

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, JUNE 20, 2005 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chair Svoboda; Council Members: Camp, Eschliman, Marvin, McRoy, Newman; City Clerk, Joan E. Ross; Absent: Cook.

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

**READING OF THE MINUTES**

ESCHLIMAN Having been appointed to read the minutes of the City Council proceedings of June 13, 2005, reported having done so, found same correct.

Seconded by Marvin & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman; NAYS: None; ABSENT: Cook.

**MAYOR'S AWARD OF EXCELLENCE**

Mayor Coleen J. Seng came forward to read and present the Mayor's Award of Excellence for the month of May. The award was presented to Brad Thavenet with the Fire Department in the category of Loss Prevention.

**PUBLIC HEARING**

APPLICATION OF NHA TRANG RESTAURANT, INC. DBA NHA TRANG RESTAURANT FOR A CLASS I LIQUOR LICENSE AT 1309 L STREET;

MANAGER APPLICATION OF NGAN TUYET HUYNH FOR NHA TRANG RESTAURANT, INC. DBA NHA TRANG RESTAURANT AT 1309 L STREET - Ngan Tuyet Huynh, Manager, 1309 "L" Street, took oath and came forward for approval. Further discussion followed.

Council Chair Svoboda asked Ms. Huynh if she has had any liquor related experience and if she has taken the Responsible Hospitality Training.

Ms. Huynh stated that she has had two years experience in working with alcohol and she is signed up to attend the Responsible Hospitality Training on July 14<sup>th</sup>.

This matter was taken under advisement.

APPLICATION OF SHANGHAI PALACE, INC. DBA SHANGHAI PALACE FOR A CLASS I LIQUOR LICENSE AT 3239 S. 13TH STREET;

MANAGER APPLICATION OF YI LIU FOR SHANGHAI PALACE, INC. DBA SHANGHAI PALACE AT 3239 S. 13TH STREET - Yi Liu, Manager, 3239 S. 13<sup>th</sup> Street, took oath and came forward for approval. Further discussion followed.

Council Chair Svoboda asked Ms. Liu is she has had any liquor related experience and if she has taken the Responsible Hospitality Training.

Ms. Liu stated that she has no experience in working with alcohol, however, she has signed up to attend the Responsible Hospitality Training on July 14<sup>th</sup>.

This matter was taken under advisement.

APPLICATION OF GAS 'N SHOP, INC. DBA TOBACCO SHACK #68 FOR A CLASS D LIQUOR LICENSE AT 4741 HOLDREGE STREET;

MANAGER APPLICATION OF ANGELA S. COFFEY FOR GAS 'N SHOP, INC. DBA TOBACCO SHACK #68 AT 4741 HOLDREGE STREET;

APPLICATION OF GAS 'N SHOP, INC DBA TOBACCO SHACK #67 FOR A CLASS D LIQUOR LICENSE AT 6240 HAVELOCK AVENUE;

MANAGER APPLICATION OF ANGELA S. COFFEY FOR GAS 'N SHOP, INC DBA TOBACCO SHACK #67 AT 6240 HAVELOCK AVENUE - Angela Coffey, Manager, 4741 Holdrege Street & 6240 Havelock Avenue, took oath and came forward for approval. Further discussion followed.

Council member Newman asked Ms. Coffey if their shop has served as a different type of shop besides a gas station.

Ms. Coffey stated that their shop has severed as several different shops such as a liquor store and an ice cream shop before they moved into the space.

This matter was taken under advisement.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY AND LINCOLN ACTION PROGRAM FOR PROVIDING JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT IN THE ONE-STOP CENTER LOCATED IN GOLD'S GALLERIA, 1010 N STREET, LINCOLN, NE - Marc Wullschleger, Urban Development Director, came forward asking for approval. He also explained the need for the approval of this agreement so that they can provide job training and employment services.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN WYNNE TRANSPORT SERVICES, INC. AND THE LINCOLN AREA AGENCY ON AGING/LIFE FOR THE LEASE OF OFFICE SPACE FOR A ONE-YEAR TERM IN GENEVA, NEBRASKA, FOR THE OUT POSTED COUNSELOR IN FILLMORE COUNTY FOR THE MEDICAID WAIVER PROGRAM - June Pederson, Director of Aging Services, came forward asking for approval of this agreement for office space. She also explained that this agreement will be executed from May 1, 2005 to May 31, 2006. She also said that the yearly cost will be \$3,225, which breaks down to \$250 per month, and \$1.25 per square foot. Further discussion followed.

Council member McRoy asked Ms. Pederson what fund this agreement would be paid from.

Ms. Pederson replied that this is a State supported waiver program, so it is State supported.

Council member Eschliman asked Ms. Pederson if she knew if this office space has been remodeled and if there are any more additional office space available in Geneva.

Ms. Pederson replied that she wasn't aware if they had remodeled the space and if any additional space was available in town in their ideal location. She also stated that this agreement is not a new agreement, but it is a renewal.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE POLK COUNTY HEALTH DEPARTMENT AND THE LINCOLN AREA AGENCY ON AGING/LIFE FOR THE LEASE OF OFFICE SPACE FOR A ONE-YEAR TERM IN OSCEOLA, NEBRASKA, FOR THE OUTPOSTED COUNSELOR IN THE POLK COUNTY CARE MANAGEMENT PROGRAM;

APPROVING AN AGREEMENT BETWEEN THE POLK SENIOR CENTER AND THE LINCOLN AREA AGENCY ON AGING/LIFE FOR THE LEASE OF OFFICE SPACE FOR A ONE-YEAR TERM IN POLK, NEBRASKA, FOR THE OUTPOSTED COUNSELOR IN POLK COUNTY FOR THE MEDICAID WAIVER PROGRAM - June Pederson, Director of Aging Services, came forward asking for approval of this agreement for office space in Polk and Osceola County. Further discussion followed.

Council member Eschliman asked Ms. Pederson if she would be willing to talk to the landlord again in order to try and get the cost down because she feels that it may be too high.

Ms. Pederson stated that she could if needed, however, she feels that the costs are low. She said that the cost is 25 cents per square foot for one office and a dollar per square foot for the other.

Council member Camp stated that he felt that the cost sounded reasonable since this is such a small space.

This matter was taken under advisement.

APPROVING A 10-YEAR AGREEMENT BETWEEN THE WOODS PARK TENNIS CORP. AND THE CITY FOR OPERATION OF THE WOODS TENNIS CENTER - Sandy Meyers, Recreational Manager for Woods Park Tennis Park Center, 33<sup>rd</sup> and "J" Street, came forward and asked for approval of this agreement. She stated that this would be an extension of an on-going agreement between the City and the Woods Park Tennis Center. This agreement would be good for 10 years, and would be good until May 31, 2015. Further discussion followed.

This matter was taken under advisement.

APPROVING THE RENEWAL OF A LEASE AGREEMENT BETWEEN THE CITY AND AMERICAN LEGION POST #3 FOR THE OPERATION AND USE OF SHERMAN FIELD - Steve Hiller, Assistant Director of Parks and Recreation Department, came forward to ask for approval of this agreement. He explained that this is a continuation of a number of years of leases with the American Legion for the use of Sherman field. Further discussion followed.

This matter was taken under advisement.

APPEAL OF SANFORD & SON, LLC FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 05022 TO OPERATE A ROCK CRUSHER TO RECYCLE CONCRETE AND ASPHALT ON PROPERTY GENERALLY LOCATED AT 3900 INDUSTRIAL AVENUE - Bob Lewis, representing Sanford & Sons LLC, came forward to ask the City Council to reverse Planning Commission's denial of their special permit to operate a rock crusher to recycle concrete and asphalt. Further discussion followed.

Council member Newman asked Mr. Lewis if he was using a dust control product.

Mr. Lewis stated that he has been applying a chemical to the rock to help control the dust.

Ms. Newman asked him if he has used the rock crusher since the Health Department has been out to his site.

Mr. Lewis stated that they haven't used it since, and that they are waiting for approval until they begin using it again.

Council member Camp asked Mr. Lewis how he plans on making his site a safe environment.

Mr. Lewis stated that with water and the chemical that they apply to help control the dust, they are also moving the site further back from the road to help reduce the amount of dust flowing out from their site.

Council member Marvin asked Mr. Lewis if they would be willing to comply with the motion to amend that Attorney Michael Rierden has requested.

Mr. Lewis that he would be willing to work with their needs.

Council member McRoy asked Mr. Lewis about putting up screening to help with keeping their site safe.

Mr. Lewis stated that over the past four years they have put in a lot of money and effort into making their site the best that it could be.

Council member Newman asked Mr. Lewis if noise has been as issue yet.

Mr. Lewis stated that he hasn't had any warnings yet regarding how loud their equipment is.

Glenn Cekal, 1420 "C" Street, came forward and stated his concerns.

