

MINUTE RECORD

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

LA VISTA CITY COUNCIL MEETING October 20, 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 October 20, 2009. Present were Councilmembers: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Absent: None. Also in attendance were City Attorney McKeon, City Engineer Kottmann, City Administrator Gunn, Assistant City Administrator Ramirez, City Clerk Buethe, Library Director Barcal, Community Development Director Birch, Police Chief Lausten, Fire Chief Uhl, Finance Director Lindberg, Assistant Recreation Director Karlson, Building and Grounds Director Archibald, and Public Works Director Soucie.

A notice of the meeting was given in advance thereof by publication in the Times on October 8, 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 agenda policy statement providing for expanded opportunity for public comment on agenda items.

A. APPROVAL OF THE AGENDA AS PRESENTED

1. APPROVAL OF CITY COUNCIL MINUTES FROM OCTOBER 6, 2009
2. PAY REQUEST FROM BAINBRIDGE LEADERSHIP CENTER - PROFESSIONAL SERVICES - \$7,500.00
3. PAY REQUEST FROM KISSEL/E & S ASSOCIATES, LLC – PROFESSIONAL SERVICES - \$6,265.07
4. PAY REQUEST FROM CITY OF OMAHA – HARRISON STREET IMPROVEMENTS - \$27,890.12
5. PAY REQUEST FROM KIRKHAM MICHAEL – PROFESSIONAL SERVICES - \$2,800.00
6. APPROVAL OF CLAIMS

Councilmember Quick made a motion to approve the consent agenda. Seconded by Councilmember Carlisle. 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	190.00
ACTION BATTERIES, Vehicle Supplies	74.95
ARAMARK UNIFORM SERVICES, Contract Services	403.89
ASPEN EQUIPMENT, Winter Maint.	821.00
ASPHALT & CONCRETE MATERIALS, Street Maint.	242.94
BCDM, Professional Services	3,257.85
BEAUMONT, MITCH, Professional Services	2,250.00
BENSON RECORDS, Contract Services	1,156.32
BLACK HILLS ENERGY, Utilities	1,306.90
BOLEY, ANN, Auto Allowance	100.00
BRENTWOOD AUTO WASH, Vehicle Maint.	6.00
BUETHE, PAM, Phone/Training/Vehicle Maint.	121.77
BUILDERS SUPPLY, Maintenance	126.25
CALENTINE, JEFFREY, Phone	30.00
CARDMEMBER SERVICE, Travel/Supplies	7,326.56
CHEROKEE PRODUCTIONS, Training	885.00
CITY OF OMAHA, Contract Services	75,278.04
CJ SERVICES, Property Clean-Up	975.00
CJ'S HOME CENTER, Supplies/Bldg & Grnds/Vehicle Maint.	1,045.90
CLASSIC REFRIGERATION, Bldg & Grnds	492.91
CORNHUSKER INTL TRUCKS, Vehicle Maint.	241.65

