

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, FEBRUARY 14, 2005 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; Teresa Meier, Deputy 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 February 7, 2005, 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 D.O & J.O INC. DBA O'ROURKE'S TAVERN TO EXPAND ITS CLASS C LIQUOR LICENSE BY AN ADDITION OF A BEER GARDEN AREA MEASURING 20' BY 23' TO THE NORTH ON PROPERTY GENERALLY LOCATED AT 1329 O STREET - Dave Moreland, 1639 Sunset Rd., took oath and came forward as Vice President of O'Rourke's Tavern to explain the proposed expansion and to show pictures. Discussion followed.

This matter was taken under advisement.

ANNEXATION 04002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 20 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF LEIGHTON AVENUE AND EAST OF N. 84TH STREET. (IN CONNECTION W/05R-30, 05-17, 05R-31);

APPROVING AN ANNEXATION AGREEMENT BETWEEN THE CITY AND SCOTT C. ANDERSON OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 19.41 ACRES ON PROPERTY GENERALLY LOCATED AT N. 84TH STREET AND LEIGHTON AVENUE. (IN CONNECTION WITH 05-16, 05-17, 05R-31);

CHANGE OF ZONE 04011 - APPLICATION OF SCOTT ANDERSON FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF LEIGHTON AVENUE AND EAST OF N. 84TH STREET. (IN CONNECTION W/05R-30, 05-16, 05R-31);

SPECIAL PERMIT 04009 - APPLICATION OF SCOTT ANDERSON TO DEVELOP ANDERSON'S PLACE PLANNED SERVICE COMMERCIAL CENTER FOR APPROXIMATELY 86,120 SQ. FT. OF FLOOR AREA, WITH REQUESTED WAIVERS OF THE REQUIRED FRONT YARD SETBACK ALONG N. 84TH STREET, TO ELIMINATE INTERNAL SETBACKS, AND TO REDUCE THE SIDE YARD SETBACK, ON PROPERTY GENERALLY LOCATED SOUTH OF LEIGHTON AVENUE AND EAST OF N. 84TH STREET. (IN CONNECTION W/05-16, 05R-30, 05-17)- Brian Carstens, 601 Old Cheney Rd., Suite C, came forward for Scott Anderson to propose approval of 40 dwelling units on the eastern half of the development and a mix of office, retail, carwash, convenience store, and restaurant in the western half of the development. In the corner along 84<sup>th</sup> Street he proposed a mini-warehouse with an option to convert that to office. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 04067 - APPLICATION OF HARTLAND HOMES FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST A STREET AND S.W. 27TH STREET. (IN CONNECTION W/05R-32) (REQUEST 2<sup>ND</sup> & 3<sup>RD</sup> READINGS 2/14/05);

SPECIAL PERMIT 04054 - APPLICATION OF HARTLAND HOMES TO DEVELOP HARTLAND HOMES SOUTHWEST 1ST ADDITION COMMUNITY UNIT PLAN FOR 382 SINGLE FAMILY DWELLING UNITS, WITH REQUESTED WAIVERS OF THE REQUIRED LOT AREA, AVERAGE LOT WIDTH, BLOCK LENGTH, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST A STREET AND S.W. 27TH STREET. (IN CONNECTION W/05-18) (ACTION DATE: 2/28/05) - Brian Carstens, 601 Old Cheney Rd., Suite C came forward representing Hartland Homes requesting approval to build 382 single family dwellings. Discussion followed.

Tom Cajka, Planning Department, came forward to answer questions.

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 JANUARY 16 - 31, 2005 - Jason Goetsch, 680 S. 20<sup>th</sup> Street, came forward to request a settlement for his car that was backed into by a Police cruiser. He presented four estimates for consideration. Discussion followed.

Dana Roper, City Attorney, came forward to explain the City's basis for denial the claim and to answer questions. Discussion followed.

This matter was taken under advisement.

APPLICATION OF CAPITAL HUMANE SOCIETY FOR A WAIVER OF LINCOLN MUNICIPAL CODE CHAPTER 2.81 LIVING WAGE ORDINANCE - Bruce Dart, Director of Lincoln Lancaster County Health Dept., came forward to request this waiver until the contract would be signed and to answer questions. Discussion followed.

Dana Roper, City Attorney, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

USE PERMIT 04006 - APPLICATION OF SOUTHVIEV INC. AND HIGHLANDS EAST LIMITED PARTNERSHIP FOR 18 DWELLING UNITS AND APPROXIMATELY 11,800 SQ. FT. OF OFFICE FLOOR AREA, WITH REQUESTED WAIVERS OF THE REQUIRED REAR AND SIDE YARD SETBACKS, THE REQUIRED FRONTAGE, LOT DEPTH-TO-WIDTH RATIO, TO ALLOW SANITARY SEWER TO FLOW OPPOSITE STREET GRADE, LOCATION OF THE WATER AND SEWER MAINS, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF BARONS ROAD AND N.W. 1ST STREET - Brian Carstens, 601 Old Cheney Rd., Suite C came forward representing Southview Inc and Highlands East Limited Partnership requesting a total of 18 units.

This matter was taken under advisement.

AUTHORIZING THE MAYOR TO EXECUTE A MULTI-YEAR CONTRACT WHEN FUNDING APPROPRIATIONS COME FROM MORE THAN ONE FISCAL YEAR C.I.P. FOR YANKEE HILL ROAD FROM SOUTH 27<sup>TH</sup> STREET TO 40<sup>TH</sup> STREET, (CITY PROJECT NO. 701596) AND THE INTERSECTION OF SOUTH 27<sup>TH</sup> STREET AND YANKEE HILL ROAD. (CITY PROJECT NO. 701662)- Karl Fredrickson, Public Works Dept., came forward to answer questions. Discussion followed.

