

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, DECEMBER 13, 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**

COOK Having been appointed to read the minutes of the City Council proceedings of December 6, 2004, reported having done so, found same correct.

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

**PUBLIC HEARING**

APPLICATION OF ALLEY INC. DBA THE ALLEY FOR A CLASS C LIQUOR LICENSE AT 1031 "M" STREET;

MANAGER APPLICATION OF JOSHUA E. HALLETT FOR ALLEY INC. DBA THE ALLEY AT 1031 "M" STREET - Joshua E. Hallett, 240 N. 24<sup>th</sup> Street, took oath and came forward for approval. Further discussion followed.

James Michael, 4000 S. 56<sup>th</sup> Street, Apt. 128C, took oath and came forward for approval. Further discussion followed.

This matter was taken under advisement.

APPLICATION OF A & R FOOD COMPANY DBA EL SITIO FOR A CLASS I LIQUOR LICENSE AT 2785 S. 17TH STREET;

MANAGER APPLICATION OF AMIN GHAFFAR FOR A & R FOOD COMPANY DBA EL SITIO AT 2785 S. 17TH STREET - Amin Ghaffar, 5410 Derby Drive, took oath and came forward for approval.

Matthew Wright, Attorney, 811 S. 13<sup>th</sup> Street, Suite 101, came forward representing El Sitio and asking for approval.

This matter was taken under advisement.

MANAGER APPLICATION OF PAUL R. TUTTLE FOR BWITCHED TWO INC. DBA BISON WITCHES BAR & GRILL AT 1320 "P" STREET - Paul Tuttle, 1320 "P" Street, took oath and came forward for approval.

This matter was taken under advisement.

CHANGE OF ZONE 04045B - AMENDING CHAPTER 27.63 OF THE LINCOLN MUNICIPAL CODE RELATING TO SPECIAL PERMITS BY AMENDING SECTIONS 27.63.010, 27.63.070, 27.63.120, 27.63.130, 27.63.170, 27.63.210, 27.63.280, 27.63.400, 27.63.420, 27.63.430, 27.63.470, 27.63.530, 27.63.570, 27.63.580, AND 27.63.590 TO MODIFY PROVISIONS WITHIN SAID SECTIONS TO ALLOW SPECIAL PERMITS TO BE APPROVED BY THE PLANNING COMMISSION RATHER THAN THE CITY COUNCIL;

CHANGE OF ZONE 04045C - AMENDING CHAPTER 27.65 OF THE LINCOLN MUNICIPAL CODE RELATING TO COMMUNITY UNIT PLANS BY AMENDING SECTION 27.65.020 TO AMEND THE GENERAL REQUIREMENTS TO GRANT THE PLANNING COMMISSION AUTHORITY TO APPROVE THE SPECIAL PERMIT AND TO ALLOW THE PLAN TO PROPOSE MODIFICATIONS TO THE HEIGHT AND AREA REGULATIONS OF THE DISTRICT IN WHICH THE COMMUNITY UNIT PLAN IS LOCATED; BY AMENDING SECTION 27.65.030 TO ELIMINATE REFERENCES TO CITY COUNCIL APPROVAL OF COMMUNITY UNIT PLANS, ESTABLISHING STANDARDS FOR THE PLANNING COMMISSION TO FOLLOW IN APPROVING OR DENYING AN APPLICATION FOR A COMMUNITY UNIT PLAN, AND PROVIDING FOR AN APPEAL FROM THE PLANNING COMMISSION'S DECISION TO THE CITY COUNCIL BY AN AGGRIEVED PARTY; BY REPEALING SECTION 27.65.040 TO ELIMINATE CITY COUNCIL FINAL ACTION ON THE APPLICATION; BY AMENDING SECTION 27.65.050 TO REVISE PROVISIONS REGARDING DEVELOPMENT OF THE COMMUNITY UNIT PLAN AFTER ITS APPROVAL; BY AMENDING SECTION 27.65.060 TO GRANT THE PLANNING DIRECTOR LIMITED AUTHORITY TO APPROVE MINOR INCREASES IN THE NUMBER OF DWELLING UNITS AND TO APPROVE MINOR INTERNAL CHANGES TO THE APPLICABLE SETBACK, YARD OR HEIGHT REQUIREMENTS WITHIN A COMMUNITY UNIT PLAN; BY AMENDING SECTION 27.65.070 TO DELETE THE NEED FOR THE CITY CLERK TO SIGN A CERTIFICATE SHOWING APPROVAL OR DISAPPROVAL BY THE CITY COUNCIL; BY AMENDING SECTION 27.65.090 TO ALLOW THE PLANNING COMMISSION TO MODIFY PARKING REQUIREMENTS UNDER SPECIFIED CONDITIONS.;

