

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, AUGUST 19, 2002 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Cook; Council Members: Camp, Friendt, McRoy, Seng, Svoboda, Werner. Joan Ross, City Clerk.

Council Chair asked all present to stand and recite the Pledge of Allegiance and reflect for a moment of silent meditation.

READING OF THE MINUTES

SENG Having been appointed to read the minutes of the City Council proceedings of August 12, 2002, reported having done so, found same correct.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

MAYOR'S AWARD OF EXCELLENCE FOR THE MONTH OF JULY

PRESENTED TO RUSSELL MURRAY OF PUBLIC WORKS/UTILITIES WASTEWATER DIVISION
IN THE CATEGORY OF PRODUCTIVITY AND CUSTOMER RELATIONS.

PUBLIC HEARING

APPLICATION OF PRAIRIE FARE INC., DBA "P.O. PEAR'S" FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN AREA MEASURING APPROXIMATELY 100' BY 50' IN THE PARKING LOT NORTH OF THE LICENSED PREMISES AT 322 S. 9TH STREET ON AUGUST 23, 2002 FROM 8:00 A.M. TO 1:00 A.M. - Bob Jergensen, 5444 W. Britton came forward to answer potential questions posed by the Council. Councilpersons Werner, McRoy and Svoboda took the opportunity to thank Mr. Jergensen for his time that he gives working on the Internal Liquor Committee and the Responsible Hospitality Council.

This matter was taken under advisement.

CHANGE OF ZONE 3368 - APPLICATION OF PIONEER WOODS, L.L.C. FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL TO O-3 OFFICE PARK ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF S. 70TH STREET AND PIONEERS BLVD.;
USE PERMIT NO. 144 - APPLICATION OF PIONEER WOODS, L.L.C. TO DEVELOP APPROXIMATELY 105,000 SQ. FT. OF OFFICE AREA, WITH A WAIVER OF DESIGN STANDARDS TO ALLOW SIGNS IN THE FRONT YARD, TO NOT SHOW SIGNS ON THE SITE PLAN, TO ADJUST SETBACKS WHERE LOTS ABUT THE OUTLOT, TO MODIFY THE SUBDIVISION REQUIREMENTS SO THAT FINAL PLATS MAY BE BASED UPON THE USE PERMIT AND TO REDUCE THE FRONT YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF S. 70TH STREET AND PIONEERS BLVD. (In connection w/02-130) - Mike Rierden, 645 M Street, Attorney representing Pioneers Woods, LLC came forward in favor of these items.

This matter was taken under advisement.

CHANGE OF ZONE 3369 - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SOUTHVIEW INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-4 RESIDENTIAL ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD;
SPECIAL PERMIT 1978 - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SOUTHVIEW, INC. TO DEVELOP STONE RIDGE APARTMENTS COMMUNITY UNIT PLAN FOR 120 MULTI-FAMILY UNITS AND ONE CLUBHOUSE, WITH A WAIVER OF THE DESIGN STANDARDS FOR STORMWATER DETENTION, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD. (In connection w/02-129) - DaNay Kalkowski, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, Attorney for Ridge Development Company and Southview, Inc., came forward requesting a Change of Zone to R-4 and a Special Permit for a CUP to permit the construction of a 120 units and a club house. The owners are requesting one waiver to the design standard that requires an outlet to be provided that will allow a detention pond to be completely drained. Everything to date has been worked out with the Planning Commission and approved with them. Councilman Werner asked several questions relating to schools in the area, sidewalks and trails for children's use to get to school. Ms. Kalkowski stated that as a part of this development, they would be putting sidewalks along their portion of 27th Street and Yankee Hill Road.

Nicole Fleck-Tooze of Public Works & Utilities came forward to

answer questions about the trails. She indicated that the north side of Yankee Hill Road is designated in the trails master plan for a trail and she was not sure what the timing is for the construction of such.

Councilman Werner asked if parks were going to be taken care of in this development.

Ray Hill, Planning Dept. came forward to answer questions and stated that the Parks Dept. was there for the review of the subdivision and community plan. In this general area there is planned just south of the Shopping area on the SW corner of 27th and Pine Lake Road that is a Folsom property and there is some negotiations going on between the school board and the city for a school site at that particular location and there may be some park associated with that.

Lynn Johnson, Parks & Recreation Director came forward to answer questions. He stated that Vavrina Meadows, which is immediately north and west of this area, there are two mini parks and we are trying a new concept there and also with the potential of a new elementary school in this area, we are working with the land owner to develop a park site there as well. The trail connection is intended to be on the North side of Yankee Hill Road and it would be directly adjacent to the roadway.

Councilman Werner asked if there will be nine acres of park in this area. Mr. Johnson stated it will depend on the negotiations and that one half mile away is Porter Park with is an eleven acre neighborhood park site that has frontage on 27th Street. Councilman Werner again questioned if the developers were going to set aside so much land or money given for the park process. Mr. Johnson explained that through the subdivision process that Parks Dept. has been able to request and negotiate with developers to get a donation of park land. The city has not been able to require it. These particular developers have not offered any park land.

Councilman Friendt asked Mr. Hill about the potential of twenty acres being developed and how much of the remainder of the section is developed. Mr. Hill responded that a majority of it except for the land immediately to the north and up to the Super Saver or about 78 acres are not developed.

Danny Walker, 427 E Street, came forward and talked about an article in the newspaper lately with trouble with detention ponds or cells that developers say they are going to put in and then they are not maintained. The developers become upset when the City Inspectors come on to the property to inspect these holding ponds or cells. He suggested that these developers be apprized that they will be subject to inspection.

Council Chair Cook noted that Planning Commission did add a condition that applicant, as owner of the property, recognizes that the design of the detention facilities could potentially result in additional maintenance issues and costs as the lot owners responsibility.

Ms. Kalkowski came forward for rebuttal and stated that as a CUP, we are required as an apartment area, that they are required to provide some recreational facilities on site. So there is a condition that the Planning Commission had that is a standard condition that we had to provide outdoor recreational facilities of a playground, swing and spring toys, ground surface, shaded seating areas for use along with the trails.

This matter was taken under advisement.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY AND THE STATE OF NEBRASKA DAS/STATE BUILDING DIVISION ON BEHALF OF HEALTH AND HUMAN SERVICES FOR A SUBLEASE OF SPACE AT 1010 N STREET TO PROVIDE JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT - Marc Wullschlager, Urban Development Director came forward in favor of the sublease agreement.

This matter was taken under advisement.

APPROVING A CONTRACT BETWEEN LINCOLN ELECTRIC SYSTEM AND MIDAMERICAN ENERGY COMPANY FOR PARTICIPATION IN THE COUNCIL BLUFFS NO. 4 COAL-FIRED POWER PLANT PROJECT AND AUTHORIZING LES TO SECURE LONG-TERM FINANCING FOR ITS INVESTMENT IN THIS PROJECT - Terry Bundy, CEO of Lincoln Electric System, came forward in favor of this project

This matter was taken under advisement.

APPROVING THE LABOR CONTRACT BETWEEN THE CITY OF LINCOLN AND THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES (NAGE) EFFECTIVE AUGUST 15, 2002 - Bob Valentine, 2660 Park Ave., came forward to ask how much this

contract will increase the city budget. Councilman Werner answered Mr. Valentine's question by explaining that the negotiations had resulted in a \$812,000 savings to help offset a deficit in the upcoming budget.

Georgia Glass, Personnel Director came forward to answer questions and stated that a 4% wage increase with the NAGE bargaining unit and that was in the neighborhood of \$800,000 and there was a delay for the increases of six months. So NAGE employees will not enjoy any wage increase, so they saved the city \$400,000. Additional concessions saved an additional \$400,000. Councilman Werner asked if two steps were added to the WAGE pay grid. Ms. Glass indicated that was correct and that 45% of the employees are at the top of their pay range and no longer eligible for merit increases.

Steve Hubka, City Budget Officer, came forward and stated he didn't have exact figures, but because of the step increases it will be a percent less from what it previously was, but it will be a savings the first year and in the coming years. He reported the savings in concessions of NAGE was \$818,000.

This matter was taken under advisement.

WAIVING DESIGN STANDARDS FOR STREET TREES AND SIDEWALKS ON Q STREET AND N. 36TH STREET, AND WAIVING STREET PAVING ON Q STREET, GENERALLY LOCATED AT N. 36TH AND Q STREETS - Gerald Spahn, representing his son and daughter-in-law, Tom & Cindy, came forward (own property at 36th & Q Street) that is presently subdivided with a line running east and west. If this could be divided north and south it would allow them to sell off the lot to the east on their property. The Lincoln Housing Authority approached the owners and wanted to use it for a high school building project.

Councilwoman Seng asked Ray Hill of Planning Dept. to come forward and discuss their decision. It is the Planning Departments recommendation that the waivers not be granted. Councilwoman McRoy asked if they could still subdivide. Mr. Hill explained that they had asked for an administrative subdivision and this would require them to pave all the abutting streets, install sidewalks and the street trees as well. This waiver is a method of relieving them of the standard requirements of the city.

This matter was taken under advisement.

SPECIAL PERMIT 1979 - APPLICATION OF CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY FOR AUTHORITY TO CONSTRUCT A 143' TALL BROADCAST TOWER TO ACCOMMODATE ANTENNAE FOR ITS PRIVATE MICROWAVE COMMUNICATIONS SYSTEM, WITH A WAIVER OF THE LANDSCAPE REQUIREMENTS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF NORTHWEST ROUNDHOUSE DRIVE AND WEST O STREET - Steve Clymer, Olsson Associates, and Bob Strommen, Burlington Northern Santa Fe, came forward in favor of this special permit.

Danny Walker, 427 E Street, came forward to correct the record that it should be known as the Burlington Northern Santa Fe Railroad.

Councilman McRoy asked about opposition to the lights in the railroad yard. Mr. Strommen stated that there are no lights on the proposed tower.

This matter was taken under advisement.

SPECIAL PERMIT 1980 - APPLICATION OF TERI ERNISSE FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON AND OFF THE PREMISES ON PROPERTY GENERALLY LOCATED AT 1400 SALTILLO ROAD - Terry and Teri Ernisse, 1029 M Street, came forward in favor of the special permit.

This matter was taken under advisement.

WAIVING DESIGN STANDARDS FOR A PARKING LOT AND DRIVEWAY ON PROPERTY GENERALLY LOCATED AT S.W. 12TH STREET AND ROKEBY ROAD - Dan Kubr, owner of Vantage Point Homes, came forward in favor of this item.

This matter was taken under advisement.

DIRECTING SUBMITTAL TO THE VOTERS OF A PROPOSED GENERAL OBLIGATION BOND ISSUE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,000,000.00 TO BE ALLOCATED FOR REPAIRS, RENOVATION, AND IMPROVEMENTS TO CERTAIN EXISTING PEDESTRIAN, BICYCLE AND OTHER NON-MOTOR VEHICLE SIDEWALKS, PATHS, AND TRAILS WITHIN THE CITY OF LINCOLN - Alan Abbott, Public Works & Utilities Director, came forward to explain this bond issue. He spoke about the complaints received on an annual basis about the condition of existing sidewalks. This bond issue would allow \$3,000,000 worth of funds to correct these situations over the next three years.

Lynn Johnson, Director of Parks & Recs, came forward to provide

information regarding the use of the trails. He shared statistics from the Sigma Group on how much the trails are being used. The bond issue is requesting \$1,000,000 for trails use to upgrade six sections of trails to meet current standards. Lincoln's Trail system has been ranked in the top 10 in the nation for communities of our size. Currently there are plans to develop about a mile of trail every year. A majority of those funds come from private donations and grants and a portion from city funding.

