

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, JULY 11, 2005 AT 1:30 P.M.**

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

Council Chair Svoboda 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 June 27, 2005, reported having done so, found same correct.

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

MAYOR'S AWARD OF EXCELLENCE

Mayor Coleen Seng presented the Mayor's Award of Excellence for June 2005 to Jason Brownell of the Lincoln Police Department in the category of Safety and Productivity.

PUBLIC HEARING

APPLICATION OF HY-VEE, INC. DBA HY-VEE #4 FOR A CLASS C LIQUOR LICENSE AT 6001 VILLAGE DRIVE;

MANAGER APPLICATION OF JEFF E. QUANDT FOR HY-VEE, INC. DBA HY-VEE #4 AT 6001 VILLAGE DRIVE - Jeff Quandt, 6001 Village Dr., took oath and came forward to answer questions.

This matter was taken under advisement.

APPLICATION OF THE NOODLE SHOP, CO. -- COLORADO, INC. DBA NOODLES & COMPANY FOR A CLASS I LIQUOR LICENSE AT 210 NORTH 14TH STREET;

MANAGER APPLICATION OF CHRISTOPHER F. DAKIN FOR THE NOODLE SHOP, CO. - COLORADO, INC. DBA NOODLES & COMPANY AT 210 NORTH 14TH STREET - Nick Herman, 210 N 14th St., took oath and came forward to answer questions.

This matter was taken under advisement.

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$18,000,000 AGGREGATE PRINCIPAL AMOUNT OF SANITARY SEWER REVENUE BONDS OF THE CITY OF LINCOLN, NEBRASKA - Don Herz, City Finance Director, stated this bond will be paid from revenue streams currently in place under the existing rates.

Scott Keene, Ameritas, stated the market looks good and plan to bring to fruition through competitive sales on July 20, 2005.

Lauren Wismer, Bond Counsel with Gilmore and Bell, stated these bonds will be issued under the 2nd series of the ordinance previously adopted for providing the frame work of the Sanitary Sewer Revenue Bonds. Discussion followed.

Mike Morosin, 2055 "S" Street, asked if any of the bond issue money would be diverted to the Antelope Valley Project.

Margaret Remmenga, Public Works Business Manager, stated that none of these funds will be used for the Antelope Valley Project.

This matter was taken under advisement.

CHANGE OF ZONE 05041 - APPLICATION OF PIONEER WOODS LLC FOR A CHANGE OF ZONE FROM O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT S. 70TH STREET AND PIONEERS BLVD. (IN CONNECTION W/05R-139);

USE PERMIT 130A - APPLICATION OF PIONEER WOODS LLC TO DEVELOP AN 85-ROOM, FOUR-STORY HOTEL, WITH REQUESTED WAIVERS OF THE REQUIREMENT REAR YARD SETBACKS AND MAXIMUM ALLOWED HEIGHT, ON PROPERTY GENERALLY LOCATED AT S. 70TH STREET AND PIONEERS BLVD. (IN CONNECTION W/05-88)- Mike Rierden, 645 "M" Street, Suite 200, representing Pioneer Woods, LLC came forward to answer questions. Discussion followed.

Jonathan Cook, Council Member, stated to clarify, normally the O-3 would be something we want to keep in place as a buffer between a more intense commercial district, but in this case because there is a use permit that allows us to restrict the uses in the B-2 that we're changing the O-3 to, that's basically allowing you to build the hotel

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the way you like to, but otherwise it's not going to open the door to other B-2 uses that might not be desirable in this location. I just wanted this on the record because there may be questions as to what we can or cannot do when someone has a particular zone in place. I think in this case this is being agreed to by the applicant. The restrictions of the use permit are going to be respected that way future councils are going to be bound by those restrictions as surely as if the zone restricted those other types or uses.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF MAY 16 - 31, 2005 (Judith Troutman claim) - Judith Troutman, no address given, came forward to request her claim be approved. Discussion followed.

Roger Krull, Asst. Supt. of Wastewater, came forward to answer questions. Discussion followed.

Steve Masters, Public Works Dept., presented a video showing the service connection referenced. Discussion followed.

Judith Troutman came forward for rebuttal. Discussion followed.