Carol Brown, 2201 Elba Circle, came forward in opposition. She also expressed her concerns with the fence around the site by showing photos of the area on the overhead. Further discussion followed.

Michael Rierden, Attorney, came forward in opposition representing Stephenson's Truck Repair. He stated his concerns with how close the site is to his client's business. He stated that he feels that the applicant should have been concerned with obtaining the permits that he needed to run his site before they started operating. Further discussion followed.

Doug Tobiassen, the Plant Manager with General Dynamics, 4300 Industrial Avenue, came forward in opposition. He also stated his concerns with the applicant's site being too close to their business. He stated that their business is involved with the design of fuel tanks of airplanes and such and also with the painting of army vehicles. They are worried that the dust will interfere with the paint and weld jobs on their vehicles and will put them at risk with their quality control. He stated they he feels that the dust could weaken the bond of the paint. Further discussion followed.

Scott Holmes, Health Department, came forward to help answer questions of the City Council. He also clarified dust and air control regulations. Further discussion followed.

Gary Walsh, Health Department, came forward to help answer questions of the City Council. Further discussion followed.

Bob Lewis, with Sanford & Sons LLC, came forward for rebuttal. Further discussion followed.

Council member Marvin asked how long the rock crusher usually operates.

Mr. Lewis said that the rock crusher is usually running from 7am to 5pm, Monday through Friday.

Council member McRoy asked Mr. Lewis when he purchased the property.

Mr. Lewis said that he bought the property in 2000.

This matter was taken under advisement.

APPROVING A CONSERVATION EASEMENT AGREEMENT BETWEEN PINE LAKE HEIGHTS HOMEOWNERS ASSOCIATION, INC. AND THE CITY OVER A PORTION OF OUTLOT A, PINE LAKE HEIGHTS ADDITION, TO PRESERVE THE FLOOD STORAGE CAPACITY AND WETLAND CHARACTERISTICS - Ben Higgins, Public Works & Utilities, came forward for approval of this agreement.

DeNay Kalkowski, Attorney, 1111 Lincoln Mall, #350, came forward asking for approval of this agreement.

Glenn Cekal, 1420 "C" Street, came forward to express his concerns on this matter.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS SO THAT FEDERAL AND STATE FUNDING MAY BE USED FOR THE DESIGN AND CONSTRUCTION OF THE SAFETY IMPROVEMENT PROJECT AT THE INTERSECTION OF N. 56TH STREET AND CORNHUSKER HIGHWAY;

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS SO THAT FEDERAL AND STATE FUNDING MAY BE USED FOR THE DESIGN AND CONSTRUCTION OF THE SAFETY IMPROVEMENT PROJECT AT THE INTERSECTIONS OF 9TH AND 10TH STREETS AT VAN DORN STREET - Steve Masters, Public Works & Utilities, came forward to help answer questions of the City Council.

Council member Newman asked Mr. Masters if he would have a problem with them putting the agreement relating to the Safety Improvement Project at the intersection of 9<sup>th</sup> and 10<sup>th</sup> Streets and Van Dorn, on pending.

Mr. Masters stated that they wouldn't have a problem with that.  
This matter was taken under advisement.

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

**MISCELLANEOUS BUSINESS - NONE**

## **COUNCIL ACTION**

### **LIQUOR RESOLUTIONS**

APPLICATION OF NHA TRANG RESTAURANT, INC. DBA NHA TRANG RESTAURANT FOR A CLASS I LIQUOR LICENSE AT 1309 L STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83363 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Nha Trang Restaurant, Inc. dba Nha Trang Restuarant for a Class "I" liquor license at 1309 L Street, Lincoln, Nebraska, for the license period ending April 30, 2006, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Patte Newman

Seconded by Marvin carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

MANAGER APPLICATION OF NGAN TUYET HUYNH FOR NHA TRANG RESTAURANT, INC. DBA NHA TRANG RESTAURANT AT 1309 L STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83364 WHEREAS, Nha Trang Restaurant, Inc. dba Nha Trang Restaurant located at 1309 L Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Ngan Tuyet Huynh be named manager;

WHEREAS, Ngan Tuyet Huynh 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 Ngan Tuyet Huynh 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 Patte Newman

Seconded by Marvin carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

APPLICATION OF SHANGHAI PALACE, INC. DBA SHANGHAI PALACE FOR A CLASS I LIQUOR LICENSE AT 3239 S. 13TH STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83365 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the

application of Shanghai Palace, Inc. dba Shanghai Palace for a Class "I" liquor license at 3239 S. 13th Street, Lincoln, Nebraska, for the license period ending April 30, 2006, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Patte Newman

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

MANAGER APPLICATION OF YI LIU FOR SHANGHAI PALACE, INC. DBA SHANGHAI PALACE AT 3239 S. 13TH STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83366 WHEREAS, Shanghai Palace, Inc. dba Shanghai Palace located at 3239 S. 13th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Yi Liu be named manager;  
WHEREAS, Yi Liu 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 Yi Liu 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 Patte Newman

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

APPLICATION OF GAS 'N SHOP, INC. DBA TOBACCO SHACK #68 FOR A CLASS D LIQUOR LICENSE AT 4741 HOLDREGE STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83367 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Gas 'N Shop Inc. dba Tobacco Shack #68 for a Class "D" liquor license at 4741 Holdrege Street, Lincoln, Nebraska, for the license period ending April 30, 2006, be approved with the conditions that the applicant obtains a valid special permit, and that the premise complies in every respect with the conditions of its special permit and all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Patte Newman

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

MANAGER APPLICATION OF ANGELA S. COFFEY FOR GAS 'N SHOP, INC. DBA TOBACCO SHACK #68 AT 4741 HOLDREGE STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83368 WHEREAS, Gas 'N Shop, Inc. dba Tobacco Shack #68 located at 4741 Holdrege Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Angela S. Coffey be named manager;

WHEREAS, Angela S. Coffey 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 Angela S. Coffey 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 Patte Newman

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

APPLICATION OF GAS 'N SHOP, INC. DBA TOBACCO SHACK #67 FOR A CLASS D LIQUOR LICENSE AT 6240 HAVELOCK AVE - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83369 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Gas 'N Shop Inc. dba Tobacco Shack #67 for a Class "D" liquor license at 6240 Havelock Ave., Lincoln, Nebraska, for the license period ending April 30, 2006, be approved with the conditions that the applicant obtains a valid special permit, and that the premise complies in every respect with the conditions of its special permit and all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Patte Newman

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

MANAGER APPLICATION OF ANGELA S. COFFEY FOR GAS 'N SHOP, INC. DBA TOBACCO SHACK #67 AT 6240 HAVELOCK AVE - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83370 WHEREAS, Gas 'N Shop, Inc. dba Tobacco Shack #67 located at 6240 Havelock Ave., Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Angela S. Coffey be named manager;

WHEREAS, Angela S. Coffey 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 Angela S. Coffey 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 Patte Newman

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

#### ORDINANCES - 2<sup>ND</sup> READING

STREET NAME CHANGE 05002 - NAMING STREETS IN THE ANTELOPE VALLEY PROJECT VICINITY OF NORTH 17TH AND Y STREETS TO NAME REALIGNED NORTH 17TH STREET AS "NORTH 17TH STREET" AND THE NEW STREET BETWEEN NORTH 16TH AND NORTH 17TH STREET AS "X STREET" - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance to name realigned North 17<sup>th</sup> Street as "North 17<sup>th</sup> Street" and the new street between North 16<sup>th</sup> and North 17<sup>th</sup> Street as "X Street", as recommended by the Street Name Committee, the second time.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY AND LINCOLN ACTION PROGRAM FOR PROVIDING JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT IN THE ONE-STOP CENTER LOCATED IN GOLD'S GALLERIA, 1010 N STREET, LINCOLN, NE - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance accepting and approving a one-year Sublease Agreement between the City of Lincoln and Lincoln Action Program whereby the City of Lincoln is subleasing space to Lincoln Action Program at the One Stop Career Center located in Gold's Galleria, 1010 N Street, Lincoln, Nebraska, for providing job training and employment services under the Workforce Investment Act, the second time.

REPEALING ORDINANCE NO. 18374 CREATING PAVING DISTRICT NO. 2628 IN NORTH 36<sup>TH</sup> STREET, W TO VINE STREETS, DUE TO THE LACK OF MAJORITY PETITION - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance repealing Ordinance No. 18374 which created Paving District No. 2628, which included all that portion of North 36<sup>th</sup> Street lying between the south curb line of "W" street and the north curb line of Vine Street, describing the benefitted property and providing for the payment of the cost thereof, the second time.

