

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, NOVEMBER 24, 2003 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Camp; Council Members: Cook, Friendt, McRoy, Newman, Svoboda, Werner; Teresa Meier, Deputy City Clerk.

Council Chair asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

SVOBODA Having been appointed to read the minutes of the City Council proceedings of November 17, 2003, reported having done so, found same correct.

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MAYOR'S AWARD OF EXCELLENCE

Mayor Seng came forward to present the Mayor's Award of Excellence to Cori Huenink of Parks and Recreation Department for the month of September in the category of customer relations and Nancy Brienzo of Aging Department for the month of October in the category of productivity.

PUBLIC HEARING

MANAGER APPLICATION OF SCOTT M. ROSOWSKI FOR DHABS, L.L.C. DBA BARRYMORE'S AT 124 NORTH 13TH STREET - Scott Rosowski, 128 N. 13th Street, took oath and came forward to answer questions.

This matter was taken under advisement.

APPLICATION OF OSIAN INTERNATIONAL MARKET L.L.C. DBA OASIAN INTERNATIONAL MARKET FOR A CLASS D LIQUOR LICENSE AT 2535 O STREET;

MANAGER APPLICATION OF THIEU (TIM) HUY NGUYEN FOR OSIAN INTERNATIONAL MARKET L.L.C. DBA OASIAN INTERNATIONAL MARKET AT 2535 O STREET;

APPLICATION OF CAFÉ DE MAI, L.L.C. DBA CAFÉ DE MAI & SEASON BANQUET HALL FOR A CLASS I LIQUOR LICENSE AT 2535 O STREET;

MANAGER APPLICATION OF THIEU (TIM) HUY NGUYEN FOR CAFÉ DE MAI, L.L.C. DBA CAFÉ DE MAI & SEASON BANQUET HALL AT 2535 O STREET - John Boehm, Attorney, 822 S. 13th Street and Thieu (Tim) Nguyen, 8121 South Street, took oath and came forward to answer questions.

This matter was taken under advisement.

CHANGE OF ZONE 3401 - APPLICATION OF URBAN DEVELOPMENT FOR A CHANGE OF ZONE FROM R-6 RESIDENTIAL DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT N. 27TH AND P STREETS. (IN CONNECTION W/03R-326);

APPROVING A REDEVELOPMENT AGREEMENT WITH CENTERPOINTE INC. FOR AMENDMENTS TO THE NORTH 27TH STREET CORRIDOR AND ENVIRONS REDEVELOPMENT PLAN TO DEVELOP THE PROPERTY ON P STREET BETWEEN 26TH AND 27TH STREET FOR A 15,000 SQ. FT. RESIDENTIAL TREATMENT CENTER WITH 20 BEDS AND ADMINISTRATIVE OFFICES. (IN CONNECTION W/03-84) - Wynn Hjermstad, Urban Development, came forward to explain the change of zone and to answer questions. Discussion followed.

Becky Wild, 5613 Red Tail Circle, President of CenterPointe Board of Directors, came forward to promote the need for a new facility and the location proposed to build it.

Tom Huston, 233 S. 10th Street, came forward representing CenterPointe. He stated that a special permit will be forthcoming for the healthcare facility.

Mike Morosin, 2055 S St., came forward in opposition.

Roger Castillo, President of North 27th Street Business Association came forward in favor of this location. Discussion followed.

Tom Huston came forward to answer questions.

This matter was taken under advisement.

CHANGE OF ZONE 2751A - AMENDING THE VAN DORN ACRES PLANNED UNIT DEVELOPMENT

FOR 210 RESIDENTIAL UNITS AND 33,000 SQUARE FEET OF COMMERCIAL FLOOR AREA FOR USES ALLOWED IN THE B-1 LOCAL BUSINESS DISTRICT, INCLUDING THE ON AND OFF SALE OF ALCOHOL IN PORTIONS OF BUILDINGS 9 AND 10 THAT ARE WITHIN 100' OF A RESIDENTIAL DISTRICT, PROVIDED THE ON-SALE ALCOHOL IS LIMITED TO BUSINESSES WHICH DERIVE MORE THAN 50% OF THEIR GROSS RECEIPTS FROM FOOD SALES, AND WAIVERS OF THE REQUIREMENTS TO ALLOW A PRIVATE SANITARY EJECTOR PUMP TO SERVE THE COMMERCIAL AREA, TO ELIMINATE PEDESTRIAN EASEMENT, TO ALLOW TANDEM PARKING IN THE REQUIRED PARKING, AND TO EXCEED THE MAXIMUM BUILDING HEIGHT FOR THE MULTI-FAMILY STRUCTURES, ON PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF 84TH AND VAN DORN STREETS - Mike Rierden, 645 M St., Suite 200, came forward representing Slosburg Company to state they are in agreement with the conditions of 1.1.2 of the Planned Unit Development.

Jerry Kavan, Slosburg Company, came forward to discuss the development. Discussion followed.

Kurt Suhr, 8030 Thornview Rd., came forward in opposition. Discussion followed.

Nicole Fleck-Tooze, Public Works and Utilities Dept., came forward to answer questions. Discussion followed.

Marvin Krout, Director of Planning Department, came forward to answer questions.

Dana Roper, City Attorney, came forward to answer questions pertaining to alcohol sales. Discussion followed.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF OCTOBER 16 TO 31, 2003 - Gary Bargar, no address given, requested approval of a claim for a lesser amount than previously submitted. Discussion followed.

Dana Roper, City Attorney, came forward to answer questions.

This matter was taken under advisement.

