

**AGENDA FOR  
CITY COUNCIL MEMBERS' "NOON" MEETING  
MONDAY, OCTOBER 13, 2003  
Immediately Following Director's Meeting  
CONFERENCE ROOM 113**

**I. MINUTES**

1. Minutes from Council Members' "Noon" Meeting of October 6, 2003.

**II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES**

1. Lincoln Partnership for Economic Development Investors' Meeting (Camp)
2. ISPC Meeting (Camp)
3. Parks & Recreation Advisory Board - RETREAT (Cook)
4. Mayor's Outdoor Dining Review Committee Meeting (McRoy/Svoboda)

**OTHER MEETINGS REPORTS:**

**III. APPOINTMENTS/REAPPOINTMENTS - NONE**

**IV. REQUESTS OF COUNCIL FROM MAYOR - NONE**

**V. MEETINGS/INVITATIONS**

1. Lincoln Chamber of Commerce - Business After Hours "Sponsormania" Event - combined the best aspects of our Business After Hours & Business to Business Trade show events. "Sponsormania" will take place at The Cornhusker Hotel on Thursday, November 20, 2003 - Sponsorship fee \$200.00 - RSVP by Friday, October 10<sup>th</sup> to Tera Pugh at 436-2355 or E-Mail. (See Invitation for more details)
2. Dedication Ceremony - Dedicating the Frank Shoemaker Marsh - held on Thursday, October 23, 2003 at 4:00 p.m. - located on 27<sup>th</sup> Street north of Interstate 80 - (In case of inclement weather the ceremony will be held at the Lower Platte South Natural Resources District Offices at 3125 Portia Street - (Tom Malmstrom at 476-2729 or E-Mail)(See Invitation)
3. Lincoln Parks & Recreation - Highlands Trail Dedication and Fredstrom Pumpkin Walk on Tuesday, October 14, 2003 - Trail Dedication Ceremony at 6:00 p.m. will be held at approximately NW 2<sup>nd</sup> & W Fletcher where the trails enters Highlands Park - Pumpkin Walk 5:30 p.m. to 7:00 p.m. - if interested in doing the walk, meet at Fredstrom Elementary School for more information. (See Invitation for more details)

4. Hispanic Community Center - 16<sup>th</sup> Annual Hispanic “Our Youth, Our Future” - on Saturday, October 11, 2003 - Hours of operation will run from 9:00 a.m. to 9:00 p.m. with a dance starting at 9:15 p.m. - at the Lancaster Event Center, Exhibit Hall, 4100 North 84<sup>th</sup> Street - (See Invitation)
5. Updowntowners’ Social Night on Wednesday, October 15, 2003 - Zen’s-The Art of Martini Maintenance, 122 N. 11<sup>th</sup> Street at 5:30 p.m. until it ends! – RSVP to Heather at 434-6907. (See Invitation)
6. Child Guidance Center’s - Mental Illness Awareness Month - Leader in Children’s Mental Health Award Breakfast - Honoring Nebraska Governor Mike Johanns for his commitment to the advancement of mental health services with Special Guest T. Marni Vos - on Wednesday, October 22, 2003 from 7:15 a.m. to 8:45 a.m. - at Embassy Suites Hotel - \$15.00 per person - (Reservation required, enclosed RSVP card)(See Invitation)
7. E-Mail Invitation - The North 27<sup>th</sup> Street Business and Civic Association Meeting on Thursday, October 16, 2003 at 7:00 p.m. - at Grace United Methodist Church, 27<sup>th</sup> & “R” Streets. (See Invitation)
8. The owners and staff of the new Braeda (Bray-da) Fresh Express Café - Invites you and a guest to attend a Pre-Opening VIP Party on Thursday, October 16, 2003 at 5:30 p.m. at 87<sup>th</sup> & Highway 2. (See Invitation)

**VI. MISCELLANEOUS - NONE**

**VII. CITY COUNCIL MEMBERS**

**VIII. ADJOURNMENT**

**MINUTES**  
**CITY COUNCIL MEMBERS' "NOON" MEETING**  
**MONDAY, OCTOBER 13, 2003**  
*CONFERENCE ROOM 113*

*Council Members Present:* Jon Camp, Chair; Terry Werner, Vice-Chair; Jonathan Cook, Glenn Friendt, Patte Newman, Ken Svoboda; *ABSENT:* Annette McRoy

*Others Present:* Mark Bowen (late), Ann Harrell, Corri Kielty, Mayor's Office; Don Herz, Finance Director; Dana Roper, City Attorney (late); Joan Ray, Council Secretary; Darrell Podany, Aide to Council Members Camp, Friendt and Svoboda; Nate Jenkins (late), Lincoln *Journal Star* representative.