Councilwoman Seng asked if Mr. Johnson had looked up what the voting was the last time there was a bond issue on trails. She reported that it had passed overwhelmingly. Mr. Johnson stated it was one of the highest supported bond issues that the city had back in 1989.

Councilman Friendt asked if we were to budget each year enough money to keep maintenance up where it should be, what would it be for trails and what would it be for sidewalks? Mr. Johnson stated that for a 50 year cycle, we should be budgeting about \$100,000 per year. Mr. Abbott replied that \$250,000 has been budgeted, and we are about forty years behind in correcting our sidewalks. We would need to spend \$250,000 and \$500,000 each year to maintain the system, once it was in acceptable condition.

Councilman Werner asked if any city dollars would be used to campaign for this issue. Mr. Abbott and Mr. Johnson both agreed that no money would be spent to urge the passage of these issues.

Bob Valentine, 2660 Park Ave., came forward to discuss that until 1994 property owners were responsible for fixing their own sidewalks and then the City Council voted to make it something that everybody in Lincoln paid for everybody else to fix their sidewalks. It became an amendment to the City Charter to take care of the sidewalks, why didn't we? Council Chair Cook responded by saying we don't have enough money without raising taxes more. Mr. Valentine replied that we found approximately \$1 to \$1.5 million build a baseball field and \$1 to \$1.5 million for Public Works to move.

Councilman Svoboda asked Mr. Valentine if he felt it was the responsibility of the voters of Lincoln to either vote this year or nay. Mr. Valentine replied that he felt the baseball field was crammed down our throats. The function of government is to protect its citizens, to build roads and to educate the populous.

Craig Groat, 4935 Huntington Street, came forward and read from the City Charter regarding sidewalks and public ways. He indicated that the neighborhood associations need to be made aware of these particular laws.

Carol Brown, 2201 Elba Circle, came forward to share that she had broken a wrist while roller blading along Superior Street sidewalks, due to a bad sidewalk area. She is in favor of the people having a vote on this issue.

Nancy Loftis, 2534 A Street, came forward representing the Great Plains Trail Network and in support of the bond issue for the trails.

Clarice Bailey, 5500 "S" Street, came forward and stated she had called the Finance Dept. to find out how much we have currently on bond issues for the city. She was given the figure of \$52.2 million or nine bond issues. She said a lot of the senior citizens are feeling the crunch in this economic situation. She also asked if the city was getting any revenue from the ballpark. Council Chair Cook responded that the city receives sales tax on the Haymarket Park Ballfield.

Jon Carlson, 1445 S. 20th, Pres. of the Near South Neighborhood Assoc., came forward in favor of putting this issue on the ballot.

Dan Evans, 2744 S. 33rd Street, came forward to ask why the city took so long to make the repairs of the sidewalks. Councilwoman Seng stated that she sends requests through all the time to make repairs. She feels that they are being repaired, but we still don't have enough money.

Alan Abbott, Director of Public Works & Utilities came forward to answer Mr. Evans questions. He stated that in 1994 when the change was made there was already a big backlog of repairs needed. The city said we would rather charge everybody \$138.00 to pay for the repairs in front of a few places, than the individual who would have to pay \$480.00 for the same footage in comparison. So we inherited a backlog of several million dollars. We spend presently \$250,00 to \$300,000 per year and that is not going to catch up with the \$7,000,000 backlog.

Joe Hampton, 3418 Cape Charles Road West, came forward and stated that the voters felt strongly enough about the repair of sidewalks that they amended the charter and said it is the city's responsibility. He suggested the city needs a better business plan and to sort out the

proper use for bonds. Councilman Friendt stated that the reason why we are issuing bonds is to basically catch up.

Councilwoman McRoy asked Mr. Hampton if we were behind when he was on the City Council on sidewalks. Mr. Hampton said at that point in time it was the owner's responsibility.

Councilman Werner asked Mr. Hampton if the taxpayers wanted an increase or did they expect the funds to come out of general revenues?

Danny Walker, 427 E Street, came forward to say that this points to mismanagement of the City of Lincoln. He cited various projects that the city has put money into that would not have been necessary. He was in favor of this project being put on the ballot.

Councilwoman McRoy asked Lynn Johnson of Parks and Rec to clarify the funding for trails. Lynn Johnson came forward to explain that the Natural Resource District is in a partnership with the city.

Alan Abbott came back to the podium to clarify issues that the majority of money put in for the ballpark was for streets, bridges and sewer. The sewer was part of an overall plan, as well as the Charleston Street Bridge, for which the State of Nebraska advanced us bridge replacement money.

This matter was taken under advisement.

DIRECTING SUBMITTAL TO THE VOTERS OF A PROPOSED GENERAL OBLIGATION BOND ISSUE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$8,000,000.00 TO BE USED FOR TWO FIRE STATIONS, MODIFICATION AND REPAIR OF EXISTING FIRE STATIONS, AND PURCHASE OF EQUIPMENT - Mike Spadt, Fire Chief, came forward to explain the bond issue that will help the Fire Dept. with additional coverage for the north and south part of Lincoln. Also on the bond are AVL's (Automatic Vehicle Locators), upgrade of hand-held radio system, improvement of educational training and maintenance facility, station modifications, heavy rescue equipment, replacement of two aerial pumpers, breathing air cascade systems and two water tankers to serve areas of the community that don't have sustained water systems or infrastructures.

Councilwoman McRoy asked Chief Spadt to detail the time lines that are ahead. Chief Spadt indicated that it would be phased in over a 5 - 6 year period. The locations of the new stations would be at North 27th Street and I-80 and 56th Street between Pine Lake Road and Yankee Hill Road.

Councilman Svoboda questioned Chief Spadt about putting the AVL's on the bond issue. He indicated that he would be interested in seeing a breakdown of the itemized list. Chief Spadt responded that the AVL's deal with the safety component through this technology.

Councilman Werner asked if any public funds would be used to promote the passage of this bond issue. Chief Spadt answered in the negative.

Councilman Camp asked Chief Spadt for the dollar figure for the radios and the AVL's. Chief Spadt indicated it would be \$412,000 for 165 radios and this got held up before because of lack of coordination between three entities, Fire Communications and Public Works. Now all three entities are on board for the AVL's. Chief Spadt stated that the remote technology is needed to assist so we can identify where emergency vehicles are, so we can afford to the citizens of our community, the closest emergency vehicle available, and thus shorten the response time to the public's emergencies.

Councilman Friendt asked how we could have a full comprehensive discussion about this bond issues without things getting negative. Chief Spadt explained it was his responsibility to educate the community about what we have and what we don't have and what is required of insurance service offices, the National Fire Protection Association and what the community is comfortable with respect to response times and requirements. Chief Spadt explained that the ongoing cost of personnel or staffing costs for these fire stations that we are proposing is a \$3,000,000 addition to the fire department's tax fund supported budget.

Mark Munger, 3423 M Street, President of the Lincoln Firefighter's Association Local 644, came forward in support of the bond issue. He stated that currently the fire force does not have enough radios to go around. Another item that he mentioned was a sustainable water supply, due to the lack of tanker trucks. He requested the Council's support of this bond issue.

Councilman Svoboda indicated he would support a \$412,000 line item budget expenditure to pay for the radio equipment and it would be a small price to pay for the safety of our firemen.

Councilman Werner asked for explanation of this matter.

Don Herz, Finance Director, came forward to explain that once we

look at how to structure the bond issue, it is possible that the equipment part could be placed on a shorter term, perhaps ten year term and all of the real estate portion and equipment that last twenty years on a 20 year cycle.

Bob Valentine, 2660 Park Ave., came forward and noted that he was surprised to find out we needed more fire stations. He suggested audits may be necessary to find out the needs in certain areas. How much of the ambulance service is paid for out of the Fire Dept. budgets? No one has a clear picture of what the costs have been for the take over of the ambulance service and the elimination of eighty private sector jobs. He noted his understanding was that we would have an independent audit at the end of this month. Hopefully those results of that audit will be understandable. Councilman Cook suggested Mr. Valentine speak to Mr. Steve Hubka, the budget officer if he had further questions.

Councilman Werner added that he appreciated that fact that Mr. Valentine did come up and ask questions.

Chief Spadt responded that the agencies that direct the Fire Dept. as to a model as to how a community should look for fire protection and the radius each component of that should be able to respond to on a time component. The Department has a recommendation paper from them as to how we should build for the future for our community and how it is growing. He stated that for your own insurance rates based on your homes, we should add two additional fire stations, one in the north and one in the south and each to be staffed one with a ladder company and engine company. They also suggest that the department add 50 FTE's in addition to the staff that is present today. Otherwise you have a negative impact on insurance rates for both businesses and homes. NFPA 1720, which is the National Fire Protection Association's recommendation on staffing levels and response times. The Department tries to adhere to these standards. And the ISO sends an independent agent in to evaluate your department and our accreditation people have reviewed our department and we have been re-accredited and they suggested in their statement paper that we need additional resources, both physical sites and staffing.

Councilman Camp stated he had not seen the recommendations. He questioned if it was really necessary to meet these required suggestions. Chief Spadt responded that by the City Charter he is required to serve and protect the public. The growth has been great both in the north and south areas and the response times are too long and we have not kept pace with the growth of the community.

Councilwoman Seng thanked Chief Spadt for bringing this bond issue forward. She spoke of a recent opportunity where she was able to ride along with the Fire Dept. and she noted that she was pleased with the protection she had living in the area where she is because of overlapping protection. She stated it made her aware of the need in those areas. As Council members it is our obligation to provide for the health and safety of the community. I will be encouraging people to get out and vote and I will vote to put it on the ballot.

Terry Ernisse, 1029 M Street, came forward in support of the bond issue being put on the November ballot.

Richard Meginnis, 238 So. 13th Street, representing the Lincoln Independent Business Association, came forward to request a delay on this matter and suggested that we need further discussions on this.

Councilwoman McRoy stated that she was in agreement that this topic be debated by the public. She asked Mr. Meginnis if his organization would be sponsoring a debate/forum and invite Chief Spadt and Alan Abbott to come and visit with his membership.

Councilman Werner asked Mr. Meginnis if he agreed that there may need to be a line item or a mill levy increase to pay for the ongoing operation. Mr. Meginnis said he did agree with that fact.

Chief Spadt responded to questions about the SE Rural Fire District. He acknowledged that this district is within the city limits and they respond to their districts in the rural setting and that the Lincoln Fire Dept. works hand in hand with this district in training and education.

Danny Walker, 427 E Street, came forward to comment that with the growth of the city, increasing fire protection and police is the price that we will have to pay accordingly. He did question if there would be a loss of jobs in the rural fire districts and if the Fire Department purchases the land or if the city purchases the land. He also suggested that new police substations within the fire stations would be a plus to the community as well. Chief Spadt indicated he had no intention of displacing any jobs as a result of this. We try to strive toward

interfacing with this district. There is money in the Capital Improvements Fund and it would be the responsibility of the city through the bond issue to acquire this land.

Councilman Svoboda asked for the rationale for this being on the November ballot rather than the May ballot. Chief Spadt stated this has been in the Fire Department's CIP since 1983 and we need the resources and delaying this just delays getting the project started. Chief Spadt also indicated that he would be willing to come out to the LIBA group to discuss this bond issue.

Council Chair Cook apologized to Chief Spadt for not allowing him to do the power point presentation at the formal Council meeting since it was presented in the pre-council this a.m.

