

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, DECEMBER 6, 2004 AT 1:30 P.M.**

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

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

READING OF THE MINUTES

CAMP Having been appointed to read the minutes of the City Council proceedings of November 29, 2004, reported having done so, found same correct.

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

PUBLIC HEARING

APPLICATION OF JJ KAT INC. DBA BREWSKY'S FOOD & SPIRITS, TO EXPAND THEIR PRESENTLY LICENSED PREMISES BY THE ADDITION OF AN OUTDOOR AREA MEASURING APPROXIMATELY 36 FEET BY 15 FEET TO THE SOUTH OF THE PROPERTY LOCATED AT 2840 SOUTH 70TH STREET - Mark Hunzeker, Pierson Fitchett Hunzeker Blake & Katt, 1045 Lincoln Mall, Suite 200, took oath and came forward representing Brewsky's Food & Spirits. He stated they already have a license for the beer garden and thought that would apply to a sidewalk café. The Liquor Commission said the beer garden was not the same as the sidewalk café.

This matter was taken under advisement.

APPLICATION OF ALFREDO BARRERA DBA AY CHIHUAHUA FOR A LIQUOR CATERING LICENSE AT 2050 CORNHUSKER HIGHWAY - Alfredo Barrera, 742 W. Burt Dr., took oath and stated they are requesting a liquor catering license to be able to serve liquor at dances.

This matter was taken under advisement.

MANAGER APPLICATION OF JEFFRE J. MANN FOR PINELAKE II LLC DBA THE C-STATION AT 1401 PINE LAKE ROAD - Jeffrey J. Mann, 1950 Southern Light Dr., took oath and came forward to answer any questions.

This matter was taken under advisement.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND DYNAMIC EDUCATIONAL SYSTEMS, INC. FOR PROVIDING JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT - Dan Cain, Urban Development, came forward to answer any questions.

This matter was taken under advisement.

COZ 04071 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE TO REMOVE THE CONDITION THAT THE MAXIMUM LOT COVERAGE FOR CHURCHES SHALL NOT EXCEED 15% OF THE LOT AREA IN THE R-1 THROUGH R-7 RESIDENTIAL DISTRICTS EXCEPT BY SPECIAL PERMIT - Council Member Cook asked staff what prompted the drafting of this ordinance?

Ray Hill, Planning Dept., stated it was because of the possibility of being sued and the separation of church and state. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 04073 - APPLICATION OF WHITEHEAD OIL COMPANY FOR A CHANGE OF ZONE FROM P PUBLIC USE TO I-1 INDUSTRIAL ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH 33RD STREET AND SUPERIOR STREET - Mark Hunzeker, Pierson Fitchett Hunzeker Blake & Katt, 1045 Lincoln Mall, Suite 200, came forward representing Whitehead Oil Company came forward to answer questions. Discussion followed.

This matter was taken under advisement.

AMENDING CHAPTER 2.78 OF THE LINCOLN MUNICIPAL CODE TO AMEND MANAGEMENT COMPENSATION PLAN ESTABLISHED, MANAGEMENT COMPENSATION PLAN ANNUAL LEAVE, COMPENSATION PLAN VARIABLE MERIT PAY PLAN DSS & "M" PAY RANGES, AND MANAGEMENT COMPENSATION PLAN SICK LEAVE IN CONJUNCTION WITH THE PAY PLAN FOR EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO PAY RANGES PREFIXED BY THE LETTER "M";

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE TO DELETE REFERENCES AND PROVISIONS RELATING TO PAY RANGES PREFIXED BY THE LETTER "M" AND TO ADD LEAVE OF ABSENCE WITHOUT PAY PROVISIONS RELATING TO A REGULAR, CLASSIFIED EMPLOYEE WHO LEAVES HIS OR HER POSITION TO ACCEPT APPOINTMENT TO A POSITION WITH A PAY RANGE PREFIXED BY "DSS" AND THE STATUS OF THAT EMPLOYEE SHOULD HE OR SHE RETURN TO THE CLASSIFIED SERVICE;

AMENDING THE PAY SCHEDULE FOR THE EMPLOYEE GROUP WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "M" TO ADJUST THE SCHEDULES OF ANNUAL, MONTHLY, BIWEEKLY AND HOURLY PAY RANGE EQUIVALENTS - Don Taute, Personnel Director, came forward to explain these amendments and to answer any questions. Discussion followed.

Allan Abbott, Public Works Director, came forward in support of this proposal using a committee for the job review of an employee classified by the letter M.

Craig Groat, 4935 Huntington Ave., came forward to suggest the City look at what industries pay to be more comparable.

Mike Morosin, 2055 S St., came forward to ask what the makeup of the committee would be.

This matter was taken under advisement.

APPROVING SUPPLEMENTAL AGREEMENT NO. 1 BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR FUNDING OF THE BUILDING OF AN INTERCHANGE AT THE INTERSECTION OF HIGHWAY 77 AND CAPITAL PARKWAY ~~EAST~~ WEST (PROJECT NO. S-77-2(1021), CITY NO. 701902 - Council Member Cook stated it could not possibly be Capital Parkway East and should be changed to Capital Parkway West.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE FEDERAL FUNDING, THROUGH THE BRIDGE REPLACEMENT FUNDS, FOR BRIDGE REHABILITATION OF WEST ADAMS STREET VIADUCT AT AVIATION ROAD (PROJECT NO. BR-5248(4), CITY NO. 701375 - Council Member Cook asked staff what was being rehabilitated?

Karl Fredrickson, Public Works Dept., stated they were concerned there may be broken pilings on the bridge going to the Airport. Discussion followed.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF NOVEMBER 1 - 15, 2004 - Charles Turner 5540 Saylor, came forward to request the City Council reconsider his denied claim. He stated there hadn't been a problem until the City jet flushed the sewer in front of his house then 12 days later the sewer broke at the sewer connection and flooded his basement.

Nicole Fleck-Tooze, Public Works Dept., stated she would contact Wastewater to look into this problem and report back next week.

Council Member Friendt asked the City Attorney why the Daffer claim for sewer backup was approved?

