

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, DECEMBER 4, 2006 AT 1:30 P.M.**

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

Council Chair Newman 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 November 20, 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.

PUBLIC HEARING

MANAGER APPLICATION OF HOLLY LOOS FOR HOLIDAY INN, DOWNTOWN AT 141 NORTH 9TH STREET - Holly Loos, 7511 S. 41st Street, took oath and came forward to answer questions.

This matter was taken under advisement.

MANAGER APPLICATION OF RANDY JAY MUTCHIE FOR WILDERNESS RIDGE, LLC DBA WILDERNESS RIDGE GOLF COURSE AT 1800 WILDERNESS WOODS PLACE - Randy Jay Mutchie, 1800 Wilderness Woods Place, took oath and came forward to answer questions.

This matter was taken under advisement.

MANAGER APPLICATION OF MAXWELL UZOMA EMEROLE FOR U-STOP CONVENIENCE SHOP AT 1421 CENTERPARK ROAD - Maxwell Emerole, 1512 N. 25th St., took oath and came forward to answer questions.

This matter was taken under advisement.

MANAGER APPLICATION OF JAMI LYNN WALLACE FOR U-STOP CONVENIENCE SHOP AT 8231 O STREET - Jami Lynn Wallace, 8231 O St., took oath and came forward to answer questions.

This matter was taken under advisement.

AUTHORIZING THE EXECUTION AND DELIVERY OF A (1) TRUST INDENTURE, (2) A LEASE AGREEMENT, (3) A DEED OF TRUST, CONSTRUCTION SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES, AND (4) A TAX COMPLIANCE AGREEMENT IN CONNECTION WITH THE ISSUANCE OF \$3,500,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE BOND (NEBRASKA SCHOOL ACTIVITIES ASSOCIATION PROJECT) SERIES 2006 - Lauren Wismer, Gilmore & Bell PC, 1248 O St., Ste. 710, stated the bonds come from the Nebraska School Activity Assn. as lessee. This is called conduit financing where the City is in the middle between the borrower and the purchaser of the bonds and is the issuer of the bonds to give them a tax exempt status. The proceeds will be used for construction projects. Jim Tenopir, Director of Nebraska School Activities Assn., was in attendance. Discussion followed.

This matter was taken under advisement.

CHANGE OF ZONE 06063 - APPLICATION OF NORTH 47 GROUP, LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL AND B-2 PLANNED NEIGHBORHOOD BUSINESS 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 AND LAND SUBDIVISION ORDINANCE TO ALLOW APPROXIMATELY 74 RESIDENTIAL DWELLING UNITS AND 140,000 SQUARE FEET OF COMMERCIAL FLOOR AREA - Peter Katt, 1045 Lincoln Mall, Suite 200, came forward representing North 47 Group, LLC to state the design layout is not final. The Adams Street entrance will be relocated slightly west. It was requested the right in, right out entrance on 84th Street be approved. Discussion followed.

Karl Fredrickson, Director of Public Works, stated at the Planning Commission the Public Works & Utilities and Planning Dept. were opposed to the zoning change and the entrance off 84th Street. They are not opposed to the development, but the capacity and respect to the environment as per the Comprehensive Plan. It was stated that 84th Street is the only north-south principle arterial in Lincoln and would like to keep it as functional as they can for all. He expressed the concern of safety and traffic flow on 84th Street if an entrance is allowed. Other developments are asking for an entrance off 84th Street as well. Discussion followed.

Mike Rierden, 645 "M" Street, Suite 200, came forward representing the newly organized Wemsha Neighborhood requesting the approval of the right in, right out entrance on 84th Street. Discussion followed.

David Korrell, 8242 Wemsha Street, came forward in support.

MiMi Mann, 8230 Wemsha, came forward in support.

Steve Oss, 8156 Wemsha, came forward in support.

Brian Will, Planning Dept., came forward to answer questions. Discussion followed.

Mr. Katt came forward for rebuttal.

This matter was taken under advisement.

