

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, FEBRUARY 23, 2004 AT 5:30 P.M.**

The Meeting was called to order at 5:30 p.m. Present: Council Chairperson Camp; Council Members: Cook, Friendt, McRoy, Newman, Svoboda, Werner; Joan Ross, 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

MCROY Having been appointed to read the minutes of the City Council proceedings of February 9, 2004, reported having done so, found same correct.

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

PUBLIC HEARING

AMENDING TITLE 12 OF THE LINCOLN MUNICIPAL CODE RELATING TO PARKS BY ADDING A NEW CHAPTER 12.22, ENHANCED MEDIAN, ROUNDABOUT, AND CUL-DE-SAC CENTER ISLAND LANDSCAPING, TO PROVIDE CONDITIONS FOR THE PLACEMENT OF ENHANCED LANDSCAPING IN MEDIAN ROUNDABOUT AND CUL-DE-SAC CENTER ISLAND AREA BY AN ABUTTING PROPERTY OWNER - Lynn Johnson, Director of Parks and Recreation Dept., came forward to explain that this would implement an annual permit process to regulate private placement of enhanced landscaping within public streets. The permit would be reviewed & approved by the City Council. Discussion followed.

DaNay Kalkowski, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing Northridge Height Partners and Southview, Inc. in support of this ordinance.

This matter was taken under advisement.

AMENDING TITLE 2 OF THE LINCOLN MUNICIPAL CODE BY CREATING A NEW CHAPTER 2.81 TO PROVIDE FOR LIVING WAGE OF AT LEAST 110% OF THE FEDERAL POVERTY GUIDELINE FOR A FAMILY OF FOUR, OR 100% OF THE FEDERAL POVERTY GUIDELINE IF DESCRIBED HEALTH INSURANCE BENEFITS ARE PAID BY THE EMPLOYER, TO BE ADJUSTED JULY 1 OF EACH YEAR HEREAFTER - Danielle Nantkes, 730 S. 11th St., #A1, Staff Attorney at Nebraska Appleseed Center for Law in the Public Interest came forward in support of the ordinance. Discussion followed.

Jim Fram, 7521 Cross Creek Ct., Lincoln, NE 68516, came forward as President of the Chamber of Commerce and President for Lincoln Partnership for Economic Development in opposition. Discussion followed.

Joseth Moore, 3821 NW 52nd St., Lincoln, NE, came forward in support.

Bruce Bohrer, 8035 S. 33rd St., Lincoln, NE, came forward representing the Lincoln Chamber of Commerce in opposition. Discussion followed. Mr. Bohrer, also, presented a letter from John E. Cederberg in opposition to be placed on file.

Joshua Cramer, 5211 Walker St. #2, Lincoln, NE, came forward in support. He asked all those in the audience in support of the Living Wage Ordinance to stand up (approximately 50).

Jim Partington, no address given, came forward representing the Nebraska Restaurant Association in opposition. Discussion followed.

John Krejci, 4402 St. Paul, Lincoln NE, came forward representing Nebraskans for Peace in support.

Mark Hunzeker, Pierson Fitchett Hunzeker Blake & Katt, 1045 Lincoln Mall, Suite 200, came forward representing Big Red Keno in opposition. Discussion followed.

Jay Schmidt, 2700 N. 78th St., Lincoln, NE, came forward in support. Discussion followed.

Milo Mumgaard, 626 Washington St., Lincoln, NE 68508, came forward representing Nebraska Appleseed Center for Law in the Public Interest in support. Discussion followed.

****TOOK BREAK 7:56 P.M.**

RECONVENED 8:24 P.M.**

Kevin Bernadt, 4140 Washington St., Lincoln, NE 68506, came forward in support.

Bob Benes, 3300 Manassas Pl., Lincoln, NE, owner of Aspen Builders, came forward in opposition.

Jennifer Carter, 18700 N.W. 70th St., Raymond, NE 68428, came forward as a member of the legal staff of Nebraska Appleseed Center for Law in the Public Interest in support. Discussion followed.

John Sautter, 670 Hwy. 77, Ceresco, NE 68017, PHD Economics student, came forward in support. Discussion followed.

Ken Mass, 5418 S. 27th St. #1, Omaha, NE 68107-3492, President of Nebraska AFL CIO came forward in support. Discussion followed.