**I MINUTES**

1. Minutes from Council Members' "Noon" Meeting of October 6, 2003.

Chair Camp requested a motion to approve the above-listed minutes. Ken Svoboda moved to approve the minutes, as presented. The motion was seconded by Terry Werner and the minutes were approved, as presented, by general consensus of the Council Members present.

**II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES -**

1. LINCOLN PARTNERSHIP FOR ECONOMIC DEVELOPMENT INVESTORS' MEETING (Camp) Mr. Camp reported that he had attended the meeting for approximately half an hour since he had a scheduling conflict with the Joint City/County/NRD Meeting. He reported to Council on the material that he had from the meeting. Mr. Camp felt they had presented some really innovative things. They're going to be upgrading financing. They'd like a little more funding from the City.

Mr. Camp noted that what might be good would be, with the interest being shown in the press, to have representatives come in for a presentation. Mr. Camp reported that, as was suggested by several Council Members, other groups are being involved to broaden inclusion to the DLA and some Neighborhood groups along with labor unions, and so on. Mr. Camp felt "inclusive" was the word for this effort.

2. ISPC Meeting (Camp) - No Report
3. PARKS & RECREATION ADVISORY BOARD - RETREAT (Cook) Mr. Cook stated that they did approve some funding for the greenways, on which we had a little update this morning. However, Mr. Cook did not make it to the meeting, because business intruded on his schedule and he was unable to attend.
4. MAYOR'S OUTDOOR DINING REVIEW COMMITTEE (McRoy/Svoboda)  
- Meeting Cancelled. Meeting will be held this week.

OTHER MEETINGS - None

**III. APPOINTMENTS/REAPPOINTMENTS - None - (See remarks under VII. COUNCIL MEMBERS - KEN SVOBODA)**

**IV. REQUESTS OF COUNCIL FROM MAYOR -** Mr. Bowen announced that the Joint Lincoln/Omaha Council meeting has been set for November 5<sup>th</sup>. He commented that he had gotten the Council's inquiry as to whether there would be a separate discussion of the Rail issue.

Mr. Camp asked for what time the meeting had been set. Mr. Bowen answered that the actual times were scheduled around a "Noon" event to talk about Lincoln's Budget Financial Update, then we would leave for Omaha right after that. So, we will be leaving approximately 1:00 or 1:15 p.m. to be in Omaha by 2:00 or 2:15 p.m. Mr. Bowen asked if all the Council Members had received an up-date by either e-mail or letter? Council Members had not. He noted that Omaha was going to process out an official announcement of the meeting. You will probably be receiving it in your mail this week. *[Received in Council Office October 14, 2003]*

The Budget Briefing will be held at noon on November 5<sup>th</sup> in the Mayor's Conference Room. Mr. Werner asked if the bus would be arranged to transport the Council and Staff to Omaha. Mr. Bowen stated that he was talking to the StarTran folks about that. Mr. Bowen noted that the bus would probably have to be a full-size unit since Omaha has asked that it be used to transport everyone to the Convention Center for the tour. Mr. Cook noted that a StarTran bus on Omaha Streets would be an interesting sight.

Mr. Bowen noted that the Pre-Councils for next week would be 1) the Police/Fire Trust Board scheduled for 30 Minutes; and 2) the Clean Air Ordinance update for 30 Minutes; and 3) there will be an additional presentation from Planning on the Yankee Hill Annexation to explain what's going on there.

**V. MEETINGS/INVITATIONS - Noted Without Significant Comment**

**VI. MISCELLANEOUS - None Noted.** However, Mr. Camp, at the end of the meeting, invited Finance Director Don Herz to come forward and give an update on the EMS FY Finance report. Mr. Herz passed out material to the Council and briefly reviewed that material for Council Members [On file in the Council Office] He indicated that by next month he could have a more concise and complete Fiscal Year-end Report on the EMS Cash Receipts and Expenditure Data.

**VII. COUNCIL MEMBERS -**

**JON CAMP -** Mr. Camp asked about the Ornamental Lighting District petitions that had been received. Mr. Roper stated that it looks as if, at this point, there are enough verified signatures. The frontage is 7,966.53 feet that signed; that would be 72.77 feet over the one-half frontage requirement. So, by 72.3/4 foot there appear to be enough signatures. Mr. Werner stated that, then, the wisdom of the Council prevails. [Laughter] Mr. Camp observed that the democratic process prevails.

