

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, FEBRUARY 9, 2004 AT 1:30 P.M.**

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

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

**READING OF THE MINUTES**

FRIENDT Having been appointed to read the minutes of the City Council proceedings of February 2, 2004, reported having done so, found same correct.

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

**MAYOR'S AWARD OF EXCELLENCE**

Mayor Seng came forward to present the Mayor's Award of Excellence to Dodi Warne of the Records Department at the Police Department in the category of Productivity.

Ed Ragatz, Police Department, said it was a pleasure to work with Dodi and our staff. Keep up the good work Dodi.

Chief Casady, Chief of Police Dept., stated that Dodi is a marvelous employee. Because of the dedication of the employees the records data is entered very quickly. Good supervisors like Dodi make it possible to deal excellently with Records and Information. Thank you Dodi for your hard work.

**PUBLIC HEARING**

APPLICATION OF RAMOS PIZZA INC. DBA RAMOS PIZZA PUB BUSTERS BBQ FOR A CLASS I (SPIRITS, WINE, BEER, ON-SALE) LIQUOR LICENSE AT 2435 S. 48TH STREET; MANAGER APPLICATION OF LAWRENCE L. LIND FOR RAMOS PIZZA, INC. DBA RAMOS PIZZA PUB BUSTERS AT 2435 S. 48TH STREET - Jeff Dodge, 415 N. 44<sup>th</sup> St., #1216 and Lawrence Lind, 2654 S. 40<sup>th</sup> Street, took oath and came forward to answer questions.

Mr. Lind stated that he and Jeff are planning on attending the Responsible Hospitality class at the end of the month and they will send another staff person in the near future.

This matter was taken under advisement.

CHANGE OF ZONE 3430 - APPLICATION OF RIDGE DEVELOPMENT CO. AND SUPERIOR POINT PARTNERS FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL AND B-2 PLANNED NEIGHBORHOOD BUSINESS TO B-5 PLANNED REGIONAL BUSINESS ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET AND FOLKWAYS BOULEVARD. (IN CONNECTION W/04R-23);

USE PERMIT 57D - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SUPERIOR POINT PARTNERS TO AMEND LINCOLN CROSSINGS USE PERMIT TO INCREASE THE BOUNDARY AND FLOOR AREA, AND TO MODIFY THE REQUIRED FRONT YARD SETBACK ALONG FOLKWAYS BLVD. AND THE SETBACK FROM THE RESIDENTIAL DISTRICT, ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET AND FOLKWAYS BLVD. (IN CONNECTION W/04-18) - Kent Seacrest, Seacrest & Kalkowski Law Firm, 1111 Lincoln Mall, Suite 350, came forward representing Ridge Development Company. He stated that Mark Palmer, an Engineer from Olsson Associates, and David Livingston, President of Douglas Theaters, were in attendance as well. This project will include a six screen theater in North Lincoln. The neighbors are in agreement with this project.

Carol Brown, 2201 Elba Circle, came forward in favor of this project. Discussion followed.

This matter was taken under advisement.

APPROVING A MULTI-YEAR CONTRACT WITH FUNDING FROM MORE THAN ONE FISCAL CIP BUDGET YEAR FOR CITY PROJECT NO. 700078, VINE STREET, 22ND TO 27TH

STREETS -Mike Morosin, 2055 S Street came forward in support of this project.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

Mike Morosin, 2055 S St., came forward to ask Council Member McRoy to find out where exactly the proposed NRD waterway project is going to be and where the new Malone Community Center is going to be located. He, also, wanted to know if the Malone Manor was going to purchase the old Malone Center.

This matter was taken under advisement.

Glen Cekal, 1420 C St. came forward to express his concern of the older neighborhoods. He feels it's a quality of life issue.

This matter was taken under advisement.

