

**DIRECTORS' MEETING
MONDAY, DECEMBER 13, 2004 - 11:00 A.M.
CONFERENCE ROOM 113**

I. MAYOR

1. NEWS RELEASE - RE: Water System Suggests Year-Round Outdoor Water Conservation - Mayor directs Task Force to study suggestion - (See Release)
2. NEWS RELEASE - RE: Lincoln Water Quality Greatly Exceeds Federal Standards - (See Release)

II. DIRECTORS

FINANCE DEPARTMENT/CITY TREASURER

1. Material from Don Herz, Finance Director & Melinda J. Jones, City Treasurer - RE: Resolution & Finance Department, Treasurer of Lincoln, Nebraska - Investments Purchased November 22 thru December 3, 2004.

LIBRARY

1. Director's Report - Lincoln City Libraries - Monthly Categorical Report - Fund Balances - November 2004.

PLANNING

1. Letter from Tom Cajka to Max Northrup - RE: Second Hasness-Union 1st Addition Final Plat #04057-Generally located at S. 46th St. & High St. - (See Letter)

PUBLIC WORKS & UTILITIES DEPARTMENT

1. Memo from Nicole Fleck-Tooze -RE: Item 04R-311 - TMCO Conservation Easement Release - (See Memo)
2. Memo from Bruce Sweney - RE: December 13, 2004 Board Equalization Meeting - (See Memo)

URBAN DEVELOPMENT

1. Report - RE: Draft Plan-The North 48th & "O" Street Redevelopment Plan.- (Pre-Council scheduled for Monday, December 13th)

III. CITY CLERK

IV. COUNCIL

A. COUNCIL REQUESTS/CORRESPONDENCE

JON CAMP

1. E-Mail from Chad Lunders to Jon Camp - RE: Outdoor Smoking Room? - (See E-Mail)

GLENN FRIENDT

1. **OUTSTANDING** Request to Allan Abbott, Public Works & Utilities Director/**Marvin Krout, Planning Director** - RE: Williamsburg Lake Dredging (RFI#39 - 8/17/04). — **1.) SEE RESPONSE FROM KARL FREDRICKSON, PUBLIC WORKS & UTILITIES DEPARTMENT RECEIVED ON RFI#39-10/01/04.**
2. Request to Don Taute, Personnel Director - RE: Veterans in the City workforce (RFI#40 - 11/15/04). — **1.) SEE RESPONSE FROM DON TAUTE, PERSONNEL DIRECTOR RECEIVED ON RFI#40-12/03/04.**

PATTE NEWMAN

1. Request to Marc Wullschleger, Urban Development; Don Herz and Steve Hubka, Finance; Allan Abbott and W. Telen, Public Works; ~~Dana Roper, City Attorney; Marvin Krout, Planning~~ - RE: Antelope Valley Project, Tax Increment Financing (in relationship to non-profit organizations and the current Michigan and Connecticut court cases on eminent domain and their effects on T.I.F funding here) and Consultants and Consulting fee funding. (RFI #27 - 10-01-04). — **1.) SEE RESPONSE FROM MARVIN KROUT, PLANNING DIRECTOR RECEIVED ON RFI#27-10/06/04. – 2.) SEE RESPONSE FROM JOEL PEDERSEN, CITY LAW DEPARTMENT RECEIVED ON RFI#27 - 10/18/04.**

2. E-Mail to Patte Newman - RE: Rentals and potential abuse that can occur - (See E-Mail)

KEN SVOBODA

1. Letter from Ken Svoboda, Lincoln City Council Member-Internal Liquor Committee Chair to Bob Logsdon, Chairman, Nebraska Liquor Control Commission - RE: Comments in support of 2004 legislative recommendations (Draft#2) - (See Letter)

TERRY WERNER

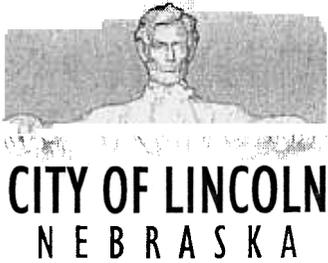
1. Request to Law Department - RE: 'Big John's Billiards, Inc.' asking about possibilities of the City Council creating a special license that a business can purchase to allow smoking within the perimeter of the licensed establishment (RFI#140 - 11/29/04).
2. Request to Law Department - RE: 45th & "O" Streets (RFI#141-11/30/04).
3. Request to Bruce Dart, Health Director/Dana Roper, Law Department - RE: The total smoke ban (RFI#142-11/30/04). — **2.) SEE RESPONSE FROM TONYA SKINNER, ASSISTANT CITY ATTORNEY RECEIVED ON RFI#142 - 12/03/04.**

V. MISCELLANEOUS

1. E-Mail from Joni Cover - RE: Pine Lake Development - (See E-Mail)
2. Letter from Ms. G.B. Richardson to City Council - RE: "Thank-you" all for helping me out - (See Letter)
3. Letters from Will Prout, Big John's Billiards, Inc. - RE: Thank you for sending me your note about sending my letters to the City Law Department -the smoke ban - (See Letters)
4. E-Mail from Terri Roberts, President, Vintage Heights Homeowners Association - RE: Vintage Heights Homeowners Association - (See E-Mail)

VI. ADJOURNMENT

da121304/tjg



NEWS RELEASE

MAYOR COLEEN J. SENG

lincoln.ne.gov

OFFICE OF THE MAYOR

555 South 10th Street, Lincoln, NE 68508, 441-7831, fax 441-7120

FOR IMMEDIATE RELEASE: December 6, 2004

FOR MORE INFORMATION: Diane Gonzolas, Citizen Information Center, 441-7831
Jerry Obrist, Lincoln Water System, 441-7571

WATER SYSTEM SUGGESTS YEAR-ROUND OUTDOOR WATER CONSERVATION

Mayor directs Task Force to study suggestion

The Lincoln Water System (LWS) has suggested to Mayor Coleen J. Seng that residents be asked to comply with voluntary outdoor water conservation measures all year, not just during the summer months. The suggestion is in response to ongoing drought conditions affecting the City water supply.

“Rainfall was five inches below normal last summer in Lincoln, and the North Platte river system which supplies Lincoln with water is only about 20 percent full,” said Mayor Seng. “Water consumption was down last summer due to voluntary conservation measures, cooler temperatures and timely summer rains. But to maintain an ongoing adequate supply of water, conservation measures are important.” (A chart showing water usage statistics for the past three summers follow this release.)

Mayor Seng said she will direct LWS to discuss the idea with the Mayor’s Water Conservation Task Force this winter and have a recommendation to her on the issue before lawn watering begins next spring. Under the voluntary outdoor water conservation measures, residents with addresses ending in even numbers are asked to water lawns on their designated days (Wednesdays, Fridays and Sundays). Those with addresses ending in odd numbers are asked to water on their designated days (Tuesdays, Thursdays and Saturdays).

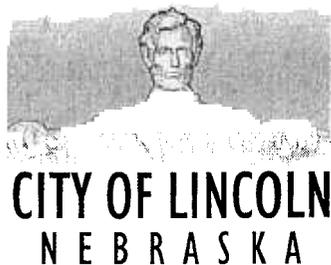
Jerry Obrist, Chief Engineer for the Lincoln Water System (LWS), said several factors are monitored to determine the need for water restrictions. “Adequate river flows through the winter and early spring are essential to fill the aquifer at the beginning of each summer season,” said Obrist. “The need for conservation measures for each summer season are set by reviewing river flows, rainfall, temperatures and summer weather forecasts.”

The Mayor’s Office established a Water Conservation Task Force in 1988, and long-term water conservation is an important element of LWS’s Water Management Plan. Information on water usage, rates and conservation is available on City Web site at lincoln.ne.gov and at local nurseries.

	Water Usage		May 1 through August 31			
	Annual usage in gallons	Maximum daily usage in gallons	Number of days over 90° F	Summer rainfall	Median river flow**	
				Inches	Cubic feet per second	Historical median
2004	12.8 billion	66 million	19	11.0	3,550	73 percent
2003	13.7 B	78 M	39	12.9	3,300	67 percent
2002	14.6 B	90 M	56	15.2*	2,400	49 percent

* One-half of the rainfall occurred in late August.

** The historical median flow is 4,900 cubic feet per second.



NEWS RELEASE

MAYOR COLEEN J. SENG

lincoln.ne.gov

OFFICE OF THE MAYOR

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

FOR IMMEDIATE RELEASE: December 6, 2004

FOR MORE INFORMATION: Diane Gonzolas, Citizen Information Center, 441-7831
Steve Owen, Lincoln Water System, 441-7571
Steve Masters, Public Works and Utilities, 441-7548
Scott Holmes, City-County Health Department, 441-8000

LINCOLN WATER QUALITY GREATLY EXCEEDS FEDERAL STANDARDS

Mayor Coleen J. Seng announced today that tests show lead and copper levels in the City's water are significantly below the federal standards set by the Environmental Protection Agency (EPA). Over the past six years, no water samples from homes served by the Lincoln Water System (LWS) have exceeded the EPA lead and copper limits.

"Few services are more important to a community than the provision of quality water," said Mayor Seng. "Lincoln is known for its quality of life, and our high water quality is key to that reputation. I want to commend our Public Works and Utilities and Health employees who work every day to monitor water quality for our citizens."

Lead is toxic, especially for children below the age of six. Exposure to high levels of lead can cause permanent brain damage, resulting in learning disabilities or even death. The primary source of lead poisoning is lead-based paint remaining in older homes. To be in compliance with EPA standards, 90 percent of the water samples taken must test below 15 ppb (parts per billion) for lead and below 1,300 ppb for copper. LWS has never exceeded the 90th percentile rule.

"The latest test results are great news for the residents of Lincoln," said Scott Holmes, Manager of the Environmental Public Health Division of the Lincoln-Lancaster County Health Department. "The removal of lead from gasoline and paint has greatly reduced the amount of lead to which children are exposed. The elimination of lead solder has helped reduce lead in drinking water."

Steve Owen, LWS Superintendent for Water Distribution, said lead and copper are just two of the many substances for which Lincoln's water is tested. "Monitoring our water quality is a top priority," Owen said. "We take samples every day to assure that Lincoln's water is safe for our customers, and our water quality data is extensive."

- more -

Water Quality
December 6, 2004
Page Two

Owen also thanked the LWS customers who have volunteered to participate in the water sampling. "Water sampling is very important work," he said. "Without such great participation, this program would be very difficult to manage."

Under the Federal Safe Drinking Water Act, LWS was required to have samples from 100 Lincoln homes analyzed for lead and copper during the initial sampling period in 1992. Based on the good results, LWS was authorized to reducing monitoring to only 50 homes once every three years beginning in 1995. (A chart of the results follows this release.) Homes with samples exceeding the standards in 1992 and 1995 were retested. In some of those homes, the new tests met EPA standards, and in others, the lines containing lead were replaced.

Those homeowners who participated in the 2004 water sampling received letters summarizing the results from their homes. No further action is required until the next sampling in 2007.

-30-

Sampling Period	Number of samples collected	Lead - Number of samples over 15 ppb	Copper - Number of samples over 1,300 ppb
January-June 1992	126	6	1
July-December 1992	121	2	0
1995	61	3	3
1998	60	0	0
2001	51	0	0
2004	50	0	0

RESOLUTION NO. A-_____

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:

Approved:

Don Herz, Finance Director

Approved this ____ day of _____, 2004

Mayor

**FINANCE DEPARTMENT
TREASURER OF LINCOLN, NEBRASKA
INVESTMENTS PURCHASED
NOVEMBER 22 THRU DECEMBER 3, 2004**

November 22, 2004, we cashed a \$75,000 Repurchase Agreement at Wells Fargo Bank in the Short Term Pool. We then invested \$3,048,000 as follows:

\$25,000	Nebraska Public Agency Investment Trust at Union Bank
\$23,000	First American Government Obligation Fund at US Bank
\$3,000,000	CD, purchased at par, rate of 2% maturing December 2, 2004

We cashed a \$65,000 First American Government Obligation Fund at US Bank out of the Short Term Pool November 23, 2004. We then invested \$105,000 as follows:

\$5,000	Nebraska Public Agency Investment Trust at Union Bank
\$100,000	Repurchase Agreement at Wells Fargo Bank

November 24, 2004, a \$3,000,000 investment matured and we immediately cashed along with a \$1,275,000 Repurchase Agreement in the Short Term Pool. We then invested \$2,037,000 as follows:

\$10,000	Nebraska Public Agency Investment Trust at Union Bank
\$2,027,000	First American Government Obligation Fund at US Bank

Using new funds, we invested \$690,000 in the Short Term Pool November 29, 2004, as follows:

\$25,000	Nebraska Public Agency Investment Trust at Union Bank
\$250,000	Repurchase Agreement at Wells Fargo Bank
\$415,000	First American Government Obligation Fund at US Bank

November 30, 2004, the Police and Fire Pension Fund sold a \$1,000,000 Freddie CMO, due October 17, 2026. They then invested in a \$1,000,000 Municipal Bond, discounted 96.747, costing \$967,470, yielding 5.002%, maturing August 1, 2005.

December 1, 2004, we cashed a \$608,000 First American Government Obligation Fund at US Bank out of the Short Term Pool. We then invested in a \$100,000 Repurchase Agreement at Wells Fargo Bank.

December 2, 2004, we used new funds to invest in a \$350,000 Repurchase Agreement at Wells Fargo Bank for the Short Term Pool.

December 2, 2004, \$41,000,000 in Water Bond Proceeds were used to invest in a \$41,000,000 First American Government Obligation Fund at US Bank for the Short Term Pool.

December 3, 2004, we used funds from the First American Government Obligation Fund at US Bank to invested \$21,020,000 as follows:

\$5,000,000	CD, purchased at par, rate of 2.13%, maturing December 23, 2004
\$3,000,000	CD, purchased at par, rate of 2.18%, maturing December 30, 2004
\$5,000,000	Cd, purchased at par, rate of 2.28%, maturing January 6, 2005.
\$8,020,000	Nebraska Public Agency Investment Trust at Union Bank

We respectfully request approval of our actions.

Don Herz, Finance Director

Melinda J. Jones, City Treasurer



Lincoln City Libraries - 136 S. 14th Street, Lincoln, NE 68508

DIRECTOR'S REPORT

November 2004

The final event of One Book - One Lincoln (Peace Like a River) Community Reading Program was very successful. On November 7, 135 people attended "Murder or Self-Defense?" a mock trial featuring Gary Lacey, John Stevens Berry and Jeff Kirkpatrick.

Kernels in a B.A.S.K.E.T. (Blind And Sighted share Kernels of Experience Together) was held in November. Kernel books were checked out by the public but attendance at the four discussion groups was sparse. Library staff found the discussions quite informative. To promote this new program, Barbara Loos and Shane Buresh of the National Federation of the Blind, and Sheila Jacobs, Lincoln City Libraries' Outreach Supervisor, were interviewed for 5 City TV's "City Focus."

Reference staff at Bennett Martin Public Library was kept busy with a full range of questions. For the fourth month in a row, questions to Polley Music Library staff exceeded 4,000 per month.

Staff from Bennett Martin Public Library Youth Services and Reference trained nine students from Lincoln Public School's Information & Technology Focus Program to use library data bases for research projects.

Susan Steider, Young Adult Librarian at Loren Corey Eiseley Branch Library was awarded the Mayor's Award of Excellence for October 2004. Susan Steider has worked for the City since 1997. She was nominated by Eiseley Branch Supervisor Julie Simpson in the categories of productivity and customer relations. During Eiseley's first 18 months of operation, more than 130 teens came to the library every day after school. Susan Steider made a positive impact on the students and became Eiseley's advocate for the teens.

Sheila Jacobs, Outreach Supervisor, spoke to the Raymond Women's Club about library services. Kim Shelley, new Northeast Service Unit Supervisor, started that assignment on November 11.

Dorothy Young, long term volunteer has made significant contributions to the Jane Pope Geske Heritage Room of Nebraska Authors during her volunteer commitment and her service on the Nebraska Literary Heritage Association Board. We wish her well and will miss seeing her in the Heritage Room.

The reading area on the first floor of the Bennett Martin Public Library is more attractive and inviting with a new arrangement and addition of lounge chairs. The general public can be seen relaxing and reading magazines and books. The improvements in this area began over a year ago with the relocation of the Internet computers to the second floor computer lab.

The annual NEBASE meeting was attended by several library staff on November 5. George Needham, OCLC Vice President, delivered an excellent keynote "*Gamers, Google and the Gathering Place: The Library Environment Today*" describing significant trends for library service.

LAMA (Library Administration and Management Association of the American Library Association) Institutes are regional institutes designed to explore broad issues of current importance to librarianship. On November 22, Lincoln City Libraries' staff attended "Egret to Cattle: Thanks for the Ride! – Unlock the Keys to Employee Appreciation" sponsored by Nebraska Library Commission with the Public Library Resource Group, the University of Nebraska Council of Libraries and the Regional Library Systems.

LIBRARY BOARD MEETING; Tuesday, December 14, 2004, 8:00 a.m., Bennett Martin Public Library, 14th & N, Lincoln, Nebraska.

**Lincoln City Libraries
November 2004**

Branch	Adult Print Loans	Youth Print Loans	Adult NonPrint Loans	Youth NonPrint Loans	Sub Total	TeleCirc Renewals	2004 Loan Total	2003 Loan Total	% Change
BMPL	20,289	5,037	7,885	1,807	35,018	5,251	40,269	42,194	-4.56%
Anderson	5,994	4,740	1,405	1,496	13,635	1,865	15,500	14,051	10.31%
Arnold Heights	177	682	39	209	1,107	201	1,308	1,054	24.10%
Bethany	2,635	1,680	443	636	5,394	1,026	6,420	6,652	-3.49%
Eiseley	12,332	17,036	3,818	6,036	39,222	1,371	40,593	38,378	5.77%
Gere	27,835	25,565	8,332	8,108	69,840	7,141	76,981	73,414	4.86%
South	4,370	3,237	1,035	1,024	9,666	2,216	11,882	11,345	4.73%
Walt	12,196	18,226	3,798	6,262	40,482	1,611	42,093	38,202	10.19%
Bookmobile	471	636	95	180	1,382	117	1,499	1,791	-16.30%
Outreach	1,275	50	237	6	1,568	32	1,600	1,324	20.85%
SubTotal	87,574	76,889	27,087	25,764	217,314	20,831	238,145	228,405	4.26%
OPAC	0	0	0	0	0	0	0	11,642	
GRAND TOTAL	87,574	76,889	27,087	25,764	217,314	20,831	238,145	240,047	-0.79%

Database usage		12,524	8,090	54.81%
Computer Use/Assist		15,435	14,849	3.95%
Reference Transactions		23,915	21,354	11.99%
Polley Music Loans		1,225	1,076	13.85%
Polley Music Reference		4,041	3,519	14.83%
Youth Program Attendance		2,765	2,405	14.97%
Web Activity Successful Hits Entire Site		1,657,800	1,150,453	44.10%
Registrations	Resident	152,969	160,196	-4.51%
	County	11,483	11,964	-4.02%
	Non Resident	2,418	2,728	-11.36%
	ILL	1,527	1,845	-17.24%
	Reciprocal	227	253	-10.28%
	Limited Use	4,875	4,363	11.74%
		173,499	181,349	-4.33%

Library Holdings	Books	DVDs	CD-ROMs	Sound		Verticle File	GRAND TOTAL
				Recordings	Videos		
Prior Month	874,193	5,153	6,523	58,289	34,412	52,209	1,030,779
Added	5,601	381	0	425	75	5	6,487
Withdrawn	-7,813	-6	-7	-118	-120	0	-8,064
Current	871,981	5,528	6,516	58,596	34,367	52,214	1,029,202

LINCOLN CITY LIBRARIES
Monthly Categorical Report
November 30, 2004

	Budget Amount	Budgeted Year-to-Date	Expended Year-to-Date	Balance	Current Month Expended
Administration					
Personnel	\$ 567,624.00	\$ 141,906.00	\$ 180,731.49	\$ 386,892.51	\$ 40,796.09
Supplies	40,500.00	10,125.00	8,315.38	32,184.62	4,172.55
Services & Charges	67,997.00	16,999.25	30,543.38	37,453.62	3,977.93
Other	-	-	-	-	-
Total	\$ 676,121.00	\$ 169,030.25	\$ 219,590.25	\$ 456,530.75	\$ 48,946.57
Percent Expended		25.00%	32.48%		
Buildings & Grounds					
Personnel	\$ 242,847.00	\$ 60,711.75	\$ 70,011.32	\$ 172,835.68	\$ 21,581.98
Supplies	29,340.00	7,335.00	3,722.80	25,617.20	1,498.53
Services & Charges	628,587.00	157,146.75	147,021.63	481,565.37	42,959.79
Other	-	-	-	-	-
Total	\$ 900,774.00	\$ 225,193.50	\$ 220,755.75	\$ 680,018.25	\$ 66,040.30
Percent Expended		25.00%	24.51%		
Public Service					
Personnel	\$ 2,936,890.00	\$ 734,222.50	\$ 757,061.56	\$ 2,179,828.44	\$ 221,911.90
Supplies	70,770.00	17,692.50	12,007.05	58,762.95	546.96
Services & Charges	33,000.00	8,250.00	6,140.30	26,859.70	1,815.54
Other	18,500.00	4,625.00	-	18,500.00	-
Total	\$ 3,059,160.00	\$ 764,790.00	\$ 775,208.91	\$ 2,283,951.09	\$ 224,274.40
Percent Expended		25.00%	25.34%		
Support Services					
Personnel	\$ 683,761.00	\$ 170,940.25	\$ 179,042.04	\$ 504,718.96	\$ 52,866.03
Supplies	26,000.00	6,500.00	15,245.21	10,754.79	1,214.90
Services & Charges	82,116.00	20,529.00	25,813.61	56,302.39	12,582.70
Other	800,000.00	200,000.00	207,093.40	592,906.60	79,678.44
Total	\$ 1,591,877.00	\$ 397,969.25	\$ 427,194.26	\$ 1,164,682.74	\$ 146,342.07
Percent Expended		25.00%	26.84%		
Inf. Svcs. & Technology					
Personnel	\$ 888,044.00	\$ 222,011.00	\$ 227,526.56	\$ 660,517.44	\$ 67,475.53
Supplies	40,500.00	10,125.00	6,581.68	33,918.32	4,057.60
Services & Charges	163,187.00	40,796.75	106,491.99	56,695.01	7,068.61
Other	-	-	-	-	-
Total	\$ 1,091,731.00	\$ 272,932.75	\$ 340,600.23	\$ 751,130.77	\$ 78,601.74
Percent Expended		25.00%	31.20%		
Total Library Operational					
Personnel	\$ 5,319,166.00	\$ 1,329,791.50	\$ 1,414,372.97	\$ 3,904,793.03	\$ 404,631.53
Supplies	207,110.00	51,777.50	45,872.12	161,237.88	11,490.54
Services & Charges	974,887.00	243,721.75	316,010.91	658,876.09	68,404.57
Other	818,500.00	204,625.00	207,093.40	611,406.60	79,678.44
Total	\$ 7,319,663.00	\$ 1,829,915.75	\$ 1,983,349.40	\$ 5,336,313.60	\$ 564,205.08
Percent Expended		25.00%	27.10%		

Encumbered	Amount	Expended Year-to-Date	Balance	Current Month Expended
FY 2003-04 Encumbered	228,427.00	200,815.35	27,611.65	27,473.14

**LINCOLN CITY LIBRARIES - FUND BALANCES
NOVEMBER 2004**

	Beginning Balance	Current Month Receipts	Expended	Ending Balance
<u>GRANTS</u>				
Net Lender Fund	\$ 144.98	\$ 1,323.00	\$ -	\$ 1,467.98
Children's Services Grant	788.05	-	-	788.05
NE Green Space Grant - BMPL	(6.00)	-	-	(6.00)
State Aid 2004	38,377.07	-	7.66	38,369.41
LSTA 2004	(8,835.16)	-	1,435.42	(10,270.58)
Urban Library System 1994-95	6,233.27	-	-	6,233.27

OTHER FUNDS

Keno Fund	\$ 648,717.91	\$ -	\$ 815.20	\$ 647,902.71
Miscellaneous Library Donations	98,399.33	626.70	1,551.62	97,474.41
Alice Nielson Bequest	235,723.80	739.19	-	236,462.99
Charles H. Gere Library Fund	114,963.70	360.51	-	115,324.21
Joseph J. Hompes Trust	37,109.28	4,087.07	26.29	41,170.06
Heritage Room Fund	64,663.06	183.87	3,233.47	61,613.46
Lillian Polley Trust Fund	311,441.66	1,017.30	10,699.65	301,759.31

HERITAGE ROOM

FY 2004-05 Operating Budget	Budget	Current Month Expended	Year-to-Date Expended	Balance
Personnel	\$ 33,009.00	\$ 3,233.47	\$ 9,673.31	\$ 23,335.69
Media & Unclassified	400.00	-	-	400.00
TOTAL	\$ 33,409.00	\$ 3,233.47	\$ 9,673.31	\$ 23,735.69

LILLIAN POLLEY

FY 2004-05 Operating Budget	Budget	Current Month Expended	Year-to-Date Expended	Balance
Personnel	\$ 132,007.00	\$ 9,994.24	\$ 34,392.07	\$ 97,614.93
Supplies	250.00	-	-	250.00
Other Services & Charges	1,567.00	25.00	302.00	1,265.00
Capital Outlay	10,000.00	680.41	1,564.51	8,435.49
TOTAL	\$ 143,824.00	\$ 10,699.65	\$ 36,258.58	\$ 107,565.42
FY 2003-04 Encumbrances	\$ 734.21	\$ -	\$ 496.73	\$ 237.48



**CITY OF LINCOLN
NEBRASKA**

MAYOR COLEEN J. SENG

www.ci.lincoln.ne.us

Lincoln-Lancaster County
Planning Department
Marvin S. Krout, Director

Mary F. Bills-Strand, Chair
City-County Planning Commission

555 South 10th Street
Suite 213

Lincoln, Nebraska 68508
402-441-7491
fax: 402-441-6377

December 3, 2004

Max Northrup
4511 High St.
Lincoln, NE 68506

RE: Second Hasness-Union 1st Addition Final Plat #04057 Generally located at S. 46th St. & High St.

Dear Mr. Northrup:

Second Hasness-Union 1st Addition generally located south of High St. between S. 44th St. and S. 46th St. was approved by the Planning Director on November 30, 2004. The plat and the subdivision agreement must be recorded in the Register of Deeds. The fee is determined at \$.50 per **existing** lot and per **new** lot and \$20.00 per plat sheet for the plat, and \$.50 per **new** lot and \$5.00 per page for associated documents such as the subdivision agreement. If you have a question about the fees, please contact the Register of Deeds. Please make check payable to the Lancaster County Register of Deeds. The Register of Deeds requests a list of all new lots and blocks created by the plat be attached to the subdivision agreement so the agreement can be recorded on each new lot.

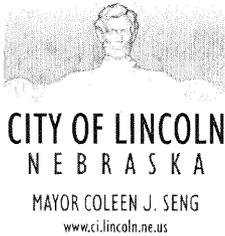
Pursuant to § 26.11.060(d) of the Lincoln Municipal Code, this approval may be appealed to the Planning Commission and any decision of the Planning Commission to the City Council by filing a letter of appeal within 14 days of the action being appealed. The plat will be recorded with the Register of Deeds after the appeal period has lapsed (date + 14 days), and the recording fee and signed subdivision agreement have been received.

Sincerely,

Tom Cajka
Planner

CC: Joan Ray, City Council
Dennis Bartels, Public Works & Utilities
Terry Kathe, Building & Safety
Sharon Theobald, Lincoln Electric
Jean Walker, Planning
File

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**PUBLIC WORKS AND
UTILITIES DEPARTMENT**

MEMORANDUM

Date: December 8, 2004

To: City Council

From: Nicole Fleck-Tooze 

Subject: *Item 04R-311 - TMCO Conservation Easement Release*

cc: *Mayor Coleen J. Seng
Allan Abbott, Ben Higgins - PW/U Dept.
Dana Roper, Rick Peo - Law Dept.
John Albers - TMCO
Danny Walker - South Salt Creek Community Organization*

This memorandum is in response to questions regarding the location of the existing and proposed TMCO conservation easements. Please refer to the attached agreement, map, and photos.

Background

When 'H' Street was vacated, the City retained a conservation easement for flood storage over the majority of the 'H' Street ROW except for a small area in the SW portion of the ROW. TMCO offset the flood storage lost in this portion of the vacated ROW by granting the City an easement with the equivalent flood storage over the west 32 feet of Lot 3.

Now, TMCO desires to build in a portion of the 'H' Street easement previously retained and in the easement area previously granted over Lot 3. TMCO has agreed to grant a new easement over an area with flood storage equivalent to the area requested to be released.

Map Discrepancies

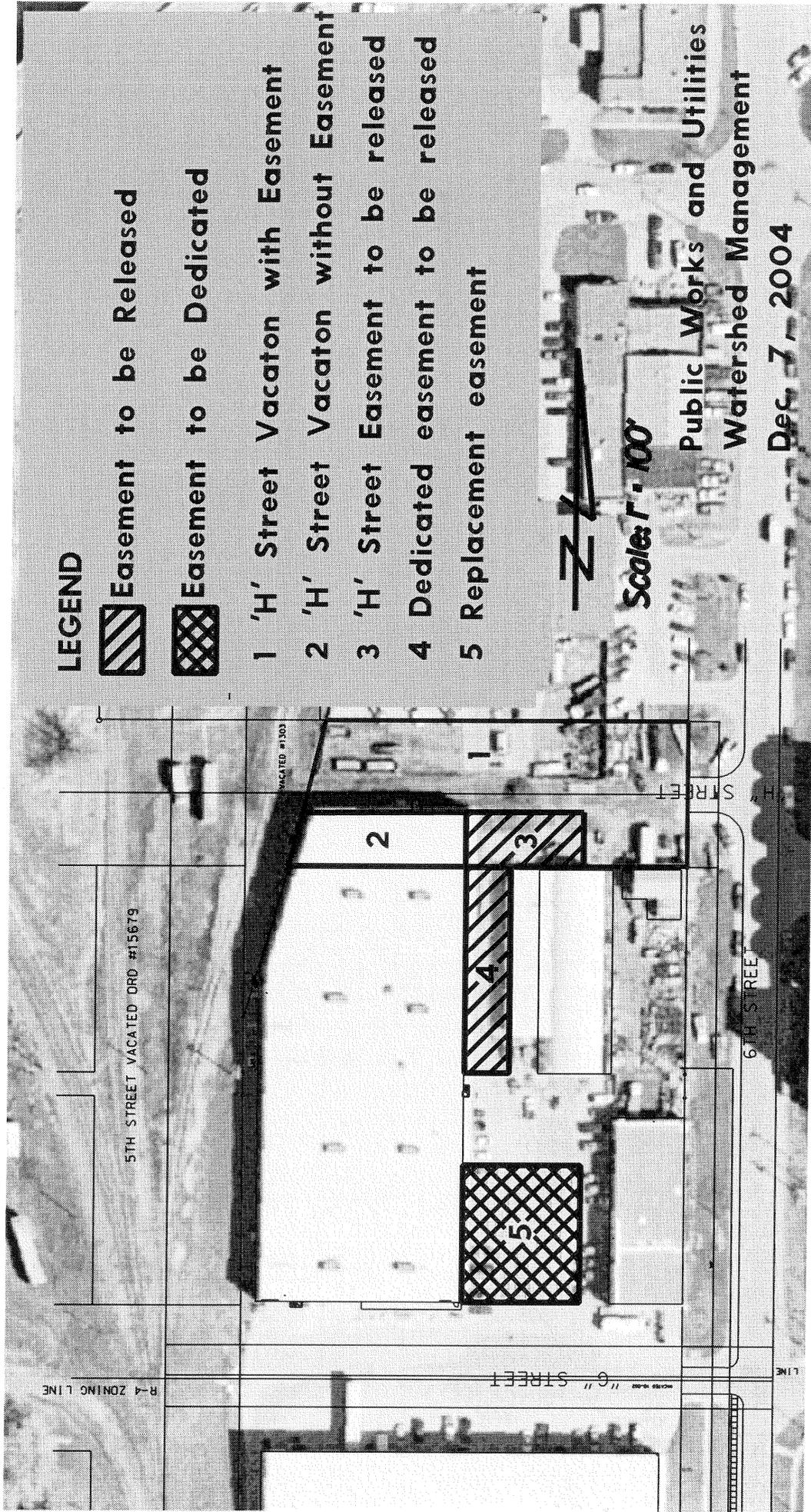
The map attached to the conservation easement filed with the Register of Deeds is incorrect. It does not match the legal description in the easement nor does it match documentation in other City files. It is believed that this map reflects an earlier proposed easement area which was subsequently modified. The map attached to the TMCO agreement correctly identifies the easement as legally described in the conservation easement agreement.