This matter was taken under advisement.

USE PERMIT 123D - APPLICATION OF NORTH 33RD LLC TO AMEND THE LANDMARK CORPORATE CENTER TO WAIVE THE 20 FOOT REAR YARD SETBACK ON OUTLOT D AND LOTS 9 AND 10, BLOCK 2, TO ACCOMMODATE DRIVING AISLES, TO WAIVE THE 50 FOOT FRONT YARD SETBACK FOR LOTS 9 AND 10, BLOCK 2, AND TO WAIVE THE 20 FOOT SIDE YARD SETBACK BETWEEN LOTS 4 - 11, BLOCK 2, AND OUTLOT D, FOR THE LOCATION OF SHARE ACCESS DRIVES, ON PROPERTY GENERALLY LOCATED AT NORTH 33RD STREET AND FOLKWAYS BLVD. DaNay Kalkowski, Seacrest & Kalkowski, 1111 Lincoln Mall, Suite 350, came forward representing North 33rd LLC to answer questions.

This matter was taken under advisement.

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO PROVIDE FUNDING FOR THE CONSTRUCTION OF A BRIDGE OVER MIDDLE CREEK AND A VIADUCT IN S.W. 40TH STREET OVER THE BURLINGTON NORTHERN SANTA FE RAILROAD TRACKS;

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND LANCASTER COUNTY TO PROVIDE FUNDING FOR CONSTRUCTION OF A BRIDGE OVER MIDDLE CREEK IN S.W. 40TH STREET;

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS TO PROVIDE FUNDING FOR CONSTRUCTION OF AN OVERPASS IN S.W. 40TH STREET OVER THE EXISTING BURLINGTON NORTHERN SANTA FE RAILROAD TRACKS - Danny Walker, 427 "E" Street, came forward in opposition to this project being approved before fixing the underpass at 1st & J Street,.

Glen Cekal, 1420 "C" Street, came forward to express his thoughts on this matter. Discussion followed.

Karl Fredrickson, Public Works Director, came forward to answer questions. Discussion followed.

Scott Cockrill, Public Works Engineering Dept., came forward to answer questions.

This matter was taken under advisement.

ADOPTING THE LES RATE SCHEDULES, SERVICE REGULATIONS AND COST ANALYSIS SUMMARY FOR RATES, PROVIDING FOR A SYSTEM AVERAGE RATE INCREASE OF 9 PERCENT, EFFECTIVE AUGUST 1, 2005 - Terry Bundy, CEO of LES, stated LES is serving a growing need in the local community with the number of customers growing 1.9% per year, the peak demand growing 2.2% per year and the energy consumption growing 2.5% per year.

Todd Hall, V.P. of Consumer Services for LES, presented further information via a power point presentation. Discussion followed.

Richard Meginnis, LIBA, came forward in support.

Coby Mach, Executive Director of LIBA, came forward in support.

Glen Cekal, 1420 "C" Street, came forward against big time subsidies. Discussion followed.

Russell Miller, 341 S. 57th Street, came forward in opposition.

Danny Walker, 427 "E" Street, came forward to state the need for extreme care of new subsidies. Discussion followed.

Mike Morosin, 2055 "S" Street, asked how much money did LES spend on advertising. Discussion followed.

Karl Fredrickson, Public Works Director, came forward to answer questions related to the City's lighting system. Discussion followed.

Todd Hall came forward for rebuttal. Discussion followed.

Dan Marvin, Council Member, this may sound redundant, but I want to kind of go on the record on this conservation efforts. I believe the City has obligations for conservation efforts. I believe the half million or three quarters of a million that you spend on advertising, I think that can be geared toward those sorts of things. For people of the media here we can certainly use the bully pulpit to turn the light out in the bedroom if you're not in there or if you are in there, you know, whatever. So, conservation efforts, I think, should be something that we should push really hard. We are going to have a rate increase coming before us in another year and I think these are all issues that I would be looking at a year from now. When I look at the book and I look on page 3-5, the number of customers that you have and all the different rating categories. Todd and I spent an extended period of time about differing philosophies on rate structure, but co-generation, interruptible power, and all these other elements, we don't have a lot of customers in those areas, at least, according to that page and I know Todd is working on a project where we may change the whole philosophy about how we charge for power. I think that is really exciting. I think that is a project that should go forward and it's a way I think, what we have to do is use the market place to price the power at the peak side of the peaking end so that we can use the market forces to curtail consumption during those peaking periods, if we can do that at all. Perhaps the rates are still so low that we can't use the market place to do that, but, you know, to the degree that your new pricing plan will come up with that I think that's something we ought to do.

