

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, MAY 17, 2004 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; 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 May 10, 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

**ELECTION OF NEW CHAIR AND VICE CHAIR**

Mayor Colleen J. Seng came forward to conduct the nominations for the office of Chairperson for the City Council. Council member Jonathan Cook nominated Terry Werner and the motion was carried, 7-0.

The New Chairperson Terry Werner conducted the nominations for the office of Vice Chair. Council member Jon Camp nominated Glenn Friendt and the motion lost, 3-4, Assenting: Camp, Friendt, Svoboda. Council member Jonathan Cook nominated Ken Svoboda and the motion carried, 7-0.

**PROCLAMATION GIVEN BY MAYOR**

Mayor Colleen J. Seng came forward to read and present a Proclamation presented to the Public Works & Utilities Department declaring the week of May 16<sup>th</sup> a Public Works Week. Alan Abbott, the Director of the Public Works Department, came forward to accept the proclamation given by the Mayor and gave thanks.

**PUBLIC HEARING**

MANAGER APPLICATION OF AARON T. FUNK FOR EMPYREAN BREWING CO. AT 729 "Q" STREET;

MANAGER APPLICATION OF AARON T. FUNK FOR LAZLO, INC. DBA EMPYREAN BREWING/LAZLO'S/FIREWORKS AT 700 - 710 P STREET AND 729 Q/210 N. 7TH STREET;

MANAGER APPLICATION OF AARON T. FUNK FOR LAZLO'S INC. DBA LAZLO'S BREWERY & GRILL SOUTH AT 5900 OLD CHENEY ROAD - Aaron T. Funk, 2210 South 49<sup>th</sup> Street, took oath and came forward for approval.

This matter was taken under advisement.

MANAGER APPLICATION OF CAULEY SCHAFFERT FOR WADSWORTH OLD CHICAGO, INC. DBA OLD CHICAGO AT 2918 PINE LAKE ROAD - Cauley Schaffert, 5148 South 97<sup>th</sup> Street, Plaza 9, Omaha, took oath and came forward for approval.

This matter was taken under advisement.

APPLICATION OF LAMP AND MCTAGGERT, INC. DBA FAT NAPPY'S TO EXPAND THEIR LICENSED PREMISES BY THE ADDITION OF AN IRREGULAR SHAPED OUTDOOR AREA MEASURING 85' BY 110' TO THE SOUTH AT 5100 N. 48TH STREET - Nathan Lamp, 5100 North 42<sup>nd</sup> Street, and Mark McTaggert, 5100 North 42<sup>nd</sup> Street, took oath and came forward for approval. Further discussion followed.

This matter was taken under advisement.

ANNEXATION 02012 WILDERNESS HILLS - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 91.98 ACRES GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD;

CHANGE OF ZONE 3423 - APPLICATION OF GERALD MADDOX FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT, R-5 RESIDENTIAL DISTRICT, O-3 OFFICE PARK DISTRICT, AND B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD;

APPROVING THE WILDERNESS HILLS CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY OF LINCOLN AND LINCOLN FEDERAL BANCORP, INC. OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD;

SPECIAL PERMIT 1999 - APPLICATION OF GERALD MADDOX TO DEVELOP WILDERNESS HILL COMMUNITY UNIT PLAN CONSISTING OF 640 SINGLE FAMILY, TOWNHOUSE, AND MULTI-FAMILY DWELLING UNITS, WITH WAIVERS TO THE PRELIMINARY PLAT PROCESS, LANDSCAPING IN TRAFFIC CIRCLES AND MEDIANS, FRONT YARD SETBACKS, REAR YARD SETBACKS, MINIMUM LOT AREA AND WIDTH, BUILDING HEIGHT, AND SANITARY SEWER DESIGN STANDARDS, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD;

USE PERMIT 154 - APPLICATION OF GERALD MADDOX TO DEVELOP 495,000 SQ. FT. OF OFFICE AND COMMERCIAL FLOOR AREA, WITH WAIVERS TO THE PRELIMINARY PLAT PROCESS, LANDSCAPING IN TRAFFIC CIRCLES AND MEDIANS, FRONT YARD SETBACKS, REAR YARD SETBACKS, MINIMUM LOT AREA AND WIDTH, BUILDING HEIGHT, AND SANITARY SEWER DESIGN STANDARDS, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27<sup>TH</sup> AND YANKEE HILL ROAD - Mike Rierden, 645 "M" Street, Suite 200, came forward on behalf of the applicant for approval. Further discussion followed.

Don Linscott, 300 North 44<sup>th</sup> Street, with the Mega Corporation, came forward in support.

Mr. Rierden came forward for rebuttal.

This matter was taken under advisement.

CHANGE OF ZONE 04025 - AMENDING SECTION 27.71.120 OF THE LINCOLN MUNICIPAL CODE TO ALLOW TEMPORARY CONCRETE PAVING PLANTS - Jack Wolf, 830 Wells Fargo Center, came forward on behalf of the applicant for approval.

Danny Walker, 437 "E" Street, came forward to express his concerns regarding this change of zone.

This matter was taken under advisement.

CHANGE OF ZONE 04026 - APPLICATION OF THE COUNTRY CLUB AND IRVINGDALE NEIGHBORHOOD ASSOCIATIONS FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED BETWEEN 17TH AND 30TH STREETS FROM SOUTH STREET TO WOODCREST STREET -

Kitty Fynbu, 1744 Sewell, President of the Irvingdale Neighborhood Association, came forward in support.

Linda Wibbels, 2740 Royal Court, with Country Club Neighborhood Association, came forward in support. Further discussion followed.

Carol Brown, 2201 Elba Circle, came forward representing the Lincoln Neighborhood Alliance, came forward in support.

