

**AGENDA FOR  
CITY COUNCIL MEMBERS' "NOON" MEETING  
MONDAY, AUGUST 27, 2001  
Immediately Following Director's Meeting  
CONFERENCE ROOM 113**

**I. MINUTES**

1. Director's Minutes for August 20, 2001.
2. Minutes of "Noon" Council Members' Meeting for August 20, 2001.
3. Pre-Council Meeting Minutes - RE: Traffic Signal and Left Turn Phase Evaluations - August 13, 2001.
4. Director's Minutes for July 16, 2001.

**II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES**

1. Star City Holiday Festival Board Meeting (McRoy)
2. Mayor's Floodplain Task Force 1<sup>st</sup> Meeting (Seng)
3. DEC Meeting (Friendt) - **MR. FRIENDT ABSENT - HELD OVER FROM AUGUST 20<sup>TH</sup> "NOON" AGENDA**
4. Wilderness Park Community Committee - Wetlands Tour (Cook/Friendt/Werner) - **MR. FRIENDT ABSENT - HELD OVER FROM AUGUST 13<sup>TH</sup> "NOON" AGENDA**

**OTHER MEETINGS REPORTS:**

**III. APPOINTMENTS/REAPPOINTMENTS - NONE**

**IV. MEETINGS/INVITATIONS**

1. FACE the CHAMBER with CHIEF CASADY - Join the Chamber for lunch as Chief of Police Tom Casady discusses the latest news about Lincoln issues on Wednesday, September 5, 2001 from Noon to 1:00 p.m. - Registration begins at 11:45 a.m. at the Country Club of Lincoln, 3200 S. 24<sup>th</sup> Street - Admission is \$12.00 (\$16.00 at the door) and includes lunch. RSVP no later than Monday, September 3, 2001. (See Invitation).

2. New Urbanism lecture on planning & growth alternatives by Andres Duany - Thursday, September 6, 2001 – 6:00 p.m., Reception – 7:00 p.m., Lecture (1 ½ hour lecture) – Joslyn Art Museum, 2200 Dodge Street, Omaha – Admission is \$5.00 – **AND Take The Bus To Duany!!** - Ride in comfort only \$8.00 (admission not included) – Will leave by 5:00 p.m. to arrive at Reception at 6:00 p.m. – Return to Lincoln by 10:00 p.m. – RSVP to Steve Henrichsen at 441-6374 to reserve your place. Pre-payment is required (See Invitation).

## **VI. REQUESTS OF COUNCIL FROM MAYOR - NONE**

## **VII. MISCELLANEOUS**

1. Discussion on Council's procedures regarding Public input - especially duplicate testimony at Formal Public Hearing Session. - **HELD OVER FROM AUGUST 20<sup>TH</sup> "NOON" AGENDA**

## **VIII. ADJOURNMENT**

**MINUTES**  
**CITY COUNCIL MEMBERS' "NOON" MEETING**  
**MONDAY, AUGUST 27, 2001**  
*CONFERENCE ROOM 113*

**Council Members Present:** Annette McRoy, Chair; Jonathan Cook, Vice-Chair; Jon Camp, Glenn Friendt, Coleen Seng, Ken Svoboda, Terry Werner.

**Others Present:** Mark Bowen, Ann Harrell, Amy Tejral, Mayor's Office; Dana Roper, City Attorney; Don Herz, Finance Director; Darrell Podany, Aide to Council Members' Friendt, Camp and Svoboda; Joan Ray, Council Secretary; Chris Hain, *Journal Star* representative.

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Mr. Jonathan Cook, Council Vice-Chair, requested a motion to approve the above-listed minutes. Glenn Friendt moved approval of the minutes as presented. The motion was seconded by Coleen Seng and carried by the following vote: AYES: Jonathan Cook, Glenn Friendt, Annette McRoy, Coleen Seng, Ken Svoboda, Terry Werner; NAYS: None; ABSENT FOR VOTE: Jon Camp.