Mr. Werner commented, for the Mayor's office, that Elmer Cole was not, but Mr. Werner felt he should have been, in attendance at the meeting. He asked why Mr. Cole was not there. Ms. Harrell noted that the absence had been a scheduled one, but she did not know the reason for it. Mr. Werner acknowledged that if the absence had been long-planned, he could understand that, but this seemed like a pretty big deal and Mr. Cole's presence should have been assured if at all possible.

Mr. Cook noted that they needed to work on this time-frame issue, because having a cut-off date in July, then having a hearing three months later is problematic. He hoped that process would be looked at. Mr. Bowen stated that part of the problem was that the issue came in during the budget cycle. Part was they had questions and wanted to re-verify information. Mr. Cook stated that we can't say to people "that" is the cut-off date, when it isn't legally the cut-off date. We need to make sure that they understand.

Mr. Friendt stated that under the normal process, they had it on a schedule that would have had a vote like four weeks after the cut-off date, if Council hadn't postponed. If you look at where it was, at that point, it showed a pretty comfortable majority. Then you delay, and allow deterioration....maybe we should have handled the issue, regardless of whether we were in the budget cycle or not. Mr. Bowen thought the delay might have been another reason for Mr. Cole's absence. Mr. Werner commented that he didn't know the circumstance, but if it was an avoidable thing and he could have been there, he certainly should have been there....but maybe it wasn't avoidable.

It was agreed that everyone learned a lot from this issue....a course in the School of Hard Knocks.

#### JONATHAN COOK - No Further Comments

GLENN FRIENDT - Mr. Friendt noted that the comment about attendance set him back for a moment. [Laughter] Some one mentioned *De ja vu*. The percentage of attendance that would prove acceptable for a favorable attendance record was briefly, but good-naturedly, discussed.

Mr. Friendt requested on a more serious note, that Ms. Kielty relay to the Mayor that he was a little surprised that the Mayor would make a statement in the media that she did not know that Steve Duvall wanted to be re-appointed when he had sent an e-mail to Marvin Krout in June saying that he really would like to stay on and requesting Mr. Krout to let the Mayor know.

Mr. Friendt stated, that as it relates to the vote on Planning Commission appointments, he was passing out a copy of the section of the City Charter that explained the "division of the question" on the appointment of Jennifer Brinkman. He noted that Council Members can do this without a vote, because we may wish to take a different vote on different individuals in this case. He commented that, since we have two people that have a different vote from the County Board, it may be worth considering.

Ms. Newman asked if the rules were different for the County than they are for the City. The County did it [divided the question]...so we can? Mr. Friendt commented that his information was from the City Charter...he did not know what the rules for the County were. Mr. Svoboda noted that the Commissioners had split their vote out on the appointments. The legislation had lumped the nominees together as ours has, and they separated the names out for individual votes so the appointments were separate.

Mr. Camp asked a question, which he felt they might need to answer prior to the vote to be held next week on this - does it matter who will take which seat? The County was very specific in their appointments. If we don't do that, does that create some difficulty and hold up a replacement? Ms. Kielty noted that Dana and the County Attorney have been discussing that. The last she knew, they hadn't given an answer. She noted that Ann had gone to bring Dana to this meeting to answer Council's questions. Mr. Camp commented that Dana had said the other day that he wasn't sure what would happen - if that might hold up the appointment. As Mr. Camp recalled, it was the end of August when these terms were expired. He noted that on future appointments, with this one

delayed so much, with a lot of communication behind the scene, he would like to see the Mayor's Office come forward in a more punctual manner with these nominations rather than waiting so late. It isn't fair to other groups nor the people who are hold-overs.

Mr. Camp asked if Mr. Friendt had any other comments. Mr. Friendt stated, as has been noted a couple of times, he has been working with Law and the Finance and Personnel Departments on the [Fire & Police Pension] Board of Trustees...he had indicated through the campaign that he would do that, so he was willing to step forward. He just wanted to let everyone know that we're at the point of a final draft. Other than some technical stuff, there is one thing that was inserted into this draft that differed from the draft we received from the Police and Fire Department. That insertion was to allow Members of the City Council to serve on this Board of Trustees. Noting that each of the Council Members had taken on particular committee duties, he asked how the Council Members feel about the insertion of that item into the draft? He added that, it wasn't an insertion that he had made and he stated that he would strike it. He did not know who had inserted it, but if you're moving to a Board that is supposed to be independent to focus on finance, he didn't believe that an elected official should be interjected into the mix.

Ms. Newman asked what the make-up of the Board was right now. Mr. Friendt stated that it is one from the Police Union, one from the Fire Union -(Mr. Friendt had also suggested that alternates so that business could be conducted without interruption)- three appointees from the Mayor (private citizens whose appointments would have to come before the Council), and the Director of Finance and the Director of Personnel. So, there are seven individuals on the Board.