Dana Roper, City Attorney, stated the backup was caused by grease which has been a problem before in other situations and the broken tile in Turner's sewer has never happened before after the sewer had been jet flushed so couldn't prove City liability in this case.

This matter was taken under advisement.

RELEASING A CONSERVATION EASEMENT GRANTED TO THE CITY BY TMCO INVESTMENTS OVER THE WEST 32 FEET OF LOT 3, BLOCK 142, ORIGINAL PLAT, LINCOLN - Nicole Fleck-Tooze, Public Works Dept., came forward to explain the reason for releasing the conservation easement.

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

Craig Groat, 4935 Huntington Ave., came forward to request City 5 TV make sure photo's are shown during testimony. Discussion with Nicole Fleck-Tooze followed.

This matter was taken under advisement.

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY FOR INSTALLATION OF EIGHT POLE-MOUNTED SECURITY CAMERAS AROUND THE FOUR SQUARE BLOCK OF THE NEBRASKA STATE CAPITAL BUILDING - Mike Rindone, Capitol Architect, State Capitol, explained this project is to improve the security of the State Capitol. Discussion followed.

This matter was taken under advisement.

USE PERMIT NO. 150B - APPLICATION OF EIGER CORP. TO WAIVE THE MAXIMUM ALLOWED BUILDING HEIGHT IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT FROM 40 FEET TO 60 FEET IN THE APPIAN WAY PHASE II COMMERCIAL AND RETAIL DEVELOPMENT GENERALLY LOCATED AT S. 87TH STREET AND HIGHWAY 2 - DaNay Kalkowski, Seacrest & Kalkowski Law Firm, 1111 Lincoln Mall, Suite 350, came forward representing Eiger Corporation who is the owner of Apian Way Phase II. Discussion followed.

This matter was taken under advisement.

MISC. NO. 04016 - ADOPTING A POLICY ON TEMPORARY PUMP STATIONS & FORCE MAINS TO ADDRESS CIRCUMSTANCES IN WHICH THE CITY MAY ALLOW SANITARY SEWAGE TO BE HANDLED ON A TEMPORARY BASIS USING PRIVATE PUMP STATIONS AND FORCE MAINS - Steve Henrichsen, Planning Department, came forward to answer any questions.

Steve Masters, Public Works Department, came forward to explain the reason for this policy. Discussion followed.

Terri Robert, 6010 S. 91st Street, came forward in opposition as President of the Vintage Heights Home Owners Assn.

Peter Katt, Pierson Fitchett Law Firm, 1045 Lincoln Mall, Suite 200, came forward representing Hartland Homes in favor of the policy. Discussion followed.

Ed Patterson, 2108 Q Street, came forward to express his thoughts on this policy.

Bob McLean, 6031 S. 88th Street, came forward in opposition. Discussion continued.

Mike Morosin, 2055 S St., came forward to ask questions.

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

Mike James, 6121 Blackstone, came forward in opposition. Discussion followed.

Craig Groat, 4935 Huntington Ave., came forward to express his opinions. Discussion with staff followed.

This matter was taken under advisement.

DECLARING THE OFFICIAL INTENT OF THE CITY TO REIMBURSE CERTAIN EXPENSES IN CONNECTION WITH THE ACQUISITION, PURCHASE AND INSTALLATION OF LIGHT POLES FROM THE PROCEEDS OF THE CITY OF LINCOLN, NEBRASKA CERTIFICATES OF PARTICIPATION - Don Herz, Director of Finance, came forward to declare the City's intent to finance less than \$1,000,000.00.

Lauren Wismer, Gilmore & Bell, 1248 O St., Ste. 710, came forward to comment on the City's reimbursement.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

Danny Walker, 427 E St., expressed his opinion on the bid procedure for Fire Trucks.

This matter was taken under advisement.

Craig Groat, 4935 Huntington Avenue, came forward to express his displeasure that the pictures of cracking sidewalks he had shown at the previous weeks meeting were not shown over City 5 TV.

This matter was taken under advisement.

Mike Morosin, 2055 S St. came forward to present copies of his property condemnation papers in protest.

This matter was taken under advisement.

Dave Heffelbower, 1431 D Street, commented in reference to inducing employees to participate in political issues that it is a violation of the Hatch Act.

This matter was taken under advisement.

Ed Patterson, 2108 Q Street, came forward to explain how the Urban League and Malone Community Center used to work closely together and the reason they parted company.

This matter was taken under advisement.

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

COUNCIL ACTION

LIQUOR RESOLUTIONS

APPLICATION OF JJ KAT INC. DBA BREWSKY'S FOOD & SPIRITS, TO EXPAND THEIR PRESENTLY LICENSED PREMISES BY THE ADDITION OF AN OUTDOOR AREA MEASURING APPROXIMATELY 36 FEET BY 15 FEET TO THE SOUTH OF THE PROPERTY LOCATED AT 2840 SOUTH 70TH STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for approval:

A-83100 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 JJ Kat Inc. dba Brewsky's Food & Spirits to expand its licensed premises by the addition of an outside area measuring 36 feet by 15 feet to the south of the presently licensed premises located at 2840 South 70th 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 Patte Newman

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

APPLICATION OF ALFREDO BARRERA DBA AY CHIHUAHUA FOR A LIQUOR CATERING LICENSE AT 2050 CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83101 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 ordinance, the City Council recommends that the application of Alfredo Barrera dba Ay Chihuahua for the issuance of a Catering Permit to the existing liquor license, located at 2050 Cornhusker Highway, 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 a copy of this resolution be transmitted by the City Clerk 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.

