

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, NOVEMBER 7, 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

ESCHLIMAN Having been appointed to read the minutes of the City Council proceedings of October 31, 2005, reported having done so, found same correct.

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

PUBLIC HEARING

APPLICATION OF FROM NEBRASKA, INC. DBA FROM NEBRASKA GIFT SHOP FOR AN ADDITION TO THEIR CLASS CK LIQUOR LICENSE OF AN OUTSIDE AREA MEASURING APPROXIMATELY 54' BY 11' TO THE WEST OF THE PREMISES AT 801 Q STREET -

Connie Mahaney, 801 Q Street, took oath and came forward for approval.

Tom Casady, Chief of Police, came forward representing LPD requesting denial. The Chief stated there is no provision in State Law for this type of use. Must have full meal service.

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

Russ Fosler, Police Department Investigator, came forward to answer questions. Further discussion followed.

This matter was taken under advisement.

AMENDING SECTION 10.08.010 OF THE LINCOLN MUNICIPAL CODE REGARDING REGISTRATION OF VEHICLES TO PROVIDE FOR A REBUTTAL PRESUMPTION THAT ANY VEHICLE STORED AND KEPT FOR MORE THAN 30 DAYS IN THE CITY OF LINCOLN IS BEING OPERATED OR PARKED ON THE STREETS OF THE CITY AND THAT SUCH VEHICLE SHALL BE REGISTERED IN ACCORDANCE WITH CHAPTER 10.08 OF THE LINCOLN MUNICIPAL CODE - Tom Casady, Chief of Police, came forward requesting approval to amend Section 10.08.010. Discussing followed.

Danny Walker, 427 "E" Street, came forward in support.

Glen Cekal, 1420 "C" Street, came forward in support.

Tom Casady, Chief of Police, came forward to answer Council questions.

This matter was taken under advisement.

VACATION 05003 - VACATING THE OLD SOUTH 84TH STREET RIGHT-OF-WAY WEST OF THE NEW ALIGNMENT NEAR THE INTERSECTION WITH HIGHWAY 2, GENERALLY LOCATED NORTH OF THE INTERSECTION OF SOUTH 84TH STREET AND HIGHWAY 2 - Charlie Humble, Attorney, 301 S. 13th Street, Suite 400, came forward on behalf of the property owners in support and to answer questions.

This matter was taken under advisement.

ANNEXATION 05013 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 149.09 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 84TH STREET AND ADAMS STREET.

APPROVING THE PRAIRIE VILLAGE NORTH CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND DUBOIS LAND LLC, PRAIRIE VILLAGE NORTH LLC, PRAIRIE HOME BUILDERS INC., ROLAND GROUP LLC, AND FAITH EVANGELICAL LUTHERAN CHURCH, RELATING TO THE ANNEXATION OF APPROXIMATELY 149.09 ACRES, GENERALLY LOCATED AT THE NORTHEAST CORNER OF N. 84TH STREET AND ADAMS STREET AND THE USE OF SAID 149.09 ACRES ALONG WITH APPROXIMATELY 23 ACRES LOCATED AT THE SOUTHEAST CORNER OF N. 84TH STREET AND ADAMS STREET UNDER A PLANNED UNIT DEVELOPMENT.

CHANGE OF ZONE 05054 - APPLICATION OF PRAIRIE HOME BUILDERS FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 AND R-5 RESIDENTIAL DISTRICTS, B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT AND O-3 OFFICE PARK DISTRICT, ON PROPERTY GENERALLY LOCATED AT N. 84TH STREET AND ADAMS STREET; FOR A PLANNED UNIT DEVELOPMENT DISTRICT DESIGNATION OF SAID PROPERTY; AND FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES MODIFICATIONS TO THE ZONING ORDINANCE, LAND SUBDIVISION ORDINANCE, AND DESIGN STANDARDS TO ALLOW APPROXIMATELY 1,161 DWELLING UNITS IN THE UNDERLYING R-3 AND R-5 ZONED AREAS (TOTAL NUMBER OF ALLOCATED UNITS IS 1,071 AND THE TOTAL NUMBER OF AVAILABLE UNASSIGNED UNITS IS 90) AND APPROXIMATELY 585,000 SQUARE FEET OF OFFICE, RETAIL, AND COMMERCIAL FLOOR AREA IN THE

UNDERLYING O-3 AND B-2 ZONED AREAS - Peter Katt, 1045 Lincoln Mall, Suite 200, came forward on behalf of Prairie Homes to answer any questions regarding this issue.