This matter was taken under advisement.

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

MISCELLANEOUS BUSINESS

Danny Walker, 427 "E" Street, requested a written notification of Railroad Transportation Safety meetings. He stated he is still waiting to hear information requested about a hobbyist permit that had been issued.

Chairman Svoboda stated the next RTSD meeting is September 6, 2005 at 10:30 a.m.

This matter was taken under advisement.

Glen Cekal, 1420 "C" Street, stated the alleys in Downtown Lincoln need to be revitalized.

This matter was taken under advisement.

COUNCIL ACTION

LIQUOR RESOLUTIONS

APPLICATION OF HY-VEE, INC. DBA HY-VEE #4 FOR A CLASS C LIQUOR LICENSE AT 6001 VILLAGE DRIVE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83400 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 Hy-Vee, Inc. dba Hy-Vee #4 for a Class "C" liquor license at 6001 Village Drive, 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, Eschliman, Marvin, Newman, Svoboda; NAYS: None; ABSENT: McRoy.

MANAGER APPLICATION OF JEFF E. QUANDT FOR HY-VEE, INC. DBA HY-VEE #4 AT 6001 VILLAGE DRIVE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83401 WHEREAS, Hy-Vee, Inc. dba Hy-Vee #4 located at 6001 Village Drive, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Jeff E. Quandt be named manager;

WHEREAS, Jeff E. Quandt appears to be a fit and proper person to manage said business.

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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 Jeff E. Quandt 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, Eschliman, Marvin, Newman, Svoboda; NAYS: None; ABSENT: McRoy.

APPLICATION OF THE NOODLE SHOP, CO. -- COLORADO, INC. DBA NOODLES & COMPANY FOR A CLASS I LIQUOR LICENSE AT 210 NORTH 14TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83402 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 Noodle Shop, Co. - Colorado, Inc. dba Noodles & Company for a Class "I" liquor license at 210 North 14th Street, Lincoln, Nebraska, for the license period ending April 30, 2006, 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, Eschliman, Marvin, Newman, Svoboda; NAYS: None; ABSENT: McRoy.

MANAGER APPLICATION OF CHRISTOPHER F. DAKIN FOR THE NOODLE SHOP, CO. - COLORADO, INC. DBA NOODLES & COMPANY AT 210 NORTH 14TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83403 WHEREAS, The Noodle Shop, Co. - Colorado, Inc. dba Noodles & Company located at 210 North 14th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Christopher F. Dakin be named manager;

WHEREAS, Christopher F. Dakin 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 Christopher F. Dakin 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, Eschliman, Marvin, Newman, Svoboda; NAYS: None; ABSENT: McRoy.

APPLICATION OF TWISTED STEELE, INC. DBA LAZZARI'S PIZZA FOR AN ADDITION TO ITS PRESENTLY LICENSED PREMISES TO READ AS FOLLOWS: THE ONE STORY BUILDING APPROXIMATELY 46' X 140', INCLUDING BASEMENT AREA AND SIDEWALK CAFÉ APPROXIMATELY 14' X 19', EXCLUDING GARAGE AREA 21' BY 18' TO THE WEST, ON PROPERTY GENERALLY LOCATED AT 1434 O STREET - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption for denial:

A-83404 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 Twisted Steele, Inc. dba Lazzari's Pizza to expand its licensed premises to read as follows: the one story building approximately 46' by 140', including basement area and sidewalk café approximately 14' by 19', excluding garage area 21' by 18' to the west of the presently licensed premises located at 1434 O Street, Lincoln,

Nebraska, be denied for the reason that applicant has failed to satisfactorily demonstrate that the issuance of this license would further the public interest, be a betterment to the city and a true increase in service to the public, and would not be detrimental to the public health, safety, and welfare.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Patte Newman

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

ORDINANCES - 2ND READING

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$18,000,000 AGGREGATE PRINCIPAL AMOUNT OF SANITARY SEWER REVENUE BONDS OF THE CITY OF LINCOLN, NEBRASKA - CLERK read an ordinance, introduced by Annette McRoy, authorizing and providing for the issuance of not to exceed \$18,000,000 aggregate principal amount of sanitary sewer revenue bonds of the city of Lincoln, Nebraska, the second time.

