

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, APRIL 18, 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; Joan E. 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**

MCROY Having been appointed to read the minutes of the City Council proceedings of April 11, 2005, reported having done so, found same correct.

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

**MAYOR'S ANNUAL AWARD OF EXCELLENCE**

Mayor Seng came forward to present the Mayor's Annual Award of Excellence. The Honorable Mention Award was presented to Dodi Warne from the Lincoln Police Department. The Winners of the Mayor's Annual Award of Excellence were presented to the following individuals: Dave Bomberger with Parks and Recreation Department, Leon Marquart with the Health Department, and Jay Edmiston with Public Works & Utilities. Scott Holmes with the Health Department, Karl Fredrickson with Public Works & Utilities, and Lynn Johnson with Parks & Recreation all came forward to give thanks to the three winners and thanked them for all of their hard work.

**PUBLIC HEARING**

APPLICATION OF THE GREEN HOUSE, LLC DBA DISH FOR CLASS I LIQUOR LICENSE AT 1100 "O" STREET;

MANAGER APPLICATION OF TRAVIS J. GREEN FOR THE GREEN HOUSE, LLC DBA DISH AT 1100 "O" STREET - Travis J. Green, Manager, 4445 Hillside Street, took oath and came forward for approval. Further discussion followed.

Jake Balcom, 1347-1/2 Court Street, took oath and came forward for approval.

Dana Roper, City Attorney, came forward to help answer questions of the Council. Further discussion followed.

This matter was taken under advisement.

APPLICATION OF BROCK ENTERPRISES, LLC DBA THE BRISTO BALLROOM FOR A CLASS I LIQUOR LICENSE AT 2112 CORNHUSKER HIGHWAY;

MANAGER APPLICATION OF KENDRA BROCK FOR BROCK ENTERPRISES, LLC DBA THE BRISTO BALLROOM AT 2112 CORNHUSKER HIGHWAY - Kendra Brock, Manager, 3451 N. 52<sup>nd</sup> Street, took oath and came forward for approval.

This matter was taken under advisement.

APPLICATION OF SEKIPS, INC. DBA SPIKES BEACH BAR & GRILLE FOR A CLASS I LIQUOR LICENSE AT 2300 JUDSON STREET;

MANAGER APPLICATION OF DEREK L. BREEMES FOR SEKIPS, INC. DBA SPIKES BEACH BAR & GRILLE AT 2300 JUDSON STREET - Derek L. Breemes, Manager, 5400 NW 3<sup>rd</sup> Street, took oath and came forward for approval. Further discussion followed.

This matter was taken under advisement.

APPLICATION OF PLAYMAKERS, INC. DBA PLAYMAKERS FOR A CLASS C LIQUOR LICENSE AND AN EXPANDED OUTDOOR AREA MEASURING 190 FEET BY 185 FEET AT 640 W. PROSPECTOR COURT, SUITE 300;

MANAGER APPLICATION OF BRENT A. ZYWIEC FOR PLAYMAKERS, INC. DBA PLAYMAKERS AT 640 W. PROSPECTOR COURT, SUITE 300 - Michael Rierden, Attorney, 645 M Street, took oath and came forward on behalf of the applicant asking for approval. Further discussion followed.

Brent A. Zywiec, Manager, took oath and came forward for approval. Further discussion followed.

Russ Fosler, LPD Investigator, came forward to help answer questions of the Council. Further discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 05021 - APPLICATION OF THE UNIVERSITY PLACE COMMUNITY ORGANIZATION FOR A CHANGE OF ZONE ON APPROXIMATELY 18 BLOCKS WITHIN THE UNIVERSITY PLACE NEIGHBORHOOD FROM R-6, R-5, AND R-4 RESIDENTIAL DISTRICTS AND B-3 COMMERCIAL DISTRICT TO R-5, R-4, AND R-2 RESIDENTIAL DISTRICTS, GENERALLY LOCATED BETWEEN CLEVELAND AND HUNTINGTON AVENUES FROM 46TH TO 47TH STREETS, BETWEEN MADISON AVENUE AND ADAMS STREET FROM 49TH TO 56TH STREETS, AND BETWEEN GARLAND STREET AND HUNTINGTON AVENUE FROM 48TH TO 56TH STREETS - Larry Zink, 4926 Leighton Avenue, came forward in support. Further discussion followed.

Sharon Doll, 2909 N. 56<sup>th</sup> Street, came forward in support.

Laurie Hodges, 5318 Madison Avenue, came forward in support. Further discussion followed.

John Hall, with Hall Motors, 2825 N. 48<sup>th</sup> Street, came forward in support. Further discussion followed.

Clark Chandler, with Wesleyan University, 4641 Pioneers Green Court, came forward in support.

Wynn Hjermsstad, Urban Development Department, came forward in support and to help answer questions of the Council. Further discussion followed.

Larry McClain, 5403 Walker, came forward in support. Further discussion followed.

Alan Ebner, 5400 Leighton Avenue, came forward in support.

Nancy and Charlie Earley, came forward in opposition. They stated that they own properties at 4946 Garland, 5036 Garland, and 2221 N. 51<sup>st</sup> Street. She also just wanted to make sure that their properties were excluded and that it was presented correctly before the Planning Committee. She stated that the Planning Report had one of their addresses written down incorrectly. Further discussion followed.

Greg Czaplewski, Planning Department, came forward to help answer questions of the Council. He stated that there was an error on the Planning Report with the Earley's address, however, it is correct now. Further discussion followed.

Council Member Camp stated that he had heard from a couple of business property owners who stated their concerns. "On the Record" he asked Greg, to the best of his knowledge, if everything has been resolved as far as concerns that were expressed by business related properties. He also stated that he knew Mr. Zink has said that the issues have been resolved.

Greg Czaplewski stated that he thought so, and that they will continue to work together on that. He also said that he is planning on being at the meeting that they are having on the 28<sup>th</sup> of this month.