Dan Marvin, Council Member, stated for the record: Well, I just want to enter into the record here some of the history on this particular site. As I remember, because we voted on it in Planning Commission when I had first gotten on there. This was an employment center earmarked in the Comp Plan as an employment center.

Mr. Katt answered, correct.

Mr. Marvin stated, and then there was a change brought forward because we were having a lot shortage. And I don't mean "a lot", I mean lots: single family residential lots and so there was a change to change this to a neighborhood business center with housing.

Mr. Katt stated, correct.

Mr. Marvin stated, and I look in the newspaper, it says that there'll be 742 apartments, 200 homes, and 220 townhomes, was the newspaper correct on this?

Mr. Katt stated, yes, I believe that breakdown is correct and that would also be in your Council Packet.

TOOK BREAK 3:10 P.M.

RECONVENED 3:20 P.M.

Richard Waldren, 7311 Ivy Lane, came forward in support.

Esther Busboom, 8420 Peregrine Court, came forward in support.

Jane Raybould, 4554 W Street, representing B & R Stores, came forward in opposition and to express her concerns on this matter and submitted petition signatures against a Wal-Mart being a part of this project. Further discussion followed.

Jay Voigt, 6300 Havelock Avenue, representing B & R Stores came forward in opposition and expressed his concerns.

Pat Raybould, 9501 Eastview Road, representing B & R Stores came forward in opposition and to express his concerns on this matter. Further discussion followed.

Ryan Hoage, 4646 Buffalo Creek Road, on behalf of Wal-Mart, came forward and expressed his support.

Tom Huston, 233 S. 13th Street, Suite 1900, attorney representing Wal-Mart came forward to answer questions.

Larry Keiter, 6900 Buck Circle, came forward in support.

Eldon Peterson, 1030 Daybreak Circle, came forward in support.

Peter Katt, 1045 Lincoln Mall, Suite 200, came forward for rebuttal.

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

MISCELLANEOUS BUSINESS - NONE

COUNCIL ACTION

LIQUOR RESOLUTIONS

APPLICATION OF FROM NEBRASKA, INC. DBA FROM NEBRASKA GIFT SHOP FOR AN ADDITION TO THEIR CLASS CK LIQUOR LICENSE OF AN OUTSIDE AREA MEASURING APPROXIMATELY 54' BY 11' TO THE WEST OF THE PREMISES AT 801 Q STREET - PRIOR to reading:

CAMP Moved to delay action with public hearing for one week to November 14, 2005.

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

ORDINANCES - 2ND READING & RESOLUTIONS

AMENDING SECTION 10.08.010 OF THE LINCOLN MUNICIPAL CODE REGARDING REGISTRATION OF VEHICLES TO PROVIDE FOR A REBUTTAL PRESUMPTION THAT ANY VEHICLE STORED AND KEPT FOR MORE THAN 30 DAYS IN THE CITY OF LINCOLN IS BEING OPERATED OR PARKED ON THE STREETS OF THE CITY AND THAT SUCH VEHICLE SHALL BE REGISTERED IN ACCORDANCE WITH CHAPTER 10.08 OF THE LINCOLN MUNICIPAL CODE - CLERK read an ordinance, introduced by Eschliman, amending Section 10.08.010 of the Lincoln Municipal Code regarding registration of vehicles to provide for a rebuttable presumption that any vehicle stored and kept for more than thirty days in the City of Lincoln is being operated or parked on the streets of the city and that such vehicle shall be registered in accordance with Chapter 10.08 of the Lincoln Municipal Code; and repealing Section

10.08.010 of the Lincoln Municipal Code as hitherto existing, the second time.