USE PERMIT 146A - APPLICATION OF WEST GATE BANK TO WAIVE THE SIGN REQUIREMENTS FOR THE O-3 DISTRICT TO ALLOW AN ADDITIONAL GROUND SIGN, TO ALLOW A GROUND SIGN IN EXCESS OF THE MAXIMUM ALLOWED HEIGHT, AND TO ALLOW THE SIGN AREA FOR GROUND SIGNS TO EXCEED THE ALLOWED AREA, ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF OLD CHENEY ROAD AND HIGHWAY 2 - Carl Sjulín, President of West Gate Bank, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

AUTHORIZING MIKE ALESIO DBA VALENTINO'S TO OCCUPY A PORTION OF THE PUBLIC RIGHT-OF-WAY AT 232 NORTH 13TH STREET FOR USE AS A SIDEWALK CAFÉ - Jeff Cole, Urban Development, came forward to answer questions. Discussion followed.

Alan Wachter, 3701 Faulkner Dr. #106, came forward representing Valentino's. Discussion followed.

This matter was taken under advisement.

APPROVING THE ACQUISITION OF PERMANENT CONSERVATION EASEMENTS TO PRESERVE FLOOD STORAGE CAPACITY OF THE 100 YEAR FLOODPLAIN AND TO PROTECT DELINEATED WETLANDS, DRAINAGEWAYS, AND TREE MASSES OVER APPROXIMATELY 736.9 ACRES OF FLOODPLAIN GENERALLY LOCATED ALONG SALT CREEK FROM WILDERNESS PARK TO ONE-HALF MILE SOUTH OF MARTELL ROAD - Nicole Fleck-Tooze, Public Works and Utilities Dept., gave a presentation. Discussion followed.

Todd Paddock, no address given, came forward representing Friends of Wilderness Park in support.

This matter was taken under advisement.

SPECIAL PERMIT 1423G - APPLICATION OF D & M DEVELOPMENT L.L.C. AND HIMARK DEVELOPMENT INC. TO AMEND THE HIMARK ESTATES COMMUNITY UNIT PLAN TO ADD 20 SINGLE FAMILY UNITS FOR A TOTAL OF 559 DWELLING UNITS AND TO WAIVE OF THE REQUIREMENTS FOR MINIMUM CUL-DE-SAC RADIUS, SIDEWALKS ON THE SOUTH SIDE OF SANDHILLS COURT, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED AT SOUTH 90TH STREET AND MEDINAH DRIVE - Mark Hunzeker, 530 S. 13th St., Suite B, came forward representing D&M Development, LLC. Discussion followed.

This matter was taken under advisement.

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY BY TMI FOR THE INSTALLATION OF A 3" CONDUIT FOR FIBER OPTIC CABLE AND COPPER WIRE ALONG THE WEST SIDE OF S. 9TH STREET AND CROSS UNDERNEATH CAPITOL PARKWAY TO CONNECT THE BUILDINGS

AT 830 L STREET AND 421 S. 9TH STREET - Michael Wobig, President of TMI came forward to answer questions.

Jeremy White, TMI, came forward to answer questions. Discussion followed.

TOOK BREAK 3:55 P.M.

RECONVENED 4:05 P.M.

MISCELLANEOUS BUSINESS - NONE

** END OF PUBLIC HEARING **

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF SCOTT M. ROSOWSKI FOR DHABS, L.L.C. DBA BARRYMORE'S AT 124 NORTH 13TH STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82461 WHEREAS, DHABS, L.L.C. dba Barrymore's located at 124 North 13th Street, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Scott M. Rosowski be named manager;

WHEREAS, Scott M. Rosowski appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Scott M. Rosowski be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPLICATION OF OSIAN INTERNATIONAL MARKET L.L.C. DBA OASIAN INTERNATIONAL MARKET FOR A CLASS D LIQUOR LICENSE AT 2535 O STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82462 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Osian International Market L.L.C. dba OAsian International Market for a Class "D" liquor license at 2535 O Street, Lincoln, Nebraska, for the license period ending April 30, 2004, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF THIEU (TIM) HUY NGUYEN FOR OSIAN INTERNATIONAL MARKET L.L.C. DBA OASIAN INTERNATIONAL MARKET AT 2535 O STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82463 WHEREAS, Osian International Market L.L.C. dba Oasian International Market located at 2535 O Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Thieu (Tim) Huy Nguyen be named manager;

WHEREAS, Thieu (Tim) Huy Nguyen appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of

the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Thieu (Tim) Huy Nguyen be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPLICATION OF CAFÉ DE MAI, L.L.C. DBA CAFÉ DE MAI & SEASON BANQUET HALL FOR A CLASS I LIQUOR LICENSE AT 2535 O STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82464 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Café de Mai, L.L.C. dba Café de Mai & Season Banquet Hall for a Class "I" liquor license at 2535 O Street, Lincoln, Nebraska, for the license period ending April 30, 2004, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF THIEU (TIM) HUY NGUYEN FOR CAFÉ DE MAI, L.L.C. DBA CAFÉ DE MAI & SEASON BANQUET HALL AT 2535 O STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82465 WHEREAS, Café de Mai, L.L.C. dba Café de Mai & Season Banquet Hall located at 2535 O Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Thieu (Tim) Huy Nguyen be named manager;

WHEREAS, Thieu (Tim) Huy Nguyen appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Thieu (Tim) Huy Nguyen be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ORDINANCES - 2ND READING

CHANGE OF ZONE 3401 - APPLICATION OF URBAN DEVELOPMENT FOR A CHANGE OF ZONE FROM R-6 RESIDENTIAL DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT N. 27TH AND P STREETS. (IN CONNECTION W/03R-326) - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

RENAMING OGDEN ROAD GENERALLY LOCATED NORTHEAST OFF OF SUPERIOR STREET AT N. 1ST STREET AND SUPERIOR STREET, AS CAMPERS CIRCLE - CLERK read an ordinance, introduced by Annette McRoy, changing the name of Ogden Road to Campers Circle located northeast of Superior Street at N. 1st Street, as recommended by the Street Name Committee, the second time.