Dan Marvin, 2523 Woods Boulevard, with the Country Club Neighborhood Association, came forward to ask that the Council include the houses, that were currently taken off, that are located on South Street in the change of zone area.

Paul Tisdale, 1971 South Street, came forward in support.

This matter was taken under advisement.

WAIVING THE RIGHT OF THE CITY OF LINCOLN TO OBJECT TO THE VALIDITY OF THE CONVEYANCE OF THAT PART OF LOT 1, BLOCK 3, HIGH RIDGE WEST ACRES FIRST ADDITION THAT LIES EAST OF A LINE 408.67 FEET EAST OF THE WEST LOT LINE OF SAID LOT 1, AS MEASURED ALONG THE NORTH AND SOUTH LINES OF SAID LOT; AND THE SOUTH 330 FEET OF THE NORTH 363 FEET OF OUTLOT B, HIGH RIDGE WEST ACRES ADDITION, LYING WEST OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY RIGHT OF WAY, EXCEPT THE WEST 460 FEET THEREOF, FROM ANT, LLC TO JACK L. MCDONALD AND LUCINDA C. MCDONALD ON THE GROUND THAT THE CONVEYANCE FAILED TO COMPLY WITH THE REQUIREMENTS RELATING TO SUBDIVISION APPROVAL - Mark Hunzeker, 1045 Lincoln Mall, Suite 200, came forward on behalf of the applicants for approval.

This matter was taken under advisement.

COMP. PLAN AMENDMENT 03007 - AMENDING THE 2025 LINCOLN CITY - LANCASTER COUNTY COMPREHENSIVE PLAN TO REMOVE REFERENCE TO THE DETERMINATION OF COUNTY IMPACT FEES - Mike Dekalb, with the Planning Department, came forward stating that the Planning Department does approve this Amendment. Further discussion followed.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

Danny Walker, 437 "E" Street, had registered to come forward to discuss the topic of DLA Dumping Area in his neighborhood, in which he also showed some photo's on the overhead concerning this topic.

This matter was taken under advisement.

**\*\* END OF PUBLIC HEARING \*\***

### COUNCIL ACTION

#### LIQUOR RESOLUTIONS

MANAGER APPLICATION OF AARON T. FUNK FOR EMPYREAN BREWING CO. AT 729 Q STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82752 WHEREAS, Empyrean Brewing Co. located at 729 Q Street, Lincoln, Nebraska has been approved for a Retail Class "LK" liquor license, and now requests that Aaron T. Funk be named manager;

WHEREAS, Aaron T. Funk 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 Aaron T. Funk 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 Jon Camp

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

MANAGER APPLICATION OF AARON T. FUNK FOR LAZLO, INC. DBA EMPYREAN BREWING/LAZLOS/FIREWORKS AT 700 - 710 P STREET AND 729 Q/210 N. 7TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82753 WHEREAS, Lazlo, Inc. d/b/a Empyrean Brewing/Lazlos/Fireworks located at 700 - 710 P Street and 729 Q/210 North 7th Street, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Aaron T. Funk be named manager;

WHEREAS, Aaron T. Funk 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 Aaron T. Funk 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 Jon Camp

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

MANAGER APPLICATION OF AARON T. FUNK FOR LAZLOS, INC. DBA LAZLO'S BREWERY & GRILL SOUTH AT 5900 OLD CHENEY ROAD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:  
A-82754 WHEREAS, Lazlo , Inc. d/b/a Lazlo's Brewery & Grill - South located at 5900 Old Cheney Road, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Aaron T. Funk be named manager;

WHEREAS, Aaron T. Funk 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 Aaron T. Funk 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 Jon Camp

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

MANAGER APPLICATION OF CAULEY SCHAFFERT FOR WADSWORTH OLD CHICAGO, INC. DBA OLD CHICAGO AT 2918 PINE LAKE ROAD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:  
A-82755 WHEREAS, Wadsworth Old Chicago, Inc. dba "Old Chicago" located at 2918 Pine Lake Road, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Cauley Schaffert be named manager;

WHEREAS, Cauley Schaffert 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 Cauley Schaffert 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 Jon Camp

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

APPLICATION OF LAMP AND MCTAGGERT, INC. DBA FAT NAPPY'S TO EXPAND THEIR LICENSED PREMISES BY THE ADDITION OF AN IRREGULAR SHAPED OUTDOOR AREA MEASURING 85' BY 110' TO THE SOUTH AT 5100 N. 48TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82756 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 Lamp and McTaggart, Inc. d/b/a Fat Nappy's to expand its licensed premises by the addition of an irregular shaped outdoor area including a beer garden and walkway measuring approximately 85' x 110' on the south side of the presently licensed premises, making the expanded license to read as one-story irregular shaped building measuring approximately 28' x 106', including beer garden and walkway measuring approximately 85' x 110' on the south side of building of the presently licensed premises located at 5100 North 48th Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

ORDINANCES - 2<sup>ND</sup> READING & ASSOCIATED RESOLUTIONS

ANNEXATION 02012 WILDERNESS HILLS - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 91.98 ACRES GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD. (IN CONNECTION W/04-96, 04R-107, 04R-108, 04R-109) - CLERK read an ordinance, introduced by Glenn Friendt, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.

CHANGE OF ZONE 3423 - APPLICATION OF GERALD MADDOX FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT, R-5 RESIDENTIAL DISTRICT, O-3 OFFICE PARK DISTRICT, AND B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD. (IN CONNECTION W/04-95, 04R-107, 04R-108, 04R-109) - CLERK read an ordinance, introduced by Glenn Friendt, 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.