4:05 P.M. COUNCIL BREAK

4:20 P.M. COUNCIL RECONVENED

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 113.05 ACRES OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (IN CONNECTION W/02-111, 02R-147, 02R-148) (7/22/02 - P.H. & ACTION DELAYED 1 WK TO 7/29/02) (7/29/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED 2 WKS TO 8/19/02);

CHANGE OF ZONE 3355 - APPLICATION OF PRAIRIE HOMES BUILDERS, INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (IN CONNECTION 2/02-110, 02R-147, 02R-148) (7/22/02 - P.H. & ACTION DELAYED 1 WK TO 7/29/02) (7/29/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED 2 WKS TO 8/19/02);

SPECIAL PERMIT 1959 - APPLICATION OF PRAIRIE HOMES BUILDERS, INC. TO DEVELOP PRAIRIE VILLAGE COMMUNITY UNIT PLAN CONSISTING OF 174 SINGLE FAMILY AND 300 MULTI-FAMILY DWELLING UNITS, WITH A WAIVER OF THE BUILDING HEIGHT, ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (IN CONNECTION W/02R-148, 02R-154, 02-110, 02-111) (7/22/02 - P.H. & ACTION DELAYED 1 WK TO 7/29/02) (7/29/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED 2 WKS TO 8/19/02);

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF PRAIRIE VILLAGE ADDITION FOR 179 LOTS, WITH WAIVERS OF NON-RADIAL LOT LINES, SEWER DEPTH AND DOUBLE FRONTAGE LOTS ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (IN CONNECTION W/02R-147, 02R-154, 02-110, 02-111) (7/22/02 - P.H. & ACTION DELAYED 1 WK TO 7/29/02) (7/29/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED 2 WKS TO 8/19/02);

APPROVING THE PRAIRIE VILLAGE CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND PRAIRIE HOMES BUILDERS, INC. RELATING TO THE ANNEXATION OF APPROXIMATELY 113.05 ACRES OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREET. (IN CONNECTION W/02-110, 02-111, 02R-147, 02R-148) (7/2/9/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED TWO WKS TO 8/19/02) - Mark Hunzeker, 530 S. 13th St., Suite B:, Attorney representing Prairie Home Builders, came forward and stated this property was designated as Phase III in the 1994 Comp Plan, which is a designation which was reserved for land that was lacking most infrastructure required to support development. Now this project is in an area that had a trunk sewer line built through it more than five years ago that has 84th Street abutting it, that has Adams Street with new County asphalt paving abutting it, that has water available to it and which has property that was originally in Phase IV within 1,000 feet of it, that has been approved for development in this past year or two. So we didn't really think that Phase III was an appropriate designation, plus the fact that the Comprehensive Plan process which you finished up in March was well along by then and no one had suggested anything but, Tier I, Priority I for this particular site. So to suggest that we are premature in bringing this project forward seems to me a bit disingenuous. The property on the west side of 84th Street which was facilitated by the construction of the trunk sewer line has been going on now for over five years. The development of this property should have been fairly obvious to someone who was concerned about planning for the construction of public infrastructure. Having said that we have had a number of different issues that have come up and I think I passed out a handout to you at the last public hearing indicating that the infrastructure improvements in Adams Street and 84th Street have all been the subject of negotiation as we came forward with this project and the property owners within this project have agreed to contribute to the cost of not only temporary improvements in Adams Street, but also the permanent

improvements in Adams Street without even so much as getting credit for the temporary improvements against their obligation for the improvement of Adams Street on a permanent basis. We are down to and have still only one issue left to be resolved, which we have asked you to resolve. Leighton Avenue is a gravel road. Leighton Avenue is designated in the Comp Plan as a future collector, now that we are dealing with the new Comprehensive Plan, of course it wasn't designated in the old plan, but we now are dealing with it as a collector and we are being asked to contribute right of way, which exceeds a standard 60' needed for a public local street to extend that to 72' for a collector street, which we are willing to do. We were asked to pay for improvements in Leighton, which we are willing to pay half of the improvements to Leighton, to the extent of a local street as is generally the case with collector streets. We said to the City if you want us to have that paved as a condition of being able to plat lots along Leighton, you must be willing to create a district, because we don't control the land on the other side of the street. I said okay we will create a district, but you, Prairie Homes, have to pay the entire cost of the excess width of the collector street over and above a local street. We don't think that is fair. The property on the south side of Leighton is designated as commercial. Our property is all residential as it abuts Leighton. The property on the west side of 84th Street is commercial. Again our property is all residential. We have agreed to pay 25% of the cost of a signal at Leighton and 84th Street, which we think is probably generous given the traffic we generate as opposed to the commercial, but they are asking for our project to pay for all of the additional costs of widening that intersection at Adams and Leighton to meet up with the cross section on the west side of the commercial cross section by the way, and to address the additional widening for the collector size of Leighton as it abuts our property. We think that is excessive, we think it is unfair and we would like you to amend the agreement. I suggested to you in the motion to amend that was passed around last week. I assume that you have still copies of that amendment. So the purpose here as far as we are concerned is to say to you, we have put a lot of effort into working with the City to reach almost an agreement that is to say the least very generous on the part of this developer, but also to say we think that if you do not want to amend this agreement, we want to make sure that this record of this hearing shows clearly that we think that notwithstanding any terms of the agreement to the contrary, it is the position of my client that the agreement to the extent that it says that it is voluntary, that is it fair and that it reflects the rational nexus between this project and the improvements that it requires is or will be entered into only as a condition of approval and not because we think it is an appropriate or fair provision. Now I will give you a copy of what that says so you have it and I think it pretty well speaks for itself but basically the provision in the agreement says that the City has a legitimate interest in the public health safety and welfare, which of course is true and that they have made an individualized determination and agree that those conditions are related both in nature and extent and are in rough proportionality to the projected adverse impacts of full development of this property under the change of zone and we think that overstates the point significantly and we are willing and will if you decide to ignore our request for an amendment, we will sign that document, but we want to make sure that we are saying on the record and for the future, that this is not entered into voluntarily and that we are doing so only as a condition of approval and we think it is an unfair condition and we would still request that you amend it to make this a fair agreement.

Councilman Camp stated that Mr. Hunzeker was making reference to the impact fees. Mr. Hunzeker said he did not make reference to impact fees. Paragraph 22, the fair share paragraph, basically says that this agreement reflects an individualized determination and we agree that the conditions placed on the owners under this agreement including the obligation to pay future impact fees which are part of this agreement as well. In the event impact fees are enacted, we were forced to agree that we would abide by whatever ordinances approved subject to getting credit for payment of what is being required under this agreement. But this is an individualized determination and the costs that are imposed here are related both in nature and extent to the project and we think that at least to the extent of this particular item and frankly, to the extent of other items as well. If we are required to sign it without it being amended, that it is unfair and it does not reflect such a determination and is probably well beyond the city's authority to require.

Rick Onnen, 7924 Colby Street, came forward stating he has several ties to this project. First of all, I am the engineer and second of all I am member of Faith Lutheran Church, which owns property within the development and thirdly, I am a resident of Northern Lights, just across the street, so this affects me quite a bit. I am here in favor of the annexation as this would provide water and wastewater service to this location. However, the plans the city has in store for the church paying for the paving of the streets, approx. \$250,000, had not been projected by the church for costs involved in their building project.

Councilwoman Seng asked if he was speaking to Adams Street. I thought the question was in regard to Leighton Street. Mr. Onnen replied the request was for Leighton, we just want the Council to know what impacts this project is having on our church and school.

Councilwoman Seng replied it is a beautiful site, a beautiful building and we are sorry to have you move out of where you have been, but it opened up other avenues to other folks. I understand what you are going through. I think there are some rules and regulations that probably people were not really aware of at the beginning and this is tough.

Councilman Friendt asked Mr. Onnen from his perspective in other projects, do these requests seem unique? Mr. Onnen replied that the climate at Public Works has changed remarkably in the last year. I think about a year ago is when they made the change to this new cross section and for the arterials. He commended the Public Works Dept. for trying to find a cross section that works for the future and not some temporary patch that you have to put in and tear out.

Councilman Camp remarked he would appreciate Mr. Onnen's input to help facilitate some of the discussions between the City and the property owners and developers.

Rev. Mark Hanneman, Pastor of Faith Lutheran Church at 6345 Madison Street, came forward to explain that the annexation has not worked in the favor of the church. The church would have to spend a considerable amount of money to create a water treatment system at our location if we are not able to hook up to city water and sewer systems. The church is willing to pay their fair share for the infrastructure, but they object to paying what seems like an excessive cost for the suburban section at 84th and Adams and they question if that extensive of a street improvement is really necessary. \$184,000.00 would be their share. They have signed the agreement, so they want to see things move forward.

Nicole Fleck-Tooze, Public Works and Utilities, came forward to answer questions about Leighton Street. It basically comes down to a policy decision, trying to remind you that we are talking about limited dollars we have available for street construction and our desire to focus those on the arterial street system. We do see a nexus between the improvements we are asking to Leighton Street beyond a local street, those being basically that third lane provides for the turning movements necessary to turn in at 87th street and the left turn at 84th street. Councilwoman Seng asked how much money? Ms. Fleck-Tooze stated she would have to pull out the figures to see how much the city is agreeing to move forward to annex enough of the southern property south of Leighton Street to allow for an assessment district so that the local street improvements on Leighton would be divided and shared between the property owners to the north and the south and then we are asking for the developer to pay for any costs beyond the costs of a local street on Leighton, which would basically bring it up to collector level, a \$40,000.00 difference.

Councilman Friendt asked if that enhancement be solely borne by this development? Ms. Fleck-Tooze responded that the way that the agreement is currently drafted, any enhancements to Leighton beyond the local street costs will be borne solely by the developer.

Councilman Camp asked what if we waited until the Southern portion develops? Ms. Fleck-Tooze replied, once a subdivision is approved, there is time allowed before the improvements have to be in place and for streets it is two years.

Councilman Camp asked if we could use a process similar to what had been done with Bryan LGH where they put in escrow the amount they are willing to pay, and then when any other development comes along, at that point make an assessment and have the completion.

Ray Hill, Planning Dept. came forward, stating he believed one reason we are talking about doing the improvements now is that we think it is unfair for those residents that move into the area to all of a sudden have their road torn up. What we are trying to do is get ahead of the program, which I think is what the Council is wanting to do and

get the improvements in place before development occurs.

Councilwoman Seng asked what the ability to recoup that from the development on the South or not? Ms. Fleck-Tooze replied the way the agreement is laid out right now, the City would provide for the annexation of enough of the development to the South to allow for an assessment district to be created, but the property to the South would only be able to be assessed for one-half the cost of a local street. Councilwoman Seng asked are we are asking one-half plus overage, is that right? And that is where the \$40,000 comes in?

Dana Roper, City Attorney, came forward and stated that Mr. Hunzeker is telling you is that we really don't have an agreement. He is saying that you are twisting my arm to get us to pay this and I want the ability to sue you for this improvement at a later point in time and so we want to make a good record that we are paying this under protest so that if you do annex excess, we can come back and sue you for this additional cost at a later point in time. I think you should consider whether you really want to annex them. You may be annexing them, buying a law suit, and if he is right, having to refund some of the money for this improvement.

Councilman Werner asked Ms. Fleck-Tooze if we pass this amendment, Mr. Hunzeker has asked us to pass, for them, they are willing to pay their half of the overage and who would pay the other half? Ms. Fleck-Tooze responded that it would be he City, the way this is laid out, they would pay for one-half of the costs of a local street, presumably the development or the property to the south would be assessed for the other half of the cost of a local street. The City would pick up the cost for anything above the local street construction costs. Councilman Werner asked if they were willing to pay half of that cost with this amendment. Ms. Fleck-Tooze stated this amendment is proposing that they only pay one-half of the cost of the local street. Councilman Werner: I don't understand why the property to the south share in that cost. Ms. Fleck-Tooze stated we have some previous court cases that say we are not allowed to assess for the costs of anything greater than a local street. Councilman Werner asked how it is zoned now? Ms. Fleck-Tooze answered that it was just AG right now. Councilman Werner queried why Mr. Hunzeker said it was commercial. Ms. Fleck-Tooze replied that he was referring to the land use plan where it is designated for commercial use, but it doesn't have any zoning or any development proposals at this time. Councilman Werner asked if we could change the zoning?

