

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, AUGUST 15, 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

MARVIN Having been appointed to read the minutes of the City Council proceedings of August 8, 2005, reported having done so, found same correct.

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

MAYOR'S AWARD OF EXCELLENCE

Mayor Coleen J. Seng presented the Mayor's Award of Excellence to Kimberly Rettig who is a nurse for the Lincoln-Lancaster County Health Department in the category of Productivity.

This matter was taken under advisement.

PUBLIC HEARING

APPLICATION OF GRANITE CITY FOOD & BREWERY LTD. DBA GRANITE CITY FOOD & BREWERY FOR AN ADDITION OF AN OUTSIDE SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 54 FEET BY 18 FEET TO THE EAST OF THE BUILDING AT 6150 O STREET Mickey Buckman, 3311 Stockwell Street, took oath and came forward to answer questions.

This matter was taken under advisement.

MANAGER APPLICATION OF MARGARET E. STINE FOR CONCORD NEIGHBORHOOD CORPORATION DBA APPLEBEE'S NEIGHBORHOOD GRILL & BAR AT 3730 VILLAGE DRIVE, 3951 N. 27TH STREET, 6100 O STREET, UNIT C-318, AND 1133 Q STREET - Margaret Stine, 6840 Shadow Ridge Road, took oath and came forward to answer questions.

This matter was taken under advisement.

APPLICATION OF 513 VEGAS GROUP LLC DBA OPULENCE ULTRA CLUB FOR A CLASS C LIQUOR LICENSE AT 1033 O STREET, SUITE 10;

MANAGER APPLICATION OF OMAR SAENZ FOR 513 VEGAS GROUP LLC DBA OPULENCE ULTRA CLUB AT 1033 O STREET, SUITE 10 - Robert Adams, 4130 N.W. 50th St. and Omar Saenz, 4130 N.W. 50th St., took oath and came forward to answer questions. Discussion followed.

This matter was taken under advisement.

REPEALING SECTION 10.48.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE SALE OF ABANDONED OR SEIZED BICYCLES - Patte Newman, Council Member, asked how long are the bicycles held to be claimed?

Dana Roper, City Attorney, stated unclaimed property will go to the State, but the State does not want them. They cannot be sold, and believes they are held for six months, but will check on that.

Ken Svoboda, City Council, stated they are auctioned off for a minimum of \$7.50 per bicycle and if not sold they are given away to a charity or put in a scrap heap.

This matter was taken under advisement.

AMENDING CHAPTER 8.06 AIR POLLUTION, 8.20 FOOD CODE, 8.24 NOISE CONTROL, 8.38 PUBLIC SWIMMING POOLS, 8.40 SPA FACILITIES, 8.44 WATER WELLS, AND 24.38 ON-SITE WASTEWATER TREATMENT, TO INCREASE FEES FOR VARIOUS PERMITS AND TO CREATE FEES FOR NOISE VARIANCES - Bruce Dart, Health Department Director, came forward to answer questions. Discussion followed.

Scott Holmes, Health Department, came forward to answer questions.

This matter was taken under advisement.

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APPROVING A TRANSFER OF APPROPRIATIONS AND CASH BETWEEN CERTAIN CAPITAL IMPROVEMENT PROJECTS WITHIN THE WATER CONSTRUCTION FUND, STREET CONSTRUCTION/VEHICLE TAX FUND, PARKING REVENUE FUND, AND SANITARY SEWER CONSTRUCTION FUND WITHIN THE PUBLIC WORKS & UTILITIES DEPARTMENT - Margaret Remmenga, Public Works Business Manager, came forward to state the transfers are to allow projects to be completed and to close out the books.

This matter was taken under advisement.

COMP. PLAN AMENDMENT 05013 - AMENDING THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE THE LAND USE DESIGNATION FROM COMMERCIAL AND INDUSTRIAL TO URBAN RESIDENTIAL ON PROPERTY GENERALLY LOCATED ALONG HUMPHREY AVENUE BETWEEN N. 14TH AND N. 27TH STREETS;

ANNEXATION 05009 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 22 ACRES OF PROPERTY GENERALLY LOCATED NORTHWEST OF I-80 AND N. 27TH STREET;

APPROVING THE STONE BRIDGE CREEK - THE VILLAS CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND STONEBRIDGE CREEK, LLC RELATING TO THE ANNEXATION OF APPROXIMATELY 22 ACRES, GENERALLY LOCATED NORTHWEST OF THE I-80 AND NORTH 27TH STREET INTERCHANGE;

CHANGE OF ZONE 04081 - APPLICATION OF STONE BRIDGE CREEK LLC FOR A CHANGE OF ZONE FROM I-3 EMPLOYMENT CENTER DISTRICT TO R-3 RESIDENTIAL DISTRICT AND FROM AG AGRICULTURAL DISTRICT TO I-3 EMPLOYMENT DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF I-80 AND N. 27TH STREET - Bob Lewis, Stonebridge Creek, LLC, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 04063 - AMENDING CHAPTER 27.68 OF THE LINCOLN MUNICIPAL CODE, PERSONAL WIRELESS FACILITIES, TO DELETE THE REQUIREMENT FOR AN ADMINISTRATIVE PERMIT TO COLLOCATE ON EXISTING FACILITIES, TO CLARIFY HOW THE FALL ZONE IS MEASURED, AND TO DELETE THE DEFINITION OF "MODIFICATION" - Ray Hill, Planning Dept., came forward to answer questions.

This matter was taken under advisement.

APPEAL OF CINDY J. SWANSON FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT NO. 05032 FOR AUTHORITY TO EXPAND A NON-CONFORMING USE TO ALLOW AN OUTDOOR BEER GARDEN AT THE LIBRARY LOUNGE AT 6891 A STREET, SUITE 200 - Cindy Swanson, Library Lounge owner, came forward to explain her request. Discussion followed.