Revised Resolution

The City Attorney's Office has prepared a substitute resolution to recognize the release of both the 'H' Street easement reserved in the quiet claim deed and the easement dedicated to the City outside of 'H' Street.

Attachments

Map with aerial photograph
Agreement with TMCO Investments
Photos: 1) Easement area to be released; 2) Proposed new easement area



AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2004, by and between TMCO Investments, [REDACTED] hereinafter referred to as "TMCO", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City".

RECITALS

I.

TMCO has requested the City to release the conservation easement granted to the City over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln, Lancaster County, Nebraska (now part of Lot 2, 6th & H Addition, Lincoln, Lancaster County, Nebraska, recorded with the Lancaster County Register of Deeds as Instrument No. 2001-041897.

II.

TMCO represents to the City that if the conservation easement is released TMCO will grant the City an equivalent conservation easement at an alternate location in Lot 2, 6th & H Addition.

III.

The City desires to be assured that TMCO will grant the City a new conservation easement as represented should the existing conservation easement be released.

NOW, THEREFORE, TMCO and City mutually agree to the following terms and conditions:

1. The City agrees to release its conservation easement over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln, Lancaster County, Nebraska, recorded as Instrument No. 2001-041897.
2. In consideration for the City releasing its existing conservation easement, TMCO agrees to grant the City a new conservation easement subject to the same terms and conditions as the existing conservation agreement over that portion of Lot 2, 6th & H Addition as shown and described on Exhibit A attached hereto.

3. This Agreement is binding upon the parties herein and their respective successors and assigns.

4. This Agreement when executed by the parties hereto shall be recorded by the City in the office of the Register of Deeds of Lincoln, Lancaster County, Nebraska, filing fees to be paid in advance by TMCO.

IN WITNESS WHEREFORE, the parties hereto have executed this Agreement as of the date set forth above.

TMCO Investments

By: John Albers, Partner

Attest:

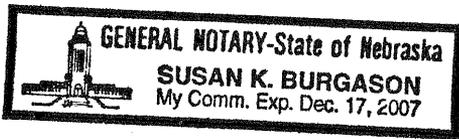
CITY OF LINCOLN, NEBRASKA

City Clerk

By: _____
Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 6th day of December, 2004, by John Albers, President of TMCO Investments, on behalf of said corporation. PARTNER



Susan K. Burgason
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska on behalf of the City of Lincoln, Nebraska.

Notary Public

EXHIBIT "A"

SITE PLAN

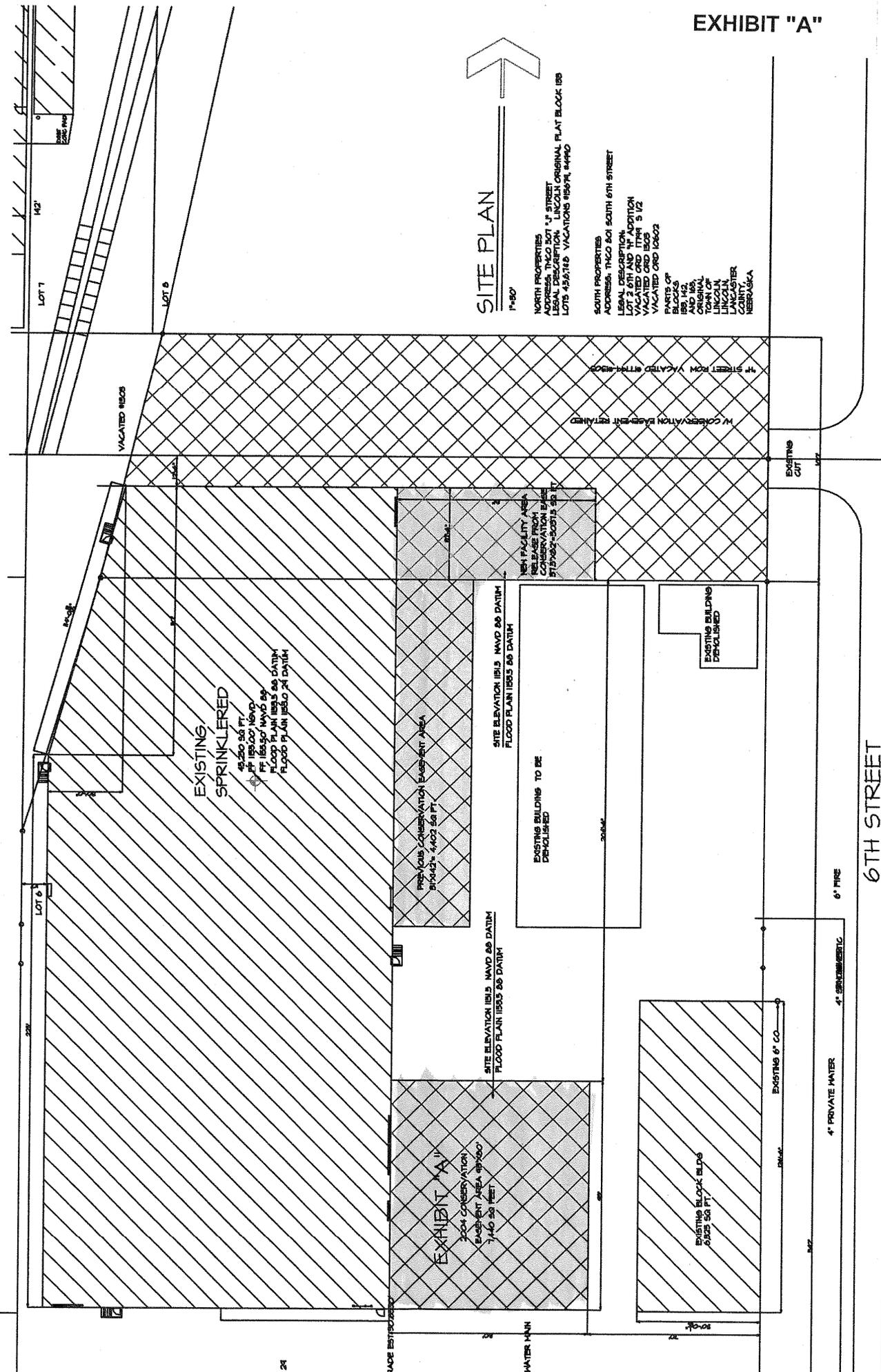
1"=80'

NORTH PROPERTIES
 ADDRESS: 1420 501ST STREET
 LEGAL DESCRIPTION: LINCOLN ORIGINAL FLAT BLOCK 1B8
 LOTS 4,5&71&8 VACATIONS 1859PL 4440

SOUTH PROPERTIES
 ADDRESS: 1420 501ST SOUTH 6TH STREET

LEGAL DESCRIPTION:
 LOT 2, 8TH AND 11TH ADDITION
 VACATED ORD 1825
 VACATED ORD 1825
 VACATED ORD 18622

PARTS OF
 BLOCKS
 111, 112,
 AND 113
 ORIGINAL
 TOWN OF
 LINCOLN
 LANCASTER
 COUNTY,
 NEBRASKA



6TH STREET

6" FIRE

4" SEMI-ENCLOSURE

4" PRIVATE WATER

EXISTING 6" CO.

EXISTING BLOCK BLDG
 5325 SQ FT

EXISTING BUILDING TO BE
 DEMOLISHED

NEW FACILITY AREA
 RELEASE FROM
 CONSERVATION EASE
 5757002-300513 SQ FT

PREVIOUS CONSERVATION EASEMENT AREA
 3154121-4402 SQ FT

EXHIBIT "A"
 2004 CONSERVATION
 EASEMENT AREA 317000
 7140 SQ FEET

EXISTING SPRINKLER
 45-500 SQ FT
 FF 18500' NAVD 88
 FLOOD PLAN 18515 88 DATUM
 FLOOD PLAN 18510 24 DATUM

SITE ELEVATION 18515 NAVD 88 DATUM
 FLOOD PLAN 18515 88 DATUM

SITE ELEVATION 18515 NAVD 88 DATUM
 FLOOD PLAN 18515 88 DATUM

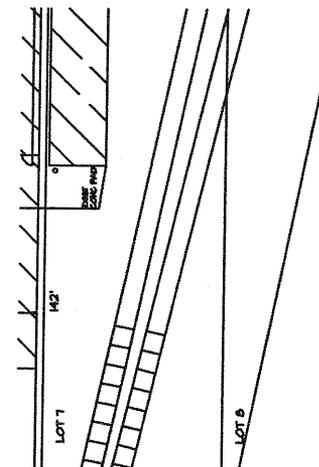


EXHIBIT "A" 

CONSERVATION EASEMENT DESCRIPTION:

FROM A POINT OF BEGINNING: NORTH EAST CORNER OF LOT 2 6TH AND "H" ADDITION
BLOCK 142 N 1/2 SEC 26-TION-R6E

THENCE SOUTHERLY ALONG THE EAST PROPERTY LINE A DISTANCE OF 204'-6"

THENCE WESTERLY TO A POINT 70'-0" WEST TO A POINT OF BEGINNING

CONSERVATION EASEMENT DESCRIPTION:

FROM THE POINT OF BEGINNING 80'-0' WESTERLY, THENCE SOUTHERLY A DISTANCE OF
93'-0", THENCE EASTERLY A DISTANCE OF 80'-0" THENCE NORTHERLY A DISTANCE OF
93'-0" TO THE POINT OF BEGINNING. 7,440.00 SQ FEET, .1708 ACRES

"Photo 1) Easement area to be released,
from H Street looking south"



"Photo 2) Proposed new easement area,
from vacated G Street looking north"



M e m o r a n d u m

To: Board of Equalization

From: Bruce Sweney

Subject: December 13, 2004 Board Equalization Meeting

Date: December 7, 2004

cc: Mayor Seng, A. Abbott, R. Figard, T. Shafer, K. Fredrickson, J. Rupp, E. Cole

The summary below shows the proposed assessments for the two assessment districts that will be before the Board of Equalization at the December 13, 2004 meeting.

<u>Project No.</u>	<u>Total Cost</u>	<u>City Subsidy</u>	<u>Assessed Amount</u>	<u>Proposed Assessment Rate</u>	<u>Original Estimated Rate</u>
PD #2624	\$360,386.34	None.	\$360,386.34	\$271.31/FF	\$200/FF
WD #1190	\$35,544.83	\$30,544.83	\$5,000.00	\$40.00/FF	\$40/FF

All owners of record within these Districts have been notified of their proposed assessment and the time and location of the Board of Equalization meeting.

Paving District #2624 was created December 2, 2002 by a petition representing over fifty percent of the abutting property owners. Original project costs were estimated to be \$265,000. The low bidder, Walton Construction Co., was awarded the contract for \$263,819.60 and the bids were not returned to City Council for review. Several additional items were encountered in the course of construction which increased the final contract amount to \$287,211.89. The added cost was principally due to increased amount of pavement removal not identified in the original quantities (\$10,410) and some additional driveway removal and replacement to permit positive drainage (\$9,660). The total cost of this improvement is being assessed against properties on the east side, since the west side is a state highway.

Water District #1190 was created February 24, 2003 at the request of Robert Markovic. Substantial portions of this district had prior service from public mains and we are proposing to assess only the benefitted properties at the current maximum rate of \$40 per front foot.

We will review each of these Districts at our 9:45 meeting on Monday, December 13, 2004.

Maps for these Districts will be available at our Monday meeting.

City of Lincoln, Nebraska

2ND DRAFT
OCTOBER 17,
2004

The 48th and "O" Street Redevelopment Plan



Prepared by:

City of Lincoln, Nebraska
Urban Development Department
Coleen J. Seng, Mayor

Approved:

Marc Wullschleger, Director
Urban Development Department

Original -- November, 2004

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Exhibits 1, 3, 4, 5 and 6 were prepared for the City of Lincoln by Hanna:Keelan Associates, P.C. and Architecture ① NE.
Exhibits 2, 7, 8 and 9 were prepared by the City of Lincoln, Urban Development Department.

Introduction

The 48th and "O" Street Redevelopment Plan is a guide for redevelopment activities within the Redevelopment Area. Exhibit 1 illustrates the location of the area within the broader context of the city of Lincoln. The boundaries are generally "R" Street on the north, 48th Street on the west, 52nd Street on the east, and approximately "N" Street on the south (see Exhibit 2). Located in north central Lincoln, the area includes one of the busiest intersections in the City. It is primarily a commercial area, although the Witherbee neighborhood, a residential area, is located to the south, adjacent to the Redevelopment Area. The Redevelopment Area contains approximated 41.7 acres.

The intersection of 48th & O Streets has been an important crossroads in this community for more than a century, with change its one constant factor. The founding of the towns of University Place to the northeast of Lincoln in the late 1880s and of College View to the southeast a few years later shared several factors, including that their east-west main streets were aligned along the same section-line road, which eventually became 48th Street. University Place called the road Warren Avenue, while in College View it was L Street. The annexations of University Place in 1926 and of College View in 1931 resulted in the regularizing of the street names and the intersection became 48th & O Streets.

By the mid-20th century the intersection reflected the increased importance of the automobile in urban life, with gas stations appearing on the northeast and southwest corners, and Ken Eddy's Drive-In restaurant on the northwest corner. Cool Crest miniature golf course and Sleepy Hollow Motel occupied portions of the northeast quadrant, and further east on O St. was the popular Italian eatery Tony & Luigi's.

The city's commercial and residential growth to the east, led by such trendsetters as the new headquarters of Bankers Life Insurance Company (now Ameritas) at Cotner & O and their adjacent development of Gateway Shopping Center, made 48th & O a more central intersection in the city, rather than its eastern edge. Automobile dealers occupied major tracts east of 48th Street by the 1960s.

However, in recent years, auto dealerships that occupied both the north and south side of "O" Street moved, leaving behind buildings designed and constructed for a specific use. Due to their design for automobile sales and service, the buildings are not suitable for rehabilitation or adaptive reuse. Acres of land remain vacant and unkempt where automobile sales lots were located. Other buildings have been vacant and unoccupied and have deteriorated to the point where structures may not be cost effective to rehabilitate. Incompatible and mixed land uses exist south of "O" Street. With a combination of residential and commercial uses in close proximity, conflicts occur within and adjacent to the Redevelopment Area, due to the lack of separation or buffering. In addition, the lack of storm water capacity has resulted in flooding on and adjacent to the Redevelopment Area. The fact that 50th Street is not a through street has limited accessibility throughout the area and further hinders commercial development.

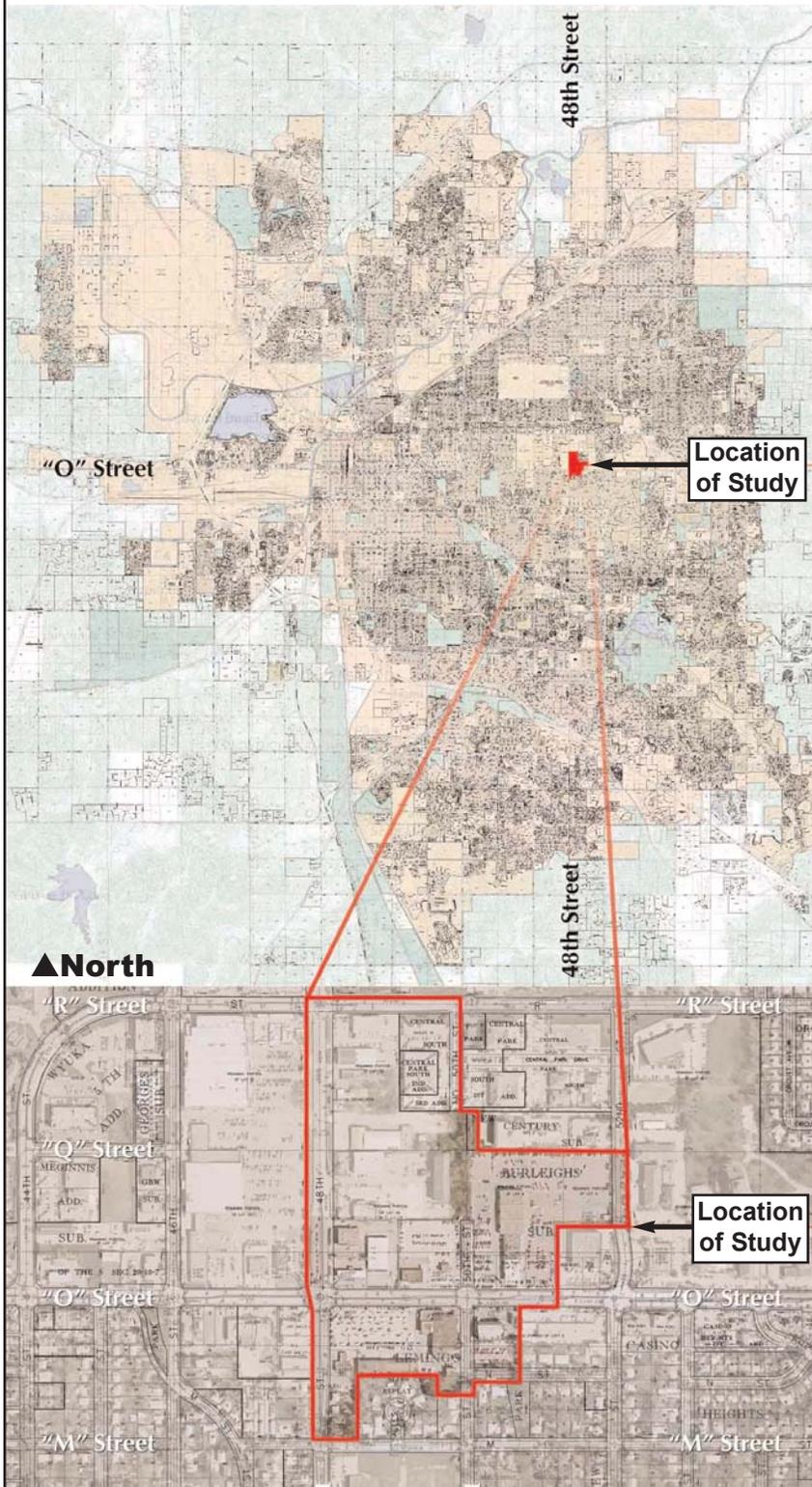
As a result of these conditions, the City of Lincoln commissioned a Blight and Substandard Determination Study. On August 23, 2004, the Lincoln City Council agreed with the findings of the Study and declared the area blighted and substandard.

The City recognizes that continuing blight and deterioration is a threat to the stability and vitality of the 48th and "O" Street area and that revitalization efforts cannot reasonably occur without public action. The 48th and "O" Street Redevelopment Plan represents the City's efforts to guide public and private redevelopment of the area.

Plan Requirements

Redevelopment activities are guided by Community Development Law, Neb. Rev. Stat., Section 18-2101, et. seq. (as amended). The statutes clearly state that the governing body must have declared the project area substandard and blighted in order to prepare a redevelopment plan.

Exhibit 1: City Context Map



The city has authorized its Urban Development Department to act as a redevelopment authority under the applicable Law.

The Urban Development Department has formulated, for the City of Lincoln, a workable program for utilizing appropriate private and public resources to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas including, provision for the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of substandard and blighted areas or portions thereof by re-planning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof.

The Community Development Law §18.2111 defines the minimum requirements of a redevelopment plan as follows:

A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements, and the proposed land uses and building requirements in the redevelopment project area...

The statutes further identify six elements that, at a minimum, must be included in the redevelopment plan. They are:

1. The boundaries of the redevelopment project area with a map showing the

- existing uses and condition of the real property within the boundaries;
2. A land-use plan showing proposed uses of the area;
 3. Information showing the standards of population densities, land coverage, and building intensities in the area after redevelopment;
 4. A statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, or building codes and ordinances;
 5. A site plan of the area;
 6. A statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment.

In making its recommendation to approve this plan, the Urban Development Department has considered the land uses and building requirements and determined that they:

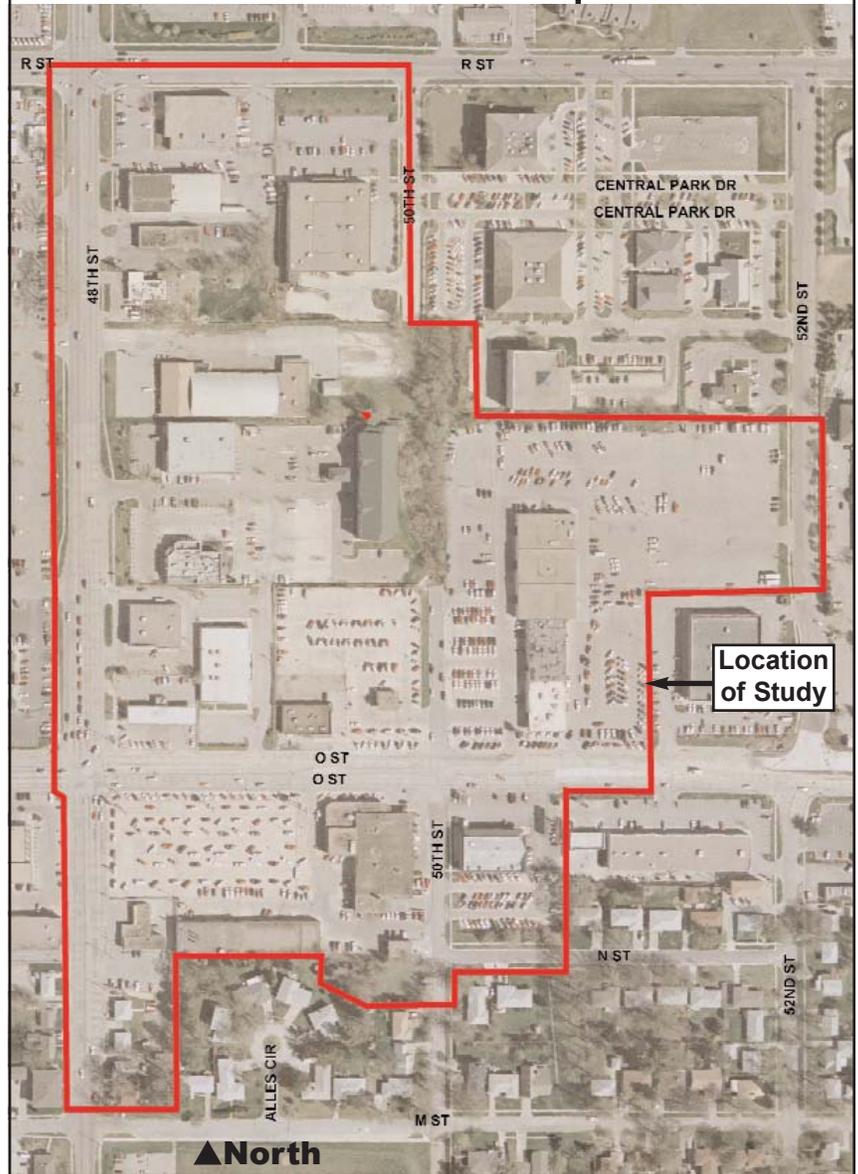
1. are in conformance with the general plan for redevelopment in the City and,
2. represent a coordinated, adjusted, and harmonious development of the city and its environs. These determinations are in accordance with:
 - a) present and future needs to promote health, safety, morals, order, convenience, prosperity;
 - b) the general welfare; and
 - c) efficiency and economy in the process of development.

Factors considered in the determination included among other things:

1. adequate provision for traffic, vehicular parking;
2. the promotion of safety from fire, panic, and other dangers;
3. adequate provision for light and air;
4. the promotion of the healthful and convenient distribution of population;
5. the provision of adequate transportation, water, sewerage, and other public utilities;
6. schools, parks, recreational and community facilities, and other public requirements;
7. the promotion of sound design and arrangement;
8. the wise and efficient expenditure of public funds; and
9. the prevention of the recurrence of insanitary or unsafe dwelling accommodations or conditions of blight.

This plan will be reviewed by the Lincoln/Lancaster County Planning Commission for compliance with the Comprehensive Plan on December 8, 2004. Copies of the related staff report and Commission action are available from the Lincoln City Clerk.

Exhibit 2: 48th and "O" Street Redevelopment Area



Existing Conditions

Land Use

The 48th and "O" Street Redevelopment Area is a generally rectangular block of land located in central Lincoln. Roughly speaking, the area extends from "N" Street on the south to R Street on the north, and 48th Street on the west, to 52nd Street on the east. The area is anchored by 48th and "O" Streets, which is one of Lincoln's busiest intersections. The area consists of 41.7 acres and features predominately commercial uses, including retail and vacant auto sales and service businesses.

The southern tip of the Redevelopment Area near 48th and M Streets represents the only residential portion of the Redevelopment Area, and includes four single family houses. However, the southern edge of the Redevelopment Area borders a predominately residential area.

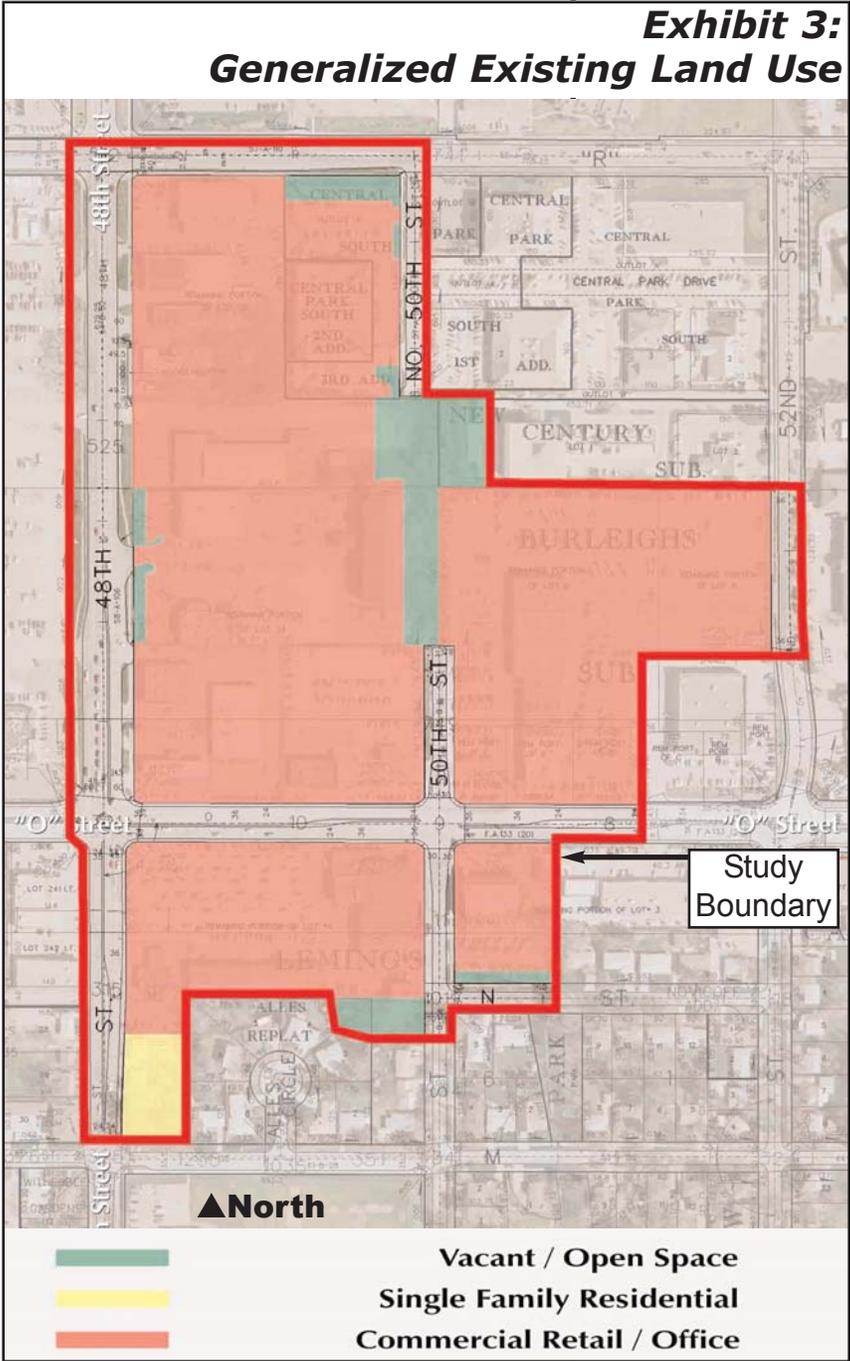
The functional land use groups for the 48th and "O" Street Redevelopment Area can be seen in Exhibit 3.

Commerce Center

Based on the 2025 Lincoln City/Lancaster County Comprehensive Plan (Adopted May 28/29, 2002 As Amended through August 10, 2004) the area can be defined as a Commerce Center. According to the Comprehensive Plan:

"Commerce Centers" are defined as areas containing a mix of retail, office, services and residential uses, with some light manufacturing and warehousing in selected circumstances. Commerce Centers can include shopping centers or districts (such as neighborhood centers, large scale retail malls, strip centers, and traditional store-front retail settings), office parks, business parks, stand-alone corporate office campuses, research and technology parks, and Downtown Lincoln. The term "commerce center" is meant to be inclusive, not prescriptive....The Commerce Centers concept gives recognition to the evolving role of commercial and industrial uses in the life of cities. Commerce Centers encompass a broad range of land uses and are intended to encourage the mixing and integration of compatible land use types (p. F 40).

**Exhibit 3:
Generalized Existing Land Use**



The Comprehensive Plan identifies three separate size categories for Commerce Centers. The variations in size distinguish between the uses occurring in the centers and the differing impacts the centers have on adjacent land uses and the public infrastructure (p. E 20). The 48th and "O" Redevelopment Area is likely to fit into the Comprehensive Plan's Community Center category, where square footage ranges from 300,000 to 1 million square feet.

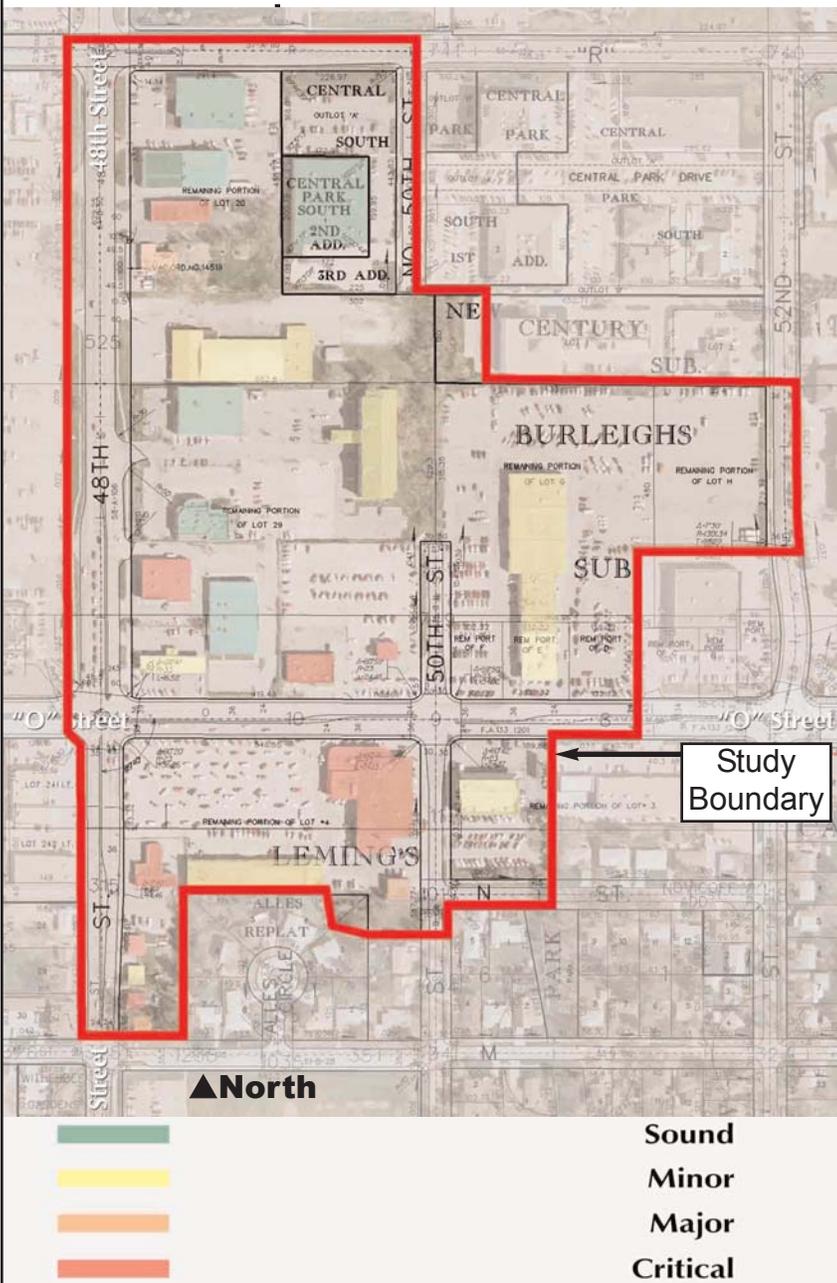
Land Use Issues

Commercial disinvestment has resulted in empty, deteriorating buildings on large, empty, car lots on both sides of "O" Street in the Redevelopment Area. The Blight and Substandard Determination Study revealed that a large percentage of the commercial and residential structures are in poor condition. The building condition analysis for the Study (see p. 20, Blight and Substandard Determination Study, May, 2004) was based

on an exterior inspection of all 25 existing structures and an interior inspection of 24. The purpose was to identify structural deficiencies and related environmental deficiencies for individual sites or parcels in the Redevelopment Area. The conclusion of the external structural survey is that 48 percent of the 25 structures are either deteriorating or dilapidated to a substandard condition (see Exhibit 4). The interior structural analysis confirmed the exterior survey results, indicating that 41.7 percent exhibited deteriorating or dilapidated conditions.