APPROVING THE WILDERNESS HILLS CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY OF LINCOLN AND LINCOLN FEDERAL BANCORP, INC. OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD - PRIOR to reading:

COOK Moved to delay action for one week to 5/24/04.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1999 - APPLICATION OF GERALD MADDOX TO DEVELOP WILDERNESS HILL COMMUNITY UNIT PLAN CONSISTING OF 640 SINGLE FAMILY, TOWNHOUSE, AND MULTI-FAMILY DWELLING UNITS, WITH WAIVERS TO THE PRELIMINARY PLAT PROCESS, LANDSCAPING IN TRAFFIC CIRCLES AND MEDIANS, FRONT YARD SETBACKS, REAR YARD SETBACKS, MINIMUM LOT AREA AND WIDTH, BUILDING HEIGHT, AND SANITARY SEWER DESIGN STANDARDS, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD - PRIOR to reading:

COOK Moved to delay action for one week to 5/24/04.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

USE PERMIT 154 - APPLICATION OF GERALD MADDOX TO DEVELOP 495,000 SQ. FT. OF OFFICE AND COMMERCIAL FLOOR AREA, WITH WAIVERS TO THE PRELIMINARY PLAT PROCESS, LANDSCAPING IN TRAFFIC CIRCLES AND MEDIANS, FRONT YARD SETBACKS, REAR YARD SETBACKS, MINIMUM LOT AREA AND WIDTH, BUILDING HEIGHT, AND SANITARY SEWER DESIGN STANDARDS, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27<sup>TH</sup> AND YANKEE HILL ROAD

COOK Moved to delay action for one week to 5/24/04.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CHANGE OF ZONE 04025 - AMENDING SECTION 27.71.120 OF THE LINCOLN MUNICIPAL CODE TO ALLOW TEMPORARY CONCRETE PAVING PLANTS - CLERK read an ordinance, introduced by Glenn Friendt, amending Section 27.71.120 of the Lincoln Municipal Code to approve temporary concrete paving plants; and repealing Section 27.71.120 of the Lincoln Municipal Code as hitherto existing, the second time.

CHANGE OF ZONE 04026 - APPLICATION OF THE COUNTRY CLUB AND IRVINGDALE NEIGHBORHOOD ASSOCIATIONS FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED BETWEEN 17TH AND 30TH STREETS FROM SOUTH STREET TO WOODCREST STREET - CLERK read an ordinance, introduced by Glenn Friendt, 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.

AMENDING SECTION 9.20.080 OF THE LINCOLN MUNICIPAL CODE REGARDING PANHANDLING BY PROVIDING A MORE SPECIFIC DEFINITION OF THE OFFENSE INCLUDING BUT NOT LIMITED TO THE TIME, PLACE AND MANNER OF THE ACTS PROHIBITED BY SAID ORDINANCE - CLERK read an ordinance, introduced by Glenn Friendt, amending Section 9.20.080 of the Lincoln Municipal Code relating to the panhandling to provide a more specific definition of the offense including but not limited to the time, place and manner of the acts prohibited by said ordinance; and repealing Section 9.20.080 of the Lincoln Municipal code as hitherto existing, the second time.

APPROVING A LEASE AGREEMENT BETWEEN THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT AND THE LINCOLN MEDICAL EDUCATION PARTNERSHIP FOR THE WIC PROGRAM FOR A THREE-YEAR PERIOD AT 4600 VALLEY ROAD - CLERK read an ordinance, introduced by Glenn Friendt, accepting and approving a Lease Agreement between the City of Lincoln, Nebraska and Lincoln Medical Education Partnership for the lease of 200 sq. ft. of space at 4600 Valley Road, Lincoln, Lancaster County, Nebraska, on behalf of the Lincoln-Lancaster County Health Department for its WIC Program for a term of three years, the second time.

#### RESOLUTIONS

APPOINTING GEORGIA M. GLASS TO THE PARKS AND RECREATION ADVISORY BOARD TO FILL AN UNEXPIRED TERM EXPIRING APRIL 27, 2006 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82757 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Georgia M. Glass to the Parks and Recreation Advisory Board to fill an unexpired three-year term expiring April 27, 2006 is hereby approved.

Introduced by Annette McRoy

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE FUNDING OF THE CITYWIDE SAFETY IMPROVEMENT PROJECT, DURABLE CROSSWALK MARKING PROJECT, AT VARIOUS LOCATIONS - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82758 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. STPP-5231(12), (CN 12741, City Project #701909), to obligate Federal and State funds for the Durable Crosswalk Marking Project at various locations, 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 Public Works and Utilities Department, for transmittal and execution by the State Department of Roads.

Introduced by Annette McRoy

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE FUNDING OF THE INTERSECTION SAFETY IMPROVEMENT PROJECT AT S. 14TH STREET AND HIGHWAY 2 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82759 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. STPP-5221(2), (CN 12742, City Project #701908), to obligate Federal and State funds for the Intersection Safety Improvement Project at South 14th and Highway 2, 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 Public Works and Utilities Department, for transmittal and execution by the State Department of Roads.