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CORONA, DEANNA, ROW Acquisition	25.00
COX, Contract Services	242.75
CYPRESS BENEFIT ADMINISTRATION, Rescue Revenue	338.81
D & B SALVAGE, Contract Services	810.00
DATA TECHNOLOGIES, Contract Services	487.50
ECCLES, PAT, Auto Allowance	100.00
EDAW, Planning/Study	25,911.90
EMERGENCY SERVICES MARKETING, Phone	22.40
ENFIELD'S ARBORIST SUPPLIES, Bldg & Grnds	90.48
FAIRWAY GOLF, Wearing Apparel	525.56
FARQUHAR, MIKE, Auto Allowance	100.00
FASTENAL, Traffic Signs	74.88
FEDEX, Printing	25.53
FILTER CARE, Vehicle Maint.	27.15
FITZGERALD SCHORR BARMETTLER, Professional Services	13,321.10
FORT DEARBORN LIFE INSURANCE, Employee Benefits	1,297.50
FROEHLICH, RORY, Auto Allowance	100.00
FUTUREWARE DISTRIBUTING, Contract Services	45.00
G I CLEANER & TAILORS, Uniform Cleaning	122.25
GCR OMAHA TRUCK TIRE, Vehicle Supplies	315.73
GENUINE PARTS COMPANY, Vehicle Maint.	686.81
GOLDMAN, JOHN, Travel/Phone	105.00
GREAT PLAINS ONE-CALL SVC, Contract Services	291.46
GREAT WESTERN BANK, Financial Fees	250.00
GREENKEEPER, Bldg & Grnds/Supplies	342.00
GUNN, BRENDA, Phone	45.00
HANEY SHOE STORE, Wearing Apparel	120.00
HEARTLAND PAPER, Supplies	280.00
HOME DEPOT, Supplies	492.78
HONEYMAN RENT-ALL, Bldg & Grnds	58.86
HY-VEE, Concessions	9.33
IVERSEN, BEN, Travel	232.75
J Q OFFICE EQUIPMENT, Contract Services/Supplies	750.32
KARLSON, DAVID, Travel	324.00
KINDIG, DOUGLAS, Phone	80.00
KINSEY, JEREMY, Travel	232.75
KLINKER, MARK, Professional Services	200.00
KRIHA FLUID POWER CO, Vehicle Maint.	220.59
LANDS' END BUSINESS OUTFITTERS, Supplies	25.00
LAUGHLIN, KATHLEEN, Payroll Withholding	809.00
LEAGUE ASSN OF RISK MGMT, Insurance & Bonds	410,088.00
LINWELD, Supplies/Street Maint.	811.35
LOGAN CONTRACTORS SUPPLY, Vehicle Maint.	598.35
LOVELAND LAWNS, Bldg & Grnds	33.48
LUKASIEWICZ, BRIAN, Travel	270.00
MCCANN PLUMBING SERVICE, Bldg & Grnds	19.95
MEADOWBROOK, Insurance & Bonds	734.39
MIDLANDS LIGHTING & ELECTRIC, Bldg & Grnds	30.50
MID-STATES UTILITY TRAILER, Vehicle Supplies	328.74
MIDWEST DISTRIBUTING CORP, Bldg & Grnds	216.87
MOTOROLA INC, Radios	4,833.00
MULDER, BERNARD, ROW Acquisition	1,500.00
NAPE-NE ASSN PROPERTY/EVIDENCE, Dues	20.00
NEBRASKA LAW ENFORCEMENT, Training/Travel	290.00
NEBRASKA NATIONAL BANK, Electric Cart Lease	1,823.43
NEBRASKA TURF PRODUCTS, Supplies	269.50
NEFF TOWING, Vehicle Maint.	190.00
OFFICE DEPOT, Supplies	328.94
OMAHA SLINGS, Vehicle Maint.	76.98
OMAHA WORLD HERALD, Legal Advertising	693.89
OMB EXPRESS POLICE SUPPLY, Wearing Apparel	53.90
OPPD, Utilities	42,981.94
PAPILLION SANITATION, Contract Services	212.11
PARAMOUNT LINEN & UNIFORM, Uniform Cleaning	573.69
PUBLIC AGENCY TRAINING COUNCIL, Training	295.00
QWEST, Phone	133.11
RAMIREZ, RITA, Phone	43.00