Functional and economic obsolescence is prevalent in the properties throughout the Redevelopment Area. The original auto dealership that was constructed on the south side of "O" Street in 1955, was constructed of reinforced concrete for a specific use. The basement is an underground auto parking and storage facility with concrete piers that support the two-story structure. The spacing of the piers, height of the ceilings and configuration of individual rooms and work spaces do not render the building compatible for rehabilitation or adaptive reuse. Similarly, the newer and larger 1974 auto dealership on the north side of "O" Street is also not suitable for adaptive reuse due to its size, and design for auto sales and service. Two other buildings on the north side of "O" Street are vacant, lack adequate maintenance and have deteriorated to the point where the structures may not be cost effective to rehabilitate (Blight and Substandard Determination Study, p. 46).

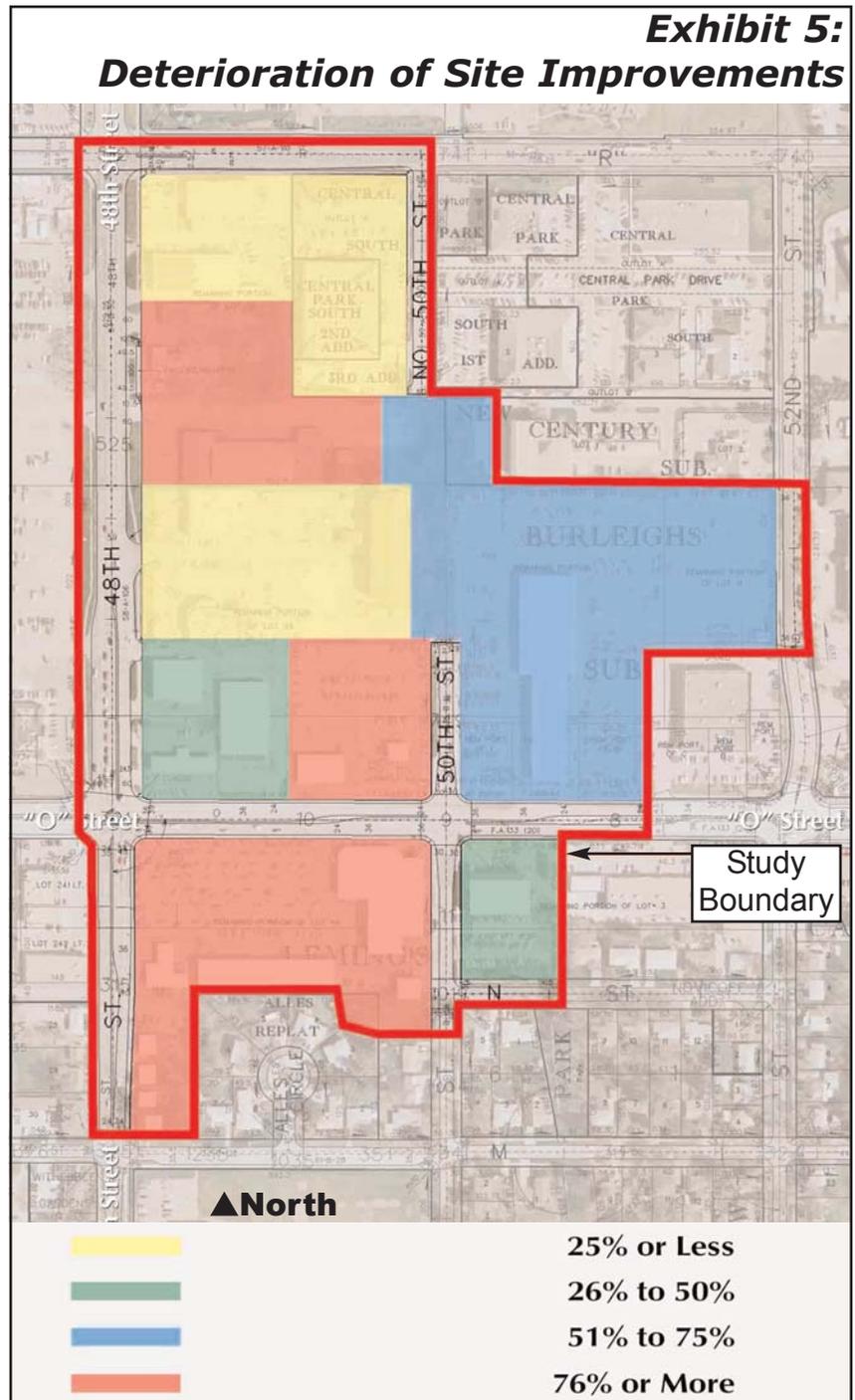
**Exhibit 4:
Existing Structures Condition**



Overall site conditions (Exhibit 5) were evaluated as part of the Blight and Substandard Determination Study (p. 37). The field survey determined 57.7 percent of the parcels in the Redevelopment Area had overall site conditions that were in fair condition and 3.8 percent in poor condition. Nearly 12 percent of the parcels had excessive debris.

Furthermore, a strong presence of improper subdivision or obsolete platting exists throughout the Redevelopment Area. Almost none of the individual parcels within the study area meet today's standards of platting and subdivision procedures. The land acreage requirements of the former auto dealership required the accumulation of large tracts of land for the outside display of motor vehicles. Cases exist where multiple platted lots were assembled to support a single use, but were never replated into a single lot of record. The majority of individual parcels are only described by a metes and bounds description. Two examples of this exist at the northeast and southeast corners of 48th and "O" Streets. The original lot contained much more land than the parcel required by the auto dealership, thus the parcels were reduced in size by a metes and bounds description for use by adjacent commercial and residential uses. An additional example of this exists at the northeast corner of 50th and "O" Streets, where the former auto dealership acquired five full or partial lots to have a sufficient area to support the necessary outside storage of motor vehicles (Blight and Substandard Determination Study, p. 39).

Residential parcels along south 48th Street currently exceed the area requirements for residential property. However, the smallest residential parcel is 50' by 132'. If south 48th Street is widened, these residential lots would become non-conforming lots.

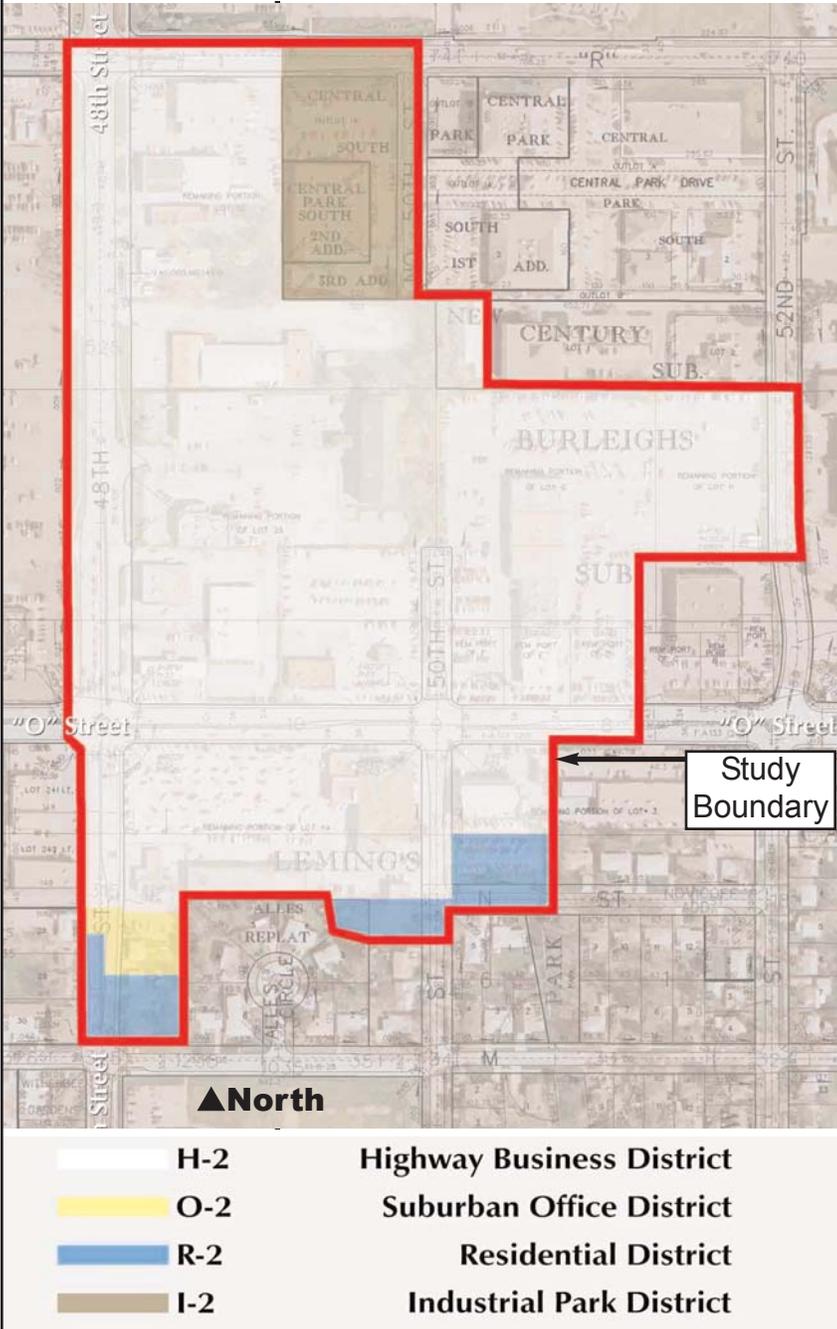


Zoning

Incompatible and mixed land uses exist south of "O" Street. A combination of residential and commercial uses are in close proximity. Conflicts exist due to the lack of proper land use separation or buffering.

The intersection of 48th and "O" Streets has had some four corner commercial zoning in place since at least 1940. The current pattern of H - 2 zoning (formally H - 1 prior to 1979) was essentially in place by 1953. This reflected its location as a "cross roads" of town. Zoning districts found in the Redevelopment Area are illustrated in Exhibit 6 and include the following:

Exhibit 6: Existing Zoning



H-2 Highway Business District, a general commercial zoning district. This is the vast majority of these parcels, and represents all of the land facing "O" Street.

O-2 Suburban Office District, is on one lot located on the east side of S. 48th Street about 1/2 the distance between "O" Street and "M" Street.

R-2 Residential District is located on about three small lots/parcels on the south edge of the Redevelopment Area and in the area currently used as a parking lot on the east side of 50th Street, on the southern edge of the Redevelopment Area.

The H-2 District permitted uses, height and bulk regulations are found in the Lincoln Municipal Code chapter 27. 41 and could accommodate most commercial or office redevelopment opportunities.

Zoning Issues

Several elements of the H-2 zone present potential issues with redevelopment. For example, the H-2 zone has a 25 foot front yard setback but in Section 27.67.030, parking is allowed in the front yard setback in the H-2 District. Thus, any parking lot landscaping or parking setback is eliminated. Also, there is a 30 foot or 20% of lot depth rear yard setback, but all zoning districts allow parking in the rear yard. As a result there is not much of a buffer, landscaping or separation between commercial and existing residential uses. H-2 also allows off-premise signs (billboards) up to 700 square feet in area and one pole sign up to 100 square feet in size and 35 feet in height. Numerous signs and pole signs are perceived to contribute to the lack of streetscape beautification along "O" Street.

Public Facilities

Parks and Open Space

No parks exist within the Redevelopment Area. However, a city park borders the south-east portion of the Redevelopment Area at 51st and N St. The neighborhood park is 2.2 acres in size and features a small playground.

Traffic

This is one of the highest traffic areas within the urban area with "O" Street functioning as the primary east-west thoroughfare providing connections to the central business district. Traffic on "O" Street is estimated at 36,000 to 45,000 vehicles per day. 48th Street is the north-south facility also with significant traffic flow with traffic estimated at 28,700 vehicles per day. These two roadways make the intersection of 48th and "O" Street the second busiest intersection in the City of Lincoln, following only 27th and Cornhusker. Nearly all of the regional traffic entering the 48th and "O" Street Redevelopment Area will need to use one of these two facilities.

The 48th and "O" Street Redevelopment Area is served by a rectilinear grid pattern street system that borders and intersects the area. The primary arterial streets or thoroughfares intersecting this area include 48th Street and "O" Street with "O" Street functioning as US-34 which crosses the urban area. Other arterials include 52nd Street which borders the east side of the Redevelopment Area connecting "O" Street with "R" Street to the north. "R" Street is located one-quarter mile north of "O" Street and one-eighth mile north of the north edge of the Redevelopment Area and is a critical link in the arterial street network.

The 50th Street corridor directly intersects the Redevelopment Area with a connection to "R" Street on the north, crossing "O" Street and continuing on the south. North of "O", the middle third (approximately 0.2 of a mile) of this corridor has never been developed leaving a gap in the internal street system. This gap in 50th Street has limited accessibility throughout the Redevelopment Area and hinders further commercial development. Establishing a traffic connection to "R" Street may also provide benefits in traffic circulation. The 50th Street connections to the south of "O" Street are fully developed and provide connections to the residential areas south of "O" Street.

As stated above, the 48th and "O" Street intersection is the second busiest in Lincoln, following only 27th and Cornhusker. A total of 64,200 vehicles per day pass through the intersection. Traffic volumes on "O" Street are currently 36,400 and 27,800 on 48th Street. In the 2025 Comprehensive Plan, volumes are projected to be:

- ▶ 48th Street, "O" to "R" Street: 29,000
- ▶ 48th Street, south of "O" Street: 19,200
- ▶ "O" Street, west of 48th Street: 43,700
- ▶ "O" Street, east of 48th Street: 45,900

A significant number of vehicle crashes have occurred in the area. From June 30, 2001 to July 1, 2004, the intersection at 48th and "O" Street experienced 144 total crashes with a community cost of approximately \$3.169 million. The intersection at 48th and "R" Street experienced 37 total crashes for a cost of approximately \$868,000. During the same time frame, 48th Street between "O" and "R" Streets experienced 101

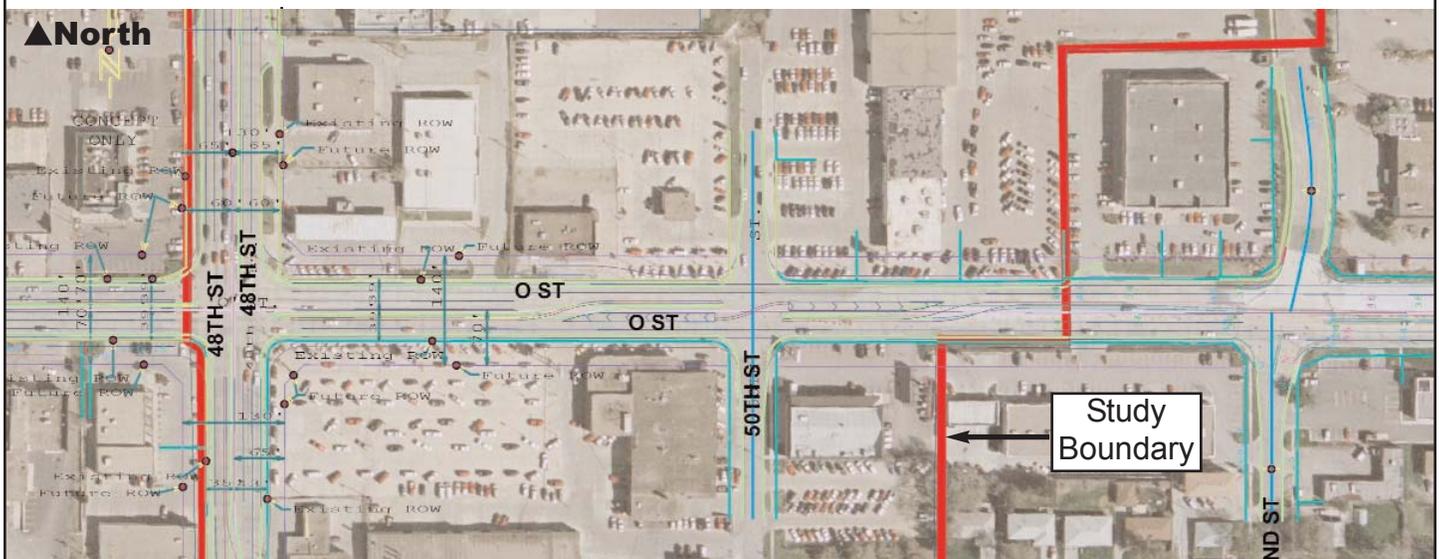
Transportation



crashes for a cost of approximately \$2.229 million. Out of these 101 crashes, over half were at the two main entrances to the shopping areas along the west side of the street and involved people turning into or out of the shopping center.

The capacity on a segment of "O" Street, 52nd Street to 74th Street, has recently been increased with the addition of a travel lane in each direction for 6 through travel lanes. The addition of a travel lane in each direction for 6 through travel lanes is also programmed for 42nd Street to 52nd Street, which includes the segment of "O" Street within the study area (see Exhibit 7). The purchase of right-of-way is currently underway with final design anticipated throughout the fall of 2004 with completion in the fall of 2005. As funding becomes available, construction is anticipated to begin in 2006. Before the widening project, right-of-way on "O" Street was 78 feet. For the project, an additional 31 feet will be acquired on both sides of "O" Street, increasing the right-of-way to 140 feet. Right-of-way on 48th Street will increase by about ten feet, from 120 to 130 feet, eventually from "L" Street on the south to north of the intersection at "R" Street.

Exhibit 7: Preliminary Concept for "O" St. Improvements



Multiple driveways along the arterials are a major issue because driveways create conflict points in traffic when vehicles enter or exit traffic flow, both impeding the flow of traffic and creating safety hazards. Given the high traffic volumes in the area and the number of crashes, the number of accesses into the Redevelopment Area should be focused onto points or access roads. When "O" Street is widened, no access will be permitted on "O" Street between 48th and 50th. Medians will restrict access until 50th Street, where turns permitted at 50th will include right in, right out, and left in. No left out movements will be permitted; however, u-turns will be allowed along this stretch of "O" Street.

Parking

No vehicle on-street parking is currently provided within the Redevelopment Area. The greatest demand for parking within the Redevelopment Area is anticipated to be a result of private development. Parking is anticipated to be constructed as a complement to the primary land uses.

Sidewalks and Pedestrian Activity

The Redevelopment Area is served with sidewalks along both sides of 48th Street and "O" Street. The "O" Street widening project will include replacing the existing sidewalks along these streets. Sidewalks are located along the east side of 50th Street as far as it extends into the Redevelopment Area and along both sides of 52nd Street. These

are all considered to be in good condition. The field analysis for the Blight and Substandard Determination Study identified approximately 26.9 percent of the sidewalks as being in either fair or poor condition.

The major conflicts to pedestrian movements are the high traffic volumes on both 48th and "O" Streets and the numerous drives that cross the sidewalks. There are no pedestrian walkways or facilities located internal to the study area.

The primary shortcoming in the sidewalk system is the lack of pedestrian connections along the 50th Street corridor into the neighborhood to the south; and the incomplete street and sidewalk along the 50th Street corridor to the north. Additionally, there are few sidewalks leading from the street to the stores or from one store to another.

Public Transportation Services

Public transportation service in the Redevelopment Area consists of one StarTran bus route - 48th Street Shuttle, that travels primarily north and south on 48th Street and serves the 27th and Superior commercial area and the 70th and Pioneer commercial area.

Pedestrian/Bicycle Trails

An on street route has been identified along 52nd Street which runs through the eastern edge of the Redevelopment Area. This route provides a connection between the MoPac Trail on the north and the Billy Wolff Trail on the south.

The MoPac Trail, located along the old MoPac Railroad corridor, is the nearest bike trail and is approximately 1/2 mile north of the Redevelopment Area. The trail extends from 30th and X street on the west to approximately 84th and "O" Street on the east within the city limits. The MoPac then extends east of 84th and "O" Street into the county. This trail will eventually connect with Antelope Valley on the west and Omaha and into Iowa on the east. The trail is identified in a Quad States Trail Plan as providing a major connection between Kansas, Nebraska, Iowa and Missouri.

Utilities

The basic infrastructure is in place within the Redevelopment Area; however, it is old and facing increasing demands. As a result, utilities are in need of maintenance and, in some cases, replacement. A detailed analysis should be conducted to identify specific needs and projects, particularly on a case by case basis as redevelopment projects occur.

The 48th and "O" Street Redevelopment Area is served by the following utilities:

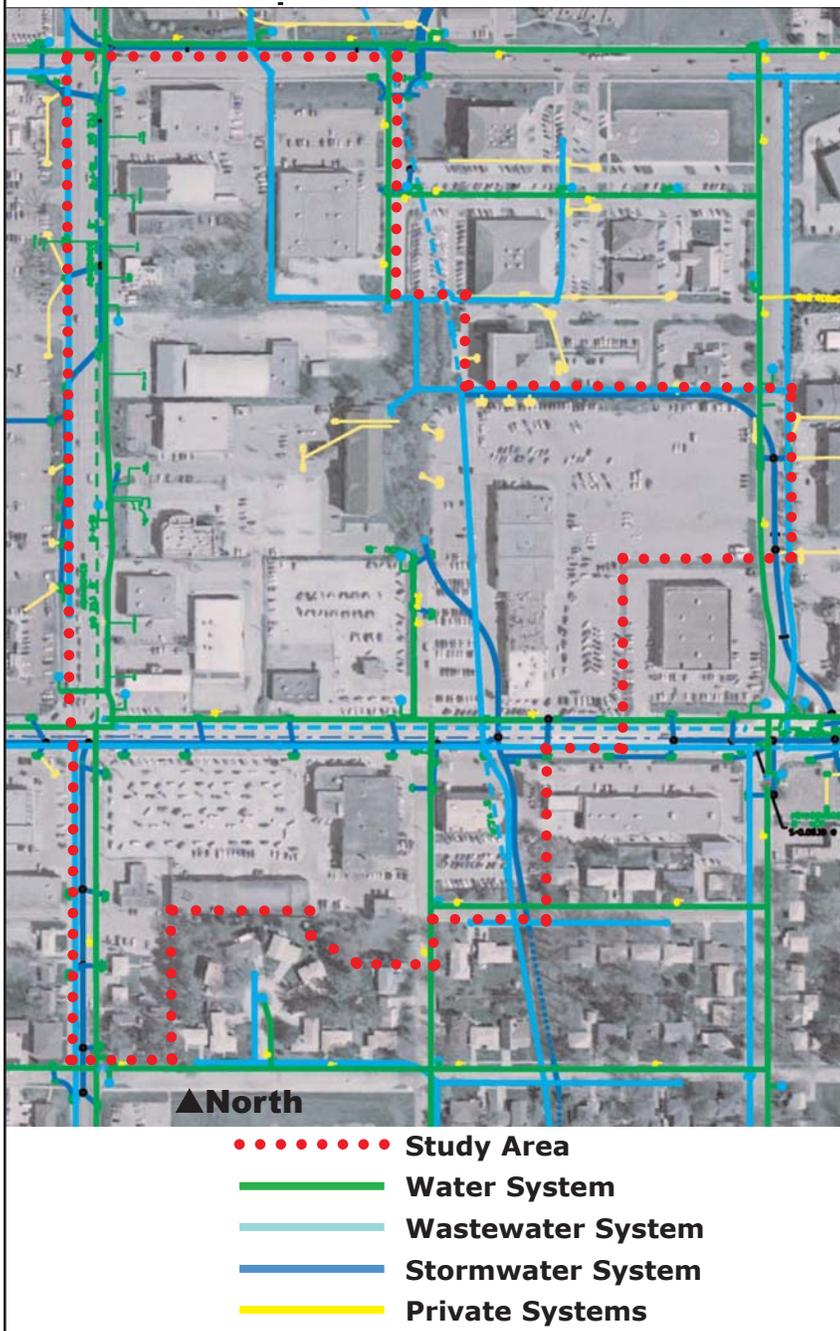
- Sanitary sewer system (underground)
- Storm sewer system (underground)
- Water system (underground)
- Gas lines (underground)
- Electrical conduits (overhead and underground)
- Telephone conduits (overhead and underground)
- Cable conduits (overhead and underground)

Existing utility piping is illustrated in Exhibit 8,(see next page).

Water System

According to today's development standards, a minimum 6" diameter residential water main and 8" in commercial districts is recommended to insure adequate water pressure for fire protection purposes. Water mains along "O" Street were replaced with a new 12" diameter main in 2001. Water mains west of 48th and "O" Street will be replaced with larger diameter mains when the "O" Street widening project occurs. A few under-

Exhibit 8: Existing Utility Piping



sized segments throughout the Redevelopment Area have been replaced, but overall, the system meets current needs.

Problems can exist not only in the water mains, but also in service lines which are owned and maintained by individual property owners. There are numerous service lines in the Redevelopment Area, installed during the 1950s through the 1970s. Usually, no attention is given to problems in the service lines until a break occurs. Undersized service lines, or service lines potentially constructed of lead are the types of problems the property owners will have to repair or replace in the near future.

Sanitary Sewer System

The Lincoln Wastewater System is a closed system, separate and independent from storm water functions. The Wastewater System operates on a gravity-flow basis and is treated by two waste water treatment facilities. The Theresa street facility provides the treatment for the 48th and "O" Street area. The area currently has waste water lines consisting of 8, 10, and 15 inch diameters. Most of the Redevelopment Area is serviced by VCP (vitrified clay pipe) with a few segments of PVC located at the 52nd and "R" street area. Overall, the sanitary sewer system in the Redevelopment Area is in good condition.

Issues that have been identified through the Wastewater TV inspection program include some cracking in the area between "P" and "Q" Streets, South 50th to South 52nd Streets, and a manhole that

will need to be replaced in the parking area north of 50th and "O" Street.

Other issues include cracking and roots intruding into the joints and service connections on "N" Street between South 52nd and South 50th, and on "M" Street between South 52nd and South 50th. In addition, "O" Street between South 48th and South 50th Streets, has had two holes in the main capped. This stretch of "O" Street also includes a protruding service and cracked joints and services. Lastly, a manhole in the southwest corner of 52nd and "O" Street will require some channel repairs.

Stormwater System

The storm drain system in this area generally drains from south to north, and drains to a tributary of Dead Mans Run. The drainage system consists primarily of an underground pipe system for drainage of minor storm events, except for an approximate 500 foot open channel within the Redevelopment Area that is within the 50th Street alignment. The drainage system south of "O" Street is conveyed to the approximate 500

foot open channel through a 48" storm drain outlet north of "O" Street (88 acre drainage area) and a 60" storm drain outlet west of 52nd Street (142 acre drainage area). The drainage system in "O" Street is due for rehabilitation with the future "O" Street widening project. Most of the current system is typically of sufficient size to convey the frequent design storm events (5 year and 10 year) for which they were constructed. It is planned that the future "O" Street project will include replacing storm drains where they are currently undersized.

However, major storm events caused flooding in the New Century Building at 311 N. 52nd Street on August 28, 2002 and July 23, 2003, as well as major street flooding near 50th and "R" Streets. The



The major issue appears to be lack of an adequate overland flow path for sump drainage on 52nd Street near the Villager Inn (between "O" and "R" Streets) and at 52nd and "R". In both the major storms of 2002 and 2003 the resultant overland path during the storm events was through the New Century Building. The majority of the existing drainage was installed in the 1950s and 1960s with mostly reinforced concrete pipe.

A concept report for resolving the overland flow issue was recently completed with possible alternatives for alleviating some of the flooding from 52nd Street. Two alternatives presented in the concept report include, 1) constructing an overland swale from 52nd to the open channel in the 50th Street alignment, or 2) constructing an additional underground pipe with an associated smaller overland swale for overland flow during a major flow event. The spring of 2005 is the earliest that any funding would be anticipated to be available for this drainage improvement.

The open channel mentioned above within the 50th Street alignment is heavily vegetated with trees. Based upon the standards for protecting Minimum Flood Corridors, it is recommended that alternatives be considered to leave the drainageway open. The open drainage provides natural functions and benefits of a riparian corridor related to water quality, habitat, and slowing an infiltration of stormwater. Redevelopment in this area should take advantage of opportunities for cooperative efforts between the City and the Lower Platte South Natural Resources District (LPSNRD) to explore alternative concepts to conserve and enhance the open drainageway in the 50th Street alignment as an amenity for the site.

Private Water and Sewer Systems

Creating private water and sewer systems internal to the development offers benefits during construction and for the future. With the vastness of the area, it is possible to create 2-4 private systems. How the development advances, and how lots are created or existing lots dissolved may guide the best choice in resolving the options that may be advanced on this issue. Advantages to creating private systems are:

- ▶ Offers the potential to save time and permit fees during the facility construction phases;
- ▶ Greater latitude in how the property can be used (i.e., buildings added in the future would require building permits, not tapping permits, and likely would not require additional water and wastewater impact fees);
- ▶ Avoids complications that may be caused by lots not abutting public facilities.

Examples of other developments using this method include Westfield Shoppingtown Gateway Mall, Southpoint Pavilions and the Home Depot located on Highway 2. These areas developed as single meter/private water and sewer systems.

Street Lighting

Street lights on "O" St. were replaced in 1986 with 40' galvanized poles, underground wire, and 400 watt HPSV luminaries. The system is in good condition. Street lights on 48th St., north of "O", were replaced in 1983 with 35' galvanized poles, underground wire, and 250 watt HPSV luminaries. This system is also in good condition. The lights on 48th St., south of "O" were installed more than 40 years ago. The poles are 30' painted with overhead wire and 150 watt HPSV luminaries. They are in fair to poor condition. The lights on 52nd St. are 150 watt HPSV on overhead distribution poles. All of the streets are adequately lit.

Historic Significance

Despite the long-standing importance of this intersection, it's relatively rapid and continuing evolution has the result that none of the buildings in the redevelopment area appear to have achieved sufficient age or historic significance, nor have they retained enough physical integrity, to be regarded as historic resources.

Blight and Substandard Determination Study

The City of Lincoln, through its Urban Development Department, entered into a contract with Hanna:Keelan Associates, P.C. to complete the *48th & "O" Streets Redevelopment Area Lincoln, Nebraska Blight and Substandard Determination Study*. The study was completed in May, 2004. This section of the Redevelopment Plan is taken directly from that study.