MANAGER APPLICATION OF JEFFRE J. MANN FOR PINELAKE II LLC DBA THE C-STATION AT 1401 PINE LAKE ROAD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83102 WHEREAS, Pinelake II L.L.C. dba The C-Station located at 1401 Pine Lake Road, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Jeffrey J. Mann be named manager;

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

ORDINANCES - 2ND READING

APPROVING THREE FIVE-YEAR/5,000 HOUR LEASE AGREEMENTS BETWEEN THE CITY AND WASHINGTON COUNTY BANK FOR THREE ARTICULATED FOUR-WHEEL DRIVE WHEEL LOADERS FOR USE BY THE PUBLIC WORKS & UTILITIES STREET MAINTENANCE OPERATIONS IN CONSTRUCTION, MAINTENANCE, AND SNOW REMOVAL PROJECTS - CLERK read an ordinance, introduced by Jon Camp, accepting and approving three five-year/5,000 lease agreements between the City of Lincoln, Nebraska and Washington County Bank for three four-wheel drive articulated wheel loaders for use by the Department of Public Works & Utilities, the second time.

APPROVING A SUBLEASE AGREEMENT BETWEEN THE CITY OF LINCOLN AND DYNAMIC EDUCATIONAL SYSTEMS, INC. FOR PROVIDING JOB TRAINING AND EMPLOYMENT SERVICES UNDER THE WORKFORCE INVESTMENT ACT - CLERK read an ordinance, introduced by Jon Camp, accepting and approving a Sublease Agreement between the City of Lincoln and Dynamic Educational Systems, Inc. For a lease of space at 1010 N Street, Lincoln, Lancaster County, Nebraska for a term of November 1, 2004 through October 31, 2005 whereby the City of Lincoln is subleasing space to Dynamic Educational Systems, Inc. At the One Stop Career Center for providing job training and employment services under the Workforce Investment Act, the second time.

COZ 04071 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE TO REMOVE THE CONDITION THAT THE MAXIMUM LOT COVERAGE FOR CHURCHES SHALL NOT EXCEED 15% OF THE LOT AREA IN THE R-1 THROUGH R-7 RESIDENTIAL DISTRICTS EXCEPT BY SPECIAL PERMIT - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code by amending Sections 27.11.030, 27.11.040, 27.13.030, 27.13.040, 27.15.030, 27.15.040, 27.17.040, 27.19.030, 27.19.040, 27.21.030, 27.21.040, 27.23.030, and 27.23.040 to remove the condition that maximum lot coverage for churches shall not exceed 15% of the lot area in the R-1 through R-7 Residential Districts except by special permit, repealing Section 27.63.520 which allows a church to increase said maximum lot coverage by special permit; and repealing Sections 27.11.030, 27.11.040, 27.13.030, 27.13.040, 27.15.030, 27.15.040, 27.17.030, 27.17.040, 27.19.030, 27.19.040, 27.21.030, 27.21.040, 27.23.030, and 27.23.040 of the Lincoln Municipal Code as hitherto existing, the second time.

CHANGE OF ZONE 04073 - APPLICATION OF WHITEHEAD OIL COMPANY FOR A CHANGE OF ZONE FROM P PUBLIC USE TO I-1 INDUSTRIAL ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH 33RD STREET AND SUPERIOR STREET - CLERK read an ordinance, introduced by Jon Camp, 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.

AMENDING CHAPTER 2.78 OF THE LINCOLN MUNICIPAL CODE TO AMEND MANAGEMENT COMPENSATION PLAN ESTABLISHED, MANAGEMENT COMPENSATION PLAN ANNUAL LEAVE, COMPENSATION PLAN VARIABLE MERIT PAY PLAN DSS & "M" PAY RANGES, AND MANAGEMENT COMPENSATION PLAN SICK LEAVE IN CONJUNCTION WITH THE PAY PLAN FOR EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO PAY RANGES PREFIXED BY THE LETTER "M" - CLERK read an ordinance, introduced by Jon Camp, amending Chapter 2.78 of the Lincoln Municipal Code relating to the Management Compensation Plan by amending Section 2.78.010 to add employees with a pay range prefixed by the letter "M" to be compensated under such plan; amending Section 2.78.020 to establish annual leave under the management compensation plan for employees with a pay range prefixed by the letter "M" and providing for vacation payout upon separation from city service; adding a new section numbered 2.78.025 to establish a variable merit pay plan for employees in classifications prefixed by the letters "DSS" and "M"; amending Section 2.78.030 to establish sick leave under the management compensation plan for employees with a pay range prefixed by the letter "M"; and repealing Sections 2.78.010, 2.78.020, and 2.78.030 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE TO DELETE REFERENCES AND PROVISIONS RELATING TO PAY RANGES PREFIXED BY THE LETTER "M" AND TO ADD LEAVE OF ABSENCE WITHOUT PAY PROVISIONS RELATING TO A REGULAR, CLASSIFIED EMPLOYEE WHO LEAVES HIS OR HER POSITION TO ACCEPT APPOINTMENT TO A POSITION WITH A PAY RANGE PREFIXED BY "DSS" AND THE STATUS OF THAT EMPLOYEE SHOULD HE OR SHE RETURN TO THE CLASSIFIED SERVICE - CLERK read an ordinance, introduced by Jon Camp, amending Chapter 2.76 of the Lincoln Municipal Code relating to the City's Personnel System by amending Sections 2.76.155, 2.76.160, and 2.76.395 to delete references and provisions relating to pay ranges prefixed by the letter "M"; amending Section 2.76.400 to add leave of absence without pay provisions relating to a regular, classified employee who leaves his or her position to accept appointment to a position with a pay range prefixed by "DSS" and the status of the employee should he or she return to the classified service; and repealing Sections 2.76.155, 2.76.160, 2.76.395, and 2.76.400 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING THE PAY SCHEDULE FOR THE EMPLOYEE GROUP WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "M" TO ADJUST THE SCHEDULES OF ANNUAL, MONTHLY, BIWEEKLY AND HOURLY PAY RANGE EQUIVALENTS - CLERK read an ordinance, introduced by Jon Camp, adopting pay schedules of pay ranges for employees of the City of Lincoln, Nebraska whose classifications are assigned to pay ranges prefixed by the letter "M"; and repealing Ordinance No. 18418, passed by the City Council on August 9, 2004, the second time.

RESOLUTIONS

REAPPOINTING MAISUN K. ALLAHIQ, MEREDITH DECORY, AND LINDA WILLARD TO THE LINCOLN COMMISSION ON HUMAN RIGHTS FOR A THREE-YEAR TERM EXPIRING DECEMBER 31, 2007 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83103 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Maisun K. Allahiq, Meredith Decory, and Linda Willard to the Lincoln Commission on Human Rights for three-year terms expiring December 31, 2007, is hereby approved.