APPROVING AN AGREEMENT BETWEEN WYNNE TRANSPORT SERVICES, INC. AND THE LINCOLN AREA AGENCY ON AGING/LIFE FOR THE LEASE OF OFFICE SPACE FOR A ONE-YEAR TERM IN GENEVA, NEBRASKA, FOR THE OUTPOSTED COUNSELOR IN FILLMORE COUNTY FOR THE MEDICAID WAIVER PROGRAM - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance accepting and approving a Lease Agreement between the City of Lincoln and Wynne Transport Services, Inc. for the lease of office space by the Lincoln Area Agency on Aging/LIFE at 209 S. 10<sup>th</sup> Street, Geneva, NE 68361 for the period of May 1, 2005 through May 31, 2006, the second time.

APPROVING AN AGREEMENT BETWEEN THE POLK COUNTY HEALTH DEPARTMENT AND THE LINCOLN AREA AGENCY ON AGING/LIFE FOR THE LEASE OF OFFICE SPACE FOR A ONE-YEAR TERM IN OSCEOLA, NEBRASKA, FOR THE OUTPOSTED COUNSELOR IN THE POLK COUNTY CARE MANAGEMENT PROGRAM - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance accepting and approving a Lease Agreement between the City of Lincoln and the Polk County Health Department for the lease of office space by the Lincoln Area Agency on Aging/LIFE at 330 N. State Street, Osceola, NE 68651 for the period of May 1, 2005 through May 31, 2006, the second time.

APPROVING AN AGREEMENT BETWEEN THE POLK SENIOR CENTER AND THE LINCOLN AREA AGENCY ON AGING/LIFE FOR THE LEASE OF OFFICE SPACE FOR A ONE-YEAR TERM IN POLK, NEBRASKA, FOR THE OUTPOSTED COUNSELOR IN POLK COUNTY FOR THE MEDICAID WAIVER PROGRAM - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance accepting and approving a Lease Agreement between the City of Lincoln and the Polk Senior Center for the lease of office space by the Lincoln Area Agency on Aging/LIFE at 230 North Main Street, Polk, NE 68654 for the period of May 1, 2005 through May 31, 2006, the second time.

APPROVING A 10-YEAR AGREEMENT BETWEEN THE WOODS PARK TENNIS CORP. AND THE CITY FOR OPERATION OF THE WOODS TENNIS CENTER - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance accepting and approving an Operating Agreement between the City of Lincoln and Woods Park Tennis Corporation for the purpose of operating the tennis facilities at the Woods Tennis Complex in Lincoln, Nebraska for a ten-year term from April 1, 2005 through March 31, 2015, the second time.

APPROVING THE RENEWAL OF A LEASE AGREEMENT BETWEEN THE CITY AND AMERICAN LEGION POST #3 FOR THE OPERATION AND USE OF SHERMAN FIELD - CLERK read an ordinance, introduced by Robin Eschliman, an ordinance approving a Lease between the American Legion Post No. 3 and the City of Lincoln, Nebraska, for lease of Sherman Field for a period of five years, the second time.

#### RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF MAY 16 - 31, 2005. (6/13/05 - P.H. & Action con't. on claim of Judith Troutman for 1 week to 6/20/05) (Request of claimant to con't. P.H. & Action to 7/11/05) - PRIOR to reading:

NEWMAN Moved to place on pending until 7/11/05 with public hearing and action.

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

APPROVING A TRANSFER OF APPROPRIATIONS IN THE AMOUNT OF \$54,000 FROM CONTINGENCY, MISC. OTHER SERVICES AND CHARGES, TO GENERAL EXPENSE, STATE FAIR SUBSIDY, FOR PAYMENT OF THE AMOUNT DUE TO THE STATE FAIR BY JULY 1, 2005 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83372 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That a transfer of appropriations in the amount of \$54,000.00 from Contingency, Miscellaneous Other Services and Charges, Account 18001.5989 to General Expense, State Fair Subsidy, Account 18002.5989, for the payment of the amount due to the State Fair by July 1, 2005, is hereby approved and the Finance Director is authorized to make such transfer upon passage of this resolution.

Introduced by Robin Eschliman

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

APPROVING AN AMENDMENT TO AN AGREEMENT BETWEEN THE CITY AND LEXIS TO REFLECT THE LOSS OF 30 USERS WITHIN THE VARIOUS COURT OFFICES AND TO EXTEND THE TERM FOR TWO YEARS - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83373 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Amendments to the Subscription Agreement previously entered into between LEXIS/NEXIS and the City of Lincoln, Nebraska for computerized legal research, to reflect the loss of 30 users within the various Court offices and to extend the term for two years, in accordance with the terms and conditions contained in said Amendments to the Agreement, are hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln. The City Clerk is directed to return the executed copies of the Amendments to Joel Pedersen, City Law Department for transmittal to LEXIS/NEXIS.

Introduced by Robin Eschliman

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

APPEAL OF SANFORD & SON, LLC FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 05022 TO OPERATE A ROCK CRUSHER TO RECYCLE CONCRETE AND ASPHALT ON PROPERTY GENERALLY LOCATED AT 3900 INDUSTRIAL AVENUE - PRIOR to reading:

MARVIN Made a motion to deny the resolution as read.

Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook. The resolution, having LOST, was assigned the File #38-4503 & was placed on file in the Office of the City Clerk.

APPROVING A CONSERVATION EASEMENT AGREEMENT BETWEEN PINE LAKE HEIGHTS HOMEOWNERS ASSOCIATION, INC. AND THE CITY OVER A PORTION OF OUTLOT A, PINE LAKE HEIGHTS ADDITION, TO PRESERVE THE FLOOD STORAGE CAPACITY AND WETLAND CHARACTERISTICS - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83374 WHEREAS, Pine Lake Heights Homeowners Association, Inc. has offered to grant a conservation easement for preservation of the existing wetlands over an area generally located west of S. 38th Street and south of Pine Lake Road, and more particularly described as:

Outlot A, Pine Lake Heights Addition, Lincoln, Lancaster County, Nebraska;

WHEREAS, acquisition of this conservation easement by the City would further the goals of the Comprehensive Plan relating to wetlands.

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

That, on behalf of the City of Lincoln, Nebraska, the offer of a conservation easement by Pine Lake Heights Homeowners Association, Inc. over a tract of land as legally described above and in the Conservation Easement Agreement, attached hereto and marked as Attachment "A", is hereby accepted and approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Conservation Easement Agreement on behalf of the City of Lincoln, Nebraska.

Introduced by Jon Camp

Seconded by Marvin & carried by the following vote: AYES: Camp, Marvin, Newman, Svoboda; NAYS: McRoy; ABSENT: Cook; CONFLICT: Eschliman.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS SO THAT FEDERAL AND STATE FUNDING MAY BE USED FOR THE DESIGN AND CONSTRUCTION OF THE SAFETY IMPROVEMENT PROJECT AT THE INTERSECTION OF N. 56TH STREET AND CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83375 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. STPP-6-6(158), CN-12798, for Federal and State funding for the design and construction of the Safety Improvement Project at the intersection of N. 56th Street and Cornhusker Highway, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

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

Introduced by Robin Eschliman

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS SO THAT FEDERAL AND STATE FUNDING MAY BE USED FOR THE DESIGN AND CONSTRUCTION OF THE SAFETY IMPROVEMENT PROJECT AT THE INTERSECTIONS OF 9TH AND 10TH STREETS AT VAN DORN STREET - PRIOR to reading:

CAMP Moved to delay for 1 week to 6/27/05 with public hearing and action.

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

APPOINTING DAN MARVIN TO THE COMMUNITY DEVELOPMENT TASK FORCE TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 31, 2005 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83376 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Dan Marvin to the Community Development Task Force to fill an unexpired term expiring August 31, 2005 is hereby approved.

Introduced by Robin Eschliman

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

APPOINTING DAN MARVIN TO THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 31, 2005 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83377 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Dan Marvin to the Railroad Transportation Safety District to fill an unexpired term expiring August 31, 2005 is hereby approved.

Introduced by Robin Eschliman

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

APPOINTING PATTE NEWMAN TO THE JOINT BUDGET COMMITTEE TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 31, 2005 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83378 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Patte Newman to the Joint Budget Committee to fill an unexpired term expiring August 31, 2005 is hereby approved.

Introduced by Robin Eschliman

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

APPOINTING ROBIN ESCHLIMAN TO THE INTERNAL AUDITING REVIEW COMMITTEE - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83379 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Robin Eschliman to the Internal Auditing Review Committee to fill an unexpired term is hereby approved.

Introduced by Dan Marvin

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

APPOINTING ROBIN ESCHLIMAN TO THE UTILITY BILLING CHECK-OFF PROGRAM BOARD TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 31, 2005 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83380 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Robin Eschliman to the Utility Billing Check-Off Program Board (Lincoln Cares Program) to fill an unexpired term expiring August 31, 2005, is hereby approved.