Bridget Christensen, 14321 Castlewood St., Lincoln, NE, representing National Organization of Women Lincoln Chapter came forward in support.

Danay Kalkowski, 1111 Lincoln Mall, Ste. 350, representing Cornhusker Place of Lincoln/Lancaster and Downtown Lincoln Association, came forward to request continued public hearing to March 1, 2004 to research how this ordinance will affect those she is representing. She stated she was representing a neutral position at this time. Discussion followed.

David Wasson, 7233 Pioneers Blvd. #706, Lincoln, NE, came forward in support. Discussion followed.

Don Tilley, 4533 Starr, Lincoln, NE 68503, representing United Nations Association came forward in support.

Rodney Vlcek, 1505 Superior St. #2, Lincoln, NE, representing United Steel Workers Association 286, came forward in support.

Danny Walker, 427 E Street, Lincoln, NE 68508, came forward in support.

Glenn Cekal, 1410 C Street, Lincoln, NE, came forward in support.

Barbara Bauer, Devonshire Dr., Lincoln, NE, came forward in support.

Mo Anker, 4345 St. Paul Ave., Lincoln, NE, came forward in support.

Mark Munger, 3423 M Street, Lincoln, NE, representing Lincoln Central Labor Union came forward in support.

Craig Groat, 4935 Huntington Ave., came forward in support.

Fritz Hudson, 7901 Lake Street, Lincoln, NE, came forward in support.

Steve Kiene, 7201 N. 7th Street, Lincoln, NE, came forward in support. Discussion followed.

Beatty Brasch, 3303 S. 31st Street, Lincoln, NE, Director of Center for the People came forward in support. She also represented Brian of Lincoln Action Program in support.

Toni Burress, no address given, representing Amalgamated Transit Union #31293 of StarTran came forward in support. Discussion followed.

Leola Bullock, 4210 N. 73rd St., Lincoln, NE 68507, representing the Lincoln Branch of the National Association for Advancement of Colored People came forward in support.

Ginny Wright, 814 Lyncrest Dr., Lincoln, NE 68510, came forward in support.

City Clerk read into the record a letter from Joseph R. Hampton in opposition.

Milo Mummgaard came forward for rebuttal.

Glenn Friendt, Council Member, moved to continue public hearing with action to March 1, 2004.

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

This matter was taken under advisement.

AMENDING CHAPTER 3.20 OF THE LINCOLN MUNICIPAL CODE RELATING TO STREET IMPROVEMENT VEHICLE TAX TO CREATE THE RESIDENTIAL REHABILITATION FUND TO BE USED ONLY FOR THE PURPOSE OF REHABILITATING EXISTING RESIDENTIAL STREETS - Allan Abbott, Director of Public Works Dept., stated that there will be dollars for resurfacing and no increase in the wheel tax over what has already been raised. Discussion followed.

Ginny Wright, representing the Lincoln Neighborhood Alliance Board came forward in support.

Glen Cekal, 1420 C St., came forward in support.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS - NONE

** END OF PUBLIC HEARING **

COUNCIL ACTION

LIQUOR RESOLUTIONS - NONE

ORDINANCES - 2ND READING

AMENDING TITLE 12 OF THE LINCOLN MUNICIPAL CODE RELATING TO PARKS BY ADDING A NEW CHAPTER 12.22, ENHANCED MEDIAN ROUNDABOUT AND CUL-DE-SAC CENTER ISLAND LANDSCAPING, TO PROVIDE CONDITIONS FOR THE PLACEMENT OF ENHANCED LANDSCAPING IN MEDIAN ROUNDABOUT AND CUL-DE-SAC CENTER ISLAND AREA BY AN ABUTTING PROPERTY OWNER - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 12 of the Lincoln Municipal Code relating to Parks by adding a new Chapter 12.22, Enhanced Median, Roundabout, and Cul-de-sac Center Island Landscaping, to provide conditions for the placement of enhanced landscaping in median, roundabout, and cul-de-sac center island areas by an abutting property owner, the second time.