Blight Factors

The Community Development Law identifies 12 factors that, when the majority are present, are sufficient to determine a finding of blighted. In the *Blight and Substandard Determination Study* eight factors were found to have a "Strong Presence" in the area:

1. **A substantial number of deteriorated or deteriorating structures.** A total of 48 percent of the 25 structures were found to be deteriorated or dilapidated, from the exterior analysis, and 41.7 percent from the interior analysis.
2. **Faulty lot layout in relation to size, adequacy, accessibility or usefulness.** Conditions contributing to the presence of this factor include inadequate lot size, limited pedestrian circulation and lack of planned open space.
3. **Insanitary or unsafe conditions.** Contributing factors include age of structures and frame structural members of buildings.
4. **Deterioration of site or other improvements.** A significant number and percentage of parcels in the Area have fair to poor overall site conditions. Deteriorating infrastructure also contributes to the strong presence of this factor.
5. **Improper subdivision or obsolete platting.** Generally, lot sizes are too small for efficient development, based on today's planning standards. Several blocks have been reconfigured by metes and bounds descriptions, in the absence of individually platted lots, especially along 48th Street, between "M" and "R".
6. **The existence of conditions which endanger life or property by fire or other causes.** The age of infrastructure is the primary issue throughout the Redevelopment Area.
7. **Other environmental blighting factors.** Functional and economic obsolescence is prevalent in the properties throughout the Redevelopment Area.

8. **One of the other five conditions.** According to the field analysis, the average age of commercial and residential buildings is 40+ years of age.

The *Blight and Substandard Determination Study* also found the following factors had a "reasonable presence:"

1. **Defective or inadequate street layout.** A significant amount of streets and alleys exhibit fair to poor conditions.
2. **Diversity of ownership.** The total number of owners within the Redevelopment Area is 19.

Of the twelve factors set forth in the Nebraska Community Development Law, just two had little or no presence:

1. **Tax or special assessment exceeding the fair value of land.**
2. **Defective or unusual condition of title.**

Substandard Factors

The Community Development Law defines a substandard area as one in which there is a predominance of buildings or improvements, nonresidential or residential, with the presence of:

1. Deterioration/dilapidation of structures.
2. Age or obsolescence.
3. Inadequate provision for ventilation, light, air, sanitation, or open spaces; or
4. a. High density of population and overcrowding; or
b. The existence of conditions which endanger life or property by fire and other causes; or
c. Any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, and is detrimental to public health safety, morals, and welfare.



The *Blight and Substandard Determination Study* determined that three of the four factors had a strong presence in the area and one factor had a reasonable presence. Factors 1, 2 and 4b had a strong presence while factor 3 had a reasonable presence.

It was the conclusion of the study,

...that the number, degree, and distribution of substandard and blighting factors, as documented in this Study, are beyond remedy and control solely by regulatory processes in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in the Nebraska Community Development Law. It was also the opinion of the Consultant, that the findings of this Blight and Substandard Determination Study warrant designating the Redevelopment Area as "substandard" and "blighted" (p. 10).

The Lincoln City Council, by resolution, declared the area blighted and substandard on August 23, 2004.

Summary of Existing Conditions

Following is a list of key existing conditions identified in this section that should be considered, in conjunction with Guiding Development Principles (p. 19), in the identification of projects for the Redevelopment Plan.

1. Commercial disinvestment has resulted in empty, deteriorating buildings on large, empty, car lots on both sides of "O" Street.
2. Functional and economic obsolescence is prevalent in the properties throughout the Redevelopment Area.
3. Few of the individual parcels within the study area meet today's standards of platting and subdivision procedures.
4. Incompatible and mixed land uses exist south of "O" Street. Conflicts exist due to the lack of proper land use separation or buffering.
5. Although existing zoning should accommodate most commercial or office redevelopment opportunities, issues with the H-2 zoning district do not necessarily make it the most appropriate zoning. Re-zoning should be considered.
6. No parks exist within the Redevelopment Area; however, a small, 2.2 acre neighborhood park borders the southeast portion of the Redevelopment Area.
7. The Redevelopment Area has one of the highest traffic areas within the city, with an estimated 36,000 to 45,000 vehicles per day on "O" Street and 28,700 vehicles per day on 48th Street.
8. North of "O" Street, the middle third of 50th street (approximately .2 of a mile) has not been completed, leaving a gap in the internal street system. This gap has limited accessibility and hinders further commercial development.
9. Traffic volumes in 2025 are anticipated to increase to between 19,200 and 29,000 on 48th Street and between 43,700 and 45,900 on "O" Street.
10. A significant number of vehicle crashes have occurred. 48th and "O" experienced 144 crashes between June 30, 2001 and July 1, 2004. 48th and "R" had 37 crashes and 101 occurred on 48th between "O" and "R". Over half were at the two main entrances to the shopping areas along the west side of the street and involved people turning into or out of the shopping center.
11. "O" Street was recently widened between 74th and 52nd Streets and the project is planned to continue through the Redevelopment Area, to 42nd Street. Right-of-way acquisition has begun and construction is anticipated as early as 2006, subject to the availability of funding.
12. Multiple driveways along the arterials impede traffic flow and create safety hazards. With construction of the "O" Street widening project, access into the Redevelopment Area should be focused onto points or access roads.
13. No vehicle on-street parking is provided within the Redevelopment Area. Parking is anticipated to be constructed as a complement to the private redevelopment.
14. Sidewalks will be replaced on "O" Street and 48th Street with the "O" Street widening project.
15. 27 percent of the sidewalks in the area are in fair or poor condition.
16. Major conflicts to pedestrian movements are the high traffic volumes on both 48th and "O" Streets and numerous drives that cross sidewalks.
17. There is a lack of pedestrian connections along the 50th Street corridor into the neighborhood to the south and the incomplete street and sidewalk to the north.
18. One StarTran bus route serves the area.

19. An on-street trail has been identified along 52nd Street on the eastern edge of the Redevelopment Area. The MoPac Trail is the nearest bike trail and is approximately ½ mile north of the Redevelopment Area.
20. The basic infrastructure in the Redevelopment Area is old and facing increasing demands. Many utilities are in need of maintenance and in some cases, replacement.
21. Overall, the current water system meets current needs. However, service lines were installed during the 1950s through the 1970s and may need to be repaired or replaced in the near future.
22. Most of the Redevelopment Area is serviced by vitrified clay pipe with a few segments of PVC located at the 52nd and "R" Street area. Overall, the sanitary sewer system is in good condition although some cracking, cracked joints and services, and manhole repairs are needed.
23. The lack of an adequate overland flow path for sump drainage on 52nd and "R" has caused flooding of area businesses. This is a serious issue when major storm events occur and possible alternatives for alleviating the problem have been identified in a recently completed concept report.
24. The street lights south of "O" on 48th Street were installed more than 40 years ago and are in fair to poor condition. However, all the streets in the Redevelopment Area are adequately lit and the system is in good condition.
25. There are no historic buildings in the Redevelopment Area.
26. The Lincoln City Council, by resolution, declared the area Blighted and Substandard on August 23, 2004.

Redevelopment Plan

Based on the 2025 Lincoln City/Lancaster County Comprehensive Plan, the 48th and "O" Street Redevelopment Area can be identified as a Community Center. According to the Comprehensive Plan:

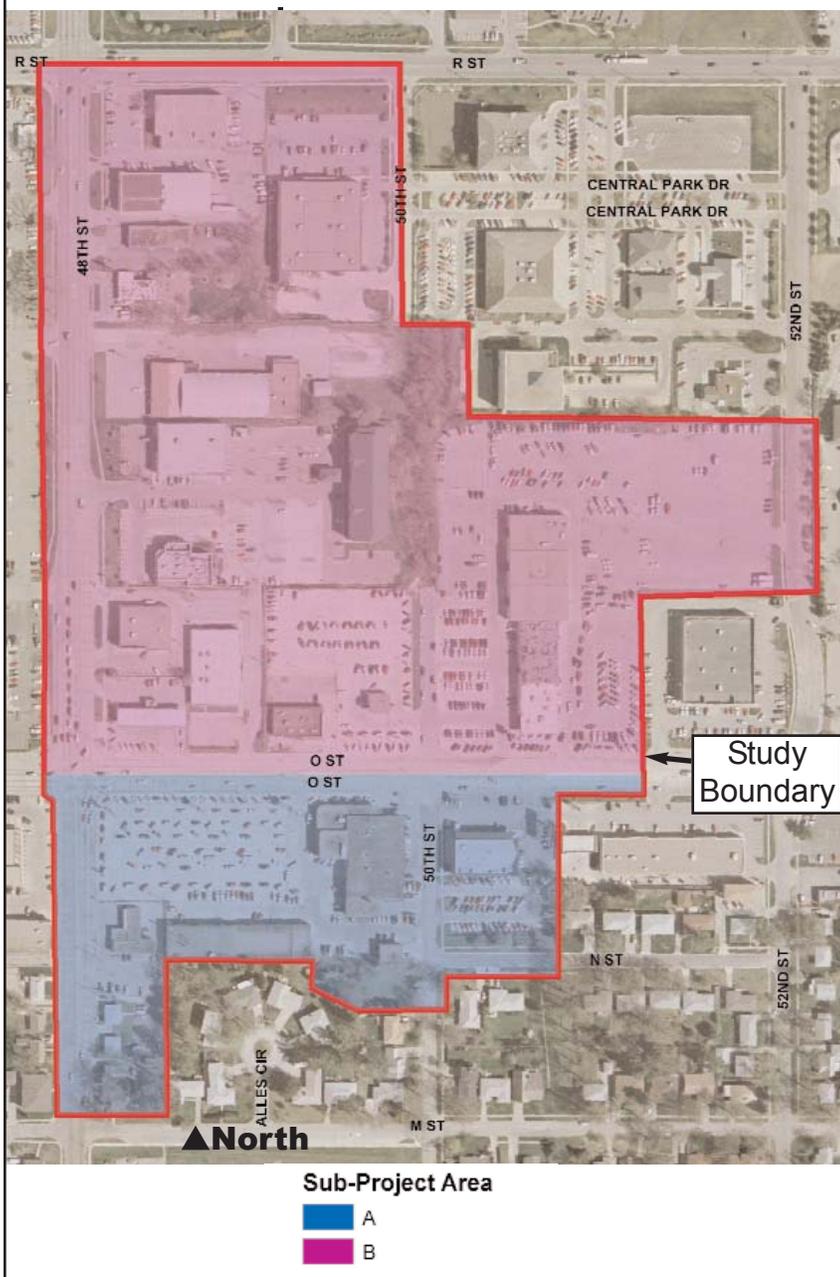
Community Centers are intended to be smaller in scale and intensity of uses than Regional Centers and serve a more targeted market and geographic area. Community Centers tend to be dominated by retail and service activities, although they can also serve as campuses for corporate office facilities and other mixed-use activities....One or two department stores or "big box" retail operations may serve as anchors to the Community Center with smaller general merchandise stores located between any anchors or on surrounding site pads...Community Centers can have a community wide appeal but primarily serve a geographic subarea within Lincoln and surrounding areas within the County. Depending on the mix of stores and other shopping opportunities in the area, existing Community Centers can have a market area that is quite extensive, even rivaling some Regional Centers (p. F 45).

Guiding Development Principles for the Area

Given this definition, several guiding principles identified in the Comprehensive Plan for all Commerce Centers (Regional, Community, and Neighborhood) should be used as a guide for redevelopment activities at 48th and "O". The following principles begin with those identified in the Comprehensive Plan, then also build on expectations of the Witherbee Neighborhood Association and general redevelopment principles. The redevelopment of the 48th and "O" Redevelopment Area to the extent possible should:

1. Encourage a diverse mix of uses, such as office, retail, multi-family residential and service uses.
2. Encourage redevelopment to occur as clusters or hubs with appropriate site design features to accommodate shared parking, ease of pedestrian movement within the site and possessing a unique urban (rather than suburban) character, while minimizing impacts on the adjacent residential area.
3. Redevelopment should occur in ways that strengthen and support the existing business communities outside the Redevelopment Area along, and in the vicinity of, the "O" Street and 48th Street corridors.
4. Physical linkages (i.e., sidewalks, trails, roads) should be utilized to directly connect the Redevelopment Area with adjacent development.
5. Encourage project designs which place commercial buildings rather than parking lots along 48th and "O" Streets.
6. Buildings should be designed to be compatible, in form and proportion, with the neighboring buildings and should include a variety of forms, materials and colors, yet these elements should be composed to maintain a unified appearance.
7. Buildings should include a richness of architectural detail to help define their scale, pedestrian access and visual rhythm and interest.
8. Building Entrances should be given emphasis or "pride of place."
9. The Redevelopment Area should provide a safe and positive environment for pedestrian movement by:
 - A. Using pedestrian scale lighting and graphics within the Redevelopment Area.
 - B. Encouraging public security design features including lighting and open spaces with a high degree of street visibility.

Exhibit 9: Sub-Project Areas



- C. Encouraging public amenities such as plazas, squares and other types of facilities or meeting areas for pedestrians.
- 10. Where feasible, provide for transit opportunities in the design of the area.
- 11. Redevelopment should not encroach upon, or expand into, the existing residential neighborhood to the south and should protect and enhance it by:
 - A. Establishing defensible edges between the residential and non-residential uses. Use streets or green ways to provide boundaries, thus realizing the benefits of mixed use while screening the negative effects of commercial growth on residential environments. A front yard setback, landscape screening, and a pedestrian system with continuity into and through the site is preferable.
 - B. Locating the most intensive commercial uses nearer to the major streets and furthest from the residential area. Lighting, dumpsters, loading docks and other service areas should be shielded from the residential area.
 - C. The major access points to the area should not bring outside traffic through the residential area.

The Guiding Principles of the Redevelopment Plan, along with issues identified in the Existing Conditions section of this plan, provide the basis for the redevelopment projects.

The Redevelopment Plan is divided into two Sub-project areas with specific redevelopment activities identified within each sub-project. Activities will be undertaken as funding and private development proceed. Sub-project areas are illustrated in Exhibit 9.

Sub-Project Areas

Sub-Project A is the area located south of "O" Street.

Sub-Project B includes only the area north of "O" Street.

The next section of this Redevelopment Plan details specific redevelopment activities. Table 1 on page 24 identifies the redevelopment activities included within each sub-project area.

Redevelopment Activities: Infrastructure Improvements

Infrastructure issues that include streets, alleys, sidewalks, and utilities - impede new development throughout the Redevelopment Area and contribute to the blighting conditions. Therefore, the following public improvement activities should occur:

Streets and Alleys

1. North of "O", the middle third (approximately 0.2 of a mile) of the 50th Street corridor has never been developed leaving a gap in the internal street system. If correcting the 50th Street gap enhances and benefits redevelopment by establishing a traffic connection to "R" Street and benefitting traffic circulation, the connection should be constructed.
2. The excessive number of driveways and access points along 48th and "O" Streets impedes traffic flow and creates unsafe driving conditions. Identify access points to the Redevelopment Area and close/consolidate existing drives to help maintain traffic flows and increase safety along the main thoroughfares of 48th and "O" Streets.
3. Dedicate and build public alleys as needed in conjunction with redevelopment activities.

Sidewalks and Connectors

The Blight and Substandard Determination Study identified 27 percent of the sidewalks as in either fair or poor condition. Additional surveys will be completed and sidewalks repaired or replaced as necessary in conjunction with redevelopment projects.

1. Replace existing sidewalks along 48th and "O" Streets with the "O" Street widening project.
2. The major conflict to pedestrian movements are the numerous drives that cross the sidewalks. Consolidate and eliminate vehicular access points (see #2 above, under Streets and Alleys).
3. Construct pedestrian walkways or facilities internally within the Redevelopment Area.
4. Construct pedestrian connections along the 50th Street corridor into the neighborhood to the south and along the 50th Street corridor to the north if the 50th Street connection is built.

Public Transportation

Provide transit opportunities within and adjacent to the Redevelopment Area, when feasible. May include construction of bus shelters and kiosks with transit information.

Pedestrian/Bicycle Trails

Continue to identify 52nd Street as an on-street bike route, providing a connector between the MoPac Trail on the north and the Billy Wolf Trail on the south. Continue to monitor hiker/biker trail needs in the area.

Streetscape Beautification

Design and implement a design plan for 48th and "O" Streets beautification. Elements should include but not be limited to lighting, thematic entrances, landscaping and streetscape.

Public Utilities

In the Existing Conditions section of this Plan, much of the infrastructure in the area was identified as inadequate - in need of maintenance and, in some cases, replacement. In order for new development to occur, the following public improvements should occur:

1. Complete a detailed analysis of storm water sewers, sanitary sewers, and the water system to determine additional needed improvements. Complete improvements as required to support current and anticipated development.
2. Based on the Wastewater TV inspection program, repair or replace as needed (although some improvements extend beyond the Redevelopment Area boundaries, construction should be coordinated):
 - ▶ Multi-quad cracking between "P" and "Q", south 50th to 52nd Streets
 - ▶ Replace a manhole in the area north of 50th and "O" Streets.
 - ▶ Multi-quad cracking and roots intruding into the joints and service connections on both "M" and "N" Street between south 50th and south 52nd Streets.
3. Evaluate water mains within the Redevelopment Area to assure fire fighting and service requirements are met. Identify where main extensions and abandonments may be appropriate in conjunction with redevelopment.
4. Abandon services to existing buildings for both water and wastewater.
5. With construction of the "O" Street widening project, replace water mains west of 48th and "O".
6. Identify and construct solutions to inadequate storm water drainage issues. Solutions may include providing an overland flow path, swale, storm water conduit, and construction of a bioretention/rain garden or similar innovative storm water technology solution.

Redevelopment Activities: Commercial

The Redevelopment Area is highly visible and includes vacant blighted buildings and underutilized land. Major redevelopment will occur and require land assembly with new mixed use commercial development. Projects include:

1. South of "O" Street: property acquisition of vacant, underutilized land and blighted buildings to create the opportunity for new, mixed use development that may include one or two story commercial retail, office and multi-family housing. Project elements include:
 - ▶ Acquisition of lots:
 - ▷ Leming's Sub Lot 4 ex W 135' S 423' & ex S 221' E 135' & ex that part deeded for street, generally known as 4949 "O" St.
 - ▷ Leming's Sub Lot 3 N 156' W 240' ex W 30' N ½ & ex N 6', generally known as 5001 "O" St.
 - ▷ Leming's Sub S 129.2' W 240' N ½ Lot 3 ex W 30' for street & ex street, generally known as 5038 "N" St.
 - ▷ Leming's Sub Lot 4 S 170 of N 377 W 135 ex 1622 sq. ft for street, generally known as 140 S. 48th St.
 - ▷ Lemings Sub Part of Lot 4 ex rd N 60' S 253' W 135' L4, generally known as 200 S. 48th St.
 - ▷ Leming's Sub ex rd N 60' S 193' W 135' L4, generally known as 224 S. 48th St.
 - ▷ Leming's Sub Lot 4 N 50 of S 133 of W 135 ex street, generally known as 230 S. 48th St.
 - ▷ Leming's Sub N 58' S 83' W 135' Lot 4, generally known as 240 S. 48th St.
 - ▶ Relocation of tenants, if any.
 - ▶ Demolition of existing structures.
 - ▶ Grading and site preparation.
 - ▶ Elimination of environmental hazards.

- ▶ Paving off-street parking and construction on on-street parking (except on arterial streets).
- ▶ Relocating/upgrading utilities as needed including relocation of overhead utility lines.
- ▶ Eliminating driveways and curb cuts, constructing consolidated entrances as required, including paving and landscaping driveways, approaches and sidewalks outside property lines.
- ▶ Construction of turn lanes and frontage roads, as required.
- ▶ Vacation of alleys and streets as required.
- ▶ Subdivision and rezoning if necessary.
- ▶ Obtaining access easements as required.

2. North of "O" Street: property acquisition of vacant, underutilized land and blighted buildings to create the opportunity for new, one story mixed use development that may include commercial retail, office and multi-family housing. Project elements include:

- ▶ Acquisition of lots:
 - ▷ J G Millers Sub (S ½ 20-10-7) N 125' W ½ Lot 20 ex road, generally known as 366 N. 48th St.
 - ▷ Central Park south third Add Outlet A
 - ▷ J G Millers Sub (S ½ 20-10-7) S 125' N 250' W ½ ex road & N 15' S 100' N 350' W, generally known as 360 N. 48th St.
 - ▷ Central Park south second Add Lot 1, generally known as 333 N. 50th St.
 - ▷ J G Millers Sub (S ½ 20-10-7) S 85' N 350' W ½ Lot 20 ex W 60', generally known as 330 N. 48th St.
 - ▷ J G Millers Sub (S ½ 20-10-7) S 100' N 450' W ½ Lot 20 ex road, generally known as 320 N. 48th St.
 - ▷ J G Millers Sub (S ½ 20-10-7) Lot 20 S 179.3' W ½ ex road, generally known as 300 N. 48th St.
 - ▷ J G Millers Sub (S ½ 20-10-7) Lot 20 E 302' of S 179 & 25 hundredths ft., generally known as 300 N. 48th St.
 - ▷ Cool Crest Condo base account located on: J G Millers sub 20-10-7: N ½ lot 29 E
 - ▷ Burleighs Sub Lots D, E & F ex S 6' for street & Lot G ex S 150' E 36' & Lot H ex S, generally known as 5000 "O" St.
 - ▷ Cool Crest Condominium Unit #A, generally known as 222 N. 48th St.
 - ▷ Cool Crest Condominium Amended Unit C, generally known as 216 N. 48th St.
 - ▷ Cool Crest Condominium Unit #B, generally known as 210 N. 48th St.
 - ▷ J G Millers Sub (of 20-10-7) W 137' E 167' S ½ ex street & W 143' E 310' N 150.65' S, generally known as 4940 "O" St.
 - ▷ J G Millers Sub (of 20-10-7) Lot 29 E 142' W 352' S ½ ex S 6', generally known as 4850 "O" St.
 - ▷ J G Millers Sub 20-10-7 N 150' S 300' E 150' W 210' or W 210' S ½ Lot 29 ex S 150', generally known as 140 N. 48th St
 - ▷ J G Millers Sub 20-10-7 W 143' E 310' S 166' Lot 29 ex S 6', generally known as 4900 "O" St.
 - ▷ J G Millers Sub 20-10-7 Lot 29 S 150' of S 300' E 150' W 210' ex S 6', generally known as 4802 "O" St.
- ▶ Relocation of tenants, if any.
- ▶ Demolition of existing structures.

- ▶ Grading and site preparation.
- ▶ Elimination of environmental hazards.
- ▶ Paving off-street parking.
- ▶ Relocating/upgrading utilities as needed including relocation of overhead utility lines.
- ▶ Construction of facility to eliminate storm water hazards.
- ▶ Eliminating driveways and curb cuts, constructing consolidated entrances as required, including paving and landscaping driveways, approaches and sidewalks outside property lines.
- ▶ Construction of 50th Street.
- ▶ Construction of turn lanes and frontage roads, as required.
- ▶ Vacation of alleys and streets as required.
- ▶ Subdivision and rezoning if necessary.
- ▶ Obtaining access easements as required.

Activities by Sub-Project Areas

The redevelopment activities within each sub-project area are listed in Table 1, below.

Table 1: Redevelopment Activities within Sub-Project Areas	
Activity	Sub-Project Area
Streets and Alleys	
Completion of 50th Street gap, north of "O"	B
Identify access points and close/consolidate existing drives	A, B
Dedicate and build public alleys	A, B
Sidewalk Repair and Replacement	A, B
Public Transportation Opportunities	A, B
Pedestrian/Bicycle Trails	A, B
Streetscape Beautification	A, B
Public Utilities	
Analysis of and improvements to stormwater sewers, sanitary sewers and water system	A, B
Improvements identified in Wastewater TV inspection program	A, B
Evaluate water mains for fire fighting and service needs; identify need for main extensions and abandonments	A, B
Abandon services to existing buildings, sewer and wastewater	A, B
Replace water mains west of 48th and "O" with street widening project	A, B
Construct solution to stormwater issues north of "O"	B
Commercial, Mixed Use Activities	
South of "O"	A
North of "O"	B

Future Land Use

Exhibit 10 is a Proposed Future Land Use map for the Redevelopment Area. The overall population density of the Redevelopment Area will generally remain stable. However, If multi-family housing is constructed, density could increase. Land coverage and building density will increase.

Redevelopment Process

Public improvements and redevelopment activities may require construction easements; vacation of street and alley rights-of-way; temporary and permanent relocation of families, individuals and businesses; demolition, disposal/sale of property; and site preparation (may include driveway easements; paving driveways, approaches and sidewalks outside property line; relocation of overhead utility lines; and rerouting/upgrading of underground utilities; as needed). The processes for these activities include:

Property Acquisition

The City may acquire the necessary fees, easements, property and covenants through voluntary negotiations (see Land Acquisition Policy Statement, Appendix A). However, if voluntary agreement is not possible, the City may institute eminent domain proceedings.

Relocation

Relocation may involve the temporary or permanent relocation of families, individuals or businesses to complete redevelopment activities. Relocation will be completed according to local, state and federal relocation regulations (see Appendix B, Relocation Assistance).

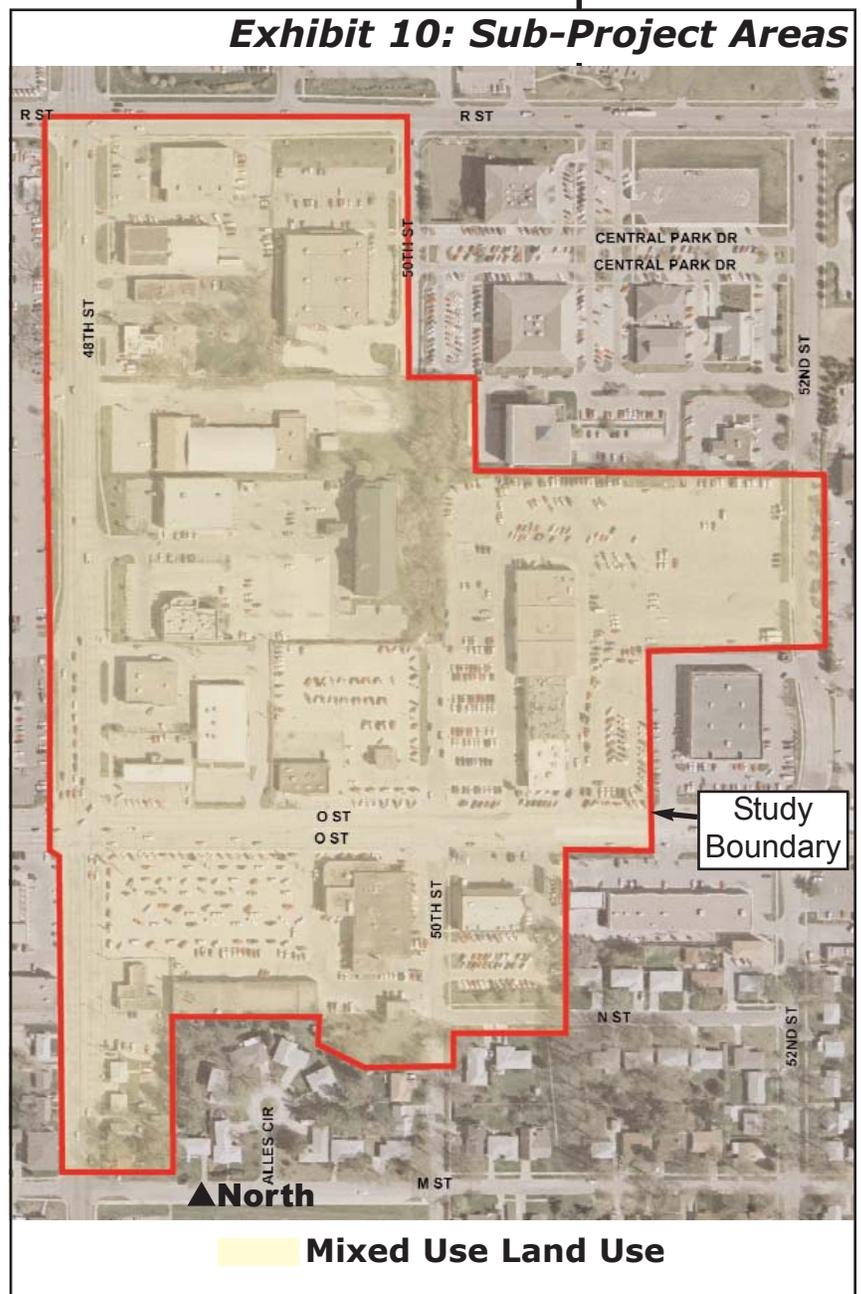
Demolition

Demolition will include clearing sites on property proposed for public improvements; necessary capping, removal or replacing utilities; site preparation; securing insurance and bonds; and taking other necessary measures to protect citizens and surrounding properties. Measures to mitigate environmental findings may also be necessary, if determined by site testing.

Redevelopment/Land Disposition Agreement

Sub-area projects will include the sale of land to private developers for redevelopment purposes. Developers will be selected in an equitable, open and competitive proposal process using the City's standard selection processes. After the redeveloper is selected and the city and redeveloper have created a mutually agreeable proposal, they will enter into a formal agree-

Exhibit 10: Sub-Project Areas



ment. This agreement will specify each party's specific roles and obligations in the implementation of the project. The negotiated Redevelopment/Land Disposition agreement will be subject to public hearing and review and final approval by the City Council. It is anticipated the redevelopment would be able to proceed within 12-18 months of the final selection of a redeveloper.

Requests for Proposals

Architects and engineers will follow the City's standard selection processes to design the public facilities and improvements. Primary contractors will also be competitively selected. The selection process involves issuing a Request for Proposals (RFP). Standard City practices are used for the selection process.

Estimated Expenditures

Preliminary estimates of project costs are included in Table 2 and are estimated to be \$41,395,000 over 15 years, including public and private expenditures.

Conformance With Comprehensive Plan

The 2025 Lincoln City/Lancaster County Comprehensive Plan (Adopted May 28/29, 2002 As Amended through August 10, 2004) represents the local objectives, goals and policies of the City of Lincoln. The 48th and "O" Redevelopment Plan was developed to be consistent with the Comprehensive Plan.

Financing

The primary burden for revitalization of the Redevelopment Area must be on the private sector. The City must provide public services and public improvements and participate where necessary in the redevelopment process, but the needs of the area are beyond the City's capacity to do alone. Financing of proposed improvements will require participation by both the private and public sectors. Where appropriate, the City may participate by providing financial assistance for the rehabilitation of structures. The development of new complexes and the reuse of existing structures will be the responsibility of the private sector.

Sources of funding may include:

1. Special Assessments - Business Improvement Districts
2. Private Contributions
3. Sale of Land Proceeds (Proceeds from the sale of land acquired for redevelopment, as identified in the Redevelopment Plan, shall be reinvested in the Redevelopment Area).
4. Municipal Infrastructure Redevelopment Fund (MIRF)
5. Community Development Block Grants
6. Home Investment Partnership Act (HOME)
7. HUD Section 108 Loan Program

Table 2: Project Expenditure Summary

Activity	Private Sector Expenditures	Public Sector Expenditures
Streets and Alleys		\$200,000
Sidewalk Repair /Replacement		\$ 70,000
Public Transportation		\$7,500
Streetscape Beautification		\$900,000
Public Utilities		\$217,500
Commercial Activities	\$40,000,000	
Subtotal	\$40,000,000	\$1,395,000
Total Private and Public Expenditures: \$ 41,395,000		

8. Community Improvement (Tax Increment) Financing (Ad Valorem Tax)
9. Capital Improvements Program Budget
10. Federal and State Grants
11. Interest Income
12. Advance Land Acquisition Fund - property rights/easements, public facility site acquisition.
13. Brownfields funding

Project activities will be undertaken subject to the limit and source of funding authorized and approved by the Mayor and City Council.

According to the Community Development Law, any ad valorem tax levied upon real property in the redevelopment project for the benefit of any public body shall be divided, for a period not to exceed 15 years after the effective date of such provision, by the governing body as follows:

- That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the redevelopment project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and
- That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

The effective date for the Community Improvement Financing provisions of The 48th and "O" Street Redevelopment Plan for each Sub Project is declared to be the date rehabilitation, acquisition, or redevelopment of substandard and blighted property in the sub-project area first commences.

Impact Fees

Impact Fees Redevelopment will be subject to impact fees. However, since buildings will likely be demolished, Lincoln Municipal Code §27.82.050 (7) states:

In the case of a demolition or termination of an existing use or structure, the impact fee for future redevelopment of that site shall be based upon the net increase in the impact fee for the new or proposed land use as compared to the previous use. Credit for the prior use shall not be transferable to another location, except that if the old location was acquired by the City for use for an Impact Fee Facility and will not be redeveloped, the City will receive a credit against future impact fees equal to the impact fee that would have been assessed against the relocated use which may be transferred by the City to a community redevelopment project in another location within the same benefit area.