Introduced by Dan Marvin

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

SETTING THE HEARING DATE OF MONDAY, JULY 11, 2005 AT 1:30 PM FOR APPLICATION OF BERNARD E. HARRISON DBA RC'S BOXING PRODUCTIONS FOR A CLASS DK LIQUOR LICENSE LOCATED AT 1242 SAUNDERS AVENUE - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83381 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, July 11, 2005, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, NE, for the Application of

Bernard E. Harrison dba RC's Boxing Productions for a Class DK Liquor License located at 1242 Saunders Avenue.

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

Introduced by Dan Marvin

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

SETTING THE HEARING DATE OF MONDAY, JULY 11, 2005 AT 1:30 P.M. FOR THE APPLICATION OF THE NOODLE SHOP CO - COLORADO DBA NOODLES & COMPANY FOR A CLASS I LIQUOR LICENSE LOCATED AT 210 N. 14<sup>TH</sup> STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83382 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, July 11, 2005, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, NE, for the Application of The Noodle Shop Co - Colorado Inc dba Noodles & Company for a Class I Liquor License located at 210 N. 14<sup>th</sup> Street.

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

Introduced by Dan Marvin

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

#### PETITIONS AND COMMUNICATIONS

DEVELOPMENTAL SERVICES OF NEBRASKA INC., FOR PROPERTY LOCATED AT 4000 LINDSEY CIRCLE - CLERK presented said petition which was referred to the Planning Commission.

DEVELOPMENTAL SERVICES OF NEBRASKA INC., FOR PROPERTY AT 2440 SW 18<sup>TH</sup> STREET - CLERK presented said petition which was referred to the State Fire Marshall for review.

DEVELOPMENTAL SERVICES OF NEBRASKA, INC., FOR PROPERTY AT 3912 SOUTH 20<sup>TH</sup> STREET - CLERK presented said petition which was referred to the State Fire Marshall for review.

#### REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL FOR RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON JUNE 13, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

LINCOLN WATER AND WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR MAY, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY THE CITY COUNCIL ON JUNE 6, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

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

CHANGE OF ZONE 05038 - APPLICATION OF PINE LAKE HEIGHTS CONGREGATION OF JEHOVAH'S WITNESSES, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT TO R-1 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 70TH STREET AND PINE LAKE ROAD - CLERK read an ordinance, introduced by Dan Marvin, 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.

COMP. PLAN AMENDMENT NO. 05014 - AMENDING THE LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN BY DELETING REFERENCES TO THE THEATER POLICY AND ENTERTAINMENT IN THE DOWNTOWN, AND BY DELETING ONE STATEMENT REQUIRING MARKET STUDIES FOR PROPOSED NEW THEATERS OUTSIDE OF THE DOWNTOWN AREA. (IN CONNECTION W/05-85, 05-86, 05R-135, 05R-136) (ACTION DATE: 7/11/05) (PLACED ON PENDING UNTIL 7/25/05 WITH PUBLIC HEARING, 6-0; COOK ABSENT) - PRIOR to reading:

CAMP Moved to place on pending until 7/25/05 with public hearing.

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

AMENDING SECTION 27.63.630(C) OF THE LINCOLN MUNICIPAL CODE ZONING ORDINANCE FOR THEATERS IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT, TO ALLOW THEATERS WITH MORE THAN SIX SCREENS, PROVIDED THEY ARE LOCATED OUTSIDE A 6.5 MILE RADIUS MEASURED FROM THE CENTER OF THE INTERSECTION OF 13TH AND O STREETS. (IN CONNECTION W/05-86, 05R-134, 05R-135, 05R-136) (PLACED ON PENDING UNTIL 7/25/05 WITH PUBLIC HEARING, 6-0; COOK ABSENT) - PRIOR to reading:

CAMP Moved to place on pending until 7/25/05 with public hearing.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

CLERK Read an ordinance, introduced by Dan Marvin, amending Section 27.63.630 of the Lincoln Municipal Code relating to theaters as a special permitted use in the B-5 Planned Regional Business District to allow theaters with more than six screens, provided they are located outside a 6.5 mile radius measured from the center of the intersection of 13<sup>th</sup> and O Streets; and repealing Section 27.63.630 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 05036 - APPLICATION OF EIGER CORPORATION FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO B-5 PLANNED REGIONAL BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05-85, 05-86, 05R-135, 05R-136) (PLACED ON PENDING UNTIL 7/25/05 WITH PUBLIC HEARING, 6-0; COOK ABSENT) - PRIOR to reading:

CAMP Moved to place on pending until 7/25/05 with public hearing.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

CLERK Read an ordinance, introduced by Dan Marvin, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

APPEAL OF EIGER CORPORATION FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 05023 TO CONSTRUCT AN 80,000 SQ. FT. THEATER COMPLEX WITH 18 SCREENS IN THE B-5 ZONING DISTRICT, ON PROPERTY GENERALLY LOCATED AT S. 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05-85, 05-86, 05R-136) (ACTION DATE: 7/11/05) (PLACED ON PENDING UNTIL 7/25/05 WITH PUBLIC HEARING, 6-0; COOK ABSENT) - PRIOR to reading:

CAMP Moved to place on pending until 7/25/05 with public hearing.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

APPEAL OF EIGER CORPORATION FROM THE PLANNING COMMISSION DENIAL OF USE PERMIT 140B TO ALLOW 950,983 SQ. FT. OF COMMERCIAL AND OFFICE FLOOR AREA, ON PROPERTY GENERALLY LOCATED AT S. 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05R-135, 05-85, 05-86) (ACTION DATE: 7/11/05) (PLACED ON PENDING UNTIL 7/25/05 WITH PUBLIC HEARING, 6-0; COOK ABSENT) - PRIOR to reading:

CAMP Moved to place on pending until 7/25/05 with public hearing.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

#### ORDINANCES - 3<sup>RD</sup> READING

APPROVING A ONE-YEAR LEASE AGREEMENT BETWEEN THE CITY AND THE CLYDE MALONE COMMUNITY CENTER FOR THE LEASE OF OFFICE SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 2032 U STREET - CLERK read the following ordinance, introduced by Jon Camp, accepting and approving a Lease Agreement between the City of Lincoln and Clyde Malone Center for the lease of office space by the Lincoln Area Agency on Aging for its ActivAge Center program at 2032 U Street for a one-year term beginning September 1, 2004, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by Newman & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook. The ordinance, being numbered **#18549**, is recorded in Ordinance Book #25, Page

AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER "A" BY CREATING THE JOB CLASSIFICATION OF "ECONOMIC DEVELOPMENT SPECIALIST" - CLERK read the following ordinance, introduced by Jon Camp, amending Section 1 of Ordinance No. 18412 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "A", by creating the job classification of Economic Development Specialist, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by Newman & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook. The ordinance, being numbered #18550, is recorded in Ordinance Book #25, Page

APPROVING A THREE-YEAR LEASE AGREEMENT WITH AN OPTION TO PURCHASE BETWEEN THE CITY AND KANSAS STATE BANK OF MANHATTAN FOR A 2005 ELGIN "F" DUAL SWEEPER FOR USE BY THE DEPARTMENT OF PUBLIC WORKS & UTILITIES - CLERK read the following ordinance, introduced by Jon Camp, accepting and approving a three-year lease agreement with option to purchase between the City of Lincoln, Nebraska and Kansas State Bank of Manhattan for a 2005 Elgin Eagle "F" Dual Sweeper for use by the Department of Public Works & Utilities, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by Marvin & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook. The ordinance, being numbered #18551, is recorded in Ordinance Book #25, Page

ANNEXATION 05006- AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 90 ACRES OF PROPERTY GENERALLY LOCATED NORTH OF FLETCHER AVENUE AND WEST OF NORTH 14TH STREET (IN CONNECTION W/05R-113, 05-65, 05R-109, 05-66) - CLERK read the following ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook; ABSTAIN: Marvin. The ordinance, being numbered #18552, is recorded in Ordinance Book #25, Page

APPROVING THE HARTLAND'S GARDEN VALLEY ADDITION CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND HARTLAND HOMES, INC. RELATING TO THE ANNEXATION OF APPROXIMATELY 90.05 ACRES, GENERALLY LOCATED ON THE WEST SIDE OF N. 14TH STREET FROM FLETCHER AVE. TO HUMPHREY AVE (IN CONNECTION W/05-64, 05-65, 05R-109, 05-66) (ACTION DATE: 6/20/05) - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83383 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Hartland's Garden Valley Addition Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Hartland Homes, Inc. ("Owner"), outlining certain conditions and understandings relating to the annexation of approximately 90.05 acres of property generally located on the west side of N. 14th Street from Fletcher Ave. to Humphrey Ave., is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return two fully executed copies of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Jon Camp

Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, McRoy, Svoboda; NAYS: Newman; ABSENT: Cook; ABSTAIN: Marvin.