VACATION 05003 - VACATING THE OLD SOUTH 84TH STREET RIGHT-OF-WAY WEST OF THE NEW ALIGNMENT NEAR THE INTERSECTION WITH HIGHWAY 2, GENERALLY LOCATED NORTH OF THE INTERSECTION OF SOUTH 84TH STREET AND HIGHWAY 2 - CLERK read an ordinance, introduced by Eschliman, vacating the old South 84th Street right-of-way west of the new alignment near the intersection with Highway 2, generally located north of the intersection of south 84th Street and Highway 2, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

ANNEXATION 05013 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 149.09 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 84TH STREET AND ADAMS STREET. (RELATED ITEMS: 05-164, 05R-262, 05-165) - PRIOR to reading:

COOK Moved to continue public hearing on Bill 05-164 to November 28, 2005.

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

CLERK Read an ordinance, introduced by Eschliman, 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 PRAIRIE VILLAGE NORTH CONDITIONAL ANNEXATION AND ZONING AGREEMENT BETWEEN THE CITY AND DUBOIS LAND LLC, PRAIRIE VILLAGE NORTH LLC, PRAIRIE HOME BUILDERS INC., ROLAND GROUP LLC, AND FAITH EVANGELICAL LUTHERAN CHURCH, RELATING TO THE ANNEXATION OF APPROXIMATELY 149.09 ACRES, GENERALLY LOCATED AT THE NORTHEAST CORNER OF N. 84TH STREET AND ADAMS STREET AND THE USE OF SAID 149.09 ACRES ALONG WITH APPROXIMATELY 23 ACRES LOCATED AT THE SOUTHEAST CORNER OF N. 84TH STREET AND ADAMS STREET UNDER A PLANNED UNIT DEVELOPMENT. (RELATED ITEMS: 05-164, 05R-262, 05-165) - PRIOR to reading:

COOK Moved to continue public hearing on Bill 05R-262 to November 28, 2005.

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

CHANGE OF ZONE 05054 - APPLICATION OF PRAIRIE HOME BUILDERS FOR A CHANGE OF ZONE FROM AG AGRICULTURAL DISTRICT TO R-3 AND R-5 RESIDENTIAL DISTRICTS, B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT AND O-3 OFFICE PARK DISTRICT, ON PROPERTY GENERALLY LOCATED AT N. 84TH STREET AND ADAMS STREET; FOR A PLANNED UNIT DEVELOPMENT DISTRICT DESIGNATION OF SAID PROPERTY; AND FOR APPROVAL OF A DEVELOPMENT PLAN WHICH PROPOSES MODIFICATIONS TO THE ZONING ORDINANCE, LAND SUBDIVISION ORDINANCE, AND DESIGN STANDARDS TO ALLOW APPROXIMATELY 1,161 DWELLING UNITS IN THE UNDERLYING R-3 AND R-5 ZONED AREAS (TOTAL NUMBER OF ALLOCATED UNITS IS 1,071 AND THE TOTAL NUMBER OF AVAILABLE UNASSIGNED UNITS IS 90) AND APPROXIMATELY 585,000 SQUARE FEET OF OFFICE, RETAIL, AND COMMERCIAL FLOOR AREA IN THE UNDERLYING O-3 AND B-2 ZONED AREAS. (RELATED ITEMS: 05-164, 05R-262, 05-165) - PRIOR to reading:

COOK Moved to continue public hearing on Bill 05-165 to November 28, 2005.

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

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

RESOLUTIONS

REAPPOINTING MOE CARLTON, DEAN CLAWSON, KENNETH ORR, AND MABEL STAMLER TO THE VETERANS MEMORIAL GARDEN ADVISORY BOARD FOR THREE-YEAR TERMS EXPIRING NOVEMBER 1, 2008 - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83620 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Moe Carlton, Dean Clawson, Kenneth Orr, and Mabel Stamler to the Veterans Memorial Garden Advisory Board for

three-year terms expiring November 1, 2008, is hereby approved.