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Appendix A

Land Acquisition Policy Statement

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LAND ACQUISITION POLICY STATEMENT

I. ADMINISTRATIVE ORGANIZATION FOR LAND ACQUISITION OPERATIONS

- A. All land acquisition functions, including negotiations and closings, will be performed by the City of Lincoln, or its agents. The conduction of condemnations will be performed by the Legal Counsel for the City. The staff is experienced and capable in the conduct of acquisition programs.
- B. The City of Lincoln approved land acquisition policies and procedures within the limits prescribed by the statutes of the State of Nebraska. Each individual property purchase, and the disbursement of payment, therefore, is approved by the Mayor. Condemnation proceedings are instituted by the City Law Department only after all efforts to reach a negotiated settlement have failed. Legal services will be performed by the Legal Counsel for the City.

II. POLICIES

- A. Real Estate appraisals are made by staff or selected fee appraisers. Second real estate appraisals, if required, may also be by fee appraisers.

The following are policies for Real Property Acquisition:

1. Every reasonable effort will be made to expeditiously acquire real property by negotiation.
2. Real property will have separate appraisals before initiation of negotiations and the owner, or his representative, will be given the opportunity to accompany the appraisers on their inspection tour of the property.
3. Before initiation of negotiations for real property, the City's Reviewing Appraiser will establish an amount considered to be just compensation and the City shall make prompt effort to acquire the property for that amount.
 - a. The established amount shall not be less than the approved appraisal of fair market value for the property.
 - b. Any decrease or increase in the fair market value of the property, prior to the date of valuation, caused by public improvement; by physical deterioration within reasonable control of the owner, has been disregarded by the City and by the Appraisers in making the determination of fair market value.
 - c. The City's negotiator shall provide the owner with a written statement summarizing the basis for the amount established as just compensation. Where appropriate, compensation for property acquired and for damages to any remaining real property shall be separately stated.
4. No owner shall be required to surrender possession until the City of Lincoln pays the agreed purchase price, or deposits with the Court the amount of award determined by the Condemnation Appraisers.
5. Improvements will be scheduled so the owner or tenant shall receive a minimum 90 days written notice before having to move. Every effort will be made by the City to provide such notice as is required without undue hardship to the owner or tenant. (This is applicable to total acquisition of property.)
6. If Owner or Tenant is permitted to rent property, the amount of rent shall not exceed fair rental value of subject property.
7. The City of Lincoln will not take any action coercive in nature to compel an agreement on price for property.
8. If acquisition must be by eminent domain, the City of Lincoln shall institute formal condemnation proceedings. The City shall not intentionally make it necessary for the owner to institute legal proceedings to prove fact of taking of his real property.
9. If the owner feels the City of Lincoln's offer does not represent the true value of his property, he

may refuse to accept it. He should then provide evidence concerning value, or damage, that warrants a change in the City's determination of just compensation. Should the City determine the additional information is valid, the price will be adjusted accordingly.

10. If as a result of the real estate acquisition there is a portion of your property which is considered by the City of Lincoln to be an uneconomic remnant, you have the right to request an offer from the City of Lincoln to acquire the remnant.
- B. Owner will be reimbursed for the following expenses incidental to conveyance of real property:
1. Recording fee, transfer taxes and similar expenses.
 2. Penalty cost for repayment of any pre-existing recorded mortgage encumbering real property, provided the mortgage was entered into in good faith.
 3. Pro-rate portion of real property taxes paid which are allocable to a period subsequent to date of vesting title, or effective date of possession, whichever is earlier.
 4. The cost of abstract continuation and/or evidence of assurance of title.
 5. Litigation expenses such as legal, appraisal, engineering fees, etc., when:
 - a. Court determines that condemnation was unauthorized.
 - b. City of Lincoln abandons a condemnation.
 - c. Property owner brings inverse condemnation action and obtains award of compensation.
- C. If a separate fixture appraisal is obtained, it shall contain the following immovable fixtures and personal property:
1. Determination of division of appraisal coverage, enumerating and classifying improvements in place.
 2. Appraisal of improvable fixtures, correlating their findings with both real estate appraisers.
- D. All appraisal contracts shall provide terms and conditions and fix the compensation for expert witnesses. These services will be utilized by the City of Lincoln to the extent necessary.
- E. Both real estate acquisition appraisals and immovable fixture appraisals will be reviewed by the City Appraisal Staff. All appraisals will be reasonable free of error and conferences with appraisers will ascertain that methods of approach and documentation are compatible, with no elements of value being omitted from consideration. City staff will conduct relocation interviews to verify ownership of certain fixtures and personal property claimed. Said claims will then be checked against existing leases and through interviews with fee owners.
- F. Preparation for acquisition includes:
1. Preliminary title information supplied by local abstract companies; contents reviewed and entered in individual parcel folios.
 2. Individual parcel folios prepared; chronological activity indexed and all pertinent historical information entered.
 3. Basic forms of Real Estate Agreement (real estate, personal property and fixtures) reflecting policy for negotiations to acquire all classifications of property.
 4. Closing methods and policy determined.
 5. Policy for possession, property management, salvage and demolition, timetable of activities prepared.
 6. Closing statement form prepared together with such internal administration forms for notice to various units of inspection, accounting, property management, finance and legal counsel as may be required.
 7. Information letters prepared for distribution to all owners and tenants.
 8. Deed forms for conveyance of real estate, bill of sale forms for personal property, and condemnation forms for eminent domain procedure prepared.

(NOTE: Paragraphs G, H, and portions of I cover items of notice, relocation assistance, etc., relating to total property acquisitions as well as general policies.)

- G. The "single offer" system for acquisition will be utilized in all negotiations. The City will establish fair market value and be prepared to justify and substantiate the determination in the event it is challenged. Staff will present and explain forms, terms and conditions of purchase in personal interviews with each property owner and tenants. The date of this interview will establish the beginning of negotiations which regulates many relocation payments.

For the purpose of all negotiated transactions, the City will require conveyance of real estate by Warranty Deed or deed instrument sufficient to place marketable title in the City of Lincoln. Standard forms of such instruments conforming to Nebraska Law are on hand and will be used in every case. Each owner executing a Real Estate Agreement should furnish a current abstract of title as specified in said offer. Legal Counsel for the City will render an opinion of the condition of said title, and upon determination that in his opinion said title appears merchantable, will assist with the closing process. Title to all property will be vested in the City of Lincoln on the date of closing, which will also be the date of payment of the purchase price and the date of conveyance instruments. The City of Lincoln shall have the right to possession within 90 days of closing date, (or 90 days from date of written notice if later than closing date), or as provided in the Real Estate Agreement. A statement by a responsible City Official, resulting from an inspection of the property acquired, will be contained in each acquisition folio. This statement will precede payment and closing and must determine that all property purchased is present and in place in substantially the condition as of the date appraised.

- H. Immovable items attached to the Real Property, that would incur substantial economic damage if removed, will be negotiated for and acquired at the appraised value-in-place for continued use in the present location. A "Single Offer" at the maximum price will be offered the owner of such property, but if the owner elects to move any such appraised item it will be relocated rather than acquired and the appraised amount deducted. Until the business to be displaced has definitely located a relocation site, it is almost impossible to determine whether certain process fixtures can be relocated or should be acquired by the City of Lincoln. When such fixtures have been acquired, paid for, and a bill of sale conveyed, and the seller then finds it would have been desirable to have relocated them, it shall be the City of Lincoln's policy to reconvey such items to the original owner in return for the exact amount of value-in-place price paid for them, and then pay for their relocation. Under no circumstances will fixtures sold back to the original owner by the City of Lincoln be at salvage value, or any amount less than that paid for them. Generally, the terms and conditions of existing leases and pre-acquisition conferences with owners and tenants by all appraisers and City Staff will have clarified ownership.

NOTE: Process utilities that are service entrances and concealed utilities are ineligible for compensation as relocation expenses and will be treated as immovable fixtures. The utilities listed by the fixture appraiser as "Eligible for Relocation" formerly would have been compensated in relocation for those items. Therefore, process utilities are appraised even though eligible for relocation compensation. However, the claimant may still enter a claim for payment for replacement of those eligible utilities at the new location providing the appraised value-in-place of the claimed utilities is deducted from the relocation claim.

Immovable fixtures and process utilities not appraised will be handled through the direct loss of property process. It is expected that claims for severance damages caused by partial taking will be minimal.

All fixtures and improvements appraised and acquired become the property of the City of Lincoln as clarified in the Real Estate Agreement and may not be removed by any other than authorized personnel or the demolition contractor.

- I. Upon thoroughly exhausting every avenue of negotiation available, the City of Lincoln will direct their Legal Counsel to prepare for the appropriation of all property to be acquired through eminent domain proceedings. Such petitions will be drafted by the Legal Counsel clearly defining the property to be acquired and the ownership thereof, land, improvements, immovable and movable property (if any) located therein, with such particularity that the petitions and the resulting action of the condemnation appraisers, or district court appeals, will clearly establish such ownership and rights to compensation. Owner-Occupants of dwelling units that may be eligible for the Replacement Housing Payment will be made aware that the award received through eminent domain proceedings (excluding interest thereon, or consequential damages), determined by the condemnation appraisers, or by District Court will become the basis for any Replacement Housing Payment to be claimed. Immediately preceding preparation of petitions, preliminary title information will be updated. Fee appraisals and fixture appraisals will be reviewed.

To the extent necessary, a reinspection of each property to be condemned will be conducted by the appraisers to determine that the property, on the date of taking, is in substantially the same condition as it was on the date of their original appraisal and that their opinions of value, therefore, hold true as of the date of taking. Each appraiser's testimony may then be presented to the condemnation appraisers and, in case an appeal is filed, to the District Court.

The City of Lincoln will not require any owner to surrender the right to possession of his property until the City pays or causes to be paid, to the Lancaster County Court the amount due each interest acquired for the taking thereof as determined by the condemnation. Immediately following the determination of the amount of the condemnation award for the property, or each separate interest therein taken, the City will direct that payment to be made in an amount equal to the City's offer by the issuance of warrants drawn in favor of those entitled thereto to the County Court of Lancaster County, Nebraska, for payment of the condemnation appraiser's fees connected with the taking. Upon approval of the City's Legal Counsel, such warrants shall be deposited with the County Court and will represent full compensation for the property taken, subject to appeal to District Court. In any event, title to the property rests with the City of Lincoln as of the date of payment of the condemnation award, as does the right to possession thereof within 90 days of said date, provided compensation due has been paid as prescribed and proper notice given.

Nebraska statutes provide a 30-day period from the award of condemnation during which an appeal can be filed by either party. Acceptance of the award deposited with the County Court extinguishes the right of appeal as to that particular party. In the event an award is not claimed and no appeal is filed during the statutory period, the right to appeal is barred and the County Judge immediately causes the condemnation papers to be recorded in the records and transfer books of Lancaster County, Nebraska.

In case an appeal is filed, the County Judge forwards copies of all pertinent papers to the Clerk of District Court for subsequent trial and determination of the damages in the condemnation appealed from. At that point, the City of Lincoln, with or without the consent of condemnee, may petition the District Court to order payment immediately of the award appealed from, thereby reducing interest costs on the award while the case is being prepared and subjected to trial.

Although title and right to possession is vested in the City of Lincoln as of the date of payment of the condemnation award, no lawful occupant of property taken will be required to surrender possession without at least 90 days written notice (a separate notice in addition to the notice of condemnation) from the City of Lincoln stating the date on which possession will be required. Terms and conditions for temporary rental of condemned property for owner-occupants and tenants are detailed in the project property management policy.

District Court trial of all condemnation awards appealed will be defended by the City of Lincoln's Legal Counsel utilizing the services of contract appraisers as expert witnesses for the City. Compensation for witness services is provided for in existing appraisal contracts. After condemnation suits, awards and appeals therefrom have been filed, agreements as to value may be entered into by stipulation. Appeal cases will be diligently prosecuted to bring the case to trial and judgment in the shortest time

possible and necessary for the preparation of an adequate defense. In this manner, and with the court directed partial payments of awards outlined previously, interest and court costs will be held to a minimum level.

In most instances, the sale of privately-owned property to the City of Lincoln for public purposes is considered "involuntary conversion" by the Internal Revenue Service, and the owner may not have to pay capital gains tax on any profit from the sale of the property to the City of Lincoln, if the money is reinvested in similar property within two years. Internal Revenue Service Publication 549, entitled "Condemnations of Private Property for Public Use", is available from the IRS. It explains how the federal income tax applies to gains or losses resulting from the condemnation of property, or its sale under the threat of condemnation, for public purposes. IRS Publication 17, "Your Federal Income Tax", available from the IRS contains similar guidance. The owner is advised to discuss his particular circumstances with his personal tax advisor or local IRS office. State income tax considerations should also be discussed as appropriate.

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Appendix B

Relocation Assistance

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Introduction

One of the unfortunate, but sometimes unavoidable, consequences of a modern, progressive nation is the necessary displacement of a comparatively small percentage of the population for the greater good of the whole.

If you are required to move as the result of a publicly-financed construction project, you may be eligible for relocation assistance, advisory services and payments provided by federal and state law.

It is the policy of federal and state government that displaced persons shall receive fair and humane treatment, and shall not suffer unnecessarily as a result of programs designed for the benefit of the public as a whole.

This brochure contains only general information designed to acquaint you with available relocation services and benefits. The relocation agent from the City of Lincoln will be happy to explain them in detail.



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 Housing Rehabilitation & Real Estate Division
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8. Ownership of the property will transfer to the acquiring agency, either through agreement or by eminent domain procedures. (If you are still in occupancy, you will now pay your rent to the agency.)
9. Advance relocation payments will be readied, if necessary.
10. Move to the replacement.
11. Final relocation payments will be made.

Important Definitions

Acquiring Agency This can be the City of Lincoln, Nebraska or any other county, municipal or political subdivision of the State of Nebraska having the authority to acquire private property for public use. The relocation program for the City of Lincoln's projects is administered by the Housing Rehabilitation & Real Estate Division of the Urban Development Department. Political subdivisions may administer their own programs or may contract for that service.

Business Any lawful activity, except a farm operation, conducted primarily for: the purchase, sale, lease and rental of personal and real property; or for the manufacture, processing, or marketing of an article of commerce; or for the sale of services to the public; or for an outdoor advertising display when forced to move.

Displaced Person Any individual, family, business, farm or association that moves from real property or moves their personal property from real property as a result of actions by a governmental agency. This can be as a direct result of: a written notice of intent to acquire, the negotiations for the acquisition of, or the rehabilitation or demolition of such real property.

Family Two or more individuals living together in a single family dwelling unit, either related or by mutual consent.

Farm The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

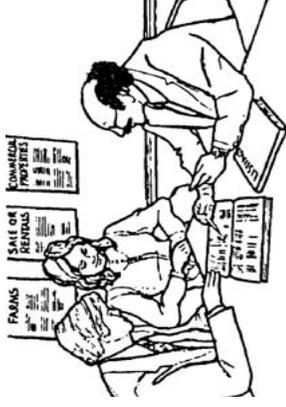
Initiation of Negotiations This term means the date the City of Lincoln delivers to the owner of the real property a written offer for the purchase of property, or a notice of its intent to acquire such real property.

Small Business A business having at least one, but not more than 500 employees working at the site being acquired by the City of Lincoln.

Relocation Assistance Advisory Services

Any person, family, business or farm displaced by a project shall be offered relocation assistance services for the purpose of locating a suitable replacement property. Relocation services are provided by qualified personnel employed by the City of Lincoln. It is their goal and desire to be of service to you, and assist in any way possible to help you successfully relocate.

Your relocation agent will provide you with assistance sufficient to meet your needs. You will be assisted in completing application and claim forms for payments and all relevant financial information concerning replacement housing will be explained. Every displaced person will be offered assistance in order to minimize hardships encountered in searching for and locating a decent, safe, and sanitary replacement property. This includes transportation to inspect housing which we have referred to you, if you need it.



If you have a special problem, your agent will make every effort to secure the services of other public and private agencies in your community which are equipped to help you. So please make your needs known to your agent. If the agent can't personally help you with a specific problem, perhaps he or she can find someone who can help. No one will be required to move from their existing dwelling for at least 90 days after a decent, safe and sanitary replacement dwelling has been made available to them. If decent, safe and sanitary housing is not available, the City of Lincoln will take whatever steps are necessary to provide housing through their Last Resort Housing methods. Remember - your agent is there to help and advise you; be sure to make full use of their services. Don't hesitate to ask questions, and be sure you understand fully all of your rights and relocation benefits.

Do not move until you have contacted your relocation agent or are given an official notice to vacate the premises.

Residential Moving Payments

Displaced individuals and families may choose to be paid on the basis of actual, reasonable moving costs and related expenses, or according to a fixed moving cost schedule. However, to assure your eligibility and prompt payment of moving expenses, you should contact the relocation agent from the City of Lincoln before you move. You can choose from either:

Commercial Move

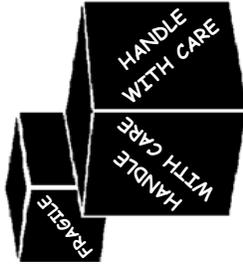
1. You hire the mover.
2. You pay the bills.
3. We reimburse you.

OR



Move Yourself

1. Amount is based on number of rooms (see *Moving Cost Schedule*).
2. No receipts required.



If you hire a commercial mover, **actual reasonable moving expenses** may be reimbursed. Certain other expenses are also reimbursable if the City of Lincoln determines that such costs are necessary, such as transportation costs to the new location, temporary quarters, storage of personal property, insurance costs while personal property is in storage or transit, reconnection of utilities, and other related costs. Your expenses must be reasonable and supported by receipts bills. Reimbursement is also limited to a 50-mile moving distance in most cases. Before taking this option you must submit to us at least two competitive bids from qualified commercial movers.

If you move yourself, you will be paid on the basis of the **moving cost schedule**. Moving cost schedules are prepared to provide adequate reimbursement for your moving expenses. The amount of the payment is based on the number of rooms in your dwelling. If you choose this option, your expenses need not be supported by receipts bills. Under this option you will not be eligible for reimbursement of related expenses.

Persons moving from a rooming or dormitory type situation, and who have a minimal amount of personal possessions, will be limited to a total moving payment of \$50. This amount also applies to anyone whose move is performed by the City of Lincoln at no cost to the person.

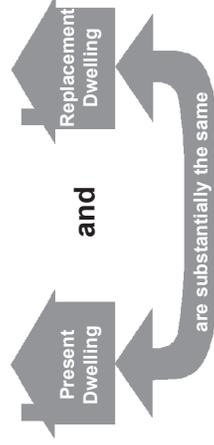
Moving Cost Schedule

Occupant Provides Furniture									
	1	2	3	4	5	6	7	8	Each Additional Room
	\$345	\$485	\$620	\$760	\$865	\$965	\$1,070	\$1,175	\$105
Occupant Does Not Provide Furniture									
			First Room	\$275				Each Additional Room	\$35

Replacements Housing Payments

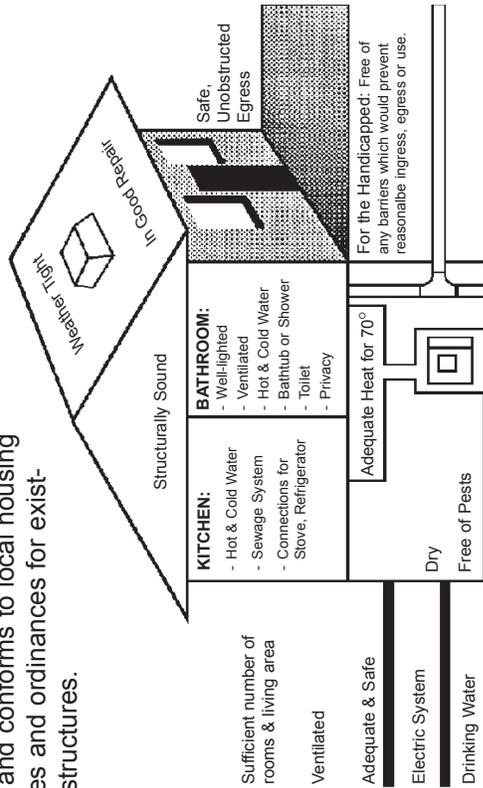
Replacement Housing Payments are to compensate the displaced person for increases in housing costs caused by acquisition of their dwelling. These payments represent the difference between the acquisition cost of your present dwelling and the purchase price of a comparable dwelling chosen by the City of Lincoln, or of the replacement dwelling you occupy, whichever is less. A **comparable replacement dwelling** means that your present dwelling and your replacement dwelling are substantially the same.

A comparable replacement dwelling is functionally equivalent and substantially the same as the original dwelling acquired, regarding the number of rooms, area of living space, construction, age and condition. It must be located in an area with comparable public utilities, public and commercial facilities. It must be reasonably accessible to your place of employment and adequate to accommodate your needs.



It must be located in an equal or better neighborhood and within your financial means. A comparable replacement dwelling must also be available on the open market and be fair housing, open to all persons regardless of race, color, religion, sex or national origin.

A comparable replacement dwelling must also be **decent, safe and sanitary**. Often referred to a "DSS housing," decent, safe and sanitary housing meets all of the minimum requirements established by regulation and conforms to local housing codes and ordinances for existing structures.



The kinds of Replacement Housing Payments that you may be eligible for depends on whether you are an owner or tenant and how long you have lived in the property being acquired prior to negotiations. There are three categories of payments:

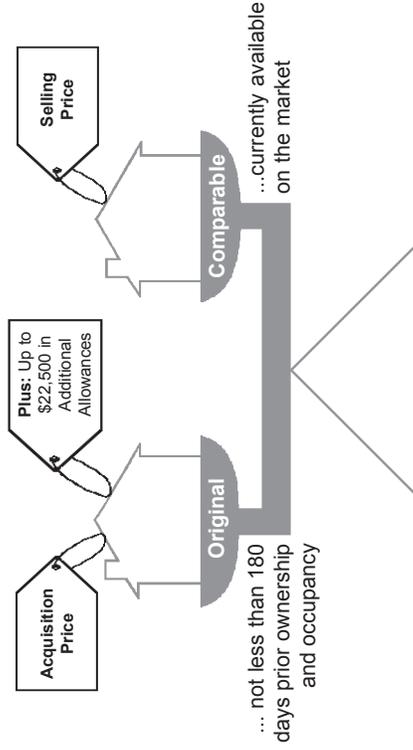
- **Owner Occupants of 180 Days or More**
- **Owner Occupants & Tenants of 90 Days or More, and**
- **Owner Occupants of 90 - 179 Days & Tenants of 90 Days or More.**

■ **Owner Occupants of 180 Days or More Purchase Supplement**

If you are an owner and have occupied your home for 180 days or more immediately prior to the initiation of negotiations for the acquisition of your property, you may be eligible for a **purchase supplement** - in addition to the acquisition price of your property. This purchase supplement cannot exceed \$22,500 for all costs necessary to purchase a comparable DSS replacement dwelling. The City of Lincoln will compute the maximum payment you are eligible to receive, attempting to balance the scale illustrated below.

To qualify for this supplemental payment, you must purchase and occupy a DSS replacement dwelling within one year after the latter of:

1. the date you receive final payment for the acquired dwelling or,
2. in the case of condemnation, the date the required amount is deposited in the court.

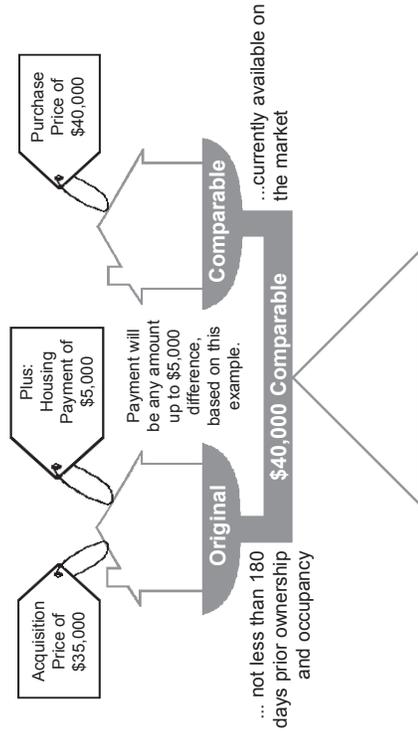


For Example...

Assume that the City of Lincoln purchased your property for \$35,000. After a thorough study of all available decent, safe and sanitary dwellings on the open market comparable to your dwelling, the City of Lincoln made the determination that a replacement property will cost you \$40,000. The City will pay you a maximum replacement property payment of \$5,000 if you, in fact, purchase a replacement property costing \$40,000 or more. If your purchase price exceeds \$40,000, you must pay the difference in excess of \$5,000. For example, if you purchased a replacement property for \$42,000, you would receive a

purchase payment of \$5,000 and you would pay the difference of \$2,000. If you purchased a replacement property for \$38,000, you would receive a payment of only \$3,000 on the basis of actual cost. Your payment cannot exceed actual cost difference or the amount determined by the City whichever is less.

Purchase Price of Replacement Property	Comparable Replacement Property	Acquisition Price of Your Property	Maximum Purchase Supplement
\$42,000	\$40,000	\$35,000	\$5,000
40,000	40,000	35,000	5,000
38,000	40,000	35,000	3,000



Reimbursement for Other Costs

The City of Lincoln will also reimburse you for other costs that may be involved in the purchase of a replacement dwelling. However, your total payment, including the purchase supplement, cannot exceed \$22,500 according to the law. The purchase supplement and other incidental costs are payments in addition to the purchase price of the dwelling acquired from you.

It is the intent of the relocation program to compensate the displaced person for their actual relocation expenses. However, those reimbursements must be reasonable and should not unfairly enrich the displacee. With this in mind, here are some of the items which will be reimbursed, and the conditions which must be met for doing so.

Increased Interest Cost

Persons eligible for this payment must have had a mortgage on the acquired dwelling, which was a valid lien, for at least 180 days prior to the initiation of negotiations.

This payment, when added to the down payment on the replacement, is designed to reduce a person's replacement mortgage to an amount which can be amortized at the same monthly payment, for principal and interest, over the remaining term on the old mortgage, or if less, the remaining term on the new mortgage. This procedure is commonly known as a "buydown."

Your payment will be reduced if you actually borrow less than the amount we calculate as your new mortgage.

In order to compute the payment, all pertinent information must be available to the agent, such as old and new interest rates and points, the remaining term and principal balance on the old and new mortgage, and the old and new monthly p&i payment. To make this payment work, please discuss it with your agent before you secure a new mortgage.

Incidental Expenses

You may be reimbursed for some of your closing costs connected with the purchase of your replacement dwelling, but not for prepaid expenses such as taxes or insurance. Here is a list of some of those items and the conditions for their being eligible:

- Notary fees
- Deed recording fees
- Termite inspection
- Title search
- Survey
- Inspections when warranted or required.
- Title insurance - buyer's half, not to exceed the cost for the comparable.
- Mobile home sales tax - not to exceed the cost for the comparable.
- Legal fees - for preparing contracts or for closing, when reasonable.
- Appraisal fee - if acquired property had a mortgage.
- Application fee - if acquired property had a mortgage.
- Credit report - if acquired property had a mortgage.
- Loan recording fees - if acquired property had a mortgage.

Property Tax Increase

If there is an increase in your real property taxes, you will be reimbursed over a three year period. The payment will not exceed the difference between your old taxes and the comparable's taxes.

The first computation and payment is made at the time of closing on your replacement. The second computation and payment will occur in the first months of the following year, with the third and final payment coming a year later. In some cases the displacee may take the first computed amount, times three, in a lump sum.

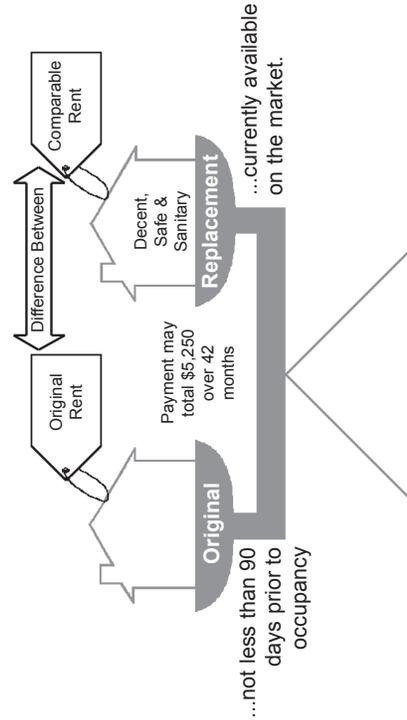
Owner Occupants and Tenants of 90 Days or More

Owner occupants and tenants of 90 days or more may be eligible for a rent supplement. To be eligible for this type of payment, tenants and owners must have been in occupancy at least 90 days prior to the initiation of negotiations for the acquisition of the property. This type of payment is a supplement, enabling you to rent a DSS replacement dwelling for three and one-half years, or 42 months. If you choose to rent a replacement dwelling and the rental payments are higher than you have been paying, you may be eligible for payments not to exceed \$5,250.

The maximum payment which you qualify for, if any, will be determined by the City of Lincoln in accordance with established procedures. The rent supplement payment will be disbursed in equal installments.

In addition to the occupancy requirements, you must rent and occupy a DSS replacement dwelling within one year after:

1. for a tenant, the date you move from the acquired dwelling; or
2. for an owner occupant, the latter of:
 - a. the date you receive final payment for the acquired dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or
 - b. The date you move from the acquired dwelling.



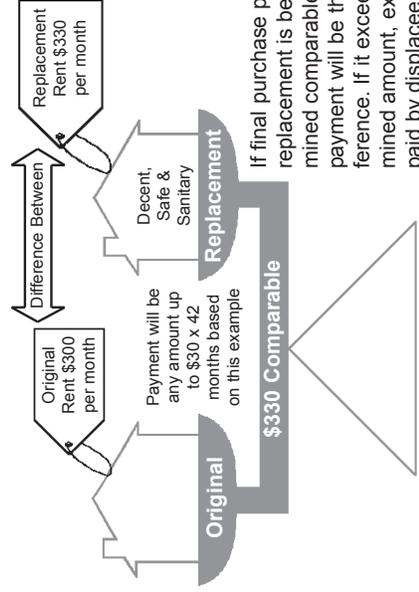
For Example...

As an example of how a rent supplement is computed, let's assume that you have been paying \$300 per month rent for the dwelling occupied by you and purchased by the City of Lincoln. After a study of the rental market, the City makes the determination that a replacement rental unit which is DSS and comparable to your present dwelling will rent for \$330 per month. The **maximum** rent supplement you can receive in this case is \$30 per month for a 42-month period.

If you select a replacement dwelling which rents for \$350 per month, despite the availability of comparable DSS replacement rental units that rent for \$330 per month, you will still receive only the maximum payment computed by the City of Lincoln as indicated above. In other words, you must pay the additional \$20 per month out of your own pocket. And, if you select a replacement dwelling which rents for more than your present rent, but less than the amount determined by the City, you will be paid on the basis of actual cost.

For example, assume you select a replacement dwelling unit that rents for \$320 per month. On the basis of actual cost you will be eligible for a payment of \$20 per month for 42 months.

The computations above are based on all dwellings having utilities included in the rent. Computations for an owner occupant are basically the same, except that a fair market rental amount will need to be established on your dwelling, for comparison with available rental dwellings.