Dale Softley, 1720 Kingston Rd., came forward in opposition. Discussion followed.

Nancy Cottrell, 1412 Kingston Rd., came forward in opposition.

Cindy Swanson came forward for rebuttal. Discussion followed.

This matter was taken under advisement.

MISC. 05012 - APPLICATION OF DEVELOPMENTAL SERVICES OF NEBRASKA, INC. TO ALLOW A GROUP HOME IN THE R-1 RESIDENTIAL DISTRICT TO LOCATE WITHIN THE REQUIRED ½ MILE SEPARATION FROM ANOTHER GROUP HOME, ON PROPERTY GENERALLY LOCATED AT 4000 LINDSEY CIRCLE - Chris Hedican, attorney for Developmental Services of Nebraska, Inc. came forward to answer questions. Discussion followed.

Scott LeFevre, Director of Mental Health Associates of Nebraska came forward to answer questions. Discussion followed.

This matter was taken under advisement.

AUTHORIZING THE USE OF THE PUBLIC RIGHT-OF-WAY BY SPEEDWAY PROPERTIES FOR THE INSTALLATION OF A LEVEL SIDEWALK TO PROVIDE HANDICAP ACCESS AT 737 P STREET Craig Smith, 340 Victory Lane, came forward to answer questions. Discussion followed.

Dalla McGee, Urban Development, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

APPROVING THE HEARTLAND OPTICAL REDEVELOPMENT AGREEMENT AND RIGHT OF ENTRY AGREEMENT BETWEEN THE CITY AND HEARTLAND OPTICAL, INC. FOR NEW CONSTRUCTION AND IMPROVEMENTS FOR COMMERCIAL/RETAIL USE AT 1010 N. 27TH STREET WITHIN THE N. 27TH STREET CORRIDOR AND ENVIRONS REDEVELOPMENT PLAN - Ernesto Castillo, Urban Development, came forward to explain this project.

Casey Conrad, CEO Heartland Optical, came forward to answer questions.

Tom Conrad, part-owner of Heartland Optical, came forward to thank Urban Development for all the work they did to make this possible.

This matter was taken under advisement.

TOOK BREAK 3:39 P.M.

RECONVENED 3:50 P.M.

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

MISCELLANEOUS BUSINESS - NONE

COUNCIL ACTION

LIQUOR RESOLUTIONS

APPLICATION OF GRANITE CITY FOOD & BREWERY LTD. DBA GRANITE CITY FOOD & BREWERY FOR AN ADDITION OF AN OUTSIDE SIDEWALK CAFÉ AREA MEASURING APPROXIMATELY 54 FEET BY 18 FEET TO THE EAST OF THE BUILDING AT 6150 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83467 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 Granite City Food & Brewery Ltd. dba Granite City Food & Brewery to expand its licensed premises by the addition of an outside area measuring approximately 54 feet by 18 feet to the east of the presently licensed premises located at 6150 O Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

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 Jon Camp

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

MANAGER APPLICATION OF MARGARET E. STINE FOR CONCORD NEIGHBORHOOD CORPORATION DBA APPLEBEE'S NEIGHBORHOOD GRILL & BAR AT 3730 VILLAGE DRIVE, 3951 N. 27TH STREET, 6100 O STREET, UNIT C-318, AND 1133 Q STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83468 WHEREAS, Concord Neighborhood Corporation dba Applebee's Neighborhood Grill & Bar located at 3730 Village Drive, 3951 N. 27th Street, 6100 O Street, Unit C-318, and 1133 Q Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Margaret E. Stine be named manager;

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

APPLICATION OF 513 VEGAS GROUP LLC DBA OPULENCE ULTRA CLUB FOR A CLASS C LIQUOR LICENSE AT 1033 O STREET, SUITE 10 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for denial:

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

A-83469 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 513 Vegas Group LLC dba Opulence Ultra Club for a Class "C" liquor license at 1033 O Street, Suite 10, Lincoln, Nebraska, for the license period ending October 31, 2005, be approved with the

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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 Annette McRoy

MCROY Moved adoption for approval.

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

MANAGER APPLICATION OF OMAR SAENZ FOR 513 VEGAS GROUP LLC DBA OPULENCE ULTRA CLUB AT 1033 O STREET, SUITE 10 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption for approval:

A-83470 WHEREAS, 513 Vegas Group LLC dba Opulence Ultra Club located at 1033 O Street, Suite 10, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Omar Saenz be named manager;

WHEREAS, Omar Saenz 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 Omar Saenz 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 Annette McRoy

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

ORDINANCES - 2ND READING & RELATED RESOLUTIONS

REPEALING SECTION 10.48.090 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE SALE OF ABANDONED OR SEIZED BICYCLES - CLERK read an ordinance, introduced by Dan Marvin, repealing Section 10.48.090 of the Lincoln Municipal Code relating to the sale of abandoned or seized bicycles, the second time.

