

**AGENDA FOR
CITY COUNCIL MEMBERS' "NOON" MEETING
MONDAY, DECEMBER 20, 2004
CONFERENCE ROOM 113**

I. MINUTES

1. Minutes from Council Members' "Noon" Meeting of December 13, 2004.
2. Minutes from Directors' Meeting of November 15, 2004.

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

1. Motor Sports Issues Forum (McRoy)
2. Multicultural Advisory Committee Meeting (McRoy)
3. Homeless Coalition Meeting (Newman)
4. Board of Health Meeting (Svoboda)

OTHER MEETINGS REPORTS:

III. APPOINTMENTS/REAPPOINTMENTS - To Be Announced

IV. REQUESTS OF COUNCIL FROM MAYOR - To Be Announced

V. MISCELLANEOUS - NONE

VI. CITY COUNCIL MEMBERS

VII. MEETINGS/INVITATIONS -

1. The Lincoln Chamber of Commerce invites you to attend the following Ribbon Cuttings: - Please RSVP to Jaime Henning at 436-2354 or E-Mail:
 - A.) Coldwater Creek, 2900 Pine Lake Road, Suite H on Thursday, December 16, 2004 at 10:00 a.m.
 - B.) The Lodge at Wilderness Ridge Bar & Grill, 1800 Wilderness Woods Place on Friday, December 17, 2004 at 11:00 a.m.

VIII. ADJOURNMENT

MINUTES
CITY COUNCIL MEMBERS' "NOON" MEETING
MONDAY, DECEMBER 20, 2004
CONFERENCE ROOM 113

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

Others Present: Mark Bowen, Corrie Kielty, Ann Harrell, Mayor's Office; Dana Roper, City Attorney; Don Taute, Personnel Director; Teresa Meier, Deputy-City Clerk; Joan Ray, Council Staff; Darrell Podany, Aide to Council Members Camp, Friendt and Svoboda; Deena Winter, Lincoln *Journal Star* representative.

I MINUTES

1. Minutes from Council Members' "Noon" Meeting of December 13, 2004.
2. Minutes from Directors' Meeting of November 15, 2004.

Mr. Werner requested a motion to approve the above-listed minutes. Ken Svoboda moved approval of the minutes by acclamation. Jon Camp seconded the motion, which carried by unanimous consent of the Council Members present.

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

1. MOTOR SPORTS ISSUES FORUM (McRoy) No Report - Missed due to scheduling conflict with Formal Council Meeting.
2. MULTICULTURAL ADVISORY COMMITTEE (McRoy) No Report
3. HOMELESS COALITION (Newman) - Absent
4. BOARD OF HEALTH (Svoboda) Mr. Svoboda reported that they had discussed the smoking issue and how it would be enforced. They had also discussed at length the Humane Society contract. There had been a moving forward on that and hopefully by next week, we'll have some resolution to that contract, if all agree. The only other thing of any significance was a great presentation by Scott Holmes on the environmental impact on land-use zoning. It was a very good report with Mr. Marvin Krout (Planning Director) adding a few comments that further advanced the information being presented.

OTHER MEETINGS - None

III. APPOINTMENTS/REAPPOINTMENTS - None

IV. REQUESTS OF COUNCIL FROM MAYOR - Mr. Bowen noted that he had four things to discuss. His first comment, since both Don Taute and Dana Roper were still in attendance here today, was a request that any questions Council might have about the re-consideration on 04-215 be brought forward at this time...if any one needs answers or clarification on any thing. Mr. Camp asked what the net bottom-line was with these changes. Mr. Bowen stated that the intention is to just strike out and pass the portions which include the reduction in the range for the variable merit. That is the key part of the bill. Mr. Taute further explained that the net effect now, after we've exchanged and had a number of discussions last week, including Jonathan's Motion #2, that it takes that 'leave of absence return to prior position' language out of this bill and leaves only the clean-up language, which really is necessary to be passed, so there would not be two conflicting [ordinances] on the books at the same time. He explained the LMC section changes that would be made with the passage of this clean-up and clarification language.

Mr. Camp stated that taking that language out of the bill, we would go back to the previous position. Are we just going to let that go by the wayside and not do anything with it? Mr. Taute answered that it just takes it out of this legislation. It was in Motion to Amend #1 that we tried to address some of the other concerns that were being voiced. He thought the idea, subsequent to the Thursday meeting with Union representatives, would be to look at incorporating some of the discussion and changes that were proposed there into the bill that would now be before Council....just on the 2.76.400 section.

Or, Mr. Taute asked Mr. Roper, would we need to come with a substitute ordinance? He noted that if we needed a substitute ordinance, we could do that. Mr. Camp asked if there was anything more that needed to be done? Mr. Cook stated that they had a note from the Union representative indicating that they would rather just strike the language in its entirety, so... Mr. Taute responded that he understood, and found it quite interesting, because these provisions have nothing to do with the Union. It's M and E classifications and, it's fine - they can voice their displeasure all they want, but it has nothing to do with anybody in their bargaining groups, and he felt it was fair to state that.

Mr. Cook answered that there may be other concerns about whether or not this is a good idea and stated that Council would decide that. He commented that if we approve Amendment #2, that takes care of that issue -passing the clean-up language and that's it. There is no substitute necessary - we don't need to do anything else. Mr. Taute agreed that was the case at this point in time.

Mr. Cook commented that this encompasses all of the changes in this particular ordinance, other than this one issue. Everything else is just strike-out language to move the language to another Chapter of the Code. Mr. Taute stated that was correct. Mr. Cook asked for clarification, wondering then, even if this ordinance were not passed today, it seems that the newer language, if anyone had a question about which language would control...wouldn't the thing most recently passed control if there is a conflict?

Mr. Bowen stated that they could still challenge, since there was a conflict. He noted that that was the rule; and Mr. Taute added that that is the worry. Mr. Cook observed that we have conflicts thought-out our Code, but sometimes when we pass new things, presumably, the new legislation supercedes the old. Mr. Taute stated that if it's on the books, it is still law. Mr. Bowen noted that the goal is to get the "M" language passed today.

Mr. Bowen's second issue for discussion was the Packet Letter to Governor Johanns. He asked if all Council Members had received a copy of that letter. Council Members indicated that they had.

Mr. Bowen then passed out copies of the legislative materials draft that had been used with LES and other organizations to prioritize the legislative list that the City will be working from for the upcoming legislative session.

Mr. Bowen stated that the final issue for discussion was in regard to the questions that had been mentioned last week at the Budget Retreat. He explained to Council that Questions would be e-mailed to Council no later than Thursday night. Having another Budget Session had been discussed and Mr. Werner had suggested that there be some questions formulated as a base from which to begin a further dialogue. These were questions that the Budget Office would be submitting to Council for their consideration. Ms. McRoy commented that she had thought Council had been requested to give some direction as to where they wanted the process to go. Mr. Bowen answered that he had thought Council would submit that guidance after they had an opportunity to review the Questions received from the Budget Office.

Mr. Cook noted that he had requested that Council be given copies of the forecasts for the last six years....the ones they had received at the Budget Retreat for the last six years. He noted that they had not received that information yet, so he has again asking for that information.

V. MEETINGS/INVITATIONS - Noted Without Significant Comment.

VI. MISCELLANEOUS - None

VII. COUNCIL MEMBERS -

JON CAMP - No Further Comments, except to wish everyone a Merry Christmas.

JONATHAN COOK - Mr. Cook commented that he had discussed the 48th & "Q" Street issue with Mr. Roper and after reviewing State Law and private use of public space ordinances they had decided, in fact, an alternative is available. State law does allow the sale of goods on the sidewalk. We have a permit process now for allowing sidewalk sales, but it's \$45.00 per day, which isn't really practical for long-term use. But, we could create a whole ordinance as we have for the sidewalk cafes for handling the sale of merchandise on sidewalks; but that would require a lot of discussion over policy for something that might not be greatly used.

For now, if we're interested in accommodating the Tool House, and seeing how it works out, Dana thought that the private use of public space permit is broad enough in its scope that it can be used for this. That is a permit that requires a yearly renewal with a bond for insurance. The permit holder pays a yearly fee and if the City needs the space back, we can ask for it back. This is used for a number of right-of-way issues and would avoid having to go down the path of our vacating space that we really don't want to vacate, but really want to keep as right-of-way. Mr. Cook stated that Dana had indicated that his preference was that Council take some action on the "Q" Street issue that is currently on the Agenda before he would approach the Tool House representative to recommend this alternate course of action. Mr. Cook was willing to accommodate the need now being considered because he thought Council had enough control if a problem does arise.

Mr. Roper stated that he did not disagree with Mr. Cook's comments. He added that if Council votes no on this today, and Members think they'd wish to accommodate the Tool House, that can be so indicate somewhere along the line in the process so that the Tool House representative is aware that Council is okay with the private use of public space. Mr. Cook asked Mr. Roper if they should indicate to him that Council would, after the vote, like Mr. Roper to approach the applicant in order to help in the permit application process. Mr. Roper thought that would be a good way to handle the issue.

GLENN FRIENDT - No Further Comments

ANNETTE McROY - Ms. McRoy noted that she would be out of contact for Council business Thursday thru Monday of the upcoming week.

PATTE NEWMAN - No Further Comments

KEN SVOBODA - Ken Svoboda noted that he had sent a memo around to Council Members on the Open Mike with a proposal wherein he had suggested three simple rule changes. The First Suggestion: Move the Open Mike Sessions to only the 2nd and Last Monday of each month;

The Second Suggestion was that a person could only repeat an issue once in a 90-day time period; The Third Suggestion was that the discussion be pertinent to City government issues.

Leaving that open for discussion, if anyone wants to make a different proposal or if we don't want to talk about this at all - it's up to the Council now. Mr. Svoboda noted that if we're going to make any changes, he wouldn't mind seeing them take place so they could be announced today, whether it be in memo form or on-air....so that it would go into enforcement at our first January meeting.

Discussion ensued with Council members considering the goal of the open mike session and determined it to be a representation of the democratic process at the grass-roots level - and not as an informational tool. Council agreed, however, that some citizens were abusing the spirit of the open forum by monopolizing the time of Council and Staff with repetitive and redundant comments; and by this monopoly of time, could be blocking access for other citizens who might wish to come forward to address the Council. After a lengthy exchange of thoughts, and input from City Attorney Dana Roper on the legalities involved, Council agreed to amend the Suggestions to accept only one change. That would be to limit the open mike sessions to two meetings per month, which Mr. Roper indicated was in accordance with State Statutes governing Public Meeting Laws. This would only be a policy change and would not require formal legislation to be implemented.

Ms. McRoy moved to limit the open mike sessions to Council meetings held on the second and last Monday of each month. The motion was seconded by Ken Svoboda and carried on a roll-call vote taken by City Attorney Dana Roper: AYES: Annette McRoy, Jon Camp, Ken Svoboda, Glenn Friendt; NAYS: Terry Werner, Jonathan Cook; ABSENT: Patte Newman

TERRY WERNER - No Further Comments

MARK BOWEN - No Further Comments

ANN HARRELL - No Further Comments

CORRIE KIELTY - No Further Comments

DANA ROPER - No Further Comments

VIII. MEETING ADJOURNED - Approximately 12:15 p.m.