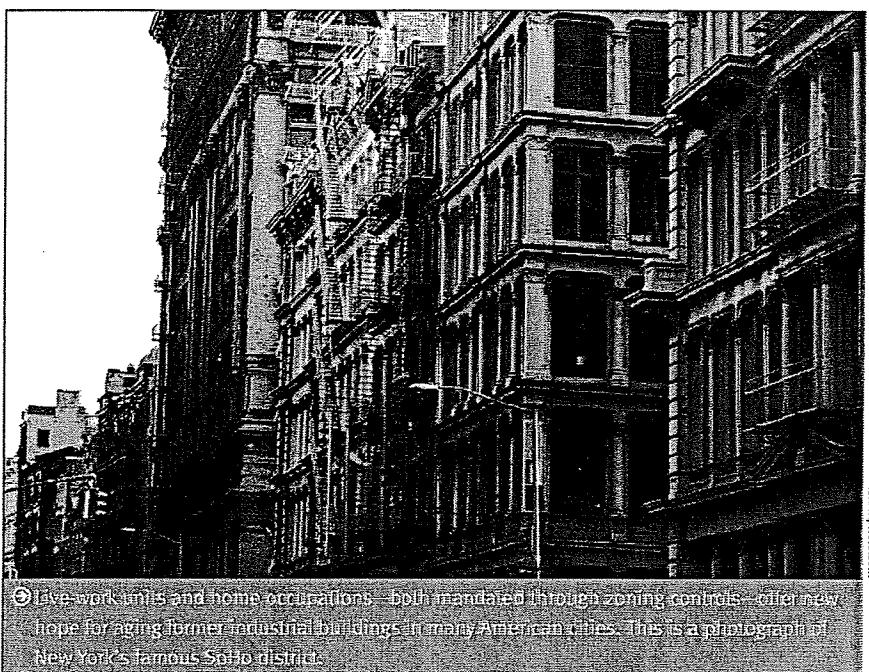
Zoning ordinances may provide for the maximum allowable floor area in a home used for a home occupation to ensure that the residence remains primarily a dwelling. For example, the ordinance in the Borough of Kane, in Pennsylvania, provides that a home occupation shall not use more than 25 percent of the gross floor area of the dwelling unit. The City of Papillion, Nebraska, provides that "for all residential and agricultural zoning districts, a maximum floor area of 30 percent of the dwelling may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation." Albany restricts the size of the use to a maximum of 500 square feet regardless of the size of the dwelling, and the Old Saybrook ordinance restricts the home occupation to one floor of the dwelling unit and provides that "therein, not more than 25 percent of such floor may be used for this purpose."

REGULATING THE NUMBER OF HOME OCCUPATIONS PER DWELLING UNIT

Since more than one working-age person may occupy a dwelling, multiple businesses uses can occur within the building. Some municipalities proactively approach this situation by restricting the number of home occupations per dwelling unit. For example, Albany limits the number of home occupations per dwelling unit to one.

RESTRICTING THE NUMBER OF EMPLOYEES ON SITE

Traffic and parking remain two major neighborhood concerns with home occupations. To reduce traffic, municipalities restrict the number of on-site employees that may work in one home-based business. Municipalities should carefully determine whether the maximum number of employees includes all resi-



istockphoto.com

Some municipalities regulate zoning by limiting negative effects (signage, traffic, clientele noise, pollution) and restricting changes to the building structure or neighborhood's appearance.

dents, only nonresident employees, or some combination thereof. For example, the Borough of Kane provides that no more than three nonresidents shall be employed at a home-based business. Papillion addresses full-time and part-time employees by requiring employers to provide parking for employees. The ordinance provides, in part, that "the home occupation shall employ no more than one full-time or part-time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that nonresident employee."