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SAM'S CLUB, Supplies/Concessions	372.48
SARPY COUNTY COURTHOUSE, Contract Services	3,487.34
SARPY COUNTY FISCAL ADMINSTRN, Contract Services	8,874.00
SARPY COUNTY LANDFILL, Bldg & Grnds	22.53
SARPY COUNTY TREASURER, Contract Services	27,931.00
SMOOTHER CUT ENTERPRISES, Contract Services	1,650.00
SOUCIE, JOSEPH, Travel/Phone	82.00
STEPANEK, VICTOR, ROW Acquisition	27,100.00
STOPAK, SCOTT, Phone	50.00
SUBURBAN NEWSPAPERS, Subscription	39.50
SUN COUNTRY DISTRIBUTING, Bldg & Grnds	133.24
SUN LIFE & HEALTH INSURANCE, Payroll Withholding	1,959.78
TARGET BANK, Supplies	40.45
TED'S MOWER SALES & SERVICE, Vehicle Maint.	8.03
THOMPSON DREESSEN & DORNER, Professional Services	17,880.51
THORNBURG, JEFF, Travel	220.00
TITAN MACHINERY, Vehicle Maint.	572.73
TREAT AMERICA FOOD SERVICES, Travel	249.19
U S ASPHALT, Street Maint.	1,645.19
ULTRAMAX, Equipment	1,834.20
UPS, Postage	47.84
VALUATION SERVICES, Professional Services	625.00
VIERREGGER ELECTRIC, Street Maint.	628.75
WASTE MANAGEMENT, Contract Services/Bldg & Grnds	1,122.69
WICK'S STERLING TRUCKS, Vehicle Maint.	201.40

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Police Chief Lausten informed Council of the K9 Championship competition that was held in Grand Island this past weekend. La Vista Police Officer York and K-9 Leda took the gold medal in "High Risk Building Search" and the bronze medal in "Critical Skills". Lausten informed Council that Petland, located at 120th and Center, donated a bulletproof vest to K-9 Leda.

Public Works Director Soucie informed Council that Harrison Street is now open. Councilmember Sheehan asked if there would be any closures with the 60th Street intersection. Soucie stated there is additional work to be done on the turn radius at 60th Street, but doesn't expect that to happen until next year. It should be limited construction and there should still be access to Harrison.

Community Development Director Birch informed Council that City Planner Baker has resigned, and his last day will be this Friday, October 23rd. The City will be advertising for a new planner.

Library Director Barcal informed Council that she was notified by the Nebraska Library Commission that the library has been accredited for another three (3) years.

B. RENTAL INSPECTION PROGRAM

Mayor Kindig stated that comments would be heard from the public regarding the rental inspection program and asked that those wishing to comment present only new information and that each person keep their comments to three minutes.

Tina Bole, 7605 S 73rd Ave, addressed Council. She would like to know what makes her house a business, not a home. If someone helps you pay bills are they a landlord?

Donna Kozak, 8725 Park View Blvd, gave Council a notice to protect the constitution of the United States of America and the State of Nebraska. She questioned their authority concerning the "International Code and Jurisdiction" on the rental inspection program.

Chuck Smith, 13443 Eagle Run Drive, informed Council that he built half of the houses in La Vista. He said he notified John Fullenkamp when he read about the ordinance to see if he was aware of it, and Fullenkamp suggested that Smith attend the meeting if he had something to say. Smith stated the City Council has always been great to work with. He is against the ordinance.

Walter Nelson, 7310 Valley Rd, stated he is in favor of the rental inspection program. Ten years ago he lived at 42nd and Larimore, and the worst houses in the area were rentals.

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B. ORDINANCE NO. 1095 – ADOPT RENTAL INSPECTION PROGRAM - FINAL READING

Mayor Kindig then stated that Ordinance No. 1095 now comes on for its third reading

City Clerk Buethe read Ordinance No. 1095 entitled: AN ORDINANCE TO ADOPT AND CODIFY A RENTAL LICENSING AND INSPECTION PROGRAM AS SECTION 150.6 OF THE LA VISTA MUNICIPAL CODE; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF. Said ordinance was read by title.

Councilmember Gowan made a motion to approve Ordinance No. 1095 on its third and final reading. Seconded by Councilmember Sell.

Councilmember Crawford asked if landlords will be held liable if a tenant doesn't let the inspectors in the property. City Attorney responded that landlords will not be held liable if the tenant is obstructing the inspection.

