

**DIRECTORS' MEETING  
MONDAY, JUNE 15, 2009  
COUNTY-CITY BUILDING  
ROOM 113, 11:00 A.M.**

**I. CITY CLERK**

**II. CORRESPONDENCE FROM THE MAYOR & DIRECTORS TO COUNCIL**

**MAYOR**

1. NEWS RELEASE. Mayor presents May Award of Excellence to Barbara Martinez.
2. NEWS RELEASE. Public invited to celebrate Lincoln activist, Delores Lintel's contributions.
3. NEWS RELEASE. Development Services Center clears first hurdle. City making progress on a "One Stop" business center.
4. NEWS RELEASE. Mayor announces family Friday night swims at Woods Pool.

**DIRECTORS**

**FINANCE**

1. Audit Advisory Board's report of findings including: a transmittal memo from the Board, the outside auditor's report, the City's responses, and additional comments from the Community Health Endowment and the Office of Risk Management.

**CITY LIBRARIES**

1. Annual report, fiscal year 2007-2008.

**PUBLIC WORKS AND UTILITIES/ENGINEERING**

1. ADVISORY. Northwest Chambers; Northwest Columbine - Northwest Dahlia residential rehabilitation. Project #701807.

**WEED AUTHORITY**

1. Combined Weed Program City of Lincoln. May 2009 monthly report.

**III. COUNCIL RFP'S & CITIZENS CORRESPONDENCE TO INDIVIDUAL COUNCIL MEMBERS**

**JON CAMP**

1. Email from H. Arnold Wassenberg regarding budget.
- 2a. Request to Bruce Dart, Health Department Director, on pitbull/dangerous animal issue, asking for recommendations with copy of Ledy VanKavage email and article.
- 2b. "All Bark and Fiscal Bite - Are Breed-Discriminatory Laws Effective?" article by Ledy VanKavage.

## **JONATHAN COOK**

1. Request to Greg MacLean, Public Works & Utilities Director - RE: West Van Dorn, 27<sup>th</sup> & Hwy 2, and 40<sup>th</sup> & Hwy 2 (RFI#135 - 06/03/09)

## **IV. CORRESPONDENCE FROM CITIZENS TO COUNCIL**

- 1a. Ledy VanKavage, Best Friends Animal Society, email on ABA article on cost of breed discriminatory laws.
  - 1b. "All Bark and Fiscal Bite - are "Breed-Discriminatory Laws Effective" article.
2. Article "Breed Discriminatory Legislation is not a Reasonable Response to Negligent Owners" faxed to Council office.
3. Correspondence from LIBA regarding Lincoln South Expressway.
4. Email from Bill Tharrington, Ferrellgas Account Manager, making possible suggestions for utilization of Federal grant money.
5. Correspondence from Barbara Huff on Breed Specific Legislation. (This information packet by Karen Palmer was delivered to each Council member on 06/10/09)
6. Media Release. Community Health Endowment (CHE) announces annual awards.

## **V. ADJOURNMENT**

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# NEWS RELEASE

MAYOR CHRIS BEUTLER

[lincoln.ne.gov](http://lincoln.ne.gov)

## OFFICE OF THE MAYOR

555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

**FOR IMMEDIATE RELEASE:** June 8, 2009

**FOR MORE INFORMATION:** Dave Norris, Citizen Information Center, 441-7547

### MAYOR PRESENTS MAY AWARD OF EXCELLENCE

Mayor Chris Beutler today presented the Mayor's Award of Excellence for October to Barbara Martinez of the Lincoln-Lancaster County Health Department. The monthly award recognizes City employees who consistently provide exemplary service and work that demonstrates personal commitment to the City. The award was presented at the beginning of today's City Council meeting.

Martinez is a Senior Public Health Nurse in the Community Health Services Division and has worked for the City since 1985. Community Health Services Manager Andrea Mason nominated her in the categories of productivity and customer relations for her dedication to the health and well-being of clients. Mason said Martinez works tirelessly with a large number of low-income patients who have serious medical conditions, no health insurance and no support systems.

Mason said Martinez is kind, patient, soft-spoken, open and a good listener. She uses her knowledge of community resources to give clients all available options, while empowering them as often as possible. She also makes sure staff members are covering all Public Health Clinic programs and regularly fills in on other programs when needed, often with short notice. Mason said Martinez's emphasis on helping others fits well with the overall purpose of the Public Health Clinic – assuring health and well-being among the most vulnerable in our community.

The other categories in which employees can be nominated are loss prevention, safety and valor. Consideration also may be given to nominations that demonstrate self-initiated accomplishments or those completed outside of the nominee's job description.

All City employees are eligible for the Mayor's Award of Excellence except for elected and appointed officials. Individuals or teams can be nominated by supervisors, peers, subordinates and the general public. Nomination forms are available on the City Web site at [lincoln.ne.gov](http://lincoln.ne.gov) (keyword: personnel) or from department heads, employee bulletin boards or the Personnel Department, which oversees the awards program.

All nominations are reviewed by the Mayor's Award of Excellence Committee, which includes a representative with each union and a non-union representative appointed by the Mayor. Award winners receive a \$100 U.S. savings bond, a day off with pay and a plaque. Monthly winners are eligible to receive the annual award, which comes with a \$500 U.S. savings bond, two days off with pay and a plaque.



# NEWS RELEASE

MAYOR CHRIS BEUTLER

[lincoln.ne.gov](http://lincoln.ne.gov)

## OFFICE OF THE MAYOR

555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

**FOR IMMEDIATE RELEASE:** June 9, 2009

**FOR MORE INFORMATION:** Shawn Ryba, NeighborWorks, 434-5490

Stacey Roach, Parks and Recreation, 441-3084

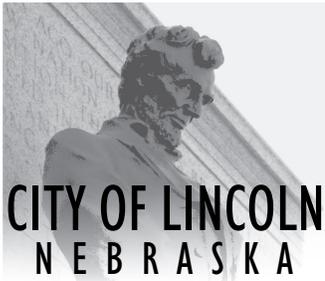
## **PUBLIC INVITED TO CELEBRATE** **LINCOLN ACTIVIST'S CONTRIBUTIONS**

Mayor Chris Beutler invites the public to join him in honoring Delores Lintel with the unveiling of a marker in Lintel Park recognizing her contributions to Lincoln. The ceremony will be held at 1:30 p.m. Wednesday, June 10 at Lintel Park, 21st and Holdrege streets.

In 1968, Delores Lintel and a group of dedicated women began a grass-roots effort to become actively involved in resolving problems affecting their community, lives and well-being. The result was the Clinton Neighborhood Organization and soon after, many more organized neighborhood groups were formed. Mrs. Lintel has been a consistent voice for Lincoln citizens for more than four decades and continues to be actively involved in the community.

In the 1960's, the City planned to build a major roadway, the Northeast Radial, that would connect downtown and northeast Lincoln. The route of the proposed roadway extended through several established residential areas. Much of the land had been acquired for the project when the initiative was defeated by voter referendum, in large part due to the organization and citizen activism of neighborhood residents. A plan was developed to reuse the acquired properties for residential, commercial and park purposes. As a part of the Radial Reuse Plan, Lintel Park was developed and dedicated in 1987 and named in recognition of Delores Lintel. The park is the western anchor of the John Dietrich Trail that follows the route of the former Northeast Radial Project.

Delores recently received the Dorothy Richardson Award for Resident Leadership from NeighborWorks America. The award was given in recognition of outstanding contributions by dedicated community leaders.



# NEWS RELEASE

MAYOR CHRIS BEUTLER

lincoln.ne.gov

## OFFICE OF THE MAYOR

555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

**FOR IMMEDIATE RELEASE:** June 9, 2009

**FOR MORE INFORMATION:** Fred Hoke, Building and Safety, 441-7521

Rick Hoppe, Mayor's Chief of Staff, 441-7511

### **Development Services Center Clears First Hurdle** *City making progress on a "One Stop" business center*

The City-County Public Building Commission (PBC) today approved two items that will help move forward the City's planning process for the proposed Development Services Center (DSC).

"The DSC is a profound change in the way we do business at City Hall and is critical to Lincoln's development future. The DSC does not just play lip service to customer service and new efficiencies. This actually does something about it. That's why I am extremely appreciative of the Public Building Commission's support in moving the concept of the Development Services Center forward," said Mayor Chris Beutler after today's hearing.

The Commission approved two items concerning the proposed Development Services Center (DSC) during its meeting. First, the Commission authorized Sinclair Hille Architects to move forward with the design plans for the second floor of the City-County Building and the proposed layout of the DSC. The design will allow for a single location of the four major City departments that work with development projects: Urban Development, Planning, Public Works and Utilities and the Building and Safety Departments.

"Having a single point of entry into the system is key to a quicker action, so builders can get to work rather than navigating through City departments located all over the city. Permitting for improvement projects will be streamlined, a great benefit to those committed to improving their homes and their neighborhoods. The DSC will also help develop the teamwork and cultural change we need to make City Hall even more responsive to the people who create jobs," Beutler said.

In addition, the Commission authorized the preparation of a Request for Proposal for architectural services for the design of the third floor of the City-County Building. The Personnel Department and the Mayor's Office will join the City Attorney's Office on the third floor, allowing the Development Services Center to be located entirely on the second floor. The third floor is currently being constructed to house the City Attorney's office. The City Attorney's office is being moved from its current location due to increased space needs by the Court system.

- more -

**Development Services Center**

**June 9, 2009**

**Page Two**

Mayor Beutler expressed his gratitude to the members of the Public Building Commission for their support of the project. "I have been working for nearly two years with City Directors, staff, and the private sector to bring forward a DSC concept to the public," said Mayor Beutler. "The PBC's assistance in providing initial design will help us as we refine the center's costs and allow us to present an even more complete proposal for public comment during the city's budget deliberations."

The Development Services Center is one of the most important City government events to occur in promoting development and job creation in the last 25 years. "The DSC will put Lincoln in great position to speed growth and job creation when the national recession ends," Beutler said.



# NEWS RELEASE

MAYOR CHRIS BEUTLER

[lincoln.ne.gov](http://lincoln.ne.gov)

## OFFICE OF THE MAYOR

555 South 10th Street, Lincoln, NE 68508, 441-7511, fax 441-7120

**FOR IMMEDIATE RELEASE:** June 10, 2009

**FOR MORE INFORMATION:** Lynn Johnson, Parks and Recreation, 441-8265  
Sandy Myers, Parks and Recreation, 441-8261

### **MAYOR ANNOUNCES FAMILY FRIDAY NIGHT SWIMS AT WOODS**

Mayor Chris Beutler today announced a new program to encourage families to participate in water recreation activities on Friday nights at Woods Pool.

Through the \$5 Family Night Swim program, families can swim at Woods Pool, 3200 "J" St., from 6 to 8 p.m. on eight Friday nights this summer for a \$5 admission fee. The \$5 Family Night Swims begin on Friday, June 12 and continues through Friday, August 14. The evenings of Friday, June 19 and Friday, July 31 will not be included in the Family Night Swim program due to previously scheduled swim meets at Woods Pool.

"Swimming and water recreation activities can be fun and healthful for families," said Mayor Beutler. "We recognize that current economic conditions may limit some families' ability to participate in swimming. We hope that many families will take advantage of the \$5 Family Night Swims at Woods Pool this summer."

Woods Pool is one of ten outdoor pools operated by the Parks and Recreation Department. Information regarding pool hours, admission fees, swim and diving league, and swim lessons are available at [www.parks.lincoln.ne.gov](http://www.parks.lincoln.ne.gov) or by calling 441-7960. <http://www.parks.lincoln.ne.gov>,

# Memo

**To:** City Council Members  
**From:** Audit Advisory Board  
**CC:** Mayor Beutler, Mayor's Office  
**Date:** 6/8/2009  
**Re:** Agreed-Up Procedures Response for the year ended August 31, 2007  
Pursuant to City Council Resolution A-84939

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## Recommendations of Audit Advisory Board

On April 30, 2009, the Audit Advisory Board met and reviewed the Agreed-Up Procedures Report from HBE Becker Meyer Love LLP. We concur with the recommendations they had on each fund; however, with the exception of the following funds, which are: Lincoln City Libraries, Snow Removal, Keno, and Insurance Revolving. You will find those funds listed below with our recommendations.

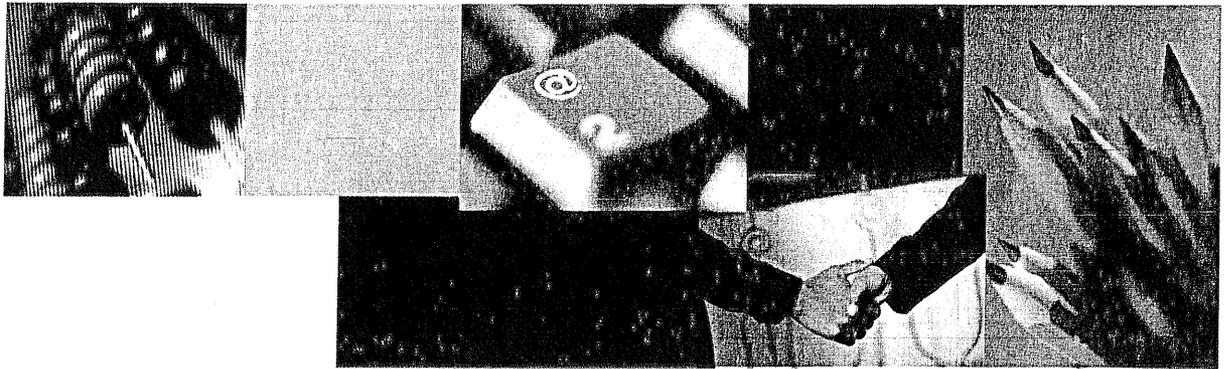
1. Lincoln City Libraries Fund, (Fund Number: 1204, Page of Report: 6): We suggest that additional analysis be completed to support the Lincoln City Library fund position, as defined in the City comments section of the report.
2. Snow Removal Fund, (Fund Number: 1208, Page of Report: 8): We agree with the City comments that there should be further review with the City Council and City Staff that include, discussion of the level of fund balance on hand.
3. Keno Fund, (Fund Number: 1213, Page of Report: 11): We are asking City Management to provide you with further analysis of the \$3.1 million fund balance of the three subject areas of Parks and Recreation, Libraries, and Human Services, back to the year of 2006-2007.
4. Insurance Revolving, (Fund Number: 2203, Page of Report, 34): We believe that more detailed information is needed to fully understand this fund.

The scope of this audit/engagement with HBE Becker Meyer Love, LLP, was limited to the provision of a Report and a Finding of Agreed-Up Procedures regarding undesignated fund balances. This Board did not make findings regarding those items found in L.M.C. Section 4.66.040 (d) (1), as those items were not addressed by the scope of this engagement.

As required by L.M.C. Section 4.66.040 (d) (2) a copy of the final audit report and the auditee response is attached.

Because of the scope of this engagement this Board did not create a separate listing of any irregularities or failures to comply with legal or administrative policies as required by L.M.C. Section 4.66.040 (d) (3).

The Board's recommendations are required by L.M.C. Section 4.66.040 (d) (4) are listed above.



**REPORT OF INDEPENDENT  
CERTIFIED PUBLIC ACCOUNTANTS  
AND  
FINDINGS OF AGREED-UPON PROCEDURES  
CITY OF LINCOLN**

**August 31, 2007**

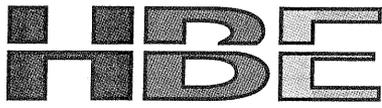
**HBE BECKER MEYER LOVE LLP**

City of Lincoln

For the year ended August 31, 2007

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# Becker Meyer Love LLP

Certified Public Accountants & Consultants

*Scott A. Becker, Partner  
Ronald L. Ecklund, Partner  
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Cynthia R. Love, Partner  
Patrick A. Meyer, Partner*

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Bryce J. Wilson  
Elizabeth A. Wood  
  
Stephen K. Bjorkman  
John J. Hanigan*

## REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS ON APPLYING AGREED-UPON PROCEDURES

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The City's Audit Advisory Board  
The City Council  
City of Lincoln  
Lincoln, Nebraska

We have performed the procedures enumerated below, which were agreed to by the City of Lincoln, the City's Audit Advisory Board, and the City Council, solely to assist you with respect to the accuracy and appropriateness of the Government Funds, Business-type Funds and Internal Service Funds schedules as of August 31, 2007. The City of Lincoln's management is responsible for the Government Funds, Business-type Funds and Internal Service Funds schedules. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures are as follows:

- 1) Verify the accuracy of the fund schedules included on pages 39 through 46.
- 2) For any funds in which the undesignated/unrestricted fund balance represents more than three months of operating expenditures, obtain an explanation/justification for the balance from management. The funds examined using this criteria are indicated with a yes on the fund schedule.
- 3) If the representation regarding the undesignated/unrestricted fund balance indicates amounts that may be in excess of operational needs, obtain additional representation about potential options to either reduce or lapse any excess fund balance.
- 4) For any funds in which the total fund balance is less than zero, obtain an explanation/justification for the balance from management. The funds examined using this criteria are indicated with a "yes" on the fund schedules on pages 39 through 46.
- 5) For any fund with a designation for debt service, determine whether the designation for debt service is in excess of the actual outstanding debt. If it is, obtain an explanation/justification for the designation from management. The funds examined using this criteria are indicated with a "yes" on the fund schedules.
- 6) Inquire of management whether there is any information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate. If so, obtain further explanations from management.

- 7) Funds not meeting the criteria specified in items 2 through 5, indicated by a "no" in all three categories on the fund schedule, were excluded from our procedures and are not included in the attached report.
- 8) Meet with the City's Audit Advisory Board and the City Council to present the report.

We have attached a summary of each fund examined along with our findings and recommendations on pages 3 through 37.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion, on the Government Funds, Business-type Funds, and Internal Service Funds schedules as of August 31, 2007. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the City of Lincoln, the City's Audit Advisory Board and the City Council and is not intended to be and should not be used by anyone other than those specified parties.

*HBE Becker Mayer Dove LLP*

March 26, 2009

STREET CONSTRUCTION FUND  
GOVERNMENTAL FUND  
1211 and 1402

**SUMMARY:**

The Street Construction Fund accounts for the resources accumulated and payments made for the maintenance, construction, and improvement of the streets and highways in the City. Revenues are primarily derived from state highway allocation fees and receipts from other governmental entities. State highway allocation fees are restricted by state law and must be used for the construction and maintenance of streets and highways.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures. However, the undesignated fund balance decreased from \$24.8 million as of August 31, 2007 to \$17 million as of August 31, 2008 (unaudited) due to significant capital outlays in fiscal year 2008. The fiscal year 2008 ending balance (unaudited) does not represent more than three months of operating expenditures. In addition, per management, the balances in this fund are either appropriated or have a future authorized use established. Generally accepted accounting principles do not require designation in the financial statements for appropriations not yet under contract.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

Because excess funds appear to be set aside for future projects, we recommend the Fund be maintained as is.

City of Lincoln

ADVANCE ACQUISITION  
GOVERNMENTAL FUND  
1201

**SUMMARY:**

The Advance Acquisition Fund accounts for funds to be used for the acquisition of real estate for public purposes. Net proceeds from the sale or exchange of real estate owned by the City are credited to this fund and the fund may also be increased by General Fund appropriations or proceeds from general obligation borrowing. The purpose of this Fund is established in the City Charter and cannot be changed without a vote of the people.

**DISCUSSION:**

The undesignated fund balance of \$1.1 million represents more than three months of operating expenditures because sales and purchases of real estate are accounted for outside of operating expenditures. These amounts are reported as other financing sources or uses. The undesignated fund balance represents the amount by which sales or exchange proceeds have exceeded purchases of real estate for public purposes.

**RECOMMENDATIONS:**

We recommend that this Fund be maintained in accordance with the City Charter. It doesn't appear that General Fund appropriations to this Fund are currently necessary. Further, other funds should make use of the dollars available in this Fund when projects involve the purchase of real estate for public purposes, which management represents is the City's current policy.

ATHLETIC FIELD AND FACILITIES IMPROVEMENT  
GOVERNMENTAL FUND  
1202

**SUMMARY:**

The Athletic Field and Facilities Improvement Fund accounts for proceeds from a surcharge applied to registration fees charged by the Recreation Division for various athletic activities. These monies must be used for improvements to athletic fields and facilities according to City Resolution.

**DISCUSSION:**

The undesignated fund balance of \$256 thousand represents more than three months of operating expenditures because athletic field and facilities improvement expenditures are accounted for outside of operating expenditures. These amounts are reported as other financing uses and very little, if any, funds are expended for operational purposes. Instead, the funds are accumulated for various projects in the future.

**RECOMMENDATIONS:**

We recommend that this Fund be maintained in accordance with the City Resolution.

LINCOLN CITY LIBRARIES  
GOVERNMENTAL FUND  
1204

**SUMMARY:**

The Lincoln City Libraries Fund accounts for the costs of providing library services to the citizens of Lincoln. Revenue is provided by a specific annual tax levy, fines and fees, and reimbursement from Lancaster County for services provided to County residents.

**DISCUSSION:**

The undesignated fund balance of \$2.5 million as of August 31, 2007, represents four months of operating expenditures. The undesignated fund balance has grown from \$1.9 million in fiscal year 2005 to \$2.5 million in fiscal year 2007. There was a decrease in undesignated fund balance in fiscal year 2008 to \$2.4 million (unaudited).

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that you consider using more of the undesignated fund balance for providing library services to the citizens of Lincoln, as is the intent of the tax levy. We understand that a reserve is necessary to manage the timing difference between the receipt of property tax dollars and the payment of operating expenditures. However, it is not necessary to increase this reserve as has occurred since at least fiscal year 2005, especially when expenditures are not increasing.

TAX SALE REVOLVING  
GOVERNMENTAL FUND  
1206

**SUMMARY:**

The Tax Sale Revolving Fund provides for the acquisition of lots sold at tax sale. The City will purchase such lots when the expected sale price will not allow for payment in full of the tax due the City. Revenue is provided by the proceeds received from the later sale of these lots as well as transfers from the Advance Acquisition Fund.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures because there were no expenditures in fiscal year 2007. Prior to fiscal year end August 31, 2007, \$720 thousand was transferred to the General Fund. The remaining balance of approximately \$7 thousand represents accrued interest.

**RECOMMENDATIONS:**

Upon our inquiry, management suggested, and we concur, that the remaining balance be transferred to the General Fund. We also recommend closing this Fund. All subsequent transactions of this type could be handled through the Advance Acquisition Fund.

SNOW REMOVAL  
GOVERNMENTAL FUND  
1208

**SUMMARY:**

The Snow Removal Fund accounts for the costs of providing snow and ice removal services for all streets in the City of Lincoln. Financing is provided by a percentage of wheel tax receipts and transfers from the Street Construction Fund.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures due to a reserve maintained for an especially harsh winter where actual expenditures would exceed budget. The undesignated fund balance did increase from \$1.2 million in 2007 to \$1.3 million in 2008 (unaudited).

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that the appropriateness of the \$1.2 million undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be a reasonable reserve for an especially harsh winter. We believe the City Council should discuss with City management the appropriateness of setting aside over five months of expenditures for this reason. Consideration should be given to the availability of financing from other funds, especially the Street Construction Fund if such an event were to occur. Any undesignated fund balance deemed to be in excess of the desired reserve should be used for other street related projects.

SOCIAL SECURITY  
GOVERNMENTAL FUND  
1210

**SUMMARY:**

The Social Security Fund accounts for the City of Lincoln's matching share of Social Security costs for employees paid from the General Fund and other funds supported primarily from general tax revenue. Financing is provided by a specific annual property tax levy, which may only be used for this purpose.

**DISCUSSION:**

The undesignated fund balance of \$1.6 million represents 10 months of operating expenditures. In developing the fiscal year 2009 budget, management determined that the undesignated fund balance was greater than necessary. Therefore, extra fund balances (approximately \$85 thousand) were appropriated as a revenue source in fiscal year 2009. It is management's intent to continue to appropriate the excess fund balance as a revenue source over the next four fiscal years (approximately \$200 thousand per year).

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We agree that the undesignated fund balance be appropriated as a revenue source. However, consideration should be given to accelerating the planned appropriation of the excess fund.

UNEMPLOYMENT COMPENSATION  
GOVERNMENTAL FUND  
1212

**SUMMARY:**

The Unemployment Compensation Fund accounts for the cost of unemployment benefits paid to former employees of departments supported primarily by tax revenues. The City reimburses the State for actual costs rather than a percentage of payroll. Financing was provided by a specific annual property tax levy. Currently, the only revenue source is investment income.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures due to a reserve maintained in case actual unemployment costs exceed investment income. In fiscal years 2007 and 2008 (unaudited), the undesignated fund balance decreased \$8 thousand to \$141 thousand and \$34 thousand to \$106 thousand, respectively. The decline is consistent with the unemployment trends that occur during times of economic instability.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that the undesignated fund balance be maintained as is. The undesignated fund balance should be monitored as the City continues to weather the economic downturn. Consideration should be given to anticipated budget cuts. Subsequent reduction in personnel should be used as an indicator as to whether the fund balance continues to remain appropriate. Management represents that this is the City's current policy.

KENO  
GOVERNMENTAL FUND  
1213

**SUMMARY:**

The Keno Fund accumulates resources from the City's percentage of Keno revenue in the City and accounts for the activities financed with Keno revenues. Currently, these funds are restricted for expenditure as follows:

- 65% Parks and Recreation
- 30% Libraries
- 5% Human Services

**DISCUSSION:**

The undesignated fund balance of \$3.1 million represents over 11 months of operating expenditures and other financing uses. The allocations from these funds are largely used to finance capital projects. During fiscal year 2008, the City issued revenue anticipation notes (RANs) for Antelope Valley projects. The City committed the past and future Parks and Recreation revenue allocations from this fund for the debt service requirements of the RANs.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that the undesignated fund balance as of August 31, 2007 be evaluated for appropriateness. Management deems the undesignated fund balance to be reasonable in light of planned capital projects. We believe the City Council should discuss with City management the appropriateness of the balance giving separate consideration to the amounts restricted to parks and recreation, libraries and human services. Specifically, when evaluating the parks and recreation portion of the fund balance, consideration should be given to the cash flow needed for the Antelope Valley project as well as the potential to pay down the outstanding principal of the revenue anticipation notes and their continued debt service requirements.

City of Lincoln

SPECIAL ASSESSMENTS  
GOVERNMENTAL FUNDS  
1215, 1303 and 1410

**SUMMARY:**

The Special Assessments Special Revenue Fund (1215) accounts for the receipt and disbursement of special assessment bond proceeds and other income which is derived from, interest income, developers' share of districts and City subsidies. This fund is also used to account for the administrative cost of the collection and accounting for special assessments levied against benefited properties.

The Special Assessments Debt Service Fund (1303) accumulates resources for payment of principal and interest on special assessment bond issues. Income is derived from special assessment tax collections, interest on special assessment taxes and interest from investments.

The Special Assessments Capital Projects Fund (1410) accounts for the cost of capital improvements to be assessed against benefited properties. Resources are derived from fund transfers from the Special Assessments Special Revenue Fund and interest on investments.

These three funds should be considered as one.

**DISCUSSION:**

The Special Assessments Debt Service Fund (1303) should not have had a designation for debt service. The debt was paid in full and the fund balance designation should have been removed. The \$9.9 million fund balance represents an accumulation of interest earnings over the history of the fund. As of August 31, 2008, this Fund was closed out to the Special Assessments Special Revenue Fund (1215). This increased the fund balance in this special revenue fund to \$10.8 million.

Assessment payments are still being received and improvements are being made using new assessment districts. However, current operating revenues are exceeding current operating expenditures.

**RECOMMENDATIONS:**

Upon our inquiry, management suggested, and we concur, that the majority of the combined undesignated fund balance be lapsed for other purposes. Management suggests maintaining \$2 million of the undesignated fund balance for continued operating expenditures, for management of timing differences between receipts and expenditures, and for potential use in developing future districts.

BUILDING AND SAFETY  
GOVERNMENTAL FUND  
1217

**SUMMARY:**

The Building & Safety Fund accounts for the cost of providing building and safety permit and inspection services to the citizens of Lincoln. Financing is provided through permit and inspection fee revenues and a subsidy from the General Fund.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures due to a reserve maintained for periods of economic downturn. The undesignated fund balance decreased \$467 thousand to \$4.3 million in fiscal year 2007 and \$663 thousand to \$3.6 million in fiscal year 2008 (unaudited).

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that the appropriateness of the \$4.3 million undesignated fund balance as of August 31, 2007 be evaluated. As the undesignated fund balance was intended to act as a reserve for periods of economic decline such as the current decline, we recommend that the fund balance be considered for expenditure in the upcoming fiscal years. Consideration should be given to budgeted fiscal year 2009 changes in fund balance.

PROPERTY TAX REFUNDS  
GOVERNMENTAL FUND  
1216

**SUMMARY:**

The Property Tax Refunds Fund accumulates resources for reimbursement of taxes on centrally assessed property per a previous court order. Resources are derived from collection of prior years' tax levies and interest earned on those collections.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures because there were no expenditures in fiscal year 2007. The activity in the fund creating the \$6 thousand undesignated balance is mostly a result of interest earnings. This Fund is otherwise considered inactive.

**RECOMMENDATIONS:**

Upon our inquiry, management suggested, and we concur, that the undesignated fund balance be transferred to the General Fund and the fund be closed.

City of Lincoln

IMPACT FEES  
GOVERNMENTAL FUND  
1220

**SUMMARY:**

The Impact Fees Fund accounts for the receipts and disbursements of impact fees in accordance with City Ordinance.

**DISCUSSION:**

The Fund is only allowed to keep 2% of collections for administrative costs, while the remaining collections are distributed to the various funds designated to receive impact fees. As of August 31, 2007, the undesignated fund balance is negative approximately \$7 thousand because administrative expenses were greater than 2% of collections. Management believes that the deficit will continue to grow in the near future. As of August 31, 2008, the undesignated fund balance is negative approximately \$16 thousand (unaudited).