PARKING

Zoning ordinances may require home occupations to provide a specified number of off-street parking spaces for employees or patrons. The number varies depending on the business and the surrounding neighborhood's residential needs. The Borough of Kane ordinance requires that "a sufficient number of paved off-street parking spaces shall be provided as deemed necessary by the zoning hearing board." Alfred requires sufficient off-street parking within 100 feet of the premises for customer use without creating any traffic or safety hazards.

TRAFFIC GENERATION

The amount of traffic generated in a residential neighborhood as a direct result of the business use remains a primary concern. Some zoning ordinances address the issue of traffic by providing a maximum number of vehicles that may visit during the course of an average business day, specifying, for example, that no more than five or 10 cars of employees or clients can drive to the home. Papillion provides specific criteria tied to trip generation. Its ordinance states that home-based businesses may generate no more than the greater of 30 vehicle trips per day or five percent of the average daily traffic volume of the adjacent street. Peak-hour traffic generation may not exceed 16 vehicle trips, and deliveries or service by commercial vehicles or trucks over 10 tons gross empty weight cannot

visit any home-based business located on a local street.

SIGNS

Some residential districts restrict home occupation signage. Municipalities may regulate the use of signs for home occupations without violating the First Amendment as an exercise of state police power. Papillion outright prohibits home occupation signs, as does Hillsboro, Oregon. The zoning ordinance of the Village of Olympia Fields, Illinois, provides, in part that, "there shall be no exterior display, no exterior sign except as allowed by the sign regulations for the district in which such home occupation is located . . .".

Municipalities may choose to regulate the size of signs related to home occupations to ensure they fit in with the character of the community. For example, the zoning ordinance for the Borough of Kane provides, in part, that "there shall be no exterior display or no sign larger than two feet by three feet (unlit) . . . and no other exterior indication of the home occupation." In addition, localities may regulate the number of signs advertising the home occupation on each lot zoned for such use. For example, the zoning ordinance for Albany provides that residents "shall not display or create outside the building any evidence of the home occupation, except . . . one unanimated, non-illuminated flat or window sign having an area of not more than two square feet . . . on each street front of the zone lot on which the building is situated." Alfred combines these two approaches to sign regulation and provides that "home occupations signs relating only to goods or services available on premises, which may be surface mounted or freestanding . . . may not exceed three square feet in surface area and the top edge six feet in height. Only one home occupation sign is permitted per premises. Any home occupation sign displayed inside a window is considered a sign and is counted in the sign area allowed for home occupations."

OTHER REQUIREMENTS

While the discussion above focuses on the major issues involved with the regulation of home-based businesses, municipalities may find it desirable to adopt additional requirements to protect the character of the residential neighborhood. For example, some ordinances limit the type of alterations made to the residential building housing the home occupation. Albany prohibits alteration of the principal residential building where such changes alter the character and appearance of the dwelling. Papillion prohibits any change in the exterior appearance of the building or premises housing the home occupation. Old Saybrook prohibits external evidence of the home occupation, except for permitted signs and required off-street parking.

Still other zoning regulations prohibit the outdoor storage of equipment or materials used in the home occupation, or restrict the number of commercial vehicles a home-based

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business can use. For example, the Albany zoning ordinance provides that any home occupation cannot use more than one commercial vehicle and must store it in an enclosed garage. The Papillion zoning ordinance prohibits the outdoor storage of materials or equipment used in the home occupation other than motor vehicles used by the owner to conduct the occupation, and prohibits the parking or storage of heavy commercial vehicles in connection with the home occupation. Albany also restricts "mechanical, electrical, or other equipment which produces noise, electrical, or magnetic interference, vibration, heat, glare, or other nuisance outside the residential or accessory structure." Papillion limits such equipment supporting the home occupation to only self-contained equipment within the structure and that is normally used for office, domestic, or household purposes.