Ray Hill, Planning Dept. came forward to answer questions and stated, you could if you had an application before you, but there isn't an application before you at this time. It would have to come back through the Planning Commission. Councilman Werner asked if it could be changed based upon the comprehensive plan? Mr. Hill replied that it can, but you need an application before you to act upon. Ms. Fleck-Tooze added that it could be proposed, but it has to go through the process.

Councilman Friendt asked about the the amended version, vs. the annexation agreement that public works is recommending; would there be a difference in timing of starting and completing the road improvements based on money on either of these? Ms. Fleck-Tooze stated she didn't see any difference.

Councilman Camp asked if we annex as Dana was suggesting, what does that do to the church in this situation? Ms. Fleck-Tooze replied they would not receive any city services if they are not annexed.

Councilwoman Seng suggested if we did not annex it, they would have to pay for everything themselves out there and I think they indicated how expensive that is going to be and really difficult on them. Do you have any idea how much that is in comparison to paying \$40,000? Ms. Fleck-Tooze responded, I couldn't tell you, I could find out and let you know. I don't have that cost comparison in front of me. Councilwoman Seng surmised it would be a great deal more if they had to put in their own water system and their own wastewater.

Council Chair Cook commented that if we did not annex, we would not pass any of the other items either. Ms. Fleck-Tooze was affirmative with that statement. Council Chair Cook stated you can't assess for the additional width, but you can assess for the standard local street width and somebody just has to pay for the remainder over and above what the assessment district would provide. Ms. Fleck-Tooze agreed. Council Chair Cook surmised you are asking them to pay for the entire additional width, from their side and there is no way to and once you have annexed on the other side of the street to make them available for this assessment district, we can never in the future, through an annexation agreement make them pay some portion and we are done at this point.

Ms. Fleck-Tooze affirmed that statement. Council Chair Cook asked if you didn't annex the other side of the street, what would happen? Ms. Fleck-Tooze indicated we wouldn't be able to assess them for half the cost of the local street. Council Chair Cook followed with this question, asking if through this annexation agreement, the applicant could be asked for half the cost of a local street and also half the cost of the additional width for a collector, thus they would pay half the cost of a collector street? Ms. Fleck-Tooze replied, we could have asked for that certainly. What our position was that the improvements that would be provided by this additional third land are really improvements that are required and needed for this development. Certainly they would accommodate additional traffic in the future, but they are really also required to provide safe turning lanes.

Council Chair Cook asked in the mean time how would the street be constructed? We pay for part of it and they would pay for half. Ms. Fleck-Tooze indicated that it would depend on the timing. I don't know that after it is constructed we would be able to come back and ask a future development to the south to pay. If this development comes forward and we move forward on this time frame with the construction and the city picks up those additional costs, I don't know that we have any ability to ask for those costs to be paid by the development to the south if it comes forward in the future.

Mr. Hunzeker came forward for rebuttal. Dana indicated to you that he thought that I was simply setting you up for a lawsuit and I think that vastly overstates this. I want to tell you that if I intend to sue you, I'll tell you, but I am not going to stand up here and threaten you, but if at some point you take action which requires that kind of action, we will also let you know that. This is simple a matter of the city utilizing excessive leverage in a situation where we have little or no control over the need to be annexed and as Nicole said, sure you could have asked for this or that or the other thing, hell you could have asked to have us to contribute to paving widening O Street. We wouldn't have had much that we could have said about it other than to come here and say this. You've got an annexation agreement in front of us that my client will sign regardless of which alternative you choose today, whether you amend this to be fair or not. We don't have a choice. This is a situation where this developer and two other land owners, people by the names of Wells, who are not here this evening, and the church, have been basically told you need to be annexed, we are not going to allow you to plat lots along Leighton Avenue until Leighton Avenue is paved and because you don't own land on both sides, maybe we will create a district. There is not even an absolute commitment on the city's part to create the district, but if we do, you have to pay in addition to that, which we can lawfully assess all of the additional cost of creating a collector street even though collector streets are by definition, streets which serve more than just the local traffic. It has to have a three lane cross section at 84th Street in order to match up with the commercial traffic on the west side of 84th Street. So yeah, if you want to leave it as gravel, we are perfectly content to plat lots over there with a gravel street on Adams until such time as the City wants to create an assessment district, but by definition, with no benefit to the property owners on both sides of that additional paving, that is why they are saying we have to pay it.

Council Chair Cook: You said Adams, did you mean Leighton?

Mr. Hunzeker: I meant Leighton. We are getting confused. I mean there is, the leverage on Adams was also excessive and we are simply down to the point where we think this is really one too much and it is unfair. I am asking you to change it. A \$40,000.00 item, we arrived at that number by simply using the city's own number of \$5.00 a square foot for streets, multiplying 6' x a quarter of a mile of frontage.

Councilman Friendt: Mark I will ask you the same question I asked the engineer and that is you have been involved in a lot of development and a lot of annexations, I hear you saying that this is above and beyond the kind of extractions that you have experienced with other similar types of developments. Is that accurate?

Mr. Hunzeker: I will give you basically the same answer that Rick did and that is that this process has changed a lot over the past year. The position of the City has hardened if you will, to the point of saying if you want to be annexed, if you want city services, if you want to be allowed to develop, you will do and pay the entire cost of abutting arterial streets and because we are not abutting an arterial on Leighton, apparently they ordered us to pay our half because they thought they could do a district, but also wanted a non-assessable portion. And that is the language that is in the agreement is that we

will pay all of the non-assessable attributed to the extra paving width and any costs associated with the achievement of proper alignment on Leighton through the 84th street intersection. I mean that is the way it is worded even. So yeah, I think this is going considerably beyond what has historically been regarded as fair and I think that it has been extraordinarily difficult to get here because we have tried to contribute to those costs on the same basis as we have historically done.

Councilwoman Seng asked how far east Leighton goes past this development? Mr. Hunzeker: Not very far. Councilwoman Seng indicated she believed it stopped at about 98th Street. Mr. Hunzeker replied that for that reason to us, the concept of calling Leighton a collector street is somewhat suspect. The traffic coming from the east certainly doesn't require a left turn lane going from west to east into our property, because there just isn't much traffic there. There is a handful of acreages to the east of this property that probably generate 50 cars a day. There just isn't much out there and there won't be even in the new comprehensive plan. The new Comprehensive Plan Tier I, I have a map if you want to look at it, but the First Tier doesn't go very far east, so there won't be much in the way of additional urban growth to the east of this project. It is getting late and I don't want to continue and over burden you.

Councilwoman Seng asked Mr. Hunzeker what happens to Leighton Street after 98th and what is beyond that point? Mr. Hunzeker indicated it just T's into 98th Street and Stevens Creek is beyond, which would require a bridge.

Councilman Camp asked Mr. Hunzeker what it would it take to enact something that would not access you the \$40,000? Mr. Hunzeker replied to just adopt this amendment, change the agreement.

Ray Hill: Back on the discussion about Leighton Street, the fact that it is a collector street. Most collector streets do not exceed 1 ½ mile in length, so the fact that it only goes to 98th Street is actually longer than most collector streets, because we usually view collector streets as collecting traffic from within a square mile and so in that case at most time they do not exceed ½ mile in length.

Council Chair Cook: I was thinking that, some in older parts of town like D Street may go all the way across, but there are other newer developments that tend to be squiggly and those certainly don't. I have a question for Mr. Hunzeker. Would you be willing to discuss paying half of the cost to make this a collector width street, \$20,000 approximately.

Mr. Hunzeker: It seems to me we have been cutting the dog's tail off an inch at a time for quite a while here and it just seems to me that we ought to be able to reach a sensible agreement that the city has, as a city, some responsibility for oversized streets and this project is not causing a need for this collector to be built in its configuration as it is proposed.

Council Chair Cook: But that's the question because if in fact we were able to assess for the entire width, that's the way it would come out.

Mr. Hunzeker: If you were and frankly we would not object to an assessment like that if that's the way the city wanted to try and do it. I mean the fact of the matter is the property on the south side is going to be commercial, which does have as a standard a 32', 33' roadway. It seems to me that there would be a possibility that that could be assessed against the south side, but I'm not going to give an opinion on that. That is Dana's job.

Councilman Werner: Nicole if we pass this amendment, is there any chance that this would not be built as a collector? Because it will be built as a collector, it is just a matter of who pays that \$40,000. Because the last thing we want to do is have the south side be a commercial development and we tear something up that we just did and redo it.

Nicole: This is only discussion about who pays. There will be a collector.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

Craig Groat, 4935 Huntington Street, came forward to discuss Impact Fees.

This matter was taken under advisement.

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

COUNCIL ACTION

LIQUOR RESOLUTIONS

APPLICATION OF PRAIRIE FARE INC., DBA "P.O. PEAR'S" FOR A SPECIAL DESIGNATED LIQUOR LICENSE COVERING AN AREA MEASURING APPROXIMATELY 100' BY 50' IN THE PARKING LOT NORTH OF THE LICENSED PREMISES AT 322 S. 9TH STREET ON AUGUST 23, 2002 FROM 8:00 A.M. TO 1:00 A.M. - CLERK read a resolution, introduced by Jon Camp, who moved its adoption for approval:

A-81639A 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 Prairie Fare Inc. d/b/a "P.O. Pears" for a Special Designated License to cover an area measuring 100 feet by 50 feet in the parking lot at 322 South 9th Street, Lincoln, Nebraska, on the 23rd day of August, 2002, between the hours of 8:00 a.m. and 1:00 a.m., be approved with the condition that the premise complies in every respect with all City and State regulations.

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

Introduced by Jon Camp

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

ORDINANCES - 2ND READING

CHANGE OF ZONE 3368 - APPLICATION OF PIONEER WOODS, L.L.C. FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL TO O-3 OFFICE PARK ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF S. 70TH STREET AND PIONEERS BLVD. (In connection w/02R-170) - CLERK read an ordinance, introduced by Annette McRoy, for a Change of Zone 3368 - Application of Pioneer Woods, L.L.C. for a change of Zone from R-3 Residential to O-3 Office Park on property generally located at the Northeast Corner of S. 70th Street and Pioneers Blvd., the second time.

CHANGE OF ZONE 3369 - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SOUTHVIEW INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-4 RESIDENTIAL ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD. (In connection w/02R-169) - CLERK read an ordinance, introduced by Annette McRoy, for a Change of Zone 3369 - Application of Ridge Development Company and Southview Inc. for a change of zone from AG Agricultural to R-4 Residential on property generally located at northwest of the intersection of South 27th Street and Yankee Hill Road, the second time.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY AND THE STATE OF NEBRASKA DAS/STATE BUILDING DIVISION ON BEHALF OF HEALTH AND HUMAN SERVICES FOR A SUBLEASE OF SPACE AT 1010 N STREET TO PROVIDE JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT - CLERK read an ordinance, introduced by Annette McRoy, approving a sublease agreement between the City and the State of Nebraska DAS/State Building Division on behalf of Health and Human Services for a sublease of space at 1010 N Street to provide job training and employment services under the Workforce Investment Act, the second time.