Introduced by Annette McRoy

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

WAIVING THE RIGHT OF THE CITY OF LINCOLN TO OBJECT TO THE VALIDITY OF THE CONVEYANCE OF THAT PART OF LOT 1, BLOCK 3, HIGH RIDGE WEST ACRES FIRST ADDITION THAT LIES EAST OF A LINE 408.67 FEET EAST OF THE WEST LOT LINE OF SAID LOT 1, AS MEASURED ALONG THE NORTH AND SOUTH LINES OF SAID LOT; AND THE SOUTH 330 FEET OF THE NORTH 363 FEET OF OUTLOT B, HIGH RIDGE WEST ACRES ADDITION, LYING WEST OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY RIGHT OF WAY, EXCEPT THE WEST 460 FEET THEREOF, FROM ANT, LLC TO JACK L. MCDONALD AND LUCINDA C. MCDONALD ON THE GROUND THAT THE CONVEYANCE FAILED TO COMPLY WITH THE REQUIREMENTS RELATING TO SUBDIVISION APPROVAL - CLERK Read the following resolution, introduced by ANNETTE MCROY, who moved its adoption:

A-82760 WHEREAS, on November 8, 2001 Jack E. McDonald and Lucinda C. McDonald purchased two parcels of property from ANT, LLC, a Delaware limited liability company; said parcels of land being described as:

That portion of Lot 1, Block 2, High Ridge West Acres, First Addition, that lies east of a line 408.67 feet east of the west line of said Lot 1 as measured along the north and south lines of said Lot 1; and That portion of Outlot B, High Ridge West Acres, more particularly described as the south 330 feet of the north 363 feet of said Outlot B, lying west of the Burlington Northern and Santa Fe Railway Company right-of-way, except the west 460 feet thereof; and

WHEREAS, the conveyance to the McDonalds failed to comply with the requirements relating to subdivision approval; and

WHEREAS, Shanna L. Cole, on behalf of McDonalds, has requested the City to consent to the validity of said conveyance.

WHEREAS, the Planning Department has recommended that the City, in accordance with the provisions of Neb. Rev. Stat. § 76-2,110, waive its right to object to said conveyance in order to allow said conveyance to be fully valid upon condition that the two parcels are final platted into a single lot by the McDonalds; and

WHEREAS, the McDonalds have prepared a final plat complying with the recommendations of the Planning Department; and

WHEREAS, in accordance with the provisions of Neb. Rev. Stat. § 76-2,100 the City of Lincoln desires to waive its right to object to said conveyance in order to allow such conveyance to be fully valid; and

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

1. That the City of Lincoln waives its right to object to the validity to the conveyance of that portion of Lot 1, Block 3, High Ridge West Acres, First Addition, that lies east of a line 408.67 feet east of the west line of said Lot 1 as measured along the north and south lines of said Lot 1, and further waives its right to object to the validity of the conveyance of that part of Outlot B, High Ridge West Acres, more particularly described as the south 330 feet of the north 363 feet of said Outlot B, lying west of the Burlington Northern and Santa Fe Railway Company right-of-way, except the west 460 feet thereof, from ANT, LLC to Jack E. McDonald and Lucinda C. McDonald, filed of record with the Lancaster County Register of Deeds as Instrument No. 2001-075706.

2. That the City Clerk is directed to return an original of this Resolution to Shanna L. Cole, Attorney at Law, 1045 Lincoln Mall, Suite 200, Lincoln, NE 68509, to be recorded with the Register of Deeds of Lancaster County.

Introduced by Annette McRoy

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

COMP. PLAN AMENDMENT 03007 - AMENDING THE 2025 LINCOLN CITY - LANCASTER COUNTY COMPREHENSIVE PLAN TO REMOVE REFERENCE TO THE DETERMINATION OF COUNTY IMPACT FEES - PRIOR to reading:

CAMP Moved to Amend No. 1. On page 1, line 21, delete the words "study's conclusions and subsequent public dialogue suggest the". On page 1, line 22, after the word "City" insert the word "shall".

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

CLERK Read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82761 WHEREAS, the Planning Director has made application to amend the 2025 Lincoln-Lancaster County Comprehensive Plan by revising the Guiding Principles for Rural Areas to remove the determination of county impact fees.

WHEREAS, the Lincoln City - Lancaster County Planning Commission has recommended approval of said proposed amendment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that the 2025 Lincoln-Lancaster County Comprehensive Plan be amended as follows:

1. Amend the Guiding Principles for Rural Areas deleting the entire last paragraph on page F71 and inserting a new paragraph as follows:

~~When the independent study to quantify and qualify the positive and negative economics of acreage development is completed, the county should determine if an impact fee or other development exactions are needed to be sure acreage development is paying its "fair share" of costs. The study should include a review of policy issues and options such as the build-through concept, lot size, acreage standards, acreages and town relationships, acreages and sensitive areas, agriculture, acreage clusters, desired acreage population, acreage, size and land use consumption and AGR zoning.~~

As called for in the adopted Comprehensive Plan, an independent study to quantify the economic impacts of acreage development has been completed. The study's conclusions and the subsequent public dialogue suggests the County and City continue to look at ways to contain public costs and coordinate public resource allocation, especially in the area of road construction. A variety of management techniques could be used, including the shared engineering and funding of road projects that aid urban expansion and adoption of rural land use policies that minimize future capital and operating costs.

BE IT FURTHER RESOLVED that any other references in said plan which may be affected by the above-specified amendment be, and they hereby are amended to conform with such specific amendment.

Introduced by Annette McRoy

Seconded by Friendt & 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 APRIL 16 - 30, 2004 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82762 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 May 3, 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>	
Misha Ferguson	\$1,147.58	David Johnson	\$ 112.35
Jay Ragsdale	177.00	A&B Auto Sales	1,200.00
Tiffany N. Urich	109.40	Karen Happ	627.64
Robert M. Beecham	NAS*		
Johnny Walls	NAS*		