Introduced by Robin Eschliman

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

APPROVING A REAL ESTATE PURCHASE AGREEMENT BETWEEN THE CITY AND HERBERT J. FRIEDMAN, RICHARD A. JOHNSON, AND STUART MARX FOR THE PURCHASE OF LOTS 11 AND 12, BLOCK 130, ORIGINAL PLAT, AND LOTS A AND B, BILLINGSLEY'S SUBDIVISION OF LOT 1 AND ALL OF LOT 2, BLOCK 145, ORIGINAL PLAT, LINCOLN, LANCASTER COUNTY, NEBRASKA - PRIOR to reading:

COOK Moved to delay action on Bill 05R-260 for one week to November 14, 2005.

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

USE PERMIT 154A - APPLICATION OF LINCOLN FEDERAL BANCORP, INC. TO AMEND WILDERNESS HILLS COMMERCIAL CENTER TO ADJUST THE FRONT YARD SETBACK FROM 50 FEET TO ZERO FEET ALONG ALL PRIVATE ROADWAYS, AND TO ADJUST THE FRONT YARD SETBACK FROM 15 FEET TO 10 FEET WHERE ADJACENT TO 70' WIDE RIGHT-OF-WAY AND FROM 20 FEET TO 15 FEET WHERE ADJACENT TO 65' WIDE RIGHT-OF-WAY ALONG YANKEE HILL ROAD, ON PROPERTY GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SOUTH 27TH STREET AND YANKEE HILL ROAD - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83622 WHEREAS, Lincoln Federal Bancorp, Inc. has submitted an application in accordance with Section 27.27.080 of the Lincoln Municipal Code designated as Use Permit No. 154A to amend Wilderness Hills Commercial Center to adjust the front yard setback from 50 feet to zero feet along all private roadways, and to adjust the front yard setback for parking areas from 15 feet to 10 feet where adjacent to 70 foot wide right-of-way from the centerline along Yankee Hill Road and from 20 feet to 15 feet where adjacent to 65 foot wide right-of-way from the centerline along Yankee Hill Road on property generally located southeast of the intersection of South 27th Street and Yankee Hill Road, and legally described to wit:

Lot 48, I.T. located in the Northwest Quarter of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, and more particularly described as follows:

Beginning at the northeast corner of said Lot 48 I.T., also being on the south right-of-way line of Yankee Hill Road; thence south 00 degrees 09 minutes 12 seconds east, 619.62 feet; thence southerly on a 530.00 foot radius curve to the right, an arc length of 162.28 feet (long chord bears south 08 degrees 37 minutes 06 seconds west, 161.65 feet); thence south 17 degrees 23 minutes 24 seconds west, 377.26 feet to the north right-of-way line of Wilderness Hills Boulevard; thence on said north right-of-way line for the next 10 courses, westerly on a 2,642.00 foot radius curve to the left, an arc length of 295.82 feet (long chord bears north 85 degrees 14 minutes 44 seconds west, 295.66 feet); thence westerly on a 90.00 foot radius curve to the left, an arc length of 196.66 feet (long chord bears north 89 degrees 44 minutes 11 seconds west, 159.81 feet); thence south 89 degrees 50 minutes 48 seconds west, 235.49 feet; thence westerly on a 1,242.00 foot radius curve to the left, an arc length of 325.15 feet (long chord bears south 82 degrees 20 minutes 48 seconds west, 324.23 feet); thence south 74 degrees 50 minutes 48 seconds west, 242.95 feet; thence north 66 degrees 19 minutes 13 seconds west, 31.90 feet; thence south 75 degrees 58 minutes 06 seconds west, 56.14 feet; thence south 22 degrees 25 minutes 24 seconds west, 23.56 feet; thence westerly on a 358.00 foot radius curve to the right, an arc length of 52.03 feet (long chord bears south 85 degrees 41 minutes 00 seconds west, 51.98 feet); thence south 89 degrees 50 minutes 48 seconds west, 263.48 feet to the east right-of-way line of South 27th Street; thence on said east right-of-way line for the next two courses, north 00 degrees 02 minutes 46 seconds west, 1,165.23 feet; thence north 44 degrees 22 minutes 06 seconds east, 64.26 feet to the south right-of-way line of Yankee Hill Road; thence on said south right-of-way line for the next five courses,