**RECOMMENDATIONS:**

We recommend that a plan to eliminate current and future deficits be established and the fund be closely monitored.

PARKS AND RECREATION SPECIAL PROJECTS  
GOVERNMENTAL FUND  
3111

**SUMMARY:**

The Parks & Recreation Special Projects Fund accounts for the proceeds of various trusts, donations and special park event fees.

**DISCUSSION:**

The undesignated fund balance represents over three years of operating expenditures and other financing uses of \$770 thousand. Per management, these funds are to be used for the development of various projects, such as a mini-park, an observatory, landscaping, etc.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that appropriateness of the undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be reasonable in light of planned capital projects. We believe the City Council should discuss with City management the appropriateness of the balance giving consideration to the expected timing of the projects and donor restrictions.

SENIORS FOUNDATION OF LINCOLN AND LANCASTER COUNTY  
GOVERNMENTAL FUND  
3112

**SUMMARY:**

The Seniors Foundation of Lincoln & Lancaster County Fund accounts for the proceeds of fund-raising activities by and donations to the Lincoln/Lancaster Senior Center Foundation. These funds are turned over to the City to be used for special projects at the discretion of the Foundation.

**DISCUSSION:**

The undesignated fund balance of \$293 thousand represents more than three months of operating expenditures because monies come into this fund for specific purposes and investment earnings thereon remain to be spent.

**RECOMMENDATIONS:**

We recommend that the undesignated fund balance be maintained or expended in accordance with donor intentions and the Foundation's recommendations, which management represents is the City's current policy.

LIBRARY SPECIAL TRUST  
GOVERNMENTAL FUND  
3113

**SUMMARY:**

The Library Special Trust Fund accounts for the receipt of investment earnings from the following trusts:

Charles Gere Library Fund – To be used as directed by the Library Board for the benefit of the Lincoln City Libraries.

Lillian Polley Trust – To be used for the Polley Music Library.

**DISCUSSION:**

The undesignated fund balance of \$318 thousand represents nearly three years of operating expenditures. The undesignated fund balance represents unspent investment earnings.

**RECOMMENDATIONS:**

We recommend that the undesignated fund balance be expended in accordance with donor intentions, which management represents is the City's current policy.

STORM SEWER CONSTRUCTION  
GOVERNMENTAL FUND  
1401

**SUMMARY:**

The Storm Sewer Construction Fund accounts for the cost of improving and extending storm sewers. Financing is provided by property tax revenue.

**DISCUSSION:**

The undesignated fund balance of \$189 thousand represents more than three months of operating expenditures because monies that came into this fund for specific purposes were not spent. Per management, these funds have been set aside for future projects.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We would recommend that the appropriateness of the \$189 thousand undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be reasonable in light of planned capital projects. We believe the City Council should discuss with City management the appropriateness of the balance giving consideration to the expected timing of the projects.

VEHICLE TAX  
GOVERNMENTAL FUND  
1403

**SUMMARY:**

The Vehicle Tax Fund accounts for monies derived from the payment of wheel tax which is to be used for street improvements in the City. This Fund can only be used for the purposes allowed in State Statute 18-1214. This statute states that funds can be used for "constructing, resurfacing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes".

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures. However, the undesignated fund balance decreased from \$7.1 million as of August 31, 2007 to \$2.8 million as of August 31, 2008 (unaudited) due to significant transfers out to other funds to support street projects and snow removal. Per management, the remaining balance in this fund is either appropriated or a future authorized use has been established.

**RECOMMENDATIONS:**

Due to State Statute 18-1214 restrictions and because excess funds appear to be allocated for future projects, we recommend the Fund be maintained as is.

1991 GOVP BONDS  
GOVERNMENTAL FUND  
1404

**SUMMARY:**

The 1991 G.O. Various Purpose Bonds Fund accounts for the cost of providing improvements to the City's existing library system, including the expansion and equipping of Gere Branch Library and to purchase and equip a new bookmobile; and providing improvements to the City's existing storm sewer and drainage system. Financing is provided by general obligation bonds.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures because there were no expenditures in fiscal year 2007. The undesignated fund balance of \$49 thousand as of August 31, 2007 is from investment earnings accumulating since at least 1997. The undesignated fund balance increased to \$52 thousand as of August 31, 2008 (unaudited). This bond issue was repaid with a later bond issue, the 1999 G.O. Various Purpose Bonds.

**RECOMMENDATIONS:**

Upon our inquiry, management suggested, and we concur, that the undesignated fund balance be used to pay debt service on the 1999 G.O. Various Purpose Bonds.

STORM SEWER BONDS  
GOVERNMENTAL FUND  
1407

**SUMMARY:**

The Storm Sewer Bonds Fund accounts for the cost of providing improvements and extensions to the City's storm water sewer and drainage system. Financing is provided by a combination of general obligation bond issue proceeds, tax increment financing and reimbursement funds from the Federal Emergency Management Agency.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures because storm water bond issues are deposited in this Fund until construction is funded. As of August 31, 2007, the undesignated fund balance was \$11.9 million as a result of a 2007 bond issue totaling \$8.3 million for which construction was just beginning. The undesignated fund balance decreased to \$6.6 million at fiscal year end 2008 (unaudited). Per management, the balances in this Fund are either appropriated, have future authorized uses established, or have been transferred back to pay debt service in the last two budget resolutions.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

We recommend that the appropriateness of the \$11.9 million undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be reasonable in light of budgeted expenditures for improvements and extensions to the system. We believe the City Council should discuss with City management the appropriateness of the balance, giving consideration to the expected timing of the improvements and extensions. Any excess balance should be used to pay down the bonds.

City of Lincoln

1999 GOVP BONDS  
GOVERNMENTAL FUND  
1411

**SUMMARY:**

The 1999 G.O. Various Purpose Bonds Fund accounts for the cost of financing, acquiring, and improving interactive recreational facilities for children and families, referred to as the Lincoln Children's Museum; financing the construction and equipping of two new park and recreational facilities; and financing construction and equipping of two public libraries and necessary site improvements.

**DISCUSSION:**

The undesignated fund balance of \$79 thousand as of August 31, 2007 represents the remaining proceeds from the Lincoln Children's Museum bond issue from the late 1990s plus investment earnings. The balance has been maintained by the City for use by the Lincoln Children's Museum for building improvements. However, only \$13 thousand and \$9 thousand of expenditures were incurred during fiscal years 2007 and 2008 (unaudited), respectively.

**RECOMMENDATIONS:**

We recommend establishing a timeframe for which the funds would remain available for use by the Lincoln Children's Museum. Any funds remaining after this time period should be used for debt service.

OTHER CAPITAL PROJECTS  
GOVERNMENTAL FUND  
1409

**SUMMARY:**

The Other Capital Projects Fund accounts for the cost of acquiring or improving various fixed assets. Funding is received from various sources including operating transfers from other funds and bond proceeds for appropriated projects.

**DISCUSSION:**

The undesignated fund balance of \$2.5 million represents more than three months of operating expenditures. However, per management, the balances in this fund are either appropriated or have a future authorized use established.

There is no information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate.

**RECOMMENDATIONS:**

Because excess funds appear to be set aside for future projects, we recommend the Fund be maintained as is.

COMMUNITY HEALTH ENDOWMENT  
GOVERNMENTAL FUND  
3119

**SUMMARY:**

The Community Health Endowment Fund accounts for proceeds from the sale of Lincoln General Hospital and the receipt of investment earnings. Earnings in this fund are to be used for health and health-related programs that further the health, safety or welfare of the citizens of Lincoln.

**DISCUSSION:**

The undesignated fund balance represents more than three months of operating expenditures. Since August 31, 2004 through August 31, 2007, the undesignated fund balance has increased from \$8.8 million to \$13.1 million as investment earnings have exceeded expenditures. The fund balance did decrease slightly in 2008 (unaudited), but still remains in excess of \$13 million.

It is management's understanding that the Community Health Endowment Board has generally decided to grow the proceeds from the sale of Lincoln General hospital at an inflation-adjusted basis to preserve the purchasing power of the funds. However, this policy has not been adopted by ordinance or resolution.

**RECOMMENDATIONS:**

We recommend that an investment and spending policy be formally adopted for this Fund. If growing the proceeds in relation to inflation is approved, a method for tracking the inflation adjustment should be established. Undesignated funds exceeding the cumulative inflation adjustments should be used for current health and health-related programs, in accordance with the Lincoln General Hospital sale agreement.

J.J. HOMPES  
GOVERNMENTAL FUND  
3118

**SUMMARY:**

The J.J. Hompes Fund accounts for the receipt of investment earnings to be used at the discretion of the head librarian. The trust requests, but does not direct, that the funds be used to buy books, magazines and other periodicals.

**DISCUSSION:**

The undesignated fund balance of \$530 thousand represents more than 27 years of operating expenditures because the fund had only \$19 thousand of expenditures during fiscal year 2007. The undesignated fund balance did decrease slightly in 2008 to \$492 thousand (unaudited).

Management represents that the trust agreement only allows for the expenditure of interest and dividend earnings on the funds. Though not restricted on the fund schedule, management represents that the unrealized gains are not spendable. Management also represents that annual expenditures approximately equal annual interest and dividend earnings.

**RECOMMENDATIONS:**

We recommend that the undesignated fund balance of \$530 thousand as of August 31, 2007 be maintained and spent in accordance with the trust agreement. Legal requirements of the trust agreement and the appropriate accounting of restricted funds should be reviewed in comparison to current practice.

LINCOLN WASTEWATER SYSTEM  
BUSINESS-TYPE FUND  
2108

**SUMMARY:**

The Lincoln Wastewater System Fund accounts for the operations of the City-owned wastewater utility.

**DISCUSSION:**

Unrestricted net assets of \$6.5 million represent more than three months of operating expenditures. Management has been setting aside money for the capital improvement projects and over \$17 million of projects are planned for the fiscal year 2009 Capital Improvement Program of which \$12.7 million will be financed with revenue bonds.

**RECOMMENDATIONS:**

Because excess funds have been budgeted for capital projects to occur in fiscal year 2009, we recommend the fund be maintained as is.

LINCOLN WATER SYSTEM  
BUSINESS-TYPE FUND  
2109

**SUMMARY:**

The Lincoln Water System Fund accounts for the operations of the City-owned water utility.

**DISCUSSION:**

Unrestricted net assets of \$26.3 million represent more than three months of operating expenditures. Management has been setting aside money for the capital improvement projects and over \$19 million of projects are planned for the fiscal year 2009 Capital Improvement Program.

**RECOMMENDATIONS:**

Because excess funds have been budgeted for capital projects to occur in fiscal year 2009, we recommend the fund be maintained as is.

PARKING LOT REVOLVING  
BUSINESS-TYPE FUND  
2101

**SUMMARY:**

The Parking Lot Revolving Fund accounts for the operations of several City-owned parking lots.

**DISCUSSION:**

Unrestricted net assets of \$1.3 million represent more than three months of operating expenditures. The balance increased by \$45 thousand in fiscal year 2008 (unaudited). Management has been setting aside money for the acquisition of additional parking lots.

**RECOMMENDATIONS:**

We recommend that the appropriateness of the \$1.3 million unrestricted net assets as of August 31, 2007 be evaluated. Considerations should include the expected purchase date and estimated cost of upcoming capital projects and the availability of financing from other funds and sources.



PARKING FACILITIES  
BUSINESS-TYPE FUND  
2103

**SUMMARY:**

The Parking Facilities Fund accounts for the operations of seven downtown parking garages: Carriage Park, Que Place, Center Park, Cornhusker Square, University Square, Market Place and Haymarket. The fund is required, by bond covenants, to maintain net revenue at least equal to 150% of the required debt service payments in the year with the maximum debt service requirements. For fiscal year 2007, this percentage was 174%.

**DISCUSSION:**

Unrestricted net assets represent more than three months of operating expenditures. Unrestricted net assets increased from \$4.2 million at August 31, 2007 to \$5 million at August 31, 2008 (unaudited). Management has been setting aside money for the construction of two additional parking facilities.

**RECOMMENDATIONS:**

We recommend that the appropriateness of the \$4.2 million unrestricted net assets as of August 31, 2007 be evaluated. Considerations should include debt service requirements, an estimate of the additional cash flow that would be needed for upcoming capital projects and the availability of financing from other funds and sources.

EMERGENCY MEDICAL SERVICES  
BUSINESS-TYPE FUND  
2111

**SUMMARY:**

The Emergency Medical Services Fund accounts for the costs of providing emergency and non-emergency ambulance services.

**DISCUSSION:**

This Fund has a net deficit. Management has taken action to improve the financial performance of this fund through rate increases and contracting with a collection agency for past due balances. This action had an impact on the net deficit in fiscal year 2008 (unaudited) as the unrestricted deficit decreased by \$233 thousand. The unrestricted net deficit as of August 31, 2008 was \$830 thousand (unaudited). Management anticipates this trend to continue as debt related to the initial purchase of the ambulances was paid in full in fiscal year 2008. However, if future capital purchases are necessary the fund deficit may not decrease as anticipated.

**RECOMMENDATIONS:**

We recommend, and management concurs, that the actions taken in fiscal year 2008 continue. Special focus should be paid to the amounts charged for services and the collection of balances due. We recommend the fund perform an annual review of the amounts charged for services considering anticipated operating expenditures and capital purchases. Fees should be increased as necessary each year. Management represents that this is the City's current policy.

City of Lincoln

INFORMATION SYSTEMS  
INTERNAL SERVICE FUND  
2201

**SUMMARY:**

The Information Systems Fund accounts for the costs of operating a central data processing facility for the City of Lincoln and Lancaster County. Revenue is provided by fees for services provided to City of Lincoln and Lancaster County departments on a full cost recovery basis.

**DISCUSSION:**

Unrestricted net assets represent more than three months of operating expenditures. Unrestricted net assets did decrease from \$2.4 million at August 31, 2007 to \$2 million at August 31, 2008 (unaudited). Management has been setting aside money for capital projects estimated to cost \$1.2 million.

**RECOMMENDATIONS:**

We recommend that the appropriateness of the \$2.4 million unrestricted net assets as of August 31, 2007 be evaluated. Considerations should include upcoming capital projects estimated to cost \$1.2 million and the availability of financing from other funds and sources. We further recommend the fund perform an annual review of the amounts charged for services and evaluate the possibility of decreasing rates to benefit each department during a difficult economic period. Management represents that this is the City's current policy.

ENGINEERING REVOLVING  
INTERNAL SERVICE FUND  
2202

**SUMMARY:**

The Engineering Revolving Fund accounts for the costs of providing engineering services for capital projects. Revenue is provided by billings to the various capital improvement projects that may have City, County, State and Federal participation.

**DISCUSSION:**

This fund has a net deficit. It is management's opinion, that in the past, other City funds have utilized the services of this fund, but were not adequately charged for the services provided. Management has taken actions to monitor the financial performance of this fund with regular meetings focusing on amounts charged for services. These actions had an impact on the net deficit in fiscal year 2008 (unaudited) as the unrestricted net deficit decreased by \$688 thousand. The unrestricted net deficit as of August 31, 2008 (unaudited) was \$383 thousand. Management is also in the process of implementing a Developmental Services Center to streamline the services provided by this and other funds.

**RECOMMENDATIONS:**

We recommend that the actions taken in the 2008 fiscal year continue and special focus be paid to the appropriate billing of services to each project and corresponding fund.

INSURANCE REVOLVING  
INTERNAL SERVICE FUND  
2203

**SUMMARY:**

The Insurance Revolving Fund accounts for the cost of providing a self-insurance program for workers' compensation, health, dental, long-term disability, liability and property insurance. Revenue is provided by billings to the participating departments.

**DISCUSSION:**

Unrestricted net assets of \$ 10.5 million represent more than three months of operating expenditures. According to management, actuarial studies are performed annually to determine the appropriate reserve for each type of insurance. Based on the results of these studies rates charged to participating departments are modified.

**RECOMMENDATIONS:**

We recommend the City continue to obtain actuarial studies to determine the appropriate balance of provisions for claims payable and claims incurred but not reported. These liabilities should be recorded in the financial statements. The City should also develop a policy for utilizing the savings, if any, from the self-insurance programs.

POLICE GARAGE  
INTERNAL SERVICE FUND  
2205

**SUMMARY:**

The Police Garage Fund provides for the purchase, operation and maintenance of all City vehicles weighing less than one ton. Revenue is provided by fees for services provided to departments within the City of Lincoln on a per mile basis.

**DISCUSSION:**

Unrestricted net assets of \$1.7 million represent more than three months of operating expenditures. It is management's intent for this balance to act as a reserve for future vehicle purchases. The fiscal year 2009 budget does include \$1.2 million of vehicle and related purchases.

**RECOMMENDATIONS:**

We recommend that the unrestricted net assets be evaluated for appropriateness, if the above mentioned purchases are not made. If the above purchases are made in 2009, the unrestricted net assets will likely fall below the threshold of three months of operating expenditures.

COMMUNICATION SERVICES  
INTERNAL SERVICE FUND  
2206

**SUMMARY:**

The Communication Services Fund provides graphic design and telecommunications services. Revenue is provided by fees for services provided to the City of Lincoln and Lancaster County departments on a per radio basis which varies depending on the type of radio.

**DISCUSSION:**

Unrestricted net assets of \$161 thousand represent more than three months of operating expenditures. It is management's intent for this balance to act as a reserve for potential capital purchases. No specific purchases have been identified at this time.

**RECOMMENDATIONS:**

We recommend that appropriateness of unrestricted net assets of \$161 thousand at August 31, 2007 be evaluated. Considerations should include the desired reserve for future purchases.

COPY SERVICES  
INTERNAL SERVICE FUND  
2208

**SUMMARY:**

The Copy Services Fund provides copy services to the City of Lincoln and Lancaster County. Revenue is provided by fees for services provided to the City of Lincoln and Lancaster County departments on a per copy basis.

**DISCUSSION:**

Unrestricted net assets of \$282 thousand represent more than three months of operating expenditures. It is management's intent to lower the per copy fee for fiscal year 2010 in order for each department to benefit from the excess balance.

**RECOMMENDATIONS:**

We recommend that the per copy fee be lowered as discussed above. In addition, we recommend that management evaluate the possibility of accelerating the rate decrease to benefit each department during a difficult economic period.

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City of Lincoln  
Governmental Funds  
August 31, 2007

Fund Number	General Fund 1101	Street Construction 1211/1402	Federal Grants 1214	Advance Acquisition 1201	Athletic Field & Fac Impr 1202	Cable Access 1203	Lincoln City Libraries 1204	Lincoln Area Ag on Aging 1205
<b>Fiscal Year 2004/2005</b>								
Beginning Fund Balance	\$ 35,973,419	\$ 38,732,945	\$ 16,340,308	\$ 826,799	\$ 303,869	\$ -	\$ 2,661,182	\$ 317,387
Operating Revenues	104,565,234	41,262,739	21,313,952	76,652	67,924	-	7,393,820	1,439,494
Operating Expenditures	(91,578,950)	(55,760,315)	(23,389,461)	(47,346)	-	-	(7,345,809)	(4,394,757)
Net Other Financing Sources/Uses	(17,556,429)	4,566,014	282,733	2,518,610	(9,400)	-	(13,066)	2,995,252
Ending Fund Balance	31,403,274	28,801,383	14,547,532	3,374,715	362,393	-	2,696,127	357,376
<b>Fiscal Year 2005/2006</b>								
Operating Revenues	109,388,803	34,214,006	22,921,047	83,191	67,698	217,386	7,646,264	1,531,776
Operating Expenditures	(96,184,725)	(50,949,185)	(20,528,480)	(1,224,323)	-	(80,754)	(7,427,043)	(4,424,039)
Net Other Financing Sources/Uses	(15,315,314)	5,598,107	635,728	(1,030,015)	(224,237)	-	920	2,949,382
Ending Fund Balance	29,292,038	17,664,311	17,575,827	1,203,568	205,854	136,632	2,916,268	414,495
<b>Fiscal Year 2006/2007</b>								
Operating Revenues	108,876,525	32,461,555	22,681,905	38,503	68,389	381,788	7,644,770	1,456,586
Operating Expenditures	(95,289,084)	(37,136,717)	(22,215,483)	(51,866)	-	(444,981)	(7,339,835)	(4,310,244)
Net Other Financing Sources/Uses	(12,466,775)	33,528,568	516,293	(134,291)	(18,010)	-	516	2,690,983
Ending Fund Balance	\$ 30,412,704	\$ 46,517,717	\$ 18,558,542	\$ 1,055,914	\$ 256,233	\$ 73,439	\$ 3,221,719	\$ 251,820
<b>Fiscal Year 2006/2007 Ending Fund Balance:</b>								
Reserved For:								
Inventories	\$ 531,436	\$ 59,243	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Prepaid Items	417,321	-	-	-	-	-	-	-
Grantor Loan Programs	-	-	19,143,000	-	-	-	-	-
Debt Service	-	-	-	-	-	-	-	-
Health Care (non-expendable)	-	-	-	-	-	-	-	-
Trust Donations (non-expendable)	-	-	-	-	-	-	-	-
Improvements	1,593,303	-	-	-	-	-	-	-
Restricted Funds	654,710	-	-	-	-	-	-	-
Total Reserved	3,196,770	59,243	19,143,000	-	-	-	-	-
Unreserved:								
Designated for Debt Service	379,035	-	-	-	-	-	-	-
Designated for Subsequent Yrs Exp	3,079,398	9,309	-	-	-	85	616,422	8,296
Designated for Encumbrances	569,068	21,659,898	-	-	-	36,438	70,247	28,727
Undesignated	23,188,433	24,789,267	(584,458)	1,055,914	256,233	36,916	2,535,050	214,797
Total Unreserved	27,215,934	46,458,474	(584,458)	1,055,914	256,233	73,439	3,221,719	251,820
Fund Balance	\$ 30,412,704	\$ 46,517,717	\$ 18,558,542	\$ 1,055,914	\$ 256,233	\$ 73,439	\$ 3,221,719	\$ 251,820

Undesignated Fund Balance > 3 Mo. Expenditures  
Total Fund Balance < 0  
Designated Debt Service > Debt

No Yes  
No No  
No No

City of Lincoln  
Governmental Funds  
August 31, 2007

Fund Number	Tax Sale Revolving 1206	Linc/Lanc Co Health 1207	Snow Removal 1208	911 Communication 1209	Social Security 1210	Police & Fire Pension Contb 1219	StarTran 1218	Unemployment Compensation 1212
<b>Fiscal Year 2004/2005</b>								
Beginning Fund Balance	\$ 656,620	\$ 221,966	\$ 879,710	\$ 103,860	\$ 1,402,452	\$ -	\$ 1,908,297	\$ 270,200
Operating Revenues	13,770	4,962,893	1,043,408	1,624,682	1,967,317	2,282,159	3,000,967	5,588
Operating Expenditures	-	(10,102,558)	(2,347,315)	(3,133,871)	(1,841,663)	(2,282,159)	(8,169,080)	(20,873)
Net Other Financing Sources/Uses	-	5,041,265	1,700,045	1,487,947	-	-	5,508,255	-
Ending Fund Balance	670,390	123,566	1,275,848	82,618	1,528,106	-	2,248,439	254,915
<b>Fiscal Year 2005/2006</b>								
Operating Revenues	19,373	5,467,596	1,058,222	1,414,779	1,923,631	2,909,024	3,336,042	7,245
Operating Expenditures	-	(16,216,113)	(2,131,618)	(3,148,213)	(1,842,394)	(2,909,024)	(8,761,749)	(17,275)
Net Other Financing Sources/Uses	689,763	10,924,668	1,582,417	1,727,350	-	-	5,684,963	-
Ending Fund Balance	-	299,717	1,784,869	76,534	1,609,343	-	2,507,695	244,885
<b>Fiscal Year 2006/2007</b>								
Operating Revenues	36,568	5,246,322	1,109,195	1,531,680	2,133,856	2,899,912	8,300,490	12,581
Operating Expenditures	-	(10,351,267)	(2,810,817)	(3,143,079)	(1,950,491)	(2,899,912)	(14,731,219)	(21,378)
Net Other Financing Sources/Uses	(719,513)	5,021,645	1,678,957	1,857,930	-	-	5,859,834	-
Ending Fund Balance	\$ 6,818	\$ 216,417	\$ 1,762,204	\$ 323,065	\$ 1,792,708	\$ -	\$ 1,936,800	\$ 236,088
<b>Fiscal Year 2006/2007 Ending Fund Balance:</b>								
Reserved For:	\$ -	\$ -	\$ 202,045	\$ -	\$ -	\$ -	\$ 480,205	\$ -
Inventories	-	-	-	-	-	-	-	-
Prepaid Items	-	-	-	-	-	-	-	-
Grantor Loan Programs	-	-	-	-	-	-	-	-
Debt Service	-	-	-	-	-	-	-	-
Health Care (non-expendable)	-	-	-	-	-	-	-	-
Trust Donations (non-expendable)	-	-	-	-	-	-	-	-
Improvements	-	-	-	8,500	-	-	-	-
Restricted Funds	-	-	-	-	-	-	-	-
Total Reserved	-	-	202,045	8,500	-	-	480,205	-
<b>Unreserved:</b>								
Designated for Debt Service	-	-	-	-	-	-	-	-
Designated for Subsequent Yrs Exp	-	23,780	1,077	7,953	179,431	-	20,008	95,000
Designated for Encumbrances	-	19,148	367,141	-	-	-	1,008,000	-
Undesignated	6,818	173,489	1,191,941	306,612	1,613,277	-	428,587	141,088
Total Unreserved	6,818	216,417	1,560,159	314,565	1,792,708	-	1,456,595	236,088
Fund Balance	\$ 6,818	\$ 216,417	\$ 1,762,204	\$ 323,065	\$ 1,792,708	\$ -	\$ 1,936,800	\$ 236,088

Undesignated Fund Balance > 3 Mo. Expenditures  
Total Fund Balance < 0  
Designated Debt Service > Debt

Yes No No No  
No No No No  
No No No No  
Yes No No No  
No No No No

City of Lincoln  
Governmental Funds  
August 31, 2007

Fund Number	Keno 1213	Special Assessments 1215	Building & Safety 1217	Property Tax Refunds 1216	Impact Fees 1220	Parks & Rec Spec Projects 3111	Seniors Found of Linc/Lanc 3112	Library Special Trust 3113
<b>Fiscal Year 2004/2005</b>								
Beginning Fund Balance	\$ 3,202,274	\$ 131,606	\$ 4,955,797	\$ 5,325	\$ (2,666)	\$ 486,082	\$ 260,763	\$ 446,802
Operating Revenues	3,076,903	32,607	4,379,426	116	85,948	372,323	57,679	93,937
Operating Expenditures	(1,762,333)	(643,947)	(5,188,128)	-	(91,499)	(252,090)	(58,752)	(151,787)
Net Other Financing Sources/Uses	(1,544,885)	485,036	807,043	-	-	(11,941)	-	-
Ending Fund Balance	2,971,959	5,302	4,954,138	5,441	(8,217)	594,374	259,690	388,952
<b>Fiscal Year 2005/2006</b>								
Operating Revenues	2,835,328	75,192	4,280,185	159	98,575	277,181	69,724	97,094
Operating Expenditures	(1,462,530)	(610,999)	(5,252,672)	-	(98,225)	(199,340)	(49,761)	(164,593)
Net Other Financing Sources/Uses	(1,018,581)	817,758	793,919	-	-	(157)	-	-
Ending Fund Balance	3,326,176	287,253	4,775,570	5,600	(7,867)	672,058	279,653	321,453
<b>Fiscal Year 2006/2007</b>								
Operating Revenues	2,976,753	59,486	4,101,492	299	108,901	304,492	51,031	104,209
Operating Expenditures	(1,858,974)	(639,283)	(5,292,116)	-	(108,114)	(197,162)	(38,137)	(107,526)
Net Other Financing Sources/Uses	(1,357,211)	528,694	756,400	-	-	(1,188)	-	-
Ending Fund Balance	\$ 3,086,744	\$ 236,150	\$ 4,341,346	\$ 5,899	\$ (7,080)	\$ 778,200	\$ 292,547	\$ 318,136
<b>Fiscal Year 2006/2007 Ending Fund Balance:</b>								
Reserved For:								
Inventories	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Prepaid Items	-	-	-	-	-	-	-	-
Grantor Loan Programs	-	-	-	-	-	-	-	-
Debt Service	-	-	-	-	-	-	-	-
Health Care (non-expendable)	-	-	-	-	-	-	-	-
Trust Donations (non-expendable)	-	-	-	-	-	-	-	-
Improvements	-	-	-	-	-	-	-	-
Restricted Funds	-	-	-	-	-	-	-	-
Total Reserved	-	-	-	-	-	-	-	-
Unreserved:								
Designated for Debt Service	-	-	-	-	-	-	-	-
Designated for Subsequent Yrs Exp	-	-	12,976	-	-	-	-	-
Designated for Encumbrances	-	-	20,432	-	-	-	-	-
Undesignated	3,613	-	-	-	-	8,500	-	-
Total Unreserved	3,083,131	236,150	4,307,938	5,899	(7,080)	769,700	292,547	318,136
Fund Balance	3,086,744	236,150	4,341,346	5,899	(7,080)	778,200	292,547	318,136
	\$ 3,086,744	\$ 236,150	\$ 4,341,346	\$ 5,899	\$ (7,080)	\$ 778,200	\$ 292,547	\$ 318,136

	Yes	No	Yes	No	Yes	No	Yes	No
Undesignated Fund Balance > 3 Mo. Expenditures	Yes	No	Yes	No	No	Yes	Yes	Yes
Total Fund Balance < 0	No	No	No	No	Yes	No	No	No
Designated Debt Service > Debt	No	No	No	No	No	No	No	No