RESOLUTIONS

APPROVING A CONTRACT BETWEEN LINCOLN ELECTRIC SYSTEM AND MIDAMERICAN ENERGY COMPANY FOR PARTICIPATION IN THE COUNCIL BLUFFS NO. 4 COAL-FIRED POWER PLANT PROJECT AND AUTHORIZING LES TO SECURE LONG-TERM FINANCING FOR ITS INVESTMENT IN THIS PROJECT - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81640 A RESOLUTION approving the contract between Lincoln Electric

System (LES) and MidAmerican Energy Company (MEC) regarding LES' joint ownership in the MidAmerican Energy coal-fired power plant known as Council Bluffs No. 4 in an amount up to a nominal 100 megawatts and authorizing LES to secure long-term financing for its investment in this project.

WHEREAS, LES as part of its ongoing responsibility to review and assess anticipated power supply needs for the future, has analyzed anticipated power supply resource needs and alternatives for meeting those needs; and

WHEREAS, LES' integrated resource planning process has evaluated a broad range of traditional, renewable, and demand-side resources and identified a regional base load resource as the low-cost option that would best fulfill LES' needs; and

WHEREAS, the addition of a base load resource is considered necessary due to the delay and cancellation of the Iatan power plant in which the LES Administrative Board had previously approved LES' participation; and

WHEREAS, MidAmerican Energy Company (MEC) is proposing to construct a 750 megawatt coal-fired base load power plant known as Council Bluffs No. 4, which is a project that would fit LES' needs and criteria and would serve to replace the Iatan project in LES' power supply plans; and

WHEREAS, Council Bluffs No. 4 is anticipated to begin commercial operation in May 2007; and

WHEREAS, the LES Administrative Board had approved a commitment of up to a nominal 100 megawatts in Council Bluffs No. 4; and

WHEREAS, the Nebraska Power Review Board entered an Order on July 11, 2002, approving LES' application for up to a nominal 100 megawatt participation in Council Bluffs No. 4; and

WHEREAS, LES anticipates the issuance of long-term bonds to finance its participation in the Council Bluffs No. 4 power plant; and

WHEREAS, Section 4.24.070(d)(2) of the Lincoln Municipal Code requires City Council approval of contracts LES seeks to enter that require the issuance of bonds, notes, or other forms of similar long-term borrowings.

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

That the contract between Lincoln Electric System and MidAmerican Energy Company containing substantially the same substantive content as that contained in the copy which is attached regarding LES' joint ownership in the MidAmerican Energy coal-fired power plant known as Council Bluffs No. 4 in an amount up to a nominal 100 megawatts is approved and the LES is authorized to secure long-term financing for its investment in this project.

The City Clerk is directed to transmit one fully executed copy of this Resolution to the LES Administrator and CEO.

Introduced by Coleen Seng

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REAPPOINTING PATRICIA TAFT TO THE CABLE ADVISORY BOARD FOR A THREE-YEAR TERM EXPIRING JULY 1, 2005 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81641 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Patricia Taft to the Cable Advisory Board for a three-year term expiring July 1, 2005 is hereby approved.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPOINTING HERB FRIEDMAN AND DONNA BEHLEN TO THE CABLE ADVISORY BOARD FOR THREE-YEAR TERMS EXPIRING JULY 1, 2005 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81642 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Herb Friedman and Donna Behlen to the Cable Advisory Board for three-year terms expiring July 1, 2005 is hereby approved.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REAPPOINTING MARI LANE AND DONALD STADING TO THE CHARTER REVISION COMMISSION FOR FOUR-YEAR TERMS EXPIRING JULY 15, 2006 - CLERK read a resolution, introduced by Coleen Seng, who moved its adoption:

A-81643 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Mari Lane and Donald Stading to the Charter Revision Commission for four-year terms expiring July 15, 2006 is hereby approved.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REAPPOINTING WILLIAM D. BLUE TO THE LINCOLN HOUSING AUTHORITY BOARD FOR A FIVE-YEAR TERM EXPIRING JULY 1, 2007 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81644 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of William D. Blue to the Lincoln Housing Authority Board for a five-year term expiring July 1, 2007 is hereby approved.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPROVING THE LABOR CONTRACT BETWEEN THE CITY OF LINCOLN AND THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES (NAGE) EFFECTIVE AUGUST 15, 2002 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81645 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached labor agreement between the City of Lincoln and the National Association of Government Employees (NAGE), to be effective August 15, 2002, is hereby approved, and the Mayor is authorized to execute the same on behalf of the City.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

WAIVING DESIGN STANDARDS FOR STREET TREES AND SIDEWALKS ON Q STREET AND N. 36TH STREET, AND WAIVING STREET PAVING ON Q STREET, GENERALLY LOCATED AT N. 36TH AND Q STREETS - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

Seconded by Svoboda & **LOST** by the following vote: AYES: Friendt; NAYS: Camp, Cook, McRoy, Seng, Svoboda, Werner.

The resolution, having **LOST**, was assigned File #38-4411 and was placed on file in the Office of the City Clerk.

SPECIAL PERMIT 1978 - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SOUTHVIEW, INC. TO DEVELOP STONE RIDGE APARTMENTS COMMUNITY UNIT PLAN FOR 120 MULTI-FAMILY UNITS AND ONE CLUBHOUSE, WITH A WAIVER OF THE DESIGN STANDARDS FOR STORMWATER DETENTION, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD - PRIOR to reading:

MCROY Moved to delay action on Bill No. 02R-169 for one week to 8/26/02.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda; NAYS: Werner.

USE PERMIT NO. 144 - APPLICATION OF PIONEER WOODS, L.L.C. TO DEVELOP APPROXIMATELY 105,000 SQ. FT. OF OFFICE AREA, WITH A WAIVER OF DESIGN STANDARDS TO ALLOW SIGNS IN THE FRONT YARD, TO NOT SHOW SIGNS ON THE SITE PLAN, TO ADJUST SETBACKS WHERE LOTS ABUT THE OUTLOT, TO MODIFY THE SUBDIVISION REQUIREMENTS SO THAT FINAL PLATS MAY BE BASED UPON THE USE PERMIT AND TO REDUCE THE FRONT YARD SETBACK, ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF S. 70TH STREET AND PIONEERS BLVD. - PRIOR to reading:

CAMP Moved to delay action on Bill No. 02R-170 for one week to 8/26/02.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1808B - APPLICATION OF NEBCO, INC. TO AMEND THE FALLBROOK COMMUNITY UNIT PLAN TO EXPAND THE BOUNDARIES, REVISE THE LAYOUT OF A PORTION OF THE SINGLE FAMILY RESIDENTIAL AREA, AND TO TRANSFER DWELLING UNITS TO THE SINGLE FAMILY RESIDENTIAL AREA, WITH A WAIVER OF DESIGN STANDARDS TO ALLOW AN INTERSECTION WITH A GRADE GREATER THAN 3%, ON

PROPERTY GENERALLY LOCATED NORTH OF HIGHWAY 34, SOUTH OF ALVO ROAD AND WEST OF NORTH 1ST STREET - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81646 WHEREAS, NEBCO, Inc. has submitted an application designated as Special Permit No. 1808B for authority to amend Fallbrook Community Unit Plan to expand the boundaries of the CUP, revise the layout of a portion of the single-family residential area, to transfer dwelling units to the single-family residential area, to waive non-radial lot lines, and to allow an intersection with a grade greater than 3%, on property located north of Highway 34, south of Alvo Road and west of North 1st Street, and legally described to wit:

Outlots A, B, H, J, M, and a portion of N, O, Q, R, and T, Fallbrook Addition; Lots 5 through 7, Block 10; Lots 1 through 9, Block 12; Lots 1 and 2, Block 13; Lots 1 through 8 and Lots 10 through 15, Block 11; all of Fallbrook Addition, Lots 1 through 12, Block 1, Lots 1 through 18, Block 2, Outlots A, B, and C, Fallbrook 1st Addition; Lots 1 through 12 and Outlots A and B, Fallbrook 3rd Addition, and Lot 8 I.T.; all located in the South Half of Section 34, Township 11 North, Range 6 East, Lancaster County, Nebraska;

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

WHEREAS, the requested waiver to allow non-radial lot line is not necessary as the non-radial lot lines provide a better street and lot layout and are permissible pursuant to Lincoln Municipal Code § 26.23.140(c).

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 NEBCO, Inc., hereinafter referred to as "Permittee", to amend Fallbrook Community Unit Plan to expand the boundaries of the CUP, revise the layout of a portion of the single-family residential area, and to transfer dwelling units to the single-family residential area, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said dwelling units be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 316 dwelling units and a waiver of the urban public street Design Standards to allow the intersection at N.W. 6th Street and Blue Sage Road to have a grade greater than 3.0%.
2. Before receiving building permits:
 - a. The Permittee must submit a revised and reproducible final plan including five copies to the Planning Department.
 - b. The construction plans must conform to the approved plans.
 - c. Final plats within the area of this community unit plan must be approved by the City.
3. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements must be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
5. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking, and circulation elements, and similar matters.
6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. 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.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of

acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

8. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Coleen Seng

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1979 - APPLICATION OF CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY FOR AUTHORITY TO CONSTRUCT A 143' TALL BROADCAST TOWER TO ACCOMMODATE ANTENNAE FOR ITS PRIVATE MICROWAVE COMMUNICATIONS SYSTEM, WITH A WAIVER OF THE LANDSCAPE REQUIREMENTS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF NORTHWEST ROUNDHOUSE DRIVE AND WEST O STREET - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81647 WHEREAS, Chicago, Burlington, and Quincy Railroad Company has submitted an application designated as Special Permit No. 1979 for authority to construct a 143' tall broadcast tower and a waiver of the landscaping requirements on property located southwest of the intersection of Northwest Roundhouse Drive and West O Street, and legally described to wit:

Lot 109 I.T. located in the Northwest Quarter of
Section 27, Township 10 North, Range 7 East of the 6th
P.M., Lancaster County, Nebraska; and

WHEREAS, 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 comprehensive plan of the City of Lincoln and 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 Chicago, Burlington, and Quincy Railroad Company, hereinafter referred to as "Permittee", to construct a 143' tall broadcast tower be and the same is hereby granted under the provisions of Section 27.63.150 of the Lincoln Municipal Code upon condition that construction of said broadcast tower be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a 143' tall broadcast tower and a waiver to the design standard for landscaping.

2. Before receiving building permits:

a. The Permittee must submit an acceptable plan and five copies.

b. The construction plans must conform to the approved plans.

3. Before using the facility, all development and construction must be completed in conformance with the approved plans.

4. 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.

5. 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.

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

Introduced by Coleen Seng

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1980 - APPLICATION OF TERI ERNISSE FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON AND OFF THE PREMISES ON PROPERTY

GENERALLY LOCATED AT 1400 SALTILLO ROAD - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81648 WHEREAS, Terry and Teri Ernisse have submitted an application designated as Special Permit No. 1980 for authority to sell alcoholic beverages for consumption on and off the premises generally located at 1400 Saltillo Road, legally described as:

Lot 5, except the south 33 feet thereof; Lot 7, except the south 33 feet thereof; and Lot 11, all located in the Southeast Quarter of Section 35, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska; and

Lot 52, and that part of Lot 53 more particularly described as follows:

Beginning at a point on the west line of the Southwest Quarter of Section 36, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, said point being 650.57 feet, measured north 00 degrees 31 minutes 00 seconds east from the southwest corner of said Southwest Quarter; thence south 07 degrees 53 minutes 00 seconds east, a distance of 228.58 feet to a point of curvature; thence southeasterly along the arc of a curve to the left having a radius of 539.06 feet and a central angle of 51 degrees 53 minutes 00 seconds, an arc distance of 562.97 feet to the point of ending on the south line of said Southwest Quarter, said point being 366.57 feet measured south 89 degrees 56 minutes 00 seconds east from the southwest corner of said Southwest Quarter, together with one-half of the vacated road adjacent on the west;

WHEREAS, the real property adjacent to the area included within the site plan for this permit to sell alcoholic beverages on and off the premises will not be adversely affected; and

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

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

That the application of Terry and Teri Ernisse, hereinafter referred to as "Permittee", to sell alcoholic beverages for consumption on and off the premises on property legally described above be and the same is hereby granted under the provisions of Sections 27.63.680 and 27.63.685 of the Lincoln Municipal Code upon condition that operation of said licensed premises be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the sale of alcoholic beverages for consumption on and off the premises only.
2. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, their successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
3. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

WAIVING DESIGN STANDARDS FOR A PARKING LOT AND DRIVEWAY ON PROPERTY GENERALLY LOCATED AT S.W. 12TH STREET AND ROKEBY ROAD - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81649 WHEREAS, Vantage Pointe Homes, Inc. has requested a waiver of the surfacing requirements for a parking lot and driveway on property generally located at S.W. 12th Street and Rokeby Road and legally described as:

Lot 19 I.T., located in the Southwest Quarter of Section 27, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska;

WHEREAS, the City Council finds that:

a. The parking lot for which the waiver of the surfacing requirement is requested is to be used for employee parking and is located wholly within an industrial district; and

b. The site plan identifies that the drives and parking area will be surfaced with gravel which will provide reasonable control of dust, runoff, and safe circulation; and

c. The location of the parking lot is approximately 250 feet away from the nearest of four single-family houses in the area and the parking lot is a sufficient distance from surrounding uses that it will not adversely affect the surrounding uses; and

d. The amount of paving required would put the applicant at a disadvantage for its type of business.

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

In consideration of the findings made above, the requirement for the paving of the parking lot and drives for the Vantage Pointe Homes manufacturing plant located at 1000 West Rokeby Road on property legally described above is hereby waived pursuant to § 27.67.100(c) of the Lincoln Municipal Code under the following conditions:

1. If it is later found that dust or noise, created by the use of the parking lot exceeds the maximum levels set forth in Title 8 of the Lincoln Municipal Code, then such waiver may, after notice and hearing by the City Council, be revoked. Thereafter, the use of such parking lot shall cease unless surfaced in accordance with the adopted design standards.

2. At such time as the streets within the unincorporated village of Rokeby are paved, the drives, driving aisles and parking stalls shall be paved.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

DIRECTING SUBMITTAL TO THE VOTERS OF A PROPOSED GENERAL OBLIGATION BOND ISSUE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,000,000.00 TO BE ALLOCATED FOR REPAIRS, RENOVATION, AND IMPROVEMENTS TO CERTAIN EXISTING PEDESTRIAN, BICYCLE AND OTHER NON-MOTOR VEHICLE SIDEWALKS, PATHS, AND TRAILS WITHIN THE CITY OF LINCOLN - PRIOR to reading:

FRIENDT Moved to split the sidewalks and trails into two separate bonds issues for the public to vote on.

Seconded by Svoboda & LOST by the following vote: AYES: Camp, Friendt, Svoboda; NAYS: Cook, McRoy, Seng, Werner.

CLERK Read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81650 WHEREAS, in order to fund necessary repairs, renovation, and improvements to certain existing pedestrian, bicycle and other non-motor vehicle sidewalks, paths, and trails within the City of Lincoln, it is necessary to issue general obligation bonds and to levy a tax for the payment thereof, and

WHEREAS, it is in the best interests of the City of Lincoln to present the question of the issuance of such bonds and the levying of a tax to pay the same to the electors at the general election to be held on Tuesday, November 5, 2002.

NOW, THEREFORE, BE IT RESOLVED by the City Council (the "Council") of the City of Lincoln, Nebraska (the "City") as follows:

1. The Council hereby finds and determines that:

a. It is necessary and in the best interests of the City to make necessary repairs, renovations, and improvements to certain existing pedestrian, bicycle, and other non-motor vehicle sidewalks, paths, and trails within the City of Lincoln (the "Improvements") which shall include, but shall not necessarily be limited to, some or all of the improvements and extensions generally described in Attachments 1 and 2 appended hereto and made a part hereof by reference.

b. The estimated cost to the City of completing the Improvements will be not less than Four Million Dollars (\$4,000,000), and in order to finance the cost thereof, it will be necessary for the City to issue its general obligation bonds in the principal amount of not to exceed Four Million Dollars (\$4,000,000), such bonds to be dated at the time of their issuance, and to become due and payable on such dates, bear interest at such rates, and to have such other terms as may be fixed by the City at the time of their issuance.

- c. It will be necessary to cause to be levied and collected annually a tax in addition to all other taxes upon the taxable property in the City sufficient to pay the principal and interest accruing on such general obligation bonds as the same become due.
 - d. It is in the best interests of the citizens of the City to present the question of the issuance of such general obligation bonds and the levying of a tax to pay the same to the duly qualified electors of the City at the general election to be held on November 5, 2002.
2. The following proposition shall be submitted to the qualified electors of the City at the general election to be held on November 5, 2002.

(FORM OF BALLOT)
TRAILS AND SIDEWALK IMPROVEMENT BOND ISSUE
STATE OF NEBRASKA
CITY OF LINCOLN
OFFICIAL BALLOT
GENERAL ELECTION - NOVEMBER 5, 2002
GENERAL OBLIGATION BONDS

"SHALL THE CITY OF LINCOLN, NEBRASKA, ISSUE ITS GENERAL OBLIGATION BONDS IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,000,000 FOR THE PURPOSE OF PAYING COSTS INCIDENT TO REPAIRING, RENOVATING AND IMPROVING CERTAIN EXISTING PEDESTRIAN, BICYCLE AND OTHER NON-MOTOR VEHICLE SIDEWALKS, PATHS, AND TRAILS; SAID BONDS TO BE DATED AT THE TIME OF THEIR ISSUANCE AND TO BECOME DUE AND PAYABLE ON SUCH DATES, BEAR INTEREST AT SUCH RATES, AND HAVE SUCH OTHER TERMS AS MAY BE FIXED BY THE CITY AT THE TIME OF THEIR ISSUANCE; AND "SHALL THE CITY CAUSE TO BE LEVIED AND COLLECTED ANNUALLY A TAX IN ADDITION TO ALL OTHER TAXES UPON THE TAXABLE PROPERTY IN THE CITY SUFFICIENT IN RATE AND AMOUNT TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THE SAME BECOME DUE AND PAYABLE?"

VOTE FOR or AGAINST

FOR said General Obligation Bonds and Tax Levy.

AGAINST said General Obligation Bonds and Tax Levy.

Voters desiring to vote in favor of the proposition shall mark in the square opposite the words "FOR said General Obligation Bonds and Tax Levy." Voters desiring to vote against the proposition shall mark in the square opposite the words "AGAINST said General Obligation Bonds and Tax Levy."

3. The City Clerk shall cause a notice of said election to be given as provided by Article III, Section 1 of the Charter of the City as required by law; and the Mayor be and is hereby directed to proclaim and give notice that at the general election to be held in the City on Tuesday, November 5, 2002, there will be submitted to the qualified electors of the City, for adoption or rejection, the general obligation bond authorization question set forth in paragraph 2 hereof; and the City Clerk is further directed to publish said proclamation as provided by law.

4. The said general election will be held in each election district within the City and at the polling places designated by the Election Commissioner of Lancaster County, Nebraska.

5. The City Clerk is further directed to notify the Election Commissioner of Lancaster County of the general election and the general obligation bond authorization question set forth in paragraph 2 hereof, and to procure the necessary ballots and make all other necessary arrangements for the same.

6. The polling places for said general election shall be open from 8:00 a.m. to 8:00 p.m. on Tuesday, November 5, 2002, and a copy of the general obligation bond authorization question to be submitted shall be posted at each place of voting during the hours said polls are open.

7. Said general election shall be conducted in accordance with the Charter of the City and the laws of the State of Nebraska applicable to such elections for cities of the primary class, and the ballots shall be counted, the returns made, and the results canvassed as provided for by law, and all such steps shall be taken as are provided by law in the ascertainment of the results of said election.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Cook, Friendt, McRoy, Seng, Werner; NAYS: Camp, Svoboda.

IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$8,000,000.00 TO BE USED FOR TWO FIRE STATIONS, MODIFICATION AND REPAIR OF EXISTING FIRE STATIONS, AND PURCHASE OF EQUIPMENT - PRIOR to reading:

CAMP Moved to place Bill No 02R-176 on pending.
Motion died for lack of second.

CLERK Read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81651 WHEREAS, in order to fund the construction and equipping of two new fire stations to provide service to the southeast and north portions of the City, to make certain capital improvements and acquire fire fighting equipment including but not limited to automatic vehicle locators (AVL) on emergency vehicles, replacement radio equipment, a heavy rescue vehicle, remodel and add onto Fire Stations 3, 5, and 6, two aerial ladders, construct an education/training and fleet service campus at 300 South Street, relocate fire station 11 to improve service to the west portion of the City, two breathing air refill cascade systems, two water tankers and various items of fire department equipment, it is necessary to issue general obligation bonds and to levy a tax for the payment thereof, and

WHEREAS, it is in the best interests of the City of Lincoln to present the question of the issuance of such bonds and the levying of a tax to pay the same to the electors at the general election to be held on Tuesday, November 5, 2002.

NOW, THEREFORE, BE IT RESOLVED by the City Council (the "Council") of the City of Lincoln, Nebraska (the "City") as follows:

1. The Council hereby finds and determines that:

- a. In order to adequately and efficiently carry out its responsibilities and obligations in the operation of the Lincoln Fire Department, it is necessary to construct two new fire stations to provide service to the southeast and north portions of the City; and to make certain capital improvements and acquire fire fighting equipment including but not limited to: (i) automatic vehicle locators (AVL) on emergency vehicles; (ii) replacement radio equipment; (iii) a heavy rescue vehicle; (iv) remodel and add onto fire station 3, 5, and 6; (v) two aerial ladders; (vi) construct an education/training and fleet service campus at 300 South Street; (vii) relocate fire station 11 to improve service to the west portion of the City; (viii) two breathing air refill cascade systems; (ix) two water tankers; and (x) various items of fire department equipment.
- b. The estimated cost to the City of completing the Improvements will be not less than Eight Million Dollars (\$8,000,000), and in order to finance the cost thereof, it will be necessary for the City to issue its general obligation bonds in the principal amount of not to exceed Eight Million Dollars (\$8,000,000), such bonds to be dated at the time of their issuance, and to become due and payable on such dates, bear interest at such rates, and to have such other terms as may be fixed by the City at the time of their issuance.
- c. It will be necessary to cause to be levied and collected annually a tax in addition to all other taxes upon the taxable property in the City sufficient to pay the principal and interest accruing on such general obligation bonds as the same become due.
- d. It is in the best interests of the citizens of the City to present the question of the issuance of such general obligation bonds and the levying of a tax to pay the same to the duly qualified electors of the City at the general election to be held on November 5, 2002.

2. The following proposition shall be submitted to the qualified electors of the City at the general election to be held on November 5, 2002.

(FORM OF BALLOT)
FIRE DEPARTMENT CONSTRUCTION AND IMPROVEMENT BOND ISSUE
STATE OF NEBRASKA
CITY OF LINCOLN

OFFICIAL BALLOT
GENERAL ELECTION - NOVEMBER 5, 2002
GENERAL OBLIGATION BONDS

"SHALL THE CITY OF LINCOLN, NEBRASKA, ISSUE ITS GENERAL OBLIGATION BONDS IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$8,000,000 FOR THE PURPOSE OF PAYING COSTS INCIDENT TO THE CONSTRUCTION AND EQUIPPING OF TWO NEW FIRE STATIONS TO PROVIDE SERVICE TO THE SOUTHEAST AND NORTH PORTIONS OF THE CITY, TO MAKE CERTAIN CAPITAL IMPROVEMENTS AND ACQUIRE FIRE FIGHTING EQUIPMENT INCLUDING BUT NOT LIMITED TO AUTOMATIC VEHICLE LOCATORS (AVL) ON EMERGENCY VEHICLES, REPLACEMENT RADIO EQUIPMENT, A HEAVY RESCUE VEHICLE, REMODEL AND ADD ONTO FIRE STATIONS 3, 5, AND 6, TWO AERIAL LADDERS, CONSTRUCT AN EDUCATION/TRAINING AND FLEET SERVICE CAMPUS AT 300 SOUTH STREET, RELOCATE FIRE STATION 11 TO IMPROVE SERVICE TO THE WEST PORTION OF THE CITY, TWO BREATHING AIR REFILL CASCADE SYSTEMS, TWO WATER TANKERS AND VARIOUS ITEMS OF FIRE DEPARTMENT EQUIPMENT; SAID BONDS TO BE DATED AT THE TIME OF THEIR ISSUANCE AND TO BECOME DUE AND PAYABLE ON SUCH DATES, BEAR INTEREST AT SUCH RATES, AND HAVE SUCH OTHER TERMS AS MAY BE FIXED BY THE CITY AT THE TIME OF THEIR ISSUANCE; AND

"SHALL THE CITY CAUSE TO BE LEVIED AND COLLECTED ANNUALLY A TAX IN ADDITION TO ALL OTHER TAXES UPON THE TAXABLE PROPERTY IN THE CITY SUFFICIENT IN RATE AND AMOUNT TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THE SAME BECOME DUE AND PAYABLE?"

VOTE FOR or AGAINST

FOR said General Obligation Bonds and Tax Levy.

AGAINST said General Obligation Bonds and Tax Levy.

Voters desiring to vote in favor of the proposition shall mark in the square opposite the words "FOR said General Obligation Bonds and Tax Levy." Voters desiring to vote against the proposition shall mark in the square opposite the words "AGAINST said General Obligation Bonds and Tax Levy."

3. The City Clerk shall cause a notice of said election to be given as provided by Article III, Section 1 of the Charter of the City as required by law; and the Mayor be and is hereby directed to proclaim and give notice that at the general election to be held in the City on Tuesday, November 5, 2002, there will be submitted to the qualified electors of the City, for adoption or rejection, the general obligation bond authorization question set forth in paragraph 2 hereof; and the City Clerk is further directed to publish said proclamation as provided by law.

4. The said general election will be held in each election district within the City and at the polling places designated by the Election Commissioner of Lancaster County, Nebraska.

5. The City Clerk is further directed to notify the Election Commissioner of Lancaster County of the general election and the general obligation bond authorization question set forth in paragraph 2 hereof, and to procure the necessary ballots and make all other necessary arrangements for the same.

6. The polling places for said general election shall be open from 8:00 a.m. to 8:00 p.m. on Tuesday, November 5, 2002, and a copy of the general obligation bond authorization question to be submitted shall be posted at each place of voting during the hours said polls are open.

7. Said general election shall be conducted in accordance with the Charter of the City and the laws of the State of Nebraska applicable to such elections for cities of the primary class, and the ballots shall be counted, the returns made, and the results canvassed as provided for by law, and all such steps shall be taken as are provided by law in the ascertainment of the results of said election.

Introduced by Coleen Seng

Seconded by Seng & carried by the following vote: AYES: Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: Camp.

APPOINTING GLENN FRIENDT TO THE COMMUNITY DEVELOPMENT TASK FORCE FOR A ONE-YEAR TERM EXPIRING AUGUST 31, 2003 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81652 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Glenn Friendt to the Community Development Task Force for a one-year term expiring August 31, 2003 is hereby

approved.

Introduced by Coleen Seng

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REAPPOINTING JONATHAN COOK, GLENN FRIENDT, AND COLEEN SENG TO THE RAILROAD TRANSPORTATION SAFETY DISTRICT FOR ONE-YEAR TERMS EXPIRING AUGUST 31, 2003 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81653 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Jonathan Cook, Glenn Friendt, and Coleen Seng to the Railroad Transportation Safety District for one-year terms expiring August 31, 2003 is hereby approved.

Introduced by Coleen Seng

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REAPPOINTING ANNETTE MCROY TO THE JOINT BUDGET COMMITTEE FOR A TWO-YEAR TERM EXPIRING AUGUST 31, 2004 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81654 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Annette McRoy to the Joint Budget Committee for a two-year term expiring August 31, 2004 is hereby approved.

Introduced by Coleen Seng

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPROVING THE PRAIRIE VILLAGE CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND PRAIRIE HOMES BUILDERS, INC. RELATING TO THE ANNEXATION OF APPROXIMATELY 113.05 ACRES OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREET. (IN CONNECTION W/02-110, 02-111, 02R-147, 02R-148) (7/2/9/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED TWO WKS TO 8/19/02) - PRIOR to reading:

FRIENDT Moved to waive Council rules to read and vote on Item #27 before Item # 23.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SENG Moved to amend Bill No. 02R-154 by adding to the Agreement on Page 8, paragraph 5b: (after the words by Prairie Home Builders, Inc.) , not to exceed \$20,000.00.

Seconded by Friendt & carried by the following vote: AYES: Cook, Friendt, McRoy, Seng, Werner; NAYS: Camp, Svoboda.

CLERK Read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81655 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Prairie Village Conditional Annexation and Zoning Agreement (Annexation Agreement), which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Prairie Homes Builders, Inc. (Owner), outlining certain conditions and understandings between the City and said Owner relating to the annexation of approximately 113.05 acres of property generally located at the southeast corner of North 84th Street and Adams Street is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

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

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1959 - APPLICATION OF PRAIRIE HOMES BUILDERS, INC. TO DEVELOP PRAIRIE VILLAGE COMMUNITY UNIT PLAN CONSISTING OF 174 SINGLE FAMILY AND 300 MULTI-FAMILY DWELLING UNITS, WITH A WAIVER OF THE BUILDING HEIGHT, ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (IN CONNECTION W/02R-148, 02R-154, 02-110, 02-111) (7/22/02 - P.H. & ACTION DELAYED 1 WK TO 7/29/02) (7/29/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED 2 WKS TO 8/19/02) - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-81656 WHEREAS, Prairie Homes Builders, Inc. has submitted an application designated as Special Permit No. 1959 for authority to construct Prairie Village Community Unit Plan consisting of 174 single family and 300 multi-family dwelling units, with a waiver to the building height in the multi-family area, on property located at the southeast corner of North 84th Street and Adams Street, and legally described to wit:

A tract of land located in the Northwest Quarter of Section 14, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, and more fully described as follows:

Referring to the northeast corner of said Northwest Quarter; thence south 00 degrees 13 minutes 16 seconds west (an assumed bearing) on the east line of said Northwest Quarter, a distance of 40.00 feet to the point of beginning; thence continuing south 00 degrees 13 minutes 16 seconds west on said line, a distance of 1289.95 feet; thence north 89 degrees 22 minutes 42 seconds west, a distance of 1327.83 feet; thence south 00 degrees 08 minutes 58 seconds west, a distance of 1329.14 feet to a point on the south line of said Northwest Quarter; thence north 89 degrees 20 minutes 34 seconds west on said line, a distance of 1231.16 feet; thence north 00 degrees 04 minutes 39 seconds east, on the east right-of-way line of North 84th Street, a distance of 944.70 feet; thence south 89 degrees 55 minutes 21 seconds east, a distance of 69.85 feet; thence north 21 degrees 36 minutes 18 seconds east, a distance of 94.41 feet; thence north 42 degrees 40 minutes 37 seconds east, a distance of 126.86 feet; thence north 56 degrees 35 minutes 48 seconds east, a distance of 212.59 feet; thence north 17 degrees 17 minutes 15 seconds west, a distance of 27.50 feet to the point of curvature of a curve to the left having a central angle of 17 degrees 48 minutes 47 seconds, a radius of 383.00 feet, an arc length of 119.07 feet, a chord length of 118.59 feet, and a chord bearing north 63 degrees 48 minutes 21 seconds east; thence on said curve, a distance of 119.07 feet to the point of tangency; thence north 54 degrees 53 minutes 58 seconds east, a distance of 309.36 feet to the point of curvature of a curve to the left having a central angle of 24 degrees 05 minutes 03 seconds, a radius of 483.00 feet, an arc length of 203.03 feet, a chord length of 201.54 feet and a chord bearing north 42 degrees 51 minutes 26 seconds east; thence on said curve, a distance of 203.03 feet to the point of tangency; thence south 62 degrees 44 minutes 45 seconds east, a distance of 63.91 feet to the point of curvature of a curve to the right having a central angle of 08 degrees 21 minutes 52 seconds, a radius of 420.00 feet, an arc length of 61.31 feet, a chord length of 61.26 feet and a chord bearing of south 58 degrees 33 minutes 49 seconds east; thence on said curve, a distance of 61.31 feet to the point of tangency; thence north 35 degrees 37 minutes 07 seconds east, a distance of 60.00 feet; thence north 58 degrees 51 minutes 50 seconds east, a distance of 398.63 feet; thence north 64 degrees 54 minutes 02 seconds east, a distance of 410.55 feet; thence north 52 degrees 49 minutes 25 seconds east, a distance of 177.93 feet; thence north 00 degrees 38 minutes 03 seconds east, a distance of 475.54 feet to a point on the south right-of-way line of Adams Street; thence south 89 degrees 24 minutes 49 seconds east, on

said line, a distance of 705.49 feet to the point of beginning and containing a calculated area of 69.800 acres, including 0.933 acres of county road right-of-way, more or less;

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

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

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

That the application of Prairie Homes Builders, Inc., hereinafter referred to as "Permittee", to construct Prairie Village Community Unit Plan consisting of 174 single family and 300 multi-family dwelling units, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 474 dwelling units and an increase in the building height to 50 feet in the multi-family area on Lot 7, Block 10.

2. Before receiving building permits:

- a. The Permittee must submit an acceptable reproducible final plan including five copies.
- b. The construction plans must conform to the approved plans.
- c. Final plats within the area of this community unit plan must be approved by the City.

3. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.

4. All privately-owned improvements must be permanently maintained by the Permittee on an appropriately established homeowners association approved by the City Attorney.

5. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements and similar matters.

6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. 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.

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

Introduced by Coleen Seng

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF PRAIRIE VILLAGE ADDITION FOR 179 LOTS, WITH WAIVERS OF NON-RADIAL LOT LINES, SEWER DEPTH AND DOUBLE FRONTAGE LOTS ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (IN CONNECTION W/02R-147, 02R-154, 02-110, 02-111) (7/22/02 - P.H. & ACTION DELAYED 1 WK TO 7/29/02) (7/29/02 - P.H. & ACTION DELAYED 1 WK TO 8/5/02) (8/5/02 - P. H. & ACTION DELAYED 2 WKS TO 8/19/02) - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-81657 WHEREAS, Prairie Homes Builders, Inc., Faith Evangelical Lutheran Church, and Jonathan Welles (hereinafter collectively "Subdivider") have submitted the preliminary plat of PRAIRIE VILLAGE ADDITION for acceptance and approval; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated May 2, 2002, which is attached hereto as Exhibit "A".

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

That the preliminary plat of PRAIRIE VILLAGE ADDITION, located at the southeast corner of North 84th Street and Adams Street as submitted by

Subdivider is hereby accepted and approved, subject to the terms and conditions set forth in Exhibit "A", which is attached hereto and made a part of this resolution as though fully set forth verbatim.

BE IT FURTHER RESOLVED that the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of the subdivision requirements would result in actual difficulties or substantial hardship and the following modifications to the subdivision requirements are therefore approved:

1. The requirement of Section 3.6 of the Sanitary Sewer Design Standards relating to the standard depth of cover of sanitary sewers is waived to allow depths from 5' to 9' in North 91st Court.

2. The requirement of Section 26.23.140(c) of the Lincoln Municipal Code that side lines of any lot shall be radial if the street is curved is waived to permit non-radial lot lines in the southwest corner of the Lot 24, Block 9, where the lot intersects Wagon Drive.

3. The requirement of Section 26.23.140(e) of the Lincoln Municipal Code that the residential lot arrangement of a subdivision shall be accomplished in such a manner that there will be no lots with double frontage is waived to permit double frontage lots for Lots 1-6, Block 1, along Leighton Ave.

Introduced by Terry Werner

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, SEPTEMBER 9, 2002 @ 1:30 P.M. FOR THE APPLICATION OF VALENTINO'S OF LINCOLN, INC. DBA VALENTINO'S FOR AN ADDITION TO PREMISES OF 45' X 125', LOCATED AT 2701 S. 70TH STREET - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81658 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Sep. 9, 2002 at 1:30 p.m. or as soon thereafter as possible in the city Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Application of Valentino's of Lincoln, Inc. dba Valentino's to expand its premises by 45' x 125', located at 2701 S. 70th Street.

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

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, SEPTEMBER 9, 2002 @ 1:30 P.M. FOR THE APPLICATION OF IRIE INC. DBA DOC'S PLACE FOR A CLASS C LIQUOR LICENSE, LOCATED AT 140 N. 8TH ST., SUITE 150 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-81659 BE IT RESOLVED by the City council, of the City of Lincoln, that a hearing date is hereby fixed for Mon. Sep. 9, 2002 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the Application of Irie Inc. dba Doc's Place for a Class C Liquor license, located at 140 N. 8th Street, Suite 150.

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

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SPECIAL PERMIT 1981 - APPLICATION OF JOEL AND KATHY SARTORE TO USE A PORTION OF THE GARAGE OF THE PROPOSED LANDMARK HITCHCOCK HOUSE AS A APARTMENT FOR AN EMPLOYEE OR EMPLOYEES ENGAGED IN THE UPKEEP OF THE PREMISES. (IN CONNECTION W/02-127) (8/12/02 - ACTION DELAYED TO 8/19/02) - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-81661 WHEREAS, Joel and Kathy Sartore have submitted an application designated as Special Permit No. 1981 for authority to preserve the Hitchcock House as a designated landmark by rehabilitating and using a portion of the existing garage as an apartment for an employee or employees engaged in the upkeep of the premises on property located at 2733 Sheridan Boulevard, and legally described to wit:

The west half of Lot 5, all of Lots 6-8, and the east half of Lot 9, Block 11, Sheridan Park Addition, in the Southwest Quarter of Section 31, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this use of an historic landmark will not be adversely affected; and

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

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

That the application of Joel and Kathy Sartore, hereinafter referred to as "Permittee", to preserve the Hitchcock House by rehabilitating and using a portion of the existing garage as an apartment for an employee or employees engaged in the upkeep of the premises, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.400 of the Lincoln Municipal Code upon condition that construction and operation of said historic landmark be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the use of the upper floor of the garage on the Hitchcock House property for a residence for a person or persons employed in the upkeep of the premises.

2. The garage apartment shall not be considered to be a single-family dwelling separate and distinct from the Hitchcock House, but rather all the occupants of the garage apartment and the Hitchcock House shall meet the definition of "Family" as set forth in Lincoln Municipal Code § 27.03.220.

3. The construction plans must conform to the approved plans.

4. Before occupying the garage apartment, all development and construction must be completed in conformance with the approved plans.

5. All privately-owned improvements must be permanently maintained by the Permittee.

6. The site plan approved by this permit represents the official approved permit, and shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, etc.

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

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

Introduced by Annette McRoy

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

APPLICATION OF PHO-SUHA INC. DBA "PHO-SUHA" FOR A CLASS J LIQUOR LICENSE AT 1819 O STREET. (8/5/02 - ACTION DELAYED TO 8/19/02) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its denial:

A-81662 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 Pho-Suha Inc. dba "Pho-Suha" for a Class "J" liquor license for the license period ending April 30, 2003, at 1819 O Street, Lincoln, Nebraska, be refused for the following reasons:

1. The City Council has determined that the existing population of the City of Lincoln and the projected population growth of the City of Lincoln and within the area to be served are inadequate to support the proposed license.

2. The City Council has determined that the existing licenses are adequately serving the area.

3. The City Council has determined that issuance of the license would not be compatible with the nature of the neighborhood.

4. The applicant has not demonstrated the propriety of the issuance of such license.

5. The issuance of the license will not be required by the present or future public convenience and necessity.

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

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda; NAYS: Werner.

MANAGER APPLICATION OF IRFAN OSMANOVIC FOR PHO-SUHA INC. DBA "PHO-SUHA AT 1819 O STREET. (8/5/02 - ACTION DELAYED TO 8/19/02) - CLERK read the following resolution, introduced by Ken Svoboda, who moved its denial:

A-81663 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 Irfan Osmanovic as manager of Pho-Suha Inc. dba "Pho-Suha" located at 1819 O Street, Lincoln, Nebraska, be denied. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda; NAYS: Werner.

PETITIONS & COMMUNICATIONS

REPORT OF UNL MICROBIOLOGIST FOR WATER TESTING DONE IN THE MONTH OF JULY, 2002
CLERK presented said report which was placed on file in the Office of the City Clerk. (35-01)

REPORTS OF CITY OFFICERS

INVESTMENT OF FUNDS FOR AUGUST 5 THROUGH AUGUST 9, 2002 - CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:
A-81660 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.

Introduced by Coleen Seng

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

REPORT FROM CITY TREASURER OF TELECOMM. OCC. TAX FOR THE MONTH OF OF OCT., 2001: MERCHANT WIRED; FOR THE MONTHS OF APRIL - JUNE, 2002: AMERIVISION COMMUNICATIONS, INC.; FOR THE MONTH OF JUNE, 2002: GUARANTEED PHONE SERVICE, AMERICAN FARM BUREAU, INC., ACCESSLINE COMMUNICATIONS CORP., GE BUSINESS PROD. SOLUTIONS, IBM GLOBAL SERVICES-NS DIV., VERIZON SELECT SERVICES, INC., MCI WORLDCOM NETWORK SERVICES, INC., QUANTUM SHIFT COMMUNICATIONS, INTELICAL OPERATOR SERVICES, BELL ATLANTIC COMMUNICATIONS, ALLTEL COMMUNICATIONS OF NEBRASKA, INC.; FOR THE MONTH OF JULY, 2002: WESTERN UNION COMMUNICATIONS, INC., D & D COMMUNICATIONS, INC., AND NPCR, INC. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ORDINANCES - 1ST READING

CHANGE OF ZONE 74HP - APPLICATION OF CINDY LOOPE FOR A LANDMARK DESIGNATION FOR THE EAST CAMPUS NEIGHBORHOOD LANDMARK DISTRICT GENERALLY LOCATED BETWEEN HOLDREGE STREET ON THE NORTH, IDYLWILD DRIVE ON THE WEST, APPLE STREET ON THE SOUTH AND N. 40TH STREET ON THE EAST - CLERK read an ordinance, introduced by Coleen Seng, for a Change of Zone 74HP - application of Cindy Loope for a landmark designation for the East Campus Neighborhood Landmark District generally located between Holdrege Street on the north, Idylwild Drive on the west, Apple Street on the South and N. 40th Street on the east, the first time.

ORDINANCES - 3RD READING

AMENDING THE CORPORATE LIMITS OF THE CITY BY ANNEXING APPROXIMATELY 113.05 ACRES OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (In connection w/02-111, 02R-147, 02R-148) (7/22/02 - P.H. & Action delayed 1 wk to 7/29/02) (7/29/02 - P.H. & Action delayed 1 wk to 8/5/02) (8/5/02 - P. H. & Action delayed 2 wks to

8/19/02) - CLERK read an ordinance, introduced by Ken Svoboda, amending the corporate limits of the City by annexing approximately 113.05 acres of property generally located at the southwest corner of North 84th and Adams Streets, the third time.

SVOBODA Moved to pass ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18056**, is recorded in Ordinance Book 25, Page

CHANGE OF ZONE 3355 - APPLICATION OF PRAIRIE HOMES BUILDERS, INC. FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH 84TH AND ADAMS STREETS. (In connection 2/02-110, 02R-147, 02R-148) (7/22/02 - P.H. & Action delayed 1 wk to 7/29/02) (7/29/02 - P.H. & Action delayed 1 wk to 8/5/02) (8/5/02 - P. H. & Action delayed 2 wks to 8/19/02) - CLERK read an ordinance, introduced by Ken Svoboda, for a Change of Zone 3355, application of Prairie Homes Builders, Inc., for a change of zone from AG Agricultural District to R-3 Residential District on property generally located at the southeast corner of North 84th and Adams Street, the third time.

SVOBODA Moved to pass ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18057**, is recorded in Ordinance Book 25, Page

APPROVING THE TRANSFER OF APPROPRIATIONS BETWEEN CERTAIN CAPITAL IMPROVEMENT PROJECTS WITHIN THE WATER CONSTRUCTION FUND, SANITARY SEWER CONSTRUCTION FUND, LANDFILL REVENUE FUND, 1997 STORM SEWER BOND ISSUE FUND, STREET CONSTRUCTION FUND, VEHICLE TAX FUND, PARKING LOT REVOLVING FUND, AND PARKING FACILITIES CONSTRUCTION FUND - CLERK read a resolution, introduced by Glenn Friendt, approving the transfer of appropriations between certain capital improvement projects within the water construction fund, sanitary sewer construction fund, landfill revenue fund, 1997 storm sewer bond issue fund, street construction fund, vehicle tax fund, parking lot revolving fund, and parking facilities construction fund, the third time.

FRIENDT Moved to pass ordinance as read.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18058**, is recorded in Ordinance Book 25, Page

CHANGE OF ZONE 75HP - APPLICATION OF JOEL AND KATHY SARTORE FOR A LANDMARK DESIGNATION FOR THE HITCHCOCK HOUSE AT 2733 SHERIDAN BOULEVARD. (In connection w/02R-161) - CLERK read an ordinance, introduced by Glenn Friendt, for a Change of Zone 75HP - Application of Joel and Kathy Sartore for a landmark designation for the Hitchcock House at 2733 Sheridan Boulevard, the third time.

FRIENDT Moved to pass ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18059**, is recorded in Ordinance Book 25, Page

MISCELLANEOUS BUSINESS

PENDING LIST -

CAMP Moved to extend the Pending List to August 26, 2002.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

SENG Moved to have the Impact Fee Slide show shown on 5 CITY TV on Thursday, August 22nd for public form. It is tentatively scheduled to be shown at 7:00 p.m.

Seconded by McRoy & carried by the following vote: AYES: Cook, McRoy, Seng, Werner; NAYS: Camp, Friendt and Svoboda.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on August 26, 2002.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None.

ADJOURNMENT

6:50 P.M.

CAMP Moved to adjourn the City Council meeting of August 19, 2002.
 Seconded by Seng & carried by the following vote: AYES: Camp,
 Cook, Friendt, McRoy, Seng, Svoboda, Werner; NAYS: None; None.
 So ordered.

Joan Ross, City Clerk

Glenna Graupmann, Office Assistant III