north 88 degrees 46 minutes 00 seconds east, 636.72 feet; thence south 00 degrees 03 minutes 59 seconds east, 10.00 feet; thence north 88 degrees 46 minutes 00 seconds east, 676.59 feet; thence north 00 degrees 04 minutes 18 seconds west, 10.00 feet; thence north 88 degrees 46 minutes 00 seconds east, 432.16 feet to the point of beginning, containing 1,998,213.10 square feet (45.87 acres) more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this use permit 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 Lincoln Federal Bancorp, Inc., hereinafter referred to as "Permittee", to amend Wilderness Hills Commercial Center to adjust the front yard setback from 50 feet to zero feet along all private roadways, and to adjust the front yard setback for parking areas from 15 feet to 10 feet where adjacent to 70 foot wide right-of-way from the centerline along Yankee Hill Road and from 20 feet to 15 feet where adjacent to 65 foot wide right-of-way from the centerline along Yankee Hill Road on the property legally described above be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said 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 approval adjusts the front yard setback from 50' to 0' along all the private roadways, and the front yard setback from 15' to 10' where adjacent to 70' wide right-of-way and from 20' to 15' where adjacent to 65' wide right-of-way along Yankee Hill Road.

2. Before receiving building permits:

- a. The Permittee must submit a revised final plan including 5 copies and the plans are acceptable.
- b. The construction plans shall comply with the approved plans.
- c. Final Plats shall be approved by the City.

3. Before occupying the office/commercial floor area all development and construction shall have been completed in compliance with the approved plans, including design criteria.

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. 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, filing fees therefor to be paid in advance by the applicant.

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 Robin Eschliman

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

APPROVING A MODIFICATION OF THE CONDITIONS OF APPROVAL WITHIN SUBDIVISION PERMIT NO. 259 IN ORDER TO ALLOW PARCEL 1 TO BE CONVEYED FREE AND CLEAR WITHOUT RESTRICTION, TO ELIMINATE PARCEL 2 AS A SEPARATE PARCEL OF LAND WHICH MAY BE CREATED BY DEED, AND TO ELIMINATE THE NO-BUILD RESTRICTION ON PARCEL 2, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF SALTILLO ROAD AND SOUTH 38TH STREET - CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-83623 WHEREAS, on or about October 26, 1982, the owners of a portion of the Northeast Quarter of Section 6, Township 8 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, generally located at S. 38th Street and Saltillo Road, applied for a subdivision permit to create two parcels of land; and

WHEREAS, on or about November 2, 1982, the Lancaster County Board approved Subdivision Permit No. 259 approving the application to subdivide a portion of the Northeast Quarter of Section 6, Township 8 North, Range 7 East of the 6th P.M. into two parcels as described in Exhibit A attached to Subdivision Permit No. 259; and

WHEREAS, Subdivision Permit No. 259 restricted the creation and use of Parcel 1 and Parcel 2, as provided for in the Letter of Acceptance attached to Subdivision Permit No. 259 as Exhibit B; and

WHEREAS, Subdivision Permit No. 259 was filed with the Register of Deeds of Lancaster County, Nebraska, and recorded as Instrument No. 82-17476. A copy of Subdivision Permit No. 259 is attached hereto, marked as Exhibit "1"; and

WHEREAS, Parcel 1 as described in Subdivision Permit No. 259 was created by deed, filed with the Register of Deeds of Lancaster County, Nebraska, and recorded as Instrument No. 83-2693; and

WHEREAS, Parcel 1 is now legally described as Lot 37, Irregular Tract, located in the Northeast Quarter of Section 6, Township 8 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska ("Lot 37"); and