City of Lincoln  
Governmental Funds  
August 31, 2007

Fund Fund Number	Tax Allocation 1301	Bond Interest & Redempt 1302	Tax Supported Bonds 1304/1305/1306	Special Assessments 1303	Storm Sewer Construction 1401	Vehicle Tax 1403	1991 GOVP Bonds 1404	Downtown Redev Bds 1405
<b>Fiscal Year 2004/2005</b>								
Beginning Fund Balance	\$ 5,233,865	\$ 6,910,648	\$ 3,187,150	\$ 7,344,884	\$ 207,403	\$ 2,839,207	\$ 44,677	\$ 121,906
Operating Revenues	1,751,506	5,759,145	1,435,325	1,561,069	78,495	8,252,191	941	793
Operating Expenditures	(901,711)	(6,320,847)	(3,236,002)	(104,433)	(1,045,084)	-	-	-
Net Other Financing Sources/Uses	(502,663)	284,268	1,818,460	(1,730,805)	924,921	(5,419,006)	-	(116,597)
Ending Fund Balance	5,580,997	6,633,214	3,204,933	7,070,715	165,735	5,672,392	45,618	6,102
<b>Fiscal Year 2005/2006</b>								
Operating Revenues	1,843,752	3,184,839	1,640,345	1,895,311	23,888	8,419,997	1,299	39
Operating Expenditures	(877,660)	(7,154,778)	(2,983,736)	(95)	(180,515)	-	-	-
Net Other Financing Sources/Uses	(1,336,797)	561,977	1,566,138	(474,196)	17,413	(8,252,800)	-	(6,141)
Ending Fund Balance	5,210,292	3,225,252	3,427,680	8,491,735	26,521	5,839,589	46,917	-
<b>Fiscal Year 2006/2007</b>								
Operating Revenues	2,273,894	6,016,213	1,872,208	1,988,294	16,438	9,426,531	2,485	-
Operating Expenditures	(977,211)	(7,057,740)	(3,474,569)	(88)	(42,185)	-	-	-
Net Other Financing Sources/Uses	(1,179,897)	2,582,323	2,058,434	(546,027)	191,201	(8,214,900)	-	-
Ending Fund Balance	\$ 5,327,078	\$ 4,766,048	\$ 3,883,753	\$ 9,933,914	\$ 191,975	\$ 7,051,220	\$ 49,402	\$ -
<b>Fiscal Year 2006/2007 Ending Fund Balance:</b>								
Reserved For:								
Inventories	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Prepaid Items	-	-	-	-	-	-	-	-
Grantor Loan Programs	-	-	-	-	-	-	-	-
Debt Service	5,327,078	4,766,048	3,883,753	-	-	-	-	-
Health Care (non-expendable)	-	-	-	-	-	-	-	-
Trust Donations (non-expendable)	-	-	-	-	-	-	-	-
Improvements	-	-	-	-	-	-	-	-
Restricted Funds	-	-	-	-	-	-	-	-
Total Reserved	5,327,078	4,766,048	3,883,753	-	-	-	-	-
Unreserved:								
Designated for Debt Service	-	-	-	9,933,914	-	-	-	-
Designated for Subsequent Yrs Exp	-	-	-	-	-	-	-	-
Designated for Encumbrances	-	-	-	-	3,286	-	-	-
Undesignated	-	-	-	-	188,689	7,051,220	49,402	-
Total Unreserved	-	-	-	9,933,914	191,975	7,051,220	49,402	-
Fund Balance	\$ 5,327,078	\$ 4,766,048	\$ 3,883,753	\$ 9,933,914	\$ 191,975	\$ 7,051,220	\$ 49,402	\$ -

Undesignated Fund Balance > 3 Mo. Expenditures  
Total Fund Balance < 0  
Designated Debt Service > Debt

No	No	No	No	No	Yes	Yes	Yes	No
No	No	No	No	No	No	No	No	No
No	No	No	No	Yes	No	No	No	No

City of Lincoln  
Governmental Funds  
August 31, 2007

Fund Number	Storm Sewer Bonds 1407	1999 GOVP Bonds 1411	2002 AntVal Bonds 1413	Other Capital Proj 1409	Special Assessments 1410	Community Health Endow 3119	JJ Hompes 3118	Total
<b>Fiscal Year 2004/2005</b>								
Beginning Fund Balance	\$ 13,849,424	\$ 1,811,880	\$ 2,370,831	\$ 4,079,304	\$ 180,159	\$ 45,025,744	\$ 574,054	\$ 203,866,133
Operating Revenues	882,957	27,360	152,972	1,352,077	-	1,892,881	58,111	222,325,361
Operating Expenditures	(7,725,891)	(16,306)	(1,205,811)	(7,238,144)	(1,209,605)	(1,084,554)	(13,415)	(248,664,496)
Net Other Financing Sources/Uses	10,095,926	(746,684)	-	3,883,489	1,264,759	-	-	16,012,547
Ending Fund Balance	17,102,416	1,076,250	1,317,992	2,076,726	235,313	45,834,071	618,750	193,539,545
<b>Fiscal Year 2005/2006</b>								
Operating Revenues	977,333	31,085	37,118	962,175	-	1,078,336	35,293	220,070,331
Operating Expenditures	(7,753,584)	-	(752,785)	(11,343,955)	(239,530)	(950,171)	(14,708)	(255,934,572)
Net Other Financing Sources/Uses	13,977	-	-	9,876,113	4,476	-	-	15,097,068
Ending Fund Balance	10,340,142	1,107,335	602,325	1,571,059	259	45,962,236	639,335	172,772,372
<b>Fiscal Year 2006/2007</b>								
Operating Revenues	1,340,722	48,240	16,503	1,451,351	-	5,187,198	70,089	232,297,454
Operating Expenditures	(5,143,147)	(13,317)	(618,828)	(8,021,477)	(146,268)	(1,070,533)	(19,066)	(237,522,114)
Net Other Financing Sources/Uses	7,583,504	(1,063,235)	-	8,020,961	205,290	-	-	47,380,486
Ending Fund Balance	\$ 14,121,221	\$ 79,023	\$ -	\$ 3,021,894	\$ 59,281	\$ 50,078,901	\$ 690,358	\$ 214,928,198
<b>Fiscal Year 2006/2007 Ending Fund Balance:</b>								
Reserved For:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,272,929
Inventories	-	-	-	-	-	-	-	417,321
Prepaid Items	-	-	-	-	-	-	-	19,143,000
Grantor Loan Programs	-	-	-	-	-	-	-	13,976,879
Debt Service	-	-	-	-	-	-	-	37,000,000
Health Care (non-expendable)	-	-	-	-	-	-	-	160,000
Trust Donations (non-expendable)	-	-	-	-	-	-	-	1,601,803
Improvements	-	-	-	-	-	-	-	654,710
Restricted Funds	-	-	-	-	-	-	-	160,000
Total Reserved	-	-	-	-	-	-	-	74,226,642
<b>Unreserved:</b>								
Designated for Debt Service	-	-	-	-	-	-	-	10,312,949
Designated for Subsequent Yrs Exp	-	-	-	-	-	-	-	4,053,735
Designated for Encumbrances	2,260,912	-	-	486,658	-	-	-	26,542,068
Undesignated	11,860,309	79,023	-	2,535,236	59,281	13,078,901	530,358	99,792,804
Total Unreserved	14,121,221	79,023	-	3,021,894	59,281	13,078,901	530,358	140,701,556
<b>Fund Balance</b>	\$ 14,121,221	\$ 79,023	\$ -	\$ 3,021,894	\$ 59,281	\$ 13,078,901	\$ 690,358	\$ 214,928,198

Yes No Yes No

Undesignated Fund Balance > 3 Mo. Expenditures  
Total Fund Balance < 0  
Designated Debt Service > Debt

City of Lincoln  
Business-type Funds  
August 31, 2007

Fund	Lincoln Wastewater System 2108	Lincoln Water System 2109	Lincoln Electric System 2110	Parking Lot Revolving 2101	Golf 2102
<b>Fiscal Year 2004/2005</b>					
Net Assets Beginning	\$ 161,982,591	\$ 206,548,495	\$ 208,815,000	\$ 1,696,916	\$ 5,097,840
Operating Revenues	16,985,552	24,362,174	168,487,000	210,016	3,135,521
Operating Expenditures	(15,429,573)	(19,166,149)	(146,790,000)	(277,703)	(3,182,649)
Net - Non Operating Revenue (Expense)	509,759	(1,844,312)	(23,523,000)	18,983	(112,677)
Capital Contributions/Net Transfers	4,364,378	5,231,057	(1,146,000)	11,245	93,283
Net Assets Ending	168,412,707	215,131,265	205,843,000	1,659,457	5,031,318
<b>Fiscal Year 2005/2006</b>					
Operating Revenues	17,997,650	25,599,610	188,369,000	219,324	2,993,431
Operating Expenditures	(16,966,654)	(20,207,151)	(174,646,000)	(200,751)	(3,072,382)
Net - Non Operating Revenue (Expense)	710,777	(1,233,077)	(20,400,000)	29,774	(96,666)
Capital Contributions/Net Transfers	5,102,101	5,932,721	(1,299,000)	-	(4,500)
Net Assets Ending	175,256,581	225,223,368	197,867,000	1,707,804	4,851,201
<b>Fiscal Year 2006/2007</b>					
Operating Revenues	19,402,047	25,249,632	204,527,000	217,016	2,919,968
Operating Expenditures	(17,555,222)	(21,075,573)	(177,107,000)	(215,712)	(3,063,697)
Net - Non Operating Revenue (Expense)	722,248	117,642	(28,387,000)	62,325	(95,363)
Capital Contributions/Net Transfers	3,047,677	3,420,280	3,507,000	4,049	13,427
Net Assets Ending	\$ 180,873,331	\$ 232,935,349	\$ 200,407,000	\$ 1,775,482	\$ 4,625,536
<b>Fiscal Year 2006/2007 Net Assets Ending:</b>					
Invested in Capital Assets, Net of Related Debt Restricted For:	\$ 173,291,909	\$ 204,223,192	\$ 235,084,000	\$ 470,288	\$ 5,150,081
Debt Service	410,983	205,715	21,974,000	-	-
Capital Projects	687,874	2,203,158	-	-	151,565
Other	-	-	-	-	-
Total Restricted	1,098,857	2,408,873	21,974,000	-	151,565
Unrestricted Net Assets	6,482,565	26,303,284	(56,651,000)	1,305,194	(676,110)
Net Assets	\$ 180,873,331	\$ 232,935,349	\$ 200,407,000	\$ 1,775,482	\$ 4,625,536

Unrestricted Net Assets > 3 Mo. Expenditures  
Total Net Assets < 0  
Restricted Debt Service > Debt

Yes No Yes No Yes No  
Yes No No No Yes No No No

City of Lincoln  
Business-type Funds  
August 31, 2007

Fund	Parking Facilities 2103	Pershing Municipal Auditorium 2104	Solid Waste Management 2105	Emergency Medical Services 2111	Total
<b>Fiscal Year 2004/2005</b>					
Net Assets Beginning	\$ 25,771,711	\$ 738,857	\$ 16,545,764	\$ (146,575)	\$ 627,050,599
Operating Revenues	5,214,542	1,466,639	4,002,925	3,333,307	227,197,676
Operating Expenditures	(4,017,019)	(2,203,091)	(6,746,059)	(3,761,659)	(201,573,902)
Net - Non Operating Revenue (Expense)	(715,926)	(8,594)	2,291,067	(67,232)	(23,451,932)
Capital Contributions/Net Transfers	-	540,529	(680,600)	-	8,413,892
Net Assets Ending	26,253,308	534,340	15,413,097	(642,159)	637,636,333
<b>Fiscal Year 2005/2006</b>					
Operating Revenues	5,697,352	1,884,342	4,136,879	3,289,883	250,187,471
Operating Expenditures	(3,815,459)	(2,396,654)	(6,139,526)	(3,708,255)	(231,152,832)
Net - Non Operating Revenue (Expense)	(583,793)	(6,088)	2,521,344	(84,780)	(19,142,509)
Capital Contributions/Net Transfers	949,005	575,000	(596,012)	-	10,659,315
Net Assets Ending	28,500,413	590,940	15,335,782	(1,145,311)	648,187,778
<b>Fiscal Year 2006/2007</b>					
Operating Revenues	6,264,527	1,620,806	5,259,855	3,764,181	269,225,032
Operating Expenditures	(3,829,128)	(2,262,670)	(6,565,811)	(3,588,888)	(235,263,701)
Net - Non Operating Revenue (Expense)	(406,432)	339	2,584,598	(90,430)	(25,492,073)
Capital Contributions/Net Transfers	(267,857)	525,000	(643,304)	-	9,606,272
Net Assets Ending	\$ 30,261,523	\$ 474,415	\$ 15,971,120	\$ (1,060,448)	\$ 666,263,308
<b>Fiscal Year 2006/2007 Net Assets Ending:</b>					
Invested in Capital Assets, Net of Related Debt	\$ 25,173,962	\$ 265,476	\$ 15,285,119	\$ 3,412	\$ 658,947,439
Restricted For:					
Debt Service	165,653	-	-	-	22,756,351
Capital Projects	694,072	8,900	174,748	-	3,920,317
Other	-	92,890	-	-	92,890
Total Restricted	859,725	101,790	174,748	-	26,769,558
Unrestricted	4,227,836	107,149	511,253	(1,063,860)	(19,453,689)
Net Assets	\$ 30,261,523	\$ 474,415	\$ 15,971,120	\$ (1,060,448)	\$ 666,263,308

Unrestricted Net Assets > 3 Mo. Expenditures  
Total Net Assets < 0  
Restricted Debt Service > Debt

Yes	No	No	No	No
No	No	No	No	Yes
No	No	No	No	No

City of Lincoln  
Internal Service Funds  
August 31, 2007

Fund	Information Services 2201	Engineering Revolving 2202	Insurance Revolving 2203	Fleet Services 2204	Police Garage 2205	Communication Services 2206	Copy Services 2208	Total
<b>Fiscal Year 2004/2005</b>								
Net Assets Beginning	\$ 2,122,933	\$ (182,930)	\$ 6,586,997	\$ 7,015,053	\$ 3,770,753	\$ 76,446	\$ 351,825	\$ 19,741,077
Operating Revenues	6,106,048	7,004,113	6,189,498	5,595,906	2,758,538	238,563	337,758	28,230,424
Operating Expenditures	(6,208,883)	(7,097,835)	(5,704,387)	(5,925,899)	(2,828,502)	(201,944)	(364,911)	(28,332,361)
Net - Non Operating Revenue (Expense)	25,553	19,466	278,868	127,746	12,804	1,639	6,515	472,591
Capital Contributions/Net Transfers	(33,175)	11,483	-	290,359	54,888	-	-	323,555
Net Assets Ending	2,012,476	(245,703)	7,350,976	7,103,165	3,768,481	114,704	331,187	20,435,286
<b>Fiscal Year 2005/2006</b>								
Operating Revenues	6,226,233	6,598,271	8,161,460	6,334,403	3,016,567	208,630	310,479	30,856,043
Operating Expenditures	(5,792,987)	(7,147,710)	(8,614,980)	(6,126,158)	(3,119,512)	(193,594)	(346,583)	(31,341,524)
Net - Non Operating Revenue (Expense)	34,598	197,579	407,352	224,576	31,780	3,332	9,031	908,248
Capital Contributions/Net Transfers	229,051	49,391	-	443,366	33,333	-	-	755,141
Net Assets Ending	2,709,371	(548,172)	7,304,808	7,979,352	3,730,649	133,072	304,114	21,613,194
<b>Fiscal Year 2006/2007</b>								
Operating Revenues	6,130,173	6,584,629	23,364,598	6,481,115	3,114,940	218,475	333,560	46,227,490
Operating Expenditures	(6,180,731)	(7,382,878)	(21,036,963)	(7,134,004)	(3,366,492)	(196,414)	(369,818)	(45,667,300)
Net - Non Operating Revenue (Expense)	83,436	164,338	837,502	125,716	69,486	7,278	14,179	1,301,935
Capital Contributions/Net Transfers	-	366,382	-	114,664	33,333	3,688	-	518,067
Net Assets Ending	\$ 2,742,249	\$ (815,701)	\$ 10,469,945	\$ 7,566,843	\$ 3,581,916	\$ 166,099	\$ 282,035	\$ 23,993,386
<b>Fiscal Year 2006/2007 Net Assets Ending:</b>								
Invested in Capital Assets, Net of Related Debt Restricted For:	\$ 349,963	\$ 256,339	\$ 9,628	\$ 7,525,275	\$ 1,869,171	\$ 5,008	\$ -	\$ 10,015,384
Debt Service	-	-	-	-	-	-	-	-
Capital Projects	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-
Total Restricted	-	-	-	-	-	-	-	-
Unrestricted	2,392,286	(1,072,040)	10,460,317	41,568	1,712,745	161,091	282,035	13,978,002
Net Assets	\$ 2,742,249	\$ (815,701)	\$ 10,469,945	\$ 7,566,843	\$ 3,581,916	\$ 166,099	\$ 282,035	\$ 23,993,386

Unrestricted Net Assets > 3 Mo. Expenditures  
Total Net Assets < 0  
Restricted Debt Service > Debt

Yes No Yes No Yes No Yes No Yes No Yes No

# Memo

**To:** Audit Advisory Board  
**From:** Don Herz, Finance Director  
**CC:** Peggy Tharnish, City Controller  
Marcee Brownlee, Assistant City Attorney  
**Date:** April 27, 2009  
**Re:** Agreed-Upon Procedures Response

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On April 13, 2009, I provided you with a copy of the Agreed-Upon Procedures report from HBE Becker Meyer Love LLP (HBE) which included their findings. Attached are the City's responses to those findings. Again, as a reminder, I have included the Board's responsibilities included in Section 4.66.040 of the Lincoln Municipal Code.

*(d) Report to the Mayor and the City Council, in the form of a board audit report, within sixty days of receiving the final audit report. The Board audit report shall be simultaneously transmitted to the Mayor and the City Council. Three copies of the Board audit report shall be placed on file with the City Clerk for public examination. The board audit report shall include:*

- (1) The Board's findings, based on the final audit report and the response of the auditee as to whether:
  - (i) Activities and programs are being conducted and funds expended in compliance with applicable laws;*
  - (ii) Revenues are being properly collected, deposited and accounted for;*
  - (iii) Resources are adequately safeguarded, controlled and used in an effective and efficient manner; and/or*
  - (iv) There are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management;**
- (2) A copy of the final audit report and auditee's response thereto;*
- (3) A separate listing, if any, of irregularities or failures to comply with legal or administrative policies; and*
- (4) The Board's recommendations. (Ord. 19007 §4; October 8, 2007).*

Encl: Response of the City

**Response of the City of Lincoln**  
**To**  
**Findings of Agreed-Upon Procedures Engagement**  
**HBE Becker Meyer Love LLP**

The procedures that the City, City Council and the Audit Advisory Board requested HBE to perform are listed on pages one and two of the accountants report. A brief explanation of these procedures is listed below. A summary response from the City is bolded in italics.

1. Verify the accuracy of the fund schedules on pages 39 to 46.

*The fund schedules were prepared by the Audit Advisory Board with assistance from the Finance Department staff and then provided to HBE. HBE traced these amounts to the audited financial statements for the year ended August 31, 2007.*

2. For any fund with fund balances greater than three month of operating expenditures, obtain representation and explanation from the City.

*The fund schedules on pages 39 to 46 of HBE's report identifies any fund in which the undesignated/ unrestricted fund balance was greater than three months of operating expenditures. Three months was selected because that is a standard that would allow a fund to have an adequate amount of operating reserves.*

3. Obtain additional representation about potential options to reduce or lapse excess fund balances.

*There will be certain situations that will warrant higher reserves due to various circumstances such as timing of receipts and expenditures, accumulation of reserves for capital purchases, receivables that may take several months to convert to cash and other factors. If these circumstances do not exist, options will be provided to either reduce or lapse fund balances.*

4. Obtain explanation for any fund with less than a zero fund balance.

*Any fund with less than a zero fund balance should have a plan to increase revenues or decrease expenditures to ensure that the fund returns to a positive balance.*

5. Determine whether any designation for debt service is in excess of outstanding debt.

*The designation for debt service should not exceed the amount of outstanding debt.*

6. Inquire of management whether the fiscal year 2007 fund balance designations are not appropriate.

*Fund balance designations should be appropriate.*

**Response of the City of Lincoln  
To  
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For each fund in which the auditors made a recommendation, a response is provided.

**Fund Name:** Street Construction Fund

**Fund Number:** 1211 and 1402

**Page of Report:** 3

**Recommendation:** Because excess funds appear to be set aside for future projects, we recommend the Fund be maintained as is.

**City Comment(s):** The fund balance at August 31, 2007 included proceeds from the 2006 Highway Allocation Bonds that were issued on December 5, 2006. As a result it would be very likely to have a fund balance in excess of 3 months of expenditures. The auditors note that by August 31, 2008, the fund balance had been reduced to less than three months of expenditures.

**Fund Name:** Advance Acquisition Fund

**Fund Number:** 1201

**Page of Report:** 4

**Recommendation:** We recommend that this Fund be maintained in accordance with the City Charter. It doesn't appear that the General Fund appropriations to this Fund are currently necessary. Further, other funds should make use of the dollars available in this Fund when projects involve the purchase of real estate for public purposes, which management represents is the City's current policy.

**City Comment(s):** This fund has been and will continue to be maintained in accordance with the City Charter. The City agrees that appropriations from the General Fund are currently not necessary. It should be noted that the City Charter restricts any balances in this fund to be used for future purchases of real estate and can not be lapsed to any fund to be used for operations.

**Fund Name:** Athletic Field and Facilities Improvement Fund

**Fund Number:** 1202

**Page of Report:** 5

**Recommendation:** We recommend that this Fund be maintained in accordance with the City Resolution.

**City Comment(s):** The balance in this fund are accumulated for future capital projects. The amount of operational expenses for this fund are minimal and as a result, it would be normal that the fund balance will always exceed operational expenses by more than the three months test for a fund with operational expenditures.

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**Fund Name:** Lincoln City Libraries

**Fund Number:** 1204

**Page of Report:** 6

**Recommendation:** We recommend that you consider using more of the undesignated fund balance for providing library services to the citizens of Lincoln, as is the intent of the tax levy. We understand that a reserve is necessary to manage the timing difference between the receipt of property tax dollars and the payment of operating expenditures. However, it is not necessary to increase this reserve as has occurred since at least fiscal year 2005, especially when expenditures are not increasing.

**City Comment(s):** We disagree that more of the fund balance should be used. This fund receives most of its revenues from property taxes, the majority of which are collected in the spring and late summer. It is necessary to manage both the fund balance and the daily cash balance to meet operating needs. Our August 31<sup>st</sup> financial statements capture the fund balance at a high point in the year. At the end of March 2008 the cash balance was less than \$500,000 and \$447,000 at the end of March 2009. With a \$7.3 million budget, the low point of the cash balance is as low as we believe it should be and is less than one months operating costs.

**Fund Name:** Tax Sale Revolving

**Fund Number:** 1206

**Page of Report:** 7

**Recommendation:** Upon our inquiry, management suggested, and we concur, that the remaining balance be transferred to the General Fund. We also recommend closing this Fund. All subsequent transactions of this type could be handled through the Advance Acquisition Fund.

**City Comment(s):** This fund is no longer required and it is the intent of the City to close it during the 2009/2010 budget process. As of April 20, 2009 the cash balance was \$580.19. This amount will be transferred to the General Fund.

**Fund Name:** Snow Removal

**Fund Number:** 1208

**Page of Report:** 8

**Recommendation:** We recommend that the appropriateness of the \$1.2 million undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be a reasonable reserve for an especially harsh winter. We believe the City Council should discuss with City management the appropriateness of setting aside over five months of expenditures for this reason. Consideration should be given to the availability of financing from other funds, especially the Street Construction Fund if such an event were to occur. Any

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undesignated fund balance deemed to be in excess of the desired reserve should be used for other street related projects.

**City Comment(s):** We disagree with this recommendation. With out any reserve, there would be a 50 percent probability that the fund would not be able to pay for the appropriate level of snow removal that could occur. In a year in which there was a significant late season snow event, it would be difficult to seek last minute emergency appropriations. We believe a \$1.2 million cash balance from prior years is an appropriate target to carryover. The annual review of the City budget with the City Council and City staff has included discussions of the level of fund balance on hand. On occasion, when the balance has been deemed more than the required minimum, the money has been transferred to Street projects or used to purchase additional snow removal related equipment.

**Fund Name:** Social Security

**Fund Number:** 1210

**Page of Report:** 9

**Recommendation:** We agree that the undesignated fund balance be appropriated as a revenue source. However, consideration should be given to accelerating the planned appropriation of the excess fund.

**City Comment(s):** This fund depends on property taxes for its revenues and on August 31 cash balances will always be high because second half property taxes are collected in August. In developing the FY08-09 budget it was determined that lowest balance in the fund during the year was more than needed. We appropriated extra fund balances as a revenue source for the FY08-09 budget and intend to do the same for the next four years – similar to the way we utilize any excess General Fund balances.

**Fund Name:** Unemployment Compensation

**Fund Number:** 1212

**Page of Report:** 10

**Recommendation:** We recommend that the undesignated fund balance be maintained as is. The undesignated fund balance should be monitored as the City continues to weather the economic downturn. Consideration should be given to anticipated budget cuts. Subsequent reduction in personnel should be used as an indicator as to whether the fund balance continues to remain appropriate. Management represents that this is the City's current policy.

**City Comment(s):** This fund balance is analyzed every year as part of the City's budget process, taking into account anticipated economic conditions, and increases in current needs.

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**Fund Name:** Keno

**Fund Number:** 1213

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**Recommendation:** We recommend that the undesignated fund balance as of August 31, 2007, be evaluated for appropriateness. Management deems the undesignated fund balance to be reasonable in light of planned capital projects. We believe the City Council should discuss with City management the appropriateness of the balance giving separate consideration to the amounts restricted to parks and recreation, libraries and human services. Specifically, when evaluating the parks and recreation portion of the fund balance, consideration should be given to the cash flow needed for the Antelope Valley project as well as the potential to pay down the outstanding principal of the revenue anticipation notes and their continued debt service requirements.

**City Comment(s):** The use of these funds is determined by City ordinance which specifies it be used for Parks & Recreation, Libraries and Human Services. These funds are not used for operations but rather designated projects, usually Capital Projects. The fund balance is analyzed every year as part of the City's budget process and appropriations are made according to each area's remaining share of revenues and the projects they have planned.

**Fund Name:** Special Assessments

**Fund Number:** 1215, 1303 and 1410

**Page of Report:** 12

**Recommendation:** Upon our inquiry, management suggested, and we concur, that the majority of the combined undesignated fund balance be lapsed for other purposes. Management suggests maintaining \$2 million of the undesignated fund balance for continued operating expenditures, for management of timing differences between receipts and expenditures, and for potential use in developing future districts.

**City Comment(s):** The recommendation accurately represents our position.

**Fund Name:** Building and Safety

**Fund Number:** 1217

**Page of Report:** 13

**Recommendation:** We recommend that the appropriateness of the \$4.3 million undesignated fund balance as of August 31, 2007 be evaluated. As the undesignated fund balance was intended to act as a reserve for periods of economic decline such as the current decline, we recommend that the fund balance be considered for expenditure in the upcoming fiscal years. Consideration should be given to budgeted fiscal year 2009 changes in fund balance.

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**City Comment(s):** The Department has reduced about ten positions due to the slowing of the economy. The fund balance and cash balance has declined significantly since August of 2007 so the fund balance has been and continues to fund operations during the downturn. Since August 31, 2008, the fund has experienced an additional \$300 thousand decrease in its cash balances. Some fee increases have been recently implemented to attempt to slow the pace of this decline during the economic downturn. The existing fund balances may be needed to avoid tax support in the near future until local building activity rebounds.

**Fund Name:** Property Tax Refunds

**Fund Number:** 1216

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**Recommendation:** Upon our inquiry, management suggested, and we concur, that the undesignated fund balance be transferred to the General Fund and the fund be closed.

**City Comment(s):** This fund is no longer required and it is the intent of the City to close it during the 2009/2010 budget process. As of April, 2009 the cash balance was \$6,247.59. This amount will be transferred to the General Fund.

**Fund Name:** Impact Fees

**Fund Number:** 1220

**Page of Report:** 15

**Recommendation:** We recommend that a plan to eliminate current and future deficits be established and the fund be closely monitored.

**City Comment(s):** The City will continue to monitor this fund balance and may need to transfer dollars from another fund if it does not recover as the economy rebounds.

**Fund Name:** Parks and Recreation Special Projects

**Fund Number:** 3111

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**Recommendation:** We recommend that the appropriateness of the undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be reasonable in light of planned capital projects. We believe the City Council should discuss with City management the appropriateness of the balance giving consideration to the expected timing of the projects and donor restrictions.

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**City Comment(s):** Revenues into this fund are donated for specific purposes. It is the policy of the City to spend these dollars in accordance with donor intentions.

**Fund Name:** Seniors Foundation of Lincoln and Lancaster County

**Fund Number:** 3112

**Page of Report:** 17

**Recommendation:** We recommend that the undesignated fund balance be maintained or expended in accordance with donor intentions and the Foundation's recommendations, which management represents is the City's current policy.

**City Comment(s):** We agree with the recommendation which is also the City's policy.

**Fund Name:** Library Special Trust

**Fund Number:** 3113

**Page of Report:** 18

**Recommendation:** We recommend that the undesignated fund balance be expended in accordance with donor intentions, which management represents is the City's current policy.

**City Comment(s):** We agree with the recommendation which is also the City's policy.

**Fund Name:** Storm Sewer Construction

**Fund Number:** 1401

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**Recommendation:** We recommend that the appropriateness of the \$189 thousand undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be reasonable in light of planned capital projects. We believe the City Council should discuss with City management the appropriateness of the balance giving consideration to the expected timing of the projects.

**City Comment(s):** This fund is used to account for storm water related projects funded by the General Fund and receives some intergovernmental revenues which is usually the Natural Resource District's share of the projects. By their nature, projects will vary in size and timing. Management believes that the balance is appropriate in light of expected projects.