Nicole Fleck-Tooze, Public Works Dept., stated S.W. 27<sup>th</sup> is not identified as an arterial street. Discussion followed.

This matter was taken under advisement.

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

#### MISCELLANEOUS BUSINESS

Jan Karst, 1403 E. Street, #302, came forward to state her tips as a bartender are down 40% since the first of the year due to the smoking ban. She requested the smoking ordinance be returned to the 60-40% compromise. Discussion followed.

Dana Roper, City Attorney, came forward to answer questions of the Council.

This matter was taken under advisement.

### COUNCIL ACTION

#### LIQUOR RESOLUTIONS

APPLICATION OF KKR ENTERPRISES, INC. DBA LANCASTER'S TO EXPAND ITS CLASS C LIQUOR LICENSE BY THE ADDITION OF A BEER GARDEN AREA MEASURING 28' BY 18' TO THE NORTH ON PROPERTY GENERALLY LOCATED AT 3800 OLD CHENEY ROAD, SUITE 105 - PRIOR to reading:

CAMP Moved to delay action and continue Public Hearing to 3/7/05.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPLICATION OF D.O & J.O INC. DBA O'ROURKE'S TAVERN TO EXPAND ITS CLASS C LIQUOR LICENSE BY AN ADDITION OF A BEER GARDEN AREA MEASURING 20' BY 23' TO THE NORTH ON PROPERTY GENERALLY LOCATED AT 1329 O STREET - PRIOR to reading:

CAMP Moved to delay action and continue Public Hearing to 2/28/05.  
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

**ORDINANCES - 2<sup>ND</sup> READING & ASSOCIATED RESOLUTIONS**

ANNEXATION 04002 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 20 ACRES OF PROPERTY GENERALLY LOCATED SOUTH OF LEIGHTON AVENUE AND EAST OF N. 84TH STREET (IN CONNECTION W/05R-30, 05-17, 05R-31) - annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.

APPROVING AN ANNEXATION AGREEMENT BETWEEN THE CITY AND SCOTT C. ANDERSON OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 19.41 ACRES ON PROPERTY GENERALLY LOCATED AT N. 84TH STREET AND LEIGHTON AVENUE. (IN CONNECTION WITH 05-16, 05-17, 05R-31) (ACTION DATE: 2/28/05)

CHANGE OF ZONE 04011 - APPLICATION OF SCOTT ANDERSON FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTH OF LEIGHTON AVENUE AND EAST OF N. 84TH STREET (IN CONNECTION W/05R-30, 05-16, 05R-31) - amending the Lincoln Zoning District maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

SPECIAL PERMIT 04009 - APPLICATION OF SCOTT ANDERSON TO DEVELOP ANDERSON'S PLACE PLANNED SERVICE COMMERCIAL CENTER FOR APPROXIMATELY 86,120 SQ. FT. OF FLOOR AREA, WITH REQUESTED WAIVERS OF THE REQUIRED FRONT YARD SETBACK ALONG N. 84TH STREET, TO ELIMINATE INTERNAL SETBACKS, AND TO REDUCE THE SIDE YARD SETBACK, ON PROPERTY GENERALLY LOCATED SOUTH OF LEIGHTON AVENUE AND EAST OF N. 84TH STREET. (IN CONNECTION W/05-16, 05R-30, 05-17) (ACTION DATE: 2/28/05)

CHANGE OF ZONE 04067 - APPLICATION OF HARTLAND HOMES FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST A STREET AND S.W. 27TH STREET (IN CONNECTION W/05R-32) - PRIOR to reading:

MCROY Moved to suspend the rules to have 3<sup>rd</sup> Reading and Action on this date.

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

CLERK Read an ordinance, introduced by Jonathan Cook, 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. **(See Council Action under "ORDINANCES - 3<sup>RD</sup> READING".)**

SPECIAL PERMIT 04054 - APPLICATION OF HARTLAND HOMES TO DEVELOP HARTLAND HOMES SOUTHWEST 1ST ADDITION COMMUNITY UNIT PLAN FOR 382 SINGLE FAMILY DWELLING UNITS, WITH REQUESTED WAIVERS OF THE REQUIRED LOT AREA, AVERAGE LOT WIDTH, BLOCK LENGTH, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST A STREET AND S.W. 27TH STREET. (IN CONNECTION W/05-18) (ACTION DATE: 2/28/05) (ACTION DATE: 2/28/05) - PRIOR to reading:

MCROY Moved to suspend the rules to have Action on this date.

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

**(See Council Action under "ORDINANCES - 3<sup>RD</sup> READING".)**

RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF JANUARY 16 - 31, 2005 - PRIOR to reading:

CAMP Moved to amend Bill No. 05R-28 by approving the Jason Goetsch claim for payment of \$1,140.55.  
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 Jonathan Cook, who moved its adoption as amended.

A-83206 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 February 1, 2005, 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>	
<del>Jason Goetsch</del>	<del>\$1,225.83</del>	Ashley Farringer	\$1,809.45
Carla Paulsen	NAS*	Tomas Gonzalez	1,630.00
Carisa M. Moya	NAS*	Josh Wagner	1,417.80
Adam Leuschen	53.47	Georgia Burnham	793.32
Michelle Weiand	340.10	Steve Phillips/Suzanne Phillips	2,487.99
John Beecham	100.00	Roger W. Johnson	512.60
McMaster Co.	NAS*	Suzanne Wilson	2,434.72
Central Park Apartments	223.30	Jason Goetsch	1,140.55

\*No Amount Specified

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

Introduced by Jonathan Cook

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

APPLICATION OF CAPITAL HUMANE SOCIETY FOR A WAIVER OF LINCOLN MUNICIPAL CODE CHAPTER 2.81 LIVING WAGE ORDINANCE - PRIOR to reading:

COOK Moved to place Bill No. 95R-29 on Pending with no date certain.  
Seconded by Newman & carried by the following vote: AYES: Cook, McRoy, Newman, Werner; NAYS: Camp, Friendt, Svoboda.

