

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, OCTOBER 17, 2005 AT 1:30 P.M.**

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

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**

NEWMAN Having been appointed to read the minutes of the City Council proceedings of October 10, 2005, reported having done so, found same correct.

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

**PUBLIC HEARING**

APPLICATION OF DOWNTOWN BRAKES AND OIL INC. DBA 16TH STREET LIQUOR FOR A CLASS D LIQUOR LICENSE AT 1601 N STREET;

MANAGER APPLICATION OF WALTER JON SCOTT FOR DOWNTOWN BRAKES AND OIL INC. DBA 16TH STREET LIQUOR AT 1601 N STREET - Mike Rierden, 645 "M" Street, Suite 200, took the oath and came forward on behalf of 16<sup>th</sup> Street Liquor to answer questions.

Walter Jon Scott, took the oath and came forward to answer questions.

This matter was taken under advisement.

APPLICATION OF PLAYMAKERS, INC. DBA PLAYMAKERS FOR A CLASS C LIQUOR LICENSE AT 640 W. PROSPECTOR COURT, #300;

MANAGER APPLICATION OF JAMIE JAKUB FOR PLAYMAKERS, INC. DBA PLAYMAKERS AT 640 W. PROSPECTOR COURT, #300 - Mike Rierden, 645 "M" Street, Suite 200, took the oath and came forward on behalf of Playmakers to state there has been a change in the stockholders and now Jamie Jakub is the majority stockholder. He was available for questions.

Jamie Jakub, no address given, took the oath and came forward to answer questions.

This matter was taken under advisement.

VACATION 05005 - VACATING MAPLE STREET WEST FROM S.W. 27TH STREET, GENERALLY LOCATED AT S.W. 27TH STREET AND WEST PEACH STREET - Brian Carstens, 601 Old Cheney Road., Suite C, came forward on behalf of Hartland Homes to state the petitions have been signed for vacating Maple Street and was available for questions.

This matter was taken under advisement.

CHANGE OF ZONE 05050 - APPLICATION OF LINCOLN SPORTS FOUNDATION FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO H-2 HIGHWAY BUSINESS ON PROPERTY GENERALLY LOCATED AT N. 70TH STREET AND ARBOR ROAD - Mark Hunzeker, 1045 Lincoln Mall, Suite 200, came forward representing Lincoln Sports Foundation to state they are expanding to include a tennis court to the west which will extend beyond the H-2 zoning. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 05065 - AMENDING SECTIONS 27.27.080, 27.28.090, 27.31.100, 27.37.070, 27.51.100, 27.57.180, 27.63.025, AND 27.82.110 OF THE LINCOLN MUNICIPAL CODE TO MODIFY THE CITY COUNCIL'S ACTION ON A MATTER APPEALED FROM THE PLANNING COMMISSION TO THE CITY COUNCIL;

MISC. 05021 - AMENDING SECTIONS 26.11.037, 26.11.060, AND 26.31.010 OF THE LINCOLN MUNICIPAL CODE TO MODIFY THE CITY COUNCIL'S ACTION ON A MATTER APPEALED FROM THE PLANNING COMMISSION TO THE CITY COUNCIL - Mike Morosin, 2055 "S" Street, asked for an explanation of the changes.

Jonathan Cook, Council Member, explained this would change the way appeals are handled. Instead of two separate pieces of legislation for approval or denial it would be one piece of legislation for approval.

Glen Ceval, 1420 "C" Street, came forward to comment on subject not on this agenda.

This matter was taken under advisement.

AMENDING SECTION 6.04.150 OF THE LINCOLN MUNICIPAL CODE RELATING TO SHELTER FEES TO INCREASE THE FEE FOR RELEASE OF ANY ANIMAL HELD OR IMPOUNDED IN THE ANIMAL SHELTER;

AMENDING SECTIONS 6.08.130 AND 6.08.260 OF THE LINCOLN MUNICIPAL CODE RELATING TO DOGS TO INCREASE THE FEE FOR THE RELEASE OF A DOG HELD OR IMPOUNDED IN THE ANIMAL SHELTER;

AMENDING SECTION 6.10.050 OF THE LINCOLN MUNICIPAL CODE RELATING TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS TO INCREASE THE REGISTRATION FEE OF POTENTIALLY DANGEROUS DOGS FROM \$5.00 TO \$25.00;

AMENDING SECTIONS 6.12.100 AND 6.12.220 OF THE LINCOLN MUNICIPAL CODE RELATING TO CATS TO INCREASE THE FEE FOR THE RELEASE OF A CAT HELD OR IMPOUNDED IN THE ANIMAL SHELTER - Bruce Dart, Director of Lincoln-Lancaster County Health Department, came forward to answer questions. Discussion followed.