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

### COUNCIL ACTION

#### LIQUOR RESOLUTIONS

APPLICATION OF RAMOS PIZZA INC. DBA RAMOS PIZZA PUB BUSTERS BBQ FOR A CLASS I (SPIRITS, WINE, BEER, ON-SALE) LIQUOR LICENSE AT 2435 S. 48TH STREET -  
- CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

A-82570 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 Ramos Pizza Inc. dba Ramos Pizza Pub Busters BBQ for a Class "I" liquor license at 2435 S. 48th Street, Lincoln, Nebraska, for the license period ending April 30, 2004, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

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

MANAGER APPLICATION OF LAWRENCE L. LIND FOR RAMOS PIZZA, INC. DBA RAMOS PIZZA PUB BUSTERS AT 2435 S. 48TH STREET - - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

A-82571 WHEREAS, Ramos Pizza Inc. dba Ramos Pizza Pub Busters BBQ located at 2435 S. 48th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Lawrence L. Lind be named manager;

WHEREAS, Lawrence L. Lind appears to be a fit and proper person to manage said business.

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

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Lawrence L. Lind be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Ken Svoboda

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

APPLICATION OF R FOX, INC. DBA RED FOX STEAK HOUSE TO EXPAND THEIR EXISTING CLASS I (SPIRITS, WINE, BEER, ON-SALE) LIQUOR LICENSE BY THE ADDITION OF AN INSIDE AREA MEASURING 33 FEET BY 40 FEET AND AN OUTSIDE AREA

MEASURING 30 FEET BY 50 FEET AT 1339 WEST O STREET - - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption for approval:

A-82572 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 R Fox, Inc. dba Red Fox Steak House to expand its licensed premises by the addition of an inside area measuring 33 feet by 40 feet and an outside area measuring 30 feet by 50 feet to the presently licensed premises located at 1339 West O Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

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

#### ORDINANCES - 2ND READING

CHANGE OF ZONE 3430 - APPLICATION OF RIDGE DEVELOPMENT CO. AND SUPERIOR POINT PARTNERS FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL AND B-2 PLANNED NEIGHBORHOOD BUSINESS TO B-5 PLANNED REGIONAL BUSINESS ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET AND FOLKWAYS BOULEVARD (In connection w/04R-23) - CLERK read an ordinance, introduced by Terry Werner, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

STREET AND ALLEY VACATION 03016 - VACATING ALL OF TELLURIDE CIRCLE GENERALLY LOCATED ONE BLOCK SOUTH OF FLETCHER AVENUE AND ONE BLOCK WEST OF NORTH 27TH STREET - CLERK read an ordinance, introduced by Terry Werner, vacating all of Telluride Circle, generally located one block south of Fletcher Avenue and one block west of N. 27<sup>th</sup> Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

#### RESOLUTIONS

APPROVING A MULTI-YEAR CONTRACT WITH FUNDING FROM MORE THAN ONE FISCAL CIP BUDGET YEAR FOR CITY PROJECT NO. 700078, VINE STREET, 22ND TO 27TH STREETS - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-82573 WHEREAS, the Public Works & Utilities Department has identified City Project No. 700078, Vine Street, 22nd to 27th Streets, as a street improvement project in the public best interest to improve safety, capacity, and aesthetics; and

WHEREAS, the current fiscal year has identified \$784,900 of CIP funds for the project and the remaining funding in the amount of \$2,627,600 will be available in the fiscal year 2004-2005 C.I.P. budget; and

WHEREAS, construction of this project is tied to the bid for construction of the Antelope Valley Vine Street Bridge project in order to coordinate traffic, both vehicular and pedestrian, with construction of both projects; and

WHEREAS, construction of this project is also tied to the rehabilitation of water main and pavement in the 27th and Vine Street intersection; and

WHEREAS, Public Works & Utilities believes it is in the public's best interest to coordinate the construction of these projects in this manner and match the funding appropriations to the cash outlay; and

WHEREAS, Article VII, Section 3 of the Charter of the City of Lincoln provides that no contract involving the expenditure of money from appropriations of more than one year, other than appropriations of borrowed money, shall be valid unless approved by ordinance or resolution of the City Council.

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

That the Mayor is authorized to execute a contract or contracts between the City of Lincoln, Nebraska and the lowest responsible bidder or bidders for the City Project 700078, Vine Street, 22nd Street to 27th Street, to be paid from fiscal years 2003-2004 and 2004-2005.