USE PERMIT 04006 - APPLICATION OF SOUTHVIEW INC. AND HIGHLANDS EAST LIMITED PARTNERSHIP FOR 18 DWELLING UNITS AND APPROXIMATELY 11,800 SQ. FT. OF OFFICE FLOOR AREA, WITH REQUESTED WAIVERS OF THE REQUIRED REAR AND SIDE YARD SETBACKS, THE REQUIRED FRONTAGE, LOT DEPTH-TO-WIDTH RATIO, TO ALLOW SANITARY SEWER TO FLOW OPPOSITE STREET GRADE, LOCATION OF THE WATER AND SEWER MAINS, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF BARONS ROAD AND N.W. 1ST STREET - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83207 WHEREAS, Southview, Inc. and Highlands East Limited Partnership have submitted an application in accordance with Section 27.27.080 of the Lincoln Municipal Code designated as Use Permit No. 04006 for authority to construct 18 dwelling units and 11,800 sq. ft. of office floor area together with requests to waive the Land Subdivision Ordinance, Zoning Code and Design Standards to reduce the rear and side yard setbacks, to reduce the required frontage, to waive the lot depth-to-width ratio, to allow sanitary sewer to flow opposite street grade, to switch the standard side of the street location of the water and sewer mains, and to waive the preliminary plat process, on property generally located southwest of Barons Road and N.W. 1st Street, and legally described to wit:

Lot 2, Highlands East 8th Addition, Lincoln, Lancaster County, Nebraska, and the right-of-way stub on the west side of N.W. 1st Street, north of Highlands Blvd., Lincoln, Lancaster County, Nebraska, legally described as:

Commencing at the southwest corner of Outlot B, Highlands East Addition, said point being the southeast corner of Lot 1, Block 4, Highlands East Addition; thence around a curve in a clockwise

direction having a delta angle of 15 degrees 56 minutes 37 seconds, an arc distance of 414.96 feet, radius of 1491.21 feet, and a chord of an assumed bearing of north 72 degrees 36 minutes 27 seconds east, along the south line of said Outlot B, a distance of 413.62 feet; thence north 36 degrees 47 minutes 03 seconds east along the southeasterly line of said Outlot B, a distance of 34.28 feet; thence north 8 degrees 04 minutes 02 seconds west along the east line of said Outlot B, a distance of 66.00 feet to the point of beginning; thence north 36 degrees 58 minutes 55 seconds west, a distance of 22.74 feet; thence south 81 degrees 22 minutes 40 seconds west, a distance of 35.40 feet; thence north 8 degrees 31 minutes 20 seconds west, a distance of 60.00 feet; thence north 81 degrees 28 minutes 40 seconds east, a distance of 34.95 feet; thence north 20 degrees 24 minutes 57 seconds east, a distance of 23.08 feet; thence south 8 degrees 31 minutes 52 seconds east, a distance of 100.19 feet to the point of beginning;

WHEREAS, the real property adjacent to the area included within the site plan for this development of dwelling units and office space in the O-3 Office Park District 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 Southview, Inc. and Highlands East Limited Partnership, hereinafter referred to as "Permittee", to construct 18 dwelling units and 11,800 sq. ft. of office floor area on the property legally described above be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said development be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 18 dwelling units and 11,800 square feet of office space.
2. The following waivers to the Zoning Ordinance, Land Subdivision Ordinance and Design Standards are approved:
  - a. The requirement of Section 3.5 of the Sanitary Sewer Design Standards is waived to allow sewers to flow opposite street grades.
  - b. The requirements of Lincoln Municipal Code § 27.27.070 are waived to allow the side yard setback to be reduced from 15' to 7.5' and rear yard setback to be reduced from 40' to 30' as shown on the site plan.
  - c. A reduction of the required minimum street frontage for single-family attached lots from 50 feet to 25 feet.
  - d. The requirements of Section 3.4 of the Sanitary Sewer Design Standards requiring sanitary sewers to be located on the west side of the street and Section 3.2 of the Water Main Design Standards requiring water mains to be located on the east side of the street are waived to allow said locations to be reversed as shown on the site plan.
  - e. The requirement of Lincoln Municipal Code § 26.11.020 that a preliminary plat is required for a subdivision is waived, except that this waiver of the preliminary plat shall only be effective for a period of ten years from the date of the this approval, and shall be of no force or effect thereafter.
2. Before receiving building permits:
  - a. The Permittee must submit a revised and reproducible final plan including 6 copies.
  - b. The Permittee shall grant an avigation and noise easement to the Lincoln Airport Authority on all or that part of the land located within the Airport Environs Noise District.
  - c. The construction plans must conform to the approved plans.

- d. Final Plats will be approved by the Planning Director after:
  - i. The sidewalks, streets, drainage facilities, street lighting, landscape screens, street trees, temporary turnarounds and barricades, and street name signs have been completed or the subdivider has submitted a bond or an escrow of security agreement to guarantee their completion.
  - ii. The subdivider has signed an agreement that binds the subdivider, its successors and assigns:
    - (1) to complete the paving of private roadway, and temporary turnarounds and barricades located at the temporary dead-end of the private roadway shown on the final plat within two (2) years following the approval of this final plat.
    - (2) to complete the installation of sidewalks along both sides of all interior private roadways and streets abutting the use permit as shown on the final plat within four (4) years following the approval of this final plat.
    - (3) to complete the public water distribution system to serve this plat within two (2) years following the approval of this final plat.
    - (4) to complete the public wastewater collection system to serve this plat within two (2) years following the approval of this final plat.
    - (5) to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
    - (6) to complete the enclosed private drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of this final plat.
    - (7) to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of this final plat.
    - (8) to complete the installation of public and private street lights along the streets within this plat within two (2) years following the approval of this final plat.
    - (9) to complete the planting of the street trees along the streets within this plat within four (4) years following the approval of this final plat.
    - (10) to complete the planting of the landscape screen within this plat within two (2) years following the approval of this final plat.
    - (11) to complete the installation of the street name signs within two (2) years following the approval of this final plat.
    - (12) to complete the installation of the permanent markers prior to construction on or conveyance of any lot in the plat.
    - (13) to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely

manner which inadvertently may have been omitted from the above list of required improvements.