Glen Ceval, 1420 "C" Street, stated he was happy about the new cat regulations and that the microchip is a good idea.

Mike Morosin, 2055 "S" Street, came forward to question the software being used.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF SEPTEMBER 16 - 31, 2005 - Dan Marvin, Council Member, asked questions of the denial of Robert M. Ihrig's claim and the approval of Robert Blankenship's claim.

Dana Roper, City Attorney, stated Mr. Ihrig's, owner of Bob's Gridiron Grill, claim was concerning the smoking ban. Mr. Blankenship's claim went to litigation which included State Farm as 3<sup>rd</sup> party claimant.

This matter was taken under advisement.

SPECIAL PERMIT 2022A - APPLICATION OF J&D LEASING, INC. TO AMEND PINE LAKE HEIGHTS SOUTH 4TH ADDITION PLANNED SERVICE COMMERCIAL SPECIAL PERMIT TO ADJUST THE ON-PREMISE SIGN REQUIREMENTS TO ALLOW AN ADDITIONAL GROUND SIGN FOR THE AUTO DEALERSHIP ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF S. 27TH STREET AND YANKEE HILL ROAD - DaNay Kalkowski, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing J & D Leasing, Inc. to answer questions. Discussion followed.

Ray Hill, Planning Dept., stated a flashing sign is not allowed, but a message sign would be allowed. Discussion followed.

This matter was taken under advisement.

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

**MISCELLANEOUS BUSINESS - NONE**

## **COUNCIL ACTION**

### **LIQUOR RESOLUTIONS**

APPLICATION OF DOWNTOWN BRAKES AND OIL INC. DBA 16TH STREET LIQUOR FOR A CLASS D LIQUOR LICENSE AT 1601 N STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-83589 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 Downtown Brakes and Oil Inc. dba 16th Street Liquor for a Class "D" liquor license at 1601 N 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 Dan Marvin

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

MANAGER APPLICATION OF WALTER JON SCOTT FOR DOWNTOWN BRAKES AND OIL INC. DBA 16TH STREET LIQUOR AT 1601 N STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-83590 WHEREAS, Downtown Brakes and Oil dba 16th Street Liquor located at 1601 N Street, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Walter Jon Scott be named manager;

WHEREAS, Walter Jon Scott 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 Walter Jon Scott 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 Dan Marvin

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

APPLICATION OF PLAYMAKERS, INC. DBA PLAYMAKERS FOR A CLASS C LIQUOR LICENSE AT 640 W. PROSPECTOR COURT, #300 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-83591 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 Playmakers, Inc. dba Playmakers for a Class "C" liquor license at 640 W. Prospector Court, #300, Street, Lincoln, Nebraska, for the license period ending October 31, 2005, 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 Dan Marvin

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

MANAGER APPLICATION OF JAMIE JAKUB FOR PLAYMAKERS, INC. DBA PLAYMAKERS AT 640 W. PROSPECTOR COURT, #300 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption for approval:

A-83592 WHEREAS, Playmakers, Inc. dba Playmakers located at 640 W. Prospector Court, #300, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Jamie Jakub be named manager;

WHEREAS, Jamie Jakub 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 Jamie Jakub 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 Dan Marvin

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

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

VACATION 05005 - VACATING MAPLE STREET WEST FROM S.W. 27TH STREET, GENERALLY LOCATED AT S.W. 27TH STREET AND WEST PEACH STREET - CLERK read an ordinance, introduced by Patte Newman, vacating Maple Street west of S.W. 27<sup>th</sup> Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

CHANGE OF ZONE 05050 - APPLICATION OF LINCOLN SPORTS FOUNDATION FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO H-2 HIGHWAY BUSINESS ON PROPERTY GENERALLY LOCATED AT N. 70TH STREET AND ARBOR ROAD - CLERK read an ordinance, introduced by Patte Newman, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

CHANGE OF ZONE 05065 - AMENDING SECTIONS 27.27.080, 27.28.090, 27.31.100, 27.37.070, 27.51.100, 27.57.180, 27.63.025, AND 27.82.110 OF THE LINCOLN MUNICIPAL CODE TO MODIFY THE CITY COUNCIL'S ACTION ON A MATTER APPEALED FROM THE PLANNING COMMISSION TO THE CITY COUNCIL - CLERK read an ordinance, introduced by Patte Newman, amending Title 27 of the Lincoln Municipal Code relating to the Zoning Code by amending Sections 27.27.080, 27.28.090, 27.31.100, 27.37.070, 27.51.100, 27.57.180, 27.63.025 and 27.82.110 to modify the City Council's action on a matter appealed to the City Council; and repealing Sections 27.27.080, 27.28.090, 27.31.100, 27.37.070, 27.51.100, 27.57.180, 27.63.025, and 27.82.110 of the Lincoln Municipal Code as hitherto existing, the second time.