Councilmember Crawford asked if the re-inspection fee could be waived if corrections, on initial inspection, are made. Community Development Director stated the re-inspection fee is in the master fee ordinance, and it applies to any time the inspectors go out for re-inspection. We have the right to charge for re-inspection, but we usually only charge if dealing with a habitual problem location. City Administrator Gunn stated the master fee ordinance can be changed to reflect that accordingly. Councilmember Ellerbeck stated he did not have a problem with staff exercising sound judgment to charge appropriate fees. He does not feel it has been an abusive issue, and he doesn't think it is going to be a concern in the future. Councilmember Sell agreed and he would not like to see the fee removed, in case it is needed. Councilmember Crawford stated we need to clarify all points so there is no misunderstanding. City Attorney McKeon referred to Page 9, sub paragraph E, inspections fees. If we are talking about a modification, that is the section that should be modified. McKeon stated the ordinance could be amended to say "only an additional fee if the problems are not taken care of". Councilmember Sheehan stated the rules should be black and white.

Councilmember Crawford made a motion to amend Ordinance No. 1095, page 9, sub-paragraph E, to provide that inspections required after the primary inspection shall be conducted at no charge if all issues have been taken care of. Seconded by Councilmember Sheehan. City Attorney McKeon stated all provisions like this in the ordinance would be modified accordingly. Councilmembers voting aye: Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: Sell. Absent: None. Motion carried.

Councilmember Sheehan stated his concerns to the rights of privacy for the individual. He would like to see inspections completed at the time of vacancy. He would like to start the process over and get input from others for the ordinance. He also would like to see a copy of the letter that would be sent to the renters that would explain their rights. He asked for it at the last meeting, but has not yet seen it. City Administrator Gunn stated documents are not finalized for implementation until the ordinance has been adopted. The ordinance is still a work in progress; it has been amended again tonight. Council will have the document prior to implementing the program.

Councilmember Sheehan made a motion to amend the ordinance to perform inspections only when the properties are vacant. Seconded by Councilmember Crawford. Councilmembers voting aye: Ronan, Sheehan, and Crawford. Nays: Sell, Quick, Carlisle, Ellerbeck, and Gowan. Absent: None. Motion failed.

Mayor Kindig stated that the original motion by Councilmember Gowan to approve Ordinance No. 1095 on its third and final reading is still on the table, as amended. It was seconded by Councilmember Sell. Councilmembers voting aye: Sell, Quick, Ellerbeck, and Gowan. Nays: Ronan, Sheehan, Carlisle, and Crawford. Absent: None. Mayor Kindig stated that when the Council originally gave staff the approval to work on the program it was by unanimous consensus but as issues have arisen and as opinions have been stated there is a split among the council and as Mayor he will break the tie. Mayor Kindig stated that Council worked hard and has done their homework whether they agree or disagree. City staff has done a good job and most of the landlords have been professional and he thanked them for that. Mayor Kindig voted aye to break a tie vote. Motion carried and the Mayor declared the ordinance adopted; and he signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

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C. CONDITIONAL USE PERMIT – HOME OCCUPATION (DOG GROOMING) LOT 177, ARDMORE

1. PUBLIC HEARING

At 7:44 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on a conditional use permit – Home Occupation (Dog Grooming) Lot 177, Ardmore.

At 7:45 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 – APPROVE CONDITIONAL USE PERMIT

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-105: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR A HOME OCCUPATION TO PERFORM DOG GROOMING AT 7005 MICHELLE AVENUE ON LOT 177, ARDMORE, LA VISTA NEBRASKA.

WHEREAS, Terry and Dorothy Grindstaff the property owners have applied for a conditional use permit a home occupation to perform dog grooming on Lot 177 in Ardmore, 7005 Michelle Avenue; 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 issuance of a conditional use permit for such purposes, subject to the following conditions:

1. The plumbing drain needs to be tied into the sanitary sewer for the installation of the bathtub.
2. The type of heating for the building needs to be approved by the City of La Vista through the applicant's building permit.
3. There needs to be a hard-surfaced sidewalk constructed from the accessory building to the driveway.