\* 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 Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2004 AT 1:30 PM FOR AN APPLICATION REQUESTING AN ADDITION TO THEIR PREMISE AT GRANDSTAND LLC DBA BLEACHERS BAR & GRILL LOCATED AT 5601 SOUTH 56<sup>TH</sup> STREET, SUITE 20 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82764 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 7, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, NE, for the Application of Grandstand LLC dba Bleachers Bar & Grill for an addition to their premise located at 5601 South 56<sup>th</sup> Street, Suite 20.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, JUNE 7, 2004 AT 1:30 PM FOR AN APPLICATION OF CHUN'S KITCHEN INC. DBA CHINA INN FOR A CLASS J LIQUOR LICENSE LOCATED AT 2662 CORNHUSKER HIGHWAY, SUITE 8 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82765 BE IT RESOLVED by the City Council, of the City of Lincoln, that hearing date is hereby set for Monday, June 7, 2004 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, NE, for the Application of Chun's Kitchen Inc. dba China Inn for a Class J Liquor License located at 2662 Cornhusker Highway, Suite 8.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE MONDAY, JUNE 7, 2004 AT 1:30 PM FOR AN APPLICATION OF POTENTIAL II LLC DBA BUFFALO WILD WINGS FOR A CLASS I LIQUOR LICENSE LOCATED AT 7301 SOUTH 27<sup>TH</sup> STREET, SUITE 100 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82766 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, June 7, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, NE, for the Application of Potential II dba Buffalo Wild Wings for a Class I Liquor License located at 7301 South 27<sup>th</sup> Street, Suite 100.

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

Introduced by Annette McRoy

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

#### PETITIONS & COMMUNICATIONS

INFORMAL PETITION SUBMITTED BY DIANE M. RADNIECKI REQUESTING TO CREATE A GRAVELING DISTRICT ON NANCE ROAD, WHICH IS NORTH OF CORNHUSKER HIGHWAY - CLERK presented said petition which was referred to the Public Works Department.

#### REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON MAY 3, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk.

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON MAY 10, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk.

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

INVESTMENT OF FUNDS FOR THE WEEK OF MAY 3 THRU MAY 7, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-82763 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 TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTHS OF JANUARY THRU MARCH, 2004: TELENATIONAL COMMUNICATIONS INC; MARCH, 2004: CELLULAR ONE, NE TECH & TELECOMMUNICATIONS INC, ATS MOBILE TELEPHONE CO - CLERK presented said report which was placed on file in the Office of the City Clerk.

THE FOLLOWING WERE REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone No. 04017 - Requested by Glen Herbert, from AGR Agricultural Residential district to R-3 Residential District, on property generally located at South 84th Street and Pine Lake Road.

Change of Zone No. 04028 - Requested by Urban Development Department, from B-4 Lincoln Center Business District to B-4 Lincoln Center Business District Sign District, on property generally located at 11<sup>th</sup> & P Streets.

Change of Zone No. 04029 - Requested by SID #6, from AG Agricultural District and H-3 Highway Commercial District to H-3 Highway Commercial District and R-1 Residential District, on property generally located at 82<sup>nd</sup> and West "O" Streets.

- Change of Zone No. 04031 - Requested by Brian D. Carstens, from I-1 Industrial District and R-4 Residential District to R-4 Residential District, P Public Use District and I-1 Industrial District to P Public Use District, on property generally located at North 33<sup>rd</sup> Street and Apple Street.
- Change of Zone No. 04033 - Requested by Olsson Associates, O-3 Office Park District to B-2 Planned Neighborhood Business District, on property generally located at North 26<sup>th</sup> Street and Kensington Drive.
- Change of Zone No. 04034 - Requested by Apple's Way, LLC from AGR Agricultural Residential District to R-3 Residential District, on property generally located at South 66<sup>th</sup> Street and Highway 2.
- Change of Zone No. 04035 - Requested by Madonna Rehabilitation Hospital, from R-4 Residential District to O-3 Office Park District, on property generally located at Stephanie Lane and Pine Lake Road.
- Special Permit No. 1713C - Requested by Madonna Rehabilitation Hospital, amendment to the Aspen 3<sup>rd</sup> Addition Community Unit Plan, generally located at Stephanie Lane and Pine Lake Road.
- Special Permit No. 1763A - Requested by ESP Inc, for a mining permit, on property generally located at North 70<sup>th</sup> Street and Arbor Road.
- Special Permit No. 04011 - Requested by Glen Herbert, Boulder Ridge Community Unit Plan, for a combination of single-family, attached two-family and apartments, totaling approximately 461 dwelling units, with request to waive sanitary sewer to run opposite the street grade, on property generally located at at South 84<sup>th</sup> Street and Pine Lake Road.
- Special Permit No. 04014 - Requested by Patricia Slaughter and Connie Heier, Whispering Creek Community Unit Plan, for 51 single family lots, with requests to waive sidewalks, street trees, landscape screening, street lighting, block length, and preliminary plat, on property generally located at South 112<sup>th</sup> Street and Old Cheney Road.
- Special Permit No. 04020 - Requested by Thomas D. Friedman, for a limited landfill, on property generally located at 2861 West "O" Street.
- Special Permit No. 04021 - Requested by Hope Community Church, for a 49' ornamental tower, on property generally located at Highway 77 and Pioneers Boulevard.
- Special Permit No. 04022 - Requested by Four Suns Restaurant Inc, for the authority to sell alcoholic beverages for consumption on the premises, on property generally located at 3239 South 13<sup>th</sup> Street.
- Special Permit No. 04023 - Requested by Brian D. Carstens, Flat Iron Crossing Community Unit Plan, for approximately 34 single family units, with requests to waive the preliminary plat procedures, maximum block length, sidewalks, depth to width lot ratio, street trees, landscape screen, recreational facility, location of the water main and sanitary sewer, on property generally located at North 33<sup>rd</sup> St and Apple St.
- Special Permit No. 04024 - Requested by Kayla J. Olmer, for the authority to sell alcohol for consumption on the premises, on property located at 2701 North 48<sup>th</sup> Street.
- Special Permit No. 04026 - Requested by Madonna Rehabilitation Hospital, for a 65,00 square foot wellness center, on property generally located at Stephanie Lane and Pine Lake Road.
- Use Permit No. 94B - Requested by Olsson Associates, an amendment to increase the boundaries, on property generally located at North 26<sup>th</sup> Street and Kensington Drive.
- Use Permit No. 04001- Requested by Madonna Rehabilitation Hospital, for a 65,000 square foot wellness center and a 45,000 square foot medical office space, on property generally located at Stephanie Lane and Pine Lake Road.