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**Fund Name:** Vehicle Tax

**Fund Number:** 1403

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**Recommendation:** Due to State Statute 18-1214 restrictions and because excess funds appear to be allocated for future projects, we recommend the Fund be maintained as is.

**City Comment(s):** We agree with the recommendation. Money that is expected to be available is appropriated annually through the City's capital improvement program taking into consideration fund balance as well as new collections. The balances in the fund have been appropriated for capital projects through the City's Capital Improvement Program.

**Fund Name:** 1991 GOVP Bonds

**Fund Number:** 1404

**Page of Report:** 21

**Recommendation:** Upon our inquiry, management suggested, and we concur, that the undesignated fund balance be used to pay debt service on the 1999 G.O. Various Purpose Bonds.

**City Comment(s):** It is the intent of the City to close this fund during the 2009/2010 budget process. As of April, 2009 the cash balance was \$52,386.71. This amount will be transferred to the Bond Interest & Redemption Fund to pay debt service.

**Fund Name:** Storm Sewer Bonds

**Fund Number:** 1407

**Page of Report:** 22

**Recommendation:** We recommend that the appropriateness of the \$11.9 million undesignated fund balance as of August 31, 2007 be evaluated. Management deems the undesignated fund balance to be reasonable in light of budgeted expenditures for improvements and extensions to the system. We believe the City Council should discuss with City management the appropriateness of the balance, giving consideration to the expected timing of the improvements and extensions. Any excess balance should be used to pay down the bonds.

**City Comment(s):** The majority of this fund balance is from the 2007 bond issue, construction for which was just getting under way. The other balances in these funds are either appropriated, have a future authorized use in mind, or have been transferred back to

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pay debt service in the last two budget resolutions. This is monitored every year and we will continue to make transfers back to the debt service fund when there are balances not needed for projects.

**Fund Name:** 1999 GOVP

**Fund Number:** 1411

**Page of Report:** 23

**Recommendation:** We recommend establishing a timeframe for which the funds would remain available for use by the Lincoln Children's Museum. Any funds remaining after this time period should be used for debt service.

**City Comment(s):** This balance is remaining proceeds from the Children's Museum issue from the late 90's and interest earned. This building has had some ongoing problems and this money has been left here to address some of those issues. The balance has dropped to \$72,497 as of April, 2009.

**Fund Name:** Other Capital Projects

**Fund Number:** 1409

**Page of Report:** 24

**Recommendation:** Because excess funds appear to be set aside for future projects, we recommend the Fund be maintained as is.

**City Comment(s):** We agree with the recommendation. This is mostly for TIF construction, Arbitrage rebate, Municipal Infrastructure Redevelopment Funds and miscellaneous capital projects. The balance varies depending on the current projects underway. In any case the money in this fund is designated or limited in its possible use.

**Fund Name:** Community Health Endowment

**Fund Number:** 3119

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**Recommendation:** We recommend that an investment and spending policy be formally adopted for this Fund. If growing the proceeds in relation to inflation is approved, a method for tracking the inflation adjustment should be established. Undesignated funds exceeding the cumulative inflation adjustments should be used for current health and health-related programs, in accordance with the Lincoln General Hospital sale agreement.

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**City Comment(s):** The voters of the State recently passed a Constitutional amendment allowing the use of the prudent investor method of managing permanent endowments such as the Community Health Endowment. Enabling legislation is expected to be passed by the State Legislature this year. When the CHE is able to broaden its investment options, it would be appropriate to update their investment policies and at that time formalize its policy of retaining some of its earnings to enable the fund to grow with inflation. The CHE currently has an investment policy that it follows based on the restrictions imposed by State Constitution.

**Fund Name:** J.J. Hompes

**Fund Number:** 3118

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**Recommendation:** We recommend that the undesignated fund balance of \$530 thousand as of August 31,2007 be maintained and spent in accordance with the trust agreement. Legal requirements of the trust agreement and the appropriate accounting of restricted funds should be reviewed in comparison to current practice.

**City Comment(s):** The monies coming into this fund are donated for a specific purpose and are not available for general use. It is the policy of the City to spend donations in accordance with donor intentions.

**Fund Name:** Lincoln Wastewater System

**Fund Number:** 2108

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**Recommendation:** Because excess funds have been budgeted for capital projects to occur in fiscal year 2009, we recommend the fund be maintained as is.

**City Comment(s):** Extra funds needed to be on hand to finance large capital improvement projects going on at this time. Unrestricted balance does not greatly exceed 3 months operating.

**Fund Name:** Lincoln Water System

**Fund Number:** 2109

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**Recommendation:** Because excess funds have been budgeted for capital projects to occur in fiscal year 2009, we recommend the fund be maintained as is.

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**City Comment(s):** Extra funds needed to be on hand to finance large capital improvement projects going on at this time. Unrestricted balance does not greatly exceed 3 months operating.

**Fund Name:** Parking Lot Revolving

**Fund Number:** 2101

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**Recommendation:** We recommend that the appropriateness of the \$1.3 million unrestricted net assets as of August 31,2007 be evaluated. Considerations should include the expected purchase date and estimated cost of upcoming capital projects and the availability of financing from other funds and sources.

**City Comment(s):** Management's practice has been and will continue to be to evaluate fund balances on an ongoing basis. The Parking Lot Revolving fund must maintain a fund balance for acquiring and building additional surface lots. Existing reserves have been accumulating in anticipation of acquiring an additional surface lot. These parking facilities can represent a crucial economic development tool.

**Fund Name:** Parking Facilities

**Fund Number:** 2103

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**Recommendation:** We recommend that the appropriateness of the \$4.2 million unrestricted net assets as of August 31,2007 be evaluated. Considerations should include debt service requirements, an estimate of the additional cash flow that would be needed for upcoming capital projects and the availability of financing from other funds and sources.

**City Comment(s):** Management's practice has been and will continue to be to evaluate fund balances on an ongoing basis. The Parking Facilities fund must maintain a fund balance for acquiring and building new parking facilities. Existing reserves have been accumulating in anticipation of a building at least two additional parking facilities. Development of those facilities will represent a significant economic development tool. The fund has over \$12 million of outstanding revenue bonds. Bond covenants require the fund to retain all accumulated earnings until all outstanding debt has been retired.

**Fund Name:** Emergency Medical Services

**Fund Number:** 2111

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**Recommendation:** We recommend, and management concurs, that the action's taken in fiscal year 2008 continue. Special focus should be paid to the amounts charged for services and the collection of balances due. We recommend the fund perform an annual review of the amounts charged for services considering anticipated operating expenditures and capital purchases. Fees should be increased as necessary each year. Management represents that this is the City's current policy.

**City Comment(s):** This City service has struggled financially for several of its operating years, resulting in the accumulation of the negative balance that is shown. The fund has operated at a profit for the two most recent fiscal years (FY06- 07 and FY07-08). It appears that the fund is again experiencing positive results during the current fiscal year. This should significantly decrease the accumulated deficit.

**Fund Name:** Information Systems

**Fund Number:** 2201

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**Recommendation:** We recommend that the appropriateness of the \$2.4 million unrestricted net assets as of August 31, 2007 be evaluated. Considerations should include upcoming capital projects estimated to cost \$1.2 million and the availability of financing from other funds and sources. We further recommend the fund perform an annual review of the amounts charged for services and evaluate the possibility of decreasing rates to benefit each department during a difficult economic period. Management represents that this is the City's current policy.

**City Comment(s):** It has been and will continue to be management's practice to evaluate this fund balance. We try to maintain about \$1,500,000 - \$1,600,000 cash & investment balance. If it consistently exceeds that amount (grows over a particular FY), we establish rates so that the fund balance is reduced the following year. That way all customers participate in the offsetting savings if a surplus is deemed to exist. We have also been attempting to establish seed money for a few significant projects: migration from Lotus Notes to Microsoft Exchange, eDiscovery, VoiP and GIS Initiatives.

**Fund Name:** Engineering Revolving

**Fund Number:** 2202

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**Recommendation:** We recommend that the actions taken in the 2008 fiscal year continue and special focus be paid to the appropriate billing of services to each project and corresponding fund.

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**City Comment(s):** This fund has been struggling in recent years. Employees paid from this fund are all too often called upon to do general governmental work for which the fund does not have an adequate way of recovering their costs plus overhead. Since 8/31/07, several actions have been taken to improve the fund balance status of this fund. There are semi-monthly or monthly meetings to review the financial activity of the fund. These meetings involve discussing things such as what kinds of activities are being performed that cannot be billed out. Some money has been transferred into the fund from other City funds that have utilized the services in the past but not been adequately charged for those services. Management will continue to monitor this fund.

**Fund Name:** Insurance Revolving

**Fund Number:** 2203

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**Recommendation:** We recommend the City continue to obtain actuarial studies to determine the appropriate balance of provisions for claims payable and claims incurred but not reported. These liabilities should be recorded in the financial statements. The City should also develop a policy for utilizing the savings, if any, from the self-insurance programs.

**City Comment(s):** We agree with the recommendation and it reflects the way the fund has been operated for many years. This fund covers several different types of insurance. The City has actuarial studies done to determine what the appropriate reserves are for each type of insurance. Departments are billed based upon their risk assessment. If balances in this fund get above or below what is recommended by the actuary, future rates charged to Departments are adjusted.

**Fund Name:** Police Garage

**Fund Number:** 2205

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**Recommendation:** We recommend that the unrestricted net assets be evaluated for appropriateness, if the above mentioned purchases are not made. If the above purchases are made in 2009, the unrestricted net assets will likely fall below the threshold of three months of operating expenditures.

**City Comment(s):** It is appropriate for this fund to have more than a three month balance. The August 31, 2007 balance appears to be about 6 months. This fund purchases vehicles for the Police Dept. This is at least several hundred thousand dollars each year. These purchases are usually done in large quantities, necessitating that cash be available. Given the nature of the fund, this balance is appropriate.

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**Fund Name:** Communication Services

**Fund Number:** 2206

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**Recommendation:** We recommend that appropriateness of unrestricted net assets of \$161 thousand at August 31, 2007 be evaluated. Considerations should include the desired reserve for future purchases.

**City Comment(s):** . In addition to day to day operations, this fund purchases communication equipment for many other Departments, to be reimbursed later. It is also responsible for maintaining the city's communications towers. When these costs occur they can be fairly large. We believe this balance to be appropriate for the services provided by this fund.

**Fund Name:** Copy Services

**Fund Number:** 2208

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**Recommendation:** We recommend that the per copy fee be lowered as discussed above. In addition, we recommend that management evaluate the possibility of accelerating the rate decrease to benefit each department during a difficult economic period.

**City Comment(s):** . We agree with the recommendation and in January of 2009 issued budget instructions including lower rates for the upcoming budget year. We had kept the user rates the same for a number of years. Holding rates steady or lowering them is the proper way to let all users utilize any accumulated fund balance.



City Audit Advisory Board  
Additional Comments from the Community Health Endowment  
April 30, 2009

1. The audit report indicates that CHE lacks a formally-adopted investment policy. This is not true. CHE operates by a very comprehensive investment policy that has been formally adopted by the Board of Trustees. If the Audit Advisory Board would like a copy, please contact CHE.
  
2. The audit report indicates that CHE lacks a "method for tracking inflation adjustment." This is not true. CHE tracks inflation adjustment regularly and it is reported to the Board of Trustees on a quarterly basis.
  
3. CHE is concerned with the proposition that "undesignated funds exceeding the cumulative inflation adjustment should be used for current health and health-related programs." CHE could never prepare for an economic downturn using such a strategy. If the CHE fund had excess positive returns in one year, and was required to spend out this full amount, the fund would not be in a position to provide community funding in years with excess negative returns without invading the principal. CHE's current strategy represents a very prudent investment and grantmaking strategy that is not reactionary to volatile environments and provides for stable grantgiving, even in difficult economic times.

## MEMORANDUM

**DATE:** May 12, 2009  
**TO:** Steve Hubka - Budget Officer  
**FROM:** Bill Kostner - Risk Manager  
**RE:** Audit Advisory Board Recommendations

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The City of Lincoln has utilized self funding for many years to keep it's insurance costs low. Regarding the Insurance Revolving Funds, these are a series of 14 funds relating to various City Insurance or Self Insurance matters. We have used outside actuaries annually to determine the IBNR (or incurred but not reported) claims potential for most of these funds. I will summarize below our Insurance Revolving Funds and fund balances and what these are used for, as of 8/31/2007:

620, Self Insured Health, \$3,545,031. This fund is reviewed annually by our actuaries at Milliman. This reflects the City and employee premiums, plus any rebates, collected for employee health care.

621, Self Insured Dental, \$334,073. This fund is reviewed annually by our actuaries at Milliman. This reflects the City and employee premiums, collected for employee dental care.

622, COBRA & Retirees Ins Premiums, \$263,013. This fund reflects insurance costs collected for COBRA and retiree health, dental or vision insurance. Only 2% (two percent) of the COBRA fees (and none of the retiree payments) stay in this fund. All others are distributed to either the Self Insured Health Fund, Self Insured Dental fund, County, or to the health, dental or vision providers directly.

625, Health Care, \$16,377. This fund reflects money that has been earmarked for Wellness, from some years ago. Risk Management works with the City Wellness Committee annually using a \$5,500 miscellaneous Wellness budget from this fund to pay for wellness presentations and programs.

630, Workers Compensation Loss, \$5,883,575. The City of Lincoln has been Self-Insured for Workers Compensation for over 35 years. We are required by the Workers Compensation Court to check our IBNR annually through an actuarial firm, and we use Aon Risk Insurance Services West as our actuary.

631, Damaged Property, \$78,390. This fund reflects money that Risk Management has recovered for other departments that had property damaged by outside third parties. This may include money recovered for damaged light poles, signage, downed trees, etc, that the effected department may use to replace the damaged items.

632, Property Self Insured Loss, \$762,012. This fund reflects self insured dollars that Risk Management uses to pay our self insured retention and other claims under the Property Insurance policy. We have a \$50,000 self insured retention for most of these claims. This fund would also be utilized for large scale hail, tornado, fire, flood or natural disasters to property, vehicles or to unlicensed equipment.

633, Liability Self Insured Loss, \$1,056,653. This fund is reviewed annually by our actuaries at Aon Risk Services West. This fund is used for all liability claims against the City of Lincoln. We have a \$250,000 self insured retention for these claims.

634, Insurance Premiums, \$143,002. Risk Management uses this fund to pay insurance premiums on an annual basis. Usually payments are made for insurance effective September 1, and departments are billed for these insurance costs in September - October as we enter the new fiscal year.

635, Star Tran Self Insured Loss, \$895,302. This fund is reviewed annually by our actuaries at Aon Risk Services West. This fund is used for all Star Tran liability claims against the City of Lincoln. We have a \$250,000 self insured retention for these claims.

636, Excess Self Insured Loss, \$1,689,126. This fund is reviewed annually by our actuaries at Aon Risk Services West. This fund may be used for all excess claims that may rise above our existing claim funds or for any serious or catastrophic loss to the City of Lincoln.

637, Police Self Insured Loss, \$1,220,357. This fund is reviewed annually by our actuaries at Aon Risk Services West. This fund is used for all police liability claims against the City of Lincoln. We have a \$250,000 self insured retention for these claims.

638, Auto Self Insured Loss, \$762,836. This fund is reviewed annually by our actuaries at Aon Risk Services West. This fund is used for all auto liability claims against the City of Lincoln. We have a \$250,000 self insured retention for these claims.

640, Long Term Disability, \$131,765. This fund is reviewed annually by our actuaries at Milliman. This fund is used for all civilian long term disability claims against the City of Lincoln.

Thank you for this opportunity to explain our insurance funds. Please advise if you have any additional questions.

Bill Kostner MBA, ARM-P  
Risk Manager  
441-6009 - direct  
441-6800 - fax

c: Don Herz - Finance Director  
Peggy Tharnish - City Controller  
Jaime Phillips - Administrative Secretary

**INSURANCE REVOLVING FUND**  
**as of 8/31/2007 CAFR**

FUND	Cash & Invest	Street Lights Loan to General Fd	Claims Liability	Net All Other Assets/Liabilities	Fund Balance
Health 620	3,340,605	207,575	(1,390,997) @	19,734	2,176,917
Dental 621	314,998	19,587	- @	(47,605) #	286,980
Cobra & Retirees 622	247,849	15,381	-	2,224	265,454
Health Care 625	15,469	920	-	116	16,505
Worker's Comp 630	5,538,607	344,160	(2,722,000) *	2,397	3,163,164
Damaged Property 631	73,950	4,601	-	(374)	78,177
Property SI 632	718,199	44,565	-	6,479	769,243
Liability SI 633	996,009	61,917	(1,021,000) *	10,791	47,717
Ins Premiums 634	134,731	8,413	-	1,199	144,343
StarTran SI 635	843,725	52,452	(204,000) *	7,542	699,719
Excess SI 636	1,591,878	98,857	-	14,021	1,704,756
Police SI 637	1,150,033	71,514	(65,000) *	10,230	1,166,777
Auto SI 638	718,804	44,696	(347,000) *	6,092	422,592
L-T Disability 640	124,155	7,756	(605,509) *	1,199	(472,399)
<b>totals</b>	<b>15,809,012</b>	<b>982,394</b>	<b>(6,355,506)</b>	<b>34,045</b>	<b>10,469,945</b>

@ Based on actual claim data provided by Coventry and Ameritas

\* Based on actuarial analysis

# Includes \$50,970 dental claims Accounts Payable in 2007 which is now reported as Claims Liability beginning 2008



# CITY OF LINCOLN NEBRASKA

MAYOR CHRIS BEUTLER

lincoln.ne.gov

Lincoln City Libraries

Pat Leach, Director

136 South 14th Street

Lincoln, Nebraska 68508-1899

402-441-8500

library@lincolnlibraries.org

lincolnlibraries.org

## LIBRARY BOARD OF TRUSTEES

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Jeff Kirkpatrick, Vice President

April Stevenson, Treasurer

Lynda Anderson

Marlene Cupp

Maja Harris

Kathy McKillip

## Annual Report, Fiscal Year 2007-2008

This year saw a major change in Lincoln City Libraries. Carol Connor, Library Director for 30 years, announced her retirement. Carol oversaw Lincoln City Libraries through times of great change, including major branch expansion, the creation of two new branch libraries, the switch from index cards to automation, and the rise of the Internet. Through it all, Carol remained a staunch advocate for literacy and the love of literature, and the role of the public library in community life.

The attached statistical report provides some of the numbers that describe our services. During this fiscal year, we changed our courtesy notices for overdues and reserves from being mailed to being emailed or delivered via telephone. We began use of credit card readers on self-checkout machines. In many ways, the libraries have worked to maximize use of automation so that our staff are available to assist our customers one-on-one.

Some of the customer stories that were shared during this time include:

- A gentleman who called from California. He was there attending to his gravely ill mother when he realized that his Lincoln City Libraries books were overdue. His phone call to a library staff member resulted in a compassionate extension of his time, and one small relief during a difficult period.
- A Walt Branch Library staff member reported that she was confused when a little girl ran over to her to say "Thank you!" The girl's mother explained that they'd had a terrific time at that evening's Family Story Time.
- A staff person who works with one of Lincoln's Legacy facilities commented that the book discussions that the library provided increased in size and interest. People who generally had not participated in other facility events were involved in the book discussions.
- At Prime Time Family Reading Time at Bennett Martin Public Library, one of the fathers who had attended regularly stood up at the final meeting to make a presentation on behalf of his family, thanking the library and the presenters for providing such a beneficial program.
- A customer who needed some special attention from library staff to print her resume and a letter of application for a job commented as she left, "What would I have done without you?!"

For over 130 years, Lincoln City Libraries has provided quality library service. In April of 2008, the Library Board approved an updated Mission Statement, "**Lincoln City Libraries fosters the power of reading and provides open access to all forms of information to enrich people's lives every day.**"

# LINCOLN

*The Community of Opportunity*

Lincoln City Libraries fosters the power of reading and provides open access to all forms of information to enrich people's lives every day.

**Annual Report**  
**Lincoln City Libraries**  
**September 1, 2007 – August 31, 2008**

**Lincoln City Libraries**  
**136 So. 14th Street**  
**Lincoln, NE 68508**  
**www.lincolnlibraries.org**  
**402-441-8500**

**Population of Legal Service Area: 261,742**

**Public Service Hours Per Week: 470**

**Number of Facilities: 8**

**Number of bookmobiles: 1**

**HEADQUARTERS:**

**Bennett Martin Public Library**  
**136 So. 14<sup>th</sup> Street**  
**Circulation: 600,017**  
**Public Service Hours Per Week: 54**  
Monday – Saturday 10 a.m. – 6 p.m.  
Sunday 12 p.m. – 6 p.m.

**Charles H. Gere Branch**  
**2400 So. 56<sup>th</sup> Street**  
**Circulation: 1,017,750**  
**Public Service Hours Per Week: 64**  
Monday – Thursday 10 a.m. – 8 p.m.  
Friday – Saturday 10 a.m. – 6 p.m.  
Sunday 12 p.m. – 8 p.m.

**BRANCH LIBRARIES:**

**Arnold Heights Branch**  
**3815 NW 54<sup>th</sup> Street**  
**Circulation: 14,436**  
**Public Service Hours Per Week: 28**  
Monday 2 p.m. – 8 p.m.  
Tuesday - Wednesday 2 p.m. – 6 p.m.  
Thursday 2 p.m. – 8 p.m.  
Friday - Saturday 2 p.m. – 6 p.m.  
Sunday Closed

**Loren Corey Eiseley Branch**  
**1530 Superior Street**  
**Circulation: 526,910**  
**Public Service Hours Per Week: 64**  
Monday – Thursday 10 a.m. – 8 p.m.  
Friday – Saturday 10 a.m. – 6 p.m.  
Sunday 12 p.m. – 8 p.m.

**Bess Dodson Walt Branch**  
**6701 So. 14<sup>th</sup> Street**  
**Circulation: 599,624**  
**Public Service Hours Per Week: 64**  
Monday – Thursday 10 a.m. – 8 p.m.  
Friday – Saturday 10 a.m. – 6 p.m.  
Sunday 12 p.m. – 8 p.m.

**South Branch**  
**2675 South Street**  
**Circulation: 125,411**  
**Public Service Hours Per Week: 64**  
Monday – Thursday 10 a.m. – 8 p.m.  
Friday - Saturday 10 a.m. – 6 p.m.  
Sunday 12 p.m. – 8 p.m.

**Bethany Branch**  
**1810 No. Cotner Blvd.**  
**Circulation: 89,678**  
**Public Service Hours Per Week: 48**  
Monday – Saturday 10 a.m. – 6 p.m.  
Sunday Closed

**Victor E. Anderson Branch**  
**3635 Touzalin Avenue**  
**Circulation: 183,564**  
**Public Service Hours Per Week: 64**  
Monday – Thursday 10 a.m. – 8 p.m.  
Friday – Saturday 10 a.m. – 6 p.m.  
Sunday 12 p.m. – 8 p.m.

**Bookmobile**  
**Circulation: 24,948**  
**Public Service Hours Per Week: 20**  
Tuesday – Saturday various city and county sites

**REVENUE:**

**Local Government Revenue:** *This includes all local government funds designated by the community and available for expenditure by the public library. Does not include the value of any contributed or in-kind services or the value of any gifts and donations, library fines, fees, or grants.*

City of Lincoln:	\$6,423,458	
Lancaster County:	\$ 626,115	
Keno & Interest Earned:	<u>\$ 506,385</u>	
<b>Total Local Revenue:</b>		<b>\$7,555,958</b>

**State Revenue:** *These are funds distributed to public libraries by Nebraska state government for expenditure by the public libraries. This does not include federal money distributed by the state.*

State Aid:	\$53,955	
Continuing Education/Training Grant:	\$5,330	
Other State Government Revenue:	<u>\$11,534</u>	
<b>Total State Government Revenue</b>		<b>\$70,819</b>

**Federal Government Revenue:** *This includes all federal government funds including federal money distributed by the Nebraska Library Commission as Library Improvement grants.*

Library Improvement Grant	<u>\$41,400</u>	
<b>Total Federal Government Revenue</b>		<b>\$41,400</b>

**Other Revenue:** *This is all operating revenue other than that reported under local, state, and federal operating revenue including monetary gifts and donations received, interest, library fines, fees for library services, and grants. Does not include the value of any contributed or in-kind services or the value of any non-monetary gifts and donations.*

<b>Other Revenue</b>	<b><u>\$790,855</u></b>	
<b>TOTAL OPERATING REVENUE</b>		<b>\$8,459,032</b>

**Capital Revenue:** *Revenue to be used for major capital expenditures.*

<b>Local Government Capital</b>	<b><u>\$563,300</u></b>	
<b>TOTAL CAPITAL REVENUE</b>		<b>\$563,300</b>

## OPERATING EXPENDITURES

Operating Expenditures: current and recurrent costs necessary to support library services.

Salaries and Benefits:	\$5,546,991	
Collection Materials:	\$1,250,855	
Facility	\$ 64,609	
Utilities	\$ 286,125	
Office supplies	\$96,424	
Postage	\$29,973	
Telephone	\$22,101	
Insurance	\$62,525	
Contracts-for-services	\$290,965	
Electronic access	\$299,844	
Continuing Education	\$7,612	
Miscellaneous	<u>\$230,642</u>	
<b>TOTAL OPERATING EXPENDITURES</b>		<b>\$8,188,666</b>

**TOTAL CAPITAL EXPENDITURES** **\$44,971**

## LIBRARY HOLDINGS

Number Held	Books (print)	E-Books	Audio	Video	Data Bases	Mag Sub	Misc	Total
Previous year	802,577	12,427	61,454	49,723	45	1,831	47,251	975,308
Added	54,057	3,457	5,916	7,358	6	14	1,401	72,209
Withdrawn	88,023	0	5,245	5,392	5	32	12,762	111,459
Current year	768,611	15,884	62,125	51,689	46	1,813	35,890	936,058

## LIBRARY SERVICES

Number of registered borrowers: 207,545  
Annual library visits: 1,601,180  
Annual reference transactions: 395,094  
Number of Internet computers available to the public: 97  
Annual uses of public Internet computers: 298,746  
Number of children's programs: 1,746  
Children's program attendance: 76,824  
Number of adult programs: 322  
Adult program attendance: 2,254  
Circulation of adult materials: 1,682,060  
Circulation of children's materials: 1,500,276  
Circulation total: 3,182,338  
Total lost materials: 15,793  
Total library materials loaned to other libraries: 3,247  
Total library materials borrowed from other libraries: 7,747  
Number of online public access computers: 68  
Total paid employees: 117 full time equivalents  
Total number of volunteers: 1,009



# PUBLIC WORKS & UTILITIES ADVISORY

MAYOR CHRIS BEUTLER

[lincoln.ne.gov](http://lincoln.ne.gov)

June 8, 2009

## **Northwest Chambers; Northwest Columbine - Northwest Dahlia Residential Rehabilitation Project #701807**

Dobson Brothers Construction will be replacing broken and settled pavement for the Engineering Services Division of the Public Works and Utilities Department as part of its 2009 Residential Rehabilitation.

The proposed construction will take approximately a week barring weather or unforeseen conditions. Northwest Chambers will be closed, but local traffic will be allowed for the home owners.

The City of Lincoln realizes this project may temporarily inconvenience you. Some residences may be kept out of their driveways while the pavement is being replaced. You may park on Northwest Chambers at night as long as your vehicles are moved in the morning so that the contractor can work.

This project is being built with no extra cost to you and is funded from the wheel tax/gas tax.

If you have any problems or questions during this street repair, please contact me and we will try to resolve the issue.

Steven R. Faust  
Pavement Management Coordinator  
City of Lincoln, Engineering Services  
531 Westgate Boulevard, Suite 100  
Lincoln, NE 68528  
Phone: 441-8413  
Fax: 441-6576  
[sfaust@lincoln.ne.gov](mailto:sfaust@lincoln.ne.gov)

# Combined Weed Program City of Lincoln May 2009 Monthly Report

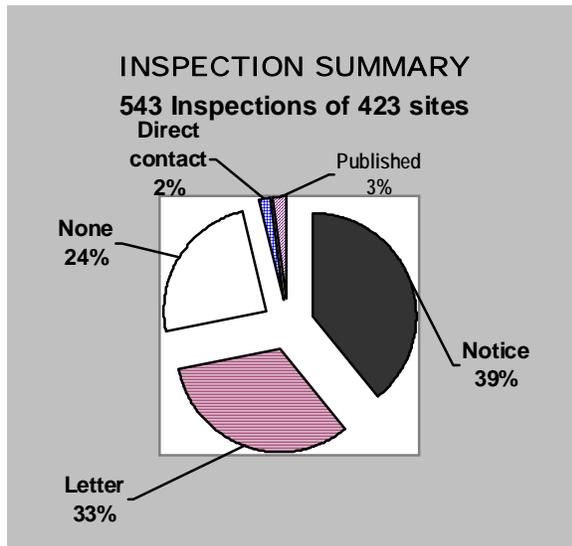
## Inspection Activity

A total of 980 inspections on 980 sites were made this year and 720 inspections were done during the month.

### Noxious Weeds

- Made 437 inspections on 364 sites on 2,045 acres.
- Found 320 violations on 286 acres.
  - 244 musk thistle
  - 26 leafy spurge
  - 50 phragmites
- Found no violations on 59 sites.
- Sent 20 notices, 155 letters, and made 68 personal contacts.
- Landowners control 32 sites.
- Inspectors controlled 11 sites.
- Control is pending on 262 sites.

### Weed Abatement



- Made 543 inspections on 423 sites on 227 acres.
- A total of 273 complaints have been received 264 sites.
- Found 310 violations on 114 acres.
- Found no violations on 116 sites.
- Sent 186 notices, 156 letters, published 10 notifications, made 8 personal contacts.
- Landowners cut 31 sites.
- Forced cutting contracts have let for 30 sites.
- Cutting is pending on 276 sites.