APPROVING THE AGREEMENT FOR ATTACHING ANTENNAS TO CITY TOWER AND OTHER APPURTENANCES BETWEEN THE CITY AND U.S. CELLULAR FOR THE PLACEMENT OF ANTENNAS FOR TELECOMMUNICATION USES ON THE TOWER GENERALLY LOCATED AT SOUTH 84TH AND SOUTH STREET - CLERK read an ordinance, introduced by Jonathan Cook, whereas, the City of Lincoln owns a tower on Lincoln Water System property, generally located at South 84th and South, which is generally used for telecommunication uses and associated ground space, the second time.

AMENDING TITLE 2 OF THE LINCOLN MUNICIPAL CODE BY CREATING A NEW CHAPTER 2.81 TO PROVIDE FOR LIVING WAGE OF AT LEAST 110% OF THE FEDERAL POVERTY GUIDELINE FOR A FAMILY OF FOUR, OR 100% OF THE FEDERAL POVERTY GUIDELINE IF DESCRIBED HEALTH INSURANCE BENEFITS ARE PAID BY THE EMPLOYER, TO BE ADJUSTED JULY 1 OF EACH YEAR HEREAFTER - CLERK read an ordinance, introduced by Terry Werner, amending Title 2 of the Lincoln Municipal Code relating to Officers Departments and Personnel by creating a new Chapter 2.81 to provide for a Living Wage of at least 110% of the federal poverty guideline for a family of our, or 100% of the federal poverty guideline if described health insurance benefits are paid by the employer, and mandating adjustments July 1 of each year hereafter, the second time.

AMENDING CHAPTER 3.20 OF THE LINCOLN MUNICIPAL CODE RELATING TO STREET IMPROVEMENT VEHICLE TAX TO CREATE THE RESIDENTIAL REHABILITATION FUND TO BE USED ONLY FOR THE PURPOSE OF REHABILITATING EXISTING RESIDENTIAL STREETS - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 3.20 of the Lincoln Municipal Code relating to Street Improvement Vehicle Tax by adding a new section numbered 3.20.025 to add a definition for "rehabilitation"; adding a new section numbered 3.20.045 to add a definition for "residential street"; and amending Section 3.20.220 to create the "Residential Rehabilitation Fund" to be used only for the purpose of rehabilitating existing residential streets; and repealing Section 3.20.220 of the Lincoln Municipal Code as hitherto existing, the second time.

RESOLUTIONS

APPROVING APPROPRIATIONS IN THE AMOUNT OF \$50,000 FROM THE OPERATION OF KENO LOTTERY FUNDS FOR VARIOUS HUMAN SERVICES - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:
A-82581 WHEREAS, Resolution No. A-75378 provides that five percent of the gross proceeds realized by the City of Lincoln from the operation of a keno lottery shall be designated for such human services as may be recommended and approved by the Joint Budget Committee, City Council and Lancaster Board of Commissioners; and
WHEREAS, the Joint Budget Committee has recommended that the City Council and Lancaster County Board of Commissioners approve the designation of \$50,000 from said gross funds for the human services listed in Attachment "A" (Keno Prevention Fund Round 20) attached hereto and incorporated herein by reference.
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

The designation of the \$50,000 from gross funds from the operation of keno lottery for the human services listed in Attachment "A" is hereby approved and the Mayor is authorized to enter into grant contracts with Lancaster County, Nebraska and the respective agencies providing said human services.

Introduced by Glenn Friendt

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

APPROVING AN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ROADS THAT WILL PROVIDE ADDITIONAL FUNDING FOR ENGINEERING, RIGHT-OF-WAY, AND CONSTRUCTION FOR THE EAST O STREET WIDENING PROJECT, 52ND STREET TO WEDGEWOOD DRIVE - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82582 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Supplemental Agreement No. 4 between the City of Lincoln and the State of Nebraska Department of Roads for Project No. EACNH-STPAA-34-6(124) O Street, 52nd Street to Wedgewood Drive, Reconstruct to six-lane roadway, is hereby approved in accordance with the terms and conditions contained in said Agreement, 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 Glenn Friendt

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

AUTHORIZING WILLIAM LIVENGOOD FOR THE GREEN GATEAU TO OCCUPY A PORTION OF THE PUBLIC RIGHT-OF-WAY AT 330 S.10TH STREET FOR USE AS A SIDEWALK CAFÉ - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82583 WHEREAS, William Livengood has submitted an application for a Sidewalk Café Permit to use a portion of the public right-of-way at The Green Gateau, 330 S. 10th 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 William Livengood, hereinafter referred to as "Permittee", to operate a sidewalk café in a portion of the public right-of-way at The Green Gateau, 330 S. 10th 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 20 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 6:30 a.m. to 10:00 p.m., Monday through Saturday and 6:30 a.m. to 3:00 p.m., Sunday.

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 (330 square feet) for an annual rental of \$82.50; 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 Glenn Friendt

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 JANUARY 16 - 31, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82584 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 February 2, 2004, 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>	
American International Recovery, Inc. (Omni Behavioral Health, Insured)	NAS*	Farmers Insurance Group (Claim No. 1003002549)	\$ 2,913.16
Vernah C. Petersen	\$ 253.00	Sharon Siefken/Farmers Mutual (Claim No. A0312748)	1,648.87
Kevin Burklund	728.21	Irmgard Hummel	927.03
Jeremy & Kim Vice	250.00	John Jones	1,500.00
American Family Insurance Group (Claim No. 00-071-381746-0229)	2,086.53	Robert E. Perkins	15,600.00
Nick Brand	NAS*	Marjorie Ames	295.73
		Danny Lee/Sheryl Golden	810.49
		Cliff Schroff	34.61
		Beth Loyd	383.62

* No Amount Specified.

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 Glenn Friendt

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

SETTING THE HEARING DATE OF MONDAY, MARCH 8, 2004 AT 1:30 P.M. FOR THE MAN. APP. OF RENA E GUTHARD FOR LONE STAR STEAK HOUSE & SALOON OF NEBRASKA, INC. DBA "LONE STAR STEAKHOUSE & SALOON AT 200 N. 70TH STREET - - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82585 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., March 8, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Man. App. of Renae Guthard for the Lone Star Steak House & Saloon of Nebraska, Inc. dba "Lone Star Steakhouse & Saloon at 200 N. 70th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

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

SETTING THE HEARING DATE OF MONDAY, MARCH 8, 2004 AT 1:30 P.M. FOR THE APP. OF ACR CORPORATION DBA "JAKE'S CIGARS" FOR A CLASS D LIQUOR LICENSE AT 114 N. 14TH STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82586 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., March 8, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the App. of ACR Corporation dba "Jake's Cigars" for a Class D liquor license at 114 N. 14th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

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

SETTING THE HEARING DATE OF MONDAY, MARCH 8, 2004 AT 1:30 P.M. FOR THE APP. OF FAST BREAK, INC. DBA "FAST BREAK - OLD CHENEY" FOR A CLASS D LIQUOR LICENSE AT 5640 S. 16TH STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82587 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., March 8, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the App. of Fast Break, Inc. dba "Fast Break - Old Cheney" for a Class D liquor license at 5640 S. 16th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

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

MISCELLANEOUS 03013 - AMENDING CHAPTER 3.75 OF THE LINCOLN DESIGN STANDARDS TO BE CONSISTENT WITH THE AMENDMENT TO LINCOLN MUNICIPAL CODE TITLE 27 REQUIRING APPLICATIONS FOR BUILDING PERMITS FOR NEW CONSTRUCTION OF PRINCIPAL BUILDINGS LOCATED ON LAND WITHIN THE R-1 THROUGH R-8 RESIDENTIAL DISTRICTS TO COMPLY WITH THE NEIGHBORHOOD DESIGN STANDARDS - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82591 WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Design Standards by Resolution No. A-80518; and

WHEREAS, Chapter 3.75, Neighborhood Design Standards, needs to be amended to be consistent with the amendments to Lincoln Municipal Code Title 27 to require applications for building permits for new construction of principal buildings located on land within the R-1 through R-8 Residential Districts to comply with the Neighborhood Design Standards, provided such land was annexed and made a part of the City prior to December 31, 1949.

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

That Chapter 3.75 of the City of Lincoln Design Standards, adopted by the City Council on November 6, 2000 by Resolution No. A-80518, be and the same is hereby amended as follows:

1. Section 1, Introduction, is amended to read as follows:

Section 1. INTRODUCTION

Certain areas of Lincoln within the well-established neighborhoods have evolved into relatively dense residential sections (~~typically zoned R-4, R-5, R-6, R-7, or R-8~~). ~~Portions of those areas, despite their higher density use,~~ which retain much of the traditional physical character of their original lower density development. *These are areas of the City that were annexed prior to December 31, 1949, and are potentially eligible for the National Register of Historic Places.* The purpose of the Neighborhood Design Standards is to encourage rehabilitation of existing housing in such areas, while allowing necessary new construction that is compatible with the surrounding development.

The standards focus on a limited number of basic design elements which have significant effect on compatibility, such as orientation of windows and entrances toward the street, height and massing, and location of parking. The written standards are accompanied by a sketchbook which both illustrates the basic requirements and makes suggestions of additional means and ideas to achieve greater compatibility of multi-family construction. Together, the design standards and the sketchbook are intended to encourage neighborhood associations, developers, and builders to look closely at the existing features of older areas and to think about the effect new building design has in those neighborhoods. These standards and suggestions cannot guarantee good design - only the talents and efforts of owners, designers, and builders do that - but they hopefully will eliminate certain design features that most negatively impact the character of older neighborhoods.

2. Section 2, Work Requiring Review, is amended to read as follows:

Section 2. WORK REQUIRING REVIEW

The design standards apply to new construction of principal buildings ~~within the R-4, R-5, R-6, R-7 and R-8 districts,~~ on land located within the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 districts and subsequent modifications to those buildings, provided such land was annexed and made part of the City prior to December 31, 1949.

The following categories of work do not require review under the Neighborhood Design Standards (although other building and zoning codes may apply):

1. Alterations to buildings existing at the date of enactment of these standards (date);
2. Landscape changes to existing developed sites;
3. Construction of accessory buildings on existing developed lots;
4. Any interior aspects of new or existing construction.

3. Section 3, Application and Review Process, is amended to read as follows:

Section 3. APPLICATION AND REVIEW PROCESS

The review process in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 districts is designed to parallel the current building permit review process. That is, review for compliance with the Neighborhood Design Standards will take place at the same time that other components of the building permit are examined. In doing so, all attempts are made to avoid increased time for review and approval. To facilitate this administrative review process, the applicant will be requested to submit certain additional items with the normal building permit application. Those items are as follows:

1. At least one black or blue line print showing the principal street facade, the side facades, and the site plan of the proposed building.
2. A photograph or photographs showing the site and adjacent buildings.

Section 4. Section 4.1, Building Elements is amended to read as follows:

4.1 Building Elements

1. New buildings shall utilize a roof type and pitch commonly found within the same and facing block front. Hipped or gable roofs with pitch of at least 22.5 degrees (6/12 pitch) are acceptable in any district. Roofs of lower pitch and other types may be compatible in specific districts, and can be proposed and approved on an individual basis. In such cases, the applicant should cite specific examples within the district comparable to the proposed building in height and to the proposed roof in type and pitch.
2. ~~Older~~ Existing residential structures within established neighborhoods typically share similar design features, such as a common orientation to the street, seen in the location of entrances, windows, and porches. New buildings shall provide windows oriented to the street and shall provide an entrance to a dwelling unit or to a hallway leading to a dwelling unit. Use of front porches is strongly encouraged on new construction. Garage doors for not more than two stalls are permitted on a portion of the main building facing a front lot line, provided such doors shall not occupy more than 40% of the length of the principal street facade.
3. Height of new buildings should be similar to that of ~~older~~ existing residences on the same and facing block fronts. New buildings shall be acceptable that are not taller than the tallest residential structure, nor shorter than the shortest residential structure, built prior to December 31, 1949 on the contiguous blockface, provided that:
 - a. the maximum allowable height shall not be reduced to less than twenty-eight (28) feet, and
 - b. if the height permitted under this section would exceed that permitted in the underlying district, the new building shall be no taller than an existing, adjacent building. Taller structures may be approved on a case-by-case basis, when a steeper roof would increase compatibility between the new building and adjacent older residences.
4. In order to encourage variation of the front elevation, up to twenty-five percent (25%) of the length of the principal street facade may be constructed up to two feet (2') into the required front yard. Use of this provision, however, cannot increase the extension of porches into a required front yard beyond that otherwise allowed in Sections 27.71.100 and 27.71.110 of the Zoning Ordinance.
5. The rhythm of ~~30-40' wide~~ similar width houses on ~~50'~~ similar width lots does much to establish the character of Lincoln's ~~older~~ established residential areas. Large new buildings disrupt this character, unless design measures are employed to reduce their