AMENDING CHAPTER 8.06 AIR POLLUTION, 8.20 FOOD CODE, 8.24 NOISE CONTROL, 8.38 PUBLIC SWIMMING POOLS, 8.40 SPA FACILITIES, 8.44 WATER WELLS, AND 24.38 ON-SITE WASTEWATER TREATMENT, TO INCREASE FEES FOR VARIOUS PERMITS AND TO CREATE FEES FOR NOISE VARIANCES - CLERK read an ordinance, introduced by Dan Marvin, amending Title 8 of the Lincoln Municipal Code relating to Health and Sanitation to increase various permit fees and to create fees for noise variances by amending Section 8.06.145 to increase the open burning permit fee; amending Section 8.20.150 to increase food establishment permit fees; amending Section 8.20.160 to increase fees for late renewal of food establishment permits; amending Section 8.20.170 to increase reinstatement fees for permits issued under the Lincoln Food Code; amending Section 8.20.230 to increase restricted food manager permit fee and the food manager permit fee; amending Section 8.24.150 to provide a permit fee for noise control ordinance variances; amending Section 8.38.090 to increase the permit fee for a public swimming pool; amending Section 8.40.070 to increase spa facility permit fees; amending Section 8.44.060 to provide water well permits shall be valid for one year rather than two years; amending Section 8.44.070 to increase water well permit fees; and amending Section 24.38.070 to increase permit fees for wastewater treatment systems and related permits; and repealing Sections 8.06.145, 8.20.150, 8.20.160, 8.20.170, 8.20.230, 8.24.150, 8.38.090, 8.40.070, 8.44.060, 8.44.070, 24.38.070 of the Lincoln Municipal Code as hitherto existing, the second time.

APPROVING A TRANSFER OF APPROPRIATIONS AND CASH BETWEEN CERTAIN CAPITAL IMPROVEMENT PROJECTS WITHIN THE WATER CONSTRUCTION FUND, STREET CONSTRUCTION/VEHICLE TAX FUND, PARKING REVENUE FUND, AND SANITARY SEWER CONSTRUCTION FUND WITHIN THE PUBLIC WORKS & UTILITIES DEPARTMENT - CLERK read an ordinance, introduced by Dan Marvin, approving the transfer of unspent and unencumbered appropriations and cash (if any) between certain capital improvement projects within the Water Construction Fund, Street Construction/Vehicle Tax Fund, Parking Revenue Fund, and Sanitary Sewer Construction Fund within the Public Works & Utilities Department, the second time.

COMP. PLAN AMENDMENT 05013 - AMENDING THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE THE LAND USE DESIGNATION FROM COMMERCIAL AND INDUSTRIAL TO URBAN RESIDENTIAL ON PROPERTY GENERALLY LOCATED ALONG HUMPHREY AVENUE BETWEEN N. 14TH AND N. 27TH STREETS. (RELATED ITEMS: 05R-190, 05-119, 05R-191, 05R-120).

ANNEXATION 05009 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 22 ACRES OF PROPERTY GENERALLY LOCATED NORTHWEST OF I-80 AND N. 27TH STREET. (RELATED ITEMS: 05R-190, 05-119, 05R-191, 05R-120) - CLERK read an ordinance, introduced by Dan Marvin, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the second time.

APPROVING THE STONE BRIDGE CREEK - THE VILLAS CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND STONEBRIDGE CREEK, LLC RELATING TO THE ANNEXATION OF APPROXIMATELY 22 ACRES, GENERALLY LOCATED NORTHWEST OF THE I-80 AND NORTH 27TH STREET INTERCHANGE. (RELATED ITEMS: 05R-190, 05-119, 05R-191, 05R-120).

CHANGE OF ZONE 04081 - APPLICATION OF STONE BRIDGE CREEK LLC FOR A CHANGE OF ZONE FROM I-3 EMPLOYMENT CENTER DISTRICT TO R-3 RESIDENTIAL DISTRICT AND FROM AG AGRICULTURAL DISTRICT TO I-3 EMPLOYMENT DISTRICT ON PROPERTY GENERALLY LOCATED NORTHWEST OF I-80 AND N. 27TH STREET. (RELATED ITEMS: 05R-190, 05-119, 05R-191, 05R-120) - 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 hereon, the second time.

CHANGE OF ZONE 04063 - AMENDING CHAPTER 27.68 OF THE LINCOLN MUNICIPAL CODE, PERSONAL WIRELESS FACILITIES, TO DELETE THE REQUIREMENT FOR AN ADMINISTRATIVE PERMIT TO COLLOCATE ON EXISTING FACILITIES, TO CLARIFY HOW THE FALL ZONE IS MEASURED, AND TO DELETE THE DEFINITION OF "MODIFICATION" - CLERK read an ordinance, introduced by Dan Marvin, amending Chapter 27.68 of the Lincoln Municipal Code relating to Personal Wireless Facilities to by amending Section 27.68.020 to delete the definition of "modification"; amending Section 27.68.030 to delete the requirement for an administrative permit to co-locate on existing facilities; amending Section 27.68.110 to clarify how the fall zone is measured; and repealing Sections 27.68.020, 27.68.030, and 27.68.110 of the Lincoln Municipal Code as hitherto existing, the second time.

STREET NAME CHANGE 05006 - RENAMING BLAINE COURT AS BLAINE DRIVE GENERALLY LOCATED ON THE EAST SIDE OF ENTERPRISE DRIVE, 1/4 MILE NORTH OF FOLKWAYS BLVD. IN TABITHA NEW COMMUNITY - CLERK read an ordinance, introduced by Dan Marvin, changing the name of Blaine Court to Blaine Drive located on the east side of Enterprise Drive, 1/4 mile north of Folkways Boulevard in Tabitha New Community, as recommended by the Street Name Committee, the second time.

RESOLUTIONS

APPEAL OF CINDY J. SWANSON FROM THE PLANNING COMMISSION DENIAL OF SPECIAL PERMIT NO. 05032 FOR AUTHORITY TO EXPAND A NON-CONFORMING USE TO ALLOW AN OUTDOOR BEER GARDEN AT THE LIBRARY LOUNGE AT 6891 A STREET, SUITE 200 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption for denial:

A-83471 WHEREAS, Cynthia Swanson has submitted an application designated as Special Permit No. 05032 for expansion of a non-conforming use to allow an outdoor beer garden on property located at The Library Lounge at 6891 A Street, Suite 200, and legally described as follows:

Lot 4, except the north 190 feet of the east 190 feet thereof, Block 1, Huntington First Addition, Lincoln, Lancaster County, Nebraska;

WHEREAS, the Lincoln City-Lancaster County Planning Commission held a public hearing on July 6, 2005 and denied Special Permit No. 05032; and

WHEREAS, Cynthia Swanson has appealed the action of the Lincoln City-Lancaster County Planning Commission's denial of Special Permit No. 05032; and

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WHEREAS, said application and site plan hereinafter set forth are not consistent 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 denying Special Permit No. 05032 should be affirmed.