This matter was taken under advisement.

CHANGE OF ZONE 05018 - APPLICATION OF RON TONNIGES FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF SOUTH 84TH STREET, SOUTH OF OLD CHENEY ROAD - Paula Dicero, with Associated Engineering, 1232 High Street, came forward representing the applicant for approval.

This matter was taken under advisement.

MISC. NO. 05005 - AMENDING SECTIONS 26.11.032 AND 26.31.015 OF THE LINCOLN MUNICIPAL CODE TO CLARIFY THAT A PRELIMINARY PLAT IS NOT REQUIRED WHEN A COMMUNITY UNIT PLAN, PLANNED UNIT DEVELOPMENT, SPECIAL PERMIT, OR USE PERMIT IS SUBMITTED THAT CONTAINS ALL THE NECESSARY INFORMATION FOR A SUBDIVISION - Tom Cajka, Planning Department, came forward for approval and to help answer questions of the Council. Further discussion followed.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY, REGENT HEIGHTS LIMITED PARTNERSHIP, RIDGE DEVELOPMENT COMPANY, NORTHERN LIGHTS LLC, AND THE YEUTTER FAMILY LLC, TO MODIFY THE DUTIES AND RESPONSIBILITIES OF THE PARTIES AS ORIGINALLY PROVIDED FOR UNDER THE CONDITIONAL ANNEXATION AND ZONING AGREEMENT FOR REGENT HEIGHTS FIRST ADDITION AND NORTHERN LIGHTS ADDITION DATED DECEMBER 6, 1996 - Lynn Johnson, Director of Parks & Recreation, came forward for approval and to help answer questions of the Council. Further discussion followed.

DeNay Kalkowski, Attorney, 1111 Lincoln Mall, #350, came forward for approval on behalf of the applicant.

This matter was taken under advisement.

WAIVER NO. 05003 - APPLICATION OF GEANINE BORDOGNA, ON BEHALF OF PARK PLACE ESTATES, TO WAIVE THE SUBDIVISION REQUIREMENTS THAT STREET TREES AND SIDEWALKS BE INSTALLED WITHIN FOUR YEARS FOLLOWING FINAL PLAT APPROVAL, AND THAT ORNAMENTAL LIGHTS AND LANDSCAPE SCREENS BE INSTALLED WITHIN TWO YEARS FOLLOWING FINAL PLAT APPROVAL, WITHIN PARK PLACE ESTATES 5TH ADDITION, GENERALLY LOCATED AT PARK PLACE DRIVE AND PARK PLACE COURT - Tom Cajka, Planning Department, came forward for approval and to help answer questions of the Council. Further discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 05002 - APPLICATION OF LINDSEY MANAGEMENT COMPANY FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT HIGHWAY 34 AND FLETCHER AVENUE; DESIGNATING SAID PROPERTY AS A PLANNED UNIT DEVELOPMENT; AND FOR APPROVAL OF A DEVELOPMENT PLAN FOR 612 DWELLING UNITS, A CLUBHOUSE, PRIVATE GOLF COURSE AND 60,000 SQUARE FEET OF COMMERCIAL FLOOR AREA (OR 696 DWELLING UNITS IF THE COMMERCIAL USE IS DELETED) IN THE UNDERLYING R-3 RESIDENTIAL DISTRICT WITH A REQUESTED WAIVER OF THE REQUIRED PRELIMINARY PLAT PROCESS. (IN CONNECTION W/05R-69, 05-33) (4/11/05 - ACTION DELAYED 1 WK TO 4/18/05 W/ PUBLIC HEARING LIMITED TO EXPERT TESTIMONY) - Paul Zillig, with the Lower Platte South NRD, came forward for approval. Further discussion followed.

Dan Schulz, with the Lower Platte South NRD, came forward for approval. Further discussion followed.

Jim Lindsey, owner of Lindsey Management Company, came forward for approval and stated that he would be willing to use City water, however, he would still like to keep the small house well in that area to use to clean club carts. He also stated his concerns regarding the U Turn at the corner of Pennsylvania Avenue. He would like the U Turn to remain. Further discussion followed.

Ray Hill, Planning Department, came forward to help answer questions of the Council. Further discussion followed.

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

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

Chairman Werner clarified that MTA#4 would exclude the use of the home water well during the construction period.

This matter was taken under advisement.

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

**MISCELLANEOUS BUSINESS - NONE**

## **COUNCIL ACTION**

### **LIQUOR RESOLUTIONS**

APPLICATION OF THE GREEN HOUSE, LLC DBA DISH FOR CLASS I LIQUOR LICENSE AT 1100 "O" STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-83275 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 The Green House, LLC dba Dish for a Class "I" liquor license at 1100 O 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 Glenn Friendt

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

MANAGER APPLICATION OF TRAVIS J. GREEN FOR THE GREEN HOUSE, LLC DBA DISH AT 1100 "O" STREET - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-83276 WHEREAS, The Green House, LLC dba Dish located at 1100 O Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Travis J. Green be named manager;

WHEREAS, Travis J. Green 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 Travis J. Green 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 Glenn Friendt

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

APPLICATION OF BROCK ENTERPRISES, LLC DBA THE BRISTO BALLROOM FOR A CLASS I LIQUOR LICENSE AT 2112 CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83277 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 Brock Enterprises, LLC dba The Bristo Ballroom for a Class "I" liquor license at 2112 Cornhusker Highway, 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 Applicant will apply for and obtain a special permit from the City of Lincoln. 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 KENDRA BROCK FOR BROCK ENTERPRISES, LLC DBA THE BRISTO BALLROOM AT 2112 CORNHUSKER HIGHWAY - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83278 WHEREAS, Brock Enterprises, LLC dba The Bristo Ballroom located at 2112 Cornhusker Highway, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Kendra Brock be named manager;