CHANGE OF ZONE 05041 - APPLICATION OF PIONEER WOODS LLC FOR A CHANGE OF ZONE FROM O-3 OFFICE PARK DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT S. 70TH STREET AND PIONEERS BLVD (IN CONNECTION W/05R-139)- 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.

USE PERMIT 130A - APPLICATION OF PIONEER WOODS LLC TO DEVELOP AN 85-ROOM, FOUR-STORY HOTEL, WITH REQUESTED WAIVERS OF THE REQUIREMENT REAR YARD SETBACKS AND MAXIMUM ALLOWED HEIGHT, ON PROPERTY GENERALLY LOCATED AT S. 70TH STREET AND PIONEERS BLVD. (IN CONNECTION W/05-88)

RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF MAY 16 - 31, 2005 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83405 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 June 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:

DENIED

ALLOWED OR SETTLED

Judith Troutman NAS*

* 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 Dan Marvin

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

USE PERMIT 123D - APPLICATION OF NORTH 33RD LLC TO AMEND THE LANDMARK CORPORATE CENTER TO WAIVE THE 20 FOOT REAR YARD SETBACK ON OUTLOT D AND LOTS 9 AND 10, BLOCK 2, TO ACCOMMODATE DRIVING AISLES, TO WAIVE THE 50 FOOT FRONT YARD SETBACK FOR LOTS 9 AND 10, BLOCK 2, AND TO WAIVE THE 20 FOOT SIDE YARD SETBACK BETWEEN LOTS 4 - 11, BLOCK 2, AND OUTLOT D, FOR THE LOCATION OF SHARE ACCESS DRIVES, ON PROPERTY GENERALLY LOCATED AT NORTH 33RD STREET AND FOLKWAYS BLVD. - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption for approval:

A-83406 WHEREAS, North 33rd L.L.C. has submitted an application in accordance with Sections 27.31.100 and 27.51.100 of the Lincoln Municipal Code for authority to amend Use Permit No. 123C Landmark Corporate Center to waive the 20' rear yard setback on Outlot D and Lots 9 and 10, Block 2, to accommodate driving aisles, to waive the 50' front yard setback on Lots 9 and 10, Block 2, and to waive the 20' side yard

setback between Lots 4 - 11, Block 2, and Outlot D, for the location of shared access drives, on property generally located at North 33rd Street and Folkways Blvd. and legally described to wit:

Lots 1 and 2, Block 1; Lots 1, 2, and 3, Block 2; Lots 1, 2, and 3, Block 3; Lots 1 and 2, Block 4; Lots 1, 2, 3, 4, and 5, Block 5; Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 6; and Outlots A, B, and E; all of Landmark Corporate Center Addition, Lots 1, 2, 3, 4, 5, and 6, all of Landmark Corporate Center 1st Addition, Lincoln Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this adjustment of the rear and side yard setbacks 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 North 33rd L.L.C., hereinafter referred to as "Permittee", to amend the use permit for Landmark Corporate Center to waive the 20' rear yard setback on Outlot D and Lots 9 and 10, Block 2, to accommodate driving aisles, to waive the 50' front yard setback on Lots 9 and 10, Block 2, and to waive the 20' side yard setback between Lots 4 - 11, Block 2, and Outlot D, for the location of shared access drives, on the property legally described above be and the same is hereby granted under the above-described provisions of the Lincoln Municipal Code upon condition that construction and operation of said commercial space be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a waiver of the 20' rear yard setback on Outlot D and Lots 9 and 10, Block 2 to accommodate driving aisles, to waive the 50' front yard setback on Lots 9 and 10, Block 2, and to waive the 20' side yard setback between Lots 4-11, Block 2 and Outlot D for the location of shared access drives.