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 Terry and Dorothy Grindstaff to operate home occupation to perform dog grooming on Lot 177 in Ardmore, 7005 Michelle Avenue, subject to the condition listed in the last recital above.

Seconded by Councilmember Carlisle. Councilmember Sell asked how many animals would be at the location at one time. Councilmember Crawford stated the number is six (6). It was discussed whether there would be any overnight stays. Mayor Kindig stated he would like the proper disposal of wet hair and dog waste, by putting it in a proper carbon bag. Community Development Director Birch suggested the resolution be tabled in order to bring the property owner to the meeting to answer questions. Councilmember Gowan withdrew his original motion. Councilmember Sell motioned to table the resolution until the November 4th City Council meeting. Councilmember Crawford seconded the motion. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

D. APPLICATION FOR REPLAT – LA VISTA CIVIC CENTER (NE OF 83RD & PARK VIEW BLVD.)

1. PUBLIC HEARING

At 7:53 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on the application for replat – La Vista Civic Center (NE of 83rd & Park View Blvd).

At 7:54 p.m. Councilmember Gowan made a motion to close the public hearing. Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

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2. RESOLUTION – APPROVE APPLICATION FOR REPLAT

Councilmember Sheehan introduced and moved for the adoption of Resolution No. 09-106: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING APPROVAL OF A REPLAT OF 8.10 ACRES TO BE KNOWN AS LOT 1, LA VISTA CIVIC CENTER BEING A REPLAT OF PART OF LOT 1243, TOGETHER WITH LOT 1244 AND PART OF LOT 1245, LOT 1280, PART OF LOT 1281 TOGETHER WITH PART OF SUBLOTS "M", "N" AND "R" OF COMMERCIAL LOT 1282 AND ALL OF SUBLOTS "P" AND "Q" OF COMMERCIAL LOT 1282, LOCATED NORTHEAST OF 83RD STREET AND PARK VIEW BOULEVARD, LA VISTA, SARPY COUNTY, NEBRASKA,

WHEREAS, the City of La Vista, owners of the above described piece of property, have made application for approval of a replat for the proposed Replat; and

WHEREAS, the City Administrator and the City Engineer have reviewed the replat; and

WHEREAS, on September 17, 2009 the La Vista Planning Commission held a public hearing and reviewed the replat proposal and has recommended approval.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the replat Of 8.10 acres to be known As Lot 1, La Vista Civic Center being a Replat of Part of Lot 1243, together with Lot 1244 and Part of Lot 1245, Lot 1280, Part of Lot 1281 together with Part of Sublots "M", "N" and "R" of Commercial Lot 1282 and all of Sublots "P" and "Q" of Commercial Lot 1282, Located Northeast of 83RD Street and Park View Boulevard, La Vista, Sarpy County, Nebraska, and hereby is, approved.

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

E. ZONING MAP AMENDMENT – LA VISTA CIVIC CENTER PLAT (NE OF 83RD AND PARK VIEW BLVD.)

1. PUBLIC HEARING

At 7:54 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on the zoning map amendment – La Vista Civic Center Plat (NE of 83RD and Park View Blvd).

At 7:54 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

2. ORDINANCE – AMEND ZONING MAP

Councilmember Ellerbeck introduced Ordinance No. 1104 entitled: AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

Councilmember Carlisle moved that the statutory rule requiring reading on three different days be suspended. Councilmember Gowan 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 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. 1104 be passed and adopted?" 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. 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.

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F. ZONING MAP AMENDMENT – BROOK VALLEY BUSINESS PARK (S OF HARRISON, 108TH -109TH ST.)

1. PUBLIC HEARING

At 7:56 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on the zoning map amendment – Brook Valley Business Park (S of Harrison, 108-109th St.).

At 7:56 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 – AMEND ZONING MAP

Councilmember Gowan introduced Ordinance No. 1105 entitled: AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

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, 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 Crawford. The Mayor then stated the question was, "Shall Ordinance No.1105 be passed and adopted?" 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. 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.