Discussion continued with Mr. Bowen noting that the current draft had indicated two members from each of the unions which would have increased the Board to nine members. Mr. Friendt felt that because of the fiduciary responsibility and liability of the City for these defined benefits that there ought to be a serious majority coming from the City side. That was Mr. Friendt's suggestion - to keep the Board at seven members.

Mr. Werner asked who was in the group working on this? Mr. Friendt noted that it was Don Taut and Don Herz. Mr. Friendt had also talked to the Unions, both Mark and Ed. He hoped that before this got into the packets on Thursday that he would have a chance to meet with Mark and Ed or whoever they wanted. Mr. Bowen commented that the intention was, after we had Glenn's amendments correct, that we would sit down with Ed and Mark and present the revised version of the legislative draft that will go into the packets on Thursday.

Mr. Werner asked if the union representatives had been up-dated all along on this and on these revisions? We're not just going to give this to them and say here is what is going into the packet and they have some huge objection to it. Mr. Bowen stated that that would be what the meeting this week would prevent. Mr. Friendt stated that, even before getting into this process, he had met with them. They were indicating that this wasn't designed to change benefits; that a super majority was something that they originally had agreed to. The City had an obligation; even so he thought this draft reflects the union's issues on the major points.

Mr. Cook asked where the City Council Member enters into this selection? He asked if that would be an additional member, or would it be one of the Mayor's appointments? Mr. Friendt stated that it could be one of the Mayor's appointments....it wasn't an additional member, it was just saying that City Council Members *may* serve as one of the Board members. It was just adding Council as a choice. He felt that was counter to the intent of independent trustees.

Mr. Werner commented that, though he is not as up to date on this as Mr. Friendt was, that would be his initial reaction as well. The whole intent is to get this out of politics. Mr. Friendt stated that the way it is shaping up, it is pretty standard in relation to other independent Boards of Trustees that operate this way. Mr. Cook asked if Mr. Friendt's change of going from two to one

representative from each union would just reduce the size of the body. Otherwise, the configuration would remain the same: Three at-large, Personnel Director, Finance Director, Two Union Representatives (One Fire/One Police), noting that either way there would be a majority on the City side. Mr. Friendt indicated that that was correct.

Mr. Werner asked if the unions are aware that you're proposing one representative each instead of two? Mr. Friendt stated that they did - he had told them that personally; having had a chance to meet with them before this process, then reporting back to them showing what the final draft proposed; they could have their expert review the draft and we could move forward.

Ms. Newman stated that she had actually asked Ed Sheridan last week if everything was going all right and asked him when it was coming forward. He had commented that everything was going great.

Mr. Bowen re-capped noting that Mr. Friendt would want that Council Member provision struck from the draft and proceed with the draft as amended. Mr. Camp stated that he would like to add his concern regarding the investment side of the Board. Because of the responsibility of applying the benefit plan on the taxpayer, he wanted to make sure that we had the best set-up that protects the citizens. We want to do well in the investments. Muddling it up with a group of non-investment people is not the best thing....that was the only concern he had.

Mr. Friendt noted that for the three members that the Mayor appoints with Council approval it is specified that they have to have at least five years of experience in financial management or investment areas. There are a whole series of safeguards here...the ability to use a paid consultant being one; there are some auditing and double-checking against performance of the portfolio. Part of this gets to be so technical, Mr. Friendt wanted to be able to say to Council that he thought this is a solid proposal that would do a great job for the City and also does what the Police and Fire folks said they want it to do. You'll come to your own conclusions, of course, after you've read through it.

**ANNETTE McROY** - Absent

**PATTE NEWMAN** - No Further Comments

**KEN SVOBODA** - Mr. Svoboda stated that he had one question regarding Appointments/Re-Appointments. He noted that it was his understanding that it has been common practice, for at least the last and current administrations, that when an individual's name is coming under expiration of their term on a civic appointment, that they are contacted either personally or by letter. Do we make that contact with retiring or potentially retiring appointees?

Ms. Kielty stated that what she has found is that with some of the Boards and Committees - the Department that is involved with the Board or Committee likes to do that - make that contact and usually have already done it. That is what Ms. Kielty has been doing...calling those departments and asking if they will be making contact or if they would be expecting the Mayor's Office to make that contact. She noted that if Mr. Svoboda was referencing the Planning Commission appointments, that was right when it got switched over and she did not contact either Cecil or Steve.