CHANGE OF ZONE 05024 - APPLICATION OF HARTLAND HOMES, INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTH OF FLETCHER AVENUE AND WEST OF NORTH 14TH STREET (IN CONNECTION W/05-64, 05R-113, 05R-109, 05-66) - PRIOR to reading:

CAMP Moved a motion to amend Bill No. 05-65 by adding the following text to the end of Section 1 on Page 2, which reads: "Applicant shall revise the plans to show 50' minimum lot width on lots fronting the south side of Humphrey Avenue, the north side of Fletcher Avenue and the north side of Pennsylvania Avenue, west of North 10<sup>th</sup> Street.

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

CAMP Moved to pass the ordinance as amended.

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

CLERK Read the following ordinance, introduced by Jon Camp, amending the Lincoln Zoning District maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

The ordinance, being numbered **#18553**, is recorded in Ordinance Book #25, Page

APPEAL OF KEITH SPILKER, DONALD W. SPILKER, LARRY OGDEN, BRUCE A. SPILKER, ANNABELLE NEEMANN, MELINDA KRAMER, BETTY KING, KAHLEEN ZIMMER AND CHARLEY VOGEL FROM THE PLANNING COMMISSION APPROVAL OF SPECIAL PERMIT 05015 TO DEVELOP HARTLAND'S GARDEN VALLEY COMMUNITY UNIT PLAN FOR 326 DWELLING UNITS, WITH REQUESTED WAIVERS OF THE REQUIRED PRELIMINARY PLAT PROCESS, TO ALLOW BLOCKS TO EXCEED MAXIMUM BLOCK LENGTHS, TO REDUCE AVERAGE LOT WIDTH, TO REDUCE LOT AREA, TO ALLOW DOUBLE FRONTAGE LOTS, TO ELIMINATE PEDESTRIAN EASEMENTS, TO ALLOW STREETS TO BE PAVED WITHOUT CURB AND GUTTER AND TO ALLOW SANITARY SEWER TO FLOW OPPOSITE STREET GRADES, ON PROPERTY GENERALLY LOCATED WEST OF N. 14TH STREET AND NORTH OF FLETCHER AVE. (IN CONNECTION W/05-64, 05R-113, 05-65, 05-66) (ACTION DATE: 6/20/05) - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for denial:

A-83384 WHEREAS, Hartland Homes, Inc. and John and Linda Hershberger have submitted an application designated as Special Permit No. 05015 for authority to develop Hartland's Garden Valley Community Unit Plan for 326 dwelling units, with requested waivers to waive the required preliminary plat process, to allow blocks to exceed maximum block lengths, to reduce average lot width, to reduce lot area, to allow double frontage lots, to eliminate pedestrian easements, to allow streets to be paved without curb and gutter and to allow sanitary sewer to flow opposite street grades, on property generally located west of N. 14th Street and north of Fletcher Avenue, and legally described as:

Lots 1 through 4, Block 1, Lots 1 and 4, Block 2, and the north half of Lot 2, Block 2, and that part of North 11th Street which lies between Blocks 1 and 2, Garden Valley, located in the Southeast Quarter of Section 35, Township 11 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, and more particularly described as follows:

Beginning at the northeast corner of said Block 1; thence along the east line of said Block, said line also being the west right-of-way line of North 14th Street, south 00 degrees 12 minutes 41 seconds west, a distance of 1267.75 feet to the southeast corner of said Block 1; thence along the north right-of-way line of Southwick Avenue, now known as Pennsylvania Avenue, north 89 degrees 51 minutes 18 seconds west, a distance of 1946.44 feet to the southwest corner of said Lot 4, Block 2; thence along the west line of said Lots 4 and 1, north 00 degrees 21 minutes 42 seconds east, a distance of 949.20 feet to a point on the west line of said Lot 1; thence north 89 degrees 54 minutes 10 seconds west, a distance of 626.06 feet to a point on the east line of said Lot 2; thence along said line, said line also being the east right-of-way line of North 7th Street, north 00 degrees 25 minutes 29 seconds east, a distance of 316.23 feet to the northwest corner of said Lot 2, Block 2; thence along the north line of said Blocks 2 and 1, said line also being the south right-of-way line of Humphrey Avenue, south 89 degrees 55 minutes 07 seconds east, a distance of 2568.83 feet to the point of beginning, having an area of 2,661,359.87 square feet or 61.096 acres, more or less;

and

Lot 2 and Lot 3, except the south 7.0 feet, Block 4, and the east half of Lots 1 and 4, except the south 7.00 feet, Block 3, and that part of North 11th Street which lies between Blocks 3 and 4, Garden Valley, located in the Southeast Quarter of Section 35, Township 11 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, and more particularly described as follows: Beginning at the intersection of the east line of said Lot 3, Block 4, and the north right-of-way line of Fletcher Avenue; thence along the north right-of-way line of Fletcher Avenue north 89 degrees 46 minutes 39 seconds west, a distance of 1004.56 feet to a point on the north right-of-way line of Fletcher Avenue; thence north 00 degrees 18 minutes 05 seconds east, a distance of 1255.54 feet to a point on the north line of said Lot 1, Block 3; thence along the north line of said Blocks 3 and 4, said line also being the south right-of-way line of Southwick Avenue south 89 degrees 51 minutes 18 seconds east, a distance of 1003.83 feet to the northeast corner of said Lot 2, Block 4; thence along the east line of said Lots 2 and 3, Block 4 for the next three calls, south 00 degrees 17 minutes 39 seconds west, a distance of 599.34 feet; thence south 00 degrees 21 minutes 07 seconds west, a distance of 374.41 feet; thence south 00 degrees 06 minutes 04 seconds west, a distance of 283.15 feet to the point of beginning, having an area of 1,261,076.4 square feet or 28.95 acres, more or less;

WHEREAS, the Lincoln City-Lancaster County Planning Commission held a public hearing on April 27, 2005 and approved Special Permit No. 05015 upon condition that construction of said dwelling units be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This approval permits:
  - a. 326 single-family dwelling units.
  - b. A reduction of the required average lot width in the R-3 Residential District from 50 feet to 41 feet.
  - c. A reduction of the required lot area in the R-3 Residential District from 6,000 sq. ft. to 4,500 sq. ft.
  - d. A waiver of Section 26.23.140(e) of the Lincoln Municipal Code prohibiting double frontage lots.
  - e. A waiver of Section 26.23.130 prohibiting block lengths to exceed 1,320 feet in order to allow Blocks 2 and 7 to exceed the maximum block length.
  - f. A waiver of the preliminary plat process provided that if any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the approval of the community unit plan, the city may require that a new community unit plan be submitted, pursuant to all the provisions of section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.
  - g. A waiver of Section 26.27.010 of the Lincoln Municipal Code requiring streets to be paved with curb and gutter; provided that the lots taking access to Fletcher Avenue are graded to match future property line grades for a standard local street; that the grading plan is revised to show that the lots can be graded and driveways and culverts constructed and that the existing rural paving is retained.
  - h. A waiver of Section 26.23.125 of the Lincoln Municipal Code requiring a pedestrian way when a block exceeds 1000 feet in length in order to eliminate the pedestrian way easement in Block 7 and 15.
2. Before the approval of a final plat, a bond, escrow or security agreement must be provided and approved by the City Law Department to guarantee the proportionate share of the Water Distribution, Water System, Wastewater, Neighborhood Park and Trail, and Arterial Street Impact Fee Facility contribution established in the Hartland's Garden Valley Conditional Annexation and Zoning Agreement attributable to full development of the lots within each final plat compared to the approved full development of the Property under this Special Permit. 3. Before the approval of a final plat, the public streets, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and

grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be provided to the City and approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

4. The Planning Director may approve final plats after the Permittee has signed an agreement that binds the Permittee and Permittee's successors and assigns:

- a. To complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.
- b. To complete the installation of sidewalks along both sides of the internal streets and along the south side of Humphrey, north side of Fletcher, west side of N. 14<sup>th</sup> and east side of N. 7<sup>th</sup> Streets as shown on the final plat within four (4) years following the approval of the final plat.
- c. To construct the sidewalk in the pedestrian way easements in Lots 7 and 30, Block 2 at the same time as Garden Valley Road is paved and to agree that no building permit shall be issued for construction on Lots 7-8, 29-30, Block 2 until such time as the sidewalk in the pedestrian way easement is constructed.
- d. To complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.
- e. To complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.
- f. To complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- g. To complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- h. To complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat.
- i. To complete the installation of public street lights along all streets within this plat within two (2) years following the approval of the final plat.
- j. To complete the planting of the street trees along all streets within this plat within four (4) years following the approval of the final plat.
- k. To complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.
- l. To complete the installation of the street name signs within two (2) years following the approval of the final plat.
- m. To timely complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance which has not been waived but which inadvertently may have been omitted from the above list of required improvements.
- n. To complete the public and private improvements shown on the Community Unit Plan.
- o. To retain ownership of and the right of entry to the outlots in order to perform the above-described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee as subdivider may be relieved and discharged of such maintenance obligations upon creating in writing a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:
  - i. Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.