G. ORDINANCE – AMENDMENT TO REFUNDING SERIES 2009 BOND ISSUE

Councilmember Gowan introduced Ordinance No. 1106 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, AMENDING SECTION 2 OF ORDINANCE NO. 1101 TO MAKE CORRECTION TO THE FIRST INTEREST PAYMENT DATE FOR THE GENERAL OBLIGATION VARIOUS PURPOSE REFUNDING BONDS, SERIES 2009, OF THE CITY OF LA VISTA; REPEALING ORIGINAL SECTION 2 OF ORDINANCE NO. 1101; DETERMINING THIS ORDINANCE A MEASURE NECESSARY TO CARRY OUT CONTRACTUAL OBLIGATIONS AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

Councilmember Ellerbeck moved that the statutory rule requiring reading on three different days be suspended. Councilmember Carlisle 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 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.1106 be passed and adopted?" 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. 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.

H. RESOLUTION – ARBITRAGE REBATE SERVICE AGREEMENT

Councilmember Quick introduced and moved for the adoption of Resolution No. 09-107: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH BERENS-

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TATE CONSULTING GROUP, OMAHA, NEBRASKA, TO PROVIDE ARBITRAGE REBATE SERVICES FOR THE CITY OF LA VISTA IN AN AMOUNT NOT TO EXCEED \$7,000.00.

WHEREAS, the City has determined that it is desirable to contract with an outside service to perform the arbitrage rebate calculations; and

WHEREAS, Berens-Tate is the local provider of said service; and

WHEREAS, the purpose of the calculation ensures that the City did not profit unfairly through the issuance of tax exempt bonds for the La Vista Fire Station and Off-Street Parking; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the Mayor to sign an agreement with Berens-Tate Consulting Group, Omaha, Nebraska, to provide arbitrage rebate services for the City of La Vista in an amount not to exceed \$7,000.00.

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

I. RESOLUTION – SPECIAL DESIGNATED LICENSE – STONEBRIDGE VINEYARD INC. DBA SCHILLING BRIDGE WINERY AND MICROBREWERY – CABELA’S EVENT

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-108: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE CONSUMPTION OF BEER AND WINE AT AN "INVITATION ONLY" CUSTOMER APPRECIATION EVENT AT CABELA’S SPORTING GOODS STORE, 12703 WESTPORT PARKWAY, LA VISTA NEBRASKA, ON NOVEMBER 22, 2009 FROM 6:00 P.M. TO 10:00 P.M.

WHEREAS, Cabela’s Sporting Goods Store is located within the City of La Vista; and

WHEREAS, Stonebridge Vineyard Inc. dba Schilling Bridge Winery & Microbrewery has requested approval of a Special Designated License to serve beer and wine at Cabela’s on November 22, 2009 from 6:00 p.m. to 10:00 p.m. in conjunction with an "Invitation Only" Customer Appreciation Event.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize Stonebridge Vineyard Inc. dba Schilling Bridge Winery & Microbrewery to proceed with the application for a "Special Designated License" from the Nebraska Liquor Control Commission to sell beer and wine at Cabela’s on November 22, 2009 from 6:00 p.m. to 10:00 p.m. in conjunction with an "Invitation Only" Customer Appreciation Event.

Seconded by Councilmember Carlisle. Chris Hadden, a representative from Cabela’s informed Council there would be a 2-drink maximum at the event. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

J. RESOLUTION – ELECTION OF DIRECTORS TO THE LA VISTA METROPOLITAN COMMUNITY COLLEGE BOARD OF DIRECTORS

Councilmember Gowan introduced and moved for the adoption of Resolution No. 09-109: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO ELECT DIRECTORS OF THE LA VISTA/METROPOLITAN COMMUNITY COLLEGE CONDOMINIUM OWNERS ASSOCIATION, INC.