CHANGE OF ZONE 2751A - AMENDING THE VAN DORN ACRES PLANNED UNIT DEVELOPMENT FOR 210 RESIDENTIAL UNITS AND 33,000 SQUARE FEET OF COMMERCIAL FLOOR AREA FOR USES ALLOWED IN THE B-1 LOCAL BUSINESS DISTRICT, INCLUDING THE ON AND OFF SALE OF ALCOHOL IN PORTIONS OF BUILDINGS 9 AND 10 THAT ARE WITHIN 100' OF A RESIDENTIAL DISTRICT, PROVIDED THE ON-SALE ALCOHOL IS LIMITED TO BUSINESSES WHICH DERIVE MORE THAN 50% OF THEIR GROSS RECEIPTS FROM FOOD SALES, AND WAIVERS OF THE REQUIREMENTS TO ALLOW A PRIVATE SANITARY EJECTOR PUMP TO SERVE THE COMMERCIAL AREA, TO ELIMINATE PEDESTRIAN EASEMENT, TO ALLOW TANDEM PARKING IN THE REQUIRED PARKING, AND TO EXCEED THE MAXIMUM BUILDING HEIGHT FOR THE MULTI-FAMILY STRUCTURES, ON PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF 84TH AND VAN DORN STREETS -CLERK read an ordinance, introduced by Annette McRoy, amending the Van Dorn Acres Planned Unit Development to increase the number of multi-family dwelling units from 96 to 210 dwelling units, to increase the commercial floor area uses allowed in the B-1 Local Business District from 10,000 square feet to 33,000 square feet, including the sale of alcohol for consumption on and off the premises in portions of buildings 9 and 10 that are within 100' of a residential district, provided the on-sale alcohol for consumption on the premises is limited to businesses which derive more than 50% of their gross receipts from food sales, and to waive prohibitions within the Land Subdivision Ordinance and Zoning Code to allow a private sanitary ejector pump to serve the commercial are, to allow tandem parking to meet the required parking, and to allow the maximum building height for the multi-family structures to exceed 35 feet, on property generally located at the southwest corner of 84th and Van Dorn Streets, the second time.

RESOLUTIONS

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPARTMENT OF ROADS FOR PROJECT NO. IM-BH-180-9(519) MILL/OVERLAY TO EXTEND THE WORK ON THE CONTRACT TO INCLUDE THE INTERSECTION AT 11TH AND CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82466 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. IM-BH-180-9(519) Mill/Overlay to extend the work on said project to include the intersection at 11th and Cornhusker Highway, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPOINTING ROMAYNE L. JACKSON TO THE CITIZEN POLICE ADVISORY BOARD TO FILL AN UNEXPIRED TERM EXPIRING NOVEMBER 17, 2004 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82467 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Romaine L. Jackson to the Citizen Police Advisory Board to fill an unexpired year term expiring November 17, 2004 is hereby approved.

Introduced Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

REAPPOINTING REV. LAUREN EKDAHL, LLOYD HINKLEY, BARB BIFFLE, RICHARD BOUCHER, AND JOHN SNOWDEN TO THE CHARTER REVISION COMMISSION FOR A FOUR-YEAR TERM EXPIRING JULY 15, 2007 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82468 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Rev. Lauren Ekdahl, Lloyd Hinkley, Barb Biffle, Richard Boucher, and John Snowden to the Charter Revision

Commission for four-year terms expiring July 15, 2007, is hereby approved.

Introduced by Patte Newman
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPOINTING M. ANNETTE MUMGAARD AND JAMES M. KELLEY TO THE CABLE ADVISORY BOARD FOR A THREE-YEAR TERM EXPIRING JULY 1, 2006 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82469 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of M. Annette Mumgaard and James M. Kelley to the Cable Advisory Board for three-year terms expiring July 1, 2006 is hereby approved.

Introduced by Patte Newman
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPOINTING MAISUN K. ALLAHIQ TO THE LINCOLN COMMISSION ON HUMAN RIGHTS TO FILL AN UNEXPIRED TERM EXPIRING DECEMBER 31, 2004 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82470 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Maisun K. Allahiq to the Lincoln Commission on Human Rights to fill an unexpired term expiring December 31, 2004 is hereby approved.

Introduced by Patte Newman
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF OCTOBER 16 TO 31, 2003 - PRIOR to reading:

WERNER Moved to delay action on the Gary Bargar claim for one week to 12/1/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK read the following resolution, introduced by Patte Newman, who moved its adoption as amended:

A-82471 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated November 3, 2003, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>	
Jack Mason	\$1,430.28	Dominick Elsener	\$ 107.00
Gary Bargar	3,819.48	Karen L. Williams	1,500.76
Lawrence Tomsyck	4,763.77	C.S. Guenzel Co.	547.65
Shannon Black	1,156.96	Patricia Bartek	1,400.86
		Nebraskaland Exterminators, Inc.	192.51
		Sun Stop Incorporated of Nebraska	360.41
		Halie Welch	1,350.10
		Kim VanGroningen	2,317.93
		Daniel Svatos	3,120.00

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Patte Newman
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

USE PERMIT 146A - APPLICATION OF WEST GATE BANK TO WAIVE THE SIGN REQUIREMENTS FOR THE O-3 DISTRICT TO ALLOW AN ADDITIONAL GROUND SIGN, TO ALLOW A GROUND SIGN IN EXCESS OF THE MAXIMUM ALLOWED HEIGHT, AND TO ALLOW THE SIGN AREA FOR GROUND SIGNS TO EXCEED THE ALLOWED AREA, ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF OLD CHENEY ROAD AND HIGHWAY 2 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82472 WHEREAS, West Gate Bank has submitted an application in accordance with Section 27.27.080 of the Lincoln Municipal Code designated as Use

Permit No. 146A for authority to modify the O-3 Zoning District sign regulations to permit the installation of an additional ground sign, to permit a ground sign in excess of the maximum allowed height, and to allow the sign area for ground signs to exceed the maximum allowed sign area on property generally located northeast of the intersection of Old Cheney Road and Highway 2, and legally described as follows:

Lot 1, West Gate Bank Addition, Lincoln, Lancaster County, Nebraska; and

WHEREAS, the real property adjacent to the area included within the site plan for these ground signs will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of West Gate Bank, hereinafter referred to as "Permittee", to install an additional ground sign, to install a ground sign in excess of the maximum allowed height and to allow the sign area for ground signs to exceed the maximum allowed sign area be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that installation of said signs be in strict compliance with the application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves waivers to the sign requirements for the O-3 zoning district to allow an additional ground sign, to allow a ground sign that exceeds the maximum height allowed, and to allow the sign area for ground signs to exceed the maximum sign area allowed.

2. Before receiving building permits:

- a. The permittee must submit an acceptable reproducible final plan including five copies.
- b. The construction plans must conform to the approved plans.

3. Before occupying the building all development and construction must be completed in conformance to the approved plans.

4. The site plans approved by this permit shall be the basis for all interpretations of setbacks and yards, and the locations of buildings, location of parking and circulation elements, and similar matters.

5. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.

6. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

AUTHORIZING MIKE ALESIO DBA VALENTINO'S TO OCCUPY A PORTION OF THE PUBLIC RIGHT-OF-WAY AT 232 NORTH 13TH STREET FOR USE AS A SIDEWALK CAFÉ - PRIOR to reading:

FRIENDT Moved to amend Bill No. 03R-325 on line 15, page 2 change 11:00 a.m. to 10:00 a.m.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82473 WHEREAS, Valentino's of Lincoln, Inc. has submitted an application for a Sidewalk Café Permit to use a portion of the public right-of-way at 232 North 13th Street as a sidewalk café; and

WHEREAS, the applicant is willing to comply with all of the provisions of Chapter 14.50 of the Lincoln Municipal Code pertaining to such use; and

WHEREAS, the application has been reviewed by the Planning Department, the Public Works and Utilities Department, and the Urban Design Committee, each of which has submitted a report in conformance

with § 14.50.050 of the Lincoln Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Valentino's of Lincoln, Inc., hereinafter referred to as "Permittee", to operate a sidewalk café in a portion of the public right-of-way at 232 North 13th Street is hereby approved conditioned upon such use conforming to the application which is attached hereto as Exhibit "A", the site plan which is attached hereto as Exhibit "B", the provisions of Chapter 14.50 of the Lincoln Municipal Code and the following express terms, conditions, and requirements:

1. This permit authorizes a maximum seating capacity of 16 within the permit area as shown on the site plan.

2. Permittee shall maintain a clear, unobstructed passageway entirely across the frontage of the property occupied by the Permittee parallel to the line of the street and generally in the line of pedestrian traffic as shown on the site plan.

4. The space to be occupied by this use shall only be used for the activity or activities specified on the permit and in accordance with all applicable regulations.

5. Such use is temporary and the Permittee, by the granting of this permit, acquires no right, title, or interest in the space permitted to be used.

6. The City Council may require such space to be vacated, restored to its prior condition upon demand, and its use discontinued, with no recourse against the City for any loss or damage occasioned thereby. If any such space is not vacated and restored to its prior condition and such use not discontinued by the time specified, the City may remove from such space any property left thereon at the risk and expense of the Permittee and restore such space to its prior condition at the expense of the Permittee.

7. The Permittee shall promptly remove any litter deposited on or in the vicinity of the space used by the Permittee resulting from the activity or activities conducted by the Permittee.

8. The Permittee shall at all times conduct their use of the space in an orderly fashion and in such a manner as to protect the public health and safety.

9. Such space shall be used for business purposes by Permittee only between the hours of ~~11:00~~ 10:00 a.m. to 10:00 p.m., Sunday through Saturday.

10. The Permittee shall comply with all health and sanitation regulations.

11. The permit issued pursuant to this section is a personal privilege and may not be transferred or alienated voluntarily or involuntarily.

12. Where exigent circumstances exist and a police officer or other authorized officer or employee of the City gives notice to Permittee to temporarily move from a location, Permittee shall comply with the notice. Exigent circumstances shall include, but not be limited to, unusually heavy pedestrian vehicular traffic, existence of any obstructions in the public space at or near such location, an accident, fire, or other emergency situation at or near such location, or parade, demonstration, or other such event or occurrence at or near such location.

13. Permittee shall not sound or permit the sounding of any signal from any stationery bell, chime, siren, whistle, or device for non-emergency purposes or use or operate any loud speaker, public address system, radio, sound amplifier, or similar device which may be heard beyond 50 feet from its source.

14. No advertising shall be permitted on or in the sidewalk café except to identify the product or vendor and shall in all respects comply with the provisions of Titles 22 and 27 of the Lincoln Municipal Code regulating signage.

15. Any umbrella, canopy, or similar device within the permit area shall be no more than 6½ feet above ground level.

16. The sidewalk café shall be located only in the exact location described in the approved application, and the approved furnishings may not be modified or substituted.

17. The Permittee shall at all times maintain public liability insurance in the form of a commercial or comprehensive general liability policy, or an acceptable substitute policy form as permitted by the City Attorney, with a minimum combined single limit of \$500,000 aggregate for

any one occurrence, and shall at all times keep on file with the City Clerk a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska evidencing the existence of valid and effective policies of insurance naming the City as an additional insured for the coverage required above, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring 30 days notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declarations page of such policies. Any termination or elapse of such insurance shall automatically revoke this permit.

18. This permit shall expire on the 31st day of May following its issuance, but renewal of the permit may be made for one-year periods by application to the City Clerk and payment of the annual permit fee as set forth in Chapter 14.50 and the payment of the rental for the use or occupation of the space computed as follows: \$.25 per annum for each square foot of the permit area (162 square feet) for an annual rental of \$40.50; provided, however, said rental may be increased for future years by action of the City Council.

19. That within thirty (30) days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named applicant shall execute the letter of acceptance attached hereto and marked as Exhibit "C". Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon automatically terminate.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING A REDEVELOPMENT AGREEMENT WITH CENTERPOINTE INC. FOR AMENDMENTS TO THE NORTH 27TH STREET CORRIDOR AND ENVIRONS REDEVELOPMENT PLAN TO DEVELOP THE PROPERTY ON P STREET BETWEEN 26TH AND 27TH STREET FOR A 15,000 SQ. FT. RESIDENTIAL TREATMENT CENTER WITH 20 BEDS AND ADMINISTRATIVE OFFICES. **(IN CONNECTION W/03-84)** - PRIOR to reading:

COOK Moved to delay action on Bill no. 03R-326 for one week to 12/1/03.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING THE ACQUISITION OF PERMANENT CONSERVATION EASEMENTS TO PRESERVE FLOOD STORAGE CAPACITY OF THE 100 YEAR FLOODPLAIN AND TO PROTECT DELINEATED WETLANDS, DRAINAGEWAYS, AND TREE MASSES OVER APPROXIMATELY 736.9 ACRES OF FLOODPLAIN GENERALLY LOCATED ALONG SALT CREEK FROM WILDERNESS PARK TO ONE-HALF MILE SOUTH OF MARTELL ROAD - PRIOR to reading:

NEWMAN Moved to amend Bill No. 03R-327 on page 1, line 3 after the word "County" insert the words individually or; 2. on page 1, line 18, after the word "proposed" insert the words individual or; 3. on page 2, line 2, after the word "proposed" insert the words individual or; 4. on page 2, line 7, after the word "County" insert the words individually or.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82474 WHEREAS, pursuant to Resolution No. A-80802, the Directors of Public Works & Utilities and Parks & Recreation Departments have proposed that the City of Lincoln and Lancaster County individually or jointly acquire permanent conservation easements over approximately 736.9 acres of floodplain area on property generally located along Salt Creek from Wilderness Park to one-half mile south of Martell Road, and more particularly described and shown in Attachment "A" and Attachment "B" attached hereto, to protect the floodplain, delineated wetlands, drainageways, and tree masses; and

WHEREAS, the City of Lincoln and Lancaster County are authorized

to accept and hold conservation easements under the terms of the Conservation and Preservation Easement Act (Neb. Rev. Stat. §§ 76-2,111 to 76,2,118); and

WHEREAS, Neb. Rev. Stat. § 76-2,112 requires that, in order to minimize conflicts with land use planning, the proposed conservation easements must be submitted to the Lincoln City - Lancaster County Planning Commission for comments regarding the conformity of the proposed conservation easements to the Lincoln City Comprehensive Plan prior to acceptance of the easements by the City of Lincoln and/or Lancaster County; and

WHEREAS, the Director of Planning has submitted a request designated as Comprehensive Plan Conformity No. 03012 to find the proposed individual or joint acquisition of permanent conservation easements by the City of Lincoln and Lancaster County to be in conformity with the Comprehensive Plan; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission has adopted Resolution No. PC 00833 finding said proposed individual or joint acquisition to be in conformance with the Lincoln City Lancaster County Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the proposal of the Directors of Public Works & Utilities and Parks & Recreation Departments that the City of Lincoln and Lancaster County individually or jointly acquire permanent conservation easements to protect the floodplain, delineated wetlands, drainageways, and tree masses on approximately 736.9 acres generally located along Salt Creek from Wilderness Park to one-half mile south of Martell Road as described and shown in Attachment "A" and Attachment "B", is hereby approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute Conservation Easement Agreements with said property owners on behalf of the City of Lincoln, Nebraska.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1423G - APPLICATION OF D & M DEVELOPMENT L.L.C. AND HIMARK DEVELOPMENT INC. TO AMEND THE HIMARK ESTATES COMMUNITY UNIT PLAN TO ADD 20 SINGLE FAMILY UNITS FOR A TOTAL OF 559 DWELLING UNITS AND TO WAIVE OF THE REQUIREMENTS FOR MINIMUM CUL-DE-SAC RADIUS, SIDEWALKS ON THE SOUTH SIDE OF SANDHILLS COURT, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED AT SOUTH 90TH STREET AND MEDINAH DRIVE - PRIOR to reading:

FRIENDT Moved to amend Bill No. 03R-328 in the following manner:

1. On page 1, line 3, delete the number "20" and insert in lieu thereof the number 19.

2. On page 1, line 4, delete the number "559" and insert in lieu thereof the number 558.

3. On page 2, line 2, delete the number "20" and insert in lieu thereof the number 19.

4. On page 2, line 3, delete the number "559" and insert in lieu thereof the number 558.

5. On page 2, line 8, delete the number "20" and insert in lieu thereof the number 19.

6. On page 2, line 10, delete the number "559" and insert in lieu thereof the number 558.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82475 WHEREAS, D & M Development, L.L.C. has submitted an application designated as Special Permit No. 1423G for authority to amend HiMark Estates Community Unit Plan to add ~~20~~ 19 single family dwelling units in the southern portion of Outlot A, HiMark Estates 3rd Addition, for a total of ~~559~~ dwelling units, and to waive the requirements for a minimum cul-de-sac radius, sidewalks on the south side of Sandhills Court, and the preliminary plat process on property generally located at South 90th Street and Medinah Drive and legally described to wit:

All of the Lots, Blocks, and Outlots in HiMark Estates Addition, HiMark Estates 1st Addition, HiMark Estates 2nd Addition, HiMark Estates 3rd Addition, HiMark Estates 4th Addition, HiMark Estates 5th Addition Corrected, HiMark Estates 6th Addition, HiMark Estates 7th Addition, and Iron Gates Estates, all located in Section 11, Township 9 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this amendment to the community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of D & M Development, L.L.C., hereinafter referred to as "Permittee", to amend HiMark Estates Community Unit Plan to add ~~20~~ 19 single family dwelling units for a total of ~~559~~ 558 dwelling units, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the addition of ~~20~~ 19 single family dwelling units in the southern portion of Outlot A, HiMark Estates 3rd Addition, thereby increasing the total number of dwelling units within the community unit plan to ~~559~~ 558 dwelling units.
2. This permit approves the following waivers:
 - a. The requirement of the Private Roadway Design Standards regarding the minimum cul-de-sac radius is waived to allow a radius of 35' for Sandhills Court.
 - b. The requirement of Lincoln Municipal Code § 26.27.020 that sidewalks be constructed along the south side of Sandhills Court is waived.
 - c. The requirement of Lincoln Municipal Code § 26.11.020 that a preliminary plat be submitted is waived for the area of this application. This approved amendment to the community unit plan shall serve the purpose of a preliminary plat for the area of this amendment (i.e. the southern portion of Outlot A, HiMark Estates 3rd Addition). Final plats in this area may be approved based upon this amendment.
3. The waiver of the filing of a preliminary plat and the approval of this amendment to the community unit plan in lieu of a preliminary plat shall only be effective for a period of ten (10) years from the date of approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the area included within this amendment is submitted five (5) years or more after the date of approval, the City may require that a new community unit plan amendment for this area be submitted, pursuant to all the provisions of Section 26.31.015. A new community unit plan amendment for this area may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the City and as a result, this amendment to the community unit plan as originally approved does not comply with the amended rules and regulations.
4. Before receiving building permits:
 - a. Permittee must submit one original and five copies of the plans as approved.
 - b. Final plats within the area of this community unit plan must be approved by the City.
 - c. The construction plans must conform to the approved plans.
5. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
6. The site plan approved by this permit shall be the basis for

all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

9. The site plan approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY BY TMI FOR THE INSTALLATION OF A 3" CONDUIT FOR FIBER OPTIC CABLE AND COPPER WIRE ALONG THE WEST SIDE OF S. 9TH STREET AND CROSS UNDERNEATH CAPITOL PARKWAY TO CONNECT THE BUILDINGS AT 830 L STREET AND 421 S. 9TH STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82476 WHEREAS, Technical Management, Inc. has submitted an application for a permit to use the public right-of-way between 421 S. 9th Street and 830 L Street for the installation of a 3" conduit for fiber optic cable to provide telecommunication and network data connections between the two properties; and

WHEREAS, said applicant has submitted a letter of application and a site plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this resolution by reference, to use the public right-of-way as above described; and

WHEREAS, said applicant has complied with all of the provisions of Chapter 14.53 of the Lincoln Municipal Code pertaining to such use.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the aforesaid application of Technical Management, Inc., hereinafter referred to as Permittee, to use the public right-of-way between 421 S. 9th Street and 830 L Street, crossing underneath Capitol Parkway as shown on Exhibit "B", for the purpose of installing fiber optic cable and copper wire inside the conduit be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and the following terms and conditions, to wit:

1. That the permission herein granted is subject to all the terms and conditions of Chapter 14.53 of the Lincoln Municipal Code including those provisions relating to the posting of a continuing bond in the amount of \$5,000 and the filing of a certificate of insurance evidencing a commercial or comprehensive general liability policy, or an acceptable substitute policy form, with a minimum combined single limit of \$500,000 aggregate for any one occurrence and naming the City as additional insured.

2. The work shall be constructed in accordance with plans and specifications approved by the Department of Public Works and Utilities. The cable, where it is underground, shall be laid to a minimum depth of 3½ feet from the top of the cable to the surface of the ground. All land surfaces and all pavement shall be restored to their original condition after the work is completed on each segment of the project. "As built" drawings shall be furnished to the City by the Permittee to show the precise locations, depths, and nature of all materials installed in accordance with the permit. The City shall have the right at any time when, in its judgment, it becomes necessary or advisable to

require a change of location of said cable as a matter of safety, or on account of change of grade, resurfacing, repair, reconstruction of any street, alley, sidewalk, or other public ground, or the construction of any structure thereon, or for any other reason, all of which shall be done at the cost and expense of the Permittee in a good and workmanlike manner.

3. The Permittee shall pay to the City an annual rental for the use and occupancy of the space beneath said public street occupied by such use which rental shall be 5 percent of the annual gross revenues derived from the usage of such permitted cable. Gross revenues shall be defined in the same manner as provided in Section 5.16.040.

Said rental payments shall be made to the City Treasurer and shall be due and payable on the 1st day of October of each year; provided however, the amount of the initial payment required hereunder shall be pro-rated from the date when the permit is issued to the 1st day of October of the next year and payments shall be due and payable on October 1st thereafter. Rent shall become delinquent on the 1st day of December of each year and such delinquent rent shall bear interest at the rate of one percent per month until paid and if such rent is not paid for six months or more after such delinquent date, a penalty of five percent shall be added thereto in addition to said interest.

4. The use of the public way herein granted and the terms and conditions of this resolution shall be binding and obligatory upon the above-named Permittee, its successors and assigns.

5. Any additions, changes, modifications, amendments of the uses permitted herein shall require a new permit or other authorization.

6. That within 30 days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named Permittee shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon ipso facto terminate.

The Permittee shall, within thirty days after written demand, reimburse the City for all direct and indirect costs and expenses, as provided in Section 14.53.070, in connection with the issuance and review of this permit.

The Permittee shall sign and return the City's letter of acceptance to the City Clerk prior to commencing any work in the public right-of-way.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

PETITIONS & COMMUNICATIONS

THE FOLLOWING WERE REFERRED TO THE PLANNING DEPT.:

Use Permit 142A - App. of Cutchall Management, Co. to build a Sonic Restaurant at N. 84th and Holdrege Street.