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

That the Lincoln City-Lancaster County Planning Commission denial of Special Permit No. 05032 be and the same is hereby affirmed.

Introduced by Jonathan Cook

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

MISC. 05012 - APPLICATION OF DEVELOPMENTAL SERVICES OF NEBRASKA, INC. TO ALLOW A GROUP HOME IN THE R-1 RESIDENTIAL DISTRICT TO LOCATE WITHIN THE REQUIRED ½ MILE SEPARATION FROM ANOTHER GROUP HOME, ON PROPERTY GENERALLY LOCATED AT 4000 LINDSEY CIRCLE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-83472 WHEREAS, Developmental Service of Nebraska, hereinafter DSN, presently operates a facility housing three developmentally disabled persons at 4000 Lindsey Circle as a State certified community based waiver setting; and

WHEREAS, DSN desires to house one additional disabled person at 4000 Lindsey Circle; and

WHEREAS, the additional occupancy will cause the facility to be classified as a group home rather than a single-family dwelling under the City of Lincoln Zoning Code; and

WHEREAS, the facility at 4000 Lindsey Circle is located in the R-1 Residential District; and

WHEREAS, the use regulations in the R-1 Residential District allow group homes as a permitted conditional use provided that the distance between the proposed group home and an existing group home measured from lot line to lot line, is not less than one-half mile; and'

WHEREAS, a group home presently exists at 3800 N.W. 50th Street and is located approximately 1,560 feet from the proposed group home at 4000 Lindsey Circle rather than the required one-half mile; and

WHEREAS, DSN, pursuant to Lincoln Municipal Code Chapter 1.28, has requested reasonable accommodation from Lincoln Municipal Code § 27.11.030(b)(2) that prohibits DSN from operating a group home at 4000 Lindsey Circle because the group home located at 3800 N.W. 50th Street is within one-half mile in order to allow DSN to increase the number of persons with developmental disabilities it is currently serving at 4000 Lindsey Circle from three residents to four residents; and

WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public hearing on the application and has recommended approval of the requested accommodation; and

WHEREAS, the City Council finds that (1) the facility at 4000 Lindsey Circle will be used by an individual or a group of individuals considered disabled; (2) that the accommodation requested is necessary to make 4000 Lindsey Circle available to the individual or group of individuals with a disability; (3) that there are no alternative reasonable accommodations available that would provide an equivalent level of benefit; (4) that the request for reasonable accommodation would not impose an undue financial or administrative burden on the City; and(5) that the grant of the requested reasonable accommodation and use of 4000 Lindsey Circle as a group home would be consistent with the Comprehensive Plan, Land Use Designation, for 4000 Lindsey Circle and with the general purpose intent of the R-1 Residential District in which 4000 Lindsey Circle is located.

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

That the request of DSN for a reasonable accommodation to waive the requirement of Lincoln Municipal Code § 27.11.030(b)(2) to allow a group home to be located at 4000 Lindsey Circle is hereby granted subject to the condition that the occupancy of this group home will not exceed four disabled persons.

Introduced by Jon Camp

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

APPROVING THE CITY OF LINCOLN FEDERAL TRANSIT AUTHORITY PROGRAM FOR DRUG AND ALCOHOL TESTING FOR MASS TRANSIT WORKERS IN SAFETY SENSITIVE FUNCTIONS - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-83473 WHEREAS, the City of Lincoln desires to adopt a policy to establish guidelines to maintain a drug- and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991; and

WHEREAS, the City desires to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry including the Federal Transit Administration (FTA) of the U.S. Department of Transportation regulations published in 49 C.F.R. § 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, and the regulations published in 49 C.F.R. § 40, as amended, that sets standards for the collection and testing of urine and breath specimens; and

WHEREAS, the City also intends its policy to comply with the applicable requirements of the Drug-Free Workplace Act of 1988, the Americans With Disabilities Act and the Family Medical Leave Act.

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

That the City of Lincoln Federal Transit Authority (FTA) Drug/Alcohol Testing Program and Policy which is attached hereto as Exhibit "A" is hereby accepted and approved by the City Council of the City of Lincoln, Nebraska as the governing body of the City of Lincoln.

BE IT FURTHER RESOLVED that a copy of this Resolution and the Federal Transit Authority (FTA) Drug/Alcohol Testing Program and Policy attached hereto be submitted to Pat Kant in the City/County Personnel Department for notice and dissemination to all affected employees as required by the federal regulations.

Introduced by Jonathan Cook

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

APPOINTING KEVIN FLORES TO THE CITY PERSONNEL BOARD FOR A FIVE YEAR TERM EXPIRING JUNE 22, 2010 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83474 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Kevin Flores to the City Personnel Board for a five-year term expiring June 22, 2010 is hereby approved.

Introduced by Dan Marvin

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

AUTHORIZING THE USE OF THE PUBLIC RIGHT-OF-WAY BY SPEEDWAY PROPERTIES FOR THE INSTALLATION OF A LEVEL SIDEWALK TO PROVIDE HANDICAP ACCESS AT 737 P STREET - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83475 WHEREAS, Speedway Properties has submitted an application for a permit to use the public right-of-way on property generally located at 7th and P Streets, for installation of a level sidewalk to provide handicap access to the building at 737 P Street; and

WHEREAS, said applicant has submitted a letter of application and a site plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this resolution by reference, to use the public right-of-way as above described; and

WHEREAS, said applicant has complied with all of the provisions of Chapter 14.54 of the Lincoln Municipal Code pertaining to such use.