WHEREAS, the City of La Vista Facilities Corporation ("City Facility Corporation") and the Metropolitan Community College Facilities Corporation made and entered a Declaration and Master Deed of La Vista Metropolitan Community College Condominium Property Regime dated December 29, 1997 ("Declaration") for the purposes of administering the condominium property regime and maintaining common areas of the Library/Sarpy Center; and

WHEREAS, the La Vista/Metropolitan Community College Condominium Owners Association, Inc., ("Association") was incorporated for purposes of administering the

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condominium property regime and maintaining the common areas under the Declaration, and the Association is governed by a Board of Directors; and

WHEREAS, pursuant to Article 1.24 of the Declaration, as amended, the City Facilities Corporation delegated to and authorized the City of La Vista ("City") to exercise voting rights with respect to the Association and its Board of Directors, and the City desires to exercise said voting rights to elect Directors of the Association.

WHEREAS, the following positions (and the individuals holding the titles) have been previously designated by the Mayor and City Council to be the City's three directors on the Association's Board of Director's ("City's Director's"):

City Administrator
Library Director
Director of Public Buildings and Grounds

WHEREAS, the Association will hold its 2009 Annual Meeting on November 2, 2009, at which time and at such meeting the City's Directors shall vote on behalf of the City and in accordance with the desire of the City Council and the Mayor to nominate and re-elect the City's Director's to the Association's Board of Directors; and

WHEREAS, the Mayor and City Council desire to designate, and ratify, affirm and approve the re-election of the City's Directors.

NOW, THEREFORE, BE IT RESOLVED, that effective November 2, 2009, the following are hereby designated and re-elected to serve as the City's appointees to the Board of Director's of the Association:

City Administrator
Library Director
Director of Public Buildings and Grounds

and further that their attendance, participation, voting and exercise of other rights on behalf of the City (in exercise of the delegated rights of the City Facilities Corporation) to nominate and re-elect said individuals as directors at the annual meeting of the Association held November 2, 2009 (and all other related actions) are hereby ratified, affirmed and approved.

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

K. RESOLUTION – AUTHORIZATION TO PURCHASE – WHEEL LOADER

Councilmember Quick introduced and moved for the adoption of Resolution No 09-110: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE PURCHASE OF ONE (1) CATERPILLAR 938 HQ WHEEL LOADER AND OPTIONAL EQUIPMENT FROM NEBRASKA MACHINERY COMPANY, 11002 SAPP BROTHERS DRIVE, OMAHA, NEBRASKA, IN AN AMOUNT NOT TO EXCEED \$201,214.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of one new Wheel Loader for the Public Works Department is necessary; and

WHEREAS, the FY09/10 General Fund – Street Operating budget does include funds for the lease/purchase of said equipment; and

WHEREAS, Nebraska Machinery Company, Omaha, Nebraska, is the most responsible bidder; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure 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, do hereby authorize the purchase of one Caterpillar 938 HQ Wheel Loader and optional equipment for the Public Works Department from Nebraska Machinery Company, Omaha, Nebraska, in an amount not to exceed \$201,214.00.

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Seconded by Councilmember Sell. Councilmember Gowan asked Public Works Director Soucie if the City would keep the old loader. Soucie responded that they would as it is still in good working order. The new loader will replace the old dump truck and has the equipment to be used for snow removal. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

L. RESOLUTION – AUTHORIZATION TO PURCHASE - PAGERS

Councilmember Gowan introduced and moved for the adoption of Resolution No 09-111: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF FIFTEEN MOTOROLA MINITOR V PAGERS FROM D & D COMMUNICATIONS, OMAHA, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$7,110.00.

WHEREAS, the Mayor and City Council have determined that it is necessary to purchase pagers for the Fire Department; and

WHEREAS, funds are provided in the FY 09/10 General Fund Budget for the proposed purchase; and

WHEREAS, the purchase of these pagers will reduce dual response times and enhance the ability for the signal to reach responders located in weak or fringe signal areas; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure 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 authorizes the purchase of fifteen Motorola Minitor V pagers from D & D Communications, Omaha, Nebraska in an amount not to exceed \$7,110.00.