- ii. The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
  - p. To properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
  - q. To perpetually maintain the sidewalks in the pedestrian way easements on Lots 7 and 30, Block 2 at their own cost and expense.
  - r. To protect the trees that are indicated to remain during construction and development.
  - s. To continuously and regularly maintain the street trees along the private roadways and landscape screens.
  - t. To submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
  - u. To submit to the lot buyers and home builders a copy of the soil analysis.
  - v. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
  - w. To relinquish the right of direct vehicular access from 47-51, Block 7 and Outlot C to N. 14<sup>th</sup> Street and Lots 1-12, Block 1 from Humphrey Avenue.
5. Before receiving building permits:
- a. The Permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
    - i. A permanent final plan with 7 copies as revised as follows:
      - (1) Revise street pattern to comply with block length (except Block 7) and street projections to comply with the Subdivision Ordinance.
      - (2) Revise the site plan to the satisfaction of the Public Works and Utilities Department.
      - (3) Revise street names to not approximate nor duplicate existing street names.
      - (4) Revise the plan to the satisfaction of the Parks Department:
        - (a) All outlot areas to be maintained by the developer and/or future homeowner's association.
        - (b) The Comprehensive Plan indicates an east-west trail connection between N.W. 1st and N. 14th Streets. The alignment is on Alvo Road.
        - (c) A visible and accessible neighborhood park needs to be located on Outlot A, Lots 36 and 37, Block 4, containing a total of approximately 2.85 acres.
        - (d) All landscaped boulevards and medians must be maintained by the City of Lincoln.
        - (e) The playground should be located in conjunction with the neighborhood park referenced in item (c).
        - (f) Street trees need to be assigned by the Forestry Department.
      - (5) Provide utility easements as requested by LES.
    - ii. The associated Annexation #05006, Street and Alley Vacation #05002 and Change of Zone #05024 must be approved by City Council.
  - b. Ornamental street lights for private roadways and pedestrian way easements are approved by L.E.S.
  - c. The construction plans comply with the approved plans.
  - d. Final plats are approved by the City.
  - e. The required easements as shown on the site plan are recorded with the Register of Deeds.
6. Before occupying this community unit plan all development and construction is to comply with the approved plans.
7. All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the owner or an appropriately established homeowners association approved by the City.

8. 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.

9. This resolution's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.

10. The Permittee shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file the attached Notice of Development and Use Restriction pertaining to the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the Permittee.; and

WHEREAS, Keith Spilker, Donald Spilker, Larry Ogden, Bruce A. Spilker, Annabelle Neemann, Melinda Kramer, Betty King, Kahleen Zimmer and Charley Vogel have appealed from the Lincoln City-Lancaster County Planning Commission's approval of Special Permit No. 05015; and

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

WHEREAS, said site plan together with the terms and conditions set forth above 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 Lincoln City-Lancaster County Planning Commission of Lincoln, Nebraska:

That the final action of the Lincoln City-Lancaster County Planning Commission approving Special Permit No. 05015 be and the same is hereby affirmed.

Introduced Jon Camp

Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Svoboda; NAYS: Newman; ABSENT: Cook.

VACATION 05002 - VACATING NORTH 11TH STREET FROM THE NORTH LINE OF FLETCHER AVENUE TO THE SOUTH LINE OF HUMPHREY AVENUE - CLERK read the following ordinance, introduced by Jon Camp, vacating North 11<sup>th</sup> Street from the north line of Fletcher Avenue to the south line of Humphrey Avenue, the third time.

CAMP Moved to pass the ordinance as read.

Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, McRoy, Svoboda; NAYS: Newman; ABSENT: Cook; ABSTAIN: Marvin. The ordinance, being numbered **#18554**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 2382B - APPLICATION OF BJ MCLAND, INC. TO AMEND STONY RIDGE PLANNED UNIT DEVELOPMENT TO ALLOW AN EXPANSION OF THE AREA FOR THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES, ON PROPERTY GENERALLY LOCATED AT SPORTSCASTERS BAR AND GRILL, 3048 N. 70TH STREET - CLERK read the following ordinance, introduced by Jon Camp, amending the previously approved Stony Ridge Planned Unit Development to expand the area for the sale of alcoholic beverages for consumption on the premises, the third time.

CAMP Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook. The ordinance, being numbered **#18555**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 05019 - AMENDING SECTION 27.83.010 OF THE LINCOLN MUNICIPAL CODE TO ESTABLISH THAT THE REQUIREMENTS OF THE BUILD-THROUGH ACREAGE (BTA) OVERLAY DISTRICT ONLY APPLY TO APPLICATION FOR DEVELOPMENT SUBMITTED AFTER OCTOBER 25, 2004 (IN CONNECTION W/05-71) - CLERK read the following ordinance, introduced by Jon Camp, amending Chapter 27.83 of the Lincoln Municipal Code relating to the Build Through Acreage Overlay District by amending Section 27.83.010 to provide that the regulations shall only apply to applications for development within the BTA District submitted after October 25, 2004; and repealing Section 27.83.010 of the Lincoln Municipal Code as hitherto existing, the third time.

CAMP Moved to pass the ordinance as read.

Seconded by Marvin & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook. The ordinance, being numbered **#18556**, is recorded in Ordinance Book #25, Page

REGULAR MEETING  
JUNE 20, 2005  
PAGE 1640

MISC. 05006 - AMENDING THE LINCOLN MUNICIPAL CODE BY ADDING A NEW SECTION 26.15.070 TO ESTABLISH THAT BUILD-THROUGH STANDARDS APPLY TO ALL DEVELOPMENTS REQUIRING A SUBDIVISION WITHIN THE BUILD-THROUGH ACREAGE (BTA) OVERLAY DISTRICT (IN CONNECTION W/05-68) - PRIOR to reading:

NEWMAN Moved to amend Bill No. 05-71 in the following manner: delete the text after the word "city" on Page 1, Line 20, and delete Lines 1 and 2 on Page 2.

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

CAMP Moved to pass the ordinance as amended.

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

CLERK Read the following ordinance, introduced by Jon Camp, amending Chapter 26.15 of the Lincoln Municipal Code relating to Preliminary Plats by adding a new section numbered 26.15.070 to require submittal of a transitional preliminary plat for specified developments requiring a subdivision within the BTA Build Through Acreage Overlay District and to specify the information to be shown on the transitional preliminary plat buildable lots, the third time.

The ordinance, being numbered #18557, is recorded in Ordinance Book #25, Page

ANNEXATION 05007 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 26.1 ACRES OF PROPERTY GENERALLY LOCATED AT S. 93RD STREET AND OLD CHENEY ROAD (IN CONNECTION W/05R-112, 05-70) - CLERK read the following ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the third time.

CAMP Moved to pass the ordinance as read.

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

The ordinance, being numbered #18558, is recorded in Ordinance Book #25, Page

APPROVING THE RAVENWOOD CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND IRONWOOD ESTATES, LLC, ALAN FLUCKEY, AND SUSAN CHADWICK RELATING TO THE ANNEXATION OF APPROXIMATELY 26.1 ACRES, GENERALLY LOCATED AT 93RD STREET AND OLD CHENEY ROAD. (IN CONNECTION W/05-69, 05-70) (ACTION DATE: 6/20/05) - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83371 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Ravenwood Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Ironwood Estates, LLC, Alan Fluckey, and Susan Chadwick ("Owners"), outlining certain conditions and understandings relating to the annexation of approximately 26.1 acres of property generally located at 93rd Street and Old Cheney Road, is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return two fully executed copies of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Jon Camp

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

CHANGE OF ZONE 05025 - APPLICATION OF IRONWOOD ESTATES, LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT S. 93RD STREET AND OLD CHENEY ROAD (IN CONNECTION W/05R-112, 05-69) - CLERK read the following ordinance, introduced by Jon Camp, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

CAMP Moved to pass the ordinance as read.