ORDINANCES - 1<sup>ST</sup> READING

CREATING GRADING DISTRICT NO. 152 IN THE NORTH/SOUTH ALLEY N. 58TH STREET TO TOUZALIN AVE., GLADSTONE TO JUDSON STREET AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTIES - CLERK read an ordinance, introduced by Annette McRoy, an ordinance creating Grading District No. 152, defining the limits thereof, establishing the width of the roadway to be graded, providing for the grading of the sidewalk space and the relaying of sidewalks providing for the payment of the cost thereof, designating the property to be benefitted, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the first time.

CREATING GRAVELING DISTRICT NO. 341 IN THE NORTH/SOUTH ALLEY N. 58TH STREET TO TOUZALIN AVE., GLADSTONE TO JUDSON STREET AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTIES - CLERK read an ordinance, introduced by Annette McRoy, creating Graveling District No. 341, defining the limits thereof, establishing the width of the roadway to be improved with gravel, crushed rock or other similar material, providing for the payment of the cost thereof, designating the property to be benefitted, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the first time.

CREATING WATER DISTRICT NO. 1193 IN OAKS HOLLOW LANE, STEVENS RIDGE ESTATES AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTIES - CLERK read an ordinance, introduced by Annette McRoy, creating Water District No. 1193, designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the first time.

CREATING PAVING DISTRICT NO. 2628 IN NORTH 36TH STREET, VINE TO W STREETS AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTIES - CLERK read an ordinance, introduced by Annette McRoy, creating Paving District No. 2628, defining the limits thereof, establishing the width of the roadway to be paved and the width of the grading to be done, providing for the curbing, guttering, and relaying of sidewalks, providing for the payment of the cost thereof, designating the property to be benefitted, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the first time.

RENAMING UPTON GRAY LANE TO UPTON GREY LANE GENERALLY LOCATED AT S. 56TH STREET AND PINE LAKE ROAD TO CORRECT THE SPELLING OF SAID STREET - CLERK read an ordinance, introduced by Annette McRoy, changing the name of Upton Gray Lane to Upton Grey Lane located east of South 56<sup>th</sup> Street and south of Pine Lake Road, to correct the spelling of said street, the first time.

ORDINANCES - 3<sup>RD</sup> READING & RESOLUTION FOR ACTION

REPEALING ORDINANCE NO. 18154 WHICH CREATED RE-PAVING DISTRICT NO. 156 IN SOUTH CODDINGTON AVE. FROM WEST O STREET SOUTH APPROXIMATELY 1200 FEET, DUE TO THE LACK OF MAJORITY PETITION - CLERK read an ordinance, introduced by Jonathan Cook, re-pealing ordinance No. 18154 which created Re-paving District No. 156, which re-paving district included all that portion of South Coddington Avenue from West "O" Street south approximately 1200 +/- feet describing the benefitted property as follows; Lots 4, 5, 6, 7, 8, and 9, Block 1; Lots 1, 2, 3, 10, 11 and 12, Block 2; Lots 1, 2, 3, 10, 11 and 12, Block 3; Lots 4, 5, 6, 7, 8 and 9, Block 4 and the vacated streets and alleys adjacent thereto all in Manchester Heights; Lots 1, 2 and 3 and Lot 112, Irregular Tract NW 28-10-06, Ford Van Lines Addition all in the Northwest Quarter of Section 28, Township 10 North, Range 6 East of the sixth Principal Meridian in the City of Lincoln, Lancaster County, Nebraska and providing for the payment of the cost thereof, the third time.

COOK 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 **#18368**, is recorded in Ordinance Book #25.

VACATING A PORTION OF 43RD STREET SOUTH OF SUMNER STREET AND AUTHORIZING THE SALE THEREOF TO CHRIST LUTHERAN CHURCH - CLERK read an ordinance, introduced by Jonathan Cook, vacating a portion of 43<sup>rd</sup> Street south of Sumner Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

COOK 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 **#18363**, is recorded in Ordinance Book #25.

VACATING 120 FEET OF SOUTH 22ND STREET GENERALLY LOCATED AT THE INTERSECTION OF SOUTH 22ND STREET AND WESLEY DRIVE - CLERK read an ordinance, introduced by Jonathan Cook, vacating a portion of South 22<sup>nd</sup> Street, generally located at the intersection of South 22<sup>nd</sup> Street and Wesley Drive, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

COOK 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 **#18364**, is recorded in Ordinance Book #25.

RENAMING JACOB DRIVE AS JACOBS CREEK DRIVE GENERALLY LOCATED WEST OF SOUTH 27TH STREET AND SOUTH OF PINE LAKE ROAD - CLERK read an ordinance, introduced by Jonathan Cook, changing the name of Jacob Drive to Jacobs Creek Drive located west of South 27<sup>th</sup> Street and south of Pine Lake Road, as recommended by the Street Name committee, the third time.

COOK 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 **#18365**, is recorded in Ordinance Book #25.

