

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, MARCH 19, 2001 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Shoecraft; Council Members: Camp, Cook, Fortenberry, Johnson, McRoy, Seng; Joan Ross, City Clerk; Members Absent: None. The Council stood for a moment of silent meditation.

READING OF THE MINUTES

SENG Having been appointed to read the minutes of the City Council proceedings of Mar. 12, 2001, reported having done so, found same correct.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: None.

PUBLIC HEARING

APP. OF PASTIME PUB, INC. DBA PASTIME PUB FOR A CLASS C LIQUOR LICENSE AT 5601 N.W. 1ST ST.; MAN. APP. OF KATHLEEN ANN HAGGE FOR PASTIME PUB, INC. DBA PASTIME PUB AT 5601 N.W. 1ST ST. - Sue L. Walter, 1228 South 6th St., and Kathy Hagge, 1109 West Britt Street, took oath and came forward to answer questions.

This matter was taken under advisement.

USE PERMIT 136 - APP. OF JERRY JOYCE TO CONSTRUCT A 51,122 SQ. FT. OFFICE

BUILDING, WITH WAIVERS TO THE REQUIRED FRONT & SIDE YARD TO ALLOW PARKING THEREIN, & A WAIVER OF THE PARKING LOT SCREENING DESIGN STANDARDS, ON PROPERTY GENERALLY LOCATED AT 8035 "O" ST. - Mark Hunzeker, 530 S. 13th St., Suite B, appearing on behalf of Jerry Joyce, Developer of this site: Some of you were here three years ago, I believe it was, when we commenced the initial phase of this project. We came forward with the changes zoned at that time, along with a Use Permit to change the property to III and the Use Permit for the initial building, which is now on the property, just east of the proposed site for the second building. At that time there were a number of our neighbors to the South who were very apprehensive about the effect that the development of this property may have on their residences. They were very concerned about drainage and impact on their property values and the appearance of this building. From the beginning of this project, Jerry Joyce worked with those neighbors and even after the project had been approved, continued to work individually with each of them to design a landscape plan which would be most beneficial to each of the property owners on the South side of the initial building. As a result of all that some of the most proliferous opponents became supporters of the project and not only, the appearance of the building has, at least in my opinion, evolved in a very favorable fashion.

The initial drawings that we were showing to both City officials and neighbors were more of a "glass-box" type construction, similar to the Cherry Hill Building, and as you know it has now been constructed and it looks very much like, in fact, virtually identical to the project we have proposed to build immediately to the west. It is a brick and stone structure and the new project, the new building, will have additional emphasis on landscaping along the "O" street frontage, both from "O" street to the parking lot and in front of the building between the parking lot and the building. So we are having a little more emphasis because we have a little bit more room to work with on the landscaping and appearance of this building from the "O" Street side. We are also emphasizing the landscaping on the South side abutting our neighbors to the South. We have had a meeting with the neighbors to the South, we are providing once again a very substantial, intense landscape screen, along the South side of this property, staggering the fence so that we will have landscaping on both the office building side and the residential side of the fence, as the fence staggers along the South property line. This area right now is one which is rather low, has a tendency to collect water in major storms. It has served, according to the neighbors, at least as a place where people tend to hang out, who don't have much business hanging out in their backyards. The neighbors were very favorable toward this who appeared at our neighborhood meeting. We did have one gentlemen who appeared in opposition to Planning Commission. I haven't seen him here today, but he may be here and come since I got up here. I think we have general concurrence that what Jerry has done here has been a very positive thing.

It solved a major drainage problem for the neighbors in the first phase,

we continue that solution to the drainage problem with this phase, and we think that this will finish out this area in a very attractive classy way. If there are any additional questions, I would be happy to try and answer them.

Jonathan Cook, Council Member: I have a question for staff. Do you have any idea what the right-of-way is on "O" Street here?

Nicole Fleck-Tooze, Public Works Dept.: I don't think that it is dimensioned on the plan, and I guess I would double check with Planning to see whether they know what the right-of-way is in this location.

Ray Hill, Planning Dept.: There is no additional right-of-way required or proposed because of the fact that there is a frontage road that runs in front of this, so there was no additional right-of-way required.

Mr. Cook: The question that I would have is that when such time comes that we would expand "O" Street to six lanes, and I think it would be inevitable along this corridor, will we lose the frontage road or is there plenty of room for expansion and the continued existence to the frontage road? It looks pretty tight there and of course on Cornhusker Highway where we had a frontage road between 20th up to near the bridge, that was lost when the road was expanded and just turned into an additional lane, and I wouldn't like to see that happen here, fifteen, twenty years from now. So I am just curious about that space, if it is a concern at all?

Mr. Hill: I don't know if we could answer the question, that would have to come about when they redesign "O" Street and we don't have those plans before us right now.

Mr. Cook: So there is really no . . .

look
Ms. Fleck-Tooze: I mean it is something we can certainly take a look at if you would like us to provide you a little bit more detailed, but I think we don't have any idea right now, dimensionally how that would be effected.

Mr. Cook: I just hate to be off by just a little bit and end up losing a frontage road at some point.

Coleen Seng, Council Member: Would the applicant answer that question?

Mr. Hunzeker: One of the things we considered doing in this process was vacating the frontage road and moving into that area so that we would have simply an entrance into our parking lot, coming off of "O" Street, and having additional landscaped area out in front of the building, but we had very serious discussions with Public Works about the possibility of doing that before we arrived at leaving it alone. So Public Works was very comfortable with, initially at least, with the possibility of vacating that frontage road entirely, much less, needing it for additional right-of-way. There is a median that runs between the existing frontage road and the east bound lane of "O" Street, and the frontage road, it would be possible to take that entire median, which is about the width of a lane and pull the median back so that the frontage road operated as an east bound one-way and still make this project work all right. So there really wasn't any discussion with Public Works about additional right-of-way. They seemed comfortable with the right-of-way in its present configuration.

Mr. Cook: It was just something I thought if additional land is ever needed in the future, you are reducing the front yard setback just a little. On the other hand, I guess it allows you to keep the building a little further away from the residences.

Mr. Hunzeker: Actually I'm not sure there was a reduction on this particular project. Well let's see, excuse me, from 20 to 12.

Mr. Cook: Yes.

Mr. Hunzeker: To place some parking out there. Yes. But the property to the east had virtually a zero front yard setback for the building in order to move it further away from the property owners to the South. We have got a little bit more room to work with as we come west and so we are reducing it from 20 to 12 but we are not going to zero. We wanted to maintain some area out there for landscaping. So we are basically, if you follow that, if you go on to the East we are at the front property line with the building, on the property to the east.

Mr. Cook: Okay. Thank you.

Ms. Seng: I was just going to say there were lots and lots of meetings several years back dealing with this property and the idea was to try to protect the neighbors to the South, their backyards and to utilize all the property there that could be and do the push toward the north.

Mr. Cook: That's why I didn't make the suggestion that we move the building.

Ms. Seng: That's what really . . .

Mr. Cook: Right.

This matter was taken under advisement.

APPEAL OF HEARTLAND INSURANCE POOL, INC. FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 1896 FOR AUTHORITY TO OPERATE A SALVAGE YARD ON PROPERTY GENERALLY LOCATED AT N. 1ST & CHARLESTON STS. - Jason Reynolds, Planning Staff: We have a letter from the applicant requesting another week's deferral on this item so that they can work out some design issues with staff and with the Nebraska Dept. of Environmental Quality.

This matter was taken under advisement.

APPEAL OF ARLO E. & CORRINE D. BARTELS, DALE & JENINE M. MEINER, DEANNA MUMGAARD, MARY MUMGAARD, DAVID WATTS, DRENNEN WATTS, M. LAIMONS IESALNIEKS, & LARRY & DENISE MAACK, FROM THE PLANNING COMMISSION APPROVAL OF SPECIAL PERMIT 1892 AUTHORIZING QWEST WIRELESS L.L.C. TO CONSTRUCT A 123' TALL PERSONAL WIRELESS FACILITY WITH ASSOCIATED GROUND EQUIPMENT & A WAIVER OF THE FALL ZONE REQUIREMENT ON PROPERTY GENERALLY LOCATED AT N. 7TH ST. & FLETCHER AVE. - Jennifer Dam, Planning Staff.: I received some additional information from Qwest today. I understand it had been submitted last week while I was out of town. The first piece of information is a structural analysis of the Western Wireless Tower. Their analysis indicated that it would not support the weight of their antenna for co-location. We had our structural engineer review that this morning. He determined that their engineer had used an 85 mph wind speed and the standard for the Lincoln area is an 80 mph wind speed. The understanding was that the engineer who conducted the analysis, used the 85 mph wind speed because that was what the tower was originally designed for. He wasn't trying to "pull the wool over on us" or anything. Anyway that engineer was going to rerun the analysis and hope to have an answer to us but probably not until 2:30 p.m. this afternoon. So I can't answer the question of whether or not the tower that could potentially co-locate on would be structurally sound enough for them to co-locate on. Additionally, Qwest has provided three coverage maps that show the difference in coverage of no tower, the proposed tower and if they had co-located on the Western Wireless site. I'll be glad to share these with you. I am certainly not a technical expert so I can't review these and give you a technical opinion. I understand that Qwest is here if you have technical questions, you could probably ask Qwest those questions. I know the City Attorney's office has been talking with RF engineers about the possibility of evaluating information such as this, however they have been unable to secure the services of anybody to date. Where exactly that is in the process, I don't know. I thought Mr. Huggenberger would be here, but I don't see him, so he has been working on it and he would be the better one to ask those questions.

Jerry Shoecraft, Council Chair: Based on what you have told us today, are you still recommending that we delay another week or what?

Ms. Dam: Since I don't know whether or not the Western Wireless Tower is of structural integrity, I would recommend delay for a week so we can determine that information. Again, Qwest is here and they could answer any questions that you have on this additional information that they provided and you can determine if it is sufficient for your needs.

Mr. Shoecraft: Was your denial based on that analogy, analysis though?

Ms. Dam: The recommendation of denial was based on several factors including the lack of technical information which showed that co-locating on another tower within a half mile was feasible.

Mr. Shoecraft: Along with . . .

Ms. Dam: Along with the goals of the comprehensive plan that show . . .

Mr. Shoecraft: Is this analysis likely to change your opinion besides not being in conformance with the comprehensive plan.

Ms. Dam: The structural analysis, if it turns out that the existing tower is not structurally sound enough to accommodate co-location, that would certainly have an impact on the review of this particular application.

Cynthia Johnson, Council Member: During our pre-council you had made some comments there was other information that was omitted in this and the applicant brought forward the comment that they had prior

submitted that information because they have been doing a lot of different cell towers. Are you comfortable with that now because that was a concern that you had at that pre-council?

Ms. Dam: The applicant did not provide all of the information that we had asked for. They have provided additional information that

again I would be glad to share with you, that shows their coverage of the two sides. Again, I am not a technical expert, so I am not in a position to analyze whether or not this information is sufficient to show whether co-locating would be technically feasible, or not technically feasible.

Ms. Johnson: So you are comfortable with all the information, because that is one of the basis of your denial was that you didn't have all the information you needed?

Ms. Dam: Again, this is information that I would pass on, be glad to pass on to a technical expert, if we were able to secure the services of one. I think it shows what I was asking for. There are some additional pieces of information that I have asked for that they have assured me earlier today they would be willing to provide us. They thought that they had previously provided it, they had not, there was a mis-communication there. So I think that we should have enough information to be able to make a judgment.

Mr. Shoecraft: Are we going to run into this situation with future towers, locations, meaning -- do we have the people within city government to analyze the technical data?

Ms. Dam: We do not have people in city government who are experts on RF evaluation to analyze this data. We have been trying to secure the services of somebody who could make that analysis. To date, we have not been able to do that.

Mr. Shoecraft: So are we going to have to do that on every cellular application?

Ms. Dam: The wireless ordinance has been in effect for over a year now and as I was discussing with Qwest earlier today, this is the first case that has come up where there has been a question about the technical data. As I presented to the council two weeks ago and the pre-council, we have had over 43 applications in that little over a year period. So I think that it shows that this type of conflict is really pretty rare.

Mr. Shoecraft: So is that type of analysis going to outweigh the effect that a cell tower would have on a rural/urban neighborhood setting in its character? Are we going to take in all those factors to make a decision? That's why I asked earlier, is that analysis alone going to change your opinion or your recommendation of approval or denial?

Ms. Dam: Without the analysis, I really can't answer that question.

Mr. Shoecraft: Because when I was looking at your recommendation of denial was based on say four or five points and most of those points were in regards to the comprehensive plan.

Ms. Dam: Several of those points were in relation to the comprehensive plan and several of those points were specifically in relation to the criteria established in our Zoning ordinance. A lot of that was based on the technical information. I apologize, I need to flip through my report to look at the specific points.

Mr. Shoecraft: So we as a body are continuing to need to look at the analysis along with the other factors as far as the compatible performance with the plan and the neighborhood settings.

Ms. Dam: Correct. I think there are a variety of factors that need to be addressed in making a recommendation on any of these sites.

And I think that it needs to be a combination of those factors and not just one. Jeff Fortenberry, Council Member: Who is doing this re-analysis of the technical data to insure that co-location, I believe on Western Wireless Tower . . . is that correct?

Ms. Dam: Right. The structural analysis is being reviewed by the structural engineer that the city uses through the Building and Safety Dept. That is King Little, he is a local structural engineer, who will make a determination after we have additional information from the structural engineer that Qwest provided to determine on the structural integrity of that tower. At this point, as I said, we don't have anybody retained to analyze this additional information that Qwest provided today.

Planning Staff would certainly be willing help facilitate acquiring those services, if the Council so desired. But if you want to look at this information and make a determination, if you feel that the information provided was sufficient. Qwest does have people here that could explain the technical details.

Mr. Fortenberry: What type of analysis on that information? Is that coverage?

Ms. Dam: Right it is radio frequency analysis, which is the coverage that is provided by the different cell sites based on the latitude, longitude, the type of antenna and height.

Jon Camp, Council Member: I would like to follow up on what Council Chair Shoecraft was asking and that is, as you go through those analysis and reports and all, what factors might there be that would alter your decision, or Planning Depts. decision, and I guess in particular, are

we, let's take the 80 miles, vs. 85 mph wind standard? Is there something there and perhaps I need to defer to the Qwest representatives, but let's say that their engineers come back and say well, possibly 80 mph, it is marginal or whatever? But, there is a risk factor and I don't know what the equipment costs, does that create liability of the City's part?

Ms. Dam: Our ordinance requires that the TIA, EIA2-22F standard be followed for structural design of the towers. For Lancaster County a wind speed of 80 mph is specified in those standards, with ½ inch of radial ice. The structural engineer who performs the analysis that Qwest submitted to us today, used an 85 mph wind speed, so the structural loads that were put on the tower were more intense than the requirements of our ordinance. That is why our structural engineer asked for a re-analysis of that data to determine whether or not the tower would fail structurally at 80 mph. That is the information I am waiting for, that type of a determination. There may be a margin in there of engineering error, but I don't know. I don't have that information available to me at this point in time. Once I do, I will be happy to present it.

Mr. Camp: And part of my question on that particular point is one of safety, if there were a marginal situation, we had a heavy wind storm or something, and the tower went over, you've got not only equipment damage but potentially life and safety. The second question I was going ask is we are dealing in an area where we did pass our own ordinance but we have also got, as I understand it, some federal standards on locations for telecommunication towers and they encourage competition. How do those layer over ours and what does that do to us as we consider the Planning Department's recommendation?

Ms. Dam: The federal standards essentially allow governments to retain their zoning authority. However, any recommendation of a denial needs to be made in writing and based on findings of fact. We cannot discriminate based on the type of carrier. For example, we wouldn't be able to say we don't like whatever service. We can't say, we've got enough here. We have to allow entry into the market. We can't create barriers to entry and we need to process applications within a reasonable period of time. I think where you might find the difference between interpretation on the ordinance would be the type of coverage this provided and whether it has to be seamless coverage or whether some coverage is adequate.

Mr. Camp: You mentioned one of those factors in there was the timeliness of the review.

Ms. Dam: That's correct.

Mr. Camp: Are we running into any time considerations here because this one has been on the drawing boards for awhile.

Ms. Dam: This one was submitted in December and had Planning Commission review in, I will have to look at the fact sheet here. It had Planning Commission hearing on 1-10 and 1-24 and it was introduced here on February 12 and had Public Hearing Feb. 26th here.

Mr. Camp: We should be alright there.

Ms. Dam: I think we are within a reasonable period of time.

Mr. Camp: The last question I have is as you have reviewed our ordinance, the federal overlay and so forth and then as I consider some of the neighbors and all who have contacted me and their concerns about aesthetics and all, as I am thinking this through more and more, it sounds like other than trying to encourage the co-location of towers and equipment, that beyond that, we as a City, do not have a lot of discretion as far as aesthetics is concerned. Am I understanding this correctly?

Ms. Dam: I think that is, we have limited discretion to base anything solely on aesthetics. I think there needs to be a combination of factors.

Mr. Camp: So it is really trying to encourage the co-location, so that we minimize the number of towers to someone who says, they don't like that tower, we can't just say you can't do it for that reason.

Ms. Dam: Right, that is correct.

Mr. Shoecraft: Annette's next, but we can say that we can't do it if it is not in conformance, but we feel that it has a detrimental effect on our urban/rural neighborhood.

Ms. Dam: That's true. That's true.

Annette McRoy, Council member: You said we are waiting for the analysis of the 80 mph and at first 85 mph, is Qwest's structural engineer here?

Ms. Dam: No. They are not. Our structural engineer happened to be in the building this morning and was able to review this information, contacted via telephone, Qwest's structural engineer. Qwest's structural engineer was going to call our structural engineer back and also fax the information over the telephone, this is an unusual

circumstance and it is certainly an expedited review.

Jon Camp, Council Member: And if they had been built under our current ordinances, they clearly would have been co-locatable?

Ms. Dam: All of the standards that are in our current ordinance today would have been applied.

Mr. Cook: And so issues, like structural integrity would have been addressed at that time for co-location purposes? The structural problem is something new here. We did not hear about this in testimony last week. We heard about structural integrity of the Alltel Tower, but the Western Wireless Tower, that was not discussed until now.

Ms. Dam: That's correct. That is new information that has been submitted today.

Mr. Cook: And is that information there, available for us just to look at, even though I am sure that its of a technical nature that we need more input on?

Ms. Dam: It's visual, so I think it gives you a good visual picture and again representatives of Qwest are here.

Mr. Cook: Is it possible to get copies of that, or is that . . . ?

Ms. Dam: I have just one set.

(from audience): I have copies here.

Mr. Cook: Okay. And I guess I wouldn't mind if it is something that you have copies for us today, you have enough?

(from audience): inaudible

Mr. Cook: That would be good. I guess I'd like to hear from Qwest.

Mr. Shoecraft: Well the point being is, if you are going to open up a public hearing it is a different story, otherwise, what I prefer, if we are going to delay this for a week, can we get any supplemental information that we need prior to next week and then we open it back up and have the neighbors and them and then address the issue vs. make it more of a fair process?

Mr. Cook: We discussed this. But I agree, I think that is more appropriate. I guess if we could just get copies . . .

Mr. Shoecraft: If they have some supplemental information . . .

Ms. Dam: If they want to provide it to me, I will happy to pass it on.

Mr. Shoecraft: If we delay it a week, then we digest it and we open up the public hearing again next week, where both parties can address the issues and debate and then we make a decision.

Mr. Cook: The only thing I was going to ask of Qwest was just to explain briefly, just the coverage area that they feel is a concern for our reference, but it is okay.

Mr. Shoecraft: We can do that next week. If it is a decision of the body to delay, if not, we have to open up the public hearing, if the other side is here.

Ms. Seng: I move for a delay of one week.

Mr. Cook: Second.

Mr. Shoecraft: Is that okay?

Ms. Johnson: Questions before we end this, I would like to have Dana come up before . . . I guess there are two questions I wanted to ask; one of you and then one of someone from Qwest, but since they are wanting us to wait until next week to talk to Qwest. I want to understand real clearly, how the federal regulations work. Because it is my understanding when we looked at putting this ordinance together, we were told that federally there was going to have to be a lot before we could deny, very similar to the liquor licensing that we have had to do and based on what we have been hearing so far, is that Qwest did not provide the information that they were requesting. Now once Qwest provides the information, and it comes forward and everything is the way it should be, but it doesn't happen to fit within the comprehensive plan, is it still something that is, something we can deny that cannot become or be brought back and taken to court?

Dana Roper, City Attorney: Let me review and get you something in writing on that. Obviously, the federal regulations pre-empt a great deal of what the city can do and I think that if we find that the analysis, the engineering analysis on this structural tower, if Qwest's structural engineer is correct, that may shorten any other issues, but I guess we will wait to hear from that and depending on what that turns out, will give you what your options are.

Ms. Johnson: In this particular case where there is already two or three towers standing, can we truly state, and I am concerned about this, can we state that it has a negative impact on the surrounding area, when there is already two or three there? If that is used as a basis from our

comprehensive plan? I'd like to find out that too, because it doesn't make sense to me if one will, when two or three are already there. Or does one more, truly do that? I don't know. Multiple towers? Thank you.

Mr. Fortenberry: Jennifer, . . .

Mr. Camp: Dana, if I could while you are still here, maybe while Jennifer is coming up, Jerry brought up a good point to on the effect on the rural character. As you look at that federal, could you also give us a clear indication of how that impacts our review and what the subjectivity is?

Mr. Roper: Okay.

Mr. Camp: Thank you. Do you know the age of these existing towers and what their useful life is?

Ms. Dam: I don't know their useful life. I would have to, I'm not sure if in the history I indicated the dates that those towers were approved, let me, if it is not in here, I will certainly look it up for you. The Alltel tower was approved in 1989 . . .

Mr. Camp: Do you know when that is scheduled for replacement or an upgrade?

Ms. Dam: I don't.

Mr. Camp: How can we find that out?

Ms. Dam: I can certainly call Alltel. I know that they have an application in process right now to change out antennas.

Mr. Camp: On this tower?

Ms. Dam: On this existing tower. The Cellular One tower was approved in 1996 and the Sprint Tower was also approved in 1996.

Mr. Camp: It might be helpful to find out the useful life of these towers and what type of upgrades occur to them as technology shifts. Let's say Alltel was going to pull this tower down in a year or something and could make co-locations a possibility and resolve all this so we wouldn't be losing any ground. That might be another option.

Ms. Dam: I will certainly ask the questions. I've got a couple contacts I can call.

Mr. Shoecraft: Then one last point. As we get these future applications, obviously they have a standard regarding cell towers, but we are also supposed to look at these on a case by case basis and the fact it may happen in a particular area, aesthetics and etc., etc. That should be part of our judgement and our thought process, along with the elements or the issues, if it is in compliance and in fact, etc.

Ms. Dam: Right. That's all part of the analysis that is spelled out in our ordinance and our standards for evaluation.

Mr. Shoecraft: Is this process going to get any easier one day?

Ms. Dam: I sure hope so. We are looking at making changes to the ordinance in the future and hopefully it would simplify it a little bit.

Mr. Shoecraft: All right there was a motion to delay, is there a second?

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

Mike Morosin, 2055 "S" St., Past President of Malone Neighborhood Assoc., came forward regarding the tie-downs that were referred to the previous week at Council meeting located at the Lincoln Impound Lot.

Mr. Morosin has been out to the Impound Lot and there are not any tie-downs in place.

This matter was taken under advisement.

Lynn Robeson, 5718 Adams St., sent via e-mail to each council member, Municipal Code 21.56, that he feels needs to be adopted in Nebraska.

This matter was taken under advisement.

ORDINANCES - 3RD READING

AMENDING SECTION 26.19.031 OF THE LINCOLN MUNICIPAL CODE TO ADD LANGUAGE

REQUIRING THE NAME & NUMBER OF THE PRELIMINARY PLAT UPON WHICH THE FINAL PLAT IS BASED TO BE SHOWN ON THE FINAL PLAT - CLERK read an ordinance, introduced by Annette McRoy, amending Sec. 26.19.031 of the LMC relating to data required on a final plat to require the name & number of the preliminary plat upon which the final plat is based to be shown on the final plat; & repealing Sec. 26.19.031 of the LMC as

hitherto existing, the third time.

MCROY Moved to pass the ordinance as read.
Seconded by Camp & carried by the following vote: AYES: Camp,
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.
The ordinance, being numbered #17814, is recorded in Ordinance Book 24, Page

SPECIAL PERMITS, USE PERMITS

SPECIAL PERMIT 1899 - APP. OF THE C.D.H. INVESTORS TO PERMIT THE SALE OF
ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES ON PROPERTY GENERALLY
LOCATED AT 4947 HOLDREGE ST. - CLERK read the following resolution,

introduced by Jon Camp, who moved its adoption:

A-80737 WHEREAS, C.D.H. Investors has submitted an application designated as
Special Permit No. 1899 for authority to sell alcoholic beverages
for consumption on the premises generally located at 4947 Holdrege Street,
legally described as:

Lots 1 and 2, and Outlot A, East Campus Square
1st Addition, Lincoln, Lancaster County,
Nebraska; and

WHEREAS, the real property adjacent to the area included within the
site plan for this permit to sell alcoholic beverages on the premises 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 C.D.H. Investors, hereinafter referred to as
"Permittee", to sell alcoholic beverages for consumption on the
premises on property legally described above be and the same is hereby
granted under the provisions of Section 27.63.680 of the Lincoln Municipal
Code upon condition that operation of said licensed premises be in strict
compliance with said application, the site plan, and the following
additional express terms, conditions, and requirements:

1. This permit approves the sale of alcoholic beverages for
consumption on the premises only in the establishment located at
4947 Holdrege Street.

2. 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.

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

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

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp,
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

USE PERMIT 136 - APP. OF JERRY JOYCE TO CONSTRUCT A 51,122 SQ. FT. OFFICE
BUILDING, WITH WAIVERS TO THE REQUIRED FRONT & SIDE YARD TO ALLOW PARKING
THEREIN, & A WAIVER OF THE PARKING LOT SCREENING DESIGN STANDARDS, ON
PROPERTY GENERALLY LOCATED AT 8035 "O" ST. - CLERK read the following
resolution, introduced by Jon Camp, who moved its adoption:

A-80738 WHEREAS, Jerry Joyce has submitted an application in accordance with
Section 27.27.080 of the Lincoln Municipal Code designated as Use
Permit No. 136 for authority to construct a 51,122 sq. ft. office
building, and waivers to the required front and side yards, and a waiver
of the parking lot screening, on property generally located at 8035 O
Street and legally described to wit:

Lots 60 and 61 I.T., in the Northeast Quarter of Section
27, Township 10 North, Range 7 East of the 6th P.M.,
Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the
site plan for this office building 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 Jerry Joyce, hereinafter referred to as "Permittee", to construct a 51,522 sq. ft. office building on the property legally described above be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said office building be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves:
 - a. An office building with 51,122 square feet of floor area.
 - b. A reduction of the front yard from 20 feet to 12 feet and the east side yard from 15 feet to 0 feet in order to allow parking therein.
 - c. A waiver of the parking lot screening design standards along O Street.
2. Before receiving building permits:
 - a. The Permittee must submit a revised and reproducible final plan including five copies to the Planning Department.
 - b. The construction plans must conform to the approved plans.
3. Before occupying the office building all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements must be permanently maintained by the Permittee.
5. The site plan approved by this permits 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. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use 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 this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPEAL OF HEARTLAND INSURANCE POOL, INC. FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 1896 FOR AUTHORITY TO OPERATE A SALVAGE YARD ON PROPERTY GENERALLY LOCATED AT N. 1ST & CHARLESTON STS. - Prior to reading:

CAMP Moved to delay action on Bill 01R-50 for one week to 3/26/01.
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPEAL OF ARLON E. & CORRINE D. BARTELS, DALE & JENINE M. MEINER, DEANNA MUMGAARD, MARY MUMGAARD, DAVID WATTS, DRENNEN WATTS, M. LAIMONS IESALNIEKS, & LARRY & DENISE MAACK, FROM THE PLANNING COMMISSION APPROVAL OF SPECIAL PERMIT 1892 AUTHORIZING QWEST WIRELESS L.L.C. TO CONSTRUCT A

123' TALL PERSONAL WIRELESS FACILITY WITH ASSOCIATED GROUND EQUIPMENT & WAIVER OF THE FALL ZONE REQUIREMENT ON PROPERTY GENERALLY LOCATED AT N. 7TH ST. & FLETCHER AVE. - Prior to Reading:

SENG Moved to delay action on Bill 01R-44 for one week and to reopen Public Hearing on 3/26/01.
Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

PETITIONS & COMMUNICATIONS

REPORT FROM UTILICORP UNITED FRANCHISE TAX FOR THE MONTH OF FEBRUARY, 2001 - CLERK presented said report which was placed on file in the Office of the City Clerk. (#16-1)

REPORT OF UNL-MICROBIOLOGY FOR WATER TESTING FOR THE MONTH OF FEBRUARY, 2001 - CLERK presented said report which was placed on file in the Office of the City Clerk. (#35-01)

REPORTS TO CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON MAR. 12, 2001 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80742 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska: That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments beginning February 26 through March 2, 2001.)

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REPORT FROM OFFICE OF TREASURER, CITY OF LINCOLN, OF THE MONTHLY CITY CASH REPORT OF FEBRUARY, 2001 - CLERK presented said report which was placed on file in the Office of the City Clerk. (#5-21)

OTHER RESOLUTIONS

APP. OF PASTIME PUB, IN. DBA PASTIME PUB FOR A CLASS C LIQUOR LICENSE AT 5601 N.W. 1ST - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80733 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 Pastime Pub, Inc. dba "Pastime Pub" for a Class "C" liquor license at 5601 N.W. 1st Street, Lincoln, Nebraska, for the license period ending October 31, 2001, 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 Cynthia Johnson

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

MAN. APP. OF KATHLEEN ANN HAGGE FOR PASTIME PUB, INC. DBA PASTIME PUB FOR A CLASS C LIQUOR LICENSE AT 5601 N.W. 1ST - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80734 WHEREAS, Pastime Pub, Inc. dba "Pastime Pub" located at 5601 N.W. 1st Street, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Kathleen Ann Hagge be named manager;

WHEREAS, Kathleen Ann Hagge 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 Kathleen Ann Hagge 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 Cynthia Johnson

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ADOPTING A SUPPLEMENTAL BUDGET FOR LES AMENDING THE 2001 LES OPERATING & CAPITAL

BUDGET (3/5/00 - PLACED ON PENDING UNTIL 3/19/01) - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80735 WHEREAS, under the provisions of Section 4.24.090 of the Lincoln Municipal Code, an annual budget (original) for the operation of the Lincoln Electric System (LES) for 2001 was approved by the LES Administrative Board on October 20, 2000; and

WHEREAS, the LES Administrative Board approved Resolution 2001-2 (attached hereto) on January 19, 2001 as a supplement to the original budget approved on October 20, 2000 to reflect the change in the cash flow for the Salt Valley Generating Station due to final contract negotiations with a major supplier; and

WHEREAS, the LES Administrative Board requests that the original budget and the supplemental budget be recognized as the work plan for 2001; and

WHEREAS, pursuant to the above-cited code section, a public hearing was held on March 12, 2001, notice thereof having been published in one issue of the Lincoln Journal Star, newspaper published and of general circulation in the City more than five (5) days before such hearing.

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

1. That pursuant to the provisions of Section 4.24.090 of the Lincoln Municipal Code, the Lincoln Electric System Supplemental Budget for the fiscal year beginning January 1, 2001, a copy of which is attached hereto and made a part of this resolution as fully as if set forth verbatim, is hereby adopted, and all funds listed therein are hereby appropriated for the several purposes therein stated.

2. That all money received and any of the aforesaid funds in excess of the estimated balances and receipts set forth in said budget shall be credited to the unappropriated surplus of such funds.

3. That all monies received and set apart for the operation and maintenance of the Lincoln Electric System and all monies received from any source that are required to be applied to the costs of said operation and maintenance, shall be deposited in the appropriate operation and maintenance account, and paid out upon the order of those designated by the LES Administrative Board.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING AN AMENDMENT TO THE AMERITAS INVESTMENT CORP. AGRMT. FOR THE PROVISION OF FINANCIAL CONSULTING SERVICES TO THE CITY TO AUTHORIZE THE CONTRACTOR TO ACT AS A PLACEMENT AGENT OR UNDERWRITER FOR CERTAIN FINANCIAL

TRANSACTIONS - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80736 WHEREAS, the City and Ameritas Investment Corp. desire to amend the existing agreement for the provision of financial consulting services to the City of Lincoln approved on October 29, 1999 by Resolution No. A-79812.

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

That the attached First Amendment to the Financial Consulting Agreement Between the City of Lincoln, Nebraska and Ameritas Investment Corp. to authorize the City Finance Director to authorize the Contractor to act as placement agent or underwriter for particular financings is hereby approved. The Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to transmit a fully executed copy of said Agreement to Ameritas Investment Corp., Attention William R. Giovanni.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MONDAY, MARCH 26, 2001 AT 5:30 P.M. ON MAN. APP. OF MATTHEW HERMAN FOR NAMREH INC DBA "D & D DISTRIBUTOR" AT 5840 N 70TH ST. -

CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80739 BE IT HEREBY RESOLVED BY THE CITY COUNCIL, of the City of Lincoln, that a hearing date is hereby fixed for Mon., March 26, 2001 at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 55 S. 10th St., Lincoln, NE, for the purpose of considering the Man. App. of Charles L. Salem for Salem Oil Company dba as South

Street Amoco at 1648 South St.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MONDAY, MARCH 26, 2001 AT 5:30 P.M. ON THE MAN. APP. OF CHARLES L. SALEM FOR SALEM OIL COMPANY DBA AS SOUTH STREET AMOCO AT 1648 SOUTH ST. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80740 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., March 26, 2001 at 5:30 p.m. or as soon thereafter as possible in the City Council chambers, County-City building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Man. App. of Charles L. Salem for Salem Oil Company dba as South Street Amoco at 1648 South St.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MONDAY, APRIL 2, 2001 AT 1:30 P.M. ON APP. OF LEVY PREMIUM FOODSERVICE LIMITED PARTNERSHIP DBA LEVY RESTAURANTS HAYMARKET PARK AT 999 NORTH SIXTH ST. - CLERK read the following resolution,

introduced by Jon Camp, who moved its adoption:

A-80741 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., April 2, 2001 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the App. of Levy Premium Foodservice Limited Partnership dba Levy Restaurants at Haymarket Park for a Class I Liquor License at 999 North Sixth St.

Introduced by Jon Camp.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ORDINANCES - 1ST & 2ND READING

VACATING THE SOUTH 40' OF X ST. ADJACENT TO LOT 1, BLOCK 6, NORTH LINCOLN ADD., GENERALLY LOCATED AT N. 9TH & X STS. - CLERK read an ordinance, introduced by Jon Camp, vacating the south 40' of X Street adjacent to Lot 1, Block 6, North Lincoln Addition, generally located at N. 9th & X Streets, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

VACATING THE PUBLIC RIGHT-OF-WAY ADJACENT TO THE WEST SIDE OF STADIUM DR. FROM THE SOUTH LINE OF U ST. TO THE NORTH LINE OF LOT 4, BLOCK 10, NORTH LINCOLN ADD., & VACATING U ST. FROM THE EAST LINE OF 10TH ST. TO A POINT 12 FEET EAST OF THE WEST LINE OF STADIUM DR. - CLERK read and ordinance, introduced by Jon Camp, vacating the public right-of-way adjacent to the west side of Stadium Drive from the south line of U Street to the north line of Lot 4, Block 10, North Lincoln Addition, and U Street from the east line of 10th Street to a point 12 feet east of the west line of Stadium Drive, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

APPROVING A LEASE AGRMT. BETWEEN THE CITY, AT&T, & TOUCH AMERICA FOR THE PLACEMENT OF TELECOMMUNICATIONS CONDUITS AT THE CITY'S ASHLAND WELLFIELD PROPERTY - Prior to reading:

JOHNSON Moved for Bill 01-41 to have 2nd and 3rd Reading on 3/26/01.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read an ordinance, introduced by Jon Camp, the City of Lincoln desires to lease property in its Platte River wellfield, generally located near Ashland Nebraska, to AT&T Corp. and Touch America, Inc. for the placement of a conduit and fiber optic lines, the first time.

MISCELLANEOUS BUSINESS

PENDING LIST -

CAMP Moved to extend the Pending List for 1 week.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on March 19, 2001.
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ADJOURNMENT

2:20 p.m.

CAMP Moved to adjourn the City Council Meeting of March 19, 2001.
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

So ordered.

Joan E. Ross, City Clerk

Glenna Graupmann, Office Assistant III