WHEREAS, Kendra Brock 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 Kendra Brock 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 SEKIPS, INC. DBA SPIKES BEACH BAR & GRILLE FOR A CLASS I LIQUOR LICENSE AT 2300 JUDSON STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83279 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 Sekips, Inc. dba Spikes Beach Bar & Grille for a Class "I" liquor license at 2300 Judson 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 DEREK L. BREEMES FOR SEKIPS. INC. DBA SPIKES BEACH BAR & GRILLE AT 2300 JUDSON STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83280 WHEREAS, Sekips, Inc. dba Spikes Beach Bar & Grille located at 2300 Judson Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Derek L. Breemes be named manager;

WHEREAS, Derek L. Breemes 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 Derek L. Breemes 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 PLAYMAKERS, INC. DBA PLAYMAKERS FOR A CLASS C LIQUOR LICENSE AND AN EXPANDED OUTDOOR AREA MEASURING 190 FEET BY 185 FEET AT 640 W. PROSPECTOR COURT, SUITE 300 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83281 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 Playmakers, Inc. dba Playmakers for a Class "C" liquor license and an outdoor area measuring approximately 190 feet by 185 feet at 640 W. Prospector Court, Suite 300, 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, Newman, Svoboda, Werner; NAYS: Friendt, McRoy.

MANAGER APPLICATION OF BRENT A. ZYWIEC FOR PLAYMAKERS, INC. DBA PLAYMAKERS AT 640 W. PROSPECTOR COURT, SUITE 300 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83282 WHEREAS, Playmakers, Inc. dba Playmakers located at 640 W. Prospector Court, Suite 300, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Brent A. Zywiec be named manager;

WHEREAS, Brent A. Zywiec 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 Brent A. Zywiec 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, Newman, Svoboda, Werner; NAYS: Friendt, McRoy.

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

CHANGE OF ZONE 05021 - APPLICATION OF THE UNIVERSITY PLACE COMMUNITY ORGANIZATION FOR A CHANGE OF ZONE ON APPROXIMATELY 18 BLOCKS WITHIN THE UNIVERSITY PLACE NEIGHBORHOOD FROM R-6, R-5, AND R-4 RESIDENTIAL DISTRICTS AND B-3 COMMERCIAL DISTRICT TO R-5, R-4, AND R-2 RESIDENTIAL DISTRICTS, GENERALLY LOCATED BETWEEN CLEVELAND AND HUNTINGTON AVENUES FROM 46TH TO 47TH STREETS, BETWEEN MADISON AVENUE AND ADAMS STREET FROM 49TH TO 56TH STREETS, AND BETWEEN GARLAND STREET AND HUNTINGTON AVENUE FROM 48TH TO 56TH STREETS - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, 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.

CHANGE OF ZONE 05018 - APPLICATION OF RON TONNIGES FOR A CHANGE OF ZONE FROM

AGR AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF SOUTH 84TH STREET, SOUTH OF OLD CHENEY ROAD - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

MISC. NO. 05005 - AMENDING SECTIONS 26.11.032 AND 26.31.015 OF THE LINCOLN MUNICIPAL CODE TO CLARIFY THAT A PRELIMINARY PLAT IS NOT REQUIRED WHEN A COMMUNITY UNIT PLAN, PLANNED UNIT DEVELOPMENT, SPECIAL PERMIT, OR USE PERMIT IS SUBMITTED THAT CONTAINS ALL THE NECESSARY INFORMATION FOR A SUBDIVISION - CLERK read an ordinance, introduced by Annette McRoy, amending Title 26 of the Lincoln Municipal Code, the Land Subdivision Ordinance, by amending Section 26.11.032 relating to filing preliminary plats and scheduling hearings before the Planning Commission to provide that a preliminary plat is not required for subdivisions coordinated with a community unit plan, planned unit development, special permit, or use permit; by amending Section 26.31.015 relating to coordinating subdivisions and community unit plans, planned unit developments, special permits, and use permits to clarify that a preliminary plat is not required whenever the tract to be subdivided is included within a community unit plan, planned unit development, special permit, or use permit, and to further clarify that the coordinated development shall comply with the requirements of Title 26, except as specifically modified; and repealing Sections 26.11.032 and 26.31.015 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 MARCH 16 - 31, 2005 - PRIOR to reading:

SVOBODA Moved to amend Bill No. 05R-75 to move the claim of David Bouc from "denied" to "allowed or settled".

Motion failed due to lack of a second.

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

A-83283 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 April 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>
Dominique Chéene	\$572.62	Charles L. Gomez	\$ 959.26
Michelle Stiles & Justin Sitzmann	NAS*	Madeline Zabloudil	84.97
Leonita Masek	NAS*	State Farm Insurance	
Margarete Lien	NAS*	(Claim No. 27-7490-579)	1,766.46
David Bouc	150.00	Kathryn Burklund	1,767.57
		Kathryn Halperin	53.00
		Rafael Torres & Pratt Pest Control	7,100.33

\*No Amount Specified

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

Introduced by Annette McRoy

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

APPROVING A SERVICE AGREEMENT BETWEEN THE CITY AND STOCK REALTY & AUCTION COMPANY FOR A FOUR-YEAR TERM TO PROVIDE AUCTIONEER SERVICES FOR SURPLUS PROPERTY - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83284 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Service Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Stock Realty & Auction Company, to provide auctioneer services for a four-year term upon the terms and conditions as set forth in said Agreement is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the

Service Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of the Agreement to the Purchasing Department for transmittal to Stock Realty & Auction Company.