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON November 17, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT OF CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF AUG. & SEPT. 2003: SHAFFER COMM.; SEPT., 2003: NEBRASKA TECHNOLOGY & TELECOMM.; OCT., 2003: NEXTEL, VARTEC, D&D COMM. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ORDINANCES - 1ST READING

CHANGE OF ZONE NO. 3399 - AMENDING ORDINANCE NO. 18113 RELATING TO IMPACT FEES BY AMENDING SECTION 6 ADDING A NEW SECTION 27.82.060 (EXEMPTION FROM IMPACT FEES) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.060 TO CLARIFY THAT VALID BUILDING PERMIT APPLICATIONS SUBMITTED PRIOR TO JUNE 2, 2003 ARE EXEMPT FROM IMPACT FEES, TO PROVIDE WHEN A BUILDING PERMIT APPLICATION SHALL BE DEEMED COMPLETE, TO CLARIFY THAT AMENDMENTS, MODIFICATIONS OR OTHER CHANGES TO AN APPROVED DEVELOPMENT WHICH IS CATEGORICALLY EXEMPT WILL BE SUBJECT TO THE IMPOSITION OF IMPACT FEES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27.82.050, TO DELETE TABLE 27.82.060(B), TO DELETE REFERENCES TO APPROVALS QUALIFYING FOR CATEGORY EXEMPTIONS, TO CLARIFY WHEN A CLAIM OF EXEMPTION FOR LOW INCOME OWNER-OCCUPIED HOUSING AND LOW INCOME RENTAL HOUSING MUST BE MADE, AND WHEN SAID CLAIMS BECOME VALID; BY AMENDING SECTION 7 ADDING A NEW SECTION NUMBERED 27.82.070 (IMPACT FEE FUNDS) TO THE LINCOLN MUNICIPAL CODE AMENDING SECTION 27.82.070 TO CLARIFY THAT NO MORE THAN 2% OF THE IMPACT FEES COLLECTED MAY BE USED TO COMPENSATE THE CITY FOR ADMINISTRATIVE EXPENSES INCLUDING REFUNDS; BY AMENDING SECTION 8 ADDING A NEW SECTION NUMBERED 27.82.080 (REFUNDS OF IMPACT FEES PAID) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.080 TO PROVIDE FOR A REFUND OF IMPACT FEES PREVIOUSLY PAID WHEN THE DEVELOPMENT SUBSEQUENTLY QUALIFIES FOR AN OWNER-OCCUPIED LOW INCOME HOUSING EXEMPTION; BY AMENDING SECTION 11 ADDING A NEW SECTION NUMBERED 27.82.110 (MISCELLANEOUS PROVISIONS) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.110 TO ELIMINATE REFERENCE TO ADMINISTRATIVE COSTS, TO MODIFY PROVISIONS REGARDING REDUCING IMPACT FEES TO ALLOW A SUBSIDY BASED UPON MEETING ESTABLISHED ECONOMIC CRITERIA, TO MODIFY PROVISIONS REGARDING ADJUSTMENTS FOR INFLATION, AND TO RELETTER THE VARIOUS SUBSECTIONS; BY AMENDING SECTION 16 ADOPTING AND INCORPORATING THE DOWNTOWN/ANTELOPE VALLEY EXCLUSION AREA MAP, THE WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP, THE ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP, AND THE NEIGHBORHOOD PARK AND TRAIL IMPACT FEE BENEFIT AREAS MAP INTO ORDINANCE NO. 18113 TO PROVIDE THAT THOSE MAPS BE CODIFIED IN THE LINCOLN MUNICIPAL CODE AS APPENDIXES 1 THROUGH 4 TO CHAPTER 27.82; BY AMENDING SECTION 17 ADOPTING AND INCORPORATING THE IMPACT FEE STUDY PREPARED BY DUNCAN ASSOCIATES INTO ORDINANCE NO. 18113 BY AMENDING TABLE 4, ARTERIAL STREET COST PER MILE, TO EXCLUDE SIDEWALKS, WATER AND WASTEWATER LINE ADJUSTMENTS AND TO REDUCE THE NUMBER OF UNITS FOR FULL INTERSECTION TRAFFIC SIGNALS FROM 3.5 TO 1.5 UNITS PER MILE IN DETERMINING THE TOTAL COST PER MILE FOR A FOUR-LANE ARTERIAL AND BY DELETING THE SECOND PARAGRAPH OF TEXT ON PAGE 12 OF THE STUDY AND TO PROVIDE THAT ONE COPY OF THE IMPACT FEE STUDY BE FILED IN THE OFFICE OF THE CITY CLERK FOR USE AND EXAMINATION BY THE PUBLIC; BY AMENDING SECTION 20 TO PROVIDE THAT ORDINANCE NO. 18113 SHALL

BE IN FULL FORCE AND EFFECT AS OF JUNE 2, 2003 AFTER ITS PASSAGE AND POSTING ON THE OFFICIAL BULLETIN BOARD OF THE CITY IN LIEU OF NEWSPAPER PUBLICATION - CLERK read an ordinance, introduced by Patte Newman, amending Ordinance No. 18113 relating to impact fees by amending Section 6 adding a new section 27.82.060 (Exemption from Impact Fees) to the Lincoln Municipal Code, the first time.