Introduced by Jon Camp

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

APPROVING THE JOINT BUDGET COMMITTEE'S RECOMMENDATION FOR THE EXPENDITURE OF THE BUDGETED \$20,000.00 TO ALLOCATE \$10,000.00 TO LINCOLN ACTION PROGRAM FOR JOB TRAINING, PLACEMENT, AND RETENTION SERVICES, AND \$10,000.00 TO LINCOLN LITERACY COUNCIL TO PROVIDE ESL TRAINING - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83104 WHEREAS, the City Council previously budgeted \$20,000 from the general fund to provide employment assistance to low income persons; and WHEREAS, the Joint Budget Committee has recommended that the City Council approve the designation of \$10,000 to Lincoln Action Program and \$10,000 to Lincoln Literacy Council from said fund for services as outlined in Attachment "A" attached hereto and incorporated herein by reference.

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

The designation of the \$20,000 from general fund/general expense, 18002.5657 (sub ledger 136813) for the human services listed in Attachment "A" is hereby approved and the Mayor is authorized to enter into grant contracts with the respective agencies providing said employment assistance to low income persons.

Introduced by Jon Camp

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

APPROVING SUPPLEMENTAL AGREEMENT NO. 1 BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR FUNDING OF THE BUILDING OF AN INTERCHANGE AT THE INTERSECTION OF HIGHWAY 77 AND CAPITAL PARKWAY ~~EAST~~ WEST (PROJECT NO. S-77-2(1021), CITY NO. 701902 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83105 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Supplemental Agreement No. 1 between the City of Lincoln and the State of Nebraska Department of Roads for Project No. S-77-2(1021), City Project No. 701902, for the funding of the building of an interchange at the intersection of Highway 77 and Capital Parkway West, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Public Works and Utilities Department, for transmittal and execution by the State Department of Roads.

Introduced by Jon Camp

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS FOR THE FEDERAL FUNDING, THROUGH THE BRIDGE REPLACEMENT FUNDS, FOR BRIDGE REHABILITATION OF WEST ADAMS STREET VIADUCT AT AVIATION ROAD (PROJECT NO. BR-5248(4), CITY NO. 701375 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83106 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. BR-5248(4), CN-12776, City Project No. 701375 for Federal funding through the Bridge Replacement Funds, for bridge rehabilitation of West Adams Street Viaduct at Aviation Road, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Public Works and Utilities Department, for transmittal and execution by the State Department of Roads.

Introduced by Jon Camp

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

APPOINTING KEN SVOBODA TO THE DISTRICT ENERGY CORPORATION FOR A TWO-YEAR TERM EXPIRING DECEMBER 31, 2006 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83107 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Ken Svoboda to the District Energy Corporation for a two-year term expiring December 31, 2006 is hereby approved.

Introduced by Jon Camp

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

APPOINTING TERRY WERNER TO THE COMMUNITY DEVELOPMENT TASK FORCE TO FILL AN UNEXPIRED TERM EXPIRING AUGUST 31, 2005 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83108 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Terry Werner to the Community Development Task Force to fill an unexpired term expiring August 31, 2005 is hereby approved.

Introduced by Jon Camp

Seconded by Newman & 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 NOVEMBER 1 - 15, 2004 - PRIOR to reading:

MCROY Moved to delay action on the Charles R. Turner claim and to continue public hearing to 12/13/04.

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

CLERK Read the following resolution, with the exception of the Charles Turner claim, introduced by Jon Camp, who moved its adoption:

A-83109 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 November 16, 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>	
Allied/AMCO Insurance		Ewonubari Erekerere	\$ 9,708.77
(Claim No. 26E29478)	\$1,685.50	Beau Daffer & Keri Daffer	4,480.00
Charles R. Turner	4,122.73	Brian Bierman	258.44
Christopher Howard	1,428.17	Diana L. Doling	102.02
Darrel Blitzkie	73.00	Jeanette Harris	2,691.14
Kevin Brooks	139.99	Matt Gordin	31.25
Tyler Sprouse	219.42	Michael Nuttelmann & Sally Nuttelmann	566.04
		Melissa Pavlish, Norman Pavlish & Janet Pavlish	11,500.00

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 Jon Camp

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

RELEASING A CONSERVATION EASEMENT GRANTED TO THE CITY BY TMCO INVESTMENTS OVER THE WEST 32 FEET OF LOT 3, BLOCK 142, ORIGINAL PLAT, LINCOLN - PRIOR to reading:

FRIENDT Moved to delay action on Bill No. 04R-311 to 12/13/04.

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

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY FOR INSTALLATION OF EIGHT POLE-MOUNTED SECURITY CAMERAS AROUND THE FOUR SQUARE BLOCK OF THE NEBRASKA STATE CAPITAL BUILDING - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83110 WHEREAS, the State of Nebraska has submitted an application pursuant to Chapter 14.54 of the Lincoln Municipal Code to use a portion of the public right-of-way on the north side of K Street between 14th Street and 16th Street, the east side of 16th Street between H Street and K Street, the south side of H Street between 14th Street and 16th Street, and on the west side of 14th Street between H Street and K Street for placing eight pole-mounted security cameras around the four square block Capitol site; and

WHEREAS, said application has been reviewed by the Public Works Department which has recommended approval of said application.

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

That the application of the State of Nebraska, hereinafter referred to as Permittee, for a permit to install eight pole-mounted security cameras upon a portion of the public right-of-way around the four square block Capitol site described above is approved pursuant to Chapter 14.54 of the Lincoln Municipal Code subject to the provisions of Chapter 14.54 and the following additional conditions:

a. That the State of Nebraska shall require its contractor to contact Diggers Hotline of Nebraska prior to commencing construction activities.

b. That the State of Nebraska and its contractor will work with the City of Lincoln Parks Department to minimize conflicts with existing street trees.

c. That the poles be located no closer than 6 feet behind the curb line and outside of the sidewalk.

d. That the State of Nebraska and its contractor will work with the City of Lincoln Department of Public Works & Utilities to minimize potential conflicts with existing water mains including the potholing of water mains when the conduit crosses as water main elevations are unknown at these locations.

e. That the State of Nebraska will join the One Call service or contract with a locator company to respond to requests in this are for future locates.