MISC. 05021 - AMENDING SECTIONS 26.11.037, 26.11.060, AND 26.31.010 OF THE LINCOLN MUNICIPAL CODE TO MODIFY THE CITY COUNCIL'S ACTION ON A MATTER APPEALED FROM THE PLANNING COMMISSION TO THE CITY COUNCIL - CLERK read an ordinance, introduced by Patte Newman, amending Title 26 of the Lincoln Municipal Code relating to the Land Subdivision Ordinance by amending Sections 26.11.037, 26.11.060 and 26.31.010 to modify the City Council's action on a matter appealed to the City Council; and repealing Sections 26.11.037, 26.11.060, and 26.31.010 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTION 6.04.150 OF THE LINCOLN MUNICIPAL CODE RELATING TO SHELTER FEES TO INCREASE THE FEE FOR RELEASE OF ANY ANIMAL HELD OR IMPOUNDED IN THE ANIMAL SHELTER - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 6.04 of the Lincoln Municipal Code relating to Animal Control Regulations - Generally by amending Section 6.04.150 relating to shelter fees to increase the fee for release of any animal held or impounded in the animal shelter; and repealing Section 6.04.150 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTIONS 6.08.130 AND 6.08.260 OF THE LINCOLN MUNICIPAL CODE RELATING TO DOGS TO INCREASE THE FEE FOR THE RELEASE OF A DOG HELD OR IMPOUNDED IN THE ANIMAL SHELTER - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 6.08 of the Lincoln Municipal Code relating to Dogs by amending Sections 6.08.130 and 6.08.260 of the Lincoln Municipal Code to increase the fee for the release of a dog held or impounded in the animal shelter; and repealing Sections 6.08.130 and 6.08.260 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTION 6.10.050 OF THE LINCOLN MUNICIPAL CODE RELATING TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS TO INCREASE THE REGISTRATION FEE OF POTENTIALLY DANGEROUS DOGS FROM \$5.00 TO \$25.00 - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 6.10 of the Lincoln Municipal Code relating to Dangerous and Potentially Dangerous Dogs by amending Section 6.10.050 to increase the registration fee of potentially dangerous dogs from \$5.00 to \$25.00; and repealing Section 6.10.050 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTIONS 6.12.100 AND 6.12.220 OF THE LINCOLN MUNICIPAL CODE RELATING TO CATS TO INCREASE THE FEE FOR THE RELEASE OF A CAT HELD OR IMPOUNDED IN THE ANIMAL SHELTER - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 6.12 of the Lincoln Municipal Code relating to Cats by amending Sections 6.12.100 and 6.12.220 of the Lincoln Municipal Code to increase the fee for the release of a cat held or impounded in the animal shelter; and repealing Sections 6.12.100 and 6.12.220 of the Lincoln Municipal Code as hitherto existing, 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 SEPTEMBER 16 - 31, 2005 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83593 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated October 3, 2005, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

	<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>
Robert M. Ihrig		David Graff	\$ 212.93
d/b/a Bob's Gridiron Grille	\$506,181.50	Edward Weisser	146.30
Beverly Loseke	512.32	Giocondo Navek	661.21
Richard Schaffer	750.00	Demon Wimes	696.49
AJ Kelly	122.00	Ben Neher	871.06
SAIA	NAS*	Julie Clark	1,342.05
Ashley S. Chaves	NAS*	Shawn McCoy	11.25
Karen Callahan	53.00	Rainbow Sprinkler Co.	558.15
		Robert Blankenship	22,500.00
		Raymond Phillips & American Family Insurance (subro)	14,000.00

\* No Amount Specified

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

Introduced by Patte Newman

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

REAPPOINTING JON CAMP TO THE PUBLIC BUILDING COMMISSION FOR A FOUR-YEAR TERM EXPIRING AUGUST 1, 2009 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83594 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the reappointment of Jon Camp to the Public Building Commission for a four-year term expiring August 1, 2009 is hereby approved.