ORDINANCES - 3RD READING

VACATING S.W. 12TH STREET SOUTH OF LAKE STREET AND EAST OF LOT 1, BLOCK 3, VESTECKA'S VILLA VAN DORN ADDITION - CLERK read an ordinance, introduced by Glenn Friendt, vacating a portion of S.W. 12th Street lying south of West Lake Street and east of Lot 1, Block 3, Vestecka's Villa Van Dorn Addition, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

FRIENDT Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance, being numbered #18277, is recorded in Ordinance Book 25, Page

AMENDING TITLE 8 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEALTH AND

SANITATION BY CREATING A NEW CHAPTER 8.48 ENTITLED THE LINCOLN SMOKEFREE AIR ACT TO SET FORTH THE TITLE AND PURPOSE OF THE CHAPTER, TO SET FORTH GENERAL PROVISIONS REGARDING DEFINITIONS USED IN THE CHAPTER, TO PROVIDE DEFINITIONS FOR EMPLOYEE, EMPLOYER, GUESTROOM OR SUITE, HEALTH DIRECTOR, INDOOR AREA, INTERNATIONAL NO-SMOKING SYMBOL, PLACE OF EMPLOYMENT, PROPRIETOR, PUBLIC PLACE, SMOKE OR SMOKING, RESPECTIVELY, TO PROVIDE EXCEPTIONS TO THE PROVISIONS OF THE CHAPTER; TO REQUIRE THE POSTING OF "NO SMOKING" SIGNS, TO PROVIDE FOR THE ENFORCEMENT OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE CHAPTER, TO PROVIDE FOR SEVERABILITY OF THE CHAPTER, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE SIX MONTHS AFTER CITY COUNCIL APPROVAL

- PRIOR to reading:

- WERNER Moved Amendment #3.
Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
- FRIENDT Moved to place amendment #3 on Pending.
Seconded by Newman & **LOST** by the following vote: AYES: Camp, Cook, McRoy, Svoboda, Werner; NAYS: Friendt, Newman.
- COOK Moved to amend Amendment #3 to change the word "only" to primarily which would read "public place devoted primarily to the sale of tobacco products".
Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
- SVOBODA Moved to amend Amendment #3 to say that smoke shops could not serve alcoholic beverages.
Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, Svoboda, Werner; NAYS: Cook, McRoy, Newman.
- SVOBODA Moved to withdraw any further discussion at this point of Amendment #8 pertaining to the 3 mile radius jurisdiction.
- NEWMAN Requested that Friendt withdraw Amendment #2.
- SVOBODA Moved Amendment #1.
Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, Svoboda, Werner; NAYS: Cook, McRoy, Newman.
- COOK Moved to amend Amendment #1 by reducing the fines by 1/10th of the proposed amounts.
Seconded by Werner & **LOST** by the following vote: AYES: Cook, Werner; NAYS: Camp, Friendt, McRoy, Newman, Svoboda.
- WERNER Moved Amendment #4.
Seconded by Newman & **LOST** by the following vote: AYES: Camp, Friendt, Newman; NAYS: Cook, McRoy, Svoboda, Werner.
- COOK Moved to amend Amendment #4 by changing to 50% of non-common area.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Werner; NAYS: Svoboda.
- COOK Moved to refer Amendment #4 to Law Department to make appropriate changes.
Seconded by Newman & **LOST** by the following vote: AYES: Camp, Cook, Werner; NAYS: Friendt, McRoy, Newman, Svoboda.
- NEWMAN Moved Amendment #6 amended to add word fraternal and benevolent organizations. On line 3 add rented or owned for private and public social functions.
Seconded by Friendt & **LOST** by the following vote: AYES: McRoy, Newman; NAYS: Camp, Cook, Friendt, Svoboda, Werner.
- MCROY Moved to delay Bill No. 03-176 to 12/1/03.
Seconded by Newman & **LOST** by the following vote: AYES: Camp, McRoy; NAYS: Cook, Friendt, Newman, Svoboda, Werner.
- NEWMAN Moved Amendment #21.
Seconded by McRoy & **LOST** by the following vote: AYES: McRoy, Newman; NAYS: Camp, Cook, Friendt, Svoboda, Werner.
- COOK Moved to amend Amendment #11, but delete the smoke shop penalties already approved, and the 3 mile limit.
Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Werner; NAYS: Svoboda.
- FRIENDT Moved Amendment #14.
Seconded by Svoboda.
- FRIENDT Withdrew because it will be brought forward in another ordinance for daycares.
- FRIENDT Moved Amendment #12.

Seconded by Werner.

FRIENDT Moved to Withdraw amendment #12 so it can be brought forward as a resolution of its own.

FRIENDT Moved Amendment #13.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda; NAYS: Werner.

COOK Moved Amendment #17.
Seconded by Werner & **LOST** by the following vote: AYES: Camp; NAYS: Cook, Friendt, McRoy, Newman, Svoboda, Werner.

FRIENDT Moved to Withdraw Amendment #2.
Seconded by Werner.

NEWMAN Moved to have Amendment #2 and #5 referred to Law Department.
Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman; NAYS: Cook, Svoboda, Werner.

SVOBODA Moved to delay action on Bill No. 03-176 for one week to 12/1/03.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read an ordinance, introduced by Jonathan Cook, amending Title 8 of the Lincoln Municipal Code relating to Health and Sanitation by creating a new Chapter 8.48 entitled the Lincoln SMOKEFREE Air Act to set forth the title and purpose of the Chapter, to set forth general provisions regarding definitions used in the Chapter, to provide definitions for employee, employer, guestroom or suite, health director, indoor area, international no-smoking symbol, place of employment proprietor, public place, smoke or smoking, respectively, to provide exceptions to the provisions of the chapter; to require the posting of "no smoking" signs, to provide for the enforcement of the provisions of the chapter to provide penalties for violations of the chapter, to provide for severability of the chapter, and providing that this ordinance shall become effective six months after City Council approval, the third time.

MISCELLANEOUS BUSINESS

PENDING -

SVOBODA Moved to extend the Pending List to December 1, 2003.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

SVOBODA Moved to approve the resolutions to have Public Hearing on December 1, 2003.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 6:57 P.M.

SVOBODA Moved to adjourn the City Council meeting of November 24, 2003.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
So ordered.

Teresa Meier, Deputy City Clerk

Judy Roscoe, Senior Office Assistant