2. Before receiving building permits:

- a. The Permittee must submit a final plan including 6 copies.
- b. The construction plans must conform to the approved plans.

3. Before occupying the buildings all development and construction must be completed in conformance with the approved plans.

4. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established 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 this use permit or take such other action as may be necessary to gain compliance.

7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

8. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however, all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Annette McRoy

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

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE RAILROAD TRANSPORTATION SAFETY DISTRICT TO PROVIDE FUNDING FOR THE CONSTRUCTION OF A BRIDGE OVER MIDDLE CREEK AND A VIADUCT IN S.W. 40TH STREET OVER THE BURLINGTON NORTHERN SANTA FE RAILROAD TRACKS - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption for approval:

A-83407 BE IT RESOLVED by the City Council of the City of Lincoln,

Nebraska:

That the attached Interlocal Agreement between the City of Lincoln Lancaster County Railroad Transportation Safety District and the City of Lincoln, Nebraska for the construction funding of a bridge over Middle Creek and a viaduct in S.W. 40th Street over the Burlington Northern and Santa Fe Railroad's tracks, in accordance with the terms and conditions contained in said Interlocal Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

Resolution No. A-83315, adopted by the City Council on May 9, 2005, is hereby rescinded and replaced with this Interlocal Agreement.

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

Introduced by Annette McRoy

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

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND LANCASTER COUNTY TO PROVIDE FUNDING FOR CONSTRUCTION OF A BRIDGE OVER MIDDLE CREEK IN S.W. 40TH STREET - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption for approval:

A-83408 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Interlocal Agreement between the City of Lincoln, Nebraska and Lancaster County for the funding of a bridge over Middle Creek and future roadway in S.W. 40th Street, in accordance with the terms and conditions contained in said Interlocal Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Public Works and Utilities Department, for transmittal to Lancaster County.

Introduced by Annette McRoy

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND THE NEBRASKA DEPT. OF ROADS TO PROVIDE FUNDING FOR CONSTRUCTION OF AN OVERPASS IN S.W. 40TH STREET OVER THE EXISTING BURLINGTON NORTHERN SANTA FE RAILROAD TRACKS - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption for approval:

A-83409 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for funding the construction engineering, construction and right-of-way costs of a proposed viaduct over Burlington Northern and Santa Fe Railroad's tracks at S.W. 40th Street, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

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

Introduced by Annette McRoy

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

ADOPTING THE LES RATE SCHEDULES, SERVICE REGULATIONS AND COST ANALYSIS SUMMARY FOR RATES, PROVIDING FOR A SYSTEM AVERAGE RATE INCREASE OF 9 PERCENT, EFFECTIVE AUGUST 1, 2005 - PRIOR to reading:

COOK Moved to delay action on Bill No. 05R-144 for one week to 7/18/05.

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

PETITIONS AND COMMUNICATIONS

THE FOLLOWING HAVE BEEN SENT TO THE PLANNING DEPARTMENT:

Change of Zone 04063 - App. of Planning Director to amend the text of Chapter 27.68 of the LMC for wireless facilities to eliminate the requirement for an administrative permit when co-locating on existing wireless facilities and to clarify how the fall zone is measured.

Special Permit 692M - App. of Brian Carstens and Associates for an amendment to the Tabitha Community 3rd Addition C.U.P. w/request to waive the preliminary plat process to add approximately 5 dwelling units and a community building on property located at North 27th Street and

Folkways Boulevard.

Special Permit 05034 - App. of Roger Moore of Growth Management to allow for additional parking within the R-2 Residential District on property at S. 16th Street and South Street.