### May Activities

- 6 Meeting w/ FSA
- 7 Sheldon Power Plant
- 8 Streambed Ownership Task Force
- 18 Begin City Weed Abatement inspections
- 21 LPWMA Mtng
- 22 Douglas Goering
- 26 Staff Meeting  
Budget Hearing

### Planned June Activities

- 11 Management Team meeting
- 25 LPWMA Meeting

## Tammy J. Grammer

---

**From:** Jon Camp  
**Sent:** Wednesday, June 10, 2009 8:19 AM  
**To:** Tammy J. Grammer  
**Subject:** FW: Budget

---

**From:** H. Arnold Wassenberg [HWASSENBERG@neb.rr.com]  
**Sent:** Monday, June 08, 2009 4:08 PM  
**To:** Jon Camp  
**Subject:** RE: Budget

Why is it that whenever government spends the same amount on a program as last year it is called a budget cut and jobs and services must be slashed to do the same business as they did last year?

I just can't get it. Can't we just talk about increases and decreases (if ever) in spending and not about budgets? It would be a lot less confusing for everyone.

Thank you for your time,

H. Arnold Wassenberg  
8101 Dundee Dr.  
Lincoln, NE 68510  
402-489-4645 work #

## Tammy J. Grammer

---

**From:** Jon Camp  
**Sent:** Wednesday, June 10, 2009 8:20 AM  
**To:** Bruce D. Dart  
**Cc:** Tammy J. Grammer  
**Subject:** FW: ABA Article on cost of breed discriminatory laws  
**Attachments:** breed article.pdf

**Importance:** High

Bruce:

A number of emails are being received on the pitbull/dangerous animal issue. I will forward these to you. Would you please make some recommendations to John Spatz and me, as well as our colleagues, on possible ways to address this issue? Perhaps you can provide comments at next Monday's Directors' Meeting.

Thank you,

Jon

TAMMY: Please copy for Directors' Agenda

---

**From:** Ledy Vankavage [ledyv@bestfriends.org]  
**Sent:** Monday, June 08, 2009 4:00 PM  
**To:** Doug Emery; Jon Camp; Jonathan A. Cook; John Spatz; Eugene W. Carroll; Adam A. Hornung; Jayne L. Snyder; Tammy J. Grammer; cbeutler@lincoln.ne.gov; John V. Hendry  
**Subject:** ABA Article on cost of breed discriminatory laws

June 8, 2009

Dear Mayor and Council Members:

Best Friends opposes canine profiling. The problem of dangerous dogs is not remedied by the quick fix of breed-discriminatory laws. All dogs can bite. Studies of pre and post breed ban dog bite rates in the United Kingdom and Spain concluded that their pit bull breed ban had no affect whatsoever on reducing dog bites.

Indeed, Hiawatha, Iowa repealed their pit bull ban because of identification problems and expense. Now that DNA testing is available to determine the breed of a dog, breed discriminatory laws have gotten very expensive for counties to enforce.

Click here to calculate the cost of a breed specific law for Lincoln Nebraska

<http://www.guerrillaeconomics.biz/bestfriends/>

Moreover, in its study of human fatalities resulting from dog bites, the CDC did not support the breed specific approach. The CDC noted many other factors beyond a dogs breed may affect a dog's tendency toward aggression – things such as reproductive status, heredity, sex, early experience, and socialization and training. These concerns seem well-founded given that more than 70% of all dog bite cases involve unsterilized male dogs, and an unneutered male dog is 2.6 times more likely to bite than a neutered dog. In 2006, 97% of all dog related human fatalities in the United States involved unsterilized canines.

Another insidious problem seen with canine profiling is the potential for abuse. The result is selective enforcement that sometimes is triggered simply by the ethnic background of the owner.

Breed discriminatory laws cause unintended hardship to responsible owners of entirely friendly, properly supervised and well-socialized dogs that happen to fall within the regulated breed category. Although these dog owners have done nothing to endanger the public, they may be forced by the municipality to either give up their dogs or move out of their home. The pets that are given up are killed.

The most harmful consequence of breed-discriminatory laws is their tendency to compromise rather than enhance public safety. Resources are shifted away from routine, effective enforcement of laws that have the best chance of making our communities safer: leash laws, dog license laws, spay/neuter laws and animal fighting laws.

Rather than breed-discriminatory restrictions, animal control laws should allow animal control wardens or law enforcement officers to declare any dog to be “dangerous” regardless of its breed if it attacks a person or companion animal without justification and causes physical injury or death, or behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons or companion animals. Any dog that is found to be “dangerous” should be required to be:

1. **Spayed or Neutered.** Studies have shown that more than 70% of bite cases come from animals that are not neutered. If a dog is found to be “dangerous”, it should be mandated that it be spayed or neutered.
2. **Micro chipped.** If a dog is found to be “dangerous” it should be required to be micro chipped so there is a permanent identification of the dog. Dogs of some breeds are easy to confuse, especially if the owner has multiple dogs of the same breed.
3. **Muzzled.** All “dangerous dogs” should be required to be muzzled when in a public place, and walked by a person at least 18 years of age.
4. **Restrict Tethering.** 25% of all fatal dog attacks involve tethered dogs. Most dog fighters chain their animals.
5. **Prevent Reckless Owners from owning dogs.** Tacoma, Washington and St. Paul Minnesota prevent reckless owners from owning dogs in their cities. This effectively targets irresponsible recidivists who encourage dogs to be aggressive and just acquire another once one is taken from them.

As former Chair of the American Bar Association’s Animal Law Committee’s Dangerous Dog Subcommittee, I have enclosed an article for you and the city council members that appeared in the American Bar Association’s Government Publication. The ABA is coming out with a book on Dangerous Dog Laws next month. I am more than willing to work with your city attorney to draft a fair and comprehensive ordinance to protect the public from reckless owners and dangerous dogs. Since I am employed by Best Friends there is no charge for my services. I hope to hear from you soon. Thank you so much for your consideration.

Ledy VanKavage, Esq.  
Senior Legislative Analyst  
Best Friends Animal Society  
PO Box 313, Maryville, IL 62062  
[ledyv@bestfriends.org](mailto:ledyv@bestfriends.org)  
618-345-8086  
618-345-6542 FAX  
435-689-1969 CELL

## All Bark and Fiscal Bite—Are Breed-Discriminatory Laws Effective?

By Ledy VanKavage

A dog attacks, and city-council members want the city attorney to react—sometimes by drafting an ordinance that restricts or outlaws a specific breed of dog, most often the maligned pit bull.<sup>1</sup> After such an ordinance is passed, authorities must then ferret out and kill any dog that slightly resembles a pit bull. Prince George's County Maryland spends approximately \$560,000 every two years enforcing its ban. Miami-Dade County impounds and kills around 800 pit bulls a year, despite a ban dating back to the 1980s, resulting in a significant fiscal impact.<sup>2</sup>

Given the tremendous costs associated with breed-discriminatory laws, are they a prudent approach to community safety or a costly red herring? With passage of such ordinances comes a host of questions such as: How do you prove in court the identity of a mixed-breed dog? What sort of training do your animal-control or law-enforcement officers have regarding breed identification? If they aren't trained in breed identification, is a veterinarian employed to determine whether a dog is a certain breed? Now that DNA testing is available, are courts going to require the government to pay for such testing before confiscating and destroying citizens' property (i.e., their dogs)?



### Missing the Mark by Targeting Pit Bulls

Effective public lawyers counsel their clients to make decisions based on research and valid statistics, not emotion. So why the modern-day witch hunt concerning pit bulls? Karen Delise, author of "Fatal Dog Attacks" and "The Pit Bull Placebo," examined news stories regarding dog attacks that occurred during four days in August 2007. The results are telling:

- On Aug. 18, 2007: A Labrador mix attacked a 70-year-old man, sending him to the hospital in critical condition. Police officers arrived at the scene, and the dog was shot after charging the officers. This incident was reported in one article and only in the local paper.
- On Aug. 19, 2007: A 16-month-old child received fatal head and neck injuries after being attacked by a mixed-breed dog. This attack was reported two times by the local paper.
- On Aug. 20, 2007: A 6-year-old boy was hospitalized after having his ear torn off and receiving severe bites to the head by a medium-sized mixed-breed dog. This attack was reported in one article and only in the local paper.
- On Aug. 21, 2007: A 59-year-old woman was attacked in her home while trying to break up a dog fight involving her neighbor's Jack Russell terrier and two pit bulls. The pit bulls had broken off their chains and followed her neighbor's Jack Russell terrier in through her dog door. She was hospitalized with severe injuries. Her dog was not injured. This attack was reported in more than 230 articles in national and international newspapers and on major television news networks, including CNN, MSNBC, and Fox.

Thus, during those four days, four dog attacks made the news—including a fatality involving a mixed-breed dog—but only the incident involving the pit bulls captured national attention.

Given the hype, it isn't a surprise that public lawyers may be asked to research and draft ordinances to help stop dog attacks, with the focus frequently on banning pit bulls. However, a smarter approach is to examine the statistics in the community, seek citizen input and weigh the factors involved in the attacks.

### What Factors Are Involved in Severe Attacks?

According to Delise, now with the National Canine Research Council, the fatal dog attacks that occurred in the United States in 2006 had these commonalities:

- 97 percent of the owners did not neuter or spay their dogs.
- 84 percent of the attacks involved reckless owners—owners who abused or neglected their dogs, failed to contain their dogs or improperly chained their dogs.
- 78 percent of the owners did not maintain their dogs as pets (they were used as guard, breeding or yard dogs).

In lieu of drafting costly breed-discriminatory laws, public lawyers must decide if legislation targeting the aforementioned factors would be more effective.

### Restrict Reckless Owners from Harboring Dogs

It makes sense to restrict or even ban reckless owners from owning a dog—any breed of dog—because any dog can bite. And reckless owners, like reckless drivers, are often recidivists. Creative public lawyers have already realized this.

In 2007, the city of St. Paul, Minnesota, passed an ordinance targeting reckless dog owners. St. Paul pet owners cited more than once for abusing or neglecting an animal can't legally own another pet under the ordinance. The law targets pet owners who train their dogs to fight, puppy-mill operators and reckless dog owners. Reckless dog owners can't register a new animal if their dogs are removed twice in a five-year span. City law requires all dogs more than three months old to have a license that costs \$50 a year; the cost is reduced to \$10 a year if the animal is spayed or neutered.

Also in 2007, the city of Tacoma, Washington, created an ordinance regulating "problem pet owners." A person who commits three or more animal-control violations in a 24-month period can be declared a problem pet owner and forced to surrender all of their animals.

### Encourage a Community-Policing Approach to Animal Control

Since Calgary, Alberta, enacted and enforced a new aggressive-dog ordinance, the city has experienced a 56 percent decline in aggressive-dog incidents and a 21 percent decline in biting incidents in just two years. Calgary does not discriminate against particular breeds of dogs but focuses on protecting the public from all aggressive dogs regardless of breed. The city's animal-control wardens adopt a community-policing/problem-solving approach when dealing with members of the public. The focus is on stiff fines and public education. The city encourages its wardens to get out of their trucks and talk with folks. If a dog bites a person, a \$350 fine is imposed; if the person needs medical attention, the fine increases to \$750. There is also a \$250 fine for a dog-on-dog attack or if an owner fails to license their pooch.

This is in stark contrast to cities that have enacted breed-discriminatory laws. Studies show that breed-discriminatory laws are ineffective in protecting the public from dog attacks. One study involves the U.K.'s Dangerous Dog Act, which banned pit bulls in 1991. The study concluded that the ban had no effect whatsoever on stopping dog attacks.<sup>3</sup>

The most recent study compared dog bites reported to the health department of Aragon, Spain, for five years before and five years after the introduction of its Dangerous Animals Act. As with the earlier study, there was no change in numbers of reported dog bites after the implementation of breed-discriminatory legislation, and the breeds most responsible for bites both before and after the breed-discriminatory legislation were those unrestricted by the legislation: German shepherds and mixed-breed dogs. The restricted breeds—American Staffordshire terriers, pit-bull terriers and Rottweilers—were responsible for less

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## The CSI Impact on Breed-Discriminatory Ordinances: Doggy DNA

Recently, DNA testing became available to determine a dog's heritage. These scientific advances have impacted breed identifications by animal-control wardens, police officers and even veterinarians.

If a city or state has adopted a breed-discriminatory law, the burden of proof is on city officials to prove that a dog is a member of the targeted breed, either through preponderance of evidence or in some cases—if there are criminal penalties—beyond a reasonable doubt.

In Kansas City, a man won his eight-month legal battle with the city to keep his dog, Niko, after DNA testing proved Niko wasn't a pit bull, as the animal-control wardens had asserted. Niko was housed at animal control for the entire eight months of the court case, at a great cost to the town taxpayers. Niko, a mixed-breed dog, is now back home after the ordeal.

Breed-discriminatory laws now need to take DNA evidence and its cost into account.

than 4 percent of the reported bites both before and after the law took effect.<sup>1</sup>

### Eliminate Chaining Dogs, an Attractive Nuisance

According to Delise, 25 percent of all fatal attacks since the 1960s have been inflicted by chained dogs. Chained dogs can actually be attractive nuisances, luring children in to pet them. Many cities and some states, including Texas, have adopted chaining restrictions. Texas Health and Safety Code, Chapter 821, prohibits dogs from being tied up, chained or tethered under any of the following conditions:

- Between the hours of 10 p.m. and 6 a.m.
- Within 500 feet of school property.
- When the temperature is below 32 degrees.
- When a heat advisory or ozone alert has been issued.
- When a pinch, choke or improperly fitting nylon collar is used.

Restricting chaining between the hours of 10 p.m. and 6 a.m. can have the added benefit of reducing the number of barking complaints.

### Protecting the Public While Preserving Responsible Owners' Property Rights

Responsible dog owners should have the right to own whatever breed of dog they choose and reckless owners should be pro-

hibited from owning dogs. It is up to public lawyers to ensure effective ordinances that protect people from any dangerous dog, regardless of its breed. 

*Ledy VanKavage is an attorney with Best Friends Animal Society in Kanab, Utah. Formerly she was senior director of legislation and legal training, ASPCA. She also is vice-chair of the ABA Tort Trial & Insurance Practice Section's Animal Law Committee, and chair of the Dangerous Dog Subcommittee. She can be reached at ledyv@bestfriends.org.*

### Endnotes

1. "Pit bull" is a term commonly used to refer to several breeds of dogs, including the bull terrier, American Staffordshire terrier (also called the American pit bull terrier) and Staffordshire bull terrier.

2. REPORT OF THE VICIOUS ANIMAL LEGISLATION TASK FORCE, Prince George's County Council (July 2003); conversation at the Florida Animal Control Association Conference, Nov. 21, 2008, with Dr. Sara Pizano, Director of Miami-Dade Animal Care and Control.

3. Klaassen B., Buckley J.R., Esmail A. *Does the Dangerous Dogs Act Protect Against Animal Attacks: A Prospective Study of Mammalian Bites in the Accident and Emergency Department*, *Isj*, 27(2), 89-91(1996).

4. Rosado B., Garcia-Belengues, Leon M., Palacio J. *Spanish Dangerous Animals Act: Effect of the Epidemiology of Dog Bites*, *Jof Veterinary Behavior* 2, 166-174 (2007).

### Resources

- Kindness Index. Angel Canyon, UT Best Friends Animal Society, 2006. [www.bestfriends.org](http://www.bestfriends.org).
- National Canine Research Council, [www.nationalcanineresearchcouncil.com](http://www.nationalcanineresearchcouncil.com).

### Director of Externship Programs, Seattle University School of Law, Seattle, WA

The director of externship programs works with the director of law clinic and the vice dean, counsels and advises students on externship opportunities, administers and oversees all field placements, educates and trains field supervisors and conducts site visits, supervises associated adjunct faculty and administrative staff, develops and implements externship policies and procedures, oversees and develops the externship seminar curricula, provides vision and leadership for the school of law's extensive and diverse externship offerings. The director will be expected to teach at least one externship seminar. J.D. degree and a minimum of three years of practice experience are required; teaching experience is strongly preferred; clerkship experience is a plus. Applications will be considered beginning January 12, 2009, employment begins summer 2009. Electronic applications are encouraged. See [www.law.seattleu.edu](http://www.law.seattleu.edu) for more information.

**Contact:** Annette E. Clark, Vice Dean and Associate Professor of Law, Chair, Externship Program Director Search Committee, Seattle University School of Law, 901 12th Ave, Box 222000, Seattle, WA 98122, 206-398-4069, 206-398-4310, [annclark@seattleu.edu](mailto:annclark@seattleu.edu).

For additional job listings, visit the Division's Public Lawyer Career Center at [www.governmentlawyer.org](http://www.governmentlawyer.org). Listings without a deadline are open until filled. PSLawNet, [www.pslawnet.org](http://www.pslawnet.org) is used as a resource for this column.

# Five Pointers to Pass On

**M**any lawyers enter public service because they have a desire to litigate and have found that they can get into court earlier and more often than in private practice.



**Jennifer Meeks**

Division member  
Jennifer Meeks has litigated for over 10 years as an Assistant Attorney General

for the State of West Virginia, and in other positions with private and public entities. She passes on these pointers:

1. Be an excellent “real” litigator. Bill yourself as a litigator, and give your work the credit it deserves. Many public lawyers appear only before administrative bodies – this too is litigation. Toil as if your case will end up at the Supreme Court—it might!
2. Treat your client as if he or she has

the choice to engage another lawyer for legal services. The golden rule is a good rule of thumb. Good relations will serve you well both now and in the future.

3. Don't be afraid to speak up. Ask for help before getting overwhelmed. Ferret out the answer to troublesome points you discover in building your case. When alternatives are available, offer them.

4. Pursue lifelong education. Take advantage of formal training opportunities as well as informal ones. Train yourself. For example, read over that transcript with an eye towards critiquing your own performance, as well as finding quotations for your argument. Read all the Jim McElhaney you can find (there's always an article in the *ABA Journal*), and sign up for e-mail discussion lists to get other helpful advice.

6. Treat your support staff well. They can be lifesavers, and in government practice they are often great sources of information and experience. Don't let them run the show, but appreciate their professionalism and treat them accordingly. Remember that you (and your law license) are ultimately responsible.

and a bonus:

6. Dress the part. Even if you are not subject to last minute court appearances, you are probably subject to unscheduled meetings with your client, your boss, and perhaps other highly placed officials. Be prepared to look like a professional whenever it is required. 

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## Tammy J. Grammer

---

**From:** Jon Camp  
**Sent:** Wednesday, June 10, 2009 8:23 AM  
**To:** Bruce D. Dart  
**Cc:** Tammy J. Grammer  
**Subject:** FW: Lincoln, Nebraska's Possible Consideration of a Breed-Specific Ordinance

Another email.

---

**From:** Elizabeth Pensgard [bpensgard@yahoo.com]  
**Sent:** Tuesday, June 09, 2009 10:37 AM  
**To:** Doug Emery; John Spatz; Jon Camp; Jonathan A. Cook; Eugene W. Carroll; Adam A. Hornung; Jayne L. Snyder  
**Subject:** Re: Lincoln, Nebraska's Possible Consideration of a Breed-Specific Ordinance

UNITED RESPONSIBLE DOG OWNER GROUPS, INC.  
Established Oct 15, 1989  
Incorporated Washington & Illinois  
P.O. Box 1406 Newport, WA 99156  
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E-mail List <http://groups.yahoo.com/group/urdog>

Cherie Graves, WA, Chair, (509) 447-2821 Elizabeth Pensgard, Acting Chair, Executive Secretary, IL Director [bpensgard@yahoo.com](mailto:bpensgard@yahoo.com) Judy Chevalier, Executive Assistant to the Chair [chevalierbts@yahoo.com](mailto:chevalierbts@yahoo.com)

June 9, 2009

To:

Councilman Doug Emery, Chair  
Councilman John Spatz, Vice Chair  
Councilman Jon Camp  
Councilman Jonathan Cook  
Councilman Eugene Carroll  
Councilman Adam Hornung  
Councilwoman Jayne Snyder

Dear Chairman Emery, Vice-Chairman Spatz, and Esteemed Members of the Lincoln City Council:

It was of great concern to hear that Lincoln may be considering a breed-specific ordinance for "pit bulls," particularly as "pit bull" is not a breed recognized by any breed registry like the AKC, UKC, or ADDBA. The slang term "pit bull" can refer and has referred to many different breeds of dog. Based on the standard the media uses to define "pit bull," one could argue that any medium- or large-sized breed could technically be called a "pit bull." As such, statistics on "pit bulls" (like those from the CDC) are quite inaccurate making it appear as if the "pit bull" "breed" is inherently vicious or more dangerous. However, if actual breed determinations were made for attacking dogs instead of simply labeling them "pit bulls," no one breed would emerge as more statistically likely to bite/attack/kill. Indeed, in a course taught by the National Animal Control Association, a national organization that trains Animal Control officers, Dr. Daniel Estep instructs that "One breed is not more likely to bite than another breed."

Additionally, breed-specific ordinances often come with many complications and following are just a few of them:

\* Breed-specific laws are ineffective and expensive to enforce. For instance, Brighton, Colorado decided against a breed ban last September because,

"several municipalities in the area instituted pit-bull bans with no reduction in vicious animal complaints and with a significant increase in the number of hours worked by animal control staff. In addition, costs associated with enforcing breed specific bans on domestic animals escalate if the owner opts for trial, with DNA testing of the dogs posing a potential fiscal liability for the city" ([http://www.metrowestfyi.com/story\\_display.php?sid=10535](http://www.metrowestfyi.com/story_display.php?sid=10535)).

In the end, Brighton decided simply to enforce the laws they already had in place.

\* Making proper breed determinations is a considerable problem with any breed-specific provision, particularly with mixed breeds or breeds that have the same appearance and characteristics of the restricted breeds. It is difficult even for experts to properly determine breed at times, especially with mixed breeds, which is why such bans/restrictions have been found to be a violation of due process afforded every American citizen under the 14th amendment.

\* There is no scientific proof that any one breed is more inherently dangerous or vicious than another, only that some breeds are more popular at the time or that irresponsible owners may be disproportionately attracted to some breeds. Since it has not been proven that any one breed is inherently dangerous or vicious, there is no rational basis for restricting any one breed in any way, and doing so would be an equal protection violation under the 14th amendment to the Constitution.

Those proposing breed-specific legislation (BSL) use public safety as the reason for pushing breed bans/restrictions, at the same time, ironically, failing to prove that the public is in danger. That's because they can't prove that any one breed, or even an amassing of breeds, represents a danger. There is no such thing -- at least via empirical scientific data -- as an inherently vicious breed or breeds. There is, however, hysteria and a media propagating that hysteria, that labels almost every attacking, biting, or killing dog a "pit bull," though, as already noted, there is no such breed.

Also, the claim that "pit bulls" are more dangerous than the average canine is just another variant of the locking-jaws/more-powerful-jaws urban mythology of the "pit bull," which is wholly false. In 2005 Dr. Brady Barr in a show for National Geographic called "Dangerous Encounters" conducted bite-force tests for several kinds of animals from crocodiles and Great White sharks to snapping turtles and hyenas. Also included in the tests were three breeds of dog: the German Shepherd, the Rottweiler, and the American Pit Bull Terrier (APBT). [And while the APBT is an actual breed, I should make it clear that we still don't know if this is the breed to which the media and others are referring when they use the slang term "pit bull" to describe bites/attacks; though APBTs are almost always one of the breeds named when "pit bull" bans are passed.] Of the three, the American Pit Bull Terrier had the least amount of bite force, which was found to be well below the average dog's 320-pound bite pressure.

Dogs of any breed can do extensive damage in the rare instances when they attack simply because of their frenzied state. For example, in 2005 a woman in France became the first successful recipient of facial transplanted after her dog, a Labrador, mauled her face unrecognizable (<http://www.timesonline.co.uk/tol/news/world/europe/article727761.ece>). Yet France did not ban Labradors, nor did any of its regions. Because the mauling involved a Labrador and not the 'usual suspects' the media likes to report on like Rottweilers or the dogs they call "pit bulls," we would probably not even have known about the Labrador mauling its owner had the victim not been a breakthrough in medical science. Dogs of any breed can

bite or attack, which is why legislation must focus on the irresponsible behavior of people, not on a dog or even breeds of dog that have no comprehension of human law.

Ultimately, banning or restricting specific breeds leaves the public with only a false sense of security since any breed can bite or attack. The CDC concluded the same:

"Breed-specific legislation does not address the fact that a dog of any breed can become dangerous... From a scientific point of view, we are unaware of any formal evaluation of the effectiveness of breed-specific legislation in preventing fatal or nonfatal dog bites. An alternative to breed-specific legislation is to regulate individual dogs and owners on the basis of their behavior" (<http://www.cdc.gov/ncipc/duip/dogbreeds.pdf>).

An enforced leash law and a non-breed-specific dog law which place the responsibility on the owner are more than adequate to police irresponsible dog owners.

For your further consideration, I have herein included United Responsible Dog Owner Groups' Position Statement on Breed-Specific Legislation and Model Dog Owner Regulations. If you have any questions, please do not hesitate to contact me at [bpensgard@yahoo.com](mailto:bpensgard@yahoo.com).

Thank you very much for your time.

Respectfully,

Elizabeth Pensgard

Acting Chair, Executive Secretary, and Illinois Director, United Responsible Dog Owner Groups, Inc.

Director, Responsible Dog Owners Group of Illinois, Inc.

<http://www.povn.com/urdog>

<http://urdog.wordpress.com>

<http://groups.yahoo.com/group/UAOA>

<http://www.unitedanimalownersalliance.com>

<http://groups.yahoo.com/group/URDOG>

UNITED RESPONSIBLE DOG OWNER GROUPS, INC.

Established Oct 15, 1989

Incorporated Washington & Illinois

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Cherie Graves, WA, Chair, (509) 447-2821 Elizabeth Pensgard, Acting Chair, Executive Secretary, IL Director bpensgard@yahoo.com Judy Chevalier, Executive Assistant to the Chair chevalierbts@yahoo.com

#### POSITION STATEMENT ON BREED SPECIFIC LEGISLATION

Responsible Dog Owners of the Western States, now United Responsible Dog Owner Groups (URDOG), was formed October 15, 1989 to protect the rights, and interests of dog owners. URDOG opposes breed specific legislation (BSL) on legal, and moral grounds, and upon the Rules of Reason that all laws must meet. Our position is that every dog owner is responsible for protecting the public from his/her dog.

Our research shows that in the majority of severe or fatal dog attacks there had been numerous, previous reports made to Animal Control that were not acted upon. Our research further shows that as shocking, and traumatic as severe or fatal dog attacks are, they are relatively uncommon occurrences in comparison to other causes of severe injury, or fatalities in the United States, given that the vast majority of Americans are dog owners. The likelihood of any pure-bred, registered dog being involved in a fatal attack upon a human being is infinitesimal.

#### MORALITY

-BSL is based upon the urban myth of the "pit bull", which is not a recognized breed of dog. Under the guise of banning "pit bulls" any breed may be thus identified. There are at least seventy-five actual breeds, plus any mixed breed now either banned from ownership, or restricted in ownership in the United States. That is about 1/5 of all recognized breeds.

-BSL is inflammatory, and is based upon unproven beliefs, not facts.

-BSL is under inclusive in that it only recognizes a threat to society from certain breeds, or mixed breeds of dogs.

-BSL is over inclusive, as dogs are as varied within their breed, as are human beings within our ethnicity.

-BSL by stipulating, and naming specific breeds as being dangerous indemnifies all of the unnamed breeds as being safe by exclusion.

-BSL creates a false sense of public safety.

-BSL does not address the irresponsible dog owner.

-BSL punishes the law abiding dog owner.

-BSL orders the death of dogs based solely upon their physical appearance.

-BSL assumes that human beings are inferior to, and incapable of properly maintaining dogs of specific breeds, or appearance.

#### LEGALITY

-BSL has been ruled unconstitutional in Court venues across the United States on grounds ranging from vagueness, to an infringement of property rights, to equal treatment, equal protection.

-Dogs have been the domesticated traditional property of human beings for well over thirty-five thousand years. This tradition gives legal standing to dog owners based upon the IX Amendment of the Bill of Rights in the Constitution of the United States of America.

-BSL violates the rights granted under the IV Amendment to the Bill of Rights.

-BSL violates the rights granted under the V Amendment of the Bill of Rights.

-BSL violates the rights granted under VI Amendment to the Bill of Rights.

-BSL violates the rights granted under VIII Amendment to the Bill of Rights.

-BSL violates the rights granted under XIV Amendment to the Bill of Rights.

-BSL creates a whole new criminal class, the dog owner.

-BSL sets a legal precedent that unchallenged empowers the enacting body to add any, or all other dog breeds, or even domestic species of animals to the prohibition on ownership.

Zuniga v. San Mateo Dept. of Health Services (1990) 218 Cal. App. 3d 1521, 267 Cal. Rptr. 2d 755. The court found there was not sufficient evidence to prove Pit Bulls have an inherent nature of being dangerous.

Carter v. Metro North Assocs. (1998) 255 A.D. 2d 251; 680 N.Y.S.2d 299 A New York appellate court determined that the alleged propensities of Pit Bull Terriers to behave more viciously than other breeds had not been authoritatively established.

American Canine Foundation litigated the city of Huntsville Alabama in 2002 in a case that was heard by the Alabama Supreme Court. Huntsville v. Four Pit Bull Puppies (Ala. 08-30-02), No.1010459, unreported. The court affirmed a trial court decision that American Pit Bull Terriers were not dangerous.

On July 16th 2003 ACF brought forth a constitutional challenge against Ohio's state law O.R.C. 955:11 that declares the Pit Bull vicious. The case was heard in the Toledo Municipal Court. The court found the American Pit Bull Terrier was not dangerous, and granted Pit Bull owners due process. Tellings v State of Ohio CRB02-15267

In August 2004 a case American Canine Foundation assisted in was heard by the Ohio Supreme Court. State v. Cowan 103 Ohio St. 3d 144 , 2004 - Ohio - 4777 The court found ORC 955:22 violative of the right to be heard as applied to ORC955:11 which declared a specific breed of dog vicious in Ohio. The decision struck down Ohio's breed specific legislation at the state level. Ohio was the only state to have this type of legislation at the state level.