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

The ordinance, being numbered #18559, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 05037 - AMENDING SECTION 27.35.070(E) OF THE LINCOLN MUNICIPAL CODE TO ADJUST THE YARD REQUIREMENTS FOR BUILDINGS ADJACENT TO WALLS WITH WINDOWS FOR RESIDENTIAL USES IN THE B-4 LINCOLN CENTER BUSINESS DISTRICT - CLERK read the following ordinance, introduced by Jon Camp, amending Section 27.35.070 of the Lincoln Municipal Code relating to the Height and Area Regulations within the B-4 Lincoln Center Business District to adjust the yard requirements for buildings adjacent to walls with windows for residential uses; and repealing Section 27.35.070 of the Lincoln Municipal Code as hitherto existing, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.  
The ordinance, being numbered #18560, is recorded in Ordinance Book #25, Page

STREET NAME CHANGE 05003 - RENAMING THE STREET RUNNING NORTHWEST OFF OF FRANKLIN STREET TO KAJAN DRIVE AS "ANAHEIM DRIVE" - CLERK read the following ordinance, introduced by Jon Camp, naming the unnamed street running northwest off of Franklin Street to Kajan Drive as "Anaheim Drive," as recommended by the Street Name Committee, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.  
The ordinance, being numbered #18561, is recorded in Ordinance Book #25, Page

STREET NAME CHANGE 05004 - NAMING THE ROAD PLANNED TO CONNECT ASHBROOK DRIVE TO HIGHWAY 2, EAST OF 70TH STREET & HIGHWAY 2, AS "ASHBROOK DRIVE" - CLERK read the following ordinance, introduced by Jon Camp, naming the road planned to connect Ashbrook Drive to Highway 2, generally located east of 70<sup>th</sup> and Highway 2, as "Ashbrook Drive", as recommended by the Street Name Committee, the third time.

CAMP Moved to pass the ordinance as read.  
Seconded by Marvin & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.  
The ordinance, being numbered #18562, is recorded in Ordinance Book #25, Page

#### MISCELLANEOUS BUSINESS

##### PENDING -

CAMP Moved to extend the Pending List to June 27, 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

##### UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on June 27, 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.

##### ADJOURNMENT 6:20 P.M.

CAMP Moved to adjourn the City Council meeting of June 20, 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Cook.  
So ordered.

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Joan E. Ross, CMC, City Clerk

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Jamie Phillips, Senior Office Assistant

MINUTES  
JOINT PUBLIC HEARING  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
CITY OF LINCOLN CITY COUNCIL  
MONDAY, JUNE 20, 2005  
555 S. 10<sup>TH</sup> STREET, LINCOLN, NE  
4:15 P.M.

LANCASTER COUNTY COMMISSIONERS

Larry Hudkins, Chair; Deb Schorr, Vice Chair; Commissioners: Bernie Heier, Ray Stevens, and Bob Workman.

CITY OF LINCOLN CITY COUNCIL MEMBERS

Ken Svoboda, Chair, Patte Newman, Vice Chair; Council Members: Jon Camp, Robin Eschliman, Dan Marvin, Annette McRoy; ABSENT: Cook.

CALL TO ORDER

The Joint Meeting of the Lancaster County Board and the Lincoln City Council was convened at 4:15 p.m.

Lancaster County Board Chair Larry Hudkins made introductions and called the Lancaster County Board of Commissioners to order.

Lincoln City Council Chair Ken Svoboda made introductions and called the Lincoln City Council Members to order.

ELECTION OF JOINT BODY CHAIR

A motion was made by Stevens, seconded by Workman to nominate Patte Newman, Lincoln City Council, to serve as Chair of the Joint Bodies for this public hearing. With no further nominations being brought forward, the call for nominations was closed.

**County Commissioners:** AYES: Heier, Hudkins, Stevens, Schorr, Workman. NAYS: None. Motion carried.

**City Council:** AYES: Camp, Eschliman, Marvin, McRoy, Newman, Svoboda. NAYS: None; ABSENT: Cook. Motion carried.

OPENING STATEMENT

Chairman Patte Newman made brief introductory remarks regarding the public hearing procedures and protocol.

Chairman Newman invited those wishing to provide testimony to come forward, indicating that a five minute time limit would be utilized for those providing comments.

PUBLIC TESTIMONY AND VOTING SESSION

**COMP. PLAN AMENDMENT NO. 05003 - TO UPDATE AND AMEND THE TRAILS & BICYCLE FACILITIES PLAN MAP IN THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO REFLECT THE LOCATION OF THE DEAD MAN'S RUN TRAIL FROM N. 33RD TO N. 48TH STREETS ON THE SOUTH SIDE OF HUNTINGTON/LEIGHTON, AND TO UPDATE THE MAP TO SHOW COMPLETED TRAIL AND GRADE SEPARATIONS.**

David Cary, Planning Department, came forward to explain that this item is mainly a clean up item which they do every year as part of this process. They are identifying a slight change in the location of the trail though the University Campus between 33<sup>rd</sup> and 48<sup>th</sup> Street, and they are also identifying completed trails to the South of the University. He stated that the intent of this plan remains the same, and the University has obtained the funds for them to go complete this project. Further discussion followed.

Ray Stevens, County Board, stated that there is about 1.1 million dollars of various funds to complete this project.

Mr. Cary agreed.

VOTE

STEVENS Moved for approval of Comp. Plan 05003.

Seconded by Hudkins & carried by the following vote: AYES:  
Workman, Schorr, Heier, Stevens, Hudkins; NAYS: None.

ESCHLIMAN Moved for approval of Comp. Plan 05003.

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

The City Council resolution is numbered: **A-83385**

**COMP. PLAN AMENDMENT NO. 05004 - TO UPDATE AND AMEND THE FUTURE ROAD IMPROVEMENTS COUNTY MAP IN THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO DESIGNATE S. 82ND STREET FROM HICKMAN ROAD TO PANAMA ROAD AS POTENTIAL PAVING.**

David Cary, Planning Department, came forward to explain that this item is to identify this segment of South 82<sup>nd</sup> Street and Hickman Road to Panama Road as future paving. He said that there is a need for this because when the South 68<sup>th</sup> Street railroad viaduct project takes place, it will be closed down for around two years and the identified detoured route is South 82<sup>nd</sup> Street for this two mile segment. He stated that it was identified that there was a need to pave that segment of the roadway, which was agreed to by all parties involved.

Ray Stevens, County Board, wanted to verify that this is for the two mile stretch between Hickman and Panama Road and that from Saltillo Road to Roca Road is already in the Comprehensive Plan. He then asked Mr. Cary, "So will that leave a two mile stretch that will not be paved, correct?"

Mr. Cary answered, "Correct, that is how the Comprehensive Plan will read."

VOTE

SCHORR Moved for approval of Comp. Plan 05004.

Seconded by Heier & carried by the following vote: AYES:  
Heier, Workman, Stevens, Schorr, Hudkins; NAYS: None.

MARVIN Moved for approval of Comp. Plan 05004.

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

The City Council resolution is numbered: **A-83386**

**COMP. PLAN AMENDMENT NO. 05005 - AMENDING THE LINCOLN AREA STREET AND ROADWAY IMPROVEMENT MAP AND RELATED TEXT IN THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE FLETCHER AVENUE FROM 4+1 LANES TO 2+1 LANES AND TO CHANGE ITS FUNCTIONAL CLASSIFICATION FROM MINOR ARTERIAL TO URBAN COLLECTOR.**

J.R. Brown, Applicant, 5501 Rockford Drive, came forward in opposition. He stated that in the year of 2003 he decided to build his first home. While in search for an area to build, he narrowed it down to two locations, which was 20 acres north of Lincoln, or the lot that he ultimately chose and is now on. He stated that he purchased his lot because of the quality of the neighborhood, excellent reputation of the developer, and the fact that North Hills has many great features such as natural wetlands, a proposed school site, and a proposed neighborhood business center. He is concerned that if the City builds a large street like Superior Street in their back yard, that it will only increase a negative impact on their neighborhood and their property values. He is concerned about the noise, the proposed 2,000 square foot regional center, the widening of I-80 to six lanes, speed and safety in their neighborhood, and the excess trash and pollution near their wetlands.

He asked the City Council and County Board to vote to place this item on pending and to give direction to the Planning Department to sit down with his neighborhood to help come up with solutions to their concerns.

Ken Svoboda, City Council, asked Mr. Brown, "When you bought the house did you check into the fact that Fletcher was platted, graded, and designed as a four lane?"

Mr. Brown stated that he felt that he did as much looking into it as possible. He said that he looked into it on the County Assessor website, which did not share much information on that street. He said that he knew there was going to be a street there and that the neighborhood is okay with that, he just wishes that they could do it in a way that will work well with the neighborhood and with the businesses.

Annette McRoy, City Council, asked Mr. Brown, "I know that at one point, your neighborhood association was working with the developer, who will be developing across from Fletcher Avenue. Are you still continuing those negotiations with them, as far as what businesses will be on the parameter?"

Mr. Brown stated, "Yes, we have a plan that we have handed off to the developer and they are currently reviewing that."

Ken Svoboda, City Council, asked, "Are you currently the President of your Neighborhood Association?"

Mr. Brown replied, "No, but our neighborhood is so new right now that our Neighborhood Association is incorporated by the developer."