Quality of life remains an overarching theme in the regulation of home occupations. For example, Alfred's zoning ordinance provides that home occupations may not adversely affect any natural resource or environmentally sensitive area such as a wetland, aquifer, watercourse, water body, etc. To address quality-of-life concerns, Papillion provides that "no noise, odors, bright lights, electronic interference, storage, or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right-of-way. No home occupation shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations." The ordinance in Old Saybrook states that "the home occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment, and value of other residential property in the neighborhood."

TERMINATION OF HOME OCCUPATIONS

Municipalities may provide for the eventual termination of a permitted home occupation. Any change in use would undergo similar review to ensure compatibility with the neighborhood. The municipality may communicate to the occupant that the allowed home occupation, once permitted, remains unique to the applicant only, and that a new owner would need to apply for permission to operate the previous home-based business. For example, Old Saybrook requires that the person operating the home occupation sign the permit application and attach a detailed description of the proposed use. Each certificate of zoning compliance allowing the use automatically terminates when the applicant no longer resides in the dwelling unit.

CONCLUSION

Planners are increasingly being challenged to design ways to legitimize home occupation uses in previously residential-only zoning districts while also preserving the character of the traditional residential community. Flexible zoning techniques, including special use permits and performance standards, as methods of regulating home-based business uses offer opportunities for creativity in the design of effective regulations.



NEWS BRIEFS

INCLUSIONARY ZONING IN SAN DIEGO: SECURE AT LAST?

By Max Eisenburger

The City of San Diego and developers appear to have finally resolved a four-year legal battle that threatened to invalidate the city's inclusionary housing ordinance.

The settlement, approved by the city council on July 25, reinstates several provisions favored by developers in exchange for an end to court proceedings against the city.

In 2002, the city council voted to adopt an inclusionary housing ordinance as part of its response to a mounting crisis of housing affordability. The ordinance included a 10 percent set-aside requirement for all new development, but provided developers with the option of paying an in-lieu fee instead of setting aside affordable units. It also included several exemption provisions, including exemption of units sold to owner-occupants with no other property earning 150 percent of area median income or less. At the time, San Diego was probably the largest city in the country to adopt such an ordinance.

Almost immediately, the Building Industry Association (BIA) of San Diego filed suit against the city. The organization claims to represent over 1,400 developers and, according to its website, "has been described as 'arguably one of the most powerful interest groups in San Diego.'"

For the next four years, the case has gone from court to settlement proceedings and back again. Agreement between the city council and developers seemed at hand this past April when the council suddenly backed out over a provision that would have allowed the suit to resume if the city made any changes to the ordinance within two years. Some council members felt that the in-lieu fees were too low and had proposed removing them, which would have forced developers to comply with the 10 percent affordable set-aside requirement. Had the city accepted the settlement with the no-amendment provision it would have forgone the option of annulling in-lieu fees for at least another two years.

By not accepting the settlement, however, the city landed itself in court again. On May 24, Judge John S. Meyer delivered his verdict against the council, finding the ordinance

unconstitutional because it did not allow developers to argue that their projects did not contribute to the affordability crisis and should thus be exempted.

According to the San Diego magazine *City Beat*, while the court battle "was similar to lawsuits filed by building-industry groups in other cities and counties that have inclusionary housing laws . . . San Diego's is the only lawsuit developers have beaten in court."

The ruling led to a brief split within city government. While the council vowed to convince Judge Meyer to overturn his original ruling at a second hearing on July 14, city attorney Michael Aguirre argued for a quick amendment to incorporate the exemption the

The inclusionary housing ordinance was ruled unconstitutional because it did not allow developers to argue that their projects did not contribute to the affordability crisis and should thus be exempted.

judge had found lacking. The council later decided (once again) to attempt a settlement with the building industry out of court, and on July 25 a compromise was reached.

The new compromise is similar to the compromise announced in April. One key provision is that in-lieu fees will be calculated when developers submit permit applications rather than when issuing building permits. Since the fees were designed to increase over time builders will be able to save money if the fees are assessed earlier in the process. The two-year moratorium on amendments to the ordinance has also been reinstated.