REPEALING CHAPTER 24.50 OF THE LINCOLN MUNICIPAL CODE, SEWER MAIN AND WATER MAIN SYSTEMS ON PRIVATE PROPERTY - CLERK read an ordinance, introduced by Jonathan Cook, repealing Sections 24.50.010, 24.50.020, 24.50.025, 24.50.030, 24.50.040, 24.50.050, 24.50.060 and 24.50.080 of the Lincoln Municipal Code, codified as Chapter 24.50, Sewer Main and Water Main Systems on Private Property, to eliminate code provisions that are no longer applicable; amending Section 17.58.095 of the Lincoln Municipal Code relating to Private Wastewater Systems to eliminate a reference to said Chapter 24.50; and repealing Section 17.58.095 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK 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 **#18366**, is recorded in Ordinance Book #25.

CHANGE OF ZONE 04002 - APPLICATION OF STONE BRIDGE CREEK, L.L.C. FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT, ON PROPERTY GENERALLY LOCATED AT NORTH 14TH STREET AND ARBOR ROAD - CLERK read an ordinance, introduced by Jonathan Cook, 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.

COOK 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 #18367, is recorded in Ordinance Book #25.

SPECIAL PERMIT 04004 - APPLICATION OF STONE BRIDGE CREEK L.L.C. TO DEVELOP STONE BRIDGE CREEK COMMUNITY UNIT PLAN FOR 759 DWELLING UNITS AND REQUESTED WAIVERS TO ELIMINATE THE PRELIMINARY PLAT PROCESS, TO ALLOW INCREASED LOT DEPTH-TO-WIDTH RATIO, TO ALLOW DOUBLE FRONTAGE LOTS ALONG ALVO ROAD, AND TO DELAY THE FILING OF A USE PERMIT, ON PROPERTY GENERALLY LOCATED AT NORTH 14TH STREET AND ARBOR ROAD - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82767 WHEREAS, Stone Bridge Creek, LLC has submitted an application designated as Special Permit No. 04004 for authority to develop Stone Bridge Creek Community Unit Plan for 759 dwelling units, and to waive the requirement to submit a preliminary plat, to increase lot depth to width ratio, to allow double frontage lots, and to delay the filing of a use permit, on property generally located at N. 14th Street and Arbor Road, and legally described to wit:

Lots 1 through 27, Block 1, Lots 1 through 29, Block 2, Lots 1 through 10, Block 3, Lots 1 through 4, Block 4, Outlots H and J, Stone Bridge Creek Addition, Lots 1 through 9, Block 1, Lot 1, Block 2, Lots 1 through 15, Block 3, Lots 1 and 2, Block 4, Lots 1 through 11, Block 5, Lots 1 through 16, Block 6, Lot 1, Block 7, Lots 1 through 10, Block 8, Lots 1 through 9, Block 9, and a portion of Outlot C, Stone Bridge Creek 1st Addition, Lots 1 through 25 and Lots 31 through 36, Block 1, Lots 1 through 28, Block 2, and Lots 1 through 20, Block 3, Stone Bridge Creek 2nd Addition, Lots 1 through 14, Block 1, Lots 1 through 30, Block 2, Lots 1 through 28, Block 3, Lots 1 through 29, Block 4, Lots 1 through 24, Block 5, Lots 1 through 16, Block 6, Lots 1 through 32, Block 7, Outlots A, B, and C, Stone Bridge Creek 3rd Addition and all of Stone Bridge Creek 4th Addition and a portion of Lot 43 Irregular Tract, located in the Northwest Quarter, the Northeast Quarter and the Southwest Quarter of Section 36, Township 11 North, Range 6 East of the 6th P.M., and also located in the Southwest Quarter of Section 25, Township 11 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, and being more fully described as follows:

Referring to the northwest corner of said Section 36; thence north 00 degrees 05 minutes 17seconds east (an assumed bearing) on the west line of the Southwest Quarter of said Section 25, 59.59 feet; thence south 89 degrees 54 minutes 36 seconds east, 33.00 feet to the point of beginning; thence south 89 degrees 28 minutes 59 seconds east, 1,161.57 feet; thence easterly on a 1,615.00 foot radius curve to the left, an arc length of 171.26 feet (long chord bears north 87 degrees 28 minutes 45 seconds east, 171.18 feet); thence continuing easterly on a 1,615.00 foot radius curve to the left, an arc length of 485.70 feet (long chord bears north 75 degrees 49 minutes 32 seconds east, 483.87 feet); thence south 22 degrees 47 minutes 25 seconds east, 120.00 feet; thence south 00 degrees 31 minutes 01 seconds west, 301.58 feet; thence south 44 degrees 28 minutes 59 seconds east, 84.85 feet; thence south 89 degrees 28 minutes 59 seconds east, 156.00 feet; thence south 00 degrees 31 minutes 01 seconds west, 110.00 feet; thence south 22 degrees 05 minutes 53 seconds east, 64.53 feet; thence south 00