- (14) to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- (15) to complete the public and private improvements shown on the Use Permit.
- (16) to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
- (17) to continuously and regularly maintain the street trees along the private roadways and landscape screens.
- (18) to submit to the lot buyers and builders a copy of the soil analysis.
- (19) to pay all design, engineering, labor, material, inspection, and other improvement costs.
- (20) to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- (21) to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land subdivider.
- (22) to relinquish the right of direct vehicular access from Outlot A to NW 1<sup>st</sup> Street.
- (23) to inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an avigation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels which may affect users of the property and interfere with its use.

3. Before occupying the dwelling units and office buildings all development and construction shall have been completed in conformance with the approved plans.

4. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established property owners 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 the special 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 the special 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 the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jonathan Cook

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

AUTHORIZING THE MAYOR TO EXECUTE A MULTI-YEAR CONTRACT WHEN FUNDING APPROPRIATIONS COME FROM MORE THAN ONE FISCAL YEAR C.I.P. FOR YANKEE HILL ROAD FROM SOUTH 27<sup>TH</sup> STREET TO 40<sup>TH</sup> STREET, (CITY PROJECT NO. 701596) AND THE INTERSECTION OF SOUTH 27<sup>TH</sup> STREET AND YANKEE HILL ROAD. (CITY PROJECT NO. 701662) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83208 WHEREAS, the Public Works & Utilities Department has identified City Project No. 701596, Yankee Hill Road from 27th Street to 40th Street, and Project No. 701662, the intersection of 27th Street and Yankee Hill Road, as street improvement projects in the public best interest to improve safety, capacity, and aesthetics; and

WHEREAS, the previous fiscal years identified \$1,496,873.00 for street construction and \$1,568,415.00 of water revenue funds (User Fees and Revenue Bonds) of CIP funds, plus developer contribution of \$1,586,019.17 for the project and the 2006 fiscal year CIP will have the remainder estimated to be \$1,086,500.00 for Construction and Construction Engineering; and

WHEREAS, Dobson Bros. Construction is the successful low bidder for said projects in the amount of \$5,523,581.98 to be paid for from appropriations from fiscal years 2005 and 2006; and

WHEREAS, Public Works & Utilities believes it is in the public's best interest to coordinate the construction of these projects in this manner and match the funding appropriations to the cash outlay; and

WHEREAS, Article VII, Section 3 of the Charter of the City of Lincoln provides that no contract involving the expenditure of money from appropriations of more than one year, other than appropriations of borrowed money, shall be valid unless approved by ordinance or resolution of the City Council.

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

That the Mayor is authorized to execute a contract or contracts between the City of Lincoln, Nebraska and the lowest responsible bidder or bidders for the City Project 701596, Yankee Hill Road from 27th Street to 40th Street, and Project No. 701662, the intersection of 27th Street and Yankee Hill Road, to be paid from fiscal years 2004-2005 and 2005-2006.

Introduced by Jonathan Cook

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, FEBRUARY 28, 2005 AT 5:30 P.M. FOR THE APP. OF RISKY INC DBA RISKY'S SPORTS BAR AND GRILL TO EXPAND THE PRESENTLY LICENSED PREMISES BY THE ADDITION OF AN OUTDOOR AREA MEASURING APPROXIMATELY 19 FEET BY 20 FEET ADJACENT TO THE PROPERTY AT 4680 LEIGHTON AVENUE - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83209 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., February 28, 2005 at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, NE, for App. of Risky, Inc dba Risky's Sports Bar & Grill to expand presently licensed premises by the



addition of an outdoor area measuring approximately 19 feet by 20 feet adjacent to the property at 4680 Leighton Avenue.

If the Police Department is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Glenn Friendt

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 FEBRUARY 7, 2005 - CLERK presented said report which was placed on file in the office of the City Clerk. (27-1)

INVESTMENT OF FUNDS FROM JANUARY 24 THRU FEBRUARY 4, 2005 - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption:

A-83210 BE IT HEREBY 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 Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

#### ORDINANCES - 1<sup>ST</sup> READING

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION STORM SEWER REFUNDING BONDS IN AN AMOUNT NOT EXCEEDING \$7,000,000.00 - CLERK read an ordinance, introduced by Glenn Friendt, authorizing and providing for the issuance of General Obligation Storm Sewer Refunding Bonds in an amount not exceeding \$7,000,000.00, the first time.

ADOPTING THE SUPPLEMENTS TO THE LINCOLN MUNICIPAL CODE DATED JUNE, 2004 AND DECEMBER 2004 AS PART OF THE OFFICIAL LINCOLN MUNICIPAL CODE - CLERK read an ordinance, introduced by Glenn Friendt, adopting the supplements to the Lincoln Municipal Code dated June, 2004; and December 2004 as part of the official Lincoln Municipal Code, the first time.

AMENDING CHAPTER 2.24 OF THE LINCOLN MUNICIPAL CODE TO ADD A NEW SECTION NUMBERED 2.24.090 AUTHORIZING THE LAW DEPARTMENT AND RISK MANAGEMENT TO INVESTIGATE ALL CLAIMS FILED AGAINST THE CITY AND TO ADJUST, COMPROMISE AND SETTLE ALL CLAIMS WHEREIN THE PAYMENT TO ANY INDIVIDUAL IS NOT IN EXCESS OF \$25,000.00 - CLERK read an ordinance, introduced by Glenn Friendt, amending Chapter 2.24 of the Lincoln Municipal Code relating to the Law Department to add a new section numbered 2.24.090 authorizing the Law Department and Risk Management to investigate all claims filed against the City and to adjust, compromise and settle all claims wherein the payment to any individual is not in excess of \$25,000.00, the first time.

CHANGE OF ZONE 05001 - APPLICATION OF GUY LAMMLE FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED AT LAMMLE CIRCLE AND GLENEAGLE COURT - CLERK read an ordinance, introduced by Glenn Friendt, 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 first time.

#### ORDINANCES - 3<sup>RD</sup> READING & ASSOCIATED RESOLUTIONS

CHANGE OF ZONE 04067 - APPLICATION OF HARTLAND HOMES FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT AND H-4 GENERAL COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST A STREET AND S.W. 27TH STREET (IN CONNECTION W/05R-32) - PRIOR to reading:

MCROY Moved to suspend the rules to have 3<sup>rd</sup> Reading and Action on this date.

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

CLERK Read an ordinance, introduced by Jonathan Cook, 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.

COOK 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 **#18498**, is recorded in Ordinance Book 202, Page

SPECIAL PERMIT 04054 - APPLICATION OF HARTLAND HOMES TO DEVELOP HARTLAND HOMES SOUTHWEST 1ST ADDITION COMMUNITY UNIT PLAN FOR 382 SINGLE FAMILY DWELLING UNITS, WITH REQUESTED WAIVERS OF THE REQUIRED LOT AREA, AVERAGE LOT WIDTH, BLOCK LENGTH, AND THE PRELIMINARY PLAT PROCESS, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST A STREET AND S.W. 27TH STREET. (IN CONNECTION W/05-18) (ACTION DATE: 2/28/05) (ACTION DATE: 2/28/05) -

MCROY Moved to suspend the rules to have 3<sup>rd</sup> Reading and Action on this date.

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

CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83205 WHEREAS, Hartland Homes, Inc. has submitted an application designated as Special Permit No. 04054 for authority to develop Hartland Homes Southwest 1st Addition Community Unit Plan consisting of 382 single family dwelling units, together with requested waivers to reduce the required lot area and average lot width, to waive the block length for Block 11, and to waive the preliminary plat process, on property generally located southwest of the intersection of West A Street and S.W. 27th Street, and legally described to wit:

Lots 54 and 68 I.T., in the Northeast Quarter of Section 32, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan 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 (LMC) 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 Hartland Homes, Inc., hereinafter referred to as "Permittee", to develop Hartland Homes Southwest 1st Addition Community Unit Plan consisting of 382 dwelling units, together with requested waivers to reduce the required lot area and average lot width, to waive the block length for Block 11, and to waive the preliminary plat process, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the LMC upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 382 dwelling units.
2. The following variances to the City of Lincoln Land

Subdivision Ordinance are hereby approved:

- a. The requirement of § 26.23.130(a) of the Lincoln Municipal Code (LMC) that block length not exceed 1320 feet between cross streets is waived for Block 11.
- b. The requirement of Section 26.23.140(a) of the LMC that minimum lot width and area requirements shall conform to the zoning ordinance is waived to allow lots with less than the minimum required lot width and to allow lots with less than the minimum required lot area.
- c. The requirement of Section 26.11.020 of the LMC that the special permit accompany the filing of a

preliminary plat and that a preliminary plat be required for all subdivisions is waived, except that this waiver of the preliminary plat shall only be effective for a period of ten years from the date of the this approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five years or more after the effective date of the community unit plan, the City may require that a new community unit plan be submitted, pursuant to all the provisions of Section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

3. Before the approval of a final plat, the public streets, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosions control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, temporary turnaround and barricades, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

4. The Permittee agrees:

- a. To complete the street paving of public streets, and temporary turnarounds and barricades located at the temporary dead-end of the streets shown on the final plat within two (2) years following the approval of the final plat.
- b. To complete the installation of sidewalks along both sides of the streets and along West "A" St. and S.W. 27<sup>th</sup> St. as shown on the final plat within four (4) years following the approval of the final plat.
- c. To complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.
- d. To complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.
- e. To complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- f. To complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat
- g. To complete the installation of public street lights along streets within this plat within two (2) years following the approval of the final plat.
- h. To complete the planting of the street trees along streets within this plat within four (4) years following the approval of the final plat.
- i. To complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.
- j. To complete the installation of the street name signs within two (2) years following the approval of the final plat.
- k. To timely complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance which would not have been waived but which inadvertently may have been omitted from the above list of required improvements.
- l. To submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily

- stabilize all graded land for approval.
- m. To complete the public and private improvements shown on the Community Unit Plan.
  - n. To retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
  - o. To continuously and regularly maintain the landscape screens.
  - p. To submit to the lot buyers and home builders a copy of the soil analysis.
  - q. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
  - r. To properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the Permittee.
  - s. To relinquish the right of direct vehicular access to West "A" St. except at S.W. 30<sup>th</sup> St.
  - t. To inform all prospective purchasers and users that the land is located within the Airport Environs Noise District, that the land is subject to an avigation and noise easement granted to Lincoln Airport Authority, and that the land is potentially subject to aircraft noise levels which may affect users of the property and interfere with its use.
5. Before receiving building permits
- a. The Permittee must submit an acceptable, revised and reproducible final plan including five copies.
  - b. The construction plans must conform to the approved plans.
  - c. Final plats within this community unit plan must be approved by the City.
  - d. The Permittee must grant an avigation and noise easement to the Lincoln Airport Authority on all or that part of the land located within the Airport Environs Noise District.
6. Before occupying the dwelling units all development and construction must be completed in conformance with the approved plans.
7. All privately-owned improvements must be permanently maintained by the Permittee or an appropriately established homeowners association approved by the City Attorney.
8. 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.
9. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

10. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special 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 the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jonathan Cook

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

AMENDING RESOLUTION NO. A-83068 TO CLARIFY THAT THE AMENDMENTS TO CHAPTER 3.75 OF THE CITY OF LINCOLN DESIGN STANDARDS ARE ONLY APPLICABLE WITH RESPECT TO APPLICATIONS FOR BUILDING PERMITS SUBMITTED ON OR AFTER NOVEMBER 1, 2004 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

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

The resolution, having **LOST**, was assigned File #38-4497 & was placed on file in the Office of the City Clerk.

AMENDING THE PAY SCHEDULE FOR THE EMPLOYEE GROUP WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "A" TO CREATE THE CLASSIFICATION OF UTILITIES SAFETY AND TRAINING SPECIALIST - CLERK read an ordinance, introduced by Jon Camp, amending Section 1 of Ordinance No. 18412 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "A", by creating the job classification of Utilities Safety and Training Specialist, 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 #18499, is recorded in Ordinance Book 202, Page

AMENDING SECTION 2.78.020 OF THE LINCOLN MUNICIPAL CODE REGARDING MANAGEMENT COMPENSATION PLAN, ANNUAL LEAVE, TO CLARIFY THE USE OF VACATION LEAVE DURING PROBATION BY EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO PAY RANGE PREFIXED BY THE LETTER "M" - PRIOR to reading:

COOK Moved to delay action for two weeks to 2/28/05.

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

CLERK Read an ordinance, introduced by Jon Camp, amending Section 2.78.020 of the Lincoln Municipal Code relating to Management Compensation Plan, Annual Leave, to clarify the use of vacation leave during probation by employees whose classifications are assigned to pay ranges prefixed by "M"; and repealing Section 2.78.020 of the Lincoln Municipal Code as hitherto existing, the third time.

APPROVING A TRANSFER OF APPROPRIATIONS IN THE AMOUNT OF \$38,920.00 WITHIN THE PARKS AND RECREATION CIP FUND TO THE JOINT FACILITIES MAINTENANCE FUND FOR IMPROVEMENTS AT THE PARK MIDDLE SCHOOL TEEN CENTER - CLERK read an ordinance, introduced by Jon Camp, approving the transfer of unspent and unencumbered appropriations and cash (if any) between certain capital improvement projects within the Parks and Recreation Department to the FY 2004-05 operating budget to assist with improvements to mechanical systems at Park Middle School in conjunction with development of the Park Middle School Teen Center, 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 #18500, is recorded in Ordinance Book 202, Page

CHANGE OF ZONE 04083 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY REPEALING SECTION 27.69.085 RELATING TO PERMITTED SIGNS IN A CORPORATE OFFICE PARK PUD, AND BY AMENDING SECTION 27.70.050 TO MODIFY THE REQUIREMENTS AFTER APPROVAL OF A USE PERMIT TO ALLOW BUILDING PERMITS, CERTIFICATES OF OCCUPANCY AND SUBDIVISION OF PROPERTY TO BE ISSUED OR APPROVED UPON SUBSTANTIAL COMPLIANCE WITH THE PLOT PLAN AS APPROVED, AND TO GRANT THE PLANNING DIRECTOR THE AUTHORITY TO REVIEW AND DETERMINE IF

A PROPOSAL IS IN SUBSTANTIAL CONFORMANCE WITH THE APPROVED PLAN - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code by repealing Section 27.69.085 relating to permitted signs in a Corporate Office Park planned unit development; by amending Section 27.70.050 to modify the requirements after approval of a use permit to allow building permits, certificates of occupancy, and subdivision of property to be issued or approved upon substantial compliance with the plot plan as approved and to grant the Planning Director the authority to review and determine if a proposal is in substantial conformance with the spirit and intent of the approved plan; and repealing Section 27.70.050 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 #18501, is recorded in Ordinance Book 202, Page

MISC. NO. 04014 - AMENDING TITLE 26 OF THE LINCOLN MUNICIPAL CODE TO UPDATE AND STREAMLINE THE LAND SUBDIVISION ORDINANCE BY AMENDING SECTION 26.07.135 TO REVISE THE DEFINITION OF OUTLOT; AMENDING SECTION 26.07.145 TO REVISE THE DEFINITION OF PRIVATE ROADWAYS TO ALLOW PRIVATE ROADWAYS IN PLANNED UNIT DEVELOPMENTS; AMENDING SECTION 26.07.190 TO REVISE THE DEFINITION OF MAJOR STREET TO ONLY INCLUDE THOSE STREETS SHOWN IN THE COMPREHENSIVE PLAN AS ARTERIALS; REPEALING SECTION 26.11.020; AMENDING SECTION 26.11.030 TO REQUIRE THE PLANNING DIRECTOR TO DISTRIBUTE COPIES OF PRELIMINARY PLATS AND ACCOMPANYING DATA TO DEPARTMENTS AND GOVERNMENTAL AGENCIES FOR REVIEW AND TO REDUCE DEPARTMENTAL OR GOVERNMENTAL AGENCY REVIEW OF PRELIMINARY PLATS FROM FIFTEEN DAYS TO TEN DAYS; AMENDING SECTION 26.11.032 TO ADD PROVISIONS FOR FILING PRELIMINARY PLATS AND SCHEDULING HEARINGS BEFORE THE PLANNING COMMISSION AND REPEALING THE PROVISION REQUIRING THE SUBDIVIDER TO PROVIDE A WRITTEN RESPONSE TO THE PLANNING DIRECTOR'S RECOMMENDATION ON THE PRELIMINARY PLAT; REPEALING SECTION 26.11.033 RELATING TO MODIFICATION OF THE PRELIMINARY PLAT PROCEDURES; AMENDING SECTION 26.11.036 TO DELETE A REFERENCE TO REPEALED SECTION 26.11.033; AMENDING SECTION 26.11.038 TO PROVIDE THAT APPROVAL OF THE PRELIMINARY PLAT ALSO ALLOWS THE SUBDIVIDER TO PROCEED WITH THE INSTALLATION OF STREET LIGHTING AND STREET NAME SIGNS; AMENDING SECTION 26.11.039 TO MODIFY THE REQUISITES FOR FINAL PLAT APPROVAL WITH RESPECT TO THE INSTALLATION OF IMPROVEMENTS OR PROVISION FOR THEIR INSTALLATION; AMENDING SECTION 26.11.040 TO MODIFY THE TIMING FOR THE INSTALLATION OF IMPROVEMENTS; AMENDING SECTION 26.11.060 TO REDUCE DEPARTMENTAL OR GOVERNMENTAL AGENCY REVIEW OF FINAL PLATS FROM FIFTEEN DAYS TO TEN DAYS; AMENDING SECTION 26.11.110 TO REPEAL PROVISIONS REQUIRING THE SUBDIVIDER TO BE RESPONSIBLE FOR THE EQUIVALENT COST OF LOCAL STREET PAVING IN A MAJOR STREET AND DELETING THE ANNOTATION APPEARING IN THE LINCOLN MUNICIPAL CODE FOLLOWING SECTION 26.11.110; AMENDING SECTION 26.15.015 TO REQUIRE THAT THE PROPOSED USE OF AN OUTLOT BE DESIGNATED ON THE PRELIMINARY PLAT; AMENDING SECTION 26.19.031 TO REQUIRE THAT THE PROPOSED USE OF AN OUTLOT BE DESIGNATED ON THE FINAL PLAT AND TO REQUIRE THAT A 2 ½" X 6 ½" BLANK SPACE BE LEFT AT THE TOP OF THE FIRST PAGE OF THE FINAL PLAT; AMENDING SECTION 26.19.035 TO REQUIRE THE NOTATION ON THE FINAL PLAT OF THE CERTIFIED LANDSCAPER SELECTED TO INSTALL STREET TREES; AMENDING SECTION 26.23.140 TO PROVIDE A MINIMUM LOT DEPTH FOR DOUBLE FRONTAGE LOTS ABUTTING A MAJOR STREET; AMENDING SECTION 26.23.170 TO PROVIDE PROVISIONS FOR THE PERMANENT MAINTENANCE OF PRIVATE IMPROVEMENTS; AMENDING SECTION 26.27.005 TO PROVIDE THAT THE PLANNING DIRECTOR MAY WAIVE THE MINIMUM IMPROVEMENTS REQUIRED IN A SUBDIVISION WHEN THERE ARE NO ADDITIONAL LOTS CREATED; AMENDING SECTION 26.31.015 TO AUTHORIZE THE APPROVAL OF A CUP, PUD, SPECIAL PERMIT, OR USE PERMIT TO VARY OR MODIFY THE REQUIREMENTS OF THE LAND SUBDIVISION ORDINANCE SO AS TO PERMIT THE COORDINATED DEVELOPMENT OF A SUBDIVISION AND COMMUNITY UNIT PLAN, PLANNED UNIT DEVELOPMENT, SPECIAL PERMIT, OR USE PERMIT - PRIOR to reading:

COOK Moved to amend Bill No. 05-13 on page 3, line 5, strike the word "as" and the words "Chapter F, Future Conditions, Mobility and Transportation, of".

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

COOK Moved to amend Bill No. 05-13 on page 11, line 15, after the word "installed" insert the following: prior to or.

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

NEWMAN Moved to amend Bill No. 05-13 in the following manner: 1. on page 24, line 5, after the words "recreation facilities" insert the following: stormwater drainage and storage facilities. 2. Page 24, line 17, after the word "that" insert the following: all such maintenance agreements are incorporated in covenants and restrictions in deeds to the subdivided property, and. 3. Page 24, line 17, after the word "association" insert the following: and the restrictive covenants.

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 Title 26 of the Lincoln Municipal Code to update and streamline the Land Subdivision Ordinance by amending Section 26.07.135 to revise the definition of outlot; amending Section 26.07.145 to revise the definition of private roadways to allow private roadways in planned unit developments; amending Section 26.07.190 to revise the definition of major street to only include those streets shown in the comprehensive plan as arterials; repealing Section 26.11.020; amending Section 26.11.030 to require the Planning Director to distribute copies of preliminary plats and accompanying data to departments and governmental agencies for review and to reduce departmental or governmental agency review of preliminary plats from fifteen days to ten days; amending Section 26.11.032 to add provisions for filing preliminary plats and scheduling hearings before the Planning Commission and repealing the provision requiring the subdivider to provide a written response to the Planning Director's recommendation on the preliminary plat; repealing Section 26.11.033 relating to modification of the preliminary plat procedures; amending Section 26.11.036 to delete a reference to repealed Section 26.11.033; amending Section 26.11.038 to provide that approval of the preliminary plat also allows the subdivider to proceed with the installation of street lighting and street name signs; amending Section 26.11.039 to modify the requisites for final plat approval with respect to the installation of improvements or provision for their installation; amending Section 26.11.040 to modify the timing for the installation of improvements; amending Section 26.11.060 to reduce departmental or governmental agency review of final plats from fifteen days to ten days; amending Section 26.11.110 to repeal provisions requiring the subdivider to be responsible for the equivalent cost of local street paving in a major street and deleting the annotation appearing in the Lincoln Municipal Code following Section 26.11.110; amending Section 26.15.015 to require that the proposed use of an outlot be designated on the preliminary plat; amending Section 26.19.031 to require that the proposed use of an outlot be designated on the final plat and to require that a 2 ½" x 6 ½" blank space be left at the top of the first page of the final plat; amending section 26.19.035 to require the notation on the final plat of the certified landscaper selected to install street trees; amending Section 26.23.140 to provide a minimum lot depth for double frontage lots abutting a major street; amending Section 26.23.170 to provide provisions for the permanent maintenance of private improvements; amending Section 26.27.005 to provide that the Planning Director may waive the minimum improvements required in a subdivision when there are no additional lots created; amending Section 26.31.015 to authorize the approval of a CUP, PUD, special permit, or use permit to vary or modify the requirements of the Land Subdivision ordinance so as to permit the coordinated development of a subdivision and community unit plan, planned unit development, special permit, or use permit, the third time.

CAMP 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 #18502, is recorded in Ordinance Book 202, Page

ANNEXATION 04011 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 75 ACRES OF PROPERTY GENERALLY LOCATED EAST OF S. 56TH STREET AND SOUTH OF PINE LAKE ROAD.(IN CONNECTION W/05R-25, 05-15) - CLERK read an ordinance, introduced by Jon Camp, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the city of Lincoln, Nebraska established and shown thereon, the third time.

CAMP 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 #18503, is recorded in Ordinance Book 202,Page

APPROVING AN ANNEXATION AGREEMENT BETWEEN THE CITY AND CAMPBELL FARM AND LAND CO. AND NORTHWOODS, L.L.C. OUTLINING CERTAIN CONDITIONS AND UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF APPROXIMATELY 75 ACRES OF PROPERTY GENERALLY LOCATES SOUTHEAST OF S. 56TH STREET AND PINE LAKE ROAD. (IN CONNECTION W/05-14, 05-15) (ACTION DATE:2/14/05) PRIOR to reading:

CAMP Moved to accept a substitute agreement for Bill No. 05R-25.

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

COOK Moved to adopt amendment to Bill No. 05R-25 in the following manner: 1. Substitute the attached Village Gardens Residential Paving Exhibit (Attachment "E") and the Commercial Paving Exhibit (Attachment "F") for the existing Attachments "E" and "F" to the Village Gardens Conditional Annexation and Zoning Agreement.

Seconded by Svoboda & 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-83211 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Village Gardens Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Campbell Farm and Land Co. and Northwoods, LLC (collectively "Owner"), outlining certain conditions and understandings relating to the annexation of approximately 75 acres of property generally located at S. 56th Street and Pine Lake Road, is approved.

BE IT FURTHER RESOLVED that the acquisition of all necessary temporary and permanent easements for the sanitary sewer described in paragraph 5C of the Agreement by purchase if possible or by condemnation if necessary is hereby authorized.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return two fully executed copies of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

Introduced by Jon Camp

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

CHANGE OF ZONE 04075 - APPLICATION OF VILLAGE GARDENS LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL AND B-3 COMMERCIAL, ON PROPERTY GENERALLY LOCATED EAST OF S. 56TH STREET AND SOUTH OF PINE LAKE ROAD, FOR A PLANNED UNIT DEVELOPMENT DISTRICT DESIGNATION OF SAID PROPERTY, AND FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES A WAIVER OF THE REQUIRED PRELIMINARY PLAT PROCESS AND MODIFICATIONS TO THE ZONING ORDINANCE, LAND SUBDIVISION ORDINANCE AND LINCOLN DESIGN STANDARDS TO ALLOW 348 DWELLING UNITS IN THE UNDERLYING R-3 ZONED AREA AND APPROXIMATELY 185,000 SQ. FT. OF COMMERCIAL FLOOR AREA IN THE UNDERLYING B-3 ZONED AREA. (IN CONNECTION W/05-14, 05R-25) - CLERK read an ordinance, introduced by Jon Camp, amending the City of Lincoln Zoning District Maps



attached to and made a part of Title 27 of the Lincoln Municipal Code, changing the boundaries of the districts established and shown on said City of Lincoln Zoning District Maps as provided in Section 27.05.020 of the Lincoln Municipal Code and approving the designation of the area hereinafter described as a planned unit development, the third time.

SVOBODA Moved to amend Bill No. 05-15 in the following manner: 1. On page 6, between lines 6 and 7, insert a new paragraph H to read as follows: H. Permittee shall convey to City, at no cost to the City, the additional right-of-way for Pine Lake Road and South 56<sup>th</sup> Street shown on the site plan to be dedicated to the City in the event such right-of-way is needed for the improvement of Pine Lake Road and/or South 56<sup>th</sup> Street prior to Permittee final platting the property abutting Pine Lake Road and/or South 56<sup>th</sup> Street. Notwithstanding the above, City shall be responsible to pay for the cost to relocate any signs, sprinkler system, or other cost to cure items, located in the area to be conveyed for right-of-way and to pay for any permanent and/or temporary construction easements needed for construction of said street improvements. 2. Re-letter existing paragraph H as paragraph I.

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

CAMP Moved to pass the ordinance as amended.

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

The ordinance, being numbered **#18504**, is recorded in Ordinance Book 202, Page

MAYOR'S VETO OF RESOLUTION NO. A-83183 - Appeal of Dr. Mark Wachal's Notice of Appeal from the Impact Fee Determination imposed for the Wachal Pet Health Center at 201 Capitol Beach Blvd., Suite 10, and requesting a waiver or reduction of said fees.

CAMP Moved to override the Mayor's veto.

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

*(Five votes are required to overturn the veto)*

#### MISCELLANEOUS BUSINESS

##### PENDING -

CAMP Moved to extend the Pending List to February 28, 2005.

Seconded by Cook & 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 February 28, 2005.

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

##### ADJOURNMENT 4:10 P.M.

CAMP Moved to adjourn the City Council meeting of February 14, 2005.

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

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Teresa Meier, Deputy City Clerk

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Judy Roscoe, Senior Office Assistant

REGULAR MEETING  
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