Many inclusionary housing proponents have reluctantly accepted the new settlement. Councilwoman Toni Atkins said that while she was "not particularly happy [the city is] in this position, and that [San Diego] inclusionary housing ordinance has been challenged . . .

it's important we preserve the constitutionality of the ordinance." Nico Calavita, professor of city planning at San Diego State University and a founding member of the San Diego Housing Coalition, concurs: while the city could forego close to \$10 million in affordable housing financing under the settlement, the inclusionary ordinance will be preserved.

Other cities with inclusionary housing ordinances have encountered less heated opposition from developers despite the imposition of more onerous demands. In Berkeley, California, the affordable set-aside ratio is 20 percent. Calavita attributes San Diego's prolonged and heated controversy to a more aggressive, conservative building industry. The San Diego Housing Coalition had initially sought support from the BIA of San Diego when it was lobbying for the inclusionary ordinance, but the latter was fundamentally opposed. In the Bay area, by contrast, initial confrontation between the Home Builders Association of Northern California and the housing advocates eventually led to a joint policy brief that agreed on the basic tenets of inclusionary housing.

Max Eisenburger is a researcher with the American Planning Association

Cover photo by Malcolm Roshan/Design
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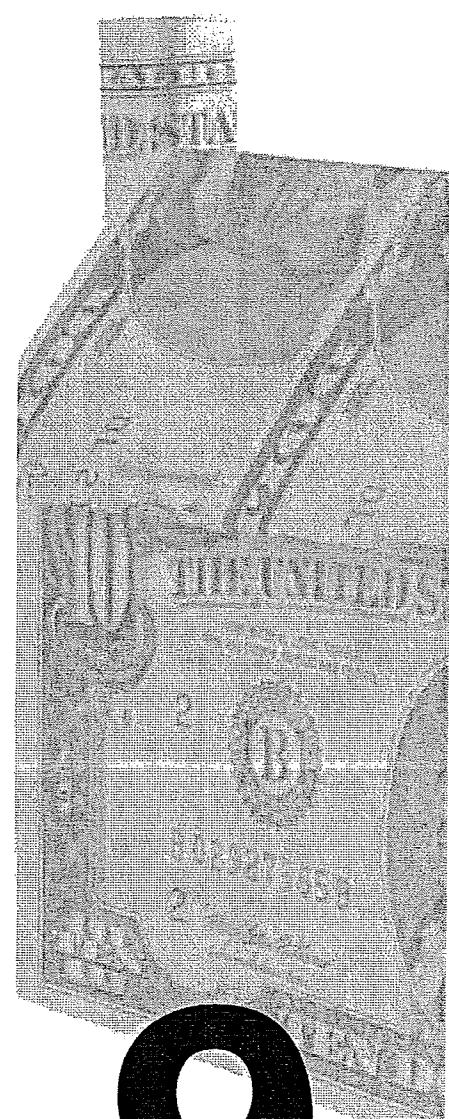
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DO
ALL HOME OCCUPATIONS
SAVE THE ENVIRONMENT?



9

2.02.155 **HOME OCCUPATION** shall mean an “in-home” or “home-based” business, industry, or service (not including uses defined as Adult Entertainment Establishment) operating from within a residential dwelling, or within an accessory structure in a residential zoning district. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property. Home Occupations shall satisfy the standards set forth in Section 7.10 of the City’s Zoning Ordinance.

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2.02.155.01 **Home Occupation I (Major):** shall include Home Occupations that include on-site sales or services and/or one part-time or full-time employee that does not reside on the premises.