TITLE 42 > CHAPTER 21 > SUBCHAPTER I > § 1983 § 1983. Civil action for deprivation of rights . Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

TITLE 42 > CHAPTER 21 > SUBCHAPTER I > § 1982

§ 1982. Property rights of citizens All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

#### RULE OF REASON

- a.. Laws must be reasonable.
- b.. It is not reasonable to write animal behaviors, legal punishments, and criminal labels for animals into statutes that are enacted to structure human society.
- c.. Animals must not be criminalized under laws that are intended to protect human rights, and to control human behaviors.
- d.. It is unreasonable to write animal behavior into laws that no animal has the capacity to understand, answer to, or to function under.
- e.. It is unreasonable to mete out criminal labels to animals, i.e. dangerous, or potentially dangerous. It is unreasonable to prescribe punishments to animals under our laws.
- f.. It is unreasonable to remove the human owner from blame, or culpability for the actions of his/her animal(s).
- g.. It is unreasonable to assume that every dog of a given breed, or physical appearance will behave in exactly the same manner.
- h.. It is unreasonable to assume that every owner of every dog of a given breed, or physical appearance is irresponsible, negligent, or careless with his/her animal(s).
- i.. Human error, carelessness, or negligence is the underlying factor behind every dog attack.
- j.. Given the actual figures of severe dog attacks, or fatalities related to dog attacks per capita in the United States of America, dogs are not the threat to human life that the sensationalistic media, and urban myth would portray.

#### UNITED RESPONSIBLE DOG OWNER GROUPS, INC.

Established Oct 15, 1989

Incorporated Washington & Illinois

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#### MODEL DOG OWNER REGULATIONS

##### DOG OWNER'S RIGHTS

##### 1. Dogs are Personal Property

(a) The (city) (county) (state) of \_\_\_\_\_ recognizes that dogs are valuable personal property.

(b) No city, county or state authority shall restrict, or prohibit the ownership of dogs by breed, by size, by weight, or by intact status.

(c) No breed specific ordinances enacted in \_\_\_\_\_ shall stand.

(d) The (city) (county) (state) of \_\_\_\_\_ recognizes the right of the people to own any breed of dog in a responsible manner.

(e) It is the right of the dog owner to make informed medical choices concerning spay, neuter, or microchipping of his/her dog.

(f) Dogs are valuable property that shall be taxed by the city, or county against their assessed value, or the annual cost of care and/or maintenance, which ever is applicable.

## DOG OWNER RESPONSIBILITIES

### 2. Containment

(a) All dogs shall be securely contained to their owners premises. The dog owner shall protect the public from his/her dogs. The assumption of liability is upon the dog owner.

(b) All dogs shall be securely leashed when off of the owners premises, and under the of a supervision of a person who is physically capable of controlling the dog.

(c) Parents who allow their child to lead a dog in public access areas, assume all liability for any accident, harm, or injury caused.

(d) Dog owners who allow a child to lead their dog in public access areas, assume all liability for any accident, harm, or injury caused.

(e) Owners walking their dog(s) in public areas are required to pick up, and properly dispose of stool waste deposited from their dog(s).

(f) Owners of dogs found at large by animal control authorities must produce documentation, upon demand, of the dog's immunizations as required by the state.

(g) Nothing in this section shall apply to dog owners whose dogs are off lead for training purposes in public areas designated for dog training classes.

(h) It is the responsibility of the owner to be able to prove identification of his/her animal through any appropriate, non injurious means of his/her choice.

### 3. Standard of care

(a) It is the responsibility of each dog owner to provide for their dog(s) for the entirety of the dog(s) ownership. If the owner is unable to provide for the dog, it is the owner's responsibility to;

- 1.) Find the dog a new owner.
- 2.) Pay for euthanasia by a licensed veterinarian.
- 3.) Pay a local animal shelter to provide for the dog until a new owner can be found.

(b) Nurture

- 1.) Nutrition on a regular daily basis, and clean potable water readily available.
- 3.) Containment to the owners premises
- 4.) Training
- 5.) Immunizations as required by state law, and veterinary medical treatment as necessary for maintenance of health

(c) Failure to meet any of the standards of care are violations. The owner(s) shall be charged with either/or negligence, criminal negligence, or cruelty to animals depending upon the severity of the situation.

- 1.) If found guilty the Court shall fine the owner, and/or order or jail time commensurate with the harm done to the animal.
- 2.) The Court may remove the animal from the custody of the owner.
- 3.) The Court shall cause the property of dog owners who have been found guilty, to be posted with warning signs that are clearly visible on all perimeters that state, "IRRESPONSIBLE ANIMAL OWNER".
- 4.) The signs may be removed after five years with no violations.

#### 4. Noise Nuisance

(a) It is the responsibility of the owner to prevent his/her dog from causing a noise nuisance by barking. Incessant barking indicates lack of care.

- 1.) Owners may be ticketed for noise nuisance, and fined.
- 2.) This section does not apply to dogs barking to alert their owners.

#### 5. Dogs At Large

(a) Any owner who allows his/ her dog to run at large shall be fined one hundred dollars (\$100.00) for the first violation

(b) The second violation shall incur a fine of two hundred dollars (\$200.00)

(c) The third violation shall incur a fine of four hundred dollars (\$400.00)

(d) The fourth violation by the owner shall cause the dog to be confiscated by the Animal Control Authorities and, after evaluation of temperament by qualified personnel, either placed into a responsible home, or humanely euthanized.

(e) Nothing in this section shall pertain to owners hunting with dogs.

#### 6. Owner Liability

(a) A dog owner will be charged with negligence for any property damage, or harm, or injury done by his/her dog when the dog was at large, off of the owners premises, and out of the owners immediate control. If the dog's owner is found guilty in a Court of law, then he/she shall be held liable. This liability shall include remuneration, fines, and/or jail time, at the Court's discretion, and depending upon the severity of the damage, harm, or injury done by the dog.

(b) A dog owner shall be charged with negligent homicide, whose dog kills a person when accidentally at large, off the owners premises, and out of the immediate control of the owner. The dog shall be confiscated by the authorities, and humanely euthanized, and tested for rabies at the cost to the owner.

(c) Any dog owner who has been repeatedly cited for dog at large whose dog while at large, inflicts severe bodily injury upon a person shall be charged with attempted manslaughter.

(d) Any dog owner who has been repeatedly cited for dog at large whose dog while at large, causes the death of a person shall be charged with manslaughter.

(e) A dog owner shall be charged with reckless endangerment, whose dog injures a person, or causes an accident while at large, off the owners premises, or out of the immediate control of the owner. The dog shall be removed from the owners custody, and be evaluated on

temperament by qualified personnel, and either be placed in a responsible home, or humanely euthanized.

(f) A dog owner shall be charged with aggravated nuisance should his/her dog menace a person when at large. The owner shall be fined five hundred dollars (\$500.00) and placed on probation for six months, during which time if any violations occur he/she shall lose custody of the dog. The dog shall be evaluated by qualified personnel, and either be placed in a responsible home, or humanely euthanized.

(g) A dog owner shall pay remuneration, and fines, if found guilty of negligence in a Court of law, when his/her dog being at large, and out of the owner's control, trespasses upon another's property, and injures, or kills an animal, or animals belonging to that person(s) whose animal(s) were contained to their property. The dog owner shall be placed on strict probation for the period of one(1) year, during which time should any further violations occur, the dog shall be removed from the custody of the owner. The dog shall be evaluated by qualified personnel, and either placed into a responsible home, or humanely euthanized.

(h) Any dog owner, by whose violations has caused his/her dog to be removed from his/her custody, shall not be allowed by the Court to own another dog for a period of ten (10) years.

(i) No dog owner will be held liable if the dog bites, injures, or kills an intruder, a burglar, a trespasser, or anyone who threatens the owner, or his/her safety while on, or off of the owner's premises while the dog is under control of the owner.

(j) Any person who is bitten as a result of having teased, or tormented a dog that is contained to it's owners premises, or who is bitten while teasing, or tormenting a dog that is contained to the owner's premises shall have no legal recourse for damages.

(k) Any parent whose child is bitten, or mauled by a dog, due to the parent's inattentance to his/her child shall be charged with reckless endangerment of a child.

(l) Any parent whose child dies as a result of a dog mauling, due to the parents inattentance, shall be charged with negligent homicide.

## 7. Dog Abandonment

(a) Any person who is found guilty of abandoning a dog, or dogs by dumping it/them alongside any thoroughfare, or by moving away and leaving the dog, or dogs shall be subject to a one thousand dollar fine (\$1,000.00)per dog, and three months jail time, or a one thousand dollar (\$1,000.00) per dog fine, and community service not to exceed six months, per dog abandoned, at the discretion of the Court.

## 8. False Reporting

(a) Any person who makes a false, or malicious report to Animal Control shall be charged with a gross misdemeanor.

## 9. Criminal Activity

(a) Any person who uses a dog as a weapon during the commission of a crime against a human being shall be charged with a class A felony.

(b) Any person who is not under threat of injury or death, or a member of law enforcement, who orders a dog to attack a person with the intention of causing great bodily harm, or death shall be charged with a Class A felony.

(c) A dog owner shall be charged with aggravated nuisance, and animal cruelty if he/she is found facing off dogs in any public area with the purpose of simulating a dog fight, or promoting a dog fight, or planning a dog fight, and fined five hundred dollars (\$500.00). The dog owner shall be placed on strict probation for the period of one (1) year during which time if any violations occur, the dog owner shall be fined one thousand (\$1000.00), and he/she shall lose custody of the dog, and any other dogs occupying the premises of the violator. The dog(s) shall be evaluated by qualified personnel, and either be placed in a responsible home, or be humanely euthanized.

(d) Any person who causes an animal harm, injury, or damage for the purpose of training, or engaging in dog fighting shall be charged with a Class A felony. This does not include any legal surgery such as earcropping, tail docking, or dew-claw removal performed by a licensed veterinarian.

\*\*\*\*\*

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## Tammy J. Grammer

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**From:** Jon Camp  
**Sent:** Wednesday, June 10, 2009 8:24 AM  
**To:** Bruce D. Dart  
**Cc:** Tammy J. Grammer  
**Subject:** FW: Pit Bull Issue

---

**From:** Shanna Davis [sdavis@nickads.com]  
**Sent:** Tuesday, June 09, 2009 11:16 AM  
**To:** Jon Camp  
**Subject:** Pit Bull Issue

Dear Councilman,

I saw your video online concerning the pit bull issues that are being discussed in the city of Lincoln, Nebraska. I commend you for being careful about the decision that is made and I encourage you as well as the other council members to continue to do so.

I ask that you please do not impose a breed specific ban. If you feel that changes need to be made those changes need to encompass any and all breeds and be aimed at the irresponsible owners.

I also encourage you to contact Best Friends Animal Society for help in considering the choices you make. They can give you information that will help you make a fair decision.

I don't know if you've seen this yet but Best Friends recently released a study they had done on the costs of enforcing breed specific legislation. This study basically shows communities what breed specific legislation could cost to enforce based upon their current Animal Control costs. This was done so communities could use this as a tool in making their decisions. You might want to take a look. Just put in your state and town and it will bring up the figures.

<http://www.guerrillaeconomics.biz/bestfriends/>

The person of contact at Best Friends who can help you with information is

John Polis  
435-644-2001, ext. 4858  
[johnp@bestfriends.org](mailto:johnp@bestfriends.org)

Also check out this webpage and article:  
<http://www.savingamericadog.com/>

And this is a recent article from Best Friends that was related to the economic calculator.

*The High Costs of Breed Discriminatory Legislation*  
*May 29, 2009 : 3:58 PM*  
*Study shows breed bans not only unfair, but expensive to enforce*

*By Sandy Miller, Best Friends staff writer*

*It's happening in cities across the country, and it usually begins with a dog attacking someone. If the dog is, say, a Labrador retriever or a springer spaniel, chances are people will hear little, if anything about it. If the dog is suspected to be a "pit bull"—even if it's not—the media can't get enough of the story. "If it bleeds, it leads" is a common mantra among most mainstream media organizations. They know their newspaper readers and television news viewers will eat it right up.*

#### *Studies Show Breed Bans Don't Work*

*City leaders, anxious to pacify voters in their communities and quell fears, often enact laws banning pit bulls, and other breeds of dogs, from their communities. The problem is breed bans don't do anything to keep their communities safer.*

*"We've had studies that show these laws don't work," says Ledy VanKavage, Esq., senior legislative analyst for Best Friends Animal Society. "The problem is the reckless owners, not the dogs."*

*Julie Castle, Best Friends director of Community Programs and Services, agrees.*

*"What these laws create is a false sense of security," Castle says. "People think they're going to be safe from vicious dogs. What they need to do is focus on irresponsible owners."*

#### *Taxpayers Pay for Breed Bans*

*But there's another element to add to the mix—the costs to taxpayers to enforce these laws. And now, thanks to a groundbreaking study commissioned by Best Friends and funded by the National Canine Research Council, local lawmakers can find out just what those costs would be in their own cities, counties and states with a simple click of a mouse.*

*The study, "The Fiscal Impact of Breed Discriminatory Legislation in the United States," conducted by the New York City-based John Dunham and Associates, shows it would cost governmental entities more than \$450 million to enforce a nationwide ban on pit bulls. That number includes the costs of enforcement, kenneling, veterinary care, euthanasia and disposal, litigation and DNA testing.*

*There are an estimated 72.1 million dogs in the U.S. of which approximately 5 million—or 6.9 percent—are pit bulls or pit bull mixes. Pit bull is a generic name for American pit bull terriers, American Staffordshire terriers, Staffordshire bull terriers and their mixes.*

#### *Tool Calculates Cost of Breed Ban in Your Community*

*The online calculator allows anyone to estimate by city, county or state the costs for implementing and enforcing a breed-specific law.*

*"It's great we now have a tool that calculates these costs," VanKavage says. "These laws are knee-jerk reactions that don't work and are fiscally irresponsible. They cost taxpayers an arm and a leg, especially in a recession with unemployment soaring."*

*The website page also contains information about how the study was conducted, facts about breed bans and their ineffectiveness, and talking points to help guide people while speaking with local lawmakers.*

*"It puts activism in the hands of the public and gives them the tools necessary to fight breed bans in their own communities," Castle says.*

#### *[b]Costs Vary Depending Upon Population[/b]*

*The costs of breed bans vary depending on the population of a community. For instance, take New York City, a city of more than eight million people. According to the study, there are an estimated 1,532,100 dogs in the city, of which 106,460 are pit bull-type dogs. A pit bull ban would cost New York City taxpayers a total of*

*\$12,895,950 annually, which includes \$7,063,560 for enforcement, \$2,446,590 for kenneling and veterinary care, \$2,245,570 for euthanizing and disposal, \$191,590 for litigation costs and \$948,640 for DNA testing.*

*Compare those costs to those of Abbeville, Alabama, a small southern city with about 3,000 residents. According to the study, there are an estimated 840 dogs in the city, of which 60 are pit bull-type dogs. A breed ban would cost the town's taxpayers \$4,360 each year. That might not sound like a lot, but it is for small towns like Abbeville.*

*"The costs are significant," says Dunham, who conducted the study. "Small towns don't have the infrastructure to handle it."*

*Dunham, whose firm has done economic analyses on all kinds of things, says what surprised him most while doing this study is how little data there is out there on pets.*

*"It shocked me that the facts are so scarce," Dunham says. "Usually, I have too much data. In this case, I had very little to work with."*

*Yet, Dunham says, cities are enacting everything from pooper scooper laws to breed bans and "basing it on nothing because they have no information."*

#### *Better Way to Manage Dangerous Dogs*

*VanKavage hopes the study will convince government officials that there are much better ways to keep their communities safe than enacting breed bans, such as ordinances that focus on responsible pet ownership and work to prevent dog bites before they happen.*

*"Breed-discriminatory laws break the human-animal bond," VanKavage says. "It's un-American to go into someone's house and take their pets away. And you can't get to No More Homeless Pets by killing them."*

Sincerely,

Shanna Davis  
Grand Junction, CO  
Best Friends Community Animal Assistant Volunteer  
Pit Bull Owner/Advocate

## Tammy J. Grammer

---

**From:** Ledy Vankavage [ledyv@bestfriends.org]  
**Sent:** Monday, June 08, 2009 4:00 PM  
**To:** Doug Emery; Jon Camp; Jonathan A. Cook; John Spatz; Eugene W. Carroll; Adam A. Hornung; Jayne L. Snyder; Tammy J. Grammer; cbeutler@lincoln.ne.gov; John V. Hendry  
**Subject:** ABA Article on cost of breed discriminatory laws  
**Attachments:** breed article.pdf  
**Importance:** High

June 8, 2009

Dear Mayor and Council Members:

Best Friends opposes canine profiling. The problem of dangerous dogs is not remedied by the quick fix of breed-discriminatory laws. All dogs can bite. Studies of pre and post breed ban dog bite rates in the United Kingdom and Spain concluded that their pit bull breed ban had no affect whatsoever on reducing dog bites. Indeed, Hiawatha, Iowa repealed their pit bull ban because of identification problems and expense. Now that DNA testing is available to determine the breed of a dog, breed discriminatory laws have gotten very expensive for counties to enforce.

Click here to calculate the cost of a breed specific law for Lincoln Nebraska

<http://www.guerrillaeconomics.biz/bestfriends/>

Moreover, in its study of human fatalities resulting from dog bites, the CDC did not support the breed specific approach. The CDC noted many other factors beyond a dogs breed may affect a dog's tendency toward aggression – things such as reproductive status, heredity, sex, early experience, and socialization and training. These concerns seem well-founded given that more than 70% of all dog bite cases involve unsterilized male dogs, and an unneutered male dog is 2.6 times more likely to bite than a neutered dog. In 2006, 97% of all dog related human fatalities in the United States involved unsterilized canines.

Another insidious problem seen with canine profiling is the potential for abuse. The result is selective enforcement that sometimes is triggered simply by the ethnic background of the owner.

Breed discriminatory laws cause unintended hardship to responsible owners of entirely friendly, properly supervised and well-socialized dogs that happen to fall within the regulated breed category. Although these dog owners have done nothing to endanger the public, they may be forced by the municipality to either give up their dogs or move out of their home. The pets that are given up are killed.

The most harmful consequence of breed-discriminatory laws is their tendency to compromise rather than enhance public safety. Resources are shifted away from routine, effective enforcement of laws that have the best change of making our communities safer: leash laws, dog license laws, spay/neuter laws and animal fighting laws.

Rather than breed-discriminatory restrictions, animal control laws should allow animal control wardens or law enforcement officers to declare any dog to be “dangerous” regardless of its breed if it attacks a person or companion animal without justification and causes physical injury or death, or behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or

death to one or more persons or companion animals. Any dog that is found to be “dangerous” should be required to be:

1. **Spayed or Neutered.** Studies have shown that more than 70% of bite cases come from animals that are not neutered. If a dog is found to be “dangerous”, it should be mandated that it be spayed or neutered.
2. **Micro chipped.** If a dog is found to be “dangerous” it should be required to be micro chipped so there is a permanent identification of the dog. Dogs of some breeds are easy to confuse, especially if the owner has multiple dogs of the same breed.
3. **Muzzled.** All “dangerous dogs” should be required to be muzzled when in a public place, and walked by a person at least 18 years of age.
4. **Restrict Tethering.** 25% of all fatal dog attacks involve tethered dogs. Most dog fighters chain their animals.
5. **Prevent Reckless Owners from owning dogs.** Tacoma, Washington and St. Paul Minnesota prevent reckless owners from owning dogs in their cities. This effectively targets irresponsible recidivists who encourage dogs to be aggressive and just acquire another once one is taken from them.

As former Chair of the American Bar Association’s Animal Law Committee’s Dangerous Dog Subcommittee, I have enclosed an article for you and the city council members that appeared in the American Bar Associations Government Publication. The ABA is coming out with a book on Dangerous Dog Laws next month. I am more than willing to work with your city attorney to draft a fair and comprehensive ordinance to protect the public from reckless owners and dangerous dogs. Since I am employed by Best Friends there is no charge for my services. I hope to hear from you soon. Thank you so much for your consideration.

Ledy VanKavage, Esq.  
Senior Legislative Analyst  
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## All Bark and Fiscal Bite—Are Breed-Discriminatory Laws Effective?

By Ledy VanKavage

A dog attacks, and city-council members want the city attorney to react—sometimes by drafting an ordinance that restricts or outlaws a specific breed of dog, most often the maligned pit bull.<sup>1</sup> After such an ordinance is passed, authorities must then ferret out and kill any dog that slightly resembles a pit bull. Prince George's County Maryland spends approximately \$560,000 every two years enforcing its ban. Miami-Dade County impounds and kills around 800 pit bulls a year, despite a ban dating back to the 1980s, resulting in a significant fiscal impact.<sup>2</sup>

Given the tremendous costs associated with breed-discriminatory laws, are they a prudent approach to community safety or a costly red herring? With passage of such ordinances comes a host of questions such as: How do you prove in court the identity of a mixed-breed dog? What sort of training do your animal-control or law-enforcement officers have regarding breed identification? If they aren't trained in breed identification, is a veterinarian employed to determine whether a dog is a certain breed? Now that DNA testing is available, are courts going to require the government to pay for such testing before confiscating and destroying citizens' property (i.e., their dogs)?



### Missing the Mark by Targeting Pit Bulls

Effective public lawyers counsel their clients to make decisions based on research and valid statistics, not emotion. So why the modern-day witch hunt concerning pit bulls? Karen Delise, author of "Fatal Dog Attacks" and "The Pit Bull Placebo," examined news stories regarding dog attacks that occurred during four days in August 2007. The results are telling:

- On Aug. 18, 2007: A Labrador mix attacked a 70-year-old man, sending him to the hospital in critical condition. Police officers arrived at the scene, and the dog was shot after charging the officers. This incident was reported in one article and only in the local paper.
- On Aug. 19, 2007: A 16-month-old child received fatal head and neck injuries after being attacked by a mixed-breed dog. This attack was reported two times by the local paper.
- On Aug. 20, 2007: A 6-year-old boy was hospitalized after having his ear torn off and receiving severe bites to the head by a medium-sized mixed-breed dog. This attack was reported in one article and only in the local paper.
- On Aug. 21, 2007: A 59-year-old woman was attacked in her home while trying to break up a dog fight involving her neighbor's Jack Russell terrier and two pit bulls. The pit bulls had broken off their chains and followed her neighbor's Jack Russell terrier in through her dog door. She was hospitalized with severe injuries. Her dog was not injured. This attack was reported in more than 230 articles in national and international newspapers and on major television news networks, including CNN, MSNBC, and Fox.

Thus, during those four days, four dog attacks made the news—including a fatality involving a mixed-breed dog—but only the incident involving the pit bulls captured national attention.

Given the hype, it isn't a surprise that public lawyers may be asked to research and draft ordinances to help stop dog attacks, with the focus frequently on banning pit bulls. However, a smarter approach is to examine the statistics in the community, seek citizen input and weigh the factors involved in the attacks.

### What Factors Are Involved in Severe Attacks?

According to Delise, now with the National Canine Research Council, the fatal dog attacks that occurred in the United States in 2006 had these commonalities:

- 97 percent of the owners did not neuter or spay their dogs.
- 84 percent of the attacks involved reckless owners—owners who abused or neglected their dogs, failed to contain their dogs or improperly chained their dogs.
- 78 percent of the owners did not maintain their dogs as pets (they were used as guard, breeding or yard dogs).

In lieu of drafting costly breed-discriminatory laws, public lawyers must decide if legislation targeting the aforementioned factors would be more effective.

### Restrict Reckless Owners from Harboring Dogs

It makes sense to restrict or even ban reckless owners from owning a dog—any breed of dog—because any dog can bite. And reckless owners, like reckless drivers, are often recidivists. Creative public lawyers have already realized this.

In 2007, the city of St. Paul, Minnesota, passed an ordinance targeting reckless dog owners. St. Paul pet owners cited more than once for abusing or neglecting an animal can't legally own another pet under the ordinance. The law targets pet owners who train their dogs to fight, puppy-mill operators and reckless dog owners. Reckless dog owners can't register a new animal if their dogs are removed twice in a five-year span. City law requires all dogs more than three months old to have a license that costs \$50 a year; the cost is reduced to \$10 a year if the animal is spayed or neutered.

Also in 2007, the city of Tacoma, Washington, created an ordinance regulating "problem pet owners." A person who commits three or more animal-control violations in a 24-month period can be declared a problem pet owner and forced to surrender all of their animals.

### Encourage a Community-Policing Approach to Animal Control

Since Calgary, Alberta, enacted and enforced a new aggressive-dog ordinance, the city has experienced a 56 percent decline in aggressive-dog incidents and a 21 percent decline in biting incidents in just two years. Calgary does not discriminate against particular breeds of dogs but focuses on protecting the public from all aggressive dogs regardless of breed. The city's animal-control wardens adopt a community-policing/problem-solving approach when dealing with members of the public. The focus is on stiff fines and public education. The city encourages its wardens to get out of their trucks and talk with folks. If a dog bites a person, a \$350 fine is imposed; if the person needs medical attention, the fine increases to \$750. There is also a \$250 fine for a dog-on-dog attack or if an owner fails to license their pooch.

This is in stark contrast to cities that have enacted breed-discriminatory laws. Studies show that breed-discriminatory laws are ineffective in protecting the public from dog attacks. One study involves the U.K.'s Dangerous Dog Act, which banned pit bulls in 1991. The study concluded that the ban had no effect whatsoever on stopping dog attacks.<sup>3</sup>

The most recent study compared dog bites reported to the health department of Aragon, Spain, for five years before and five years after the introduction of its Dangerous Animals Act. As with the earlier study, there was no change in numbers of reported dog bites after the implementation of breed-discriminatory legislation, and the breeds most responsible for bites both before and after the breed-discriminatory legislation were those unrestricted by the legislation: German shepherds and mixed-breed dogs. The restricted breeds—American Staffordshire terriers, pit-bull terriers and Rottweilers—were responsible for less

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## The CSI Impact on Breed-Discriminatory Ordinances: Doggy DNA

Recently, DNA testing became available to determine a dog's heritage. These scientific advances have impacted breed identifications by animal-control wardens, police officers and even veterinarians.

If a city or state has adopted a breed-discriminatory law, the burden of proof is on city officials to prove that a dog is a member of the targeted breed, either through preponderance of evidence or in some cases—if there are criminal penalties—beyond a reasonable doubt.

In Kansas City, a man won his eight-month legal battle with the city to keep his dog, Niko, after DNA testing proved Niko wasn't a pit bull, as the animal-control wardens had asserted. Niko was housed at animal control for the entire eight months of the court case, at a great cost to the town taxpayers. Niko, a mixed-breed dog, is now back home after the ordeal.

Breed-discriminatory laws now need to take DNA evidence and its cost into account.

than 4 percent of the reported bites both before and after the law took effect.<sup>1</sup>

### Eliminate Chaining Dogs, an Attractive Nuisance

According to Delise, 25 percent of all fatal attacks since the 1960s have been inflicted by chained dogs. Chained dogs can actually be attractive nuisances, luring children in to pet them. Many cities and some states, including Texas, have adopted chaining restrictions. Texas Health and Safety Code, Chapter 821, prohibits dogs from being tied up, chained or tethered under any of the following conditions:

- Between the hours of 10 p.m. and 6 a.m.
- Within 500 feet of school property.
- When the temperature is below 32 degrees.
- When a heat advisory or ozone alert has been issued.
- When a pinch, choke or improperly fitting nylon collar is used.

Restricting chaining between the hours of 10 p.m. and 6 a.m. can have the added benefit of reducing the number of barking complaints.

### Protecting the Public While Preserving Responsible Owners' Property Rights

Responsible dog owners should have the right to own whatever breed of dog they choose and reckless owners should be pro-

hibited from owning dogs. It is up to public lawyers to ensure effective ordinances that protect people from any dangerous dog, regardless of its breed. 

*Ledy VanKavage is an attorney with Best Friends Animal Society in Kanab, Utah. Formerly she was senior director of legislation and legal training, ASPCA. She also is vice-chair of the ABA Tort Trial & Insurance Practice Section's Animal Law Committee, and chair of the Dangerous Dog Subcommittee. She can be reached at ledyv@bestfriends.org.*

### Endnotes

1. "Pit bull" is a term commonly used to refer to several breeds of dogs, including the bull terrier, American Staffordshire terrier (also called the American pit bull terrier) and Staffordshire bull terrier.

2. REPORT OF THE VICIOUS ANIMAL LEGISLATION TASK FORCE, Prince George's County Council (July 2003); conversation at the Florida Animal Control Association Conference, Nov. 21, 2008, with Dr. Sara Pizano, Director of Miami-Dade Animal Care and Control.

3. Klaassen B., Buckley J.R., Esmail A. *Does the Dangerous Dogs Act Protect Against Animal Attacks: A Prospective Study of Mammalian Bites in the Accident and Emergency Department*, *Isj*, 27(2), 89-91(1996).

4. Rosado B., Garcia-Belengues, Leon M., Palacio J. *Spanish Dangerous Animals Act: Effect of the Epidemiology of Dog Bites*, *Jof Veterinary Behavior* 2, 166-174 (2007).

### Resources

- Kindness Index. Angel Canyon, UT Best Friends Animal Society, 2006. [www.bestfriends.org](http://www.bestfriends.org).
- National Canine Research Council, [www.nationalcanineresearchcouncil.com](http://www.nationalcanineresearchcouncil.com).

### Director of Externship Programs, Seattle University School of Law, Seattle, WA

The director of externship programs works with the director of law clinic and the vice dean, counsels and advises students on externship opportunities, administers and oversees all field placements, educates and trains field supervisors and conducts site visits, supervises associated adjunct faculty and administrative staff, develops and implements externship policies and procedures, oversees and develops the externship seminar curricula, provides vision and leadership for the school of law's extensive and diverse externship offerings. The director will be expected to teach at least one externship seminar. J.D. degree and a minimum of three years of practice experience are required; teaching experience is strongly preferred; clerkship experience is a plus. Applications will be considered beginning January 12, 2009, employment begins summer 2009. Electronic applications are encouraged. See [www.law.seattleu.edu](http://www.law.seattleu.edu) for more information.