Introduced by Annette McRoy

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

APPROVING AN AGREEMENT BETWEEN THE CITY, REGENT HEIGHTS LIMITED PARTNERSHIP, RIDGE DEVELOPMENT COMPANY, NORTHERN LIGHTS LLC, AND THE YEUTTER FAMILY LLC, TO MODIFY THE DUTIES AND RESPONSIBILITIES OF THE PARTIES AS ORIGINALLY PROVIDED FOR UNDER THE CONDITIONAL ANNEXATION AND ZONING AGREEMENT FOR REGENT HEIGHTS FIRST ADDITION AND NORTHERN LIGHTS ADDITION DATED DECEMBER 6, 1996 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83285 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Agreement which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and Regent Heights Limited Partnership, Ridge Development Company, Northern Lights LLC, and the Yeutter Family LLC, modifying the responsibilities of the parties as originally provided for under the conditional Annexation and Zoning Agreement for Regent Heights First Addition and Northern Lights Addition dated December 6, 1996 relating to the annexation of property generally located at 84th Street and Leighton Ave. is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the 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 Owners.

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

Introduced by Annette McRoy

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

WAIVER NO. 05003 - APPLICATION OF GEANINE BORDOGNA, ON BEHALF OF PARK PLACE ESTATES, TO WAIVE THE SUBDIVISION REQUIREMENTS THAT STREET TREES AND SIDEWALKS BE INSTALLED WITHIN FOUR YEARS FOLLOWING FINAL PLAT APPROVAL, AND THAT ORNAMENTAL LIGHTS AND LANDSCAPE SCREENS BE INSTALLED WITHIN TWO YEARS FOLLOWING FINAL PLAT APPROVAL, WITHIN PARK PLACE ESTATES 5TH ADDITION, GENERALLY LOCATED AT PARK PLACE DRIVE AND PARK PLACE COURT - CLERK read the following resolution, introduced Annette McRoy, who moved its adoption:

A-83286 WHEREAS, the corrected final plat of Park Place Estates 5th Addition, generally located at Park Place Drive and Park Place Court, was previously approved by the City of Lincoln on November 3, 1999; and

WHEREAS, the conditions of approval of said Final Plat included the Land Subdivision Ordinance requirements that sidewalks and street trees be installed within four years of final plat approval and that ornamental lights and landscape screens be installed within two years of final plat approval; and

WHEREAS, the Subdivider Geanine Bordogna (Applicant) has failed to timely construct said improvements and is requesting an extension of time for the installation of sidewalks, the planting of street trees, landscape screening and installation of ornamental street lights within Park Place Estates 5th Addition, pursuant to § 26.31.010 of the Lincoln Municipal Code; and

WHEREAS, the Planning Commission has reviewed said request and has recommended that the requested extension of time for the sidewalk installation be partially allowed and that the requested extension of time for the street trees, landscape screen, and street lights be denied.

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

That the Applicant's request to extend the time for the installation of sidewalks within Park Place Estates 5th Addition until January 1, 2009 is hereby approved only for the sidewalks abutting Lots 5 and 6.

BE IT FURTHER RESOLVED that the Applicant's request to extend the timing for the planting of street trees, landscape screen, and installation of street lights is hereby denied.

All other conditions for approval of the Park Place Estates 5th Addition shall remain in full force and effect.

Introduced by Annette McRoy

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

COMPREHENSIVE PLAN AMENDMENT NO. 05002 - AMENDING THE MOBILITY AND TRANSPORTATION ELEMENT OF THE 2025 LINCOLN-LANCASTER COUNTY COMPREHENSIVE PLAN BY UPGRADING EXISTING US HIGHWAY 77 TO FREEWAY STANDARDS FROM INTERSTATE 80 TO THE PLANNED SOUTH BELTWAY INTERCHANGE SOUTH OF SALTILLO ROAD - PRIOR to reading:

COOK Moved to delay public hearing & action for 2 weeks to 5/2/05.  
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING A GRANT APPLICATION TO BE SUBMITTED TO THE STATE IN COMBINATION WITH LANCASTER COUNTY ON BEHALF OF FIRST RESPONDERS FOR 2005 GRANT FUNDING - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83287 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That in order to provide for a coordinated grant application on behalf of the 1st Responders in Lancaster County, the City of Lincoln has reviewed the grant process and application and does hereby approve the Lancaster County submittal of its grant application to the State of Nebraska for 2005 Grant funding

The City Clerk is directed to transmit a certified copy of this resolution to the Lancaster County Clerk for inclusion with the application to the State of Nebraska.

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, MAY 2, 2005 AT 1:30 PM FOR A MANAGER APPLICATION OF MICKY BUCHMANN FOR GRANITE CITY FOOD & BREWERY LTD DBA GRANITE CITY FOOD & BREWERY LOCATED AT 6150 "O" STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83288 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, May 2, 2005, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Buildig, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska, for the Manager Application of Micky Buchmann for Granite City Food & Brewery Ltd dba Granite City Food & Beverage located at 6150 "O" Street.

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

Introduced by Patte Newman

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

#### PETITIONS & COMMUNICATIONS

##### THE FOLLOWING WERE REFERRED TO THE PLANNING DEPARTMENT:

CHANGE OF ZONE NO. 04081 - APPLICATION SUBMITTED BY STONE BRIDGE CREEK LLC, FROM I-3 EMPLOYMENT CENTER DISTRICT TO R-3 RESIDENTIAL DISTRICT AND AG AGRICULTURAL DISTRICT TO I-3 EMPLOYMENT CENTER DISTRICT, ON PROPERTY LOCATED AT HUMPHREY AVENUE AND REDSTONE ROAD.

SPECIAL PERMIT NO. 04067 - APPLICATION SUBMITTED BY STONE BRIDGE CREEK LLC, STONE BRIDGE CREEK ADDITION COMMUNITY UNIT PLAN, FOR 124 DWELLING UNITS, WITH REQUESTS TO WAIVE MINIMUM LOT DEPTH, PRELIMINARY PLAT PROCESS, MINIMUM AREA, FRONT, SIDE AND REAR YARD SETBACKS, AVERAGE LOT WIDTH, PRIVATE ROADWAY DESIGN STANDARDS, SIDEWALK, AND CURB AND GUTTER, ON PROPERTY LOCATED AT HUMPHREY AVENUE AND REDSTONE ROAD.

USE PERMIT NO. 139A - APPLICATION SUBMITTED BY STONE BRIDGE CREEK LLC, FOR APPROXIMATELY 478,55 SQUARE FEET OF EMPLOYMENT CENTER, ON PROPERTY GENERALLY LOCATED HUMPHREY AVENUE AND REDSTONE ROAD.

CHANGE OF ZONE NO. 05028 - APPLICATION SUBMITTED BY DIRECTOR OF URBAN DEVELOPMENT DEPARTMENT, FROM I-1 INDUSTRIAL DISTRICT TO B-3 COMMERCIAL DISTRICT, ON PROPERTY LOCATED AT N. 27<sup>TH</sup> AND APPLE STREETS.

CHANGE OF ZONE NO. 05029 - APPLICATION SUBMITTED BY OLSSON ASSOCIATES, FROM R-3 RESIDENTIAL DISTRICT TO H-3 HIGHWAY COMMERCIAL DISTRICT, ON PROPERTY LOCATED AT N. 33<sup>RD</sup> STREET AND SUPERIOR STREET.

AQUILA'S 2004 FINANCIAL AND OPERATIONAL INFORMATION REPORT IN ACCORDANCE WITH ORDINANCE NO. 16713 - CLERK presented said report which was placed on file in the Office of the City Clerk.



**REPORTS OF CITY OFFICERS**

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY THE CITY COUNCIL ON APRIL 11, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF CITY CASH ON HAND AT THE CLOSE OF BUSINESS ON FEBRUARY 28, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

AFFIDAVIT OF MAILING FOR BOARD OF EQUALIZATION MEETING FOR THE NORTH 27<sup>TH</sup> STREET MAINTENANCE DISTRICT TO BE HELD ON MONDAY, MAY 2, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

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

APPROVING A COMMUNICATION SITE LICENSE AGREEMENT BETWEEN THE CITY AND VERIZON WIRELESS FOR THE PLACEMENT OF TELECOMMUNICATIONS FACILITIES UPON CITY PROPERTY AT STAR CITY SHORES GENERALLY LOCATED AT 27TH STREET AND HIGHWAY 2 - CLERK read an ordinance, introduced by Patte Newman, accepting and approving the License Agreement between the City of Lincoln, Nebraska, a municipal corporation, and Verizon Wireless (VAW) LLC dba Verizon Wireless for the placement of telecommunications facilities upon City property and authorizing the Mayor to sign such License Agreement on behalf of the City, the first time.

APPROVING A COMMUNICATION SITE LICENSE AGREEMENT BETWEEN THE CITY AND NEXTEL PARTNERS FOR THE PLACEMENT OF TELECOMMUNICATIONS FACILITIES UPON CITY PROPERTY AT STAR CITY SHORES GENERALLY LOCATED AT 27TH STREET AND HIGHWAY 2 - CLERK read an ordinance, introduced by Patte Newman, accepting and approving the License Agreement between the City of Lincoln, Nebraska, a municipal corporation, and Nextel WIP Lease Corp., a Delaware Corp., dba Nextel Partners for the placement of telecommunications facilities upon City property and authorizing the Mayor to sign such License Agreement on behalf of the City, the first time.

**ORDINANCES - 3<sup>RD</sup> READING**

MCROY Moved to waive Council rules to vote as follows: 05-34, 05-33, & 05R-69.

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

CHANGE OF ZONE 05002 - APPLICATION OF LINDSEY MANAGEMENT COMPANY FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT HIGHWAY 34 AND FLETCHER AVENUE; DESIGNATING SAID PROPERTY AS A PLANNED UNIT DEVELOPMENT; AND FOR APPROVAL OF A DEVELOPMENT PLAN FOR 612 DWELLING UNITS, A CLUBHOUSE, PRIVATE GOLF COURSE AND 60,000 SQUARE FEET OF COMMERCIAL FLOOR AREA (OR 696 DWELLING UNITS IF THE COMMERCIAL USE IS DELETED) IN THE UNDERLYING R-3 RESIDENTIAL DISTRICT WITH A REQUESTED WAIVER OF THE REQUIRED PRELIMINARY PLAT PROCESS (IN CONNECTION W/05R-69, 05-33) (4/11/05 - ACTION DELAYED 1 WK TO 4/18/05 W/ PUBLIC HEARING LIMITED TO EXPERT TESTIMONY) - PRIOR to reading:

WERNER Moved MTA #1 to amend Bill No. 05-34 in the following manner:

1. On page 2, line 4, strike out the number "612" and insert in lieu thereof the number "696" and insert a period after the word "clubhouse".

2. On page 2, lines 4 through 6, delete the remainder of the sentence following the period inserted after the word "clubhouse":  ~~, and 60,000 square feet of commercial area or 696 dwelling units if the commercial area is deleted from the Development Plan.~~

3. On page 3, line 20, delete the "s" on the end of the word "Purples".

4. On page 3, line 21, capitalize the "H" in the word "highway".

5. On page 4, line 41, after the word "plan" and before the period, insert the following new language: "eliminating the commercial area".

6. On page 5, line 7 through and including line 21, strike subparagraph e in its entirety and renumber the following subparagraphs accordingly.

7. On page 5, line 22, delete the words "and commercial buildings".

8. Renumber subparagraphs f through j, as subparagraphs e through i, respectively.

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

MCROY Moved MTA #2 to amend Bill No. 05-34 in the following manner:

1. On page 1, line 19, after the word "Plan" add the following: "("Site Plan")".

2. On page 1, lines 20 and 21, strike the following phrase: "attached hereto marked as Attachment "A" and incorporated herein by reference as fully as if set forth herein verbatim" and insert the following: "submitted with its application for the Change of Zone and Planned Unit Development designation".

3. On page 2, line 1, strike the following: ", the site plan,".

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

CAMP Moved MTA #3 to amend Bill No. 05-34 in the following manner:

1. On page 2, between lines 14 and 15, insert new paragraphs c. and d. to read as follows:

c. This approval permits the Permittee at Permittee's own cost and expense to relocate the intersection of Fletcher Avenue with North 1st Street, including acquisition and dedication of 66 feet of right-of-way; engineering, construction or reconstruction of right- and left-turn lanes in northbound 1st Street; engineering, construction, or reconstruction of left-turn lanes in southbound 1st Street; and the engineering and construction of the paving for the realigned portion of Fletcher Avenue, all in accordance with and under the authority of a Mayor's executive order. The intersection will initially be constructed to allow full access (left and right turn access) in all directions at this intersection. This intersection will not be signalized as part of this relocation or in the future as it is not an appropriate location of 1st Street for a signalized intersection. If five traffic accidents are reported in any twelve month period calendar year which are attributable to the lack of a raised median prohibiting eastbound-to-northbound left turns or westbound-to-southbound left turns, the City may, at its discretion, construct medians that prohibit such movements. The portion of Fletcher Avenue remaining after realignment shall be vacated and deeded at no cost to Permittee so that one contiguous parcel of land exists, subject to the City retaining necessary easements for any existing utilities within the current right-of-way. The City of Lincoln will endeavor to retain the U Turn at North 1<sup>st</sup> and Pennsylvania Avenue.

d. If Permittee relocates the intersection of Fletcher Avenue with North 1st Street, Permittee shall submit a request for a Change of Zone and Planned Unit Development designation to expand the boundaries of the Links at Lincoln Planned Unit Development to include the relocated intersection of Fletcher Avenue with North 1st Street. Permittee shall further petition the City to vacate the portion of Fletcher Avenue remaining after realignment.

2. Renumber the following subparagraphs accordingly.

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

FRIENDT Moved MTA #4 to amend Bill No. 05-34 in the following manner:

1. On page 2, on line 6, add a new sentence to read as follows: The golf course and club house will install and use only City water in the use of the clubhouse or the irrigation of the golf course.

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

CLERK Read an ordinance, introduced by Jonathan Cook, 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.

COOK Moved to pass the ordinance as amended.

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

The ordinance, being numbered **#18525**, is recorded in Ordinance Book #25.

ANNEXATION 05001 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 100.00 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 1ST STREET AND FLETCHER AVENUE (IN CONNECTION W/05R-69, 05-34) (4/11/05 - ACTION DELAYED 1 WK TO 4/18/05 W/PUBLIC HEARING LIMITED TO EXPERT TESTIMONY) - CLERK read an ordinance, introduced by Jonathan Cook, 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.

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 **#18526**, is recorded in Ordinance Book #25.

APPROVING THE 1ST AND FLETCHER CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND CARLTON PAINE & JUDITH PAINE, GLENN UMBERGER & LOIS UMBERGER, AND UMBERGER FARMS LTD., RELATING TO THE ANNEXATION OF APPROXIMATELY 100.69 ACRES, GENERALLY LOCATED SOUTHEAST OF NORTH 1ST STREET AND FLETCHER AVE (IN CONNECTION W/05-33, 05-34)(ACTION DATE: 4/11/05)(4/11/05 - ACTION DELAYED 1 WK TO 4/18/05 W/ PUBLIC HEARING LIMITED TO EXPERT TESTIMONY) - CLERK read the following resolution, introduced by Jonathan Cook, moved its adoption:

A-83289 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the agreement titled 1st and Fletcher 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 Carlton Paine and Judith Paine, Glenn Umberger and Lois Umberger, and Umberger Farms, Ltd., ("Owners"), outlining certain conditions and understandings relating to the annexation of approximately 100.69 acres of property generally located southeast of North 1st Street and Fletcher Avenue, is approved.

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

APPROVING A CONTRACT BETWEEN THE CITY AND LINCOLN HAYMARKET DEVELOPMENT CORP. TO OPERATE AND REGULATE A SATURDAY PUBLIC MARKET IN THE HAYMARKET AREA, 7TH STREET FROM P TO Q STREETS AND P STREET FROM 7TH TO 8TH STREETS - CLERK read an ordinance, introduced by Glenn Friendt, accepting and approving the Contract between the City of Lincoln, Nebraska, a municipal corporation, and the Lincoln Haymarket Development Corporation for establishment and regulation of a Saturday public market in the Haymarket area, 7<sup>th</sup> Street from P to Q Streets and P Street from 7<sup>th</sup> to 8<sup>th</sup> Streets, from May 7, 2005 through October 29, 2005, and authorizing the Mayor to sign such Contract on behalf of the City, the third time.

FRIENDT Moved to pass the ordinance as read.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
The ordinance, being numbered **#18527**, is recorded in Ordinance Book #25.

APPROVING A TEN-YEAR LICENSE AGREEMENT BETWEEN THE CITY AND HOBBYTOWN UNLIMITED FOR THE USE OF A PORTION OF OAK LAKE PARK TO DEVELOP AND MAINTAIN A MODEL CAR RACE TRACK - CLERK read an ordinance, introduced by Glenn Friendt, accepting and approving a License Agreement between the City of Lincoln and HobbyTown Unlimited, Inc. for the use of a portion of Oak Lake Park to development and maintain a model car race track for a ten-year term is hereby approved and the Mayor is authorized to execute said License Agreement on behalf of the City, the third time.

FRIENDT Moved to pass the ordinance as read.  
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.  
The ordinance, being numbered **#18528**, is recorded in Ordinance Book #25.

CHANGE OF ZONE 05006 - APPLICATION OF LYLE MAYER FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO AGR AGRICULTURAL RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF SOUTHWEST 84TH STREET AND WEST PIONEERS BLVD (IN CONNECTION W/05R-74) - 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 third time.

FRIENDT Moved to pass the ordinance as read.

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

The ordinance, being numbered **#18529**, is recorded in Ordinance Book #25.

APPEAL OF HUB HALL AND LYLE MAYER FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 05003 TO DEVELOP MEADOW VIEW 2ND ADDITION COMMUNITY UNIT PLAN FOR 57 DWELLING UNITS IN SPLIT JURISDICTION, WITH REQUESTED WAIVERS OF THE REQUIRED ORNAMENTAL LIGHTING, SIDEWALKS, STREET TREES, LANDSCAPE SCREENS, BLOCK LENGTH, PRELIMINARY PLAT PROCESS, NON-PERPENDICULAR LOT LINES, LOT DEPTH TO WIDTH RATIO AND TO ALLOW SANITARY SEWER TO FLOW OPPOSITE STREET GRADE, ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF SOUTHWEST 84TH STREET AND WEST PIONEERS BLVD (IN CONNECTION W/05-41) (ACTION DATE: 4/18/05) - PRIOR to reading:

COOK Moved to accept the substitute resolution for approval for Bill No. 05R-74.

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

CLERK Read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-83290 WHEREAS, Lyle Mayer has submitted an application designated as Special Permit No. 05003 for authority to develop Meadow View 2nd Addition Community Unit Plan for 57 dwelling units designed for future conversion to a higher density as shown on the transitional plat, with requested waivers to eliminate the preliminary plat process, to waive ornamental street lighting, sidewalks, street trees, landscape screens, block length, non-perpendicular lot lines, lot depth to width ratio, and to allow sanitary sewer to flow opposite street grade where necessary, on property located at the northeast corner of S.W. 84th Street and W. Pioneers Blvd., and legally described to wit:

A portion of Lot 8 I.T., located in the Southwest Quarter of Section 2, Township 9 North, Range 5 East of the 6th P.M., Lancaster County, Nebraska, and more particularly described as follows:  
Commencing at the southeast corner of said Lot 8 I.T., said point being the southeast corner of said Southwest Quarter, said point being the true point of beginning; thence west along the south line of said Lot 8 I.T., said line being the south line of said Southwest Quarter, on an assumed bearing north 89 degrees 50 minutes 16 seconds west, a distance of 2,007.22 feet to a point located 617.50 feet east of the west line of said Southwest Quarter; thence north 00 degrees 28 minutes 15 seconds west along a line located 617.50 feet east of and parallel with the west line of said Southwest Quarter, a distance of 610.04 feet to a point; thence north 89 degrees 50 minutes 16 seconds west along a line located 610.00 feet north of and parallel with the south line of said Southwest Quarter, a distance of 557.10 feet to a point of intersection with the west line of said Lot 8 I.T., said point being on the east line of S.W. 84th Street right-of-way, said point being 60.43 feet east of the west line of said Southwest Quarter; thence north 00 degrees 25 minutes 56 seconds west along the west line of said Lot 8 I.T., said line being the east line of S.W. 84th Street right-of-way, a distance of 2,034.84 feet to the northwest corner of said Lot 8 I.T., said point being on the north line of said Southwest Quarter, said point being 61.80 feet east of the northwest corner of said Southwest Quarter; thence south 89 degrees 49 minutes 15 seconds east along the north line of said Lot 8 I.T., said line being the north line of said Southwest Quarter, a distance of 2,575.46 feet to the northeast corner of said Lot 8 I.T., said point being the northeast corner of said

Southwest Quarter; thence south 00 degrees 12 minutes 00 seconds east along the east line of said Lot 8 I.T., said line being the east line of said Southwest Quarter, a distance of 2,644.02 feet to the point of beginning, said tract contains a calculated area of 6,456,279.55 square feet or 148.2158 acres, more or less;

WHEREAS, the Lincoln City-Lancaster County Planning Commission held a public hearing on March 2, 2005 and denied Resolution No. PC-00904 which would have conditionally approved Special Permit No. 05003; and

WHEREAS, Lyle Mayer (Owner) and Hub Hall (Contract Purchaser) have appealed the action of the Lincoln City - Lancaster County Planning Commission and are requesting that Special Permit No. 05003 be approved; and

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this Community Unit Plan will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare; and

WHEREAS, the final action of the Lincoln City - Lancaster County Planning Commission should be reversed; and

WHEREAS, the requested waiver of sidewalks, ornamental street lighting, street trees and landscape screens are not necessary as Ordinance No. 18456 amended Title 26 of the Lincoln Municipal Code to waive the requirement that sidewalks, ornamental street lighting, street trees and landscape screens be installed in subdivisions located outside the City limits where all lots contain an area of one acre or more.

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

That the application of Lyle Mayer, hereinafter referred to as "Permittee", to develop Meadow View 2nd Addition Community Unit Plan for 57 dwelling units be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction of said development be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This approval permits:
  - a. Fifty-seven (57) dwelling units to be converted to a higher density in accordance with the transitional plat at such time as sanitary sewer and water are extended to serve the Community Unit Plan, the areas annexed by the City of Lincoln and rezoned as provided in Lincoln Municipal Code Chapter 27.65.
  - b. The requirement that the Permittee submit a preliminary plat is waived except that if any final plat on all or a portion of the approved Community Unit Plan is submitted five (5) years or more after the approval 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.
  - c. The requirement of Lincoln Municipal Code § 26.23.130 that block lengths shall not exceed 1320 feet between cross-streets is waived for those blocks shown on the approved site plan which exceed 1320 feet.
  - d. The requirement of Lincoln Municipal Code § 26.23.140(c) that the side lines of any lot shall be at right angles (perpendicular) to the street is waived for those lots shown on the approved site plan which are not perpendicular to the street.
  - e. The requirement of Lincoln Municipal Code § 26.23.140(a) that a residential lot shall have a maximum depth of three times its width is waived for those lots shown on the approved site plan which exceed the required lot depth to width ratio.

2. Before the approval of a final plat, the public streets, private roadway improvements, drainage facilities, land preparation and grading, sediment and erosions control measures, drainageway improvements, 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.

3. The Planning Director may approve final plats of the Acreage Development Component of the Community Unit Plan after Permittee signs an agreement which binds the Permittee and Permittee's successors and assigns:

- a. To complete the street surfacing 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 surfacing of private roadway, and temporary turnarounds and barricades located at the temporary dead-end of the private roadways shown on the final plat within two (2) years following the approval of this final plat.
- c. 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.
- d. 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
- e. To complete the installation of the street name signs within two (2) years following the approval of the final plat.
- f. 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.
- g. 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.
- h. To complete the public and private improvements shown on the Community Unit Plan.
- i. To retain ownership of and the right of entry to the outlots in order to perform the herein described maintenance of the outlots and private improvements on a permanent and continuous basis. However, Permittee, as subdivider, may be relieved and discharged of such maintenance obligations upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance subject to the following conditions:
  - i. Subdivider shall not be relieved of Subdivider's maintenance obligation for each specific private improvement until a registered professional engineer or nurseryman who supervised the installation of said private improvement has certified to the City that the improvement has been installed in accordance with approved plans.
  - ii. The maintenance agreements are incorporated into covenants and restrictions in deeds to the subdivided property and the documents creating the association and restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

- j. To agree to subdivide the Acreage Development Component as shown on the transitional plat when sanitary sewer and water are extended to serve the Community Unit Plan and the area is annexed and rezoned. Said agreement to include provisions regarding the timing of annexation, conversion of the Acreage Development Component, establishing a plan for funding infrastructure costs for conversion of the Acreage Development Component, petitioning for creation of special assessment districts for the installation of infrastructure improvements if not installed by the Permittee at the Permittee's own cost and expense, and incorporating said provisions into deed restrictions to be reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
  - k. To submit to the lot buyers and home builders a copy of the soil analysis.
  - l. To pay all design, engineering, labor, material, inspection, and other improvement costs except those cost the City Council specifically agrees to subsidize.
  - m. To comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
  - n. To perpetually maintain the sidewalks/surfacing in the pedestrian way easements on Block 1 at Permittee's cost and expense.
  - o. To inform all purchasers and users of land that is located within the 100 year floodplain that their land is located in the 100 year floodplain and to inform all purchasers and users of land that the grading of the lots and outlots shall be in conformance with the grading plan approved with the Meadow View 2nd CUP or as amended by the Director of Planning. The volume of fill material brought into each lot and outlot from outside the floodplain shall not exceed that shown on the approved grading plan accompanying the Community Unit Plan.
  - p. To protect the trees that are indicated to remain during construction and development.
  - q. 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 owner.
  - r. To relinquish the right of direct vehicular access to SW 84th Street except for Lyle Mayer Lane and to W. Pioneers Blvd, except for SW 77th Cir.(Street)
  - s. To maintain County roads until the County Board specifically accepts the maintenance.
  - t. To submit to all potential purchasers of lots a copy of the ground water report.
  - u. To provide a bond, escrow, or security agreement approved by the City Law Department in an amount sufficient to guarantee completion of the improvements required by Chapter 26.23 of the Land Subdivision Ordinance.
4. Before receiving building permits:
- a. The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
    - i. A revised site plan including 5 copies showing the following revisions:
      - (1) Make the corrections requested by the County Engineer in his letter of January 31, 2005.
      - (2) Make the corrections requested by the Public Works and Utilities Department in their memo of February 8, 2005.
      - (3) Make the corrections requested by the Lincoln/Lancaster County Health Department in their memo of February 1, 2005

- (4) Make the corrections and revision requested by Building and Safety in their memo dated January 28, 2005.
  - (5) Revise the drawing to show the acreage of all lots and outlots.
  - (6) Revise the drawing to show all acreage lots less than one acre and the acreage development area component at no more than 40% of the total area.
  - (7) Show provisions for the future connection of SW 77<sup>th</sup> with W. Pioneers Blvd. and rename the street as S. W. 77<sup>th</sup> Street.
  - (8) Show the easements requested by Norris Public Power.
  - (9) Show the easements on all lots and future lots.
  - (10) Note a preservation easement on the flood plain.
  - (11) Show grading on all future streets.
  - (12) Revise the street cross section to reference the Rural and Intermediate BTA.
  - (13) Show the minimum opening elevation for each dwelling.
  - (14) Add "with BTA" to the Title Block
  - (15) Add a note that this is designed for future platting to a density of about 300 dwellings and for future subdivision of the acreage lots.
  - (16) Add a note that a written agreement shall be provided for the future conversion of lots to a higher density, including timing of annexation, funding of infrastructure cost, and agreement to petition for special assessment districts.
  - (17) Add a note that only one main building in a building envelope is allowed per platted lot.
  - (18) Note on page 3 this is the "Transitional Plat".
- ii. Submit a permanent final plan with 5 copies as approved.
  - b. The construction plans comply with the approved plans.
  - c. Final plat(s) is/are approved by the City/County.
  - d. The required easements as shown on the site plan are recorded with the Register of Deeds.
5. Before occupying this Community Unit Plan all development and construction is to comply with the approved plans.
  6. Before occupying these dwellings the City/County Health Department must approve the water and waste water systems.
  7. All privately-owned improvements, including landscaping and recreational facilities, are to be permanently maintained by the owner or an appropriately established homeowners association approved by the City.
  8. The site plan accompanying 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. This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  10. The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The 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 applicant.

Introduced by Ken Svoboda

Seconded by Friendt & 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 April 25, 2005.  
Seconded by McRoy & 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  
April 25, 2005.  
Seconded by McRoy & carried by the following vote: AYES: Camp,  
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 3:45 P.M.

CAMP Moved to adjourn the City Council meeting of April 18, 2005.  
Seconded by McRoy & 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