apparent scale. New buildings over fifty feet (50') in length on the principal street facade should be designed to maintain the rhythm of the ~~smaller~~ existing adjacent buildings. Designs will be bound to meet this standard which offset the principal street facade and roof at intervals of fifty feet (50') or less. These offsets shall be at least six feet (6') in depth, and the portions of the facade offset shall equal at least 10% of the length of the facade. Alternate designs that maintain the rhythm of the blockface by such means as shifts in materials within the facade, use of multiple porches and/or dormers, and grouping of windows and entrances, may also be approved on a case-by-case basis.

Introduced by Terry Werner

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

USE PERMIT 57D - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SUPERIOR POINT PARTNERS TO AMEND LINCOLN CROSSINGS USE PERMIT TO INCREASE THE BOUNDARY AND FLOOR AREA, AND TO MODIFY THE REQUIRED FRONT YARD SETBACK ALONG FOLKWAYS BLVD. AND THE SETBACK FROM THE RESIDENTIAL DISTRICT, ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET AND FOLKWAYS BLVD. (IN CONNECTION W/04-18) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-82592 WHEREAS, Ridge Development Company and Superior Point Partners have submitted an application in accordance with Section 27.37.070 of the Lincoln Municipal Code designated as Use Permit No. 57D for authority to amend the Lincoln Crossings Use Permit to increase the boundary and floor area, and to modify the required front yard setback along Folkways Boulevard and the setback from the residential district, on property generally located at North 27th Street and Folkways Boulevard, and legally described as follows:

Lots 3-10 and Outlot A, King Ridge Addition, Lots 4-7, and Outlots A and B, Lincoln Crossing Addition, Lots 1-9 and Outlot A, Lincoln Crossing 1st Addition, Lots 1 and 2, Lincoln Crossing 2nd Addition, Lots 1-3, Lincoln Crossing 3rd Addition, Lots 1 and 2, Lincoln Crossing 4th Addition, and Lot 47 I.T., located in Section 6, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska;

and

WHEREAS, the real property adjacent to the area included within the site plan for increase in boundary and modifications to setbacks within this Use Permit 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 Ridge Development Company and Superior Point Partners, hereinafter referred to as "Permittee", to amend the Lincoln Crossings Use Permit to increase the boundary and floor area, and to modify the required front yardsetback along Folkways Boulevard and the setback from the residential district be and the same is hereby granted under the provisions of Section 27.37.070 of the Lincoln Municipal Code upon condition that all construction be in strict compliance with the application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the expansion of the Lincoln Crossings Use Permit for a total of 867,769 square feet of floor area with 51,300 square feet of floor area permitted north of North Hill Road and 816,469 square feet of floor area permitted south of North Hill Road, and modifications to the required front yard setback along Folkways Boulevard and setback from the residential district as shown on the site plan.

2. Before receiving building permits:

- a. The Permittee must submit an acceptable revised and reproducible final plan including seven copies.
- b. The construction plans must conform to the approved plans.
- c. Administrative Amendment #03089 to reduce the boundary and floor area for King Ridge Use Permit #103 must first be approved.

3. Before occupying the new commercial areas all development and construction must be completed in conformance to the approved plans.
4. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established owners association approved by the City Attorney.
5. 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.
6. 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.
7. 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.
8. The site plan as 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 Jonathan Cook

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 PLANNING DEPT.:

- Change of Zone 04005 - App. of Southeast Fire Dept. for a change from AGR to P - Public Use at 7700 Pine Lake Road.
- Change of Zone 04006 - App. of Jornat LLC from H-3 Highway Commercial Dist. to I-1 Industrial District on property at 301 SW 25TH St.
- Special Permit Amendment No. 04001 - App. of Madonna Rehabilitation Hospital to increase the area of the special permit and allow a lighted ground sign on property at 5401 South Street.
- Special Permit No. 04006 - App. of Overstreet Inc. to sell alcoholic beverages for consumption off the premises on property at 1301 North 27th Street.