Bill Rogers, 5821 Kennedy Court, came forward in opposition. He also stated that Mr. Brown has acted as their neighborhood "ramrod" and has been actively visiting with the neighbors by making us aware of what is taking place. Mr. Rogers stated that he and his wife built their home in 2003, and it is right next to the back side of the wetlands. He stated that they talked to their real estate agent and their developer before they built their house, and they didn't think that a four lane highway would be developed in their area. He stated that he would like to work with the City while they put this plan together.

Bob Workman, County Board, asked Mr. Rogers, "Would you please show us where your house is located on the site map on the overhead?"

Mr. Rogers pointed out his lot on the site map.

Bob Workman, County Board, asked Mr. Rogers, "Do you think that it would be better for your neighborhood to have a two lane rather than a four lane?"

Mr. Rogers agreed.

Bob Workman, County Board, asked, "Do you get a lot of disturbances from Interstate 80?"

Mr. Rogers said that they do.

Ken Svoboda, City Council, asked, "If you would have known that a four lane road and a business area was platted for your area before you moved into the neighborhood, would you have still moved there?"

Mr. Rogers stated that he and his wife were seriously looking into a lot at North 94<sup>th</sup> and Waverly Road, but when they saw their current lot and that they were no current roads in the area, they put a down payment down on their lot.

Carol Brown, 2201 Elba Circle, came forward in opposition. She stated that in 2000 she was part of the Long Range Transportation Task Force where they addressed the need for an updated road system for Lincoln and Lancaster Country. She stated that at the time of the meetings, they felt that a road of four lanes made sense to them. However, now this neighborhood is faced with the concerns of having to deal with this main road being drug through their neighborhood. She stated her concerns of the high speeds of this new road in that area. She is concerned with the high volume and speeds that the traffic will create, and feels that it will cause many accidents.

DeNay Kalkowski, Attorney, 1111 Lincoln Mall, Suite 350, came forward on behalf of Northern Lights LLC and Southview Inc in opposition. She stated that the applicants are the owners of the B-2 property that exists on the North side of Fletcher Avenue. She stated that they would support denial of this comprehensive plan amendment, and they would like to have the comprehensive plan remain as it is today as showing Fletcher as an arterial street.

Ken Svoboda, City Council, asked, "I take it that your client has developed this area including the green space that is currently there. Are there trees or proposed trees on that area, or what is the layout of the plan?"

Ms. Kalkowski replied that there are trees within the area that will probably be removed as part of the grading for Fletcher.

Ken Svoboda, City Council, asked, "Is your client required to put in trees in that area?"

Ms. Kalkowski replied, "They will be required to put street trees along Fletcher Avenue."

Ray Stevens, County Board, asked, "Does your client own any of the land south or east of Fletcher?"

Ms. Kalkowski replied no.

Patte Newman, City Council, "Generally when these kind of developments come through, the developer generally makes a commitment to preserve as much as the tree mass as possible. Did you make that commitment, or was it always in the plan to remove those trees?"

Ms. Kalkowski replied, "This was done back in 1999, and obviously with our standards today we are more careful in planning and preserving these things. We had an access point set that we had to meet, so many of the trees came out so that Fletcher could take that access to 14<sup>th</sup> street. So I can't say if any special preservation was taken on the trees."

Ray Stevens, County Board, asked Mr. Cary, "What is the work that is being done out there now from 14<sup>th</sup> street up to where Fletcher ends today?"

David Cary, Planning Department, stated, "The road way from 14<sup>th</sup> Street up to where Fletcher ends today has not been constructed yet. The rest going on from the north and east is constructed at least to a two-lane facility with a future four-lane to be put in when the traffic indicates that it is needed."

J.R. Brown, came forward for rebuttal. He also reiterated that they would like this comprehensive plan be placed on pending.

**VOTE**

ESCHLIMAN Moved for denial of Comp. Plan 05005.

Seconded by Svoboda & **LOST** by the following vote: AYES: Eschliman, Svoboda; NAYS: Camp, Marvin, McRoy, Newman; ABSENT: Cook.

SCHORR Moved for denial of Comp. Plan 05005.

Seconded by Heier & carried by the following vote: AYES: Heier, Workman, Stevens, Schorr, Hudkins; NAYS: None.

The resolution, having **LOST**, was assigned the File #38-4504 & was placed on file in the Office of the City Clerk.

**COMP. PLAN AMENDMENT NO. 05007 - AMENDING THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE THE URBAN GROWTH AREA DESIGNATION FROM PRIORITY B OF TIER 1 TO PRIORITY A OF TIER 1, ON PROPERTY GENERALLY LOCATED BETWEEN N.W. 70TH AND N.W. 56TH STREET, FROM W. SUPERIOR TO W. ADAMS STREET.**

Duncan Ross, Planning Department, came forward and stated that he believes that the applicant received notice of the public hearing so he is not sure why he isn't present. Mr. Ross further explained that this item is a request from Michael Rierden on behalf of Lincoln Federal Savings to

move approximately 480 acres of land in northwest Lincoln from Tier I, Priority B, to Tier I, Priority A. He stated that the staff recommendation on this was denial, and Planning Commission carried that vote of denial with a 6-0 vote.

VOTE

ESCHLIMAN Moved for denial of Comp. Plan #05007.  
Seconded by Camp & **LOST** by the following vote: AYES: Camp;  
NAYS: Eschliman, Marvin, McRoy, Newman, Svoboda; ABSENT: Cook.

SVOBODA Moved for approval of Comp. Plan #05007.  
Seconded by Marvin & carried by the following vote: AYES:  
Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: Camp; ABSENT: Cook.

HEIER Moved for approval of Comp. Plan #05007.  
Seconded by Hudkins & carried by the following vote: AYES:  
Heier, Schorr, Hudkins; NAYS: Stevens, Workman.

The City Council resolution is numbered: **A-83387**

**COMP. PLAN AMENDMENT NO. 05009 - AMENDING THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE THE LAND USE FROM AGRICULTURAL TO INDUSTRIAL AND REGIONAL COMMERCIAL, FOR INCLUSION IN THE FUTURE SERVICE LIMIT, AND TO CHANGE THE URBAN GROWTH AREA DESIGNATION FROM TIER II TO TIER I, PRIORITY A, ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF THE INTERCHANGE OF INTERSTATE 80 AND HIGHWAY 77(N. 56TH STREET).**

Mark Hunzeker, Attorney, 1045 Lincoln Mall, Suite 200, came forward on behalf of JTS LLC for approval. He stated that this application is to move approximately 208 acres, located on the northwest corner of North 56<sup>th</sup> Street or Highway 77 and Interstate 80, from Tier II to Tier I A. He stated that the Planning Staff increased it to approximately 225 acres, after reading their application. Mr. Hunzeker stated that they have no problem with those changes. He also stated that at the corner of 56<sup>th</sup> and I-80, they have requested a regional shopping center designation. He stated that his applicant and the Planning Commission both feel that this is a good site and would be ideal for a large employment center as well as some commercial activity. He feels that this will give people a reason to stop and drop a few dollars in Lincoln, rather than driving past Lincoln on the interstate. He also stated that they are in the process of examining the likely-hood of extending this site further as they go forward with the land use map updates in conjunction with the 20 year transportation plan updates that are moving forward.

Bernie Heier, County Board, asked, "The amendment that you are asking for does include the site specifics on here, correct, and not what the staff is recommending?"

Mr. Hunzeker, replied, "Our original application was to designate a regional shopping center specifically at that corner. At this point, the Planning Commission did not include that. We do intend to bring forward an application that will include a significant retail component."

Duncan Ross, Planning Department, came forward to help answer questions of the City Council and the County Board. Further discussion followed.

Mr. Hunzeker came forward for rebuttal. Further discussion followed.

VOTE

ESCHLIMAN Moved approval of Comp. Plan #05009.  
Seconded by Marvin & carried by the following vote: AYES:  
Camp, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT:  
Cook.

HUDKINS Moved approval of Comp. Plan #05009.  
Seconded by Workman & carried by the following vote: AYES: Heier,  
Workman, Schorr, Stevens, Hudkins; NAYS: None.

STEVENS Moved to reconsider Comp. Plan #05009.  
Seconded by Workman & **LOST** the following vote: AYES:  
Stevens, Workman; NAYS: HEIER, SCHORR, HUDKINS.

The City Council resolution is numbered: **A-83388**

CALL TO ADJOURNMENT

Council Chair Patte Newman, as joint body chair, closed the public hearing.

CAMP Moved to adjourn the Joint City/County Meeting of June 20, 2005.

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

STEVENS Moved to adjourn the Joint City/County Meeting of June 20, 2005.

Seconded by Workman & carried by the following vote: AYES: Heier, Stevens, Schorr, Workman, Hudkins; NAYS: None.

ADJOURNMENT

The Joint City/County meeting adjourned at **6:20 P.M.**

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Joan E. Ross, CMC, City Clerk

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Jamie Phillips, Senior Office Assistant

