

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, APRIL 2, 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**

- COOK Having been appointed to read the minutes of the City Council proceedings of Mar. 26, 2001, reported having done so, found same correct.  
Seconded by Fortenberry & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: None.
- CLERK Request by council to suspend some of the rules to move some of the items under public hearing forward to dispense with those and keep the agenda moving through the items quickly. Motion was made by Fortenberry and seconded by Johnson. AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

**PUBLIC HEARING**

- APP. OF LEVY RESTAURANTS AT HAYMARKET PARK FOR A CLASS "I" LIQUOR LICENSE AT 999 NORTH 6TH ST.;
- MANAGER APPLICATION OF RODNEY G. ROSSMAN FOR LEVY RESTAURANTS AT HAYMARKET PARK AT 999 NORTH 6TH ST. - Mr. Steven Seglin, of Crosby, Guenzel Law Office appearing on behalf of the applicant, Levy Premium Food Service, Limited Partnership, doing business as Levy Restaurants at Haymarket Park for a Class "I" Liquor License at Haymarket Park. Lincoln Professional Baseball, Inc., the owners of the Lincoln Saltdogs have entered into an agreement with Levy Restaurants to provide food and beverage concession services throughout Haymarket Park. I would like to introduce to the Council the representatives that are here today from Levy Restaurants and also Lincoln Professional Baseball Inc. I do not intend to call all of these people as witnesses today, however they are here to answer questions that the council may have and I do intend to call two of the people I identified to give short testimony. First from Levy Restaurants I would like to introduce Bill Brainer from the corporate office in Chicago; Rod Rossman who will be the Haymarket Park Corporate Manager; John Keefer, who is the Haymarket Director of Operations and then from Lincoln Baseball, Inc., Charles Meyer, President; Tim Utrecht, Vice President and General Manager and James Hewitt, General Counsel of NEBCO. Although Levy Restaurants, I keep wanting to say Levy because there are Levys here in Lincoln, is new to Lincoln, they are not new to the restaurant and sports entertainment business. Chicago based Levy Restaurants was founded in 1978 and has grown from a single delicatessen to include 19 locations, ranging from dining to casual concepts, with a reputation that has extended beyond Chicago into six national markets. Levy Restaurants brings premier food services to sports and entertainment venues across the country. It provides quality food and beverage service to 22 stadiums and arenas. Levy Restaurant looks forward to serving Lincoln baseball fans and others who wish to experience family entertainment at Haymarket Park. Just briefly, members of the council, I would like to call Charles Meyers to give some testimony. Charles, as I identified, is the President of Lincoln Baseball.
- Charlie Meyer, President of Lincoln Pro Baseball, 1815 "Y" St., took the oath, came forward to answer questions.
- Mr. Seglin: What are your duties and responsibilities as the President of Lincoln Baseball?
- Mr. Meyer: I am responsible for the operations and the construction activities of getting this Haymarket Park ready to go and will be responsible for all the ongoing operations of the ballpark.
- Mr. Seglin: And does Lincoln Professional Baseball own the professional team, Saltdogs?
- Mr. Meyer: Yes, Lincoln Professional Baseball owns the franchise to the Lincoln Saltdogs. We are a wholly owned subsidiary of NEBCO, Inc.
- Mr. Seglin: And does NEBCO have a lease with the City to construct operate and maintain the Haymarket Park?
- Mr. Meyer: Yes, we do.
- Mr. Seglin: And does NEBCO have the right under the agreement with

the City to obtain a liquor license for Haymarket Park?

Mr. Meyer: Yes, we do.

Mr. Seglin: And has Baseball entered into an agreement with Levy Restaurants to provide the food and beverage service at Haymarket Park and also obtain the liquor license?

Mr. Meyer: Yes, we do.

Mr. Seglin: Can you just briefly to give the council some background information about the park, using a diagram, show the council the nature of the facilities and also the areas that will be serving food and beverages at the park?

Mr. Meyer: Yes, on the diagram here, this is the Haymarket Park complex, baseball field, the UNL Women's softball field is off to the north, the liquor license and the application that we have applied for encounters the entire perimeter of the baseball stadium, as well as the softball stadium, wraps around the outfield area, comes down and basically the entire complex of softball and baseball are for the liquor license. Incorporated within the stadium we have the concession stands that will be anchored on the third base side, the first base side, also behind home plate and also in the centerfield entrance area coming into the ballpark from the pedestrian connector that will connect the ballpark into the Haymarket area. So there will be another concession area here. Out in the left field area, there is a corporate tent area that we will use for corporate type pregame picnics and then there will be another picnic area, kids area over in the white field area for game time activities with inflatable games. There will actually be a playground area out in the right field area. So lots of different activities going on in the ballpark. There is also a concession area inside the softball stadium right when you walk in the main entrance.

Mr. Seglin: Mr. Meyer can you tell the council why your organization selected Levy Restaurants to be the manager of the food and beverage services of Haymarket park?

Mr. Meyer: Well, I guess I would state that this whole project has been about partnerships, the University of Nebraska, City of Lincoln, we were really looking for a food and beverage partner that would bring that expertise to the table for us. We went through a formalized bid process, their reputation, their financial backing, doing these types of things in baseball, basketball, various arenas and sports complexes throughout the country. We felt was a real asset to not only our partnership with them, but also bringing that to the City of Lincoln and feel that it was a real asset to not only our partnership with them, but also bringing that to the City of Lincoln and feel that it will be a great partnership and a great situation for us at Haymarket Park.

Mr. Seglin: When is the park scheduled to open?

Mr. Meyer: June 1st. About 62 days away, weather permitting. The schedule is tight, obviously we all know that the winter has been a long winter here, but we are still shooting for the June 1st date with Sioux City.

Mr. Seglin: Thank you. Any questions for Mr. Meyer?

Jon Camp, Council Member: Just a quick question, I know down in the Haymarket over the years there have been concerns about how you define perimeters and with alcoholic service and so forth and you mentioned that you have got on your drawing there, you went to the perimeters outside of the stadium. Would that be on a game basis you would be serving out in those areas as well, or would be confined on a regular Saltdogs game, that that would be inside the stadium?

Mr. Meyer: Really the perimeter that I outlined here Jon is the entire fenced area is around the entire stadium, so it would be for Saltdog games, any special events that we would run at the stadium. If we do something on football Saturdays, whatever the case may be, would all be within the perimeter of those stadiums. There is a small area down the leftfield area, there is a small parking lot that we just basically in captured into the license area so it would just fit within the perimeter of the stadium, but it is all here, as well as going all the way up this line, the fence line, then follows the outfield area and comes back down the other side of the outfield area, but it is within that premise only, not into the parking lot areas or anything, it is just within the stadium complex.

Mr. Camp: I think you have answered my question. It is a fenced area then?

Mr. Meyer: Right. Any other questions?

Mr. Seglin: Next I will call Bill Rayner for some short testimony.

Jerry Shoecraft, Council Chair: Change a little format here, presentations should be five minutes, but then if you are going to combine it then you need to state that up front that you need to allow time for

your presentation, so I guess we should recognize that.

Mr. Seglin: I'm sorry, yeah I thought since these were individual witnesses, I intend them all.

Mr. Shoecraft: I don't have any problem with this, I am just trying to keep the format consistent

Mr. Seglin: I'm sorry.

Mr. Shoecraft: That's okay, proceed.

Mr. Rayner, based in Chicago at Corporate Headquarters for Levy Restaurants, came forward and took the oath.

Mr. Seglin: And can you give the City Council just a short brief summary of your experience in the restaurant and food and beverage business?

Mr. Rayner: For the past thirty years I have been responsible for food and beverage service at over 30 facilities in the midwest and Canada in the sports and entertainment business.

Mr. Seglin: Can you please give the Council a short history of Levy Restaurants including their experience in the sports entertainment business?

Mr. Rayner: Levy Restaurants operates about 50 facilities and of that over 31 or 32 in the sports entertainment field, primarily in baseball stadiums, arenas in Chicago, in Atlanta, in Kansas City and operates in thirteen major markets and has over 50 liquor licenses. I have a hand out.

Mr. Seglin: And this handout briefly describes the Levy Sports and Entertainment Operations and also locates various facilities throughout the United States.

Mr. Rayner: Right, it lists the facilities that we operate.

Mr. Seglin: We heard Mr. Meyers describe the license premises and the services that would be provided at the Haymarket Park and do you agree with that?

Mr. Seglin: Does Levy offer any in-house training for employees regarding food and beverage service in general and that that will be offered at Haymarket Park?

Mr. Rayner: In addition to what is required by law, Levy has an in-house training department that conducts a safe-server program which includes an alcohol awareness program and all employees have to go through both training programs.

Mr. Seglin: Has Levy Restaurants ever been cited for any cancellation or revocation of its liquor license in any of the states that it operates in?

Mr. Rayner: No we have never had a suspension or a license revoked in over 20 years.

Mr. Seglin: Is Levy willing and able to comply and conform with all of the applicable rules and regulations with respect to dispensing alcohol in the State of Nebraska on these premises?

Mr. Rayner: Yes, we are.

Mr. Seglin: And will the granting of this license application to Levy serve the public convenience of necessity?

Mr. Rayner: Yes, it will.

Mr. Seglin: I have no further testimony for Mr. Rayner. Does anyone have any questions of Mr. Rayner?

Cindy Johnson, Council Member: You said you had some in-house training that you do. We also have some training that we mandate our managers here in Lincoln, are you opposed to having your manager?

Mr. Rayner: No we are familiar with that and we would do both.

Ms. Johnson: Good.

Mr. Seglin: Next I would like to call John Keefer, for some very brief testimony.

John C. Keefer, 714 South 36th Street, took oath, came forward to answer questions.

Mr. Seglin: You are employed by Levy Restaurants, is that correct?

Mr. Keefer: Yes, it is.

Mr. Seglin: And what is your position?

Mr. Keefer: My position is Director of Operations for the food and beverage at the stadium.

Mr. Seglin: At Haymarket Park, is that correct?

Mr. Keefer: Correct.

Mr. Seglin: And you have just recently been retained by Levy? Is that correct?

Mr. Keefer: Yes, it is.

Mr. Seglin: Can you tell the council what your experience in the food and beverage business has been prior to your being retained by Levy?

Mr. Keefer: I was introduced to the industry through LaPaloma down in the Haymarket. I worked for Art Hemenez for five years as a co-manager

for the facility and my primary focus in the beginning was in charge of the bartending services and helped Art develop a little bit of the franchise manual in regards to that. Then I worked retail for Hy-Vee here in town for five years and for the past five years I have owned my own coffee house and tea shop in South Lincoln, MK's Coffee and Tea.

Mr. Seglin: What will be your duties and responsibilities at Haymarket Park?

Mr. Keefer: I will mandate and implement all procedures according to Levy Restaurants and to the owners of the facilities of Lincoln Saltdogs, via Charlie Meyer and my boss, Scott Nyget, who is the regional Director, located in Denver.

Mr. Seglin: Do you also insure that Levy complies with all the rules and regulations regarding the dispensing of alcoholic beverages on the premises?

Mr. Keefer: I do.

Mr. Seglin: Any questions for Mr. Keefer?

Mr. Shoecraft: Thank you very much.

Mr. Seglin: Just one short.

Mr. Shoecraft: You have to stop. You guys have got a wonderful organization, we don't see any problems. Seriously. Because I have to be consistent and respectful for everybody that is in the room, and you guys have presented yourself well and have all the information. We think it is going to be a huge success down there from the economic development of business standpoint and I am looking forward to eating a hotdog.

Mr. Seglin: I just want you to know that the Corporate Manager is here also and his application is before the council. If anyone has any questions of Mr. Rossman, he is available to answer questions. I have some exhibits that we have to present to the council.

Mr. Shoecraft: Thank you very much sir. We appreciate it.

Rich Wiese, Chair of West "O" Business Association: And we are in support of the activities being requested here. As you know we supported the baseball diamond from the beginning on and we are trying our best to make that all become a good reality there.

Danny Walker, 427 "E" Street: I do have one question that could be answered later as far as that goes. I am wondering if the North Bottom Neighborhood was consulted at all on this matter? I would like to know what type of security is going to be available, as all of you know, that it is very close to a neighborhood. I would hate to see drunks wandering out of that ballpark and getting run over by somebody, you know what I mean? Number three, that ballpark is in a flood plain area, it might be wise to put some life preservers in the bar so if some of the drunks, you know, I am serious about this stuff, some of these drunks could wander out of that bar and drop off into Salt Creek accidentally and drown. Who is liable for that?

Mr. Shoecraft: Danny you make my life interesting.

Mr. Walker: Hey, Field of Dreams, I can dream too Jerry, just as much as they can. Any questions? I didn't think so.

Mr. Shoecraft: Thanks, Danny.

This matter was taken under advisement.

DECLARING APPROXIMATELY .91 ACRES OF PROPERTY GENERALLY LOCATED IN LOT 2, FAIRVIEW CEMETERY 1ST ADDITION, GENERALLY LOCATED NEAR N. 84TH STREET AND ADAMS STREET, AS SURPLUS AND AUTHORIZING THE SALE THEREOF - Lynn Johnson, Parks and Recreation: I would like to provide the Council just a little bit of brief history of this site and some background. This is Adams Street, 84th Street, North is up on this map. This is the existing Fairview Cemetery site in this location and I think as you know Fairview Cemetery was city owned and operated in the past. A few years back the Cemetery and a portion of property in this area was transferred to Wyuka Cemetery for future operation. Since that time, Wyuka has completed a master plan for the site and what they envision doing is taking a maintenance building that is located at about this position, relocating it to an area clear at the north end of the site and then extending a loop road through this portion of the site that would allow approximately sixty additional years of burials. And what that does essentially for the cemetery, there was not a perpetual care fund established for the cemetery, and what this does is allows them to generate revenue over about a sixty year period and establish a perpetual care fund. This is the access point off of 84th Street. There is a driveway there, there is also a trail that crosses. What we envision is that the City would share that access drive and I guess with Fairview, and that this would become the access to future activity areas in the northern portion of this site and would also become access to the maintenance facility in Fairview Cemetery. The Parks and Recreation Advisory Board has reviewed this and they

recommended that the site be declared a surplus and I am certainly available for questions.

Coleen Seng, Council Member: I am very much in favor of this as long as it is written in that this cannot be sold out to someone else, since it is city property.

Mr. Johnson: Thank you Coleen, that was one of the other things that the Parks and Rec. Advisory Board recommended that there be a deed restriction placed on this that it could never be used for commercial purposes, that it essentially had to become part of this cemetery and remain so.

Jonathan Cook, Council Member: This isn't park land now, I mean it isn't being used as part of Mahoney Park?

Mr. Johnson: That's correct.

Mr. Cook: And it is unlikely to ever be used that way because of the circumstances with the road and so. I want to make sure that this is clear that this was not part of the park that was being used as the park and therefore it is not something being taken away.

Mr. Johnson: That is true.

Mike Hutchinson, CEO Wyuka Cemetery and Fairview Cemeteries: I just want to ask again for your support of this. We actually acquired Fairview Cemetery on June 26th of 1996 from the City, as the city was not in the cemetery industry. If you have noticed since you have been around there, we have done a lot of maintenance, some by donations from other people within the community, out in the Havelock area, \$150,000.00 worth of paving, which was all just gravel streets before. The addition here will actually extend it sixty to eighty years. We also, in the master plan, will put in some mausoleum out there for future use in one of the sections in which will give it a buffer and then by having this addition that you graciously, hopefully will allow us to have, what we will do then, is put in a perpetual care fund so someday when that cemetery is full then, we will not have to rely on the County or City taxes to take care of it. It will be there and it will perpetuate itself. And I am here for any questions.

This matter was taken under advisement.

CHANGE OF ZONE 3263 - APPLICATION OF PIONEER WOODS, L.L.C. FOR A CHANGE OF ZONE FROM B-1 LOCAL BUSINESS AND R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD.;

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF PIONEER WOODS FOR 8 COMMERCIAL LOTS AND 2 OUTLOTS, AND WAIVERS OF THE REQUIRED STORMWATER DETENTION, AN INCREASE IN THE 15' DEPTH OF SANITARY SEWER, AND AN INCREASE OF THE STREET APPROACH PLATFORMS TO 3%, ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD.;

USE PERMIT 130 - APPLICATION OF PIONEER WOODS, L.L.C. TO DEVELOP 142,000 SQ. FT. OF COMMERCIAL/RETAIL/RESTAURANT SPACE AND TO WAIVE THE STANDARD 50' FRONT YARD TO ALLOW FREE-STANDING PAD SITE GROUND SIGNS IN THE FRONT YARD ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD.- Michael Rierden, appearing on behalf of the applicant, Pioneer Woods, L.L.C.: First of all, thank you for letting us appear at this portion of the agenda. I will be brief. Just a couple of remarks. As you know the planning staff is recommending conditional approval. We have agreed to all of the site specific conditions and there are a couple of changes that the planning commission approved that being basically the reduction in the front yard requirement from 50' to 42' and we are still requesting that. We also limited ourselves in site specific conditions to the requirement as far as 30,000 square feet of total restaurant space. The Planning Commission did give us unanimous approval. This request is for 142,000 square feet of commercial/retail type of space. Again, we agree to all of the conditions. We did meet with the three home owner associations in the area and to the best of our knowledge, there was no opposition at the meeting and to the best of our knowledge, if no one opposes this particular project, we met with the people at Hyde Observatory and had a good meeting with them and will continue discourse with them as far as the lighting is concerned. We will of course, all of our lighting will be in conformance with design standards and then we met with a group that I was not aware of, entitled "Friends of the Dog Run", and we've continued working with them and have had good discourse with them. We have agreed verbally at this point and time to a off-site improvement agreement. There is just one minor item that needs to be worked out as far as language. We have agreed to put in the stop lights or signalization of Stacy Lane and 70th, and Stacy Lane and Pioneers, and we would like to initiate the installation of that at, at least the underground portion of it immediately and then the poles and lines and

everything during the construction phase. And so we are working on that. The difference between our position and the city's is basically that of timing. We want to do it as quickly as possible and I think the City Transportation Dept. does too. We've also agreed to an architectural scheme that should be part of your packet, just as Lenox Village agreed to one across the street, and it will be very tasteful. The only other item I would point out to you is the fact that we are basically at the bottom of the hill for purposes of surface water drainage and the City, or Public Works has agreed to waive the detention requirements that you normally would because we are right at the base of the drainage basin and right at Holmes Lake. With that, I'd attempt to answer any questions Council members may have. The engineers from Olson Associates are here and the developers are also here in case you have questions of them.

Jon Camp, Council Member: The one concern I would have is the addition of the traffic lights. I know this is going to be a busy area, as always with arterials like 70th and Pioneers, to the extent we can keep traffic flowing, I would like to see that. Was there reasonable consideration that went into the planning of that in the process?

Mr. Rierden: I'm glad you mentioned that Jon. The developers of this project have agreed to go ahead and accelerate the improvements that will be done on Pioneers, in other words, they'll do the widening and install all the improvements from Pioneers and 70th east, to basically where the bridge is on Pioneers and we are coordinating everything with the City of Lincoln, including the installation of the lights. So we think that there will be as little disruption of traffic flow and traffic patterns as possible.

Mr. Camp: And part of my question went to just the addition of lights along a major arterial, like Pioneers, just the more traffic lights we get, I know we have found in other situations, it tends to impede those traffic flows. I guess at this point is it a mute issue, as to including those?

Mr. Rierden: Well, they were required as part of our discussions as offsite improvements that were required and seen as necessary by the city. We as developers also think that they are needed at these two locations.

Jeff Fortenberry, Council Member: Mr. Rierden, you had mentioned that there is a rendering in our packet of materials. I don't have that, I don't see that.

Mr. Rierden: I'll try to get the rendering to you.

Jonathan Cook, Council Member: The same developer owns the area that is cater-cornered to this across 70th and Pioneers?

Mr. Rierden: One of the principals in Pioneers Woods, is a principal in Elizabeth Plaza.

Mr. Cook: And there will be a change in architecture to match the two sites?

Mr. Rierden: They are not identical, and I will get you that rendering to help you out.

Don Lindscott, 5101 Central Park Drive: And Jonathan, yes, we are going to try to match some of the architecture on the two sides. We are going to try to come in with a name change, even on the South side to match that so that we will have mutual advertising. Some of the same signage will be on both of the two corners and right now will have to go through the planning process to make that a name change and we are looking at right near Pioneer Place for the South side and the North side would be Pioneer Woods, to try and combine those and give them some identification from a signage standpoint, even at a design standpoint. I would like to also address the question that Jon brought up. One of the things that we have done for a very long time is work with Hy-Vee and working with the intersection of Stacy and South 70th, cause it is a major intersection that you can never get across and in working with the Slosburg people in Omaha, this is one of their major concerns and Hy-Vee in allowing us to do that is that intersection. So when we were negotiating with the City and looking at all of the transportation issues, that we worked on 70th and Pioneers, we worked on Stacy and 70th, we worked on Stacy and Pioneers and also the major intersection that we had to work on the north side that we had to move our intersection a little bit further north in order to meet the criteria of the 2% slope with Public Works and we have been able to accomplish that. And one of the things that I think I will compliment both the City Planning Dept. and the Public Works. This one was really a joint effort because we came in once and had it approved through the Planning Commission, the Public Works found out at that time there was a problem with the 2% slope, we had to go back and redesign all of our center and working with both Planning and Public Works it worked out very well, everyone cooperated in trying to make it work right and that has been done. So I would like to compliment both Public Works and Planning

on this process, because it was a very good working relationship together. We've done as Jon or Jonathan mentioned, coming up with the design criteria, I think, would be very good for the area and I think you'll look at this and say, this is a good development for the City of Lincoln. Any other questions I might be willing to answer?

Danny Walker, 427 "E" Street: I find it somewhat amusing that we are waiving storm water detention, when Holmes Lake can't handle what the run off it has got now. Secondly, I have got a newspaper article out of the Lincoln Journal Star, which specifically states that within the last several years, the developers and Public Works have required detention ponds within the City of Lincoln. Well if that is actual fact and not a lie, I don't know why it is that within the last month and a half, I have several agenda items that state that detention ponds are being waived. Something doesn't really make sense and like I say, Holmes Lake is filling in, it wasn't doing anything there. It is silting in, poor planning has made Holmes Lake very weak in regards to the detention purpose that it was first conceived for. And yet, here we go, we are going to dump more run off into it. That really doesn't make much sense to me. Any questions?

Cindy Johnson, Council Member: I think that is worthy of an answer. Let's talk about what's going to happen there.

Nicole Fleck-Tooze, Public Works, Dept.: The Holmes Lake storage was actually designed at a much higher standard so that it was designed for the projects storm was envisioning two 100 year storm events immediately back to back. So there is actually additional storage that is reserved in that storage easement and that will accommodate any additional flow from this site. All the houses in Fox Hollow are already well above the full elevation, so there is sufficient design within the Holmes Lake storage easement to accommodate for that.

Jonathan Cook, Council Member: Just to follow up on that, the issue of waiving the detention. It is normal practice to waive detention in locations that are right next to, right at the bottom of the flood plain, not flood plain, but bottom of the basin?

Ms. Fleck-Tooze: Yes, in the majority of cases where the detention is immediately adjacent to the stream channel in the bottom of the basin, it makes sense to waive the detention so that that water gets moved more quickly out of the area before the peak flows arrive on that channel. So that is part of the circumstance here, is that they are adjacent to the bottom part of the Antelope Creek basin.

This matter was taken under advisement.

APPROVING A REDEVELOPMENT AGREEMENT BETWEEN THE CITY & TJK INVESTMENTS, INC. FOR THE REDEVELOPMENT OF THE WEST SIDE OF N. 27TH ST. BETWEEN S & T STS. TO BE KNOWN AS "STERLING VILLAGE" OFFICE/RETAIL SITE - Marc Wullschleger, Urban Development: With me today is Kris Sonderup. He is the K in TJK Investments, Inc. and Kris has some items here he is going to pass around. Basically, we are here to answer any questions that you might have. If you recall this is the land immediately South of Midas Muffler, 27th S to T and it was put out for RFP and Kris and his family did get this awarded to him and they are going to build Sterling Village there. Questions?

Annette McRoy, Council Member: First do you have any anchor businesses already slated for here?

Mr. Sonderup: At this point we do not. We are in negotiation with several different ones, but we do not at this point.

Ms. McRoy: Explain to public, what kind of mix that you kind of see being there, the mix that we talked about when you did your proposal.

Mr. Sonderup: Ideally, we would like to get some services and retail in the area that we could use. My family has had Cycle Works Bike Shop at the corner of 27th and Vine for 20 years, so we are rooted in the area and we want to see it furthered. The City has done a wonderful job in expanding and helping with North 27th, make it nicer, they start work again today. But we would like to get some services, possible some professional services if possible that would take some office space in there and at this point we will see what comes up.

Jon Camp, Council Member: Kris any thoughts of moving your present operation, or do you plan to keep that at 27th?

Mr. Sonderup: No, we love our corner.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE DEPT. OF ROADS FOR THE FUNDING OF A PROJECT TO RECONSTRUCT THE INTERSECTION OF 33RD AND SHERIDAN BOULEVARD AS A "ROUNDAABOUT" - Virendra Singh, Public Works Utilities Dept.: I just basically wanted to give you a real quick overview of this particular project. A lot of you have already heard about this and it has been going on now for quite some time. We have been working with the

neighborhood in this area, we have a design team that has been with us continuously, as a matter of fact we have the President of the design team this afternoon, who would also like to come up and testify regarding this project, Cindy Keester. Thirty-third and Sheridan actually started out as a safety improvement project. This project was taken forward to the State and Federal Highway administration and we were able to get \$200,000. in federal safety funds to actually construct this project. This resolution before you is to basically allow us to encumber Federal highway safety funds to begin the reconstruction process. We have pretty much completed the final design and the 90% plan stage, and our goal is to do this project this coming summer, so it does not hamper the school children in this general facility. With that, if you have any questions, I'll attempt to answer those.

Jon Camp, Council Member: You were saying that about 90% of the costs would be covered by federal funds?

Mr. Singh: No the final plans are at the 90% stage, actually we are almost completed. The federal funding split is 80/20.

Mr. Camp: So the City will be picking up the 20 out of . . . ?

Mr. Singh: And during the process toward the preliminary design and the final design elements and basically the constructions dollars are coming from the federal highways.

Mr. Camp: So what would be the anticipated city cost for the roundabout?

Mr. Singh: It was range from \$40,000 - \$50,000.

Jeff Fortenberry, Council Member: Mr. Singh, can you review for the public, who may be watching how you are going to handle pedestrian movement across the intersection?

Mr. Singh: Sure. The Council plan that I have put forth here shows what the project will actually look like once it is constructed. As you will recall under the existing conditions, we have fairly length crosswalks that are currently being used by pedestrians, both on the North side, as well as South, East and West. In this particular design that actual roadway width in the crossing area is actually reduced to about 13' at a time. So assuming that a person is going on the East leg of the intersection, that they are going to go from South curb to the North curb, they will basically cross in about 13' at a time. So the travel distance is very short at 4' per second. You are looking a little over 3 seconds to cross this distance. Then you have a median which is another pedestrian refuge and then you have approximately another 13' before you get to the North curb. So overall exposure is really reduced compared to what they have out there today. Similarly, we have the situation, for example on 33rd Street, if we look at the North crosswalk, a pedestrian basically can cross this roadway one-half at a time, again 13' at a time. And you have a raised median there which is actually going to be providing this refuge for the pedestrian or bicycles.

Mr. Fortenberry: What is going to be planted in that raised median?

Mr. Singh: The ones that we currently show on 33rd street will not be planted basically because of the size of the medians. The extensive plantings will take place naturally in the existing areas, the existing medians, as well as the central island. That is the primary focus of attention as far as overall landscaping. We are working with our neighborhood people to try to maintain the same type of aesthetics that currently exist on Sheridan Blvd. today.

Mr. Fortenberry: So the concrete medians will be cut for the passage of the walkway through it?

Mr. Singh: Absolutely. The darkened area that you see for example on 33rd street, we will use a different type of a pavement and a different texture and color in that area to help delineate from the vehicle travel area.

Mr. Fortenberry: So as the sidewalk or the passageway across the street goes across the street, it will be a different material, than on the street? And how far back on the North/South crosswalks, how far is that distance from the traffic that will be coming out of the circle?

Mr. Singh: We have tried to provide at least a one vehicle stacking between basically from the median to the crosswalk area. So if you do have a vehicle that has to yield to a pedestrian or a bicyclist for example in the North crosswalk, at least they have got an area where they can actually stop and they are not going to be blocking traffic.

Jeff Fortenberry, Council Member: Virendra, I would like to follow up again on some of the economics and I have to go back to my Econ 101 because an old Econ professor called me on this roundabout and I promised him I would ask the question, that is, we have got \$200,000 in the federal funding, if Lincoln had to pay for this roundabout out of it's own, well let me back up, what would a four-way intersection cost, compared to a



roundabout roughly?

Mr. Singh: We had done some cost estimates assuming that we did a standard intersection which would provide separate left turn lanes all the way around. That cost for that location was \$480,000 to do a complete channelization project.

Mr. Camp: So the roundabout is actually less expensive? If there were not federal funding involved with this, what would the City be doing if we had to pay for it ourselves?

Mr. Singh: I think we would still want to pursue this regular project. I think it is a safety improvement definitely in terms of the number of accidents that can be prevented. Nationally we have seen anywhere from 60 - 70% reduction in accidents. And this location over a 3 year time frame had 54 accidents, which resulted in about \$983,000 in accident costs. So I think we have an opportunity here to really reduce the number of accidents and overall savings for the general public. So I think the benefit cost is very high.

Mr. Camp: So its about half the cost, then on ongoing maintenance, I guess you don't have the lights, so what lights are expensive, so what is the ongoing maintenance of a roundabout vs. a conventional?

Mr. Singh: \$2,000 per year roughly for maintenance of a traffic signal, here you are eliminating all of that.

Mr. Camp: What about snow removal or other maintenance, a little bit more on a roundabout?

Mr. Singh: We don't anticipate anything additional at this location.

Mr. Camp: Do you see if this works at 33rd and Sheridan that we will start using more roundabouts in Lincoln?

Mr. Singh: I hope so. I think it is a good method of attempting to address these type of accident locations and I think it definitely shows that you have a reduction in overall delay from a signal. Again signal provides you a fixed delay. Here the only delay would be based upon the drivers ability to judge a gap in the traffic stream as they enter the traffic stream.

Mr. Camp: My final question is what are the negatives to doing, what are the disadvantages to having a roundabout over a conventional four-way intersection?

Mr. Singh: Really hard to say what exactly would be a negative element here. Because I think we are trying to address overall safety. I think that is the big issues. Aesthetics is a positive element. I honestly cannot say that there is a true negative element. Again, maybe once we try this out we will find out for ourselves what are some of the things that do not work.

Mr. Camp: I lied, I have another question. Then why haven't we done this before? I mean I know Europe, England has had them around the world.

Mr. Singh: I think it just takes time to bring them to the forefront.

Jonathan Cook, Council Member: I have one other quick question for you. What would be the speed limit in the roundabout?

Mr. Singh: Design speed is right about 18 mph through this area. So today we are dealing with a approach traffic of 35 mph, now we will be dealing with approach traffic of about 18 mph. So I think it is a significant drop. Again that adds to the overall safety of the motoring public, as well as the pedestrians and bicyclists.

Mr. Cook: Would you consider moving, particularly on the northwest or the North/South corridor, moving the pedestrian sidewalk further back from the intersection? Both on the North and South?

Mr. Singh: From the crosswalk location, further back you are saying? I'm sorry I am not understanding your question.

Mr. Cook: Right.

Mr. Singh: We feel that we want to keep those crosswalks at those points because of the existing sidewalk facilities. Today those are the points that people are using to cross. And I think that it is important that we try to maintain the crossing areas, generally in the same proximity of where they are actually crossing today.

Mr. Cook: Without the light and the ability to cross with the light, obviously the speed is reduced as you said, so the trade off with the speed being reduced bur having no light, is actually safer for pedestrian movement?

Mr. Singh: Actually, it is because if you look at the conventional signal location, generally people assume that if they have, say for example, a walk light, that they are safe. Unfortunately, the time that that signal comes on, you also have the vehicles moving on the same phase, which means you've got to have left turning vehicles, right turning

vehicles into the crosswalk, which a pedestrian has to look for. So it is not a totally safe condition. Here the person, it is up to the pedestrian to judge where the vehicle is and is there adequate gap for them to enter the roadway. And hopefully the vehicle, the motorists, are going to be able to see that a little easier.

Mr. Cook: And I share Council Member Fortenberry's concerns about the pedestrian safety. I think that has really been the big bugaboo in this all along. Because this is something new, even if the sidewalks are back further than they normally are, and even if you can say that currently it isn't ideal, because people are used to the current situation in every intersection in town, traffic moves in a similar fashion, you have to watch for cars from certain directions and here, obviously here, the fear is that people go around the circle, you don't when they are coming out of the circle if you are pedestrian, so you see them coming around, do you start across the street, or do you wait? And when the roundabout is busy, how difficult will it be for pedestrians to decide when to step off the curb? I think some of this we will learn as we go, but that is my biggest concern here as well.

Mr. Singh: I think all the records that we have so far seen, the states that have utilized roundabouts have found that it is really a safe pedestrian situation for them and we have looked at developments in the Kansas area and so on that are using this adjacent to schools and it is a safe environment. And again there is going to be an educational element that has to take place because people first of all need to learn how to drive this area, we understand when they are crossing the roadway, what does it take and so there is definitely going have to be an educational process.

Mr. Cook: We will be flyering the neighborhood I assume. One last question. The timeline on this once we grant approval. When do you see construction starting and finishing?

Mr. Singh: Our goal is to shoot for around the middle of June, that is after the public schools are all out and then basically to leave us about a month and a half to get the work done. We believe we can accomplish that assuming that the weather conditions hold for us. Our goal is to get it done before school starts. It's ambitious but I think we can accomplish it.

Mr. Cook: I just want to thank you for working with the neighborhood as you had. I think it has made it a much better project and having a lot more people on board has really been good.

Mr. Singh: Their help has been greatly appreciated and I think we have learned a lot of things from their involvement.

Cindy Johnson, Council Member: It is kind of a question and a statement. You answered most of it, because what I was going to do was kind of remind you about three or four years ago the Council directed Public Works to take a look at roundabouts as a method in which to go in and correct some of these problems without changing the character of the neighborhoods and watch over those pedestrians and you had stated then that you had some data that shows that pedestrians were safe and that some of those, can you get some of that to the Council if they have any questions about that? I mean you showed that test three or four years ago and we have some new council members that do not have the opportunity to see some of those stats.

Mr. Singh: Thanks for bringing that up but this is really a very important traffic counting device and it is used in that format as well.

Mr. Fortenberry: One other quick question for you. You are changing the concrete or the pavement texture at the crosswalks. Will there also be markings there, white lines?

Mr. Singh: We are definitely going to look at all of those options. We have got the signage plans. Everything . . .

Mr. Fortenberry: Signage including warning pedestrians?

Mr. Singh: Definitely, it will be the best that we can provide.

Mr. Fortenberry: Thank you again for your hard work on this. I know it has been a long process. It is a different concept for our community and we will all have to be educated on how to use it best. But we appreciate your creative thinking and willingness and work out a variety of issues of concerns, particularly to those who live right there in the neighborhood.

Mr. Camp: I've got a quicky. As we look at other areas like we have just had the 70th and Pioneer intersection, would that ever be an application for a roundabout? And I am thinking again traffic congestion keeps coming up as the number one concern of our community and is this something that is more economical, that's safer and that will also expedite traffic flow?

Mr. Singh: Yes, definitely it is. One of the things that we have to

move from this roundabout is basically just going to be one single lane and when you start getting into some of the major roadways, like 70th Street or Pioneers Blvd. where you have four lane facilities, again you start getting into a multilane facility in roundabouts. They are being used nationally as well as international scenes. There should, and I hope there will be a day when Lincoln will get to that point.

Mr. Camp: Will there be a natural evaluation of the 33rd and Pioneers so that we can say in a year, come back and statistically analyze how it has worked and if so, if we want to make some changes in our future roads development?

Mr. Singh: Absolutely. As part of the federal funds that we are receiving, we have to do a complete before and after analysis and see how well we rate.

Cindy Peester, 3158 Sheridan Blvd.: And I simply want to state as Chairman of the Roundabout Study Committee connected with the Country Club neighborhood organization, that the committee members, a half a dozen or so of us have worked for months and months studying, bringing it to the neighborhood, and continuing to work along with the City to protect our interests, and the committee continues to be unanimously supportive of this project.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE DEPT. OF ROADS FOR THE FUNDING OF A PROJECT TO ANALYZE THE ALIGNMENT OF HIGHWAY U.S. 6 (SUN VALLEY BOULEVARD) FROM WEST "O" STREET NORTH TO CORNHUSKER HIGHWAY - Vierenda Singh, Public Works & Utilities Dept.: Generally, the resolution that is before you is to allow us to enter into an agreement with the Dept. of Roads. To actually do a feasibility and concept study for the Sun Valley Blvd. project between West "O" and Cornhusker Hwy. Basically, there are two alternatives that we are looking at, one is the current existing alignment which on the overhead is identified by a dark line and it basically follows the existing conditions to all the way to 11th and Cornhusker. The other option is to look at Sun Valley Blvd. and shift it to the west and then connect it to 1st street. The general cost is estimated at \$150,000 of which 20% would be the City's involvement. This project is also identified on our conference plan, the long range transportation plan for the next 25 years. So this would be in keeping with what we have already received approval for. Any questions, I would be happy to answer those?

Jonathan Cook, Council Member: If you choose the alignment to the West you will be removing the bridge then, that goes over the interstate, that will just go away?

Mr. Singh: We haven't made that decision as yet. That will be part of the overall study that will be conducted. You are talking about the one that . . .

Mr. Cook: The existing Sun Valley Blvd. bridge. So it could remain for some other purpose you are saying?

Mr. Singh: It can remain and again those are some of the issues that we have to evaluate as part of this overall analysis. Maybe it becomes just a local access into the park area.

Mr. Cook: Is it in okay shape? Or is it that it would continue to function without major work for many years if it had low traffic volumes but it isn't suitable for high traffic volumes?

Mr. Singh: That information I don't have with me. The actual rating of the bridge. I can provide that at a time for you.

Mr. Cook: How long will it be before a decision is made on the alignment do you think?

Mr. Singh: We are in the process of negotiating at the present time with the consultants. Our hope is that we can have a final report by the end of this year and a lot of the traffic studies and so on, will start with this month.

Mr. Cook: I don't suppose you have any position on a salvage yard next to it?

Jeff Fortenberry, Council Member: Could you get us a copy of that map there?

Mr. Cook: If you choose the alignment to the west, that would then connect up with the existing four lane 1st Street correct? Would the traffic volumes be enough higher from that connection that it would necessitate changes in the intersection of Cornhusker and 1st, or do you suspect that might happen?

Mr. Singh: That could potentially happen. We anticipate, based on the last model run that was done for the 20/25 year projections, that area will carry approximately 28,500 trips. So a lot of things can occur. We have to look at this study will actually some of those questions as to the

number of lanes, what we need to do with the intersection of 1st and Cornhusker, all of that has to fit in.

Mr. Cook: Do we have any turns along that four lane stretch, because it doesn't have a turn lane in it and if we are going to add lots of traffic we might see a need of improving the four-lane stretch that exists today? That could be expensive.

Mr. Singh: Again the land uses in that area are rather constrained, so I'm not quite sure if we will be needing any additional access points, especially in that stretch that is immediately south of Cornhusker Hwy. I envision that the majority of the work will take place at the intersection of 1st and Cornhusker, at West "O" and Sun Valley intersection, some of those.

Mr. Fortenberry: Review again the time line for the project.

Mr. Singh: The studies for the actual traffic counts, they are pretty much started. There will be an O and D Study that will be done as a part of this regular project as well. If everything can come together, we are still hoping that we can have a final report by the end of this year, and again like I mentioned, we are in the process of negotiating those details with the consultant and we have not as yet finalized that specific date.

Mr. Fortenberry: I'm having a bit of a hard time reading this. Perhaps Nicole, you could run and get a copy of this right now. But if you could trace it Singh, if you could just follow the diagram up and point to the landmarks unless you have one copy? We are constrained here. Maybe you could zoom it in. Trace the western, potential realignment of the road. That helps.

Mr. Singh: Generally Sun Valley north of West "O" will stay on pretty much the same alignment and we envision that somewhere where the existing bridge is, on Sun Valley Blvd. over the railroad tracks there, that is where the transition would begin to the west and there should be

Mr. Fortenberry: So it would follow those railroad tracks as you curve to the west, it would follow the railroad tracks?

Mr. Singh: Basically use the existing alignment of Charleston that exists there today, somewhere in the general area and then curving back onto 1st Street and intersecting Cornhusker Hwy.

Mr. Fortenberry: Will the current tow yard location, it would go through a portion of that, correct?

Mr. Singh: It is hard for me to say if it definitely will go through it. There is a possibility.

Ted Vrana, 3260 Van Dorn, representing Ace Financial Services: We are interested in this study. We are principally concerned that we be advised as the study progresses to see what is happening. We would like to know a little more specifically and perhaps I could find out from this gentlemen, where it will be with respect to the existing roadway now and how it will effect the land to the east and to the west. So if you would be kind enough to put my name and address.

Joan Ross, City Clerk: What is your address please?

Mr. Vrana: 3260 Van Dorn, close to the roundabout, 68502. We would merely like to be advised and be kept apprized of the developments and timetables and how it will effect the other land in the area.

Mr. Camp: Mr. Chairman I think we ought to swap him information on the roundabout, for what he is going to get.

Mr. Vrana: What did he say?

Mr. Camp: You provide us information on the roundabout.

Mr. Vrana: That's an interesting concept, I would like to know a little bit more about that too. I've been in roundabouts in other areas too and have gotten lost a few times.

Rich Wiese, 730 Pier 3: I come to you now as a private citizen. We use Sun Valley Blvd. quite a bit and the area down by Cornhusker Bank is dangerous as the traffic wants to merge. We have worked with the City quite a bit on the traffic problems down there and they said it is almost impossible to do much more correction down there if any. So we would support this new highway proposal that is before you.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN BIG RED KENO AND GJR, L.L.C. DBA "RANDY'S GRILL & CHILL" FOR THE OPERATION OF A KENO SATELLITE AT 4947 HOLDREGE ST. - John Hewitt with Big Red Keno. Just here to answer any questions if you have any.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF MARCH 1-15,

2001. - Doug Peterson, representing LeRoy and Delores Milbourn: They have a claim presently before the City of Lincoln. A little history of that claim, back in January 23rd of this year, LeRoy Milbourn was being transported by HandiVan from the Manor here in Lincoln. When he was transported he was brought to his home and Delores was there waiting as the van took him out, put him on the ramp and the van driver tipped it up the wheelchair. And it is important to know that Mr. Milbourn suffers from Lou Gehrig's Disease and his hands sit in his lap. The driver was aware that he certainly couldn't manipulate the wheel or really do anything to assist himself because of his disease. As the van driver took him to the ramp he apparently was dealing with some obstruction on the ramp and lifted up the back of the wheelchair which caused Mr. Milbourn to fall out and land on his head. So Mr. Milbourn wasn't able in any way to try to catch his fall and he was just physically incapable of doing that. As a result, he suffered a gash on the forehead and the van driver did call 911. The medical attention that he received included the emergency treatment at St. E's, also the transport by the Lincoln Fire Dept., and his doctor also in February, February 15th, wanted to have Mr. Milbourn scanned, catscanned to see if there had been any permanent damage caused by the fall. The Milbourns aren't attempting to seek any pain and suffering damages. I've talked to them about this, they simply want to have the medical expenses paid for. The total comes to \$2,292.00 and at this time I will go ahead and submit those bills. Delores Milbourn is here too, if you have any questions. She has also provided a one page statement explaining this. I think the Milbourns are being very reasonable in trying to get this matter resolved. I think it comes down to the act of the HandiVan driver, when he did tip up that chair. I know Mr. Faimon responded on behalf of the City, and he noted that there wasn't a strap keeping Mr. Milbourn in the wheelchair. When he was brought home from the Manor, Mrs. Milbourn has been told in the past, that they don't, that it is illegal for them to put those type of strappings on the wheelchair. That is the way he left the manor, when he got on to the HandiVan and when he was brought home, so they weren't in a position to restrain him with some type of belt. The wheelchair itself was provided by the Manor also. So therefore, we would ask the City Council to give serious consideration to this. I think it is a very reasonable way to resolve the matter and not force it into any further litigation. If you have any questions for Mrs. Milbourn she would be able to explain the details of how the accident occurred other than the written statement.

Don Bowman, 1045 Lincoln Mall: I am appearing on behalf of Fleming Flower Fields. Now Flemings has filed a claim with the City and we have the letter from the Law Dept. that recommended denial. Now I am not here to argue the merits of the case, as a matter of fact, I appreciate the fact that it is being disposed of in a timely manner that allows us to file a lawsuit. There are a couple of things I would like to address and maybe get a little bit of help on. One is Fleming Flower Fields is located out south of Lincoln on South 14th St., where all the new construction is going on and across the road is Krueger Construction, which is being annexed in the City. Everything out there is being annexed except Flemings and Alan Schroeder, who is right next door. Flemings has been attempting to get annexed into the City since 1999 and they are left out of the process. Some of the damage that was done by the City, was to their lagoon. They are actually on a lagoon and we are still having difficulty with the City; particularly the Public Works Dept. coming up with a calculation with respect to the amount of charge for hooking up to the sewer line that is now on the back of their property. The other thing that I need, one of the basis for the denial of this claim is that there is a contract between the City and Dobson Brothers, who actually did the damage out there, acting on behalf of the City. And I have requested a copy of that contract from the Law Dept., and although they have not refused to give it to me, they haven't given it to me and maybe the Council could use their, and maybe Dana could speak could that, that we could get a copy of that contract, because if that is the basis of the City's denial, at least we ought to have a copy of what that basis is and we can take our claim from there. And I would answer any questions.

Cindy Johnson, Council Member: Is there a possibility you could get that contract?

Mr. Dana Roper, City Attorney: I think it is on record at the City Clerk's office, public record.

Mr. Bowman: Well, see I was told by the Law Dept. that I had to go to J. C. Bragger Company for some reason to get it and if it is on file.

Mr. Roper: I think the City Clerk has those as public documents.

Mr. Bowman: Okay, then I can get it there.

Ms. Johnson: Joan you can make sure you have that contract for him.

Joan Ross, City Clerk: Dobson?

Mr. Bowman: That's what I am told by the Law Dept., but the Law Dept. knows more about it than I do.

Ms. Ross: By Executive Order or any Council legislation, then we have it.

Mr. Bowman: Okay, then I will check there.

Ms. Johnson: I have a question for Planning. I am interested in the annexation, I think that is an interesting question that he talks about; that that little piece of land isn't being looked at for annexation. Is there a process?

Mr. Bowman: I can say this with direct planning and I have just started representing Fleming Flower Fields and I have talked with Mike DeKalb and he is very helpful, but for some reason since 1999, they have been waiting on Public Works to give them a number. Well, Alan Schroeder, who has a claim also against the City for damaging his laterals, and we will be here two weeks on that one, and they are saying we can't give you annexation because we don't have a number to hook up to the sewer. Now there is something wrong about that.

Ms. Johnson: Can we talk about that, this is kind of goofy?

Ray Hill, Planning Dept.: I'm sorry I have no idea where this location is and I'm not familiar with any annexation we have that deals with this.

Mr. Bowman: And I apologize anyway. I think we are getting off where we should be, but I appreciate the fact that, and in fairness, Mike DeKalb is working with us on that, but a nudge at Public Works might help.

Ms. Johnson: If you could just follow up on that Ray and just find out what is going on, in case there is something there we need to know.

Mr. Hill: Will do.

Allen Green, Executive Director of Daywatch: I am here in a position of support with Marlene Perez, who put in a claim for some damages that were done to her apartment the 1st of March, as a result of the completion of a Police seizure of a suspect. And I guess I am here mostly just to talk again about where she has been and what she has gone through to get into this apartment and then how she has suffered afterwards.

Marlene Perez, 1315 "D" Street, Apt. 2: On March 1st, a gentlemen came into my apartment with a gun and I got out. Hee didn't do anything to me and the SWAT team was called and the police were already there and this went on from 8:15 in the evening until 4:45 in the morning. They broke all my windows out. The SWAT Team threw 9 canisters of tear gas in my apartment and now they are telling me that they don't have to pay for any of this, all my damages, and I am not rich.

Mr. Green: I think it is important to note that Ms. Perez was a homeless individual, who a little over a year ago, was placed in this apartment after going through Daywatch's housing placement services. Prior to that she homeless for a year after the death of her husband. She spent the allowable time at the People's City Mission, and then lived over the course of a winter in her car. Now this to a lot of us, a VCR or just an inconvenience of a couple nights in a motel room, may not seem like a big deal, but to somebody that has worked so hard to become self sufficient, this can be quite devastating. I guess in fact, what happened was, that as a result of this activity, she was homeless again. She would of had to go to the Mission if she hadn't had some of her savings that she used to stay in a motel. So I guess we are just visiting the fact that the decision by the City Attorney, that is what we are questioning. I understand too, that all claims, you don't want to open the flood gates, but I think it is important to note her particular situation and basically the value of a dollar and in her case the value is extreme. She also, one thing she didn't say, she suffered damage to her automobile because it was parked next to the window and in the course of them getting into the place, they did some damage to the outside of her vehicle. So . . .

Ms. Perez: You know they, Mr. Faimon, told me that I was an innocent bystander and I don't believe that. I was doing my civic duty to go outside and tell the police that the man was in the apartment with a gun.

Jeff Fortenberry, Council Member: The \$2,400.00 is that the cost of what has already been repaired?

Ms. Perez: Well no it is not for what my landlord Mr. Richard Molton has fixed, it is just for my damages to my clothing, personal belongings in my car, that is it.

Mr. Fortenberry: I assume you submitted a list of those to Mr. Faimon?

Ms. Perez: Yes I did.

Cindy Johnson, Council Member: I think for the record we received

a letter from Wayne Hahn, with the same type of concern, damages from a bust by the police. So for the record I would like to have that noted.

Annette McRoy, Council Member: I would like to make a motion that we pull items 10, 11, 13, and 18 off of the resolution for further discussion. Seconded by Johnson.

Coleen Seng, Council Member: Say it again?

Ms. McRoy: 10, 11, 13 and 18 for discussion within the next week.

Mr. Fortenberry: We should move and second that those items be delayed for one week.

Ms. Seng: I would like to ask that the City Attorney's office take another look at those items and we need to have some report back.

Mr. Fortenberry: I think if I could direct City Attorney, as well to the conversation that we had during the directors meeting with the Police Chief, getting some more detailed information as to the exact nature of the problem that occurred in two of those claims probably would be helpful to us.

Jonathan Cook, Council Member: And have we received any claim from the landlord of this particular property? Is there anything being processed, any requests made at all?

Joan Ross: The motion is to move items 10, 11, 13, and 18 delay for one week.

AYES: Cook, Fortenberry, Johnson, McRoy, Seng, Camp, NAYS: None.  
ABSENT: Shoecraft.

These matters were taken under advisement.

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 & A WAIVER OF THE FALL ZONE REQUIREMENT ON PROPERTY GENERALLY LOCATED AT N. 7TH ST. & FLETCHER AVE. - Jennifer Dam, Planning Staff: We have received some additional information and you will be receiving a memo from me. I'll summarize the memo right now. Based on the supplementary information that Qwest provided us and the review of the information by Joseph Marzin of Comsearch, the project with conditions, generally meets most of the standards of Section 27.68.100 of the Zoning Ordinance. The evaluation was conducted by Comsearch at the request of the City and it confirmed that the proposed location provides the best coverage for the interstate I-180 corridor, while co-locating on the Western Wireless Tower would provide some coverage of the corridor, full coverage of the corridor would necessitate an additional tower in the vicinity of the I-180 corridor. The I-180 corridor is an entryway to the city and it has been designed with park land can green space to enhance that entryway. The corridor is also specifically defined as a Capitol View Corridor on Figure 62 of the comprehensive plan. Additionally, the comprehensive plans states on Pages 178 and 179, that a unique urban design asset of Lincoln and Lancaster County and a special resource for providing orientation and connections throughout the community is our remarkable State Capitol. The 400' tower was planned and executed as the key historic, architectural and geographic landmark of the city and surrounding countryside. Protection and utilization of Capitol vistas are policies of this plan. Protection of view corridors should be among the powers assigned to the Nebraska's Capitol Environs Commission within the zoning code. Identifying and protecting view corridors should also be a key future of sub-area plans appended to this comprehensive plan. Structural information indicates that the Western Wireless tower will meet the TIA-EIA 222-F Standards for structural integrity, however it is still unclear to us whether those standards will be met with the existing brackets and additional brackets. Specific information on the mounting brackets was not readily available from Western Wireless. Significant components of the December 28th staff analysis were based on the lack of technical information and evidence demonstrating why the Western Wireless site was not technologically feasible. New information has been provided and substantiates that the Western Wireless site does not provide ideal coverage. The comprehensive plan is a broad policy guide that does not specifically address the conflicts that we see in this particular application. The implications of co-location appear to be in greater conflict with the comprehensive plan policies, specifically the Capitol View Corridors and the preservation of I-180 entry way, more so than the proposed site conflicts with the goal of preserving neighborhood character. Additionally, I'm not sure if you received a motion to amend yet or not, regarding the landscaping. We have talked with the neighborhoods and I understand Qwest is in concurrence with this motion to amend which would revise the landscapes green to show

6-8' tall ball and burlap conifer trees, that is larger than is typically planted to screen the base of the tower and would provide more of the screen immediately.

Jeff Fortenberry, Council Member: Why don't we entertain a motion for the amendment. Seconded by Seng and carried by the following vote: AYES: Cook, Fortenberry, Johnson, McRoy, Seng, Camp; NAYS: None. ABSENT: Shoecraft.

Jonathan Cook, Council Member: This does not address the Alltel tower issue whether or not that tower is structurally sound enough to hold an antenna?

Ms. Dam: The Alltel tower is not structurally sound enough.

Mr. Cook: It's not.

Ms. Dam: A structural analysis was conducted and confirmed by the structural engineer that the City of Lincoln uses and it showed that the tower was not strong enough to support additional equipment.

Mr. Cook: That is the standard, the 80 mph standard or . . .

Ms. Dam: That's correct.

Jon Camp, Council Member: Jennifer, on this last paragraph you read, for some reason I am having a hard time deciphering it. Are you basically saying that in this particular case that co-location is overruled?

Ms. Dam: Right, what I am suggesting is that we have a goal for co-location and a goal to protect residential urban and rural neighborhoods. However there are specific policies in the comprehensive plan that are spelled out that pertain to entry ways and capitol view corridors and that the policies are stronger than a goal. These policies have very specific implementation guidelines and maps associated with them. The goal is very general in its nature. There appears to be a conflict with the two right now and our comprehensive plan currently does not address the conflict between the two.

Mr. Fortenberry: Jon, if I could try to reinterpret that, what you are suggesting is that even if co-location is a problem, particular sites in which to be co-located on, actually pose more of a problem in terms of view corridors, than the additional burden of one extra facility in that vicinity, since it is located farther to the north. Is that correct?

Ms. Dam: That's correct. In this particular instance, co-location ultimately would create more problems with the need for additional towers in the entry ways and capitol view corridors than a new tower in the north of the interstate would.

Mr. Fortenberry: So, your recommendation is now in simple terms?

Ms. Dam: Conditional approval as amended.

Coleen Seng, Council Member: Have her say that again, conditional?

Ms. Dam: Conditional approval as amended.

Ms. Seng: That's a different recommendation than you started with?

Ms. Dam: That's correct.

Ms. Seng: It was in denial originally?

Ms. Dam: That's correct and as I indicated initially in this memorandum, much of that was based on requesting additional technical information that is required in our ordinance that had not previously been provided. That information has been provided now and has been analyzed.

Mr. Fortenberry: There is a certain irony here to though, because if co-location would have been possible, you would have suggested it not occur.

Ms. Dam: In this particular instance, yes.

Jonathan Cook, Council Member: This just relates to the existing towers. How many of them were built before the new ordinance, the current ordinance?

Ms. Dam: All three were built prior to the current ordinance. I believe two of the three were prior to the Telecommunications Act of 1996. The comprehensive plan was written prior to the Telecommunications Act of 1996 and obviously a situation like this had not been anticipated when the comprehensive plan was written.

Mr. Cook: And as far as co-location on this new tower?

Ms. Dam: It will be designed to accommodate two additional providers, as is required under the base ordinance.

Mr. Cook: So we are hoping that four is it?

Ms. Seng: So have you heard that anyone else wants to come in and put another tower in?

Ms. Dam: We know that there are other providers looking in this area for sites. My understanding is that Qwest is working with Cricket Communications so that they could co-locate on their tower. Qwest might have some additional information specifically in that regard. No one has applied for any additional towers in this area. Cricket is the only other company that I am aware of currently looking for a site in this general



vicinity.

Jon Camp, Council Member: Jennifer, in talking about the whole cellular tower issue, I know when I have traveled around, I think we all have seen multiple larger towers and one that comes to mind is over in Poland that I saw a couple years ago and it was actually memorial towered to a whole reform movement in that country. Has there ever been consideration that perhaps in the future where we have goals of memorials and so forth, that maybe we construct something of a memorial that can hold eight or more providers and it is a super structure, but it also basically camouflages the utility purpose of it? And we do have organizations that are looking for memorials from time to time. I can think of another one I saw in Finland and that was communications again and they disguised it and it served duality and it actually enhanced the area and created a nice landscaping feature.

Ms. Dam: We certainly encourage camouflaged facilities. There are several examples of camouflaged facilities throughout the city and I think we would be happy to look at any ideas for camouflaged facilities in the future.

Mr. Camp: I am encouraging a step further that we look at if there are groups that are interested in some type of memorial or something that maybe this is something that is designed and built with the idea that it is not just a memorial but it is going to house or contain facilities like this for communications or some other need.

Ms. Dam: I'm sure everybody would be happy to look at a concept like that. The question would be the ideal place to locate it and suiting the needs of all providers as you suggest, but I think we would certainly be happy to entertain such a motion.

Annette McRoy, Council Member: You said that in your second paragraph, this is a conflict with the conference plan. It says we are updating a conference plan in the next few months are we going to add a section that will talk about technology in the corridors and how we like the particular application of towers?

Ms. Dam: I would have to . . . Yes. We will certainly take a look to make sure that we incorporate technological change and it's impact on the community.

Ms. McRoy: That would be important, I think this has been a good case study and we would need to include that in future comp plans.

Mr. Fortenberry: The existing towers exempt from the provisions of the current ordinance, which was imposed after the telecommunications act so that as they transition out of their useful life and they are reconstructed, that they would be forced to co-locate on other towers that may have come in the area. In other words, is there a possibility when these existing structures, current structures, in their useful life, and they are to be replaced, that they are mandated to co-locate?

Ms. Dam: I would defer to the Law Dept. on that question.

Steve Huggenberger, Law Dept.: Read the permit that most of these towers are given are fifteen year permits, so at the expiration of that permit, we could require all the new ordinance requirements on that.

Mr. Cook: I had asked you to review the age of the existing towers.

Ms. Dam: The old permits didn't have a specific lifetime on them. My understanding if there is a pre-existing use that is not standard when it goes away, then it has to be made standard, but I would ask the Law to clarify that.

Mr. Cook: The permit as they now exist is perpetual?

Ms. Dam: Yes. On the existing ones, under the new ordinance there is a fifteen year life term on the permit.

Mr. Cook: Does that apply to an upgrade to an existing; what happens in an upgrade to an existing tower that has a perpetual permit; does it fall under the new ordinance?

Ms. Dam: I don't have the answer for that.

Mr. Huggenberger: I don't know that we have specifically addressed that in the ordinance, but it would certainly be our contemplation that for a complete rebuild or a major modification that it would come under the ordinance?

Mr. Fortenberry: I think we need to take a look at that because we have an opportunity here to further the goals of the ordinance without any additional cost to industry, but nonetheless mandating that they do it in a different fashion.

Mr. Cook: What relates to that is that Alltel is applying to make changes to their antennas on the tower that they are currently on. Do you think that change is sufficient to kick in our new provisions about time limits or anything like that?

Mr. Huggenberger: I haven't seen the application, but I would not envision that a change of antennas is a major modification, just off the top of my head.

Mr. Cook: That's in the Planning Dept. right now isn't it?

Ms. Dam: Yes.

Mr. Fortenberry: How are you going to define modification?

Mr. Huggenberger: We are in the process of the one year violation on the wireless ordinance now and a number of these kinds of issues are popping up. So we will add that to the list and come up with an answer for you.

Mr. Fortenberry: Any other questions from Council? Now we did re-open public hearing is that correct Joan?

Joan Ross, City Clerk: Would anyone else like to come forward?

Denise Maack, 535 Pennsylvania Ave.: I appreciate you thinking this whole objective over a little bit harder than you did originally. We still would prefer that you co-locate and I know that's really hard to do at this point. If that can't be done we hope that there will not be more cell towers in the area. We also were wishing that there is a tree line on the north, excuse me on the west side of where the tower will be located and we are and several other members of the community located on the northwest corner and we can visualize that tower very easily. Now they have tree lines in between the home of the person that they are locating on. And also which would be the south side, also tree lines on the east side and a partial tree line on the north side. We are in that corner that doesn't have the tree line. There are several neighbors that can see through that area and I was wondering if there is anyway that if you are going to okay this, if they can continue the tree line towards the northwest corner and this would be the treeline on the west side and also up from the northwest corner to connect to the other tree line on the north side so it is just basically that northwest corner and then additionally put some trees on the side of the cellular tower itself. We are located where there is a low gully and so we are going to get the majority of the cell tower in length, the entire length, so that would probably help, at least visually help us out a little bit. If there is any way in the future that you can address some of these situations, we would appreciate it because we don't really need any more cell towers out there. Either that or structurally make them sound enough so that they can co-locate on the existing ones. I appreciate that.

Mr. Fortenberry: I would like to ask a question of Planning. If we revise the landscape screen with this amendment to show 6-8' trees does that, what is the configuration, how many trees per foot are required by the ordinance and is there an ability to configure them a bit differently so that the same objective is achieved in terms of screening, but utilizing the natural elements that are already there, vs. what is not, vs. what is more wide open? I've seen the area. I think there is a tree line to the east. I'm not familiar with the one you said to the north.

Mrs. Maack: Yeah, there is a neighbor right there and they have some trees located along side their house, but then there is an open space to the west of that and also there is a treeline on the west side. . .

Mr. Fortenberry: Is there an ability for us to recommend that the gap be closed in terms of the tree plantings, that they be configured that that gap would be closed?

Ms. Dam: The design standards require that 70% of the base of the tower be effectively screened from you and that half of the material has to grow to a mature height of 35' or taller. We could certainly move some of the plant material over toward corner and move it a little further away from the base, but if that is satisfactory with Qwest and with the underlying property owner, if we move it over toward that corner, that would be satisfactory. There is always a possibility of adding additional screening up toward that corner to effectively view more.

Tim Sanders, Vice President for Qwest, here in Nebraska: I want to thank you for your consideration and all the diligent work that staff has done on this particular issue. I would really like to start out by saying our goals are really quite similar. We wish to co-locate whenever it is possible and had actually tried to do that as early as August 9th of last year on the Alltel tower and unfortunately for structural reasons we were not able to do that. We believe that this site does meet the ideals and the goals that have been presented in your comprehensive plan. To the two points that were raised for the speaker before me, as far as Qwest is concerned we would more than happy to work with the neighbors to design trees that would provide the kind of coverage that you are looking for. The only caveats that we would have is that we would have to be able to do that on the property that we already have rights to. We cannot go on a property that we don't currently have them with, but I don't think that that is going to be a problem as we see it at this point. So we will be happy to work with that. Secondly, as I said before it is out intention to co-locate whenever we can. For us, it simply means that it is a lower cost for us to come into a market. And of the 21 sites that we have

located here in Lincoln, the vast majority of those have been co-locations or sites on private property, so then very few that we have come before you with, or similar to the one we have come before you with today. We do want to work with the neighbors. We have been very sympathetic to their concerns really from the start. After we received approval from the planning board we began meeting with the neighbors. Had a neighborhood meeting, but frankly wasn't as successful as we would have liked. I think that we can be better at how we do our outreach and we will continue to do that in the future. Beyond on that, we went an extra step and called the neighbors, knocked on doors so that we would have an opportunity to talk with them and discuss their concerns. And some of these landscaping concerns by example were raised, and we committed to the neighbors that we would be willing to do those things. We hope to continue to work with the neighbors, including those that spoke today and any time in the future, because we want to be a good corporate citizen. This is our first entrance into the market here in Lincoln and it is very important to me and to Qwest that when we enter the market, that we work cooperatively with neighbors because we are going to be part of the fabric of the community and we very much want them to be comfortable with us being here and we too want to be comfortable with being here and being a good neighbor and being a good partner to the City. Truly, where we hope to go with the select concerns that we have here, as for the future we will continue to work with neighbors and staff. I think we have been able to identify some areas of concern in the existing comprehensive plan and in your ordinance that perhaps in clarifying with our situation will help the Council and will help staff with other providers who come behind us. Now in terms of other providers who are coming behind us, we are aware of two who have approached us about co-locating on the tower that we would put in should it be approved and one of those we are in negotiations with pending your approval and have committed to them and to the City that we will work with others to co-locate on our tower so that there is not a need to build additional towers on that particular site. Because we are newer into the market, our towers do have a greater strength and I think a greater capability than some of the others that were there and that will allow the flexibility of the co-locations on our parts. Again, we are anxious to bring new products and services to the community. We want to be a good community partner, that's why I as the state Vice President am here today to make that commitment to you to let you know that I am willing to help in any way that we can, work with this site, other sites that we propose in the future and then any help that we might be able to offer in terms of changes to the comprehensive plan of the ordinance, will gladly volunteer our services. And with that, I'll be happy to answer any questions or I do have two of my engineers, our RF Engineer, Corby Dill and our structural engineer, Alvin Kraft from Tower Craft Engineers, who can answer any technical questions you would have.

Mr. Camp: Tim, I had one a couple of weeks ago, there was testimony and all. We visited just off the record about the Alltel tower and the fact that it has been there for awhile and I think you were going to do if that was due for replacement to see if there could be any coordination and I'm not trying to throw any wrenches into it, but were you able to find anything out about that?

Mr. Sanders: Yes we were. Thank you for asking. We had a chance to look at the changes that they are going to make at their proposing and then the equipment that they would have on the tower as it exists, ran another structural under the new terms and found that it would not support our equipment as well, even after the changes that they are going to make. As I understand it, they plan to keep much of the existing equipment that they have now and provide for additional growth for other providers that come in behind them. So that site was not feasible as a result of that.

Mr. Camp: Well thank you for checking.

This matter was taken under advisement.

**3:30 P.M. TOOK BREAK**

**3:38 P.M. RECONVENED**

AMENDING CHAPTER 6.04 OF THE LINCOLN MUNICIPAL CODE RELATING TO ANIMAL CONTROL REGULATIONS GENERALLY TO AMEND DEFINITIONS; TO INCREASE IMPOUNDMENT FEES; TO MAKE IT UNLAWFUL TO OWN ANIMAL HYBRIDS; TO PROVIDE RESTRICTIONS RELATING TO ACTIVITIES OF PET SHOPS; AMENDING CRUELTY TO ANIMALS TO PROVIDE A SEPARATE SECTION RELATING TO ANIMAL NEGLECT; TO PROVIDE EXCEPTIONS TO VIOLATIONS; AMENDING PROVISIONS REGARDING SELLING OR GIVING AWAY ANIMALS; AND TO PROVIDE ADDITIONAL PENALTIES FOR VIOLATIONS;

AMENDING CHAPTER 6.04 OF THE LINCOLN MUNICIPAL CODE RELATING TO ANIMAL CONTROL REGULATIONS GENERALLY TO ALLOW THE DIRECTOR OF THE HEALTH DEPARTMENT TO IMPOUND UNUSUAL ANIMALS; TO PROVIDE PERMIT PROVISIONS FOR ANIMAL EXHIBITS

OR RIDES; TO MAKE IT UNLAWFUL TO PROVIDE FOR UNUSUAL CARNIVOROUS MAMMALS TO BE RESTRAINED BY THE PUBLIC FOR ENTERTAINMENT PURPOSES; AND TO PROVIDE AN APPEAL PROCESS FOR DENIED, NON-RENEWED AND REVOKED ANIMAL EXHIBIT OR RIDE PERMITS;

AMENDING CHAPTER 6.12 OF THE LINCOLN MUNICIPAL CODE RELATING TO CATS TO ADD A DEFINITION FOR "CAT HOBBY KENNEL" AND AMENDING THE DEFINITION OF "KENNEL"; TO PROVIDE THE WORD "LINCOLN" BE ENGRAVED ON ALL CAT TAGS; TO PROVIDE THAT ALL MONEY RECEIVED BY THE DIRECTOR UNDER CHAPTER 6.12 SHALL BE CREDITED TO THE ANIMAL CONTROL FUND; TO MAKE IT UNLAWFUL FOR CATS THAT ARE NOT SPAYED OR NEUTERED TO RUN AT LARGE; TO REPEAL THE CURRENT PROVISIONS RELATING TO CATS RUNNING AT LARGE WHILE IN HEAT; TO DELETE REFERENCES TO SECTIONS BEING REPEALED; TO MAKE IT UNLAWFUL TO MAINTAIN A CAT KENNEL; TO PROVIDE EXCEPTIONS TO HAVING A CAT KENNEL; TO CREATE A PERMIT PROCESS TO OBTAIN A CAT HOBBY KENNEL; TO PROVIDE RESTRICTIONS RELATING TO A CAT HOBBY KENNEL; TO REPEAL THE CURRENT PROVISIONS RELATING TO HOBBY KENNEL OR CATTERY PERMITS; AND TO INCREASE THE MINIMUM FINE FOR FIRST OFFENSE VIOLATIONS OF CHAPTER 6.12 FROM \$25 TO \$35;

AMENDING CHAPTER 6.08 OF THE LINCOLN MUNICIPAL CODE RELATING TO DOGS TO ADD A DEFINITION FOR "DOG HOBBY KENNEL" AND TO AMEND THE DEFINITION OF "KENNEL"; TO PROVIDE THE WORD "LINCOLN" BE DIE-STAMPED ON DOG TAGS; TO PROVIDE THAT OWNERS OF DOGS SHALL DISPOSE OF WASTE MATERIAL ACCUMULATING FROM THEIR DOGS AT LEAST ONCE EVERY FIVE DAYS; TO INCLUDE DOG HOBBY KENNEL PERMIT HOLDERS AS EXCEPTIONS TO DOG KENNEL PROHIBITION; TO CREATE AN EXCEPTION TO HAVING A DOG KENNEL FOR PERSONS ON LAND THAT IS ANNEXED BY THE CITY; TO REQUIRE PERMITS FOR DOG HOBBY KENNELS; TO PROVIDE RESTRICTIONS RELATING TO DOG HOBBY KENNELS; TO PROVIDE THAT MONEY RECEIVED PURSUANT TO CHAPTER 6.08 SHALL BE CREDITED TO THE ANIMAL CONTROL FUND; AND TO INCREASE THE MINIMUM FINE FOR FIRST OFFENSE VIOLATIONS OF CHAPTER 6.08 FROM \$25.00 TO \$35.00. -

**Tape not working . . .**

The following people came forward during the time that the tape was not properly working: Conner Reuter, City Attorney's Office; Leon Vinci, Director of Health Dept.; Dr. Ed Schneider, President of the Board of Health; Mr. Jim Weverka, Animal Control; Mr. Gary Foster, 7118 Phoenix Dr., President of Animal Control Advisory Board; Mr. David Cygan, 2830 S. 44th St., Vice President of Animal Control Advisory Board; Beth Boal, 1824 "C" St., and a statement read by Beth Boal, from Dr. Rebecca Arnold of Adams, NE.

**tape resumed**

John Beck, NASDN, 10100 Holdrege St.: The North American Search Dog Network is an organization of law enforcement and civilian canine handlers. Our primary goal is to provide resources when they are needed by communities throughout North America and to have our members able to provide as high a quality of those resources as possible. I am also here representing myself. My wife and I live in Lancaster County outside of Lincoln. We have pet dogs in addition to my working search dog and by the way I have had the pleasure of, and I do mean pleasure of conducting searches with your Lincoln Police Dept. and it has been a fine experience. NASDN has two issues with these proposed ordinances, I have two, NASDN's two are on the first page of what you were handed, mine are the second page. 604.317 deals with exceptions to the proposed cruelty ordinance. Part 8 which I am somewhat unclear as to what it is actually trying to do, but it appears to draw a distinction between police animals and other working dogs. We feel that the similarities between the training and working of civilian search dogs and police working dogs are very high. The primary difference is that civilian dogs are generally not trained to bite but we do not feel that working dogs outside of police dogs should be singled out for any exemption. Further we would support, either in this ordinance or some other ordinance, language that would make assault on any legitimate working search dog a separate offense. That type of legislation is in place in a number of states in the United States and I assume some city ordinances. Nebraska does not have that at this time. The second place is 604.010 which is the definition of run at large. It may be appropriate to address this here, it may be appropriate in some other part of the code, but it is often very difficult or impossible to conduct a search on a six foot lead. Frequently it has to be on a long tracking line or off lead totally. The way your law is drafted right now there is no exception for that; that's fine I don't really care personally. I've conducted searches off lead and nobody has bothered me about it. It is the way it has to be done, but I do see at some point you are going to have a citizen observe this, possibly someone who has just got popped for having their dog off lead and they are not going to

see the distinction and just think that would be a way for Lincoln to avoid that situation with a couple of lines in your code. My concerns about the ordinance, my biggest one deals with the annexation and grandfathering issue. Other people have spoken to that, I won't add anything except to say that I think in looking at that you really need to look at the type of people that you want in your community. I think folks that would willingly give up their pets, have them put down, give them away, dispose of them in some other way without any objection, may not really be the kind of folks you want in Lincoln. People who have a commitment to their life, their family are the people you are hurting here, and I think those are the citizens that really are of value to your community and at the rate Lincoln is going, I will be part of you down the road sometime, well not that soon Coleen. The last issue I will bring up, I would just personally like to see you look into the possibility of an exemption for legitimate working search dogs from the number of dogs allowed on a premise. Dogs retire, they need to be replaced, we want this to continue to be available to the community. It is a valuable service, it is something that people really want, one of a member of their families missing, we want to provide it, sometimes you just need to get another dog, when you need to get another dog. So we would like you to think about possibly an exemption there. If you have any questions, I would be very happy to try to answer. (Hand out presented to Council)

Don Alvord, 1301 Lincoln Mall: I oppose the amendment 01-43 primarily because it wants to amend the definition of the cat/hobby kennel 6.12.010. The previous wording defined where these cats were expected to be used for shows, exhibition and breeding that has all been stricken out now, is totally vague, it says, as I am paraphrasing, "where more than six cats are kept". I would like to see it defined or described as a hobby where 7 to 15 cats are kept for shows, exhibition or breeding purposes. This would allow you then to license it and have the inspections that it calls for in the amendments. As is, if you have more than six cats, you would have to get a permit to be in compliance with the law which would allow inspections without cause or complaints. I am suspicious, I don't understand with the legal ease here, they don't explain the purpose or is there a hidden agenda for limiting the number of cats. It just sounds, I don't understand why this reasonable notice of premises inspections could have any other possible purpose than to assure someone about sanitary facilities. Now if that's the case, Code 6.12.170 are the sanitary regulations that say, and I am paraphrasing, "the owner of any cat shall keep any area/dwelling sanitary." It looks like we have lots of laws in place why are we nitpicking here, if we want to have a hobby kennel, which is less than a full blown professional kennel, let's describe it specifically as that. Beth asked me to see how far I can get in finishing her statement. Finally the area of community impact Lincoln is a progressive community in so many ways, but in dealing with animal issues and animal welfare, they are sadly behind the times. Nationwide trends focus on building community coalitions comprised of animal control, traditional shelters, no-kill shelters, general and breed specific rescue group, stray, ferrol, cat, trap, vaccinate, alter, release programs, foster-care networks, large dollar grants such as Maddy's funds are available to communities only if all these parties work together. There is wide spread recognition that pet over population and killing animals because of lack of space or lack of resources can only be stopped with a comprehensive program involving a broad range of community and government entities. The initial draft of the ordinances, regardless of intent, at least recognize the existence of the vast network of community groups dedicated to helping animals. The version that came out of the City Attorney's office struck all language pertaining to such groups, denying their legitimacy and effectively attempting to put them out of business. This mind set benefits no one. Each year, far too many animals are killed because of lack of shelter space, not enough homes etc. In 1997, 12% of the cats brought in were reclaimed. This is in contrast to the 65% for dogs the same year. Almost two-thirds of the cats were killed. Only about one-third found homes. Obviously our community has a huge need that is not being effectively met. In the past year and a half the Cat House has found homes for over 250 cats. We have received many more calls than that. Thank you.

Alma Vlasak, 1219 S. 26th Street: I'd like to thank the Council for this opportunity to be heard. I might add it is my first experience in front of the Council, so I am going to go with the notes I prepared prior to anyone speaking this afternoon. My comments are directed to the proposed ordinance 01-43. I don't know the history of this ordinance, but I do see what the future of Lincoln will be should this

be passed. I do thank the people here today for providing a little bit of background regarding how this ordinance evolved. The limitation and language of this proposed ordinance is designed to intentionally or unintentionally limit our individual lifestyle rights as well as characterizing cats as a public nuisance. I do acknowledge that there are people who through malice or mental defect abuse animals, or in the case of cats, harbor more than they do have resources to maintain. However, I am repulsed by the notion that the City would attempt to take away or limit the rights of those people who choose a lifestyle dedicated to preserving or enhancing the lives of cats, either in or out of their homes. No one has the right to limit this lifestyle choice, provided the basic care of the cat is ensured to include food, shelter, veterinary care, emotional and social well-being. Those who dedicate their time, energy, money and love to their companion animals, should not be the subject of criticism or regulation. Those who suggest that there is anything but contempt and malice in the proposal to force a strict limit within a year of the passage of this ordinance are mistaken. It is at it's best, meanspirited, punitive and an abomination to all animal lovers. This ordinance would also effectively hamstring cat rescue operations in the City. The concept of no-kill shelters is at hand. Utah is currently working to become the first no-kill state. Lincoln, to my shame, is proposing to turn it's back on the humane efforts being undertaken by various individuals and groups within the community. There are other shortcomings in the ordinance to include the failure to include language requiring spaying or neutering of household pets. Six unaltered cats in a household will procreate. It would be ill advised to not address this unless the intent is to overwhelm existing facilities and resources with unwanted cats. The Lincoln I envision, includes a responsible spay and neuter plan for household pets and ferrol cats. If money is an issue the cost of licenses needs to be reviewed and guidelines need to be written and published for guarding standards of care. Multiple cat homes with licensed and altered cats should be allowed providing the cats are cared for in a reasonable and sane manner to ensure their well being. Rescue groups should be allowed again, providing reasonable standards of care are maintained. I am here to ask you to vote against the passage of this ordinance in its current form. I thank you.

Barbara Ravnan, 4000 Cherry Ln: I have a little testimony, but you don't get it until I have spoken and my husband has put the cat on, so you will understand what that bill is about. In listening to people speak I want you to know that I was on this task force committee and that goes back at least five years. We met very regularly and it was a cross section of the community. We had two veterinarians, I'm not sure that would set, and I represented the Coalition for Pet Protection. Now I received a call today, and it was a woman who said, that I have a friend whose Dad is having surgery for cancer and the doctor has said he cannot keep his cat. His cat is eleven years old. Everything is well, the cat has been neutered, the shots are up to date, but the cat is blind. Now if the cat were to go to the Humane Society, the cat would be killed and I'm not saying that the Humane Society is bad, they have choices, old cats or young cats, so obviously Tabby would be euthanized. Fortunately the Coalition for Pet Protection, my President said to me, if we can find a fosterhome for Tabby, then I will do everything possible to find Tabby a home. When the coalition was formed, our first task was to work with The People's City Mission and we received grants from the Sower's Club and from the Rogers Foundation. We built kennels out there, which a lot of people have no idea. We worked with the homeless people, we offered them shots, neuter/spay, food. The Coalition brings in over a thousand pounds of food from IAMS every month. We have been doing his for many years. They no longer go to The People's City Mission, the food, but it now goes to the Salvation Army. We can hardly keep up with the demands for the food. Now we are a 501-3C volunteer group that has been obliterated from the ordinances that were recently submitted. I would submit that those of us who have taken time to become 501-3C's, who have really worked very hard, we always can use support groups, supporters and helpers, that we be put back in there and given recognition for what we do. Here is my brief sentence. I live in Jonathan Cook's third district and I am speaking for my husband, Audun Ravnan and myself. We want to object in the strongest terms the language of Ordinance 01-43 amending Chapter 6.12 of the Lincoln Municipal Code related to cats. Both of us are long time supporters of animal welfare and charter members of the coalition for pet protection. In addition, we were members of the task force which formulated the original ordinances in the late 90's. To our great disappointment, we find the current document an entirely new creation with little or no

relation to the original ordinances that we took great pains to protect the legal concerns of the citizens, along with the welfare of their animals. We note that in their current form the ordinances are not representative of the wishes or the Animal Control Advisory Committee. Likewise, we are not convinced that they do not reflect the desire of the majority of Lincoln's animal welfare organizations or your taxpaying constituency. Enactment of these ordinances will create enormous problems for Animal Control and Shelter workers, boost overpopulation of cats, and increase the incidence of euthanasia among our pets. I will add about the Humane Society. They take in 6,000 a goodly number and it has been consistent and I have watched it. Six thousand animals a year. Of that 6,000 25 % are reclaimed, 25% are adopted out and 50% are killed. Now I'm not saying the humane society is wrong. I'm saying that those of us in the Animal Welfare Groups, we are essential to help the humane society and that's my intent, that's our intent to work with the Humane Society, to work with the City and to be a cooperative organization.

Mark Clinton: 3300 S. 27th St.: I thank you for the opportunity to share my thoughts with the council today. I come to you as a concerned private citizen, a board member of the Cat House, and most importantly a member of the animal control advisory committee. First of all let me say that I wholeheartedly support those portions of the ordinances which deal with animal cruelty. We all can agree on those. However I think it is my obligation to point out that some of the specific cat ordinances relating to number limits, cat hobby kennels, grandfather clauses, all of these things you have heard about already have been significantly changed in the revised ordinances. In these areas, the revised ordinances do not, in my opinion, represent the original intent of the animal control advisory committee. Let me give you my perspective on the ACAC's history with the ordinances. I think that what the advisory committee put forward represented a compromise for all of it's members. We were told that these types of ordinances were coming down the pike regardless and that it was in our best interest to come up with something we could all live with. And in that spirit, we worked very hard to come up with a document that we believed represented the wishes of a cross section of the concerned citizens of Lincoln. I believe that we did accomplish that. Today the issue focuses on the changes offered by the City Attorney's office and for some reason they seem to be unable or unwilling to find a way to translate the intent of certain of these ordinances into laws that they consider defensible. For me the biggest issues are the grandfather clause, which stipulates that anyone who exceeds the limits must and I use the words of Attorney Reuter, "get rid of" the excess animals within a year. Aside from portraying animals as a disposable commodity. It think this puts a huge strain on the shelters in Lincoln one year down the road and I think it is wrong and feel that the original grandfather intent of the ACAC should be kept. This basically allows the numbers to come down by attrition, thus relieving, what I believe is the burden on shelters and not forcing pet owners to make that kind of decision, which you have already heard about. The second huge omission in the revised ordinances is where it says that citizens are allowed to have six cats, but the reference to required spay/neuter has been taken out. Spay neuter is mentioned elsewhere in the ordinances and I believe it is 6.12.070 concerning cats running outside. This to means assumes that everyone lets their cats roam at large. I think it is a very dangerous assumption given the fact that you have heard already six unaltered indoor cats still create kittens. I think it is a loophole that can once again create tremendous burden on animal control and shelters around Lincoln. I also have a problem with the circular logic that is inherent in these ordinances, you know they say if you want to have over six cats, then you have to obtain a cat hobby kennel permit or else you will be in violation. So you are forced to do that, which again in turn coerces you into forfeiting what I think is your constitutional right, Animal Control is allowed to come into your house and inspect it any time they deem reasonable. The Police can't do this without reasonable cause, without a warrant, why should animal control be able to do that? I'm sure that the Law Dept. can find an argument that says this is defensible, but I would say to you that that does not make it right or in the best interest of the citizens of Lincoln. I felt during the entire process of these ordinances in some ways we are attempting to over-legislate. The laws presently on the books allow animal control to deal with extreme situations, animals collectors, inhumane treatment, health hazards, etc. The community health nuisance issues related to cats could easily be addressed if someone would take the lead in passing a cat leash law in Lincoln. This is a political hot button I realize.

It would require the most heroic leadership from the City Council and the Mayor. It is the simplest and most straight forward way to deal with the basic common cat issues, rather than going around with the convoluted way that these ordinances seem to do. Creating kennel and number limit ordinances, such as these so that animal control will have something on the books to deal with extreme cases, to me seems down right silly. Historically speaking animal control has had difficulty with regard also to securing funding for enough officers to handle the duties and responsibilities of the agencies. With the laws on the books as they are today that is. I sincerely believe that these ordinances, specifically speaking to the cat ordinances 6.12.13 through .130 will be impossible for animal control to enforce effectively giving their staffing and I think that it will, due to the law of unintended consequences, create more problems than they solve. Given all these issues I would urge the Council to remove the cat ordinances from consideration at this time. The will of the people would seem to dictate that we go back to the drawing board in order to decide whether these portions are truly needed and if they are, to allow the animal control advisory committee to work directly with the City Attorneys to craft legislation that represents the best interest of the citizens of Lincoln and their pets. Thank you.

Jon Camp, Council Member: Mark, I had a question. I intend to make a proposal later to delete some of these provisions as was said earlier. What suggestions might you have as solutions rather than just the one year arbitrary.

Mr. Clinton: I think the cat lease addresses the nuisance issues that people are always concerned about cats running at large, using gardens as litter boxes, walking across their clean cars, whatever. Those issues are taken care of with a leash law, pretty clearly to me. As far as the grandfathering goes, we worked quite a bit on the ACAC to talk about how that would work and I think the issue is that if someone currently is told that it's legal for them to have "x" number of cats, then all of a sudden you say, okay you have to get rid of them. That's the issue. So my point is, why can they not keep those cats, not acquire new cats, they cannot be replaced, natural attrition, bring the numbers down and they could be grandfathered in that way. I just don't see why that is not possible to craft legally. It just makes too much common sense.

Mr. Camp: The law doesn't always follow common sense. Being a lawyer myself, I can appreciate where the legal dept. might want some fixed period, then it takes out some of the discretion if somebody did try to sneak a new cat in or what have you.

Mr. Clinton: Well, again, should we try to legislate for the possibility that people are going to do things like that. That seems a bit again stretching the point to legislate in case somebody tries to slip in a car or whatever. I mean with cats they can live upwards of 20 years. I think any kind of limit you would have to look at something in a ten year ballpark to prevent this kind of situation from happening. I think you would at least have to go out that far.

Mr. Camp: So would ten years be something?

Mr. Clinton: It is something I would like to discuss. I don't think I'm ready at this point to say that that's the end all deal. I think we need to come up with a consensus and talk with the citizens who are on the animal control advisory board, who take great care and concern in these issues.

Mr. Camp: And that is basically what I was looking for, was some ideas.

Annette McRoy, Council Member: I have one question for you sir. Our first speaker read from a statement that people wouldn't come in if they had more than fifteen cats because they wouldn't want anyone to know how many cats they had because they wouldn't get the medical care.

Mr. Clinton: Right, that was Dr. Arnold's statements.

Ms. McRoy: Okay, and then you said that you propose we allow the number of cats to come down by natural attrition then I guess I am wondering if the same people who wouldn't bring their cats in to get the necessary rabies shot, would they really keep their cats to a certain number of one of them passed away or several of them passed away, they wouldn't replace them with however many they want, so I am trying to think you know really . . .

Mr. Clinton: Well, if cat is licensed and the cat is put to sleep or dies, whatever, we have a record of that. I don't see how that's . . . My concern is that I think that the legislation as it stands now winds up penalizing the law abiding citizens for the extreme cases where you have a large number of cats that are not being cared for properly. To me you have the ordinances on the books, you have the cruelty



ordinances, you have those things that have been used in the past and can continue to be used in problem situations like that. So I don't understand, quite frankly, in many ways why the rush to, well of course it has been several years, so there is no rush, but I don't understand what the big deal is in doing this. As Beth mentioned, to me it seems like a bit of a hidden agenda somewhere to try and get legislation on the books in order to handle certain cases and the rest of us wind up paying the price. I don't think that's fair.

Florafae Shane, 815 W. Stockwell: I was a member of the original taskforce to study the animal cruelty ordinances and neglect and I am currently a member of the animal control advisory committee, the local Cornhusker Kennel Club, our regional and national dog breed clubs and my husband and I are also members of the Lincoln Pet Partners, an affiliate of the Delta Society and we have done pet therapy at Lincoln General for almost five years. We and three of our dogs were commissioned on December 7th into the Angel Dog Program at MaDonna Rehabilitation Hospital. This is the first program of its kinds in the nation to combine the benefits of spiritual care and pet therapy. I am here today because of my concern about the dog kennel ordinances you have received and the impact they will have on the community. These ordinances have been altered and re-written and are not representative of the ordinances that have been drafted with the approval of animal control over the last four or five years. Unfortunately ordinances are written for the irresponsible owners. Limit laws target all owners regardless of their actions or the behavior of their animals. A limit on the number of dogs that one can own, restrict many responsible breeders, who breed and raise purebred dogs for the purpose of showing. These breeders make a serious commitment to their animals, not to make a profit, but with the intention of promoting the sport of purebred dogs and improving the individual breeds. Limit laws also impact the many responsible fanciers who rescue unwanted dogs and either personally adopt them as pets, or find them permanent homes, thus keeping them out of the Humane Society Shelter. All ordinances pertaining to rescue have been deleted. I have been puzzled as to why current ordinances define hobby kennels 6.04.010 and the kennels 6.08.010 when kennels are prohibited by ordinance 6.08.310. The class "A" hobby kennel of the proposed ordinances has been re-written into ordinances 6.08.313 and 6.08.315 and language regarding dogs a) to be neutered or spayed, or b) kept for organized shows has been deleted. Allowing both responsible and irresponsible dog owners to purchase a permit allowing more dogs than the current three dog limit. It was not the intention that the ordinance be available for irresponsible owners and possibly adding to the work load of animal control. Lincoln is growing rapidly and people who bought acreages outside the city limits so they could have their dogs and other animals are now being annexed into the city with no provision for their dogs. People are allowed to grandfather in all types of livestock, horses, cows, etc., rabbits and other small animals and fowl. The city also has permits available for purchase to allow livestock and other animals as well as cats. Dogs, however are not covered with either a grandfather clause or a permit. The proposed ordinance, Class B hobby kennel has been re-written into ordinance 6.08.311 which allows for only a one year limited grandfather clause for annexed property. If any of you have ever been fortunate to love a pet and be loved by that pet, perhaps you can understand why eliminating several pets in a years time would be so very difficult. They annexed property owners should be able to retain their dogs for the dogs life time. The director of animal control would have the authority to enforce the three dog limit if the property owner would ever be convicted of violating any animal or dog ordinance. At this time I respectfully recommend that the dog ordinances you have received be referred back to animal control for further study and/or revision. Thank you. I would also like to ask that animal control be allowed to go on to private property to rescue a dog without having to give a warrant if they are choking by their collar and you don't get a warrant for 4 to 8 hours, the dog or the cat, or any animal will be dead in that time. Do you have any questions?

Mr. Camp: My question is do you want the whole 1-44 thrown out on the dogs, or parts of it, if we deem it?

Mrs. Shane: I would recommend all the dog ordinances be referred back to animal control.

Dorothy E. Bush, 631 Glenhaven Drive: I represent myself. I am not representing anybody. I whole heartedly support 100% the testimony that you just heard from Florafae Shane. Florafae and her husband are highly respected and well known breeders. They are very knowledgeable of animal needs. They provide a wonderful service to this community with their therapy dogs. They are very involved with the Angel Dog

Program, working with Judge Endacott and Vicky O'Hara at the Madonna Rehabilitation Center. Their involvement shows their concern for animal needs. The animal control committee has worked diligently for five years. In five years is really too entirely too long to not have something solved. It was composed of good knowledgeable people. The ordinances have gone from committee to the Health Dept. and to the City Attorney. It has gone around and around and around for revisions for a number of times. Again I say, five years is entirely too long. It appears that the committee and the Health Dept. do very well, and as things do appear, it looks like it is the City Attorney's office that does the job of deleting and it appears that there are no suggested ideas how to help with the deleted. So I would respectfully, the recommendations that an animal friendly person, in the City Attorney's office, or two attorneys if you need two attorneys, would be appointed and have different ones to do this and refer things back to the animal control. So I think this is really about the whole thing and if a person did something like, two or three meetings with new city attorneys certainly could solve a lot of problems and if they didn't, a third could take care of it and we wouldn't have to wait another five years. Thank you.

Wilma L. White, 5715 Lenox Ave.: It's a long day. I come to you as a citizen. I want to tell you you can put away your calculators and your law books. I want to present to you how a citizen moving into our fair city faces bringing in his animals and his property. I moved here in 1982 with a large mountain type Airedale, 90 pounds of dog and two Yorkies, which gave us a "Mutt and Jeff" family. First thing I heard within two weeks while I was here, a neighbor came up to me, who is very responsible and he said, watch those animals, well I had had the yard fenced, the sub-yard fenced and everything to protect the animals. And I said what do you mean? He said they will come into your yard and they use the Yorkies and kittens for training for dog fights in Nebraska. They throw them in a bag and throw them into a pit for the animals to work themselves up. The Airedale will be used in contention in a contest against their fighting dogs. I stood there and I thought, my God, I left Missouri, which I thought was tough and I moved to Nebraska. Then I came out with the comment and when will the cattle drive stampede down "O" Street, are we that primitive here? You know through the democratic process we listen and study and take very seriously in electing you as our officials. We highly respect you, we certainly know that you are not here to get wealthy and we admire you because we know you want to serve us and we are grateful for this. However, since I have been a citizen, I am concerned by the rather cavalier attitude towards your citizen's living property. What we want and expect from our leaders, we want the courage to stand strong and be leaders, not followers. This state should be leading everything forward with such mundane things as we consider animal control. Regardless of our heritage, position in society, protection of our family and property we hope that we get this from you people. You are our leaders. We want laws that bite and reinforcement to state you will not harm our children or our living property. We will not put up with this nonsense. We want you to give authority and support to the animal control division and let them do their work. They are trained people. They are authority in the animal welfare. They know what they are doing, whether we like it or not, they are professionals in this field. I want to explain to you something about animal cruelty. I witnessed this on South Cotner and "L" Street. I was taking a nice walk and this car verged across the street, shot up on the property to kill this small animal. I was facing this driver. I saw the look on his face. He had done this before, he just now done this in front of witnesses and he is going to do it again and my prayer and fear is, let's hope that this man isn't turned loose. Take this from a slap on the wrist to felony position and really nail these people. This driver was not a kid. You say oh the teenagers and they are trying their oats, this driver was not a kid, he was a middle-aged man. We called the police, there were witnesses and the thing when we called the police, they came and we had the license number, we had the man's visual description and we had everything and what I got from this was "Lady, I'm so sorry", it was just a dog. We can't do anything. And that officer is right, because our laws say hey its okay, sorry lady, it's just a dog. And when I hear the rumbling thunder, I hope it is a sound that brings spring showers and life to our city. We have a lovely city, not the sound of a stampeding cattle drive down "O" Street. I thank you very much for your patience.

Linda Lyman, 2331 N. Main Street: I don't represent anything but myself and my family, which at the moment consists of 20 cats. We all live together in a small apartment. Animal control has been to my door,

several of the animal control officers know me and in the past I have had a license for cats. At the present moment, as I have told Mr. Weverka, I cannot afford the present license. My cats are well fed. As soon as I get in or am brought a cat, I see to it's spaying or neutering and I try to locate homes for some of these. I am an individual rescue person. I would like to tell you about a couple of the cats that are at my home. Two of them, a brother and sister, were brought in and it has taken me two years to be able to touch them without losing blood, they were so abused and so mistreated. There was another one, it took us three months to catch him. His owners just went off and left him. When we finally got him he had broken leg, his face and his ears were practically shredded. He has almost lost an eye. People bring me cats, I rescue cats, as I have told Mr. Weverka, I can no more stop rescuing animals or children, than I can stop breathing consciously. I will continue to do this. I would like to have a license to be able to do it. I live on a Social Security income of \$550.00 a month. Out of that, I pay my rent, the utilities and I take care of my animals. Only with cats, if you know cats, you don't own a cat, it owns you. I have twenty owners who tell me every day they love me and they also tell me what they want. The number raises and falls. There are times when I have had almost 50 there. In the spring time I will have pregnant females that people have tossed out because they couldn't take the time to get them spayed or they have kittens and they don't want them. So I take them and raise the kittens and when the kittens are weaned, I get the mothers spayed and then I try to find homes for them. Some of the cats in my care will never be able to find a home for. I have one who was found pinned between an engine and a transmission. Her eardrums were ruptured and infected, she was starving to death and they didn't think she was going to live. That was two years ago. She has nerve problems. She has difficulty walking, she can't jump and I provide a safe place for her. She would take a very special kind of person, besides myself to take care of her. There are others like me who without any money or any help from anybody, take care of the animals. With the animal act that you are asked to pass, I would be illegal and so would these people and the animals would be destroyed. I ask that you please send this back and go over it again and give myself and my owners a chance for their life. Thank you very much.

Danny Walker, 427 E St.: The portion that I have an objection to is the five days before waste is cleaned up. Now this might seem fine for people that have a conscious and are really serious about taking care of their kennels, but when you live across an alley from the mess I live across from, it's not good. Those dogs are under chains. They will probably be on chains I would imagine the rest of their living lives, which is not good. It is totally ridiculous. If you don't have fenced yard, you shouldn't have a dog as far as I am concerned, but that is a fact, that is how those dogs live and you know we have have a bitter, bitter winter. I have watched and those dogs were out in that all winter long. The dogs have been repeatedly turned for noise, special forms have been filled out by the neighborhood in regard to the unnecessary barking and the pests and the disturbing of the peace of the barking and nothing has been done. You walk down the alley next to that property and you smell it. Keep in mind this isn't in 90/100 degree weather. It is a year round problem. In the summer forget it. The house is located on "D" Street, I live on "E" Street, you can smell the stench clear over on "E" Street. Now where is animal control on a situation like this. People on "E" Street can't even walk out their back doors, those dogs start barking. This can be at 12 Noon or it can be 3:00 a.m. Peat and repeat, constant, constant. I think this five day deal, there should be some kind of a stipulation, especially in the summer time, when you start talking 90/100 degrees. It's just totally ridiculous. I think as far as I can gather, I haven't read any of the fine print on this, but it seems to me at one time you had to have a concrete wash down area and etc., etc. in a lot of areas. I don't see nothing like that over there. All I see is bare dirt. There is nothing can grow in that backyard because of the dogs and their restricted area and that's not good. An animal shouldn't be treated that way and shouldn't have to live that way. My last dog, I have a young dog now that I inherited through a will, seven years olds. My last dog, by the way, lived to be nineteen years of age, which I think is tremendous, and I am definitely a pet lover. As a matter of fact to let you know that at one time my mother used to be known as a "Cat Woman" in the city of Lincoln. She had 34 cats. Of course, good old Helen Boosalis drug her into court about once a week, but fortunately we had a good public defender then and every time Helen drug her into court, guess what, dear old Helen got beat. And what stopped, now here's something that should

be considered, I've heard a lot of testimony today and a lot of it's right and some of it's wrong. My mom thought she was doing these cats a favor. People would come by, well we will take a cat from you. Well how much have you spent on food? Well a little of this and a little of that. Well okay, here is a little bit. You know what my mom found out in a round about way? You know where those cats were going? Laboratory for experiments. Now I am not saying to this day that that still goes on, but this is to give you an example of what can happen and what does happen in the city and I think there are probably cases of it still going on. But like I say, I'm sorry but I don't go along with this five day business. Believe me I live across the alley from the situation and I will guarantee you people, it is not pleasant. Thank you. Any questions?

Deanna Southland, 2704 "P" Street: I'm here to tell you I love my cats, because I am scared to death to talk in front of believe, so. I have a lot of cats, I have more than the 15, I have less than 20, but I do have more than the 15 and everyone of them I didn't start out wanting to have 15 to 20 cats. It has been 15 years I have had cats coming into my life and I have probably spayed, neutered and found homes for 50 of them. I just love them. They are great. I hope that this 01-43 effects people like me and the gal that was in the wheelchair, well everybody, I hope that you consider us because I mean we are not out there to . . . I'd probably have a hell of a 401K right now if I wasn't spending so much money on my cats, I can tell you that right now. But they are worth it and it makes my life more enriched at the end of the day and I guess I just want you to kind of consider people like me, just the average people that want to make a better life for themselves and animals. I mean that is what we are here for, so, that's all I want to say. It's about dinner time.

Leon Vinci: Members of the Council we just wanted to return to see if there are any questions you may have on any of the issues that were raised?

Jerry Shoecraft, Council Chair: I think the process after public hearing, Conner is going to react to some of the comments or proposed deletions and then take questions from council and that will wrap up the public hearing on this, along if there are any other questions that we may have of staff. So I think we are done with the public comment, unless I missed somebody. There is still one more gentleman.

Mark Welch, 7040 Starr St.: This is my first time in front of Council, so I will try to be straight away. First off I would like to address 01-44 I believe it is with the dogs, in correcting the provisions in 6.08. In the definitions there is the hobby kennel and the kennel, and I think it is very interesting that it says three or more or four or more. There is no cap. Now you are putting a cap on the cats. But according to the way it is written, it says three or more without a top limit and the same thing for a kennel, four or more, so this could be 30, 40, 50 dogs, which are a lot bigger than cats and will cause a lot more problems for anybody around or near them. Now there just to be a cap, but this is taking the cap away, if you read it as it is. I would like to address 01-47 for a minute. I would first like to say that it is impossible to enforce a law if it is vague and ambiguous in the language and definitions. Further you cannot regulate anything well without defined guidelines and restrictions that are clear without question. I would like to start off with a 6.04.010 Boarding, which should mean caring for, feeding, watering or sheltering a pet animal belonging to another by any person or business, for pay, trade, barter, commission or remuneration of any sort. I ask, does this mean that I can leave my dog at home, pay my neighbor a quarter, and that makes my dog boarded and it will not be considered neglect and fulfills the order? There is no finite answer to that as what is considering being boarded, does it have to be actual kennel license to board or can I just do it in my own garage with my neighbor coming over and taking a look. Hobby Breeder, this shall mean any person who breeds and raises pets at his or her place of residence, provided that 1) such breeding activity is incidental to keep pet animals for personal enjoyment and 2) the premises are not a dog or cat kennel regulated by the Lincoln Municipal Code. At least one parent of the pet animal must be kept on the residence or premises. Does this mean that the breeder must keep all the animals? If not, then it is unregulated breedings, sanctioned by the city, at a time when we are struggling to lower animal populations. There are no guidelines as to how many litters in a year, inspections or record keeping required for a hobby breeders. Uncontrolled breeding favored by the city of Lincoln, I can't believe that, but that is the way it reads, this needs more regulation on these many gray areas to be personally interpreted as far as their rights as a breeder, to breed as

often and as many as they want. Running at large, shall include any animal that is not under actual control of it's owner and animals will not be considered under actual control of an owner, unless on a leash cord which is securely fastened or picketed in a manner sufficient to keep the animal on the premises where picketed or on a leash cord or chain of six feet. I repeat six feet or less in length, physically held by the owner or confined within a receptacle enclosed vehicle, I say again enclosed vehicle. Hence enclosure or shelter within the real property limits of the owner and in the owner's presence and under direct and effective voice control. This definition without law was called a flexi-lead. I think most people are familiar with it, which allows the animal to roam fifteen to twenty-five feet from the owner, has been the cause of many dog fights, because one person has a dog that can go out twenty-five feet from the owner and the other owner is trying to obey the law with a six foot lead. Those would have to be taken off of all the store shelves in Lincoln by the stores and they would become an illegal item in the City of Lincoln. Also I would like to note that in allowing an animal to be enclosed in a vehicle, who determines what is effective voice control? We are coming down to a personal interpretation would be mine against animal control, whether I have effective control of my dog. This area also becomes lacking in definitions and specific guidelines by which to measure. I would like to move on to 6.04.150 Shelter Fee, Release from Shelter. Basically the 72 hours is not enough stipulated whether that is clock hours, work hours, long weekends included or whatever. I believe it is unfair to the animal just to automatically assume that it is clock hours without further definition of the 72 hours. Who is going to determine the intent of the person? It is still back to an individual interpretation. In summary, since a great amount of this ordinance relies on personal interpretation as being the law, I must again state that without checks and balances, the City Council will be authorizing it's dictatorship. I believe this will be unfair and lacking due process. Since the letter of the law, "across the land", in this case, it is the lack of words and the law that will cause great lawsuits and unrest. The ordinance speaks of destroying animals, yet why is the city condoning uncontrolled breeding and without one regulation for checks and balances for the breeders. Would you be willing to send a loved on where there is a one in three chance that they will come back alive, as all our animals have at the current time. Can't we change this? Sorry if I ran over sir. Thank you very much for your time.

Conner Reuter, City Attorney: Well I have taken some notes and written down some of the main issues that the different people spoke of. First is, I read some of the e-mails Council got and also it was brought up again here today at the testimony. I think that there is a misconception as to what the language in a dog and cat ordinance is, say with regard to the directors ability to enter and inspect. There is language in the proposed ordinances that would say that if you have taken out a permit to have either a dog or cat hobby kennel, you have agreed to live by a stricter set of rules in order to get the additional animals above the otherwise maximum and one of those rules is you are to allow reasonable inspection. The normal uniform inspection code that the city has, as well as, even without it being codified in 1.20 of the code, normal constitutional analysis and rules would apply, which would say that the director would knock on the door and should identify that the director will knock on the door and should identify himself as a director or an the ordinance defines director, his agent, an animal control officer could do this as well. Identify who they are, why they are there and ask permission to enter and would have an opportunity then to inspect and make sure the sanitary conditions meet the minimum and if not to act on that. If the person who answers the door, well first of all if nobody answers the door, they are not allowed to enter. Secondly, if the person who answers the door says, thank you, but I don't want you to enter my place right now, the director or his agent is done. I mean they could go a warrant just like they could have under any other circumstance and if that could be an inspection warrant or a search warrant, depending on the level of suspicion or reasonable cause that they had to try to get a judge to either to give them a warrant so that they could enter and inspect and go from there to see whether there are any violations or anything else that they need to do. Or if the had some kind of complaint and some independent evidence to offer to the judge perhaps they could get a warrant to search and seize the animal if they could convince the judge that there was enough going on to give that warrant, instead of an inspection warrant. So there appears to be a misconception, that provision certainly does not allow the director to barge into somebody's home at any time day or night, with or without

their consent. Another area that was spoken of was the removal of the language from the current code that purports to authorize a director to enter premises without a warrant. I can tell you that language does not in fact give the director that authority, although by its face it may seem that it does. What it does in fact is codify again the common law in normal constitutional analysis of the exigency rule, which basically is you need a warrant if you are going to violate somebody's private area, their curtilage, which is their yard, particularly, curtilage isn't easy to define, by it is on a case by case basis, usually going to encompass a normal residential backyard, especially when it is fenced. You can't enter those areas without a warrant, except, says the constitution and says case law across the board, if there is an emergency or an exigent circumstance. And that is on a case by case basis. It is certainly something that will require the animal control officer to exercise sound discretion and good judgement in assessing the facts in the totality as they present themselves to determine, do I have an exigent circumstance, such that I do not need to have a warrant to enter. If there is a dog strangling to death and getting an inspection warrant or a search warrant is at the expense of that dog's life, they can certainly use their training, which we have offered to give them, in which I think they receive, certainly they should, if they don't, as does Lincoln Police Dept. in terms of trying to interpret situations and figure you out when can I enter without a warrant and when can I not. And clearly in most cases, the answer is you can not. But where the exigent circumstances are such that they fit the warrant exception, and that is, I'm not able to write that mathematically in an ordinance, which is why I suggest we not even attempt to. We give them the training that law enforcement officers get. We give them to apply their expertise in the area and to assess the situation and act appropriately, whether that be to enter or to obtain a warrant. Those are the two things I have to say the warrant issue.

Mr. Camp: Mr. Chair, we can ask questions as she goes through, or what is the most desirable way?

Mr. Shoecraft: That's fine.

Mr. Camp: Conner, from a practical standpoint I heard some people say or some staff earlier today, that there really hasn't been a problem with the current searching and so forth, could you enlighten on that? Have we had a problem in the past with officials coming on the private premises?

Ms. Reuter: My understanding is that no homes have been entered, no cars have been entered. My understanding is that based on a complaint, on occasion, an animal control officer may enter a yard area without the owners permission and consent because the person isn't home and do things like fill an empty water bowl on a hot day, untangle a lead that is either restricting the dogs movement, such that it can't get to the water or the food or perhaps strangling itself or in some way causing some harm or potential harm for the animal. It is my understanding those are primarily the areas we enter without the owner's knowledge. I can't tell you if that is a problem, because again that is a case by case basis in whether or not those instances were met an exigency exception. I can tell you we haven't been sued on it and in fact perhaps they are in fact exercising the judgement and sound expertise and their knowledge of the limits of their authority under the Fourth Amendment and we would certainly as a law dept. be anxious to assist them in giving them the training that they need to further undertake that analysis on a case by case basis.

Mr. Camp: And with that in mind, what changes are occurring from the existing?

Ms. Reuter: Absolutely none. Removing that language does not change their authority. Having it have been included whenever it was included, did nothing to expand their authority. They are bound by the Fourth Amendment and this language will neither expand nor restrict their authority under the Fourth Amendment. I guess potentially you could restrict it, you could say you could never enter if you wanted to, but by removing the language, that is not what you are saying. You are simply saying live with the Fourth Amendment, the way normal police officers do, they way we do in every other enforcement of every other law. I don't think it is changing anything by removing the language.

Mr. Camp: So in conclusion, then that could allay the concerns that several people testified about that somehow there would be a change in the way the officials would come in to help in a situation, say entering a yard and so forth.

Ms. Reuter: I don't know if that satisfies them, but I can tell them that this does not in any way change the authority of the animal control officers in the field. Two people brought it up and this length

of a dog leash, oh I'm sorry, some other questions?

Jonathan Cook, Council Member: I have some other questions, I can wait or I can address them now. Is the dog leash thing the last item?

Ms. Reuter: No I had two more after that.

Mr. Cook: Well I will ask that now then, which is regarding the ability to enter for instance cars. Wichita has a specific section on rescue from motor vehicles, where it says basically that a police officer, an animal control officer or a professional of a fire rescue squad can enter a motor vehicle to rescue the animal if they feel that their health or the safety of the animal is in danger. Are you saying that essentially if we had a provision like that it would be meaningless because we are still bound by exactly the same rules, no matter what?

Ms. Reuter: Correct.

Mr. Cook: They would have to make the same professional decisions determining concern about the welfare of the animal. So essentially though it is as though we have this provision. I mean with it or without it we can enter a motor vehicle if we feel the animal is in danger.

Ms. Reuter: Exactly.

Mr. Cook: As far as authorizing entry, I guess there is different language. In our language it says what at any reasonable time, they can check on a permit, they can show up at the residence and say I would like to enter. Do you think that differs from language that would say like Omaha's does, that they have to give reasonable notice? I don't know what that means, do they have to call ahead or it's different than someone showing up at your door I would think?

Ms. Reuter: I don't think it significantly changes it. If they don't want to let you in when you show up and they don't have to. And they would have the amount of notice it takes you to get a warrant, if that's what you are going to do, or they can come to a mutually agreeable time to return. Sort of just from a standard law enforcement idea however, I think there is some merit to surprise inspection certainly in food code situations we use that. I think you would get a better flavor of whether or not people are abiding by the various regulations; if in fact they are not given time to clean up or put a hair net on or whatever the case may be. But again it doesn't give them the authority and certainly wasn't written with the intent to make people think that it gave them the authority to brush through the door.

Mr. Cook: They show up and someone says come back in an hour, it is likely that the animal control officer would just come back in an hour or would that be seen as perhaps evidence that there was something going on. How would you?

Ms. Reuter: You know essentially if the owner wants to deny access, we have three options. We can go away and just say, guess they are okay. We can seek a warrant or we can converse with them and come up with a time that is mutually acceptable. Any of those three things is fine with me and I don't know what the animal control officer would do in that case but any of those is okay. I think it is legitimate to expect that, and again this is going to tie in a little bit with one of the last two things I want to talk about. There needs to be 1. a reason to set a limit on the animals. Currently the limit is three dogs and I wasn't here when that was enacted but I will assume that a legislative history was shown and I assume that it was based on health concerns that that validated the idea of a maximum number and then this supported the number three. The same is true of cats. Currently the limit is two if they are unaltered, but other than that I don't read that there is a limit. If we are going to institute limits, be it six or fifteen, or twenty-eight. There needs to be something before the council to base that on. That is a) is there a reason to limit and b) is there a reason for the number chosen. And I don't think that anywhere in the law do they require that you mathematically be able to put it up on a slide rule and show fifteen is the magic number of six is the magic number of three is. But you need to have some rational reason to regulate it in the first place. Once that hurdle is crossed however, it is reasonable for you at that point to regulate and to enforce and monitor to make sure that that number is being complied with and that's where this inspection by the director comes in.

Mr. Cook: Alright.

Ms. Reuter: So when I sit down, my guess is that either Mr. Weverka or Mr. Vinci will get up and educate the council on what they had access to which was some discussion by veterinarians at the committee level to help them come to the conclusion that in fact a limit was appropriate and secondly that these levels were appropriate and I think that the Council ought to allow Mr. Vinci to come up and fill in some of those gaps. But again, once they have done that I think that

those regulations are reasonable and again work within the confines of normal Fourth Amendment Law.

Mr. Cook: Okay. Well I have a question about limits and I was going to wait, but now that you have brought it up. Also I want to correct what I said just a moment ago, it was Ames, not Wichita that has this specific section on motor vehicles. But as far as the limits, it was the Law Dept. that struck the provision that would allow for basically rescue type shelters, that would have more than fifteen cats. Now what was the reason that you felt that that was important that there couldn't be a distinction made between an ordinary cattery and some kind of domestic animal shelter, which Wichita seems to have in their definitions? Looking at exactly how they are applied, I would have to look further.

Ms. Reuter: I think that starts to be the problem, how do you define what these rescue organizations are? We don't in Nebraska have a statewide program to license, certify, whatever, register your existence as a rescue unit. I could not understand with what the task force provided, what they wanted the requirements to be in terms of who got to register themselves as a rescue organization. It seems to me if you are going to allow. Again, if you have crossed the hurdle that we are going to have a maximum, whatever that number is, if you are going to allow exceptions to it, there have to be reasons to do that and there has to be a rational basis for setting up these two separate sets of people, some who are capped at fifteen and some who get more. That would mean that these people who are going to get more, have to in some way show themselves to be different than these other people and in our system nothing was ever given to me, and I'm not sure that it can be. I mean maybe Wichita found a way to do it, but with what I had access to, there was never a way to identify who this other group is "A" and "B" how to figure out why it is that they get to be a part of that group. It was simply, I'm going to register, put my name on and I get more and it needs to be more than that and if it isn't more than that, it seems to be it starts to call into question the underlying idea of, does there need to be a maximum? And if the answer is that anybody who wants to can have more than fifteen, perhaps the answer is, there doesn't need to be a maximum. Too many exceptions tend to spoil the rule, unless those exceptions can independently supported and I think that was lacking in what I was provided.

Mr. Cook: It seems like an awful lot of cities don't have specific limits, and I could have missed them of course, in a quick look. Omaha limits you to five cats over two months of age, without a permit. But once you have a permit, I didn't see any limitation. That seems to be commonplace. I didn't see in fact, any limitations in any of them I was looking at on once you get that license. I guess once you have a license and there is this provision that they can show up and inspect your premises, gee you have got quite a burden already placed upon you, as far as you keep a safe and sanitary environment. So I guess yes, I supposed I would want to hear why a fifteen a chosen, as opposed to no limit at all. But the distinction was the law dept. distinction. The fifteen however was something that came from the Health Dept. The common theme here was discussion of the grandfather clause and again I think someone identified that when this packet was originally but together by the animal task force, it had not limit by the term by which there was a grace period. It was just indefinite until the normal attrition of the animal took place. Again though, it seems to be to beg the question, do we need a limit? If 15 cats is too many cats for valid health concern, then it is too many cats. You just can't have people have fifteen just because they already had the. If that creates a health concern, it creates a health concern. That being said, animals clearly are personal property and are afforded some very minimal constitutional protection and thus I think that a certain amount of due process, i.e., time to come into compliance is required, and a year seems reasonable. Particularly, where were talking about domestic animals that are no longer livelihood, like a farm animal, back when that was the primary way of doing farming was with your animal and that was your livelihood. It seemed like the time frames then were longer than the year that is being provided for now, but I think clearly a year is supportable as a grace period from the research that I have done.

Mr. Cook: I guess one last question and then I will stop. That is why, wouldn't you ask that same question about anything we pass in the zoning code? We are always changing the code, but we are allowing uses to continue indefinitely and we're not saying that simply because we are allowing that that it calls into question the rationale for our passing the new regulation. We do that because there are simply a lot of legal issues about taking away someone's's property or rights after



the fact and it just seems that that would apply in the same way here.

Ms. Reuter: It seems that the primary reason is that those sorts of businesses that you are talking about are afforded a higher constitutional protection as property, than are pets. Pets are given very, very minimal consideration. They are property clearly, and due process is required, but Nebraska is quite clear and just about universal, but it is a very, very low interest that one has in his pet in terms of the constitutionally protected property right. Such that a year may be supportable in this context but not in some of the zoning ordinances you are talking about.

Coleen Seng, Council Member: Well, mine might not be a question. Mine might be a statement. I guess I am terribly frustrated with all of this. I don't know we have been working on this forever. We can't ever get anything that we are pleased with. Either somebody is unhappy because their neighbor has fifteen cats or someone is worried that we are going to intrude on their right to have cats. And then somebody is unhappy about the barking dog and then someone else is just so thrilled with their dog. So I don't know where to go on this. But it seems to me that what we have got here isn't what we want. So I think maybe it needs to go back to animal control advisory committee or back to the Board of Health, or back somewhere. I don't think we have what we want, but we don't have to vote today. This is an ordinance, next week is when we are really supposed to vote and I guess we ought to just quit talking about it today and think about it, we have a week. And I am really not pleased with what we have. So that's why.

Mr. Shoecraft: What I am going to say is I don't want to see this again until there is some consensus, because the Law Dept. is not anti-animals, or cats or dogs, and the good people in the public you conveyed your concerns and you are totally out of the loop on this as far as me directing my disappointment out there, because you just shared your concerns about your animals and your care for that particular industry. But, somehow there is no consensus with to my opinion with Health Board, with the task force, with Law and public. And I don't want to see this until, and there are issues that come before us where sometimes the public don't agree with what some of our decisions, but at least between Law and staff and task force members, usually there is some form of consensus, once it gets to us and then we take your comments and we deal with it and render a decision. But that doesn't exist here today. It doesn't exist and so, as Coleen said, it is frustrating, but I'm telling you I just don't want to deal with it until there is some. And Law's job is to look at legislation that is put before us and review its form and content and it's legality. They do their job and they give us that information and make recommendations. That's all they did, so they are not anti-dog, anti-cat type people. They are doing their job. But there is something else going on here and again, with no due respect, I don't want to see this until there is some consensus somewhere between the task force, Health Dept. and Law. So that is my personal feeling on this.

Ms. McRoy: Regarding that, if we send it back to the task force, then they will be come back with the same thing they came back before and we all will disagree with it. So I am wondering if we should have a new task force made up instead of send it back to the same one, because according to our time line that started in 1996, they haven't done anything in five years. I guess I'm frustrated about you say send it back to them because they are the ones that sent stuff forward several times.

Mr. Shoecraft: I didn't say send it back, I said I want some consensus among those three groups.

Ms. Seng: I do too.

Ms. McRoy: I say we start over with it with the task force. Why send it back, when they haven't done anything?

Mr. Shoecraft: There is an obvious reason to push this forward, and I don't know but . . .

Mr. Camp: I said earlier that I was going to make a motion, and I can wait til next week, but I think that in listening to the testimony from those in attendance that there tend to be a handful of concerns that were repetitive. Now we may not be able to address everything, but I think that there are some good things that have come out about, that weren't even addressed today, no objections to and in fact we had some recommendations from staff that certain parts be left, but then a lot of the concerns that were expressed today, omitted for the time being and it go back for review. I don't know, maybe I'm not listening, but I don't know that I heard really huge objections. It may be a few things like the grandfathering, the numbers of cats and so forth, and the one gentlemen asked question, maybe there is some middle ground there on

that, but from our standpoint if we could narrow it down, rather than throwing the whole kit and caboodle back and so perhaps I will wait til next week to make any motion, but I would like to suggest to my colleagues that rather than just throwing it all back, that maybe we could think about some areas and maybe we would even have based upon testimony some modifications and all. There has been a lot of good work by people and most of the people here, a lot of the people were part of that, and again legal staff is trying to operate from the city's perspective, but I think we have really got, all in all, kind of an iceberg here, with maybe 90% of it is good, but we have to fine tune a little bit. At least that is what I heard.

Ms. Seng: I think we have to give direction of what we want back for next week then.

Mr. Camp: Do we? Well then I'll make a motion if that is what you would like.

Ms. Seng: I think we have to give some direction, otherwise it is just hanging out there.

Cindy Johnson, Council Member: Let's just have a week to think about it and do it next week.

Mr. Camp: Cindy is saying, wait for a week, which I'm . . .

Ms. Seng: I don't know.

Ms. Johnson: If we are going to fine tune I would rather have time to think the testimony and I took notes, if we are going to send the whole thing back, we could do that today.

Jeff Fortenberry, Council Member: Jon, if you would and wanted to state what the potential motion you were going to offer is, so that could be viewed as potential suggestion that might be worked on in the interim.

Mr. Camp: I have been listening and as we went through and I know Dave Cygan, early on testified on certain provisions on the cat and dog ordinances and as we went through testimony, those seem to be of concern. We also I believe, at least I had some recommendations from staff, from the Health Dept. and Animal Control. In particular, I would like to follow what animal control had on Ordinance 1-41. They suggested no change and that dealt with unusual animals and I don't believe we had any testimony on that particular ordinance. Ordinance 1-47, which had previously been 1-41, just for clarification for the general ordinance. The 43 and 44 and on that. On those, we have a list of those to keep and then to submit the rest. I guess the omissions I would do would be Section 6.12.01 through .01, well as listed here, 010, 123, 125, 17 and 129 and those coincide with what Mr. Cygan said, plus I'm adding 010, that staff had recommended. So I am actually going beyond and then on Section 6.08 that concern dogs, that we would omit 6.01. 0.31, .311, .313 and .315, which again coincides with what Mr. Cygan said and it did add then the .010 which was definitional. So, if I'm not mistaken, I think that that address, those omissions address the concerns that I was hearing today from those in attendance.

Mr. Shoecraft: I don't know, Law do you agree with that?

Ms. Reuter: Well, the unusual animal can't go forward unless the definition is amended.

Mr. Shoecraft: Come forward for me, real quick. I don't think there is any use to making deletions until maybe a week, because it is not going to make any sense to do that if you have some concerns regarding that.

Ms. Reuter: I think that something is savable, separating out cruelty and neglect, raising the fines, things like that can certainly be segregated if the separate packet that deals with animal rights. If you want to have that go forward, there was no testimony given about that. It probably can be, but it will need to have an amendment because one of the definitions that was dependent upon appears in one of the other packets because we had to keep all of 6.04.010 in one of the packets. So we could pull that out if we know what you want to do and segregate it by way of amendment to the animal right ordinance.

Mr. Camp: Conner, I'm confused, the word of 6.04 relates to the others because the definition were in 6.12 and 6.08. 6.04 wasn't touched.

Ms. Reuter: Ordinance 01-47 and Ordinance 01-42 both deal with Chapter 6.04, which is animals generally. Ordinance 01-42 is the one that you are calling unusual animals and it goes with exhibits. If you wan to send that forward for a vote next week, would need to be amended with at least the definition of unusual animal as it appears in 01-47. Because both 01-47 and 01-42 amend Chapter 6.04. We could only address 6.04.010 in one of those two ordinances and we addressed it in 01-47. So we would just need to pull that section out, which is doable. We just need to know ahead of time, how you want that amended, what you want to

vote on next week.

Mr. Camp: But other than that we could essentially go ahead with those two, but for that one coordination. I'm indicating to Councilman Fortenberry my inclinations of maybe during the next week, you could my inclinations are valid.

Mr. Cook: Jeff, it just looks like everyone is stuck on where to go and my suggestion was simply either send it back, scrap the whole thing, are there more refined measures that could be looked at in the next week that may not address all concerns, but could be offered as amendments that would allow for more generally acceptable ordinance change go through. All I am looking for is some suggestions.

Mr. Shoecraft: And Conner, My Cygan was part of the task force correct?

Ms. Reuter: Correct.

Mr. Shoecraft: Or chair of the task force, which is yes or no representing the view points of the people in this audience?

Ms. Reuter: I wasn't around when the task force was there. I don't know . . .

Mr. Shoecraft: My point being is if it is or if it isn't and we make deletions based on his testimony or what you stated Jon, we are looking at another public hearing anyway.

Ms. Reuter: Well generally the items that David Cygan delineated, match what the director had set out, other than the 010. And certainly we wouldn't want to amend, they would have to go as a package and be put on pending or somehow reconsidered. I don't want to speak for the task force and I don't know if Mr. Cygan appropriately speaks for each and every one of them, but certainly the sections that he discussed pulling out, seem to me, fairly represent most of what people were talking about such that the other things, especially the separating out the cruelty and neglect. We have right now a very low fine for cruelty that really has not been upped because it has been tracking with these other more controversial issues. If you want to pull that out we can, I'm not saying you have to.

Ms. Johnson: Well, it is not my place to speak for Mr. Cygan, but when the task force brought before the Health Board their recommendations, the Health Board supported that. So you had the support of the Health Board, of the task force and the Health Dept. supported the task force, because that is the purpose of the task force. Where the questions come in is when the attorney's office took it they made some modifications liking giving a time limit on getting over fifteen cats and some of these things, but that is really what they are questioning here. Yeah, there is the numbers issue that is going to be always questioned by people who feel they want to have more. But for the most part, I feel that the task force represented these people, it has just been the modifications of the Law Dept. on how they could make it work legally, that we are seeing the discrepancies.

Ms. Reuter: And to be fair you are still lacking testimony about why those numbers were chosen. There seems to be lots of testimony that there was a consensus and compromise was made. They still need to be at some point based on something and again if you are going to pursue ordinances next week before another public hearing you are going to need Mr. Vinci to come up and give you some basis for any numbers.

Mr. Camp: See I would recommend then that we delete that part and send that back and so I think we could move forward without that and discuss it and if need be have a further public hearing on those limited issues, so maybe it is even putting it on pending.

Mr. Shoecraft: Why don't we take the rest of this week and think about it and if there is time to think of some things to move forward next Monday we will and things to delete, then we will do that also and go from there because we are so confused right now that we need to just think on this.

Mr. Cook: Could we ask that perhaps something be provided to us in writing from the Health Dept. as to the justification for the two numbers, the six and the fifteen and we can make a determination perhaps how best to proceed?

Mr. Vinci: To the chair, I had risen earlier to make that proposal, to provide some follow up and maybe even to do some leg work if we could in a consensus building process to kind of pull together. More people are pro these issues, than these issues and therefore you get the list of the pros and then maybe would aid you in your final decision. Did you want us to respond to the number making now?

Mr. Shoecraft: Why don't you put it in writing.

Ms. McRoy: If you put it in Thursday we are not going to get it until Thursday.

Mr. Vinci: Soon. Wednesday or Thursday this week.

Ms. McRoy: If you tell us now then I can take that under advisement.

Mr. Vinci: Jim will correct me on the summary, but I'm going to give you the summary in as much of a sound bite as I can. Let me start off with consensus. That's how this number was arrived at. You heard testimony earlier that was actually correct. Part of the panel was comprised of some veterinarians and some other folks on the advisory groups and they looked at current numbers and said. What's our extremes. And one of the extremes was in the thirties. And one extreme was down to zero or one. So the middle ground and what was felt as, and this is where Jim can amplify, what was felt as the best number came out at the number that was recommended in the task force report. Up to about fifteen, was that the number? Fifteen. And was it arbitrary? I don't think so. Because they looked at current practice. They looked at issues like what can, on a general basis now, what was a number that could be managed. A whole other situation that really shouldn't bias this discussion, but nonetheless, it is an issue, is from a governmental regulatory perspective. If you are getting each cat duly licensed. Okay that cost adds up, adds up, adds up. Again someone testified I believe it is a free country, they would like to have as many cats or animals as they would like. So that's another issue. Have I helped address that or?

Mr. Fortenberry: I would like to follow up to that question, Councilman Cook pointed out that some kind of pattern at least in the ordinance he has looked, that after a certain minimum we had, whether it be a kennel or hobbyist permit be issued and then (inaudible) What about those considerations and how are they looked at and is that a trend in municipalities across the country or do you know?

Mr. Vinci: But just a quick response before I have Jim answer. As I understood it, yes. And as I understand it also there was the option for more animals was done through a permitting process of a different definition, in other words a kennel or kittery, or whatever the term was. So that that would allow some one who wanted to have more to go that route and there was some definition as to what that entailed, so that there was some criteria. It was not as lengthy as all the other regs but nonetheless it was there. The question was is there a trend in the nation for licensing larger facilities?

Mr. Fortenberry: No, not having a maximum number, but after a minimum number is met, you are subject to a license and then the inspections which you have delineated in this.

Mr. Weverka: Based on my experience as a member of the National Animal Control Association, there is most cities have some limit on the number of cats that you can own and dogs. After that they have provisions that you can get a permit and you allowed up to so many. It varies from community to community. Generally speaking though the number of cats and dogs are low. Some communities have it combined even and you get so many dogs and so many cats are equal this total number and that is all you can have and after that you have to go to a permit process. The permit usually has a maximum total. So, you know, Lincoln is a little bit different in the respect that we have on our books right now, if you have more than two unaltered cats, then you have to be spayed and neutered. That has been to our advantage. We have about 95% of the cats that are spayed and neutered and that decreases some of the problems and that is good. We are probably the only one in the nation that has something like that. I don't know if I am answering your question or just bouncing around it, but . . .

Mr. Cook: You know that wasn't really addressed, as someone brought that up the spay or neuter issues, if you have cats that you keep indoors, eliminated that requirement? And why did you eliminate a requirement that previously was there that you spay or neuter the animal if it is kept indoors. We now have a requirement that if you let it run free, it has to be spayed or neutered, but if it is indoors, previously you had a requirement, that if it was more than two had to be . . .

Mr. Vinci: You did raise that issue with Legal and you indicated that, maybe it was the Mayor's office that the language that still remains intact in the body of the ordinance does restrict that. Is that correct?

Ms. Reuter: The way that I understood it was it currently reads that if you have unaltered animals, you are capped at two cats. But currently the running at large, you can let all animals run at large as long as they are licensed, all cats that is. In the proposed ordinances we changed the cat at large section to say that now you can only let those cats run at large which are altered. Therefore it seems to me unless they can give a reason to otherwise limit the number of unaltered animals that reason evaporated once we said that they can no longer run

at large. I think that the basis for the capping it at two, was that they are allowed to run at large and we don't want to have cats out there making more cats. Now that we don't let them run at large anymore, unless they are spayed or neutered, if there still is a rational reason to limit that, you can certainly enact that but you need to have that rational reason put on by the Health Dept.

Mr. Cook: Do you find that difficult to enforce, someone lets their cat out once in awhile, but nobody sees for sure that it has been done. As long as they are indoors at the time someone were to check, they wouldn't have to be spayed or neutered. Seems like the other provision was more complete, than the enforcement issue about whether they let it go outdoors is there.

Ms. Reuter: If the council finds that that is a legitimate health concern the way that you just stated it, we can certainly right that in and that should carry the day as a rational basis.

Mr. Cook: And a follow up to the issue of basically what is done in other cities. Obviously I am just picking random cities, many I found no limits on the number of cats period. There were others that I found limits, but if you got a permit, you didn't have the limit. I didn't find any that gave a limit if you've got the cattery. Now I might have just been unlucky, but I guess I am curious if there are other cities that implement a limit if you get a license and that is it. You can't have more than that in the city. There is not licensing process, there is no mechanism for having more than "x" number of animals. I guess I'd like to know where that is in place and what the justification was on that circumstance. So I guess that would be helpful information along with why you picked the number and where else that applies.

Mr. Shoecraft: Can we just address that in the memo or whatever written information you want to give us?

Mr. Vinci: Volumes.

Mr. Shoecraft: Is there any motion by the council, if not, this conversation is done. Thank you. Madam Clerk, please move on.

Ms. Ross: This concludes the public hearing portion. We will go back into the voting session. Public Hearing Resolution . .

Mr. Shoecraft: Hold on Madam Clerk. We don't actually vote on this until next week. We are going to take into consideration so more additional information and deal with it then. Thank you for your testimony.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

Danny Walker, 427 "E" St. did not receive the phone call regarding the tie downs. Mr. Shoecraft responded with the answer of 22 tie downs and poles that would accommodate 400-500 vehicles.

Ed Foster, 3500 Frost Court has a piece of property at 2101 Holdrege and would like to request it be rezoned from residential to commercial. Mr. Cook responded that he needed to submit an application to Planning, who would then make a recommendation to the Planning Commission, who would make a recommendation to the Council.

This matter was taken under advisement.

#### ORDINANCES - 3RD READING

VACATING THE SOUTH 40' OF X ST. ADJACENT TO LOT 1, BLOCK 6, NORTH LINCOLN ADD., GENERALLY LOCATED AT N. 9TH & X STS. - Prior to reading:  
CAMP Motion to delay action on Bill 01-39 for two weeks to 4/16/01.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.  
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, for the third 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 an 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 third time.  
CAMP Moved to pass the Ordinance as read.  
Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.  
The ordinance, being numbered **17816**, is recorded in Ordinance Book 24, Page

**SPECIAL PERMITS, USE PERMITS, PRELIMINARY PLATS**

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF PIONEER WOODS FOR 8 COMMERCIAL LOTS AND 2 OUTLOTS, AND WAIVERS OF THE REQUIRED STORMWATER DETENTION, AN INCREASE IN THE 15' DEPTH OF SANITARY SEWER, AND AN INCREASE OF THE STREET APPROACH PLATFORMS TO 3%, ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD.;

USE PERMIT 130 - APPLICATION OF PIONEER WOODS, L.L.C. TO DEVELOP 142,000 SQ. FT. OF COMMERCIAL/RETAIL/RESTAURANT SPACE AND TO WAIVE THE STANDARD 50' FRONT YARD TO ALLOW FREE-STANDING PAD SITE GROUND SIGNS IN THE FRONT YARD ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD. - Prior to reading:

SENG Moved to delay action on Bill 01R-68 and 01R-69 for one week to 4/9/01.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

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. Prior to reading

COOK Moved to approve the Special Permit 1892 and deny the appeal of the neighbors.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, NAYS: Shoecraft.  
SENG Moved to Amend Bill 01R-44 On Page 3, between lines 9 and 10, insert a new subsection v. to read as follows:

v. Revise the landscape screen to show 6' to 8' ball and burlap conifer trees.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, NAYS: None; ABSENT: Shoecraft.  
CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80762 WHEREAS, Qwest Wireless, L.L.C. has submitted an application designated as Special Permit No. 1892 for authority to construct a 123' tall personal wireless facility, with associated ground equipment, and a waiver of the fall zone requirement on property located at N. 7th Street and Fletcher Avenue, and legally described to wit:

The remaining portion of Lot 32, Cumberland Heights, located in the Southwest Quarter of Section 35, Township 11 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, being more particularly described as follows:

Referring to the South Quarter corner of said Section 35; thence northerly north 01 degrees 46 minutes 40 seconds west on the east line of the Southwest Quarter of said Section 35, 415.33 feet; thence westerly south 88 degrees 13 minutes 28 seconds west, 134.92 feet to the point of beginning for the described lease site; thence westerly south 90 degrees 00 minutes 00 seconds west, 22.00 feet; thence northerly north 00 degrees 00 minutes 00 seconds east, 10.00 feet; thence easterly north 90 degrees 00 minutes 00 seconds east, 22.00 feet; thence southerly south 00 degrees 00 minutes 00 seconds west, 10.00 feet to the point of beginning for the described lease site, containing a total calculated area of 220.00 square feet, more or less;

WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public hearing on said application and by Resolution No. PC-00657 has conditionally approved Special Permit No. 1892; and

WHEREAS, Arlon E. and Corrine D. Bartels; Dale and Jennie M. Meiner; Deanna Mumgaard; Mary Mumgaard; David Watts; Drennen Watts; M. Laimons Iesalnieks; and Larry and Denise Maack have appealed the action

of the Lincoln City-Lancaster County Planning Commission approving Special Permit No. 1892; and

WHEREAS, the City Council of the City of Lincoln, Nebraska has held a public hearing thereon and find that the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this wireless communications facility will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the 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 Qwest Wireless, L.L.C., hereinafter referred to as "Permittee", to construct a 123' tall personal wireless facility on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.720 of the Lincoln Municipal Code upon condition that construction and operation of said wireless communications facility be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a 123' tall wireless communications facility for a period of 15 years with a waiver of the fall zone required by 27.68.110(g).
2. Before receiving building permits:
  - a. The Permittee must complete the following instructions and submit the documents and plans to the Planning Department office for review and approval:
    - i. Revise sheet "Z-3" to place the street names in the proper locations.
    - ii. Provide five full sets of plans to the Planning Department for distribution.
    - iii. Revise the structural drawings to the satisfaction of the Building and Safety Department, to show a 123' pole, not a 70' pole.
    - iv. Provide documentation from the FAA that the proposed tower is in compliance with all FAA regulations.
    - v. Revise the landscape screen to show 6' to 8' ball and burlap conifer trees.
  - b. The Board of Zoning Appeals must grant a variance of the height allowed in an airport turning district. This Special Permit approval does not imply that the Board of Zoning Appeals will grant such a variance.
  - c. The Permittee must post a surety, approved by the City Attorney, in the minimum amount necessary to guarantee the removal of the facilities. The surety may not be revoked or terminated during the term of the permit.
3. Before operating this personal wireless facility, all development and construction must conform to the approved plans.
4. The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.
5. The tower shall be inspected and maintained in accordance with the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. At the time of this Special Permit, those standards were contained in the TIA/EIA-222-F. The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety.
6. All privately-owned improvements, including landscaping, must be permanently maintained by the Permittee.
7. 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.
8. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee and the Permittee's successors and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
9. The Permittee shall, within 10 days of written demand, reimburse the City for all direct and indirect costs and expenses as

provided in Section 27.68.090 in connection with the issuance and review of this permit.

10. As part of this approval, the Permittee agrees that the Permittee, its successors and assigns shall, at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or result from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs or suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

11. 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.

12. 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 the special permit or take such other action as may be necessary to gain compliance.

Introduced by Jeff Fortenberry

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, NAYS: Shoecraft.

#### PETITIONS & COMMUNICATIONS

PETITION TO VACATE PUBLIC WAY A PORTION OF SOUTH 16TH STREET BOUNDED ON THE SOUTH BY LAKE STREET, ON THE NORTH BY THE PREVIOUSLY VACATED 16TH STREET CURRENTLY OWNED BY BRYANLGH MEDICAL CENTER, ON THE WEST BY LOT 12, GOULDS SUBDIVISION OF LOT 5 IN THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., AND ON THE EAST BY LOT 4 AND A PORTION OF LOT 5, JOHNSONS ADDITION, ALL LOCATED IN LINCOLN, LANCASTER COUNTY, NEBRASKA SUBMITTED BY BRYAN LGH MED CTR. - CLERK presented said petition which was referred to the Law Dept.

PETITION TO VACATE PUBLIC WAY A PORTION OF RIGHT-OF-WAY STUB ADJACENT TO THE SOUTH LINE OF LOT 1, H.J.B. INDUSTRIAL PARK AND THE SOUTH LINE OF LOT 3, 48TH AND SUPERIOR ADDITION SUBMITTED BY HARLEY J. BAIR. - CLERK presented said petition which was referred to the Law Dept.

#### REPORTS OF CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON Mar. 19, 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 Jeff Fortenberry, who moved its adoption:

A-80765 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 from March 17 to 31, 2001.)

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

APPROVING DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNING ON SHORT-TERM INVESTMENTS OF IDLE FUNDS FOR THE MONTH ENDED FEBRUARY 28, 2001, introduced by Jeff Fortenberry, who moved its adoption:

A-80766 BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN, Nebraska:

That during the month ended February 28, 2001, \$366,256.75 was earned from short-term investments of "IDLE FUNDS". The same is hereby



distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF MARCH 1-15, 2001 - Prior to reading:

FORTENBERRY Moved to amend Bill 01R-67 to delete lines#10, 11, 13, and 18.

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

CLERK Read the following resolution, introduced by Jeff Fortenberry, who moved its adoption for approval:

A-80760 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 March 16, 2001, 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</u>
<del>Wayne H. Hahn</del> \$ <del>1,049.40</del>	Kris Bloomquist \$ 263.14
<del>Leroy Milbourn</del> NAS*	Francisco & Monica Farias 500.00
Amber Hallauer 292.19	Gary G. Enevoldsen 1,700.00
<del>Fleming's Flower</del>	
<del>Fields, Inc.</del> <del>1,000,000.00</del>	Scott Wrobliski 85.00
Judy Lind	NAS*
Dale Roehrs (DDKM Realty)	185.00
Michaela Guida	76.00
Karen S. & Kenneth R. Kitchens	254.58
<del>Marlene Perez</del> <del>2,408.24</del>	
Carol L. Langer	203.55
William & Shelley Wallace	492,500.00

\* 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 Jeff Fortenberry

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

REPORTS FROM CITY TREASURER OF TELECOMM. OCC. TAX FOR THE MONTH OF FEBRUARY 2001: NETWORK BILLING SYSTEMS, L.L.C., AFFINITY NETWORK, INC., AT&T COMMUNICATIONS OF THE MIDWEST, INC., SPRINT COMMUNICATION COMPANY LIMITED PARTNERSHIP, AIRTIME SMR, INC., AND ALIANT CELLULAR, INC., DBA ALLTEL - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

**OTHER RESOLUTIONS**

APPLICATION OF LEVY RESTAURANTS AT HAYMARKET PARK FOR A CLASS "I" LIQUOR LICENSE AT 999 NORTH 6TH STREET - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption for approval:

A-80754 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 Levy Restaurants at Haymarket Park for a Class "I" liquor license in an irregular area measuring approximately 1000' x 700', an area measuring approximately 600' x 700' in the upper level and an area measuring approximately 50' x 200' in the south parking lot of the Lincoln Ballpark at 999 North 6th Street, Lincoln, Nebraska, for the license period ending April 30, 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 Jeff Fortenberry

Seconded by Johnson & carried by the following vote: AYES: Camp,

Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

MANAGER APPLICATION OF RODNEY G. ROSSMAN FOR LEVY RESTAURANTS AT HAYMARKET PARK AT 999 NORTH 6th STREET - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption for approval:

A-80755 WHEREAS, Levy Restaurants at Haymarket Park located at 999 North 6th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Rodney G. Rossman be named manager;

WHEREAS, Rodney G. Rossman 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 Rodney G. Rossman 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 Jeff Fortenberry

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

APPROVING AN AGREEMENT BETWEEN THE CITY, LINCOLN ELECTRIC SYSTEM, AND ST. ELIZABETH HEALTH SYSTEM AND ITS SUBSIDIARIES, FOR EMPLOYEE WORKERS' COMPENSATION INJURIES AND MISCELLANEOUS MEDICAL AND OTHER SERVICES FOR A THREE-YEAR TERM - CLERK read the following resolutions, introduced by Jeff Fortenberry, who moved its adoption:

A-80756 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Agreement between the City of Lincoln, Lincoln Electric System, and St. Elizabeth Health System and its subsidiaries, for employee workers' compensation injuries and miscellaneous medical and other services for a three-year term, a copy of which is attached hereto marked as Attachment "A" and made a part hereof by reference, is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City.

The City Clerk is directed to return two fully executed copies of said Agreement to Bill Kostner, Risk Manager, for transmittal to St. Elizabeth Health System.

Introduced by Jeff Fortenberry

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE DEPT. OF ROADS FOR THE FUNDING OF A PROJECT TO RECONSTRUCT THE INTERSECTION OF 33RD AND SHERIDAN BOULEVARD AS A "ROUNDAABOUT." - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80757 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the funding of a project to reconstruct the intersection of 33rd and Sheridan Boulevard as a "roundabout", in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

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

Introduced by Jeff Fortenberry

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE DEPT. OF ROADS FOR THE FUNDING OF A PROJECT TO ANALYZE THE ALIGNMENT OF HIGHWAY U.S. 6 (SUN VALLEY BOULEVARD) FROM WEST "O" STREET NORTH TO CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80758 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the funding of a project to analyze the alignment of Highway U.S. 6 (Sun Valley Boulevard) from West "O" Street north to Cornhusker Highway, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor

is authorized to execute the same on behalf of the City of Lincoln.

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

Introduced by Jeff Fortenberry

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

APPROVING AN AGREEMENT BETWEEN BIG RED KENO AND GJR, L.L.C. DBA "RANDY'S GRILL & CHILL" FOR THE OPERATION OF A KENO SATELLITE SITE AT 4947 HOLDREGE STREET. CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80759 WHEREAS, the City of Lincoln and the County of Lancaster, Nebraska have entered into an Interlocal Agreement for the purposes of providing for joint City-County keno lottery; and

WHEREAS, the City has entered into a contract for the operation of keno type lottery with Lincoln's Big Red Keno, Ltd., a Nebraska limited partnership; and

WHEREAS, Section 5 of the Interlocal Agreement and Section 3(b) of the Keno contract grant the City the authority to approve all satellite locations within the corporate limits of Lincoln; and

WHEREAS, all requirements under the Interlocal Agreement and the Keno contract governing the establishment and location of keno satellite sites have been met.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that a keno satellite site is hereby authorized at the location of GJR, L.L.C. dba "Randy's Grill & Chill", 4947 Holdrege Street, Lincoln, NE 68505.

The City Clerk is directed to return an executed copy of this Resolution to Randy's Grill & Chill, and a copy to Lincoln's Big Red Keno, Ltd.

Introduced by Jeff Fortenberry

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

APPOINTING RIFKA KEILSON TO THE COMMUNITY DEVELOPMENT TASK FORCE TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 31, 2002 - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80761 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Rifka Keilson to the Community Development Task Force to fill an unexpired term expiring August 31, 2002 is hereby approved.

Introduced by Jeff Fortenberry

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

SETTING HEARING DATE OF MONDAY, APRIL 16, 2001 AT 1:30 P.M. ON THE MAN. APP. OF RONALD SOMMERS FOR B & R STORES, INC., DBA SUPER SAVE III AT 5440 S. 56TH ST. - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80763 WHEREAS, B & R Stores Inc. dba "Super Saver III" located at 5440 S. 56th Street, Lincoln, Nebraska has been approved for a Retail Class "D/K" liquor license, and now requests that Ronald Sommers be named manager;

WHEREAS, Ronald Sommers 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 Ronald

Sommers 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 Jeff Fortenberry

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

SETTING HEARING DATE OF MONDAY, APRIL 16, 2001 AT 1:30 P.M. ON THE APPLICATION OF LINCOLN P STREET CATERING CO. DBA EMBASSY SUITES HOTEL FOR OUTDOOR LIQUOR CATERING EVENTS ON MAY 4, 11, AND 18, 2001 AT 1040 P ST. - CLERK read the following resolution, introduced by Jeff Fortenberry, who moved its adoption:

A-80764 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 Lincoln P Street Catering Co. d/b/a Embassy Suites Hotel for a Special Designated License to cover an outdoor area in the back deck area at 1040 P Street, Lincoln, Nebraska, on May 4, 11, and 18, 2001, between the hours of 3:00 p.m. and 8:00 p.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jeff Fortenberry

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

#### ORDINANCES - 1ST & 2ND READING

APPROVING A CONTRACT BETWEEN THE CITY AND THE LINCOLN HAYMARKET DEVELOPMENT CORP. TO OPERATE AND REGULATE A SATURDAY PUBLIC MARKET IN THE HAYMARKET AREA FROM MAY 5, 2001, THROUGH OCTOBER 27, 2001 - CLERK read an ordinance, introduced by Jeff Fortenberry, accepting and approving the Contract between the City of Lincoln, Nebraska, a municipal corporation, and the Lincoln Haymarket Development Corporation for establishment and regulation of a Saturday public market in the Haymarket area from May 5, 2001 through October 27, 2001, the first time.

APPROVING A CONTRACT BETWEEN THE CITY AND THE DOWNTOWN LINCOLN ASSOCIATION TO OPERATE A MID-WEEK PUBLIC MARKET IN THE MARKETPLACE AREA AT 12TH STREET FROM Q TO R STREET AND FROM 12TH TO 13TH STREETS FROM MAY 15, 2001, THROUGH JULY 31, 2001 - CLERK read an ordinance introduced by Jeff Fortenberry, accepting and approving the Contract between the City of Lincoln, Nebraska and Downtown Lincoln Association for establishment and regulation of a Tuesday public market in the Marketplace area from May 15, 2001 through July 31, 2001, for the first time.

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,600,000 OF THE CITY'S Q, O, P, R/NORTH HAYMARKET REDEVELOPMENT PROJECT TAX ALLOCATION AND REFUNDING BONDS - CLERK read an ordinance, introduced by Jeff Fortenberry, authorizing and providing for the issuance of not to exceed \$1,600,000 City of Lincoln, Nebraska, Q, O, P, R/North Haymarket redevelopment project tax allocation and refunding bonds, series 2001, for the purpose of (1) paying all or part of the costs of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the city's Q, O, P, R/North Haymarket Redevelopment project inclusive of any acquisition of real estate and/or interests in real estate in connection therewith, (2) providing for the payment and redemption of all of the city's presenting outstanding Q, O, P, R/North Haymarket Redevelopment project tax allocation bonds, series 1995; prescribing the form and certain of the details of the bonds; pledging certain tax allocation and other tax revenues to payment of the principal of an interest on the bonds as the same become due and to carry out all other covenants of this ordinance; limiting payment of the bonds to said tax allocation and other tax revenues; creating; establishing funds and accounts; authorizing the public or private sale and delivery of the bonds; delegating, authorizing and directing the finance director to exercise his own independent discretion and judgment in determining and finalizing the terms and provisions with respect to the bonds not specified herein; providing for application of the proceeds of the bonds; providing for payment of the principal of and interest on the bonds; taking other action and making other covenants and agreements in connection with the foregoing; and related matters, the first time.

AMENDING SECTION 9.44.040 OF THE LINCOLN MUNICIPAL CODE RELATING TO FIREWORKS TO PROVIDE FOR THE ASSESSMENT OF A LATE FEE ON ALL APPLICATIONS FOR A

LICENSE AS A FIREWORKS RETAILER POSTMARKED OR RECEIVED BY THE CHIEF OF THE BUREAU OF FIRE PREVENTION AFTER JUNE 23, TO INCREASE THE LICENSE FEE TO \$75,00, TO AMEND THE PROVISION REGARDING ISSUANCE OF A LICENSE, AND REPEALING SECTION 9.44.085 RELATING TO THE SALE AND USE OF FIREWORKS FROM DECEMBER 30, 1999 TO JANUARY 1, 2000 - CLERK read an ordinance, introduced by Jeff Fortenberry, amending Chapter 9.44 of the Lincoln Municipal Code relating to fireworks by amending Section 9.44.040 to provide for the assessment of a late fee on all applications for a license as a fireworks retailer postmarked or received by the Chief of the Bureau of Fire Prevention after June 23, to increase the license fee to \$75.00, and to amend the provision regarding issuance of a license; repealing Section 9.44.085 relating to sale and use of fireworks from December 30, 1999 to January 1, 2000; and repealing Section 9.44.040 of the Lincoln Municipal Code, the first time.

CHANGE OF ZONE 3134B - APPLICATION OF CHRISTIAN RETIREMENT HOMES, INC. D/B/A EASTMONT TOWERS, TO ADD AND OPERATE A SIX BED HEALTH CARE FACILITY IN THE WILLOW SPRINGS FINAL PLANNED UNIT DEVELOPMENT ON PROPERTY GENERALLY LOCATED AT SOUTH 78TH STREET AND PIONEERS BLVD - CLERK read an ordinance, introduced by Jeff Fortenberry, approving Amendment No. 2 to the Development Plan and Agreement for the Willow Springs Planned Unit Development to add a six bed health care facility on Lots, 7, 8, and 9, Block 4, Willow Springs Addition, the first time.

CHANGE OF ZONE 3307 - AMENDING SECTION 27.69.044 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED SIGNS IN THE 0-1, 0-2, AND 0-3 ZONING DISTRICTS TO ADJUST THE PERMITTED SIGN REGULATIONS IN THE 0-3 OFFICE PARK DISTRICT TO BETTER REFLECT A TRANSITIONAL DISTRICT - CLERK read an ordinance, introduced by Jeff Fortenberry, amending Section 27.69.044 of the Lincoln Municipal Code relating to permitted signs in the 0-1, 0-2, and 0-3 zoning districts to adjust the permitted sign regulations in the 0-3 Office Park District to better reflect a transitional district; and repealing Section 27.69.044 of the Lincoln Municipal Code, the first time.

CHANGE OF ZONE 3310 - DESIGNATING THE HAYMARKET PARK SIGN DISTRICT AS A OVERLAY SPECIAL SIGN DISTRICT FOR THE LINCOLN BASEBALL STADIUM ON PROPERTY GENERALLY LOCATED AT NORTH 6TH STREET AND CHARLESTON STREET, BETWEEN I-180 AND SUN VALLEY BOULEVARD - CLERK read an ordinance, introduced by Jeff Fortenberry, designating the Haymarket Park Sign District as an overlay special sign district for the Lincoln Baseball Stadium on property generally located at North 6th Street and Charleston Street, between I-180 and Sun Valley Blvd., in accordance with the provisions of 27.69.300 of the Lincoln Municipal Code and adopting special criteria for signs in said district, the first time.

CHANGE OF ZONE 3311 - APPLICATION OF THE DIRECTOR OF THE PARKS & RECREATION DEPARTMENT FOR A CHANGE FROM P PUBLIC USE DISTRICT TO 0-3 OFFICE PARK DISTRICT ON PROPERTY GENERALLY LOCATED 450 FEET WEST OF RIDGEVIEW DRIVE, ON THE NORTH SIDE OF PIONEERS BLVD. - CLERK read the ordinance, introduced by Jeff Fortenberry, amending the Lincoln Zoning District Maps attached to an ordinance made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

VACATING A PORTION OF THE SOUTH 16TH STREET RIGHT-OF-WAY, A PORTION OF THE SOUTH 19TH STREET RIGHT-OF-WAY AND SOUTHPARK ROAD - CLERK read the ordinance, introduced by Jeff Fortenberry, whereas Southpark Road, 16th Street and 19th Street were dedicated to the City of Lincoln in the final plat of Lincoln Industrial Park, the first time.

DECLARING PORTIONS OF THE HIGHLANDS SOUTH PARK AS SURPLUS PROPERTY, GENERALLY LOCATED AT N.W. FAIRWAY DRIVE AND W. HARVEST DRIVE - Prior to reading  
CAMP Moved to delay first reading for one week to 4/9/01.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CHANGE OF ZONE 3258 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST A STREETS - CLERK read an ordinance, introduced by Jeff Fortenberry, amending the Lincoln Zoning

District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided in Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established, the first time.

CHANGE OF ZONE 3303 - APPLICATION OF ASPEN BUILDERS, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT S.W. 27TH STREET AND WEST "A" STREET - CLERK read an ordinance, introduced by Jeff Fortenberry, 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 Boundaries of the districts established, the first time.

DECLARING APPROXIMATELY .91 ACRES OF PROPERTY GENERALLY LOCATED IN LOT 2, FAIRVIEW CEMETERY 1ST ADDITION, GENERALLY LOCATED NEAR N. 84TH STREET AND ADAMS STREET, AS SURPLUS AND AUTHORIZING THE SALE THEREOF - CLERK read an ordinance, introduced by Jonathan Cook, declaring a tract of City-owned property generally located near North 84th and Adams Streets as surplus and authorizing the sale thereof to Wyuka Cemetery, the second time.

AMENDING CHAPTER 6.04 OF THE LINCOLN MUNICIPAL CODE RELATING TO ANIMAL CONTROL REGULATIONS GENERALLY TO AMEND DEFINITIONS; TO INCREASE IMPOUNDMENT FEES; TO MAKE IT UNLAWFUL TO OWN ANIMAL HYBRIDS; TO PROVIDE RESTRICTIONS RELATING TO ACTIVITIES OF PET SHOPS; AMENDING CRUELTY TO ANIMALS TO PROVIDE A SEPARATE SECTION RELATING TO ANIMAL NEGLECT; TO PROVIDE EXCEPTIONS TO VIOLATIONS; AMENDING PROVISIONS REGARDING SELLING OR GIVING AWAY ANIMALS; AND TO PROVIDE ADDITIONAL PENALTIES FOR VIOLATIONS - CLERK read an ordinance amending Chapter 6.04 of the Lincoln Municipal Code relating to Animal Control Regulations Generally by amending Section 6.04.010 to add definitions for "adequate shelter", "animal exhibit," "boarding", "exotic animal", "hybrid", "shade" and "wild animal" and to amend the definitions of "large animal" and "unusual animal"; amending Section 6.04.150 to increase impoundment fees; adding a new Section 6.04.155 to make it unlawful to own animal hybrids; adding a new Section 6.04.165 to provide restrictions relating to activities of pet shops; amending Section 6.04.310 relating to cruelty to animals; adding a new Section 6.04.315 to provide a separate section relating to animal neglect by amending provisions previously contained 6.04.310, Cruelty to Animals; adding a new section numbered 6.04.317 to provide exceptions to the violations set forth in Section 6.04.310; amending Section 6.04.350 regarding selling or giving away animals; amending Section 6.04.440 to provide additional penalties for violations of Chapter 6.04 of the Lincoln Municipal Code; and repealing Sections 6.04.010, 6.04.150, 6.04.310, 6.04.350, and 6.04.440 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 6.04 OF THE LINCOLN MUNICIPAL CODE RELATING TO ANIMAL CONTROL REGULATIONS GENERALLY TO ALLOW THE DIRECTOR OF THE HEALTH DEPARTMENT TO IMPOUND UNUSUAL ANIMALS; TO PROVIDE PERMIT PROVISIONS FOR ANIMAL EXHIBITS OR RIDES; TO MAKE IT UNLAWFUL TO PROVIDE FOR UNUSUAL CARNIVOROUS MAMMALS TO BE RESTRAINED BY THE PUBLIC FOR ENTERTAINMENT PURPOSES; AND TO PROVIDE AN APPEAL PROCESS FOR DENIED, NON-RENEWED AND REVOKED ANIMAL EXHIBIT OR RIDE PERMITS - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 6.04 of the Lincoln Municipal Code relating to Animal Control Regulations - Generally by amending Section 6.04.020 to allow the Director of the Health Department to impound unusual animals; amending Section 6.04.210 to provide permit provisions for animal exhibits or rides; adding a new section numbered 6.04.215 to make it unlawful to provide for young unusual carnivorous mammals to be held by the public for entertainment purposes; adding a new section numbered 6.04.225 to provide an appeal process for denied, non-renewed and revoked animal exhibit or ride permits; and repealing Sections 6.04.020 and 6.04.210 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 6.12 OF THE LINCOLN MUNICIPAL CODE RELATING TO CATS TO ADD A DEFINITION FOR "CAT HOBBY KENNEL" AND AMENDING THE DEFINITION OF "KENNEL; TO PROVIDE THE WORD "LINCOLN" BE ENGRAVED ON ALL CAT TAGS; TO PROVIDE THAT ALL MONEY RECEIVED BY THE DIRECTOR UNDER CHAPTER 6.12 SHALL BE CREDITED TO THE ANIMAL CONTROL FUND; TO MAKE IT UNLAWFUL FOR CATS THAT ARE NOT SPAYED OR NEUTERED TO RUN AT LARGE; TO REPEAL THE CURRENT PROVISIONS RELATING TO CATS RUNNING AT LARGE WHILE IN HEAT; TO DELETE REFERENCES TO SECTIONS BEING REPEALED; TO MAKE IT UNLAWFUL TO MAINTAIN A

CAT KENNEL; TO PROVIDE EXCEPTIONS TO HAVING A CAT KENNEL; TO CREATE A PERMIT PROCESS TO OBTAIN A CAT HOBBY KENNEL; TO PROVIDE RESTRICTIONS RELATING TO A CAT HOBBY KENNEL; TO REPEAL THE CURRENT PROVISIONS RELATING TO HOBBY KENNEL OR CATTERY PERMITS; AND TO INCREASE THE MINIMUM FINE FOR FIRST OFFENSE VIOLATIONS OF CHAPTER 6.12 FROM \$25 TO \$35 - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 6.12 of the Lincoln Municipal Code relating to Cats by amending Section 6.12.010 to add a definition for "cat hobby kennel" and amending the definition of "kennel"; amending Section 6.12.050 to provide the word "Lincoln" be engraved on all cat tags; adding a new section 6.12.055 to provide that all money received by the Director under Chapter 6.12 shall be credited to the Animal Control Fund; amending Section 6.12.070 to make it unlawful for cats that are not spayed or neutered to run at large; repealing Section 6.12.080 relating to cats running at large while in heat; amending Section 6.12.100 to delete a reference to Section 6.12.080 which is being repealed; adding a new Section 6.12.123 to make it unlawful to maintain a cat kennel; adding a new Section 6.12.125 to provide exceptions to having a cat kennel; adding a new section numbered 6.12.127 to create a permit process to obtain a cat hobby kennel; adding a new section numbered 6.12.129 to provide restrictions relating to a cat hobby kennel; repealing Section 6.12.130 relating to hobby kennel or cattery permit; and amending Section 6.12.290 to increase the minimum fine for first offense violations of Chapter 6.12 from \$25.00 to \$35.00; and repealing Sections 6.12.010, 6.12.050, 6.12.070, 6.12.100, and 6.12.290 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 6.08 OF THE LINCOLN MUNICIPAL CODE RELATING TO DOGS TO ADD A DEFINITION FOR "DOG HOBBY KENNEL" AND TO AMEND THE DEFINITION OF "KENNEL"; TO PROVIDE THE WORD "LINCOLN" BE DIE-STAMPED ON DOG TAGS; TO PROVIDE THAT OWNERS OF DOGS SHALL DISPOSE OF WASTE MATERIAL ACCUMULATING FROM THEIR DOGS AT LEAST ONCE EVERY FIVE DAYS; TO INCLUDE DOG HOBBY KENNEL PERMIT HOLDERS AS EXCEPTIONS TO DOG KENNEL PROHIBITION; TO CREATE AN EXCEPTION TO HAVING A DOG KENNEL FOR PERSONS ON LAND THAT IS ANNEXED BY THE CITY; TO REQUIRE PERMITS FOR DOG HOBBY KENNELS; TO PROVIDE RESTRICTIONS RELATING TO DOG HOBBY KENNELS; TO PROVIDE THAT MONEY RECEIVED PURSUANT TO CHAPTER 6.08 SHALL BE CREDITED TO THE ANIMAL CONTROL FUND; AND TO INCREASE THE MINIMUM FINE FOR FIRST OFFENSE VIOLATIONS OF CHAPTER 6.08 FROM \$25.00 TO \$35.00 - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 6.08 of the Lincoln Municipal Code relating to Dogs by amending Section 6.08.010 to add a definition for "dog hobby kennel", and to amend the definition of "kennel"; amending Section 6.08.040 to provide the word "Lincoln" be die-stamped on dog tags; amending Section 6.08.150 to provide that owners of dogs shall dispose of waste material accumulating from their dogs at least once every five days; amending Section 6.08.310 to include dog hobby kennel permit holders as exceptions to dog kennel prohibition; adding a new section numbered 6.08.311 creating an exception to having a dog kennel for persons on land that is annexed by the City; adding a new section numbered 6.08.313 to require permits for dog hobby kennels; adding a new Section 6.08.315 to provide restrictions relating to dog hobby kennels; adding a new Section 6.08.317 to provide that money received pursuant to Chapter 6.08 shall be credited to the Animal Control Fund; amending Section 6.08.350 to increase the minimum fine for first offense violations of Chapter 6.08 from \$25.00 to \$35.00; and repealing Sections 6.08.010, 6.08.040, 6.08.150, 6.08.310, and 6.08.350 of the Lincoln Municipal Code as hitherto existing, the second time.

CHANGE OF ZONE 3263 - APPLICATION OF PIONEER WOODS, L.L.C. FOR A CHANGE OF ZONE FROM B-1 LOCAL BUSINESS AND R-3 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF 70TH AND PIONEERS BLVD. - CLERK read an ordinance, introduced by Jonathan Cook, 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.

APPROVING A REDEVELOPMENT AGRMT. BETWEEN THE CITY & TJK INVESTMENTS, INC. FOR THE REDEVELOPMENT OF THE WEST SIDE OF N. 27<sup>TH</sup> ST. BETWEEN S & T STS. TO BE KNOWN AS "STERLING VILLAGE" OFFICE/RETAIL SITE - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving the North 27th and "S" to "T" Streets Redevelopment Agreement (Redevelopment Agreement) between the City of Lincoln and TJK Investments, Inc., a

REGULAR MEETING  
APRIL 2, 2001  
PAGE 218

Nebraska corporation, 105 S.W. 92nd Street, Lincoln, NE 68532  
(Redeveloper), the second time.

**MISCELLANEOUS BUSINESS**

**PENDING LIST -**

DECLARING PORTIONS OF THE HIGHLANDS SOUTH PARK AS SURPLUS PROPERTY, GENERALLY  
LOCATED AT N.W. FAIRWAY DRIVE AND W. HARVEST DRIVE. - CLERK requested  
that Bill 01-57 be removed from Pending for Public Hearing on 04/09/01.

CAMP           So moved.

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

CAMP           Moved to extend the Pending List for 1 week.

                  Seconded by Seng & 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 April  
9, 2001.

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

**ADJOURNMENT**

**6:18 p.m.**

COOK           Moved to adjourn the City Council Meeting of April 2, 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