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

That the application aforesaid of Speedway Properties to use the public right-of-way at 737 P Street for the purpose of constructing a level sidewalk to provide handicap access to the building, be granted as a privilege only by virtue of and subject to strict compliance with the site plan, the letter of application, and the following terms and conditions:

1. That the permission herein granted is granted as a privilege only, and is subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including those provisions relating to the posting of a continuing bond in the amount of \$5,000, the filing of a certificate of insurance with a minimum combined single limit of \$500,000.00 aggregate for any one occurrence, and the payment of the annual fee for the use of the surface of the public right-of-way fixed at ten percent of the square foot value of the lot directly abutting

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such use multiplied by the square footage of the use of the space.

2. That said use shall be in full accordance with the aforesaid application, the revised site plan approved by the Director of Public Works & Utilities, and with all applicable City ordinances and regulations.

3. That the applicant, its heirs, successors or assigns shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the public way requested herein.

4. That all work done under the authority of this resolution shall be subject to the inspection and approval of the Director of Public Works and Utilities of the City of Lincoln.

5. That the use of the public way herein granted and the terms and conditions of this resolution shall be binding and obligatory upon the above-named applicant, and its heirs, successors and assigns.

6. That within thirty (30) days from the adoption of this resolution, and before commencing any construction under the provisions hereof, the above-named applicant shall file an unqualified written acceptance of all the terms and conditions of this resolution with the City Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities hereunder granted shall thereupon automatically terminate.

Introduced by Dan Marvin

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

APPOINTING LARRY ANDERSON TO THE GOVERNMENT ACCESS AND INFORMATION COMMITTEE TO FILL AN UNEXPIRED THREE-YEAR TERM EXPIRING AUGUST 17, 2006- CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83476 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Larry Anderson to the Government Access and Information Committee for a three-year term expiring August 17, 2006 is hereby approved.

Introduced by Dan Marvin

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

REAPPOINTING JAMES LAMPHERE TO THE GOVERNMENT ACCESS AND INFORMATION COMMITTEE FOR A TWO-YEAR TERM EXPIRING JANUARY 1, 2007- CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83477 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of James Lamphere to the Government Access and Information Committee for a two-year term expiring January 1, 2007 is hereby approved.

Introduced by Dan Marvin

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

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

COOK Moved to amend Bill No. 05R-194 in the following manner: On line 12, the claim of Mark Sullivan has been allowed in the amount of \$374.50; on line 13, the claim of Stacy Stoll has been settled in the amount of \$1,748.79; on line 14, the claim of Chriss Knippel has been settled in the amount of \$4,948.24.

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

CLERK Read the following resolution, introduced by Dan Marvin, who moved its adoption as amended:

A-83478 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 August 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> | |
|------------------------------|------|---------------------------------|---------------------|
| Brittany Shanks/Ricky Shanks | NAS* | Russ Ninemire | \$ 293.48 |
| Ron Krejci | NAS* | Greg Smith | 195.00 |
| | | Mark Sullivan | 374.50 |
| | | Stacy Stoll | 1,478.24 |
| | | Chris Knippel | 4,651.77 |
| | | Jeanette Harris | 4,822.00 |
| | | American Family Insurance Group | 1,655.89 |

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

APPROVING THE HEARTLAND OPTICAL REDEVELOPMENT AGREEMENT AND RIGHT OF ENTRY AGREEMENT BETWEEN THE CITY AND HEARTLAND OPTICAL, INC. FOR NEW CONSTRUCTION AND IMPROVEMENTS FOR COMMERCIAL/RETAIL USE AT 1010 N. 27TH STREET WITHIN THE N. 27TH STREET CORRIDOR AND ENVIRONS REDEVELOPMENT PLAN- CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83479 WHEREAS, the City Council, on June 19, 2000, adopted Resolution No. A-80238 finding an area generally bounded by "N" Street on the south; the viaduct over the Burlington Northern Santa Fe right-of-way, parallel to Cornhusker Highway on the north; 23rd Street on the west; and 31st Street on the east to be blighted and substandard as defined in the Nebraska Community Development Law (Neb. Rev. Stat. § 18-2101, et seq. as amended) and in need of redevelopment; and

WHEREAS, on August 23, 2002 notice of public hearing was mailed, postage prepaid, to the president or chairperson of the governing body of each county, school district, community college, educational service unit, and natural resource district in which the real property subject to such plan is located and whose property tax receipts would be directly affected and to all registered neighborhood associations located in whole or in part within one mile radius of the area to be redeveloped setting forth the time, date, place, and purpose, of the public hearing to be held on September 4, 2002 before the Lincoln City - Lancaster County Planning Commission regarding the North 27th Street Redevelopment Plan; and

WHEREAS, said proposed North 27th Street Redevelopment Plan was submitted to the Lincoln-Lancaster County Planning Commission for review and recommendation, and said Planning Commission on October 2, 2002 found the plan to be in conformance with the Comprehensive Plan and recommended approval thereof; and

WHEREAS, on October 18, 2002 a notice of public hearing was mailed, postage prepaid, to the foregoing governing bodies and registered neighborhood associations setting forth the time, date, place, and purpose of the public hearing before the City Council to be held on October 28, 2002 regarding the proposed North 27th Street Redevelopment Plan; and

WHEREAS, on October 11, 2002 and October 18, 2002 a notice of public hearing was published in the Lincoln Journal Star newspaper, setting forth the time, date, place, and purpose of the public hearing to be held on October 28, 2002 regarding the proposed North 27th Street Redevelopment Plan; and

WHEREAS, on October 28, 2002 in the City Council Chambers of the County City Building, 555 South 10th Street, Lincoln, Nebraska, the City Council held a public hearing relating to the proposed North 27th Street Redevelopment Plan and all interested parties were afforded at such public hearing a reasonable opportunity to express their views respecting said proposed plan; and

WHEREAS, the City Council after the hearing on October 28, 2002 duly considered all statements made and materials submitted relating to said Redevelopment Plan and specifically found among other things that the costs and benefits of the Redevelopment Projects, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services were in the long-term best interest of the community impacted by the same.