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES AND RESOLUTIONS PASSED BY THE CITY COUNCIL ON JUNE 27, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED MAY, 2005 - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83410 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended May 31, 2005, \$573,951.87 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Patte Newman

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

LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR JUNE 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk. (8-71)

SETTING THE INTEREST RATE OF 6.25% AND LEVYING THE ASSESSMENTS ON SPECIAL ASSESSMENT GROUP II OF THE BOARD OF EQUALIZATION HELD JUNE 20, 2005, AND ACCEPTING THE REPORT ON BOARD OF EQUALIZATION TO CITY COUNCIL ON SPECIAL ASSESSMENT GROUP I (WATER DISTRICT NO. 1193) - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption:

A-83411 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that:

The special taxes assessed June 13, 2005, to pay the costs of the improvements in Water District 1193 are hereby levied and shall bear interest at 6.25% per annum and that the period of time in which the assessments are to be paid shall be as follows:

20 years - Water District 1193

Introduced by Patte Newman

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

REPORT FROM CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX DUE FOR THE MONTH OF APRIL 2004: TRACFONE; JANUARY 2005, MATRIX TELECOM; MARCH 2005: NORSTAN; APRIL 2005: CINCINNATI BELL, QWEST, UCN, VERIZON-BELL ATLANTIC, TELECORP, CIII COMM. OPERATIONS, TRANS NATIONAL, INTELICALL, MCLEODUSA, VOICECOM, ON STAR, WORKING ASSETS, GLOBAL CROSSING, VERIZON-VERIZON SELECT, ADVANCED, VIRGIN MOBILE USA, XO COMM., ACN, PRIMUS, IBM GLOBAL, T-NETIX, QUANTUM SHIFT, KDDI AMERICA, STAR NUMBER, CLARICOM, MATRIX, NEW CINGULAR, AT&T COMM. OF MIDWEST, CRICKET, USCOC OF GREATER IOWA, ALLTEL SYSTEMS OF THE MIDWEST, ALLTEL COMM. OF NEBRASKA, ALLTEL NEBRASKA, NEBRASKA TECHNOLOGY; MAY 2005: SPRINT, MCI WORLDCOM, SPRINT SPECTRUM, NEXTEL, NETWORK BILLING SYSTEM, NOSVA, EXCEL, VARTEC, SBC LONG DISTANCE, NEXTEL WEST, ZONE TELECOM, ACCERIS, TRI-M, GLOBALCOM, NOS, LDMI, GTC, ASSOCIATION ADMINISTRATORS, LIGHTYEAR, AFFINITY NETWORK, ATS MOBILE. - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF FRANCHISE TAX OF AQUILA FOR THE MONTHS OF APRIL AND MAY, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk. (16-1)

ORDINANCES - 1ST READING

REPEALING ORDINANCE NO. 18399 CREATING ORNAMENTAL LIGHTING DISTRICT NO. 287 IN WEST CHARLESTON, N. 1ST STREET WEST APPROXIMATELY 1,100 FEET, DUE TO THE LACK OF MAJORITY PETITION - CLERK read an ordinance, introduced by Patte Newman, re-pealing Ordinance No. 18399 which created Ornamental

Lighting District No. 287, which Ornamental Lighting District included all that portion of West Charleston Avenue, North First Street west approximately 1,100 feet +/- describing the real estate benefitted, to-wit: Portions of Irregular Tracts, I.T. Lot 70, I.T. Lot 71, I.T. Lot 91, I.T. Lot 81 all in the Southeast Quarter of Section 15, Township 10, Range 6 East of the Sixth Principal Meridian in the City of Lincoln, Lancaster County, Nebraska and providing for the payment of the cost thereof, the first time.

DECLARING A TRACT OF LAND CONSISTING OF .54 ACRES, MORE OR LESS, AS SURPLUS PROPERTY GENERALLY LOCATED AT 601 N. 27TH STREET - CLERK read an ordinance, introduced by Patte Newman, declaring approximately .54 acres of City-owned property generally located at 601 N. 27th Street as surplus and authorizing the sale thereof, the first time.

CHANGE OF ZONE 05039 - APPLICATION OF AUSTIN REALTY COMPANY FOR A CHANGE OF ZONE FROM B-2 PLANNED NEIGHBORHOOD BUSINESS TO H-3 HIGHWAY COMMERCIAL ON PROPERTY GENERALLY LOCATED AT N. 27TH STREET SOUTH OF FOLKWAYS BLVD. - CLERK read an ordinance, introduced by Patte Newman, 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.

CHANGE OF ZONE 05043 - APPLICATION OF GREGG AND CINDY TRAUTMAN FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL TO R-T RESIDENTIAL TRANSITION ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF S. 37TH STREET AND O STREET - CLERK read an ordinance, introduced by Patte Newman, 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.