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) AND THE CITY OF LINCOLN REGARDING STATE OF NEBRASKA GRANT FUNDING FROM THE STORMWATER MANAGEMENT PLAN PROGRAM. (11/20/06 - P.H. CON'T. W/ACTION TO 12/4/06)- Nicole Fleck-Tooze, Public Works & Utilities, came forward to state this is the final cooperative agreement. NDEQ has allowed an extension of the agreement as they were late getting it to the City. The City is responsible for a 20% cash match to come from the operating budget and CIP.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF NOVEMBER 1 - 15, 2006 - Michael Meyer, 1620 Washington, came forward to request approval of claim which was denied. Discussion followed.

Dana Roper, City Attorney, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

APPLICATION OF R STREET LOFTS, LLC, TO USE THE PUBLIC RIGHT-OF-WAY FOR CONSTRUCTION OF COURTYARDS AND CANOPIED ENTRYWAYS AT THE SOUTHEAST CORNER OF 7TH AND R STREETS - Fernando Pages, came forward requesting the use of public right-of-way and to show pictures of the proposed development at 7th and R Streets with the canopied entryways and courtyards. Discussion followed.

TOOK BREAK 3:05 P.M.

RECONVENED 3:15 P.M.

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

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF HOLLY LOOS FOR HOLIDAY INN, DOWNTOWN AT 141 NORTH 9TH STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84128 WHEREAS, Columbus Lincoln Hotel Prop LC dba Holiday Inn, Downtown located at 141 North 9th Street, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Holly Loos be named manager;

WHEREAS, Holly Loos 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 Holly Loos 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.

MANAGER APPLICATION OF RANDY JAY MUTCHIE FOR WILDERNESS RIDGE, LLC DBA WILDERNESS RIDGE GOLF COURSE AT 1800 WILDERNESS WOODS PLACE - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84129 WHEREAS, Wilderness Ridge, LLC dba Wilderness Ridge Golf Course located at 1800 Wilderness Woods Place, Lincoln, Nebraska has been approved for a Retail Class "CK" liquor license, and now requests that Randy Jay Mutchie be named manager;

WHEREAS, Randy Jay Mutchie 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 Randy Jay Mutchie 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.

MANAGER APPLICATION OF MAXWELL UZOMA EMEROLE FOR U-STOP CONVENIENCE SHOP AT 1421 CENTERPARK ROAD - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84130 WHEREAS, U-Stop Convenience Shop located at 1421 Centerpark Road, Lincoln, Nebraska has been approved for a Retail Class "D" liquor license, and now requests that Maxwell Uzoma Emerole be named manager;

WHEREAS, Maxwell Uzoma Emerole 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 Maxwell Uzoma Emerole 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.

MANAGER APPLICATION OF JAMI LYNN WALLACE FOR U-STOP CONVENIENCE SHOP AT 8231 O STREET - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption for approval:

A-84131 WHEREAS, U-Stop Convenience Shop located at 8231 O Street, Lincoln, Nebraska has been approved for a Retail Class "B" liquor license, and now requests that Jami Lynn Wallace be named manager;

WHEREAS, Jami Lynn Wallace 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 Jami Lynn Wallace 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.

ORDINANCES - 2ND READING & RELATED RESOLUTIONS (as required)

AUTHORIZING THE EXECUTION AND DELIVERY OF A (1) TRUST INDENTURE, (2) A LEASE AGREEMENT, (3) A DEED OF TRUST, CONSTRUCTION SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES, AND (4) A TAX COMPLIANCE AGREEMENT IN CONNECTION WITH THE ISSUANCE OF \$3,500,000 AGGREGATE PRINCIPAL AMOUNT OF THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE BOND (NEBRASKA SCHOOL ACTIVITIES ASSOCIATION PROJECT) SERIES 2006 - CLERK read an ordinance, introduced by Dan Marvin, authorizing and approving the issuance of a \$3,500,000 total principal amount Industrial Development Revenue Bond, Series 2006 (Nebraska School Activities Association Project); approving and authorizing the execution and delivery of a Lease Agreement, a Trust Indenture, a Deed of Trust, Construction Security Agreement and Assignment of Leases and Rents and a Tax Compliance Agreement and Closing Documentation; delegating, authorizing and directing the Mayor, Finance Director and Clerk to exercise their own independent discretion and judgment in determining and finalizing the terms, provisions, form and contents of each of such documents; providing for the publication of this ordinance and the time when this ordinance shall take effect; and related matters, the second time.

CHANGE OF ZONE 06063 - APPLICATION OF NORTH 47 GROUP, LLC FOR A CHANGE OF ZONE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL AND B-2 PLANNED NEIGHBORHOOD BUSINESS 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 AND LAND SUBDIVISION ORDINANCE TO ALLOW APPROXIMATELY 74 RESIDENTIAL DWELLING UNITS AND 140,000 SQUARE FEET OF COMMERCIAL FLOOR AREA - 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.

RESOLUTIONS

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) AND THE CITY OF LINCOLN REGARDING STATE OF NEBRASKA GRANT FUNDING FROM THE STORMWATER MANAGEMENT PLAN PROGRAM. (11/20/06 - P.H. CON'T. W/ACTION TO 12/4/06)- CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84132 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Cooperative Agreement between the City of Lincoln and the Nebraska Department of Environmental Quality regarding grant funding from the state Stormwater Management Plan Program, upon the terms and conditions as set forth in said Agreement, is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City. This Agreement provides for NDEQ grant funding to implement programs and projects associated with the City of Lincoln's required Stormwater Management Program.

The City Clerk is directed to transmit an executed original Agreement to Ben Higgins, Public Works and Utilities Department, 901 N. 6th Street, for transmittal to the Nebraska Department of Environmental Quality.

Introduced by Robin Eschliman

Seconded by Svoboda & 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 NOVEMBER 1 - 15, 2006 - PRIOR to reading:

CAMP Moved to allow half of the Michael Meyer claim.

SVOBODA Moved a friendly amendment to round half of the amount of the claim of Michael Meyer to \$300.00 to be paid to him.

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-84133 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 November 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>	
Angie Nutter & Sandy Johnson	\$ 500.00	E & K Drywall	\$ 325.00
Jeffrey Hamilton	1,459.53	Randy Sabin	2,026.00
James Bryant	NAS*	Donna Love	667.38
Brad Huddleston	128.00	Joel Zemunski	1,836.44
Michael Meyer	NAS*	Michael Meyer	300.00
Herminia Custard	NAS*		

* No Amount Specified

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

Introduced by Dan Marvin

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

APPLICATION OF R STREET LOFTS, LLC, TO USE THE PUBLIC RIGHT-OF-WAY FOR CONSTRUCTION OF COURTYARDS AND CANOPIED ENTRYWAYS AT THE SOUTHEAST CORNER OF 7TH AND R STREETS- CLERK read the following resolution, introduced by Dan Marvin, who moved its adoption:

A-84134 WHEREAS, R Street Lofts, LLC has submitted an application for a permit to use the public right-of-way at the southeast corner of 7th and R Streets for construction of courtyards and canopied entryways; 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 R Street Lofts, LLC to use the public right-of-way at the southeast corner of 7th and R Streets for the purpose of constructing courtyards and canopied entryways, 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, to wit:

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 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 site plan filed therewith, and with all applicable City ordinances and regulations.

3. 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 of the City of Lincoln.

5. 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, its 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 Svoboda & 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 06078 - App. of Enterprise Company, Inc. from R-4 to B-1 on property located at N. 46th Street and Q Street.

Change of Zone 06079 - App. of Civil Design Group, Inc. to amend Chapters 27.65.020 and 27.65.075 of the Lincoln Municipal Code, Community Unit Plan with Build Through, to adjust the Acreage Component coverage area and to adjust the size when a conversion plan (ghost plat) is required.

Special Permit 1989A - App. of Sid Dillon, Inc. for an amendment to revise the lighting plan on property located at S. 27th Street and Kendra Lane.

Special Permit 06065 - App. of Alltel Communications of Nebraska, Inc. for an approximately 118 foot tall wireless facility on property located at S. 3rd Street and Garfield.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 18, 2006 AT 1:30 P.M. FOR THE APPLICATION OF ROBOCO, INC. DBA WASABI! FOR A CHANGE OF LOCATION FROM 239 N. 14TH STREET TO 114 S. 14TH ST., BUILDING APPROX. 46 FEET BY 42 FEET INCLUDING ENTIRE BASEMENT- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-84135 BE IT RESOLVED BY THE City Council, of the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 18, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for Application of Roboco, Inc. dba Wasabi! for a change of location from 239 N. 14th Street to 114 S. 14th Street, building approximately 46' x 42' including entire basement.

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

SETTING THE HEARING DATE OF MONDAY, DECEMBER 18, 2006 AT 1:30 P.M. FOR THE APPLICATION OF JTK, LLC DBA JTK FOR A CLASS I LIQUOR LICENSE LOCATED AT 201 N. 7TH STREET- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-84136 BE IT RESOLVED BY THE City Council, of the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 18, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for Application of JTK, LLC dba JTK for a Class I liquor license located at 201 N. 7th 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 Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 18, 2006 AT 1:30 P.M. FOR THE APPLICATION OF BNW CORP. DBA SOUTH STREET LIQUOR FOR A CLASS D LIQUOR LICENSE LOCATED AT 1000 SOUTH STREET- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-84137 BE IT RESOLVED BY THE City Council, of the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 18, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for Application of BNW Corporation dba South Street Liquor for a Class D liquor license located at 1000 South 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 Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 18, 2006 AT 1:30 P.M. FOR THE APPLICATION OF NEBRASKA DINING HOLDING, LLC DBA NOODLES & COMPANY 7103 FOR A CLASS I LIQUOR LICENSE LOCATED AT 210 N. 14th STREET- CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-84138 BE IT RESOLVED BY THE City Council, of the City Council, of the City of Lincoln, that a hearing date is hereby set for Monday, December 18, 2006 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, NE, for Application of Nebraska Dining Holding, LLC dba Noodles and Company 7103 for a Class I liquor license located at 210 N. 14th 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 Svoboda & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

MISCELLANEOUS REFERRALS - NONE

REPORTS OF CITY OFFICERS

CITY CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON NOVEMBER 20, 2006 - CLERK presented said report which was placed on file in the Office of the City Clerk.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 18, 2006, AT 1:30 P.M. FOR THE ASSESSMENT OF WEED REMOVAL COSTS INCURRED FOR THE PERIOD OF JANUARY 1 THROUGH DECEMBER 31, 2006. (BY MOTION)- CLERK requested a motion to approve the hearing date of Monday, Dec. 18, 2006 at 1:30 p.m.

MCROY So moved.

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

ASSESSMENT RESOLUTION FOR PUBLIC WORKS' BOARD OF EQUALIZATION ON SIDEWALK DISTRICT NO. 94 TO BE HELD ON MONDAY, DECEMBER 11, 2006, AT 10:00 A.M. CLERK requested a motion to approve the hearing date of Monday, Dec. 11, 2006 at 10:00 a.m.

MCROY So moved.

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

AFFIDAVIT OF MAILING FOR PUBLIC WORKS' BOARD OF EQUALIZATION ON SIDEWALK DISTRICT NO. 94 TO BE HELD ON MONDAY, DECEMBER 11, 2006, AT 10:00 A.M. - CLERK presented said report which was placed on file in the Office of the City Clerk.

ORDINANCES - 1ST READING & RELATED RESOLUTIONS

ANNEXATION 06018 - AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROXIMATELY 4.87 ACRES OF PROPERTY GENERALLY LOCATED AT NORTH 7TH STREET AND FLETCHER AVENUE - CLERK read an ordinance, introduced by Annette McRoy, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the first time.

CHANGE OF ZONE 06073 - APPLICATION OF RIDGE DEVELOPMENT COMPANY FOR A CHANGE OF ZONE FROM H-3 HIGHWAY COMMERCIAL DISTRICT TO I-1 INDUSTRIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT SOUTH 10TH STREET AND ROBBERS CAVE ROAD - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

CHANGE OF ZONE 06074 - APPLICATION OF WILDERNESS VIEW TOWNHOMES FOR A CHANGE OF ZONE FROM R-2 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT WARLICK BOULEVARD AND CREEKSIDE TRAIL - 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.

ORDINANCES - 3RD READING & RELATED RESOLUTIONS (as required)

VACATION NO. 06003 - VACATING THE EAST 14 FEET OF 1ST STREET BETWEEN THE NORTH AND SOUTH LINES OF R STREET, VACATING R STREET BETWEEN 1ST STREET AND 2ND STREET, AND VACATING THE WEST 25 FEET OF 2ND STREET BETWEEN THE SOUTH LINE OF THE NORTH 14 FEET OF VACATED Q STREET AND THE NORTH LINE OF R STREET. (RELATED ITEMS: 06-199, 06R-223) - CLERK read an ordinance, introduced by Robin Eschliman, vacating the east 14 feet of 1st Street between the north and south lines of R Street, vacating R Street between 1st and 2nd Streets, and vacating the west 25 feet of 2nd Street between the south line of the north 14th feet of vacated Q Street and the north line of R Street, and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

ESCHLIMAN Moved to pass the ordinance as read.

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

The ordinance, being numbered **#18852**, is recorded in Ordinance Book #25, Page

APPROVING A CONSERVATION EASEMENT AGREEMENT BETWEEN THE CITY AND THE PEOPLES CITY MISSION HOME, INC. TO ACCEPT A PERMANENT CONSERVATION EASEMENT TO PRESERVE THE FLOOD STORAGE CAPACITY ON PROPERTY GENERALLY LOCATED AT 1ST AND Q STREETS. (RELATED ITEMS: 06-199, 06R-223) (ACTION DATE: 12/4/06)- CLERK read the following resolution, introduced by Robin Eschliman, who moved its adoption:

A-84139 WHEREAS, the Peoples City Mission Home, Inc. has offered to grant a conservation easement to preserve the flood storage capacity and to restrict the development of the property over an area generally located at 1st and Q, and legally described as:

A parcel of land located in Section 23, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, described as follows:

Commencing at the northeast corner of Lot 3, Peoples City Mission Addition; thence south 00 degrees 10 minutes 04 seconds west for a distance of 51.60 feet to the point of beginning; thence south 00 degrees 10 minutes 04 seconds west for a distance of 228.40 feet; thence north 89 degrees 53 minutes 09 seconds west for a distance of 299.64 feet; thence north 0 degrees 09 minutes 47 seconds east for a distance of 138.61 feet; thence south 89 degrees 44 minutes 56 seconds east for a distance of 199.71 feet; thence north 00 degrees 19 minutes 27 seconds east for a distance of 90.27 feet;

thence south 89 degrees 53 minutes 09 seconds east for a distance of 99.70 feet to the point of beginning; containing 1.16 acres more or less;

WHEREAS, acquisition of this conservation easement by the City would further the goals of the Comprehensive Plan relating to preserving the flood storage capacity by restricting the development of the property.

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

That, on behalf of the City of Lincoln, Nebraska, the offer of a conservation easement by the Peoples City Mission Home, Inc. over the tract of land legally described above and in accordance with the terms of the Conservation Easement Agreement, attached hereto and marked as Exhibit "A", is hereby accepted and approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Conservation Easement Agreement on behalf of the City of Lincoln, Nebraska.

Introduced by Robin Eschliman

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

CHANGE OF ZONE 06066 - APPLICATION OF WOODS PARK NEIGHBORHOOD ASSOCIATION FOR A CHANGE OF ZONE FROM R-4 RESIDENTIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED BETWEEN 27TH AND 33RD STREETS, FROM N TO A STREETS; FROM R-5 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED BETWEEN 27TH AND 31ST STREETS, FROM N TO O STREETS; AND FROM R-6 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED FROM H TO N STREETS ON BOTH SIDES OF 27TH STREET AND THE EAST SIDE OF 26TH STREET - 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 ordinance as read.

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

The ordinance, being numbered **#18853**, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 06067 - APPLICATION OF OUTFIELD PARK LLC FOR A CHANGE OF ZONE FROM H-3 HIGHWAY COMMERCIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT WEST CHARLESTON STREET AND N. 1ST STREET, AND SUN VALLEY BLVD. AND LINE DRIVE - 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 ordinance as read.

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

The ordinance, being numbered **#18854**, is recorded in Ordinance Book #25, Page

AMENDING CHAPTER 9.16 OF THE LINCOLN MUNICIPAL CODE RELATING TO OFFENSES AGAINST PUBLIC DECENCY BY ADDING NEW SECTIONS TO DEFINE MARIJUANA, TO DEFINE PARAPHERNALIA, TO MAKE IT AN INFRACTION TO POSSESS PARAPHERNALIA FOR THE PURPOSE OF MANUFACTURING, INHALING, OR INGESTING MARIJUANA OR TOXIC COMPOUNDS, AND TO MAKE IT UNLAWFUL TO POSSESS ONE OUNCE OR LESS OF MARIJUANA AND TO PRESCRIBE PENALTIES FOR VIOLATIONS - CLERK read an ordinance, introduced by Robin Eschliman, amending Chapter 9.16 of the Lincoln Municipal Code relating to Offenses Against Public Decency by adding a new section numbered 9.16.025 to define marijuana; adding a new section numbered 9.16.035 to define paraphernalia; adding a new section numbered 9.16.105 to make it an infraction to possess paraphernalia for the purpose of manufacturing, inhaling, or ingesting marijuana or toxic compounds; and adding a new section numbered 9.16.145 to make it unlawful to possess one ounce or less of marijuana and to prescribe penalties for violations, the third time.

ESCHLIMAN Moved to pass the ordinance as read.

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

The ordinance, being numbered **#18855**, is recorded in Ordinance Book #25, Page

AMENDING SECTION 1.24.010 OF THE LINCOLN MUNICIPAL CODE RELATING TO GENERAL PENALTIES FOR VIOLATIONS OF THE LMC BY ADDING PENALTIES FOR INFRACTION VIOLATIONS AND SPECIFYING SUBSECTIONS FOR MISDEMEANOR PENALTIES AND INFRACTION PENALTIES - CLERK read an ordinance, introduced by Robin Eschliman, amending Section 1.24.010 of the Lincoln Municipal Code relating to general penalties for violations of the Lincoln Municipal Code by adding penalties for infraction violations and specifying subsections for misdemeanor penalties and infraction penalties; and repealing Section 1.24.010 of the Lincoln Municipal Code as hitherto existing, the third time.

ESCHLIMAN Moved to pass the ordinance as read.

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

The ordinance, being numbered #18856, is recorded in Ordinance Book #25, Page

CHANGE OF ZONE 06059 - AMENDING CHAPTER 27.69 OF THE LINCOLN MUNICIPAL CODE RELATING TO SIGNS BY AMENDING SECTION 27.69.020 TO ADD DEFINITIONS FOR THE TERMS ANIMATION, DISSOLVE, FADE, NIT AND SCROLL AND TO REVISE THE DEFINITIONS OF THE TERMS CHANGEABLE COPY SIGN, ELECTRIC CHANGEABLE COPY SIGN, FLASHING/BLINKING/PULSATING SIGN, AND ILLUMINATED SIGN; AMENDING SECTION 27.69.030 TO PROVIDE STANDARDS FOR ILLUMINATION, TO PROHIBIT SIGNS WHICH DISPLAY AN ANIMATED MESSAGE OR SIMULATES ANIMATION AND TO PROVIDE REGULATIONS FOR ELECTRONIC CHANGEABLE COPY SIGNS; BY AMENDING SECTION 27.69.035 TO MODIFY PROVISIONS REGARDING ADMINISTRATIVE PERMITS FOR OFF-PREMISES SIGNS, TO REQUIRE THAT ANY TWO OFF-PREMISES ELECTRONIC CHANGEABLE COPY SIGNS BE 5,000 FEET APART MEASURED IN ALL DIRECTIONS, TO ALLOW EXISTING OFF-PREMISES SIGNS TO BE CONVERTED TO ELECTRONIC CHANGEABLE COPY SIGNS PROVIDED THE SIGN IS LOCATED AT LEAST 150 FEET FROM AND DOES NOT FACE A RESIDENTIAL DISTRICT, CEMETERY OR PARK, TO ALLOW ILLUMINATION OF OFF-PREMISES SIGNS BETWEEN MIDNIGHT AND 5:00 A.M. FOR GOVERNMENT INITIATED EMERGENCY INFORMATION ANNOUNCEMENTS, TO REVISE PROVISIONS REGARDING REMOVAL OF EXISTING NONCONFORMING OFF-PREMISES SIGNS IN ORDER TO INSTALL A NEW OFF-PREMISES SIGN; BY AMENDING SECTION 27.69.070 TO ALLOW ON-PREMISES SIGNS IN THE B-4 DISTRICT TO BE ANIMATED OR TO SIMULATE ANIMATION; BY REPEALING SECTION 27.69.270 RELATING TO PUBLIC SERVICE INFORMATION SIGNS IN NONRESIDENTIAL DISTRICTS; AND AMENDING SECTION 27.69.330 TO ALLOW LED OR SIMILAR TECHNOLOGIES TO HAVE EXPOSED ILLUMINATION - CLERK read an ordinance, introduced by Ken Svoboda, amending Chapter 27.69 of the Lincoln Municipal Code relating to signs by amending Sections 27.69.020, 27.69.030, 27.69.035, 27.69.070, 27.69.270, and 27.69.330 of the Lincoln Municipal Code as hitherto existing, the third time. PRIOR To reading:

COOK Moved to accept Substitute Ordinance #2.

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

COOK Moved amendment #3 to Bill No. 06-193S2 on page 9, between lines 14 and 15, amend Section 27.69.030 by adding the following language as subparagraph (2):

(s) Variance for Pre-existing signs. All signs installed prior to the effective date of this ordinance (Bill No. 06-193S2) which do not qualify as a nonconforming use in subparagraph (s) above may be continued for a period of ten (10) years from the effective date of this ordinance (Bill No. 06-193S) provided that: (1) such sign was installed pursuant to and in compliance with a permit issued by the Department of Building and Safety and (2) the sign conforms with or is modified to conform with the illumination requirements shown on Figure 1 of Section 27.69.030(a). Notwithstanding the above, such sign shall be brought into compliance when one or more of the conditions listed in Section 27.69.320 occurs.

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

COOK Moved amendment #4 to Bill No. 06-193S2 on page 9, between lines 14 and 15, amend Section 27.69.020 by adding the following language as subparagraph (s):

(s) Nonconforming Signs. The lawful use of a sign existing immediately prior to the effective date of this ordinance (Bill No. 06-193S2) may be continued although such signs do not conform to the provisions hereof except as otherwise provided in Sections 27.69.035 and 27.69.320.

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

COOK Moved to pass Substitute Ordinance #2 as amended.

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

The ordinance, being numbered #18857, is recorded in Ordinance Book #25, Page

RESOLUTIONS - ACTION ONLY

ADOPTION OF THE LINCOLN ELECTRIC SYSTEM ANNUAL BUDGET FOR 2007. (ACTION DATE: 12/4/06)- PRIOR TO READING:

MARVIN Moved the Council hereby expresses its intent that the LES Board restore the Economic Development funds of \$25,000 for the City's FY 07-08 budget year.

ESCHLIMAN Moved to add a friendly amendment:

Pursuant to adequate reporting to Lincoln Electric System Administrative Board for economic development activities.

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

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

A-84140 WHEREAS, under the provisions of Section 4.24.090 of the Lincoln Municipal Code, a proposed annual budget for the operation of the Lincoln Electric System (LES) for 2005 was approved by the LES Administrative Board on October 20, 2006; and

WHEREAS, pursuant to the above-cited code section, a public hearing on the proposed budget was held on November 20, 2006, notice thereof having been published in one issue of the Lincoln Journal Star newspaper published and of general circulation in the City more than five (5) days before such hearing.

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

1. That pursuant to the provisions of Section 4.24.090 of the Lincoln Municipal Code, the Lincoln Electric System Annual Budget for the fiscal year beginning January 1, 2007, a copy of which is attached hereto and made a part of this resolution as fully as if set forth verbatim herein, is hereby adopted, and all funds listed therein are hereby appropriated for the several purposes therein stated.

2. That all money received and any of the aforesaid funds in excess of the estimated balances and receipts set forth in said budget shall be credited to the unappropriated surplus of such funds.

3. That all monies received and set apart for the operation and maintenance of the Lincoln Electric System and all monies received from any source that are required to be applied to the costs of said operation and maintenance, shall be deposited in the appropriate operation and maintenance account, and paid out upon the order of those persons designated by the LES Administrative Board.

4. That by adoption of the Capital Improvements Budget, the City Council hereby authorizes the acquisition of all necessary right-of-way, easements, or other interests in land, by purchase if possible, by condemnation if necessary, for those projects included within the Capital Improvements Budget.

5. That, to the extent capital improvements for facilities of LES are made from LES revenue and other funds, it is intended that the amount of such expenditures, which is not reasonably expected to exceed \$50,000,000 shall be reimbursable to the LES revenue and other funds through the issuance of future electric system revenue bonds there being no funds of LES or the City reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to such expenditures, other than pursuant to the issuance of such electric system revenue bonds, this Resolution being determined to be consistent with the budgetary and financial

circumstances of LES and the City as they exist or are reasonably foreseeable on the date hereof.

6. There is hereby appropriated all money received from any source as grants or donations received for public purposes.

Introduced by Jonathan Cook

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

REGISTERED TO SPEAK SESSION

Rick Meyer, no address given, came forward to request an investigation of the Humane Society, Animal Control, Jim Weverka, and Damon Wimes in regards to confiscating many of his cats. He was allowed to keep two cats, but claim they did not give him the cat he asked for then the cat was adopted.

Bruce Dart, Director of Health Department, came forward to state that 146 cats were taken from Mr. Meyer's home and the Humane Society tagged two cats, on the spot, of his choice. This was two years ago.

This matter was taken under advisement.

OPEN MICROPHONE SESSION

Gary Hoffman, 4741 S. 47th St., retired from the Police Dept. 6/16/95. He came forward on the pay lag issue of 1975 requesting payment to 146 police officer who have not been compensated due to not filing a claim in a timely manner.

Marlin Rauscher, 2314 S. 17th St., retired police officer, came forward to explain the pay lag issue as he understands it.

Ed Ragatz, 6217 Tanglewood Ct., stated he retired in 2005 and did not receive the pay lag due to the statute of limitation. He filed a claim, which was denied, so appealed the denial. He won the case. He came forward in behalf of the many officers who have not been paid due to the statute of limitation. Discussion followed.

Bob Reynolds, 4700 S. 47th St., came forward to comment on the discussion between Jon Camp & Russ Bayer concerning how to staff the Fire Dept. He also asked that more fire departments be built in the new areas of Lincoln. Discussion followed.

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to December 11, 2006.
Seconded by Marvin and 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 December 11, 2006.
Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.

ADJOURNMENT 4:34 P.M.

CAMP Moved to adjourn the City Council meeting of December 4, 2006.
Seconded by Marvin & carried by the following vote: AYES: Camp, Cook, Eschliman, Marvin, McRoy, Newman, Svoboda; NAYS: None.
So ordered.

Joan E. Ross, CMC, City Clerk

Judy Roscoe, Senior Office Assistant