WHEREAS, The City Council directed that the Urban Development Director or his authorized representative to take all steps necessary to implement the provisions of said Redevelopment Plan; and

WHEREAS, the City Council on June 2, 2003, adopted Resolution A-82119 providing amendments to the Plan in compliance with the Community Development Law, after notice and hearing as set forth therein including

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approval of the Planning Commission for conformance with the Comprehensive Plan on April 30, 2003, said amendments providing for a commercial redevelopment project in the vicinity of 27th and Apple Streets; and

WHEREAS, the City advertised for and requested redevelopment proposals for the Redevelopment of the proposed 27th and Apple Commercial Redevelopment Site along North 27th Street in the area near 650 N. 27th Street in July of 2004 (Spec. 04-192); and

WHEREAS, in August of 2004 the City selected Heartland Optical, Inc. as the redeveloper of record according to the Community Development Law; and

WHEREAS, the City Council on June 6, 2005 adopted Resolution A-83353 providing amendments to the Plan in compliance with the Community Development Law, after notice and hearing as set forth therein, including approval of the Planning Commission for conformance with the Comprehensive Plan on April 27, 2005, said Amendments further revising the 27th and Apple Commercial Redevelopment Project; and

WHEREAS, Heartland Optical, Inc. and the City have negotiated and are desirous of entering into the attached "Heartland Optical Redevelopment Agreement."

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska and considering: (a) the tax shifts from the use of Community Improvement Financing as authorized in § 18-2147; (b) the community's public service needs impacts and local tax impacts arising from the approval of the project; (c) impacts on employers and employees of firms locating or expanding within the boundaries of the project area; (d) impacts on other employers and employees in the City and immediate area outside the project area; and (e) other impacts the City Council hereby determines to be relevant to the consideration of costs and benefits arising from the redevelopment project:

1. That the attached Heartland Optical Redevelopment Agreement between the City of Lincoln and Heartland Optical, Inc. for the redevelopment of the 27th and Apple Commercial Redevelopment Project, 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.

2. The City Clerk is directed to return one fully executed copy of the Agreement to Heartland Optical, Inc. and one copy to the Urban Development Department.

Introduced by Dan Marvin

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

APPROVING AN AMENDMENT TO SECTION 6, ANNUAL FEES, OF THE LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL REGULATIONS AND STANDARDS TO REVISE THE ASBESTOS REMOVAL FEES - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83480 A RESOLUTION amending the Lincoln-Lancaster County Air Pollution Control Program.

WHEREAS, the City of Lincoln and County of Lancaster entered into an Interlocal Agreement by Resolution No. A-75819 dated November 15, 1993, which adopted the Lincoln-Lancaster County Air Pollution Program; and

WHEREAS, the Lincoln-Lancaster County Health Department has proposed changes to the Air Pollution Program to amend Article 1, Section 6, to amend the notification fee for a National Emission Standards for Hazardous Air Pollutants (NESHAPS) asbestos project.

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

1. That the Amendments to the Lincoln-Lancaster County Air Control Program Regulations and Standards as set out above which are attached hereto marked as Attachment "A" are hereby approved.

2. The City Clerk is directed to send a copy of this Resolution along with the attached Amendments (Attachment "A") to Trish Owen of the Lancaster County Clerk's Office, for filing with the County.

Introduced by Dan Marvin

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

SETTING THE HEARING DATE OF MONDAY, AUGUST 29, 2005 AT 5:30 P.M. FOR APP. OF SRS, INC. DBA ARNOLD'S FOR AN ADDITION TO PREMISE LOCATED AT 6113 HAVELOCK AVENUE- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83481 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 29, 2005 at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Application of SRS, Inc. dba Arnold's for an outside addition to licensed premise at 6113 Havelock Avenue.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, AUGUST 29, 2005 AT 5:30 P.M. FOR APP. OF 8TH STREET IRONWORKS, INC. DBA EIGHT STREET IRONWORKS FOR AN ADDITION TO PREMISE LOCATED AT 301 N. 8TH STREET- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83482 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 29, 2005 at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Application of 8th Street Ironworks, Inc. dba Eight Street Ironworks for an outside addition to licensed premise at 301 N. 8th Street.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, AUGUST 29, 2005 AT 5:30 P.M. FOR APP. OF EXPO, INC. DBA IGUANA'S PUB FOR AN ADDITION TO PREMISE LOCATED AT 1426 O STREET- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83483 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 29, 2005 at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Application of Expo, Inc. dba Iguana's Pub for an outside addition to licensed premise at 1426 O Street.

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

Introduced by Annette McRoy

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

SETTING THE HEARING DATE OF MONDAY, AUGUST 29, 2005 AT 5:30 P.M. FOR MAN. APP. OF EDWARD J. LYNCH FOR THE NOODLE SHOP, CO. - COLORADO, INC. DBA NOODLES & COMPANY LOCATED AT 2801 PINE LAKE ROAD- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83484 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, August 29, 2005 at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Manager Application of Edward J. Lynch for The Noodle Shop, Co. - Colorado, Inc. dba Noodles & Company located at 2801 Pine Lake Road.

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

Introduced by Annette McRoy

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

PETITIONS AND COMMUNICATIONS

THE FOLLOWING HAVE BEEN REFERRED TO THE PLANNING DEPT.:

Change of Zone 05050 - App. of Lincoln Sports Foundation for a change from AG to H-2 to allow a greater flexibility for the Abbott Sports Complex to expand its facility located at N. 70th Street and Arbor Road.

REPORT OF UNL MICROBIOLOGIST FOR WATER TESTING FOR THE MONTH OF JULY, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk. (35-01)

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY THE CITY COUNCIL ON AUGUST 8, 2005 - CLERK presented said report which was placed on file in the Office of the City Clerk.

ORDINANCES - 1ST READING & RELATED RESOLUTIONS

APPROVING A MANAGEMENT AGREEMENT BETWEEN THE CITY AND SMG TO PROVIDE FOR MANAGEMENT, MARKETING, ENTERTAINMENT, ADMINISTRATION, AND PROCUREMENT SERVICES FOR PERSHING MUNICIPAL AUDITORIUM FOR A FOUR-YEAR PERIOD BEGINNING SEPTEMBER 1, 2005 - CLERK read an ordinance, introduced by Annette McRoy, WHEREAS, the City owns and holds Pershing Municipal Auditorium for the benefit of the citizens of the City of Lincoln, the first time.

CHANGE OF ZONE 04060 - APPLICATION OF LARRY COFFEY FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO H-3 HIGHWAY COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF N.W. 48TH STREET AND HIGHWAY 34 - 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 first time.

APPROVING THE DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT BETWEEN THE CITY AND LARRY COFFEY FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO H-3 HIGHWAY COMMERCIAL DISTRICT TO EXPAND AN EXISTING CONVENIENCE SHOP GENERALLY LOCATED AT THE NORTHWEST CORNER OF N.W. 48TH STREET AND HIGHWAY 34.

CHANGE OF ZONE 05051 - APPLICATION OF STONE BRIDGE CREEK LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT AND R-5 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT N. 14TH STREET AND PENNSYLVANIA AVENUE - 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 first time.

AMENDING CHAPTER 1.28 OF THE LINCOLN MUNICIPAL CODE RELATING TO REASONABLE ACCOMMODATION TO MORE ACCURATELY STATE THE REQUIREMENTS OF THE ACTS, TO PROVIDE ADDITIONAL APPLICATION REQUIREMENTS, TO MODIFY THE REFERENCE TO SECTION 1.28.050, AND TO REVISE AND SUPPLEMENT THE FACTORS TO BE CONSIDERED IN MAKING A DETERMINATION - CLERK read an ordinance, introduced by Annette McRoy, amending Chapter 1.28 of the Lincoln Municipal Code relating to reasonable accommodation by amending Section 1.28.020 to more accurately state the requirements of the Acts regarding reasonable accommodation; amending Section 1.28.030 to provide additional application requirements; amending Section 1.28.040 to modify the reference to Section 1.28.050; amending Section 1.28.050 to revise and supplement the factors to be considered in making a determination regarding the request for reasonable accommodation; and repealing Sections 1.28.020, 1.28.030, 1.28.040, and 1.28.050 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING CHAPTER 9.44 OF THE LINCOLN MUNICIPAL CODE RELATING TO FIREWORKS TO ADD A REFERENCE TO SECTION 9.44.080, TO LIMIT THE HOURS OF SALE OF PERMISSIBLE FIREWORKS TO CORRESPOND WITH THE HOURS WHEN PERMISSIBLE FIREWORKS MAY BE USED, AND TO EXPRESSLY DEFINE THE HOURS AND DAYS WHEN PERMISSIBLE FIREWORKS MAY BE DISCHARGED, EXPLODED, OR USED - CLERK read an ordinance, introduced by Annette McRoy, amending Chapter 9.44 of the Lincoln Municipal Code relating to Fireworks by amending Section 9.44.030 to add a reference to Section 9.44.080; and amending Section 9.44.080 to limit the hours of sale of permissible fireworks to correspond with the hours when permissible fireworks may be used, and to expressly define the hours and days when permissible fireworks may be discharged, exploded, or used; and repealing Sections 9.44.030 and 9.44.080 of the Lincoln Municipal Code as hitherto existing, the first time.

ORDINANCES - 3RD READING & RESOLUTIONS

APPROVING THE STARTRAN RATE SCHEDULE TO INCREASE THE STARTRAN FARE STRUCTURE - PRIOR to reading:

MARVIN Moved to amend Bill No. 05R-182 in the following manner:
On page 2, line 2, delete the dollar amount of "\$3.00" and insert in lieu thereof the amount of \$4.00; on page 2, line 6, delete the dollar amount of "\$10.00" and insert in lieu thereof the amount of \$8.00.

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

CLERK Read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83485 WHEREAS, pursuant to Section 2.38.100 of the Lincoln Municipal Code, the StarTran Advisory Board has made recommendations regarding increases in the StarTran Fare Structure; and

WHEREAS, the City Council, pursuant to said Code section, must review all recommendations and take final action thereon.

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

That the City Council, upon review of the recommendations of the StarTran Advisory Board, hereby accepts and adopts the following as the StarTran fare structure to increase the student cash fares and student ticket books:

| <u>FARE CATEGORY</u> | <u>EXISTING FARE</u> | <u>PROPOSED FARE</u> |
|--|-------------------------------------|----------------------------------|
| Cash Fare | \$1.00 | \$1.25 |
| Ticket Book (20 rides) | \$20.00 | \$23.00 |
| Go-For Less/Senior Cash Fare | \$0.50 | \$0.60 |
| Go-For-Less/Senior Punch Card (20 rides) | \$10.00 | \$12.00 |
| HandiVan/Brokerage Cash Fare | \$2.00 | \$2.50 |
| HandiVan/Brokerage Ticket Book (20 rides) | \$40.00 | \$46.00 |
| Passports - Monthly | \$30.00 | \$35.00 |
| HandiVan/Brokerage Passports - Monthly | \$60.00 | \$70.00 |
| Child (4 and Under) | FREE | No Change |
| Star Shuttle/Downtown Zone | \$0.25 | \$0.30 |
| Transfers | FREE | No Change |
| Ride 'N' Shop | Free to Public | \$20.00 \$25.00 |
| Holiday Light Tour Paid in Advance | \$2.00 | -\$3.00 <u>\$4.00</u> |
| Big Red Express | Adult - \$3.00 12 & under \$1.00 | Adult - \$4.00 No Change |
| HandiVan /Brokerage Cash Fare (7p.m.-10p.m.) | \$2.00 | \$10.00 <u>\$8.00</u> |
| "Ride for Five" Low-Income Passport-Monthly | \$5.00 | No Change |
| "Ride for Five" HandiVan Low-Income Passport-Monthly | \$10.00 | No Change |

BE IT FURTHER RESOLVED that the fare structure set forth above shall become effective on September 1, 2005, and upon that date Resolution No. A-81046 relating to fares shall be superseded.

Introduced by Robin Eschliman

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

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CHANGE OF ZONE 05011 - APPLICATION OF PINE LAKE DEVELOPMENT FOR A CHANGE OF ZONE FROM R-3 RESIDENTIAL DISTRICT TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 84TH STREET AND OLD CHENEY ROAD (RELATED ITEM: 05R-185) - CLERK read the following ordinance, introduced by Robin Eschliman, 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.

ESCHLIMAN Moved to pass the ordinance as read.

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

The ordinance, being numbered #18596, is recorded in Ordinance Book #25, Page

USE PERMIT 05003 - APPLICATION OF PINE LAKE DEVELOPMENT TO DEVELOP 220,000 SQUARE FEET OF COMMERCIAL FLOOR AREA WITH REQUESTED WAIVERS OF THE PRELIMINARY PLAT PROCESS, TO REDUCE THE FRONT YARD SETBACK FROM 50 FEET TO 25 FEET ALONG S. 84TH STREET AND OLD CHENEY ROAD FOR PARKING AND DRIVING AISLES, AND TO WAIVE THE REQUIRED FRONT YARD ON EACH STREET SIDE OF A DOUBLE FRONTAGE LOT, ON PROPERTY GENERALLY LOCATED AT SOUTH 84TH STREET AND OLD CHENEY ROAD - PRIOR to reading:

NEWMAN Moved to amend Bill NO. 05R-185 in the following manner:

On page 1, line 3, delete "220,000" insert in lieu thereof 250,000; on page 1, line 20, delete "220,000" insert in lieu thereof 250,000; on page 2, line 1, delete "220,00" insert in lieu thereof 250,000.

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

CLERK Read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83486

WHEREAS, Pine Lake Development has submitted an application in accordance with Section 27.31.100 of the Lincoln Municipal Code designated as Use Permit No. 05003 to develop ~~220,000~~ 250,000 square feet of commercial floor area, including requested waivers of the Zoning Code and Land Subdivision Ordinance in order to waive the preliminary plat process, to reduce front yard setback from 50' to 25' along S. 84th Street and Old Cheney Road for parking and driving aisles only, and to waive the required front yard on each street side of a double frontage lot, on property generally located at S. 84th Street and Old Cheney Road, legally described to wit:

Lot 1, Block 4, and Outlot A, Vintage Heights Addition, located in the North Half of Section 14, Township 9 North, Range 6 East, Lancaster County, Nebraska,

WHEREAS, the real property adjacent to the area included within the site plan for this construction of commercial buildings 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 Pine Lake Development, hereinafter referred to as "Permittee", to develop ~~220,000~~ 250,000 square feet of commercial floor area be and the same is hereby granted under the provisions of Section 27.31.100 of the Lincoln Municipal Code upon condition that construction and operation of said office and 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 ~~220,000~~ 250,000 square feet of commercial floor area.

2. This permit approves the following waivers to the Zoning Code and Land Subdivision Ordinance:

- a. The requirement of Lincoln Municipal Code § 27.31.090 requiring a 50' front yard is modified to reduce the required front yard setbacks from 50' to 25' along S. 84th Street and Old Cheney Road for parking and driving aisles only, provided additional landscaping is provided. The landscape screen shall be 90% from 2' to 4' height along the parking area.
 - b. The requirement of Lincoln Municipal Code § 27.31.090 requiring a 50' front yard is modified to reduce the required front yard setbacks on each street side of a double frontage lot.
 - c. The requirement of Lincoln Municipal Code § 26.11.020 that a preliminary plat is required for a subdivision is waived, provided that if any final plat on all or a portion of the approved use permit is submitted five (5) years or more after approval of the use permit, the City may require that a new use permit be submitted, pursuant to all the provisions of § 26.31.015. A new use permit may be required if the subdivision ordinance, the Design Standards, the required improvements have been amended by the City; and as a result, the use permit as originally approved, does not comply with the amended rules and regulations.
3. Before occupying the commercial buildings all development and construction shall have been completed in compliance with the approved plans.
 4. All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners 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. This resolution's terms, conditions, and requirements bind and obligate the Permittee, its successors and assigns.
 7. 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, filling fees therefor to be paid in advance by the applicant.

Introduced by Robin Eschliman

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

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;
- 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;
- 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;
- 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;

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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 - CLERK requested a motion to continue Public Hearing to 9/12/05.

MARVIN So moved

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

CAMP Moved to extend the Pending List to August 22, 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 August 22, 2005.

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

ADJOURNMENT 4:18 P.M.

CAMP Moved to adjourn the City Council meeting of August 15, 2005.

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

 So ordered.

Joan E. Ross, City Clerk

Judy Roscoe, Senior Office Assistant