Introduced by Jonathan Cook

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

AUTHORIZING THE USE OF THE PUBLIC RIGHT-OF-WAY FOR INSTALLATION OF A 3" CONDUIT FOR FIBER OPTIC CABLE AND COPPER WIRE FOR CONNECTING TELECOMMUNICATION AND NETWORK DATA BETWEEN TMI PROPERTY AT 421 S. 9TH STREET AND 830 L STREET, AND RESCINDING RESOLUTION NO. A-82476 - - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-82574 WHEREAS, Technical Management, Inc. has submitted an application for a permit to use the public right-of-way between 421 S. 9th Street and 830 L Street for the installation of a 3" conduit for fiber optic cable to provide telecommunication and network data connections between the tow properties; and

WHEREAS, said applicant has submitted a letter of application with a site plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this resolution by reference, to use the public right-of-way as detailed in Exhibit B; and

WHEREAS, this resolution is prepared in part for settling compensation issues related to Resolution A-82476; and

WHEREAS, said applicant has complied with all of the provisions of Chapter 14.53 of the Lincoln Municipal Code pertaining to such use.

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

That the aforesaid application of Technical Management, Inc., hereinafter referred to as "Permittee," to use the public right-of-way related to Res. No. A-82476 between 421 S. 9th Street and 830 L Street, crossing underneath Capitol Parkway as shown on Exhibit "B" for the purpose of installing fiber optic cable and copper wire inside the conduit be granted as a privilege only by virtue of and subject to strict compliance with the site plans, the letter of application, and the following terms and conditions, to wit:

1. That the permission herein granted is subject to all the terms and conditions of Chapter 14.53 of the Lincoln Municipal Code including those provisions relating to the posting of a continuing bond in the amount of \$5,000 and the filing of a certificate of insurance evidencing a commercial or comprehensive general liability policy, or an acceptable substitute policy form, with a minimum combined single limit of \$500,000 aggregate for any one occurrence and naming the City as additional insured.

2. The work shall be constructed in accordance with plans and specifications approved by the Department of Public Works and Utilities. The facilities, where they are underground, shall be laid to a minimum depth of 3½ feet from the top of the cable to the surface of the ground. All land surfaces and all pavement shall be restored to their original condition after the work is completed on each segment of the project. "As built" drawings shall be furnished to the City by the Permittee to show the precise locations, depths, and nature of all materials installed in accordance with the permit. The City shall have the right at any time when, in its judgment, it becomes necessary or advisable to require a change of location of said facilities as a matter of safety, or on account of change of grade, resurfacing, repair, reconstruction of any street, alley, sidewalk, or other public ground, or the construction of any structure thereon, or for any other reason, all of which shall be done at the cost and expense of the Permittee in a good and workmanlike manner.

3. The Permittee shall pay to the City an annual rental for the use and occupancy of the space beneath said public street occupied by such use which rental is currently \$1.00 per lineal foot of space occupied underneath the public street, alley, sidewalk, or other public ground. Such rental is based upon the number of conduits being placed within the right-of-way. The term of the right herein provided to Technical Management, Inc. to use the City's right-of-way shall expire on the earlier to occur of: a) one year from the date of this resolution; or b) after the City's adoption of a new telecommunications ordinance regulating access to the City's right-of-way. In the event

that the ordinance is not enacted within one year from the date of this resolution, the parties agree to negotiate in good faith a renewal hereto based upon terms mutually agreeable to both parties in conformity with the applicable law then and there existing.

All payments shall be made to the City Treasurer and shall be due and payable on the 1st day of October of each year; provided, however, the amount of the initial payment shall be prorated from the date of approval of this permit to the 1st day of October, 1999 and payment shall be due and payable on October 1st thereafter. In the event that the new telecommunications ordinance is enacted within one year from the date of this resolution, the City shall pro-rate the portion of the fees remaining from the one year term and apply them to any fees payable under the ordinance if the ordinance.

Any such rent shall become delinquent on the 1st day of December of each year and such delinquent rent shall bear interest at the rate of 1% per month until paid and if such rent is not paid for six months or more after such delinquent date, a penalty of 5% shall be added thereto in addition to said interest.

4. The use of the public way herein granted and the terms and conditions of this resolution shall be binding and obligatory upon the above-named Permittee, its successors and assigns.

5. Any additions, changes, modifications, amendments of the uses permitted herein shall require a new permit or other authorization.

6. That within 30 days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named Permittee shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon terminate.

The Permittee shall, within thirty days after written demand, reimburse the City for all direct and indirect costs and expenses, as provided in Section 14.53.070, in connection with the issuance and review of this permit.

7. The Permittee acknowledges that the City is currently in the process of considering and developing a telecommunications ordinance that will define the procedures and fees for access to the City's right-of-way. Permittee acknowledges that its operations shall become subject to the provisions of that ordinance when it is adopted. This permit is in no way intended to provide Permittee any grandfather rights or exclusion from the provisions of such subsequent ordinance.

8. Resolution No. A-82476, adopted by the City Council on November 24, 2003, is hereby rescinded and replaced in its entirety by the provisions of this Resolution.

Introduced by Jonathan Cook

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

USE PERMIT 57D - APPLICATION OF RIDGE DEVELOPMENT COMPANY AND SUPERIOR POINT PARTNERS TO AMEND LINCOLN CROSSINGS USE PERMIT TO INCREASE THE BOUNDARY AND FLOOR AREA, AND TO MODIFY THE REQUIRED FRONT YARD SETBACK ALONG FOLKWAYS BLVD. AND THE SETBACK FROM THE RESIDENTIAL DISTRICT, ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET AND FOLKWAYS BLVD. (IN CONNECTION W/04-18)- PRIOR to reading:

COOK Moved to delay action on Bill No. 04R-23 for one week to 2/23/04.

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

REAPPOINTING STEVE MASTERS TO THE DISTRICT ENERGY CORPORATION FOR A TWO-YEAR TERM EXPIRING DECEMBER 31, 2005 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-82575 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Steve Masters to the District Energy Corporation for a two-year term expiring December 31, 2005 is hereby approved.

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

SETTING THE HEARING DATE OF MONDAY, MARCH 1, 2004 AT 1:30 P.M. FOR APP. OF  
1339 "O" STREET INC. DBA "BROTHERS EST 1967" FOR A CLASS "C" LIQUOR  
LICENSE AT 1339 O STREET - CLERK read the following resolution,  
introduced by Jonathan Cook, who moved its adoption:

A-82576 BE IT RESOLVED by the City Council, of the City of Lincoln, that a  
hearing date is hereby set for Mon., March 1, 2004, at 1:30 p.m. or as  
soon thereafter as possible in the City Council Chambers, County-City  
Building, 555 S. 10<sup>th</sup> St., Lincoln, Nem, for the App. of 1339 O Street,  
Inc. dba "Brothers Est.1967" for a Class "C" liquor license at 1339 O  
Street.

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

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

SETTING THE HEARING DATE OF MONDAY, MARCH 1, 2004 AT 1:30 P.M. FOR ZKZ INC.  
DBA "THE OFFICE" FOR A CLASS "I" LIQUOR LICENSE AT 640 W PROSPECTOR,  
SUITE #200 - CLERK read the following resolution, introduced by Jonathan  
Cook, who moved its adoption:

A-82577 BE IT RESOLVED by the City Council, of the City of Lincoln, that a  
hearing date is hereby set for Mon., March 1, 2004, at 1:30 p.m. or as  
soon thereafter as possible in the City Council Chambers, County-City  
Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the App. of ZKZ, Inc. dba  
"The Office" for a Class "I" liquor License at 640 W. Prospector, Suite  
#200.

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

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

SETTING THE HEARING DATE OF MONDAY, MARCH 1, 2004 AT 1:30 P.M. FOR APP. OF  
ALTA VISTA LLC DBA "DISH BISTRO & BAR" FOR A CLASS "C" LIQUOR LICENSE AT  
1100 O STREET - CLERK read the following resolution, introduced by  
Jonathan Cook, who moved its adoption:

A-82578 BE IT RESOLVED by the City Council, of the City of Lincoln, that a  
hearing date is hereby set for Mon., March 1 2004, at 1:30 p.m. or as  
soon thereafter as possible in the City Council Chambers, County-City  
Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for the App. of Alta Vista LLC  
dba DISH Bistro & Bar for a Class "C" liquor License at 1000 O Street.

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

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

USE PERMIT 33C - APPLICATION OF GALLUP, INC. TO ADD TWO LOTS TO BOUNDARIES OF  
AN EXISTING USE PERMIT FOR CONSTRUCTION OF AN OFFICE BUILDING ON  
PROPERTY GENERALLY LOCATED AT HAVERFORD DRIVE AND L STREET. (In  
connection w/04-16) - CLERK read the following resolution, introduced by  
Jonathan Cook for Terry Werner who was absent, who moved its adoption:

A-82580 WHEREAS, Gallup, Inc. has submitted an application in accordance  
with Section 27.27.080 of the Lincoln Municipal Code designated as Use  
Permit No. 33C for authority to add two lots to an existing use permit  
for construction of an office building, on property generally located at  
Haverford Drive and L Street, and legally described to wit:

Lots 1-4 and Lot 7, Executive Center 1st Addition,  
located in the Northeast Quarter of Section 29,  
Township 10 North, Range 7 East of the 6th P.M.,  
Lancaster County, Nebraska;

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of

Lincoln, Nebraska:

That the application of Gallup, Inc., hereinafter referred to as "Permittee", to add two lots to an existing use permit for construction of an office building on the property legally described above be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said office building be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 155,000 square feet of commercial floor area in five buildings.
2. The office building for Phase 9 shall:
  - a. Be limited to one story.
  - b. Have an exterior of primarily brick.
  - c. Have a typical residential style pitched roof.
  - d. Have windows and doors oriented towards Haverford Drive and L Street.
  - e. Have a setback of 30' along Haverford Drive.
  - f. Take access only from the east, off of the existing driveway onto L Street.
3. Before receiving building permits:
  - a. The Permittee must submit an acceptable revised final plan and seven copies.
  - b. The construction plans must conform to the approved plans.
4. Before occupying the office buildings in Phases 6 and 9, all development and construction must conform to the approved plans.
5. All privately-owned improvements, including landscaping, must be permanently maintained by the Permittee.
6. 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.
7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.
8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.
9. 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 Terry Werner

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

#### PETITIONS & COMMUNICATIONS

SETTING A HEARING DATE OF MONDAY, MARCH 1, 2004, AT 1:30 P.M. ON THE APPEAL OF IMPACT FEE DETERMINATION BY KELVIN KORVER FOR PROPERTY LOCATED AT SOUTH 91<sup>ST</sup> STREET AND HIGHWAY 2, LOTS 108 AND 109, I. T. LOCATED IN SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., LANCASTER COUNTY, NEBRASKA - CLERK requested a motion to approve the hearing date of Monday, March 1, 2004 at 1:30 p.m.

COOK So moved.

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

THE FOLLOWING WERE REFERRED TO PLANNING DEPT:

- Change of Zone 04001 - App of Director of Planning to amend the Zoning Ordinance relating to impact fee for Low Income Housing.
- Change of Zone 04004 - App. of Brian C. & Kym N. Pinkerton from R-3 to O-2 for property at 4301 South 84<sup>th</sup> Street.
- Special Permit No. 2045 - App. of Hartland Homes, Inc. to waive the preliminary plat process, to allow for transferring sanitary sewer from one basin to another and to allow running sanitary sewer opposite street grades in the Hartland's Cardinal Heights 2nd Addition C.U.P.
- Special Permit No. 04005 - App. of West Point, LLC for additional parking with a total of 94 stalls at 5401 Saylor Street.

**REPORTS OF CITY OFFICERS**

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY COUNCIL ON FEBRUARY 2, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED DECEMBER, 2003 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-82579 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended December 31, 2003, \$472,204.83 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Jonathan Cook

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

LINCOLN WATER & WASTEWATER RECAPITULATION OF DAILY CASH RECEIPTS FOR JANUARY 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk. (8-71)

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE QUARTER ENDING DECEMBER 31, 2003 FROM TIME WARNER CABLE - CLERK presented said report which was placed on file in the Office of the City Clerk. (41-2518A)

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS OCC. TAX FOR OCT AND NOV., 2003: SHAFFER COMM.; DEC, 2003: BELL ATLANTIC, SHAFFER COMM., ALLTEL COMM. OF NEBRASKA, ALLTEL NEBRASKA INC.; Jan. to Dec., 2003: Talk America; Oct.-Dec., 2003: IDT Corp., GE Business Prod. Solutions, American Farm Bureau, Winstar, Who's Calling, Opex, Comtech 21; Dec., 2003: Alyon Techn., Qwest, Netifice, Virgin Mobile USA, Verizon Select, Trans Nat'l., Voicecom, OnStar Corp., Telenational, Global Crossing, Primus, Tracfone, McLeodUSA, Cincinnati Bell Any Distance, PMG, ACN, Network Billing Systems, OCMC, IBM Global, T-Netix, United Systems Access, Quantum Shift, Star Number, Intellicall Operator, XO Long Distance, Enhanced, AT&T of Midwest, Nebraska Tech. & Telecomm., Touch America, Cricket, Guaranteed Phone Service, Telco Dev., AmeriVision, Norstan Network, MCI WorldCom Network, Buyers United, Working Assets, C III Comm. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

**ORDINANCES - 1<sup>ST</sup> READING**

AMENDING TITLE 12 OF THE LINCOLN MUNICIPAL CODE RELATING TO PARKS BY ADDING A NEW CHAPTER 12.22, ENHANCED MEDIAN ROUNDABOUT AND CUL-DE-SAC CENTER ISLAND LANDSCAPING, TO PROVIDE CONDITIONS FOR THE PLACEMENT OF ENHANCED LANDSCAPING IN MEDIAN ROUNDABOUT AND CUL-DE-SAC CENTER ISLAND AREA BY AN ABUTTING PROPERTY OWNER - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 12 of the Lincoln Municipal Code relating to Parks by adding a new Chapter 12.22, Enhanced Median, Roundabout, and Cul-de-sac Center Island Landscaping, to provide conditions for the placement of enhanced landscaping in median, roundabout, and cul-de-sac center island areas by an abutting property owner, the first time.



APPROVING THE AGREEMENT FOR ATTACHING ANTENNAS TO CITY TOWER AND OTHER APPURTENANCES BETWEEN THE CITY AND U.S. CELLULAR FOR THE PLACEMENT OF ANTENNAS FOR TELECOMMUNICATION USES ON THE TOWER GENERALLY LOCATED AT SOUTH 84TH AND SOUTH STREET - CLERK read an ordinance, introduced by Jonathan Cook, whereas, the City of Lincoln owns a tower on Lincoln Water System property, generally located at South 84<sup>th</sup> and South, which is generally used for telecommunication uses and associated ground space, the first time.

AMENDING TITLE 2 OF THE LINCOLN MUNICIPAL CODE BY CREATING A NEW CHAPTER 2.81 TO PROVIDE FOR LIVING WAGE OF AT LEAST 110% OF THE FEDERAL POVERTY GUIDELINE FOR A FAMILY OF FOUR, OR 100% OF THE FEDERAL POVERTY GUIDELINE IF DESCRIBED HEALTH INSURANCE BENEFITS ARE PAID BY THE EMPLOYER, TO BE ADJUSTED JULY 1 OF EACH YEAR HEREAFTER - CLERK read an ordinance, introduced by Terry Werner, amending Title 2 of the Lincoln Municipal Code relating to Officers Departments and Personnel by creating a new Chapter 2.81 to provide for a Living Wage of at least 110% of the federal poverty guideline for a family of our, or 100% of the federal poverty guideline if described health insurance benefits are paid by the employer, and mandating adjustments July 1 of each year hereafter, the first time.

AMENDING CHAPTER 3.20 OF THE LINCOLN MUNICIPAL CODE RELATING TO STREET IMPROVEMENT VEHICLE TAX TO CREATE THE RESIDENTIAL REHABILITATION FUND TO BE USED ONLY FOR THE PURPOSE OF REHABILITATING EXISTING RESIDENTIAL STREETS - CLERK read an ordinance, introduced by Jonathan Cook, amending Chapter 3.20 of the Lincoln Municipal Code relating to Street Improvement Vehicle Tax by adding a new section numbered 3.20.025 to add a definition for "rehabilitation"; adding a new section numbered 3.20.045 to add a definition for "residential street"; and amending Section 3.20.220 to create the "Residential Rehabilitation Fund" to be used only for the purpose of rehabilitating existing residential streets; and repealing Section 3.20.220 of the Lincoln Municipal Code as hitherto existing, the first time.

**ORDINANCES - 3<sup>RD</sup> READING**

CHANGE OF ZONE 3431 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.03.470 TO INCLUDE "MEDICAL TESTING LABORATORY" IN THE DEFINITION OF "OFFICE BUILDING"; AMENDING SECTIONS 27.27.030, 27.28.040, AND 27.37.020, TO ELIMINATE MEDICAL TESTING LABORATORIES AS A PERMITTED USE OR SPECIAL PERMIT USE IN THE O-3 OFFICE PARK DISTRICT, R-T RESIDENTIAL TRANSITION DISTRICT, AND B-5 PLANNED REGIONAL BUSINESS DISTRICT, RESPECTIVELY; AND AMENDING SECTION 27.63.390 TO ELIMINATE MEDICAL TESTING LABORATORIES AS A SPECIAL PERMITTED USE IN THE O-3 ZONING DISTRICT - CLERK read an ordinance, introduced by Ken Svoboda, amending Title 27 of the Lincoln Municipal Code, the Zoning Ordinance of the City of Lincoln, by amending Section 27.03.470 to include "medical testing laboratory" in the definition of "office building"; amending Sections 27.27.030, 27.28.040, and 27.37.020 to eliminate medical testing laboratories as a permitted use or special permit use in the O-3 Office Park District, R-T Residential Transition District, and B-5 Planned Regional Business District, respectively; amending Section

27.63.390 to eliminate medical testing laboratories as a special permitted use in the O-3 zoning district; and repealing Sections 27.03.470, 27.27.030, 27.28.040, 27.37.020, and 27.63.390 of the Lincoln Municipal Code as hitherto existing, the third time.

SVOBODA Moved to pass the ordinance as read.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner. The ordinance, being numbered **#18301**, is recorded in Ordinance Book , Page

CHANGE OF ZONE 3432 - APPLICATION OF YASUFUKU USA, INC. FOR A CHANGE OF ZONE FROM H-3 HIGHWAY COMMERCIAL DISTRICT TO I-2 INDUSTRIAL PARK DISTRICT ON PROPERTY GENERALLY LOCATED AT N.W. 12TH STREET AND WEST BOND CIRCLE - CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the

Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by charging the boundaries of the districts established and shown thereon, the third time.

SVOBODA Moved to pass the ordinance as read.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner.  
The ordinance, being numbered #18302 is recorded in Ordinance Book , Page

CHANGE OF ZONE 3433 - APPLICATION OF GALLUP, INC. FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO O-3 OFFICE PARK DISTRICT, ON PROPERTY GENERALLY LOCATED AT HAVERFORD DRIVE AND L STREET (In connection w/04R-17)- CLERK read an ordinance, introduced by Ken Svoboda, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

SVOBODA Moved to pass the ordinance as read.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner.  
The ordinance, being numbered #18303 is recorded in Ordinance Book , Page

ADOPTED THE SUPPLEMENTS TO THE LINCOLN MUNICIPAL CODE DATED JUNE, 2003 AND DECEMBER 2003 AS PART OF THE OFFICIAL LINCOLN MUNICIPAL CODE - CLERK read an ordinance, introduced by Ken Svoboda, adopting the supplements to the Lincoln Municipal Code dated June, 2003; and December 2003 as part of the official Lincoln Municipal Code, the third time.

SVOBODA Moved to pass the ordinance as read.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner.  
The ordinance, being numbered #18304, is recorded in Ordinance Book , Page

#### MISCELLANEOUS BUSINESS

##### PENDING -

SVOBODA Moved to extend the Pending List to February 23, 2004.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner.

##### UPCOMING RESOLUTIONS -

SVOBODA Moved to approve the resolutions to have Public Hearing on February 23, 2004.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner.

##### ADJOURNMENT 2:09 P.M.

SVOBODA Moved to adjourn the City Council meeting of February 9, 2004.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, McRoy, Newman, Svoboda; NAYS: None; ABSENT: Friendt, Werner.  
So ordered.

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Joan E. Ross, CMC, City Clerk

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Judy Roscoe, Senior Office Assistant