Introduced by Jon Camp

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

ASSESSING THE COSTS INCURRED BY THE CITY FOR THE BOARDING UP OF THE DANGEROUS BUILDING AT 2227 DUDLEY STREET AGAINST THE BENEFITTED PROPERTY - PRIOR to reading:

COOK Moved to Withdraw Bill No. 04R-313.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The resolution, having been **WITHDRAWN**, was assigned the File #38-4493 & was placed on file in the Office of the City Clerk.

USE PERMIT NO. 150B - APPLICATION OF EIGER CORP. TO WAIVE THE MAXIMUM ALLOWED BUILDING HEIGHT IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT FROM 40 FEET TO 60 FEET IN THE APPIAN WAY PHASE II COMMERCIAL AND RETAIL DEVELOPMENT GENERALLY LOCATED AT S. 87TH STREET AND HIGHWAY 2 - PRIOR to reading:

COOK Moved to amend Bill No. 04R-314 on page 4, line 13 to add to 1. with the following:

1. This permit approves an adjustment to the maximum height in the B-5 Planned Regional Business District from 40 feet to 60 feet on Lots 1, 2 and 3, Block 3: provided any building located on Lots 1 or 2, Block 3 shall not exceed four stories above grade and any building located on Lot 3, Block 3, shall not exceed three stories above grade.

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

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption as amended:

A-83111 WHEREAS, Eiger Corp. has submitted an application in accordance with Section 27.37.070 of the Lincoln Municipal Code designated as Use Permit No. 150B for authority to waive the maximum allowed building height in the B-5 Planned Regional Business District from 40 feet to 60 feet in the Appian Way, Phase II, commercial and retail development generally located at South 87th Street and Highway 2 and legally described to wit:

A tract of land composed of all of Lots 83, 114 and 115, Irregular Tracts, located in the Southwest Quarter of Section 23, a part of Outlot A, Appian Way Regional Center Phase 2 Addition, all of Outlot B, Appian Way Regional Center Phase 2 Addition, a part of Outlot C, Appian Way Regional Center Phase 2 Addition, all of Outlots E, F, G and H, Appian Way Regional Center Phase 2 Addition, located in the Southwest Quarter of Section 23, all of Lot 81, Irregular Tract, located in the Northwest Quarter of Section 23, a part of the Southwest Quarter of the Northwest Quarter of Section 23, a part of the Northwest Quarter of the Southwest Quarter of Section 23 and a part of the Southeast Quarter of the Northeast Quarter of Section 22, all in Township 9 North, Range 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska, described as follows:

Referring to the southwest corner of said Northwest Quarter Section 23; thence S 89 52'54" E, assumed bearing, along the south line of said Northwest Quarter Section a distance of 8.32 feet to the future easterly right-of-way line of South 84th Street and the point of beginning, said point also being the point of curvature of a 585.00 foot radius curve, concave to the west; thence northwesterly along said future easterly right-of-way line and said curve, through a central angle of 5 19'51" an arc distance of 54.43 feet, the chord of said curve bears N 29 31 49" W, a distance of 54.41 feet; thence N 32 11'45" W along said future easterly right-of-way line, a distance of 136.19 feet to the point of curvature of a 465.00 foot radius curve, concave to the east; thence northerly along said future easterly right-of-way line and said curve, through a central angle of 04 50'15" an arc distance of 39.26 feet, the chord of said curve bears N 29 46 38" W, a distance of 39.25 feet; thence N 62 38'30" E along said future easterly right-of-way line, a distance of 5.00 feet to a point on a 460.00 foot radius curve, concave to the east; thence northerly along said future easterly right-of-way line and said curve, through a central angle of 56 22'59" an arc distance of 452.67 feet, the chord of said curve bears N 00 49 59" E, a distance of 434.63 feet;

thence N 29 01'29" E along said future easterly right-of-way line, a distance of 39.29 feet to the intersection with the future southerly Nebraska Highway No. 2 right-of-way line; thence S 58 04 03" E along said future southerly right-of-way line, a distance of 125.63 feet to an intersection of the existing southerly right-of-way line of Nebraska Highway No. 2 and the easterly existing South 84th Street right-of-way line; thence S 74 45'16" E along said southerly right-of-way line, a distance of 74.68 feet; thence S 48 10'50" E along said southerly right-of-way line, a distance of 301.81 feet; thence S 54 27'15" E along said southerly right-of-way line, a distance of 400.00 feet; thence S 58 59 08" E along said southerly right-of-way line, a distance of 290.85 feet to the north line of the Southwest Quarter of said Section; thence S 54 27'18" E along said southerly right-of-way line, a distance of 1615.21 feet; thence S 51 36'51" E along said southerly right-of-way line, a distance of 43.11 feet; thence S 35 32'47" W, a distance of 346.74 feet; thence S 56 35'33" W, a distance of 36.02 feet to the point of curvature of a 369.50 foot radius curve, concave to the southwest; thence northwesterly along said curve, through a central angle of 21 15'29" an arc distance of 137.09 feet, the chord of said curve bears N 46 26'38" W, a distance of 136.31 feet; thence N 57 04'22" W, a distance of 349.77 feet; thence S 54 44 21" W, a distance of 284.85 feet to the point of curvature of a 1544.43 foot radius curve, concave to the south; thence southeasterly along said curve, through a central angle of 08 29'28" an arc distance of 228.88 feet, the chord of said curve bears S 49 41'49" E, a distance of 228.67 feet to a point on the southerly line of an existing Lincoln Electric System transmission line easement recorded as Instrument Number 95-12607 at the Lancaster County Register of Deeds; thence S 89 01 14" W along said easement line, a distance of 10.53 feet; thence S 59 00'27" E a distance of 22.10 feet to a point on the south line of the north half of the Southwest Quarter Section 23; thence N 89 58'00" E along said Quarter Section line, a distance of 67.89 feet; thence S 00 02'00" E a distance of 146.74 feet to the northerly right-of-way line of the Omaha Public Power District s railroad line and the point of curvature of a 1494.43 foot radius curve, concave to the south; thence northwesterly along said northerly right-of-way line and said curve, through a central angle of 55 34'19" an arc distance of 1449.47 feet, the chord of said curve bears N 66 52 50" W, a distance of 1393.32 feet; thence S 85 20'00" W along said northerly right-of-way line, a distance of 303.52 feet to the existing easterly right-of-way line of 84th Street, said point located 70.00 feet easterly of, perpendicular measurement, the west line of said Southwest Quarter Section 23; thence N 00 52'06" E along said existing easterly right-of-way line, a distance of 167.34 feet to a corner of said easterly right-of-way line; thence N 02 10 26" E along said easterly right-of-way line, a distance of 60.05 feet; thence N 01 25 12" E along said easterly right-of-way line, a distance of 427.70 feet to the point of curvature of a 585.00 foot radius curve concave to the west; thence northerly along said easterly right-of-way line and said curve, through a central angle of 08 25'33" an arc distance of 86.03 feet, the chord of said curve bears N 02 47'39" W, a distance of 85.95 feet to a corner of said Lot 115; thence continuing northerly along the future easterly right-of-way line and said curve, through a central angle of 19 51'29" an arc distance of 202.75 feet, the chord of said curve bears N 16 56'10" W, a distance of 201.74 feet to the south line of said Northwest Quarter Section and the point of beginning, containing

an area of 1,953,951.67 square feet (44.86 acres) more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this use permit for the development of commercial and retail area 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 Eiger Corp., hereinafter referred to as "Permittee", to waive the maximum allowed building height in the B-5 Planned Regional Business District from 40 feet to 60 feet in the Appian Way, Phase II, commercial and retail development, on the property legally described above be and the same is hereby granted under the provisions of Section 26.31.015 and Section 27.37.070 of the Lincoln Municipal Code upon condition that construction and operation of said commercial and retail space be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves an adjustment to the maximum height in the B-5 Planned Regional Business District from 40 feet to 60 feet on Lots 1, 2, and 3, Block 3.
2. Before receiving building permits:
 - a. The Permittee must submit an acceptable revised and reproducible final plan with six copies.
 - b. The construction plans must conform to the approved plans.
 - c. Final plats within the area of this use permit must be approved by the Planning Director consistent with the approved use permit.
3. Before occupying the buildings, all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established association approved by the City Attorney.
5. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of 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.
8. The site plan as approved by 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 Jon Camp

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

MISC. NO. 04016 - ADOPTING A POLICY ON TEMPORARY PUMP STATIONS & FORCE MAINS TO ADDRESS CIRCUMSTANCES IN WHICH THE CITY MAY ALLOW SANITARY SEWAGE TO BE HANDLED ON A TEMPORARY BASIS USING PRIVATE PUMP STATIONS AND FORCE MAINS - PRIOR to reading:

COOK Moved to amend Bill No. 04R-315 on page 5 of the Agreement, paragraph 18, second to the last paragraph. "The developer will be billed for the cost, who in turn may collect from property owners who connect to the facilities."

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

COOK Moved to amend Bill No. 04R-315 by adding paragraph 21 to read:
"Notification. The developer shall notify all property owners who will connect to the facility of the temporary pump station & cost obligations."

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

COOK Moved to reconsider.

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

COOK Moved to accept Substitute Exhibit A.

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

COOK Moved to amend the Substitute with Item 18, second to last sentence of 1st paragraph to read, "The developer will be billed for the cost, who in turn may collect from property owners who connect to the facilities". And to add paragraph 21 as follows:

21. **Notification:** The developer shall notify all property owners who will connect to the facility of the temporary pump station & cost obligations.

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

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption as amended:

A-83112 WHEREAS, the City of Lincoln has previously adopted the City of Lincoln Sanitary Sewer Design Standards by Resolution No. A-80518; and WHEREAS, Section 2.1 of said Design Standards prohibits the transfer of wastewater from one watershed to another by any means, such as a lift station; and

WHEREAS, the City of Lincoln has received numerous requests to waive the Sanitary Sewer Design Standards to allow temporary pump stations and force mains; and

WHEREAS, the Directors of the Planning Department and Public Works & Utilities have recommended the adoption of a policy to govern requests for waivers to the Sanitary Sewer Design Standards to allow sanitary sewage to be handled on a temporary basis using private pump stations and force mains.

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

That the Policy on Temporary Pump Stations & Force Mains which is attached hereto and marked as Exhibit "A" is hereby approved.

Introduced by Jon Camp

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

DECLARING THE OFFICIAL INTENT OF THE CITY TO REIMBURSE CERTAIN EXPENSES IN CONNECTION WITH THE ACQUISITION, PURCHASE AND INSTALLATION OF LIGHT POLES FROM THE PROCEEDS OF THE CITY OF LINCOLN, NEBRASKA CERTIFICATES OF PARTICIPATION - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83113 A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF LINCOLN, NEBRASKA TO REIMBURSE CERTAIN EXPENSES IN CONNECTION WITH THE ACQUISITION, PURCHASE AND INSTALLATION OF LIGHT POLES AND RELATED EQUIPMENT FROM THE PROCEEDS OF CITY OF LINCOLN, NEBRASKA CERTIFICATES OF PARTICIPATION

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

Section 1. Findings.

(a) The City has begun the acquisition and installation of light poles and related equipment (the "**Project**") in the current fiscal year for the lighting of streets to provide for the health, safety and welfare of its residents.

(b) Pursuant to Section 15-201.02, Reissue Revised Statutes of Nebraska, as amended ("**Section 15-201.02**"), the City is authorized to enter into installment contracts for the purchase of personal property, which contracts need not be restricted to a single year and may provide for the purchase of the property in installment payments to be paid over more than one fiscal year.

(c) The City anticipates entering into a lease-purchase agreement (the "**Lease Agreement**") pursuant to its authority under Section 15-201.02 in connection with the Project to finance all or a portion of the costs of the Project through issuance, sale and delivery of not to exceed One Million Dollars (\$1,000,000) in aggregate principal amount of Certificates of Participation in the Lease Agreement (the "**COPs**")

(d) The City anticipates incurring a portion of the costs

of the Project prior to the issuance of the COPs and desires to preserve its ability to reimburse such costs under the provisions of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the applicable regulations thereunder (the "**Regulations**").

(e) The Regulations govern the City's use of proceeds derived from the sale of the COPs to reimburse "original expenditures" made by the City prior to the authorization of the COPs. Specifically, the Code requires the City to declare its official intent to reimburse original expenditures made in furtherance of the Project not later than 60 days after payment of such original expenditures. The Code requires that tax-exempt obligations be issued, and a reimbursement allocation be made, from the proceeds of those obligations within 18-months after the later of the date the original expenditure is paid or the Project is placed in service or abandoned, but in no event more than three (3) years after the date the expenditure is paid.

(f) It is necessary, desirable, advisable and in the best interests of the City that the requirements of the Regulations be satisfied to preserve the ability of the City to reimburse costs of the Project made by the City from and after the date of the passage and adoption of this resolution from the proceeds of the COPs.

Section 2. Declaration of Intent and Related Matters.

(a) In accordance with the provisions of this Resolution and Section 1.150-2 of the Regulations, the Council hereby declares the official intent of the City to reimburse all or part of the costs of the Project through the execution and delivery of the Lease Agreement and the issuance of the COPs in connection therewith, the interest portion of which will be excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. Prior to the execution and delivery of the Lease Agreement and the issuance of the COPs, the City is authorized to advance moneys in an amount not to exceed \$1,000,000 for the purposes hereinbefore described.

(b) Except for (i) expenditures to be paid or reimbursed from sources other than the COPs, (ii) "de minimus expenditures" defined under Section 1.150-2(f)(1) of the Regulations, and (iii) "preliminary expenditures" defined under Section 1.150-2(f)(2) of the Regulations, no expenditures made in furtherance of the Project have been paid by the City more than 60-days prior to the adoption of this resolution.

(c) Payments under the Lease Agreement constituting debt service on the COPs will be paid from the City's General Fund.

(d) The COPs will be issued in the amount, and upon the terms and conditions agreed to between or among the City, the lessor under the Lease Agreement and the purchaser(s) of the COPs, as authorized by the Council at a meeting held for such purpose.

(e) As of the date of this resolution, there are no funds of the City reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than the contemplated issuance of the COPs.

Section 3. Authorizations.

(a) The Finance Director and the City Controller (each an "**Authorized Officer**") are hereby authorized to take any further action that is necessary to preserve the ability of the City to reimburse original expenditures made in furtherance of the Project from and after the date of the passage and adoption of this resolution from the proceeds of the COPs.

(b) The Authorized Officers be, and each of them hereby is, authorized to execute on behalf of the City and to deliver any and all other instruments and documents including, but not limited to, such certificates or instruments as may be required under the terms of this Resolution necessary to be executed and delivered in connection with this Resolution and the approvals made hereby.

(c) An Authorized Officer shall be responsible for making the "reimbursement allocations" described in Section 1.150-2 of the Regulations by transferring the appropriate amount of COPs proceeds to the City accounts used to temporarily finance some or all of the Project. Each allocation must be evidenced by an entry on the official books of the City maintained for the Project and must specifically identify the original expenditure being reimbursed.

Section 4. Ratification. All acts and deeds heretofore done by any officer, employee or agent of the City, on behalf of the City, to preserve the City's ability to reimburse expenditures made in furtherance of the Project with the proceeds of the COPs are hereby ratified, confirmed and approved.

Section 5. Effective Dates. This resolution will be in full

force and effect from and after its passage and adoption by the Council.

Section 6. Conflicting Resolutions Repealed. All resolutions of the Council, or parts thereof, in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed.

Introduced by Jon Camp

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

PETITIONS & COMMUNICATIONS

SETTING THE HEARING DATE OF MONDAY, DECEMBER 20, 2004 AT 1:30 P.M. FOR A MANAGER APPLICATION OF KELLY S. GREEN FOR COLUMBUS LINCOLN HOTEL PROP LLC DBA HOLIDAY INN/CONF CENTER/GREEN MILL/BAR-CABO BEACH CLUB LOCATED AT 141 N. 9TH STREET - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83114 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 20, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Manager Application of Kelly S. Green for Columbus Lincoln Hotel Prop LLC dba Holiday Inn/Conf Center/Green Mill/Bar-Cabo Beach Club located at 141 N. 9th 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, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ASSESSMENT RESOLUTIONS FOR BOARD OF EQUALIZATION MEETING, DECEMBER 13, 2004, AT 10:00 A.M. - Clerk requested to have the Board of Equalization meeting on December 13, 2004 at 10:00 a.m.

COOK So Moved.

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

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY THE CITY COUNCIL ON NOVEMBER 29, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED OCTOBER 31, 2004 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83115 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended October 31, 2004, \$703,796.88 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, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

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

AFFIDAVIT OF MAILING FOR BOARD OF EQUALIZATION TO BE HELD ON MONDAY, DECEMBER 13, 2004, AT 10:00 A.M. - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF JULY THROUGH SEPTEMBER, 2004: ACCESSLINE COMM, AMERICAN FARM BUREAU, GE BUSINESS PROD SOLUTIONS; SEPTEMBER, 2004: NEXTEL PARTNERS, UNITED SYSTEMS ACCESS TELECOM, T-NETIX TELECOM SERVICES, QUANTUM SHIFT COMM, IBM GLOBAL SERVICES, OCMC INC, SHAFFER COMMUNICATIONS, STAR NUMBER INC, NEXTEL WEST CORP; OCTOBER, 2004: NETWORK BILLING SYSTEMS, MATRIX TELECOM INC, SOUTHWESTERN BELL COMM SERVICES, LDMI TELECOMM, ASSOCIATION ADMINISTRATORS INC, LIGHTYEAR NETWORK SOLUTIONS, ACCERIS COMM CORP, TRI-M COMM INC, ZONE TELECOM INC, NOS COMM INC, GTC TELECOM CORP, GLOBALCOM INC, TELECORP COMM INC, AFFINITY NETWORK INC, USA INC, VARTEC TELECOM INC, EXCEL TELECOMM, NOSVA LIMITED PARTNERSHIP, ATS MOBILE TELEPHONE, SPRINT SPECTRUM, ATT WIRELESS PCS, D & D COMM, MCI WORLDCOM, AND SPRINT COMM. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ORDINANCES - 1ST READING & ASSOCIATED RESOLUTIONS

(Resolutions listed hereunder advance to Public Hearing on 12/6/04)

STREET NAME CHANGE 04009 - RENAMING THE OLD SOUTH 84TH STREET PAVEMENT AS WATER TOWER COURT, GENERALLY LOCATED AT SOUTH 84TH AND PINE LAKE ROAD - CLERK read an ordinance, introduced by Jonathan Cook, changing the name of old South 84th Street to Water Tower Court located near the new 84th Street alignment and Pine Lake Road, as recommended by the Street Name Committee, the first time.

CHANGE OF ZONE 04072B - AMENDING SECTION 27.80.025 OF THE LINCOLN MUNICIPAL CODE TO CHANGE THE FEE STRUCTURE FOR AN APPLICATION FOR A PLANNED UNIT DEVELOPMENT - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 27.80.025 of the Lincoln Municipal Code to change the fee structure for an application for a planned unit development; and repealing Section 27.80.025 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 04072A - AMENDING SECTION 27.63.025 OF THE LINCOLN MUNICIPAL CODE TO ALLOW CITY COUNCIL MEMBERS TO APPEAL THE DECISION OF THE PLANNING COMMISSION ON SPECIAL PERMITS - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 27.63.025 of the Lincoln Municipal Code to allow the City Council members to appeal Planning Commission decisions on special permits; and repealing Section 27.63.025 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 04069 - AMENDING SECTION 27.69.035(B) (8) TO REQUIRE THAT NO OFF-PREMISES SIGNS SHALL BE LOCATED WITHIN 660 FEET OF INTERSTATE 80 AND INTERSTATE 180- CLERK read an ordinance, amending Section 27.69.035 of the Lincoln Municipal Code to require that no off-premises signs shall be located within 660 feet of Interstate 80 and Interstate 180; and repealing Section 27.69.035 of the Lincoln Municipal Code as hitherto existing, the first time.

ORDINANCES - 3RD READING

VACATION NO. 03023 - VACATING THE NORTH 10 FEET OF Q STREET RIGHT-OF-WAY ADJACENT TO LOTS 7, 8, AND 9, BLOCK 30, ORIGINAL PLAT OF LINCOLN, GENERALLY LOCATED AT 8TH AND Q STREETS - PRIOR to reading:

COOK Moved to delay Bill No. 04-166 for one week to 12/13/04.

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

CLERK Read an ordinance, introduced by Annette McRoy, vacating the north 10' of Q Street right-of-way adjacent to Lots 7, 8, and 9, Block 30, Original Plat of Lincoln, generally located at 8th and Q Streets, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

APPROVING A TRANSFER OF APPROPRIATIONS AND CASH BETWEEN CERTAIN CAPITAL IMPROVEMENT PROJECTS WITHIN THE SANITARY SEWER CONSTRUCTION FUND, WATER CONSTRUCTION FUND, LANDFILL REVENUE FUND, AND STREET CONSTRUCTION/VEHICLE TAX FUNDS, WITHIN THE PUBLIC WORKS & UTILITIES DEPARTMENT - CLERK read an ordinance, introduced by Ken Svoboda, vacating the south 6.5 feet of P Street right-of-way adjacent to the former Salvation Army building at 8th and P Streets and the west 15.5 feet of N. 8th Street adjacent to the same building complex, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

SVOBODA Moved to pass the ordinance as read.
Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
The ordinance, being numbered **#18473**, is recorded in Ordinance Book 28, Page

VACATION 04011 - VACATING THE SOUTH 6.5 FEET OF THE P STREET RIGHT-OF-WAY ADJACENT TO THE FORMER SALVATION ARMY BUILDING AT 8TH AND P STREET AND THE WEST 15.5 FEET OF N. 8TH STREET ADJACENT TO THE SAME BUILDING COMPLEX - PRIOR to reading:

SVOBODA Moved to amend Bill No. 04-208 by on page 1, line 7, after the words N. 8th street insert the following language: adjacent to Lot 1, Block 45, Original Plat.

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

SVOBODA Moved to amend Bill No. 04-208 1. on page 1, after line 9, insert the following paragraph:

Section 2. That the vacation be conditioned upon the City Council approval of a redevelopment agreement within six months from Council approval of this vacation to assure that (i) the street improvements are implemented and (ii) the abutting property owner consents to the removal of the driveway area in front of the "P" Street garage doors to permit additional on-street meter parking on "P" Street. If no signed and authorized redevelopment agreement exists within the above time frame this vacation will be considered null and void and of no force and effect.

2. Renumber Section 2 as Section 3.

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

CLERK Read an ordinance, introduced by Ken Svoboda, approving the transfer of unspent and unencumbered appropriations and cash (if any) between certain capital improvement projects within the Sanitary Sewer Construction Fund, Water Construction Fund, Landfill Revenue Fund, and Street Construction/Vehicle Tax Funds, within the Public Works & Utilities Department, the third time.

SVOBODA Moved to pass the ordinance as amended.
Seconded by Friendt & carried by the following vote: AYES: McRoy, Svoboda, Werner; NAYS: Camp, Cook, Friendt, Newman.

The ordinance, having **LOST**, was assigned File **#38-4494** & was placed on file in the Office of the City Clerk.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to December 13, 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 December 13, 2004.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 4:51 P.M.

CAMP Moved to adjourn the City Council meeting of December 6, 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