**II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES -**

1. STAR CITY HOLIDAY FESTIVAL BOARD (McRoy) Ms. McRoy reported that they had received an update on sponsors. Everything is looking good.
2. MAYOR'S FLOOD PLAIN TASK FORCE - 1<sup>st</sup> Meeting (Seng) Ms. Seng reported that they had their first organizational meeting last week over the noon hour to set a schedule for another meeting time and date. They reviewed the past history of the flood plain ordinances, etc. They also went over the fact that we're in a Comp Plan process right now. They tried to set another meeting time and that was the extent of the meeting.

Mr. Friendt asked how many members there were on the Task Force. Ms. Seng indicated that she did have a list of the members which she would get for Council. Mr. Friendt asked how the timing of the flood plain study would coincide with the Comp Plan. Ms. Seng indicated that it would be part of that. Mr. Friendt asked if, then, they would have it in time. Ms. Seng stated that she did not know, but it will be a part of the Comp Plan.

She stated that the Planning Department is on the Board that is working on this. Mr. Friendt asked if this wasn't a separate issue. Ms. Seng said that it was, but it has to be worked into the Comp Plan, initially.

Mr. Cook stated that he would assume that the language of the Comp Plan would state that the study is underway and the Plan would be amended at such a time as the study results are available. He noted that the Comp Plan is full of studies.

3. DEC (Friendt) - Mr. Friendt reported that this had been his first [DEC] meeting and he wanted to state that the operating statement and the balance sheet looks wonderful. The major project that was approved for a feasibility study is [inaudible] the Energy District for the Wesleyan Campus where we would use DEC funds to completely revamp their energy and heating & cooling system to the tune of about \$8,000,000.

Mr. Werner asked where the money comes from. Mr. Friendt stated that it came from bonding and from LES, primarily - some funding from Utilicorp. He noted that there are some Federal funds as well. He explained that the idea is that we have this pot of money and will make a commitment, for instance, to Wesleyan; and there is a calculation, as part of this feasibility study, that by greater energy efficiency, any contract that they sign with LES, that we will actually get the 8 million dollars paid back. That is the report.

4. WILDERNESS PARK COMMUNITY COMMITTEE - Wetlands Tour (Cook/Friendt/Werner) - Mr. Friendt indicated that the report listed Cook and Werner as well as himself. Mr. Werner explained that about three weeks ago, he and Mr. Cook had announced that they did not go. [Laughter] Mr. Friendt reported that there had been about 8-10 people on the tour. They hiked for a couple of hours in different areas. He thought that the folks from State Game and Parks, (who really have the funding to do wetlands restoration), identified one area where they felt, preliminarily, that Game and Parks would give an okay on a wetlands rehabilitation funding. The other areas have, over time, filled in and over-grown. They're in the stages of transition - becoming non-wetlands. There are no salt marshes in the Wilderness Park area. It was noted that there are saline wetlands to the north, but they are not part of the Wilderness Park area of concern.

Mr. Cook asked if there were any saline wetlands outside of Wilderness Park that might be acquired someday, due to their rarity? Mr. Friendt indicated that had not been discussed, noting that they had been focused solely on Wilderness Park and the consultant's study. That study had been commissioned to have an expert go in and identify the approximately 15 areas of Wilderness Park that at one time had some wetlands characteristics, or had obviously been wetlands at one time. That was the focus of the tour.

Ms. McRoy asked if they planned on going back and restoring the areas that were drying up and make them wetlands again. Mr. Friendt indicated that he believed that was the next step...taking a look at what plans they might implement. The idea would be to create a wetlands area that would then become a living nature exhibit on what wetlands are and should be. We're looking at the funding and at what can be done.

OTHER MEETINGS REPORTS: - Ms. Seng reported briefly that the Building Commission had held their Public Hearing on the Budget. She passed out to each Council member a copy of the very appropriate opening statement that Mr. Larry Hudkins had made. She thought for the newer Council Members, especially, this would give a good idea of what the Building Commission is about.

Ms. Seng also reported that she had made copies for Council Members of a *New York Times* article on the "bottle thieves" - those unauthorized persons going into archeological dig areas and taking the artifacts from the privy sites which are prime locations for many items of archeological significance (such as bottles). Ms. Seng noted that Peter Bleed is quoted in the *Times* article.

Ms. McRoy reported that last Thursday, after the Beltway Meeting, about 8-9 folks from Omaha Business Improvement District and other downtown Omaha business groups, came to Lincoln and met with DLA. The Omaha group is interested in starting a B.I.D. on the Lincoln model. Ms. McRoy indicated that they had taken them on a Molly the Trolley Tour on Thursday morning and showed them the B.I.D. improvements in the downtown areas such as the Haymarket. She reported that Mr. Ed Zimmer of the Planning Department hosted the tour and gave some historical facts about the Haymarket and the Downtown area. They had lunch with Wells Fargo officials and Board Members and B.I.D.- property owners to give their pros and cons on the process.

Ms. McRoy felt it was noteworthy that Omaha is here looking at Lincoln's B.I.D. process. Ms. Ann Harrell added that prior to the tour, the DLA had some panel discussions with various people, including the City Attorney who has written the contracts, talking about the interplay between the City and the DLA on a variety of things and what roles everyone plays in that interaction.

Mr. Svoboda asked if Peter Katt was there. Ms. McRoy explained that he was not, but his position was discussed. She noted that she just felt it was neat to have Omaha coming down to seek Lincoln out as an example in this area. Mr. Friendt asked if Omaha had any innovative procedures in use regarding their downtown area. Ms. Harrell noted that they use T.I.F. more aggressively than Lincoln does. Ms. McRoy felt this back-and-forth exchange will be good for both communities.

Mr. Werner commented that these issues might be good topics for the Fall Retreat with the Omaha Council. Mr. Mark Bowen stated that the meeting is being scheduled for sometime in October. Mr. Bowen had asked about including the County Board and also the Public Building Commission. Omaha had responded that at this point, with five new Council Members, they would prefer not to do that, but just have the two Councils meet and not expand it at this point.

Ms. Seng stated that she did not believe that that is what was wanted. She explained that the County Commissioners of the two cities would be meeting in the morning; the Public Building Commission members at the noon-time meeting. Then have the two Councils meeting in the afternoon as usual. She did not believe that they wanted to expand the meeting format.

Mr. Bowen answered that in terms of all the groups meeting on the same day - that was not perceived as a feasibility of scheduling. But mid-October was when they wanted to schedule the meeting. It was noted that it was Omaha's turn to host the meeting this year.

**III. APPOINTMENTS/REAPPOINTMENTS** - None. Mr. Bowen stated that the Community Health Endowment appointments would be made this coming week. There will be three reappointments: Michelle Peterson, Molvina Carter and Mike Tavlin, with the new appointment of Carol Schacht. The fourth member who is not being reappointed is Marsha Lommel. Mr. Cook asked if she did not wish to be reappointed. Mr. Bowen stated that the Mayor's history has been to appoint two new ones each appointment round. This time the Mayor felt there were reasons to keep the current members. So, he reappointed three and dropped one.

**IV. MEETINGS/INVITATIONS** - Noted Without Significant Comment

**V. COUNCIL MEMBERS**

**JON CAMP** - No Further Comments

**JONATHAN COOK** - No Further Comments

**GLENN FRIENDT** - No Further Comments

**ANNETTE McROY** - No Further Comments

**COLEEN SENG** - No Further Comments

**KEN SVOBODA** - No Further Comments

**TERRY WERNER** - No Further Comments

**ANN HARRELL** - No Further Comments

**MARK BOWEN** - Mr. Bowen noted that Mr. Don Herz, Finance Director, was passing out to the Council Members the EMS Call Volume Data and the EMS Cash Receipts/Expenditure Data for the Fiscal Year to date. (Attached)

**DANA ROPER** - No Further Comments

**VI. REQUESTS OF COUNCIL FROM MAYOR** - None

**VII. MISCELLANEOUS**

1. Discussion on Council's procedures regarding Public input - especially duplicate testimony at Formal Public Hearing Session. - Mr. Cook asked if anyone had any comments on this issue. Mr. Svoboda asked if this was in regards to the Budget hearings or to our Public Hearing procedures in general. Mr. Cook thought the discussion should cover both.

Mr. Svoboda stated that if it is in regards to the Budget Hearings, we should look at it in the Retreat we do as a Council. We would want to look at it and see how it could be revamped, or tweaked a bit. One of his comments would be to just not allow an individual to stand up and speak on a per-Department basis within the budget, repeating the same things six and seven times, but reserve such presentations to a General Budget Comments designation. He explained that this had been his observation from going through the process only one time. He stated that he would defer to those who have been here for a number of years. If they think there is a process that has worked well in the past that is more streamlined and more efficient, then that's what we should be looking at.

Mr. Camp noted, tongue-in-check, that *no* testimony is *most* efficient. [Laughter] Mr. Werner stated that he agreed with Ken on this. He stated that he also thought that people should not be allowed to stand up and engage in name-calling. He felt the public did not have the right to stand at a public meeting and bash people in an inappropriate way. He felt Council had the right to require decorum and civility in public testimony.

Mr. Svoboda stated that he personally felt that was a part of the public process. Mr. Werner didn't think name-calling was ever appropriate and it should not be tolerated. He stated that we can disagree, but we need to be respectful.

Mr. Cook stated that he believed this might fit into the "appropriate measure of decorum" clause in the opening remarks. He was not sure what level of "decorum" can be enforced. Ms. McRoy stated that in earlier discussions Council had had on this issue of public testimony and comment, we discussed whether or not we should even allow it. Ms. McRoy stated that she saw it as a part of the public process, noting that if they want to question our intelligence on certain issues, that's their right. She also thought that when people go too far, they are endangering themselves with a libel suit. That's their risk that they take.

Several Council members weren't sure if public officials could sue. Mr. Bowen stated that someone would have to go quite a ways to be libelous for name calling. Mr. Friendt asked Mr. Roper if there was, from a constitutional standpoint, a way for us to determine the appropriate level of decorum. Mr. Roper stated that, if you're going to have public comment, you obviously get into a pretty `tough row to hoe' if you say "we're having public comment, but if we don't like your comments, then you must stop". That gets to be difficult if you're going to try to control the public input. The Chair has the ability to rule someone out of order for "redundant or scandalous" testimony. Mr. Roper felt it would have to be a fairly extreme situation under the rules we have now before you could sit somebody down.

Mr. Cook wondered how "scandalous" would be defined. Mr. Roper asked to be allowed to get the rules. Mr. Friendt asked Mr. Roper if Bob Valentine's tape....could Ms. McRoy have made a judgement call that that was out of line? Mr. Roper stated that she could have, but that would have been a border-line decision. He thought the rules would have to be announced ahead of time and clarify what we consider to be the proper level of decorum and that we're not going to accept personal attacks - then you have problems with definitions. Mr. Roper stated several examples of statements that would be hard to interpret.

Mr. Friendt assured Mr. Werner that he would like to be sure that folks who come before us use civility and good sense, but whether it's someone like Mr. Valentine, or someone who can come forward and hit five topics in his five minute time allotment, Mr. Friendt thought Council should be allowed to require speakers to focus on one subject or sit down. Mr. Roper indicated that clearly we could **not** do that.

Mr. Camp stated that his concern was the repetitive testimony, especially at the budget hearing; someone coming up on issue after issue. Perhaps that problem could be solved with the "general comments" portion, but even at the weekly meetings, he would like to see some limit imposed so we don't just have people coming up time after time. When you think of the cumulative hours that are consumed by that, with staff time and our time, it is substantial. And they aren't necessarily adding [information]. One thing Mr. Camp had seen in Jacksonville, Florida would be to get 10 minutes over-all or 5 minutes maximum on one issue. Even that is a long time.

Mr. Werner stated that we could put something in the statements that the Chair makes prior to the meeting, requesting, or making it a point, to keep testimony civil and avoid name calling and that type of thing. Mr. Werner felt it was totally inappropriate to have that going on in the public forum.

Mr. Friendt suggested that perhaps we could state that personal verbal statements are welcome, but sound effects and other mechanized forms of expression are not to be tolerated. Ms. McRoy asked if he would write that up. Mr. Cook mentioned that something like that might infringe on video presentations and felt we must keep that option open for everyone.

Mr. Werner and Mr. Friendt suggested that the incident with Mr. Valentine could open up a little flood-gate here with more "produced" responses presented. Mr. Roper read the City's rule on public hearing: "The City Council shall have the right to limit or exclude the presentation or testimony which is irrelevant, or redundant". Mr. Svoboda stated that left it pretty wide open.

Mr. Cook said that the Chair could suggest to someone who gets a little bit hot headed that they calm down and try to address the Council in a more respectful manner. This would not necessarily be saying that what they're saying or doing is not allowed, but that they need to watch themselves. Most people would take that as an indication to be more careful - unless things are really out of hand. He stated that there are two issues - the budget hearings and how we structure those. Clearly we need some adjustment there. Maybe at the Retreat would be the time to talk about that specific issue. It's not just about testimony from individuals, but also about what Council Members are expected to do during the beltway hearings and what kind of questioning should we have of individuals in the audience.

Regarding our weekly meetings - he felt that most people are presenting no more than 10 minutes per meeting. He noted that there are very few people who show up on item after item just to talk. He didn't know if Council felt something needs to be done right now regarding the regular meetings, or if we're "so-so" on that.

Ms. McRoy stated that when speaking of redundant testimony, she felt they would be hearing a lot of it today. There will be a lot of testimony on Kebredlos - on both sides. Ms. McRoy stated that she would err, and uses a great deal of restraint, on the side of freedom of speech. She believes in the freedom of speech, whether she likes a persons speech



or not. She stated that as Chair, she knew she could do more, but she truly believes in not limiting peoples testimony, because it then becomes an arbitrary judgement call. Mr. Werner asked if it wasn't arbitrary when you give somebody an extra few minutes and somebody else you don't give an extra few minutes? Mr. Camp agreed that that was definitely arbitrary.

Ms. McRoy stated that her experience is that [when asked for more testimony time] the Council has never said "no". Mr. Werner asked if Council was going to let [an attorney] give his same presentation again for twenty minutes today? Mr. Friendt stated that he would lobby to go the other way and say that "5 minutes is it" Plan on four and when five minutes is up - you're done. Mr. Cook asked if that would hold even when someone says "I'm representing 20 people and they're not going to speak today - I'm speaking for them - can I have eight minutes" Mr. Roper added that a person might also be addressing three or four items.

Mr. Cook stated that perhaps for today, since we expect some redundancy, the Chair should just request that people please try to present *new* information. Or, if they feel their comments have already been stated, but they feel compelled to come forward, just cite the point that has been made, and that they are echoing that point (or points) and not belabor their point.

Mr. Svoboda and Ms. McRoy agreed that the public has the right to come forward to express their views. Mr. Svoboda said that he did not want to be a part of a Council that says "we've heard it five times already, set down and shut up". Mr. Cook stated that the redundancy clause was specifically put into the Council rules to [inaudible]. Ms. McRoy stated that Council may have to hear the same arguments, but the public has the right to be here [to offer their input].

Mr. Svoboda stated that there is currently a concern for the process - that nobody goes out to vote, where we have such poor voting turn-outs; but then, when somebody wants to get involved in the public process, we're limiting that?

Mr. Friendt stated that he had a copy of a letter which he had sent to Mayor Wesely, not only regarding the budget process, but public hearings, about the fact that whether it's twenty on each side of Kabredlos, or ten at Olympic Heights vs. four - it really behooves us to keep focused on the 224,855 people who are out there counting on us to do the right thing who don't show up at the meetings. He stated that he sometimes struggles with it - you're here, you're in the moment, there are five people that are persuasive, or angry, or upset - but, they don't always represent the whole community.

## **VIII. MEETING DISMISSED - Approximately 1:05 p.m.**

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