■ For Owner Occupants of 90 to 179 Days and Tenants of 90 Days or More

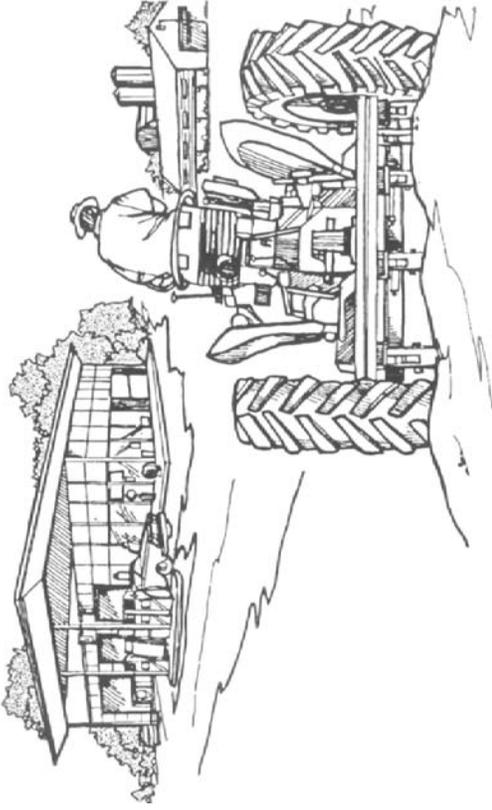
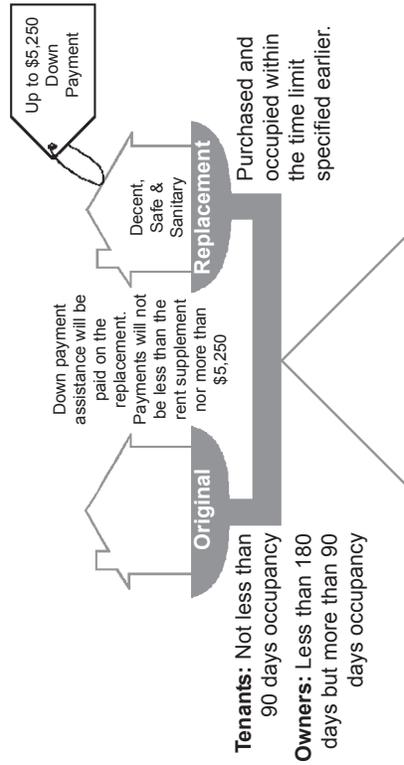
Owner occupants of 90 days to 179 days and tenants of 90 days or more who purchase a replacement dwelling are entitled to a down payment assistance payment in the amount the person would receive as a rent supplement as described previously. If the amount of the required down payment is greater than the computed rent supplement, that amount will be paid, not to exceed \$5,250.

The term "required down payment" means the down payment ordinarily required to obtain conventional loan financing for the decent, safe and sanitary dwelling actually purchased and occupied by the displaced person.

The payment to an owner occupant of 90 days to 179 days shall not exceed the amount the owner would receive as a purchase supplement if the owner met the 180 day occupancy requirement.

The full amount of the down payment assistance payment must be applied to the purchase price of the replacement dwelling and related incidental expenses.

Although this may sound complicated, the relocation agent from the City of Lincoln will explain the procedure to you personally.



Non-Residential Moving Cost Reimbursement Businesses, Farms & Nonprofit Organizations

Owners or tenants are eligible for payments designed to reimburse them for:

1. Their costs in moving personal property.
 2. Their time in searching for a new location.
 3. Actual loss of tangible personal property.
 4. Their expenses in re-establishing at a new site.
- OR**
5. They can take a fixed payment in lieu of the other relocation benefits. This payment is between \$1,000 and \$20,000, based on the net earnings of the business or farm.

Not all businesses, farms, or nonprofit organizations qualify for all payments. A relocation study will determine the extent of your eligibility.

Moving Expenses

When there is personal property to move, the owner of it has two methods to choose from:

- **Commercial Move.** You may be paid the actual reasonable costs of your move provided by the services of a commercial mover. All of your expenses must be supported by receipted bills in order to assure payment of your moving claim.
- **Self-Move.** If you decide to move yourself you may be paid an amount which does not exceed the lower of two firm bids by two qualified moving firms. If bids can't be obtained, your payment may be based on your actual, reasonable moving expenses supported by receipted bills or other evidence of expenses incurred.

You must first provide the City of Lincoln with an inventory of the items to be moved. The relocation agent will make a moving estimate, or will secure two bids from commercial movers. You will be offered an amount to move yourself, or you can hire a commercial mover; reimbursement not to exceed the low bid.

You must give your agent advance notice of the start of your move so that the move can be monitored, if needed.

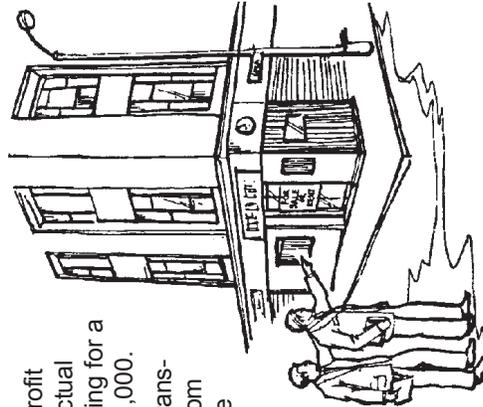
Some, but not all, of the elements of the move eligible for reimbursement are: transportation costs; packing costs; disconnect and reconnection of equipment; storage costs, if necessary; insurance; unused portions of licenses or permits; costs of obsolete signs and stationery.

Searching Expenses

Displaced businesses, farms and nonprofit organizations may be reimbursed for actual reasonable expenses related to searching for a replacement property, not to exceed \$1,000.

Expenses may include costs such as transportation, meals, lodging when away from home, and the reasonable value of time actually spent in search. All expenses must be supported by receipted bills.

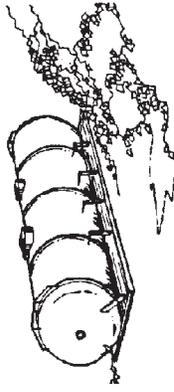
The value of time spent in the search must be supported by W-2 forms, pay stubs, tax returns, or other documentation. A detailed record of your searching activities must be kept and submitted before payment can be made.



Actual Direct Losses of Tangible Personal Property

A business or farm operation may decide not to move certain items of personal property, or to discontinue the operation. If so, this payment is designed to compensate for some of that loss. There are two situations and methods of computing your payment:

1. Item is not replaced. Payment will be the lower of:
 - a. Fair market value of item (in place value); Minus the proceeds of the sale of the item (must at least attempt); Plus reimbursement of the sale expenses; or
 - b. Estimated cost of moving the item (up to 50 miles).
2. Item to be replaced with new. Payment will be the lower of:
 - a. Cost of substitute item, including installation costs; Minus proceeds from the sale or trade-in of the old item; or
 - b. Estimated cost of moving and reinstalling the old item.



Re-establishment Expenses

In addition to the previous benefits, a small business, farm or nonprofit organization may be eligible for reimbursement of expenses actually incurred in relocating and reestablishing at a replacement site. Expenses must be reasonable and necessary, as determined by the City of Lincoln, and the payment will not exceed \$10,000. Some of these expenses may include, but are not limited to:

1. Repairs to the replacement real property, as required by law or code.
2. Modifications to the property to adapt it to the business's needs.
3. Construction and installation costs, up to \$1,500, for exterior advertising signing.
4. Provision of utilities from right-of-way to improvements.
5. Necessary redecoration or replacement of worn surfaces, such as paint or carpeting.
6. Feasibility surveys, soil testing, and market studies.
7. Advertisement of new replacement location, up to \$1,500.
8. Professional fees in connection with the purchase or lease of a new site.
9. Impact fees or one-time assessments for anticipated heavy utility usage.

10. Estimated increased costs of operation during the first two years at the new site, not to exceed \$5,000, for such items as:
 - a. lease or rental charges
 - b. personal or real property taxes
 - c. insurance premiums
 - d. increased utility charges, excluding impact fees.

Ineligible Expenses

The following is a nonexclusive list of re-establishment expenses not eligible for reimbursement:

1. Purchase of capital assets, such as office furniture, machinery, or trade fixtures.
2. Purchase of materials, supplies, or other items used in the course of normal operations.
3. Interest on money borrowed to make the move or purchase the replacement site.
4. Payment to a part-time business in the home which does not contribute substantial income.

Fixed Payment

Displaced businesses, farms and nonprofit organizations may be eligible for a fixed payment *IN LIEU* of actual moving expenses, reestablishment expenses, actual direct loss of tangible personal property, and searching expenses. Such payment may not be less than \$1,000 nor more than \$20,000. For the owner of a business to be eligible for this payment, the City of Lincoln must determine that:

1. the business owns or rents personal property to be moved.
2. the business cannot be relocated without a substantial loss of its existing patronage (income).
3. the business contributes materially to the owner's income.
4. the displaced business is not part of an enterprise having at least three other similar entities not being acquired.
5. the business is not solely for the purpose of rental property.

For the owner of a farm operation to be eligible for this payment, it must be determined that:

1. The operation contributes materially to the operator's income.
2. The acquisition of part of the land causes the operator to be displaced from the remaining land.
3. The partial acquisition causes a substantial change in the nature of the farm operation.

Computation of Your Fixed Payment...

The amount of the actual payment for businesses and farms is determined by the average of the annual net earnings for the operations in the two years preceeding the taxable year during which the enterprise is relocated.

For Example:

3rd Prior Year	2nd Prior Year	Year of Acquisition
Annual Net Earnings \$8,000	Annual Net Earnings \$14,000	Year of Relocation
Average _____		

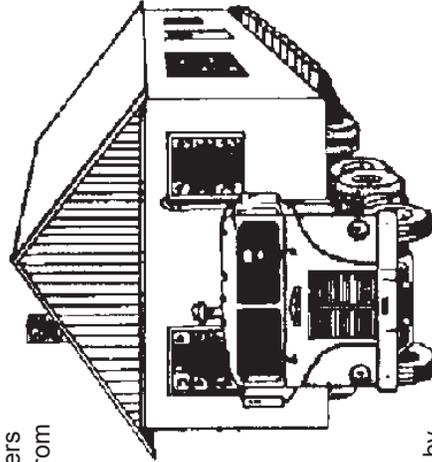
\$11,000 = Fixed payment; also called *IN LIEU* payment

A nonprofit organization is eligible for this payment when it cannot be relocated without a substantial loss of its membership or clientele. Any payment above \$1,000 is based on annual gross revenue minus administrative expenses.

You must provide tax information to the City of Lincoln to support your net earnings. If you've been in business less than two years, the net earnings for the actual period will be projected to an annual rate. Net earnings include compensation paid to the owner, the owner's spouse or dependents.

Miscellaneous Information

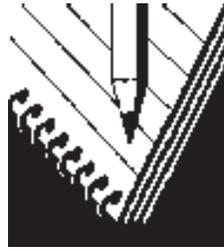
In the case of mobile home owners and tenants who are displaced from non-decent, safe and sanitary mobile homes, the replacement housing payments described earlier are applicable. For those mobile homes that are decent, safe and sanitary and can be moved, the provision of rental replacement housing payments, a purchase down payment on another site, or a purchase differential are applicable. Further explanation of these payments will be provided by your relocation agent.



If you choose to retain your present dwelling and move it to a new location, the replacement housing payment if any, will be the amount by which the cost to relocate the retained dwelling exceeds the acquisition price of the dwelling. This payment may not exceed the computed replacement housing payment based on the purchase of an available, comparable DSS dwelling.

No relocation payment received shall be considered as income for the purpose of the Internal Revenue Code of 1986 or the state tax laws. These payments are not income for determining the eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low income housing assistance.

Your Right of Appeal



If you have been refused a relocation payment, or if you believe that the payment offered was not adequate to relocate, you may file an appeal. To do that, request an appeal form by calling Urban Development Department at 441-7864. Fill out the appeal form and return it to: Housing Rehabilitation & Real Estate Division, 808 P Street, Suite 400, Lincoln, NE 68508.

Your appeal will be reviewed by the City of Lincoln's Real Estate Supervisor, who will make a decision after consulting everyone involved with the original determination. If you are unsatisfied with that decision, you may appeal it to the Director of the Urban Development Department. If you are unsatisfied with the Director's decision, you may appeal it to the Mayor. The Mayor will appoint a Relocation Appeal Board to preside over an information hearing. After reviewing the facts as presented by the Relocation Appeal Board, the Mayor makes the City's final determination. If still dissatisfied, you may appeal that determination to the District Court of Lancaster County.



CAMPJON@aol.com

12/07/2004 02:13 PM

To: jray@ci.lincoln.ne.us (City Council)

cc:

Subject: Fwd: Outdoor Smoking Room?

Joan--please share with Council and public.

Jon

--

Jon Camp

Lincoln City Council

City Council Office: 441-8793

Constituent representative: Darrell Podany

----- Message from "Chad Lunders" <chadlunders@hotmail.com> on Tue, 07 Dec 2004 13:46:40 -0600

To: pn Newman@ci.lincoln.ne.us, jcamp@ci.lincoln.ne.us, twerner@ci.lincoln.ne.us, ksvoboda@ci.lincoln.ne.us, jcook@ci.lincoln.ne.us, gfriendt@ci.lincoln.ne.us, amcroy@ci.lincoln.ne.us

Subject: Outdoor Smoking Room?

:

Hello Council Members,

I am very pleased with the new smoking ban which will soon take effect. The people have spoken and I knew that it would pass. I do have concerns however with what I saw at lunch today. While walking down the alley behind the Foxy Lady, I saw their new "outdoor" smoking facility. I could not believe it. This is basically a smoking room fully enclosed, other than 2 small spaces running along the tops of the 2 side walls and the roof. The point of the law which allows outdoor smoking is so that there is adequate ventilation. This room, located in an alley is nothing more than a smoking room which connects right to the rest of the facility, which in turn smoke will run right into the main facility. I would not be surprised if they even kept the door open all the time once the ban takes place. While I am not a patron of the Foxy Lady, I think this could set a very bad precedent for other places. In my opinion, the small open areas should be counted as window spaces, without actual windows. I would not be surprised if they would even go as far to place screens around these areas in the summer time so the bugs can't get in. In my opinion there should be a minimum area of 6 feet between 3 walls and the ceiling to qualify as an outdoor area. If you have not seen this, take a bit of time to look at it. Definitely not what I think of as an "outdoor facility".

Thank You,

Chad Lunders

MEMORANDUM

DATE: December 3, 2004

TO: Glenn Friendt, City Council

FROM: Don Taute, Personnel Director

SUBJECT: RFI # 40/Veterans in the City Workforce

Recently you inquired about the number of veterans the City currently has in its workforce and also requested information on the number of active reservists in City government.

In response to your inquiries, I have the following information:

1. The City does not track veterans status for current employees. Veterans preference is applied if eligible, at the time of initial application. I can provide the number of applicants who voluntarily disclosed their veterans status for the year 2003. I do not yet have the 2004 statistics. In 2003, 575 applicants disclosed their status as a veteran or 6.9% of the applications; 345 or 2.9% disclosed that they were Vietnam Era veterans; and 88 or 1.1% of applicants disclosed that they were disabled veterans. Total veteran applicants 1,008 or 10.9% of applications received.
2. Likewise the City does not have a way to track “active reservists” who are currently employed. The City does require that employees who engage in outside employment complete an outside employment form, but typically these forms are not completed by employees who are in the military reserve. I did obtain information from each of the departments regarding employees who are on “active duty”. There are currently 10 employees who are on active military duty broken down as follows:

Parks	1
Fire	1
Health	3
Public Works	2
Lincoln Police	3

I hope that this information is helpful to you.



Joan V Ray

12/02/2004 02:56 PM

To: newman2003@neb.rr.com
cc:
Subject: (no subject)

Patte - I'll go ahead and put this on the Directors' Agenda for 12-13-04.

Joan

----- Forwarded by Joan V Ray/Notes on 12/02/2004 02:57 PM -----



Hduster58@aol.com

12/02/2004 02:34 PM

To: council@ci.lincoln.ne.us
cc:
Subject: (no subject)

Patte,

Thanks for responding to my emails, you are extremely prompt!

As far as suggestions for rentals and potential abuse that can occur: We know that, generally speaking, landlords and renters do not take care of property like a landowner such as you and I (and thousands of others in Lincoln). I have the feeling that rentals tend to lower property values for the reason given above. In order to protect values, as well as our living style, there must be city codes to keep abuse from occurring.

Perhaps there should be very specific rules and laws for owners who purchase property with the intent of renting. For example, no couches on from porches! No parking on front lawns. I think that \$50 is too low for a license. Perhaps it should be \$250 for each licensed rental which also has a list of rules to be followed.

As I drive thru Meadowlane, I see more and more rentals and am quite concerned as to what will happen to our life style and our property values.

Can the parking enforcement department of the police dept. help with the enforcement of parking on front lawns? I think you and I started this conversation several months ago and I don't think the police have done anything on the addresses sent.

Thanks for listening.



CITY COUNCIL OF LINCOLN NEBRASKA

555 South 10th Street • Lincoln, NE 68508 • 402-441-7515

FAX: 402-441-6533 • E-MAIL: council@ci.lincoln.ne.us

KEN SVOBODA
City Council Member At Large

December 6, 2004

Bob Logsdon, Chairman
Nebraska Liquor Control Commission
301 Centennial Mall S.
PO Box 95046
Lincoln, NE 68509-5046

Re: Comments in support of 2004 legislative recommendations (Draft #2)

Dear Chairman Logsdon:

The City of Lincoln Internal Liquor Committee reviewed the Liquor Commission's legislative recommendations at the Committee's regular meeting on November 29, 2004. The Committee directed that I send a letter in support in my capacity as Committee chair. The Committee consists of three City Council members, myself, Annette McRoy, and Patte Newman. The Committee meets monthly with staff, community leaders and an industry representative to keep the City Council informed about liquor, special events and related law enforcement and other concerns. As you know, the Committee is dedicated to increased training and "above the line" accountability for all liquor retailers, with a commitment to bring community resources to address underage drinking and encourage responsible hospitality.

Overall, the legislative recommendations are laudable, and all are consistent with the Liquor Commission's duties and responsibilities. We agree with the straightforward and consistent approach on penalties for underage sales/procuring (Item 1). Lincoln has long had an ordinance prohibiting bartenders and servers from consuming while on duty (Item 4) (LMC § 5.04.260). This is common sense and has been a part of every effort to encourage responsible service from beverage serving professionals.

Avoiding the close concentration of multiple bars is a commendable and needed tool for the Commission, which we wholeheartedly support (Item 5). While we acknowledge there is no reason to discourage lawful competition, the Commission should be able to recognize that a concentration of licenses is problematic. This can be readily supported, especially where disturbances, violations, risky service practices and police calls can provide the tell tale rationale. In our experience, the close concentration of a number of stand-up bars with limited seating and limited food service is the most obvious concern. The strain on community

Bob Logsdon
December 6, 2004
Page 2

resources is very real, and is not confined to local law enforcement impacts. Once a critical mass of multiple stand-up bars develops, a troubling influence on neighboring properties can begin. It is often difficult for other businesses to locate or even remain in that area. Of course, if an existing business vacates the area, the logical next owner/operator or tenant is another bar, only adding to the concerns.

We have been advised of the concerns on the AWOL devices and agree that a clarification to shore up the conclusion that the devices are regulated is in order (Item 7). We also had a detailed discussion about special designated licenses (Item 8). We concur that SDL's should only go to existing license holders. There are a very few SDL's issued to non-profit organizations here in Lincoln. We also learned that some caterers misuse their unrestricted SDL ability to obtain SDL's for the very same location almost every weekend. This generates an excessive amount of administrative paperwork and review for a location that should probably have a regular liquor license, with all the applicable life safety and building requirements. An appropriate increase in the SDL fees will likely help this transition, as it will be more cost effective for the premise to hold a regular liquor license. While we support the proposal that caterers pay \$100 for each SDL, it may be cumbersome and expensive to track those on a transactional basis. We have nearly one thousand SDLs in Lincoln. As a result, we would suggest that all caterers continue the annual fee with a three-tiered SDL fee structure for low use, moderate use, and high use caterers. We also do not want to discourage smaller social events from hiring caterers, since cash bars are an effective responsible hospitality serving practice.

Thank-you, for the opportunity to review and comment on these items.

Sincerely,



Ken R. Svoboda
Lincoln City Council Member
Internal Liquor Committee Chair

KS/jvr

cc: ILC Members

Subject: [Fwd: WernerRFI#142-The total smoke ban]

Date: Tue, 30 Nov 2004 13:18:30 -0600

From: Dana Roper <droper@ci.lincoln.ne.us>

To: tskinner@ci.lincoln.ne.us

Subject: WernerRFI#142-The total smoke ban

Date: Tue, 30 Nov 2004 12:46:48 -0600

From: TBogenreif@ci.lincoln.ne.us

To: BDart@ci.lincoln.ne.us, DRoper@ci.lincoln.ne.us, TBabb@ci.lincoln.ne.us,
TRStorer@ci.lincoln.ne.us, ESevere@ci.lincoln.ne.us

CC: campjon@aol.com, jcookcc@aol.com, glenn@friendt.com, amcroy@mccrealty.com,
newman2003@neb.rr.com, ksvoboda@alltel.net, twernerLnk@aol.com,
Mayor@ci.lincoln.ne.us, MBowen@ci.lincoln.ne.us, LQuenzer@ci.lincoln.ne.us,
DEngstrom@ci.lincoln.ne.us, CKielty@ci.lincoln.ne.us, ibew2366@alltel.net

RFI#142

From: Terry Werner

To: Bruce Dart, Health Director and Law Department

Please find Request for Information #142 from Terry Werner. Would you please respond to Jerry Gulizia for me and send response to me. (See E-Mail below)

If you will send your response to the Council Office at CouncilPacket@lincoln.ne.gov, in a pdf format, we will distribute your response in the usual manner on the Directors' Agenda. The Subject line need only read WernerRFI#142. Thank-you.

Tammy Grammer
City Council Office
555 South 10th Street
Lincoln, NE 68508
Phone: 402-441-6867
Fax: 402-441-6533
e-mail: tgrammer@ci.lincoln.ne.us

(E-Mail from Jerry Gulizia) -

What do you think we can do for the workers in the city on the total ban? I was just in Lexington Kentucky and they have a total ban, and at the Square D plant their, the plant manager is building three smoke rooms outside with only three walls for shelter for the employees. The plant manager told me this is not a true building with only three walls so it will pass their code. I have read the new ban and would it be legal to have a smoke room outside of our plant? As I showed the photos of our current break room outside, it is just a patio room with windows separate from the plant. Would this work, or would the windows need to be removed or a wall removed?

Jerry Gulizia

----- Original Message -----

From: TWernerLNK@aol.com

To: ibew2366@alltel.net

Cc: CKielty@ci.lincoln.ne.us

Sent: Tuesday, June 29, 2004 8:22 AM

Subject: Re: Democrat

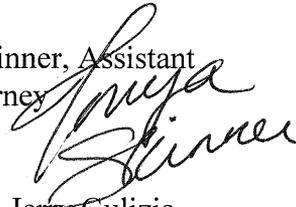
Jerry, I am happy to amend the ordinance to cover your needs. I have no problem with that. We did not have much opportunity to think last night about amendments. Ken surprised all of us and I still favor the total ban. I have no problem with people who smoke. This is purely an employee protection issue for me. I am CC Corrie Kielty to ask her to have the break room exemption prepared. Let me know if that is satisfactory to you. Thanks Jerry! Terry

Thanks Corrie!

INTER-DEPARTMENT COMMUNICATION

TO Terry Werner, Council Member
DEPARTMENT City Council
ATTENTION
COPIES TO

DATE December 2, 2004
FROM Tonya Skinner, Assistant City Attorney
DEPARTMENT City Law
SUBJECT RFI #142, Jerry Gulizia, Smoking Ban



ISSUE:

E-mail from Jerry Gulizia requesting advice on what would be an appropriate outdoor smoking area.

ANALYSIS:

On November 29, 2004, Bruce Dart received an e-mail from Mr. Gulizia that was very similar to the e-mail received by you. Mr. Dart forwarded the e-mail to the Law Department, specifically to myself, asking for assistance in answering Mr. Gulizia's e-mail. Due to the nature of Mr. Gulizia's letter and past experience in discussing this issue with Mr. Gulizia, it was my determination that it would not be appropriate for me to provide legal advice to Mr. Gulizia. In the attached response to Mr. Gulizia's e-mail, you will see that I tried to provide as much information as I could without providing a legal interpretation to a private individual.

If you find that this response does not meet the Mr. Gulizia's request, please feel free to contact me to discuss what further information may be helpful to Mr. Gulizia.

Subject: Re: Smoking Regulation

Date: Tue, 30 Nov 2004 08:26:28 -0600

From: "Tonya L. Skinner" <tskinner@ci.lincoln.ne.us>

Organization: Assistant City Attorney

To: BDart@ci.lincoln.ne.us

CC: Jerry Gulizia <gulizia@inetnebr.com>, CBurke@ci.lincoln.ne.us

Dear Jerry, I am sorry I am not able to directly answer your question because I am not allowed to provide legal advice. However, I can tell you that business may make modification to an existing structure to meet this ordinance. Such things would be complete removal of windows, doors, walls, etc. The removal must be to an extent that the pre-existing window or door could not be used or closeable. Hypothetically, if a business removed the window, including frame, it may meet the terms of the ordinance. I am sorry that I could not be of more help. Tonya

BDart@ci.lincoln.ne.us wrote:

> Jerry, I'm going to refer your question to our city attorney, Tonya
> Skinner. Tonya, if you would please answer Jerry's question, I would
> appreciate it.

> Thanks,
> Bruce

>
> Bruce D. Dart, MS
> Health Director
> Lincoln-Lancaster County Health Department
> 3140 N Street
> Lincoln, NE 68510
> 402-441-8001
> bdart@ci.lincoln.ne.us

> *****

> "Its amazing how much can get done when no one cares who gets the credit."

>
>
> "Jerry Gulizia"
> <gulizia@inetnebr.com>

To: <bdart@lincoln.ne.gov>
cc:
Subject: Smoking Regulation

11/29/2004 11:38
PM

>
>
> Hi Bruce, my name is Jerry Gulizia President/Business Manager of IBEW Local
> Union 2366 representing the employees at Square D Company. I have a
> question about the new Smoking Act. We have at Square D outside of the
> plant a smoke room or in reality is a patio room with one solid block wall
> a double door entry area to the plant and two walls with windows. Would
> this be a legal area to provide for smokers to use after January 1st? If
> not what would need to be done to help provide some form of shelter for our
> members who smoke?

> In reading the Act it says an indoor area is defined as an area enclosed by
> a floor, ceiling and floor to ceiling walls on all sides that are
> continuous and solid except for closeable entry/exit doors and windows. We
> have all of the above. Would it be legal to remove the windows on one side
> of the patio room to make this a legal shelter for our smoking members? If
> the windows are removed to the outside would this be ok? Below are some
> photos of our current smoke room.

> Thanks Jerry
> 730-3802

> (Embedded image moved to file: pic24370.gif)
>
> -----
> Name: pic24370.gif
> pic24370.gif Type: GIF Image (image/gif)
> Encoding: base64

Tonya L. Skinner <tskinner@ci.lincoln.ne.us>



Joan V Ray
12/06/2004 12:19 PM

To: "Joni Cover" <Joni@npharm.org>
cc: <council@ci.lincoln.ne.us>
Subject: Re: Pine Lake Development

Dear Ms. Cover: Your message has been received in the Council Office and will be forwarded to the Council Members for their consideration. Thank you for your input on this issue.

Joan V. Ray
City Council Office
555 South 10th Street
Lincoln, NE - 68508
Phone: 402-441-6866
Fax: 402-441-6533
e-mail: jray@ci.lincoln.ne.us
"Joni Cover" <Joni@npharm.org>



"Joni Cover"
<Joni@npharm.org>
12/06/2004 12:13 PM

To: <council@ci.lincoln.ne.us>
cc:
Subject: Pine Lake Development

Good Morning,

Due to another scheduled meeting, I am unable to attend today's City Council meeting. I would like to express my concerns with the development of Pine Lake by Hampton Development. As a property owner, and a resident of Vintage Heights, I want to stress that Hampton Development is not interested in the best interests of the neighborhoods - only his pocketbook! I am OPPOSED to the waiver that the City Council can grant to Hampton Development to build a lift station along 98th street. If Hampton builds a lift station, Hampton should be responsible for the cost of doing so, and not shift that financial burden to the property owners in the Vintage Heights neighborhood.

Hampton Development has been huge disappointment to many in our area. Vintage Heights was promised many developments, no changes in zoning, etc., and each time, the City Council has ruled in favor of Hampton, and against the residents and taxpayers in allowing unnecessary, costly and unacceptable changes to be made to the Vintage Heights plans. Isn't it the responsibility of the City Council to make sure that neighborhoods are not burdened by developers?

I urge you to not allow a waiver to be granted to Hampton Development to build a lift station and pass the costs along to residents.

Thank you.