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;

MISC. NO. 04009 - AMENDING CHAPTER 3.35 OF THE CITY OF LINCOLN DESIGN STANDARDS FOR COMMUNITY UNIT PLANS TO SIMPLIFY THE DENSITY CALCULATION AND AMEND THE CLUSTER DENSITY - Marvin Krout, Planning Department, came forward for approval. Further discussion followed.

Danny Walker, 427 "E" Street, came forward and asked for clarification if this would effect an individuals right to appeal a decision made by the Planning Department.

Craig Groat, 4935 Huntington Avenue, came forward to express his concerns with allowing the Planning Commission to approve these items instead of the City Council.

Marvin Krout, Planning Department, came forward for rebuttal. He also answered the question of Mr. Walker. He stated that the special permits will still allow the applicant to appeal the process.

This matter was taken under advisement.

STREET NAME CHANGE 04009 - RENAMING THE OLD SOUTH 84TH STREET PAVEMENT AS WATER TOWER COURT, GENERALLY LOCATED AT SOUTH 84TH AND PINE LAKE ROAD - Craig Groat, 4935 Huntington Avenue, came forward with concerns on this matter and how it went though the Planning Commission.

Council Member Cook stated that it did not go though the Planning Commission.

This matter was taken under advisement.

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 - Marvin Krout, Planning Department, came forward for approval. Further discussion followed.

Craig Groat, 4935 Huntington Avenue, came forward in support.

Mike Morosin, 2055 "S" Street, came forward in support.

Doug Naegele, 1805 "B" Street, came forward on behalf of Tri-State Outdoor Advertising in opposition.

Martha Lee Heyne, 5908 Woodstock Avenue, came forward in opposition. Further discussion followed.

Danny Walker, 427 "E" Street, came forward in support.

Ed Patterson, 2108 "Q" Street, came forward in support.

Bruce Bohrer, with the Lincoln Chamber of Commerce, came forward in opposition. Further discussion followed.

Mary Barrett, 1125 S. 103<sup>rd</sup> Street, #200, came forward in opposition. Further discussion followed.

Richard Sutton, 1326 N. 38<sup>th</sup> Street, came forward in support.

Glenn Cekal, 1420 "C" Street, came forward in support.

Mr. Krout came forward for rebuttal. Further discussion followed.

This matter was taken under advisement.

WAIVER 04016 - WAIVING THE REQUIREMENT FOR THE CONSTRUCTION OF A SIDEWALK IN THE PEDESTRIAN EASEMENT ASSOCIATED WITH THE CORRECTED FINAL PLAT OF EDENTON SOUTH 10TH ADDITION, GENERALLY LOCATED AT SOUTH 70TH STREET AND OLD CHENEY ROAD - Charlie Humble, 301 S. 13<sup>th</sup> Street, came forward representing the Edenton South Townhome Association in support. Further discussion followed.

Craig Larabee, 7131 Culwells Court, came forward in support. Further discussion followed.

Cheryl Stubbendieck, 7651 Kennelley Drive, came forward in support.

Virginia Parker, 7124 Culwells Court, came forward in support.

Craig Groat, 4935 Huntington Avenue, came forward in opposition.

Danny Walker, 427 "E" Street, came forward and stated that it sounds like there is a drainage problem in the area and he would like to know who agreed to put the waterline in that area.

Norman Parsons, 7140 Culwells Court, came forward in support.

Glenn Cekal, 1420 "C" Street, came forward to express his concerns regarding public sidewalks.

Harry Herrington, 7024 Culwells Court, came forward in support.

Tom Cajka, Planning Department, came forward to answer questions of the Council. Further discussion followed.