APPROVING THE THIRD AMENDMENT TO FIRST AMENDED AND RESTATED LEASE AND OPERATING AGREEMENT -- BURNHAM YATES CONFERENCE CENTER RELATING TO UPGRADING CONFERENCE CENTER FACILITIES AND PROVIDING FOR THE EXPENDITURE OF EXISTING TIF FUNDS AND PROVIDING FOR FUNDING BY THE REDEVELOPER - CLERK read an ordinance, introduced by Patte Newman, accepting and approving the Third Amendment to First Amended and Restated Lease and Operating Agreement - Burnham Yates Conference Center to amend paragraph 7 of the Lease relating to furnishings to facilitate upgrading conference center facilities and providing for the expenditure of existing T.I.F. funds for the same, the first time.

ORDINANCES - 3RD READING

CHANGE OF ZONE 05038 - APPLICATION OF PINE LAKE HEIGHTS CONGREGATION OF JEHOVAH'S WITNESSES, INC. FOR A CHANGE OF ZONE FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT TO R-1 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF S. 70TH STREET AND PINE LAKE ROAD - CLERK read an ordinance, introduced by Dan Marvin, 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.

MARVIN Moved to pass the ordinance as read.

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

The ordinance, being numbered #18571, is recorded in Ordinance Book #25, Page

MISCELLANEOUS BUSINESS

PENDING -

COMP. PLAN AMENDMENT NO. 05014 - AMENDING THE LINCOLN/LANCASTER COUNTY\COMPREHENSIVE PLAN BY DELETING REFERENCES TO THE THEATER POLICY AND ENTERTAINMENT IN THE DOWNTOWN, AND BY DELETING ONE STATEMENT REQUIRING MARKET STUDIES FOR PROPOSED NEW THEATERS OUTSIDE OF THE DOWNTOWN AREA. (IN CONNECTION W/05-85, 05-86, 05R-135, 05R-136); AMENDING SECTION 27.63.630(C) OF THE LINCOLN MUNICIPAL CODE ZONING ORDINANCE FOR THEATERS IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT, TO ALLOW THEATERS WITH MORE THAN SIX SCREENS, PROVIDED THEY ARE LOCATED OUTSIDE A 6.5 MILE RADIUS MEASURED FROM THE CENTER OF THE INTERSECTION OF 13TH AND O STREETS. (IN CONNECTION W/05-86, 05R-134, 05R-135, 05R-136) (6/20/05 -

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PLACED ON PENDING TO 7/25/05 WITH P.H.);

CHANGE OF ZONE 05036 - APPLICATION OF EIGER CORPORATION FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO B-5 PLANNED REGIONAL BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05-85, 05-86, 05R-135, 05R-136) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.);

APPEAL OF EIGER CORPORATION FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT 05023 TO CONSTRUCT AN 80,000 SQ. FT. THEATER COMPLEX WITH 18 SCREENS IN THE B-5 ZONING DISTRICT, ON PROPERTY GENERALLY LOCATED AT S. 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05-85, 05-86, 05R-136) (ACTION DATE: 7/11/05) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.);

APPEAL OF EIGER CORPORATION FROM THE PLANNING COMMISSION DENIAL OF USE PERMIT 140B TO ALLOW 950,983 SQ. FT. OF COMMERCIAL AND OFFICE FLOOR AREA, ON PROPERTY GENERALLY LOCATED AT S. 91ST STREET AND PINE LAKE ROAD. (IN CONNECTION W/05R-134, 05R-135, 05-85, 05-86) (ACTION DATE: 7/11/05) (6/20/05 - PLACED ON PENDING TO 7/25/05 WITH P.H.)- PRIOR to reading:

COOK Moved to remove from Pending on 8/29/05 with public hearing.
Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

CAMP Moved to extend the Pending List to July 18, 2005.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on July 18, 2005.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

ADJOURNMENT 5:06 P.M.

CAMP Moved to adjourn the City Council meeting of July 11, 2005.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.
So ordered.

Joan E. Ross, CMC, City Clerk

Judy Roscoe, Senior Office Assistant