

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, May 8, 2006 AT 1:30 P.M.**

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

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**

CAMP Having been appointed to read the minutes of the City Council proceedings of May 1, 2006, reported having done so, found same correct.

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

**MAYOR'S AWARD OF EXCELLENCE**

Mayor Seng presented the Mayor's Award of Excellence for April to Sidney (Sid) Yardley, Police Officer from the Police Department in the category of Productivity & Customer Relations.

Chief Tom Casady came forward to express his appreciation to Officer Yardley for going the extra mile above and beyond the call of duty.

This matter was taken under advisement.

**PUBLIC HEARING**

APPLICATION OF CETAK'S GOURMET MEATS & SAUSAGES FOR A CLASS D LIQUOR LICENSE AT 4107 PIONEER WOODS DR., SUITE 104;

MANAGER APPLICATION OF JASON CETAK FOR CETAK'S GOURMET MEATS & SAUSAGES AT 4107 PIONEER WOODS DR., SUITE 104 - Jason Cetak, 4107 Pioneer Woods Blvd., Ste. 104, took the oath and came forward to answer questions. Discussion followed.

This matter was taken under advisement.

APPROVING A DEVELOPMENT AND ZONING AGREEMENT BETWEEN SIERRA INVESTMENTS, LLC AND THE CITY REGARDING THE DEVELOPMENT OF PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF 21ST AND K STREETS - Mark Hunzeker, 1045 Lincoln Mall, Suite 200, came forward representing Sierra Investments, LLC to present an amendment to the agreement and to answer questions. Discussion followed.

Nicole Fleck-Tooze, Public Works Dept., came forward to answer questions. Discussion followed.

This matter was taken under advisement.

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

**COUNCIL ACTION**

**LIQUOR RESOLUTIONS**

APPLICATION OF CETAK'S GOURMET MEATS & SAUSAGES FOR A CLASS D LIQUOR LICENSE AT 4107 PIONEER WOODS DR., SUITE 104 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:  
A-83845 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 Cetak's Gourmet Meats & Sausages for a Class "D" liquor license at 4107 Pioneer Woods Drive, Suite 104, Lincoln, Nebraska, for the license period ending April 30, 2007, 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 Jon Camp

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

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MANAGER APPLICATION OF JASON CETAK FOR CETAK'S GOURMET MEATS & SAUSAGES AT 4107 PIONEER WOODS DR., SUITE 104 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:  
A-83846 WHEREAS, Cetak's Gourmet Meats & Sausages located at 4107 Pioneer Woods Drive, suite 104, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Jason Cetak be named manager;

WHEREAS, Jason Cetak 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 Jason Cetak be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

**ORDINANCES - 2<sup>ND</sup> READING & RELATED RESOLUTIONS (as required) - NONE**

**RESOLUTIONS**

APPROVING A DEVELOPMENT AND ZONING AGREEMENT BETWEEN SIERRA INVESTMENTS, LLC AND THE CITY REGARDING THE DEVELOPMENT OF PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF 21ST AND K STREETS - PRIOR to reading:

COOK Moved to amend Bill No. 06R-87 by accepting the Substitute Development Zoning Agreement and adding on page 2 of the agreement in Section IV, 2a after Exhibit "A", subject to meeting applicable zoning regulations and design standards, except that two accesses shall be allowed on "K" Street as shown which is attached hereto.

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

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption as amended:

A-83847 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Development and Conditional Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Sierra Investments, LLC, for a change of zone from R-6 Residential District to B-3 Commercial District for development of the property with certain restrictions on the property generally located at the southwest corner of 21st and K Streets, is hereby approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Development and Conditional Zoning 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 Applicant.

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

Introduced by Jon Camp

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

**PETITIONS AND COMMUNICATIONS - NONE**

**REPORTS OF CITY OFFICERS**

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON APRIL 24, 2006. - 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 & RESOLUTIONS PASSED BY COUNCIL ON May 1, 2006. - CLERK presented said report which was placed on file in the Office of the City Clerk.

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR APRIL 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk.

FINANCIAL STATEMENTS FROM LINCOLN ELECTRIC SYSTEM FOR DECEMBER 31, 2005 AND 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF CASH ON HAND AT THE CLOSE OF BUSINESS MARCH 31, 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS TAX REPORT FOR THE MONTH OF FEBRUARY, 2006: USCOC of Greater Iowa Inc, New Cingular, AT&T Comm., Cricket, Nebraska Technology, Global Crossing, Telecorp Comm., Virgin Mobile USA, Trans National, UCN, OnStar, COVISTA, TracFone, Broad Band Dynamics, Teleplus Wireless, Business Products Solutions, Working Assets, XO Comm., Qwest, Bell Atlantic, Advanced Tel, ACN, McLeod USA, Verizon Select, Primus, Intellicall, USCOC of NE/KS, Broadwing, Cincinnati Bell, VoiceCom, KDDI America, Quantum Shift, IBM Global; March 2006: Nextel, Sprint Spectrum, Sprint Comm., MCI WorldCom, Shaffer, SBC Long Distance, BT Americas, NOS, Zone, LDMI, GTC, ACCERIS Mgt., Nextel West, Globalcom, Lightyear, Affinity, Acceris, Tri-M, Excel, NOSVA, VARTEC, OCMC, ATS Mobile; Jan. - March 2006: AmeriVision, Matrix, Touch 1, NECC, Helio LLC, Comtech 21, Trinsic, Ionex - CLERK presented said report which was placed on file in the Office of the City Clerk.

SETTING A HEARING DAY OF MONDAY, JUNE 5, 2006, AT 1:30 P.M. FOR THE NORTH 27<sup>TH</sup> STREET BUSINESS IMPROVEMENT DISTRICT BOARD OF EQUALIZATION - CLERK requested approval for a hearing date of Monday, June 5, 2006 at 1:30 p.m.

COOK Moved approval.

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

AFFIDAVIT OF MAILING FOR BOARD OF EQUALIZATION SPECIAL ASSESSMENT GROUP I TO BE HELD ON MONDAY, MAY 15, 2006, 10:00 A.M. - CLERK presented said report which was placed on file in the Office of the City Clerk.

ASSESSMENT RESOLUTION FOR BOARD OF EQUALIZATION SPECIAL ASSESSMENT GROUP I TO BE HELD ON MONDAY, MAY 15, 2006, 10:00 A.M. - CLERK requested approval to have Board of Equalization Special Assessment Group I to be held on Monday, May 15, 2006 at 10:00 a.m.

COOK Moved approval.

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

THE FOLLOWING ITEMS WERE REFERRED TO THE PLANNING DEPT.:

Change of Zone 05002A - App. of The Links at Lincoln Planned Unit Development requested by Jim Lindsey, for an amendment to add property to the PUD, with requests to waive sidewalks and street trees, on property at N. 1<sup>st</sup> Street and Fletcher Avenue.

Change of Zone 06028 - App. of B&J Partnership to change the building line district from 50' to 40' on property at N. 33<sup>rd</sup> Street and O Street.

Change of Zone 06031 - App. of Director of Urban Development for a sign district on property at S. 48<sup>th</sup> and O Street.

Change of Zone 06032 - App. of the Director of the Planning Dept. for an amendment to Section 69.300 of the LMC to add an area to the Sign District.

Special Permit 06032 - App. of Kari Neth to operate a private school on property at S. 46<sup>th</sup> Street and Rentworth Drive.

**ORDINANCES - 1<sup>ST</sup> READING & RELATED RESOLUTIONS**

AMENDING CHAPTERS 2.62, 2.65, AND 2.66 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE POLICE AND FIRE PENSION PLAN REQUIRING THE CITY TO MAKE THE ANNUAL ACTUARIALLY DETERMINED NORMAL COST CONTRIBUTION TO SUCH PENSION PLAN - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 2 of the Lincoln Municipal Code, Officers, Departments and Personnel, by amending Sections 2.62.010, 2.65.010 and 2.66.010 relating to the establishment of Police and Fire Pension Plans A, B and C, respectively, to clarify the required city contribution to the Police and Fire Pension Fund; and repealing Sections 2.62.010, 2.65.010, and 2.66.010 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 06019 - AMENDING SECTION 27.61.090 AND 27.63.280 OF THE LINCOLN MUNICIPAL CODE TO ALLOW FOR THE ENLARGEMENT, EXTENSION, OR RECONSTRUCTION OF BUILDINGS AND STRUCTURES LOCATED UPON A PREMISES, THE USE OF WHICH CONSTITUTES A NONSTANDARD USE BY SPECIAL PERMIT - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 27 of the Lincoln Municipal Code relating to the Zoning Code by amending Section 27.61.090 relating to Continuation of Nonstandard Uses, and Section 27.63.280 relating to Special Permits; Expansion of Nonconforming Uses, to allow for the enlargement, extension, or reconstruction of buildings and structures located upon a premises the use of which constitutes a nonstandard use by special permit; and repealing Sections 27.61.090 and 27.63.280 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING CHAPTER 9.16 OF THE LINCOLN MUNICIPAL CODE RELATING TO OFFENSES AGAINST PUBLIC DECENCY BY ADDING A NEW SECTION 9.16.250 TO PROVIDE RESIDENCY RESTRICTIONS FOR SEX OFFENDERS - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 9.16 of the Lincoln Municipal Code relating to Offenses Against Public Decency by adding a new section numbered 9.16.250 to provide residency restrictions for sexual predators, the first time.

**ORDINANCES - 3<sup>RD</sup> READING & RELATED RESOLUTIONS (as required)**

APPROVING THE DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN THE CITY AND B&J PARTNERSHIP RELATING TO THE DEVELOPMENT OF PROPERTY GENERALLY LOCATED ON THE BLOCK BOUNDED BY 9<sup>TH</sup>, 10<sup>TH</sup>, HILL AND VAN DORN STREETS. (Related Items: 06R-86, 06-65) - PRIOR to reading:

COOK Moved to delay action for two weeks to 5/22/06 with Public Hearing on new information only.

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

CHANGE OF ZONE 06012 - APPLICATION OF B&J PARTNERSHIP FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT AND O-2 SUBURBAN OFFICE DISTRICT TO B-1 LOCAL BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED ON THE BLOCK BOUNDED BY 9<sup>TH</sup>, 10<sup>TH</sup>, HILL AND VAN DORN STREETS - PRIOR to reading:

COOK Moved to delay action for two weeks to 5/22/06 with Public Hearing on new information only.

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

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 third time.

CHANGE OF ZONE 06017 - APPLICATION OF THE DIRECTOR OF URBAN DEVELOPMENT DEPARTMENT FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT, O-2 SUBURBAN OFFICE DISTRICT AND H-2 HIGHWAY BUSINESS DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 48TH STREET AND O STREET - CLERK read an ordinance, introduced by Patte Newman, amending the Lincoln 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.

NEWMAN Moved to pass the ordinance as read.

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

The ordinance, being numbered **#18728**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 06018 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.07.040 AND ADDING NEW SECTIONS 27.03.631 AND 27.63.770 TO DEFINE "TREE SERVICE" AND TO CREATE A SPECIAL PERMIT PROVISION IN THE AG AGRICULTURAL DISTRICT TO ALLOW THE LOCATION OF TREE SERVICE BUSINESS ON LAND LOCATED IN THE AG AGRICULTURAL DISTRICT UNDER CERTAIN CONDITIONS - PRIOR to reading:

MCROY Moved to amend Bill No. 06-67 on page 4 under Section 27.63.770 strike (b) as written and in its place insert the following: On lots, including undersized lots, where a prior special permit has been issued for the special uses set out in Sections 27.07.020(h),(i),(j), (k), and (r).

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

CLERK Read an ordinance, introduced by Patte Newman, amending Title 27 of the Lincoln Municipal Code by adding a new section numbered 27.03.633 to provide a definition for "tree service"; amending Section 27.07.040 to add tree service as a permitted special use in the AG Agriculture District; adding a new section numbered 27.63.770 to establish conditions for the approval of tree service as a special permitted use in the AG Agriculture District; and repealing Section 27.07.040 of the Lincoln Municipal Code as hitherto existing, the third time.

NEWMAN Moved to pass the ordinance as amended.

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

The ordinance, being numbered **#18729**, is recorded in Ordinance Book #25, Page

#### REGISTERED TO SPEAK SESSION - NONE

#### OPEN MICROPHONE SESSION

Danny Walker, 427 "E" Street, came forward representing the South Salt Creek Neighborhood Association in opposition to the decision by the Railway Transportation Safety Committee to not proceed with a safe crossing at 1<sup>st</sup> and J Street and instead construct a bike trail under the railroad tracks.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

#### PENDING -

CAMP Moved to extend the Pending List to May 15, 2006.

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

#### UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on May 15, 2006.

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

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**ADJOURNMENT 2:31 P.M.**

CAMP            Moved to adjourn the City Council meeting of May 8, 2006.  
                  Seconded by Newman & carried by the following vote: AYES: Camp,  
                  Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.  
                  So ordered.

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Joan E. Ross, City Clerk

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Judy Roscoe, Administrative Assistant