**Contact:** Annette E. Clark, Vice Dean and Associate Professor of Law, Chair, Externship Program Director Search Committee, Seattle University School of Law, 901 12th Ave, Box 222000, Seattle, WA 98122, 206-398-4069, 206-398-4310, [annclark@seattleu.edu](mailto:annclark@seattleu.edu).

For additional job listings, visit the Division's Public Lawyer Career Center at [www.governmentlawyer.org](http://www.governmentlawyer.org). Listings without a deadline are open until filled. PSLawNet, [www.pslawnet.org](http://www.pslawnet.org) is used as a resource for this column.

# Five Pointers to Pass On

**M**any lawyers enter public service because they have a desire to litigate and have found that they can get into court earlier and more often than in private practice.



**Jennifer Meeks**

Division member  
Jennifer Meeks has litigated for over 10 years as an Assistant Attorney General

for the State of West Virginia, and in other positions with private and public entities. She passes on these pointers:

1. Be an excellent “real” litigator. Bill yourself as a litigator, and give your work the credit it deserves. Many public lawyers appear only before administrative bodies – this too is litigation. Toil as if your case will end up at the Supreme Court—it might!
2. Treat your client as if he or she has

the choice to engage another lawyer for legal services. The golden rule is a good rule of thumb. Good relations will serve you well both now and in the future.

3. Don't be afraid to speak up. Ask for help before getting overwhelmed. Ferret out the answer to troublesome points you discover in building your case. When alternatives are available, offer them.

4. Pursue lifelong education. Take advantage of formal training opportunities as well as informal ones. Train yourself. For example, read over that transcript with an eye towards critiquing your own performance, as well as finding quotations for your argument. Read all the Jim McElhaney you can find (there's always an article in the *ABA Journal*), and sign up for e-mail discussion lists to get other helpful advice.

6. Treat your support staff well. They can be lifesavers, and in government practice they are often great sources of information and experience. Don't let them run the show, but appreciate their professionalism and treat them accordingly. Remember that you (and your law license) are ultimately responsible.

and a bonus:

6. Dress the part. Even if you are not subject to last minute court appearances, you are probably subject to unscheduled meetings with your client, your boss, and perhaps other highly placed officials. Be prepared to look like a professional whenever it is required. 

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## Breed Discriminatory Legislation is not a Reasonable Response to Negligent Owners

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Breed discriminatory legislation is any ordinance or law that bans, or places special restrictions on, a group of dogs based upon breed or appearance.

Dog owners in 300 cities and towns in the United States live with special burdens and added costs because of ordinances banning or restricting dogs of one or more breeds and breed mixes. Thirty-six breeds of dogs, mixes of those breeds, and any dog whose physical appearance seems to meet the standard set in an ordinance have been restricted in various combinations and groupings. Breed discriminatory legislation is essentially a canine version of racial profiling.

These ordinances have relied on subjective opinions regarding a dog's physical appearance to determine its heritage. However, visual breed identification of a mixed breed dog is unscientific and is now likely to be contradicted by a DNA test. Cities must consider the "CSI effect" of dog DNA testing and its recent use in court cases. The burden and expense of proving the breed or combination of breeds in a dog will fall to the county or city.

Proponents of breed discriminatory legislation operate in the mistaken notion that regulating dogs on the basis of breed will make a community safer. There has never been any evidence that such is the case.

Breed discriminatory laws are frequently directed against dogs called "pit bulls," despite the fact that pit bull is not a breed of dog. The term is used to describe a continually expanding group of dogs that includes not only American Staffordshire Terriers, Staffordshire Bull Terriers, and, American Pit Bull Terriers, but more than twenty other pure breeds, and any dogs that are presumed, on the basis of appearance, to be mixes of one or more of those breeds. Despite the myths promoted in the media about dogs labeled as pit bulls, there is no scientific evidence that one kind of dog poses more of a danger to people than any other kind of dog.

Reckless owners of any dogs pose a threat to public safety. When bans or restrictions are instituted, scarce public resources are employed against responsible owners of the targeted group of dogs. These regulations do not apply to reckless owners of other dogs and the reckless owners of the targeted breeds will simply ignore them.

Focusing on the breed attribution of dogs diverts attention from responsible ownership practices. Experts have consistently identified responsible ownership practices as contributing to safe, humane communities. Restrictions and bans directed on the basis of breed compromise the human-animal bond and interfere with property rights. A community policing approach to preventing dog bites is much more effective.

## The Economic Impact of Breed-Discriminatory Legislation in Lincoln Nebraska.

Over the past several thousand years, dogs have transcended positions from hunting companion to family pet, to full-fledged member of the family. Dogs are an integral part of everyday life for millions of American households. There are currently an estimated 74.8 million dogs living in the United States, with 39 percent of U.S. households owning at least one dog. [1] Of those 74.8 million dogs, at least 5 million would meet one or more of the various definitions attached to the label "pit bull." [2]

This study measures the economic impact of Breed-Discriminatory Legislation in Lincoln Nebraska

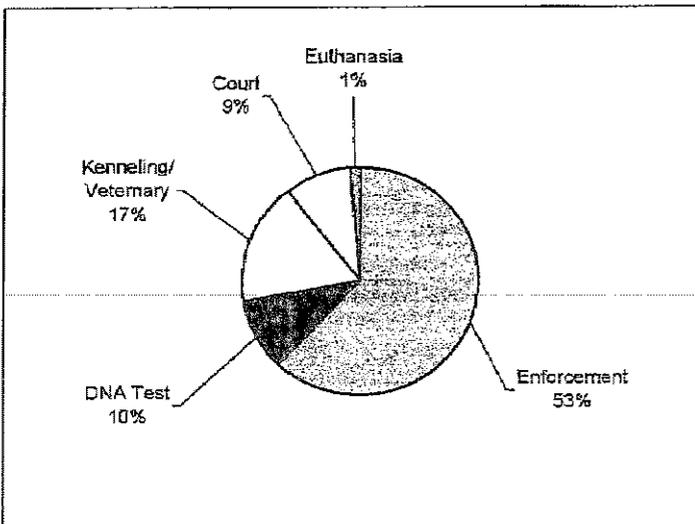
### Data for Lincoln Nebraska

Estimated Number of Dogs	54,270
Estimated Number of Dogs described as Pit Bulls	3,770

Breed-discriminatory legislation not only affects owners of the targeted dogs by interfering with their right to own property, but also taxpayers forced to fund its enforcement. Animal control programs already tend to be underfunded. Attempting to enforce breed-discriminatory laws will only deplete limited animal-control resources more quickly.

Misguided breed-discriminatory laws restricting specific types of dogs will cost the citizens of the community of Lincoln Nebraska over \$321,700, while accomplishing little. Estimated costs include:

### Costs Associated With Breed-Discriminatory Laws



- Animal control and enforcement costs: \$198,970;
- Expenses for kenneling and veterinary care: \$54,860;
- Expenses related to euthanasia and carcass disposal: \$29,990;
- Litigation costs resulting from dog owners impacted by the legislation: \$4,300;
- DNA testing costs: \$33,600.

Actual costs to the citizens of the community will be higher as these estimates do not include:

- Shelter veterinarian if not already onsite;
- Increased enforcement staffing;
- Capital costs associated with increased shelter space.

[1] American Veterinary Medical Association, *U.S. Pet Ownership & Demographics Sourcebook*, (Schaumburg, Ill: Membership & Field Services, American Veterinary Medical Association), 2008.

[2] Calculations based on analysis by John Dunham and Associates, a New York City based economic consulting firm.



**Best Friends**  
ANIMAL SOCIETY



## Breed Discriminatory Legislation in Lincoln Nebraska

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### Animals Impacted by Breed Discriminatory Legislation in Lincoln Nebraska

Estimated Number of Dogs	54,270
Estimated Number of Pit Bull type Dogs	3,770

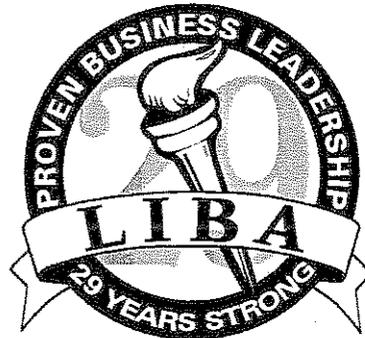
### Costs Associated With Breed Discriminatory Legislation

Enforcement	\$	198,970
Kenneling and Veterinary Care	\$	54,860
Euthanizing and Disposal	\$	29,990
Litigation Costs	\$	4,300
DNA Testing	\$	33,600
<b>Total Estimated Annual Cost</b>	<b>\$</b>	<b>321,720</b>

RECEIVED

JUN 08 2009

CITY COUNCIL  
OFFICE



To: Lincoln City Council Members  
Cc: Mayor Chris Beutler  
From: Coby Mach – President & CEO  
Date: June 8, 2009  
Re: Lincoln South Expressway

Last week, Don Walton had a column in the Lincoln Journal Star regarding the Lincoln South Beltway. In the column, he quoted Senator Ben Nelson's concern about the lack of progress on the South Beltway.

I am attaching a copy of the Journal Star article along with a memo from the LIBA Board of Directors. Our February 29, 2009 memo expressed the same concern and also asks that \$8 Million in the Special Assessment fund be earmarked for this project.

Thank you for your attention to this very important matter.



**DON WALTON**  
*Journal Star Staff Writer*

# Nelson wants quicker paving

Sen. Ben Nelson is applying pressure to accelerate the state's use of federal funding allocated for specific Nebraska highway projects.

"I am now becoming discouraged that a large portion of these federal funds remains unused by the state of Nebraska," Nelson said.

Nelson expressed particular concern over "the lack of progress on the Lincoln South Beltway since the Nebraska Department of Roads assumed the lead on this project."



**NELSON**

That was the message he delivered in an April 6 letter to John Craig, who is leaving the post of Nebraska roads director at the end of this week for a position in Oregon.

Nelson said he had expressed his concern to Mayor Chris Beutler that no work on the Lincoln beltway project was scheduled through 2014.

"Allowing these funds to sit unused over an extended period of time is certainly not in the best interest of Nebraska taxpayers," Nelson wrote Craig.

"Since this appears to be the case with the South Beltway project, I am considering taking action to redirect this stalled funding to other needed projects in order to utilize these funds in a more timely manner."

On April 16, Craig responded to Nelson with a list of designated federal funding and the status of each project.

His summary of the South Beltway project suggested that \$16.4 million of the \$19.7 million federal allocation had been obligated.

The Federal Highway Administration is "requiring a re-evaluation of the environmental document to include a financial plan for the entire project," the summary stated.

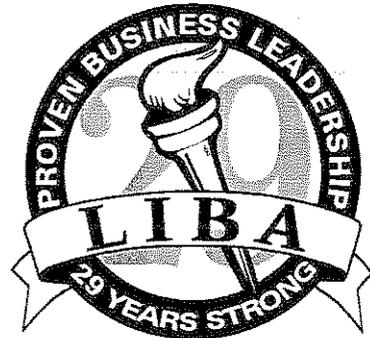
Remaining costs for the beltway were estimated at \$175 million.

Craig's summary showed \$81.5 million of \$151.9 million in federal funding for designated projects since 1998 obligated to date.

"We're mindful of the challenges they face with the Federal Highway Administration," Nelson said.

"But I'm not satisfied with the progress. The Department of Roads is not moving swiftly.

"Allowing money to sit while the costs of construction go up means costs are going to outstrip the money that's there now to do it."



To: Lincoln City Council Members  
Cc: Mayor Chris Beutler  
Senator Bill Avery  
Senator Kathy Campbell  
Senator Colby Coash  
Senator Tony Fulton  
Senator Ken Haar  
Senator Amanda McGill  
Senator Danielle Nantkes  
Senator Norm Wallman  
From: LIBA Board of Directors  
Date: February 9, 2009  
Re: Lincoln South Expressway

The Lincoln Independent Business Association (LIBA) has a great concern relative to the status of the South and East Expressways. Particularly, the South Expressway is critical to the continued growth of Lincoln and necessary to alleviate congestion and dangerous conditions on Hwy 2, which creates a negative impact on the economic well-being of Lincoln.

Currently, there is approximately \$8 million in Lincoln's special assessment funds that have accumulated for infrastructure use, and should be used for construction of the South Expressway.

However, there are numerous federal criteria that must be addressed at the state and local level if the federal funds are to be committed. As our local and state representatives, you have the authority to address these issues and help Lincoln access federal dollars.

LIBA strongly believes that the special assessment dollars should be set aside for the purpose they were raised and be used as seed money to start to move forward with the South Expressway.

## Tammy J. Grammer

---

**From:** Tharrington, Bill [BillTharrington@ferrellgas.com]  
**Sent:** Tuesday, June 09, 2009 1:14 PM  
**To:** Mayor; Doug Emery; Jon Camp; Jonathan A. Cook; John Spatz; Eugene W. Carroll; Adam A. Hornung; Jayne L. Snyder; Tammy J. Grammer; mmmeyer@lincoln.ne.gov  
**Subject:** City of Lincolns has \$2,401,000.00 available in Federal Grant Money

City of Lincoln:

Mayor - Chris Beutler  
City Council - Doug Emery, Jon Camp, Jonathan Cook, John Spatz, Eugene Carroll, Adam Hornung, Jayne Snyder, Tammy Grammer, Mary Meyer

Part of the recent legislation to boost our economy has included funds to the Department of Energy to increase efficiency in areas of transportation and power usage. Of those funds 2.7 Billion are being awarded through formula grants. Of that money the City of Lincoln, Nebraska has the potential to use \$2,401,000.00. The grant deadline is June 25, 2009 to request these funds. The request has to be specific in nature, but details can be filled in at a later time.

You can use these funds to purchase a variety of items that would have had to come from your general funds, so this can be a great use to the City of Lincoln.

My company, Ferrellgas, has already helped several municipalities purchase propane powered vehicles and the infrastructure to support this in order to take advantage of these available funds. If you need new City Vehicles for Police, or City Maintenance, even School Buses this is a great way to go about addressing that need without having to use general funds.

I would enjoy the opportunity to meet with you this week to discuss this further. Please take a look at the website covering this grant, and I will reach out to you this week to see if we can schedule an appointment. Time is of the essence with this grant, and to have these funds secured for your use. In addition to this grant there are other funds available to help you achieve these same means. Thanks for your time and I look forward to meeting with you to utilize these funds available to you.

<http://www.eecbg.energy.gov/grantalloc.html>

Bill Tharrington

### Bill Tharrington

Account Manager

## Ferrellgas

4415 NE 14th Street  
Des Moines, Iowa 50316  
Cell (319) 560-8111

[billtharrington@ferrellgas.com](mailto:billtharrington@ferrellgas.com)

# City Council Office



## Council Feedback

If you'd like to send a Council Person an electronic mail message, please fill in the following fields and press SEND.

All fields other than your name and address are optional.

- Who do you want this message sent to:  General Council
- Jon Camp
  - Jonathan Cook
  - Adam Horning
  - Robin Eschliman
  - John Spatz
  - Gene Carroll
  - Dan Marvin
  - Doug Emery
  - Joanne Snyder
  - Ken Svoboda

Barbara Huff	Name *
1740 A Street Rd	Street address or PO Box *
Lincoln, NE Pleasant Dale	City, State, Zip Code *
68423	Phone number
(402) 795-2041	Fax number
	Email address

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 JUN 10 2009  
 CITY COUNCIL  
 OFFICE

\*(required)

Your comments and questions: \*

Breed Specific Legislation

## InterLine

[Online Services](#) [Government](#) [Employment](#) [Education](#) [Health](#) [Safety](#) [Help](#)

[City Council](#)  [Council Members](#)

## Informational Packet by Karen Palmer

- 1. BSL Position Statements**
- 2. Costs Associated with BSL**
- 3. Breed Identification Issue**
- 4. Constitutionality and Other Legal Issues**
- 5. Where BSL Has Failed and Why**
- 6. Dispelling Myths**
- 7. The Trouble With Statistics and the Media**

### **BSL Position Statements**

Below are direct links to the position statements of interested organizations on the subject of Breed Specific Legislation.

#### **U.S. NATIONAL ORGANIZATIONS:**

IACP Position Statement on BSL:

<http://www.dogpro.org/index.php?pageID=200>

Association of Pet Dog Trainers (APDT):

[http://www.apdt.com/about/ps/breed\\_specific\\_legis.aspx](http://www.apdt.com/about/ps/breed_specific_legis.aspx)

American Veterinary Medical Association:

[http://www.avma.org/issues/policy/dangerous\\_animal\\_legislation.asp](http://www.avma.org/issues/policy/dangerous_animal_legislation.asp)

American Society for the Prevention of Cruelty to Animals:

[http://www.asPCA.org/site/PageServer?pagename=pp\\_breedban](http://www.asPCA.org/site/PageServer?pagename=pp_breedban)

American Kennel Club:

[http://www.akc.org/canine\\_legislation/position\\_statements.cfm#dangerousdog](http://www.akc.org/canine_legislation/position_statements.cfm#dangerousdog)

American Humane Association:

<http://www.americanhumane.org/site/PageServer?>

[pagename=wh where stand apsp pos viciousdogs](#)

Humane Society of the United States:

[http://www.hsus.org/pets/issues affecting our pets/dangerous dogs.html](http://www.hsus.org/pets/issues_affecting_our_pets/dangerous_dogs.html)

National Association of Dog Obedience Instructors (NADOI):

<http://www.nadoi.org/position2.htm>

National Animal Control Association: <http://www.nacanet.org/poldanger.htm>

International Association of Animal Behavior Consultants:

[http://www.iaabc.org/articles/social\\_justice.htm](http://www.iaabc.org/articles/social_justice.htm)

National Animal Interest Alliance:

<http://www.naiatrust.org/POS/Pets.htm>

United States Australian Shepherd Association:

<http://www.australianshepherds.org/legislation.html>

American Animal Hospital Association:

[http://www.aahanet.org/About\\_aaha/About\\_Position.html#dangerous](http://www.aahanet.org/About_aaha/About_Position.html#dangerous)

#### **U.S. REGIONAL ORGANIZATIONS:**

Colorado Federation of Animal Welfare Agencies:

<http://www.cfawa.org/html/media.html>

Ohio Valley Dog Owners, Inc.:

<http://www.canismajor.com/orgs/ovdo/bsl01.html>

Chicago Veterinary Medical Association:

<http://www.chicagovma.org/legislative/>

Georgia Canine Coalition:

<http://www.georgiacaninecoalition.org/georgiacaninecoalition.org/who.html>

Wisconsin Federated Humane Societies:

<http://www.wifedhs.org/AboutUs.htm>

## INTERNATIONAL:

Australian Veterinary Association:

[http://www.ava.com.au/news.php?c=0&action=show&news\\_id=125&PHPSESSID=c1bdb597b75e46ca5f313195b07b9abd](http://www.ava.com.au/news.php?c=0&action=show&news_id=125&PHPSESSID=c1bdb597b75e46ca5f313195b07b9abd)

Australian National Kennel Council:

<http://www.ankc.aust.com/prlegislation.html>

Australian Government Dept. of Fisheries and Forestry:

<http://www.daff.gov.au/content/output.cfm?ObjectID=D2C48F86-BA1A-11A1-A2200060B0A00786>

Canadian Federation of Humane Societies:

[http://cfhs.ca/info/companion\\_animals/](http://cfhs.ca/info/companion_animals/)

Canadian Kennel Club:

<http://www.ckc.ca/en/Default.aspx?tabid=243>

Canadian Veterinary Medical Association:

<http://canadianveterinarians.net/ShowText.aspx?ResourceID=65>

Ottawa Humane Society: <http://www.ottawahumane.ca/positionstatements.pdf>

(PDF format)

New Zealand Companion Animal Council: [www.nzcac.org.nz/Policy/PS%20Dangerous%20Dogs%20Feb2003.pdf](http://www.nzcac.org.nz/Policy/PS%20Dangerous%20Dogs%20Feb2003.pdf)

Federation of Veterinarians of Europe (PDF):

[http://www.fve.org/papers/pdf/aw/position\\_papers/00\\_039.pdf](http://www.fve.org/papers/pdf/aw/position_papers/00_039.pdf)

### **National Animal Control Association Policy Statement**

Extended Animal Control Concerns - Dangerous/Vicious Animals

#### **POLICY STATEMENT**

Dangerous and/or vicious animals should be labeled as such as a result of their actions or behavior and not because of their breed.

#### **BASIS FOR POLICY**

Any animal may exhibit aggressive behavior regard-less of breed. Accurately identifying a specific animal's lineage for prosecution purposes may be extremely difficult. Additionally, breed specific legislation may create an undue burden to owners who otherwise have demonstrated proper pet management and responsibility.

#### **POLICY RECOMMENDATIONS**

Agencies should encourage enactment and stringent enforcement of dangerous/vicious dog laws. When applicable, agencies should not hesitate to prosecute owners for murder, manslaughter, or similar violations resulting from their animal's actions, and their owner lack of responsibility. Laws should clearly define "dangerous" or "vicious", and provide for established penalties. Penalties may include fines, imprisonment, and/or the relinquishing of total privileges to pet ownership. If a dangerous/vicious animal is allowed to be kept, laws should specify methods of secure confinement and control. A

dangerous/vicious animal when kept outside should be confined in an escapeproof enclosure which is locked and secured on all six sides. Signs should be posted at property entrances and be visible from the nearest sidewalk or street. The licensing record could include a notation which will immediately identify an animal which has been deemed dangerous or vicious.

Reviewed/Revised by the NACA Corporate Office - 09/17/02

Dangerous/Vicious Animals Page 1 of 1

<http://www.nacanet.org/danger.html> 5/3/2004

The American Kennel Club supports reasonable, enforceable, non-discriminatory laws to govern the ownership of dogs. The AKC believes that dog owners should be responsible for their dogs. We support laws that: establish a fair process by which specific dogs are identified as "dangerous" based on stated, measurable actions; impose appropriate penalties on irresponsible owners; and establish a well-defined method for dealing with dogs proven to be dangerous. We believe that, if necessary, dogs proven to be "dangerous" may need to be humanely destroyed. The American Kennel Club strongly opposes any legislation that determines a dog to be "dangerous" based on specific breeds or phenotypic classes of dogs.

#### **IAABC Position Statement on Breed-Specific Legislation:**

The International Association of Animal Behavior Consultants (IAABC) is an organization representing professional animal trainers and animal behavior specialists. The IAABC strongly opposes any legislation specifically designed to target or discriminate against dogs based solely on their breed or appearance. The IAABC does not believe that a dog poses a danger to society solely because of its breed. Dogs can become dangerous as a result of faulty socialization, inappropriate training, poor living conditions and other factors having nothing to do with their breed. The IAABC believes that the objectives behind breed specific legislation can be met more effectively through rigorous enforcement and, where necessary, the strengthening of existing laws. We fully understand and support the need for laws to protect society, human and animal alike; however, our organization feels that any new legislation should be based on specific behaviors or actions and should not discriminate based on breed alone.

**The Iowa Veterinary Medical Association** opposes breed specific dangerous dog legislation. A national dangerous dog bite registry that would require all dogs with dog bite history be micro chipped and registered may be a solution. There would need to be rules/regulations established to prevent repeat offenders and eliminate the opportunity for dangerous dogs to move from one location to another. The Iowa Veterinary Medical Association supports legislation to make it a serious misdemeanor to allow a dangerous dog to run at large.

The Iowa Veterinary Medical Association opposes legislation that would allow euthanizing a dangerous dog by anyone other than a law officer, humane organization, veterinarian or person authorized under Iowa Code Sections 351.26 and 351.27.

The Iowa Veterinary Medical Association supports removing and euthanizing a dangerous dog that has injured or killed any person or domestic animal more than once. A dangerous dog is any dog that has, without provocation, injured or killed any person or domestic animal.

### **KVMA Policy on Dangerous Animal Legislation**

The KVMA supports dangerous animal legislation by state, county, or municipal governments provided that legislation does not refer to specific breeds or classes of animals. This legislation should be directed at fostering safety and protection of the general public from animals classified as dangerous.

The AVMA and KVMA recommend the following strategies to prevent dog bite injuries:

- 1) enforcement of generic, non-breed-specific dangerous dog laws, with an emphasis on chronically irresponsible owners;
- 2) enforcement of animal control ordinances such as leash laws;
- 3) prohibition of dog fighting;
- 4) encouraging neutering; and
- 5) school-based and adult education programs that teach pet selection strategies, pet care and responsibility, and bite prevention.

**The National Association of Dog Obedience Instructors, Inc. (NADOI)** strongly opposes breed specific legislation which targets or discriminates against certain dogs based only on their breed or appearance. Such laws are unfair because they assume that a dog may be dangerous simply because of breed. In fact, it is almost always the behavior of the owners of these dogs which makes them a danger to others.

Since 1965, NADOI has worked to help people train their dogs to be well behaved. Also, NADOI educates dog owners about their responsibility not only to their dogs but to their communities. Ordinances against dangerous dogs, unattended and loose dogs, nuisance barking, and other objectionable dog behaviors should be enacted and aggressively enforced. These laws, unlike breed specific laws, force all dog owners to be responsible for the behavior of their dogs.

Approved by the Board of Directors, June 2004.

### **The U. S. Centers for Disease Control**

Breed-specific approaches to the control of dog bites do not address the issue that many breeds are involved in the problem and that most of the factors contributing to dog bites are related to the level of responsibility exercised by dog owners.

## **JAVMA (Journal of the American Veterinary Medical Association)**

Because of difficulties inherent in determining a dog's breed with certainty, enforcement of breed-specific ordinances raises constitutional and practical issues.

Many practical alternatives to breed-specific ordinances exist and hold promise for prevention of dog bites.

## **The Association of Pet Dog Trainers**

The Association of Pet dog Trainers (APDT) supports the adoption or enforcement of a program for the control of potentially dangerous or vicious dogs that is fair, non-discriminatory and addresses dogs that are shown to be dangerous by their actions.

The APDT opposes any law that deems a dog as dangerous or vicious based on appearance, breed or phenotype. Canine temperaments are widely varied, and behavior cannot be predicted by physical features such as head shape, coat length, muscle to bone ratio, etc. The only predictor of behavior is behavior.

As an organization comprised of dog trainers, behaviorists and other animal professionals, the APDT is fully aware that any dog can bite, any dog can maim, and any dog can kill. A dangerous or vicious dog is a product of a combination of individual genetics, upbringing, socialization, and lack of proper training. The solution to preventing dog bites is education of owners, breeders, and the general public about aggression prevention, not legislation directed at certain breeds.

Singling out and publicly demonizing certain breeds as dangerous is unfair, discriminatory, and does an immense disservice to those breeds and the people who care about them. Even more chilling, breed specific legislation encourages the faulty public perception of other breeds as being inherently safe. This can lead misguided individuals to engage in unsafe conduct with other breeds that can result in injury or death by individual representatives of those breeds mistakenly perceived as safe. Also, designating certain breeds as inherently dangerous implies to the public that behavior is not effectively influenced, positively or negatively, by training. This misconception will likely produce a growing number of dangerous dogs as misinformed, complacent dog owners fail to practice responsible aggression-prevention measures.

## **The National Animal Control Association**

**POLICY STATEMENT:** Dangerous and/or vicious animals should be labeled as such as a result of their actions or behavior and not because of their breed.

**BASIS FOR POLICY:** Any animal may exhibit aggressive behavior regard-less of breed.

Accurately identifying a specific animal's lineage for prosecution purposes may be extremely difficult. Additionally, breed specific legislation may create an undue burden to owners who otherwise have demonstrated proper pet management and responsibility.

**POLICY RECOMMENDATIONS:** Agencies should encourage enactment and stringent enforcement of dangerous/vicious dog laws. When applicable, agencies should not hesitate to prosecute owners for murder, manslaughter, or similar violations resulting from their animal's actions, and their owner lack of responsibility. Laws should clearly define "dangerous" or "vicious", and provide for established penalties. Penalties may include fines, imprisonment, and/or the relinquishing of total privileges to pet ownership. If a dangerous/vicious animal is

allowed to be kept, laws should specify methods of secure confinement and control. A dangerous/vicious animal when kept outside should be confined in an escape-proof enclosure which is locked and secured on all six sides. Signs should be posted at property entrances and be visible from the nearest sidewalk or street. The licensing record could include a notation which will immediately identify an animal which has been deemed dangerous or vicious.

Reviewed/Revised by the NACA Corporate Office -09/17/02

## **2. Costs Associated with BSL**

- 1 Kenneling cost to house the pets that are seized or given up.
- 2 Additional vet care for animals who are seized because the breed has been banned or restricted. These dogs are held by the city or county while owners work to meet restriction requirements, or file lawsuits to fight the ban.
- 2 Legal fees, court costs, etc. associated with responsible owners' lawsuits against the unconstitutional law.
- 3 Baltimore, MD estimated that in 2001 it cost the city \$750,000.00 a year to enforce their BSL and because they were still unable to enforce the law effectively, they repealed it in favor of a non-breed specific law.
- 4 Additional animal control officers to enforce the ban or restrictions. \* Most cities do not have sufficient control departments to enforce other animal related laws, which if enforced would reduce many of the problems that lead to bite incidents.
- 5 The area immediately under a ban, plus the surrounding areas, see an increase in the number of stray pit bulls. The number of dogs ending up in the shelters of surrounding areas also increases.
- 6 Prince George County, MD reviewed their existing dangerous dog laws, including a ban on pit bulls. The task force recommended repealing the law and cited these cost factors:
  - (a) loss of revenue- less dog shows and exhibits in the county. Also hotels/motels, restaurants, gas stations, veterinarians, pet supply stores, grocery and drug stores, etc.
  - (b) The Director of Animal Management Division estimated the County's cost for maintaining a single pit bull throughout the entire process for one (1) year was \$68,000.
  - (c) Fees from pit bull registrations were only a fraction of the costs for maintenance of pit bulls over the same period.
  - (d) The other cross-agency costs were not fully captured or adequately estimated.

