

**AGENDA FOR
CITY COUNCIL MEMBERS' "NOON" MEETING
MONDAY, APRIL 12, 2004
Immediately Following Directors' Meeting
CONFERENCE ROOM 113**

I. MINUTES

1. Minutes from Council Members' "Noon" Meeting of April 5, 2004.
2. Minutes from the Directors' Meeting of March 1, 2004.
3. Minutes from the Directors' Meeting of April 5, 2004.

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

1. Lincoln Partnership for Economic Development Investors' Meeting (Camp)
2. ISPC Meeting (Camp)
3. Board of Health Meeting (Svoboda)

OTHER MEETINGS REPORTS:

III. APPOINTMENTS/REAPPOINTMENTS - To Be Announced

IV. REQUESTS OF COUNCIL FROM MAYOR - To Be Announced

V. MEETINGS/INVITATIONS -

1. Volunteer Partners' 2nd Annual Community-Wide Volunteer Recognition Celebration - on Sunday, April 18, 2004 from 2:00 p.m. to 3:30 p.m. in the University of Nebraska-Lincoln East Campus Union Great Plains Room - Reception will commence with hors d'oeuvres & refreshments at 2:00 p.m. followed by a short program beginning at 2:30 p.m. - (See Invitation)
2. Mayor's Award of Excellence - Award Presentation & Reception - Mayor Coleen J. Seng to Present Award at the City Council Meeting on Monday, April 19, 2004 at 1:30 p.m. - This Year's Recipient, Thurman Hoskins, Jr., Health Dept. and Immediately following the Ceremony The Health Dept. will be hosting a Reception in the Mayor's Reception Hallway on the 2nd Floor of the County/City Building - (See Invitation)
3. WasteCap of Lincoln - 'Fostering Sustainable Behavior Workshop' - on Thursday, May 13, 2004 from 8:00 a.m. to 4:30 p.m. - at Mahoney State Park, Ashland, Nebraska - To Create Effective Programs & Influence Behavior Change! - (See Invitation)

4. Graphics Plus - on Friday, April 16, 2004 from 5:00 p.m. to 8:00 p.m. - Join us to help launch a new era of our evolution - 815 "O" Street, 2nd floor - (See Invitation)
5. Public Information Meeting for the Warlick Intersection Project - New Design for the Intersection of Warlick, Old Cheney, and 14th Street - on Tuesday, April 13, 2004 from 5:30 p.m. to 7:30 p.m. - Christ's Place Church, 1111 Old Cheney Road - (See Invitation)
6. The Lincoln Chamber of Commerce invites you to attend the following Ribbon Cuttings: - Please RSVP to Jaime Henning at 436-2354 or E-Mail:
 - A.) Folsom Children's Zoo & Botanical Gardens, 27th & B Street on Monday, April 12, 2004 at 4:00 p.m.
 - B.) Lexus of Lincoln, 6500 Telluride Drive (North 27th Street) on Tuesday, April 27, 2004 at 5:30 p.m.
 - C.) Centerville Farmers Market, 803 Q Street (West Doors) on Thursday, April 29, 2004 at 4:00 p.m.
7. Updowntowners Membership Luncheon on Wednesday, April 14, 2004 from 11:45 a.m. to 1:00 p.m. - At Lincoln Children's Museum, 1420 P Street - Cost is \$8.00 (No shows will be charged) - RSVP to Heather Stewart at 434-6507 by April 12th. - (See Invitation)
8. Join The City of Lincoln & Blessed Sacrament Elementary Students in Celebrating Arbor Day 2004! - on Friday, April 30, 2004 at 10:00 a.m. (rain or shine!) - At Stransky Park, S. 17th & Harrison Streets (If Raining - at Blessed Sacrament School, S. 17th & Lake) - (See Invitation)
9. 2004 Lincoln & Lancaster County Environmental Awards Ceremony on Friday, April 23, 2004 - 7:00 p.m. to 8:30 p.m.-Dinner & Awards Presentation - At the Plaza Conference Center, Bryan/LGH East, 2nd floor, 48th & Cotner Blvd. - \$12.00 per person - RSVP by April 16th. - (See Invitation)

VI. MISCELLANEOUS - NONE

VII. CITY COUNCIL MEMBERS

VIII. ADJOURNMENT

MINUTES
CITY COUNCIL MEMBERS' "NOON" MEETING
MONDAY, APRIL 12, 2004
CONFERENCE ROOM 113

Council Members Present: Terry Werner, Vice-Chair; Jonathan Cook, Glenn Friendt, Patte Newman, Ken Svoboda; *ABSENT:* Jon Camp, Chair; Annette McRoy

Others Present: Mark Bowen, Anne Harrell, Mayor's Office; Dana Roper, City Attorney; Joan Ray, Council Secretary; Darrell Podany, Aide to Council Members Camp, Friendt and Svoboda

I MINUTES

1. Minutes from Council Members' "Noon" Meeting of April 5, 2004.
2. Minutes from the Directors' Meeting of March 1, 2004.
3. Minutes from the Directors' Meeting of April 5, 2004.

Vice-Chair Werner, presiding in Jon Camp's absence, requested a motion to approve the above-listed minutes. Jonathan Cook moved approval of the minutes, as presented, by acclamation. The motion was seconded by Glenn Friendt and carried by unanimous consensus of those Council Members present.

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

1. LINCOLN PARTNERSHIP FOR ECONOMIC DEVELOPMENT INVESTORS' MEETING (Camp) - Mr. Friendt, who had been asked to attend in Mr. Camp's absence, reported that there were a number of items on the agenda. He noted that the new Superintendent of the Lincoln School System had had a chance to make some comments relative to her view of cooperation between the Lincoln Public School System and the business community.

Then there was a presentation on the new GIS system that they're putting together to help put Lincoln on the map. There are apparently fewer than ten communities that have such a sophisticated system where site selectors and interested businesses would actually go on the internet. Mr. Friendt noted that it is really pretty sophisticated. He added, that, like most new applications, it didn't work very well during the presentation. Mr. Bowen stated that he had to defend Marcus because he has seen this with other presentations there; the problem is the Chamber's PC, used to run the program, needs to be upgraded. Mr. Friendt commented that Marcus needs no defense - every technology person he has ever worked with never goes in two hours before hand and tries to actually down-load the product. Mr. Friendt noted that, even his explanation for the power point made it seem like a pretty sophisticated system and it was well received.

Mr. Friendt reported that there was a presentation on the current status of prospecting activity. There were 8 internal active expansion opportunities and 5 brand-new possible relocations. They weren't named. Jim Fram did provide a paper from a development professional out of North Carolina which outlined the reasons for confidentiality in the economic development process and why it is very difficult for the Chamber, LPED and even City Staff, to be briefing leaders about who the prospects are and what the plans are, etc.

Finally, Jim Fram presented the Chamber of Commerce annual report. It was consolidated. Mr. Friendt noted that he had a copy of the report which he would put on file for Council Members. It is a consolidated report between the Chamber of Commerce, LPED -CDB.

2. ISPC (Camp) - No Report

3. BOARD OF HEALTH (Svoboda) Mr. Svoboda reported that the Board of Health met last week. There had been a presentation, based on the conversation Bruce had had with Council at a "Noon" meeting a couple of weeks ago, on some revisions for the smoking ordinance. These were reviewed and they were all passed unanimously by the Board of Health. They are mostly "house-keeping" in nature, providing definitions for various items. The only thing that was really new, which was discussed at our "Noon" meeting, was the permit process.

They have proposed and we have passed on to the Council, an amendment that will offer a permit process that is an exact parallel to the body art permit process language that was adopted.

Mr. Cook commented that the "under 18 years of age" issue might be re-examined. He asked if the Council would have to review that issue? Mr. Svoboda answered that the Board of Health did not address that issue. The Council may review it if we choose to do so, but the Board of Health did not, but determined that it would be a Council issue.

Mr. Cook asked, regarding the licensing issue, if there was discussion of how it might impact small businesses that aren't restaurant's or bars - but small businesses that want to set up a little smoking room. The licensing fee might be rather steep for that kind of circumstance. Mr. Svoboda stated that the Board looked at it from the standpoint that the Board has to be able to recognize who is going to be allowing smoking in their facility. The only way we can do that is through some type of permit process. We felt that \$300 for the initial year and \$200 for each subsequent year for renewal was not out of line. This is an exact, mirror image of the body art language and permit process. In regards to the body artists, they have a lot less over-head, in probability, than a bar or restaurant. They didn't complain about the fee schedule - in fact, they thought that it might be too low.

Ms. Newman asked, seeking clarification, then it is administered through the Health Department and not the City Clerk's Office? Mr. Svoboda responded that that is correct. He noted that they had struck the language that would require an affidavit being signed which would state that all the information is true, because - unfortunately - that just adds another layer of red tape to the whole permit process. We don't require affidavits on any other permitting that we do through-out the City. We do have an enforcement clause in there that does say that should there be a question as to the validity of the information that they are required to provide the Health Department and the Administrator of this ordinance with the proper documentation. This documentation would more than likely be sales tax revenues.

Mr. Cook commented that he thought this was fascinating, since they had been told that there was just “no way” that this could be enforced and they could “never” figure out what the percentage split was. So, we added the affidavit clause, in the hopes that by signing something that put them under oath in their reporting we would get the true representations of the facts. Now, you’re getting rid of that provision because the percentage split can be enforced. That’s what it sounds like here.

Mr. Svoboda answered that he didn’t know that they still feel that they can enforce the percentage, but the affidavit through the City Attorney’s office just seemed to be useless. Discussion ensued briefly on this topic with no further resolution determined.

OTHER MEETINGS - None

III. APPOINTMENTS/REAPPOINTMENTS - No Report

IV. REQUESTS OF COUNCIL FROM MAYOR - Mr. Bowen commented that regarding Items 12 and 13 on today’s Formal Agenda [Accepting and approving City’s certifications as landlord in the Estoppel Certificate and consenting to the Assignment and Assumption of the First Amended and Restated Lease and Operating Agreement - Burnham Yates Conference Center from Cornhusker Square Limited Partnership to SHUBH Hotels Lincoln, L.L.C. or its affiliates] and [Approving the Second Amendment to the First Amended and Restated Lease and Operating Agreement - Burnham Yates Conference Center] that the Administration would request that Council take action today on these items. They’re hoping to close on that property before next Monday.

Mr. Cook asked if they had a Sanitary Sewer collapse or anything that would make this an emergency? Mr. Bowen commented that there was not, nor did they have sewage in their basement. [Laughter]

Mr. Bowen commented that regarding the State Legislature, the session should wrap up later this week. He noted that it seems fairly apparent that there will be no action on the gas tax this session. It also seems that even though we might have one more discussion on storm water, it is unlikely that there will be a final action on that this year. One item that will probably get a final action is the State Fair. Ms. Newman noted that anything that costs us money... Mr. Werner asked what the vote would be on that issue. Mr. Bowen commented that it will probably be a similar vote to what they had for second reading a 31 vote in favor of it. It looks like all of those votes are solid, which is good news. The only wrinkle to it is this local option...a matching \$200,000. That doesn’t necessarily mean City tax money...but either public/private funding including such organizations as the Chamber of Commerce, and others. Mr. Bowen explained that in order to receive lottery money, we would have to have the local match.

Mr. Cook asked if the Group Home Bill would pass overwhelmingly? Mr. Bowen noted that it appears that way. But all that has occurred in the last week, there were three State Senators at that meeting -one of whom was the sponsor of that bill...could have some impact. He stated he did not know if the incident would kill the bill.. He commented that they would have to watch the session today and see what happens

Mr. Cook wondered if there were anything we could do and he was surprised at our “neutral” testimony. He thought the bill was folly. It may be true that you can have a group home that is run in such a way that potentially violent offenders have someone supervising them properly. In real life, he did not believe there was any chance that will happen. He did not believe that there would ever be enough funding. He felt they would always pay people way too little, which would encourage quick

turn-over in staff; and he did not believe it would ever be done in a way that would provide the supervision necessary. Mr. Cook felt this was just opening up a huge problem for the community, because of what he knew would be a lack of commitment. He thought, at least, with the Regional Center, there is some knowledge of what is being dealt with. If there is a funding short-fall, at least there it would be more readily identifiable.

This discussion continued briefly with the untabulated costs being reviewed. There was surprise expressed at the support of this shift of responsibility from the State to the local communities. It was noted by Mr. Friendt that if this shift takes place, the Administration should be looking at ways to ensure that whoever is responsible for patients of this kind in the community -whether it would require changes in zoning requirements or changing our registration requirements- there should be no operation possible without the knowledge of the local authorities and elected officials.

Mr. Cook commented that the Federal laws regarding "fair housing" limit what local authorities might be able to do to control this if we wanted neighbor notification or limiting the locations. Mr. Cook noted that we had a double whammy with the State pushing the responsibility to the local jurisdictions, while the Federal government is saying we have no authority to control it in certain areas. It's very frustrating.

Ms. Newman asked if the local authorities had the legal authority to license them as providers of that type of service. Mr. Bowen indicated that there is a licensing process through the State. Ms. Newman answered, yes - but does the City have the right to do that on the local level? Mr. Bowen stated that this brings us to what the Chief [Casady] was saying about the "three person rule". These that were operating aren't even shown as a group home officially, because they are "three or less".

Ms.. Newman stated that we know it is a business. We know that they are providing a service for people who live there. So, she thought there would be a way that the City could require them to register those homes - regardless. Mr. Bowen commented that that is where we get into this mix. On the one hand, we have the group home operators saying the City can't do that to them because they have the Federal government on their side. Ms. Newman noted that the City would not be saying that they *can't* do it, but only that they need to register so that we know what type of business they are running...because it is a business. Mr. Bowen agreed that it is. He noted that the Law Department had been in discussion with them a few times - not only with this operator, but with other operators also.

Mr. Bowen reported that the Mayor had commented at a neighborhood meeting last Friday that the City would be taking a look at this because it is serious. Mr. Werner commented that the City would have to educate themselves on this issue, too. He knew that this group home has had success with their clients in the past, noting that there are many factors to consider. And if the legislature passes it, the City won't have a lot of choice in the matter. Mr. Bowen commented that the action of the legislature has a statute here which has provisions about when they would make any changes. It's not automatic based on this action.

Mr. Werner asked Mr. Roper if he wanted to add anything to this discussion, or would he recommended that they move on from this topic. Mr. Roper responded that the Council should move on and give the Law Department a chance to take a look at all aspects of the issue. He stated that he was not sure, regarding the group home, if the Federal law preempts the field or not. He was afraid the City may not have many tools with which to work locally, but he would take a look.

V. MEETINGS/INVITATIONS - Noted Without Significant Comment.

VI. MISCELLANEOUS - None

VII. COUNCIL MEMBERS -

JON CAMP - Absent

JONATHAN COOK - Mr. Cook asked about the Sewer Contract and the rules waiver requested for the matter on the Agenda today. Mr. Cook asked if the Council felt that they would prefer to act on this today, in the middle of a contract, rather than waiting for them to finish and approve it after the fact. Mr. Bowen explained that this really did qualify as an emergency issue. Mr. Roper indicated that the City had no budgeted funds for this, so the funds would have to be approved by Council before payment could be made. Council agreed to move the vote for action today.

Mr. Cook asked if Council felt it was necessary to act on the Burnham Yates contract today. After a brief discussion, It was determined that they would act on this issue today.

GLENN FRIENDT - No Further Comments

ANNETTE MCROY - Absent

PATTE NEWMAN - No Further Comments

KEN SVOBODA - No Further Comments

TERRY WERNER - Mr. Werner commented that the only issue that was a carry-over from last week was the issue of mail opening and record keeping. He commented on the opinion that Rick Peo had issued regarding the State Statutes.

Mr. Roper stated that if a Council Member receives a document that pertains to City Business, that document or that e-mail (which would be considered a document) is most likely, invariably, a public record unless you can point to some specific exception that exempts it. Mr. Roper stated that we need a "custodian" or keeper of the records. As long as we have that, so if someone wants to see something, they can go to the custodian and see it - we're probably okay.

There was discussion on the issue which included concerns regarding the issue of trust, which was deemed to be a different issue. Correspondence received at home and through e-mail were also included in this discussion. A final determination was made to continue the discussion on this issue at the next "Noon" meeting when Mr. Roper would have an opinion on the proper procedures to be followed in the opening of mail.

MARK BOWEN - No Further Comments

ANN HARRELL - No Further Comments

DANA ROPER - No Further Comments

VIII. MEETING ADJOURNED - Approximately 12:10 p.m.

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