

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, JULY 19, 2004 AT 1:30 P.M.**

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

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

READING OF THE MINUTES

SVOBODA Having been appointed to read the minutes of the City Council proceedings of July 12, 2004, reported having done so, found same correct.

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

MAYOR'S AWARD OF EXCELLENCE

Mayor Seng came forward to present the Mayor's Award of Excellence for the month of May to Dave Bomberger of Parks and Recreation Dept., Jay Edmiston of Public Works & Utilities Dept., and Leon Marquart of the Health Dept. in the category of Productivity for their combined effort in combating the West Nile virus. Mayor Seng also presented the June award to Donnamarie Jones of the Police Dept., in the category of Productivity as a Service Desk Supervisor for doing an excellent job of negotiating, problem solving and creating a sense of team work.

PUBLIC HEARING

APPLICATION OF KEN'S LIQUOR INC DBA MJ CATERING FOR A CLASS I LIQUOR LICENSE LOCATED AT 2604 PARK BOULEVARD;

MANAGER APPLICATION OF MICHAEL JAMES BUDZINSKI FOR KEN'S LIQUOR, INC. DBA MJ CATERING LOCATED AT 2604 PARK BOULEVARD - Mike Budzinski, 7900 Zachary Circle, took oath and came forward to answer any questions.

This matter was taken under advisement.

APPLICATION OF GEEMAX INC. DBA N ZONE FOR A SPECIAL DESIGNATED LICENSE COVERING AN AREA MEASURING 42' BY 50' AT 728½ Q ST. ON SEPT. 4 & 11, OCT. 2, 16, & 30, AND NOV. 26, 2004 FROM 8:00 A.M. TO 1:00 A.M. - John Boehm, 811 S. 13th St., came forward representing Geemax, Inc.

Mike McCarty, 6518 Baldwin Ave., of Geemax, Inc. dba N-Zone reassured the Council that they will have enough staff (25) to accommodate and monitor the number of customers expected.

This matter was taken under advisement.

APPLICATION OF PASTIME PUB INC. FOR A SPECIAL DESIGNATED LICENSE COVERING AN AREA MEASURING 190' BY 120' AT 5601 NW 1ST ST. ON SEPT. 4 & 11, OCT. 2, 16, & 30, AND NOV. 26, 2004 FROM 8:00 A.M. TO 1:00 A.M. - Kathy Hagge, 1109 W. Britt, came forward to answer any questions. Discussion followed.

This matter was taken under advisement.

VACATION 03013 - VACATING SOUTH 49TH STREET BETWEEN PRESCOTT AND LOWELL AVENUES AND THE WEST 50' OF THE ALLEY EAST OF SOUTH 49TH STREET BETWEEN PRESCOTT AND LOWELL AVENUES - Dan Spiry, 7910 Thornview, architect for this project and College View Church member. This vacation would be used to expand the church facility and add 77 on-site parking stalls. Sharing the extra parking during the week with Union College students will be considered. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 04031 - APPLICATION OF ROSE INVESTMENTS, INC. FOR A CHANGE OF ZONE FROM I-1 INDUSTRIAL DISTRICT TO P PUBLIC USE DISTRICT AND R-4 RESIDENTIAL DISTRICT, AND FROM R-4 RESIDENTIAL DISTRICT TO P PUBLIC USE DISTRICT ON PROPERTY GENERALLY LOCATED WEST OF NORTH 33RD STREET AND SOUTH OF APPLE STREET. (IN CONNECTION W/04R-173);

SPECIAL PERMIT 04023 - APPLICATION OF ROSE INVESTMENTS, INC. TO DEVELOP FLAT IRON CROSSING COMMUNITY UNIT PLAN FOR 34 DWELLING UNITS, INCLUDING

WAIVERS OF THE MAXIMUM BLOCK LENGTH, PEDESTRIAN WAY EASEMENT, LOT DEPTH TO WIDTH RATIO, RECREATIONAL FACILITY, AND LOCATION OF SANITARY SEWER MAIN, ON PROPERTY GENERALLY LOCATED WEST OF NORTH 33RD STREET AND SOUTH OF APPLE STREET. (IN CONNECTION W/04-132) - Brian Carstens, 601 Old Cheney Rd., Suite C, came forward representing Rose Investments and Eugene Carroll. He stated there will be 17 duplex structures on this property

This matter was taken under advisement.

APPROVING A RESOLUTION DIRECTING THE SUBMISSION OF A PROPOSED GENERAL OBLIGATION BOND ISSUE NOT TO EXCEED \$75,000,000 FOR ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE CITY'S STREETS AND AVENUES, PUBLIC WAYS AND TRAILS AT A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 14, 2004 - Jan Gauger, 1404 N. 40th St., came forward as a member of the Mayor's Streets, Roads, & Trails Committee and representing Brad Korell and Russ Bayer in favor of this resolution.

Dan Marvin, co-chair of Mayor's Streets, Roads & Trails Committee, came forward in support.

Chairman Werner thanked Russ Bayer, Brad Korell, Dan Marvin, & Jan Gauger for all the work they did on this committee.

Mark Hunzeker, Pierson Fitchett Hunzeker Blake & Katt, 1045 Lincoln Mall, Suite 200, came forward as a committee member in favor of this resolution.

Danny Walker, 427 E St., came forward in opposition.

Verna Hawkins, 3621 Saline Circle, came forward in opposition.

Glen Ceval, 1420 C St., came forward in opposition.

Tim Brox, 349 N Street, came forward in opposition. Discussion followed.

Allan Abbott, Director of Public Works & Utilities Dept., came forward to show where the money will go if the bond issue is passed. A partial listing was shown of projects that were in the City's C.I.P. over the next six years that would be constructed. All projects are top priority and should be under construction by 2007. Discussion followed.

Dan Marvin came forward for rebuttal.

Jan Gauger came forward for rebuttal as well. Discussion followed.

This matter was taken under advisement.

WAIVER 04008 - APPLICATION OF UNION COLLEGE TO WAIVE THE PARKING LOT SURFACING REQUIREMENTS FOR A 16,500 SQ. FT. AREA GENERALLY LOCATED AT S. 51ST STREET AND BANCROFT AVE - Don Murray, Plant Supervisor of Union College came forward to explain this will be for long term parking and to include parking for the apartments across the street.

This matter was taken under advisement.

SUPPORTING FAIRNESS, JUSTICE AND EQUAL OPPORTUNITY IN THE WORK PLACE AND WORKING TOWARDS ELIMINATING RACISM AND DISCRIMINATION IN THE WORK PLACE - Dan Williams, 2020 S. Cotner, President of Citizens Against Racism Discrimination (CARD), came forward in support of this resolution.

Danny Walker, 427 E St., came forward to express his opinions on the language barrier problem.

Glen Ceval, 1420 C St., came forward in support of this resolution.

Frank Delgado, 3325 P Street, stated that attitude is part of the problem. He requested that the City Council look into the number of minorities employed by the City and how many minority businesses are given contracts with the City if they are the lowest bidder. Discussion followed.

This matter was taken under advisement.

PRELIMINARY PLAT 02005 - ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF CATHERLAND SUBDIVISION AND WAIVING THE REQUIRED SIDEWALK ON CATHER STREET, ALLOWING THE SANITARY SEWER TO RUN OPPOSITE STREET GRADES, AND ALLOWING THE SANITARY SEWER TO DRAIN FROM ONE BASIN TO ANOTHER, ON PROPERTY GENERALLY LOCATED AT N. 70TH STREET AND FLETCHER AVE. - Greg Wood, 7900 Amber Hill, representing Cather & Sons Construction, came forward to answer questions.

This matter was taken under advisement.

APPROVING A CONTRACT INVOLVING THE EXPENDITURES OF MONEY FROM APPROPRIATIONS OF MORE THAN ONE YEAR FOR A WATER PROJECT THAT PROVIDES FOR THE CONSTRUCTION OF NITRIFICATION AND CAPACITY IMPROVEMENTS AT THE THERESA STREET WASTEWATER TREATMENT FACILITY - Gary Brandt, Utilities

Coordinator for Wastewater and Solid Waste in Lincoln, requested approval of a multi-year request for signing contracts related to treatment & nitrification improvements at the Teresa Street facility.

Danny Walker, 427 E St., requested that Mr. Brandt stay for the miscellaneous business portion to answer questions on major implications of the wastewater in Salt Creek.

This matter was taken under advisement.

****TOOK BREAK 3:09 P.M.****

****RECONVENED 3:19 P.M. ****

MISCELLANEOUS BUSINESS

Danny Walker, 427 E St., President of the South Salt Creek Community Organization, came forward to state that he does not agree with the Caldwell Woods Wastewater Treatment facility west of Denton Road to dump their lagoons into the Caldwell branch of Salt Creek which will eventually end up in Salt Creek. Discussion followed.

Gary Brandt, Utilities Coordinator for Wastewater and Solid Waste, came forward to respond to Mr. Walker's concerns.

This matter was taken under advisement.

Glen Cekal, 1420 C St., came forward to express his indignation of the raw sewage going into Holmes Lake and the conditions of the downtown & near downtown alleys.

This matter was taken under advisement.

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

COUNCIL ACTION

LIQUOR RESOLUTIONS

APPLICATION OF KEN'S LIQUOR INC DBA MJ CATERING FOR A CLASS I LIQUOR LICENSE LOCATED AT 2604 PARK BOULEVARD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82863 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 Ken's Liquor Inc. dba MJ Catering for a Class "I" liquor license at 2604 Park Boulevard, Lincoln, Nebraska, for the license period ending April 30, 2005, 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 Jon Camp

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

MANAGER APPLICATION OF MICHAEL JAMES BUDZINSKI FOR KEN'S LIQUOR, INC. DBA MJ CATERING LOCATED AT 2604 PARK BOULEVARD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-82864 WHEREAS, Ken's Liquor Inc. dba MJ Catering located at 2604 Park Boulevard, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Michael J. Budzinski be named manager;

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

APPLICATION OF GEEMAX INC. DBA N ZONE FOR A SPECIAL DESIGNATED LICENSE
COVERING AN AREA MEASURING 42' BY 50' AT 728½ Q ST. ON SEPT. 4 & 11,
OCT. 2, 16, & 30, AND NOV. 26, 2004 FROM 8:00 A.M. TO 1:00 A.M. - CLERK
read the following resolution, introduced by Jon Camp, who moved its
adoption for approval:

A-82865 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 Geemax, Inc. dba N Zone for a Special Designated License
to cover an area measuring 42 feet by 50 feet at 728 ½ Q Street,
Lincoln, Nebraska, on September 4, 11, October 2, 16, 30, and November
26, 2004, between the hours of 8:00 a.m. and 1:00 a.m., be approved with
the condition that the applicant and premise complies in every respect
with all City and State regulations and with the following requirements:

1. Identification shall be checked on all parties wishing to
consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from
the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.
5. An additional second exit from the fenced in area shall be
provided.
6. One portable toilet facility shall be provided.

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

APPLICATION OF PASTIME PUB INC. FOR A SPECIAL DESIGNATED LICENSE COVERING AN
AREA MEASURING 190' BY 120' AT 5601 NW 1ST ST. ON SEPT. 4 & 11, OCT. 2,
16, & 30, AND NOV. 26, 2004 FROM 8:00 A.M. TO 1:00 A.M. - CLERK read the
following resolution, introduced by Jon Camp, who moved its adoption for
approval:

A-82866 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 Pastime Pub Inc. for a Special Designated License to
cover an area measuring 190 feet by 120 feet at 5601 N.W. 1st Street,
Lincoln, Nebraska, on September 4, 11, October 2, 16, 30, and November
26, 2004, between the hours of 8:00 a.m. and 1:00 a.m., be approved with
the condition that the applicant and premise complies in every respect
with all City and State regulations and with the following requirements:

1. Identification shall be checked on all parties wishing to
consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from
the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.
5. An additional second exit from the fenced in area shall be
provided.
6. One portable toilet facility shall be provided.

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

ORDINANCES - 2ND READING

VACATION 03013 - VACATING SOUTH 49TH STREET BETWEEN PRESCOTT AND LOWELL
AVENUES AND THE WEST 50' OF THE ALLEY EAST OF SOUTH 49TH STREET BETWEEN
PRESCOTT AND LOWELL AVENUES - CLERK read an ordinance, introduced by
Annette McRoy, vacating South 49th Street between Prescott and Lowell
Avenues, and the west 50' of the alley east of South 49th Street between

Prescott and Lowell Avenues, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

VACATION 04002 - VACATING THE REMAINING PORTION OF NORTH 47TH STREET BETWEEN THE NORTH LINE OF W STREET AND THE SOUTH LINE OF THE VACATED MISSOURI PACIFIC RAILROAD - CLERK read an ordinance, introduced by Annette McRoy, vacating the remaining portion of North 47th Street between the north line of W Street and the south line of the vacated Missouri Pacific Railroad, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

CHANGE OF ZONE 04031 - APPLICATION OF ROSE INVESTMENTS, INC. FOR A CHANGE OF ZONE FROM I-1 INDUSTRIAL DISTRICT TO P PUBIC USE DISTRICT AND R-4 RESIDENTIAL DISTRICT, AND FROM R-4 RESIDENTIAL DISTRICT TO P PUBLIC USE DISTRICT ON PROPERTY GENERALLY LOCATED WEST OF NORTH 33RD STREET AND SOUTH OF APPLE STREET - CLERK read an ordinance, introduced by Annette McRoy, 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.

SPECIAL PERMIT 04023 - APPLICATION OF ROSE INVESTMENTS, INC. TO DEVELOP FLAT IRON CROSSING COMMUNITY UNIT PLAN FOR 34 DWELLING UNITS, INCLUDING WAIVERS OF THE MAXIMUM BLOCK LENGTH, PEDESTRIAN WAY EASEMENT, LOT DEPTH TO WIDTH RATIO, RECREATIONAL FACILITY, AND LOCATION OF SANITARY SEWER MAIN, ON PROPERTY GENERALLY LOCATED WEST OF NORTH 33RD STREET AND SOUTH OF APPLE STREET - PRIOR to reading:

COOK Moved to delay action on Bill No. 04R-173 for one week to 7/26/04.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

RESOLUTIONS

APPROVING A RESOLUTION DIRECTING THE SUBMISSION OF A PROPOSED GENERAL OBLIGATION BOND ISSUE NOT TO EXCEED \$75,000,000 FOR ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE CITY'S STREETS AND AVENUES, PUBLIC WAYS AND TRAILS AT A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 14, 2004 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82867 **WHEREAS**, in order to pay the costs of acquiring certain land rights and designing, constructing, reconstructing, improving, extending, installing and completing grading, paving, curbing, guttering, rehabilitation and other related and incidental improvements to the streets, avenues and other public ways, including trails, in the City of Lincoln, Nebraska (the "**City**"), it is necessary to issue general obligation bonds of the City and to levy a tax for the payment thereof, and

WHEREAS, it is in the best interests of the City to present the question of the issuance of such bonds and the levying of a tax to pay the same to the electors of the City at a special election to be held by the City on Tuesday, September 14, 2004.

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

1. The Council hereby finds and determines that:
 - a. It is necessary, desirable, advisable and in the best interests of the City that it acquire certain land rights, and design, construct, reconstruct, improve, extend, install and complete grading, paving, curbing, guttering, rehabilitating and other related and incidental improvements to the City's streets, avenues and other public ways, including trails; all of such Improvements as specified in the 2025 Lincoln/Lancaster County Comprehensive Plan and the City of Lincoln Capital Improvements Program at the time of such election (collectively, the "**Improvements**").
 - b. The estimated cost to the City of completing the Improvements will not exceed Seventy-Five Million Dollars (\$75,000,000) 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 Seventy-Five Million Dollars (\$75,000,000), and 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 a special election called by the City to be held on Tuesday, September 14, 2004.

2. The following proposition shall be submitted to the qualified electors of the City at the City special election to be held on Tuesday, September 14, 2004.

(FORM OF BALLOT)

STREETS, PUBLIC WAYS AND TRAILS BOND ISSUE

STATE OF NEBRASKA

CITY OF LINCOLN

OFFICIAL BALLOT

CITY SPECIAL ELECTION - TUESDAY, SEPTEMBER 14, 2004.

GENERAL OBLIGATION BONDS

"SHALL THE CITY OF LINCOLN, NEBRASKA, ISSUE ITS GENERAL OBLIGATION BONDS IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$75,000,000 FOR THE PURPOSE OF PAYING COSTS INCIDENT TO ACQUIRING LAND RIGHTS, AND DESIGNING, CONSTRUCTING, RECONSTRUCTING, IMPROVING, EXTENDING, INSTALLING AND COMPLETING GRADING, PAVING, CURBING, GUTTERING AND OTHER RELATED AND INCIDENTAL IMPROVEMENTS AND REHABILITATION TO THE CITY'S STREETS, AVENUES AND OTHER PUBLIC WAYS, INCLUDING TRAILS OF THE CITY; ALL SUCH IMPROVEMENTS AS SPECIFIED IN THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN AND THE CITY OF LINCOLN CAPITAL IMPROVEMENTS PROGRAM AT THE TIME OF THIS ELECTION; 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 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 shall be and hereby is directed to proclaim and give notice that at the City special election to be held by and in the City on Tuesday, September 14, 2004, 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 City special 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 (the "Election Commissioner").

5. The City Clerk is further directed to notify the Election Commissioner of the City special 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 City special election shall be open from 8:00 a.m. to 8:00 p.m. on Tuesday, September 14, 2004, 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 City special 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 Annette McRoy

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

WAIVER 04008 - APPLICATION OF UNION COLLEGE TO WAIVE THE PARKING LOT SURFACING REQUIREMENTS FOR A 16,500 SQ. FT. AREA GENERALLY LOCATED AT S. 51ST STREET AND BANCROFT AVE. - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82868 WHEREAS, Union College has requested a waiver of the surfacing requirements for a student parking lot on property generally located at S. 51st Street and Bancroft Avenue and legally described as:

All of Block 1 and all of Block 14, College View Addition, located in Section 5, Township 9 North, Range 7 East, 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 in conjunction with a nonprofit institution;

b. Alternate materials or techniques shall be utilized which provide reasonable control of dust, runoff, and safe circulation; and

c. The location of the parking lot is sufficient distance from surrounding uses that it will not adversely affect the surrounding uses, and the frequency of use of the parking lot is so low that compliance with the surfacing requirements at the present time would cause undue economic hardship upon the owner as compared with minimal impact upon the surrounding land uses.

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 for Union College located at S. 51st Street and Bancroft Avenue on property legally described above is hereby waived pursuant to § 27.67.100(c) of the Lincoln Municipal Code under the following conditions:

1. The driveway approach must be paved with concrete from the curb line to the property line to prevent mud, rock or gravel being deposited in the streets adjacent to the parking lot.

2. The applicant is responsible for controlling off-site dust emissions from the parking lot by using crushed rock and watering down the surface when necessary.

3. 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, and thereafter the use of the parking lot shall cease unless surfaced in accordance with design standards.

4. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

Introduced by Annette McRoy

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

SUPPORTING FAIRNESS, JUSTICE AND EQUAL OPPORTUNITY IN THE WORK PLACE AND WORKING TOWARDS ELIMINATING RACISM AND DISCRIMINATION IN THE WORK PLACE -

CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82869 WHEREAS, the City of Lincoln, Nebraska recognizes racial and ethnic equality as essential to the vitality and diversity of Lincoln; and

WHEREAS, the City of Lincoln, Nebraska is committed to improving race relations by making significant efforts to assure that all its practices and policies reflect the values of fairness, justice, and equal opportunity.

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

1. We, as a leading community employer, pledge to support fairness, justice, and equal opportunity.
2. We will work to eliminate racism and discrimination in our city, should they occur.

Introduced by Annette McRoy

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

APPROVING RESPONSIBLE BEVERAGE SERVICE PROGRAMS PROVIDED BY THE RESPONSIBLE HOSPITALITY COUNCIL FOR MANAGERS OR LICENSEES REQUIRED TO OBTAIN MANAGER/SERVER TRAINING UNDER SECTION 5.04.035 OF THE LINCOLN MUNICIPAL CODE - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82870 WHEREAS, Lincoln Municipal Code Section 5.04.035 requires the manager or licensee to successfully complete a course in responsible beverage manager/server training approved by the City Council; and

WHEREAS, the Lincoln/Lancaster County Responsible Hospitality Council (RHC), 1005 "O" Street, Lincoln, NE 68508, phone: 402-437-7880, fax: 402-435-0045, a Nebraska non-profit corporation (#1597052) representing owner/operators, community officials, and concerned citizens dedicated to increasing community awareness of the responsible retail sale, use, and service of alcohol in Lincoln and Lancaster County, has approved training programs and instructors certified as national instructors under the auspices of the Responsible Beverage Service Programs.

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

That the following Manager/Server training courses provided by the Responsible Hospitality Council are hereby approved by the City Council for managers or licensees required to obtain manager/server training under Section 5.04.035 of the Lincoln Municipal Code:

1. Management Training - Hospitality Insider (2 courses)
2. BASIC Server Training

Introduced by Annette McRoy

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

PRELIMINARY PLAT 02005 - ACCEPTING AND APPROVING THE PRELIMINARY PLAT OF CATHERLAND SUBDIVISION AND WAIVING THE REQUIRED SIDEWALK ON CATHER STREET, ALLOWING THE SANITARY SEWER TO RUN OPPOSITE STREET GRADES, AND ALLOWING THE SANITARY SEWER TO DRAIN FROM ONE BASIN TO ANOTHER, ON PROPERTY GENERALLY LOCATED AT N. 70TH STREET AND FLETCHER AVE. - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82871 WHEREAS, Robert and Howard Cather have submitted the preliminary plat of **Catherland Subdivision** for acceptance and approval, together with a request to waive City of Lincoln Design Standards and Land Subdivision

Ordinance requirements to waive the installation of sidewalks, to allow sewers to flow opposite street grades, and to allow sewers to drain from one basin to another; and

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said preliminary plat and made recommendations as contained in the letter dated September 18, 2003, 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 **Catherland Subdivision**, located at N. 70th Street and Fletcher Avenue as submitted by Robert and Howard Cather, 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 § 26.27.020 of the Lincoln Municipal Code relating to the installation of sidewalks on Cather Street is waived.
2. The requirement of Section 3.6 of the Sanitary Sewer Design Standards that the slope of the sanitary sewer should parallel the slope of the street is waived to allow the construction of sanitary sewer running opposite street grades, provided the design does not create sewer depths in excess of the maximum and minimum allowable depths.
3. The requirement of Section 2.1 of the Sanitary Sewer Design Standards prohibiting the transfer of wastewater from one watershed to another is waived to allow the transfer of sanitary sewer from one drainage basin to another.

Introduced by Annette McRoy

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

AMENDING RESOLUTION NO. A-82833 TO DESCRIBE THE PURPOSE OF EXPANDING THE BOUNDARY OF USE PERMIT NO. 94B TO ALLOW A FREE STANDING PHARMACY RATHER THAN A MEDICAL OFFICE BUILDING - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82872 WHEREAS, the City of Lincoln previously adopted Resolution No. A-82833 on June 21, 2004, approving St. Elizabeth Community Health Center's application, designated as Use Permit 94B, to expand the boundary of Use Permit No. 94A to increase the total allowed square footage of floor area from 45,000 sq. ft. to 47,000 sq. ft; and

WHEREAS, said application was for the purpose of constructing a free standing 2,000 sq. ft. pharmacy; and

WHEREAS, Resolution No. A-82833 erroneously described the 2,000 sq. ft. pharmacy as a medical office building; and

WHEREAS, a free standing pharmacy is not allowed in an office building but is allowed as a store for the sale of goods at retail.

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

That Resolution No. A-82833 be amended (1) by deleting the term "medical office building" on page 1, lines 5 and 22, and inserting in lieu thereof the word pharmacy; and (2) by deleting the term "office building" on page 2 line 3, and inserting in lieu thereof the word pharmacy.

Introduced by Annette McRoy

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

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF JUNE 16 - 30, 2004 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82873 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated July 1, 2004, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

	<u>DENIED</u>		<u>ALLOWED OR SETTLED</u>	
Melissa Willits	\$ 243.72	University of Nebraska		\$1,441.75
Lothrop, Inc. and Carveth Investments, Inc.	15,020.00	Jawad Al-Jabery		545.07
Barman Investments LLC	28,596.81	Burt Foreman		100.00
Gary J. Hertel	3,607.75	Raymond Phillips		1,680.00
Gene Converse	153.00	Farm Bureau		
Todd Bertucci	101.80	(Claim #01641/Michael Bonnett, Insured)		795.54
Adrienne Beischel	NAS*			
Yaser Eddmeiri	20.00			
Kim Marie Schrader-Eberspacher	65.19			

* No Amount Specified.

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Annette McRoy

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

APPROVING A CONTRACT INVOLVING THE EXPENDITURES OF MONEY FROM APPROPRIATIONS OF MORE THAN ONE YEAR FOR A WATER PROJECT THAT PROVIDES FOR THE CONSTRUCTION OF NITRIFICATION AND CAPACITY IMPROVEMENTS AT THE THERESA STREET WASTEWATER TREATMENT FACILITY - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-82874 WHEREAS, the City of Lincoln desires to enter into contracts for the wastewater project that provides for the construction of nitrification and capacity improvements at the Theresa Street Wastewater Treatment Facility.

WHEREAS, said contracts will involve the expenditure of money from appropriations of more than one year, and Article VII, Section 3 of the Charter of the City of Lincoln provides that no such expenditure of money from appropriations of more than one year shall be valid unless approved by 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 between the City and the recommended, lowest bid contractor for a wastewater construction project that includes nitrification and capacity improvements at the Theresa Street Wastewater Treatment Facility.

AND FURTHER, BE IT RESOLVED by the City Council that the Mayor is authorized to execute a contract between the City and HDR, Inc. to provide construction phase services for this Theresa Street Treatment plant construction project.

The City Clerk is directed to return one fully executed copy of this Resolution to Steve Masters, Public Works Administrator, one for department records.

Introduced by Annette McRoy

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

PETITIONS & COMMUNICATIONS

REPORT OF UNL MICROBIOLOGIST FOR WATER TESTING FOR THE MONTH OF JUNE, 2004 - 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 THE WEEK OF JULY 6 THRU JULY 9, 2004 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-82875 BE IT HEREBY THE 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 Patte Newman

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

ORDINANCES - 1ST READING & ASSOCIATED RESOLUTIONS

(Resolutions listed hereunder advance to Public Hearing on 7/19/04)

AMENDING CHAPTER 27.58 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE AIRPORT ENVIRONS NOISE DIST. TO CHANGE THE NOISE LEVEL REFERENCE FROM LDN TO DNL; TO DELETE THE NUMBER 1 FROM THE DISTRICT NAME; TO AMEND THE BOUNDARIES OF THE DISTRICT; TO REVISE PROVISIONS REGARDING PERMITTED USES; TO REVISE PROVISION REGARDING CONDITIONAL PERMITTED USES; TO DELETE THE REQUIREMENT THAT A COVENANT, NOTICE & ACKNOWLEDGMENT BE GRANTED & INSTEAD TO REQUIRE THE GRANT OF AN AVIATION & NOISE EASEMENT; & TO ADD REFERENCE TO THE AVIATION & NOISE EASEMENT. (IN CONNECTION W/04R-172 & 04R-182) - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 27.58 of the Lincoln Municipal Code relating to the Airport Environs Noise Dist. to change the noise level reference from Ldn to DNL; to delete the number 1 from the district name; to amend the boundaries of the district; to revise provisions regarding permitted uses; to revise provision regarding conditional permitted uses; to delete the requirement that a Covenant, Notice & Acknowledgment be granted & instead to require the grant of an aviation & noise easement; & to add reference to the aviation & noise easement, the first time.

COMP. PLAN AMENDMENT 04002 - ADOPTING THE LINCOLN AIRPORT F.A.R. PART 150 NOISE COMPATIBILITY STUDY AS AN APPROVED SUBAREA PLAN OF THE LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN & TO AMEND THE LAND USE PLAN ACCORDINGLY FOR THE AREA GENERALLY LOCATED BETWEEN SW 40TH ST. & S. CODDINGTON AVE., FROM W. SOUTH ST. TO ½ MILE NORTH OF W. A ST. (IN CONNECTION W/04-131 & 04R-182) - CLERK read an ordinance, introduced by Patte Newman, Comp. Plan Amendment 04002 - Adopting the Lincoln Airport F.A.R. Part 150 Noise Compatibility Study as an approved subarea plan of the Lincoln/Lancaster County Comprehensive Plan & to amend the land use plan accordingly for the area generally located between SW 40th St. & S. Coddington Ave., from W. South St. to ½ mile north of W. A St., the first time.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY & THE AIRPORT AUTHORITY REGARDING CITY'S & AIRPORT AUTHORITY'S RESPONSIBILITIES IN IMPLEMENTING THE AIRPORT ENVIRONS NOISE DISTRICT REQUIREMENT THAT AS A CONDITION OF SUBDIVISION, ZONING CODE, COMMUNITY UNIT PLAN, SPECIAL PERMIT, OR USE PERMIT APPROVAL THAT THE APPLICANT GRANT AN AVIATION EASEMENT PROTECTING THE AIRPORT AUTHORITY FROM CLAIMS OF DAMAGES FROM AIRPORT NOISE & OVERFLIGHT IMPACT. (IN CONNECTION W/04-131 & 04R-172) - CLERK read an ordinance, introduced by Patte Newman, approving an Interlocal Agreement between the City & the Airport Authority regarding City's & Airport Authority's responsibilities in implementing the Airport Environs Noise District requirement that as a condition of subdivision, zoning code, community unit plan, special permit, or use permit approval that the applicant grant an aviation easement protecting the Airport Authority from claims of damages from airport noise & overflight impact, the first time.

APPROVING THE FINANCING OF A LEASE-PURCHASE AGREEMENT BETWEEN THE CITY & UNION BANK & TRUST COMPANY IN AN AMOUNT NOT TO EXCEED \$2,500,000 FOR THE ACQUISITION BY THE CITY OF FIRE FIGHTING & PUBLIC SAFETY EMERGENCY EQUIPMENT - CLERK read an ordinance, introduced by Patte Newman, approving the financing of a Lease-Purchase Agreement between the City & Union Bank & Trust Company in an amount not to exceed \$2,500,000 for the acquisition by the City of fire fighting & public safety emergency equipment, the first time.

CHANGE OF ZONE 04041 - APPLICATION OF B&J PARTNERSHIP FOR A CHANGE FROM P PUBLIC USE DISTRICT TO I-1 INDUSTRIAL DISTRICT ON APPROXIMATELY 24.62 ACRES OF PROPERTY GENERALLY LOCATED AT SOUTH 9TH ST. & CALVERT ST. - CLERK read an ordinance, introduced by Patte Newman, Change of Zone 04041 - Application of B&J Partnership for a change from P Public Use District to I-1 Industrial District on approximately 24.62 acres of property generally located at South 9th St. & Calvert St., the first time.

APPROVING A LEASE AGREEMENT BETWEEN THE CITY & THE AIRPORT AUTHORITY FOR STORAGE SPACE AT BUILDINGS NO. 2690 & 2699 IN LINCOLN AIR PARK WEST FOR A TERM BEGINNING SEPT. 1, 2004 THROUGH AUG. 31, 2005 - CLERK read an ordinance, introduced by Patte Newman, approving a Lease Agreement between the City & the Airport Authority for storage space at Buildings No. 2690 & 2699 in Lincoln Air Park West for a term beginning Sept. 1, 2004 through Aug. 31, 2005, the first time.

ORDINANCES - 3RD READING & RESOLUTIONS FOR ACTION

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE TO EXTEND FAMILY SICK LEAVE TO INCLUDE ANY PERSON UNDER LEGAL GUARDIANSHIP OF AN EMPLOYEE, TO REARRANGE THE FUNERAL LEAVE SECTION FOR CLARITY, AND TO ALLOW EMPLOYEES ON MILITARY LEAVE WITHOUT PAY TO NOT FIRST EXHAUST ALL APPLICABLE LEAVE BALANCES - CLERK read an ordinance, introduced by Glenn Friendt, amending Chapter 2.76 of the Lincoln Municipal Code, Personnel System, by amending Section 2.76.380 relating to sick leave with pay to extend sick leave to include any person under legal guardianship of an employee; by amending Section 2.76.385 relating to funeral leave to clarify its provisions; amending Section 2.76.400 relating to leaves of absence without pay to provide that an employee on military leave of absence does not have to exhaust all applicable leave balances; and repealing Sections 2.76.380, 2.76.385, and 2.76.400 of the Lincoln Municipal Code as hitherto existing, the third time.

FRIENDT Moved to pass the ordinance as read.

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

The ordinance, being numbered #18404, is recorded in Ordinance Book , Page

MISCELLANEOUS BUSINESS

REGULAR MEETING
JULY 19, 2004
PAGE 1038

PENDING -

CAMP Moved to extend the Pending List to July 26, 2004.
 Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook,
 Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on
 July 26, 2004.
 Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook,
 Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 3:46 P.M.

CAMP Moved to adjourn the City Council meeting of July 19, 2004.
 Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook,
 Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
 So ordered.

Joan E. Ross, CMC, City Clerk

Judy Roscoe, Senior Office Assistant