WHEREAS, Parcel 2 as described in Subdivision Permit No. 259 was never lawfully created by deed and the area described as Parcel 2 is part of Lot 38, Irregular Tract, located in the Northeast Quarter of Section 6, Township 8 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska ("Lot 38"); and

WHEREAS, the City of Lincoln, rather than Lancaster County, now has subdivision control over Lot 37 and Lot 38; and

WHEREAS, the Owners of Lot 37 and Lot 38 have requested the City to modify the conditions of approval in Subdivision Permit No. 259 to (1) eliminate the restriction that Parcel 1 may only be conveyed free and clear so long as restrictions contained in paragraph 2 of Exhibit B to Permit No. 259 remain in full force and effect, and (2) provide that Parcel 2 as described on Exhibit A is no longer permitted to be created as a separate lot without going through formal subdivision approval pursuant to the City's regulations and requirements, and (3) eliminate the no-build restriction pertaining to Parcel 2 as set forth in paragraph 2 of Exhibit B of Subdivision Permit No. 259.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that Subdivision Permit No. 259 is hereby amended to provide that Parcel 1, now known as Lot 37 I.T., located in the Northeast Quarter of Section 6, Township 8 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, may be conveyed free and clear without restriction, that Parcel 2, as described on Exhibit A to Subdivision Permit No. 259, is eliminated as a separate parcel of land which may be created by deed without going through formal subdivision approval pursuant to the City's regulations and requirements, and that the no-build restriction pertaining to Parcel 2 as set forth in paragraph 2 of Exhibit B to Subdivision Permit No. 259, is hereby eliminated.

BE IT FURTHER RESOLVED that the City Clerk is directed to record this Resolution with the Register of Deeds of Lancaster County, Nebraska, filing fees to be paid in advance by the Owners of Lot 37 and Lot 38.

Introduced by Robin Eschliman

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

PETITIONS & COMMUNICATIONS - NONE

REPORTS OF CITY OFFICERS

ASSESSMENT RESOLUTIONS FOR BOARD OF EQUALIZATION SPECIAL ASSESSMENT GROUP III, TO BE HELD ON MONDAY, NOVEMBER 14, 2005, AT 10:00 A.M. - CLERK presented said Resolutions which were placed on file in the Office of the City Clerk.

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

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE MONTH OF SEPTEMBER 2005 FROM TIME WARNER CABLE - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT FROM CITY TREASURER OF FRANCHISE TAX FOR THE MONTH OF SEPTEMBER 2005

FROM AQUILA - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT OF CITY TREASURER OF TELECOMMUNICATIONS OCCUPATION TAX FOR THE MONTH OF APRIL 2005: DIGIZIP; JULY 2005: NE TECH. & TELECOM.; AUGUST 2005: CELLULAR ONE, ALLTEL COMM. OF NEBRASKA, ALLTEL SYSTEMS OF MIDWEST, ALLTEL NEBRASKA, USCOC OF GREATER IOWA, NEW CINGULAR WIRELESS, AT&T COMM. OF MIDWEST, CRICKET, NE TECH. & TELECOMM., OCMC, ADVANCED TEL, VOICECOM, ONSTAR CORP., TRANS NATIONAL COMM., WORKING ASSETS FUNDING SERV., QWEST, VIRGIN MOBILE, TELECORP COMM., PRIMUS TELECOMM., GLOBAL CROSSING, MCLEODUSA, UCN INC., VERIZON, CIII COMM., INTELICALL, ACN COMM., CINCINNATI BELL, XO COMM., TRACFONE WIRELESS, GUARANTEED, BUSINESS PROD. SOLUTIONS, STAR NUMBER, QUANTUM SHIFT, IBM GLOBAL, T-NETIX, KDDI AMERICA; SEPTEMBER 2005: NPCR, FIRST WIRELESS, SPRINT SPECTRUM, SPRINT COMM., MCI WORLDCOM, TWC INFO SERVICES OF NE, SHAFFER COMM., OCMC, NORSTAN NETWORK, NETWORK BILLING SYSTEMS, 360NETWORKS (USA), NEXTEL WEST CORP., SBC LONG DISTANCE, LIGHTYEAR, LDMI, NOS COMM., ACCERIS, TRI-M, GLOBALCOM, ZONE, GTC, AFFINITY, VARTEC, EXCEL, NOSVA, ATS MOBILE; JULY - SEPTEMBER 2005: CLARICOM, AMERIVISION, TOUCH 1, TRINSIC, MATRIX, VOICESTREAM - 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 SEPTEMBER 30, 2005 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83621 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended September 30, 2005, \$602,011.84 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 Dan Marvin