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

M. RESOLUTION – AUTHORIZATION TO PURCHASE – SCISSORS LIFT

Councilmember Quick introduced and moved for the adoption of Resolution No 09-112: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF A 26' SCISSORS LIFT FOR THE BUILDINGS AND GROUNDS DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$9,000.00

WHEREAS, it has been determined that the Buildings and Grounds Department is in need of a Scissors Lift for the repair of Parking Lot and Building Lights, Gym Equipment, and Garage Door openers in the Police Facility and District 2 First Station; and

WHEREAS, funds are provided in the FY 09/10 General Fund Budget for the proposed purchase; and

WHEREAS, proposals are being sought for the purchase of this scissors lift; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, do hereby authorize the purchase of a 26' Scissors Lift in an amount not to exceed \$9,000.00

Seconded by Councilmember Sell. Councilmember Sell asked what the normal hours are to replace a lift. Building and Grounds Director Archibald stated they are normally replaced rentals after 200 hours of use as new machines are more attractive to people who wish to rent them. Councilmember Gowan asked if this lift is new or used. Archibald responded that it is a used 2006 model with 140 hours. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

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N. RESOLUTION – AUTHORIZATION TO PURCHASE – GROUNDS UTILITY VEHICLE

Councilmember Gowan introduced and moved for the adoption of Resolution No 09-113: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF A GROUNDS UTILITY VEHICLE FOR THE BUILDINGS AND GROUNDS DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$8,500.00.

WHEREAS, it has been determined that the Buildings and Grounds Department is in need of a grounds utility vehicle to replace the Cushman Truckster; and

WHEREAS, funds are provided in the FY 09/10 General Fund Budget for the proposed purchase; and

WHEREAS, proposals are being sought for the purchase of this utility vehicle; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, do hereby authorize the purchase of a Grounds Utility Vehicle in an amount not to exceed \$8,500.00.

Seconded by Councilmember Sell. Councilmember Gowan asked if this vehicle is a used unit. Building and Grounds Director Archibald stated it is a used vehicle. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

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

2. RESOLUTION

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 09-114 entitled: 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 LOCATIONS AND IN AMOUNTS CITED HEREIN.

WHEREAS, the property owners of
14005 Virginia St., Lot 86/Meadows Replat IX, \$251.64, and
12958 Margo St., Lot 15/Millard Highlands South 2nd Platting, \$292.94
were notified to clean up their property as they were in violation of the City
Municipal Code, Section 133.01, or the City would do so and bill them accordingly,
and

WHEREAS, the property owners of said addresses chose not to clean the property, thus
necessitating the City to do the clean up, and

WHEREAS, the City sent the property owners bills for said clean up 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.

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

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Seconded by Councilmember Sell. 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 P. "Executive Session". Seconded by Councilmember Ellerbeck. 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. There were no comments from the floor.

O. EXECUTIVE SESSION – PERSONNEL

At 8:11 p.m. Councilmember Carlisle made a motion to go into executive session to prevent needless injury to the reputation of an individual to discuss personnel matters and for protection of the public interest regarding possible land acquisition. Seconded by Councilmember Gowan. 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 9:08 p.m. the Council came out of executive session. Councilmember Carlisle made a motion to reconvene in open and public session. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

COMMENTS FROM MAYOR AND COUNCIL

Councilmember Carlisle asked if the City is having Halloween Night. Assistant City Administrator Ramirez stated the event will be held on October 31, 2009.

Mayor Kindig stated if there is anyone else who wants to attend the Worthy Women Event, they need to notify Mary as soon as possible.

At 9:11 p.m. Councilmember Sell made a motion to adjourn the meeting. Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

PASSED AND APPROVED THIS 3RD DAY OF NOVEMBER 2009.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk