

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, March 6, 2006 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 February 27, 2006, 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.

**MAYORS AWARD OF EXCELLENCE**

Mayor Seng presented the Mayor's Award of Excellence for the month of February to Toan Tran, Public Service Officer for the Lincoln Police Department, in the category of Customer Relations.

Chief Casady came forward to congratulate Mr. Tran as a great asset to the Police Department as well as the community by volunteering to assist the Asian community and translation services for the Police Department in addition to his job as Public Service Officer.

**PUBLIC HEARING**

APPLICATION OF JOMAR, INC. D/B/A THE STILL FOR A CLASS CK LIQUOR LICENSE AT 6820 SOUTH 70TH STREET;

MANAGER APPLICATION OF JOHN W. ~~BAKER~~ BARKER FOR JOMAR, INC. D/B/A THE STILL AT 6820 SOUTH 70TH STREET - John Barker, 7100 Old Post Rd., Unit #3, took oath and came forward to answer questions.

This matter was taken under advisement.

CHANGE OF ZONE 06005 - APPLICATION OF JOHN WRAGGE FOR A CHANGE OF ZONE FROM R-RESIDENTIAL DISTRICT TO O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED AT S. 39TH STREET AND NORMAL BLVD. - John Wragge, 9212 Merryvale Dr., came forward to answer questions. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 06006 - APPLICATION OF CHARLESTON HEIGHTS LLC FOR A CHANGE OF ZONE FROM H-4 GENERAL COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTH AND EAST OF S.W. 27TH STREET AND WEST A STREET - Paula Dicerio, 1233 Infinity Ct., came forward representing Charleston Heights, LLC to request a zoning change and to answer any questions. Discussion followed.

Joe Rexwinkle, Planning Dept., came forward to answer questions. Discussion followed.

Marvin Krout, Planning Director, came forward to explain the changes including those pertaining to nighttime hours. Discussion continued.

This matter was taken under advisement.

CREATING A BUSINESS IMPROVEMENT DISTRICT IN AN AREA GENERALLY BOUNDED BY 9<sup>TH</sup> STREET TO CENTENNIAL MALL AND L STREET TO THE MID-BLOCK BETWEEN Q AND R STREETS (CORE OVERLAY DISTRICT);

CREATING A BUSINESS IMPROVEMENT DISTRICT IN AN AREA GENERALLY BOUNDED BY 6<sup>TH</sup> STREET TO 17TH STREET AND R STREET TO THE MID-BLOCK BETWEEN LINCOLN MALL AND H STREET (DOWNTOWN BUSINESS IMPROVEMENT DISTRICT)- Jeff Cole, Urban Development, came forward to state two business districts are to be recreated. The Management District will be 66 square blocks and the Core Overlay will be 22 square blocks. He was available to answer any questions.

This matter was taken under advisement.

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APPROVING A NON-EXCLUSIVE AWARD FOR DISCOUNTS OFF OF OFFICE DEPOT CATALOG PRICES PURSUANT TO THE U.S. COMMUNITIES PURCHASING ALLIANCE CONTRACT NO. 42595 FOR OFFICE PRODUCTS, EQUIPMENT, SUPPLIES AND RELATED ITEMS - Robin Eschliman, Council Person, asked why other companies were not given a chance to bid on office products. (Vince Mejer came forward during the voting session to answer her question.)

This matter was taken under advisement.

ACCEPTING AND APPROVING A RECREATION TRAILS PROGRAM PROJECT AGREEMENT BETWEEN THE CITY AND THE STATE OF NEBRASKA GAME AND PARKS COMMISSION FOR REPLACEMENT OF APPROXIMATELY .35 MILE OF ASPHALT TRAIL WITH CONCRETE IN TIERRA PARK - Terry Genrich, Parks & Recreation Dept., came forward to answer questions. Discussion followed.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND STATE DEPT. OF ROADS TO IDENTIFY A CORRIDOR FOR A LINEAR PARK ON THE NORTH SIDE OF THE SOUTH BELTWAY BETWEEN 27TH AND 84TH STREETS - Lynn Johnson, Director of Parks and Recreation Dept., stated this is a proposed agreement with the Nebraska Department of Roads with the City's share being no more than \$20,000. Discussion followed.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND STATE DEPT. OF ROADS FOR THE MOPAC TRAIL BRIDGE - 27TH STREET, NDOR PROJECT NO. STPB-55 (155) CONTRACT 12840, PROVIDING FOR PRELIMINARY ENGINEERING AND CONSTRUCTION OF A PEDESTRIAN BRIDGE LOCATED AT APPROXIMATELY 27TH AND X STREET WITHIN THE MOPAC TRAIL CORRIDOR - Terry Genrich, Parks & Recreation Dept., stated this will be the final link in the MoPac trail connecting down to the University campus.

This matter was taken under advisement.

APPROVING A WAIVER OF THE DESIGN STANDARDS REQUESTED BY JENSEN PARK LLC THAT REQUIRES THE APPLICANT TO SHOW A STREET CONNECTION TO LOT 111 IN JENSEN PARK ESTATES PRELIMINARY PLAT GENERALLY LOCATED AT SOUTH 84TH AND YANKEE HILL ROAD - Patte Newman, Council Person, asked if it is normal to have that many different zones?

Brian Will, Planning Dept., came forward to answer yes it is appropriate for the development being proposed. Discussion followed.

Nicole Fleck-Tooze came forward to answer questions. Discussion followed.

This matter was taken under advisement.

APPROVING A THREE-YEAR CONTRACT BETWEEN THE CITY AND THE LINCOLN JOURNAL STAR FOR PROVIDING LEGAL ADVERTISING AND PUBLISHING AND ALL OTHER VERBIAGE LEGALLY NECESSARY TO CONDUCT CITY OF LINCOLN BUSINESS - Dan Marvin, Council Person asked what is in the budget for what we spend on these advertisements with the Journal Star. (Vince Mejer came forward during the voting session to answer questions.)

This matter was taken under advisement.

APPOINTING MICHAEL CORNELIUS TO THE LINCOLN-LANCASTER COUNTY PLANNING COMMISSION TO FILL AN UNEXPIRED SIX-YEAR TERM EXPIRING AUGUST 24, 2009 - Michael Cornelius, 3149 R Street, came forward to answer any questions. Discussion followed.

This matter was taken under advisement.

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

## COUNCIL ACTION

### LIQUOR RESOLUTIONS

APPLICATION OF JOMAR, INC. D/B/A THE STILL FOR A CLASS CK LIQUOR LICENSE AT 6820 SOUTH 70TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83761 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 JOMAR, Inc. d/b/a The Still for a Class "CK" liquor license at 6820 South 70th Street, Lincoln, Nebraska, for the license period ending October 31, 2006, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

MANAGER APPLICATION OF JOHN W. ~~BAKER~~ BARKER FOR JOMAR, INC. D/B/A THE STILL AT 6820 SOUTH 70TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-83762 WHEREAS, JOMAR, Inc. d/b/a The Still located at 6820 South 70<sup>th</sup> Street Lincoln, Nebraska has been approved for a Class "CK" liquor license, and now requests that John W. ~~Baker~~ Barker be named manager; WHEREAS, John W. ~~Baker~~ Barker 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 John W. ~~Baker~~ Barker be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

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

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

AMENDING THE PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE WHICH IS PREFIXED BY THE LETTER M BY CREATING THE JOB CLASSIFICATION OF "GIS PROGRAM MANAGER" - CLERK read an ordinance, introduced by Dan Marvin, amending Section 1 of Ordinance No. 18479 passed December 13, 2004, as amended by Ordinance No. 18674 passed February 6, 2006, relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "M," by creating the job classification of GIS Program Manager, the second time.

CHANGE OF ZONE 06004 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE ZONING ORDINANCE, BY AMENDING SECTION 27.67.040(D)(3) TO ADJUST THE PARKING REQUIREMENTS FOR MINI-WAREHOUSING - CLERK read an ordinance, introduced by Dan Marvin, amending Section 27.67.040 of the Lincoln Municipal Code relating to Parking Requirements; Special Conditions to adjust the parking for miniwarehousing; and repealing Section 27.67.040 of the Lincoln Municipal code as hitherto existing, the second time.

CHANGE OF ZONE 06005 - APPLICATION OF JOHN WRAGGE FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED AT S. 39TH STREET AND NORMAL BLVD. - CLERK read an ordinance, introduced by Dan Marvin, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the second time.

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CHANGE OF ZONE 06006 - APPLICATION OF CHARLESTON HEIGHTS LLC FOR A CHANGE OF ZONE FROM H-4 GENERAL COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED NORTH AND EAST OF S.W. 27TH STREET AND WEST A STREET - CLERK read an ordinance, introduced by Dan Marvin, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal code, by changing the boundaries of the districts established and shown thereon, the second time.

CREATING A BUSINESS IMPROVEMENT DISTRICT IN AN AREA GENERALLY BOUNDED BY 9<sup>TH</sup> STREET TO CENTENNIAL MALL AND L STREET TO THE MID-BLOCK BETWEEN Q AND R STREETS (CORE OVERLAY DISTRICT) - CLERK read an ordinance, introduced by Dan Marvin, creating a business improvement district under the authority of the Business Improvement District Act (Neb. Rev. Stat. § 19-4015 et seq.) to be known as the Core Business Improvement District Overlay bounded roughly by Centennial Mall, M, 9<sup>th</sup>, and Q Streets for the purpose of providing specified work and improvements in the downtown area of the City of Lincoln, Nebraska; providing special assessments to be imposed within the district based upon the benefits conferred; providing maximum limits upon such assessments; and providing a sunset of August 31, 2016, the second time.

CREATING A BUSINESS IMPROVEMENT DISTRICT IN AN AREA GENERALLY BOUNDED BY 6<sup>TH</sup> STREET TO 17TH STREET AND R STREET TO THE MID-BLOCK BETWEEN LINCOLN MALL AND H STREET (DOWNTOWN BUSINESS IMPROVEMENT DISTRICT) - CLERK read an ordinance, introduced by Dan Marvin, creating a business improvement district under the authority of the Business Improvement District Act (Neb. Rev. Stat. § 19-4015 et seq.) to be known as the Downtown Business Improvement District bounded roughly by H, 6<sup>th</sup>, R, and 17<sup>th</sup> Streets for the purpose of providing specified work and improvements in the downtown area of the City of Lincoln, Nebraska; providing for special assessments to be imposed within the district based upon the benefits conferred; providing maximum limits upon such assessments; and providing a sunset of August 31, 2016, the second time.

**RESOLUTIONS**

APPROVING A NON-EXCLUSIVE AWARD FOR DISCOUNTS OFF OF OFFICE DEPOT CATALOG PRICES PURSUANT TO THE U.S. COMMUNITIES PURCHASING ALLIANCE CONTRACT NO. 42595 FOR OFFICE PRODUCTS, EQUIPMENT, SUPPLIES AND RELATED ITEMS - PRIOR to reading:

ESCHLIMAN Moved to delay action on Bill No. 06R-30 for one week to 3/13/06.

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

APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY AND COUNTY TO ESTABLISH RIGHT-OF-WAY AND CONSTRUCTION STANDARDS FOR UNIMPROVED COUNTY ROADS LOCATED WITHIN THE THREE-MILE ZONING JURISDICTION OF THE CITY OF LINCOLN - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83763 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Interlocal Agreement between the City of Lincoln and Lancaster County, to establish public street right-of-way and construction standards to be applied to the repair, maintenance and construction of streets located within the three mile zoning jurisdiction of the City for a more useful life out of the public investment in the county roads and accommodating future growth from rural to urban standards, upon the terms and conditions set forth in said Agreement, which is attached hereto marked as Attachment "A", is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to forward one fully executed original of said Agreement to Trish Owen for filing with the County.

Introduced by Dan Marvin

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

APPROVING THE USE OF PUBLIC RIGHT-OF-WAY BY THE UNIVERSITY OF NEBRASKA FOR CONSTRUCTION OF A HIKER/BIKER TRAIL AT TWO LOCATIONS ALONG HUNTINGTON/LEIGHTON AVENUE BETWEEN 33RD AND 48TH STREET - PRIOR to reading:

CAMP Moved to amend Bill No. 06R-32 on page 1, line 2 to read south side instead of north side.

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:

A-83764 WHEREAS, the University of Nebraska - Lincoln has initiated a project to complete a 10-foot wide concrete hiker/biker trail along the ~~north~~ south side of Huntington/Leighton Avenue between 33rd and 48th Streets; and

WHEREAS, the Applicant has submitted an application pursuant to Chapter 14.54 of the Lincoln Municipal Code to use a portion of the public right-of-way at two locations along Huntington/Leighton Avenue between 33rd and 48th Streets for the construction of a hiker/biker trail as indicated on the maps attached hereto; and

WHEREAS, said application has been reviewed by the Public Works Department which recommended approval of said application.

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

That the application of the University of Nebraska - Lincoln, hereinafter referred to as Permittee, for a permit to use the public right-of-way at two locations along Huntington/Leighton Avenue between 33rd and 48th Streets for the construction a 10-foot concrete hiker/biker trail is approved pursuant to Chapter 14.54 of the Lincoln Municipal Code subject to the following conditions:

a. 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.

b. That such space shall only be used for a hiker/biker trail as specified on the permit in accordance with the requirements of Chapter 14.54.

c. Permittee agrees that the maintenance of the uses obtained by this permit shall solely and only be the responsibility of the Permittee and shall be performed at Permittee's cost and expense. The material authorized by this permit shall at all times be maintained in good repair and in a form approved by the permit.

d. As a condition for the granting of this permit, the City of Lincoln is released from any and all liability and responsibility for any damage to the permitted use which might occur during maintenance or repair work performed by the City of Lincoln, its departments or utilities, or another quasi-public utility, or franchisee of the City of Lincoln, including, but not limited to, such things as street maintenance and repair, snow removal, street cleaning, sign replacement, maintenance or repair, or any other maintenance, construction, or repair function of the City of Lincoln, its departments, utilities, or quasi-public utilities or its franchisees or its successors or assigns.

e. That the user requires no right, title, or interest in the space permitted to be used.

f. That the space granted hereunder shall be vacated upon demand by the City Council and its use discontinued by the Permittee, with no recourse against the City for any loss or damage occasioned by any such requirement.

g. That if any such space not be vacated and such use not be discontinued by the time specified, the City may remove from such space any work left thereon at the risk and expense of the Permittee.

h. That the permit issued pursuant to this Section is a personal privilege and may not be transferred or alienated voluntarily or involuntarily.

i. The Permittee shall be responsible for all construction and maintenance of this trail.

j. The Permittee must contact Diggers Hotline prior to initiating any work.

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k. All permitted improvements must conform to all applicable City codes and ordinances and shall be subject to the inspection and approval of the Director of Public Works of the City of Lincoln or his designated representative.

1. The Permittee shall sign and return the City's letter of acceptance to the City Clerk prior to construction of the hiker/biker trail in the public right-of-way.

Introduced by Dan Marvin

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

ACCEPTING AND APPROVING A RECREATION TRAILS PROGRAM PROJECT AGREEMENT BETWEEN THE CITY AND THE STATE OF NEBRASKA GAME AND PARKS COMMISSION FOR REPLACEMENT OF APPROXIMATELY .35 MILE OF ASPHALT TRAIL WITH CONCRETE IN TIERRA PARK - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83765 WHEREAS, the Parks and Recreation Department of the City of Lincoln desires to accept the State of Nebraska Game and Parks Commission Recreational Trails Program Project Agreement for assistance from the Nebraska Game and Parks Commission for Recreation Trails Program (RTP) for the replacement of approximately .35 mile of asphalt trail with concrete in Tierra Park from Tierra/Williamsburg Trail to Rock Island Trail and 27th Street to Tierra neighborhood; and WHEREAS, the City of Lincoln wishes to express its support for the project and its willingness to commit to the cost of maintenance of the completed improvements in a safe and attractive manner for the public.

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

1. That the City of Lincoln hereby accepts the State of Nebraska Game and Parks Commission Recreational Trails Program Project Agreement supporting the application being made by its Parks and Recreation Department to the Nebraska Game and Parks Commission for financial assistance from the Recreational Trails Program for the construction of the .35 asphalt trail in Tierra Park from Tierra/Williamsburg Trail to Rock Island Trail and 27th Street to Tierra neighborhood.

2. The City of Lincoln has available and will apply its share of the project cost (\$18,100) and has the financial capability to maintain and will maintain the completed improvements in a safe and attractive manner for public use.

3. The City of Lincoln will not discriminate against any person on the basis of race, color, age, religion, handicap, sex, or national origin in the use of the proposed project acquired or developed pursuant to the application for financial assistance. The City of Lincoln certifies that it has the financial capabilities to maintain the completed improvements in a safe and attractive manner for public use and further certifies that it will comply, where applicable, with the Americans with Disabilities Act by making the facilities accessible to the handicapped.

4. The Mayor is hereby authorized to sign all documents necessary and required to make application to acquire said grant funds.

5. The City Clerk is directed to transmit a certified copy of this resolution to the Parks and Recreation Department for transmittal to the Nebraska Game and Parks Commission.

Introduced by Dan Marvin

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND STATE DEPT. OF ROADS TO IDENTIFY A CORRIDOR FOR A LINEAR PARK ON THE NORTH SIDE OF THE SOUTH BELTWAY BETWEEN 27TH AND 84TH STREETS - PRIOR to reading:

MARVIN Moved to delay Public Hearing and action on Bill No. 06R-34 for one week to 3/13/06.

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

APPROVING AN AGREEMENT BETWEEN THE CITY AND STATE DEPT. OF ROADS FOR THE MOPAC TRAIL BRIDGE - 27TH STREET, NDOR PROJECT NO. STPB-55 (155) CONTRACT 12840, PROVIDING FOR PRELIMINARY ENGINEERING AND CONSTRUCTION OF A PEDESTRIAN BRIDGE LOCATED AT APPROXIMATELY 27TH AND X STREET WITHIN THE MOPAC TRAIL CORRIDOR - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83766 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. STPB-55(155), State CN-12840, for the preliminary engineering and construction of a pedestrian bridge located at approximately 27th and X Streets within the MoPac Trail Corridor, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

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

Introduced by Dan Marvin

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

APPROVING A WAIVER OF THE DESIGN STANDARDS REQUESTED BY JENSEN PARK LLC THAT REQUIRES THE APPLICANT TO SHOW A STREET CONNECTION TO LOT 111 IN JENSEN PARK ESTATES PRELIMINARY PLAT GENERALLY LOCATED AT SOUTH 84TH AND YANKEE HILL ROAD - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83767 WHEREAS, the preliminary plat of Jensen Park Estates, generally located at South 84th Street and Yankee Hill Road, was previously approved by the Lancaster County Planning Commission on February 15, 2006; and

WHEREAS, one of the conditions of approval of said Preliminary Plat was to have the applicant show a street connection to Lot 111; and

WHEREAS, Applicant is requesting a waiver of said condition showing a street connection; and

WHEREAS, the Planning Commission has reviewed said request and has recommended that the waiver of the street connection be approved.

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

That the Applicant's request to waive the condition of approval of the Preliminary Plat of Jensen Park Estates requiring the street connection to Lot 111, is hereby approved.

All other conditions for approval of the Preliminary Plat of Jensen Park Estates Addition shall remain in full force and effect.

Introduced by Dan Marvin

Seconded by Camp & 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 FEBRUARY 1 - 15, 2006 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83768 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated February 16, 2006, 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>
Ettamae Branstetter	NAS*	Maria Arellano	\$ 360.00
St. Paul Travelers	NAS*	Jim Schrier & Pat Schrier	500.00
(File No. 043-CB-ACN4741-K)	NAS*	Rachel Petersen	1,522.41
		Jim Christo	63.13
		Jacqueline J. Berg	1,251.70
		Sara Stodola	1,351.39

\*No Amount Specified

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

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Introduced by Dan Marvin

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

APPROVING A THREE-YEAR CONTRACT BETWEEN THE CITY AND THE LINCOLN JOURNAL STAR FOR PROVIDING LEGAL ADVERTISING AND PUBLISHING AND ALL OTHER VERBIAGE LEGALLY NECESSARY TO CONDUCT CITY OF LINCOLN BUSINESS - PRIOR to reading:

ESCHLIMAN Moved to delay action on Bill No. 06R-38 for one week to 3/13/06. Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Svoboda; NAYS: Newman.

**PETITIONS AND COMMUNICATIONS**

THE FOLLOWING ITEMS WERE REFERRED TO THE PLANNING DEPT.:

Change of Zone 06016 - App. of Dubois, LLC, Eiger Corp. and Andermatt LLC from AG Agricultural District to R-3 Residential District and O-3 Office Park District located at S. 91<sup>st</sup> Street and Highway 2.

Special Permit 06014 - App of Dubois, LLC, Eiger Corp. and Andermatt, LLC to allow up to 90 dwelling units w/requests to waive setbacks, block length, to allow transfer of waste water from one watershed to another, to allow sanitary sewer to exceed maximum depth, minimum tangent lengths between curves, sanitary sewer to be non-parallel to the centerline of the street, allow lot lines non-perpendicular to right-of-way and the requirement for lots to front public or private streets on property at S. 91<sup>st</sup> Street and Highway 2.

Use Permit 06003 - App. of Andermatt, LLC to allow up to 50,000 sq. ft. of office/commercial floor area w/requests to waive setbacks, transfer waste water from one drainage basin to another, to allow sanitary sewer to exceed maximum depth, minimum tangent lengths between curves, to allow sanitary sewer non-parallel to street center line, lot lines non-perpendicular to right-of-way and to allow lots without frontage to a private roadway or public street, at S. 91<sup>st</sup> Street and Highway 2.

Change of Zone 06012 - App. of B & J Partnership, Ltd. from R-2 Residential to B-3 Commercial District; from R-2 Residential to O-2 Suburban Office District; from O-2 Suburban Office to B-3 Commercial District; and from B-1 Local Business to B-3 Commercial District on property located at S. 10<sup>th</sup> Street and Van Dorn Street.

Change of Zone 06013 - App. of B & J Partnership, Ltd. from R-5 Residential District to B-3 Commercial District on property at S. 15<sup>th</sup> Street and South Street.

Special Permit 06010 - App. of Arby Javy, LLC to allow an outdoor recreation area on property at N. 9<sup>th</sup> Street and Garber Street.

Special Permit 1771A - App. of LeGrande Excavating, Inc. an amendment to allow extraction of sand, gravel, and soil on property at N. 84<sup>th</sup> Street and Adams Street.

**REPORTS OF CITY OFFICERS**

CLERK'S LETTER AND MAYOR'S APPROVAL OF RESOLUTIONS AND ORDINANCES PASSED BY COUNCIL ON FEBRUARY 27, 2006 - - CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT OF CITY TREASURER OF FRANCHISE TAX FROM AQUILA FOR THE MONTH OF JANUARY, 2006 - 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 JANUARY 31, 2006 - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-83769 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended January 31, 2006, \$381,072.59 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 Annette McRoy

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

APPOINTING MICHAEL CORNELIUS TO THE LINCOLN-LANCASTER COUNTY PLANNING COMMISSION TO FILL AN UNEXPIRED SIX-YEAR TERM EXPIRING AUGUST 24, 2009 - CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-83770 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the appointment of Michael Cornelius to the Lincoln-Lancaster County Planning Commission to fill an unexpired six-year term expiring August 24, 2009 is hereby approved.

Introduced by Dan Marvin

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

REPORT OF CITY TREASURER OF TELECOMMUNICATION OCCUPATION TAX FOR THE MONTH OF JUNE, 2005: Digizip.com, Inc.; July, 2005: Digizip.com, Inc; Oct. 2005: Assn. Administrators, American Farm Bureau, Southwest Comm., Startec Global, Telenational, Fast Phones, Who's Calling, Netifice, PNG; November 2005: Assn. Administrators, American Farm Bureau, Southwest Comm., Startec Global, Telenational, Fast Phones, Who's Calling, Netifice, PNG, Assn. Administrators; December 2005: American Farm Bureau, Southwest Comm., Startec Global, Telenational, Fast Phones, Who's Calling, Netifice, PNG, Assn. Administrators, Alltel Comm. of Nebraska, Alltel Systems of the Midwest, Alltel Nebraska, AT&T Comm. of Midwest, New Cingular Wireless, Cellular One, Cricket, USCOC of Greater Iowa, Nebraska Technology & Telecomm., Assn. Administrators, Inc., Norstan Network, 360Networks, (USA), ATS Mobile Telephone, Telecorp Comm., Accessline, McLeodUSA, Advanced Tel, Air Cell, Verizon, Opex, XO Comm., Broadband Dynamics, Primus, Airnex, Working Assets Funding, Virgin Mobile USA, Enhanced, Cincinnati Bell Any Distance, Qwest, Global Crossing, UCN, IOT Corp., Winstar, Tracfone Wireless, Trans National, OnStar, Broadwing, Intellicall Operator, ACN, Business Telecom, VoiceCom, Network Billing Systems, Shaffer, Star Number, Business Prod. Solutions, America Inc, Quantum Shift, T-Netix, IBM Global; January-December 2005, Talli America; January 2006: Nextel, Sprint Spectrum, D & D Comm., Cellular One, TWC Info Services, Alltel Comm. of Nebraska, Alltel Nebraska, Alltel Systems of the Midwest, Spring Comm., 360Networks(USA), Earthlink, Network Billing, Nextel West Corp., Tri-M, Lightyear Network Solutions, Globalcom, GTC Telecom, Acceris Management & Acquisition, Affinity, SBC Long Distance, NOSVA, Zone Telecom, NOS Comm., BT Americas, OCMC, VarTec, Excel, LDMI, Acceris, Verizon; December 2005: T-Netix Telecommunications ceased to do business - CLERK presented said report which was placed on file in the Office of the City Clerk.

**ORDINANCES - 1<sup>ST</sup> READING - NONE**

**ORDINANCES - 3<sup>RD</sup> READING & RESOLUTIONS FOR ACTION**

CHANGE OF ZONE 05078 - AMENDING TITLE 27 OF THE LINCOLN MUNICIPAL CODE RELATING TO ZONING BY AMENDING SECTION 27.37.020 TO ADD INDOOR MOVIE THEATERS AS A PERMITTED USE IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT ON OR AFTER JANUARY 1, 2013; BY AMENDING SECTION 27.37.030 TO ADD INDOOR MOVIE THEATERS AS A SPECIAL PERMITTED USE IN THE B-5 PLANNED REGIONAL BUSINESS DISTRICT THROUGH DECEMBER 31, 2012; BY AMENDING SECTION 27.63.630 TO CLARIFY THAT ON OR AFTER JANUARY 1, 2013, PRE-EXISTING INDOOR MOVIE THEATERS APPROVED BY SPECIAL PERMIT IN THE B-5 DISTRICT SHALL AUTOMATICALLY BE CONVERTED TO INDOOR MOVIE THEATERS AS A PERMITTED USE IN THE B-5 DISTRICT, AND THAT THEREAFTER THERE SHALL BE NO RESTRICTION ON THE MAXIMUM NUMBER OF THEATER COMPLEXES IN EACH B-5 DISTRICT AND NO RESTRICTION ON THE MAXIMUM NUMBER OF MOVIE SCREENS IN EACH THEATER COMPLEX. (1/30/06 - P.H. DELAYED 4 WKS. TO 2/27/06) (REQUEST TO CON'T. P.H. & ACTION TO 3/13/06) - CLERK read an ordinance, introduced by Jon Camp, amending Title 27 of the Lincoln Municipal Code relating to Zoning by amending Section 27.37.020 to add indoor movie theaters as a permitted use in the B-5 Planned Regional Business District on or after January 1, 2013; by amending Section 27.37.030 to add indoor movie theaters as a special permitted use in the B-5 district

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through December 31, 2012; by amending Section 27.63.630 to clarify that on or after January 1, 2013, pre-existing indoor movie theaters approved by special permit in the B-5 district shall automatically be converted to indoor movie theaters as a permitted use in the B-5 district and that

thereafter there shall be no restriction on the maximum number of theater complexes in each B-5 district and no restriction on the maximum number of movie screens in each theater complex; and repealing Sections 27.37.020, 27.37.030, and 27.63.630 of the Lincoln Municipal Code as hitherto existing, the third time.

CAMP Moved to pass the ordinance as read.

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

The ordinance, having **LOST**, was assigned the File #38-4515 & was placed on file in the Office of the City Clerk.

CREATING AND CONSTRUCTING SEWER DISTRICT NO. 1181 AS AN 8-INCH SANITARY SEWER MAIN SERVING THE NORTHEAST CORNER OF S. 84TH STREET AND OLD CHENEY ROAD AND ASSESSING THE COSTS THEREOF AGAINST THE BENEFITTED PROPERTIES. (REQUEST TO DELAY P.H. TO 2/27/06)(2/13/06 - P.H. CON'T. TO 2/27/06) - CLERK read an ordinance, introduced by Jonathan Cook, creating Sewer District No. 1181, designating the real estate to be benefitted, providing for assessment of the costs of the improvements constructed therein, providing for the acquisition of easements and additional right-of-way, if necessary, and repealing all ordinances or parts of ordinances in conflict herewith, the third time.

COOK Moved to pass the ordinance as read.

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

The ordinance, being numbered #18677, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 05075 - APPLICATION OF MDB, INC. FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO O-2 SUBURBAN OFFICE DISTRICT ON PROPERTY GENERALLY LOCATED AT 42ND AND VINE STREETS - CLERK read an 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 ordinances as read.

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

The ordinance, being numbered #18678, is recorded in Ordinance Book #25, Page

**REGISTERED TO SPEAK SESSION - NONE**

**OPEN MICROPHONE SESSION - NONE**

**MISCELLANEOUS BUSINESS**

**PENDING -**

CAMP Moved to extend the Pending List to March 13, 2006.

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 March 13, 2006.

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

ADJOURNMENT 2:52 P.M.

CAMP            Moved to adjourn the City Council meeting of March 6, 2006.  
                  Seconded by McRoy & carried by the following vote: AYES: Camp,  
                  Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.  
                  So ordered.

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Joan E. Ross, City Clerk

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Judy Roscoe, Senior Office Assistant

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