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

ORDINANCES - 1ST READING

APPROVING (1) SITE LEASE FROM THE CITY AND THE COUNTY OF LANCASTER, NEBRASKA TO THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION, (2) LEASE AGREEMENT FROM THE COMMISSION TO THE COUNTY AND THE CITY AND (3) THE ISSUANCE OF NOT TO EXCEED \$2,000,000 OF THE COMMISSION'S TAX SUPPORTED LEASE RENTAL REVENUE BONDS, SERIES 2005, ALL WITH RESPECT TO THE ACQUISITION OF THE COURTHOUSE PLAZA BUILDING - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE of the City of Lincoln, Nebraska approving (A) a lease agreement among the Lincoln-Lancaster County Public Building Commission, as lessee, and the City and the County of Lancaster, Nebraska, jointly, as lessor, (B) a lease agreement among the City and the County, jointly, as lessee, and the Commission, as lessor, and (C) the issuance of not to exceed \$2,000,000 in aggregate principal amount of the Commission's tax supported lease rental revenue bonds; Series 2005B and related matters, the first time.

AMENDING SECTION 4.54.010 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE COMMUNITY FORESTRY ADVISORY BOARD BY MODIFYING THE MEMBERSHIP REQUIREMENTS TO ELIMINATE THE PROVISION THAT AT LEAST ONE VOTING MEMBER MUST RESIDE IN EACH OF THE CITY COUNCIL DISTRICTS - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE amending Section 4.54.010 of the Lincoln Municipal Code relating to the Community Forestry Advisory Board by modifying the membership requirements to eliminate the provision that at least one voting member must reside in each of the City Council districts; and repealing Section 4.54.010 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING CHAPTER 2.76 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE CITY'S PERSONNEL SYSTEM BY AMENDING SECTION 2.76.175 TO CLARIFY THE PROCEDURE TO BE FOLLOWED WHEN AN EMPLOYEE IN A PAY RANGE PREFIXED BY "A" IS TEMPORARILY PROMOTED; AND AMENDING SECTION 2.76.380 TO CLARIFY THE PROCEDURE TO BE FOLLOWED WHEN GRANTING FAMILY SICK LEAVE TO AN EMPLOYEE IN A PAY RANGE PREFIXED BY E OR M - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE amending Chapter 2.76 of the Lincoln Municipal Code relating to the City's Personnel System by amending Section 2.76.175 to clarify the procedure to be followed when an employee in a pay range prefixed by "A" is temporarily promoted; amending Section 2.76.380 to clarify the procedure to be followed when

granting family sick leave to an employee in a pay range prefixed by "E" or "M"; and repealing Sections 2.76.175 and 2.76.380 of the Lincoln Municipal Code as hitherto existing, the first time.

DECLARING APPROXIMATELY 35,500 SQUARE FEET AS SURPLUS PROPERTY GENERALLY LOCATED AT 305 AND 345 F STREET - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE declaring the City-owned property generally located at 305 and 345 F Street as surplus and authorizing the sale thereof, the first time.

CHANGE OF ZONE 05072 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.65.080, COMMUNITY UNIT PLAN: DESIGN STANDARDS; DENSITY, TO ADD A PROVISION TO ALLOW PRE-EXISTING LOTS TO BE INCLUDED WITHIN THE LIMITS OF A COMMUNITY UNIT PLAN WITHOUT AFFECTING THE OVERALL DENSITY - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE amending Section 27.65.080 of the Lincoln Municipal Code relating to "Community Unit Plan; Design Standards; Density" to add a provision to allow pre-existing lots to be included within the limits of a community unit plan without affecting the overall density; and repealing Section 27.65.080 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 05073 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.37.020, B-5 PLANNED REGIONAL BUSINESS DISTRICT: USE REGULATIONS, AND SECTION 27.27.020, O-3 OFFICE PARK DISTRICT: USE REGULATIONS, TO ADD PUBLIC AND PRIVATE SCHOOLS TO THE LIST OF ALLOWED USES - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE amending Sections 27.27.020 and 27.37.020 of the Lincoln Municipal Code relating to use regulations to include public elementary or public high schools or private schools having a curriculum equivalent to a public elementary or public high school as permitted uses in the O-3 Office Park and the B-5 Planned Regional Business Districts, respectively; and repealing Sections 27.27.020 and 27.37.020 of the Lincoln Municipal Code as hitherto existing, the first time.

AMENDING CHAPTER 5.16 OF THE LINCOLN MUNICIPAL CODE, CABLE COMMUNICATIONS, TO INCORPORATE THE CABLE COMMUNICATIONS REGULATIONS CURRENTLY FOUND IN CHAPTER 5.16 OF THE LINCOLN MUNICIPAL CODE AS UPDATED TO BE IN CONFORMANCE WITH FEDERAL LAW WITH THE NEWLY NEGOTIATED CABLE TELEVISION FRANCHISE, AND REPEALING CURRENT CHAPTER 5.16 IN ITS ENTIRETY - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE adopting a new Chapter 5.15 of the Lincoln Municipal Code, Cable Communications, to incorporate the cable communications regulations currently found in Chapter 5.16 of the Lincoln Municipal Code as updated to be in conformance with federal law and to coordinate the regulations with the newly negotiated cable television franchise, and repealing current Chapter 5.16 in its entirety, the first time.

GRANTING TIME WARNER ENTERTAINMENT ADVANCE/NEWHOUSE PARTNERSHIP A COMMUNICATION SYSTEM FRANCHISE FOR CABLE TELEVISION WITHIN THE CITY OF LINCOLN PURSUANT TO AND SUBJECT TO THE PROVISIONS OF THE LINCOLN MUNICIPAL CODE - CLERK read an ordinance, introduced by Dan Marvin, AN ORDINANCE granting a cable communication facility franchise to Time Warner Entertainment-Advance/Newhouse Partnership, dba Time Warner Cable to provide cable television services and to maintain a cable communication facility with the City of Lincoln pursuant to and subject to the provisions of the Lincoln Municipal Code, the first time.

ORDINANCES - 3RD READING & RESOLUTIONS

APPROVING A ONE-YEAR LEASE AGREEMENT BETWEEN THE CITY AND THE FIRTH COMMUNITY CENTER FOR THE LEASE OF SPACE BY THE LINCOLN AREA AGENCY ON AGING FOR ITS ACTIVAGE CENTER PROGRAM AT 311 NEMAHA STREET, FIRTH, NE. - CLERK read an ordinance, introduced by Jonathan Cook, accepting and approving a Lease Agreement between the City of Lincoln and Firth Community Center for the lease of office space by the Lincoln Area Agency on Aging for its ActivAge Center program at 311 Nemaha Street, Firth, NE for a one-year term beginning September 1, 2005, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered **#18641**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 04085 - APPLICATION OF GEICO DEVELOPMENT FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-T RESIDENTIAL TRANSITION DISTRICT ON PROPERTY GENERALLY LOCATED AT S.W. 17TH STREET AND WEST A STREET -

CLERK read an ordinance, introduced by Jonathan Cook, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.
The ordinance, being numbered #18642, is recorded in Ordinance Book #25, Page

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to November 14, 2005.
Seconded by Newman & 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 November 14, 2005.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

ADJOURNMENT 5.25 P.M.

CAMP Moved to adjourn the City Council meeting of November 7, 2005.
Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.
So ordered.

Joan E. Ross, City Clerk

Sandy L. Dubas, Senior Office Assistant