Introduced by Patte Newman

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

SPECIAL PERMIT 2022A - APPLICATION OF J&D LEASING, INC. TO AMEND PINE LAKE HEIGHTS SOUTH 4TH ADDITION PLANNED SERVICE COMMERCIAL SPECIAL PERMIT TO ADJUST THE ON-PREMISE SIGN REQUIREMENTS TO ALLOW AN ADDITIONAL GROUND SIGN FOR THE AUTO DEALERSHIP ON PROPERTY GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF S. 27TH STREET AND YANKEE HILL ROAD - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83595 WHEREAS, J&D Leasing, Inc. has submitted an application designated as Special Permit No. 2022A for authority to amend Special Permit No. 2022 to allow an additional ground sign in the required front yard of the business on property located at the northeast corner of South 27th Street and Yankee Hill Road, and legally described to wit:

Lot 6, Pine Lake Heights South 9th Addition, Lincoln, Lancaster County, Nebraska (identified as Lot 1, Block 1, on the approved site plan for Special Permit No. 2022);

WHEREAS, the real property adjacent to the area included within the site plan for this additional ground sign will not be adversely affected; and

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

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

That the application of J&D Leasing, Inc., hereinafter referred to as "Permittee", to allow an additional ground sign in the required front yard of the business, on the property legally described above, be and the same is hereby granted under the provisions of Sections 27.63.470 and 27.69.047 of the Lincoln Municipal Code upon condition that construction and operation of said sign be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves an adjustment to the sign regulations to allow two signs per business for Lot 1, Block 1, one to be located along each abutting major street frontage, and prohibits pole and off-premise signs on Lots 1 and 2, Block 1, as shown on the approved site plan.
2. Before receiving building permits:
  - a. The Permittee must submit a revised reproducible final plan, including five copies, acceptable to the Planning Director.
  - b. The construction plans must conform to the approved plans.
  - c. Final Plans must be approved by the City.
3. Before occupying any buildings, all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established property owners association approved by the City Attorney.
5. 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.
6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.
8. The site plan as approved with this Resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Patte Newman

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

WAIVER 05008 - APPLICATION OF THE PEOPLE'S CITY MISSION HOME TO WAIVE THE PARKING LOT SURFACING REQUIREMENTS FOR A NEW PARKING LOT AND THE EXPANSION OF AN EXISTING PARKING LOT, ON PROPERTY GENERALLY LOCATED AT N. 1ST STREET AND R STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83596 WHEREAS, People's City Mission has requested a waiver of the surfacing requirements for a new parking lot and the expansion of an existing parking lot together with a request to waive the Design Standards for Parking Lots requiring parking barriers and landscaping on property generally located at N. 1st Street and R Street and legally described as:

Lots 7-12, Block 264, Lincoln Original Plat, Lincoln, Lancaster County, Nebraska;

WHEREAS, the City Council finds that:

- a. The parking lot for which the waiver of the surfacing requirement is requested is to be used in conjunction with a nonprofit institution;
- b. Alternate materials or techniques shall be utilized which provide reasonable control of dust, runoff, and safe circulation; and
- c. The location of the parking lot is sufficient distance from surrounding uses that it will not adversely affect the surrounding uses, and the frequency of use of the parking lot is so low that compliance with the surfacing requirements at the present time would cause undue economic hardship upon the owner as compared with minimal impact upon the surrounding land uses.

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

In consideration of the findings made above, the requirement for the paving of the parking lot for People's City Mission located at N. 1st Street and R Street on property legally described above is hereby waived pursuant to § 27.67.100(c) of the Lincoln Municipal Code under the following conditions:

1. The applicant is responsible for controlling off-site dust emissions from the parking lot by using crushed rock and watering down the surface when necessary.
2. If it is later found that dust or noise, created by the use of the parking lot exceeds the maximum levels set forth in Title 8 of the Lincoln Municipal Code, then such waiver may, after notice and hearing by the City Council, be revoked, and thereafter the use of the parking lot shall cease unless surfaced in accordance with design standards.

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

BE IT FURTHER RESOLVED that Section 3.3 and 3.6 of the Design Standards for Parking Lots requiring parking barriers and landscaping are hereby waived.