Deleted: art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/mechanical), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber/massage/tattoo), shops, renting of rooms for residential purposes, and other similar uses. (Ordinance No. 879, 11-19-02)

2.02.155.02 **Home Occupation II (Minor):** shall include Home Occupations in which an office in the home is used for telecommuting and/or deriving other income or sales. Minor Home Occupations shall also include all home-based craftmaking or cooking, which is not intended for sale on-site. **(Ordinance No. 879, 11-19-02)**

2.02.155.03 Occupations defined as Home Occupation II are exempt from a conditional use permit and Home Occupation License. All Home Occupation I uses are required to have a Home Occupation License. **(Ordinance No. 879, 11-19-02)**

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2.02.156 **HOME OCCUPATION LICENSE** shall mean a license provided to the owner/operator of a home occupation. Such license shall include (but not limited to) the following: **(Ordinance No. 879, 11-19-02)**

2.02.156.01 Application fee in accordance with Master Fee Schedule. **(Ordinance No. 879, 11-19-02)**

2.02.156.02 *For major Home Occupations requiring a Conditional Use Permit,* a minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A “no objections” signature form shall be provided by the City and said residents shall sign next to their respective address. **(Ordinance No. 879, 11-19-02)**

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2.02.156.03 A Conditional Use Permit is required for Home Occupation I uses, except Child Care Homes. **(Ordinance No. 879, 11-19-02)**

Section 7.10 Home Occupations

The following are the minimum standards required for a Home Occupation:

7.10.01 *No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two (2) square foot in area attached flat against the building located on local or collector streets. However, four (4) square feet in area attached flat against the building located on arterial streets.*

7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.

7.10.03 No more than twenty-five percent (25%) of the home, *not to exceed four hundred (400) square feet*, can be used for the home occupation, *except for Child Care Home. This percentage is inclusive of any detached accessory buildings used for the Home Occupation.*

7.10.04 Home occupations shall employ no more than one full-time or part-time employee on-site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

7.10.05 Unless expressly permitted by a Conditional Use Permit, no retail sales are permitted from the site.

7.10.06 No outdoor storage is permitted.

7.10.07 Additional off-street parking may be required for the business.

7.10.08 *If home occupation is for a business office for services rendered at another location then not more than two (2) business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one (1) piece of equipment shall be counted as one (1) of the two (2) business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two (2) vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.*

7.10.09 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

7.10.10 A Home Occupation License shall be required for Home Occupation I uses.

7.10.11 A Conditional Use Permit is required, except for Home Occupation II uses and Child Care Homes.

7.10.12 *Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.*

7.10.13 All fees shall be paid in accordance with the Master Fee Schedule.

7.10.14 All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebr. R. R. S. 1943, Sec. §71-1911.

Deleted: No one other than the resident(s) can work from that site

Deleted: other than incidental sales related to services provided

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Deleted: <#>There shall not be a stock of goods or material on the premises in excess of one hundred twenty (120) square feet of the area of the home occupation, none of which shall be of a flammable or hazardous nature.¶

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(Ordinance No. 884, 11-19-02)

C

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE CONSUMPTION OF ALCOHOL AT THE LA VISTA CITY RECREATION CENTER IN THE EVENT OF INCLEMENT WEATHER ON SATURDAY, JULY 11, 2009, BY CITY EMPLOYEES, VOLUNTEERS AND THEIR GUESTS IN CONJUNCTION WITH THE ANNUAL VOLUNTEER/EMPLOYEE PICNIC.

WHEREAS, the La Vista Employee Activity Committee obtained permission to consume alcohol at the La Vista City Swimming Pool and Sand Volleyball Court in conjunction with the annual volunteer/employee picnic to be held on July 11, 2009, and

WHEREAS, the La Vista Employee Activity Committee is requesting permission to consume alcohol at the La Vista Recreation Center, in the case of inclement weather, in conjunction with the annual volunteer/employee picnic to be held on July 11, 2009, and

WHEREAS, City Council approval must be obtained prior to allowing the consumption of alcoholic beverages on city property.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, do hereby authorize the consumption of alcohol at the La Vista Recreation Center, in the case of inclement weather, on July 11, 2009, in conjunction with the annual volunteer/employee picnic.

PASSED AND APPROVED THIS 7TH DAY OF MAY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk