

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, DECEMBER 20, 2004 AT 1:30 P.M.**

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

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

READING OF THE MINUTES

MCROY Having been appointed to read the minutes of the City Council proceedings of December 13, 2004, reported having done so, found same correct.

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

Council Chair Werner announced that the Council voted at the noon meeting to have the "Open Mike Session" only on the 2nd and last Monday of each month.

PUBLIC HEARING

MANAGER APPLICATION OF KELLY S. GREEN FOR COLUMBUS LINCOLN HOTEL PROP LLC DBA HOLIDAY INN/CONF CENTER/GREEN MILL/BAR-CABO BEACH CLUB AT 141 NORTH 9TH STREET - Kelly Green, 1316 S. 286th Street, Elmwood, NE, took oath and came forward to answer questions.

This matter was taken under advisement.

CREATING WATER DISTRICT NO. 1194 FOR CONSTRUCTING A 6-INCH WATER MAIN OR MAINS IN S. 14TH STREET, GARFIELD TO SUMNER STREETS - Robert Reese, no address given, came forward in support of the assessment.

Dan Murray came forward to answer any questions as the contractor. Discussion followed.

This matter was taken under advisement.

APPROVING A TWO-YEAR LEASE AGREEMENT WITH FRONTIER HARLEY DAVIDSON INC. FOR SIX POLICE MOTORCYCLES - Asst. Chief of Police Jim Peschong came forward to request approval of the leasing of six police motorcycles. Discussion followed.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF NOVEMBER 16 - 30, 2004 - Charles Hanna, came forward to request approval for his claim submitted for tire damage from hitting a pothole on a city street. Discussion followed.

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

Maryann Rezac, no address given, came forward to request approval of her claim to replace her vehicle damaged by a tree limb falling on it. She requested \$3,500 estimated to repair the damage. The original amount submitted was the blue book value of \$2,100. Discussion followed.

Dana Roper, City Attorney came forward again to answer legal questions pertaining to the denial of the claim.

Craig Groat, 4935 Huntington Ave., came forward to express his opinion on this issue.

This matter was taken under advisement.

SPECIAL PERMIT 04060 - APPLICATION OF CHERYL DUBAS TO DEVELOP AND OPERATE AN EARLY CHILDHOOD CARE FACILITY FOR 140 CHILDREN IN THE O-3 OFFICE PARK DISTRICT AND A WAIVER TO THE REQUIREMENT TO BE LOCATED ON AN ARTERIAL STREET, ON PROPERTY GENERALLY LOCATED EAST OF NORTH 24TH STREET AND SOUTH OF SUPERIOR STREET - J.D. Burt, 1609 N Street, of Design Associates representing Cheryl Dubas came forward to answer any questions. Discussion followed.

Cheryl Dubas, 6316 Knox Street, came forward to answer questions.

This matter was taken under advisement.

ADOPTING A SCHEDULE OF WASTEWATER SURCHARGE UNIT COSTS FOR CUSTOMERS OF THE LINCOLN WASTEWATER SYSTEM SUBJECT TO SAID SURCHARGE - Gary Thalken, Wastewater Dept., came forward to request an increase in the wastewater surcharge which was last increased in 1998.

This matter was taken under advisement.

ACCEPTING THE STEVENS CREEK FLOODPRONE AREAS AS THE BEST AVAILABLE INFORMATION FOR LOCAL FLOOD REGULATION PURPOSES - Nicole Fleck-Tooze, Public Works Dept., came forward with answers to questions asked the previous week on this issue. Discussion followed.

Pat O'Neill, of Camp, Dresser, McKee, Inc. Project Engineer, stated the FEMA guidelines were followed very closely and discussed the special components to the culverts and overall modeling.

Brian Dunnigan, Dept. of Natural Resources, stated he partnered with the City to update the flood maps. Discussion followed.

Ronnie Wood, 7321 Morrill Ave, came forward to ask questions.

Dick Esseks, 7911 Colby St., member of Friends of Wilderness Park, came forward with concerns.

Peter Katt, Pierson Fitchett Law Firm, 1045 Lincoln Mall, Suite 200, came forward representing Prairie Village and to present an amendment #3 to Bill No. 04R-322. Discussion followed.

Mark Mainelli, 6920 Van Dorn, President of Mainelli, Wagner, & Associates, came forward as a consultant to discuss his findings on this project in Prairie Village and approved the mapping of Stevens Creek. Discussion followed.

Steve Champoux, Prairie Homes, disagreed with the flood plain map. Discussion followed.

Stacy Taylor, 2548 N. 83rd Street, requested clarification of what the flood plains remapping means. Discussion followed.

This matter was taken under advisement.

TOOK BREAK 3:14 P.M.

RECONVENED 3:25 P.M.

MISCELLANEOUS BUSINESS

Craig Groat, 4935 Huntington Avenue, came forward to state the lowest bid does not always mean the best work and presented pictures of the sidewalk repairs.

This matter was taken under advisement.

Dave Heffelbower, 1431 D Street, stated it is his feelings that anyone who tramples the Constitution are enemies of the United States and the City of Lincoln. He, also, stated after being tested by the County Health Board he was ruled to be totally sane. Discussion followed.

This matter was taken under advisement.

Mike Morosin, 2055 "S" Street, came forward to present a letter of apology from Urban Development in reference to moving his house for the Antelope Valley project. He questioned the legality of the new rule of having the "open mike" session only on the 2nd and last Monday of the month.

Dana Roper, City Attorney, stated the Council is in compliance with State law with the new "open mike" policy. The Council can be contacted by e-mail, letters, phone calls, or personal contact on issues of importance to the public as well as coming forward during the "open mike" session.

This matter was taken under advisement.

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

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF KELLY S. GREEN FOR COLUMBUS LINCOLN HOTEL PROP LLC DBA HOLIDAY INN/CONF CENTER/GREEN MILL/BAR-CABO BEACH CLUB AT 141 NORTH 9TH STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-83129 WHEREAS, Columbus Lincoln Hotel Prop LLC dba Holiday Inn/Conf Center/Green Mill/Bar-Cabo Beach Club located at 141 N. 9th Street, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Kelly S. Green be named manager;

WHEREAS, Kelly S. Green appears to be a fit and proper person to manage said business.

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

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

Introduced by Ken Svoboda

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

ORDINANCES - 2ND READING

CREATING WATER DISTRICT NO. 1194 FOR CONSTRUCTING A 6-INCH WATER MAIN OR MAINS IN S. 14TH STREET, GARFIELD TO SUMNER STREETS - CLERK read an ordinance, introduced by Glenn Friendt, creating Water District No. 1194 designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the second time.

APPROVING A TWO-YEAR LEASE AGREEMENT WITH FRONTIER HARLEY DAVIDSON INC. FOR SIX POLICE MOTORCYCLES - PRIOR to reading:

SVOBODA Moved to waive the rules to have 2nd and 3rd reading this date.

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

CLERK Read an ordinance, introduced by Glenn Friendt, accepting and approving a lease agreement between the City of Lincoln, Nebraska and Frontier Harley Davidson Leasing for six Harley Davidson police motorcycles for use by the Police Department, the second time.

FRIENDT Moved to pass the ordinance as read.

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

The ordinance, being numbered **#18487**, is recorded in Ordinance Book 202, Page

RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF NOVEMBER 16 - 30, 2004 - PRIOR to reading:

CAMP Moved to consider the claims of Hanna & Rezac separately from the rest of the claims.

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

CAMP Moved to split action on consideration of the Hanna and Rezac claim denial.

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

CAMP Moved to allow claim for \$514.08 of Charles Hanna.

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

CAMP Moved to allow claim of \$2,100.00 for Maryann Rezac.
Seconded by McRoy & **LOST** by the following vote: AYES: Camp,
Friendt, Svoboda; NAYS: Cook, McRoy, Newman, Werner.

CLERK Read the following resolution, introduced by Glenn Friendt, who
moved its adoption:

A-83130 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the claims listed in the attached report, marked as Exhibit
"A", dated December 1, 2004, of various new and pending tort claims
filed against the City of Lincoln with the Office of the City Attorney
or the Office of the City Clerk, as well as claims which have been
disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905
(Reissue 1997). The dispositions of claims by the Office of the City
Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>	
Farmers Insurance Group		Cynthia C. Siems &	
(Claim No. 099SUB1005177481-1)	\$1,000.00	American Family Insurance Group	\$8,000.00
Maryann Rezac	3,442.52	Therahlee Guevara & Cornelio Guevara	1,500.11
Micah Cluck	405.18	Christopher Rood	995.92
Eddie L. James	938.27	Pete Robinson & Marsha Robinson	1,600.00
Larry E. Maas	NAS*	Edward Goff	70.00
Charles Hanna	514.08	Leo M. Weiler	175.00
Matthew F. Wright	53.00		

*No Amount Specified

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

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

SETTING INTEREST RATE & LEVYING THE ASSESSMENTS ON SPECIAL ASSESSMENT GROUP I
WATER DISTRICT 1190 AS APPROVED BY THE BOARD OF EQUALIZATION OF
DECEMBER 13, 2004 - CLERK read the following resolution, introduced by
Glenn Friendt, who moved its adoption:

A-83131 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska that:

The special taxes assessed Dec. 13, 2004, to pay the costs of the
improvements in Water District #1190 are hereby levied and shall bear
interest at 6.2521% per annum and that the period of time in which the
assessments are to be paid shall be as follows:
20 years - Water District #1190

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

APPOINTING RICHARD EVNEN AND DAWN E. ROCKEY TO THE LINCOLN ELECTRIC SYSTEM
ADMINISTRATIVE BOARD FOR THREE-YEAR TERMS EXPIRING DECEMBER 31, 2007 -
CLERK read the following resolution, introduced by Glenn Friendt, who
moved its adoption:

A-83132 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the appointment of Richard Evnen, and Dawn E. Rockey to the
Lincoln Electric System Administrative Board for three-year terms
expiring December 31, 2007, is hereby approved.

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

REAPPOINTING RON ECKLUND TO THE LINCOLN ELECTRIC SYSTEM ADMINISTRATIVE BOARD
FOR A THREE-YEAR TERM EXPIRING DECEMBER 31, 2007 - CLERK read the
following resolution, introduced by Glenn Friendt, who moved its
adoption:

A-83133 BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the reappointment of Ron Ecklund to the Lincoln Electric
System Administrative Board for a three-year term expiring December 31,
2007 is hereby approved.

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

SPECIAL PERMIT 04060 - APPLICATION OF CHERYL DUBAS TO DEVELOP AND OPERATE AN EARLY CHILDHOOD CARE FACILITY FOR 140 CHILDREN IN THE O-3 OFFICE PARK DISTRICT AND A WAIVER TO THE REQUIREMENT TO BE LOCATED ON AN ARTERIAL STREET, ON PROPERTY GENERALLY LOCATED EAST OF NORTH 24TH STREET AND SOUTH OF SUPERIOR STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83134 WHEREAS, Lincoln Federal Savings Bank has submitted an application designated as Special Permit No. 04060 for authority to operate an early childhood care facility for up to 140 children in the O-3 Office Park District on property located at N. 24th Street south of Superior Street, and legally described to wit:

A part of Lot 3, Block 2, Northview 1st Addition, located in the Northeast Quarter of the Northeast Quarter of Section 12, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska and more particularly described as follows:

Beginning at the southwest corner of said Lot 3; thence in a northerly direction, along the west line of said Lot 3, on an assumed bearing of north 00 degrees 03 minutes 44 seconds east, for a distance of 229.50 feet to the northwest corner of said Lot 3; thence south 89 degrees 56 minutes 25 seconds east, along the north line of said Lot 3, for a distance of 67.40 feet; thence along the north line of said Lot 3, on a curve to the left having a radius of 600.00 feet and an arc length of 101.41 feet, being subtended by a chord of north 85 degrees 11 minutes 05 seconds east, for a distance of 101.29 feet; thence south 09 degrees 39 minutes 25 seconds east for, a distance of 192.84 feet to a point on the south line of said Lot 3; thence south 76 degrees 36 minutes 44 seconds west, along the south line of said Lot 3, for a distance of 206.54 feet to the point of beginning; said property contains 38,752 sq. ft. more or less.

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this early childhood care facility will not be adversely affected by granting such a permit; and

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

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

That the application of Lincoln Federal Savings Bank, hereinafter referred to as "Permittee", to operate an early childhood care facility for 140 children in the O-3 Office Park District be and the same is hereby granted under the provisions of Section 27.63.070 of the Lincoln Municipal Code upon condition that construction of said early childhood care facility be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the operation of an early childhood care facility for up to 140 children in the O-3 Office Park District.
2. A waiver to the requirement that the facility be located on an arterial street is approved.
3. Before receiving building permits:
 - a. The Permittee must submit an acceptable, revised final plan including 7 copies.
 - b. The construction plans must conform to the approved plans.
 - c. Final Plats within the area or this special permit shall be approved by the City.
 - d. The operation and the premises must meet appropriate local and state licensing requirements, including compliance with health codes.
 - e. The administrative amendment #04090 is approved.
4. Before occupying the building all development and construction must conform to the approved plans.

5. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City Attorney.

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

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

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

Introduced by Glenn Friendt

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

ASSESSING THE COSTS FOR WEED CUTTINGS INCURRED BY THE CITY FROM JANUARY 1, 2004 THROUGH DECEMBER 31, 2004, AGAINST THE VARIOUS BENEFITTED PROPERTIES - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83135 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that:

The costs for cutting, clearing, and removing weeds and other worthless vegetation as shown on the attached list for January 1, 2004 through December 31, 2004 be and the same are hereby assessed against the properties set opposite each amount, as shown thereon.

Introduced by Glenn Friendt

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

ADOPTING A SCHEDULE OF WASTEWATER SURCHARGE UNIT COSTS FOR CUSTOMERS OF THE LINCOLN WASTEWATER SYSTEM SUBJECT TO SAID SURCHARGE - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83136 WHEREAS, the City Council of Lincoln, Nebraska, is authorized under Chapter

17.60 of the Lincoln Municipal Code to establish wastewater surcharge unit costs for customers of the Lincoln Wastewater System subject to such a surcharge; and

WHEREAS, pursuant to the provisions of Sections 17.60.060 and 17.60.070 of the Lincoln Municipal Code, the Director of Public Works and Utilities has determined the unit cost to the City of removing suspended solids, of removing biochemical oxygen demand (BOD) or chemical oxygen demand (COD), and of other additional treatment required for industrial wastes flowing into the City's wastewater treatment facilities.

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

That effective with the billing cycle commencing on January 15, 2005, and ending on February 15, 2005, the following schedule is hereby established and adopted:

The surcharge unit costs for each property discharging industrial wastes or other high strength wastewater are hereby found and determined to be as follows:

Rp = Unit BOD cost (or COD cost when used in lieu of BOD)
Eleven and seven-tenths cents per pound (\$0.117/lb.)

Rs = Unit suspended solids cost
Fifteen cents per pound (\$0.150/lb.)

Rx = Not applicable (\$0.00/lb.)

If, in the opinion of the Director, the foregoing surcharge unit cost determination is inequitable to either the City or the users affected because of unusual economic or waste load circumstances, then

the Director shall by an appropriate method determine new surcharge unit costs which more accurately reflect the actual economic and waste load impact on the wastewater system pursuant to § 17.60.070 of the Lincoln Municipal Code.

BE IT FURTHER RESOLVED that Resolution No. A-78939, adopted by the City Council on August 10, 1998, is hereby superseded.

Introduced by Glenn Friendt

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

ACCEPTING THE STEVENS CREEK FLOODPRONE AREAS AS THE BEST AVAILABLE INFORMATION FOR LOCAL FLOOD REGULATION PURPOSES. (12/13/04 - CON'T. PUBLIC HEARING & ACTION TO 12/20/04) - PRIOR to reading:

SVOBODA Moved Amendment #3 of Bill No. 04R-322 presented by Peter Katt by adding the wording after "A", to read: excluding any final or preliminary platted or otherwise buildable lots.

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

COOK Moved Amendment #2 of Bill No. 04R-322 by amending the Stevens Creek Floodprone Areas in the vicinity of Leighton Avenue and North 84th Street as shown on the detail map attached hereto, marked as Attachment "A".

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

CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83137 WHEREAS, on May 11, 2004 the Lincoln City Council adopted Flood Standards for New Growth Areas; and

WHEREAS, the Flood Standards for New Growth Areas identified the regulation of Floodprone Areas as determined by hydro logic and hydraulic studies completed by the City of Lincoln or other governmental agency, or other acceptable source as approved by the City where this is the best available information; and

WHEREAS, the City is a Federal Emergency Management Agency (FEMA) cooperating technical partner and has contracted with a consulting firm to develop revised floodplain mapping for Stevens Creek as a component of the Stevens Creek Watershed Basin Planning Study which is a cooperative effort of the City and the Lower Platte South Natural Resources District;

WHEREAS, a licensed engineer has certified that the work was completed in compliance with the provisions contained in FEMA's Guidelines and Specifications for Flood Hazard Mapping Partners, and the City has submitted a Flood Insurance Rate Map Physical Map Revision application to FEMA for Stevens Creek and its tributaries; and

WHEREAS, identifying the best available information is in the public interest and intended to protect the public health, safety, and welfare.

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

That the Stevens Creek Floodprone Areas, as shown on Attachment "A", are hereby adopted as the best available information and shall be used in any circumstance where the Floodprone Area is more restrictive than the FEMA Floodplain until such time as the City of Lincoln adopts the revised FEMA Floodplain Map for Stevens Creek.

Introduced by Jonathan Cook

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

PETITIONS & COMMUNICATIONS

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

SETTING THE HEARING DATE OF MONDAY, JANUARY 10, 2005 AT 1:30 P.M. FOR THE MANAGER APP. OF ANNETTE M. ERHART FOR GRANNETTE, INC. DBA DELRAY BALLROOM AND LOUNGE AT 817 R STREET - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83138 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., January 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City

Building, 555 S. 10th St., Lincoln, NE, for Man. App. of Annette M. Erhart for Grannette, Inc. dba DelRay Ballroom and Lounge at 817 R Street.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, JANUARY 10, 2005 AT 1:30 P.M. FOR THE APP. OF CHIPOTLE MEXICAN GRILL OF COLORADO, LLC DBA CHIPOTLE MEXICAN GRILL FOR A CLASS I LIQUOR LICENSE AT 2801 PINE LAKE ROAD, SUITE V - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83139 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., January 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for App. of Chipotle Mexican Grill of Colorado, LLC dba Chipotle Mexican Grill for a Class I liquor license located at 2801 Pine Lake Road, Suite V.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, JANUARY 10, 2005 AT 1:30 P.M. FOR THE APP. OF AYR, INC. DBA EL POTRERO FOR A CLASS I LIQUOR LICENSE AT 247 N. 8TH STREET - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83140 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., January 10, 2005 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for App. of AYR, Inc. dba El Potrero for a Class I liquor license located at 247 North 8th Street.

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

Introduced by Annette McRoy

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

REPORTS OF CITY OFFICERS

REPORT FROM CITY TREASURER OF CASH ON HAND AT THE CLOSE OF BUSINESS NOVEMBER 30, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk. (5-21)

ORDINANCES - 1ST READING & ASSOCIATED RESOLUTIONS

CHANGE OF ZONE 04055 - APPLICATION OF HAMPTON DEVELOPMENT FOR A CHANGE FROM H-HIGHWAY COMMERCIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF FLETCHER AVE, EAST OF N. 14TH STREET. (IN CONNECTION W/04R-328) - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

ORDINANCES - 3RD READING & RESOLUTIONS FOR ACTION ONLY

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 - CLERK read an ordinance, introduced by Patte Newman, 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, the third time.

NEWMAN Moved to pass the ordinance as read.

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

The ordinance, being numbered #18480 recorded in Ordinance Book 202, Page

CHANGE OF ZONE 04045C - AMENDING CHAPTER 27.65 OF THE LINCOLN MUNICIPAL CODE RELATING TO COMMUNITY UNIT PLANS BY AMENDING SECTION 27.65.020 TO AMEND THE GENERAL REQUIREMENTS TO GRANT THE PLANNING COMMISSION AUTHORITY TO APPROVE THE SPECIAL PERMIT AND TO ALLOW THE PLAN TO PROPOSE MODIFICATIONS TO THE HEIGHT AND AREA REGULATIONS OF THE DISTRICT IN WHICH THE COMMUNITY UNIT PLAN IS LOCATED; BY AMENDING SECTION 27.65.030 TO ELIMINATE REFERENCES TO CITY COUNCIL APPROVAL OF COMMUNITY UNIT PLANS, ESTABLISHING STANDARDS FOR THE PLANNING COMMISSION TO FOLLOW IN APPROVING OR DENYING AN APPLICATION FOR A COMMUNITY UNIT PLAN, AND PROVIDING FOR AN APPEAL FROM THE PLANNING COMMISSION'S DECISION TO THE CITY COUNCIL BY AN AGGRIEVED PARTY; BY REPEALING SECTION 27.65.040 TO ELIMINATE CITY COUNCIL FINAL ACTION ON THE APPLICATION; BY AMENDING SECTION 27.65.050 TO REVISE PROVISIONS REGARDING DEVELOPMENT OF THE COMMUNITY UNIT PLAN AFTER ITS APPROVAL; BY AMENDING SECTION 27.65.060 TO GRANT THE PLANNING DIRECTOR LIMITED AUTHORITY TO APPROVE MINOR INCREASES IN THE NUMBER OF DWELLING UNITS AND TO APPROVE MINOR INTERNAL CHANGES TO THE APPLICABLE SETBACK, YARD OR HEIGHT REQUIREMENTS WITHIN A COMMUNITY UNIT PLAN; BY AMENDING SECTION 27.65.070 TO DELETE THE NEED FOR THE CITY CLERK TO SIGN A CERTIFICATE SHOWING APPROVAL OR DISAPPROVAL BY THE CITY COUNCIL; BY AMENDING SECTION 27.65.090 TO ALLOW THE PLANNING COMMISSION TO MODIFY PARKING REQUIREMENTS UNDER SPECIFIED CONDITIONS - PRIOR to reading:

COOK Moved amendment #2 to Bill No. 04-187 by: 1. on page 9, line 18, reinsert the stricken language; after the reinserted word "units" insert the following phrase: "except that in community unit plans containing more than five acres," and change the "M" in the word "minor" from uppercase to lowercase. 2. On page 10, lines 4 and 5, delete the phrase "~~for lots along the perimeter of the community unit plan.~~"; insert the following phrase before the word "Minor": "except that in community unit plans containing more than five acres."; and change the "M" in minor from uppercase to lowercase.

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

CLERK Read an ordinance, introduced by Patte Newman, amending Chapter 27.65 of the Lincoln Municipal Code relating to community unit plans by amending Section 27.65.020, 27.65.030, 27.65.050, 27.65.060, 27.65.070, 27.65.090, and repealing Section 27.65.040, 27.65.020, 27.65.030, 27.65.050, 27.65.060, 27.65.070, 27.65.090, the third time.

NEWMAN Moved to pass the ordinance as amended.

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

The ordinance, being numbered #18481, is recorded in Ordinance Book 202, Page

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 - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 27.63.025 of the Lincoln Municipal Code to allow the City Council members to appeal Planning Commission decisions on special permits; and repealing Section 27.63.025 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #18482, is recorded in Ordinance Book 202, Page

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

A-83141 WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Design Standards by Resolution No. A-80518; and

WHEREAS, a text change to the Design Standards is necessary to amend Chapter 3.35 - Design Standards for Community Unit Plans, to

revise Section 1 to simplify the density calculation and to increase the cluster density in the R-3 and R-4 Zoning Districts; and to repeal Chapter 3.70 - Design Standards for Corporate Office Park Planned Unit Developments.

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

1. That Chapter 3.35 of the City of Lincoln Design Standards, adopted by the City Council on November 6, 2000 by Resolution No. A-80518, be and the same is hereby amended to read as shown on Attachment "A" which is attached hereto and incorporated herein by reference.

2. That Chapter 3.70 - Design Standards for Corporate Office Park Planned Unit Developments is hereby repealed in its entirety.

Introduced by Patte Newman

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

STREET NAME CHANGE 04009 - RENAMING THE OLD SOUTH 84TH STREET PAVEMENT AS WATER TOWER COURT, GENERALLY LOCATED AT SOUTH 84TH AND PINE LAKE ROAD - CLERK read an ordinance, introduced by Jonathan Cook, changing the name of old South 84th Street to Water Tower Court located near the new 84th Street alignment and Pine Lake Road, as recommended by the Street Name Committee, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #18483, is recorded in Ordinance Book 202, Page

CHANGE OF ZONE 04072B - AMENDING SECTION 27.80.025 OF THE LINCOLN MUNICIPAL CODE TO CHANGE THE FEE STRUCTURE FOR AN APPLICATION FOR A PLANNED UNIT DEVELOPMENT - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 27.80.025 of the Lincoln Municipal Code to change the fee structure for an application for a planned unit development; and repealing Section 27.80.025 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #18484, is recorded in Ordinance Book 202, Page

CHANGE OF ZONE 04069 - AMENDING SECTION 27.69.035(B)(8) TO REQUIRE THAT NO OFF-PREMISES SIGNS SHALL BE LOCATED WITHIN 660 FEET OF INTERSTATE 80 AND INTERSTATE 180 - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 27.69.035 of the Lincoln Municipal Code to require that no off-premises signs shall be located within 660 feet of Interstate 80 and Interstate 180; and repealing Section 27.69.035 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #18485, is recorded in Ordinance Book 202, Page

RECONSIDERATION OF MOTION TO PLACE ON PENDING

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 - PRIOR to reading:

CAMP Moved to reconsider motion to place Bill No. 04-215 on Pending.

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

COOK Moved Amendment No 2 (a) on page 1, lines 3, through 6, delete the following language: amending Section 2.76.400 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; (b) On page 1, line 7, add the word "and" between 2.76.160 and 2.76.395, and delete the phrase "and 2.76.400". (c) On pages 6 and 7, delete Section 4 of the ordinance in

its entirety:

~~Section 4. That Section 2.76.400 of the Lincoln Municipal Code be amended to read as follows:~~

~~2.76.400 Leaves of Absence Without Pay.~~

~~(a) Leave of absence without pay may be granted to employees, except temporary or seasonal employees, for a period not to exceed three months by a department head, except that for leaves in excess of thirty calendar days, the approval of the director must also be obtained. Leaves of absence without pay shall not be granted until all applicable leave balances have been exhausted, with the exception of leaves for military, travel, or study.~~

~~A department head, with the approval of the director, may grant such employee leave of absence without pay for a period not to exceed one year for travel or study. Such leave shall be granted only when it will not result in undue prejudice to the interests of the city as an employer beyond any benefits to be realized. No leave without pay shall be granted except upon written request of the employee. No such leave shall be granted primarily in the interests of the employee except in the case of one who has shown by record of service or by other evidence to be of more than average value to the city and whose service it is desirable to retain even at such sacrifice. Failure on the part of an employee on leave to report promptly at its expiration, without good cause, shall be considered as a resignation.~~

~~(b) A regular, classified employee who left or who leaves his or her position to accept appointment to a position with a pay range prefixed by "DSS" shall be granted a leave without pay from the classified position and shall be paid pursuant to the provisions of Chapter 2.78. At any time upon terminating the appointed position, the employee shall be allowed to return to the same or a comparable position to that which was previously held in the classified service, provided the employee has not been subject to discipline for cause pursuant to Section 2.76.445. The employee shall normally be paid at the rate of pay received prior to the leave of absence, as adjusted by any annual increases.~~

~~(d) On page 8, line 1, add the word "and" between 2.76.160 and 2.76.395, and delete the phrase "and 2.76.400". (e) On page 8 lines 1 and 3, respectively, renumber Section 5 as Section 4, and renumber Section 6 as Section 5.~~

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

CLERK Read an ordinance, introduced by Jon Camp, amending Chapter 2.76 of the Lincoln Municipal Code relating to the City's Personnel System by amending Sections 2.76.155, 2.76.160, and 2.76.395 to delete references and provisions relating to pay ranges prefixed by the letter "M"; amending Section 2.76.400 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 the employee should he or she return to the classified service; and repealing Sections 2.76.155, 2.76.160, 2.76.395, and 2.76.400 of the Lincoln Municipal Code as hitherto existing, the third time.

CAMP Moved to pass the ordinance as amended.

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

The ordinance, being numbered **#18486**, is recorded in Ordinance Book 202, Page

MISCELLANEOUS BUSINESS

PENDING -

VACATION NO. 03023 - VACATING THE NORTH 10 FEET OF Q STREET RIGHT-OF-WAY ADJACENT TO LOTS 7, 8, AND 9, BLOCK 30, ORIGINAL PLAT OF LINCOLN, GENERALLY LOCATED AT 8TH AND Q STREETS - PRIOR to reading:

COOK Moved to Withdraw Bill No. 04-166.

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

The ordinance, having been **WITHDRAWN**, was assigned the File **#38-4495** & was placed on file in the Office of the City Clerk.

**REGULAR MEETING
DECEMBER 20, 2004
PAGE 1360**

CAMP Moved to extend the Pending List to January 10, 2005.
Seconded by Newman & carried by the following vote: AYES: Camp,
Cook, Friendt, McRoy, Newman. Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on
January 10, 2005.
Seconded by Newman & carried by the following vote: AYES: Camp,
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 4:35 P.M.

CAMP Moved to adjourn the City Council meeting of December 20, 2004.
Seconded by Newman & carried by the following vote: AYES: Camp,
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
So ordered.

Teresa Meier, Deputy City Clerk

Judy Roscoe, Senior Office Assistant