Mr. Werner asked if a department wants a certain person...they would report to you that that person is going to stay on, is the committee attendance record of that person reviewed? Ms. Kielty answered that she asked the department about the attendance records. Mr. Werner stated that he felt it was important that we not re-appoint someone who has missed three-fourths of the meetings. Ms. Kielty noted that the absences in question occurred because the person had to be out of state

during those times. Mr. Werner assured Ms. Kielty that he understood, noting that it is very difficult to be on these committees. Even if a person is able to make half of the meetings, that shows some sort of commitment, but if they're down to 10-20% attendance, clearly that doesn't show much commitment - or at any rate ability [to attend].

TERRY WERNER - No Further Comments

ANN HARRELL - No Further Comments

MARK BOWEN - No Further Comments

CORRI KIELTY - No Further Comments

DANA ROPER - Mr. Camp asked Mr. Roper (who had arrived late) if, regarding the Planning Commission appointments, the appointments had to be assigned to a particular slot or does that matter? Mr. Roper answered that they don't have to be, adding that we haven't done that in 30 years of appointments. He thought the mayor has, under the Charter procedures, the authority to make the appointment. The Mayor can make the appointment in the fashion that the Mayor chooses. These were not slotted in making those appointments. If the County or the Council started slotting, the Mayor would have the option of whether to accept that...because that would be an amended appointment. She would then have the choice of whether she wanted to accept the slotting, as Council or County Board might want.

Mr. Camp asked then, the bottom line is ...? Mr. Roper explained that if Council chooses to slot people who are not now slotted, you are making a counter offer to the Mayor. The Mayor has made an appointment, or recommended an appointment. You either vote that up or vote that down. If you choose to do something else, such as slotting it, you've made a different proposal...you're voting on a different proposal than the one she put on the table. So, she would have the ability and right to decide whether she wanted to accept that or not accept it.

Mr. Friendt asked, as it relates to that, he wouldn't see changing what has been a tradition and what the Mayor is expecting. Is it possible, when you say Mayor Seng hasn't put forward names slotted, is it possible if some members were approved, that rather than filling Greg Schwinn's spot or a spot that has been vacant because it was officially vacated, the Mayor could say that she would take Steve Duvall off and put that person in his spot and re-make another nomination for the open spot? Mr. Roper stated that he did not know. He'd have to think about that. He noted that he had been working under the assumption that we had one vacancy and whomever got approved would go into the truly vacant slot, because the other people continued to serve until a replacement is named. Whatever person is approved, if there were one, that they would go into the truly vacant spot.

Mr. Friendt commented that that made sense...he just wondered about it. Mr. Werner asked if the Mayor could decide otherwise? Mr. Friendt stated that that is what he is asking. Mr. Roper noted that the Mayor can always decide that she would still have veto power over this and could decide .... Mr. Werner asked what if the Council does not specify as the County Commissioners did?

Mr. Roper sighed and answered that if you don't specify that, that vacant slot is going to be filled by whatever appointment goes through. Part of this process is to make sure that the County Board....the reason that we say that these appointments continue to serve until a replacement is made is that the work of the Planning Commission is important enough that we've got to have a functioning quorum to get the work done and get things processed. That would be why any appointee would go to the vacant spot. Mr. Camp asked if that is what Mr. Roper thought, or was that an opinion? Mr. Roper answered that that was a legal opinion.

**ADDENDUM:** E-mail from Dau Nguyen regarding the Request to recognize the Vietnam Heritage Flag. It was agreed that to offer individual flags of various countries to be flown with the National, State, City and County flags over the County/City Complex would be inappropriate. Ms. Newman noted that if national flags of the diverse peoples of Lincoln were to be displayed, the walls in the common area [if the County/City Building] would be an appropriate venue. Further discussion revealed the concern that if one country's flag were acknowledged, then all would have to be acknowledged - no matter what the political affiliation or bent it might represent.

After a brief discussion, it was decided that the request would be handled in a respectful way with a response from the Mayor's Office that would explain the Council's concerns and the City Policy established by the Public Building Commission on such matters. Mr. Bowen agreed that the Mayor's office would send a letter to Mr. Dau Nguyen explaining the circumstances and the decision the Council had reached today.

Mr. Roper stated that the decision was exactly correct from the legal viewpoint. Mr. Camp suggested that the Public Building Commission, in order to honor the diverse ethnicity of the community, declare an ethnic month for each group with guidelines set out. Then the displays and presentations could be placed in the common area of the County/City Building. Mr. Bowen stated that he would include such a thought in the letter the Mayor's Office would be drafting.

**VIII. MEETING ADJOURNED** - Approximately 12:25 p.m.

cm101303/jvr