Nicole Fleck-Tooze, Public Works & Utilities, came forward to answer questions of the Council. Further discussion followed.

Marvin Krout, Planning Department, came forward to answer questions of the Council. Further discussion followed.

Allan Abbott, Public Works & Utilities, came forward to answer questions of the Council. Further discussion followed.

Mr. Humble came forward for rebuttal. Further discussion followed.

ACCEPTING THE STEVENS CREEK FLOODPRONE AREAS AS THE BEST AVAILABLE INFORMATION FOR LOCAL FLOOD REGULATION PURPOSES - Nicole Fleck-Tooze, Public Works & Utilities, and Glenn Johnson with the Lower Platte South Resource District, came forward in support and to give a presentation. Further discussion followed.

Richard Sutton, 1326 N. 38<sup>th</sup> Street, came forward in support. Further discussion followed.

Dick Dam, 5310 Thies Cove Drive, came forward in support.

Ed Patterson, 2108 "Q" Street, came forward in support.

Eric Miller, 21800 S. 93<sup>rd</sup> Street, came forward in support.

Glenn Cekal, 1420 "C" Street, commented on the drainage at the dog run at Holmes Park.

Russell Miller, 341 S. 52<sup>nd</sup> Street, came forward in support.

Craig Groat, 4935 Huntington Avenue, came forward in support.

Ken Reiton, 2310 S. Canterbury Lane, came forward in support.

Danny Walker, 427 "E" Street, came forward in opposition.

Rick Krueger, came forward on behalf of Nebraska Housing Resource in opposition. Further discussion followed.

Peter Katt, Attorney, 1045 Lincoln Mall, Suite 200, came forward representing Prairie Homes in opposition. Further discussion followed.

Mark Hunzeker, Attorney, 1045 Lincoln Mall, Suite 200, came forward representing Prairie Homes in opposition. Further discussion followed.

Rick Onnen, Engineer Design Consultants, came forward in opposition and asked that Council delay this item.

Tim Knott, with the Wachiska Society, came forward in support. Further discussion followed.

Nicole Fleck-Tooze, Public Works and Utilities, came forward to answer questions of the Council. Further discussion followed.

Ben Higgins, Public Works & Utilities, came forward to help answer questions of the Council. Further discussion followed.

Glenn Johnson, Lower Platte South Resource District, came forward to help answer questions of the Council. Further discussion followed.

This matter was taken under advisement.

#### MISCELLANEOUS BUSINESS

Craig Groat, 4935 Huntington Avenue, came forward and expressed his concerns regarding the sidewalks in his neighborhood and how he feels that they should be replaced.

Nicole Fleck-Tooze, with Public Works & Utilities, came forward to respond on this matter. Further discussion followed.

This matter was taken under advisement.

Ed Patterson, 2108 "Q" Street, came forward and read a letter addressed to Council Member Cook.

This matter was taken under advisement.

Mike Morosin, 2055 "S" Street, came forward and expressed his concerns with the Urban Development Department.

This matter was taken under advisement.

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

#### COUNCIL ACTION

##### LIQUOR RESOLUTIONS

APPLICATION OF ALLEY INC. DBA THE ALLEY FOR A CLASS C LIQUOR LICENSE AT 1031

"M" STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83116 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 Alley Inc. dba The Alley for a Class "C" liquor license at 1031 M Street, Lincoln, Nebraska, for the license period ending October 31, 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 Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF JOSHUA E. HALLETT FOR ALLEY INC. DBA THE ALLEY AT 1031 "M" STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83117 WHEREAS, Alley Inc. dba The Alley located at 1031 M Street, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Joshua E. Hallett be named manager;

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

APPLICATION OF A & R FOOD COMPANY DBA EL SITIO FOR A CLASS I LIQUOR LICENSE AT 2785 S. 17TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83118 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 A & R Food Company dba El Sitio for a Class "I" liquor license at 2785 S. 17th Street, 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 Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF AMIN GHAFAR FOR A & R FOOD COMPANY DBA EL SITIO AT 2785 S. 17TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83119 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 Amin Ghaffar as manager of A & R Food Company dba El Sitio located at 2785 S. 17th Street, Lincoln, Nebraska, be denied. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

MANAGER APPLICATION OF PAUL R. TUTTLE FOR BWITCHED TWO INC. DBA BISON WITCHES BAR & GRILL AT 1320 "P" STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83120 WHEREAS, Bwitched Two Inc. dba Bison Witches Bar & Grill located at 1320 P Street, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Paul R. Tuttle be named manager;

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

ORDINANCES - 2<sup>ND</sup> READING

CHANGE OF ZONE 04045B - AMENDING CHAPTER 27.63 OF THE LINCOLN MUNICIPAL CODE RELATING TO SPECIAL PERMITS BY AMENDING SECTIONS 27.63.010, 27.63.070, 27.63.120, 27.63.130, 27.63.170, 27.63.210, 27.63.280, 27.63.400, 27.63.420, 27.63.430, 27.63.470, 27.63.530, 27.63.570, 27.63.580, AND 27.63.590 TO MODIFY PROVISIONS WITHIN SAID SECTIONS TO ALLOW SPECIAL PERMITS TO BE APPROVED BY THE PLANNING COMMISSION RATHER THAN THE CITY COUNCIL - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 27.63 of the Lincoln Municipal Code relating to special permits by amending Sections 27.63.010, 27.63.070, 27.63.120, 27.63.130, 27.63.170, 27.63.210, 27.63.280, 27.63.400, 27.63.420, 27.63.430, 27.63.470, 27.63.530, 27.63.570, 27.63.580, and 27.63.590 to modify provisions within said sections to allow special permits to be approved by the Planning Commission rather than the city council, the second time.

CHANGE OF ZONE 04045C - AMENDING CHAPTER 27.65 OF THE LINCOLN MUNICIPAL CODE RELATING TO COMMUNITY UNIT PLANS BY AMENDING SECTION 27.65.020 TO AMEND THE GENERAL REQUIREMENTS TO GRANT THE PLANNING COMMISSION AUTHORITY TO APPROVE THE SPECIAL PERMIT AND TO ALLOW THE PLAN TO PROPOSE MODIFICATIONS TO THE HEIGHT AND AREA REGULATIONS OF THE DISTRICT IN WHICH THE COMMUNITY UNIT PLAN IS LOCATED; BY AMENDING SECTION 27.65.030 TO ELIMINATE REFERENCES TO CITY COUNCIL APPROVAL OF COMMUNITY UNIT PLANS, ESTABLISHING STANDARDS FOR THE PLANNING COMMISSION TO FOLLOW IN APPROVING OR DENYING AN APPLICATION FOR A COMMUNITY UNIT PLAN, AND PROVIDING FOR AN APPEAL FROM THE PLANNING COMMISSION'S DECISION TO THE CITY COUNCIL BY AN AGGRIEVED PARTY; BY REPEALING SECTION 27.65.040 TO ELIMINATE CITY COUNCIL FINAL ACTION ON THE APPLICATION; BY AMENDING SECTION 27.65.050 TO REVISE PROVISIONS REGARDING DEVELOPMENT OF THE COMMUNITY UNIT PLAN AFTER ITS APPROVAL; BY AMENDING SECTION 27.65.060 TO GRANT THE PLANNING DIRECTOR LIMITED AUTHORITY TO APPROVE MINOR INCREASES IN THE NUMBER OF DWELLING UNITS AND TO APPROVE MINOR INTERNAL CHANGES TO THE APPLICABLE SETBACK, YARD OR HEIGHT REQUIREMENTS WITHIN A COMMUNITY UNIT PLAN; BY AMENDING SECTION 27.65.070 TO DELETE THE NEED FOR THE CITY CLERK TO SIGN A CERTIFICATE SHOWING APPROVAL OR DISAPPROVAL BY THE CITY COUNCIL; BY AMENDING SECTION 27.65.090 TO ALLOW THE PLANNING COMMISSION TO MODIFY PARKING REQUIREMENTS UNDER SPECIFIED CONDITIONS - CLERK read an ordinance, introduced by Patte Newman, amending Chapter 27.65 of the Lincoln Municipal Code relating to community unit plans by amending Section 27.65.020, 27.65.030, 27.65.050, 27.65.060, 27.65.070, 27.65.090, and repealing Section 27.65.040, 27.65.020, 27.65.030, 27.65.050, 27.65.060, 27.65.070, 27.65.090, the second 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 second time.

MISC. NO. 04009 - AMENDING CHAPTER 3.35 OF THE CITY OF LINCOLN DESIGN STANDARDS FOR COMMUNITY UNIT PLANS TO SIMPLIFY THE DENSITY CALCULATION AND AMEND THE CLUSTER DENSITY.

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 84<sup>th</sup> Street to Water Tower Court located near the new 84<sup>th</sup> Street alignment and Pine Lake Road, as recommended by the Street Name Committee, the second 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 second 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, introduced by Jonathan Cook, 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 second time.

RESOLUTIONS

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 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83121 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:

DENIED

ALLOWED OR SETTLED

Charles R. Turner 4,122.73

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 Glenn Friendt

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

WAIVER 04016 - WAIVING THE REQUIREMENT FOR THE CONSTRUCTION OF A SIDEWALK IN THE PEDESTRIAN EASEMENT ASSOCIATED WITH THE CORRECTED FINAL PLAT OF EDENTON SOUTH 10TH ADDITION, GENERALLY LOCATED AT SOUTH 70TH STREET AND OLD CHENEY ROAD - PRIOR to reading:

COOK Moved to accept the Substitute Resolution.

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

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

A-83122 WHEREAS, The Corrected Final Plat of Edenton South 10th Addition was previously approved by the City of Lincoln on September 10, 1997; and

WHEREAS, one of the conditions of approval of said Final Plat was the Subdivision Ordinance requirement that a sidewalk be constructed in the pedestrian way easement located on Outlot A at the same time as Culwells Court was paved;

WHEREAS, Edenton South Town Home Association ("Association") failed to timely construct the sidewalk and has requested a modification to waive said requirement pursuant to § 26.31.010 of the Lincoln Municipal Code; and

WHEREAS, the Planning Commission has reviewed said request and has recommended that the waiver be denied. The Planning Commission has further recommended that the Association be granted an extension of time for construction of the sidewalk to four years from the date the City Council acts upon the requested waiver; and

WHEREAS, the City Council finds that the strict application of all requirements of the final plat would result in actual difficulties or substantial hardship or injustice to the property owner and, therefore, the requested waiver should be granted.

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

That the Association's request to waive the condition of approval of the Corrected Final Plat of Edenton South 10th Addition requiring the installation of a pedestrian sidewalk in the pedestrian way easement in Outlot A, Corrected Plat of Edenton South 10th Addition, is hereby approved.

All other conditions for approval of the Corrected Final Plat of Edenton South 10th Addition shall remain in full force and effect.

Introduced by Annette McRoy

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

REAPPOINTING R.J. LIPERT, MICHAEL COON, AND MARTIN KASL TO THE FIRE SPRINKLER AND CHEMICAL EXAMINING BOARD FOR THREE-YEAR TERMS EXPIRING NOVEMBER 24, 2007 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83123 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of R.J. Lipert, Michael Coon, and Martin Kasl to the Fire Sprinkler and Chemical Examining Board for three-year terms expiring November 24, 2007, is hereby approved.

Introduced by Jonathan Cook

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

REAPPOINTING TOM MORRISSEY, LARRY M. BROWN, AND KEITH E. FICKENSCHER TO THE VETERANS MEMORIAL GARDEN ADVISORY COUNCIL FOR THREE-YEAR TERMS EXPIRING NOVEMBER 1, 2007 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83124 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Tom Morrissey, Larry M. Brown, and Keith E. Fickenscher to the Veterans Memorial Garden Advisory Council for three-year terms expiring November 1, 2007, is hereby approved.

Introduced by Jonathan Cook

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

REAPPOINTING JOSEPH SKOPP AND RICK ALBRO TO THE AIR POLLUTION CONTROL ADVISORY BOARD FOR THREE-YEAR TERMS EXPIRING NOVEMBER 1, 2007 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83125 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Joseph Skopp and Rick Albro to the Air Pollution Control Advisory Board for three-year terms expiring November 1, 2007, is hereby approved.

Introduced by Jonathan Cook

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

ACCEPTING THE STEVENS CREEK FLOODPRONE AREAS AS THE BEST AVAILABLE INFORMATION FOR LOCAL FLOOD REGULATION PURPOSES - PRIOR to reading:

COOK Moved to amend Bill No. 04R-322 in the following manner: by substituting the attached Attachment "A" map of the Stevens Creek Floodprone Area for the map attached to Bill No. 04R-322 as Attachment "A".

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

FRIENDT Moved to continue Public Hearing and Action for one week to 12/20/04.

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

#### PETITIONS & COMMUNICATIONS - NONE

#### REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY THE CITY COUNCIL ON DECEMBER 6, 2004 - CLERK presented said report which was placed on file in the Office of the City Clerk. (27-1)

INVESTMENT OF FUNDS FROM OCTOBER 18 THRU OCTOBER 29, 2004 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83126 BE IT 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 Glenn Friendt

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

#### ORDINANCES - 1<sup>ST</sup> READING & ASSOCIATED RESOLUTIONS

(Resolutions listed hereunder advance to Public Hearing on 12/20/04)

CREATING WATER DISTRICT NO. 1194 FOR CONSTRUCTING A 6-INCH WATER MAIN OR MAINS IN S. 14TH STREET, GARFIELD TO SUMNER STREETS - CLERK read an ordinance, introduced by Glenn Friendt, creating Water District No. 1194 designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the first time.

APPROVING A TWO-YEAR LEASE AGREEMENT WITH FRONTIER HARLEY DAVIDSON INC. FOR SIX POLICE MOTORCYCLES - CLERK read an ordinance, introduced by Glenn Friendt, accepting and approving a lease agreement between the City of Lincoln, Nebraska and Frontier Harley Davidson Leasing for six Harley Davidson police motorcycles for use by the Police Department, the first time.

ORDINANCES - 3<sup>RD</sup> 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 third time.

CAMP Moved to pass the ordinance as read.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
The ordinance, being numbered **#18474**, is recorded in Ordinance Book #25.

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 third time.

CAMP Moved to pass the ordinance as read.  
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
The ordinance, being numbered **#18475**, is recorded in Ordinance Book #25.

CHANGE OF ZONE 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 third time.

CAMP 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 **#18476**, is recorded in Ordinance Book #25.

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 third time.

CAMP 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 **#18477**, is recorded in Ordinance Book #25.

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 third time.

CAMP 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 **#18478**, is recorded in Ordinance Book #25.

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 - PRIOR to reading:

SVOBODA Moved to place on pending until 1/10/05.  
Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

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 third 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 third time.

CAMP 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 **#18479**, is recorded in Ordinance Book #25.

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:

CAMP Moved to place on pending for 6 weeks to 1/24/05.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, Newman, Svoboda; NAYS: Cook, McRoy, Werner.

ADOPTION OF THE LINCOLN ELECTRIC SYSTEM ANNUAL BUDGET FOR 2005 - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-83127 WHEREAS, under the provisions of Section 4.24.090 of the Lincoln Municipal Code, a proposed annual budget for the operation of the Lincoln Electric System (LES) for 2005 was approved by the LES Administrative Board on October 15, 2004; and

WHEREAS, pursuant to the above-cited code section, a public hearing on the proposed budget was held on November 29, 2004, notice thereof having been published in one issue of the Lincoln Journal Star newspaper published and of general circulation in the City more than five (5) days before such hearing.

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

1. That pursuant to the provisions of Section 4.24.090 of the Lincoln Municipal Code, the Lincoln Electric System Annual Budget for the fiscal year beginning January 1, 2005, a copy of which is attached hereto and made a part of this resolution as fully as if set forth verbatim herein, is hereby adopted, and all funds listed therein are hereby appropriated for the several purposes therein stated.

2. That all money received and any of the aforesaid funds in excess of the estimated balances and receipts set forth in said budget shall be credited to the unappropriated surplus of such funds.

3. That all monies received and set apart for the operation and maintenance of the Lincoln Electric System and all monies received from any source that are required to be applied to the costs of said operation and maintenance, shall be deposited in the appropriate operation and maintenance account, and paid out upon the order of those persons designated by the LES Administrative Board.

4. That by adoption of the Capital Improvements Budget, the City Council hereby authorizes the acquisition of all necessary right-of-way, easements, or other interests in land, by purchase if possible, by condemnation if necessary, for those projects included within the Capital Improvements Budget.

5. That, to the extent capital improvements for facilities of LES are made from LES revenue and other funds, it is intended that the amount of such expenditures, which is not reasonably expected to exceed \$50,000,000 shall be reimbursable to the LES revenue and other funds through the issuance of future electric system revenue bonds there being no funds of LES or 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 such expenditures, other than pursuant to the issuance of such electric system revenue bonds, this Resolution being determined to be consistent with the budgetary and financial circumstances of LES and the City as they exist or are reasonably foreseeable on the date hereof.

6. There is hereby appropriated all money received from any source as grants or donations received for public purposes.

Introduced by Ken Svoboda

Seconded by Friendt & 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:

SVOBODA Moved to accept the Substitute Resolution.

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:

A-83128 WHEREAS, TMCO Investments has granted a conservation easement (recorded with the Lancaster County Register of Deeds as Instrument No. 2001-041897) over the west 32 feet of Lot 3, Block 142, Original Plat, Lincoln, Lancaster County, Nebraska (now part of Lot 2, 6th & H Addition, Lincoln, Lancaster County, Nebraska) to protect the existing floodplain; and

WHEREAS, the City of Lincoln conveyed by quit claim deed the south half of H Street from the west line of 6th Street west to the railroad right-of-way and vacated H Street abutting Lot 2, 6th & H Addition, as vacated by Ordinance No. 17799 to TMCO; and

WHEREAS, in said quit claim deed, the City accepted and reserved to itself a conservation easement over a portion of said vacated H Street right-of-way; and

WHEREAS, TMCO has requested the City to release a portion of the conservation easement the City retained over vacated H Street and to also release the conservation easement TMCO granted to the City over the west 32 feet of Lot 3, Block 142, in order to construct a building within the easement areas; and

WHEREAS, the City Council finds that, if TMCO agrees to grant the City an equivalent conservation easement to replace the easement areas proposed to be released, the conservation easement recorded as Instrument No. 2001-041897 and a portion of the conservation easement retained in the quit claim deed recorded as Instrument No. 2001-028012 are no longer needed to achieve the conservation purpose for which they were created; and

WHEREAS, TMCO Investments, in consideration of said releases, has entered into an agreement with the City to provide an equivalent conservation easement at an alternate location.

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

That, the Conservation Easement granted by TMCO Investments to the City of Lincoln over the west 32 feet of Lot 3, Block 142, recorded with the Register of Deeds for Lancaster County, Nebraska as Instrument No. 2001-041897, is hereby released.

BE IT FURTHER RESOLVED that a portion of the Conservation Easement retained by the City over vacated H Street adjacent to Lot 2, 6th & H Addition, Lincoln, Lancaster County, Nebraska in the quit claim deed to TMCO recorded with the Register of Deeds for Lancaster County, Nebraska as Instrument No. 2001-028012, more particularly described as:

Commencing at the northeast corner of said Lot 2, 6th & H Addition; thence westerly on the north line of said Lot 2, on an assigned bearing of north 89 degrees 55 minutes 04 seconds west, a distance of 70.01 feet; thence continuing westerly on said north line, north 89 degrees 55 minutes 04 seconds west, 81.00 feet; thence northerly, north 0 degrees 04 minutes 56 seconds east, 37.50 feet; thence easterly south 89 degrees 55 minutes 04 seconds east, 81.00 feet; thence southerly south 0 degrees 04 minutes 56 seconds west, 37.50 feet to the point of beginning, said tract containing an area of 3,037.50 square feet or 0.07 acres, more or less; is hereby released.

BE IT FURTHER RESOLVED that the City Clerk is directed to file this Resolution with the Register of Deeds, filing fees to be paid in advance by TMC0 Investments.

Introduced by Jon Camp

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

#### MISCELLANEOUS BUSINESS

##### PENDING -

CAMP Moved to extend the Pending List to December 20, 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 20, 2004.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

##### ADJOURNMENT 6:37 P.M.

CAMP Moved to adjourn the City Council meeting of December 13, 2004.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
So ordered.

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Joan E. Ross, CMC, City Clerk

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Jamie Phillips, Senior Office Assistant

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