Introduced by Patte Newman

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

APPOINTING JONATHAN REHM, LEROY STOKES, AND MIKE DONLAN TO THE CHARTER REVISION COMMISSION TO FILL UNEXPIRED TERMS EXPIRING JULY 15, 2007, JULY 15, 2008, AND JULY 15, 2008, RESPECTIVELY - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83597 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the appointment of Jonathan Rehm, LeRoy Stokes, and Mike Donlan to the Charter Revision Commission to fill unexpired terms expiring July 15, 2007, July 15, 2008, and July 15, 2008, respectively, is hereby approved.

Introduced by Patte Newman

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

#### PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, OCT. 31, 2005 AT 1:30 P.M. FOR APP. OF FOREMAN FUELS, INC. DBA FAST FUEL #1 FOR A CLASS B LIQUOR LICENSE AT 5501 SUPERIOR STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83598 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., October 31, 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> St., Lincoln, NE, for Application of Foreman Fuels, Inc. dba Fast Fuel #1 for a Class B liquor license at 5501 Superior Street.

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

Introduced by Jon Camp

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

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPT.:

Change of Zone 05073 - Requested by Director of Planning Dept. to amend Sections 27.37.020 to add public and private schools to the list or permitted uses by use permit.

Change of Zone 05074 - App. of Ridge Development Co. & Southview, Inc. from Ag to R-3 on property from 8445 Leighton Ave. to 9209 Leighton Ave.

Special Permit 05049 - App. of Nebraska Realtors Assn. for a parking lot on the property at 201 S. 56<sup>th</sup> St.

Special Permit 05050 - App. of Breck Collingsworth for townhomes located at North 20<sup>th</sup> St. and North Gate Road.

#### REPORTS OF CITY OFFICERS

SETTING A HEARING DATE OF MONDAY, NOVEMBER 7, 2005 AT 1:30 P.M. FOR THE BOARD OF EQUALIZATION FOR THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, DOWNTOWN MAINTENANCE DISTRICT AND CORE BUSINESS IMPROVEMENT DISTRICT OVERLAY - CLERK requested to set hearing date of Monday, November 7, 2005 at 1:30 p.m.

CAMP So moved.

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

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE CLYDE MALONE COMMUNITY CENTER FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING'S ACTIVAGE CENTER PROGRAM AT 2032 U STREET - CLERK read an ordinance, introduced by Jon Camp, accepting and approving a Lease Agreement between the City of Lincoln and 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 for a one-year term beginning September 1, 2005, the first time.

APPROVING TWO THREE-YEAR/4,000 HOUR LEASE AGREEMENTS WITH A BUYOUT OPTION BETWEEN THE CITY AND KANSAS STATE BANK OF MANHATTAN TO PROVIDE TWO ELGIN FOUR-WHEELED STREET SWEEPERS FOR SWEEPING OF RESIDENTIAL AND ARTERIAL STREETS - CLERK read an ordinance, introduced by Jon Camp, accepting and approving two three-year lease agreements with option to purchase between the City of Lincoln, Nebraska and Kansas State Bank of Manhattan for two 2005 Elgin Eagle "F" Dual Sweepers per Specification #05-095 for use by the Department of Public Works & Utilities, the first time.

ORDINANCES - 3<sup>RD</sup> READING & RESOLUTIONS

AMENDING LINCOLN MUNICIPAL CODE CHAPTER 24.38, ONSITE WASTEWATER TREATMENT SYSTEMS TO ASSURE CONSISTENCY WITH STATE REGULATIONS, NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY TITLE 124 RULES AND REGULATIONS FOR THE DESIGN, OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT SYSTEMS AND COUNTY RESOLUTION 02-30 ONSITE WASTEWATER TREATMENT SYSTEMS. (RELATED ITEMS: 05-145, 05R-238) - CLERK read an ordinance, introduced by Annette McRoy, amending Chapter 24.39 of the Lincoln Municipal Code, Onsite Wastewater Treatment Systems to assure consistency with State regulations, Nebraska Department of Environmental Quality Title 124 Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment systems and County Resolution 02-30 Onsite Wastewater Treatment Systems, the third time.

MCROY Moved to pass the ordinance as read.

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

The ordinance, being numbered #18628, is recorded in Ordinance Book #25, Page

AMENDING THE DESIGN STANDARDS CHAPTER 4.10 OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT SYSTEMS TO ASSURE CONSISTENCY WITH NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY TITLE 124 RULES AND REGULATIONS FOR THE DESIGN, OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT SYSTEMS. (RELATED ITEMS: 05-145, 05R-238)- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83599 WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Design Standards by Resolution No. A-80518; and

WHEREAS, a text change to the Design Standards is necessary under Title 4, Miscellaneous Design Standards, to amend Chapter 4.10, "Design Standards, Operation and Maintenance of On-site Wastewater Treatment Systems" to update and assure consistency with Nebraska Department of Environmental Quality Title 124 Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems.

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

That Chapter 4.10 of the City of Lincoln Design Standards, adopted by the City Council on November 6, 2000 by Resolution No. A-80518, be and the same is hereby amended to read as shown on Attachment "A" which is attached hereto and incorporated herein by reference.

Introduced by Annette McRoy

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

APPROVING AN AGREEMENT BETWEEN THE CITY'S LINCOLN AREA AGENCY ON AGING AND THE FIRST UNITED METHODIST CHURCH FOR THE LEASE OF SPACE FOR THE FIRST UNITED ACTIVAGE CENTER AT 14410 FOLKESTONE ST., WAVERLY, NEBRASKA - CLERK read an ordinance, introduced by Annette McRoy, accepting and approving a Lease Agreement between the City of Lincoln and First United Methodist Church for the lease of space by the Lincoln Area Agency of Aging for its ActivAge Center at 14410 Folkestone Street, Waverly, Nebraska for the period of September 1, 2005 through August 31, 2006, the third time.

MCROY Moved to pass the ordinance as read.

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

The ordinance, being numbered #18629, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 05040 - APPLICATION OF RIDGE DEVELOPMENT CO. FOR A CHANGE FROM O-3 OFFICE PARK DIST. TO B-2 PLANNED NEIGHBORHOOD BUSINESS DIST. ON PROPERTY GENERALLY LOCATED AT S. 14TH ST. AND YANKEE HILL RD. (RELATED ITEMS: 05-147, 05R-243) - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

MCROY Moved to pass the ordinance as read.

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

The ordinance, being numbered #18630, is recorded in Ordinance Book #25, Page

USE PERMIT 05004 - APPLICATION OF RIDGE DEVELOPMENT CO. TO DEVELOP WILDERNESS WOODS COMMERCIAL CENTER FOR 31, 500 SQ. FT. OF FLOOR AREA FOR A DRIVE-THRU RESTAURANT, RETAIL AND OFFICE SPACE, WITH A REQUEST TO ADJUST THE YARD SETBACKS FOR INDIVIDUAL LOTS, ON PROPERTY GENERALLY LOCATED AT S. 14TH ST. AND YANKEE HILL RD. (RELATED ITEMS: 05-147, 05R-243)- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83600 WHEREAS, Ridge Development Company has submitted an application in accordance with Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 243 to develop 31,500 square feet of office and commercial floor area, including a request to reduce the required front yard setback to 40 feet along Yankee Hill Road, to 30 feet along South 14th Street, and to reduce the required side yard setback to 20 feet adjacent to R-3 property, on property generally located at South 14th Street and Yankee Hill Road, legally described to wit:

Lot 85 I.T., located in the Southwest Quarter of Section 24, Township 9 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this construction of office and commercial buildings will not be adversely affected; and

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

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

That the application of Ridge Development Company, hereinafter referred to as "Permittee", to develop 31,500 square feet of office and commercial floor area be and the same is hereby granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition that construction and operation of said office and commercial space be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This approval permits 31,500 square feet of retail, including a convenience store, restaurant with drive-through, and office uses.
2. The setback requirements of Lincoln Municipal Code § 27.31.090 are modified to reduce the required yards as follows: the front yard to 40' along Yankee Hill Road and to 30' along South 14<sup>th</sup> Street, and the side yard to 20' adjacent to R-3 property.
3. Before receiving building permits:
  - a. The Permittee must submit a five copies of a revised final plan and the plans are acceptable:
  - b. The construction plans shall comply with the approved plans.
  - c. Final Plans shall be approved by the City.
4. Before occupying the building all development and construction must be completed in compliance with the approved plans.
5. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established owners association approved by the City Attorney.
6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
7. This resolution's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.

8. 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 a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the Permittee. 1.

Introduced by Annette McRoy

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

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP Moved to extend the Pending List to October 24, 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Eschliman.

**UPCOMING RESOLUTIONS -**

CAMP Moved to approve the resolutions to have Public Hearing on October 24, 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Eschliman.

**ADJOURNMENT 2:34 P.M.**

CAMP Moved to adjourn the City Council meeting of October 17 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Marvin, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Eschliman.  
So ordered.

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Joan E. Ross, City Clerk

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Judy Roscoe, Senior Office Assistant