Joni Cover
5920 South 91st Street
Lincoln, NE 68526
402-484-5920

~~~~~

Joni Cover, J.D.  
Executive Vice President  
Nebraska Pharmacists Association

6221 South 58th Street, Suite A  
Lincoln, NE 68516  
(402) 420-1500  
(402) 420-1406 fax  
[www.npharm.org](http://www.npharm.org)

DEC 06 2004

CITY COUNCIL  
OFFICEAttn: ~~Mr. [unclear]~~ City Council of L, N,

11-24-04

"I want thank-you all so much for helping me out I really do, you every one else have a very merry Christmas, & A Happy N, yr!  
 We have too watch out for, Aquilla also, but they all willing help me to, their going too set up a payment plan for me, and Guest.  
 What, salvation helps me with \$300, on my L, E, S, It was a blessing my angels came too me, and talk with as well, or Aquilla CO, one of Two anyway it still was a blessing.

Sign your  
 Friend  
 always!  
 ms, H. B. Richard

RECEIVED  
DEC 06 2004  
CITY COUNCIL  
OFFICE

# BIG JOHN'S



“STRAIGHT SHOOTIN”

December 3, 2004

Terry Werner  
City of Lincoln  
City Council Office  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

Dear Councilman Werner:

Thank you for sending me your note about sending my letters to the City Law Department. Please forward this letter from the Equal Opportunity Commission to the Law Department, regarding hiring only employees that smoke.

Sincerely,

Will Prout



RECEIVED  
DEC 06 2004  
CITY COUNCIL  
OFFICE

November 26, 2004

Equal Opportunity Commission  
P.O. Box 94934  
Lincoln, NE 68509-4934

Dear Commissioner:

I opened my business Big John's Billiards in Lincoln Nebraska in 1984. My 13,000 square foot building was designed to have 30 pool tables and eliminate the smoke from the interior of the building. My building is a Pool Hall and 80% of my customers smoke cigarettes. It has been that way for over 20 years. (Maybe even hundreds of years)

As a business owner and a non-smoker I have supported my family, my employees, and the community by catering to people who smoke cigarettes and play the game of pool. I have been a good employer and never discriminated against any employee or customer.

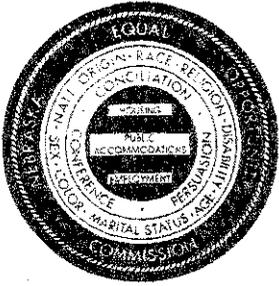
I now have found myself being forced to operate a non-smoking pool hall in Lincoln. The Lincoln City Council is telling me to change the way I operate my business and eliminate 80% of my customers. The no-smoking ordinance will eliminate enough revenue to close the doors on my beautiful Billiard Center.

I am hoping that the Lincoln City Council will create a "Smoking License" or "Grandfather Clause" to help me protect my business and my million-dollar investment from being voted out of business by Non-Smokers.

My question to the Equal Opportunity Commission is: As an employer I would like to operate my business for smokers only. I want all my employees to be people who smoke cigarettes. The problem with second-hand smoke is not an issue for people who smoke. "Bartender needed (non-smokers need not apply)." Is this discrimination?

Sincerely,

  
Will Prout



# STATE OF NEBRASKA

## NEBRASKA EQUAL OPPORTUNITY COMMISSION

MIKE JOHANNIS  
GOVERNOR

ALFONZA WHITAKER  
DIRECTOR

December 1, 2004

Will Prout  
Big John's Billiards, Inc.  
9819 M St.  
Omaha, NE 68127

RE: Advertisement

Dear Mr. Prout:

Your letter to the Commission dated November 26, 2004, has been assigned to me for response. Please be advised the only bases covered under employment discrimination law are age, race, color, religion, sex, national origin, disability, pregnancy and related conditions, and retaliation. Also, the issue of smoking or non-smoking would not be a covered basis under any other discrimination law.

Copies of the employment discrimination statutes, the public accommodations statute, and related brochures have been enclosed for your review. As the Commission is unable to provide legal advice, it is recommended any further questions you might have about your concern be referred to an attorney.

On behalf of the Commission,

Mary F. Hutson  
EOC Investigator II

RECEIVED

DEC 06 2004

CITY COUNCIL  
OFFICE

REPLY TO



BRANCH OFFICES:

State Office Building, 5th Floor  
301 Centennial Mall, South  
P.O. Box 94934  
Lincoln, Nebraska 68509-4934  
Telephone: (402) 471-2024  
Fax: (402) 471-4059  
[www.neoc.org/home/NEOC](http://www.neoc.org/home/NEOC)

Panhandle State Office Complex  
4500 Avenue I  
P.O. Box 1500  
Scottsbluff, Nebraska 69363-1500  
Telephone: (308) 632-1340  
Fax: (308) 632-1341

1313 Farnam on-the-Mall  
Omaha, Nebraska 68102-1836  
Telephone: (402) 595-2028  
Fax: (402) 595-1205



**Joan V Ray**

12/08/2004 08:55 AM

To: "Jerry & Terri Roberts" <jandt7@navix.net>

cc:

Subject: Re: Vintage Heights Homeowners Association 

Dear Mr. & Ms. Roberts: Your message has been received in the Council Office and will be forwarded to the Council Members for their consideration. Thank you for your input on this issue.

Joan V. Ray

City Council Office

555 South 10th Street

Lincoln, NE - 68508

Phone: 402-441-6866

Fax: 402-441-6533

e-mail: jray@ci.lincoln.ne.us

"Jerry & Terri Roberts" <jandt7@navix.net>



**"Jerry & Terri Roberts"**  
<jandt7@navix.net>

12/07/2004 10:39 PM

To: <council@ci.lincoln.ne.us>

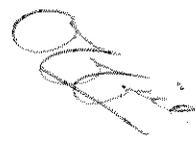
cc:

Subject: Vintage Heights Homeowners Association

Thank you all for the positive votes to change the wording in the Temporary Pump Station policy as requested by Vintage Heights Homeowners Association. We certainly do not envy the hard job you all have in keeping our City on the right track toward progress, it was a very eye opening experience to be at the meeting on December 6 (although I did notice Jonathan Cook closed his eyes a few times 😊. I don't know how you all can stay so focused..). We appreciate your interest in our concerns and want you to know that if we only need to come to the Council meetings with concerns once or twice a year, that is a positive reflection of what a good job you are doing of managing our City by diligently sifting through the numerous requests for change and innovation that come before you.

Terri Roberts

President – Vintage Heights Homeowners Association



**ADDENDUM  
TO  
DIRECTORS' AGENDA  
MONDAY, DECEMBER 13, 2004**

**I. MAYOR**

1. NEWS ADVISORY - RE: Mayor Seng's Public Schedule Week of December 11 through 17, 2004 - Schedule subject to change - (See Advisory)

**II. CITY CLERK - NONE**

**III. CORRESPONDENCE**

**A. COUNCIL REQUESTS/CORRESPONDENCE - NONE**

**B. DIRECTORS AND DEPARTMENT HEADS - NONE**

**C. MISCELLANEOUS**

1. Letter & Material from Peter W. Katt, Pierson/Fitchett, Law Firm - RE: Stevens Creek Flood Boundary-(Council received copies of this Material on 12/9/04 in their Thursday packets)
2. E-Mail from Craig Larabee - RE: 04R-317-Waiver 04016 - Waiving the requirement for the construction of a sidewalk in the pedestrian easement associated with the Corrected Final Plat of Edenton South 10<sup>th</sup> Addition, generally located at South 70<sup>th</sup> Street and Old Cheney Road - (See E-Mail)
3. E-Mail from Richard & Rae Geier - RE: Waiver #04016 - (See E-Mail)
4. Letter from Danny Walker, President, South Salt Creek Community Organization to John Callen-EIT, Building & Safety Department - RE: Formal Complaint - On Council Agenda for Dec. 13<sup>th</sup>, Item #32-Releasing a conservation easement granted to the City by TMC0 Investments over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln - (See Letter)



# NEWS ADVISORY

MAYOR COLEEN J. SENG

lincoln.ne.gov

Date: December 10, 2004

Contact: Diane Gonzolas, Citizen Information Center, 441-7831

**Mayor Seng's Public Schedule  
Week of December 11 through 17, 2004**  
*Schedule subject to change*

**Saturday, December 11**

- Sowers Club annual dinner, remarks - 6 p.m. reception, 7 p.m. dinner, Cornhusker Hotel, 333 S. 13th Street

**Monday, December 13**

- Mayor's Award of Excellence presentation - 1:30 p.m., City Council Chambers, 555 S. 10th Street (Award will go to team from Parks and Recreation that saved a child's life last summer at Star City Shores.)

**Tuesday, December 14**

- 45th Annual Havelock Business Association Christmas Breakfast, remarks - 8 to 9 a.m., Isles Reception Hall, 6232 Havelock Avenue
- Mayor's Multicultural Advisory Committee monthly meeting - 4:30 p.m., Mayor's Conference Room, 555 S. 10th Street

**Wednesday, December 15**

- KFOR call-in show - 12:30 p.m., 3800 Cornhusker Highway
- City Council Budget Retreat - 1 to 5 p.m., "F" Street Recreation Center, 1225 "F" Street

**Thursday, December 16**

- News Conference - 10:30 a.m., topic and location to be announced

**Friday, December 17**

- Lincoln Plating expansion dedication, remarks - 11:30 a.m., 600 West "E" Street

COPY

**Pierson|Fitchett**  
LAW FIRM

1045 Lincoln Mall  
Suite 200  
P.O. Box 95109  
Lincoln, NE 68509  
(402) 476-7621  
fax (402) 476-7465  
[www.pierson-law.com](http://www.pierson-law.com)

Thomas J. Fitchett  
Mark A. Hunzeker  
William G. Blake  
Peter W. Katt  
William C. Nelson  
David P. Thompson  
Patrick D. Timmer  
Randy R. Ewing  
Shanna L. Cole  
Jason L. Scott

December 9, 2004

Gary L. Aksamit  
of Counsel

City Council  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RECEIVED  
DEC 09 2004  
CITY COUNCIL  
OFFICE

Re: *Stevens Creek Flood Boundary*  
*"Best Available" Information*

Dear Council Members:

I received a notice on Monday of the hearing set for Monday, December 13 at which I expect City staff will present and request that you adopt the current technical Creek flood plain study as the "best available" information for local regulatory purposes. I have been actively involved in monitoring the Stevens Creek watershed study due to the significant impact it will have on this City's future in this watershed and others. I have paid particular attention to the study and its effects on the Prairie Homes developments (approved and planned) in the area of 84<sup>th</sup> and Adams. At your hearing on Monday, I will request that you place this matter on pending in the belief that it is premature for this information to be used for local regulatory purposes.

The City staff's proposal to adopt the recently completed flood plain study as best available information is indefensible. Our preliminary review of some information within the study indicates there are significant inaccuracies. The requirement of submitting the study to FEMA is to subject it to peer review and analysis, as well as make it available for public review and comment. I have attached an exchange of emails with City staff through which I was ultimately able to obtain a copy of the Study. However, staff has been reluctant if not outright unwilling to make this information available generally to the public. One wonders if the reason might be their interest in having the study approved for local regulatory purpose prior to there being any opportunity for review. In any event this study should not be used for regulatory purposes without first subjecting it to some level of study review and scrutiny.

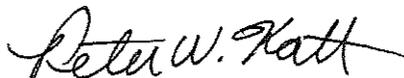
In a bigger context, this technical study is only one piece of the larger Stevens Creek watershed study. The notice I received states it is one of the components. I have a considerable degree of concern elevating one component of the study in advance of all others. It appears best to have a comprehensive discussion of all of the components of the Stevens Creek watershed study rather than deal with them in a piecemeal fashion. I enclose recent exchanges with staff on the water quality component and 98<sup>th</sup> Street project component. Staff only reluctantly shares information, if at all, suggesting they do not welcome informed public involvement in this process. They have also been unwilling or unable to develop any cost estimates for implementing this dramatic increase in standards. I would ask that you slow this train down before it derails.

**Pierson, Fitchett, Hunzeker, Blake & Katt**

City Council  
December 9, 2004  
Page 2

I look forward to visiting with you on this matter next Monday.

Sincerely,



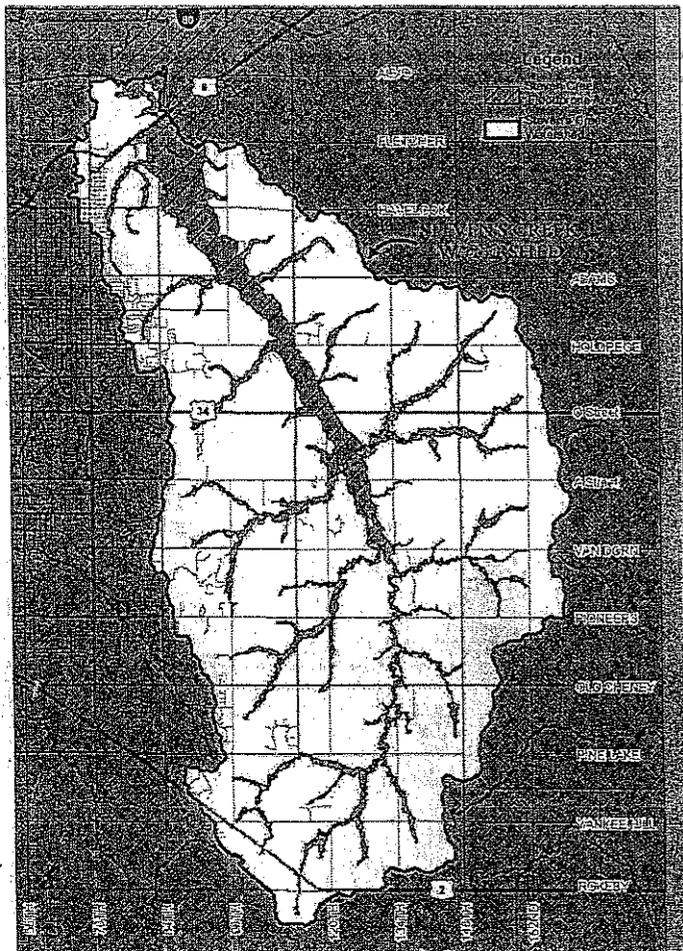
Peter W. Katt  
For the Firm  
lawkatt@pierson-law.com

PWK:kg

cc: Steve Champoux  
Mark Mainelli

(G:\WPData\PK\Stevens Creek mailing lists\City Council 12-7-4.ltr.wpd)

COPY



# CITY COUNCIL PUBLIC HEARING ON STEVENS CREEK **REVISED** FLOOD BOUNDARY

**Monday, December 13, 2004**

**City Council Chambers, 555 South 10th Street**

The City and Lower Platte South NRD are in the process of a comprehensive basin study of the Stevens Creek Watershed. One of the components of the study is to provide up-to-date technical information regarding floodplain boundaries associated with Stevens Creek and its tributaries.

The technical floodplain study component has been completed and is being submitted to the Federal Emergency Management Agency. On Monday, December 13, the Lincoln City Council will hold a public hearing on a resolution to formally recognize the floodprone areas of Stevens Creek and its tributaries as the best available information for local regulatory purposes, in conformance with the Flood Standards for New Growth Areas adopted by the City Council on May 11, 2004.

The regular City Council meeting begins at 1:30 pm in the City Council Chambers 555 S. 10th Street. For more information regarding the study, or to view the maps, please visit the watershed basin planning website at [www.stevenscreekwatershed.com](http://www.stevenscreekwatershed.com) or call Ben Higgins at the Lincoln Public Works & Utilities Department at 441-7589.



Lower Platte South  
Natural Resources District



Peter Katt

Floodplain Study

Subject: HEC Study Request-Stevens Creek Watershed Model

1/2

*Follow-up to Verbal Request.*

-----Original Message-----

From: Peter Katt

Sent: Tuesday, September 07, 2004 4:49 PM

To: Nicole Fleck-Tooze (E-mail)

Cc: 'Mark Mainelli'

Subject: RE: HEC Study Request-Stevens Creek Watershed Model

Nicole:

I just left a vmail message for you earlier. Ben I thought had indicated that the modeling would be made available to the development community with 'work-in-progress' disclaimers. I am sure the City would like projects designed with this information utilized if at all possible. It would appear that now the information is not being released. Why? Let me know what we need to do to get it released to Mark Mainelli so he can work on this project. Call me tomorrow if you can.

Thanks!

Peter

*Response:*

-----Original Message-----

From: BHiggins@ci.lincoln.ne.us [mailto:BHiggins@ci.lincoln.ne.us]

Sent: Wednesday, September 08, 2004 1:23 PM

To: mmainelli@mwaeng.com

Cc: Peter Katt; NTooze@ci.lincoln.ne.us

Subject: RE: HEC Study Request-Stevens Creek Watershed Model-Murdock Trail Embankment

Mark

I should be receiving the necessary hydrologic and hydraulic models tomorrow evening from CDM on a CD. The CD will be at my office Friday AM for pickup. Please call ahead and let me know when you will be here so I can make sure it's available.

Thanks

Ben Higgins

Watershed Management

City of Lincoln Public Works

441-7589

## Peter Katt

---

**From:** Mark Mainelli [mmainelli@mwaeng.com]  
**Sent:** Thursday, September 23, 2004 3:33 PM  
**To:** Peter Katt  
**Subject:** RE: Prairie Homes Stevens Creek

2/2

we received a call today to pick up the disk

Mark Mainelli, P.E.  
Mainelli Wagner & Associates, Inc.  
6920 Van Dorn Street  
Lincoln, Nebraska 68506  
(402) 421-1717

-----Original Message-----

**From:** Peter Katt [mailto:LawKatt@Pierson-Law.com]  
**Sent:** Thursday, September 23, 2004 3:17 PM  
**To:** Mark Mainelli  
**Subject:** Prairie Homes Stevens Creek

Mark: Have you gotten the Stevens Creek data that you need yet? Please advise.

Peter W. Katt  
Pierson, Fitchett, Hunzeker, Blake & Katt  
1045 Lincoln Mall  
P.O. Box 95109  
Lincoln, NE 68509  
Phone: 402-476-7621  
Fax: 402-476-7465  
E-Mail lawkatt@pierson-law.com

=====  
This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message. Thank you.  
=====

Peter Katt

Water Quality  
1/7

**From:** Peter Katt

**Sent:** Monday, October 11, 2004 5:35 PM

**To:** Brian Carstens (E-mail); Dan Vokoun (E-mail); DaNay Kalkowski (E-mail); Duane Hartman (E-mail); Ed Copple (E-mail); Fred Matulka (E-mail); Gerry Maddox (E-mail); Jeff Johnson (E-mail); Jerry Maddox (E-mail 2); Joe Hampton (E-mail); Kent Seacrest (E-mail); Kent Thompson (E-mail); Leo Schumacher (E-mail); Lyle Loth (E-mail); Mark A. Hunzeker (E-mail); Mark Mainelli (E-mail); Mark Palmer (E-mail); Mike Eckert (E-mail); Mike Michaelson (E-mail); Pat Mooberry (E-mail); Paula Dicerio (E-mail); Peter Katt (E-mail); Richard Meginnis (E-mail); Rick Carson (E-mail); Rick Krueger (E-mail); Rick Onnen (E-mail); Steve Champoux (E-mail)

**Subject:** Kent's Questions for tomorrow

With the assistance of some Stevens Creek Committee members and hydrologist engineers, we have developed 20 questions the City should answer before approving these standards.

1. Is there a federal or state mandate requiring the proposed water quality standards?
2. If water quality has been deemed a community standard/goal/value, shouldn't the community pay for it?
3. Do we really want to preserve stream channels that are severely degraded from agricultural processes? Wouldn't it be better to combine water quality/flood control detention efforts with floodplain restoration efforts? Isn't a conservation approach better (and more economical) than a preservation approach in this case?
4. Will the City require the developer to also pay for all or a portion of the stream stability goals/standards?
5. Shouldn't water quality BMPs be combined with floodplain preservation to be sure we have an integrated, balanced and cost-effective water BMP combined with quality/quantity system?
6. What constituents of concern are we trying to address? Sediments, nutrients, bacteria, chemical? How well are the current standards addressing or abating these constituents? How well will the proposed standards address or abate these constituents under Option A or Option B? If there are increases, are the increases economically justified?
7. If the community does not adopt these new standards, what additional costs will the community incur or what additional harm to the environment will occur?
8. Will these standards be successful in reducing pollution from Steven's Creek when 2/3 to 3/5 of the Stevens Creek basin remains in Agricultural use?
9. Do the recent bond election results raise the possibility that the community may not be able to afford BMP for water quality, as well as, roads, schools, housing, health and human services?
10. How do we define Best Management Practices (BMPs)? Implementing measures that would maximize an objective? Does the definition include economic considerations such as a cost/benefit analysis? Has the City/NRD done a cost/benefit analysis for these new standards?
11. Do we need such rigid design standards or can we set water quality/stream stability goals and allow the developer the flexibility to design his/her own engineering approach to meet or exceed the goals?
12. Did the NRD incorporate similar proposed water quality features in their ten detention ponds? If not, can those features be incorporated?

2/7

13. Is there scientific data or peer review consensus that these standards will lead to stream stability?
14. Will the water quality standards address stream stability goals given that the existing streams are degraded and development (even with treatment) will increase degradation?
15. Given the multitude of sub basins in Stevens Creek does one size fit all?
16. What are the current water quality conditions and what are the goals of the new standards? What portion of the standards are agricultural based versus urban based?
17. What base line goals are the water quality standards trying to achieve?
  1. pre agricultural stream conditions
  2. agricultural stream conditions
  3. urban stream conditions
18. How will success be measured?
19. Will these standards apply to: a) only Steven's Creek; b) New Growth Area; or c) all existing and new growth area.
20. Does the suggested timing standards on release of water for 133 ponds possibly cause a downstream developer to have a different water quality standard or detention cell size than an upstream developer? Does physical location change the standards for different properties? What's the cumulative impact of more than 100 on-site detention facilities in Steven's Creek on the timing of flood peaks at the confluence of Steven's Creek and Salt Creek? Do the detention facilities move the Steven's Creek and Salt Creek flood peaks closer together?

Peter Katt

P. 1

3/7

**From:** Peter Katt  
**Sent:** Thursday, October 14, 2004 3:20 PM  
**To:** Alan Slattery (E-mail); Andrew Campbell (E-mail); Ann Bleed (E-mail); Bob Wolf (E-mail); Bob Workman (E-mail); Brock Peters (E-mail); Dean Petersen (E-mail); Dick Dam (E-mail); Jane Schroeder (E-mail); Jason Smith (E-mail); John Watson (E-mail); Kathy Newberg (E-mail); Lyle Vannier (E-mail); Marleen Rickertsen (E-mail); Marvin Lambie (E-mail); Mike Eckert (E-mail); Mike Eckert (E-mail); Patte Newman (E-mail); Peggy Fletcher (E-mail); Robert Christiansen (E-mail); Russell Miller (E-mail); Steven Smith (E-mail)  
**Subject:** Watershed Plan Stormwater Standard



EPA Standard.pdf

p. 2 & 3



Cityletter.pdf

p. 4

Dear Advisory Committee Member:

I have been able to attend some of your meetings and look forward to listening and learning at your meeting next week on the 21st. I was at a meeting on Tuesday this week regarding the Stevens Creek Watershed Study and heard many good questions. I thought I had some information to offer to all of you and it is attached. The first is the EPA CFR requirements for stormwater runoff in new developments and a letter from the City confirming that it understands these requirements. In summary, there are no absolute standards imposed, rather a combination of structural and non-structural are required to be developed that are appropriate for your community. The community gets to decide what it believes to be appropriate. Presumably you are our community voice in this process and need to be involved in this decision.

In developing a program like this, a community is to:

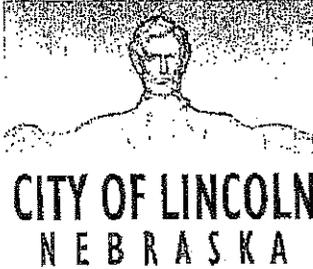
1. Identify Program goals;
2. Develop implementation strategies;
3. Create effective operation and maintenance policies.

It would appear that a lot of work has been done on item 2 but not nearly as much on the other two. Also, I do not believe there has been any discussion of cost-benefits, affordability or whether this should be a community wide cost since it benefits us all or shifted entirely to only a very few. It seems to me any program or policy must pass those tests to be appropriate for a community.

Finally, at Tuesday's meeting I inquired as to process in completing the final work product of the study. I understood your committee was to be disbanded and have no opportunity to provide comments, thoughts or suggestions for improvements to the Staff's work product. I do not think that is a good idea since the likelihood that all of your input was accurately captured or will be included in the report as you thought it should be is not great. For it to be final it should at least be reviewed by the Committee to provide comments on how close Staff came even if you have no opportunity to suggest any drafting revisions.

Thanks for your service on this committee. I am hopeful that you will continue to represent all of the diverse interests in our community and that the final Plan for Stevens Creek will respect and accommodate this diversity.

P.2  
4/7



Law Department 402-441-7281  
Dana W. Roper, City Attorney Civil fax: 402-441-8812  
575 South 10th Street 402-441-8812  
Suite 4201 Pros. fax: 402-441-8813  
Lincoln, Nebraska 68508

Ernest E. (Nick) Pao II, Chief Assistant John C. McQuinn II, Chief Prosecutor  
Richard C. Anderson, Police Legal Advisor  
Civil Division  
James D. Faimon Don W. Taute  
Steven J. Huggenberger Joel D. Pedersen  
Connor L. Reutter Margaret H. Blatchford  
Tonya L. Skinser  
Prosecution Division  
Patrick C. Campbell Christine A. Loseka  
Rob E. Caples Marcoe A. Brownlee  
Jessica Kerkhoff



MAYOR COLEEN J. SENG

www.ci.lincoln.ne.us

December 8, 2003

RECEIVED

DEC - 9 2003

Pierson, Fitchett, Hunzeker, Blake & Katt  
Attn: Peter Katt  
1045 Lincoln Mall, Suite 200  
P.O. Box 95109  
Lincoln, NE 68509

RE: Capitol Beach Stormwater Management

Dear Mr. Katt:

Mayor Seng received your letter dated November 3, 2003 on behalf of the Capitol Beach Community Association and has requested that I provide a response.

As you know, Capitol Beach Lake is a private lake benefitting private properties within the association. City records currently indicate three public storm drain systems discharging stormwater runoff to the lake. However, there are also 17 low flow liners that drain to the lake that are considered private systems, as the City has no easements over them and a few have been covered and subsequently are in use by private property owners. Of the streets that eventually drain to Capitol Beach Lake, approximately half drain through the public storm drain systems and the other half through the low flow liners.

Typical stormwater pollutants measured in urban areas are for trace metals, fertilizers, animal wastes, surfactants, gasoline products, and sediment. Many of these pollutants come directly from local property owners and their vehicles. Since there are no arterial streets that drain to Capital Beach Lake, most of the vehicles in the area belong to local property owners. By ordinance the depositing of any litter (includes leaves and yard clippings) to the public right-of-way from any building or lot is prohibited. While public stormwater systems may convey a portion of the stormwater to Capitol Beach Lake, the major source of any pollutants is from local residents.

Your letter asserts that the Best Management Practice (BMP) program embodied by Lincoln's NPDES Stormwater Permit requires the City to implement specific BMP's at this location within the City. The permit includes no such specific geographic references or measures. In fact, the City is required by the permit to develop and implement strategies which include a combination of structural and/or non-structural BMP's appropriate for the community, to use regulations to address runoff from development sites, and to ensure adequate long-term operation and maintenance of BMP's.

The City was issued its stormwater permit by NDEQ effective September 1, 2002, and is meeting all program requirements through the implementation of numerous BMP's throughout the City, including public education, illicit discharge and detection, regulations, design standards, watershed master planning, and the monitoring of structural BMP's. There is also a specific portion of the City's permit relating to public streets. This section includes no language that could be interpreted to require additional street sweeping or other specific structural BMP's in the Capitol Beach neighborhood.

5/7

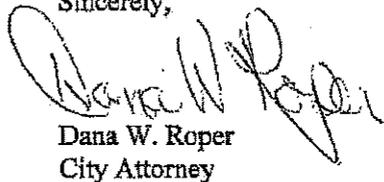
Stormwater within the City of Lincoln is generated by rainfall which flows through a combination of public and private storm systems through the City. Lincoln has over 150 recorded private stormwater ponds as well as numerous private drainageways and swales that convey and store stormwater on private property. Each of the owners of these private stormwater drainage facilities is responsible for meeting applicable City design standards. There are examples of associations which privately fund specific measures to maintain their stormwater facilities, such as Wedgewood Lake Association, which uses a trash rack at the main inflow to the lake to capture debris prior to entering the lake. The Association maintains and clears debris from the trash rack at their expense.

Expending public dollars for the maintenance of Capitol Beach Lake would be inconsistent with how the many other private stormwater systems are treated across the City of Lincoln. The Capital Beach Community Association spent their own funding on lake rehabilitation on a voluntary basis, and the association had received the same response regarding the use of public funds from the City prior to beginning work on the project. As in any major project, annual maintenance is a good idea to protect the investment. However this maintenance is not a City responsibility, as the project was not a City project and the lake is not a public facility available for public use.

The City does not plan to increase the frequency of street sweeping in this area beyond what is being done elsewhere in the City, nor does it plan to implement other specific measures with public dollars at this location. As has been offered before, the City is willing to have staff attend a community association meeting to discuss stormwater issues and would be willing to assist in the review of any plans that homeowners have for privately-funded BMP's.

As you've correctly stated stormwater issues are a high priority for this administration, however the limited funding we have must be used wisely and efficiently for the City of Lincoln.

Sincerely,



Dana W. Roper  
City Attorney

DWR/ce

cc: Mayor Coleen J. Seng  
Annette McRoy  
Allan Abbott, Roger Figard, Nicole Fleck-Tooze, Ben Higgins, Rock Krzyzki, Dennis Bartels -  
Public Works & Utilities Dept.  
Steve Huggenberger - Law Dept.  
Mike Crisco - Nebraska Department of Environmental Quality, NPDES Permits Unit  
John Huff, Capitol Beach Community Association

Appendix B: Federal Regulation Citations (Continued)

6/7

40 CFR Part 122.34 (b) - Minimum Control Measures (Continued)

soils and receiving water quality. You are encouraged to provide appropriate educational and training measures for construction site operators. You may wish to require a storm water pollution prevention plan for construction sites within your jurisdiction that discharge into your system. See § 122.44(s) (NPDES permitting authorities' option to incorporate qualifying State, Tribal and local erosion and sediment control programs into NPDES permits for storm water discharges from construction sites). Also see § 122.35(b) (The NPDES permitting authority may recognize that another government entity, including the permitting authority, may be responsible for implementing one or more of the minimum measures on your behalf.)

\* (5) Post-construction storm water management in new development and redevelopment.

(i) You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts.

(ii) You must:

- (A) Develop and implement strategies which include a combination of structural and/or non-structural best management practices (BMPs) appropriate for your community; (who pays? All or some?)
- (B) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law; and

\* (C) Ensure adequate long-term operation and maintenance of BMPs.

(iii) Guidance: If water quality impacts are considered from the beginning stages of a project, new development and potentially redevelopment provide more opportunities for water quality protection. EPA recommends that the BMPs chosen: be appropriate for the local community; minimize water quality impacts; and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, EPA encourages you to participate in locally-based watershed planning efforts which attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, EPA recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment); implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs); operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. EPA recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction or operation and maintenance. Storm water technologies are constantly being improved, and EPA recommends that your requirements be responsive to these changes, developments or improvements in control technologies.

**Peter Katt**

7/2

**From:** Peter Katt  
**Sent:** Friday, October 22, 2004 9:47 AM  
**To:** Nicole Fleck-Tooze (E-mail); Ben Higgins (E-mail)  
**Cc:** Mark Hunzeker; Kent Seacrest (E-mail); Danay A. Kalkowski (E-mail 2)  
**Subject:** Stevens Creek Watershed Study

Nicole & Ben:

Should the City or your consultants desire any practical suggestions, recommendations, thoughts or ideas on Stevens Creek watershed issues, feel free to call any of us. We would prefer to engage in constructive dialogue before the City locks into its plan that it will defend to the death. I note that there are already some improvements in the solutions proposed to the policy issues/concerns to be addressed by the study. Hopefully we can continue to make progress in that regard.

Peter W. Katt  
Pierson, Fitchett, Hunzeker, Blake & Katt  
1045 Lincoln Mall  
P.O. Box 95109  
Lincoln, NE 68509  
Phone: 402-476-7621  
Fax: 402-476-7465  
E-Mail [lawkatt@pierson-law.com](mailto:lawkatt@pierson-law.com)

=====  
This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message. Thank you.  
=====

Peter Katt

98<sup>th</sup> Street

To: Peter Katt  
Subject: Prairie Village North-Murdock Trail Embankment

1/2

-----Original Message-----

From: NTooze@ci.lincoln.ne.us [mailto:NTooze@ci.lincoln.ne.us]  
Sent: Wednesday, December 01, 2004 12:15 PM  
To: Peter Katt  
Cc: Ben Higgins (E-mail); Nicole Fleck-Tooze (E-mail); Becky Horner (E-mail); Stephen Henrichsen (E-mail); skessler@kirkham.com; ONeillPA@cdm.com; ed@lpsnrd.org; tgenrich@netinfo.ci.lincoln.ne.us; aabbott@ci.lincoln.ne.us; KEvans@ci.lincoln.ne.us; TShafer@ci.lincoln.ne.us  
Subject: Re: Prairie Village North-Murdock Trail Embankment

Peter,

The project team has discussed the issues that you raised in your email below regarding 98th Street and the Stevens Creek floodplain relative to your client's property. The 98th Street stream crossing structure will conform to all the Flood Standards for New Growth Areas. This includes the standards for sequencing and mitigation for stream crossing structures in Section 10.4 of the Flood Design Criteria for New Growth Areas. No adverse impact is projected on property downstream of the bridge. Further, the 98th Street design does NOT anticipate fill within the floodplain at the Murdock trail crossing, since this crossing is outside of the floodplain. We are currently working on alternatives to tie the trail in, but no designs are final as of yet. More detailed information regarding the 98th Street design will be available in January.

In the meantime, if you have additional questions about the floodplain or the watershed plan you can contact me or Ben Higgins. If you have further questions regarding the 98th Street corridor, please contact Kent Evans at the email address above or at 441-7583.

Nicole.

Nicole and Ben:

I am working diligently with my client, EDC and Mark Mainelli on the project [Prairie Village North] east of 84th North of Adams and south of the Murdock trail in hopes that we might be in a position to submit it to the City before the end of the year. As you know, we have inquired about removing the Murdock Trail obstruction as a part of looking at this project. At the 98th street open house, the consultant and city public works contact indicated that the Stevens Creek crossing was a no net rise no net fill project design. Further, the design anticipated 8-10 feet of fill on top of the Murdock trail with a tunnel through the fill to accommodate the fill. I couldn't quite believe that and asked for confirming information that I could make available to the engineer on the PV North project. If this is in fact true, the City's 98th street project will dwarf by a considerable magnitude anything that my client proposes to do. Shouldn't the project designs be harmonized rather than fight or work at cross purposes to one another? Why can't we get

the information?

I know both of you were helpful in getting us the Stevens Creek flood plain model. Thanks!  
Can either of you use your influence to get any of this other information confirmed or denied so that we know the impact on the PV North project?

2/2

Thanks for any help you can provide.

Peter W. Katt

-----Original Message-----

From: Peter Katt  
Sent: Tuesday, November 16, 2004 3:16 PM  
To: 'vluther@heartlandcenter.info'  
Subject: 98th Street project

Vicki:

It has been 6 weeks or so since the last public meeting. At that public meeting I requested to be provided with the preliminary design concept information for the Stephens Creek road crossing between the Murdock trail and Adams. I spoke with Selma Kessler as well as the City public works engineer coordinating this project. I was told they would check and get back to me with what information they were willing to provide. As I told them, I have a client that is designing a project a the west side of Stevens Creek in hits area and would like to incorporate the City's plans into his overall project design. Why is this so hard to accommodate? Could I have a reply from someone within the next 7 days?

The other reason to review this information is to try to confirm one way or the other the statement that this crossing was being designed to a no net rise no net fill standard. I had also asked to have a rough estimate as to what this standard would cost the community to build this road at this standard rather than the 1 ft. standard.

Any help in getting some or all of this information and questions answered would be appreciated.

Also... the website is woefully out of date...no maps outdated information, etc. and you are the only contact. Not overly helpful in my opinion and not worth the time, effort and cost of maintaining the website if you are not going to make the effort to keep it up to date.

Peter W. Katt  
Pierson, Fitchett, Hunzeker, Blake & Katt  
1045 Lincoln Mall  
P.O. Box 95109  
Lincoln, NE 68509  
Phone: 402-476-7621  
Fax: 402-476-7465  
E-Mail lawkatt@pierson-law.com



**DO NOT REPLY to this-  
InterLinc  
<none@lincoln.ne.gov  
>**

To: General Council <council@lincoln.ne.gov>  
cc:  
Subject: InterLinc: Council Feedback

12/09/2004 05:36 PM

InterLinc: City Council Feedback for  
General Council

Name: Craig Larabee  
Address: 7130 Culwells Ct  
City: Lincoln, NE, 68516  
  
Phone: 402-436-3308 or 402-432-4721  
Fax: 402-436-3311  
Email: craig.larabee@larabeeschool.com

Comment or Question:

- 14) 04R-317 Waiver 04016 - Waiving the requirement for the construction of a sidewalk in the pedestrian easement associated with the Corrected Final Plat of Edenton South 10th Addition, generally located at South 70th Street and Old Cheney Road.

I am the President of Edenton South Town Home Association and am requesting your favorable vote on the wavier of the sidewalk. There are three reasons the sidewalk should be waived.

1) No one in the area including the adjoining association Edenton South Association wants the proposed sidewalk. The very residents this is being put in for do not want it. We have a petition with every homeowner in this addition and some adjoining homeowners who have signed asking for the waiver. The sidewalk is not feasible with the drainage problems we currently have in this addition. There must be a culvert placed under the sidewalk which will be costly if repairs are needed and if it will plugs will require maintenance and cause potential damage to some homes with the backup of water. The homeowners in this area have spent in excess of \$6,000 of their own funds to get the drainage where it is now - it is unfair to require a sidewalk be placed where it is not wanted and knowing it will be costly in the future. There are also trees that will need to be taken down and other landscaping affected. In an effort to reduce noise the Association has had a five year plan involving the NRD assisting in landscaping this area. The sidewalk will force this planting screen to be changed and some plantings moved. It will also allow vehicle noise and pollution into the neighborhood from the busiest intersections in the area. This neighborhood has been established for the past nine years - no one asked the sidewalk be placed during this term.

2) This is not safe. The distance from the privacy fence to the curb of Old Cheney Road is 13'6". This proposed sidewalk has a 4'5" fall from the fence to the south within a 20' distance. The incline will require a culvert under the sidewalk and certainly not trouble free. ADA requirements would be hard to meet with this type of incline and it will be treacherous to maintain and an unwanted liability. The sidewalk will lead from the south side of Old Cheney Road between two private properties and onto a private road, Culwells Ct. There is no sidewalk on the north side of Culwells Ct. and this proposed

walk will terminate right in front of a mailbox cluster. There are usually two or three residents obtaining mail and parking in this area during the day causing congestion and a safety hazard to anyone attempting to cross this private road. If you were to travel north toward Old Cheney Road after passing through the fence there is only 13'6" to stop before you are in five lanes of traffic. A child (or adult) on a bicycle traveling 15 mph to get up the incline (going north) on this sidewalk would have six-tenths of a second to stop before going over the curb of Old Cheney Road into five lanes of traffic. In addition, our neighborhood residents are elderly and allowing persons coming into their backyards is not safe. Removing a portion of the fence will allow traffic noise to stream into our neighborhood lowering property values and forcing movement of our NRD trees.

3) I urge you to drive by this location. The south side of Old Cheney from 70th east is not conducive to sidewalk construction. Going east from the proposed sidewalk exit has an elevation that will require a retaining wall and absolutely no room for a sidewalk along the south side of this road. Immediately following the incline is a depression that will require much fill if anything is to be constructed along the south side. I believe it will be physically impossible to place a sidewalk in this location. Both Planning Commission members who were familiar with this area agreed and voted to approve the waiver. Realizing how wonderful planning is, it makes little sense to force something down the neighborhood's throat simply because it can be done. In disagreement with the Planning Commission, the elevations of this walk were not taken into consideration at the time of this development or the sidewalk would have been moved or nonexistent. Absolutely no one was there to oppose the waiver and by delaying the waiver for four years does absolutely nothing for our neighborhood. We are trying to continue with our planting screen and this sidewalk is an extreme hindrance with absolutely no value.

Please consider what the neighborhood wants in determining this waiver and the adverse effects it will have if it is placed. I would ask that you simply drive east on Old Cheney road from 70th Street to Crooked Creek Road and you will immediately recognize the cost of constructing a sidewalk along the south side of Old Cheney which would negate any reason to have the sidewalk we are requesting the waiver for. Thank you, Craig Larabee



Joan V Ray

12/10/2004 08:50 AM

To: "Richard Geier" <rgeier@neb.rr.com>  
cc: <council@ci.lincoln.ne.us>  
Subject: Re: Waiver #04016

Dear Mr. Geier: Your message has been received in the Council Office and will be forwarded to the Council Members for their consideration. Thank you for your input on this issue.

Joan V. Ray  
City Council Office  
555 South 10th Street  
Lincoln, NE - 68508  
Phone: 402-441-6866  
Fax: 402-441-6533  
e-mail: jray@ci.lincoln.ne.us

"Richard Geier" <rgeier@neb.rr.com>



"Richard Geier"  
<rgeier@neb.rr.com>

12/09/2004 09:45 PM

To: <council@ci.lincoln.ne.us>  
cc:  
Subject: Waiver #04016

Re: Council Meeting December 13  
Waiver #04016

We are writing to urge you to grant the Edenton South Townhome Association request for Waiver #04016 pedestrian easement at the southeast corner of 70th and Old Cheney as a matter of practicality and safety.

We have been homeowners in Lincoln for 45 years and have been in our townhome at 7031 Culwells Court more than 6 years. We have never considered a need for a pedestrian way out to the 70th and Old Cheney intersection. There is no destination within walking distance in any direction. We walk regularly for exercise within the Edenton South development where traffic is sparse.

Since the south end of the townhome neighborhood ends in a cul de sac anyone coming into the neighborhood from Old Cheney would have no where to go except east to 72nd. Unless they travel through homeowners' yards. Whatever destination they would reach is already accessible from Stevens Ridge Rd and 70th or Cross Creek Rd and Old Cheney.

The south end of the pedestrian way empties on a street circle at the point where the mailbox cluster for the area is located. Residents drive into the circle regularly to collect mail. Pedestrians would walk into this traffic in order to continue their route. There is no sidewalk on this side of the street.

We never would allow our visiting grandchildren to exit the area via such a walkway into such close proximity to heavy traffic. An out-of-control vehicle could not avoid anyone walking on the south side of Old Cheney.

Thanks for your consideration,  
Richard G and Rae D Geier

7031 Culwells Ct  
483-2122



RECEIVED

DEC 10 2004

CITY COUNCIL  
OFFICE

Danny Walker  
President  
South Salt Creek Community Organization  
427 E Street  
Lincoln, NE 68508-3049

(402) 477-7064

danny\_1953@msn.com

December 10, 2004

John Callen - EIT  
Building & Safety Department  
555 South 10<sup>th</sup> Street, Rm 203  
Lincoln, NE 68508

**RE: FORMAL COMPLAINT**

Dear Mr. Callen:

I am writing you today on behalf of the South Salt Creek Community Organization and the community that it serves concerning Item 18 of the City Council's Agenda date December 6, 2004. This item concerns the releasing of a conservation easement granted to the City by TMCO Investments over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln. This matter had been continued until December 13, 2004 for final hearing.

We feel that to return this section to TMCO would void the original agreement made with the City and should not be allowed. If, TMCO had not intentions of allowing the City to keep this property then it should have not made it a part of the original deal.

Further, we cannot see how a mere 32 feet would be sufficient to provide an adequate space to place any building on it, let alone a commercial operation as they are currently engaged in.

Based on the observations that we have made over the last 5 years or more, we cannot understand how placing this type of structure in the floodplain would not affect the rise of any future flooding. The current structure(s) owned or operated by TMCO has

*Handwritten notes:*  
#66  
On Agenda 12/13/04

(2)

already removed valuable floodplain land from useful storage and a way for floodwaters to be returned to the local aquifer. TCMCO has covered the current property in buildings and concrete preventing water from being absorbed into the ground and forcing the water to be redirected to adjacent private homes and City right-of-ways (the alley located between F and G (vacated) Streets and between 5<sup>th</sup> and 6<sup>th</sup> Streets).

Current City Code states that "any fill to be deposited in the floodplain must be shown by the applicant not to be a detriment to the general public as well as the surrounding land owners" (27.55.030 (9)(ii)). Concrete and structures are fill that are a detriment to the public and local landowners and therefore should not be allowed nor should the use of any requested property be used for the same.

Further, the original agreement was for this property to be given to the City of Lincoln as a way of mitigating what TCMCO sought to gain by the trade. Now TCMCO wants to "renig" on the original agreement to the detriment of the City, adjacent landowners, and older historical residential landowners in the Salt Creek Floodplain area as well. We are submitting photos that show the "concern" of TCMCO for their neighbors by directing their storm water runoff towards their residential property and property owned by the City.

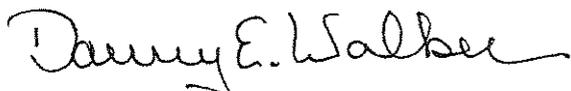
It is our opinion that the City of Lincoln KEEP the property relinquished by TCMCO in the original agreement, not return said property to TCMCO and prohibit any further building or covering of the land located in the local floodplain. We are submitting pictures of the original building of the structures owned/occupied by TCMCO located on South 6<sup>th</sup> Street and their inconsiderate dumping of their storm water on property not owned or leased by them.

In closing we would like to have you and your department take into consideration the fact that floodplain regulations have not been properly enforced in the past and local area floodplain maps have not kept pace with the changes done to the Salt Creek floodplain region. Also, the City of Lincoln Floodplain Committee some time ago recommended updated floodplain maps, for existing older neighborhoods, for Lincoln

(3)

and that the City of Lincoln has purposely and/or intentionally stalled or delayed in the completion of this recommendation. This delay thereby allowed unabated floodplain encroachment through building to be allowed in affected parts of our neighborhood and other neighborhoods with floodplain restrictions.

With concern,

A handwritten signature in black ink that reads "Danny E. Walker". The signature is written in a cursive style with a long, sweeping underline.

Danny Walker  
President

ENCLOSURES – pictures

Cc: Mayor's Office  
Lincoln City Council  
FEMA  
Lincoln City Clerk

**DIRECTORS' MEETING  
MINUTES  
MONDAY, DECEMBER 13, 2004  
CONFERENCE ROOM 113**

**Council Members Present:** Terry Werner, Chair; Ken Svoboda, Vice-Chair; Jon Camp, Jonathan Cook, Patte Newman, Glenn Friendt, Annette McRoy.

**Others Present:** Mayor Coleen Seng, Mark Bowen, Ann Harrell, Corrie Kielty, Darl Naumann, Lin Quenzer, Mayor's Office; City Clerk, Joan Ross; Dana Roper, City Attorney; Directors and Department Heads; Darrell Podany, Aide to Council Members Camp, Friendt, & Svoboda; Tammy Grammer, City Council Staff and Deena, Winter, Lincoln Journal Star Representative.

**I. MAYOR**

Mayor Coleen Seng announced that Allan Abbott is a grandfather again this morning, he needs to tell them the baby's name. Allan Abbott stated his new grandson's name is Allan Thomas. Council congratulated Mr. Abbott.

Mayor Seng called on Directors. Allan Abbott reported on the property between 48<sup>th</sup> & 52<sup>nd</sup> Streets-north. There's a drainage way through that area and Nicole (Fleck-Tooze) has been working with people on what can be done not only maybe to preserve a little bit of the existing system as far as vegetation, trees and stuff growing. But, also some minor adjustments that could be made in the area to help the drainage. However, it's going to take a bond issue project down stream some where east of "Best Buy" property that would be covered with the next bond issue to take care of all the flooding problems.

Nicole Fleck-Tooze added if they recall the flooding they had at 52<sup>nd</sup> & "R". They've evaluated that area with permanent drainage study and will be talking a little bit on Wednesday about what will be included on the upcoming proposed 2005 Stormwater Bond project. Mayor Seng commented that's where the cars float.

Marvin Krout stated there's 4 items that relate to Special Permits Community Unit Plans on the Agenda today. Three of the items were on pending, which they brought forward and forth item is a new one that was requested and it fell through the Planning Commission that would allow a City Council member to appeal an action that would otherwise be done by the Planning Commission. In the discussion of those items if Council recalls there were concerns about the Administrative Flexibility regarding Community Unit Plan. He's had continuing discussions with Jonathan (Cook) about it and staff would be willing to support an amendment. Right now

there's a proposal to have the Administrative Flexibility to increase the density of what was approved by the City Council, CUP administratively by up to 15%, three units on top of 20 units that were approved. The request was to look at particularly the smaller CUP's, the one's that would be done in older areas and they would agree to limit the Administrative Flexibility to CUP's that are over 5 acres. There's already some break down in the CUP's on over and under 5 acres in terms of permitted density. He would agree that the smaller CUP's are more likely to be planned more carefully, they're not going to take several years to build out. So they would be willing to support an amendment that would limit the flexibility to increase density administratively to see that those are over 5 acres in size, which is most of the CUP's.

There's also an issue related to Daycare Centers, he believes that's in one of the sections coming before Council. He doesn't know if there was a formal amendment, but the intention was to leave the discretion for the City Council to only be able to approve larger Daycare Centers not on arterial streets and maybe Jonathan (Cook) had a chance to look it up, he's not sure where they are with it. Mr. Cook commented he thinks they passed the amendment, but then placed it on pending. Mr. Krout said yes so they just need to check and make sure the amendment is part of what they would be looking at.

Ray Hill stated he had a chance to talk with Becky and she had e-mailed Rick Peo there's something about the criminology of 'shall' and 'should'. Mr. Cook indicated they're motion was to replace 'should' with 'shall', which is the original language. Mr. Hill said they have to talk this over with Rick Peo because he thinks if they put in the word 'shall' than everything comes back to Council again. Mr. Cook commented for Daycare Centers they just wanted to leave the section alone, which meant putting the language back to what it originally was, he knows that means the City Council would have to approve those waivers the Planning Commission votes. Mr. Hill stated there's a legal place that Rick (Peo) raised of using the word 'shall' and 'should' and they've got to work that out. Mr. Krout indicated he thinks it just relates to Daycare Centers, but he'll check it and they'll also may sure they're looking at the amended language. Mr. Krout stated all three of these that are on public hearing are all ordinance changes, so that would carry over all four items until next week.

Mr. Krout mentioned also when they did not meet one of those CUP items was actually an use permit item that had to do with used permits for other districts and they had concerns about making sure the signs were still going to be placed on those use permit drawings. He thinks inadvertently the City Council denied that whole item and there was some other flexibility item that they were interested in pursuing, so with direction from the City Council that they can come next week instead of this week when they pass an ordinance. They would like to bring back the flexibility portion of the use permit amendment that had to do with projects that are substantially in

compliance [inaudible] and can be approved as permit plans. Mr. Cook requested a copy of what he wants that ordinance to be excluding the sign part, so they can take a look at it. Depending upon the City Clerk's time-line, they can introduce it whenever they feel is appropriate after they take a look at it today, if there's nothing any of them are bothered by, they can go ahead and take care of it and start it through the process. Mr. Cook commented does that have to go through the Planning Commission process. Mr. Krout replied yes and said if they can't get it to them today, they'll get it before next week.

Don Taute stated last week Council had public hearing on Items 27, 28 & 29 and there's been a couple questions that have come up with regard to Item 28. He's had discussion with some of the individuals involved in it and he's working on some amendatory language. So, he ask to delay Item 28 until next Monday that one week should be enough and they'll get the amendatory language in and hopefully be in their packets this week so they can take a look at it. Mayor Seng commented is she correct that this was the County's language. Mr. Taute replied yes and then with one exception the Personnel Board wanted to have some additional language in it, he's got some language in it that he thinks will clarify some of the concerns that were addressed and questions on being able to go back into a bargaining unit position. Mr. Cook noted so the other items that relate to this he's looked through them briefly and it appears those maybe important to go ahead with, they don't have any effect upon this particular issue. Mr. Taute replied this issue they have no effect on, they're totally different and the reason the 2.76 changes were all put into one ordinance was because they all dealt with the same chapter. But, the primary concern and questions that had been raised the new package is what they had talked about it with public hearing on 2.76 on the leave of absence question and be able to go back in the event. He's added language in and discussed it with the Fire Union President and then they are going to talk during the course of the week to some of the other union presidents that may have some concern along those lines, but they specify that they can't go back into a bargaining unit position and that addresses a lot of their concerns. Mr. Cook commented up until now they haven't had those discussions that this was just brought forward without that discussion taken place. Mr. Taute stated he was surprised those discussions had not taken place because all of this material was available for open discussion with the Personnel Board on November 18<sup>th</sup> and the question just now came up, so its not like it has been a secret. *[04-214, Amending Chapter 2.78 of the Lincoln Municipal Code to amend Management Compensation Plan Established, Management Compensation Plan Annual Leave, Compensation Plan Variable Merit Pay Plan DSS & "M" Pay Ranges, and Management Compensation Plan Sick Leave in conjunction with the pay plan for employees whose classifications are assigned to pay ranges prefixed by the letter "M"; 04-215, Amending Chapter 2.76 of the Lincoln Municipal Code to delete references and provisions relating to pay ranges prefixed*

*by the letter “M” and to add leave of absence without pay provisions relating to a regular, classified employee who leaves his or her position to accept appointment to a position with a pay range prefixed by “DSS” and the status of that employee should he or she return to the classified service; & 04-216, Amending the pay schedule for the employee group whose classifications are assigned to the pay range prefixed by the letter “M” to adjust the schedules of annual, monthly, biweekly and hourly pay range equivalents.]*

Diane Gonzolas stated the Mayor wanted her to alert Council to an important news item in yesterday’s sports section, John Mabry was writing about how Steve Pederson is getting blamed for all the world’s ills.

Also she wanted to mention and thank Deena Winter’s. Ms. Winter’s met with 8 of the City Directors to kind of get a briefing on how those departments work and what they’re up to.

1. NEWS RELEASE - RE: Water System Suggests Year-Round Outdoor Water Conservation - Mayor directs Task Force to study suggestion. — NO COMMENTS
2. NEWS RELEASE - RE: Lincoln Water Quality Greatly Exceeds Federal Standards. — NO COMMENTS

## **II. DIRECTORS**

### **FINANCE DEPARTMENT/CITY TREASURER**

1. Material from Don Herz, Finance Director & Melinda J. Jones, City Treasurer - RE: Resolution & Finance Department, Treasurer of Lincoln, Nebraska - Investments Purchased November 22 thru December 3, 2004. — NO COMMENTS

### **LIBRARY**

1. Director’s Report - Lincoln City Libraries - Monthly Categorical Report - Fund Balances - November 2004. — NO COMMENTS

## PLANNING

1. Letter from Tom Cajka to Max Northrup - RE: Second Hasness-Union 1<sup>st</sup> Addition Final Plat #04057-Generally located at S. 46<sup>th</sup> St. & High St. — NO COMMENTS

## PUBLIC WORKS & UTILITIES DEPARTMENT

Nicole Fleck-Tooze stated on Item 18, they'll be getting to Council before the hearing today a Motion-To-Amend to revise attachment A. It's just to make the terminology consistent with the Resolution and make it more clear. *[04R-322, Accepting the Stevens Creek Floodprone areas as the best available information for local flood regulation purposes.]*

For Item 32, she gave Council some additional information to clarify the area of the easements because they're voting on it today and wanted to check to see if they had any additional questions. Ms. Tooze indicated what had been attached to the initial Resolution filed with Register of Deeds was an incorrect map. Mr. Werner commented they have a substitute on it, so they need to move the substitute and asked if it was advertised as a substitute. Ms. Newman stated to Ms. Tooze that she doesn't remember when the original conservation easement was granted to them, do they have a record of it. Ms. Tooze said she thinks it was in 2001. Ms. Newman asked if there were any conditions were they allowed to pave over that conservation easement. Ms. Tooze said she believes it was already paved, it was strictly for flood storage. Ms. Newman commented so they have not changed anything. Ms. Tooze replied that's correct. Mr. Friendt stated how does a paved hard surface act as flood storage. Ms. Tooze commented if you think about the area from the ground surface to what would be your 100 yard floodplain elevation, it's that, because you haven't filled it with fill or with buildings. The area is available to store water because it's paved, it doesn't have many of the other benefits like infer trading water [inaudible], but does still provide for that flood storage volume which would otherwise be lost if you had fill in. *[04R-311, Releasing a conservation easement granted to the City by TMCO Investments over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln.]*

1. Memo from Nicole Fleck-Tooze -RE: Item 04R-311 - TMCO Conservation Easement Release. — NO COMMENTS
2. Memo from Bruce Sweney - RE: December 13, 2004 Board Equalization Meeting. — NO COMMENTS

## URBAN DEVELOPMENT

1. Report - RE: Draft Plan-The North 48<sup>th</sup> & “O” Street Redevelopment Plan.- (Pre-Council scheduled for Monday, December 13<sup>th</sup> ). — NO COMMENTS

### III. CITY CLERK

City Clerk Joan Ross stated on the Agenda today, Items 1 & 2 will be called together. *[Application of Alley Inc. dba The Alley for a Class C liquor license at 1031 “M” Street; and Manager application of Joshua E. Hallett for Alley Inc. dba The Alley at 1031 “M” Street.]*

Items 3 & 4 will be called together. *[Application of A & R Food Company dba El Sitio for a Class I liquor license at 2785 S. 17<sup>th</sup> Street; and Manager application of Amin Ghaffar for A& R Food Company dba El Sitio at 2785 S. 17<sup>th</sup> Street.]*

Items 6, 7, 8 & 9 are related and will be called together. *[04-186, Change of Zone 04045B-Amending Chapter 27.63 of the Lincoln Municipal Code relating to special permits by amending sections 27.63.010, 27.63.070, 27.63.120, 27.63.130, 27.63.170, 27.63.210, 27.63.280, 27.63.400, 27.63.420, 27.63.430, 27.63.470, 27.63.530, 27.63.570, 27.63.580, and 27.63.590 to modify provisions within said sections to allow special permits to be approved by the Planning Commission rather than the City Council.; 04-187, Change of Zone 04045C-(See Council Agenda for December 13<sup>th</sup> for further description); 04-219, Change of Zone 04072A, Amending Section 27.63.025 of the Lincoln Municipal Code to allow City Council members to appeal the decision of the Planning Commission on special permits.; and 04R-269, Misc. No. 04009-Amending Chapter 3.35 of the City of Lincoln Design Standards for Community Unit Plans to simplify the density calculation and amend the cluster density.]*

City Clerk Joan Ross noted they’ve already talked about Item 18. *[04R-322, Accepting the Stevens Creek Floodprone areas as the best available information for local flood regulation purposes.]*

They’ve already talked about Items 28 & 32. *[04-215, Amending Chapter 2.76 of the Lincoln Municipal Code to delete references and provisions relating to pay ranges prefixed by the letter “M” and to add leave of absence without pay provisions relating to a regular, classified employee who leaves his or her position to accept appointment to a position with a pay range prefixed by “DSS” and the status of that employee should he or she return to the classified service.; and 04R-311, Releasing a conservation easement granted to the City by TMC0 Investments over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln.]*

There is one item on “Miscellaneous Referral” the Clerk’s Letter and Mayor’s Approval of ordinances and resolutions passed by Council on December 6, 2004.

For Item 14, there is a substitute Resolution, which went out in their packets. Dana Roper stated he thinks one approves it, one denies it, the Resolution they have is for denial and the substitute is for approval. *[04R-317, Waiver 04016 -Waiving the requirement for the construction of a sidewalk in the pedestrian easement associated with the Corrected Final Plat of Edenton South 10<sup>th</sup> Addition, generally located at South 70<sup>th</sup> Street and Old Cheney Road.]*

#### **IV. COUNCIL**

##### **A. COUNCIL REQUESTS/CORRESPONDENCE**

##### **JON CAMP**

Mr. Camp asked Police Chief Casady if they’re going back to motorcycles. Chief Casady stated yes, matter of fact, he’s had plenty of misgivings about it. But, he thinks Lincoln is finally at the point where they’re in size they need to have a hand full of motorcycles for special events and traffic enforcement because of the traffic density they’ve got in the City and a huge number of special events. Chief Casady commented 30 years ago when he was riding one they had 27 motorcycles in the City. He had his Planning Unit Sergeant Mike Woolman survey every single Police Department in the United States within 50,000 of Lincoln’s population every single department has motorcycles even Anchorage Alaska. So, he’s become convinced that this is something they need now, pricing is real good on these arrangements for motorcycles right at the moment, our expense is primarily going to involve training and equipping of the officers, not the lease of the motorcycles. The motorcycles will be for traffic enforcement, they’ll have officers in our Traffic Enforcement Unit riding them during traffic enforcement. He thinks it is going to help them a lot with red lighting enforcement in particular because this is really tough to do in a cruiser and then they’ll be using them in special event details as well such as football games, basketball games, all the special events that they have in Lincoln. Chief Casady stated it’s not a lease purchase, it’s an out right lease for the motorcycles and maintenance. Mr. Cook asked Chief Casady what his plans are for helicopters. Chief Casady stated he’s actually been looking at a helicopter, the Omaha Police Department has a couple of helicopters, which he believes is a little over a million dollars a year to maintain a helicopter unit like Omaha has.

Mr. Camp stated to Don Herz and Fire Chief Spadt that he noticed they were trying to sale three ambulances in September, but they didn't get sold or what happened. Don Herz stated from his understanding they didn't get any bids on them and so he hasn't checked with Vince (Mejer) to see what their back up is. He thinks they had set a minimum bid that they were expecting and didn't get any. Mr. Camp stated to Mr. Herz keep them posted on it.

Mr. Camp stated to Mike Merwick that he would like to talk with him after the Directors' Meeting today.

1. E-Mail from Chad Lunders to Jon Camp - RE: Outdoor Smoking Room? — NO COMMENTS

#### **GLENN FRIENDT**

1. OUTSTANDING Request to Allan Abbott, Public Works & Utilities Director/**Marvin Krout, Planning Director** - RE: Williamsburg Lake Dredging (RFI#39 - 8/17/04). — **1.) SEE RESPONSE FROM KARL FREDRICKSON, PUBLIC WORKS & UTILITIES DEPARTMENT RECEIVED ON RFI#39-10/01/04.** — Mr. Friendt stated to Allan (Abbott), he'd like to pass on a thank-you to Karl Fredrickson for getting this Williamsburg situation he believes resolved. Mr. Abbott commented he certainly hopes so. Mr. Friendt said he thinks they have a resolution and his patience and attitude was very helpful.
2. Request to Don Taute, Personnel Director - RE: Veterans in the City workforce (RFI#40 - 11/15/04). — **1.) SEE RESPONSE FROM DON TAUTE, PERSONNEL DIRECTOR RECEIVED ON RFI#40-12/03/04.**— NO COMMENTS

#### **ANNETTE McROY - NO COMMENTS**

#### **PATTE NEWMAN**

1. Request to Marc Wullschleger, Urban Development; Don Herz and Steve Hubka, Finance; Allan Abbott and W. Telen, Public Works; ~~Dana Roper, City Attorney; Marvin Krout, Planning~~ - RE: Antelope Valley Project, Tax Increment Financing (in relationship to non-profit organizations and the current Michigan and Connecticut court cases on eminent domain and their effects on T.I.F funding here) and Consultants and Consulting fee funding.

(RFI #27 - 10-01-04). — **1.) SEE RESPONSE FROM MARVIN KROUT, PLANNING DIRECTOR RECEIVED ON RFI#27-10/06/04. – 2.) SEE RESPONSE FROM JOEL PEDERSEN, CITY LAW DEPARTMENT RECEIVED ON RFI#27 - 10/18/04.** — Ms. Newman stated this Request For Information (#27) can be removed from the Agenda.

2. E-Mail to Patte Newman - RE: Rentals and potential abuse that can occur. —Ms. Newman noted this item can be removed from the Agenda. Ms. Newman stated she keeps getting calls from some neighbors on Vine Street once they remove the parking, people are parking up on the front lawns. She called Captain Srb to get someone over there, but she just wanted to bring this situation up.

Ms. Newman stated she also got a phone call from Beatrice wanting to know from the Police Chief who was directing traffic at Highway 2 on December 5<sup>th</sup>. He said this person was standing in the rain doing such a wonderful job, he wanted to send a fruit cake. Ms. Newman stated to Police Chief Casady so if he would let her know who that person was so he can send a fruit cake.

## **JONATHAN COOK**

Mr. Cook stated he would like to talk to Marc Wullschleger after the Directors' Meeting today.

Mr. Cook noted today they vote on a vacation, they do not have public hearing on it. He spend some time on the phone with Dana (Roper) regarding various things related to it and maybe he'll talk about it at the "Noon" Meeting today since Dana (Roper) will be there. Mr. Werner stated okay.

## **KEN SVOBODA**

Mr. Svoboda stated he has a question for his colleagues, do they want Police Chief Casady at their "Noon" Meeting today as it relates to Item 4 under Miscellaneous that he put on the Noon Agenda for discussion regarding threats to public officials or should they just have that discussion amongst themselves. He already talked to Chief Casady about it, so he doesn't need to have him there, but if any of his colleagues, since they saw it on the Agenda, wants to have him there to ask questions than they'll ask him to stay. Council agreed that they would like to have Chief Casady at the "Noon" Meeting today to discuss this issue.

1. Letter from Ken Svoboda, Lincoln City Council Member-Internal Liquor Committee Chair to Bob Logsdon, Chairman, Nebraska Liquor Control Commission - RE: Comments in support of 2004 legislative recommendations (Draft#2). — NO COMMENTS

### **TERRY WERNER**

1. Request to Law Department - RE: 'Big John's Billiards, Inc.' asking about possibilities of the City Council creating a special license that a business can purchase to allow smoking within the perimeter of the licensed establishment (RFI#140 - 11/29/04). — NO COMMENTS
2. Request to Law Department - RE: 45<sup>th</sup> & "O" Streets (RFI#141-11/30/04). — NO COMMENTS
3. Request to Bruce Dart, Health Director/Dana Roper, Law Department - RE: The total smoke ban (RFI#142-11/30/04). — **2.) SEE RESPONSE FROM TONYA SKINNER, ASSISTANT CITY ATTORNEY RECEIVED ON RFI#142 - 12/03/04.** — Mr. Werner stated to Tammy Grammer this Request For Information (#142) can be removed from the Agenda.

### **V. MISCELLANEOUS**

1. E-Mail from Joni Cover - RE: Pine Lake Development. — NO COMMENTS
2. Letter from Ms. G.B. Richardson to City Council - RE: "Thank-you" all for helping me out. — NO COMMENTS
3. Letters from Will Prout, Big John's Billiards, Inc. - RE: Thank you for sending me your note about sending my letters to the City Law Department -the smoke ban. — NO COMMENTS
4. E-Mail from Terri Roberts, President, Vintage Heights Homeowners Association - RE: Vintage Heights Homeowners Association. — NO COMMENTS

## **ADDENDUM - (For December 13<sup>th</sup>)**

### **I. MAYOR**

1. NEWS ADVISORY - RE: Mayor Seng's Public Schedule Week of December 11 through 17, 2004 - Schedule subject to change. — NO COMMENTS

### **II. CITY CLERK - NONE**

### **III. CORRESPONDENCE**

#### **A. COUNCIL REQUESTS/CORRESPONDENCE - NONE**

#### **B. DIRECTORS AND DEPARTMENT HEADS - NONE**

#### **C. MISCELLANEOUS**

1. Letter & Material from Peter W. Katt, Pierson/Fitchett, Law Firm - RE: Stevens Creek Flood Boundary-(Council received copies of this Material on 12/9/04 in their Thursday packets). — NO COMMENTS
2. E-Mail from Craig Larabee - RE: 04R-317-Waiver 04016 - Waiving the requirement for the construction of a sidewalk in the pedestrian easement associated with the Corrected Final Plat of Edenton South 10<sup>th</sup> Addition, generally located at South 70<sup>th</sup> Street and Old Cheney Road. — NO COMMENTS
3. E-Mail from Richard & Rae Geier - RE: Waiver #04016. — NO COMMENTS
4. Letter from Danny Walker, President, South Salt Creek Community Organization to John Callen-EIT, Building & Safety Department - RE: Formal Complaint - On Council Agenda for Dec. 13<sup>th</sup>, Item #32-Releasing a conservation easement granted to the City by TMCO Investments over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln. — NO COMMENTS

### **VI. MEETING ADJOURNED - Approximately at 11:28 a.m.**