degrees 33 minutes 49 seconds west, 371.46 feet; thence south 77 degrees 59 minutes 20 seconds east, 128.89 feet; thence south 74 degrees 02 minutes 14 seconds east, 73.12 feet; thence south 49 degrees 12 minutes 00 seconds east, 73.12 feet; thence south 24 degrees 21 minutes 47 seconds east, 73.12 feet; thence south 00 degrees 28 minutes 27 seconds west, 73.12 feet; thence south 20 degrees 37 minutes 10 seconds west, 45.71 feet; thence south 35 degrees 35 minutes 58 seconds west, 315.45 feet; thence south 45 degrees 45 minutes 02 seconds west, 114.16 feet; thence south 55 degrees 21 minutes 53 seconds west, 60.85 feet; thence south 45 degrees 45 minutes 02 seconds west, 211.12 feet; thence south 10 degrees 17 minutes 23 seconds east, 410.75 feet; thence south 49 degrees 59 minutes 06 seconds west, 428.44 feet; thence westerly on a 1,500.00 foot radius curve to the right, an arc length of 1,056.15 feet (long chord bears south 70 degrees 09 minutes 21 seconds west, 1,034.47 feet); thence north 89 degrees 40 minutes 23 seconds west, 220.73 feet; thence continuing westerly on said line, 101.99 feet; thence westerly on a 1,000.00 foot radius curve to the right, an arc length of 123.52 feet (long chord bears north 86 degrees 08 minutes 05 seconds west, 123.44 feet); thence westerly on a 1,000.00 foot radius curve to the left, an arc length of 122.11 feet (long chord bears north 86 degrees 05 minutes 40 seconds west, 122.03 feet); thence north 89 degrees 35 minutes 33 seconds west, 100.00 feet; thence north 00 degrees 21 minutes 14 seconds east, 2,646.75 feet; thence north 00 degrees 05 minutes 24 seconds east, 60.00 feet to the point of beginning, containing 5,300,254 square feet (121.67 acres) more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this 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 Stone Bridge Creek, LLC, hereinafter referred to as "Permittee", to develop Stone Bridge Creek Community Unit Plan for 759 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:
  - a. 759 dwelling units and the following variances to the Land Subdivision Ordinance and Design Standards:
    - i. A waiver of the maximum 3 to 1 lot depth to width ratio as shown on the site plan.
    - ii. A waiver of the prohibition against double frontage lots to allow double frontage lots along Alvo Road.
    - iii. A waiver of the requirement that a use permit accompany the filing of the preliminary plat for the property zoned B-2 Neighborhood Business District to allow the use permit to be filed later.

- b. A waiver of the requirement that the Permittee submit a preliminary plat is waived, except that this waiver of the preliminary plat shall only be effective for a period of ten years from the date of the this approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five years or more after the effective date of the community unit plan, the City may require that a new community unit plan be submitted, pursuant to all the provisions of Section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.
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. Final plats within this community unit plan must be approved by the Planning Director.
  3. Final Plats will be approved by the Planning Director after:
    - a. The Permittee has completed or posted a surety to guarantee the completion of the sidewalks, streets, drainage facilities, street lighting, landscape screens, street trees, temporary turnarounds and barricades, and street name signs.
    - b. The Permittee has signed an agreement that binds the subdivider, its successors and assigns:
      - i. To complete the street paving of all streets shown on the final plat within two years following the approval of the final plat.
      - ii. To complete the installation of sidewalks along both sides of all streets, along the south side of Alvo Road, and along the east side of N. 14th Street as shown on the final plat within four years following the approval of the final plat.
      - iii. To complete the installation of sidewalks in the pedestrian way easements shown on the final plat at the same time as adjacent streets are completed.
      - iv. To complete the public water distribution system to serve this plat within two years following the approval of the final plat.
      - v. To complete the public wastewater collection system to serve this plat within two years following the approval of the final plat.
      - vi. To complete the enclosed drainage facilities shown on the approved drainage study to serve this plat within two years following the approval of the final plat.
      - vii. To complete land preparation including storm water detention/retention facilities and open drainage way improvements to serve this plat prior to the installation of utilities and improvements but not more than two years following the approval of the final plat.
      - viii. To complete the installation of public street lights within this plat within two years following the approval of the final plat.
      - ix. To complete the planting of street trees within this plat within four years following the approval of the final plat.
      - x. To complete the planting of the landscape screen within this plat within two years following the approval of the final plat.
      - xi. To complete the installation of the street name signs within two years following the approval of the final plat.

- xii. To submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- xiii. To complete the public and private improvements shown on the Community Unit Plan.
- xiv. To retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the Subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The Subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
- xv. To submit to the lot buyers and home builders a copy of the soil analysis.
- xvi. To pay all design, engineering, labor, material, inspection, and other improvement costs.
- xvii. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- xviii. To construct the sidewalk in the pedestrian way easements in block 2, 3, 7, 11, at the same time as adjacent streets are paved and to agree that no building permit shall be issued for construction on Lots 18, 19, 28 and 29, Block 2, Lots 21, 22, 34 and 35, Block 3, Lots 10, 11, 28 and 29, Block 7, and Lots 13 and 14, Block 11, until such time as the sidewalk in the pedestrian way easement is constructed.
- xix. To perpetually maintain the sidewalks in the pedestrian way easements at their own cost and expense.
- xx. To protect the trees that are indicated to remain during construction and development.
- xxi. To properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the Permittee.
- xxii. To relinquish the right of direct vehicular access from Lots 7-36, Block 1, Lots 1-19, Block 2, and Outlot E, to N. 14th Street and Lots 19-29, and Lot 48, Block 2, Lots 1, 25-27 and 53-55, Block 12, and Outlots A, B, and J, to Alvo Road.
- xxiii. To timely complete the public and private improvements and facilities required by Chapter 26.23 of the Land Subdivision Ordinance which have not been waived including but not limited to the list of improvements described above.
- xxiv. To post the required security to guarantee completion of the required improvements if the improvements are not completed prior to approval of the final plat.

4. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
5. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established association of property owners approved by the City Attorney.
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 Glenn Friendt

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

**\*\* END OF PUBLIC HEARING \*\***

MISCELLANEOUS BUSINESS

PENDING -

COOK Moved to withdraw Bill No. 04-46 from the Pending list.  
Seconded by Friendt & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
The ordinance, having been **WITHDRAWN**, was assigned the File #38-4473 & was  
placed on file in the Office of the City Clerk.

CAMP Moved to extend the Pending List to May 24, 2004.  
Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on  
May 24, 2004.  
Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 2:46 P.M.

CAMP Moved to adjourn the City Council meeting of May 17, 2004.  
Seconded by Cook & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
So ordered.

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Joan E. Ross, CMC, City Clerk

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Jamie Neddenriep, Senior Office Assistant