REPORT OF UNL MICROBIOLOGIST FOR WATER TESTING FOR THE MONTH OF JANUARY, 2004
- CLERK presented said report which was placed on file in the Office of the City Clerk. (35-01)

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON FEBRUARY 9, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS FROM JANUARY 26 THROUGH FEBRUARY 6, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:
A-82588 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Glenn Friendt

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

INVESTMENT OF FUNDS FOR THE WEEK OF FEBRUARY 9 THRU FEBRUARY 13, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:
A-82589 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Glenn Friendt

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

INVESTMENT OF FUNDS FOR THE WEEK OF FEBRUARY 17 THRU 20, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:
A-82590 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Introduced by Glenn Friendt

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

REPORT FROM CITY TREASURER OF TELECOMM. OCC. TAX FOR THE MONTH OF JANUARY 2004: ATS MOBILE, EXCEL, NOSVA, VARTEC CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT OF LINCOLN WATER AND WASTEWATER SYSTEMS FOR FISCAL YEAR 2002-03 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5)

REPORT FROM CITY TREASURER OF CASH ON HAND AT THE CLOSE OF BUSINESS JANUARY 31, 2004 CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

REPORT OF CITY OF LINCOLN COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDING AUGUST 31, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5)

ORDINANCES - 1ST READING

VACATION 03014 - VACATING A PORTION OF THE EAST WEST ALLEY FROM VACATED SOUTH 26TH STREET TO SOUTH 27TH STREET, BETWEEN N AND O STREETS - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance vacating a portion of the east west alley from vacated South 26th Street to South 27th Street, between N and O Streets, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

VACATION 03019 - VACATING A PORTION OF WHITEWATER LANE AT NORTH 15TH STREET. (REQUEST 2ND & 3RD READINGS 3/1/04) - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance vacating a portion of Whitewater Lane near North 15th Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

VACATION 03022 - VACATING A PORTION OF THE ALLEY ADJACENT TO ROCK N ROLL RUNZA GENERALLY LOCATED AT 14TH AND P STREETS - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance vacating a portion of the alley adjacent to Rock 'N Roll Runza generally located at 14th and P Streets, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

CHANGE OF ZONE 79HP - APPLICATION OF THE ALPHA XI DELTA BUILDING ASSOCIATION TO DESIGNATE THE ALPHA XI DELTA SORORITY HOUSE AT 1619 R STREET AS A LANDMARK - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance amending the City of Lincoln District Map attached to and made a part of Title 27 of the Lincoln Municipal Code by designating certain property as a Landmark, the first time.

CHANGE OF ZONE 80HP - APPLICATION OF MICHAEL AND CAROL JAMES TO DESIGNATE THE R.O. STAKE HOUSE AT 145 S. 28TH STREET AS A LANDMARK - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance amending the City of Lincoln District Map attached to and made a part of Title 27 of the Lincoln Municipal Code by designating certain property as a Landmark, the first time.

STREET NAME CHANGE 04001 - RENAMING SOUTH 23RD STREET IN STONE RIDGE ESTATES 2ND ADDITION AND TAMARIN RIDGE ADDITION AS HEREL STREET EXTENDING TO VAVRINA LANE - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance changing the name of South 23rd Street, located north of Vavrina Lane in Stone Ridge Estates 2nd Addition and Tamarin Ridge Addition, to Herel Street, as recommended by the Street Name Committee, the first time.

APPROVING A LEASE AGREEMENT BETWEEN NEBRASKA GOLF & TURF, NEBRASKA NATIONAL BANK, AND THE CITY FOR THE LEASE OF 225 GOLF CARS AND 14 UTILITY VEHICLES FOR USE BY THE CITY PARKS AND RECREATION DEPARTMENT. (REQUEST 2ND & 3RD READINGS 3/1/04) - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance approving a Lease Agreement between Nebraska Golf & Turf, Nebraska National Bank, and the City for the lease of 225 golf cars and 14 utility vehicles for use by the City Parks and Recreation Department, the first time.