## **3. Breed Identification Issue**

- Pit bull is not, in fact, a breed of dog. The term "Pit Bull" is typically associated with these three breeds: American Staffordshire Terrier; American Pit Bull Terrier; and Staffordshire Bull Terrier.
- The only way to identify a dog's breed is by its appearance. There is no genetic test to determine a specific dog breed.
- There are 25+ breeds of dogs that have similar appearances and are commonly mistaken for pit bulls. It is almost impossible for the average person to accurately identify a pit bull. Go to this link for the "Find the Pit Bull" game:  
<http://www.pitbullsontheweb.com/petbull/findpit.html> [printing this out can be very helpful and effective]

## 4. Constitutionality and Other Legal Issues

### BSL is Unconstitutional as found by US Courts:

- 1 The United States Supreme Court - *Nicchia v. People of the State of New York* 254 U.S. 228 (1920) : gave police the power to regulate and control dangerous dogs with drastic measures, as long as it does not infringe on the dog owner's right to liberty with due process.
- 2 The Alabama Supreme Court - *WAF/Sheila Tack v. Huntsville Alabama* (2002): upheld a decision that pit bulls were no more inherently dangerous than any other breed. This case was very costly to the city of Huntsville.
- 2 The Toledo Municipal Court- *Tellings v. City of Toledo* CRB-02-15267 (ACF 2005): The Court in this case determined several important points: Dog owners can challenge the law by rebutting the *prima facie* evidence that pit bulls are dangerous, thus relieving them from restrictions.

It sets forth that there is NO scientific evidence to confirm that the pit bull's bite is any more powerful (in terms of PSI) than any other breed of dog.

It determined that there is little, if any, evidence presented that would indicate that the breed itself is a dangerous breed when trained and adapted in a social situation.

There are approximately 52 million dogs in the United States, and as many as 4.8 million are some form of pit bull. As such, common sense would dictate that if breed of dog was the primary determining factor in all dog attacks, it would stand to reason that the statistics on pit bull bites would be astronomically high. They simply are not.

"[W]e conclude that the subjective identification of pit bulls may often include both non-pit bulls or dogs which are not vicious...[laws] based upon that identification process, we conclude that they are unconstitutionally vague."

- 3 The Ohio Supreme Court- *State v. Cowan* (103 Ohio St. 3d 144, 2004-Ohio-4777) (2004) struck down ORC955:11 which declared the "Pit Bull" vicious, because it violates our rights to be heard (due process). The Court determined that the statute that penalizes owners of dangerous dogs who fail to buy liability insurance and properly confine their dogs was unconstitutional for failure to provide due process.
- 4 Westbury, NY (Spring 2003) court ruled that the city's BSL was unconstitutional and repealed the law.
- 5 U.S. Court of Appeals for the Fourth Circuit *Altman, et al. v. City of High Point, et al.* (2003):
- 6 The court held that dogs qualify as property protected by the Fourth Amendment of the U.S. Constitution. This means that dog owners must be guaranteed due process, and a breed-specific ban is unconstitutional.
- 7 Supreme Court of New York- *Carter v. Metro North Associates* (1999): The Court ruled that courts cannot take judicial notice of a dog breed's particular behavior when a dog's "propensities" are not "authoritatively settled." This means that a court must prove that an individual dog is dangerous.
- 8 California Court of Appeals- *Zuniga v. County of San Mateo Department of Health Services* (1990): The Court found that pit bulls are not inherently dangerous.

## 5. Where BSL Has Failed and Why

Niki Rae Huitson's Thesis on BSL: <http://hdl.handle.net/1892/2361>

### The Failure of Breed Specific Legislation [An article by author Karen Delise]

It's easy to see why the average person might think that certain breeds of dogs are inherently dangerous. After all, those are the only breeds we see on the news when a serious dog attack occurs.

But things aren't always as they seem.

Governments that have passed breed specific legislation (BSL) have found out the hard way that these kinds of ordinances do not reduce the incidence of dog bites. Municipalities spend thousands of dollars passing these types of laws, only to find they didn't have the desired effect, and are routinely defeated in legal challenges.

In addition, the actual number of serious dog attacks is much smaller than the media would have us believe. The worry is overblown. Not only that, the dogs involved in the majority of biting incidents are not the breeds we see on the evening news. Does your local news reflect the fact that 'pit bulls' are typically only involved in 0-10% of dog biting incidents? If not, what does that say about the honesty and ethics of your local media?

#### No reputable organizations support breed bans.

As evidence of the failure of BSL, please note:

- According to the city of Winnipeg's own data, when Winnipeg, Manitoba, Canada banned 'pit bulls' in 1990, there were 214 reported dog bites that year (with 68 bites by German Shepherds and crosses, 18 bites by Terrier crosses, 16 bites by Labs and their crosses, and 11 bites by 'pit bulls'). For the decade following Winnipeg's 'pit bull' ban, there were an average of close to 50 MORE dog bites per year, with immediate spikes in bites by German Shepherds and crosses (92 bites in 1991, and 97 bites in 1992); Terrier cross (29 bites in 1991, and 34 bites in 1992); up to 2001, when the top biters were German Shepherd and crosses 64 bites, Rottweiler and crosses 37 bites, and Lab and crosses 30 bites.
- ***Dog bites actually INCREASED after 'pit bulls' were banned in Winnipeg.***
- There had been just over 500 reported bites, the year Kitchener, Ontario, Canada decided to ban the #8 'breed' in their dog bite statistics ('pit bulls', but not the #1 breed, German Shepherds, and not even the #7 breed, Poodles). Eight years later, in 2004, the city again reports just over 500 dog bites.
- ***The 'pit bull' ban hasn't reduced dog bites one bit in Kitchener.***
- According to the BBC, hospitalizations due to dog bites increased by 25% after 'pit bulls' were banned in Britain.
- German states enacted sweeping breed bans, only to have the Federal Administrative Court decree that a state cannot ban ownership of a dog based on breed.
- Holland banned pit bulls entirely, yet admits that very few pit bulls have actually been involved in biting incidents.
- 12 U.S. state governments have gone so far as to pass laws making it illegal for any municipality to pass breed-specific ordinances.
- The Supreme Court of Alabama ruled there was no genetic evidence that one breed of dog was more dangerous than another, simply because of its breed.
- Boulder, CO considered banning 'pit bulls' despite the fact that Labrador Retrievers were responsible for an astonishing 18.9 percent of the 748 dog bites in the city from 1997 to 2003, more than twice as

many as the next highest breed (German shepherds, at 8.5 percent).

- One court's ruling:
  - The court finds that the law is unconstitutional because it is in the nature of *ex post facto* law and violative of the Fifth Amendment of the US Constitution in that it provides "*nor shall any person be deprived of life, liberty, or property, without due process of law.*" In addition to the absolute ban on pit bulls the law does not tell the reader whether the village, its agents or assigns, have the power to confiscate the offending animals and if so, what compensation, if any, owners would be afforded. This, too, runs afoul of the Fifth Amendment.

The court does not accept the tortured legal argument presented by the prosecution in this case. The "pit bull" law provides for an illegal prohibition against a particular breed and must stand on its own without connection to the "off leash" charge. The argument of an alleged attack by the dog, thus suggesting it thereby became inherently dangerous, *de hors* the record; is collateral; unproven and irrelevant for our purposes here.

Finally, this local law, by barring a specific breed, has also, in this court's opinion, run afoul of the Fourteenth Amendment of the US Constitution which provides no State shall "*deny to any person within its jurisdiction the equal protection of the laws.*" That language of the Constitution must necessarily apply to Villages and other municipalities. Thus the defendants here would be afforded the unequal treatment of the laws if this local law is allowed to be selectively enforced against them and their dogs. See *contra* *People v. Al Munin A Jabaar* 163 misc.2d 1045;623 N.Y.C. 2d 500; 1994 N.Y. Misc. LEXIS 643, November 1, 1994. Accordingly, that portion of the local law regarding pit bulls is hereby struck down and severed as unconstitutional.

Dated: April 9, 2003  
Westbury, New York  
Honorable Thomas F. Liotti

Where dog biting incidents are concerned, every breed of dog is involved. There is no such thing as a breed of dog that won't bite.

Serious dog attacks, on the other hand, have only involved about 40 or so breeds over the past few decades. In many cases, you will never hear these breeds referred to as "dangerous", even though one member of their breed has actually killed. Breeds that have killed include even toy breeds such as: Pomeranian, Cocker Spaniel, West Highland Terrier, Dachshund, Lhasa Apso, and Yorkshire Terrier. Breeds often described as "friendly" have also killed, such as Labrador Retriever, Golden Retriever, and Chesapeake Bay Retriever.

The most serious cases of dog attacks are quite rare, actually. There are approximately 10-15 fatalities caused by a dog in the U.S. each year, and about 1 per year, on average, in Canada.

There are approximately 70 million dogs in the U.S and about 5 million in Canada. While any dog-related fatality is one too many, a dozen incidents out of 75 million individuals is not exactly an epidemic.

Compare the number of dog-related fatalities to the number of murders, negligent homicides, and fatal accidents caused by humans, and the number will pale in comparison.

There are estimated to be approximately 6,000,000 'pit bulls' in the United States. Over the course of 40 years, we can estimate a minimum of 24,000,000 'pit bulls' existed. For a short period of time, 'pit bulls' were the #1 'breed' involved in dog-related, human fatalities in the United States, but nowhere else, and they no longer top that list. The best estimate is 70 'pit bulls' involved in dog-related, human fatalities during the past 40 years. 70 out of at least 24,000,000 dogs means that 99.99998% of 'pit bulls' are innocent of these kinds of accusations. 99.99998%!!! Could the actions of 0.00002% of ANY group possibly say anything about the group as a whole? Far more than 0.00002% of men are involved in physical attacks against humans. Far more than 10-15 dogs are murdered by humans each year.

- Over 1,000 American children are killed by their own parents, on average, each year.
- As many Americans are treated in hospital for bites caused by humans as by dogs.

It is true that some breeds are more commonly involved in serious aggression incidents than others, but the idea that the dog's breed is responsible is a red herring. It is a way of excusing the dog's owner for his/her negligence. The breeds more frequently trained to behave aggressively (including buying a dog for use as a "guard dog", or "to protect the home" or "the owner") are involved in serious unprovoked biting incidents more often than dogs that are not. The popularity of these breeds, for those purposes, changes over time. Irresponsibly or indulgently reared dogs, especially from the so-called "friendly" breeds, make up the majority of dogs involved in biting incidents.

When society believes myths like "aggressive breeds" or even "friendly breeds", we move responsibility away from the dog's owner and towards the dog, itself. Yet, experts agree that breed has nothing to do with inappropriate behavior. Training is universally agreed to be the cause and the solution to inappropriate dog behavior. A dog's breed predicts very little about an individual dog's actions.

*"Variability in behavior has a wider range within a breed than between breeds. ... The adult behavior of a domestic dog is determined overwhelmingly by its experiential history, environmental management and training."*

- Dr. Mary Lee Nitschke, Ph.D.

BSL fails to reduce the number of biting incidents for a number of reasons. The main reason is the basic premise is fatally flawed. It is a dog's upbringing that causes aggression, not its breed. So, when one breed is banned or restricted, the responsible owners of that breed suffer the consequences and abide by the new restrictions, even though they've done nothing wrong. Whereas, the irresponsible owners of those breeds will simply continue operating outside the law, or move on to an unrestricted breed. Statistics show this is the case.

It is a people problem, not a problem with dogs, as the evidence in Winnipeg clearly shows. It is the kinds of people who encourage aggressive behaviors in their dogs who must be stopped. What greater proof is needed than the case of the woman in San Francisco who was killed by two Presa Canario crosses? Two criminals, already in jail, wanted to breed the most menacing dogs imaginable. They found a willing partner to help them, then set about the task of finding large, powerful dogs for their ill-conceived breeding program. Their offers to buy dogs from responsible breeders were turned down. But, eventually, they found irresponsible breeders willing to supply them with breeding stock.

The person raising and breeding the dogs had no knowledge of ethical breeding practices, nor any experience training dogs. Once the dogs had proven they were out of control, the caretaker demanded the criminals re-home them. The two dogs, Presa Canario/Mastiff crosses ultimately killed an innocent woman as she entered her apartment.

That story is bad enough. It demonstrates how irresponsible ownership of a dog can result in disaster. But here's the important part: When only one of the dogs involved was immediately put down, people called to inquire about buying the other "killer dog". Statements were made, such as *"I want a dog who's actually killed a person."* When the media routinely referred to the mixed breed dogs as Presa Canarios, sales in these rare dogs increased dramatically. You see, it is the kinds of humans who want a dog as some sort of weapon who are the danger to society, not the dogs themselves. A properly raised dog will be a good canine citizen, regardless of its breed.

BSL is not only ineffective, it is downright preposterous. Even those who feel restricting certain breeds is a reasonable course of action will admit what they're talking about are biting incidents involving mere fractions of a percent of those dog breeds. It's similar to suggesting that, since a handful of people of Arab descent have committed terrorist acts, all Arabs should be eliminated or their liberties severely

restricted. Why ban *all* pit bulls or *all* Rottweilers when only a tiny percentage of them are a danger? The answer one gives to that question is indicative of his/her level of understanding of genetics, canine behaviour, and dog training.

- Less than 0.1% of any breed will be involved in an attack at some point in their lives, leaving 99.9% of all dogs, from all breeds, innocent of these kinds of accusations.

Isn't it much better to severely punish irresponsible dog owners who allow their dogs to behave inappropriately, regardless of what breed of dog they own? Wouldn't that discourage irresponsible dog ownership, regardless of the dog's breed? Isn't that kind of legislation infinitely more egalitarian and make infinitely more sense?

Calgary, Alberta, Canada, developed a successful method for reducing dog bites, and even making their animal control department financially self-sufficient...and they did so without banning any breeds. Calgary boasts the lowest dog bite rate of any major Canadian city, after having reduced dog bites by 70% using the very techniques nearly all experts agree are key in reducing unprovoked dog bites:

1. Educational programs to teach dog owners what is responsible dog ownership, and what their responsibilities, as dog owners, are.
2. Increased access to off-leash parks for proper socialization of dogs is vital. Representatives from Calgary feel that a large part of their success in reducing dog bites is attributed to the ample access dog owners have to leash-free parks for socialization purposes. Calgary has the largest number of dedicated off-leash areas, of any major city in Canada, with over 200!
  - We've been saying this for years (and Calgary's experience suggests we're right!), *"When the studies are done, we'll find that the cities with best access to leash-free parks [for socialization, exercise, and training] will be the cities with the least number of dog bites."*
3. Enforcement against habitually negligent dog owners plays a crucial role in reducing dog bites. Only by targeting those who are actually causing the problems is there any hope of solving it. It shouldn't have to be said that punishing already law-abiding and responsible dog owners will have zero effect in reducing dog bites...Their dogs are already safe, and well-behaved members of society. Target the dogs that are actually dangerous, then target the appropriate end of the leash: the dog's owner!

BSL, in its blindly sweeping net, ultimately hopes to remove responsibility for dog biting incidents from dog owners, and place the blame on voiceless dogs who can't legally defend themselves. This is a simplistic solution to a complex problem, and one that hopes, even in the most favorable interpretation, to punish the vast majority of innocent citizens, in a misguided attempt to catch a handful of problem dog owners. As the dog bite statistics demonstrate, every breed of dog will bite. The likelihood of an unwarranted bite is determined by the training that dog has or hasn't received. The dog's breed is not relevant. And this is ultimately why BSL is a failure.

***"Severe and fatal attacks will continue until we come to the realization that allowing a toddler to wander off to a chained dog is more of a critical factor in a fatal dog attack than which breed of dog is at the end of the chain."***

*- Karen Delise, author "Fatal Dog Attacks"*

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**Pit Bull Educational Packet, 2004, by Marcy Setter, [www.understand-a-bull.com](http://www.understand-a-bull.com)**

In the United States, cities have spent millions of dollars attempting to enforce breed bans and all efforts have failed. In Dade County Florida, a breed ban was passed on Pit Bull type dogs in 1988, yet as of 2002 an estimated fifty thousand Pit Bull type dogs populate Dade County. In Saginaw Michigan, a breed ban was repealed several years ago because of the cost of

impounding dogs and the legal cost to the city for its defense against dog owners who filed civil action.

In Saginaw, City Attorney Catherine R. Ginster stated "aside how the ordinance was adopted and its enforcement, a major problem exists as to the adequacy in terms of the number of available pens within the Animal Shelter to hold animals for protracted periods. The county does not have the capacity to hold "vicious dogs" for periods beyond which the State law specifies."

In 2001, Baltimore, Maryland projected it would cost over 750,000 dollars a year to attempt to enforce legislation directed at specific breeds and voted against breed specific legislation.

In Pontiac, Michigan, WAF had filed a lawsuit against the city on December 13, 2001 for passing breed specific legislation without giving public notice; it was repealed. In all reality, breed specific legislation cannot be enforced; and where it has been enacted, it has been proven it could not be enforced.

In 2002 Huntsville Alabama spent over 70,000 dollars declaring American Pit Bull Terriers dangerous and appealed a case (Shelia Tack v Huntsville) to the Supreme Court. A decision came back ruling in favor of the trial court upholding American Pit Bull Terriers as not genetically dangerous. (ACF2003) [American Canine Foundation]

**Communities that have repealed pit bull bans because they were found to be (1) too costly; (2) difficult to enforce and (3) ineffective:**

Belton, MO, Bourbonnais, IL, Detroit, MI, East Point, MI, Redford, MI, Beloit, Kansas, Algona, Washington, Hudsonville, MI, Baltimore, MD, Saginaw, MI.

"We've experienced a continuing upward trend of pit bulls impounded since 2001. The ban hasn't ended the popularity of the pit bull breed in Denver. There are still pit bulls, apparently more every year." Doug Kelly, Director of Animal Control, Denver CO.

**Articles Concerning Failures:**

**Dutch government to lift 25-year ban on pit bulls**

<http://www.azcentral.com/news/articles/2008/06/09/20080609netherlands-pitbulls0609-ON.html?source=nletter-news>  
<http://tinyurl.com/3sg6jc>

Jun. 9, 2008 11:03 AM  
Associated Press

AMSTERDAM, Netherlands - The Dutch government says it will lift a long-standing ban on pit bulls because it did not lead to any decrease in bite incidents.

Agriculture Minister Gerda Verburg has informed parliament of the decision, which follows the advice of a commission of experts appointed to review the policy.

have died in dog attacks. In 2005 there was 929 prosecutions under the Act in England and Wales.

Kennel Club secretary Caroline Kisko said yesterday: "Because it was a knee-jerk reaction it was poorly drafted. Another hasty decision will do nothing to address the real issues of responsible dog ownership."

Dog experts pointed out yesterday that most attacks are carried out by "legal" pets, but banned dogs are still sold on the internet. "Any dog can be trained to attack, so a breed-specific ban misses the point," said an RSPCA spokeswoman.

Dog ownership numbers have remained stable at nearly 7m for more than a decade but some breeds, such as Staffordshire bull terriers and Rottweilers, have become more popular. Complaints to the police, RSPCA and councils about teenagers with "Staffies" are rising as it becomes the legal "hard dog" of choice. According to Laura Jenkins, director of animal welfare at Battersea dogs' and cats' home, "lonely and scared kids want these dogs to feel safer on the streets.

"Children and dogs can be wonderful but they should never be left alone together, and there always needs to be a responsible adult in charge of training."

Additional reporting by Sadie Gray

**SPOKANE**

### **Judge: Dog ordinance unconstitutional**

By Bill Morlin  
Staff writer  
December 2, 2007

Spokane's "dangerous dog" ordinance is unconstitutional because it denies pet owners the right of due process, a Superior Court judge ruled Friday in a case that may have far-reaching effects.

As a matter of law, the administrative procedures used in the city of Spokane regarding "dangerous dog" determinations and appeals from those rulings violate citizens' due process rights, Judge Robert Austin said in his ruling.

It came in the case of Patty Schoendorf, a 57-year-old resident of the city's West Central neighborhood. Her dog, a 1½-year-old boxer and golden Lab mix named Kenny, and her daughter's 4-year-old border collie and black Lab mix, Tai, were impounded in mid-August by SpokAnimal officers working under a city animal control contract.

The ruling suggests the City Council now must correct the legal issues with its "dangerous dog" ordinance and provide more constitutional protections to citizens whose animals are picked up and destroyed, sometimes in a matter of days.

In the current system, dogs tagged as "dangerous" by the city and its contractor, SpokAnimal, are deemed to be that unless the owner can prove otherwise – flying in the face of the notion of presumed innocence.

City Attorney Jim Craven said he would have a comment after reading the judge's four-page ruling. It's the latest legal setback for the City Attorney's Office and the City Council, which recently granted a 26-

month contract extension to SpokAnimal.

Shortly after the judge released his 4-page ruling, Schoendorf, her daughter, Emily Kaeding, and their attorneys, Cheryl Mitchell and Richard Lee, raced to SpokAnimal's facility at 710 N. Napa late Friday afternoon for a tail-wagging reunion with Kenny and Tai.

They are home this weekend after spending more than three months in solitary confinement while Schoendorf paid \$14 a day and hired a team of attorneys to keep them from being euthanized. She was only allowed two visits – sticking her fingers through the chain mesh – after the court intervened.

"I've been praying for this day for so long," Schoendorf said Friday afternoon, nervously fondling her dog's leash. SpokAnimal officials had her spend several minutes signing legal papers before the dogs could be released.

"I think I'm going to give him a steak bone, even though I can't afford one after all this," Schoendorf said when asked what she would do with her dog this evening. Tai, who spends days at Schoendorf's home, went to another home with Kaeding.

They were being held in the public-restricted "dangerous dog" area – sort of a doggy death row – where dogs labeled dangerous are euthanized within 14 days unless their owners pay \$98 in advance, demand a hearing and get a Superior Court restraining order preventing them from being destroyed.

"Most poor people can't afford to fight the city like this, so they just lose their dogs," Schoendorf said.

SpokAnimal officers alleged her dogs killed a neighborhood cat in late July, but Schoendorf says the contract dog catchers grabbed the wrong black and tan dogs. She said 13 other sets of black and brown dogs live within a two block radius of her West Central home, but she wasn't given an opportunity to make that case before a city hearing examiner.

The judge said the city violated Schoendorf's constitutional rights by taking her property – her dogs – and intending to destroy them after a hearing where she wasn't allowed to cross-examine or impeach witnesses involved in the dogs' impoundment.

She also wasn't given access to documents in the city's "dangerous dog" file and the opportunity to rebut those allegations – another denial of due process guaranteed by the Constitution.

The judge not only ordered SpokAnimal to immediately release the dogs, he ordered the city to pay as-yet undetermined legal bills for a team of attorneys.

"The attorney fees are going to be pretty healthy in this," said attorney Robert Caruso, who worked with Lee of his firm and Mitchell, who specializes in animal rights legal issues.

Mitchell said she has "been fighting" with the city and its contract that allows SpokAnimal to pick up dogs and label them dangerous on the spot, even if they have returned home, as Kenny and Tai had done after someone opened the gate at Schoendorf's home.

Her adult son was there Aug. 16 when SpokAnimal control officers said they had come to pick up two black and brown dogs, tentatively described by an 80-year-old man who witnessed a cat mauled by two dogs in late July. The cat later died.

"They told my son, 'If you don't give us those dogs, we're going to arrest you and put you in jail,'" so he went in the house and handed over the two dogs," Schoendorf said. Her third dog, a golden retriever named Hannah, escaped attention and remained in the home.

After getting off work that day, Schoendorf went to SpokAnimal and was told she would have to pay \$98

in advance – \$7 a day for each dog – to keep them from being euthanized while she filed an appeal with City Hearing Examiner Greg Smith.

At the informal hearing, witnesses were not given an oath, Schoendorf said, and she wasn't given a chance to challenge their version of events, accusing her dogs of killing the cat. There also were documents given to the hearing examiner by SpokAnimal that she wasn't allowed to see, she said.

The hearing examiner ruled her pets were "dangerous dogs" and said they could be returned to Schoendorf and her daughter only if they posted a \$100,000 bond per animal, had them wear muzzles any time they were outside, and built a special concrete-floor outdoor kennel posted with "dangerous dogs" signs.

After lining up Mitchell and Caruso's law firm, where she works as a paralegal, Schoendorf instructed the lawyers to get a restraining order to prevent SpokAnimal from euthanizing her dogs while she appealed the hearing examiner's dangerous dog ruling to Superior Court.

Mitchell drafted the legal papers, asking the judge to declare the city's dangerous dog ordinance – part of the Spokane Municipal Code – unconstitutional.

"I'm absolutely delighted," Mitchell said of the ruling. "Finally, a judge has told them – the city and SpokAnimal – they have to have rules and follow the Constitution."

The judge said dogs clearly are property, so a government agency must comply with due process provisions of the Constitution when seizing animals.

The judge said the city and SpokAnimal failed to identify a "standard of proof" – the legal criteria – in labeling dangerous dogs.

"Similarly, in this case, the appellant (Schoendorf) was at no time during the hearing allowed to cross-examine the witnesses testifying against them," Austin said. "In addition, the appellant was not given, prior to the hearing, certain documents used in the hearing."

Furthermore, the judge said, instead of a presumption of innocence that accompanies most legal proceedings, the burden of proof shifted to Schoendorf to prove her dogs weren't the dangerous dogs responsible for the cat's death.

## **6. Dispelling Myths**

- 1 Pit bulls, and dogs of any breed or variety, do NOT have locking jaws.
- 2 Pit bull-type dogs have been bred for courage and loyalty, defined as "gameness". In the past, pit fights were used to test the dogs' gameness, but aggression directed at people was not tolerated. Any dog that attacked a person was not bred, but put to death. As a result, most of today's pit bull-type dogs are extremely tolerant and friendly toward children and strangers. They also continue to serve in various realms of work, including therapy, search and rescue, narcotics detection, U.S. Customs, educational programs, and various service dog capacities.
- 2 Pit bull-type dogs do NOT attack more than other breeds. Dachshunds have been found by the University of Pennsylvania to be the most aggressive breed, followed by Chihuahuas and Jack Russell Terriers. Pit bull dogs and Rottweilers were found to be average or below average in hostility toward strangers.
- 3 Pit bull-type dogs are No more vicious than golden retrievers, beagles or other popular dogs! In a recent study of 122 dog breeds by the American Temperament Testing Society (ATT), pit bulls achieved a passing rate of 83.9%. That's as good or better than

5. Promote socialization and training with community-wide programs to reward responsible dog owners and encourage socialization and training as part of basic and common canine care practices.

# Media Release

Community Health Endowment of Lincoln



**To:** Media  
**CC:** Mayor's Office, Lincoln City Council  
**From:** Lori Seibel, President/CEO, 436-5516  
Community Health Endowment  
**Date:** June 11, 2009  
**Re:** CHE Announces Annual Awards

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## **Community Health Endowment Announces Annual Awards**

The Community Health Endowment (CHE) of Lincoln has selected the recipients of their annual awards. These prestigious awards were presented at CHE's Annual Meeting with the Community.

Receiving the COMMUNITY HORIZON AWARD, which recognizes a person or group who is enriching the community by sharing their time, resources, and talents to make Lincoln the healthiest community in the nation was, **Pat Talbott**. Pat was selected due to her commitment to community service and long-standing work as a mental health advocate. She has taken a leadership role in training hundreds of peer specialists to provide mental health services and providing hope for recovery to those suffering mental illness.

Receiving the CLOSING THE GAP AWARD, which recognizes a person, program, or agency that has made a significant contribution toward addressing health disparities in our community was **Nebraska Appleseed**. This organization was recognized for their continued commitment to advancing policies and practices for immigrant and refugee populations and its work in the area of healthcare access. For example, Nebraska Appleseed has made significant contributions to the **Medical Translation and Interpretation Leadership Group of Lincoln** over the past three years to advance policies related to medical interpretation for limited English proficiency groups.

**For more information or for print-ready pictures of the award recipients, contact CHE at 402/436-5516.**

**ADDENDUM  
TO  
DIRECTORS' AGENDA  
MONDAY, JUNE 15, 2009**

**I. CITY CLERK - None**

**II. CORRESPONDENCE FROM THE MAYOR & DIRECTORS TO COUNCIL -  
MAYOR -**

1. NEWS ADVISORY - RE: Mayor Beutler's Public Schedule Week of June 13 through June 19, 2009 - Schedule subject to change.

**DIRECTORS - None**

**III. COUNCIL RFI'S & CITIZENS CORRESPONDENCE TO INDIVIDUAL  
COUNCIL MEMBERS - None**

**IV. CORRESPONDENCE FROM CITIZENS TO COUNCIL - None**



# NEWS ADVISORY

MAYOR CHRIS BEUTLER

[lincoln.ne.gov](http://lincoln.ne.gov)

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**DATE:** June 12, 2009

**FOR MORE INFORMATION:** Diane Gonzolas, Citizen Information Center, 441-7831

**Mayor Beutler's Public Schedule**  
**Week of June 13 through June 19, 2009**  
*Schedule subject to change*

Sunday, June 14

- U.S. Army mock swearing-in of future soldiers ceremony, remarks and throwing out the ceremonial first pitch - 5:45 p.m., Haymarket Park (prior to the Lincoln Saltdogs vs. Sioux Falls game)

Wednesday, June 17

- City-County Planning Commission meeting, presenting award of appreciation plaque to Gene Carroll - 1 p.m., Council Chambers, County-City Building, 555 S. 10th St.

Thursday, June 18

- KFOR Morning Show - 7:45 a.m.
- Capital City Footprint Association's 80th Annual Convention, remarks - 9 a.m., Embassy Suites, 1040 "P" St.
- Lincoln Chamber of Commerce Economic Development Forum, remarks - 11:45 a.m., Cornhusker Marriott Hotel, 333 S. 13th St.