APPROVING A LEASE AGREEMENT BETWEEN NEBRASKA NATIONAL BANK, AND THE CITY FOR GOLF COURSE AND PARK MAINTENANCE EQUIPMENT AT HOLMES AND MAHONEY GOLF COURSES. (REQUEST 2ND & 3RD READINGS 3/1/04)11 - CLERK read an ordinance, introduced by Glenn Friendt, an ordinance approving a Lease Agreement between Nebraska National Bank, and the City for golf course and park maintenance equipment at Holmes and Mahoney Golf Courses, the first time.

ORDINANCES - 3RD READING

CHANGE OF ZONE 3428 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY ADDING NEW SECTIONS 27.11.090, 27.13.090, AND 27.15.090 TO REQUIRE APPLICATIONS FOR BUILDING PERMITS FOR NEW CONSTRUCTION OF PRINCIPAL BUILDINGS ON PROPERTY LOCATED WITHIN THE R-1, R-2, AND R-3 RESIDENTIAL DISTRICTS, RESPECTIVELY, AND LOCATED WITHIN THE CITY LIMITS AS OF DECEMBER 31, 1949, TO COMPLY WITH THE NEIGHBORHOOD DESIGN STANDARDS; AMENDING SECTIONS 27.17.090, 27.19.090, 27.21.090, 27.23.090, AND 27.24.090 TO PROVIDE THAT THE NEIGHBORHOOD DESIGN STANDARDS SHALL APPLY TO APPLICATIONS FOR BUILDING PERMITS FOR NEW CONSTRUCTION OF PRINCIPAL BUILDINGS ON PROPERTY LOCATED WITHIN THE R-4, R-5, R-6, R-7, AND R-8 RESIDENTIAL DISTRICTS, RESPECTIVELY, AND LOCATED WITHIN THE CITY LIMITS AS OF DECEMBER 31, 1949. (IN CONNECTION W/04R-11) - PRIOR to reading:

WERNER Moved to amend Bill #04-12 on page 3, line 20, after the words "principal building" insert the words "on property located".

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

CLERK Read an ordinance, introduced by Ken Svoboda, amending Title 27 of the Lincoln Municipal Code by adding new Sections 27.11.090, 27.13.090, and 27.15.090 to require applications for building permits for new construction of principal buildings on property located within the R-1, R-2, and R-3 Residential Districts, respectively, and located within the City limits as of December 31, 1949, to comply with the Neighborhood Design Standards; amending Sections 27.17.090, 27.19.090, 27.21.090, 27.23.090, and 27.24.090 to provide that the Neighborhood Design Standards shall apply to applications for building permits for new construction of principal buildings on property located within the R-4, R-5, R-6, R-7, and R-8 Residential Districts, respectively, and located within the City limits as of December 31, 1949, the third time.

SVOBODA Moved to pass the ordinance as amended.

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

The ordinance, being numbered #18305, is recorded in Ordinance Book 25, Page

CHANGE OF ZONE 3430 - APPLICATION OF RIDGE DEVELOPMENT CO. AND SUPERIOR POINT PARTNERS FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL AND B-2 PLANNED NEIGHBORHOOD BUSINESS TO B-5 PLANNED REGIONAL BUSINESS ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET AND FOLKWAYS BOULEVARD (In connection w/04R-23) - CLERK read an ordinance, introduced by Terry Werner, 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 third time.

WERNER 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 #18306, is recorded in Ordinance Book 25, Page

STREET AND ALLEY VACATION 03016 - VACATING ALL OF TELLURIDE CIRCLE GENERALLY LOCATED ONE BLOCK SOUTH OF FLETCHER AVENUE AND ONE BLOCK WEST OF NORTH 27TH STREET - CLERK read an ordinance, introduced by Terry Werner, vacating all of Telluride Circle, generally located one block south of Fletcher Avenue and one block west of N. 27th Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

WERNER Moved to pass the ordinance as read.

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

The ordinance, being numbered #18307 is recorded in Ordinance Book 25, Page

MISCELLANEOUS BUSINESS

PENDING -

SVOBODA Moved to extend the Pending List to March 1, 2004.

Seconded by Cook & 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 March 1, 2004.

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

ADJOURNMENT 11:03 P.M.

SVOBODA Moved to adjourn the City Council meeting of February 23, 2004.

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

So ordered.

Joan E. Ross, CMC, City Clerk

Judy Roscoe, Senior Office Assistant

